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BILL ANALYSIS

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Senate Bill 206 (as enrolled)  
Sponsor: Senator Shirley Johnson  
Senate Committee: Health Policy  
House Committee: Health Policy

**PUBLIC ACT 97 of 2004**

Date Completed: 7-22-04

**RATIONALE**

Some people believe that the State of Michigan should license audiologists. These individuals' areas of practice include the assessment and rehabilitation of people with auditory disorders and vestibular impairments (which pertain to equilibrium), prevention of hearing loss, and research into normal and disordered auditory and vestibular functions. In this country, audiologists are certified by the American Speech-Language-Hearing Association (ASHA), which requires them to have a graduate degree, complete a residency, and pass a national exam. Audiologists also may be certified by the American Academy of Audiology. Licensure is governed by individual state laws. According to the Michigan Academy of Audiology, Michigan and Idaho were the only states that neither licensed nor registered audiologists.

It is estimated that 400 to 500 audiologists currently practice in Michigan. While many of them evidently hold a license as a hearing aid dealer, audiologists were not otherwise subject to State regulation. It was suggested that licensure would protect both the profession and the public from untrained or incompetent practitioners, as well as bring Michigan law into line with most of the other states.

**CONTENT**

**The bill amended the Public Health Code, and created Part 168 (Audiology) within the Code, to provide for the licensure of audiologists. The bill does the following:**

- Establishes application and license fees.
- Specifies educational, practical, and

**examination requirements for licensure.**

- **Creates the Michigan Board of Audiology.**
- **Regulates certain activities of audiologists, including testing vestibular function, administering audiometric tests, and selling a hearing instrument to a minor.**
- **Indicates that Part 168 does not limit certain individuals from performing their jobs, such as teaching communication disorders and screening hearing.**

Part 168 is created within Article 15 of the Code, which contains general and specific regulations for health occupations.

The bill took effect on May 7, 2004.

**Licensure Requirement**

Beginning 120 days after its effective date, the bill prohibits a person from engaging in the practice of audiology without being licensed or otherwise authorized by Article 15, except as described below. The bill establishes an application processing fee of \$120 and an annual license fee of \$150 for a person licensed or seeking licensure as an audiologist.

Under the bill, use of the following words or titles is restricted to those people authorized by Article 15 to use them: "audiometrist", "audiologist", "hearing therapist", "hearing aid audiologist", "educational audiologist", "industrial audiologist", and "clinical audiologist".

## Practice of Audiology

The bill defines "practice of audiology" as the nonmedical and nonsurgical application of principles, methods, and procedures related to disorders of hearing, including all of the following:

- Facilitating the conservation of auditory system function.
- Developing and implementing hearing conservation programs.
- Preventing, identifying, and assessing hearing disorders of the peripheral and central auditory system.
- Selecting, fitting, and dispensing amplification systems, including hearing aids and related devices, and providing training for their use.
- Providing auditory training, speech reading, consulting, and education to individuals with hearing disorders.
- Administering and interpreting tests of vestibular function and tinnitus in compliance with the bill.

(Tinnitus refers to ringing or other noise in the ear.)

Practice of audiology also includes routine cerumen (earwax) removal from the cartilaginous portion of the external ear in otherwise healthy ears. If an audiologist discovers any trauma, including continuous uncontrolled bleeding, lacerations, or other traumatic injuries while engaged in routine cerumen removal, he or she must, as soon as practically possible, refer the patient to a person licensed in the practice of medicine or osteopathic medicine and surgery.

In addition, practice of audiology includes speech and language screening limited to a pass-fail determination for the purpose of identifying individuals with disorders of communication.

Practice of audiology does not include the practice of medicine or osteopathic medicine and surgery, or medical diagnosis or treatment.

## Board of Audiology

The bill creates the Michigan Board of Audiology in the Department of Community Health (DCH). The Board must consist of the following nine voting members:

- Five audiologists.
- Two individuals licensed to practice medicine or osteopathic medicine and surgery who hold a certificate of qualification from the American Board of Otolaryngology.
- Two members of the public, who may not be audiologists or physicians or have family or financial ties to an audiologist or physician.

The five audiologists initially appointed to the Board must meet the requirements of Section 16135 of the Code. (That section requires members of health profession boards, committees, and task forces to be all of the following: at least 18 years old; of good moral character; a resident of the State; and currently licensed or registered in this State if licensure or registration in a health profession is a requirement for membership. A member also must have actively practiced or taught that profession in any state for at least two years before appointment. If licensure or registration is required, Section 16135 allows the Governor to appoint individuals who are certified or otherwise approved by a national organization, and/or who have actively practiced or taught in the profession for at least two years.)

## Regulated Activities

Under the bill, an audiologist may administer tests of vestibular function only to patients who have been referred to him or her by a person licensed to practice medicine or osteopathic medicine and surgery.

If an audiologist administers an audiometric test for tinnitus and his or her examination of the patient reflects the presence of otologic or systemic diseases, the audiologist promptly must refer the patient to a person licensed to practice medicine or osteopathic medicine and surgery.

The bill requires an audiologist to comply with Federal Food and Drug Administration medical referral guidelines for fitting and dispensing hearing instruments, incorporated by reference.

The bill prohibits a licensed audiologist from selling a hearing instrument to a person under 18 years old unless the person or his or her parent or guardian gives the audiologist a written statement signed by a licensed physician who specializes in diseases of the

ear, stating both of the following:

- The person's hearing loss has been medically evaluated within six months before the statement is presented.
- The person may be considered a candidate for a hearing instrument.

#### Criteria for Licensure

The Board of Audiology must require that an individual granted a license as an audiologist possess a master's or doctoral degree in audiology from a regionally accredited college or university approved by the Board; have completed at least nine months of supervised clinical experience in audiology; and have successfully completed an examination in audiology, as described below.

The bill requires the DCH, in consultation with the Board of Audiology, to provide that applicants pass an examination dealing with all aspects of the practice of audiology, before a license is issued under Part 168. In consultation with the Board, the DCH may develop its own examination and may promulgate rules to establish standards for that exam or for the adoption by reference of all or parts of an exam developed by an outside entity that the Department determines offers an appropriate examination. If the DCH adopts all or part of such an exam, it may promulgate rules to adopt by reference any supplement or update to the exam.

Until one or more exams are developed or adopted, the bill adopts by reference the PRAXIS examination in audiology, developed by Educational Testing Services, in existence on the bill's effective date. The bill states that this exam is considered acceptable for qualifications of applicants under Part 168. By June 30, 2005, the DCH, in consultation with the Board, must make a recommendation on whether to develop its own exam, adopt an exam developed by an outside entity, or continue to accept the PRAXIS exam and any update. The DCH must give notice of its recommendation to the House and Senate standing committees on health policy matters.

Notwithstanding these requirements, the bill requires the DCH to grant a license to a person who, on the bill's effective date, was engaged in the practice of audiology, and who meets the criteria for licensure, applies for licensure, and presents to the Department proof of passing the PRAXIS examination in

audiology or any past or present version of its predecessor, the National Teachers Examination on speech and language pathology and audiology. The bill states that passage of these exams is considered fulfillment of the examination requirement. For this purpose, the bill adopts by reference the past and present versions of the PRAXIS examination in audiology and all versions of its predecessor.

#### Continuing Education Requirements

The bill requires the DCH, in consultation with the Board, to promulgate rules to require licensees seeking renewal to furnish acceptable evidence of the successful completion, during the preceding license year, of at least 10 clock hours of continuing education courses or programs related to the practice of audiology and designed to educate licensees further. An individual must meet this continuing education requirement beginning the license year after the effective date of the rules.

The DCH also must ensure that all approved continuing education courses include defined measurements of preknowledge and postknowledge or skill improvements, or both, as a result of the continuing education program.

#### Individuals not Limited by Part 168

The bill specifies that Part 168 does not limit an individual employed by a regionally accredited college or university and involved with research or the teaching of communication disorders, from performing those duties for which he or she is employed by that institution, as long as the individual does not engage in the practice of audiology or hold himself or herself out as licensed or otherwise authorized under Article 15 as an audiologist.

Part 168 also does not limit an individual who is employed by the Department of Community Health in one of its approved hearing screening training programs from conducting screening of hearing sensitivity.

In addition, Part 168 does not limit an individual certified by an agency acceptable to the Occupational Health Standards Commission from engaging in hearing screening as part of a hearing conservation program in compliance with standards adopted

under the Michigan Occupational Safety and Health Act.

The bill also specifies that Part 168 does not limit a certified, licensed, registered, or otherwise statutorily recognized member of another profession, including a person licensed in medicine or osteopathic medicine and surgery and an unlicensed or licensed person to whom tasks have been delegated under the physician's supervision, and a person licensed under Article 13 of the Code (which governs hearing aid dealers), from practicing his or her profession as authorized by law, as long as the individual does not hold himself or herself out to the public as possessing a license issued or title protected under Article 15.

### Social Work Terms

The Code restricts the use of the following terms to people authorized by Article 15 to use them: "social worker", "certified social worker", "social work technician", "s.w.", "c.s.w.", and "s.w.t.". Under the bill, this applies until July 1, 2005. Beginning on that date, the use of the following terms will be restricted: "social worker", "licensed master's social worker", "licensed bachelor's social worker", "registered social service technician", "social service technician", "l.m.s.w.", "l.b.s.w.", and "r.s.s.t.". (Public Act 61 of 2004 amended Part 185 of the Code to create two categories of licensed social workers, and make other changes regarding the practice of social work, effective July 1, 2005.)

MCL 333.16131 et al.

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

Audiologists are highly qualified health care professionals who should be recognized in Michigan statute. To become certified by ASHA, audiologists must earn a master's or doctoral degree, pass a national exam, and complete at least 2,000 hours of mentored professional practice in a two-year period. Nevertheless, licensure is the credential that legally defines the practice of audiology in the vast majority of states. Nothing in Michigan law, however, regulated or set standards for audiologists. By providing for the licensure of

audiologists and defining their scope of practice, the bill gives these professionals the recognition their counterparts receive in 48 other states, and will reduce reliance on ASHA certification. Licensure also creates a framework in which meaningful sanctions may be imposed on incompetent or unethical audiologists. In other words, if a person must be licensed in order to practice audiology, then the license can be suspended or revoked if grounds exist.

In addition, the bill will help educate and protect consumers, who do not readily distinguish between hearing aid dealers and audiologists. Although Michigan licenses hearing aid dealers and requires them to pass a national exam, these individuals must have only a high school education and their scope of practice is relatively limited. Audiologists, on the other hand, must successfully complete a rigorous graduate degree program, which includes a practicum, an internship, or a residency in each year.

Furthermore, since audiologists were not regulated in Michigan, there was nothing to stop virtually anyone from calling himself or herself an audiologist. By providing statutory protection for the titles used in the audiology profession, the bill will protect the public from untrained, unscrupulous practitioners.

#### **Opposing Argument**

By providing for the licensure of audiologists, the bill exempts them from the statute that regulates hearing aid dealers. While audiologists must have an advanced degree, their national exam does not require them to demonstrate that they are qualified to fit hearing aids or perform cerumen removal. Licensed hearing aid dispensers, on the other hand, must pass a national examination that includes a hands-on component. Evidently, one part of the exam involves taking an earmold impression, and the failure rate averages 40%. Allowing someone to become a licensed audiologist without being tested in this skill might endanger the public.

**Response:** Although the ASHA exam for audiologists does not include a hands-on portion, audiologists take this exam only after earning a graduate degree that includes many hours of practical experience. When a certified audiologist is hired by a school, ear-nose-and-throat specialist, or hospital, he or she is routinely required to take ear impressions, and is qualified to do so by virtue of his or her training. Furthermore, another

examination adopted or developed by the DCH could include a hands-on component.

Cerumen removal is a necessary part of fitting hearing devices and testing hearing. Under the bill, audiologists are limited to removing earwax from the external portion of an otherwise healthy ear. If an audiologist discovers continuous bleeding, cuts, or other traumatic injuries, he or she must refer the patient to a physician as soon as practically possible.

### **Opposing Argument**

The licensure of audiologists under the Public Health Code is unwarranted. New licensing requirements should be enacted only for the purpose of promoting safe and competent health care, and only when the public cannot be protected effectively by any other means. This did not appear to be the case in regard to audiology. Furthermore, any statutory regulation of audiologists should be within the Occupational Code, which covers the hearing aid industry and other nonmedical occupations.

**Response:** Considering the potential injury that can be inflicted by an inept practitioner, such as ear drum perforation, licensure is in fact necessary to protect the public health. A representative of the Michigan Academy of Audiology gave Senate Committee testimony about a case in this State that was before the ethics committee of the American Academy of Audiology. That entity, however, can do little more than reprimand a person. Furthermore, Article 15 of the Public Health Code, which the bill amended, regulates a wide spectrum of health care professionals, including occupational therapists, psychologists, physical therapists, social workers, and optometrists.

### **Opposing Argument**

The bill should prohibit the use of the title "audioprosthologist" by anyone not licensed under Article 15. This title is used by some people within the hearing health profession. If consumers do not distinguish between hearing aid dealers and audiologists, it is highly likely that the public does not know the difference between an audiologist and an audioprosthologist. Although an audioprosthologist has training beyond that required for hearing aid dealers, it does not compare with the graduate degree and practical experience required of audiologists. It does a disservice to the public to perpetuate confusion between these considerably

different hearing health practitioners.

**Response:** According to a representative of the Michigan Hearing Aid Society, Inc., audioprosthologists are certified by the American Conference of Audioprosthology after taking a college-level class once a week for 13 weeks and completing 90 hours of practicum in the field of hearing instrument science approved by the American Council of Education. Reportedly, this certification is nationwide and has been in use for over five years.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill creates a fee structure designed to offset the costs of regulating the profession of audiology, and creates an oversight board for the profession. The former Department of Consumer and Industry Services had reported that there were approximately 400 to 500 practicing audiologists in Michigan. If 400 become licensed, the annual licensing revenue will total \$60,000. Revenue will be greater in the first year as application fees will generate \$48,000. The bill will increase the workload in the Licensing and Complaint Allegation Division within the Bureau of Health Services (which was recently transferred to the Department of Community Health), but the revenue generated should be sufficient to cover any additional staffing or information technology costs that will be incurred.

Fiscal Analyst: Steve Angelotti

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.