New York State Speech-Language-Hearing Association  
2019 Advocacy Agenda

I. Introduction 
The New York State Speech-Language-Hearing Association (NYSSLHA) represents the interests of over 18,000 licensed speech-language pathologists (SLPs) and audiologists in New York State. NYSSLHA’s mission is to empower our members to serve individuals with hearing, communication and related disorders through best practices, professional development and advocacy. NYSSLHA encourages the use of best practices within those professions through work on legislative and regulatory initiatives, and professional development opportunities.

Speech-language pathologists and audiologists work in schools, private practice, hospitals, clinics, and other health and education settings. SLPs work with individuals with speech, hearing and language disorders including deficits in comprehension or generation of language, speech or voice production, resonance, speech fluency and swallowing disorders. They provide services to individuals that have suffered strokes, traumatic brain injury and individuals with autism, Down’s syndrome, cerebral palsy, Parkinson’s disease and many other diseases and conditions.

Audiologists treat individuals with hearing impairment or hearing loss, and those with hearing disorders including dizziness, tinnitus, balance disorders and auditory processing disorders.

Most people with communication disorders can be helped. Even if the problem cannot be eliminated, speech-language pathologists and audiologists can teach useful and successful strategies to help patients and their family members cope. Individuals may not fully regain their capacity to speak and understand or to hear, but with intervention people can live more independently.

Speech-language pathologists and audiologists hold at least a graduate degree, and a growing number of audiologists hold a clinical doctorate degree. Audiologists have supervised clinical experiences of at least 1800 hours (12 months full-time); speech-language pathologists have at least 1260 hours (nine months full-time) supervised clinical experience and both have passed a licensing exam approved by the New York State Department of Education. They are professionals with strong clinical backgrounds and experience.

II. Highest Qualified Provider
NYSSLHA strongly believes that it is critical that speech-language therapy and audiology services be provided by those who have the academic and experiential background, in addition to the clinical expertise, necessary to appropriately address the medical and developmental needs of individuals requiring speech-language or audiological diagnostic assessment and therapeutic intervention. In this regard, we consider highest qualified providers to be those individuals who hold New York State License in Speech-Language Pathology or Audiology, or those completing licensure and holding Limited Licensure in Speech-Language Pathology. NYSSLHA educates the general public, elected officials, and state and county policy makers about the importance of providing consumers with access to the highest quality provider.
In New York State there has been a longstanding allowance for schools to employ Teachers of the Speech and Hearing Handicapped (TSHH) and Teachers of Students with Speech and Language Disabilities (TSSLD), who are not necessarily licensed as SLPs, to provide speech-language therapy on-site. Such individuals may practice provisionally for a limited period with a bachelor’s degree and appropriate educational and student teaching experience, and are required to obtain an appropriate Master’s degree and clinical experience to convert their provisional status to professional status. While NYSSLHA would prefer such individuals to also hold New York State License in Speech-Language Pathology, we recognize that is optional in this exempt setting. NYSSLHA does, however, oppose any weakening of the educational requirements for provision of speech-language services to any individual. We oppose the development of programs to train "speech-language pathology assistants" (SLPAs), and oppose the use of SLPAs in all service sectors.

A. Early Intervention (EI) Program
In the EI program, NYSSLHA promotes the provision of the highest quality services to children by recognizing State-licensed SLPs as the only individuals who meet the standards necessary for the provision of competent and effective speech-language therapy to this vulnerable population. State licensed SLPs are the only providers who have the experience, academic training, and clinical expertise necessary to appropriately address the medical and developmental needs of this vulnerable population related to speech, language, and swallowing disorders.

B. 4410 Agencies
NYSSLHA supports aggressive monitoring by the New York State Education Department (NYSED) to ensure that 4410 programs approved by NYSED do not employ Teachers of the Speech and Hearing Handicapped (TSHH) and Teachers of Students with Speech and Language Disabilities (TSSLD) who are not licensed as SLPs to provide speech-language therapy on-site.

The current State statute governing the professional practice of speech-language pathology provides a limited exemption for elementary and secondary schools to employ Teachers of the Speech and Hearing Handicapped (TSHH) and Teachers of Students with Speech and Language Disabilities (TSSLD) who are not licensed as SLPs to provide speech-language therapy on-site. NYSED’s policy is that this exemption also applies to center-based programs approved as 4410 agencies which operate special education classes in an integrated facility-based setting.

NYSSLHA has uncovered abuses of this exemption. Some agencies have obtained status as a 4410 agency from NYSED despite the fact that there is no school as part of the agency. Some of these agencies have used their status as a school to employ or contract with unlicensed individuals to provide speech-language therapy in the community. This is clearly not the intention of the law which is to provide an exemption for employees in a school setting.

In 2004, NYSED issued a policy memorandum at NYSSLHA’s urging to stop these illegal practices. This policy memorandum is a helpful document. However, NYSSLHA urges its membership to monitor compliance with NYSED policy to report any possible violations to the State Board for Speech-Language Pathology and Audiology.
**C. Legislation to License Music Therapists (A4272 Solages, S3386 Kaplan)**

In 2019, legislation was introduced in the New York State (NYS) Assembly and Senate to create a detailed scope of practice for the profession of “Music Therapists.” The practice of music therapy is recognized in current NYS Education Law under the practice of “Creative Arts Therapists.” Under the current law, their scope of practice is limited and not well defined. These bills seek to establish a detailed scope of practice for music therapists, identify requirements for a professional license and continuing competency, and prevent persons lacking a license from practicing music therapy.

NYSSLHA opposes this legislation, since it is NYSSLHA’s position that only licensed speech-language pathologists and audiologists should be authorized to independently diagnose and treat communication disorders.

**D. Coaching and Communication Supports**

In September of 2017, NYSED released a Request for Proposal (RFP) for the provision of Core Rehabilitation Services (CRS) to individuals with disabilities. This RFP creates a new service called “Coaching and Communication Supports for Post-Secondary Education and Employment,” which is intended to assist individuals with significant disabilities including, but not limited to autism, intellectual and/or developmental disabilities, significant learning disabilities, acquired brain injury, deafness, and extreme mobility impairments to obtain and retain employment.

NYSSLHA is concerned that this RFP will result in individuals with significant disabilities receiving speech-language pathology services from providers who do not have the experience, academic training, and clinical expertise necessary to appropriately address the needs of these vulnerable populations. Work began in 2017 and will continue in 2019 to prohibit unlicensed individuals from providing services and therapies that fall under the scope of practice of a speech-language pathologist or audiologist licensed pursuant to Article 159 of the State Education Law.

**E. Language Equality and Advocacy for Deaf Kids (LEAD-K) (A0356 Paulin, S674 Robach)**

In 2018, two bills were introduced in the NYS Senate regarding the selection of language development milestones in deaf children to be used to monitor the children’s receptive and expressive language development. NYSSLHA opposed one bill and remained neutral on the other, requesting further guidance on the bill’s language, implications, and potential conflicts or redundancies with already existing legislation. Moreover, questions were raised regarding how these language “assessments” would be implemented. In 2019, a new bill was introduced in the NYS Assembly and Senate. After participating in teleconferences and e-mail exchanges with other professional groups concerning these bills, NYSSLHA opposes the original LEAD-K bill, supports the ASHA bill, and remains neutral on the AGB compromise bill.

**III. Access to Care**

NYSSLHA is committed to advocating for policies that ensure all individuals who are in need of speech-language pathology and audiology services have access to quality services. Access to appropriate care improves the quality of life, and maximizes academic achievement, social adjustment, and career advancement for those with disabilities.
Studies show that children with communication disorders are at risk for poor academic performance, subsequent underemployment, and incarceration. Children in juvenile detention centers and adults in prison have an exceptionally high incidence of communication disorders compared with the general population, and therefore, all individuals deserve access to quality care throughout their lifetime.

Access to care will be achieved by eliminating barriers to care such as inadequate reimbursement and/or coverage by private and government-sponsored health insurance plans, onerous administrative mandates on providers, and excessive consumer cost-sharing.

**A. Affordable Care Act (ACA)**

The Affordable Care Act includes Rehabilitative and Habilitative Services and Devices as one of the ten categories covered by Essential Health benefits which are now required in any health insurance plan. In 2012, NYSSLHA worked with the New York State Physical Therapy Association and the New York State Occupational Therapy Association to create recommendations for Benchmark Plan standards for Rehabilitative and Habilitative services. NYSSLHA monitors the changing landscape of reimbursement as the ACA is implemented and examines its impact on our members. In the face of the pending federal actions to weaken or repeal the ACA, NYSSLHA will continue to advocate for policies to ensure that individuals with disabilities are able to access comprehensive services to enable them to function at the highest level possible.

**B. Accountable Care Organizations (ACOs)**

One of the ways the ACA promotes health care savings is through the development of Accountable Care Organizations (ACOs) in the Medicare Program. An ACO is a network of doctors, hospitals and healthcare providers that shares financial and medical responsibility for providing coordinated care to patients.

In Medicare’s traditional fee-for-service payment system, doctors, hospitals and healthcare providers generally are paid for each test and procedure. ACOs don’t do away with fee-for-service, but they create an incentive to be more efficient by offering bonuses when providers keep costs down and keep their patients out of hospitals. Doctors and hospitals have to meet specific quality benchmarks, focusing on prevention and carefully managing patients with chronic diseases and conditions.

NYSSLHA monitors this new environment that is currently in the pilot phase to determine how it will impact the provision of speech-language and audiology services and the impact it may have on our members’ ability to practice.

**C. Early Intervention (EI) Program**

**Eligibility Changes/Reimbursement**

The purpose of the EI program is to address the needs of children with disabilities at the earliest stage of life (ages 0-3) to allow each child to reach their maximum potential and to reduce the cost of institutional care and special education later in life.

NYSSLHA will work to ensure that children with disabilities have access to timely, appropriate, quality EI services by:
• Educating the public, members of the State legislature and their staff, the Governor and key policy makers in the New York State Department of Health (NYS DOH) about the impact of EI reimbursement cuts and changes in eligibility on access and quality of care for children with disabilities; and
• Working to defeat any proposals, legislation or practices determining eligibility that undermine the ability of children with disabilities and their families to access quality care.

IV. Free Appropriate Public Education
A Free Appropriate Public Education (FAPE) is an educational right of children with disabilities in the United States that is guaranteed by the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act (IDEA). In defining the purpose of special education, IDEA 2004 clarifies Congress’ intended outcome for each child with a disability: students must be provided a Free Appropriate Public Education that prepares them for further education, employment and independent living. NYSSLHA will advocate for policies that maintain the right for children with disabilities to a free appropriate public education.

A. Preservation of Special Education Services
The NYSED has undertaken a review of Special Education Programs for Preschool Students and Private Schools for School-Age Students. Recommendations are being formulated in a number of areas to achieve NYSED’s goals of increased fiscal oversight and accountability of these programs. The overwhelming majority of special education providers who work with individuals with serious physical, intellectual, cognitive and developmental disabilities are honest, and driven by the motivation to serve and improve the lives of these individuals. For this reason, we caution against any sweeping solutions or reforms to address the very serious, but limited, issues that have been identified by recent audits.

As these initiatives are implemented by the New York State Comptroller’s Office, NYSSLHA and our members pledge to work with NYSED, the New York State Legislature and other government policy makers to help identify those who would perpetrate fraud to ensure that the proper actions are taken to address this behavior as well as efforts to prevent it.

B. Medicaid Compliance
NYSSLHA works proactively to assist our membership in complying with all Medicaid requirements for the delivery of speech-language therapy and audiology services in school settings. Medicaid rules in this area are complex. They change frequently at both the State and Federal level, often on a retroactive basis. Administrative requirements are extremely time-consuming, making it difficult to deliver services to students in need. NYSSLHA is working to maximize compliance with the Medicaid program and ensure delivery of high quality services to eligible children.

C. Annual Professional Performance Review (APPR) for SLPs
According to the American Speech-Language-Hearing Association, more than 50% of SLPs provide services in school settings. NYSSLHA works to ensure that the delivery of services to children in the school setting by SLPs is of the highest quality.
NYSSLHA successfully advocated for Teachers of the Speech and Hearing Handicapped (TSHH), Teachers of Students with Speech-Language Disabilities (TSSLDs), and New York State licensed SLPs to be categorized as therapeutic and not instructional in nature; acknowledging that they address that which interferes with the acquisition of instruction rather than with the provision of instruction (i.e., interventions that facilitate and support access to, and comprehension of, the academic curriculum).

Thus, these professionals are not subject to the creation of Student Learning Outcomes, based on the delivery of curricula under the APPR.

NYSSLHA will continue to monitor the APPR process to ensure that any new rules and guidelines for the evaluation of speech-language providers are fair and in the best interest of the children served. Effects of the Common Core initiative are ongoing and evolving and will be monitored as well.

**D. Universal Pre-Kindergarten**

The 2014-15 State Budget amended Education Law to fund universal full-day pre-kindergarten through a competitive application process. Programs that provide more stimulation; enhance child development and demonstrate creative approaches to improve early childhood education will be given a competitive advantage in the application process.

School districts which apply for pre-kindergarten programs must solicit non-profit organizations, community-based organizations, charter schools, libraries, and/or museums to be included in their applications with the intent on demonstrating geographic diversity and a diversity of providers in their submissions. These same organizations can apply independently if their application to a school district’s solicitation has been denied.

NYSSLHA monitors the roll out and implementation of the universal pre-kindergarten program to ensure provisions for children with disabilities are funded adequately and encourage collaborations and integrated classrooms that will provide appropriate quality services.

**E. Every Student Succeeds Act (ESSA)**

The federal Every Student Succeeds Act (ESSA) recognizes, for the first time, the critical role of speech-language pathologists and audiologists in the schools in providing services to students in general education. For the past 3 years, NYSSLHA has worked with NYS SED to ensure that the State Plan for ESSA includes the role of SLPS and audiologists in:

- Literacy/Written Language/Learning
- Early Intervention Services
- Professional Development
- Alternate Achievement Standards

**V. Consumer Protection**

NYSSLHA supports policies, laws and regulations that protect the rights of consumers and ensure access to high quality, affordable care, services and devices.
For-Profit Dispensing of Hearing Aids by Physicians

NYSSLHA is opposed to the repeal of existing protections to ensure that consumers have access to safe, reliable hearing aid dispensing services and devices. The Hearing Aid Dispensing law imposes rigorous education, training, and business practice standards for individuals who dispense hearing aids, and requires that information be provided to consumers prior to sale. This 1988 law continued a longstanding prohibition dating back to the mid-1970s on the for-profit sale of hearing aids by physicians.

For several years, legislation has been introduced in the New York State Legislature to repeal the prohibition on the for-profit sale of hearing aids by physicians and exempt physicians from critical patient protections, as well as continuing education requirements for hearing aid dispensers. Most recently, a proposal was introduced to allow a physician practice that employs an audiologist to profit from the sale of a hearing aid that is ordered by a physician within the practice.

In 1993, Congress passed the “in-office ancillary services” exception to the Stark Law to allow physicians to order tests that may be necessary as part of a medical visit and beneficial to patients. Examples of this exception include imaging studies of patients to diagnose cardiac conditions or cancer.

Numerous studies show that the in-office ancillary services exception has been widely abused. Since the enactment of the exception, self-referral for medical imaging has increased dramatically and costs have skyrocketed. There is currently legislation pending before Congress to repeal this exemption and restore the original intent of the Stark Law.

NYSSLHA is opposed to any legislation that rolls back critical consumer protections in the current law. Physicians are already permitted to dispense hearing aids to patients to recoup all costs associated with the dispensing process, and to make a modest profit on those devices. In addition, physicians may charge their regular fee for any medical examination of the patient. The proposals put forward to date would allow a physician to make an uncontrolled profit on the sale of a medical device that the physician had ordered for a patient, presenting a potential conflict of interest.

Tracy A. Panzarella, M.A.
President

Laurie Hanin, Ph.D.
Chair, Government Affairs