

**Report of Preliminary Assessment for State Regulation**  
**of**  
**Speech and Language Pathologists and Audiologists**

Office of Professional Regulation  
November 1, 1999

# **Report of Preliminary Assessment for State Regulation of Speech and Language Pathologists and Audiologists**

## **I. Introduction**

Pursuant to 26 V.S.A. § 3105(d) and Part I of the Administrative Rules for procedure for Preliminary Sunrise Review Assessments by the Secretary of State's Office of Professional Regulation, the application for licensure of Speech and Language Pathologists and Audiologists was received by the Office on July 1, 1999. A public hearing was noticed for and convened at 10:00 A.M. on August 10, 1999 to take testimony and receive additional documentation. Seven people attended the public hearing, and five testified. A deadline of September 24, 1999 was originally established for submission of any additional written information. That deadline was extended to October 20, 1999, after which the record in this proceeding was closed.

The purpose of this proceeding was to evaluate and report on the appropriateness of professional regulation of Speech and Language Pathologists and Audiologists according to the statutory criteria provided by 26 V.S.A. § 3105(a), as required by 26 V.S.A. § 3105(d). That provision requires that:

### § 3105 Criteria and standards

(a) A profession or occupation shall be regulated by the state only when:

- (1) it can be demonstrated that the unregulated practice of the profession or occupation can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is recognizable and not remote or speculative;
- (2) the public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and
- (3) the public cannot be effectively protected by other means.

## **II. Findings**

1. An application for preliminary sunrise review assessment was submitted on July 1, 1999 by the Vermont Speech, Language & Hearing Association (VSHA, "the applicant") through Patricia Taffel, VSHA President.

2. Speech and Language Pathologists and Audiologists provide diagnosis and treatment for individuals of all ages in a variety of settings concerning disorders of speech and language development, fluency, voice cognition and swallowing, as well as disorders form neurological

disease and hearing loss. Audiologists may also provide consultation regarding hearing and the dispensing of hearing aids.

3. There are approximately 325 Speech and Language Pathologists and Audiologists practicing in the State of Vermont.

4. About 75% of those professionals practice in a school setting. The remainder practice in hospitals, nursing homes, clinics, home care agencies and private practice.

5. Vermont is one of four states that does not regulate Speech and Language Pathologists and Audiologists outside the school setting (in private practice).

6. The applicant also seeks licensure as a means of raising the standards for the profession in Vermont to attract a more qualified class of Speech and Language Pathologists and Audiologists to the State to improve the services provided for Vermonters.

7. Speech and Language Pathologists and Audiologists are, for the most part, either supervised by administrators who are not Speech and Language Pathologists and Audiologists or are not subject to supervision at all.

8. Specific instances of harm which have taken place in other states include the misdiagnosis of disorders leading to a failure to treat the problem and then resulting in the worsening of the disorder, as well as financial harm caused by the recommendation of unnecessary treatment or the purchase of unnecessary hearing aids. The applicant also referenced cases of abusive, inappropriate behavior toward patients such as yelling or using physical force, occurring in Vermont and in other states.

9. The applicant also cites anecdotal instances of Speech and Language Pathologists and Audiologists with criminal convictions being hired by unknowing employers outside the school system.

10. The State organization (Vermont-Speech-Language-Hearing Association) and the National Association (American Speech, Language and Hearing Association) both have codes of ethics, but membership is voluntary with the maximum penalty being expulsion from the organization.

11. Pursuant to 16 V.S.A. § 164(5), the state board of education is authorized to make regulations governing the licensing and qualification of all school personnel. The Department of Education does license Speech and Language Pathologists and Audiologists who are employed by the State of Vermont school system and has implemented regulations for licensing and qualification of Speech and Language Pathologists and Audiologists.

12. The Department of Education has the staff and protocol in place to discipline licensed Speech and Language Pathologists and Audiologists employed in school systems in the State of Vermont.

13. Schools do not always have access to information about a Speech and Language Pathologists or Audiologists who previously worked in private practice and who may have a questionable professional background.

14. Many professionals practicing in schools are seeking to open a private practice business. This is an increasing trend within the profession.

15. Licensure by the Office of Professional Regulation would result in the need for those professionals practicing in both the school setting and in private practice to maintain two licenses.

16. It is inevitable that the regulatory system proposed, especially if resulting in dual licensure, would result in increased costs to practitioners which will be passed on to consumers.

17. The applicant and the Department of Education have initiated discussions regarding the possibility of the Department of Education licensing all Speech and Language Pathologists and Audiologists. Those discussions are still in progress and no outcome has been determined as of the date of this report.

### **III. Conclusions**

Pursuant to the above findings, the application for regulation of Speech and Language Pathologists and Audiologists by the Office of Professional Regulation does not meet the statutory criteria and standards set forth in 26 V.S.A. § 3105 for the following reasons:

A. It has been demonstrated that the unregulated practice of Speech and Language Pathologists and Audiologists can clearly harm or endanger the health, safety, or welfare of the public. This is evident from the State's existing regulation of Speech and Language Pathologists and Audiologists in the school setting. 26 V.S.A. § 3105(a)(1).

B. The potential for harm to the public in this instance is readily recognizable and is not remote and speculative. This is also evident from the State's existing regulation of Speech and Language Pathologists and Audiologists in the school setting. 26 V.S.A. § 3105 (a)(1).

C. The public is currently protected by other means in the school system, in the form of regulation by the Department of Education. There is sufficient institutional accountability in place in that setting to protect the public. 26 V.S.A. § 3105(a)(3).

D. Licensure by this Office, when the vast majority of the profession is already licensed by the Department of Education, will not function to measurably increase the benefit to the public and would result in a negative benefit to cost ratio. 26 V.S.A. § 3105(a)(2).

E. The regulation of private practice Speech and Language Pathologists and Audiologists can better be accomplished by the Department of Education, which is familiar with

the licensing and discipline of the profession, rather than through a duplicative and costly system of regulation implemented by this Office. 26 V.S.A. § 3105(a)(3).

#### **IV. Recommendation**

In accordance with 26 V.S.A. § 3105(d), the Office of Professional Regulation recommends that, based upon the information provided by the applicant and gathered in the form of written and oral public comment, the profession of Speech and Language Pathologists and Audiologists remain unregulated by the Office of Professional Regulation at this time. The application has not met all of the standards and criteria set forth in 26 V.S.A. § 3105 and regulation at this time by the Office would not be in the best interest of the public. Clearly, regulation is appropriate. However, a final decision on regulation by the Office should not take place until a more comprehensive proposal emerges from the ongoing discussions between the applicant and the Department of Education.

Respectfully submitted this 1<sup>st</sup> day of November, 1999.

Thomas J. Lehner  
Director, Office of Professional Regulation