

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 402 (Hearing Instrument Fitters and Dispensers), Occupations Code, authorizes the Texas Department of State Health Services (DSHS) to license persons to fit and dispense hearing instruments to the general public in the State of Texas. This license is administered by the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee) within the professional licensing division of DSHS.

In addition, licensed audiologists can also fit and dispense hearing instruments under a license issued under Chapter 401 (Speech-Language Pathologists and Audiologists), Occupations Code, which is administered by the State Board of Examiners for Speech-Language Pathology and Audiology within the same division of DSHS.

Chapter 402 has remained virtually unchanged since its last Sunset Advisory Commission (sunset) review in 1993, and the next review is not scheduled until the 2013 legislative session. This bill seeks to improve the operations and efficiencies of the committee and to eliminate disputes over ambiguous and conflicting language in the current code. The amendments, drafted by dispensers licensed under both Chapters 401 and 402 will also allow for a more efficient sunset review process in 2013.

As proposed, S.B. 1194 updates license renewal language and temporary training permit requirements. S.B. 1194 authorizes a person holding a license from another state to apply for a license in Texas and sets forth the application requirements for persons seeking a license to fit and dispense hearing instruments.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments in SECTION 4 (Section 402.209, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 402.003, Occupations Code, as follows:

Sec. 402.003. New heading: APPLICABILITY OF CHAPTER. (a) Provides that this chapter does not apply to certain persons, including a physician licensed by the Texas Medical Board, rather than the Texas State Board of Medical Examiners; an audiologist or an audiology intern licensed under Chapter 401 (Speech-Language Pathologists and Audiologists), except as may otherwise be provided by certain provisions under Chapter 401; a student of audiology in an accredited college or university program, if the student's activities and services are part of the student's supervised course of study or practicum experience. Deletes existing text providing that an audiologist or an audiology intern licensed under Chapter 401 is exempt from this chapter, and that a student of audiology in an accredited college or university program is exempt from this chapter if the student's activities and services are part of the student's supervised course of study or practicum experience. Makes nonsubstantive changes.

(b) Provides that a student of audiology described by Subsection (a)(5) is subject to Chapter 401. Makes a nonsubstantive change.

SECTION 2. Amends Section 402.202(b), Occupations Code, to provide that a person licensed under Chapter 401 as an audiologist or an audiology intern who is applying for a license under this chapter is exempt from the examination required under this chapter but is required to comply with all other requirements under this chapter.

SECTION 3. Amends Sections 402.207(a) and (c), Occupations Code, as follows:

(a) Requires the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee) to issue an apprentice permit to fit and dispense hearing instruments to a temporary training permit holder who has passed all parts of the examination, rather than passed all parts of the examination with a score of 70 percent or greater.

(c) Requires the apprentice permit holder, during the apprentice year, to complete 20 hours of classroom continuing education as required by Section 402.303 (Continuing Education) for a license holder, rather than 18 hours of classroom continuing education in subjects required by the committee.

SECTION 4. Amends Section 402.209, Occupations Code, as follows:

Sec. 402.209. New heading: APPLICATION BY LICENSE HOLDER FROM ANOTHER STATE. (a) Authorizes a person licensed to fit and dispense hearing instruments in another state to apply for a license under this chapter by submitting an application on a form prescribed by the committee. Deletes existing text requiring the committee, on application, to waive the examination requirement and issue a license under this chapter to a license holder from another state or territory whose licensing requirements are equal to or greater than the licensing requirements of this chapter.

(b) Requires an applicant for a license under this section to complete the application form completely and accurately. Prohibits the committee from considering an incomplete application. Requires the committee, if an applicant fails to provide any information required on the application form, to send the applicant a notice of deficiency that explains the additional information that is required to be submitted before the committee is authorized to review the application. Deletes existing text requiring that an application for a license under this section be in writing and on a form prescribed by the committee and be accompanied by documentation showing that the state, territory, or other authority under which the applicant was practicing has minimum requirements equal to or greater than the requirements of this chapter, and be filed with the committee.

(c) Requires the committee to require an applicant for a license under this section to provide as a part of the application:

(1) written verification that the applicant is licensed in good standing as a fitter and dispenser of hearing instruments in another state and has held the license for at least three years preceding the date of application;

(2) written verification that the requirements to obtain a license to fit and dispense hearing instruments in the state in which the applicant is licensed include passing an examination approved by the committee by rule or the applicant holds a certification from a professional organization approved by the committee by rule;

(3) affirmation that the applicant is a resident of this state;

(4) a written statement from the licensing entity in the state in which the applicant is licensed that details any disciplinary action taken by the entity against the applicant; and

(5) a statement of the applicant's criminal history acceptable to the committee. Deletes existing text requiring the committee, in addition to

any other documentation required by the committee, to request all written records regarding the applicant from the state, territory, or other authority under which the applicant was practicing, including certain records.

(d) Authorizes the committee to deny an application under this section based on the applicant's criminal history or history of disciplinary action.

(e) Authorizes the applicant on the next regularly scheduled examination date, if the committee approves an application, to take the practical section of the examination required under Section 402.202 (Examination Required) and a written examination of Texas law administered by the committee. Requires the committee to issue to the applicant a license under this chapter if the applicant passes the examinations required under this section.

(f) Authorizes the committee to allow an applicant under this section who satisfies all application requirements other than the requirement under Subsection (c)(2) to take all sections of the examination required under Section 402.202. Requires the committee to issue to the applicant a license under this chapter if the applicant passes the examination.

(g) Authorizes an applicant under this section who fails an examination to request in writing, not later than the 30th day after the date the committee sends the applicant notice of the examination results, that the committee furnish the applicant with an analysis of the applicant's performance on the examination.

(h) Prohibits an applicant under this section who fails an examination from retaking the examination under this section. Requires the person to comply with the requirements for an applicant for an original license under this chapter.

(i) Prohibits the committee from issuing a license under this section to an applicant who is a licensed audiologist in another state. Requires the committee to refer the applicant to the State Board of Examiners for Speech-Language Pathology and Audiology.

SECTION 5. Amends Section 402.251, Occupations Code, as follows:

Sec. 402.251. TEMPORARY TRAINING PERMIT QUALIFICATIONS. (a) Creates this subsection from existing text. Deletes existing text requiring the committee to issue a temporary training permit to a person who has never held a temporary training permit in this state. Makes nonsubstantive changes.

(b) Authorizes the committee to issue a new temporary training permit under this section to a person on or after the 365th day after the person's previous temporary training permit expired.

SECTION 6. Amends Section 402.252, Occupations Code, as follows:

Sec. 402.252. SUPERVISION AFFIDAVIT. (a) Requires that an application for a temporary training permit be accompanied by the affidavit of a person licensed to fit and dispense hearing instruments under this chapter or Chapter 401, other than a person licensed under Section 401.311 (Intern License) or 401.312 (Licensed Assistants), rather than a person licensed to fit and dispense hearing instruments in this state.

(b) Requires that the affidavit state certain information, including if the affiant is licensed under Chapter 401, the affiant will comply with all provisions of this chapter and rules adopted under this chapter that relate to the supervision and training of a temporary training permit holder. Makes nonsubstantive changes.

SECTION 7. Amends Section 402.255(a), Occupations Code, as follows:

(a) Requires a supervisor of a temporary training permit holder be licensed to fit and dispense hearing instruments under this chapter or Chapter 401, other than Section 401.311 or 401.312 and currently practice in an established place of business. Deletes existing text requiring that a supervisor of a temporary training permit holder be a licensed hearing instrument dispenser having the qualifications established by this chapter and have an established place of business. Makes nonsubstantive changes.

SECTION 8. Amends Section 402.301, Occupations Code, by amending Subsections (a) and (e) and adding Subsection (f), as follows:

(a) Provides that a license under this chapter is valid for two years, rather than one year. Requires the committee to renew the license every two years, rather than annually, on payment of the renewal fee unless the license is suspended or revoked.

(e) Authorizes the person to obtain a new license by complying, rather than submitting to reexamination and complying, with the requirements and procedures for obtaining an original license.

(f) Prohibits the committee from renewing a license unless the license holder provides proof that all equipment that is used by the license holder to produce a measurement in the testing of hearing acuity has been properly calibrated or certified by a qualified technician.

SECTION 9. Amends Section 402.403, Occupations Code, as follows:

Sec. 402.403. New heading: WRITTEN CONTRACT. Requires the owner of a hearing instrument fitting and dispensing practice to ensure that each client receives a written contract at the time of purchase of a hearing instrument that contains certain information, including the signature, printed name, address, and license number of the license holder who dispensed the hearing instrument; notice of the 30-day trial period under Section 402.401 (Audiometric Testing); and the name, mailing address, and telephone number of the committee. Deletes existing Subsection (a) requiring a license holder to provide a bill of sale to each person supplied with a hearing instrument by the license holder or under the license holder's direction. Deletes existing Subsection (b) requiring that the bill of sale contain the license holder's signature, printed name, address of principal office, and license number. Makes nonsubstantive changes.

SECTION 10. Amends Section 402.406, Occupations Code, by adding Subsection (c), to provide that all of the business's records and contracts are solely the property of the person who owns the business.

SECTION 11. Amends Section 402.501, Occupations Code, to authorize the committee to refuse to issue or renew a license, revoke or suspend a license or permit, place on probation a person whose license or permit has been suspended, or reprimand a license or permit holder who performs certain actions, including falsely using the term "doctor," "audiologist," "clinic," "clinical audiologist," "state licensed," "state certified," "licensed hearing instrument dispenser," "board certified hearing instrument specialist," "hearing instrument specialist," or "certified hearing aid audiologist," or uses any other term, abbreviation, or symbol that falsely gives the impression that a service is being provided by a person who is licensed or has been awarded a degree or title or the person providing a service has been recommended by a government agency or health provider.

SECTION 12. Repealer: Section 402.302 (Issuance of License), Occupations Code.

SECTION 13. Makes application of Section 402.207(c), Occupations Code, of this Act, prospective.

SECTION 14. Makes application of Section 402.209, Occupations Code, of this Act, prospective.

SECTION 15. Makes application of Section 402.301(a), Occupations Code, of this Act, prospective.

SECTION 16. Effective date: September 1, 2009.