



## 2023 South Dakota Legislature

# House Bill 1014

*Introduced by: The Committee on Health and Human Services at the request of the Board of Examiners for Speech-Language Pathology*

1 **An Act to update provisions related to the licensure of speech-language pathologists**  
 2 **and speech-language pathology assistants.**

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

4 **Section 1. That § 36-37-1 be AMENDED:**

5 **36-37-1.** Terms used in this chapter mean:

- 6 (1) "Board," the Board of Examiners for Speech-Language Pathology;
- 7 (2) "Department," the Department of Health;
- 8 ~~(3) "Endoscopy," an imaging procedure included within the scope of practice for~~  
 9 ~~speech-language pathologists in which a speech-language pathologist uses a~~  
 10 ~~flexible/nasal endoscopy, rigid/oral endoscopy, or stroboscopy for the purpose of~~  
 11 ~~evaluating and treating disorders of speech, voice, resonance, and swallowing~~  
 12 ~~function;~~
- 13 ~~(4) "Mentorship," the direct on-site supervision and monitoring of a speech-language~~  
 14 ~~pathologist with a provisional license by a licensed speech-language pathologist;~~
- 15 ~~(5) "Provisional license," the license issued to an applicant who is practicing speech-~~  
 16 ~~language pathology while completing the supervised postgraduate professional~~  
 17 ~~experience following completion of master's degree in speech-language pathology;~~
- 18 ~~(6)~~(3) "Speech-language pathologist," any person who engages in the practice of speech-  
 19 language pathology and who ~~meets the qualifications set forth in~~ is licensed in  
 20 accordance with this chapter;
- 21 ~~(7)~~(4) "Speech-language pathology assistant," any person who assists in the practice of  
 22 speech-language pathology and who meets the qualifications set forth in this  
 23 chapter; and
- 24 ~~(8) "Telepractice," "telespeech," "telespeech-language pathology," or "telehealth,"~~  
 25 ~~whether used separately or together. Telepractice service means the application of~~

1           telecommunication technology to deliver speech-language pathology at a distance  
2           for assessment, intervention, or consultation

3           (5) "Supervision," the direct, on-site monitoring by a speech-language pathologist of  
4           a speech-language pathology assistant or a speech-language pathologist with a  
5           provisional license.

6           **Section 2. That § 36-37-2 be AMENDED:**

7           **36-37-2.** For the purposes of this chapter, the practice of speech-language  
8           pathology is the application of principles, methods, and procedures related to the  
9           development, disorders, and effectiveness of human communication and related functions  
10          including providing prevention, screening, consultation, assessment, ~~evaluation,~~  
11          diagnosis, treatment, ~~intervention,~~ management, counseling, collaboration, and referral  
12          services for disorders of speech, language, feeding, and swallowing, and for cognitive  
13          aspects of communication. The practice of speech-language pathology ~~also~~ includes  
14          establishing:

15          (1) Establishing augmentative and alternative communication techniques and  
16          strategies, including developing, selecting, and prescribing of ~~such systems~~  
17          techniques, strategies, and devices, excluding the dispensing and fitting of hearing  
18          aids pursuant to chapter 36-24, providing;

19          (2) Providing services to individuals with hearing loss and their families, ~~screening~~  
20          persons;

21          (3) Screening individuals for hearing loss or middle ear pathology using conventional  
22          pure-tone air conduction methods, otoacoustic emissions screening, or screening  
23          typanometry, using;

24          (4) Using instrumentation to observe, collect data, and measure parameters of  
25          communication and swallowing, ~~selecting;~~

26          (5) Selecting, fitting, and establishing effective use of prosthetic or adaptive devices  
27          for communication, swallowing, or other upper aerodigestive functions, ~~and~~  
28          providing

29          (6) Providing services to modify or enhance communication performance.

30          **Section 3. That § 36-37-4 be AMENDED:**

31          **36-37-4.** Any person who ~~holds any~~ possessed a speech-language pathologist  
32          certificate from the South Dakota Department of Education as of July 1, 2012, and does  
33          not otherwise meet the qualifications set forth in this chapter, may apply to the board for

1 ~~and a limited license to practice as a speech-language pathologist. The board shall be~~  
 2 ~~granted~~ renew a limited license to practice as a speech-language pathologist as long as  
 3 if:

- 4 (1) ~~The person's initial application is made~~ for a limited license was submitted no later  
 5 than July 1, 2014; and  
 6 (2) ~~The applicant complies with the provisions of subdivisions 36-37-14(1), (2), and~~  
 7 ~~(7) person:~~  
 8 (a) Submits an application for renewal on a form prescribed by the board;  
 9 (b) Pays the application fee established by the board, in accordance with § 37-  
 10 36-12; and  
 11 (c) Has not committed an act for which disciplinary action is justified.

12 ~~The board shall promulgate rules, pursuant to chapter 1-26, to prescribe the limits~~  
 13 ~~of the license shall be determined by the board in rules promulgated pursuant to chapter~~  
 14 ~~1-26 authorized by this section.~~

15 **Section 4. That § 36-37-6 be AMENDED:**

16 **36-37-6.** Any person who is licensed as a speech-language pathologist in ~~South~~  
 17 ~~Dakota~~ this state may perform assessment, treatment, and procedures related to speech,  
 18 voice, resonance, and swallowing function using nonmedical endoscopy as long as the  
 19 person has received training and is competent to perform these procedures. A licensed  
 20 speech-language pathologist shall have protocols in place for emergency medical backup  
 21 when performing procedures using an endoscope.

22 For the purposes of this section, the term, endoscopy, means an imaging procedure  
 23 within the scope of practice for speech-language pathologists in which a speech-language  
 24 pathologist uses a flexible nasal endoscopy, rigid oral endoscopy, or stroboscopy for the  
 25 purpose of evaluating and treating disorders of speech, voice, resonance, or swallowing  
 26 function.

27 **Section 5. That § 36-37-7 be AMENDED:**

28 **36-37-7.** Any person who is licensed ~~as a speech-language pathologist in South~~  
 29 ~~Dakota~~ pursuant to this chapter may provide speech-language pathology services via  
 30 telepractice telehealth. Services delivered via ~~telespeech shall~~ telehealth must be  
 31 equivalent to the quality of services delivered face-to-face.

32 For the purposes of this section, the term, telehealth, has the meaning provided in  
 33 § 34-52-1.

1 **Section 6. That § 36-37-8 be AMENDED:**

2 **36-37-8.** ~~There is hereby created~~The Governor shall appoint a five-member Board  
3 of Examiners for Speech-Language Pathology under the supervision of the Department of  
4 Health. ~~The board shall consist of five members appointed by the Governor who are~~  
5 ~~residents of this state. Four of the members shall be~~ The board must consist of:

6 (1) Four speech-language pathologists who are:

7 (a) Are residents of this state;

8 (b) Are currently licensed in good standing and practicing speech-language  
9 pathology, who have; and

10 (c) Have at least five years of experience practicing speech-language  
11 pathology; and who hold a license to practice speech-language pathology  
12 in this state, except for the first speech-language pathologists appointed  
13 who need only meet the eligibility requirements for licensure

14 (2) One representative of the public who is:

15 (a) A resident of this state; and

16 (b) Not associated with, or financially interested in, the practice or business of  
17 speech-language pathology.

18 ~~At least one of the members who is~~ member must be a speech--language  
19 ~~pathologist shall be employed in a school setting, and at least one of the members who is~~  
20 member must be a speech-language pathologist ~~shall be employed in a health care~~  
21 ~~setting. One of the members shall be a representative of the public who is not associated~~  
22 ~~with or financially interested in the practice or business of speech-language pathology.~~

23 The board shall annually elect from its members a president and vice-president.

24 **Section 7. That § 36-37-9 be AMENDED:**

25 **36-37-9.** Each appointment to the board ~~shall be~~ is for a period of three years  
26 ~~except for the initial appointments which shall be for staggered terms.~~ Each member shall  
27 serve until the expiration of the term for which the member has been appointed or until  
28 the member's successor is appointed and qualified to serve on the board. If a vacancy  
29 occurs other than by expiration of a term, the Governor shall appoint a qualified person  
30 to fill the vacancy for the unexpired term. No member may serve more than three  
31 consecutive three-year terms.

32 The Governor may remove any member of the board for unprofessional conduct,  
33 incompetence, or neglect of duty.

1 **Section 8. That § 36-37-10 be AMENDED:**

2 ~~36-37-10.~~ The board shall ~~meet during the first quarter of each calendar year to~~  
 3 ~~select a chair and vice chair and to conduct other business. At least one additional meeting~~  
 4 ~~shall be held before the end of each calendar year. Additional meetings may be convened~~  
 5 ~~at the call of the chair or at the request of two or more board members.~~

6 ~~Four members of the board constitutes a quorum to do business if the majority of~~  
 7 ~~the members present are speech language pathologists~~ meet at least twice each year, at  
 8 times and places determined by a majority of the board. The board may hold additional  
 9 meetings as determined by the president or a majority of the board.

10 **Section 9. That § 36-37-14 be AMENDED:**

11 ~~36-37-14. To be eligible for licensure by the~~The board may issue a speech-  
 12 language pathologist, ~~the applicant shall~~ license to a person who:

- 13 (1) ~~Submit~~Submits an application, ~~upon~~ on a form prescribed by the board;
- 14 (2) ~~Pay~~Pays the application fee established by the board, in accordance with § 36-37-  
 15 12;
- 16 (3) ~~Possess~~ Possesses a master's or doctoral degree from an educational institution  
 17 that is accredited, or has been awarded accreditation candidate status, by the  
 18 accrediting agency of the American Speech-Language-Hearing Association and  
 19 ~~from~~ is an educational institution approved by the United States Department of  
 20 Education;
- 21 (4) ~~Complete~~Has completed supervised clinical practicum experiences from an  
 22 educational institution or its cooperating programs;
- 23 (5) ~~Complete~~Has completed a supervised postgraduate professional experience;
- 24 (6) ~~Pass~~Has passed a written national examination in speech-language pathology; and
- 25 (7) ~~Have~~ Has committed no act for which disciplinary action ~~may be~~ is justified.

26 Any license issued to a speech-language pathologist who possesses a master's or  
 27 doctoral degree from an educational institution awarded candidate status by the American  
 28 Speech-Language-Hearing Association automatically expires if the educational institution  
 29 fails to maintain candidacy status or is denied accreditation. The speech-language  
 30 pathologist shall inform the board of any changes to the educational institution's candidacy  
 31 status.

32 **Section 10. That § 36-37-15 be AMENDED:**

1           **36-37-15.** The board shall ~~waive the qualifications in subdivisions 36-37-14(3),~~  
 2           ~~(4), (5), and (6) for any applicant~~ issue a speech-language pathologist license to a person  
 3           ~~who has filed an application with the board, has paid the application fee, has not~~  
 4           ~~committed any act for which disciplinary action may be justified and:~~

- 5           (1) ~~Presents proof of current licensure in a state that has standards that are equivalent~~  
 6           ~~to or greater than those of this state~~ Submits an application on a form prescribed  
 7           ~~by the board in rules promulgated in accordance with chapter 1-26; or~~  
 8           (2) Pays the application fee established by the board, in accordance with § 36-37-12;  
 9           (3) Holds a current, unrestricted license from a state with substantially equivalent  
 10           licensure standards, or a Certificate of Clinical Competence in Speech--Language  
 11           Pathology from the American Speech-Language-Hearing Association; and  
 12           (4) Has not committed any act that constitutes grounds for refusal, suspension, or  
 13           revocation of a license.

14           **Section 11. That § 36-37-17 be AMENDED:**

15           **36-37-17.** The board shall issue a provisional license ~~in speech-language~~  
 16           ~~pathology to an applicant~~ a person who:

- 17           (1) Except for the postgraduate professional experience, meets the academic,  
 18           practicum, and examination requirements of this chapter;  
 19           (2) Submits an application, ~~upon~~ on a form prescribed by the board, ~~including a plan~~  
 20           ~~for the content of the postgraduate professional experience;~~  
 21           (3) Pays the application fee established by the board for a provisional license, in  
 22           accordance with § 36-37-12; and  
 23           (4) Has not committed any act for which disciplinary action ~~may be~~ is justified.

24           A person holding a provisional license may practice speech-language pathology  
 25           only while working under the ~~mentorship~~ supervision of a ~~licensed~~ speech-language  
 26           pathologist who ~~meets the qualifications of~~ is licensed in accordance with § 36-37-14, 36-  
 27           37-15, or 36-37-16. The board shall promulgate rules, in accordance with chapter 1-26,  
 28           to establish the term for a provisional license and the conditions for its renewal ~~shall be~~  
 29           ~~determined by the board in rules promulgated pursuant to chapter 1-26.~~

30           **Section 12. That § 36-37-18 be AMENDED:**

31           **36-37-18.** The board shall issue a speech-language pathology assistant license to  
 32           ~~an applicant~~ a person who:

- 33           (1) Submits an application, ~~upon~~ on a form prescribed by the board;

- 1 (2) Pays the application fee established by the board, in accordance with § 36-37-12;  
 2 (3) Holds an associate's degree in speech-language pathology assisting or a bachelor's  
 3 degree with a major emphasis in speech-language pathology or communication  
 4 sciences and disorders from an accredited academic educational institution;  
 5 (4) ~~Submits an official transcript verifying necessary~~ Verifies required academic  
 6 preparation and clinical experiences;  
 7 (5) Completes a ~~supervised clinical practicum~~ of a minimum of one hundred ~~clock~~ hours  
 8 of supervised clinical experience as a speech-language pathology assistant while  
 9 either on the job or during academic preparation; and  
 10 (6) Has committed no act for which disciplinary action is justified.

11 While completing the supervised clinical experience required in subdivision (5),  
 12 neither the applicant nor the supervising speech-language pathologist may represent the  
 13 applicant as a licensed speech-language pathology assistant. The supervising speech-  
 14 language pathologist must be available at all times when the applicant is competing on-  
 15 the-job clinical fieldwork.

16 **Section 13. That chapter 36-37 be amended with a NEW SECTION:**

17 The board shall issue a speech-language pathology assistant license to a person  
 18 who:

- 19 (1) Submits an application on a form prescribed by the board in rules promulgated in  
 20 accordance with chapter 1-26;  
 21 (2) Pays the application fee established by the board, in accordance with § 36-37-12;  
 22 (3) Holds a current, unrestricted license from a state with substantially equivalent  
 23 licensure standards, or a current Certification in Speech-Language Pathology  
 24 Assisting from the American Speech-Language-Hearing Association; and  
 25 (4) Has not committed any act that constitutes grounds for refusal, suspension, or  
 26 revocation of a license.

27 **Section 14. That § 36-37-19 be AMENDED:**

28 **36-37-19.** Any person who is employed as a paraprofessional providing speech-  
 29 language pathology services, under the direct supervision of a speech-language  
 30 pathologist, who ~~holds~~ possessed a speech-language pathologist certificate from the South  
 31 Dakota Department of Education as of July 1, 2012, and does not otherwise meet the  
 32 qualifications set forth in this chapter may apply for ~~and shall be granted~~ a speech-  
 33 language pathology assistant license ~~and~~. The board shall issue a speech-language

1 pathology assistant license, and the person may continue to practice as a speech-language  
 2 pathology assistant as long as the person:

- 3 (1) ~~The~~Submitted an initial application ~~was made~~ for an assistant license no later than  
 4 July 1, 2014;  
 5 (2) ~~The applicant~~Has continued to render speech-language pathology services in the  
 6 ~~public school or~~ school district where the ~~applicant~~ person was employed at the  
 7 time of initial application, with no break in employment; and  
 8 (3) ~~The~~ Pays the renewal fee ~~is paid~~ established by the board, in accordance with § 36-  
 9 37-12.

10 **Section 15. That § 36-37-20 be AMENDED:**

11 **36-37-20.** ~~An~~A speech-language pathology assistant shall must be supervised by  
 12 a licensed speech-language pathologist, ~~or a speech-language pathologist with a limited~~  
 13 license who has, who has at least ~~three~~ two years of experience ~~as a speech-language~~  
 14 pathologist. Any time licensed as a provisional speech-language pathologist counts toward  
 15 the two-year experience requirement. The supervising speech-language pathologist:

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

23 ~~An~~A speech-language pathology assistant may have more than one supervisor ~~if~~  
 24 ~~the board is notified.~~

25 **Section 16. That § 36-37-21 be AMENDED:**

26 **36-37-21.** The board may impose ~~separately, or in combination,~~ any of the  
 27 following disciplinary actions on a ~~licensee~~ speech-language pathologist or a speech-  
 28 language-pathology assistant after formal or informal disciplinary action:

- 29 (1) Refuse to ~~issue or~~ renew a license;  
 30 (2) Issue a letter of reprimand or concern;  
 31 (3) ~~Require restitution of fees;~~  
 32 ~~(4)~~—Impose probationary conditions;



- 1       ~~(5)~~(4) Require ~~the licensee to reimburse~~ reimbursement to the board for costs of the  
 2                   investigation and proceeding;  
 3       ~~(6)~~(5) Suspend or revoke a license;  
 4       ~~(7)~~(6) Impose practice or supervision requirements, or both; or  
 5       ~~(8)~~(7) Require ~~licensees to attend~~ attendance at continuing education programs specified  
 6                   by the board as to content and hours.

7       **Section 17. That § 36-37-23 be AMENDED:**

8                   **36-37-23.** The board may take disciplinary actions for the following conduct:

- 9       (1)     Fraudulently or deceptively obtaining ~~or~~ attempting to obtain, using, or altering a  
 10            license or a provisional license;  
 11       (2)     ~~Fraudulently or deceptively using a license or provisional license;~~  
 12       ~~(3) —Altering a license or provisional license;~~  
 13       ~~(4) —Aiding or abetting unlicensed practice;~~  
 14       ~~(5)~~(3) Selling, bartering, or offering to sell or barter a license or provisional license;  
 15       ~~(6)~~(4) Committing fraud or deceit in the practice of speech-language pathology, including:  
 16            (a)     Willfully making or filing a false report or record in the practice of speech-  
 17                   language pathology;  
 18            (b)     Submitting a false statement to collect a fee; or  
 19            (c)     Obtaining a fee through fraud or misrepresentation;  
 20       ~~(7)~~(5) Using or promoting ~~or~~ causing the use of ~~or~~ any misleading, deceiving, improbable,  
 21            or untruthful advertising matter, promotional literature, testimonial, guarantee,  
 22            warranty, label, brand insignia, or any other representation;  
 23       ~~(8)~~(6) Falsely representing the use or availability of services or ~~advise~~ advice of a  
 24            physician;  
 25       ~~(9)~~(7) Misrepresenting the applicant, licensee, or holder ~~or~~ by using the term, doctor, or  
 26            any similar word, abbreviation, or symbol if the use is not accurate or if the degree  
 27            was not obtained from ~~a regionally~~ an accredited institution;  
 28       ~~(10)~~(8)    Committing any act of dishonesty, immorality, or unprofessional conduct while  
 29            engaging in the practice of speech-language pathology;  
 30       ~~(11)~~(9)    Engaging in illegal, incompetent, or negligent practice;  
 31       ~~(12) —Providing professional services while:~~  
 32            ~~(a) —Mentally incompetent;~~  
 33            ~~(b) —Under the influence of alcohol;~~

1 ~~(c) — Using any narcotic or controlled dangerous substance or other drug that is in excess~~  
 2 ~~of therapeutic amounts or without valid medical indication;~~

3 ~~(13)(10)~~ Providing services or promoting the sale of devices, appliances, or products to  
 4 a person who cannot reasonably be expected to benefit from such services,  
 5 devices, appliances, or products;

6 ~~(14)(11)~~ Violating any provision of this chapter, or any lawful order given, or rule  
 7 adopted, by the board;

8 ~~(15)(12)~~ Being convicted or pleading guilty or nolo contendere to a felony or to a crime  
 9 involving moral turpitude, as defined in § 22-1-2, whether or not any appeal or  
 10 other proceeding is pending to have the conviction or plea set aside;

11 ~~(16)(13)~~ Being disciplined by a licensing or disciplinary authority of any state or country,  
 12 or any nationally recognized professional organization, or convicted or disciplined  
 13 by a court of any state or country for an act that would be grounds for disciplinary  
 14 action under this section;

15 ~~(17)(14)~~ Exploiting a patient for financial gain or sexual favors;

16 ~~(18)(15)~~ Failing to report suspected cases of child abuse or vulnerable adult abuse;

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

20 ~~(20)(16)~~ Violating federal, state, or local laws relating to the profession;

21 (17) Not reporting discipline by another state or territory under federal jurisdiction to  
 22 the board; or

23 (18) Not reporting a conviction of any felony offense, or any conviction of a criminal  
 24 offense arising out of the practice of speech-language pathology.

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

28 **Section 18. That § 36-37-24 be AMENDED:**

29 **36-37-24.** The board may take disciplinary action or suspend, revoke, or reissue  
 30 a license or certification only after a hearing conducted by a hearing examiner appointed  
 31 by the board or by a majority of the members of the board.

32 Any disciplinary proceeding or proceeding relative to the revocation or suspension  
 33 of a license or certification ~~shall~~ must otherwise conform to the procedure set forth in  
 34 chapter 1-26 and chapter 36-1C.

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

3 ~~Any party feeling aggrieved by any acts, rulings, or decisions of the board acting~~  
4 ~~pursuant to § 36-37-21, 36-37-22, or 36-37-23, has the right to appeal under the~~  
5 ~~provisions of chapter 1-26.~~

6 **Section 19. That chapter 36-37 be amended with a NEW SECTION:**

7 Any person licensed pursuant to this chapter shall inform the board, within ninety  
8 days, of any change in name, place of employment, or place of business. A post office box  
9 number may not be the address of a place of business.