

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

553S0072

HOUSE ENGROSSED NO. **HB 1185** - 2/14/2011

Introduced by: Representatives Romkema, Blake, Bolin, Boomgarden, Dryden, Hunhoff (Bernie), Kirkeby, Munsterman, Sly, Verchio, and Wick and Senators Hunhoff (Jean), Krebs, Rhoden, Schlekeway, and Tidemann

1 FOR AN ACT ENTITLED, An Act to regulate persons offering speech-language pathology to
2 the public.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Board," the Board of Examiners for Speech-Language Pathology;

6 (2) "Department," the Department of Health;

7 (3) "Endoscopy," an imaging procedure included within the scope of practice for
8 speech-language pathologists in which a speech-language pathologist uses a
9 flexible/nasal endoscopy, rigid/oral endoscopy, or stroboscopy for the purpose of
10 evaluating and treating disorders of speech, voice, resonance, and swallowing
11 function;

12 (4) "Provisional license," the license issued to an applicant who is practicing
13 speech-language pathology while completing the supervised postgraduate
14 professional experience following completion of master's degree in speech-language



1 pathology;

2 (5) "Speech-language pathologist," any person who engages in the practice of
3 speech-language pathology and who meets the qualifications set forth in this Act. A
4 person represents oneself to be a speech-language pathologist when one holds
5 himself or herself out to the public by any means, or by any service or function
6 performed, directly or indirectly, or by using the terms, speech pathology, speech
7 pathologist, speech therapy, speech therapist, speech teacher, speech correction,
8 speech correctionist, speech clinic, speech clinician, language therapy, language
9 therapist, language pathology, language pathologist, language specialist, voice
10 therapy, voice therapist, voice pathologist, logopedics, logopedist, communicology,
11 communicologist, aphasiology, aphasiologist, phoniatriest, or any variation, synonym,
12 coinage or other word that expresses, employs, or implies these terms, names, or
13 functions;

14 (6) "Speech-language pathology assistant," any person who assists in the practice of
15 speech-language pathology and who meets the qualifications set forth in this Act. A
16 person represents oneself to be a speech-language pathology assistant when one holds
17 himself or herself out to the public by any means, or by any service or function
18 performed, directly or indirectly, or by using the terms, speech pathology
19 assistant/aide, speech pathologist assistant/aide, speech therapy assistant/aide, speech
20 therapist assistant/aide, speech teacher assistant/aide, speech correction assistant/aide,
21 speech correctionist assistant/aide, speech clinic assistant/aide, speech clinician
22 assistant/aide, language therapy assistant/aide, language therapist assistant/aide,
23 language pathology assistant/aide, language pathologist assistant/aide, language
24 specialist assistant/aide, voice therapy assistant/aide, voice therapist assistant/aide,

1 voice pathologist assistant/aide, logopedics assistant/aide, logopedist assistant/aide,
2 communicology assistant/aide, communicologist assistant/aide, aphasiology
3 assistant/aide, aphasiologist assistant/aide, phoniatriest assistant/aide, or any variation,
4 synonym, coinage, or other word that expresses, employs, or implies these terms,
5 names, or functions;

6 (7) "Telepractice," telespeech, teleaudiology, telespeech-language pathology, or
7 telehealth when used separately or together. Telepractice service means the
8 application of telecommunication technology to deliver speech-language pathology
9 at a distance for assessment, intervention, or consultation. Services delivered via
10 telespeech or teleaudiology must be equivalent to the quality of services delivered
11 face-to-face.

12 Section 2. For the purposes of this Act, the practice of speech-language pathology is the
13 application of principles, methods, and procedures related to the development, disorders, and
14 effectiveness of human communication and related functions including providing prevention,
15 screening, consultation, assessment/evaluation, diagnosis, treatment/intervention/ management,
16 counseling, collaboration, and referral services for disorders of speech, language, feeding, and
17 swallowing, and for cognitive aspects of communication. The practice of speech-language
18 pathology also includes establishing augmentative and alternative communication techniques
19 and strategies, including developing, selecting, and prescribing of such systems and devices,
20 providing services to individuals with hearing loss and their families, screening individuals for
21 hearing loss or middle ear pathology using conventional pure-tone air conduction methods,
22 otoacoustic emissions screening, or screening tympanometry, using instrumentation to observe,
23 collect data, and measure parameters of communication and swallowing, selecting, fitting, and
24 establishing effective use of prosthetic or adaptive devices for communication, swallowing, or

1 other upper aerodigestive functions, and providing services to modify or enhance
2 communication performance.

3 Section 3. No person may practice speech-language pathology or represent himself or herself
4 as a speech-language pathologist in this state, unless such person is licensed in accordance with
5 this Act. A person may be licensed in both audiology and speech-language pathology if that
6 person meets the respective qualifications.

7 Section 4. After June 30, 2012, no person may be hired by any public or nonpublic school
8 to practice speech-language pathology unless licensed in accordance with this Act.

9 Section 5. Any person who is employed as a speech-language pathologist as of July 1, 2011,
10 and does not otherwise meet the qualifications set forth in this Act, may obtain a license and
11 practice as a speech-language pathologist as long as the speech-language pathologist is
12 continuously employed while performing the duties of that employment. This exception expires
13 January 1, 2020.

14 Section 6. Nothing in this Act may be construed as preventing or restricting:

- 15 (1) Any person licensed, certified, registered, or otherwise credentialed by this state in
16 professions other than speech-language pathology from practicing the profession for
17 which he or she is licensed, certified, registered, or credentialed;
- 18 (2) Any person certified as a teacher of the deaf;
- 19 (3) The activities and services of any person pursuing a course of study leading to a
20 degree in speech-language pathology or as a speech-language pathology assistant at
21 a college, university, or technical institute if:
- 22 (a) The activities and services constitute a part of a planned course of study at that
23 institution;
- 24 (b) The person is designated by a title such as intern, trainee, student, or by other

1 such title clearly indicating the status appropriate to their level of education;
2 and

3 (c) The person works under the supervision of a person licensed by this state to
4 practice speech-language pathology;

5 (4) The activities of any person who is not a resident of this state from engaging in the
6 practice of speech-language pathology as long as the activities of the person do not
7 exceed five days in any calendar year and if the person:

8 (a) Meets the qualifications of this Act;

9 (b) Registers with the board; and

10 (c) Agrees to abide by the standards of professional conduct.

11 Section 7. Any person who is licensed as a speech-language pathologist, who assesses,
12 selects, develops, and fits products related to speech, language, or swallowing, shall:

13 (1) Register with the board the person's intent to assess, select, develop, and fit products
14 related to speech, language, and swallowing; and

15 (2) Provide in any written contract for services the name, mailing address, and telephone
16 number of the board.

17 Section 8. Any speech-language pathologist who supervises a speech-language pathology
18 assistant, shall:

19 (1) Register with the board the name of each assistant working under his or her
20 supervision;

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

23 (3) Ensure that persons receiving services from an assistant receive prior written
24 notification that services are to be provided, in whole or in part, by a speech-language

1 pathology assistant.

2 Section 9. Any person who is licensed as a speech-language pathologist may perform
3 assessment, treatment, and procedures related to speech, voice, resonance, and swallowing
4 function using nonmedical endoscopy. A licensed speech-language pathologist may not perform
5 an endoscopic procedure unless he or she has received training and is competent to perform
6 these procedures. A licensed speech-language pathologist shall have protocols in place for
7 emergency medical backup when performing procedures using an endoscope.

8 Section 10. Any licensed speech-language pathologist may provide speech-language
9 pathology services via telepractice in this state. No person licensed as a speech-language
10 pathologist in another state may engage in the practice of speech language pathology in this
11 state, hold himself or herself out as qualified to do such practice, or use any title, word, or
12 abbreviation to indicate to or induce others to believe that he or she is licensed to practice
13 speech-language pathology in this state unless he or she has been issued a limited license in this
14 state to practice telepractice.

15 Section 11. There is hereby created a Board of Examiners for Speech-Language Pathology
16 under the jurisdiction of the Department of Health. The board shall consist of five members
17 appointed by the Governor who are residents of this state. Three of the members shall be
18 speech-language pathologists who are currently practicing speech-language pathology, who have
19 five years experience practicing speech-language pathology, and who hold a license to practice
20 speech-language pathology in this state, except for the first speech-language pathologists
21 appointed who shall meet the eligibility requirements for licensure. Two of the members shall
22 be representatives of the public who are not associated with or financially interested in the
23 practice or business of speech-language pathology.

24 Section 12. Each appointment to the board shall be for a period of three years except for the

1 initial appointments which shall be of staggered terms. Each member shall serve until the
2 expiration of the term for which the member has been appointed or until the member's successor
3 has been appointed and is deemed to be qualified to serve on the board. If a vacancy occurs
4 other than by expiration of a term, the Governor shall appoint a qualified person to fill the
5 vacancy for the unexpired term. No member may serve more than three consecutive three-year
6 terms.

7 The Governor may remove any member of the board for unprofessional conduct,
8 incompetency, or neglect of duty.

9 Section 13. The board shall meet during the first quarter of each calendar year to select a
10 chair and vice chair and to conduct other business. At least one additional meeting shall be held
11 before the end of each calendar year. Additional meetings may be convened at the call of the
12 chair or at the request of two or more board members.

13 Four members of the board constitutes a quorum to do business if the majority of members
14 present are speech-language pathologists.

15 Section 14. Members of the board shall receive a per diem established pursuant to § 4-7-10.4
16 and expenses at the same rate as other state employees while actually engaged in official duties.

17 Section 15. The board has the following powers and duties:

18 (1) Administer, coordinate, and enforce the provisions of this Act, evaluate the
19 qualifications of applicants, supervise the examination of applicants, and issue and
20 renew licenses;

21 (2) Issue subpoenas, examine witnesses, administer oaths, conduct hearings, and, at its
22 discretion, investigate allegations of violations of this Act and impose penalties for
23 any violations;

24 (3) Promulgate rules pursuant to chapter 1-26 to delineate qualifications for licensure,

- 1 specify requirements for the renewal of licensure, regulate the delivery of services via
2 telepractice, establish standards of professional conduct, and establish application,
3 licensure, renewal, and late fees not to exceed one hundred dollars each;
- 4 (4) Have available the names and addresses of persons currently licensed pursuant to the
5 provision of this Act;
 - 6 (5) Employ such personnel as determined by its needs and budget;
 - 7 (6) Request legal advice and assistance, as needed, from the Attorney General's Office;
 - 8 (7) Enter into such contracts as necessary to carry out its responsibilities under this Act;
 - 9 (8) Hire legal counsel, if deemed necessary;
 - 10 (9) Establish a budget;
 - 11 (10) Submit reports of its operations and finances as required by § 4-7-7.2;
 - 12 (11) Adopt an official seal by which it shall authenticate its proceedings, copies, records,
13 acts of the board, and licenses; and
 - 14 (12) Communicate disciplinary actions to relevant state and federal authorities and to
15 other state speech-language pathology licensing authorities.

16 No member of the board is liable for civil action for any act performed in good faith in the
17 performance of his or her duties as prescribed by law.

18 Section 16. All moneys coming into the custody of the board, including any fees and any
19 other payments, shall be paid by the board to the state treasurer on or before the tenth day of
20 each month, and shall consist of all moneys received by the board during the preceding calendar
21 month. The state treasurer shall credit the moneys to the Board of Examiners for Speech-
22 Language Pathology account, which account is hereby created. The moneys in the account are
23 hereby continuously appropriated to the board for the purpose of paying the expense of
24 administering and enforcing the provisions of this Act. The total expenses incurred by the board

1 may not exceed the total moneys collected.

2 Section 17. To be eligible for licensure by the board as a speech-language pathologist, the
3 applicant shall:

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

5 (2) Pay the application fee;

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

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

11 (5) Complete a supervised postgraduate professional experience;

12 (6) Pass the Praxis II examination in speech-language pathology; and

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

14 Section 18. Any person granted a master's equivalency before July 1, 2011, shall be issued
15 a license pursuant to this Act, as long as that person is continuously performing the duties of his
16 or her employment.

17 Section 19. The board may waive the education, practicum, and professional experience
18 requirements for any applicant who:

19 (1) Received professional education in another country if the board is satisfied that
20 equivalent education and practicum requirements have been met; and

21 (2) Met the examination requirement of subdivision (3) of section 17 of this Act.

22 Section 20. The board shall waive the qualifications in subdivisions (3), (4), (5), and (6) of
23 section 17 of this Act for any applicant who:

24 (1) Presents proof of current licensure in a state that has standards that are equivalent to

1 or greater than those of this state; or

2 (2) Holds a current Certificate of Clinical Competence in Speech-Language Pathology
3 from the American Speech-Language-Hearing Association in the area for which they
4 are applying for licensure.

5 Any applicant who holds current licensure from another state with equivalent or greater
6 standards or who holds the Certificate of Clinical Competence from the American
7 Speech-Language-Hearing Association may practice speech-language pathology in this state,
8 pending board disposition of the application, if the applicant:

9 (1) Is practicing in the area in which the licensure or Certificate of Clinical Competence
10 was granted;

11 (2) Has filed an application with the board and paid the application fee; and

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

13 Section 21. The board shall issue a provisional license in speech-language pathology to an
14 applicant who:

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

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

19 (3) Pays the application fee for a provisional license; and

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

21 A person holding a provisional license may practice speech-language pathology while
22 completing the postgraduate professional experience in speech-language pathology. However,
23 a person holding a provisional license may practice speech-language pathology only while
24 working under the supervision of a licensed speech-language pathologist. The term for a

1 provisional license and the conditions for its renewal shall be determined by the board in rules
2 promulgated pursuant to chapter 1-26.

3 Section 22. Upon receiving a completed application and any required documentation,
4 verification of licensure or certification, and payment of any required fee, the board may issue
5 a limited license for interstate telepractice, if the following conditions are met:

6 (1) The speech-language pathologist is actively licensed or certified to practice without
7 restriction in the state from which the speech-language pathologist or audiologist
8 provides telepractice services;

9 (2) The speech-language pathologist has not had a license to practice speech-language
10 pathology revoked or restricted in any state or jurisdiction;

11 (3) In the event of a previous disciplinary action against the applicant, the board finds
12 that the previous disciplinary action does not indicate that the speech-language
13 pathologist is a potential threat to the public;

14 (4) The speech-language pathologist agrees to be subject to the state laws, the state
15 judicial system, and the board with respect to providing speech-language pathology
16 or audiology services to this state's residents.

17 A telepractitioner shall comply with any statute or rule governing the maintenance of client
18 records, including client confidentiality requirements, regardless of the state where the records
19 of any client within this state are maintained.

20 Section 23. A speech-language pathologist license issued pursuant to this Act expires
21 biennially at a time specified by the board by rules promulgated pursuant to chapter 1-26. Each
22 speech-language pathologist licensed pursuant to this Act shall:

23 (1) Pay the fee established by the board;

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

1 (3) Complete twenty contact hours or two units of continuing education approved by the
2 board for each two-year renewal period; and

3 (4) Meet any other requirements for license renewal the board establishes by rule.

4 A licensee may renew a license up to thirty days after the expiration if the licensee meets
5 requirements for renewal, pays the renewal fee, and any late fee established by the board.

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

10 Section 25. A license revoked on disciplinary grounds is subject to expiration as provided
11 in this Act, but it may not be renewed. If such license is reinstated after its expiration, the
12 licensee, as a condition of reinstatement, shall meet the license requirements for new licensees
13 and shall pay a reinstatement fee that is equal to the renewal fee in effect on the last regular
14 renewal date immediately preceding the date of reinstatement.

15 Section 26. Any person who fails to renew his or her license by the end of the thirty-day
16 grace period may have the license reinstated if the person:

17 (1) Submits an application for reinstatement to the board within five years after the
18 expiration date of the license;

19 (2) Provides documentation of having completed the continuing education requirements
20 for the period in which the license has lapsed; and

21 (3) Pays a reinstatement fee that shall equal the renewal fee in effect on the last regular
22 renewal date immediately preceding the date of reinstatement, plus any late fee set
23 by the board.

24 Any person who fails to renew his or her license within five years after the expiration date

1 may not have the license renewed. However, the person may apply for and obtain a new license
2 by meeting the requirements for initial licensure.

3 Section 27. The board may adopt rules, pursuant to chapter 1-26, permitting inactive
4 licensure. The rules shall specify the requirements and procedures for placing a license on
5 inactive status, the length a license may remain on inactive status, and the requirements and
6 procedures to activate an inactive license. Except as otherwise specified by rule, an inactive
7 licensee may not engage in the practice of speech-language pathology.

8 Section 28. The board may grant a license to any person who has successfully complied with
9 the requirements of the American Speech-Language-Hearing Association, holds a Certificate
10 of Clinical Competence in speech-language pathology, and holds a current license in another
11 state in speech-language pathology if the following conditions are met:

- 12 (1) The other state maintains a standard of qualifications and examinations for
13 speech-language pathologists that meets or exceeds the requirements for licensure in
14 this state;
- 15 (2) Payment of the fee established by the board for licensure; and
- 16 (3) Submission of evidence satisfactory to the board of current out-of-state license.

17 Section 29. The board may grant a license to practice speech-language pathology to an
18 applicant who completed an educational program in a college or university in a foreign country
19 if the applicant submits one of the following:

- 20 (1) Proof satisfactory to the board that the applicant has received a Master's or doctorate
21 degree for speech-language pathology from a foreign institution which was
22 accredited, at the time the degree was conferred, by an accrediting body recognized
23 by the national government of the country in which the institution is located; or
- 24 (2) A certification from a private education evaluation service approved by the board that

1 the applicant's foreign education is equivalent to the education provided by an
2 accredited program; or

3 (3) A certification from the American Speech-Language-Hearing Association.

4 Section 30. Any person not eligible for licensure as a speech-language pathologist or not
5 eligible for authorization to practice as an intern, who assists in the practice of speech-language
6 pathology while in the employ of and under the supervision of a licensed speech-language
7 pathologist shall apply for and receive licensure from the board as a speech-language pathology
8 assistant. Before granting such licensure the board shall consider the academic training and
9 clinical experience of the applicant, the specific duties and responsibilities assigned, the amount
10 and nature of the supervision that is available to the assistant, and the number of assistants
11 assigned to the proposed supervisor. Each applicant shall satisfy one of the following
12 requirements:

13 (1) Any applicant applying for licensure with an associate's degree shall produce written
14 notification from the chair or program director of an academic institution verifying
15 that the applicant attended the academic institution and completed the academic
16 course work requirement and clinical work requirement. This written notification
17 shall serve as presumptive proof of completion of the requirements;

18 (2) Any applicant applying for licensure with a bachelor's degree shall produce written
19 notification from the chair or program director of an academic institution verifying
20 that the applicant attended the academic institution and completed the academic
21 course work requirement. An official transcript from the institution satisfies the
22 requirements of this section.

23 Nothing in this section may be construed to prevent a speech-language pathologist from
24 employing any person in a nonclinical capacity.

1 Section 31. Any person who is employed as a speech-language pathology assistant as of
2 July 1, 2011, and does not otherwise meet the qualifications set forth in this Act, may obtain a
3 license and practice as a speech-language pathology assistant as long as the assistant is
4 continuously employed while performing the duties of that employment. This exception expires
5 January 1, 2020.

6 Section 32. An assistant shall be supervised by a licensed speech-language pathologist. An
7 assistant may have more than one supervisor if the board is notified and any supervisor meets
8 the requirements of this Act. If for any reason the supervising speech-language pathologist is
9 no longer available to provide the level of supervision stipulated, the supervisor and assistant
10 shall notify the board. The speech-language pathology assistant may not perform any additional
11 tasks until a licensed speech-language pathologist with at least two years of experience has been
12 designated as the speech-language pathology assistant's supervisor and the board has approved
13 the change.

14 Section 33. A speech-language pathologist shall provide no less than thirty percent direct
15 and indirect supervision weekly for the first ninety days and no less than twenty percent direct,
16 onsite supervision weekly for each speech-language pathology assistant the speech-language
17 pathologist supervises. After successful completion of the first ninety days, the supervising
18 speech-language pathologist shall provide no less than twenty percent supervision weekly and
19 no less than ten percent direct, onsite supervision weekly. The supervising speech-language
20 pathologist shall be available by electronic means at all times when the speech-language
21 pathology assistant is performing clinical activities. The assistant shall document the
22 supervision.

23 For the purposes of this Act, direct supervision is in-view observation and guidance by a
24 speech-language pathologist while an assigned activity is performed by an assistant. Indirect

1 supervision is any activity other than direct observation and guidance, conducted by a speech-
2 language pathologist that may include methods such as audio recordings, videotape recordings,
3 telephone communications, conferences, and review of data.

4 Section 34. An applicant for licensure as a speech-language pathology assistant shall submit
5 an application, upon a form prescribed by the board, that is signed by both the applicant and the
6 supervising speech-language pathologist. The supervising speech-language pathologist shall
7 submit a notarized statement explicitly indicating that the supervisor agrees to supervise the
8 assistant's practice and that the supervisor accepts full and complete responsibility for that
9 practice. If the applicant is not currently employed, the application shall be signed by the chair
10 of the academic program of the institution conferring the degree. Within thirty days of the
11 applicant's employment, the supervising speech-language pathologist shall submit a notarized
12 statement explicitly indicating that the supervisor agrees to supervise the assistant's practice and
13 that the supervisor accepts full and complete responsibility for that practice.

14 Section 35. A speech-language pathology assistant license expires at a time specified by the
15 board by rules promulgated pursuant to chapter 1-26. Each speech-language pathology assistant
16 licensed pursuant to this Act shall:

- 17 (1) Pay the fee established by the board;
- 18 (2) Submit an application for renewal on a form prescribed by the board; and
- 19 (3) Complete continuing education requirements consistent with those required for
20 speech-language pathologists.

21 Section 36. A supervising speech-language pathologist must have a valid license as a
22 speech-language pathologist. Each supervising speech-language pathologists shall:

- 23 (1) Register with the board the name of each assistant;
- 24 (2) Be responsible for the extent, kind, and quality of service provided by the assistant,

1 consistent with the board's designated standards and requirements; and

- 2 (3) Ensure that persons receiving services from an assistant receive prior written
3 notification that services are to be provided, in whole or in part, by a speech-language
4 pathology assistant.

5 No speech-language pathologist may supervise more than three speech-language pathology
6 assistants at one time.

7 Section 37. Each speech-language pathology assistant applicant shall:

- 8 (1) Hold an associate's degree or bachelor's degree with a major emphasis in
9 speech-language pathology from an accredited educational institution approved by
10 the board;
- 11 (2) Submit a bona fide official transcript and verification of academic preparation and
12 clinical experience reflecting a minimum of fifteen semester credit hours in general
13 education, a minimum of twenty semester credit hours in technical content, and a
14 minimum of twenty-five hours of observation; and
- 15 (3) Complete a minimum of one hundred clock hours of supervised clinical experience
16 at the educational institution approved by the board, or, during the applicant's initial
17 employment.

18 Section 38. The following activities may be delegated to an assistant by the supervising
19 speech-language pathologist:

- 20 (1) Assist the speech-language pathologist with speech-language and hearing screenings;
- 21 (2) Assist with informal documentation as directed by the speech-language pathologist;
- 22 (3) Follow documented treatment plans or protocols developed by the supervising
23 speech-language pathologist;
- 24 (4) Document patient or client performance;

- 1 (5) Assist the speech-language pathologist with assessment of patients or clients;
- 2 (6) Assist with clerical duties;
- 3 (7) Perform checks and maintenance of equipment;
- 4 (8) Support the speech-language pathologist in research projects, in service training, and
- 5 public relations programs; and
- 6 (9) Collect data for monitoring quality improvement.

7 Section 39. No speech-language pathologist assistant may:

- 8 (1) Perform diagnostic tests, formal or informal evaluations, or interpret test results;
- 9 (2) Evaluate or diagnose patients or clients for feeding or swallowing disorders;
- 10 (3) Participate in parent conferences, case conferences, or any interdisciplinary team
- 11 without the presence or prior approval of the supervising speech-language
- 12 pathologist;
- 13 (4) Write, develop, or modify a patient's or client's individualized treatment plan in any
- 14 way;
- 15 (5) Assist with patients or clients without following the individualized treatment plan
- 16 prepared by the speech-language pathologist or without access to supervision;
- 17 (6) Sign any formal documents not drafted or approved by the speech-language
- 18 pathologist prior to dissemination of the document;
- 19 (7) Select patients or clients for services;
- 20 (8) Discharge a patient or client from service;
- 21 (9) Disclose clinical or confidential information either orally or in writing to anyone
- 22 other than the supervising speech-language pathologist;
- 23 (10) Make referrals for additional service;
- 24 (11) Counsel or consult with the patient or client, family, or others regarding the status or

1 service of the patient or client;

2 (12) Use a checklist or tabulate results of feeding or swallowing evaluations;

3 (13) Demonstrate swallowing strategies or precautions to patients, family, or staff;

4 (14) Represent himself or herself as a speech-language pathologist.

5 Section 40. The board may impose separately, or in combination, any of the following
6 disciplinary actions on a licensee after formal or informal disciplinary action:

7 (1) Refuse to issue or renew a license;

8 (2) Issue a letter of reprimand or concern;

9 (3) Require restitution of fees;

10 (4) Impose probationary conditions;

11 (5) Impose a fine not to exceed one thousand dollars, either total or per violation;

12 (6) Require the licensee to reimburse the board for costs of the investigation and
13 proceeding;

14 (7) Suspend or revoke a license;

15 (8) Impose practice or supervision requirements, or both; or

16 (9) Require licensees to attend continuing education programs specified by the board as
17 to content and hours.

18 Section 41. If the board imposes suspension or revocation of license, application may be
19 made to the board for reinstatement. If a licensee is placed on probation, the board may require
20 the license holder to:

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

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

23 (3) Continue or review continuing education until the license holder attains and degree
24 of skill satisfactory to the board in those areas that are the basis of the probation.

1 Section 42. The board may take disciplinary actions for the following conduct:

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

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

5 (3) Altering a license or provisional license;

6 (4) Aiding or abetting unlicensed practice;

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

8 (6) Committing fraud or deceit in the practice of audiology or speech-language
9 pathology, including:

10 (a) Willfully making or filing a false report or record in the practice of audiology
11 or speech-language pathology;

12 (b) Submitting a false statement to collect a fee;

13 (c) Obtaining a fee through fraud or misrepresentation;

14 (7) Using or promoting or causing the use of any misleading, deceiving, improbable, or
15 untruthful advertising matter, promotional literature, testimonial, guarantee,
16 warranty, label, brand insignia, or any other representation;

17 (8) Falsely representing the use or availability of services or advise of a physician;

18 (9) Misrepresenting the applicant, licensee, or holder by using the term, doctor, or any
19 similar word, abbreviation, or symbol if the use is not accurate or if the degree was
20 not obtained from a regionally accredited institution;

21 (10) Committing any act of dishonesty or immoral or unprofessional conduct while
22 engaging in the practice of speech-language pathology;

23 (11) Engaging in illegal or incompetent or negligent practice;

24 (12) Providing professional services while:

- 1 (a) Mentally incompetent;
- 2 (b) Under the influence of alcohol;
- 3 (c) Using any narcotic or controlled dangerous substance or other drug that is in
- 4 excess of therapeutic amounts or without valid medical indication;
- 5 (13) Providing services or promoting the sale of devices, appliances, or products to a
- 6 person who cannot reasonably be expected to benefit from such services, devices,
- 7 appliances, or products;
- 8 (14) Violating any provision of this Act, or any lawful order given, or rule adopted, by the
- 9 board;
- 10 (15) Being convicted or pleading guilty or nolo contendere to a felony or to a crime
- 11 involving moral turpitude, whether or not any appeal or other proceeding is pending
- 12 to have the conviction or plea set aside;
- 13 (16) Being disciplined by a licensing or disciplinary authority of any state or country, or
- 14 any nationally recognized professional organization, or convicted or disciplined by
- 15 a court of any state or country for an act that would be grounds for disciplinary action
- 16 under this section;
- 17 (17) Exploiting a patient for financial gain or sexual favors;
- 18 (18) Failing to report suspected cases of child abuse or vulnerable adult abuse;
- 19 (19) Diagnosing or treating a person for speech or hearing disorders by mail or telephone
- 20 unless the person has been previously examined by the licensee and the diagnosis or
- 21 treatment is related to such examination; or
- 22 (20) Violating federal, state, or local laws relating to the profession.

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

1 the board.

2 Section 43. The board shall keep an information file about each complaint filed with the
3 board. The information in each complaint file shall contain complete, current, and accurate
4 information including:

- 5 (1) Any person contacted in relation to the complaint;
- 6 (2) A summary of findings made at each step of the complaint process;
- 7 (3) An explanation of the legal basis and reason for a complaint that is dismissed; and
- 8 (4) Other relevant information.

9 Section 44. The board shall provide reasonable assistance to a person who wishes to file a
10 complaint with the board. The board shall adopt a form to standardize the information
11 concerning complaints made to the board. If a written complaint is filed with the board within
12 the board's jurisdiction, the board, at least as frequently as quarterly and until final disposition
13 of the complaint, shall notify the parties to the complaint of the status of the complaint unless
14 the notice would jeopardize an ongoing investigation.

15 Section 45. The board shall dispose of all complaints in a timely manner and in accordance
16 with chapter 1-26. The board shall establish a schedule for conducting each phase of a complaint
17 that is under the control of the board not later than the thirtieth day after the date the complaint
18 is received by the board. The schedule shall be kept in the information file for the complaint and
19 all parties shall be notified of the projected time requirements for pursuing the complaint. Any
20 change in the schedule shall be noted in the complaint information file and all parties to the
21 complaint must be notified not later than the seventh day after the change is made.

22 Section 46. The board shall develop a system for monitoring license holders' compliance
23 with the requirements of this Act and procedures for monitoring a license holder who is ordered
24 by the board to perform certain acts and identify and monitor license holders who present a risk

1 to the public.

2 Section 47. Any person violating the provisions of this Act may be enjoined from further
3 violations at the suit of the state's attorney of the county where the violations occurred or suit
4 may be brought by any citizen of this state. An action for injunction shall be an alternate to
5 criminal proceedings, and the commencement of one proceeding by the board constitutes an
6 election.

7 Section 48. Any action taken by the board against a person licensed pursuant to this Act
8 shall be reported to the National Practitioners Database. The board may also report its actions
9 to the American Speech-Language-Hearing Association Board of Ethics.