

	<b>State of Vermont</b>	
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## APPLICATION FOR PRELIMINARY SUNRISE REVIEW ASSESSMENT

- **Profession/Occupation seeking regulation:**

Speech-Language Pathology Assistants

- **Person/Organization submitting application:**

<b>Name:</b>	Susan Kimmerly
	Immediate Past President
<b>Organization:</b>	Vermont Speech-Language Hearing Association
<b>Address: Street/City/State/Zip</b>	c/o Nine East Network 9 West St. Montpelier, VT 05602

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- **Vermont Society/Association (Attach copies of Standards of Practice and Code of Ethics)**

<b>Name:</b>	Vermont Speech-Language Hearing Association
<b>Contact Person:</b>	Lisa Durstin
<b>Address: Street/City/State/Zip</b>	2 O'Neill Lane Sharon, VT 05065

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- **National Society/Association (Attach copies of Standards of Practice and Code of Ethics)**

<b>Name:</b>	American Speech-Language-Hearing Association
<b>Contact Person:</b>	Susan Adams
<b>Address: Street/City/State/Zip</b>	2200 Research Boulevard Rockville, MD

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	<b>5. Does the National Organization have a license or certification process? If "Yes", attach supporting documentation.</b>

- **List other states currently regulating this profession/occupation.**

The following link is to a website with highlights of each state's requirements. SLP Assistants are discussed under the section support personnel. <http://www.asha.org/advocacy/state/>

**For each state attach copies of the laws and rules.**

Maryland	Oregon	Georgia <a href="http://rules.sos.state.ga.us/docs/609/6/01df">http://rules.sos.state.ga.us/docs/609/6/01df</a>
Nebraska	Texas	Massachusetts <a href="http://www.mass.gov/ocabr/licensee/dpl-boards/sp/regulations/rules-and-regs/260cmr-200.html">http://www.mass.gov/ocabr/licensee/dpl-boards/sp/regulations/rules-and-regs/260cmr-200.html</a>
Illinois	Louisiana	

California	Tennessee <a href="http://www.tennessee.gov/sos/rules/1370/1370-01.pdf">http://www.tennessee.gov/sos/rules/1370/1370-01.pdf</a> -	
South Carolina	Georgia	

- **Define the services provided by this profession/occupation. What is the Scope of Practice?**

*(If space provided is insufficient, attach additional sheets as needed.)*

See Attached

- **What harm or danger to the health, safety, or welfare of the public can be demonstrated if the practice of this profession/occupation were to remain unregulated?**

*(Note: The potential for harm must be recognizable and not remote of speculative.)*

*(If space provided is insufficient, attach additional sheets as needed.)*

In a state with a shortage of speech-language pathologists (SLPs), SLPAs may be asked (and are asked) to perform the duties of an SLP. This could include diagnosis, assessment, developing treatment plans, and communicating with clients about these matters. These are areas for which paraeducators are not trained in any profession.

The incorrect diagnosis of a young child's speech or language impairment and therefore the lack of intervention during the critical language acquisition process may result in a delay in the development of speech and language skills and in increased treatment time to address the problem. Increased treatment time translates into increased costs.

In addition there is a potential for physical and emotional harm, the unqualified practitioner in communication sciences may cause or exacerbate distress in a patient due to an incorrect diagnosis or an inflated or inaccurate prognosis.

In the absence of licensure, clients in school systems have had to rely on the due process system, provided to parents, in special education to redress any of their grievances about the misuse of individuals providing treatment for communication disorders. However, more likely is the scenario that persons with communicative disabilities (predominantly children and older persons) have not been aware of the qualifications of their provider. The vulnerable population of persons with communicative disabilities needs the protection of the state to ensure that they receive quality care provided by competent and ethical providers.

In addition to the problem of SLPAs doing the work of an SLP, paraeducators trained to support students with behavioral or academic weaknesses are also put in the position of being an SLPA. This group of individuals are not trained in the fundamentals of being an SLPA (anatomy, physiology, ethics, implementing treatment plans using protocols, progress documentation). Some SLPs would prefer to have no assistance from paraeducators, than to work with untrained individuals.

- **What benefit can the public reasonably expect if this profession/occupation is regulated and how would it be measured?**

Assurance that consumers are treated for communication disorders by professionals that have a minimum of a specified level of training and experience.

Assurance that all SLPAs will be supervised by SLPs.

- Why isn't the public protected from unprofessional practitioners through means other than regulation? (For example, criminal penalties, consumer fraud laws, small claims court, civil litigation, etc.?)**

Lack of oversight, regulations, or any laws that pertain to the qualifications of unlicensed professionals (or paraprofessionals) in education settings now.

The limited availability of SLPs and in some cases, funds puts pressure on employers to rely heavily on this group of unlicensed individuals.

- Are you seeking:**                      Licensure                      Certification                      Registration  
(See 26 V.S.A. § 3101 a. Definition)

- a. What other regulated professions/occupations perform similar services to those of this profession/occupation?**

There is no other profession providing a similar service. However the following allied health professions have regulated assistants.

Occupational therapists	Physical therapists	Dentists
Physicians		

- b. How will the program distinguish between or among respective scopes of practice?  
(If space provided is insufficient, attach additional sheets as needed.)**

The laws and regulations currently in place distinguish the profession of speech-language pathology from the professions above. Our proposed statute will discriminate between the scope of SLP and SLPA.

- How many practitioners of this profession/occupation do you estimate are practicing in Vermont?**

This profession currently exists in the schools. It is subsumed under the title of "paraeducator". Paraeducators are not regulated, making this very difficult to estimate. Our estimate is approximately 300.

- Estimate the percentage of the practitioners practicing in the following settings.**

Independent	Clinics	Hospitals	Other
0	0	0	Schools – 99%

<b>15. Is formal education required?</b> <i>(If "Yes", complete below.)</i>	<u>Yes</u>	<u>No</u>
<b>Education Requirements</b>	Associates Degree or bachelors Degree or equivalent with 21 credits in an SLPA training program and 100 practicum hours.	
<b>Where may this education be obtained?</b>	University of Vermont, Lyndon State College	

<b>16. Is supervised experience required in addition to, or instead of, formal education?</b> <i>(If "Yes", complete below.)</i>	<u>Yes</u>	<u>No</u>
100 supervised clinical hours is required.		

<b>17. Is there a National examination?</b> <i>(If "Yes", complete below.)</i>	<u>Yes</u>	<u>No</u>
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Name and address of examination agency

<b>Name of Agency</b>	
<b>Street</b>	
<b>City/State/Zip</b>	

**18. Does this professional/occupation need continuing education?**  
*(If "Yes", complete below.)*  
*(If space provided is insufficient, attach additional sheets as needed.)*

- **Based on the criteria you proposed as a requirement to become licensed/certified/registered, estimate how many of the current practitioners will qualify?**

Approximately 20%

- **What transitional provisions/"grandfather provisions" do you propose for current practitioners to obtain licensure/certification/registration?**  
*(When space provided is insufficient, attach additional sheets as needed.)*

We propose that the individuals be given 8 years to obtain licensure. This allows for employers to prepare for the requirement, more training programs to be made available, and allows those currently practicing as SLPAs or paraeducators to decide if they wish to participate in the training.

- **Attach copies of any proposed legislative bill(s) related to this request.**

See attached

- **Attach a list of all interested persons or groups in favor of, or opposed to, this request.**

Have they been consulted?

In 2008, groups were surveyed. See the table summarizing constituents' beliefs regarding regulation.

Should SLPAs be regulated?"	Special Ed Administrators N=26	PARENTS N=69	SLPAs N=12
Yes	64%	77%	58%
No	24%	7%	33%
No opinion	16%	16%	8%

Experiences of parents indicated great concern about the lack of quality of speech and language services in Vermont.

- **Include any statistical data on disciplinary actions for this profession/occupation in other states.**

Not available at this time

- What is the applicant seeking to gain through regulation of the occupational group? What benefit does regulation bring to members of this occupational group?

Consumers benefit by having a reasonable assurance that these services are provided by individuals with training and experience and will know the level of training.

There is benefit to speech-language pathologists, because they will only be assigned assistants that meet this level of training and experience.

The SLPAs benefit by having access to training and supervision, clarity on scope of practice and the exclusions of what they can do.

## **Go to: Administrative Rules for Procedures for Preliminary Sunrise Review**

### **Assessments**

**Email questions and comments about these pages to:**

**Christopher D.  
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tate.vt.us](mailto:Chris.winters@sec.s<br/>tate.vt.us)**

Question 7 attachment

### **Scope of Practice for Speech-Language Pathologist Assistant**

#### **Service Delivery**

- Self-identify as SLPAs to families, students, patients, clients, staff, and others. This may be done verbally, in writing, and/or with titles on name badges.
- Exhibit compliance with The Health Insurance Portability and Accountability Act (HIPAA) and Family Educational Rights and Privacy Act (FERPA) regulations, reimbursement requirements, and SLPAs' responsibilities.
- Assist the SLP with speech, language, and hearing screenings **without** clinical interpretation.

- Assist the SLP during assessment of students, patients, and clients exclusive of administration and/or interpretation
- Assist the SLP with bilingual translation during screening and assessment activities exclusive of interpretation; refer to *Knowledge and Skills Needed by Speech-Language Pathologists and Audiologists to Provide Culturally and Linguistically Appropriate Services (ASHA 2004)*.
- Follow documented treatment plans or protocols developed by the supervising SLP.
- Provide guidance and treatment via telepractice to students, patients, and clients who are selected by the supervising SLP as appropriate for this service delivery model.
- Document student, patient, and client performance (e.g., tallying data for the SLP to use; preparing charts, records, and graphs) and report this information to the supervising SLP.
- Program and provide instruction in the use of augmentative and alternative communication devices.
- Demonstrate or share information with patients, families, and staff regarding feeding strategies developed and directed by the SLP.
- Serve as interpreter for patients/clients/students and families who do not speak English.
- Provide services under SLP supervision in another language for individuals who do not speak English and English-language learners.

#### **Administrative Support**

- Assist with clerical duties, such as preparing materials and scheduling activities, as directed by the SLP.
- Perform checks and maintenance of equipment.
- Assist with departmental operations (scheduling, recordkeeping, safety/maintenance of supplies and equipment).

#### **Prevention and Advocacy**

- Present primary prevention information to individuals and groups known to be at risk for communication disorders and other appropriate groups; promote early identification and early intervention activities.
- Advocate for individuals and families through community awareness, health literacy, education, and training programs to promote and facilitate access to full participation in communication, including the elimination of societal, cultural, and linguistic barriers.
- Provide information to emergency response agencies for individuals who have communication and/or swallowing disorders.



- Advocate at the local, state, and national levels for improved public policies affecting access to services and research funding.
- Support the supervising SLP in research projects, in-service training, public relations programs, and marketing programs.
- Participate actively in professional organizations.

### **Responsibilities Outside the Scope for Speech-Language Pathology Assistants**

There is potential for misuse of an SLPA, particularly when responsibilities are delegated by administrative or nonclinical staff without the approval of the supervising SLP. It is highly recommended that the *ASHA Scope of Practice for Speech-Language Pathology Assistants* (ASHA, 2007) and the *ASHA Code of Ethics* (ASHA, 2010a) be reviewed with all personnel involved when employing an SLPA. It should be emphasized that an individual's communication or related disorder and/or other factors may preclude the use of services from anyone other than an ASHA-certified and/or licensed SLP. The SLPA should not perform any task without the approval of the supervising SLP. The student, patient, or client should be informed that he or she is receiving services from an SLPA under the supervision of an SLP.

#### **The SLPA should NOT engage in the following:**

- represent himself or herself as an SLP;
- perform standardized or nonstandardized diagnostic tests, formal or informal evaluations, or swallowing screenings/checklists; **Needs further discussion**
- perform procedures that require a high level of clinical acumen and technical skill (e.g., vocal tract prosthesis shaping or fitting, vocal tract imaging and oral pharyngeal swallow therapy with bolus material);
- tabulate or interpret results and observations of feeding and swallowing evaluations performed by SLPs;
- participate in formal parent conferences, case conferences, or any interdisciplinary team without the presence of the supervising SLP or other designated SLP;
- provide interpretative information to the student/patient/client, family, or others regarding the patient/client status or service;
- write, develop, or modify a student's, patient's, or client's treatment plan in any way;
- assist with students, patients, or clients without following the individualized treatment plan prepared by the certified SLP and/or without access to supervision;
- sign any formal documents (e.g., treatment plans, reimbursement forms, or reports; the SLPA **should** sign or initial informal treatment notes for review and co-sign with the supervising SLP as requested);
- select students, patients, or clients for service;

- discharge a student, patient, or client from services;
- make referrals for additional service;
- disclose clinical or confidential information either orally or in writing to anyone other than the supervising SLP (the SLPA must comply with current HIPPA and FERPA guidelines) unless mandated by law;
- develop or determine the swallowing strategies or precautions for patients, family, or staff;
- treat medically fragile students/patients/clients independently
- design or select augmentative and alternative communication systems or devices

Question 21 attachment  
Draft legislation

Chapter 87: SPEECH-LANGUAGE PATHOLOGISTS, SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS AND AUDIOLOGISTS

§ 4451. Definitions

As used in this chapter:

- (1) "Audiologist" means a person licensed to practice audiology under this chapter.
- (2) "Audiology" means the application of principles, methods, and procedures related to hearing and the disorders of hearing, and to related language and speech disorders, which includes all conditions that impede the normal process of human communication, including disorders of auditory sensitivity, acuity, function, or processing.
- (3) "Board" means the Vermont standards board for professional educators unless the context clearly requires otherwise.
- (4) "Department" means the department of education.
- (5) "Director" means the director of the office of professional regulation.
- (6) "Disciplinary action" means any action taken by the administrative law officer appointed pursuant to 3 V.S.A. § 129(j) against a licensee or applicant for licensure under this chapter, premised on a finding that the person has engaged in unprofessional conduct. "Disciplinary action" includes all sanctions of any kind, including obtaining injunctions, refusal to give an examination, refusal to grant or renew a license, suspension or revocation of a license, placement of limitations or restrictions upon a license, issuance of warnings, ordering restitution, and other similar sanctions.
- (7) "Hearing aid" means an amplifying device to be worn by a hearing-impaired person to improve hearing, including any accessories specifically used in connection with such a device, but excluding theater or auditorium wide-area listening devices, telephone amplifiers, or other devices designed to replace a hearing aid for restricted situations.
- (8) "Practice of audiology" includes:
  - (A) facilitating the conservation of auditory system function, and developing and implementing environmental and occupational hearing conservation programs;
  - (B) screening, identifying, assessing and interpreting, diagnosing, preventing, and rehabilitating peripheral and central auditory system dysfunctions;

- (C) providing and interpreting behavioral and electro-physiological measurements of auditory, vestibular, and facial nerve functions;
- (D) selecting, fitting, and dispensing of hearing aids, amplification, assistive listening and alerting devices, implantable devices, and other systems, and providing training in their use;
- (E) dispensing hearing aids, including conducting and interpreting hearing tests for the purpose of selecting suitable hearing aids;
- (F) making ear molds or impressions;
- (G) providing instruction to patients on the care and use of hearing aids, auditory system functions, and hearing conservation;
- (H) all acts pertaining to selling, renting, leasing, pricing, delivering, and giving warranties for hearing aids;
- (I) providing aural rehabilitation and related counseling services to hearing-impaired individuals and their families;
- (J) screening of speech-language and other factors affecting communication function for the purposes of an audiologic evaluation, or initial identification of individuals with other communication disorders; and
- (K) management of cerumen.

(9) "The practice of speech-language pathology" includes:

- (A) screening, identifying, assessing and interpreting, diagnosing, rehabilitating, and preventing disorders of language and speech, including disorders involving articulation, fluency, and voice;
- (B) screening, identifying, assessing and interpreting, diagnosing, and rehabilitating disorders of oral-pharyngeal function, including dysphagia and related disorders;
- (C) screening, identifying, assessing and interpreting, diagnosing and rehabilitating communication disorders;
- (D) assessing, selecting, and developing augmentative and alternative communication systems, and providing training in their use;
- (E) providing aural rehabilitation and related counseling services to hearing-impaired individuals and their families;
- (F) enhancing speech-language proficiency and communication effectiveness, including accent reduction; and
- (G) screening of hearing and other factors for the purpose of speech-language evaluation, or the initial identification of individuals with other communication disorders.

(10) "The practice of speech-language pathology assistant" means the practice of speech-language pathology as defined in this chapter and subject to the limitations of this chapter under the direct supervision of a speech-language pathologist and with the approval of the supervising speech-language pathologist.

~~(1011)~~ "Private practice" means any work performed by a licensed speech-language pathologist or audiologist that is not within the jurisdiction of the board.

~~(1112)~~ "Secretary" means the secretary of state.

~~(1213)~~ "Speech-language pathologist" means a person licensed to practice speech-language pathology under this chapter.

(14) "Speech-language pathologist assistant" means a person who performs duties within the scope of practice outlined in this chapter under the direct supervision of a speech-language pathologist.

~~(1213)~~ "Speech-language pathology" means the application of principles, methods, and procedures related to the development and disorders of human communication, which include any and all conditions that impede the normal process of human communication.

~~(13)~~(14) "Within the jurisdiction of the board" means conduct or work performed by a licensed speech-language pathologist or audiologist on behalf of a supervisory union or public school district in Vermont or an independent school approved for special education purposes, or conduct otherwise subject to discipline under the licensing rules of the board.

§ 4452. Prohibitions; penalties

(a) No person shall:

(1) practice or attempt to practice audiology or speech-language pathology as a speech-language pathologist or speech-language pathology assistant or hold oneself out as being permitted to do so in this state unless the person is licensed in accordance with this chapter;

(2) use in connection with the person's name, an insignia or any letters or words which indicate the person is an audiologist or a speech-language pathologist or a speech-language pathologist assistant unless the person is licensed in accordance with this chapter; or

(3) practice audiology or speech-language pathology as a speech language pathologist or speech-language pathologist assistant after the person's license under this chapter has been suspended or revoked.

(b) A speech-language pathologist shall inform the student, patient, or client that he or she is receiving services from a speech-language pathologist assistant under the supervision of a speech-language pathologist. Upon hiring of a speech-language pathologist assistant, the American Speech and Hearing Association Scope of Practice for Speech-Language Pathology Assistants and Code of Ethics shall be reviewed with all personnel involved in order to ensure that the duties required are within the scope of practice of the speech-language pathology assistant. A speech-language pathologist assistant shall not

(1) represent himself or herself as an speech-language pathologist;

(2) perform standardized or nonstandardized diagnostic tests, formal or informal evaluations, or swallowing screenings/checklists;

(3) perform procedures that require a high level of clinical acumen and technical skill (e.g., vocal tract prosthesis shaping or fitting, vocal tract imaging and oral pharyngeal swallow therapy with bolus material);

(4) tabulate or interpret results and observations of feeding and swallowing evaluations performed by speech-language pathologists;

(5) provide interpretative information to the student, patient, client, family, or others regarding the patient or client status or service;

(6) write, develop, or modify a student's, patient's, or client's treatment plan in any way;

(7) assist with students, patients, or clients without following the individualized treatment plan prepared by the licensed speech-language pathologist or without access to supervision;

(8) sign any formal documents (e.g., treatment plans, reimbursement forms, or reports; the speech-language pathologist assistant should sign or initial informal treatment notes for review and co-sign with the supervising speech-language pathologist as requested);

(9) select students, patients, or clients for service;

(10) discharge a student, patient, or client from services;

(11) make referrals for additional service;

(12) disclose clinical or confidential information either orally or in writing to anyone other than the supervising speech-language pathologist (the speech-language pathologist assistant must comply with current HIPPA and FERPA guidelines) unless mandated by law;

(13) develop or determine the swallowing strategies or precautions for patients, family, or staff;

(14) treat medically fragile students, patients, or clients independently

(15) design or select augmentative and alternative communication systems or devices.

(c) A speech-language pathologist assistant shall:

(1) Seek employment only in settings in which direct and indirect supervision are provided on a regular and systematic basis by an American Speech and Hearing Association-certified and/or licensed speech-language pathologist;

(2) Adhere to the legal and ethical responsibilities under the law and refrain from performing tasks or activities that are the sole responsibility of the speech-language pathologist;

(3) Actively participate with the speech-language pathologist in the supervisory process.

(4) Consider securing liability insurance;

(5) Actively pursue continuing education and professional development activities;

(6) Exhibit compliance with The Health Insurance Portability and Accountability Act (HIPAA) and Family Educational Rights and Privacy Act (FERPA) regulations, reimbursement requirements, and responsibilities under the law;

(7) Assist the speech-language pathologist with bilingual translation during screening and assessment activities exclusive of interpretation consistent with American Speech and Hearing Association guidelines;

(8) Follow documented treatment plans or protocols developed by the supervising speech-language pathologist;

(9) Provide guidance and treatment via telepractice to students, patients, and clients who are selected by the supervising speech-language pathologist as appropriate for this service delivery model;

(10) Document student, patient, and client performance (e.g., tallying data, preparing charts, records, and graphs) and report this information to the supervising speech-language pathologist;

(11) Program and provide instruction in the use of augmentative and alternative communication devices;

(12) Demonstrate or share information with patients, families, and staff regarding feeding strategies developed and directed by the speech-language pathologist;

(13) Serve as interpreter for patients, clients, students and families who do not speak English;

(14) Provide services under speech-language pathologist supervision in another language for individuals who do not speak English and English-language learners;

(15) Assist with clerical duties, such as preparing materials and scheduling activities, as directed by the speech-language pathologist;

(16) Perform checks and maintenance of equipment;

(17) Assist with departmental operations (scheduling, recordkeeping, safety/maintenance of supplies and equipment);

(18) Present primary prevention information to individuals and groups known to be at risk for communication disorders and other appropriate groups; promote early identification and early intervention activities;

(19) Advocate for individuals and families through community awareness, health literacy, education, and training programs to promote and facilitate access to full participation in communication, including the elimination of societal, cultural, and linguistic barriers;

(20) Provide information to emergency response agencies for individuals who have communication and/or swallowing disorders; and

(21) Support the supervising speech-language pathologist in research projects, in-service training, public relations programs, and marketing programs.

(d) Speech-language pathologist assistant, under the supervision of a speech-language pathologist, may provide services in a wide variety of settings, which may include the following:

(1) public, private, and charter elementary and secondary schools;

(2) early intervention settings, preschools, and day care settings;

- (3) hospitals (in- and outpatient);
- (4) residential health care settings (e.g., long-term care and skilled nursing facilities);
- (5) nonresidential health care settings (e.g., home health agencies, adult day care settings, clinics);
- (6) private practice settings;
- (7) university/college clinics;
- (8) research facilities; and
- (9) corporate and industrial settings.

(e) The supervising speech-language pathologist retains full legal and ethical responsibility for the students, patients, and clients he or she serves but may delegate specific tasks to the speech-language pathologist assistant. The speech-language pathologist assistant may execute specific components of a speech and language program as specified in treatment plans developed by the speech-language pathologist. Goals and objectives listed on the treatment plan and implemented by the speech-language pathologist assistant are only those within their scope of responsibilities and are tasks the speech-language pathologist has determined the speech-language pathologist assistant has the training and skill to perform. The speech language pathologist must provide at least the minimum specified level of supervision to ensure quality of care to all persons served. The amount of supervision may vary and must depend on the complexity of the case and the experience of the assistant. Under no circumstances should use of the American Speech and Hearing Association Code of Ethics or the quality of services provided be diluted or circumvented by the use of a speech-language pathologist assistant. The use of a speech-language pathologist assistant is optional and should be used only when appropriate.

(bf) A person who violates a provision of this section or who obtains a license by fraud or misrepresentation shall be subject to the penalties provided in 3 V.S.A. § 127(c).

#### § 4453. Exemptions

The provisions of section 4452 of this title shall not apply to the following persons:

(1) A person enrolled in a course of study leading to a degree or certificate in audiology or speech-language pathology or speech-language pathology assistant at a school accredited by the American Speech-Language Hearing Association, provided:

- (A) the activities and services performed constitute part of a supervised course of study;
- (B) the person is designated by a title which clearly indicates the person's student or trainee status; and

(C) the person is under the direct supervision of an audiologist or speech-language pathologist licensed in this state while the person is engaged in the course of study.

(2) A hearing aid dispenser performing services within the scope of a license under chapter 67 of this title.

#### § 4454. Construction

(a) This chapter shall not be construed to limit or restrict in any way the right of a practitioner of another occupation which is regulated by this state from performing services within the scope of his or her professional practice.

(b) This chapter shall not be construed to limit the authority of the board to determine and evaluate the qualifications of, issue licenses to, or discipline licensees who are within the jurisdiction of the board.

#### § 4455. Advisor appointees

(a) The secretary, in consultation with the commissioner of education, shall appoint ~~two~~ three individuals to serve as advisors in matters related to audiology and speech-language pathology. One advisor shall be a licensed speech-language pathologist, one ~~advisor shall be a licensed speech-language pathologist assistant,~~ and one advisor shall be an audiologist. Advisors who are speech-language pathologists, speech-language pathologist assistants, or audiologists shall have not less than three years' experience as audiologists, ~~or speech-language pathologists,~~ or speech-language pathologist assistants immediately preceding appointment, and shall be actively engaged in the practice of audiology, ~~or speech-language pathology~~ or speech language pathology assistants in Vermont during incumbency. The advisors shall be appointed for staggered terms of three years, and shall serve at the pleasure of the secretary. One of the initial appointments may be for less than a three-year term.

(b) The secretary shall seek the advice of the individuals appointed under this section in matters related to qualifications or alleged misconduct not within the jurisdiction of the board. The advisors shall be entitled to compensation and necessary expenses as provided in 32 V.S.A. § 1010 for meetings called by the director.

(c) The secretary may seek the advice of other audiologists and speech-language pathologists and speech-language pathologist assistants licensed under this chapter.

#### § 4456. Commissioner of education; duties

(a) The commissioner of education shall administer the application and renewal process for all licensees under this chapter, and shall:

- (1) provide information to applicants for licensure under this chapter;
- (2) administer fees collected under this chapter;
- (3) explain appeal procedures to licensees and applicants, and explain complaint procedures to the public;
- (4) explain sanctions, including license revocation and suspension, which may be imposed in disciplinary cases, the criteria by which sanctions are selected, and procedures for reinstatement where appropriate;
- (5) receive applications for licensure, grant licensure under this chapter, renew licenses, and deny, revoke, suspend, reinstate, or condition licenses as directed by the administrative law officer;
- (6) refer all complaints and disciplinary matters not within the jurisdiction of the board to the secretary of state;
- (7) with the advice of the advisor appointees, adopt rules necessary to implement the provisions of this chapter;
- (8) prepare and maintain a registry of licensed speech-language pathologists, speech-language pathologist assistants, and audiologists; and
- (9) issue to each person licensed a certificate of licensure which shall be prima facie evidence of the right of the person to whom it is issued to practice as a licensed audiologist, ~~or speech-language pathologist,~~ or speech-language pathologist assistant, subject to the conditions and limitations of this chapter.

(b) The department may contract with the secretary for provision of adjudicative services of one or more administrative law officers and other investigative, legal, and administrative services related to licensure and discipline of speech-language pathologists, speech-language pathologist assistants, and audiologists.

#### § 4457. Licensure; applications; eligibility

(a) Applicants for licenses for audiologists and speech-language pathologists under this chapter shall submit an application to the department on a form furnished by the department, along with payment of the specified fee and evidence of the eligibility qualifications established by the board which shall include, at a minimum:

(1) A master's degree or equivalent in audiology or speech-language pathology from an educational institution approved by the department with course work completed in areas specified by rule.

(2) Completion of a supervised clinical practicum, the length and content of which shall be established by rule.

(3) Completion of a period, as determined by rule, of postgraduate professional training as approved by the department.

(4) Passing an examination in audiology or speech-language pathology approved by the department, which, in the case of the audiology examination, shall include a section which is equivalent to the hearing aid dispensers examination described in section 3295 of this title. Audiologists who have passed an examination chosen by the department are not required to take the hearing aid dispensers examination required by section 3295.

(b) Applicants for licenses for speech-language pathologist assistants under this chapter shall submit an application to the department on a form furnished by the department, along with payment of the specified fee and evidence of the eligibility qualifications established by the board which shall include, at a minimum, a course of academic study and field work under the supervision of a licensed speech-language pathologist, and on-the-job training specific to speech-language pathologist assistant responsibilities and workplace behaviors.

(1) The academic course of study must include or be equivalent to

(A) an associate's degree or a bachelor's degree in a speech-language pathologist assistant or communications disorders program , or

(B) an associate degree or bachelor degree in other fields with an additional 21 credits in a speech language pathology assistant program; and

(C) successful completion of a minimum of one hundred (100) hours of field work experience supervised by a professionally licensed (not provisional) speech-language pathologist, or its clinical experience equivalent;

(2) The supervising speech-language pathologist must complete an academic course or at least 10 hours of continuing education credits in the area of supervision, completed prior to or concurrent with the first speech-language pathologist assistant supervision experience.

#### § 4458. Renewals; continuing education

(a) A license shall be renewed at an interval determined by the board which shall be no fewer than every three years and no more than every seven years upon payment of the renewal fee, provided the person applying for renewal completes professional development activities in accord with the processes approved by the department or the board, during the interval. The board shall establish, by rule, guidelines and criteria for the renewal or reinstatement of licenses issued under this chapter.

(b) At the time interval required for renewal, the department shall forward a renewal form to each licensee. Upon receipt of the completed application and the renewal fee, the department shall issue a new license.

#### § 4459. Fees

(a) Each applicant and licensee shall be subject to the following fees:



(1) Initial processing of application \$35.00 (2) Issuance of initial license \$35.00 per year for the term of the license (3) Renewal of license \$35.00 per year for the term of the renewal (4) Replacement of license \$10.00 (5) Duplicate license \$3.00

(b) Fees collected under this section shall be credited to special funds established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available to the department to offset the costs of providing those services.

§ 4460. Records and equipment

(a) A licensee in private practice shall maintain records relating to goods and services provided by the licensee, and, upon request, shall make such records available to the director for review. A licensee shall maintain records required to be kept under this section for a period of at least seven years from the date the goods or services were provided.

(b) A licensee shall make testing equipment available for periodic inspection by the director or the director's designee, and shall have all testing equipment calibrated annually by the manufacturer or a qualified testing service in accordance with the American National Standards Institute specifications.

(c) The secretary shall adopt rules implementing the provisions of this section.

§ 4461. Prices to be disclosed

A licensee in private practice shall disclose in a clear and conspicuous manner the range of prices charged for goods and services. The disclosure schedule shall be posted in each licensee's office, and a written copy given to each client prior to any sale. Disclosures shall be in the manner set forth by the department, by rule.

§ 4462. Terms of sale; 45-day trial period

(a) All sales contracts for equipment sold by licensees in private practice to persons in this state, including, but not limited to, hearing aids and augmentative communications devices, shall contain a clause which requires the licensee to refund the full product price of the equipment, except for the cost of ear molds and service, up to 45 days from the date of delivery of any new or substantially refabricated equipment or aid if, in the opinion of the consumer, the equipment or aid is not satisfactory. If the returned equipment or aid is damaged while in the possession of the consumer, the amount refunded shall be reduced by the reasonable amount of the damage. The equipment or aid may not be sold thereafter as new. For purposes of this subsection, "cost of service" means the actual cost of the service provided to fit the hearing aid or install or prepare the equipment, but shall not exceed five percent of the sale price or \$50.00, whichever is greater.

(b) The complete terms of the sale, including the terms of the 45-day trial period, the individual prices for goods and services sold and such other information as the director may require, shall be disclosed, in writing, to the consumer before the sale is completed.

(c) If the equipment or hearing aid is in the possession of the licensee, manufacturer, repair person, or their agents during the trial period, the period of time the equipment or hearing aid is in such possession shall not be included in the calculation of the 45-day trial period.

§ 4463. Maintenance of business address; display of license

A licensee in private practice shall maintain a Vermont business address, office, and telephone number at which the licensee can normally be reached, and shall conspicuously display a copy of the license at each place of business the licensee maintains.

§ 4464. Unprofessional conduct

(a) A licensee or applicant shall not engage in unprofessional conduct.

(b) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a:

(1) Willfully making or filing false reports or records in the practice of audiology, dispensing hearing aids, ~~or speech-language pathology~~ or speech-language pathology assistants, willfully impeding or obstructing the proper making or filing of reports or records, or willfully failing to file the proper report or record;

(2) Aiding or abetting a person, directly or indirectly, to commit an unauthorized practice;

(3) Giving, offering to give, or causing to be given, directly or indirectly, money or anything of value to any person who advises another in a professional capacity, as an inducement for the professional to influence others to purchase goods or services from the licensee;

(4) Advertising or making a representation which is intended or has a tendency to deceive the public, including:

(A) advertising a particular type of service, equipment, or hearing aid when the particular service, equipment, or hearing aid is not available;

(B) stating or implying that the use of a hearing aid will retard the progression of a hearing impairment;

(C) advertising or making any statement related to the practice of speech-language pathology, speech-language pathology assistant, or audiology which is intended to or tends to deceive or mislead the public;

(D) using or promoting or causing the use of any misleading, deceiving, improbable, or untruthful advertising matter, promotional literature, testimonial guarantee, warranty, label, brand, insignia, or any other representation;

(5) Engaging in any unfair or deceptive act or practice within the meaning of 9 V.S.A. § 2453, relating to consumer protection;

(6) Willfully failing to honor any representation, promise, agreement, or warranty to a client or consumer;

(7) Professional negligence or malpractice;

(8) Any of the following, except when reasonably undertaken in an emergency situation in order to protect life or health:

(A) practicing or offering to practice beyond the scope permitted by law;

(B) accepting and performing professional or occupational responsibilities which the licensee knows or has reason to know the licensee is not competent to perform; or

(C) performing professional or occupational services which have not been authorized by the consumer or his or her legal representative;

(9) Failing to make available, upon request of a person using the licensee's services, copies of records or documents in the possession or under the control of the licensee, when those records or documents have been prepared in connection with the furnishing of services or goods to the requesting persons;

(10) Sexual harassment of a patient or client;

(11) Engaging in a sexual act as defined in 13 V.S.A. § 3251 with a patient;

(12) Conviction of a crime related to the practice of audiology, ~~or~~ speech-language pathology, or speech-language pathology assistant;

(13) Discouraging clients or consumers in any way from exercising their right to a refund within a 45-day trial period, unreasonably delaying payment of such refunds as may be due, or deducting amounts from refunds beyond those allowed by law;

(14) Failing to inform a consumer prior to sale of a hearing aid that a medical evaluation of hearing loss prior to purchasing a hearing aid is in the consumer's best health interest;

(15) Engaging in fraud in connection with any state or federally-assisted medical assistance programs; or

(16) Violating any part of the Code of Ethics of the American Speech-Language Hearing Association.