

GOVERNMENTAL LEGISLATION *

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First, I wish to outline the legislative issues now pending before the United States Congress and in several agencies of the Executive Branch of the Federal Government which could have impact upon the audiology profession, its practitioners, and the many thousands of communicatively handicapped Americans the profession serves; second to explain the kind of membership network that I see as essential to any influence your profession might have in gaining recognition of its needs in the laws of the land; and third, to suggest the role you as members of the Academy and your national professional Association can play in making such a network work.

The first of the several bills I'll comment on is representative of what is, without question, the biggest task faced by the American Speech and Hearing Association's (ASHA) new Governmental Affairs Program — that of obtaining appropriate legislative definitions of the speech pathology and audiology profession. The bill is the Vocational Rehabilitation Act Amendments of 1972 (HR 8395), which passed the House of Representatives earlier this year and is now pending action by the Senate Subcommittee on the Handicapped. ASHA presented testimony in both the House and the Senate supporting the general thrust of the legislation which is to extend the Vocational Rehabilitation Act for another three years at authorized funding levels significantly higher than current levels.

More specifically, the bill is designed to provide Congress with the authority to appropriate federal funds for rehabilitation programs and activities administered by the United States Department of Health, Education, and Welfare's Rehabilitation Services Administration (RSA). The important program here, which is of concern to us, is the one in which RSA supports graduate programs in speech pathology and audiology, or perhaps more appropriately, that which RSA has evidenced increasing disinterest over the last several years for the support of graduate speech pathology and audiology training.

Despite the favorable overall design of H. R. 8395, there is one section of the bill to which ASHA is unalterably opposed. The section states, in its description of "rehabilitation facilities," that such a facility may provide "speech and hearing therapy;" where it does, such services "must be prescribed by, or under the formal supervision of "a licensed physician or surgeon." These words are not uncommon in laws and administrative regulations which mention speech and hearing services. They are the rule, not the exception. In fact, and unfortunate-

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ly, there are very few exceptions. An important part of my job is to make a few and then to make these the rule.

The profession's obvious concern is this: If it continues to be defined as "therapy," and not as "speech pathology and audiology services," then it will continue to be grouped with other prescriptive therapies in laws and regulations, at the cost of professional independence and economic advantage which the educational and experimental levels of speech pathologists and audiologists should command.

In reality, speech pathology and audiology services are rendered on a physician-*referral* basis, if indeed physicians are involved at all, and not on a physician-*prescriptive* basis. This is as it should be and the law should reflect this reality. But if the law takes an opposite stance in this and other instances, speech pathologists and audiologists will be unable to realize *direct* participation in any health program administered and funded by the federal government, including the national health-care system which is now only three-to-five years from reality. In addition to its formal statements to the House and Senate panels, ASHA has been working with the staff of the Senate Subcommittee on a technical amendment that will provide the kind of language we need if the profession is to receive the legislative recognition it deserves. There are signs our efforts will be fruitful.

Congressional appropriation of fiscal 1973 funds authorized by H. R. 8395 for use by RSA in support of vocational rehabilitation programs, including graduate training programs in speech pathology and audiology, will not be accomplished until early fall. Meanwhile, RSA will be funding its programs under last year's appropriated levels.

For each of the past two fiscal years, RSA said that it would furnish \$2.7 million for graduate training in speech pathology and audiology, significantly under the amounts set aside in the late 60's and representing cutbacks considerably more severe than those experienced by other types of professional training programs. What RSA said it would spend on speech and hearing and what it actually spent were two different things. The difference amounted to about \$700,000 in fiscal 1972. Informed sources within HEW have informed me that for the fiscal year just begun, RSA intends to set aside only \$2 million for graduate programs in speech pathology and audiology. If RSA continues to fail to match its promises with performance, we could end up with about \$1.5 million. Even if the \$2 million is provided, the profession's training programs will have suffered another devastating blow from which some may not recover.

What is to be done? For starters, the officers of the Academy might want to write a letter to the RSA Commissioner protesting the obvious and increasing indifference with which graduate speech and hearing training programs are being treated by RSA. Copies also could, and probably should be sent to the Social and Rehabilitation Service Administrator and to the Secretary of HEW, as well as to the President.irate letters from training program directors to RSA regional commissioners and U. S. Senators and Congressmen would also be

helpful, especially if they were to point out such facts as these:

1. that fiscal 1972 RSA funding of speech pathology and audiology graduate training programs averaged \$7,500 less per program than in fiscal 1971;
2. that 15 percent of all such training programs had to decrease the size of their faculties as a result of 1972 RSA cut-backs;
3. that an even larger percentage (21 percent) had to reduce full-time faculty and staff appointments to part-time appointments; and,
4. that RSA traineeship grants in fiscal 1972 were cut by more than 50 percent from the 1971 figure.

You will be surprised at the results your letters of protest will have. Washington bureaucrats have become so accustomed to them over the past several years that their assumption that everything is allright is questioned only when some irate taxpayer complains.

Another bill of interest to the profession is H.R. 1, the proposed Social Security Act Amendments of 1972, which, until recently, contained a boost in social security benefits, and which still comprises major welfare legislation and a great number of Medicare and Medicaid amendments. The bill passed the House of Representatives last year and is expected to reach a Senate vote when Congress returns from the Democratic Convention.

ASHA was successful in its efforts to amend the Senate version of the measure in ways designed to elevate the status of speech pathology to a level already enjoyed by audiology in the eyes of Medicare, but, along with dozens of other non-medical, health-related organizations, was unsuccessful in its attempt to purge a Senate amendment aimed at creating a nationwide peer review system made up of so-called Professional Services Review Organizations. The sticking point obviously is not the concept of peer review. Rather, it is that the Professional Services Review Organizations under the Senate bill, would be established, directed, and administered by physicians.

According to the creator of the plan, Utah Senator Wallace Bennett, peer review organizations across the country would be permitted to employ the services of what the Senator terms "qualified personnel," such as speech pathologists and audiologists, who could, in his words, "aid in assuring effective and timely review under the direction and control of physicians." Our argument has been, and will continue to be, that while peer review is a necessary and potentially valuable concept, it can only be effective if a given profession's peer review mechanism is controlled by that profession. The Federal government would like to see all the health professions police themselves, but before it accedes to our cries for independence it will demand that we guarantee the highest quality of speech and hearing services to the nation's communicatively handicapped. The only assurance it will

accept in this regard is a peer review system that goes beyond certification of individuals and accreditation of facilities to proof of effective and equitable service. Whether such service is available at the present time is another question. The question the Federal government will want answered is, "Can we prove it, can we produce records indicating real patient progress, can we produce cost data which show we are charging a fair price for our services?" Second, the federal government will insist that individuals offering speech and hearing services to the public are qualified in terms of education and experience to effectively deliver these services. "Self-serving certification systems," to use the words of some agency people we've talked with, will not provide this kind of assurance. State licensure laws, they say, will.

We obviously have some work to do. If we can meet these two requirements of the federal government, inevitable requirements, we will enjoy relative freedom from outside interference in policing ourselves and, additionally, we will pave the way for recognition as primary, independent providers under emerging national health-care law. If we can not, the independent status we strive for, and even that which we now enjoy, will no longer be possible.

On the fourteenth of June, 1972, the Senate Subcommittee on Air and Water Pollution reported the proposed Noise Pollution Control Act of 1972 (S. 3342) to the Senate Public Works Committee. The Committee is expected to approve the measure and send it to the Senate floor for a final vote after Congress returns from the Democratic Convention on July 17. Thereafter, the bill, together with H.R. 11021, which was passed by the House earlier this year, will go to a House-Senate Conference Committee for the resolution of differences.

Both bills authorize the setting of federal noise limits for noisy machines. The key differences are, first, that the Senate proposal would allow local governments to set noise limits which are more strict than the federal standards, whereas the House proposal would prohibit such actions; secondly, the Senate bill would transfer aircraft noise control from the Federal Aviation Administration to the Environmental Protection Agency (EPA). Both bills generally call for EPA establishment of noise emission control standards for new products or classes of products determined to be major sources of noise, including, but not restricted to construction equipment, transportation equipment, including recreational vehicles and related equipment, any motor or engine, including any equipment of which an engine or motor is an integral part, turbines and compressors, electrical and electronic equipment, except those products which are designed for amplification of sound, and percussion and explosive equipment. Such regulations must be promulgated by EPA no later than 18 months after the date of enactment. Within nine months of enactment, the EPA must compile reports which identify products or classes of products which appear to be major sources of noise. ASHA has encouraged EPA officials to accord to audiologists a prominent role in the estab-

ishment, maintenance, and enforcement of the Agency's noise standards and has received assurances that this will be the case.

The final version of the Act will also represent an important new source of federal research and training funds. In this regard, the EPA will be empowered to finance research by contract with private persons on the effects, measurement, and control of noise, including, but not limited to, according to the Senate bill, "Investigation of the direct or indirect effects of noise on humans including physiological and psychological effects, domestic animals, fish, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects, and development of improved methods and standards for measurement and monitoring of noise."

Elsewhere on the noise front is the federal agency activity initially prompted by the Occupational Safety and Health Act of 1970. Since the Act's enactment, regulation of industrial noise has been guided by the outworn, largely inappropriate precepts of the Walsh-Healey Act, precepts which earlier this year enabled a Labor Department official to proclaim that an effective industrial hearing conservation program need not necessarily include audiometric testing. More recently, however, under the new law's command, HEW's National Institute of Occupational Safety and Health (NIOSH) began promulgating new noise guidelines and ASHA responded to its public call for recommendations. The essential thrust of our statement to NIOSH was that the protection of industrial workers against excessive noise can be accomplished only through a properly administered program of testing employees' hearing, and that if noise standards are to have any positive effects, such testing must be administered under the direction of an audiologist, the only professional qualified by education and experience to obtain valid reliable measures of hearing.

The response of NIOSH, to this point, has been commendable. Suffice to say, ASHA and other interested parties will have an opportunity to present their formal views on the final NIOSH recommendations sometime this fall at public administrative hearings.

A private organization, rich and influential enough to undertake its own foreign policy, buy a city for a National Political Convention, or include high-ranking officials of the Justice Department as ex-officio members of its legal staff can afford to confine responsibility for the conduct of its governmental affairs to a few people in Washington.

This does not describe ASHA. Sure, the Association's Governmental Affairs Program in Washington can make some small strides on its own. We can talk with a committee staff and encourage it to change legislative language more to our liking. We can talk, even convince a relatively large group of legislators that a vote for a bill we endorse will be a vote in the public's best interest.

But when the real crunch comes, when it is time to convince a full committee to report favorably on a bill we support or to encourage a majority in the United States Senate to pass a bill which

would benefit the profession, the Governmental Affairs Program can accomplish precious little by itself. The reason is obvious, we are nobody's constituent. And, members of Congress know it. They know that no matter how hard they work on its behalf, they are not going to get the vote of the ASHA Governmental Affairs Program. They also know they'll lose no votes if they pay us no heed.

You are different. Individually, of course, you are only one constituent, one audiologist with one vote. But, that in itself makes a difference. Consider this, too. Your professional work helps put food on the table and new clothes on the children. There is another vote, at least. How about the hearing handicapped people you serve, 50 or 100 votes, maybe? It is very possible, isn't it, that 20 or 25 professionals in a given Congressional District could strongly influence as many as 2,000 votes. In the 1970 congressional elections, 2,000 votes or less made the difference in 17 House races. Members of Congress know this and they respond accordingly. The profession should be prepared to use this phenomenon to its advantage.

That is why every member of ASHA has been invited to volunteer for service as a CAC (Congressional Action Contact). Our objective is to have one CAC in each of the 435 Congressional Districts nationwide, and another one for each of the 100 U.S. Senators. There will also be 50 State Coordinators responsible for helping develop, promote, and coordinate the activities of the CAC's in their respective states. The objective of this network, obviously, is to bring the profession's message to the 535 members of Congress in an informed, organized, and strongly personalized manner.

The key mission of each CAC will be to develop in his legislator an awareness of the problems and needs of communicatively handicapped persons in his constituency, and appreciation for the work being done by speech pathologists and audiologists to solve these problems and meet these needs, and a genuine desire to facilitate this important work through the legislator's efforts on Capitol Hill.

All of this may sound relatively simple; it won't be! The task will first of all require CAC familiarization with the procedural ways and means of the Congress, the function of a bicameral legislature, the workings of the committee system, the reporting and amending of a bill, and numerous other involved aspects of lawmaking. Second, the task will require CAC "re-familiarization" with his profession. CAC's will represent to their legislators all the members of the speech and hearing profession within their respective constituencies. In order to represent these professionals effectively, he must know, among other things, the types of services they render, the communication handicaps they treat, the settings in which they work, the general salaries they command, and their professional relationship to physicians and other health-care providers. Third, the CAC, with the help of the Governmental Affairs Program, must develop an in-depth understanding of the legislative issues under consideration by the Congress which could

affect the profession and communicatively handicapped Americans. Fourth, the CAC must get to know his legislator and make sure his legislator knows him and who he represents. This done, the CAC must communicate frequently and intelligently with his legislator, in person when the legislator comes from Washington. He must also bear the expense of his other communications, the phone calls, telegrams, and letters to Capitol Hill.

I guess I'm not selling, really, I'm soliciting. I'm soliciting your assistance by asking you to volunteer for service as a Congressional Action Contact. Initially, the CAC network will contain only 585 individuals nationwide. Obviously, not all volunteers will be enlisted, but eventually, once the skeletal network is working and making progress, the hope is that we'll be able to develop a similar political action framework in the individual states, and even in the Congressional Districts, with all speech and hearing professionals in these areas and their communicatively handicapped patients joining together in viable political blocs, with the energy and influence to win the kind of recognition the profession needs and deserves.