

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 461
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under Texas Education Agency rule, schools are required to provide instruction to students identified as having dyslexia or related disorders, establishing a need for instructors in this field. However, instruction for such individuals often is offered outside of the school system in therapy settings by privately employed instructors.

Currently, instructors in Texas working with students identified as having dyslexia or related disorders do not have to meet state-recognized standards. No state guidelines specify the amount of training or expertise required for individuals working in this field. Establishing state-recognized standards for these instructors will provide quality control in the preparation of professionals who instruct individuals with dyslexia or related disorders.

This bill creates the Dyslexia Practitioners and Therapists Title Recognition Act, which specifies that the requirements to achieve membership in the Academic Language Therapy Association as an associate academic language teacher and a certified academic language therapist are the state dyslexia practitioner title recognition standards and state dyslexia therapist title recognition standards, respectively.

C.S.H.B. 461 amends current law relating to the regulation of dyslexia practitioners and therapists and provides penalties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Sections 403.052, 403.109, 403.110, 403.207, 403.209, and 403.210, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle G, Title 3, Occupations Code, by adding Chapter 403, as follows:

CHAPTER 403. LICENSED DYSLEXIA PRACTITIONERS AND LICENSED DYSLEXIA THERAPISTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 403.001. **DEFINITIONS.** Defines "commissioner," "department," "executive commissioner," "license holder," "multisensory structured language education," and "qualified instructor."

Sec. 403.002. **ADMINISTRATION BY DEPARTMENT OF STATE HEALTH SERVICES.** Requires the Department of State Health Services (DSHS) to administer this chapter.

Sec. 403.003. **APPLICABILITY.** Provides that this chapter does not require a school district to employ a person licensed under this chapter, require an individual who is licensed under Chapter 501 (Psychologists) to obtain a license under this chapter, or authorize a person who is not licensed under Chapter 401 (Speech-Language Pathologists and Audiologists) to practice audiology or speech-language pathology.

[Reserves Sections 403.004-403.050 for expansion.]

SUBCHAPTER B. POWERS AND DUTIES

Sec. 403.051. **ADVISORY COMMITTEE.** Requires DSHS to appoint an advisory committee to advise DSHS in administering this chapter.

Sec. 403.052. **RULES.** Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules necessary to administer and enforce this chapter, including rules that establish standards of ethical practice.

[Reserves Sections 403.053-403.100 for expansion.]

SUBCHAPTER C. LICENSE REQUIREMENTS

Sec. 403.101. **LICENSE REQUIRED.** Prohibits a person from using the title "licensed dyslexia practitioner" or "licensed dyslexia therapist" in this state unless the person holds the appropriate license under this chapter.

Sec. 403.102. **ISSUANCE OF LICENSE.** Requires DSHS to issue a licensed dyslexia practitioner or licensed dyslexia therapist license to an applicant who meets the requirements of this chapter.

Sec. 403.103. **LICENSE APPLICATION.** (a) Requires a license applicant to apply to DSHS on a form and in the manner DSHS prescribes.

(b) Requires that the application be accompanied by a nonrefundable application fee.

Sec. 403.104. **ELIGIBILITY FOR LICENSED DYSLEXIA PRACTITIONER LICENSE.** (a) Requires an applicant, to be eligible for a licensed dyslexia practitioner license, to have:

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

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

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

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

(5) successfully completed a national multisensory structured language education competency examination approved by DSHS and administered by a national certifying professional organization.

(b) Requires that clinical experience required under Subsection (a)(3) be obtained under the supervision of a qualified instructor or an instructor from an accredited training program that meets the requirements of Section 403.106 and guidelines approved by DSHS.

Sec. 403.105. **ELIGIBILITY FOR LICENSED DYSLEXIA THERAPIST LICENSE.** (a) Requires an applicant, to be eligible for a licensed dyslexia therapist license, to have:

- (1) earned at least a master's degree from an accredited public or private institution of higher education;
- (2) successfully completed at least 200 hours of course work in multisensory structure language education from a training program that meets the requirements of Section 403.106;
- (3) completed at least 700 hours of supervised clinical experience in multisensory structured language education;
- (4) completed at least 10 demonstration lessons of the practice of multisensory structured language education, each observed by an instructor from a training program that meets the requirements of Section 403.106 and followed by a conference with and a written report by the instructor; and
- (5) successfully completed a national multisensory structured language education competency examination as required by a national certifying professional organization.

(b) Requires that clinical experience required under Subsection (a)(3) be obtained under the supervision of a qualified instructor or an instructor from an accredited training program that meets the requirements of Section 403.106 and guidelines approved by DSHS.

Sec. 403.106. REQUIREMENTS FOR TRAINING PROGRAMS. (a) Requires that a multisensory structured language education training program completed by the applicant, for purposes of determining whether an applicant satisfies the training requirements for a license under this chapter:

- (1) be accredited by a nationally recognized accrediting organization;
- (2) have in writing defined goals and objectives, areas of authority, and policies and procedures;
- (3) have the appropriate financial and management resources to operate the training program, including a knowledgeable administrator and standard accounting and reporting procedures;
- (4) have a physical site, equipment, materials, supplies, and environment suitable for the training program;
- (5) have a sufficient number of instructional personnel who have completed the requirements for certification in multisensory structured language education;
- (6) have been reviewed by multisensory structured language education professionals who are not affiliated with the training program;
- (7) have developed and followed procedures to maintain and improve the quality of training provided by the program;
- (8) have provided direct instruction in the principles and in each element of multisensory structured language education for a minimum of 200 contact hours of course work for training program participants who seek a licensed dyslexia therapist license, and 45 contact hours of course work for training program participants who seek a licensed dyslexia practitioner license;
- (9) have required training program participants to complete a program of supervised clinical experience in which the participants provided

multisensory structured language education to students or adults, either individually or in small groups, for a minimum of 700 hours for training program participants who seek a licensed dyslexia therapist license, and 60 hours for training program participants who seek a licensed dyslexia practitioner license;

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

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

(b) Requires that a training program require a training program participant who seeks a licensed dyslexia practitioner license to have completed at least five demonstration lessons described by Section (a)(10) and a participant who seeks a licensed dyslexia therapist license to have completed at least 10 demonstration lessons.

(c) Requires DSHS, in consultation with the advisory committee, to determine whether a training program meets the requirements of this section.

Sec. 403.107. EXAMINATION; RULES. (a) Requires an applicant, to obtain a license, to pass a written examination approved by DSHS under Subsection (b) and pay fees set by the executive commissioner.

(b) Requires DSHS, in consultation with the advisory committee, to identify and designate a competency examination that is related to multisensory structured language education and that will be administered at least twice each year by a professional organization that issues national certifications and maintain a record of all examinations for at least two years after the date of the examination.

Sec. 403.108. WAIVER OF EXAMINATION REQUIREMENT. Authorizes DSHS, in consultation with the advisory committee, to waive the examination requirement and issue a license to an applicant who holds an appropriate certificate or other accreditation from a nationally accredited multisensory structured language education organization recognized by DSHS.

Sec. 403.109. INACTIVE STATUS; RULES. (a) Authorizes the executive commissioner by rule to provide for a license holder to be placed on inactive status.

(b) Requires that rules adopted under this section include a time limit for a license holder to remain on inactive status.

Sec. 403.110. QUALIFIED INSTRUCTOR. Requires a person, to be considered a qualified instructor under this chapter, to be a licensed dyslexia therapist, have at least 1,400 hours of clinical teaching experience in addition to the hours required to obtain a licensed dyslexia therapist license, and have completed a two-year course of study dedicated to the administration and supervision of multisensory structured language education programs taught by a nationally accredited training program that meets the requirements of Section 403.106.

[Reserves Sections 403.111-403.150 for expansion.]

SUBCHAPTER D. PRACTICE BY LICENSE HOLDER

Sec. 403.151. PRACTICE SETTING. (a) Authorizes a licensed dyslexia practitioner to practice only in an educational setting, including a school, learning center, or clinic.

(b) Authorizes a licensed dyslexia therapist to practice in a school, learning center, clinic, or private practice setting.

Sec. 403.152. CONTINUING EDUCATION. (a) Prohibits a license holder's license from being renewed unless the license holder meets the continuing education requirements established by the executive commissioner.

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

(c) Requires DSHS to provide to a license applicant, with the application form on which the person is to apply for a license, information describing the continuing education requirements; and notify each license holder of any change in the continuing education requirements at least one year before the date the change takes effect.

[Reserves Sections 403.153-403.200 for expansion.]

SUBCHAPTER E. LICENSE DENIAL; COMPLAINT AND DISCIPLINARY PROCEDURES

Sec. 403.201. COMPLAINTS. Authorizes any person to file a complaint with DSHS alleging a violation of this chapter or a rule adopted under this chapter.

Sec. 403.202. PROHIBITED ACTIONS. Prohibits a license holder from obtaining a license by means of fraud, misrepresentation, or concealment of material fact; sell, barter, or offer to sell or barter a license; or engage in unprofessional conduct that endangers or is likely to endanger the health, welfare, or safety of the public as defined by executive commissioner rule.

Sec. 403.203. GROUNDS FOR DISCIPLINARY ACTION. Requires DSHS, if a license holder violates this chapter or a rule or code of ethics adopted by the executive commissioner, to revoke or suspend the license, place on probation the person if the person's license has been suspended, reprimand the license holder, or refuse to renew the license.

Sec. 403.204. LICENSE DENIAL, REVOCATION, OR SUSPENSION FOR CRIMINAL CONVICTION. (a) Authorizes DSHS to deny a license or to suspend or revoke a license if the applicant or license holder has been convicted of a misdemeanor involving moral turpitude or a felony. Authorizes DSHS to take action authorized by this section when the time for appeal of the person's conviction has elapsed; the judgment or conviction has been affirmed on appeal; or an order granting probation is made suspending the imposition of the person's sentence without regard to whether a subsequent order allows withdrawal of a plea of guilty, sets aside a verdict of guilty, or dismisses an information or indictment.

(b) Provides that a plea or verdict of guilty or a conviction following a plea of nolo contendere is a conviction for purposes of this section.

Sec. 403.205. HEARING. (a) Entitles a person, if DSHS proposes to revoke, suspend, or refuse to renew a person's license, to a hearing before a hearing officer appointed by the State Office of Administrative Hearings.

(b) Requires the executive commissioner to prescribe procedures for appealing to the commissioner of state health services (commissioner) a decision to revoke, suspend, or refuse to renew a license.

Sec. 403.206. ADMINISTRATIVE PROCEDURE. Provides that a proceeding under this subchapter to suspend, revoke, or refuse to renew a license is governed by Chapter 2001 (Administrative Procedure), Government Code.

Sec. 403.207. SANCTIONS. (a) Requires the executive commissioner, in consultation with the advisory committee, by rule to adopt a board schedule of sanctions for a violation of this chapter.

(b) Requires the State Office of Administrative Hearings to use the schedule of sanctions for a sanction imposed as the result of a hearing conducted by that office.

Sec. 403.208. PROBATION. Authorizes DSHS to require a license holder whose license suspension is probated to report regularly to DSHS on matters that are the basis of the probation, limit practice to areas prescribed by DSHS, or continue the license holder's professional education until the license holder attains a degree of skill satisfactory to DSHS in those areas that are the basis of the probation.

Sec. 403.209. MONITORING OF LICENSE HOLDER. (a) Requires the executive commissioner by rule to develop a system for monitoring a license holder's compliance with the requirements of this chapter.

(b) Requires that rules adopted under this section include procedures to monitor for compliance a license holder who is ordered by DSHS to perform certain acts and identify and monitor license holders who represent a risk to the public.

Sec. 403.210. INFORMAL PROCEDURES. (a) Requires the executive commissioner by rule to adopt procedures governing informal disposition of a contested case under Section 2001.056 (Informal Disposal of Contested Case), Government Code, and an informal proceeding held in compliance with Section 2001.054 (Licenses), Government Code.

(b) Requires that rules adopted under Subsection (a) provide the complainant and the license holder an opportunity to be heard and require the presence of a representative of the attorney general or DSHS's legal counsel to advise DSHS or DSHS's employees.

Sec. 403.211. REINSTATEMENT. (a) Authorizes a person to apply for reinstatement of a revoked license on or after the first anniversary of the date of the revocation.

(b) Authorizes DSHS to accept or reject the application and require an examination as a condition for reinstatement of the license.

Sec. 403.212. REPRIMAND; CONTINUING EDUCATION. (a) Authorizes DSHS, in addition to other disciplinary action authorized by this subchapter, to issue a written reprimand to a license holder who violates this chapter or require that a license holder who violates this chapter attend continuing education programs.

(b) Requires DSHS, in consultation with the advisory committee, to specify the number of hours of continuing education that is required to be completed by a license holder to fulfill the requirement of Subsection (a)(2) (relating to an authorization for DSHS to require that a license holder who violates this chapter attend continuing education programs.)

[Reserves Sections 403.213-403.250 for expansion.]

SUBCHAPTER F. PENALTIES AND OTHER ENFORCEMENT PROCEDURES

Sec. 403.251. CIVIL PENALTY. (a) Provides that a person who violates this chapter, a rule adopted by the executive commissioner, or an order adopted by the commissioner under this chapter is liable for a civil penalty not to exceed \$500 for each occurrence.

(b) Requires the attorney general, at the request of DSHS, to bring an action to recover a civil penalty authorized under this section.

Sec. 403.252. CEASE AND DESIST ORDER. (a) Authorizes the commissioner after notice and an opportunity for a hearing, if it appears to the commissioner that a person who is not licensed under this chapter is violating this chapter or a rule adopted under this chapter, to issue a cease and desist order prohibiting the person from engaging in the activity.

(b) Provides that a violation of an order under this section constitutes grounds for imposing a civil penalty under this chapter.

SECTION 2. Amends the heading to Subtitle G, Title 3, Occupations Code, to read as follows:

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

SECTION 3. (a) Provides that an interim committee is created to study and recommend legislation to increase awareness of early detection and treatment of dyslexia and related disorders. Requires the committee's study to examine early detection and intervention, access to treatment in rural areas of the state, the role of public education and higher education in detection and treatment, treatment for older students and adults, and any barriers related to accommodations for individuals with dyslexia and related disorders.

(b) Provides that the committee consists of the following nine members: two members who are senators, one of whom represents a rural area, appointed by the lieutenant governor; two members who are state representatives, one of whom represents a rural area, appointed by the speaker of the house of representatives; and five members appointed by the governor as set forth.

(c) Requires the committee to elect a presiding officer from among its members.

(d) Requires the committee to convene at the call of the presiding officer.

(e) Prohibits committee members from receiving compensation or reimbursement of expenses for serving on the committee.

(f) Requires the committee, not later than December 1, 2010, to report the committee's findings and recommendations to the lieutenant governor, the speaker of the house of representatives, and the governor.

(g) Requires the lieutenant governor, the speaker of the house of representatives, and the governor, not later than the 60th day after the effective date of this Act, to appoint the members of the interim committee created under this section.

(h) Provides that this section expires September 1, 2011.

SECTION 4. Requires the commissioner, not later than November 1, 2009, to appoint the initial members of the advisory committee under Section 403.051, Occupations Code, as added by this Act.

SECTION 5. Requires the executive commissioner, not later than June 1, 2010, to adopt final rules under Section 403.052, Occupations Code, as added by this Act.

SECTION 6. Requires DSHS to issue a licensed dyslexia therapist license to an applicant under this section who applies for a license under this section not later than December 31, 2012; not later than November 30, 2012, meets the requirements of Sections 403.105(a)(2)-(5), Occupations Code, as added by this Act; submits any other information required by DSHS by rule; and pays the application fee.

SECTION 7. (a) Effective date, except as required by Subsection (b) of this section: September 1, 2009.

(b) Effective date: Section 403.101 and Subchapters E and F, Chapter 403, Occupations Code, as added by this Act: September 1, 2010.