

By: Deuell

S.B. No. 311

A BILL TO BE ENTITLED

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AN ACT

relating to the regulation of academic language teachers and therapists; imposing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subtitle G, Title 3, Occupations Code, is amended to read as follows:

SUBTITLE G. PROFESSIONS RELATED TO HEARING, LANGUAGE, AND SPEECH

SECTION 2. Subtitle G, Title 3, Occupations Code, is amended by adding Chapter 403 to read as follows:

CHAPTER 403. ACADEMIC LANGUAGE TEACHERS AND THERAPISTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 403.001. DEFINITIONS. In this chapter:

(1) "Academic language" means the treatment of dyslexia or related disorders.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation.

(4) "License holder" means a person who holds a license issued under this chapter.

Sec. 403.002. ADMINISTRATION BY DEPARTMENT OF LICENSING AND REGULATION. The department shall administer this chapter.

Sec. 403.003. EXEMPTION; EDUCATORS. This chapter does not apply to a person who is required to hold a certificate issued under

1 Subchapter B, Chapter 21, Education Code.

2 [Sections 403.004-403.050 reserved for expansion]

3 SUBCHAPTER B. POWERS AND DUTIES

4 Sec. 403.051. ADVISORY COMMITTEE. The department may
5 appoint an advisory committee to advise the department in
6 administering this chapter.

7 Sec. 403.052. RULES. The commission shall adopt rules
8 necessary to administer and enforce this chapter, including rules
9 that establish standards of ethical practice.

10 [Sections 403.053-403.100 reserved for expansion]

11 SUBCHAPTER C. LICENSE REQUIREMENTS

12 Sec. 403.101. LICENSE REQUIRED. A person may not use the
13 title "academic language teacher" or "academic language therapist"
14 in this state unless the person holds the appropriate license under
15 this chapter.

16 Sec. 403.102. ISSUANCE OF LICENSE. The department shall
17 issue an academic language teaching or therapy license to an
18 applicant who meets the requirements of this chapter.

19 Sec. 403.103. LICENSE APPLICATION. (a) A license
20 applicant must apply to the department on a form and in the manner
21 the department prescribes.

22 (b) The application must be accompanied by a nonrefundable
23 application fee.

24 Sec. 403.104. ELIGIBILITY FOR ACADEMIC LANGUAGE TEACHER
25 LICENSE. (a) To be eligible for an academic language teacher
26 license, an applicant must have:

27 (1) successfully completed at least 45 hours in

1 courses related to academic language, including training in
2 multisensory structured language training; and

3 (2) completed at least 90 hours of practice of
4 supervised clinical experience related to academic language,
5 including at least five conferences with clients observed by the
6 supervisor.

7 (b) Clinical experience required under Subsection (a)(2)
8 must be obtained under:

9 (1) the supervision of a license holder; and

10 (2) guidelines approved by the department.

11 Sec. 403.105. ELIGIBILITY FOR ACADEMIC LANGUAGE THERAPIST
12 LICENSE. (a) To be eligible for an academic language therapist
13 license, an applicant must have:

14 (1) successfully completed at least 200 hours in
15 courses related to academic language, including training in
16 multisensory structured language training; and

17 (2) completed at least 700 hours of practice of
18 supervised clinical experience related to academic language,
19 including at least 10 conferences with clients observed by the
20 supervisor.

21 (b) Clinical experience required under Subsection (a)(2)
22 must be obtained under:

23 (1) the supervision of a person holding an academic
24 language therapy license; and

25 (2) guidelines approved by the department.

26 Sec. 403.106. EXAMINATION; RULES. (a) To obtain a
27 license, an applicant must:

1 (1) pass an examination approved by the department;

2 and

3 (2) pay fees set by the commission.

4 (b) The department shall:

5 (1) administer an examination at least twice each
6 year;

7 (2) determine standards for acceptable performance on
8 the examination; and

9 (3) maintain a record of all examination scores for at
10 least two years after the date of examination.

11 (c) The commission by rule may:

12 (1) establish procedures for the administration of the
13 examination; and

14 (2) require a written or oral examination, or both.

15 Sec. 403.107. REEXAMINATION. (a) A person who fails the
16 examination may take a later examination on payment of a
17 nonrefundable fee for the examination.

18 (b) An applicant who fails two examinations may not be
19 reexamined until the person:

20 (1) submits a new application accompanied by a
21 nonrefundable application fee; and

22 (2) presents evidence acceptable to the department of
23 additional study in the area for which a license is sought.

24 Sec. 403.108. WAIVER OF EXAMINATION REQUIREMENT. The
25 department may waive the examination requirement and issue a
26 license to an applicant who holds an appropriate certificate or
27 other accreditation from a national organization recognized by the

1 department.

2 Sec. 403.109. PROVISIONAL LICENSE. (a) The department may
3 issue a provisional license to an applicant currently licensed in
4 another jurisdiction who seeks a license in this state and who:

5 (1) has been licensed in good standing as an academic
6 language teacher or therapist for at least two years in another
7 jurisdiction, including a foreign country, that has licensing
8 requirements substantially equivalent to the requirements of this
9 chapter;

10 (2) has passed a national or other examination
11 recognized by the department relating to the practice of academic
12 language; and

13 (3) is sponsored by a person licensed by the
14 department under this chapter with whom the provisional license
15 holder will practice during the time the person holds a provisional
16 license.

17 (b) The department may waive the requirement of Subsection
18 (a)(3) for an applicant if the department determines that
19 compliance with that subsection would be a hardship to the
20 applicant.

21 (c) A provisional license is valid until the date the
22 department approves or denies the provisional license holder's
23 application for a license.

24 (d) The department shall issue a license under this chapter
25 to the provisional license holder if:

26 (1) the provisional license holder is eligible to be
27 licensed under Section 51.404 or the provisional license holder

1 passes the part of the examination under Section 403.106 that
2 relates to the applicant's knowledge and understanding of the laws
3 and rules relating to the practice of academic language in this
4 state;

5 (2) the department verifies that the provisional
6 license holder meets the academic and experience requirements for a
7 license under this chapter; and

8 (3) the provisional license holder satisfies any other
9 licensing requirements under this chapter.

10 (e) The department must approve or deny a provisional
11 license holder's application for a license not later than the 180th
12 day after the date the provisional license is issued. The
13 department may extend the 180-day period if the results of an
14 examination have not been received by the department before the end
15 of that period.

16 Sec. 403.110. TEMPORARY LICENSE; RULES. The commission by
17 rule may provide for the issuance of a temporary license.

18 Sec. 403.111. INACTIVE STATUS; RULES. (a) The commission
19 by rule may provide for a license holder to be placed on inactive
20 status.

21 (b) Rules adopted under this section must include a time
22 limit for a license holder to remain on inactive status.

23 [Sections 403.112-403.150 reserved for expansion]

24 SUBCHAPTER D. PRACTICE BY LICENSE HOLDER

25 Sec. 403.151. CONTINUING EDUCATION. (a) A license holder
26 may not renew the person's license unless the person meets the
27 continuing education requirements established by the commission

1 under Section 51.405.

2 (b) The commission shall establish the continuing education
3 requirements in a manner that allows a license holder to comply
4 without an extended absence from the license holder's county of
5 residence.

6 (c) The department shall:

7 (1) provide to a license applicant, with the
8 application form on which the person is to apply for a license,
9 information describing the continuing education requirements; and

10 (2) notify each license holder of any change in the
11 continuing education requirements at least one year before the date
12 the change takes effect.

13 [Sections 403.152-403.200 reserved for expansion]

14 SUBCHAPTER E. LICENSE DENIAL; COMPLAINT AND DISCIPLINARY

15 PROCEDURES

16 Sec. 403.201. COMPLAINTS. Any person may file a complaint
17 with the department alleging a violation of this chapter or a rule
18 adopted under this chapter.

19 Sec. 403.202. PROHIBITED ACTIONS. A license holder may
20 not:

21 (1) obtain a license by means of fraud,
22 misrepresentation, or concealment of a material fact;

23 (2) sell, barter, or offer to sell or barter a license;

24 or

25 (3) engage in unprofessional conduct that endangers or
26 is likely to endanger the health, welfare, or safety of the public
27 as defined by commission rule.

1 Sec. 403.203. MONITORING OF LICENSE HOLDER; RULES.

2 (a) The commission by rule shall develop a system for monitoring a
3 license holder's compliance with this chapter.

4 (b) Rules adopted under this section must include
5 procedures to:

6 (1) monitor for compliance a license holder who is
7 ordered by the department to perform certain acts; and

8 (2) identify and monitor license holders who represent
9 a risk to the public.

10 Sec. 403.204. LICENSE DENIAL, REVOCATION, OR SUSPENSION FOR

11 CRIMINAL CONVICTION. (a) The commission may deny a license or may
12 suspend or revoke a license if the applicant or license holder has
13 been convicted of a misdemeanor involving moral turpitude or a
14 felony. The commission may take action authorized by this section
15 when:

16 (1) the time for appeal of the person's conviction has
17 elapsed;

18 (2) the judgment or conviction has been affirmed on
19 appeal; or

20 (3) an order granting probation is made suspending the
21 imposition of the person's sentence, without regard to whether a
22 subsequent order:

23 (A) allows withdrawal of a plea of guilty;

24 (B) sets aside a verdict of guilty; or

25 (C) dismisses an information or indictment.

26 (b) A plea or verdict of guilty or a conviction following a
27 plea of nolo contendere is a conviction for purposes of this

1 section.

2 Sec. 403.205. SCHEDULE OF SANCTIONS; RULES. The commission
3 shall use the schedule of sanctions adopted by commission rule for
4 any sanction imposed as the result of a hearing conducted by the
5 department.

6 Sec. 403.206. REINSTATEMENT. (a) A person may apply for
7 reinstatement of a revoked license on or after the first
8 anniversary of the date of revocation.

9 (b) The department may:

10 (1) accept or reject the application; and

11 (2) require an examination as a condition for
12 reinstatement of the license.

13 Sec. 403.207. REPRIMAND; CONTINUING EDUCATION. (a) In
14 addition to other disciplinary action authorized by this
15 subchapter, the commission may:

16 (1) issue a written reprimand to a license holder who
17 violates this chapter; or

18 (2) require that a license holder who violates this
19 chapter attend continuing education programs.

20 (b) The commission may specify the number of hours of
21 continuing education that must be completed by a license holder to
22 fulfill the requirement of Subsection (a)(2).

23 Sec. 403.208. EMERGENCY SUSPENSION. (a) The commission or
24 a three-member committee of members designated by the commission
25 shall temporarily suspend the license of a license holder if the
26 commission or committee determines from the evidence or information
27 presented to it that continued practice by the license holder would

1 constitute a continuing and imminent threat to the public welfare.

2 (b) A license may be suspended under this section without
3 notice or hearing on the complaint if:

4 (1) action is taken to initiate proceedings for a
5 hearing before the State Office of Administrative Hearings
6 simultaneously with the temporary suspension; and

7 (2) a hearing is held as soon as practicable under this
8 chapter and Chapter 2001, Government Code.

9 (c) The State Office of Administrative Hearings shall hold a
10 preliminary hearing not later than the 14th day after the date of
11 the temporary suspension to determine if there is probable cause to
12 believe that a continuing and imminent threat to the public welfare
13 still exists. A final hearing on the matter shall be held not later
14 than the 61st day after the date of the temporary suspension.

15 [Sections 403.209-403.250 reserved for expansion]

16 SUBCHAPTER F. PENALTIES AND OTHER ENFORCEMENT PROCEDURES

17 Sec. 403.251. DECEPTIVE TRADE PRACTICE. A violation of
18 Section 403.101 is a deceptive trade practice.

19 Sec. 403.252. CRIMINAL OFFENSE. (a) A person commits an
20 offense if the person violates Section 403.101.

21 (b) An offense under this section is a Class B misdemeanor.

22 SECTION 3. Section 51.301, Occupations Code, applies only
23 to a violation of Chapter 403, Occupations Code, as added by this
24 Act, that occurs on or after February 1, 2006.

25 SECTION 4. (a) Except as required by Subsection (b) of
26 this section, this Act takes effect September 1, 2005.

27 (b) Section 403.101 and Subchapters E and F, Chapter 403,

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1 Occupations Code, as added by this Act, take effect February 1,
2 2006.