

By: Eissler

H.B. No. 461

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of dyslexia practitioners and therapists; providing penalties.

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

SECTION 1. Subtitle G, Title 3, Occupations Code, is amended by adding Chapter 403 to read as follows:

CHAPTER 403. LICENSED DYSLEXIA PRACTITIONERS AND LICENSED DYSLEXIA THERAPISTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 403.001. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of state health services.

(2) "Department" means the Department of State Health Services.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

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

(5) "Multisensory structured language education" means a program described by the International Multisensory Structured Language Education Council for the treatment of individuals with dyslexia and related disorders that provides instruction in the skills of reading, writing, and spelling:

(A) through program content that includes:

1 (i) phonology and phonological awareness;

2 (ii) sound and symbol association;

3 (iii) syllables;

4 (iv) morphology;

5 (v) syntax; and

6 (vi) semantics; and

7 (B) following principles of instruction that  
8 include:

9 (i) simultaneous multisensory instruction,  
10 including visual-auditory-kinesthetic-tactile instruction;

11 (ii) systematic and cumulative  
12 instruction;

13 (iii) explicit instruction;

14 (iv) diagnostic teaching to automaticity;

15 and

16 (v) synthetic and analytic instruction.

17 (6) "Qualified instructor" means a person described by  
18 Section 403.113.

19 Sec. 403.002. ADMINISTRATION BY DEPARTMENT OF STATE HEALTH  
20 SERVICES. The department shall administer this chapter.

21 Sec. 403.003. APPLICABILITY. This chapter does not:

22 (1) require a school district to employ a person  
23 licensed under this chapter; or

24 (2) authorize a person who is not licensed under  
25 Chapter 401 to practice audiology or speech-language pathology.

26 [Sections 403.004-403.050 reserved for expansion]

1                   SUBCHAPTER B. POWERS AND DUTIES

2           Sec. 403.051. ADVISORY COMMITTEE.   The department shall  
3 appoint an advisory committee to advise the department in  
4 administering this chapter.

5           Sec. 403.052. RULES.   The executive commissioner shall  
6 adopt rules necessary to administer and enforce this chapter,  
7 including rules that establish standards of ethical practice.

8                   [Sections 403.053-403.100 reserved for expansion]

9                   SUBCHAPTER C. LICENSE REQUIREMENTS

10          Sec. 403.101. LICENSE REQUIRED.   A person may not use the  
11 title "licensed dyslexia practitioner," "dyslexia practitioner,"  
12 "licensed dyslexia therapist," or "dyslexia therapist" in this  
13 state unless the person holds the appropriate license under this  
14 chapter.

15          Sec. 403.102. ISSUANCE OF LICENSE.   The department shall  
16 issue a licensed dyslexia practitioner or licensed dyslexia  
17 therapist license to an applicant who meets the requirements of  
18 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 LICENSED DYSLEXIA  
25 PRACTITIONER LICENSE. (a) To be eligible for a licensed dyslexia  
26 practitioner license, an applicant must have:

27                (1) earned a bachelor's degree from an accredited

1 public or private institution of higher education;

2 (2) successfully completed at least 45 hours of course  
3 work in multisensory structured language education from a training  
4 program that meets the requirements of Section 403.106;

5 (3) completed at least 60 hours of supervised clinical  
6 experience in multisensory structured language education;

7 (4) completed at least five demonstration lessons of  
8 the practice of multisensory structured language education, each  
9 observed by an instructor from a training program that meets the  
10 requirements of Section 403.106 and followed by a conference with  
11 and a written report by the instructor; and

12 (5) successfully completed a national multisensory  
13 structured language education competency examination approved by  
14 the department and administered by a national certifying  
15 professional organization.

16 (b) Clinical experience required under Subsection (a)(3)  
17 must be obtained under:

18 (1) the supervision of a qualified instructor or an  
19 instructor from an accredited training program that meets the  
20 requirements of Section 403.106; and

21 (2) guidelines approved by the department.

22 Sec. 403.105. ELIGIBILITY FOR LICENSED DYSLEXIA THERAPIST  
23 LICENSE. (a) To be eligible for a licensed dyslexia therapist  
24 license, an applicant must have:

25 (1) earned at least a master's degree from an  
26 accredited public or private institution of higher education;

27 (2) successfully completed at least 200 hours of

1 course work in multisensory structured language education from a  
2 training program that meets the requirements of Section 403.106;

3 (3) completed at least 700 hours of supervised  
4 clinical experience in multisensory structured language education;

5 (4) completed at least 10 demonstration lessons of the  
6 practice of multisensory structured language education, each  
7 observed by an instructor from a training program that meets the  
8 requirements of Section 403.106 and followed by a conference with  
9 and a written report by the instructor; and

10 (5) successfully completed a national multisensory  
11 structured language education competency examination approved by  
12 the department and administered by a national certifying  
13 professional organization.

14 (b) Clinical experience required under Subsection (a)(3)  
15 must be obtained under:

16 (1) the supervision of a qualified instructor or an  
17 instructor from an accredited training program that meets the  
18 requirements of Section 403.106; and

19 (2) guidelines approved by the department.

20 Sec. 403.106. REQUIREMENTS FOR TRAINING PROGRAMS. (a) For  
21 purposes of determining whether an applicant satisfies the training  
22 requirements for a license under this chapter, a multisensory  
23 structured language education training program completed by the  
24 applicant must:

25 (1) be accredited by a nationally recognized  
26 accrediting organization;

27 (2) have in writing defined goals and objectives,

1 areas of authority, and policies and procedures;

2 (3) have the appropriate financial and management  
3 resources to operate the training program, including a  
4 knowledgeable administrator and standard accounting and reporting  
5 procedures;

6 (4) have a physical site, equipment, materials,  
7 supplies, and environment suitable for the training program;

8 (5) have a sufficient number of instructional  
9 personnel who have completed the requirements for certification in  
10 multisensory structured language education;

11 (6) have been reviewed by multisensory structured  
12 language education professionals who are not affiliated with the  
13 training program;

14 (7) have developed and followed procedures to maintain  
15 and improve the quality of training provided by the program;

16 (8) have provided direct instruction in the principles  
17 and in each element of multisensory structured language education  
18 for a minimum of:

19 (A) 200 contact hours of coursework for training  
20 program participants who seek a licensed dyslexia therapist  
21 license; and

22 (B) 45 contact hours of coursework for training  
23 program participants who seek a licensed dyslexia practitioner  
24 license;

25 (9) have required training program participants to  
26 complete a program of supervised clinical experience in which the  
27 participants provided multisensory structured language education

1 to students either individually or in small groups for a minimum of:

2 (A) 700 hours for training program participants  
3 who seek a licensed dyslexia therapist license; and

4 (B) 60 hours for training program participants  
5 who seek a licensed dyslexia practitioner license;

6 (10) have required training program participants to  
7 demonstrate the application of multisensory structured language  
8 education principles of instruction by completing demonstration  
9 lessons observed by an instructor and followed by a conference with  
10 and a written report by the instructor; and

11 (11) have provided instruction based on the Texas  
12 Education Agency publication "The Dyslexia Handbook: Procedures  
13 Concerning Dyslexia and Related Disorders (2007)," or a revised  
14 version of that publication approved by the department.

15 (b) A training program must require a training program  
16 participant who seeks a licensed dyslexia practitioner license to  
17 have completed at least five demonstration lessons described by  
18 Subsection (a)(10) and a participant who seeks a licensed dyslexia  
19 therapist license to have completed at least 10 demonstration  
20 lessons.

21 (c) The department, in consultation with the advisory  
22 committee, shall determine whether a training program meets the  
23 requirements of this section.

24 Sec. 403.107. EXAMINATION; RULES. (a) To obtain a  
25 license, an applicant must:

26 (1) pass a written examination approved by the  
27 department under Subsection (b); and

1           (2) pay fees set by the executive commissioner.

2           (b) The department shall, in consultation with the advisory  
3 committee:

4           (1) approve a competency examination that is related  
5 to multisensory structured language education and that will be  
6 administered at least twice each year by a professional  
7 organization that issues national certifications; and

8           (2) maintain a record of all examinations for at least  
9 two years after the date of examination.

10          Sec. 403.108. REEXAMINATION. (a) A person who fails the  
11 examination may take a later examination on payment of a  
12 nonrefundable fee for the examination.

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

15           (1) submits a new application accompanied by a  
16 nonrefundable application fee; and

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

19          Sec. 403.109. WAIVER OF EXAMINATION REQUIREMENT. The  
20 department, in consultation with the advisory committee, may waive  
21 the examination requirement and issue a license to an applicant who  
22 holds an appropriate certificate or other accreditation from a  
23 nationally accredited multisensory structured language education  
24 organization recognized by the department.

25          Sec. 403.110. PROVISIONAL LICENSE. (a) The department, in  
26 consultation with the advisory committee, may issue a provisional  
27 license to an applicant currently licensed in another jurisdiction



1 who seeks a license in this state and who:

2 (1) has been certified in good standing as a  
3 multisensory structured language education professional for at  
4 least two of the last five years in another jurisdiction, including  
5 a foreign country, that has certification requirements  
6 substantially equivalent to the license requirements of this  
7 chapter;

8 (2) has passed a national multisensory structured  
9 language education certification examination or an equivalent  
10 examination recognized by the department; and

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

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

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

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

24 (1) the provisional license holder demonstrates  
25 knowledge and understanding of the laws and rules relating to the  
26 practice of multisensory structured language education in this  
27 state;

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

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

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

12           Sec. 403.111. TEMPORARY LICENSE; RULES. The executive  
13 commissioner by rule may provide for the issuance of a temporary  
14 license.

15           Sec. 403.112. INACTIVE STATUS; RULES. (a) The executive  
16 commissioner by rule may provide for a license holder to be placed  
17 on inactive status.

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

20           Sec. 403.113. QUALIFIED INSTRUCTOR. To be considered a  
21 qualified instructor under this chapter, a person must:

22                   (1) be a licensed dyslexia therapist;

23                   (2) have at least 1,400 hours of clinical teaching  
24 experience; and

25                   (3) have completed a two-year course of study  
26 dedicated to the administration and supervision of multisensory  
27 structured language education programs taught by a nationally

1 accredited training program that meets the requirements of Section  
2 403.106.

3 [Sections 403.114-403.150 reserved for expansion]

4 SUBCHAPTER D. PRACTICE BY LICENSE HOLDER

5 Sec. 403.151. PRACTICE SETTING. (a) A licensed dyslexia  
6 practitioner may practice only in an educational setting, including  
7 a school, learning center, or clinic.

8 (b) A licensed dyslexia therapist may practice in a school,  
9 learning center, clinic, or private practice setting.

10 Sec. 403.152. CONTINUING EDUCATION. (a) A license holder  
11 may not renew the person's license unless the person meets the  
12 continuing education requirements established by the executive  
13 commissioner.

14 (b) The executive commissioner, in consultation with the  
15 advisory committee, shall establish the continuing education  
16 requirements in a manner that allows a license holder to comply  
17 without an extended absence from the license holder's county of  
18 residence.

19 (c) The department shall:

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

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

26 [Sections 403.153-403.200 reserved for expansion]

1           SUBCHAPTER E. LICENSE DENIAL; COMPLAINT AND DISCIPLINARY

2                           PROCEDURES

3           Sec. 403.201. COMPLAINTS. Any person may file a complaint  
4 with the department alleging a violation of this chapter or a rule  
5 adopted under this chapter.

6           Sec. 403.202. PROHIBITED ACTIONS. A license holder may  
7 not:

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

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

12                   (3) engage in unprofessional conduct that endangers or  
13 is likely to endanger the health, welfare, or safety of the public  
14 as defined by executive commissioner rule.

15           Sec. 403.203. GROUNDS FOR DISCIPLINARY ACTION. If a  
16 license holder violates this chapter or a rule or code of ethics  
17 adopted by the executive commissioner, the department shall:

18                   (1) revoke or suspend the license;

19                   (2) place on probation the person if the person's  
20 license has been suspended;

21                   (3) reprimand the license holder; or

22                   (4) refuse to renew the license.

23           Sec. 403.204. LICENSE DENIAL, REVOCATION, OR SUSPENSION FOR  
24 CRIMINAL CONVICTION. (a) The department may deny a license or may  
25 suspend or revoke a license if the applicant or license holder has  
26 been convicted of a misdemeanor involving moral turpitude or a  
27 felony. The department may take action authorized by this section

1 when:

2 (1) the time for appeal of the person's conviction has  
3 elapsed;

4 (2) the judgment or conviction has been affirmed on  
5 appeal; or

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

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

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

11 (C) dismisses an information or indictment.

12 (b) A plea or verdict of guilty or a conviction following a  
13 plea of nolo contendere is a conviction for purposes of this  
14 section.

15 Sec. 403.205. HEARING. (a) If the department proposes to  
16 revoke, suspend, or refuse to renew a person's license, the person  
17 is entitled to a hearing before a hearings officer appointed by the  
18 State Office of Administrative Hearings.

19 (b) The executive commissioner shall prescribe procedures  
20 for appealing to the commissioner a decision to revoke, suspend, or  
21 refuse to renew a license.

22 Sec. 403.206. ADMINISTRATIVE PROCEDURE. A proceeding under  
23 this subchapter to suspend, revoke, or refuse to renew a license is  
24 governed by Chapter 2001, Government Code.

25 Sec. 403.207. SANCTIONS. (a) The executive commissioner,  
26 in consultation with the advisory committee, by rule shall adopt a  
27 broad schedule of sanctions for a violation of this chapter.

1       (b) The State Office of Administrative Hearings shall use  
2 the schedule of sanctions for a sanction imposed as the result of a  
3 hearing conducted by that office.

4       Sec. 403.208. PROBATION. The department may require a  
5 license holder whose license suspension is probated to:

6           (1) report regularly to the department on matters that  
7 are the basis of the probation;

8           (2) limit practice to areas prescribed by the  
9 department; or

10          (3) continue the license holder's professional  
11 education until the license holder attains a degree of skill  
12 satisfactory to the department in those areas that are the basis of  
13 the probation.

14       Sec. 403.209. MONITORING OF LICENSE HOLDER. (a) The  
15 executive commissioner by rule shall develop a system for  
16 monitoring a license holder's compliance with the requirements of  
17 this chapter.

18       (b) Rules adopted under this section must include  
19 procedures to:

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

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

24       Sec. 403.210. INFORMAL PROCEDURES. (a) The executive  
25 commissioner by rule shall adopt procedures governing:

26           (1) informal disposition of a contested case under  
27 Section 2001.056, Government Code; and

1           (2) an informal proceeding held in compliance with  
2 Section 2001.054, Government Code.

3           (b) Rules adopted under Subsection (a) must:

4           (1) provide the complainant and the license holder an  
5 opportunity to be heard; and

6           (2) require the presence of a representative of the  
7 attorney general or the department's legal counsel to advise the  
8 department or the department's employees.

9           Sec. 403.211. REFUND. (a) Subject to Subsection (b), the  
10 department may order a license holder to pay a refund to a consumer  
11 as provided in an agreement resulting from an informal settlement  
12 conference instead of or in addition to imposing an administrative  
13 penalty under this chapter.

14           (b) The amount of a refund ordered as provided in an  
15 agreement resulting from an informal settlement conference may not  
16 exceed the amount the consumer paid to the license holder for a  
17 service regulated by this chapter. The department may not require  
18 payment of other damages or estimate harm in a refund order.

19           Sec. 403.212. REINSTATEMENT. (a) A person may apply for  
20 reinstatement of a revoked license on or after the first  
21 anniversary of the date of revocation.

22           (b) The department may:

23           (1) accept or reject the application; and

24           (2) require an examination as a condition for  
25 reinstatement of the license.

26           Sec. 403.213. REPRIMAND; CONTINUING EDUCATION. (a) In  
27 addition to other disciplinary action authorized by this

1 subchapter, the department may:

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

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

6 (b) The department, in consultation with the advisory  
7 committee, may specify the number of hours of continuing education  
8 that must be completed by a license holder to fulfill the  
9 requirement of Subsection (a)(2).

10 Sec. 403.214. EMERGENCY SUSPENSION. (a) The department  
11 shall temporarily suspend the license of a license holder if the  
12 department determines from the evidence or information presented to  
13 it that continued practice by the license holder would constitute a  
14 continuing and imminent threat to the public welfare.

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

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

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

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



1 [Sections 403.215-403.250 reserved for expansion]

2 SUBCHAPTER F. ADMINISTRATIVE PENALTY

3 Sec. 403.251. IMPOSITION OF ADMINISTRATIVE PENALTY. The  
4 department may impose an administrative penalty on a person  
5 licensed under this chapter who violates this chapter or a rule or  
6 order adopted under this chapter.

7 Sec. 403.252. AMOUNT OF ADMINISTRATIVE PENALTY. (a) The  
8 amount of the administrative penalty may not be more than \$5,000 for  
9 each violation. Each day a violation continues or occurs is a  
10 separate violation for the purpose of imposing a penalty.

11 (b) The amount shall be based on:

12 (1) the seriousness of the violation, including the  
13 nature, circumstances, extent, and gravity of the violation;

14 (2) the economic harm caused by the violation;

15 (3) the history of previous violations;

16 (4) the amount necessary to deter a future violation;

17 (5) efforts to correct the violation; and

18 (6) any other matter that justice may require.

19 (c) The executive commissioner by rule shall adopt an  
20 administrative penalty schedule based on the criteria listed in  
21 Subsection (b) for violations of this chapter or applicable rules  
22 to ensure that the amounts of penalties imposed are appropriate to  
23 the violation. The executive commissioner shall provide the  
24 administrative penalty schedule to the public on request.

25 Sec. 403.253. REPORT AND NOTICE OF VIOLATION AND PENALTY.

26 (a) If the commissioner or the commissioner's designee determines  
27 that a violation occurred, the commissioner or the designee may

1 issue to the department a report stating:

2 (1) the facts on which the determination is based; and

3 (2) the commissioner's or the designee's  
4 recommendation on the imposition of an administrative penalty,  
5 including a recommendation on the amount of the penalty.

6 (b) Within 14 days after the date the report is issued, the  
7 commissioner or the commissioner's designee shall give written  
8 notice of the report to the license holder. The notice must:

9 (1) include a brief summary of the alleged violation;

10 (2) state the amount of the recommended administrative  
11 penalty; and

12 (3) inform the license holder of the license holder's  
13 right to a hearing on the occurrence of the violation, the amount of  
14 the penalty, or both.

15 Sec. 403.254. PENALTY TO BE PAID OR HEARING REQUESTED. (a)  
16 Within 10 days after the date the license holder receives the  
17 notice, the license holder in writing may:

18 (1) accept the determination and recommended  
19 administrative penalty of the commissioner or the commissioner's  
20 designee; or

21 (2) make a request for a hearing on the occurrence of  
22 the violation, the amount of the penalty, or both.

23 (b) If the license holder accepts the determination and  
24 recommended penalty of the commissioner or the commissioner's  
25 designee, the commissioner by order shall approve the determination  
26 and impose the recommended penalty.

27 Sec. 403.255. HEARING. (a) If the license holder requests

1 a hearing or fails to respond in a timely manner to the notice, the  
2 commissioner or the commissioner's designee shall set a hearing and  
3 give written notice of the hearing to the license holder.

4 (b) An administrative law judge of the State Office of  
5 Administrative Hearings shall hold the hearing.

6 (c) The administrative law judge shall make findings of fact  
7 and conclusions of law and promptly issue to the commissioner a  
8 proposal for a decision about the occurrence of the violation and  
9 the amount of a proposed administrative penalty.

10 Sec. 403.256. DECISION BY COMMISSIONER. (a) Based on the  
11 findings of fact, conclusions of law, and proposal for decision,  
12 the commissioner by order may determine that:

13 (1) a violation occurred and impose an administrative  
14 penalty; or

15 (2) a violation did not occur.

16 (b) The notice of the commissioner's order given to the  
17 license holder must include a statement of the right of the license  
18 holder to judicial review of the order.

19 Sec. 403.257. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

20 (a) Within 30 days after the date the commissioner's order becomes  
21 final, the license holder shall:

22 (1) pay the administrative penalty; or

23 (2) file a petition for judicial review contesting the  
24 occurrence of the violation, the amount of the penalty, or both.

25 (b) Within the 30-day period prescribed by Subsection (a), a  
26 license holder who files a petition for judicial review may:

27 (1) stay enforcement of the penalty by:

1                   (A) paying the penalty to the court for placement  
2 in an escrow account; or

3                   (B) giving the court a supersedeas bond approved  
4 by the court that:

5                               (i) is for the amount of the penalty; and  
6                               (ii) is effective until all judicial review  
7 of the commissioner's order is final; or

8                   (2) request the court to stay enforcement of the  
9 penalty by:

10                   (A) filing with the court a sworn affidavit of  
11 the license holder stating that the license holder is financially  
12 unable to pay the penalty and is financially unable to give the  
13 supersedeas bond; and

14                   (B) giving a copy of the affidavit to the  
15 commissioner or the commissioner's designee by certified mail.

16                   (c) If the commissioner or the commissioner's designee  
17 receives a copy of an affidavit under Subsection (b)(2), the  
18 commissioner or the designee may file with the court, within five  
19 days after the date the copy is received, a contest to the  
20 affidavit.

21                   (d) The court shall hold a hearing on the facts alleged in  
22 the affidavit as soon as practicable and shall stay the enforcement  
23 of the penalty on finding that the alleged facts are true. The  
24 license holder who files an affidavit has the burden of proving that  
25 the license holder is financially unable to pay the penalty and to  
26 give a supersedeas bond.

27                   Sec. 403.258. COLLECTION OF PENALTY. (a) If the license

1 holder does not pay the administrative penalty and the enforcement  
2 of the penalty is not stayed, the penalty may be collected.

3 (b) The attorney general may sue to collect the penalty.

4 Sec. 403.259. DETERMINATION BY COURT. (a) If the court  
5 sustains the determination that a violation occurred, the court may  
6 uphold or reduce the amount of the administrative penalty and order  
7 the license holder to pay the full or reduced amount of the penalty.

8 (b) If the court does not sustain the finding that a  
9 violation occurred, the court shall order that a penalty is not  
10 owed.

11 Sec. 403.260. REMITTANCE OF PENALTY AND INTEREST. (a) If  
12 the license holder paid the administrative penalty and if the  
13 amount of the penalty is reduced or the penalty is not upheld by the  
14 court, the court shall order, when the court's judgment becomes  
15 final, that the appropriate amount plus accrued interest be  
16 remitted to the license holder.

17 (b) The interest accrues at the rate charged on loans to  
18 depository institutions by the New York Federal Reserve Bank.

19 (c) The interest shall be paid for the period beginning on  
20 the date the penalty is paid and ending on the date the penalty is  
21 remitted.

22 (d) If the license holder gave a supersedeas bond and the  
23 penalty is not upheld by the court, the court shall order, when the  
24 court's judgment becomes final, the release of the bond.

25 (e) If the license holder gave a supersedeas bond and the  
26 amount of the penalty is reduced, the court shall order the release  
27 of the bond after the license holder pays the reduced amount.

1       Sec. 403.261. ADMINISTRATIVE PROCEDURE. A proceeding under  
2 this subchapter is a contested case under Chapter 2001, Government  
3 Code.

4           [Sections 403.262-403.300 reserved for expansion]

5       SUBCHAPTER G. PENALTIES AND OTHER ENFORCEMENT PROCEDURES

6       Sec. 403.301. INJUNCTION. (a) The department may request  
7 the attorney general or the appropriate county or district attorney  
8 to commence an action to enjoin a violation of this chapter.

9           (b) The remedy provided by this section is in addition to  
10 any other action authorized by law.

11       Sec. 403.302. CIVIL PENALTY. (a) A person who violates  
12 this chapter, a rule adopted by the executive commissioner, or an  
13 order adopted by the commissioner under this chapter is liable for a  
14 civil penalty not to exceed \$5,000 a day.

15           (b) At the request of the department, the attorney general  
16 shall bring an action to recover a civil penalty authorized under  
17 this section.

18       Sec. 403.303. CRIMINAL PENALTY. (a) A person commits an  
19 offense if the person violates Section 403.101.

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

21       Sec. 403.304. CEASE AND DESIST ORDER. (a) If it appears to  
22 the commissioner that a person who is not licensed under this  
23 chapter is violating this chapter or a rule adopted under this  
24 chapter, the commissioner after notice and an opportunity for a  
25 hearing may issue a cease and desist order prohibiting the person  
26 from engaging in the activity.

27           (b) A violation of an order under this section constitutes

1 grounds for imposing an administrative penalty under this chapter.

2 SECTION 2. The heading to Subtitle G, Title 3, Occupations  
3 Code, is amended to read as follows:

4 SUBTITLE G. PROFESSIONS RELATED TO HEARING, ~~AND~~ SPEECH, AND  
5 DYSLEXIA

6 SECTION 3. Not later than November 1, 2009, the  
7 commissioner of the Department of State Health Services shall  
8 appoint the initial members of the advisory committee under Section  
9 403.051, Occupations Code, as added by this Act.

10 SECTION 4. Not later than June 1, 2010, the executive  
11 commissioner of the Health and Human Services Commission shall  
12 adopt final rules under Section 403.052, Occupations Code, as added  
13 by this Act.

14 SECTION 5. The Department of State Health Services shall  
15 issue a licensed dyslexia therapist license to an applicant under  
16 this section who:

17 (1) applies for a license under this section not later  
18 than December 31, 2012;

19 (2) not later than November 30, 2012, meets the  
20 requirements of Sections 403.105(a)(2)-(5), Occupations Code, as  
21 added by this Act;

22 (3) submits any other information required by the  
23 department by rule; and

24 (4) pays the application fee.

25 SECTION 6. (a) Except as required by Subsection (b) of this  
26 section, this Act takes effect September 1, 2009.

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

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1 403, Occupations Code, as added by this Act, take effect September  
2 1, 2010.