

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2115
(Human Services Committee)

(At the request of the Board of Examiners on Audiology and Speech-Language Pathology)

AN ACT to amend and reenact subsection 7 of section 43-37-02, sections 43-37-03, 43-37-04, 43-37-05, 43-37-06, 43-37-08, and 43-37-09, and subsection 1 of section 43-37-13 of the North Dakota Century Code, relating to the practice, licensing, and disciplining of audiologists and speech-language pathologists and the composition, powers, and compensation of the board of examiners on audiology and speech-language pathology.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 43-37-02 of the North Dakota Century Code is amended and reenacted as follows:

7. "Speech-language pathology" means the application of principles, methods, and procedures for measurement, testing, evaluation, identification, prediction, counseling, or instruction related to the development and disorders of speech and language, ~~including voice, rhythm, and articulation~~ cognitive-communication, swallowing, and augmentative alternative communication for the purpose of identifying, evaluating, preventing, managing, habilitating or rehabilitating, ameliorating, or modifying such disorders and conditions in individuals or groups of individuals.

SECTION 2. AMENDMENT. Section 43-37-03 of the North Dakota Century Code is amended and reenacted as follows:

43-37-03. License required - Exceptions.

A person may not practice or represent that the person is an audiologist or speech-language pathologist in this state unless licensed annually in accordance with this chapter. However, this chapter does not prevent or restrict:

1. A physician or surgeon from engaging in the practice of medicine in this state.
2. A hearing aid specialist from engaging in testing of hearing and other practices and procedures used solely for the fitting and selling of hearing aids in this state as provided in chapter 43-33.
3. Any person licensed in this state by any other law from engaging in the profession or occupation for which licensed.
4. A person who holds a valid credential as a speech-language pathologist or teacher of the hearing-impaired, issued by the department of public instruction, or a person employed as an audiologist or speech-language pathologist by the government of the United States, if such person performs speech-language pathology or audiology services solely within the confines or under the jurisdiction of the governmental or state educational organization by which employed. However, such person may, without obtaining a license under this chapter, consult with or disseminate that person's research findings and other scientific information to speech-language pathologists or audiologists outside the jurisdiction of the organization by which that person is employed.
5. The activities and services of a person pursuing a course of study leading to a degree in speech-language pathology or audiology at a college or university if such activities and services constitute a part of a supervised course of study and such person is designated

audiology or speech-language pathology intern, audiology or speech-language pathology trainee, or by any other such titles clearly indicating the training status appropriate to the level of training.

6. The activities and services of persons fulfilling the requirements of subsection 3 of section 43-37-04.
7. The performance of audiology or speech-language pathology services in this state by any person not a resident of this state who is not licensed under this chapter if such services are performed for no more than five days in any calendar year and in cooperation with an audiologist or speech-language pathologist licensed under this chapter.
8. Any person holding a valid credential as a teacher of the hearing-impaired issued by the council on education of the deaf from engaging in the practice of habilitation and rehabilitation of hearing-impaired persons.
9. ~~No speech pathologist or audiologist licensed pursuant to this chapter may receive any remuneration of any kind from the sale of any type of hearing aid unless the speech pathologist or audiologist is licensed as provided in chapter 43-33.~~
10. Any person possessing a valid certificate as a certified audiometric technician recognized by the state board as meeting council for accreditation in occupational hearing conservation standards appendix II or its equivalent from providing audiometric testing if such service is performed in cooperation with either an audiologist licensed under this chapter or a licensed physician.
- 11.10. Any person providing hearing screening services as part of a public service project solely intended for the purposes of identification of hearing impairment if such services are performed in cooperation with an audiologist licensed under this chapter who is directly responsible for:
 - a. The training of said person;
 - b. The administration of hearing screening procedures;
 - c. The interpretation of testing results; and
 - d. Assuring appropriate referral and followup of the identified population.

SECTION 3. AMENDMENT. Section 43-37-04 of the North Dakota Century Code is amended and reenacted as follows:

43-37-04. Eligibility for licensure.

To be eligible for licensure by the board as an audiologist or speech-language pathologist, a ~~person~~ applicant shall meet all the following requirements:

1. Be of good moral character.
2. Possess ~~at least a master's~~ an appropriate degree ~~or its equivalent in the area of speech-language pathology or audiology~~ from an educational institution recognized by the board.
 - a. An applicant for a speech-language pathologist license shall possess at least a master's degree in speech-language pathology.
 - b. An applicant for an audiologist license shall possess at least a master's or a doctorate degree in audiology.

3. Submit evidence showing qualifications prescribed by rules of the board.
4. Pass an examination approved by the board ~~and pay the prescribed fee~~ within one year of application. The board may waive the examination requirement if the applicant presents proof of licensure in another state which has professional standards equivalent to those required by the board.
5. Pay the prescribed fee.

SECTION 4. AMENDMENT. Section 43-37-05 of the North Dakota Century Code is amended and reenacted as follows:

43-37-05. Board of examiners on audiology and speech-language pathology.

1. The board of examiners on audiology and speech-language pathology is hereby established.
2. The board must be composed of ~~seven~~ eight members appointed by the governor. Appointees must be residents of this state for at least one year immediately preceding their appointment and, except for the consumer member, must be engaged in rendering services to the public, in teaching, or in research in audiology or speech-language pathology for at least three years preceding their appointment. Two board members must be audiologists, ~~two~~ three must be speech-language pathologists, one must be an otolaryngologist, one must be a hearing aid specialist, and one must be a consumer.
3. Each board member shall hold office for three years and until a successor is appointed and qualified. The terms must be arranged so that no more than ~~three~~ four terms expire on July first of each year. The governor shall fill vacancies for an unexpired term. No person may serve more than two successive terms.
4. The board shall meet at least twice each calendar year. Special meetings may be convened at the call of the chairman or at the written request of any three board members.
5. ~~Four~~ Five members of the board constitute a quorum. When an application for licensure is received, one member of the quorum must be engaged in the profession for which a license is sought.

SECTION 5. AMENDMENT. Section 43-37-06 of the North Dakota Century Code is amended and reenacted as follows:

43-37-06. Powers and duties of the board.

The board, ~~pursuant to chapter 28-32,~~ may employ persons to assist the board in carrying out its duties under this chapter and adopt rules for:

1. Licensing.
2. Licensing fees not to exceed one hundred dollars per year.
3. Ethical standards of conduct.
4. Continuing competency and education.
5. ~~Grievances.~~
6. License suspension or revocation.
7. ~~Employee duties and conduct.~~
8. ~~Recordkeeping and fiscal control.~~

9.6. Carrying out the purposes of this chapter.

SECTION 6. AMENDMENT. Section 43-37-08 of the North Dakota Century Code is amended and reenacted as follows:

43-37-08. Compensation of board members.

Board members shall receive ~~no salary for their services, but~~ compensation per day in the amount provided for members of the legislative management under section 54-35-10 and shall receive ~~be reimbursed for mileage and travel expenses for attendance at board meetings necessarily incurred in the conduct of board business at the same rate as state employees.~~

SECTION 7. AMENDMENT. Section 43-37-09 of the North Dakota Century Code is amended and reenacted as follows:

43-37-09. License examination.

1. A separate examination must be required for licensure in speech-language pathology or audiology. Any person may be licensed in both areas if that person meets the respective qualifications of each area.
2. The speech-language pathology examination and the audiology examination are ~~the national examinations as established~~ offered ~~by the American speech-language hearing association organizations approved by the board.~~ The board shall maintain proof that all licensees have passed the required examination. The examination is not required for renewal of licenses except as required by board rules.
3. ~~The board may issue a temporary license to practice activities regulated by this chapter to any person who furnishes satisfactory evidence of qualifications to the board. A temporary license may be issued for no longer than one year.~~

SECTION 8. AMENDMENT. Subsection 1 of section 43-37-13 of the North Dakota Century Code is amended and reenacted as follows:

1. The board may refuse to issue or renew a license, or may suspend ~~or~~ revoke, ~~or take other disciplinary action against~~ a license if the licensee or applicant for license has engaged in unprofessional conduct. Such unprofessional conduct may include:
 - a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;₂
 - b. Engaging in unprofessional conduct, as defined by the rules established by the board, or violating the code of ethics adopted and published by the board;₂
 - c. Conviction of an offense if the acts for which that person is convicted are determined by the board to have a direct bearing on such applicant's or licensee's ability to serve the public in the capacity of a speech-language pathologist or audiologist; or the board determines that such applicant or licensee, following conviction of any other offense, is not sufficiently rehabilitated under section 12.1-33-02.1;₂
 - d. Violation of any order or rule adopted by the board;~~or~~₂
 - e. Violation of this chapter.
 - f. Receiving remuneration of any kind from the sale of any type of hearing aid, unless licensed under chapter 43-33.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2115.

Senate Vote: Yeas 45 Nays 0 Absent 2

House Vote: Yeas 88 Nays 0 Absent 6

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State