START\_STATUTE36-1901.  Definitions

In this chapter, unless the context otherwise requires:

1.  "Accredited program" means a program leading to the award of a degree in audiology that is accredited by an organization recognized for that purpose by the United States department of education.

2.  "Approved training program" means a postsecondary speech‑language pathology assistant training program that is approved by the director.

3.  "Assistive listening device or system" means an amplification system that is specifically designed to improve the signal‑to‑noise ratio for the listener who is deaf or hard of hearing, to reduce interference from noise in the background and to enhance hearing levels at a distance by picking up sound from as close to the source as possible and sending it directly to the ear of the listener, excluding hearing aids.

4.  "Audiologist" means a person who engages in the practice of audiology and who meets the requirements prescribed in this chapter.

5.  "Audiology" means the nonmedical and nonsurgical application of principles, methods and procedures of measurement, testing, evaluation and prediction that are related to hearing, its disorders and related communication impairments for the purpose of nonmedical diagnosis, prevention, amelioration or modification of these disorders and conditions.

6.  "Clinical interaction" means a fieldwork practicum in speech‑language pathology that is supervised by a licensed speech-language pathologist.

7.  "Department" means the department of health services.

8.  "Direct supervision":

(a)  Means a licensed speech‑language pathologist observes and guides a speech‑language pathology assistant while the speech‑language pathology assistant performs an assigned clinical activity.

(b)  Includes the supervising licensed speech‑language pathologist viewing and communicating with the speech‑language pathology assistant via telecommunication technology as the speech‑language pathology assistant provides clinical activities if the supervising licensed speech‑language pathologist can provide ongoing immediate feedback throughout the clinical activity being provided.

(c)  Does not include the supervising licensed speech‑language pathologist reviewing a taped session at a later time.

9.  "Director" means the director of the department.

10.  "Disorders of communication" means an organic or nonorganic condition that impedes the normal process of human communication and includes disorders of speech, articulation, fluency, voice, verbal and written language, auditory comprehension, cognition and communications and oral, pharyngeal and laryngeal sensorimotor competencies.

11.  "Disorders of hearing" means an organic or nonorganic condition, whether peripheral or central, that impedes the normal process of human communication and includes disorders of auditory sensitivity, acuity, function or processing.

12.  "Hearing aid" means any wearable instrument or device designed for or represented as aiding or improving human hearing or as aiding, improving or compensating for defective human hearing, and any parts, attachments or accessories of the instrument or device, including ear molds, but excluding batteries and cords.

13.  "Hearing aid dispenser" means any person who engages in the practice of fitting and dispensing hearing aids.

14.  "Indirect supervision" means supervisory activities, other than direct supervision, that are performed by a licensed speech-language pathologist and that may include consulting, reviewing records and reviewing and evaluating audiotaped or videotaped sessions.

15.  "Letter of concern" means an advisory letter to notify a licensee that, while there is insufficient evidence to support disciplinary action, the director believes the licensee should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the director may result in action against the licensee.

16.  "License" means a license issued by the director under this chapter and includes a temporary license.

17.  "Nonmedical diagnosing" means the art or act of identifying a communication disorder from its signs and symptoms.  Nonmedical diagnosing does not include diagnosing a medical disease.

18.  "Practice of audiology" means:

(a)  Rendering or offering to render to a person or persons who have or who are suspected of having disorders of hearing any service in audiology, including prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction and research.

(b)  Participating in hearing conservation, hearing aid and assistive listening device evaluation and hearing aid prescription preparation, fitting, dispensing and orientation.

(c)  Screening, identifying, assessing, nonmedical diagnosing, preventing and rehabilitating peripheral and central auditory system dysfunctions.

(d)  Providing and interpreting behavioral and physiological measurements of auditory and vestibular functions.

(e)  Selecting, fitting and dispensing assistive listening and alerting devices and other systems and providing training in their use.

(f)  Providing aural rehabilitation and related counseling services to persons who are deaf or hard of hearing and their families.

(g)  Screening speech‑language and other factors that affect communication function in order to conduct an audiologic evaluation and an initial identification of persons with other communications disorders and making the appropriate referral.

(h)  Planning, directing, conducting or supervising services.

19.  "Practice of fitting and dispensing hearing aids":

(a)  Means measuring human hearing by means of an audiometer or by any other means, solely for the purpose of making selections or adaptations of hearing aids, and fitting, selling and servicing hearing aids, including assistive listening devices, and making impressions for ear molds.

(b)  Includes identification, instruction, consultation, rehabilitation and hearing conservation as these relate only to hearing aids and related devices and, at the request of a physician or another licensed health care professional, making audiograms for the professional's use in consultation with persons who are deaf or hard of hearing.

(c)  Does not include formal auditory training programs, lip reading and speech conservation.

20.  "Practice of speech‑language pathology" means:

(a)  Rendering or offering to render to an individual or groups of individuals who have or are suspected of having disorders of communication service in speech‑language pathology, including prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction and research.

(b)  Screening, identifying, assessing, interpreting, nonmedical diagnosing and rehabilitating disorders of speech and language.

(c)  Screening, identifying, assessing, interpreting, nonmedical diagnosing and rehabilitating disorders of oral‑pharyngeal functions and related disorders.

(d)  Screening, identifying, assessing, interpreting, nonmedical diagnosing and rehabilitating cognitive and communication disorders.

(e)  Assessing, selecting and developing augmentative and alternative communication systems and providing training in using these systems and assistive listening devices.

(f)  Providing aural rehabilitation and related counseling services to persons who are deaf or hard of hearing and their families.

(g)  Enhancing speech‑language proficiency and communication effectiveness.

(h)  Screening hearing and other factors for speech‑language evaluation and initially identifying persons with other communication disorders and making the appropriate referral.

21.  "Regular license" means each type of license issued by the director, except a temporary license.

22.  "Sell" or "sale" means a transfer of title or of the right to use by lease, bailment or any other contract, but does not include transfers at wholesale to distributors or dealers.

23.  "Speech‑language pathology" means the nonmedical and nonsurgical application of principles, methods and procedures of assessment, testing, evaluation and prediction related to speech and language and its disorders and related communication impairments for the nonmedical diagnosis, prevention, amelioration or modification of these disorders and conditions.

24.  "Speech-language pathology assistant" means a person who provides services prescribed in section 36‑1940.04 under the direction and supervision of a speech-language pathologist licensed pursuant to this chapter.

25.  "Sponsor" means a person who is licensed pursuant to this chapter and who agrees to train or directly supervise a temporary licensee in the same field of practice.

26.  "Temporary licensee" means a person who is licensed under this chapter for a specified period of time under the sponsorship of a person licensed pursuant to this chapter.

27.  "Unprofessional conduct" means:

(a)  Obtaining any fee or making any sale by fraud or misrepresentation.

(b)  Employing directly or indirectly any suspended or unlicensed person to perform any work covered by this chapter.

(c)  Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or other representation, however disseminated or published, that is misleading, deceiving, improbable or untruthful.

(d)  Advertising for sale a particular model, type or kind of product when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type or kind if the purpose of the advertisement is to obtain prospects for the sale of a different model, type or kind than that advertised.

(e)  Representing that the professional services or advice of a physician will be used or made available in selling, fitting, adjusting, maintaining or repairing hearing aids if this is not true, or using the words "doctor", "clinic", "clinical" or like words, abbreviations or symbols while failing to affix the word, term or initials "audiology", "audiologic", "audiologist", "doctor of audiology", "Au.D.", "Ph.D." or "Sc.D.".

(f)  Defaming competitors by falsely imputing to them dishonorable conduct, inability to perform contracts or questionable credit standing or by other false representations, or falsely disparaging the products of competitors in any respect, or their business methods, selling prices, values, credit terms, policies or services.

(g)  Displaying competitive products in the licensee's show window, shop or advertising in such manner as to falsely disparage such products.

(h)  Representing falsely that competitors are unreliable.

(i)  Quoting prices of competitive products without disclosing that they are not the current prices, or showing, demonstrating or representing competitive models as being current models when they are not current models.

(j)  Imitating or simulating the trademarks, trade names, brands or labels of competitors with the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers.

(k)  Using in the licensee's advertising the name, model name or trademark of a particular manufacturer of hearing aids in such a manner as to imply a relationship with the manufacturer that does not exist, or otherwise to mislead or deceive purchasers or prospective purchasers.

(l)  Using any trade name, corporate name, trademark or other trade designation that has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the name, nature or origin of any product of the industry, or of any material used in the product, or that is false, deceptive or misleading in any other material respect.

(m)  Obtaining information concerning the business of a competitor by bribery of an employee or agent of that competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other unfair means.

(n)  Giving directly or indirectly, offering to give, or allowing or causing to be given money or anything of value, except miscellaneous advertising items of nominal value, to any person who advises another in a professional capacity as an inducement to influence that person or have that person influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dispenser, or to influence persons to refrain from dealing in the products of competitors.

(o)  Sharing any profits or sharing any percentage of a licensee's income with any person who advises another in a professional capacity as an inducement to influence that person or have that person influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dispenser or to dissuade persons from dealing in products of competitors.

(p)  Failing to comply with existing federal regulations regarding fitting and dispensing a hearing aid.

(q)  Being convicted of a felony or a misdemeanor that involves moral turpitude.

(r)  Fraudulently obtaining or attempting to obtain a license or a temporary license for the applicant, the licensee or another person.

(s)  Aiding or abetting unlicensed practice.

(t)  Wilfully making or filing a false audiology, speech‑language pathology or hearing aid dispenser evaluation.

(u)  Using narcotics, alcohol or drugs to the extent that performing professional duties is impaired.

(v)  Betraying a professional confidence.

(w)  Engaging in any conduct, practice or condition that impairs the ability of the licensee to safely and competently engage in the practice of audiology, speech‑language pathology or hearing aid dispensing.

(x)  Providing services or promoting the sale of devices, appliances or products to a person who cannot reasonably be expected to benefit from these services, devices, appliances or products.

(y)  Being disciplined by a licensing or disciplinary authority of any state, territory or district of this country for an act that is grounds for disciplinary action under this chapter.

(z)  Violating any provision of this chapter or failing to comply with rules adopted pursuant to this chapter.

(aa)  Failing to refer an individual for medical evaluation if a condition exists that is amenable to surgical or medical intervention prescribed by the advisory committee and consistent with federal regulations.

(bb)  Practicing in a field or area within that licensee's defined scope of practice in which the licensee has not either been tested, taken a course leading to a degree, received supervised training, taken a continuing education course or had adequate prior experience.

(cc)  Failing to affix the word, term or initials "audiology", "audiologic", "audiologist", "doctor of audiology", "Au.D.", "Ph.D." or "Sc.D." in any sign, written communication or advertising media in which the term "doctor" or the abbreviation "Dr." is used in relation to the audiologist holding a doctoral degree. END\_STATUTE