



## 2021 South Dakota Legislature

# House Bill 1041

*Introduced by: The Committee on Health and Human Services at the request of the Department of Health*

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;

1       (14) "Research," the systematic investigation designed to develop or contribute to  
2       generalizable knowledge about human communication, human communication  
3       disorders, and evaluation or treatment strategies. The term does not include  
4       activities that take place under the auspices of a recognized institutional review  
5       board which reviews, approves, and monitors proposals and activities involving  
6       human subjects to ensure that the rights and welfare of such subjects are  
7       protected;

8       (15) "Speech-language pathologist," any person who engages in the practice of speech-  
9       language pathology and who meets the qualifications set forth in this Act;

10       (16) "Speech-language pathology assistant," any person who assists in the practice of  
11       speech-language pathology and who meets the qualifications set forth in this Act;

12       (17) "Telepractice," the application of telecommunication technology to deliver speech-  
13       language pathology or audiology at a distance for assessment, intervention, or  
14       consultation.

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

16                **36-39-2. Board of Speech-Language Pathology, Audiology, and Hearing Aid**  
17        **Dispensing created.**

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

20        (1) Two speech-language pathologists in active practice in South Dakota and with at  
21        least five years of experience practicing speech-language pathology. One speech-  
22        language pathologist shall be employed in a school setting and one speech-  
23        language pathologist shall be employed in a health care setting;

24        (2) Two audiologists in active practice in South Dakota and with at least five years of  
25        experience practicing audiology;

26        (3) Two hearing aid dispensers in active practice in South Dakota and with at least five  
27        years of experience in the practice of fitting and dispensing hearing aids; and

28        (4) One member of the public who is not associated with or financially interested in  
29        the practice or business of speech-language pathology, audiology, or hearing aid  
30        dispensing and who is not a member of a related profession or occupation.

31        **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.

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;

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

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

14            **36-39-9. Speech-language pathology--Practice defined.**

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

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

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

2 **36-39-10. Speech-language pathologist--License eligibility.**

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

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

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

7 (3) Possess a master's or doctoral degree from an educational institution accredited  
8 by the accrediting agency of the American Speech-Language-Hearing Association  
9 and from an educational institution approved by the United States Department of  
10 Education;

11 (4) Complete supervised clinical practicum experiences from an educational institution  
12 or its cooperating programs;

13 (5) Complete a supervised postgraduate professional experience;

14 (6) Pass a written national examination in speech-language pathology; and

15 (7) Have committed no act for which disciplinary action may be justified.

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

17 **36-39-11. Speech-language pathologist--Limited licensure--Persons**  
18 **certified by Department of Education as of July 1, 2012.**

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

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

24 (2) The applicant complies with the provisions of subdivisions 36-39-10(1), (2), and  
25 (7).

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

28 **Section 12.** That a NEW SECTION be added:

29 **36-39-12. Speech-language pathology--Provisional licensure--Practice**  
30 **limited.**

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

- 1        (1) Except for the postgraduate professional experience, meets the academic,  
2            practicum, and examination requirements of this Act;  
3        (2) Submits an application, upon a form prescribed by the board, including a plan for  
4            the content of the postgraduate professional experience;  
5        (3) Pays the application fee for a provisional license pursuant to § 36-39-35; and  
6        (4) Has not committed any act for which disciplinary action may be justified.

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

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

12                    **36-39-13. Speech-language pathology assistant--Licensure.**

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

- 15        (1) Submits an application, upon a form prescribed by the board;  
16        (2) Pays the application fee pursuant to § 36-39-35;  
17        (3) Holds an associate's degree in speech-language pathology assisting or a bachelor's  
18            degree with major emphasis in speech-language pathology or communication  
19            disorders from an accredited academic institution;  
20        (4) Submits an official transcript verifying necessary academic preparation and clinical  
21            experiences;  
22        (5) Completes a supervised clinical practicum of a minimum of one hundred clock hours  
23            as a speech-language pathology assistant while either on the job or during  
24            academic preparation as certified by completion of the Verification of Completed  
25            Supervised Practicum form; and  
26        (6) Has committed no act for which disciplinary action is justified.

27            While completing the clinical practicum required in subdivision (5), neither the  
28            speech-language pathology assistant applicant nor supervising speech-language  
29            pathologist may represent the applicant as a licensed assistant. A supervising speech-  
30            language pathologist shall be present at all times when an applicant is completing the  
31            clinical practicum on the job.

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



1           **36-39-14. Speech-language pathology assistant--Licensure for**  
2           **paraprofessionals certified by Department of Education as of July 1, 2012.**

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

9           (1) The application was made no later than July 1, 2014;

10          (2) The applicant continued to render speech-language pathology services in the public  
11             school or school district where the applicant was employed at the time of  
12             application; and

13          (3) The renewal fee is paid pursuant to § 36-39-35.

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

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

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

22           (1) Is responsible for the extent, kind, and quality of service provided by the assistant,  
23             consistent with the board's designated standards and requirements;

24           (2) Shall ensure that persons receiving services from an assistant receive prior written  
25             notification that services are to be provided, in whole or in part, by a speech-  
26             language pathology assistant; and

27           (3) May not supervise more than three speech-language pathology assistants at one  
28             time.

29           An assistant may have more than one supervisor if the board is notified.

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

1           **36-39-16. Speech-language pathologist-- Nonmedical endoscopy--**  
2           **Requirements.**

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

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

10           **36-39-17. Audiology--Practice described.**

11           The scope of practice of audiology includes:

- 12           (1) Activities that identify, assess, diagnose, manage, and interpret test results related  
13           to disorders of human hearing, balance, and other neural systems;
- 14           (2) Otoscopic examination and external ear canal management for removal of cerumen  
15           in order to evaluate hearing or balance, make ear impressions, fit hearing  
16           protection or prosthetic devices, and monitor the continuous use of hearing aids;
- 17           (3) The conduct and interpretation of behavioral, electroacoustic, or electrophysiologic  
18           methods used to assess hearing, balance, and neural system function;
- 19           (4) Evaluation and management of children and adults with central auditory processing  
20           disorders;
- 21           (5) Supervision and conduct of newborn hearing screening programs;
- 22           (6) Measurement and interpretation of sensory and motor evoked potentials,  
23           electromyography, and other electrodiagnostic tests for purposes of  
24           neurophysiologic intraoperative monitoring and cranial nerve assessment;
- 25           (7) Provision of hearing care by selecting, evaluating, fitting, facilitating adjustment  
26           to, and dispensing prosthetic devices for hearing loss, including hearing aids,  
27           sensory aids, hearing assistive devices, alerting and telecommunication systems,  
28           and captioning devices;
- 29           (8) Assessment of the candidacy of persons with hearing loss for cochlear implants and  
30           provision of fitting, programming, and audiological rehabilitation to optimize device  
31           use;
- 32           (9) Provision of audiological rehabilitation, including speech reading, communication  
33           management, language development, auditory skill development, and counseling

- 1           for psychosocial adjustment to hearing loss for persons with hearing loss and their  
2           families or caregivers;
- 3       (10) Consultation to educators as members of interdisciplinary teams about  
4           communication management, educational implications of hearing loss, educational  
5           programming, classroom acoustics, and large-area amplification systems for  
6           children with hearing loss;
- 7       (11) Prevention of hearing loss and conservation of hearing function by designing,  
8           implementing, and coordinating occupational, school, and community hearing  
9           conservation and identification programs;
- 10      (12) Consultation and provision of rehabilitation to persons with balance disorders using  
11           habituation, exercise therapy, and balance retraining;
- 12      (13) Design and conduct of basic and applied audiology research to increase the  
13           knowledge base, to develop new methods and programs, and to determine the  
14           efficacy of assessment and treatment paradigms, and to disseminate research  
15           findings to other professionals and to the public;
- 16      (14) Education and administration in audiology graduate and professional education  
17           programs;
- 18      (15) Measurement of functional outcomes, consumer satisfaction, effectiveness,  
19           efficiency, and cost-benefit of practices and programs to maintain and improve the  
20           quality of audiological services;
- 21      (16) Administration and supervision of professional and technical personnel who provide  
22           support functions to the practice of audiology;
- 23      (17) Screening of speech-language, use of sign language, and other factors affecting  
24           communication function for the purposes of an audiological evaluation or initial  
25           identification of individuals with other communication disorders;
- 26      (18) Consultation about accessibility for persons with hearing loss in public and private  
27           buildings, programs, and services;
- 28      (19) Assessment and nonmedical management of tinnitus using biofeedback, masking,  
29           hearing aids, education, and counseling;
- 30      (20) Consultation to individuals, public and private agencies, and governmental bodies;  
31           or as an expert witness regarding legal interpretations of audiology findings, effects  
32           of hearing loss and balance system disorders, and relevant noise-related  
33           considerations;

- 1       (21) Case management and service as a liaison for consumers, families, and agencies  
2       in order to monitor audiologic status and management and to make  
3       recommendations about educational and vocational programming;  
4       (22) Consultation to industry on the development of products and instrumentation  
5       related to the measurement and management of auditory or balance function; and  
6       (23) Participation in the development of professional and technical standards.

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

8               **36-39-18. Audiologist--License eligibility.**

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

- 10       (1) Be of good moral character;  
11       (2) Possess a master's or doctorate degree in audiology from a regionally accredited  
12       educational institution;  
13       (3) Complete the supervised clinical practicum experience from a regionally accredited  
14       educational institution or its cooperating programs;  
15       (4) Complete a period of supervised graduate professional experience in audiology as  
16       recognized by the American Speech-Language-Hearing Association or the  
17       American Academy of Audiology; and  
18       (5) Pass a national standardized examination in audiology as recognized by the  
19       American Speech-Language-Hearing Association or the American Academy of  
20       Audiology.

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

22               **36-39-19. Audiologist--License eligibility pending approval.**

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

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

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

2 **36-39-20. Audiology--Provisional licensure--Practice limited.**

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

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

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

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

14 **36-39-21. Speech-language pathology and audiology--Student participation.**

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

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

25 **36-39-22. Hearing aid dispensing--License requirements.**

26 Any applicant for licensure to practice hearing aid dispensing shall:

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

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

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

2 **36-39-23. Hearing aid dispensing--License examination--Notice to appear.**

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

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

11 **36-39-24. Hearing aid dispensing--Examination qualifications--Scope.**

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

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

16 (a) Basic physics of sound;

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

19 (c) Structure and function of hearing aids; and

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

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

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

26 (c) Effective masking;

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

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

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

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

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

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

5           **36-39-25. Hearing aid dispensing--Provisional licensure--Services limited.**

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

- 11          (1) Except for taking and passing an examination under this Act, otherwise qualifies  
12             for a hearing aid dispensing license;  
13          (2) Submits an application on the form prescribed by the board; and  
14          (3) Pays the application fee pursuant to § 36-39-35.

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

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

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

21           **36-39-26. Receipt for sale of hearing aid--Contents--Refund--Violation as**  
22           **misdemeanor.**

23           Any person who practices the dispensing of hearing aids in the State of South  
24           Dakota shall deliver to each person sold a hearing aid a receipt which contains the seller's  
25           signature; the business address of the seller; the specifications of the hearing aid  
26           furnished, including whether it is new, used, or rebuilt; the serial number of the aid; the  
27           date of sale; the total purchase price charged for the aid, less any allowance for a trade-  
28           in; and the net amount paid by the purchaser. A copy of the original sales order constitutes  
29           a valid receipt and a legal bill of sale, and the purchaser's signature constitutes full  
30           acknowledgment of the terms of the sale. Any purchaser of a hearing aid is entitled to a  
31           refund of the full purchase price paid by the purchaser for the hearing aid, less a maximum  
32           of ten percent upon the return of the hearing aid by the purchaser to the licensee within  
33           thirty days from the date of delivery unless set by contract for more than thirty days. Any

1 refund shall be paid within thirty days of the return date. A violation of this section is a  
2 Class 2 misdemeanor.

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

4 **36-39-27. License required for practice.**

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

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

11 **36-39-28. Application form and fees.**

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

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

17 **36-39-29. Issuance of license.**

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

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

23 **36-39-30. Expiration of license--Renewal.**

24 A license or provisional license issued to a speech-language pathologist or speech-  
25 language pathology assistant under this Act expires biennially at a time specified by rules  
26 promulgated by the board pursuant to chapter 1-26. A license or provisional license issued  
27 to an audiologist or hearing aid dispenser under this Act expires annually at a time  
28 specified by rules promulgated by the board pursuant to chapter 1-26. In order to renew,  
29 a person licensed under this Act shall:  
30 (1) Pay a renewal license fee established by the board, pursuant § 36-39-25;



1 (2) Submit an application for renewal on a form prescribed by the board; and

2 (3) Meet the continuing education requirements established by the board.

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

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

7 **36-39-31. Failure to renew--Reinstatement--New license.**

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

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

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

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

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

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

23 **36-39-32. Renewal of suspended license--Reinstatement of revoked license.**

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

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

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

2 **36-39-33. Issuance of license to out-of-state licensee.**

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

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

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

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

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

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

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

16 **36-39-34. Foreign-educated applicant for a license.**

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

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

22 **36-39-35. Fees.**

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

25 (1) Audiologists:

26 (a) Application for licensure, not more than three hundred fifty dollars;

27 (b) Provisional license, not more than one hundred fifty dollars;

28 (c) Annual license renewal, not more than three hundred fifty dollars; and

29 (d) Late fee, not more than one hundred dollars;

30 (2) Hearing aid dispensers:

31 (a) Application for licensure, not more than three hundred fifty dollars;

32 (b) Provisional license, not more than one hundred fifty dollars;

- 1            (c) Annual license renewal, not more than three hundred fifty dollars; and  
 2            (d) Late fee, not more than one hundred dollars; and  
 3        (3) Speech-language pathologists and speech-language pathology assistants:  
 4            (a) Application for licensure, not more than one hundred fifty dollars;  
 5            (b) Annual license renewal, not more than one hundred fifty dollars;  
 6            (c) Provisional license, not more than one hundred fifty dollars; and  
 7            (d) Late fee, not more than one hundred dollars.

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

9            **36-39-36. Posting of certificate of license--Violation a misdemeanor.**

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

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

13            **36-39-37. Notice to board of change of name or address.**

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

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

18            **36-39-38. Disciplinary actions.**

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

- 23            (1) Refuse to issue or renew a license;  
 24            (2) Issue a letter of reprimand or concern;  
 25            (3) Require the licensee to reimburse the board for costs for the investigation and  
 26            proceedings;  
 27            (4) Impose probationary conditions;  
 28            (5) Suspend or revoke a license;  
 29            (6) Impose practice or supervision requirements, or both; or  
 30            (7) Require the licensee to attend continuing education programs specified by the  
 31            board as to content and hours.

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

2 **36-39-39. Disciplinary action--Grounds.**

3 The board may take disciplinary action for the following conduct:

- 4 (1) Fraudulently or deceptively obtaining or attempting to obtain a license or a  
5 provisional license;
- 6 (2) Fraudulently or deceptively using a license or provisional license;
- 7 (3) Altering a license or provisional license;
- 8 (4) Aiding or abetting unlicensed practice;
- 9 (5) Selling, bartering, or offering to sell or barter a license or provisional license;
- 10 (6) Committing fraud or deceit in the practice of speech-language pathology,  
11 audiology, or hearing aid dispensing, including:
- 12 (a) Willfully making or filing a false report or record in the practice of speech-  
13 language pathology, audiology, or hearing aid dispensing;
- 14 (b) Submitting a false statement to collect a fee; or
- 15 (c) Obtaining a fee through fraud or misrepresentation;
- 16 (7) Using or promoting or causing the use of any misleading, deceiving, improbable,  
17 or untruthful advertising matter, promotional literature, testimonial, guarantee,  
18 warranty, label, brand insignia, or any other representation;
- 19 (8) Falsely representing the use or availability of services or advice of a physician;
- 20 (9) Misrepresenting the applicant or licensee by using the term, doctor, or any similar  
21 word, abbreviation, or symbol, if the use is not accurate or if the degree was not  
22 obtained from a regionally accredited institution;
- 23 (10) Committing any act of dishonesty, immorality, or unprofessional conduct while  
24 engaging in the practice of speech-language pathology, audiology, or hearing aid  
25 dispensing;
- 26 (11) Engaging in illegal, incompetent, or negligent practice;
- 27 (12) Providing professional services while:
- 28 (a) Mentally incompetent;
- 29 (b) Under the influence of alcohol; or
- 30 (c) Using any narcotic or controlled dangerous substance or other drug that is  
31 in excess of therapeutic amounts or without valid medical indication;
- 32 (13) Providing services or promoting the sale of devices, appliances, or products to a  
33 person who cannot reasonably be expected to benefit from such services, devices,  
34 appliances, or products;

- 1 (14) Violating any provision of this Act, or any lawful order given, or rule adopted, by  
2 the board;
- 3 (15) Being convicted or pleading guilty or nolo contendere to a felony or to a crime  
4 involving moral turpitude, whether or not any appeal or other proceeding is  
5 pending to have the conviction or plea set aside;
- 6 (16) Being disciplined by a licensing or disciplinary authority of any state or country, or  
7 any nationally recognized professional organization, or convicted or disciplined by  
8 a court of any state or country for an act that would be grounds for disciplinary  
9 action under this section;
- 10 (17) Exploiting a patient for financial gain or sexual favors;
- 11 (18) Failing to report suspected cases of child abuse or vulnerable adult abuse;
- 12 (19) Diagnosing or treating a person for speech disorders by mail or telephone, unless  
13 the person has been previously examined by the licensee and the diagnosis or  
14 treatment is related to such examination; or
- 15 (20) Violating federal, state, or local laws relating to the profession.

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

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

20 **36-39-40. Suspended or revoked license--Reinstatement.**

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

- 24 (1) Report regularly to the board on matters that are the basis of the probation;  
25 (2) Limit practice to the areas prescribed by the board; or  
26 (3) Participate in continuing education until the license holder attains a degree of skill  
27 satisfactory to the board in those areas that are the basis of the probation.

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

29 **36-39-41. Disciplinary hearing--Decision--Appeal.**

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

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

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

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

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

9 **36-39-42. Injunction for violation.**

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

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

16 **36-39-43. Telepractice.**

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

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

21 **36-39-44. Certain activities not prevented or restricted.**

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

23 (1) A person licensed or registered by this state in another profession from practicing  
24 the profession for which licensed or registered;

25 (2) A person certified as a teacher of the deaf or hard of hearing students providing  
26 instruction to persons who are deaf or hard of hearing;

27 (3) The activities of any person who is not licensed in this state from engaging in the  
28 practice of speech-language pathology or audiology for the purpose of providing  
29 training or continuous education as long as they hold an active license in another  
30 state, agree to abide by the standards of professional conducts, and do not engage  
31 in such activities exceeding five days in any calendar year; and

1        (4) Any person possessing a valid certificate as a certified industrial audiometric  
2        technician or occupational hearing conservationist recognized by the board as  
3        meeting Council for Accreditation in Occupational Hearing Conservation Standards  
4        if such service is performed in cooperation with either an audiologist licensed under  
5        this Act or a physician licensed pursuant to chapter 36-4.

6        **Section 45.** That §§ 36-24-1 to 36-24-21.1 be REPEALED.

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

8        **Section 47.** That §§ 36-37-1 to 36-37-25 be REPEALED.