

SENATE BILL NO. 2172

Introduced by

Senators Oban, Anderson, Poolman

Representatives Rohr, Schreiber-Beck, Guggisberg

1 A BILL for an Act to create and enact a new section to chapter 43-37 of the North Dakota
2 Century Code, relating to licensure of speech-language pathology assistants; to amend and
3 reenact sections 43-37-02, 43-37-03, 43-37-04, 43-37-04.1, 43-37-05, 43-37-06, 43-37-08,
4 43-37-09, 43-37-13, and 43-37-18 of the North Dakota Century Code, relating to the state board
5 of examiners on audiology and speech-language pathology and the regulation of
6 speech-language pathology assistants; to repeal section 43-37-01 of the North Dakota Century
7 Code, relating to legislative intent; to provide a penalty; and to provide an effective date.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 43-37-02 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-37-02. Definitions.**

12 As used in this chapter, unless the context or subject matter otherwise requires:

- 13 1. "Audiologist" means ~~a person who practices an individual licensed by the board to~~
14 practice audiology and ~~who holds out to the public by any title or description of~~
15 ~~services incorporating the words audiologist, hearing clinician, hearing therapist, or~~
16 ~~any similar title or description of service. A person may not use the term "audiologist"~~
17 ~~in a personal reference unless all the requirements of this chapter pertaining to~~
18 ~~audiology are met.~~
- 19 2. "Audiology" means the application of principles, methods, and procedures of
20 measurement, testing, evaluation, prediction, consultation, counseling, instruction,
21 habilitation, or rehabilitation related to hearing and disorders of hearing including
22 vestibular testing, for the purpose of evaluating, identifying, preventing, ameliorating,
23 or modifying such disorders and conditions in individuals or groups of individuals.

- 1 3. "Board" means the state board of examiners on audiology and speech-language
2 pathology.
- 3 4. "Habilitation" and "rehabilitation" include hearing aid evaluation and recommendation,
4 auditory training, and speech reading.
- 5 5. ~~"Person"~~"Licensee" means ~~a human being an audiologist, speech-language~~
6 pathologist, or speech-language pathology assistant.
- 7 6. ~~"Speech-language pathologist" means a person who practices an individual licensed~~
8 by the board to practice speech-language pathology and meets all requirements of this
9 chapter pertaining to speech-language pathology.
- 10 7. "Speech-language pathology" means the application of principles, methods, and
11 procedures for measurement, testing, evaluation, identification, prediction, counseling,
12 or instruction related to the development and disorders of speech, language, voice,
13 cognitive-communication, swallowing, and augmentative alternative communication for
14 the purpose of identifying, evaluating, preventing, managing, habilitating or
15 rehabilitating, ameliorating, or modifying such disorders and conditions in individuals
16 or groups of individuals.
- 17 8. "Speech-language pathology assistant" means an individual licensed by the board to
18 assist in the practice of speech-language pathology.

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

21 **43-37-03. License required - Exceptions.**

- 22 1. A person may not practice audiology or speech-language pathology, assist in the
23 practice of speech-language pathology, or represent that the person is an audiologist
24 or, speech-language pathologist, or speech-language pathology assistant in this state
25 unless licensed annually in accordance with this chapter. However, this
- 26 2. A person may not hold out to the public by any title, abbreviation, or description of
27 services incorporating the words audiologist, hearing clinician, hearing therapist,
28 speech-language pathologist, speech-language pathologist assistant, or any similar
29 title, abbreviation, or description of service unless licensed in accordance with this
30 chapter.
- 31 3. This chapter does not prevent or restrict:

- 1 1. ~~a.~~ a. A physician ~~or surgeon~~ from engaging in the practice of medicine in this state.
- 2 2. ~~b.~~ b. A hearing aid specialist from engaging in testing of hearing and other practices
- 3 and procedures used solely for the fitting and selling of hearing aids in this state
- 4 as provided in chapter 43-33.
- 5 3. ~~c.~~ c. Any person licensed in this state by any other law from engaging in the
- 6 profession or occupation for which licensed.
- 7 4. ~~d.~~ d. ~~A person~~An individual who holds a valid certificate or credential as a
- 8 speech-language pathologist, speech-language pathology paraprofessional, or
- 9 teacher of the hearing-impaired, which is issued by the department of public
- 10 instruction or the education standards and practices board, or ~~a person~~an
- 11 individual employed as an audiologist or speech-language pathologist by the
- 12 government of the United States, if ~~such person~~that individual performs
- 13 speech-language pathology or audiology services solely within the confines or
- 14 under the jurisdiction of the governmental or state educational organization by
- 15 which employed. However, ~~such person may~~, without obtaining a license under
- 16 this chapter, that individual may consult with or disseminate that
- 17 ~~person's~~individual's research findings and other scientific information to
- 18 individuals practicing speech-language ~~pathologists~~pathology or
- 19 ~~audiologists~~audiology outside the jurisdiction of the organization by which that
- 20 ~~person~~individual is employed.
- 21 5. ~~e.~~ e. The activities and services of ~~a person~~an individual pursuing a course of study
- 22 leading to a degree in speech-language pathology, communication disorders, or
- 23 audiology at a college or university if ~~such~~the activities and services constitute a
- 24 part of a supervised course of study and ~~such person~~that individual is designated
- 25 an audiology, communication disorder, or speech-language pathology intern, an
- 26 audiology, communication disorder, or speech-language pathology trainee, or by
- 27 any other ~~such title~~title clearly indicating the training status appropriate to the
- 28 level of training.
- 29 6. ~~The activities and services of persons fulfilling the requirements of subsection 3 of~~
- 30 ~~section 43-37-04.~~

1 7. f. The performance of audiology or speech-language pathology services in this
2 state by ~~any person~~an individual not a resident of this state who is not licensed
3 under this chapter if ~~such~~the services are performed for no more than five days in
4 any calendar year and in cooperation with an audiologist or speech-language
5 pathologist ~~licensed under this chapter.~~

6 8. g. ~~Any person~~An individual holding a valid credential as a teacher of the
7 hearing-impaired issued by the council on education of the deaf from engaging in
8 the practice of habilitation and rehabilitation of individuals who are
9 hearing-impaired ~~persons.~~

10 9. h. ~~Any person~~An individual possessing a valid certificate as a certified audiometric
11 technician recognized by the state board as meeting council for accreditation in
12 occupational hearing conservation standards appendix II or its equivalent from
13 providing audiometric testing if such service is performed in cooperation with
14 either an audiologist ~~licensed under this chapter~~ or a licensed physician.

15 10. i. ~~Any person~~An individual providing hearing screening services as part of a public
16 service project solely intended for the purposes of identification of hearing
17 impairment if such services are performed in cooperation with an audiologist
18 ~~licensed under this chapter~~ who is directly responsible for:

- 19 a. (1) The training of ~~said person~~this individual;
- 20 b. (2) The administration of hearing screening procedures;
- 21 c. (3) The interpretation of testing results; and
- 22 d. (4) Assuring appropriate referral and followup of the identified population.

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

25 **43-37-04. Eligibility for licensure.**

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

- 28 1. Be of good moral character.
- 29 2. Possess an appropriate degree from an educational institution recognized by the
30 board.

- 1 a. An applicant for a speech-language pathologist license shall ~~shall~~ must possess at
- 2 least a master's degree in speech-language pathology.
- 3 b. An applicant for an audiologist license shall ~~shall~~ must possess at least a doctorate
- 4 degree in audiology.
- 5 c. An applicant for a speech-language pathology assistant license must possess at
- 6 least a bachelor's degree in speech-language pathology or communication
- 7 disorders.
- 8 3. Submit evidence showing qualifications prescribed by rules of the board.
- 9 4. ~~Pass an examination approved by the board within~~ Within one year of application an
- 10 applicant for licensure as a speech-language pathologist, speech-language pathology
- 11 assistant, or audiologist must pass any applicable examination prescribed by rules
- 12 adopted by the board.
- 13 5. Pay the prescribed fee.

14 **SECTION 4. AMENDMENT.** Section 43-37-04.1 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-37-04.1. Licensing of out-of-state practitioners.**

- 17 1. The board may adopt rules establishing licensure requirements for applicants who
- 18 hold a current license in good standing to practice as an audiologist ~~or,~~
- 19 speech-language pathologist, or speech-language pathology assistant in a state or
- 20 jurisdiction other than this state and who are not the subject of a pending disciplinary
- 21 action in any state or jurisdiction.
- 22 2. Notwithstanding section 43-37-04, as it relates to the licensure eligibility of an
- 23 out-of-state audiologist ~~or,~~ speech-language pathologist, or speech-language
- 24 pathology assistant, the board's rules may allow for:
 - 25 a. Waiver of the examination requirement if the applicant meets the requirements
 - 26 established by the board.
 - 27 b. Consideration of education and experience in order to meet the education
 - 28 requirements.

29 **SECTION 5.** A new section to chapter 43-37 of the North Dakota Century Code is created
30 and enacted as follows:

1 **Speech-language pathology assistant - Supervising speech-language pathologist.**

2 A speech-language pathology assistant is licensed by the board to work under the
3 supervision of a speech-language pathologist. A speech-language pathology assistant's scope
4 of practice is limited to tasks the supervising speech-language pathologist delegates. The
5 supervising speech-language pathologist shall assess the speech-language pathology
6 assistant's training and skills in determining which tasks may be delegated. The supervising
7 speech-language pathologist shall limit the delegated tasks to specific components of a speech
8 and language program as set forth in treatment plans developed by the supervising speech-
9 language pathologist.

10 **SECTION 6. AMENDMENT.** Section 43-37-05 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **43-37-05. Board of examiners on audiology and speech-language pathology.**

- 13 1. The board of examiners on audiology and speech-language pathology is hereby
14 established.
- 15 2. The board ~~must be~~ is composed of eight members appointed by the governor.
16 Appointees must be residents of this state for at least one year immediately preceding
17 ~~their~~ appointment and, except for the consumer member, must be engaged in
18 rendering services to the public, ~~in~~ teaching, or ~~in~~ research in audiology or
19 speech-language pathology for at least three years preceding ~~their~~ appointment. Two
20 board members must be audiologists, four must be speech-language pathologists, one
21 must be an otolaryngologist, and one must be a consumer.
- 22 3. Each board member shall hold office for three years and until a successor is appointed
23 and qualified. The terms must be arranged so that no more than four terms expire on
24 July first of each year. The governor shall fill vacancies for an unexpired term. ~~No~~
25 ~~person~~ An individual may not serve more than two successive terms.
- 26 4. The board shall meet at least twice each calendar year. Special meetings may be
27 convened at the call of the chairman or at the written request of any three board
28 members.
- 29 5. Five members of the board constitute a quorum. When an application for licensure is
30 received, one member of the quorum must be engaged in the profession for which a

1 license is sought. In the case of an application for licensure as a speech-language
2 pathology assistant, a speech-language pathologist must be a member of the quorum.

3 **SECTION 7. AMENDMENT.** Section 43-37-06 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-37-06. Powers and duties of the board.**

6 The board may ~~employ persons~~hire employees to assist the board in carrying out ~~its~~the
7 board's duties under this chapter and may adopt rules for:

- 8 1. ~~Licensing~~Annual licensure.
- 9 2. Licensing fees not to exceed one hundred dollars per year.
- 10 3. Ethical standards of conduct.
- 11 4. Continuing competency and education.
- 12 5. License suspension~~f~~ or revocation.
- 13 6. Carrying out the purposes of this chapter.

14 **SECTION 8. AMENDMENT.** Section 43-37-08 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-37-08. Compensation of board members.**

17 Board members ~~shall~~are entitled to receive compensation per day in the amount provided
18 for members of the legislative management under section 54-35-10 and ~~shall~~are entitled to be
19 reimbursed for mileage and travel expenses necessarily incurred in the conduct of board
20 business at the same rate as state employees.

21 **SECTION 9. AMENDMENT.** Section 43-37-09 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **43-37-09. License examination.**

- 24 1. A separate examination ~~must be~~is required for licensure in speech-language pathology
25 or audiology. ~~Any person~~An individual may be licensed in both areas if that
26 ~~person~~individual meets the respective qualifications of each area.
- 27 2. The speech-language pathology examination and the audiology examination are
28 examinations offered by organizations approved by the board. The board shall
29 maintain proof ~~that~~ all licensees ~~have~~ passed the required examination. The
30 examination is not required for renewal of licenses, ~~except~~ as required by board rules.

1 **SECTION 10. AMENDMENT.** Section 43-37-13 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-37-13. ~~Suspension and revocation of license~~Disciplinary actions.**

- 4 1. The board may refuse to issue or renew a license, ~~or may suspend;~~ or revoke a
5 license, or take other disciplinary action against a ~~licensee~~licensee if the licensee or
6 applicant for license ~~has engaged in unprofessional conduct. Such~~
7 ~~unprofessional~~Unprofessional conduct ~~may include~~includes:
- 8 a. Obtaining a license by means of fraud, misrepresentation, or concealment of
9 material facts.
 - 10 b. Engaging in unprofessional conduct, as defined by the rules ~~established~~adopted
11 by the board, or violating the code of ethics adopted ~~and published~~ by the board
12 by rule.
 - 13 c. ~~Conviction~~Being convicted of an offense if the acts for which that ~~person~~individual
14 is convicted are determined by the board to have a direct bearing on ~~such~~that
15 applicant's or licensee's ability to serve the public in the capacity of a
16 speech-language pathologist, speech-language pathology assistant, or
17 audiologist; or the board determines that ~~such~~ applicant or licensee, following
18 conviction of any other offense, is not sufficiently rehabilitated under section
19 12.1-33-02.1.
 - 20 d. ~~Violation of any~~Violating an order or rule adopted by the board.
 - 21 e. ~~Violation of~~Violating this chapter.
 - 22 f. Receiving remuneration of any kind from the sale of any type of hearing aid,
23 unless licensed under chapter 43-33.
- 24 2. One year from the date of revocation of a license, the licensee may make application
25 to the board for reinstatement. The board may accept or reject an application for
26 reinstatement or may require an examination for reinstatement.

27 **SECTION 11. AMENDMENT.** Section 43-37-18 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **43-37-18. Penalty.**

30 Any person ~~who~~that violates this chapter is guilty of a class A misdemeanor.

31 **SECTION 12. REPEAL.** Section 43-37-01 of the North Dakota Century Code is repealed.

1 **SECTION 13. EFFECTIVE DATE.** This Act becomes effective January 1, 2018.