

## 2021 South Dakota Legislature

**House Bill 1041****AMENDMENT 1041B FOR THE INTRODUCED BILL**

1 **An Act to establish the South Dakota Board of Speech-Language Pathology,**  
2 **Audiology, and Hearing Aid Dispensing and to repeal the South Dakota Board**  
3 **of Hearing Aid Dispensers and Audiologists and the South Dakota Board of**  
4 **Examiners for Speech-Language Pathology.**

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 **Section 1.** That a NEW SECTION be added:

7 **36-39-1. Definitions.**

8 Terms used in this Act mean:

- 9 (1) "Audiogram," a graphic summary of the measurements of hearing loss showing  
10 number of decibels loss at each frequency tested;  
11 (2) "Audiologist," any person who engages in the practice of audiology and who meets  
12 the qualifications set forth in this Act. A person represents oneself to be an  
13 audiologist if that person holds out to the public by any means, or by any service  
14 or function performed, directly or indirectly, or by using the terms audiology,  
15 audiologist, audiometrist, audiological, hearing therapy, hearing therapist, hearing  
16 clinic, hearing clinician, hearing aid audiologist, or any variation that expresses  
17 these terms;  
18 (3) "Audiology," the application of principles, methods, and procedures related to  
19 hearing and the disorders of hearing and to related language and speech disorders;  
20 (4) "Board," the South Dakota Board of Speech-Language Pathology, Audiology, and  
21 Hearing Aid Dispensing;  
22 (5) "Disorders of hearing," any condition, whether of organic or nonorganic origin,  
23 peripheral or central, that impedes the normal process of human communication  
24 including disorders of auditory sensitivity, acuity, function, or processing;

- 1     (6) "Dispense," any transfer of title, possession, or of the right to use by lease,  
2         bailment, or any other contract, excluding wholesale transactions with a distributor  
3         or dealer;
- 4     (7) "Endoscopy," an imaging procedure included within the scope of practice for  
5         speech-language pathologists in which a speech-language pathologist uses a  
6         flexible nasal endoscopy, rigid oral endoscopy, or stroboscopy for the purpose of  
7         evaluating and treating disorders of speech, voice, resonance, and swallowing  
8         function;
- 9     (8) "Hearing aid," any wearable instrument or device offered for the purpose of aiding  
10        or compensating for impaired human hearing and any parts, attachments, or  
11        accessories to the instrument or device, including ear molds, but excluding  
12        batteries and cords. The term, hearing aid, does not include cochlear implant or  
13        cochlear prosthesis;
- 14    (9) "Hearing aid dispenser," any person, other than an audiologist, engaged in the  
15        evaluation or measurement of the powers or range of human hearing by means of  
16        an audiometer, or by any other means devised, and the consequent selection or  
17        adaptation or sale of a hearing aid intended to compensate for hearing loss,  
18        including the making of an ear impression;
- 19    (10) "Instruction," is either of the following:
- 20        (a) Providing audiology services or teaching in an infant or toddler program, a  
21            preschool, an elementary school, a secondary school, or a developmental  
22            disability program; or
- 23        (b) Teaching students in institutions of higher education;
- 24    (11) "License," any license issued by the board to dispense hearing aids, serve as a  
25        speech-language pathology assistant practice audiology, or practice speech-  
26        language pathology;
- 27    (12) "Mentorship," the direct on-site supervision and monitoring of a speech-language  
28        pathologist with a provisional license by a licensed speech-language pathologist;
- 29    (13) "Provisional license," the license issued to an applicant who is practicing speech-  
30        language pathology while completing the supervised postgraduate professional  
31        experience following completion of a master's degree in speech language pathology  
32        or to an applicant who is practicing audiology while completing the postgraduate  
33        professional experience as required by this Act for an audiologist, or to an applicant  
34        as a hearing aid dispenser trainee and supervised by a person who holds a valid  
35        hearing aid dispensing license or audiology license;

- (14) "Research," the systematic investigation designed to develop or contribute to generalizable knowledge about human communication, human communication disorders, and evaluation or treatment strategies. The term does not include activities that take place under the auspices of a recognized institutional review board which reviews, approves, and monitors proposals and activities involving human subjects to ensure that the rights and welfare of such subjects are protected;
- (15) "Speech-language pathologist," any person who engages in the practice of speech-language pathology and who meets the qualifications set forth in this Act;
- (16) "Speech-language pathology assistant," any person who assists in the practice of speech-language pathology and who meets the qualifications set forth in this Act;
- (17) "Telepractice," the application of telecommunication technology to deliver speech-language pathology or audiology at a distance for assessment, intervention, or consultation.

**Section 2.** That a NEW SECTION be added:

**36-39-2. Board of Speech-Language Pathology, Audiology, and Hearing Aid Dispensing created.**

The Governor shall appoint a seven-member Board of Speech-Language Pathology, Audiology, and Hearing Aid Dispensing as follows:

- (1) ~~Two-Three~~ speech-language pathologists in active practice in South Dakota and with at least five years of experience practicing speech-language pathology. One speech-language pathologist shall be employed in a school setting and one speech-language pathologist shall be employed in a health care setting;
- (2) Two audiologists in active practice in South Dakota and with at least five years of experience practicing audiology;
- (3) ~~Two-One~~ hearing aid dispensers-dispenser in active practice in South Dakota and with at least five years of experience in the practice of fitting and dispensing hearing aids; and
- (4) One member of the public who is not associated with or financially interested in the practice or business of speech-language pathology, audiology, or hearing aid dispensing and who is not a member of a related profession or occupation.

**Section 3.** That a NEW SECTION be added:



1       **36-39-3. Board--Terms of office--Vacancies--Removal of member.**

2           The terms of members shall begin on October thirty-first of the calendar year in  
3       which the Governor appoints the member, unless otherwise designated by the Governor.  
4       The appointee's term expires on October thirtieth in the third year of appointment.

5           No member of the board may serve more than three consecutive full terms.  
6       Appointment of a person to an unexpired term is not considered a full term for this  
7       purpose. The Governor shall make appointments to the board for terms of three years.  
8       Each member shall hold office until a successor is appointed and qualified. The Governor  
9       shall, by appointment, fill any vacancy for the balance of the unexpired term. The  
10       Governor may stagger terms to enable the board to have different terms expire each year.

11          The Governor may remove any member from the board for neglect of any duty  
12       required by law, incompetence, or unprofessional or dishonorable conduct.

13   **Section 4.** That a NEW SECTION be added:

14       **36-39-4. Board--Officers.**

15           The board shall annually elect from its members a president, vice president, and  
16       secretary-treasurer. No member may serve as president for more than three consecutive,  
17       one-year terms. ~~The officers shall be representative of at least two of the professions.~~

18   **Section 5.** That a NEW SECTION be added:

19       **36-39-5. Board--Meetings--Quorum.**

20           The board shall hold at least two meetings annually at times and places to be set  
21       by the board. The board may hold one or more other meetings at times and places set by  
22       the president or a majority of the board. A majority of board members constitutes a  
23       quorum. A majority vote of those present constitutes a decision of the entire board.

24   **Section 6.** That a NEW SECTION be added:

25       **36-39-6. Board--Acceptance of funds--Separate fund--Payments from fund--**  
26       **Expense limited by revenue.**

27           All moneys coming into the custody of the board, including any fees and any other  
28       payments, shall be paid by the board to the state treasurer. The state treasurer shall  
29       credit the moneys to a separate board account to be used by the board for the purpose of  
30       paying the expense of administering and enforcing the provisions of this Act. The total  
31       expenses incurred by the board may not exceed the total moneys collected.

1 **Section 7.** That a NEW SECTION be added:

2 **36-39-7. Board--Compensation.**

3 Each board member shall receive a per diem established pursuant to § 4-7-10.4  
4 and may be reimbursed for expenses as provided by law while engaged in official duties.

5 **Section 8.** That a NEW SECTION be added:

6 **36-39-8. Board--Powers and duties.**

7 The board may:

- 8 (1) Establish educational, training, and competency standards governing the  
9 examination and practice of licensees using board-approved national accrediting  
10 agencies and accepted nationally established standards, if applicable;  
11 (2) Examine an eligible applicant for a speech-language pathologist, speech-language  
12 pathology assistant, audiologist, or hearing aid dispenser license;  
13 (3) Issue a license to an applicant who has met the licensure standards of this Act and  
14 renew the license of speech-language pathologists, speech-language pathology  
15 assistants, audiologists, and hearing aid dispensers who continue to meet the  
16 licensure standards of this Act;  
17 (4) Establish continuing education requirements;  
18 (5) Establish standards for telepractice;  
19 (6) Establish a budget;  
20 (7) Conduct all disciplinary proceedings under this Act;  
21 (8) Issue subpoenas, examine witnesses, administer oaths, conduct hearings, and, at  
22 its discretion, investigate allegations of violations of this Act;  
23 (9) Establish peer review committees within each discipline for review purposes;  
24 (10) Promulgate rules, pursuant to chapter 1-26, to:  
25 (a) Delineate qualifications for licensure;  
26 (b) Specify requirements for the renewal of licensure;  
27 (c) Regulate the delivery of services via telepractice;  
28 (d) Establish standards of professional conduct;  
29 (e) Specify procedures for suspension and revocation of licensure;  
30 (f) Establish a schedule of disciplinary actions for violations of professional  
31 conduct;  
32 (g) Permit inactive licensures;  
33 (h) Establish procedures for collection and management of fees and payments;

- (i) Establish application, ~~biennial~~-licensure, and renewal;  
(j) ~~Biennial-renewal;~~  
~~(k)~~ Delineate activities that may or may not be delegated to an assistant; and  
~~(H)(k)~~ Specify requirements for the supervision of assistants;  
(11) Employ personnel in accordance with the needs and budget of the board;  
(12) Establish and collect fees as provided for by this Act;  
(13) Enter into contracts as necessary to carry out the board's responsibilities pursuant to the provisions of this Act;  
(14) Communicate disciplinary actions and licensure status to relevant state and federal governing bodies as may be required, including the National Practitioner Data Bank; and  
(15) Carry out the purposes and enforce the provisions of this Act.

**Section 9.** That a NEW SECTION be added:

**36-39-9. Speech-language pathology--Practice defined.**

For the purposes of this Act, the practice of speech-language pathology is the application of principles, methods, and procedures related to the development, disorders, and effectiveness of human communication and related functions, including providing prevention, screening, consultation, assessment/evaluation, diagnosis, treatment/intervention management, counseling, collaboration, and referral services for disorders of speech, language, feeding, and swallowing, and for cognitive aspects of communication. The practice of speech-language pathology also includes:

- (1) Establishing augmentative and alternative communication techniques and strategies, including developing, selecting, and prescribing of such systems and devices but excluding the dispensing and fitting of hearing aids;  
(2) Providing services to individuals with hearing loss and their families;  
(3) Screening persons for hearing loss or middle ear pathology using conventional pure-tone air conduction methods, otoacoustic emissions screening or screening tympanometry;  
(4) Using instrumentation to observe, collect data, and measure parameters of communication and swallowing;  
(5) Selecting, fitting, and establishing effective use of prosthetic or adaptive devices for communication, swallowing, or other upper aerodigestive functions; and  
(6) Providing services to modify or enhance communication performance.



**Section 10.** That a NEW SECTION be added:

**36-39-9A. License to practice speech-language pathology required –**

**Penalty.**

No person may practice speech-language pathology or represent himself or herself as a speech-language pathologist or speech-language pathology assistant in this state, unless the person is licensed in accordance with this chapter.

A person represents oneself to be a speech-language pathologist or speech-language pathology assistant if the person holds himself or herself out to the public by any means, or by any service or function performed, directly or indirectly, or by using the terms, speech pathologist, speech therapist, speech teacher, speech correctionist, speech clinician, language therapist, language pathologist, language specialist, voice therapist, voice pathologist, logopedist, communicologist, aphasiologist, phoniatriest, speech-language pathologist assistant, or any variation, synonym, coinage, or other word that expresses, employs, or implies these terms, names, or functions. A violation of this section is a Class 2 misdemeanor.

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**Section 11.** That a NEW SECTION be added:

**36-39-10. Speech-language pathologist--License eligibility.**

To be eligible for licensure by the board as a speech-language pathologist, the applicant shall:

- (1) Submit an application, upon a form prescribed by the board;
- (2) Pay the application fee pursuant to § 36-39-35;
- (3) Possess a master's or doctoral degree from an educational institution accredited by the accrediting agency of the American Speech-Language-Hearing Association and from an educational institution approved by the United States Department of Education;
- (4) Complete supervised clinical practicum experiences from an educational institution or its cooperating programs;
- (5) Complete a supervised postgraduate professional experience;
- (6) Pass a written national examination in speech-language pathology; and
- (7) Have committed no act for which disciplinary action may be justified.

**36-39-11. Speech-language pathologist--Limited licensure--Persons certified by Department of Education as of July 1, 2012.**

Any person who holds any speech-language pathologist certificate from the South Dakota Department of Education as of July 1, 2012, and does not otherwise meet the qualifications set forth in this Act, may apply for and shall be granted a limited license to practice as a speech-language pathologist as long as:

(1) The application is made no later than July 1, 2014; and

(2) The applicant complies with the provisions of subdivisions 36-39-10(1), (2), and (7).

The limits of the license shall be determined by the board in rules promulgated pursuant to chapter 1-26.

**Section 13.** That a NEW SECTION be added:

**36-39-12. Speech-language pathology--Provisional licensure--Practice limited.**

The board shall issue a provisional license in speech-language pathology to an applicant who:

(1) Except for the postgraduate professional experience, meets the academic, practicum, and examination requirements of this Act;

(2) Submits an application, upon a form prescribed by the board, including a plan for the content of the postgraduate professional experience;

(3) Pays the application fee for a provisional license pursuant to § 36-39-35; and

(4) Has not committed any act for which disciplinary action may be justified.

A person holding a provisional license may practice speech-language pathology only while working under the mentorship of a speech-language pathologist licensed in this state. The term for a provisional license and the conditions for its renewal shall be determined by the board in rules promulgated pursuant to chapter 1-26.

**Section 14.** That a NEW SECTION be added:

**36-39-13. Speech-language pathology assistant--Licensure.**

The board shall issue a speech-language pathology assistant license to an applicant who:

(1) Submits an application, upon a form prescribed by the board;

(2) Pays the application fee pursuant to § 36-39-35;



- (3) Holds an associate's degree in speech-language pathology assisting or a bachelor's degree with major emphasis in speech-language pathology or communication disorders from an accredited academic institution;
- (4) Submits an official transcript verifying necessary academic preparation and clinical experiences;
- (5) Completes a supervised clinical practicum of a minimum of one hundred clock hours as a speech-language pathology assistant while either on the job or during academic preparation as certified by completion of the Verification of Completed Supervised Practicum form; and
- (6) Has committed no act for which disciplinary action is justified.
- While completing the clinical practicum required in subdivision (5), neither the speech-language pathology assistant applicant nor supervising speech-language pathologist may represent the applicant as a licensed assistant. A supervising speech-language pathologist shall be present at all times when an applicant is completing the clinical practicum on the job.

**Section 15.** That a NEW SECTION be added:

**36-39-14. Paraprofessionals employed under supervision of a speech-language pathologist holding a certificate from the Department of Education as of July 1, 2012.**

Any person who is employed as a paraprofessional providing speech-language pathology services under the direct supervision of a speech-language pathologist who ~~holds-possessed~~ a speech-language pathologist certificate from the South Dakota Department of Education as of July 1, 2012, and does not otherwise meet the qualifications set forth in this Act may apply for and shall be granted a speech-language pathology assistant license and may continue to practice as a speech-language pathology assistant as long as:

- (1) The application was made no later than July 1, 2014;
- (2) The applicant continued to render speech-language pathology services in the public school or school district where the applicant was employed at the time of application; and
- (3) The renewal fee is paid pursuant to § 36-39-35.

**Section 16.** That a NEW SECTION be added:

**36-39-15. Speech-language pathology assistant--Supervision by licensed pathologist.**

A speech-language pathology assistant shall be supervised by a licensed speech-language pathologist with at least two years of experience or a limited licensed speech-language pathologist with at least two years of experience. The time licensed as a provisional speech-language pathologist counts toward the two years of experience. The supervising speech-language pathologist:

- (1) Is responsible for the extent, kind, and quality of service provided by the assistant, consistent with the board's designated standards and requirements;
  - (2) Shall ensure that persons receiving services from an assistant receive prior written notification that services are to be provided, in whole or in part, by a speech-language pathology assistant; and
  - (3) May not supervise more than three speech-language pathology assistants at one time.
- An assistant may have more than one supervisor if the board is notified.

**Section 17.** That a NEW SECTION be added:

**36-39-16. Speech-language pathologist-- Nonmedical endoscopy-- Requirements.**

Any person who is licensed as a speech-language pathologist in South Dakota may perform assessment, treatment, and procedures related to speech, voice, resonance, and swallowing function using nonmedical endoscopy as long as the person has received training and is competent to perform these procedures. A licensed speech-language pathologist shall have protocols in place for emergency medical backup when performing procedures using an endoscope.

**Section 18.** That a NEW SECTION be added:

**36-39-17. Audiology--Practice described.**

The scope of practice of audiology includes:

- (1) Activities that identify, assess, diagnose, manage, and interpret test results related to disorders of human hearing, balance, and other neural systems;
- (2) Otoscopic examination and external ear canal management for removal of cerumen in order to evaluate hearing or balance, make ear impressions, fit hearing protection or prosthetic devices, and monitor the continuous use of hearing aids;

- 1     (3)    The conduct and interpretation of behavioral, electroacoustic, or electrophysiologic  
2           methods used to assess hearing, balance, and neural system function;  
3     (4)    Evaluation and management of children and adults with central auditory processing  
4           disorders;  
5     (5)    Supervision and conduct of newborn hearing screening programs;  
6     (6)    Measurement and interpretation of sensory and motor evoked potentials,  
7           electromyography, and other electrodiagnostic tests for purposes of  
8           neurophysiologic intraoperative monitoring and cranial nerve assessment;  
9     (7)    Provision of hearing care by selecting, evaluating, fitting, facilitating adjustment  
10          to, and dispensing prosthetic devices for hearing loss, including hearing aids,  
11          sensory aids, hearing assistive devices, alerting and telecommunication systems,  
12          and captioning devices;  
13     (8)    Assessment of the candidacy of persons with hearing loss for cochlear implants and  
14          provision of fitting, programming, and audiological rehabilitation to optimize device  
15          use;  
16     (9)    Provision of audiological rehabilitation, including speech reading, communication  
17          management, language development, auditory skill development, and counseling  
18          for psychosocial adjustment to hearing loss for persons with hearing loss and their  
19          families or caregivers;  
20     (10)   Consultation to educators as members of interdisciplinary teams about  
21          communication management, educational implications of hearing loss, educational  
22          programming, classroom acoustics, and large-area amplification systems for  
23          children with hearing loss;  
24     (11)   Prevention of hearing loss and conservation of hearing function by designing,  
25          implementing, and coordinating occupational, school, and community hearing  
26          conservation and identification programs;  
27     (12)   Consultation and provision of rehabilitation to persons with balance disorders using  
28          habituation, exercise therapy, and balance retraining;  
29     (13)   Design and conduct of basic and applied audiologic research to increase the  
30          knowledge base, to develop new methods and programs, and to determine the  
31          efficacy of assessment and treatment paradigms, and to disseminate research  
32          findings to other professionals and to the public;  
33     (14)   Education and administration in audiology graduate and professional education  
34          programs;



- 1     (15) Measurement of functional outcomes, consumer satisfaction, effectiveness,  
2         efficiency, and cost-benefit of practices and programs to maintain and improve the  
3         quality of audiological services;  
4     (16) Administration and supervision of professional and technical personnel who provide  
5         support functions to the practice of audiology;  
6     (17) Screening of speech-language, use of sign language, and other factors affecting  
7         communication function for the purposes of an audiological evaluation or initial  
8         identification of individuals with other communication disorders;  
9     (18) Consultation about accessibility for persons with hearing loss in public and private  
10        buildings, programs, and services;  
11    (19) Assessment and nonmedical management of tinnitus using biofeedback, masking,  
12        hearing aids, education, and counseling;  
13    (20) Consultation to individuals, public and private agencies, and governmental bodies;  
14        or as an expert witness regarding legal interpretations of audiology findings, effects  
15        of hearing loss and balance system disorders, and relevant noise-related  
16        considerations;  
17    (21) Case management and service as a liaison for consumers, families, and agencies  
18        in order to monitor audiologic status and management and to make  
19        recommendations about educational and vocational programming;  
20    (22) Consultation to industry on the development of products and instrumentation  
21        related to the measurement and management of auditory or balance function; and  
22    (23) Participation in the development of professional and technical standards.

23    **Section 19.** That a NEW SECTION be added:

24        **36-39-18. Audiologist--License eligibility.**

25        To be eligible for licensure by the board as an audiologist, the applicant shall:

- 26    (1) Be of good moral character;  
27    (2) Possess a master's or doctorate degree in audiology from a regionally accredited  
28        educational institution;  
29    (3) Complete the supervised clinical practicum experience from a regionally accredited  
30        educational institution or its cooperating programs;  
31    (4) Complete a period of supervised graduate professional experience in audiology as  
32        recognized by the American Speech-Language-Hearing Association or the  
33        American Academy of Audiology; and

- (5) Pass a national standardized examination in audiology as recognized by the American Speech-Language-Hearing Association or the American Academy of Audiology.

**Section 20.** That a NEW SECTION be added:

**36-39-19. Audiologist--License eligibility pending approval.**

An applicant who does not meet the provisions of subdivision 36-39-18(4) or (5) may be issued a license to practice as an audiologist pending board approval if the applicant demonstrates the following:

- (1) Has formally and consistently represented oneself to the public as an audiologist;
- (2) Has a master's or doctorate degree in audiology from a regionally accredited educational institution;
- (3) Has spent the majority of working hours in the practice of audiology;
- (4) Passed any board designated written or oral exam for applicants who have not met subdivision 36-39-18(5);
- (5) Submits an application on a form prescribed by the board; and
- (6) Pays the application fee pursuant to § 36-39-35.

**Section 21.** That a NEW SECTION be added:

**36-39-20. Audiology--Provisional licensure--Practice limited.**

The board shall issue a provisional audiology license to any applicant who:

- (1) Except for the postgraduate professional experience, meets the academic, practicum, and examination requirements of this Act;
- (2) Applies to the board on a form prescribed by the board, with a plan for the content of the postgraduate professional experience; and
- (3) Pays the application fee pursuant to § 36-39-35.

A person holding a provisional audiology license is authorized to practice audiology only while working under the supervision of a licensed audiologist under the provisions of this Act. The term for provisional audiology licenses and the conditions for renewal shall be determined by the board by rules promulgated pursuant to chapter 1-26.

**Section 22.** That a NEW SECTION be added:

**36-39-21. Speech-language pathology and audiology--Student participation.**

Nothing in this Act may be construed as preventing or restricting the activities and services of persons pursuing a course of study leading to a degree in speech-language pathology, speech-language pathology assistant, or audiology at a college or university if these activities and services constitute a part of a planned course of study at that institution and these persons are designated by a title such as intern, trainee, student, volunteer, occupational hearing conservationist, industrial audiometric technician, or by other such title clearly indicating the status appropriate to their level of education, and these persons work under the supervision of a person licensed by this state as a speech-language pathologist or audiologist.

**Section 23.** That a NEW SECTION be added:

**36-39-22. Hearing aid dispensing--License requirements.**

Any applicant for licensure to practice hearing aid dispensing shall:

- (1) Be of good moral character;
- (2) Be eighteen years of age or older;
- (3) Be a high school graduate or the equivalent; and
- (4) Pass an examination approved by the board.

The applicant may not be the holder of an audiology license.

**Section 24.** That a NEW SECTION be added:

**36-39-23. Hearing aid dispensing--License examination--Notice to appear.**

An applicant for a hearing aid dispensing license having been notified by the board that the applicant has fulfilled the requirements of § 36-39-22 shall appear at a time, place, and before such persons as the board may designate, to be examined by written and oral tests to determine that the applicant is qualified to practice the fitting and dispensing of hearing aids. As the volume of applications may make appropriate, the board shall administer the qualifying examinations throughout the year as the board may designate.

**Section 25.** That a NEW SECTION be added:

**36-39-24. Hearing aid dispensing--Examination qualifications--Scope.**

Any applicant who otherwise qualifies for a license to practice hearing aid dispensing is entitled to be examined. The examination shall include the following:



(1) Tests of knowledge in the following areas as they pertain to the fitting and dispensing of hearing aids:

(a) Basic physics of sound;

(b) The human hearing mechanism, including the science of hearing and the rehabilitation of abnormal hearing disorders; and

(c) Structure and function of hearing aids; and

(2) Tests of proficiency in the following techniques as they pertain to the fitting and dispensing of hearing aids:

(a) Pure tone audiometry, including air conduction and bone conduction testing;

(b) Live voice and recorded voice speech audiometry, including speech threshold testing and speech discrimination testing;

(c) Effective masking;

(d) Recording and evaluation of audiograms and speech audiometry tests to determine hearing aid candidacy;

(e) Selection and adaptation of hearing aids and testing of hearing aids; and

(f) Taking earmold impressions, and proficiency in any other skills as they pertain to the fitting and dispensing of hearing aids.

No test under this section may include any questions requiring a medical or surgical education.

Applicants holding a current license to practice hearing aid dispensing in another state are exempt from the examination requirement in this section upon furnishing proof of a current, valid license and passage of a board-approved, written national examination.

**Section 26.** That a NEW SECTION be added:

**36-39-25. Hearing aid dispensing--Provisional licensure--Services limited.**

The board shall issue a provisional hearing aid dispensing license following a submission of application of license, to an applicant to provide hearing aid services to a person who is waiting to take the hearing aid dispensing examination under this Act. The board may issue a provisional hearing aid dispensing license, not to exceed a one-year period, to provide hearing aid services only to a person who:

(1) Except for taking and passing an examination under this Act, otherwise qualifies for a hearing aid dispensing license;

(2) Submits an application on the form prescribed by the board; and

(3) Pays the application fee pursuant to § 36-39-35.

1        The provisional hearing aid dispensing license may not be renewed except for good  
2        cause shown to the satisfaction of the board.

3        While the provisional hearing aid dispensing license is in effect, the holder may  
4        provide hearing aid services only while being trained under the supervision of a licensed  
5        hearing aid dispenser or licensed audiologist.

6        **Section 27.** That a NEW SECTION be added:

7        **36-39-26. Receipt for sale of hearing aid--Contents--Refund--Violation as**  
8        **misdemeanor.**

9        Any person who practices the dispensing of hearing aids in the State of South  
10       Dakota shall deliver to each person sold a hearing aid a receipt which contains the seller's  
11       signature; the business address of the seller; the specifications of the hearing aid  
12       furnished, including whether it is new, used, or rebuilt; the serial number of the aid; the  
13       date of sale; the total purchase price charged for the aid, less any allowance for a trade-  
14       in; and the net amount paid by the purchaser. A copy of the original sales order constitutes  
15       a valid receipt and a legal bill of sale, and the purchaser's signature constitutes full  
16       acknowledgment of the terms of the sale. Any purchaser of a hearing aid is entitled to a  
17       refund of the full purchase price paid by the purchaser for the hearing aid, less a maximum  
18       of ten percent upon the return of the hearing aid by the purchaser to the licensee within  
19       thirty days from the date of delivery unless set by contract for more than thirty days. Any  
20       refund shall be paid within thirty days of the return date. A violation of this section is a  
21       Class 2 misdemeanor.

22       **Section 28.** That a NEW SECTION be added:

23       **36-39-27. License required for practice.**

24       No person may engage in the practice of speech-language pathology, audiology,  
25       or hearing aid dispensing, or display a sign, or in any other way advertise or hold oneself  
26       out as a person who practices speech-language pathology, audiology, or hearing aid  
27       dispensing in the State of South Dakota unless the person holds a current license issued  
28       by the board as provided in this Act.

29       **Section 29.** That a NEW SECTION be added:

**36-39-28. Application form and fees.**

Any applicant pursuant to this Act shall apply on a form prescribed by the board and pay any applicable fees pursuant to § 36-39-35. The applicant shall also meet all other qualifications specified within this Act for each respective profession for which the person seeks licensure.

**Section 30.** That a NEW SECTION be added:

**36-39-29. Issuance of license.**

The board shall issue a license to any applicant for a speech-language pathology, speech-language pathology assistant, audiology, or hearing aid dispensing license who meets the requirements of this Act and pays the application fee set by the board pursuant to § 36-39-35.

**Section 31.** That a NEW SECTION be added:

**36-39-30. Expiration of license--Renewal.**

A license or provisional license issued to a speech-language pathologist or speech-language pathology assistant under this Act expires biennially at a time specified by rules promulgated by the board pursuant to chapter 1-26. A license or provisional license issued to an audiologist or hearing aid dispenser under this Act expires annually at a time specified by rules promulgated by the board pursuant to chapter 1-26. In order to renew, a person licensed under this Act shall:

- (1) Pay a renewal license fee established by the board, pursuant § 36-39-25;
- (2) Submit an application for renewal on a form prescribed by the board; and
- (3) Meet the continuing education requirements established by the board.

Licensees are granted a grace period of thirty days beyond the expiration date of the license to renew retroactively as long as licensees are otherwise eligible and pay to the board the renewal fee and any late fee pursuant to § 36-39-35.

**Section 32.** That a NEW SECTION be added:

**36-39-31. Failure to renew--Reinstatement--New license.**

A licensee who fails to renew by the end of the thirty-day grace period may have the license reinstated if:

- (1) The person submits an application for reinstatement to the board within twenty-four months after the expiration date of the license;



(2) The person meets the requirements established by the board as conditions for license renewal; and

(3) The person pays to the board a reinstatement fee that equals the renewal fee in effect on the last regular renewal date immediately preceding the date of reinstatement, plus any late fee pursuant to § 36-39-35.

Any person who fails to renew a license within twenty-four months from the expiration date may not have the license reinstated. The person may apply for and obtain a new license if in compliance with the requirements of this Act and the rules promulgated thereunder by the board pursuant to chapter 1-26, and after paying to the board any appropriate fees.

**Section 33.** That a NEW SECTION be added:

**36-39-32. Renewal of suspended license--Reinstatement of revoked license.**

A suspended license is subject to expiration and may be renewed as provided in this Act, but the renewal does not entitle the licensee, while the license remains suspended and until the license is reinstated, to engage in the licensed activity or in any other conduct or activity in violation of the order of judgment by which the license was suspended.

A license revoked on disciplinary grounds is subject to expiration as provided in this Act, and the license may not be renewed. If the license is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee equal to the renewal fee in effect on the last regular renewal date immediately preceding the date of reinstatement, plus any late fee pursuant to § 36-39-35.

**Section 34.** That a NEW SECTION be added:

**36-39-33. Issuance of license to out-of-state licensee.**

The board shall issue a speech-language pathology, speech-language pathology assistant, audiology, or hearing aid dispensing license to an applicant holding a valid license from another state in the applicant's respective professional area who:

(1) Applies to the board on a form prescribed by the board;

(2) Pays the application fee pursuant to § 36-39-35; and

(3) ~~Shows proof of current valid professional licensure;~~

~~(4)~~ Holds a ~~current~~ license from a state with equivalent licensure standards, or for speech-language pathology, holds a current Certificate of Clinical Competence in Speech-Language Pathology from the American Speech-Language-Hearing Association; and

~~(5) Is practicing speech language pathology, audiology, or hearing aid dispensing in the state in which the license was issued.~~

**Section 35.** That a NEW SECTION be added:

**36-39-34. Foreign-educated applicant for a license.**

The board shall waive the education, practicum, and professional experience requirements for applicants who received a professional education in another country if the board is satisfied that equivalent education and practicum requirements have been met and the applicant passes the national examination as specified by the board.

**Section 36.** That a NEW SECTION be added:

**36-39-35. Fees.**

The board shall promulgate rules, pursuant to chapter 1-26, to establish nonrefundable fees, provided for in this Act, within the following limits:

(1) Audiologists:

- (a) Application for licensure, not more than three hundred fifty dollars;
- (b) Provisional license, not more than one hundred fifty dollars;
- (c) Annual license renewal, not more than three hundred fifty dollars; and
- (d) Late fee, not more than one hundred dollars;

(2) Hearing aid dispensers:

- (a) Application for licensure, not more than three hundred fifty dollars;
- (b) Provisional license, not more than one hundred fifty dollars;
- (c) Annual license renewal, not more than three hundred fifty dollars; and
- (d) Late fee, not more than one hundred dollars; and

(3) Speech-language pathologists and speech-language pathology assistants:

- (a) Application for licensure, not more than one hundred fifty dollars;
- (b) Annual license renewal, not more than one hundred fifty dollars;
- (c) Provisional license, not more than one hundred fifty dollars; and
- (d) Late fee, not more than one hundred dollars.

**Section 37.** That a NEW SECTION be added:

**36-39-36. Posting of certificate of license--Violation a misdemeanor.**

The license required by this Act shall be kept conspicuously posted in the licensee's office or place of business at all times. A violation of this section is a Class 2 misdemeanor.

**Section 38.** That a NEW SECTION be added:

**36-39-37. Notice to board of change of name or address.**

Each licensee, upon changing a place of residence, name, place of employment, or place of business shall, within ninety days thereafter, furnish the board with updated information. A post office box number may not be the address of a place of business.

**Section 39.** That a NEW SECTION be added:

**36-39-38. Disciplinary actions.**

Any person licensed under this Act is subject to disciplinary action pursuant to this section and § 36-39-39. Disciplinary action is subject to contested case procedures in chapter 1-26. The board may impose separately, or in combination, any of the following disciplinary actions on a licensee after formal or informal disciplinary action:

(1) Refuse to issue or renew a license;

(2) Issue a letter of reprimand or concern;

(3) Require the licensee to reimburse the board for costs for the investigation and proceedings;

(4) Impose probationary conditions;

(5) Suspend or revoke a license;

(6) Impose practice or supervision requirements, or both; or

(7) Require the licensee to attend continuing education programs specified by the board as to content and hours.

**Section 40.** That a NEW SECTION be added:

**36-39-39. Disciplinary action--Grounds.**

The board may take disciplinary action for the following conduct:

(1) Fraudulently or deceptively obtaining or attempting to obtain a license or a provisional license;

(2) Fraudulently or deceptively using a license or provisional license;

(3) Altering a license or provisional license;

(4) Aiding or abetting unlicensed practice;

(5) Selling, bartering, or offering to sell or barter a license or provisional license;

(6) Committing fraud or deceit in the practice of speech-language pathology, audiology, or hearing aid dispensing, including:



- 1       (a) Willfully making or filing a false report or record in the practice of speech-  
2       language pathology, audiology, or hearing aid dispensing;  
3       (b) Submitting a false statement to collect a fee; or  
4       (c) Obtaining a fee through fraud or misrepresentation;  
5       (7) Using or promoting or causing the use of any misleading, deceiving, improbable,  
6       or untruthful advertising matter, promotional literature, testimonial, guarantee,  
7       warranty, label, brand insignia, or any other representation;  
8       (8) Falsely representing the use or availability of services or advice of a physician;  
9       (9) Misrepresenting the applicant or licensee by using the term, doctor, or any similar  
10      word, abbreviation, or symbol, if the use is not accurate or if the degree was not  
11      obtained from a regionally accredited institution;  
12      (10) Committing any act of dishonesty, immorality, or unprofessional conduct while  
13      engaging in the practice of speech-language pathology, audiology, or hearing aid  
14      dispensing;  
15      (11) Engaging in illegal, incompetent, or negligent practice;  
16      (12) Providing professional services while:  
17          (a) Mentally incompetent;  
18          (b) Under the influence of alcohol; or  
19          (c) Using any narcotic or controlled dangerous substance or other drug that is  
20          in excess of therapeutic amounts or without valid medical indication;  
21      (13) Providing services or promoting the sale of devices, appliances, or products to a  
22      person who cannot reasonably be expected to benefit from such services, devices,  
23      appliances, or products;  
24      (14) Violating any provision of this Act, or any lawful order given, or rule adopted, by  
25      the board;  
26      (15) Being convicted or pleading guilty or nolo contendere to a felony or to a crime  
27      involving moral turpitude, whether or not any appeal or other proceeding is  
28      pending to have the conviction or plea set aside;  
29      (16) Being disciplined by a licensing or disciplinary authority of any state or country, or  
30      any nationally recognized professional organization, or convicted or disciplined by  
31      a court of any state or country for an act that would be grounds for disciplinary  
32      action under this section;  
33      (17) Exploiting a patient for financial gain or sexual favors;  
34      (18) Failing to report suspected cases of child abuse or vulnerable adult abuse;

(19) Diagnosing or treating a person for speech disorders by mail or telephone, unless the person has been previously examined by the licensee and the diagnosis or treatment is related to such examination; or

(20) Violating federal, state, or local laws relating to the profession.

The board shall adopt, by rules promulgated pursuant to chapter 1-26, a schedule of sanctions to be imposed as the result of formal or informal disciplinary activities conducted by the board.

**Section 41.** That a NEW SECTION be added:

**36-39-40. Suspended or revoked license--Reinstatement.**

If the board imposes suspension or revocation of a license, application may be made to the board for reinstatement. If a licensee is placed on probation, the board may require the license holder to:

(1) Report regularly to the board on matters that are the basis of the probation;

(2) Limit practice to the areas prescribed by the board; or

(3) Participate in continuing education until the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

**Section 42.** That a NEW SECTION be added:

**36-39-41. Disciplinary hearing--Decision--Appeal.**

The board may take disciplinary action or suspend, revoke, or reissue a license or certification only after a hearing conducted by a hearing examiner appointed by the board of by a majority of the members of the board.

Any disciplinary proceedings relative to the revocation or suspension of a license or certification shall otherwise conform to the procedure set forth in chapter 1-26.

Any decision of the board to discipline, suspend, revoke, or reissue a license or certification requires a majority vote of the board membership.

Any party feeling aggrieved by any acts, rulings, or decisions of the board acting pursuant to § 36-39-38, 36-39-39, or 36-39-40, has the right to appeal under the provisions of chapter 1-26.

**Section 43.** That a NEW SECTION be added:

**36-39-42. Injunction for violation.**

Any person violating the provisions of this Act may be enjoined from further violations at the suit of the state's attorney of the county where the violation occurred or suit may be brought by any citizen of this state. An action for injunction is an alternative to criminal proceedings, and the commencement of one proceeding by the board constitutes an election.

**Section 44.** That a NEW SECTION be added:

**36-39-43. Telepractice.**

Any person licensed pursuant to this Act may provide services via telepractice pursuant to chapter 34-52. Services delivered via telepractice shall be equivalent to the quality of services delivered face-to-face.

**Section 45.** That a NEW SECTION be added:

**36-39-44. Certain activities not prevented or restricted.**

Nothing in this Act may be construed as preventing or restricting:

- (1) A person licensed or registered by this state in another profession from practicing the profession for which licensed or registered;
- (2) A person certified as a teacher of the deaf or hard of hearing students providing instruction to persons who are deaf or hard of hearing;
- (3) The activities of any person who is not licensed in this state from engaging in the practice of speech-language pathology or audiology for the purpose of providing training or continuous education as long as they hold an active license in another state, agree to abide by the standards of professional conducts, and do not engage in such activities exceeding five days in any calendar year; and
- (4) Any person possessing a valid certificate as a certified industrial audiometric technician or occupational hearing conservationist recognized by the board as meeting Council for Accreditation in Occupational Hearing Conservation Standards if such service is performed in cooperation with either an audiologist licensed under this Act or a physician licensed pursuant to chapter 36-4.

**Section 46.** That §§ 36-24-1 to 36-24-21.1 be REPEALED.

**Section 47.** That §§ 36-24-24.1 to 36-24-46 be REPEALED.

**Section 48.** That §§ 36-37-1 to 36-37-25 be REPEALED.