



Board of Hearing Aid Dispensers and Audiologists

Mailing Address:
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Spearfish, SD 57783

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Draft-Video conference BOARD MEETING AGENDA

TO: All Board Members

FROM: Brooke Tellinghuisen Geddes

MEETING DATE: July 14, 2025

LOCATION: Video Conference

MEETING TIME: 12:00 PM CDT / 11:00 AM MDT

The public is invited to attend the meeting via Microsoft Teams at the following link:
https://teams.microsoft.com/l/meetup-join/19%3ameeting_M2EyMzkzY2EtYzVlZi00NTY3LWJlOTItYmQ2NzZmZjVkZGZi%40thread.v2/0?context=%7b%22Tid%22%3a%22e69efb98-56ef-4797-a76b-e1ec658a639c%22%2c%22Oid%22%3a%22ee0a24e7-6d2c-4495-ade5-4377098865d2%22%7d

Or by calling: 1-469-770-0416, Passcode: 837155624#

If members of the public would like to be sent the Microsoft Teams invitation to the meeting instead of using the above link, please contact the Board office prior to the meeting at office@sdlicensing.com.

Agenda Item Number

1. Call to Order/Welcome and Introductions
2. Roll Call
3. Public Hearing to Adopt Proposed Rules
4. Corrections or additions to the agenda
5. Approval of the agenda

6. Public comment
7. Approval of the minutes from January 15, 2025
8. FY financial update
9. Election of Officers
10. Provisional Licensure Extension Policy #2025-01
11. IHS Testing Limit Policy #2025-02
12. Schedule next meeting(s)
13. Executive Session pursuant to SDCL 1-25-2
 - a. Application Ratification(s)
 - b. Complaints/Investigations
 - c. CEU Question- consult with counsel
14. Application Ratification(s)-Vote
15. Complaints/Investigations
16. CEU Question Discussion
17. Any other business coming in between date of mailing and date of meeting
18. Adjourn

FORM 6

South Dakota Board of Hearing Aid Dispensers and Audiologists Notice of Public Hearing to Adopt Rules

A public hearing will be held at the South Dakota Board of Hearing Aid Dispensers and Audiologists' Board office located at 521 S. 32nd St., Suite B, Spearfish, SD 57783 and by Teams videoconference on July 14, 2025, at 11:00 a.m. (MDT)/12:00 p.m. (CDT), to consider the adoption and amendment of proposed Administrative Rules of South Dakota numbered:

§§ 20:46:01:03, 20:46:01:04, 20:46:02:01, 20:46:02:02, 20:46:02:03,
20:46:03:01, 20:46:04:01, 20:46:04:02, 20:46:04:03, 20:46:04:04, 20:46:04:05,
20:46:04:06, 20:72:01:01, 20:72:01:02, 20:72:01:03, 20:72:02:01, 20:72:03:01,
20:72:03:02, 20:72:03:03, 20:72:03:04, 20:72:03:05.

The effect of the rules will be to: reflect changes made to statutes during the 2024 legislative session, provide general language clean-up to reflect current terminology and practice, and correct legal and authority references.

The reason for adopting the proposed rules is to update the practice act to ensure legal compliance and uniformity of practice.

Persons interested in presenting amendments, data, opinions, and arguments for or against the proposed rules may do so by appearing in-person at the hearing, by mail to the State Board of Hearing Aid Dispensers and Audiologists, 810 N. Main Street, Suite 298 in Spearfish, SD 57783, by emailing office@sdlicensing.com, or by joining the videoconference at: https://teams.microsoft.com/l/meetup-join/19%3ameeting_M2EyMzkzY2EtYzVlZi00NTY3LWJlOTItYmQ2NzZmZjVkJkZGZl%40thread.v2/0?context=%7b%22Tid%22%3a%22e69efb98-56ef-4797-a76b-e1ec658a639c%22%2c%22Oid%22%3a%22ee0a24e7-6d2c-4495-ade5-4377098865d2%22%7d. The deadline to submit any such written comments for consideration at the hearing is July 9, 2025.

After the written comment period, the South Dakota Board of Hearing Aid Dispensers and Audiologists will consider all written and oral comments it receives on the proposed rules. The State Board of Hearing Aid Dispensers and Audiologists may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

For Persons with Disabilities: This hearing will be located at a physically accessible place. Please contact the State Board of Hearing Aid Dispensers and Audiologists at least 48 hours before the public hearing if you have special needs for which special arrangements can be made by calling (605) 773-3361. You may also contact Telecommunication Relay Services for the Deaf at 1-800-877-1113.

Copies of the proposed rules may be obtained without charge from:
The South Dakota Board of Hearing Aid Dispensers and Audiologists
810 N. Main St., #298, Spearfish, SD 57783
office@sdlicensing.com
(605)642-1600

and/or <http://rules.sd.gov>

Published at the approximate cost of \$_____.

ARTICLE 20:46

LICENSED HEARING AID DISPENSERS

Chapter

- 20:46:01 General provisions.
20:46:02 Continuing education.
20:46:03 Provisional licensure.
20:46:04 Application for licensure.

CHAPTER 20:46:01

GENERAL PROVISIONS

Section

- 20:46:01:01 and 20:46:01:02 Repealed.
20:46:01:03 Record keeping, Repealed.
20:46:01:04 Physicians Physician consultation required advised.
20:46:01:05 Definitions

20:46:01:03. Record keeping. ~~A permanent record of tests shall be kept on file in the dispenser's office~~ Repealed.

Source: SL 1975, ch 16, § 1; 2 SDR 58, effective March 8, 1976; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

~~General Authority:~~ SDCL 36-24-12(8).

~~Law Implemented:~~ SDCL 36-24-12(12) and (13).

20:46:01:04. Physician's ~~Physician~~ consultation ~~required~~ advised. ~~All~~ A licensed hearing aid dispenser ~~licensees in the state shall~~ must advise the customer or prospective customer, in writing, that the customer's best interests would be served by consulting a physician prior to the licensed hearing aid dispenser's determination for fitting a hearing aid if the licensed hearing aid dispenser finds any of the following conditions to exist during an examination or consultation:

- (1) Visible congenital or traumatic deformity of the ear;
 - (2) ~~History of active~~ Active discharge from the ear within the previous ~~90~~ ninety days or history of intermittent discharge;
 - (3) ~~History of recent sudden~~ Sudden or rapidly progressive hearing loss within the previous ~~90~~ ninety days;
 - (4) Acute or chronic dizziness;
 - (5) An ~~air/bone~~ air-bone gap of ~~15 to 20~~ fifteen-to-twenty decibels, or more, in the audiogram;
- or
- (6) ~~The customer is 16 years of age or younger; or~~
 - ~~(7) Visible evidence of excessive buildup of cerumen accumulation, or a foreign body, in the ear canal.~~

Source: SL 1975, ch 16, § 1; 2 SDR 58, effective March 8, 1976; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: ~~SDCL 36-24-12(8)~~ 36-24-47.

Law Implemented: ~~SDCL 36-24-12(12) and (13)~~ 36-24-1.7, 36-24-47(3).

20:46:01:05. Definitions. Terms used in this article mean the same as SDCL chapter 36-24.

Source:

General Authority: SDCL 36-24-1

Law Implemented: SDCL 36-24-1

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CHAPTER 20:46:02

CONTINUING EDUCATION

Section

- 20:46:02:01 Applicability, Repealed.
- 20:46:02:02 Required continuing education.
- 20:46:02:03 Waiver of continuing education requirement.
- 20:46:02:04 Repealed.

20:46:02:01. Applicability. ~~The continuing education requirements apply to all hearing aid dispensers holding a license issued by the board~~ Repealed.

Source: 2 SDR 58, effective March 8, 1976; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 33, effective September 22, 1997.

~~General Authority: SDCL 36-24-46.~~

~~Law Implemented: SDCL 36-24-12.1(15).~~

20:46:02:02. Required continuing education. ~~Hearing aid dispensing licensees in this state~~

To renew a license, a licensee shall attend complete a minimum of at least 12 twelve hours of continuing education each calendar year on or before July first and submit evidence of such attendance completion with the application required by SDCL 36-24-28.1 to the board as a prerequisite to the approval of the annual renewal of their license. This section does not apply to a licensee who is renewing for the first time.

An activity is eligible for credit toward continuing education hours if it relates to the practice of hearing aid dispensing and either:

- (1) Improves or maintains the licensee's professional skills; or
- (2) Broadens or refreshes the licensee's knowledge of governing laws, rules, or ethical standards.

Source: 2 SDR 58, effective March 8, 1976; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 33, effective September 22, 1997.

General Authority: ~~SDCL 36-24-46~~ 36-24-47(2).

Law Implemented: ~~SDCL 36-24-12.1(15)(4),~~ 36-24-28.1.

20:46:02:03. Waiver of continuing education requirement. The board may waive the continuing education requirement of § 20:46:02:02 may be waived by the board only upon receipt of evidence submitted by the licensee verifying the licensee's inability to acquire any continuing education because of illness of the licensee or a member of the licensee's immediate family; substantiated by the attending physician; or because of any other circumstances beyond the licensee's normal control, substantiated by evidence satisfactory to the board an application for a waiver from the licensee on or before June first. The board may grant the waiver:

- (1) If the licensee has an illness that prevented the licensee from completing the continuing education requirement certified by the licensee's attending physician, physician assistant, or nurse practitioner; or
- (2) For licensee's undue hardship upon good cause shown to the satisfaction of the board.

Source: 2 SDR 58, effective March 8, 1976; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 33, effective September 22, 1997.

General Authority: ~~SDCL 36-24-46~~ 36-24-47.

Law Implemented: ~~36-24-12.1(15)(4)~~, 36-24-28.1.

20:46:03:01. Supervision of provisional hearing aid licensee. A provisional hearing aid dispensing licensee shall receive ~~40~~ forty hours of direct, face-to-face supervision, ~~as referred to in the manner described in~~ SDCL 36-24-24.2, during the first week of providing services under a provisional hearing aid dispensing licensure license. For a provisional licensee working part-time, the required hours may be divided over the first two weeks of providing services under provisional licensure. The provisional licensee shall receive at least ~~8~~ eight hours of direct, face-to-face supervision each week thereafter for the duration of provisional licensure. The supervisor shall verify supervision on a form provided by the board. A supervisor may provide supervision to no more than three provisional licensees at one time.

Source: 18 SDR 142, effective March 11, 1992; 24 SDR 33, effective September 22, 1997.

General Authority: SDCL ~~36-24-46~~ 36-24-47.

Law Implemented: SDCL 36-24-24.2.

CHAPTER 20:46:04

APPLICATION FOR LICENSURE

Section

20:46:04:01 Information required, Repealed.

20:46:04:02 Remittance of fees, Repealed.

20:46:04:03 Fee schedule for applications and licensure.

20:46:04:04 Fee for licensure by endorsement without examination, Repealed.

20:46:04:05 Annual license renewal—Renewal fees—Thirty day grace period for renewal—
Late fee.

20:46:04:06 Incomplete application.

~~20:46:04:01. Information required. Evidence of qualification for licensure must be based on information given on the application form; the examination, if required; fees as required in this chapter; and on any additional information the board considers necessary for clarification of submitted material.~~

~~—All persons seeking hearing aid dispensing licensure must include with the application the following information:~~

~~—(1) Type of annual license;~~

~~—(2) Name, address, phone number, and date of birth of the applicant;~~

~~—(3) Name of employer, address, and phone number;~~

~~—(4) Name of supervisor; and~~

~~—(5) Employment record for the previous five years Repealed.~~

Source: 24 SDR 33, effective September 22, 1997.

~~—General Authority: SDCL 36-24-46.~~

~~—Law Implemented: SDCL 36-24-17.1.~~

20:46:04:02. Remittance of fees. ~~Application fees for an annual license must be remitted to the board in the form of a cashier's check, personal check, certified check, or money order made payable to the South Dakota Board of Hearing Aid Dispensers and Audiologists. The board may take no action on any application for license until the fee is received.~~ Repealed.

Source: 24 SDR 33, effective September 22, 1997.

~~General Authority: SDCL 36-24-46.~~

~~Law Implemented: SDCL 36-24-17.1.~~

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20:46:04:03. Fee schedule for applications and licensure. The fee board shall impose the following application and licensure fees for application for initial license is as follows:

- (1) Hearing aid dispenser license, initial or renewal, \$200 two hundred dollars;
- (2) Provisional hearing aid dispenser license, \$100 one hundred dollars;
- (3) Late fee for renewal application received within the grace period described in SDCL 36-24-28.1, fifty dollars;
- (4) Late fee for reinstatement pursuant to SDCL 36-24-29.1, fifty dollars; and
- (5) Late fee for reinstatement after a suspended or revoked license pursuant to SDCL 36-24-29.2, fifty dollars.

All fees paid to the board are nonrefundable.

Source: 24 SDR 33, effective September 22, 1997.

General Authority: SDCL ~~36-24-46~~ 36-24-17.2(2), 36-24-25.1(2), 36-24-28.1, 36-24-29.1, 36-24-29.2.

Law Implemented: SDCL ~~36-24-17.1~~ 36-24-17.2(2), 36-24-24.2(3), 36-24-25.1(2), 36-34-28.1(1), 36-24-29.1(3), 36-24-29.2.

20:46:04:04. Fee for licensure by endorsement without examination.~~The fee for application for a hearing aid dispensing license by endorsement without examination is \$200~~
Repealed.

Source: 24 SDR 33, effective September 22, 1997.

~~General Authority: SDCL 36-24-46.~~

~~Law Implemented: SDCL 36-24-25.1.~~

DRAFT

20:46:04:05. Annual license renewal—Renewal fees —Thirty-day grace period for renewal -- Late fee. Each person who holds a hearing aid dispensing license shall renew A licensee must remit the annual renewal application for a hearing aid dispenser license to the board by on or before July first of each year by the payment to the board of a fee of \$200. A 30-day grace period is allowed after July first during which the renewal fee may be paid. An applicant seeking to renew a license after the 30-day grace period ending August 1 of the renewal year must pay a late fee. The late fee is an additional \$50.

Source: 24 SDR 33, effective September 22, 1997.

General Authority: SDCL 36-24-28.1, 36-24-46.

Law Implemented: SDCL 36-24-28.1.

20:46:04:06. Incomplete application. An application for initial licensure deemed incomplete by the board must be completed by the applicant within one year from the date received by the board, or the board must consider the application withdrawn.

Source:

General Authority: SDCL 36-24-47(7).

Law Implemented: SDCL 36-24-47(7).

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ARTICLE 20:72

AUDIOLOGISTS

Chapter

- 20:72:01 Continuing education.
- 20:72:02 Provisional licensure, Repealed.
- 20:72:03 Application for licensure.
- 20:72:04 General Provisions

CHAPTER 20:72:01

CONTINUING EDUCATION

Section

- 20:72:01:01 Applicability, Repealed.
- 20:72:01:02 Required continuing education.
- 20:72:01:03 Waiver of ~~attendance~~ continuing education requirement.

20:72:01:01. Applicability. ~~The continuing education requirements apply to all audiologists holding a license issued by the board~~ Repealed.

Source: 24 SDR 33, effective September 22, 1997.

~~**General Authority:** SDCL 36-24-46.~~

~~**Law Implemented:** SDCL 36-24-12.1(15).~~

20:72:01:02. Required continuing education. ~~Audiologist licensees in this state shall attend~~
To renew a license, an audiologist shall complete a minimum of at least 12 twelve hours of
continuing education on or before July first each calendar year and submit evidence of such
attendance completion with the application required by SDCL 36-24-28.1 to the board as a
prerequisite to the approval of the annual renewal of their license. This section does not apply to an
audiologist who is renewing for the first time.

An activity is eligible for credit toward continuing education hours if it relates to the practice
of audiology and either:

- (1) Improves or maintains the audiologist's professional skills; or
- (2) Broadens or refreshes the audiologist's knowledge of governing laws, rules, or ethical
standards.

Source: 24 SDR 33, effective September 22, 1997.

General Authority: SDCL 36-24-46 36-24-47(2).

Law Implemented: SDCL 36-24-12.1 ~~(15)~~(4), 36-24-28.1.

20:72:01:03. Waiver of attendance continuing education requirement. The board may waive the continuing education requirement of § 20:72:01:02 may be waived by the board only upon receipt of evidence submitted by the licensee verifying the licensee's inability to acquire any continuing education because of illness of the licensee or that of a member of the licensee's immediate family, substantiated by the attending physician, or because of any other circumstances beyond the licensee's normal control, substantiated by evidence satisfactory to the board an application for a waiver from an audiologist on or before June first. The board may grant the waiver:

- (1) If the audiologist has an illness that prevented the audiologist from completing the continuing education requirement certified by the audiologist's attending physician, physician assistant, or nurse practitioner; or**
- (2) For the audiologist's undue hardship upon good cause shown to the satisfaction of the board.**

Source: 24 SDR 33, effective September 22, 1997.

General Authority: SDCL ~~36-24-46~~ 36-24-47(2).

Law Implemented: SDCL ~~36-24-12.1(15)(4)~~, 36-24-28.1.

CHAPTER 20:72:02

PROVISIONAL LICENSURE

(Repealed)

Section

20:72:02:01 Requirements for provisional license, Repealed.

20:72:02:01. Requirements for provisional license. ~~The provisional license allows the applicant for an audiology license to complete the requirements of SDCL 36-24-17.3. A provisional license expires annually on July first and may be renewed twice by completing the form supplied by the board, paying the required fees, and completing the continuing education requirement in § 20:72:01:02 Repealed.~~

Source: 24 SDR 33, effective September 22, 1997.

~~**General Authority:** SDCL 36-24-24.3, 36-24-28.1.~~

~~**Law Implemented:** SDCL 36-24-24.3, 36-24-28.1.~~

CHAPTER 20:72:03

APPLICATION FOR LICENSURE

Section

- 20:72:03:01 Information required, Repealed.
- 20:72:03:02 Remittance of fees, Repealed.
- 20:72:03:03 Fee schedule for ~~applications~~ application and licensure.
- 20:72:03:04 Annual license renewal — ~~Renewal fees — Thirty day grace period for renewal —~~
Late fee.
- 20:72:03:05 Incomplete application.

20:72:03:01. Information required. ~~The board shall determine qualification for licensure from information given on the application form; examination, if required; fees as required by § 20:72:03:04; and any additional information the board considers necessary for clarification of submitted material.~~

~~Persons seeking audiology licensure must include with the application the following information:~~

- ~~(1) Type of annual license;~~
- ~~(2) Name, address, phone number, and date of birth of applicant;~~
- ~~(3) Name of employer, address, and phone number;~~
- ~~(4) Name of supervisor;~~
- ~~(5) Name and location of regionally accredited college or universities attended where master's degree or doctorate in audiology was issued;~~
- ~~(6) Proof of passing the national examination in audiology;~~
- ~~(7) Verification of completion of a supervised graduate professional experience in audiology supervised by a licensed or certified audiologist; and~~
- ~~(8) Employment record for the previous five years Repealed.~~

Source: 24 SDR 33, effective September 22, 1997.

~~**General Authority:** SDCL 36-24-46.~~

~~**Law Implemented:** SDCL 36-24-17.1, 36-24-17.3.~~

20:72:03:02. Remittance of fees. ~~Application fees for an annual license must be remitted to the board in the form of a cashier's check, personal check, certified check, or money order made payable to the South Dakota Board of Hearing Aid Dispensers and Audiologists. The board may take no action on any application for license until the fee is received.~~ Repealed.

Source: 24 SDR 33, effective September 22, 1997.

~~General Authority:~~ SDCL 36-24-46.

~~Law Implemented:~~ SDCL 36-24-17.1.

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20:72:03:03. Fee schedule for ~~applications~~ application and licensure. The board shall impose the following ~~application for an annual license is as follows~~ and licensure fees:

- (1) Audiologist ~~license, initial or renewal, \$200~~ two hundred dollars;
- (2) ~~Provisional audiologist~~ Late fee for renewal application received within the grace period described in SDCL 36-24-28.1, \$100 fifty dollars;
- (3) Late fee for reinstatement pursuant to SDCL 36-24-29.1, fifty dollars; and
- (4) Late fee for reinstatement after a suspended or revoked license pursuant to SDCL 36-24-29.2, fifty dollars.

All fees paid to the board are nonrefundable.

Source: 24 SDR 33, effective September 22, 1997.

General Authority: SDCL ~~36-24-46~~ 36-24-17.3(2), 36-24-25.1(2), 36-24-28.1, 36-24-29.1, 36-24-29.2.

Law Implemented: SDCL ~~36-24-17.1~~ 36-24-17.3(2), 36-24-25.1(2) 36-34-28.1(1), 36-24-29.1(3), 36-24-29.2.

20:72:03:04. Annual license renewal ~~Renewal fees~~ ~~Thirty-day grace period for renewal~~ ~~Late fee.~~ Each person who holds a license shall ~~renew~~ renew A licensee must remit the annual renewal application for an audiology license to the board by on or before July first of each year by the payment to the board of a fee as follows:

~~_____~~ (1) Audiologist, \$200;

~~_____~~ (2) Provisional audiologist, \$100.

~~_____~~ A 30-day grace period is allowed after July first during which the renewal fee may be paid. An applicant seeking to renew a license after the 30-day grace period ending August 1 of the renewal year must pay a late fee. The late fee is an additional \$50.

Source: 24 SDR 33, effective September 22, 1997.

General Authority: SDCL 36-24-28.1, ~~36-24-46~~.

Law Implemented: SDCL 36-24-28.1.

20:72:03:05. Incomplete application. An application for initial licensure deemed incomplete by the board must be completed by the applicant within one year from the date received by the board, or the board must consider the application withdrawn.

Source:

General Authority: SDCL 36-24-47(7).

Law Implemented: SDCL 36-24-47(7).

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CHAPTER 20:72:04

GENERAL PROVISIONS

Section

20:72:04:01 Definitions.

20:72:04:01. Definitions. Terms used in this article mean the same as SDCL chapter 36-24.

Source:

General Authority: 36-24-1

Law Implemented: 36-24-1

SPEAKER JON HANSEN, CHAIR | PRESIDENT PRO TEMPORE CHRIS KARR, VICE CHAIR
JOHN MCCULLOUGH, DIRECTOR | JUSTIN GOETZ, CODE COUNSEL

500 EAST CAPITOL AVENUE, PIERRE, SD 57501 | 605-773-3251 | SDLEGISLATURE.GOV



April 1, 2025

Ms. Brooke Tellinghuisen Geddes
Board of Licensed Hearing Aid Dispensers and Audiologists
810 N Main Street, Suite 298
Spearfish, SD 57783

Dear Ms. Tellinghuisen Geddes:

The Legislative Research Council (LRC) received proposed rules from the Board of Licensed Hearing Aid Dispensers and Audiologists on January 21, 2025. In accordance with SDCL 1-26-6.5, the LRC reviewed the proposed rules for form, style, clarity, and legality, and now returns them with recommendations.

Please find enclosed:

- Proposed Rules Review Checklists;
- The proposed rules with recommended form, style, clarity, and minor legality edits;
- Directions for Submitting the Final Draft of the Rules; and
- The Interim Rules Review Committee Rules Presentation Format.

In addition to the recommendations provided in the enclosed packet, LRC identifies a substantial legality concern regarding the current and proposed language in the license renewal rules--ARSD 20:46:04:05 and 20:72:03:04. Both contain a description of a "renewal" that appears to conflict with the plain language of SDCL 36-24-28.1. The way a renewal is described in these rules appears to blur the distinction between renewals and reinstatements established in statute. We have provided some suggestions on how to address this issue.

Regarding the Form 5 - Fiscal Note, the Board indicates that there is no fiscal impact associated with the proposed rules. However, the provisional audiologist license was eliminated in statute in 2024 (at SDCL 36-24-24.3), now to be reflected in rule. The effect of that change, if any, should be provided in a revised Fiscal Note, submitted to LRC, which describes the fiscal impact of the elimination of the provisional license, or if there is no impact, an explanation for that lack of impact.

Under SDCL 1-26-4(4), the Board is required to adopt LRC recommendations, subject to an appeal to the Interim Rules Review Committee for the Committee's final determination. Note, however, that LRC reserves the right to withdraw recommendations if they are resolved via discussion with Board staff.

Please do not hesitate to contact me if you have any questions or to discuss and possibly resolve any of the recommendations.

Sincerely,

A handwritten signature in blue ink, which appears to read "Justin J. Goetz". The signature is fluid and cursive.

Justin J. Goetz
Code Counsel
Enclosures

CC: Melissa Magstadt, Secretary, Department of Health

**Legislative Research Council
Proposed Rules Research Review Checklist**

Date Proposed Rules Received by LRC:	January 21, 2025
Date Public Hearing Scheduled:	July 14, 2025
Proposed Rules Reviewed by:	Anna Madsen
Fiscal Note Reviewed by:	Bill Douglas

"No agency rule may be enforced by the courts of this state until it has been adopted in conformance with the procedures set forth in this chapter." (SDCL 1-26-6.8)

Staff:

Please review the proposed rules and supporting documents and submit them with this completed checklist to the Code Counsel within ten business days from the date the proposed rules are received by the LRC.

KEY			
ENTRY:	"[Initials]"	"N/A"	"[Initials]*)"
MEANING:	Reviewed by	Not applicable	Edit Recommended or Issue
1. Verify the rules packet includes (SDCL 1-26-4(2)):			AM
a. The proposed rules:			N/A
i. Any incorporated material:			AM
b. Notice of hearing (Form 6):			
2. Verify all documents have correct citations to the proposed rules provided in the packet.			AM
3. Verify the appropriate departmental secretary, bureau commissioner, public utilities commissioner, or constitutional officer approved the rules process to proceed. (SDCL 1-26-4(1))			AM
4. If the Department of Social Services is promulgating rules that are mandated by federal statute or regulation, use the DSS Federal Regulations Checklist.			
5. Review proposed rules for:			
a. Form, style, and clarity in accordance with the Administrative Rules Drafting Manual (including all existing language, not just amended language).			AM*
i. Verify the most recent rule is used. (Manual , pg. 5)			AM
ii. Verify all cross-references in text are current. (Manual , pg. 6)			AM
iii. Verify all affected sections are included. For repealed sections, verify all affected sections are amended. (Manual , pg. 6)			AM
iv. Verify any renumbering of rules is consistent with Administrative Rules Drafting Manual. (Manual , pg. 7)			AM

b. Legality, including:

- | | |
|---|-----|
| i. Verify the General Authority statute provides rule-making authority (i.e., ". . . shall/may promulgate rules to . . ."). (Manual , pg. 8) | AM* |
| ii. Verify the Law Implemented statute identifies the policy intended to be implemented. (Manual , pg. 8) | AM* |
| iii. If the proposed rule incorporates material by reference, verify the rule describes the exact section or portion of the material. (SDCL 1-26-6.6 ; Manual , pg. 11) | N/A |
| For incorporated material that is not CFR, USC, Fed. Reg., Stat.: | |
| 1. Verify the proposed rule includes a reference note identifying the publication by title, date of publication, author, version/edition and where and at what cost the publication may be obtained. | N/A |
| 2. Verify there is a statement attached to the material that includes the agency's name, the section number of the rule that incorporates the material, and the date the proposed rule was served on the LRC. | N/A |
| iv. Verify the proposed rule does not incorporate or reiterate any statutory language other than definitions, and that the agency is not publishing or distributing statutory material. (SDCL 1-26-6.1) | AM |
| v. Verify the proposed rule does not restrict any right or privilege to carry or possess a concealed pistol under SDCL chapter 23-7. (SDCL 1-26-6.10) | AM |
| vi. Verify the agency does not delegate authority to a private association. (S.D. Const. art. III, §§ 23 (9), 26) | AM |
| vii. Verify the rule does not allow the agency to circumvent the SDCL ch. 1-26 rulemaking process (e.g., authorizing it to make its own rules). (See SDCL 1-26-4 , 1-26-6.5 , 1-26-6.6 , 1-26-38 (2)) | AM |
| viii. Verify the rule does not contain the agency's internal processes or policy (e.g., personnel policies) or other matter that is not defined as a rule per SDCL 1-26-1 (8). | AM |
| ix. Verify the rule does not incorporate a future rule or regulation, or incorporate future amendments to an existing rule or regulation, of another state or the federal government. (State v. Johnson , 84 S.D. 556, 173 N.W.2d 894 (1970)) | AM |
| x. Verify only the rules being changed are included in the packet and that chapter indexes are updated as needed. (Manual , pg. 8) | AM |

6. Review Notice of Public Hearing ([SDCL 1-26-4.1](#)):

- | | |
|---|----|
| a. Verify the LRC received the proposed rules at least 20 days prior to the scheduled public hearing. | AM |
|---|----|

- | | |
|---|-----|
| b. Verify the notice contains a narrative description of the effect of the proposed rule. | AM |
| c. Verify the notice contains the reason for adopting the proposed rule. | AM |
| d. Verify the notice contains the location, date, and time (Central or Mountain) of the hearing. | AM |
| e. Verify the notice contains information about how amendments, data, opinions, and arguments may be presented. | AM |
| f. Verify the notice contains a deadline for submission of comments. | AM |
| i. If the authority promulgating the rule is a secretary, commissioner, or officer, ensure the deadline is ten days after the public hearing. (SDCL 1-26-4(6)) | N/A |
| ii. If the authority promulgating the rule is a part-time citizen board, Commission, committee, or task force, ensure the deadline is at least 72 hours before the public hearing (not including hearing day). (SDCL 1-26-4(6)). | AM |
| g. Verify the notice contains information for how the public may obtain copies of the proposed rules. | AM |
| 7. For any proposed rule regarding professional or regulatory examination or licensing that is to be published in pamphlet form, review the pamphlet for style, form, and clarity in accordance with the Administrative Rules Drafting Manual. (SDCL 1-26-11) | N/A |

Reviewed by Code Counsel on March 28, 2025

**Legislative Research Council
Proposed Rules Fiscal Note Review Checklist**

Date Proposed Rules Received by LRC:	July 14, 2025
Date Public Hearing Scheduled:	Anna Madsen
Proposed Rules Reviewed by:	Bill Douglas
Fiscal Note Reviewed by:	AM

"No agency rule may be enforced by the courts of this state until it has been adopted in conformance with the procedures set forth in this chapter." (SDCL 1-26-6.8)

Staff:

Please review the proposed rules and supporting documents and submit them with this completed checklist to the Code Counsel within ten business days from the date the proposed rules are received by the LRC.

KEY

ENTRY:	"[Initials]"	"N/A"	"[Initials]**"
MEANING:	Reviewed by	Not applicable	Edit Recommended or Issue

1. Verify the rules packet includes ([SDCL 1-26-4\(2\)](#)):

a. Fiscal note (Form 5):	AM
b. Small business impact statement (Form 14):	N/A
c. Housing Cost Impact Statement (Form 16), if applicable:	AM

2. Review proposed rules for:
 - i. If the rule increases a fee, verify the agency provided information regarding financial resources available to the agency: beginning fund balance, receipts, disbursements, and ending fund balance for each of the last two fiscal years, as well as beginning fund balance, projected receipts, projected disbursements, and ending balance for current and next fiscal years. ([SDCL 1-26-4.8](#))

	AM
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 - ii. If the rule increases a fee by a licensing board or commission, verify the fee increase is "reasonable and necessary" in accordance with [SDCL 1-26-6.9](#).

	AM*
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3. Review the Fiscal Note ([SDCL 1-26-4.2](#)):
 - a. Verify the Fiscal Note states whether the proposed rule will have any effect on the revenues, expenditures, or fiscal liability of the state, agencies, and subdivisions:

	AM
--	----

 - i. If there is an effect, verify the Fiscal Note includes an explanation of how the effect was computed?

	JG*
--	-----

 - ii. If there is an effect on subdivisions, is that effect described?

	N/A
--	-----

4. Review Small Business Impact Statement ([SDCL 1-26-2.1](#)):

- | | |
|---|-----|
| a. Verify if the rule change has any small business impact based on readily available info: | AM |
| i. If only INDIRECT, verify that a brief description of the impact is included. | AM |
| ii. If DIRECT, review 4.b through 4.h: | |
| b. Verify the Impact Statement includes a narrative explanation in plain, easy-to-read language. | AM |
| c. Verify the narrative explanation discusses the effect of the proposed rule on small business, including the basis for the rule's enactment and why the rule is needed. | AM* |
| d. Verify the narrative explanation includes an identification and estimated number of small businesses subject to the proposed rule. | N/A |
| e. Verify the Impact Statement includes the projected reporting and record-keeping required for compliance with the proposed rule. | N/A |
| f. Verify the Impact Statement includes the types of professional skills necessary for preparation of required reports or records. | AM |
| g. Verify the Impact Statement includes a statement of the probable effect on impacted small business. | AM |
| h. Verify the Impact Statement includes a description of any less intrusive or less costly alternative methods of achieving the proposed rule's purpose. | N/A |

5. Review Housing Cost Impact Statement ([SDCL 1-26-2.3](#)), if applicable:

- | | |
|--|----|
| a. Verify that the agency has indicated what building sectors will be impacted by the rule change. | AM |
| b. Verify a description of and explanation of necessity for each standard and requirement is included. | AM |
| c. Verify the statement includes the average estimated cost of each standard and requirement. | AM |
| d. Verify that contact and estimate information is included for three licensed contractors or building trades professionals. | AM |

Reviewed by Code Counsel on March 28, 2025

ARTICLE 20:46

LICENSED HEARING AID DISPENSERS

Commented [JG1]: Form - Be sure to combine both packets into one if both are being presented as one package before the Interim Rules Review Committee (i.e., one Form 5, 6, 14, etc., for both packets). Have the audiologist content follow the dispenser content in that single packet, given the descending numerical order.

Chapter

- 20:46:01 General provisions.
- 20:46:02 Continuing education.
- 20:46:03 Provisional licensure.
- 20:46:04 Application for licensure.

CHAPTER 20:46:01

GENERAL PROVISIONS

Section

- 20:46:01:01 and 20:46:01:02 Repealed.
- 20:46:01:03 Record keeping, Repealed.
- 20:46:01:04 ~~Physicians~~ Physician consultation required.

20:46:01:03. Record keeping. ~~A permanent record of tests shall be kept on file in the dispenser's office~~ Repealed.

Source: SL 1975, ch 16, § 1; 2 SDR 58, effective March 8, 1976; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

— ~~General Authority: SDCL 36-24-12(8).~~

— ~~Law Implemented: SDCL 36-24-12(12) and (13).~~

20:46:01:04. ~~Physician's~~ Physician consultation required. All hearing aid dispenser licensees in the state shall A licensee must advise the customer or prospective customer, in writing, that the customer's best interests would be served by consulting a physician prior to the licensee's determination for fitting a hearing aid if the ~~dispenser licensee~~ finds any of the following conditions to exist during an examination or consultation:

Commented [AM2]: Clarity - The text only requires that the licensee "advise" that consultation is in the customer's best interest—not that consultation is actually required. The catchline should be updated accordingly.

Commented [AM3]: Clarity - "Licensee" is not defined for the article or chapter. "Licensed hearing aid dispenser" is defined in chapter 36-4; however, there is not a rule that specifies that terms used in chapter 36-4 mean the same as in this chapter. Is "licensee" used to mean both a regular and provisional licensee?

- (1) Visible congenital or traumatic deformity of the ear;
- (2) ~~History of active~~ Active discharge from the ear within the previous ~~90~~ ninety days or history of intermittent discharge;
- (3) ~~History of recent sudden~~ Sudden or rapidly progressive hearing loss within the previous ~~90~~ ninety days;

Commented [JG4]: Clarity - If active discharge occurred within the previous ninety days, isn't it redundant to describe that as "history of"? Cannot that phrase be removed here? That appears to be the reason why it was struck in subdivision (3).

- (4) Acute or chronic dizziness;
- (5) An air/bone gap of ~~15 fifteen to 20 twenty fifteen-to-twenty~~ decibels, or more, in the audiogram; or
- (6) ~~The customer is 16 years of age or younger; or~~
- ~~—(7) Visible evidence of excessive buildup of cerumen accumulation, or a foreign body, in the ear canal.~~

Commented [AM5]: Style/form - We typically don't use slashes in the text of a rule. Could this be replaced with "air bone gap"?

Commented [JG6]: Style - "fifteen-to-twenty" is a compound modifier of "decibels" and should be hyphenated accordingly. ARSD DM, pg. 17.

Commented [JG7]: Clarity - Presume this is not intended to read as "an excessive buildup of . . . a foreign body." To underscore this interpretation, now that the verb is being moved ahead of both objects, commas might assist.

Source: SL 1975, ch 16, § 1; 2 SDR 58, effective March 8, 1976; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-24-12(8) 36-24-47(3).

Commented [AM8]: Legality - It is not necessary to cite the subdivision for General Authority as it is with Law Implemented. ARSD Drafting Manual, pg. 9.

Law Implemented: SDCL 36-24-12(12) and (13) ~~36-24-47(3)~~.

Commented [JG9]: Legality - SDCL 36-24-47 provides a list of subject areas in which rules may be promulgated (i.e., General Authority). It does not provide intelligible standard for rules promulgated in those subject areas (i.e., Law Implemented).

CHAPTER 20:46:02
CONTINUING EDUCATION

Section

- 20:46:02:01 Applicability, Repealed.
- 20:46:02:02 Required continuing education.
- 20:46:02:03 Waiver of continuing education requirement.
- 20:46:02:04 Repealed.

20:46:02:01. Applicability. ~~The continuing education requirements apply to all hearing aid dispensers holding a license issued by the board~~ Repealed.

Commented [AM10]: Style/form - just need to strike ext space here.

Source: 2 SDR 58, effective March 8, 1976; 12 SDR 151, 12 SDR 155, effective July 1, 1986;
24 SDR 33, effective September 22, 1997.

— **General Authority:** SDCL 36-24-46.

— **Law Implemented:** SDCL 36-24-12.1(15).

20:46:02:02. Required continuing education. Hearing aid dispensing licensees in this state shall attend A licensee, other than a licensee initially licensed after the first day of the annual licensure period, must complete a minimum of at least 12 twelve hours of continuing education by July first each calendar year and submit evidence of such attendance completion to the board Board of Licensed Hearing Aid Dispensers and Audiologists as a prerequisite to the approval of the annual renewal of their license. The evidence of completion must accompany the licensee's application for renewal.

Source: 2 SDR 58, effective March 8, 1976; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 33, effective September 22, 1997.

General Authority: SDCL 36-24-46 36-24-47(2).

Law Implemented: SDCL 36-24-12.1(15)(4), 36-24-28.1.

Commented [AM11]: Clarity - Could this entire paragraph be simplified to: "To renew a license, a licensee shall complete a minimum of...on or before July first and submit evidence of completion with the renewal application required by SDCL 36-24-28.1. This section does not apply a licensee who is renewing for the first time."

Commented [JG12R11]: Clarity - Could possibly get away with eliminating "renewal" before "application" in the suggested language above, but it is excellent.

Commented [AM13]: Clarity - This is more of an aside, but is there any standard for continuing education? Chapter 36-24 allows the board to establish continuing education requirements, but there doesn't seem to be any additional information on what that education looks like? Just 12 hours of something? Should there be additional language here to specify that the CE must be related to the profession of hearing aid dispensing or increasing the knowledge of the professional, etc.?

Commented [JG14R13]: Clarity - You pose an interesting question! I think the statute does not specify the degree of detail required for suitable continuing education, just that there are requirements in rule. The content to the left satisfies this. What that continuing education looks like could then be further specified in Board policy outside of rule. However, the Board would need to be wary of the sufficiency of that policy and the application of that policy, to prevent assertions of arbitrary and capricious board action, such as with regard to nonrenewals for failure to meet continuing education requirements. Some boards specify that a national accrediting body must approve the course. Still others have an approval process in rule for continuing education courses. That is not necessarily something a board is required to do, but likely is a way to push back against claims of arbitrary decisionmaking.

Commented [AM15]: Clarity - Does this include July first, or is June thirty-first technically the last day? We try to use "on or before" to avoid any confusion.

Commented [AM16]: Clarity - Since there is no general definitions section for this article or chapter, or the standard "terms used in this chapter mean the same..." the full term of the board should be used here and throughout the rest of the rules when mentioned for the first time. It may be worth looking into adding a new rule section for both ARSD 20:46 and 20:72 with the standard "Terms used in this article mean the same as SDCL chapter 36-24."

Commented [AM17]: Style - Plural/singular issue here. Should be singular.

Commented [JG18]: Legality - An aside for future legislative revision as the Board sees fit:

That SDCL 36-24-47(2) exists when subdivision (7) of the same section provides the same—and more—content, make it the former appear to be unnecessary. Didn't catch that last year when this statute was enacted. If this does get changed it would make more sense to revise subdivision 2 to capture the content in subdivision 7 and then strike subdivision 7, so that it does not mess with the subdivision numbering that might be cited in other rules. This is one of the reasons why one may not want to specify a subdivision in General Authority, so as to prevent having to revise more notes than necessary in the ARSD.

20:46:02:03. Waiver of continuing education requirement. The Board of Licensed Hearing Aid Dispensers and Audiologists may waive the continuing education requirement of § 20:46:02:02 ~~may be waived by the board~~ only upon receipt of evidence submitted by the licensee verifying the licensee's inability to acquire any continuing education because of illness of the licensee or a member of the licensee's immediate family, substantiated by the attending physician, or because of any other circumstances beyond the licensee's normal control, substantiated by evidence satisfactory to the board an application for a waiver from a licensee on or before June first.

Commented [AM19]: Clarity - Active voice is preferable ARSD DM, pg. 14.

A The board may grant the waiver ~~may be granted by the board for:~~

(1) If the licensee has an illness certified by the licensee's attending physician, physician assistant, or nurse practitioner; or

(2) For undue hardship upon good cause shown to the satisfaction of the board. ~~The waiver must be submitted to the board by June first each year.~~

Commented [AM20]: Clarity - Suggestion to add this here so then you don't need the extra sentence at the end.

Commented [AM21]: Clarity - Subdivisions recommended here to make this a bit easier to read.

Commented [AM22]: Clarity - Would a bit more specificity help here? E.g., "an illness that prevented the licensee from completing the continuing education requirement..." Otherwise, the language is not explicit, as it only specifies that the licensee has an illness, but not necessarily that the illness prevented them from completing the requirement.

Source: 2 SDR 58, effective March 8, 1976; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 33, effective September 22, 1997.

General Authority: SDCL 36-24-46 36-24-47(2).

Law Implemented: 36-24-12.1(15)(4), 36-24-28.1.

Commented [JG23R22]: Clarity - It appears the current language envisions family illness as being a permissible grounds for waiver, and the Board's proposed language leaves that ambiguous--"for an illness." The language proposed by LRC to the left is meant to provide some clarity on the type of illness. Perhaps there should be greater clarity as to "...an illness of the licensee or the licensee's immediate family..."?

Commented [JG24]: Clarity - Undue hardship to whom? Could it be to anyone other than the licensee? Why not specify?

CHAPTER 20:46:03

PROVISIONAL LICENSURE

Section

20:46:03:01 — Supervision of provisional hearing aid licensee.

Commented [AM25]: Form - If not making changes to the table of contents, do not include.

20:46:03:01. Supervision of provisional hearing aid licensee. A provisional hearing aid dispensing licensee shall ~~receive 40~~ forty hours of direct, face-to-face supervision, ~~as referred to in the manner described~~ in SDCL 36-24-24.2, during the first week of provisional hearing aid dispensing licensure. For a provisional licensee working part-time, the required hours may be divided over the first two weeks of provisional licensure. The provisional licensee shall receive ~~8~~ eight hours of direct, face-to-face supervision each week thereafter for the duration of provisional licensure. The supervisor shall verify supervision on a form provided by the board. A supervisor may provide supervision to no more than three provisional licensees at one time.

Commented [AM26]: Clarity - "at least"?

Commented [JG27R26]: Clarity - We recommend "at least" when it appears impractical for a precise amount to be set, when more than the precise amount doesn't appear to hurt (i.e., when the policy objective is to establish a minimum). Here, however, there may be reasons why it needs to be precisely 40 hours—the traditional work week. Not, please revise as recommended above.

Commented [AM28]: Clarity - There is nothing that refers to face-to-face supervision in that section. Just that the provisional licensee may only provide services under supervision.

Commented [JG29R28]: Clarity - Recommend revising as provided to the left, since SDCL 36-24-24.2 does describe a key requirement of this supervision—that it can only be provided by a licensee.

Commented [AM30]: Clarity - Does this literally mean the first week after licensure? Someone could not get a provisional license on July 1, and start providing supervised services on July 15, since this says they must receive supervision "during the first week...of licensure"? In practice, I would assume this is when the provisional licensee actually starts employment/begins providing services.

Commented [JG31R30]: Clarity - Perhaps this should read "during the first week of providing services under a provisional hearing aid..."

Commented [AM32]: Clarity - Same here.

Commented [AM33]: Clarity - "at least"?

Commented [JG34R33]: Clarity - And what of the part-time licensee?

Source: 18 SDR 142, effective March 11, 1992; 24 SDR 33, effective September 22, 1997.

General Authority: SDCL ~~36-24-46~~ 36-24-47.

Law Implemented: SDCL 36-24-24.2.

CHAPTER 20:46:04

APPLICATION FOR LICENSURE

Section

- 20:46:04:01 Information required, Repealed.
- 20:46:04:02 Remittance of fees, Repealed.
- 20:46:04:03 Fee for applications.
- 20:46:04:04 Fee for licensure by endorsement without examination, Repealed.
- 20:46:04:05 Annual license renewal -- Renewal fees -- Thirty-day grace period for renewal --
Late fee.
- 20:46:04:06 Incomplete application.

Commented [JG35]: Style - Be sure to add the period at the end of any catchline. ARSD DM, pg. 28.

~~20:46:04:01. Information required. Evidence of qualification for licensure must be based on information given on the application form; the examination, if required; fees as required in this chapter; and on any additional information the board considers necessary for clarification of submitted material.~~

~~— All persons seeking hearing aid dispensing licensure must include with the application the following information:~~

- ~~— (1) Type of annual license;~~
- ~~— (2) Name, address, phone number, and date of birth of the applicant;~~
- ~~— (3) Name of employer, address, and phone number;~~
- ~~— (4) Name of supervisor; and~~
- ~~— (5) Employment record for the previous five years Repealed.~~

Source: 24 SDR 33, effective September 22, 1997.

~~— General Authority: SDCL 36-24-46.~~

~~— Law Implemented: SDCL 36-24-17.1.~~

20:46:04:02. Remittance of fees. ~~Application fees for an annual license must be remitted to the board in the form of a cashier's check, personal check, certified check, or money order made payable to the South Dakota Board of Hearing Aid Dispensers and Audiologists. The board may take no action on any application for license until the fee is received.~~ Repealed.

Source: 24 SDR 33, effective September 22, 1997.

— ~~General Authority:~~ SDCL 36-24-46.

— ~~Law Implemented:~~ SDCL 36-24-17.1.

DRAFT

20:46:04:03. ~~Fee for applications. The fee application fees for application for initial license~~

Commented [AM36]: Style - Technically, this should be "fees" since we are talking about plural "applications."

Commented [AM37]: Clarity - Suggesting some tweaks here since there are actually two fees noted below.

is licensure are as follows:

- (1) Hearing aid dispenser license, \$200 two hundred dollars; and
- (2) Provisional hearing aid dispenser license, \$100 one hundred dollars.

All fees paid to the ~~board~~ Board of Licensed Hearing Aid Dispensers and Audiologists are non-refundable.

Source: 24 SDR 33, effective September 22, 1997.

General Authority: SDCL ~~36-24-46~~ 36-24-17.2(2).

Law Implemented: SDCL ~~36-24-17.1~~ 36-24-17.2(2), 36-24-24.2(3), ~~36-24-25.1(2)~~.

Commented [JG38]: Legality - If this is going to be cited as Law Implemented, it should also be cited as General Authority ("set by the board by rule promulgated pursuant to chapter 1-26").

20:46:04:04. Fee for licensure by endorsement without examination. ~~The fee for application for a hearing aid dispensing license by endorsement without examination is \$200~~
Repealed.

Source: 24 SDR 33, effective September 22, 1997.

— ~~General Authority: SDCL 36-24-46.~~

— ~~Law Implemented: SDCL 36-24-25.1.~~

DRAFT

20:46:04:05. Annual license renewal -- Renewal fees -- Thirty-day grace period for renewal -- Late fee. Each person who holds a hearing aid dispensing license shall renew. The annual renewal fee for a ~~licensed~~ hearing aid dispenser ~~license~~ is two hundred dollars if paid by July ~~first~~ ~~of each year~~ by the payment to the board of a fee of \$200. A 30-day grace period is allowed after July first during which the renewal fee may be paid. An applicant seeking to renew a license after the 30-day grace period ending ~~Applications~~ A renewal application received after August 1 ~~first of~~ the renewal year must pay a late fee. The ~~are is~~ subject to an additional fifty dollar late fee ~~is an~~ additional \$50. All fees received by the ~~board~~ Board of Licensed Hearing Aid Dispensers and Audiologists are non-refundable.

Source: 24 SDR 33, effective September 22, 1997.

General Authority: SDCL 36-24-28.1, 36-24-46.

Law Implemented: SDCL 36-24-28.1.

Commented [JG39]: Clarity - As this is described as an "annual renewal" earlier, it is unnecessary to use the phrase "of each year" here.

Commented [AM40]: Style - Singular is preferable, and also used above. ARSD DM, 15.

Commented [AM41]: Legality - This appears to allow (and the old version as well) a renewal to happen after August 1 with a late fee imposed. This seems to conflict with SDCL 36-24-28.1 and SDCL 36-24-29.1. SDCL 36-24-28.1 only appears to allow a grace period "of thirty days beyond the expiration of the license..." So, a late renewal could not occur after August 1. This is underscored by 36-24-29.1, which provides for a separate reinstatement process for a person who fails to renew the license "by the end of the thirty day grace period..." This rule should be updated accordingly. E.g., "A renewal application received on or after July first and on or before July thirty-first, and an application for reinstatement in accordance with SDCL 36-24-29.1, is subject to an additional fifty-dollar late fee."

If you wanted to make this more concise and avoid the issue above altogether, you could simply add the fees to the subdivision list in 20:46:04:03 as well so all the fees are together, and then slim down this section to just specify the renewal date. E.g., "The board shall impose the following application and licensure fees:

- 1)Hearing aid dispenser license, two hundred dollars;
- 2)Provisional license...
- 3)License renewal...
- 4)Late fee for renewal application received within thirty day grace period...
- 5)Late fee for reinstatement..."

Commented [JG42R41]: Clarity - You may be able to specify, and thereby consolidate, in subdivision (1) as proposed for 20:46:04:03: (1) Hearing aid dispenser license initial or renewal, two hundred dollars;".

In addition to Anna's points, note a separate reinstatement after suspension/revocation in SDCL 36-24-29.2. Based on the many other licensing boards with a similar reinstatement process I have reviewed, the fee for reinstatement is generally greater for those licensing entities than their fee for mere late renewal, as there is more cost associated with verifying the bona fides of someone who may have not practiced in almost two years.

I would strongly recommend consolidating in 20:46:04:03 this fee content as Anna recommends (and to modify the catchline accordingly). The only content that would then remain that does not conflict with statute would appear to be the deadline for annual license renewal. Making this change would necessitate a change to the catchline for 20:46:04:05 ARSD 20:46:04:03 could then read (with proper ordinals...) cannot get autocorrect to use our preferred):

Commented [AM43]: Style - We do not typically hyphenate this word.

Commented [AM44]: Legality - If you revise the text above, SDCL 36-24-29.1 should also be added for GA and LI to account for the reinstatement late fee.

Commented [JG45R44]: Legality - Would also want to add 36-24-29.2 to account for reinstatement associated with a suspended or revoked license.

20:46:04:06. Incomplete application. An application for initial licensure deemed incomplete by the ~~board~~ **Board of Licensed Hearing Aid Dispensers and Audiologists** must be completed within one year from the date received by the board, or the board must consider the application withdrawn.

Commented [AM46]: Clarity - "by the applicant"?

Source:

General Authority: SDCL 36-24-47(7).

Law Implemented: SDCL 36-24-47(7).

DRAFT

ARTICLE 20:72

AUDIOLOGISTS

Chapter

- 20:72:01 Continuing education.
- 20:72:02 Provisional licensure, Repealed.
- 20:72:03 Application for licensure.

CHAPTER 20:72:01

CONTINUING EDUCATION

Section

- 20:72:01:01 Applicability, Repealed.
- 20:72:01:02 Required continuing education.
- 20:72:01:03 Waiver of attendance requirement.

20:72:01:01. Applicability! ~~The continuing education requirements apply to all audiologists holding a license issued by the board~~ Repealed.

Commented [AM1]: Style/form - Just need to strike space here.

Source: 24 SDR 33, effective September 22, 1997.

— ~~General Authority:~~ SDCL 36-24-46.

— ~~Law Implemented:~~ SDCL 36-24-12.1(15).

20:72:01:02. Required continuing education. ~~Audiologist licensees in this state shall attend~~

~~A licensee, other than a licensee initially licensed after the first day of the annual licensure period,~~
~~must complete a minimum of at least 12 twelve hours of continuing education by July first of each~~
~~calendar year and submit evidence of such attendance completion to the~~ **Board of Licensed**
Hearing Aid Dispensers and Audiologists ~~as a prerequisite to the approval of the annual renewal of~~
~~their license. The evidence of completion must accompany the licensee's application for renewal.~~

Source: 24 SDR 33, effective September 22, 1997.

General Authority: SDCL 36-24-46 36-24-47(2).

Law Implemented: SDCL 36-24-12.1(15)(4), 36-24-28.1.

Commented [AM2]: Clarity - Similar to the comments on the hearing aid dispenser rules, could this be simplified to: "To renew a license, an audiologist shall complete a minimum of twelve hours of continuing education on or before July first and submit evidence of completion with the renewal application required by SDCL 36-24-28.1. This section does not apply to an audiologist who is renewing for the first time."

Commented [JG3R2]: Clarity - Could possibly get away with eliminating "renewal" before "application" in the suggested language above, but it is excellent.

I agree with the use of "audiologist" here and throughout instead of "licensee," since "licensee" is not defined for purposes of this article. With just licensee, it is unclear which type of license of the two offered by the board is being referenced in the rule text. Admittedly, the indexing for the article (headings, catchlines) clearly indicates that it should be for audiologists, but it is the rule text that is legal binding, not the indexing.

Commented [AM4]: Clarity - Again, similar to the HAD rules, should there be more description on what the continuing education looks like? Even something broadly related to the practice of audiology?

Commented [JG5R4]: Clarity - See my longer note under this comment in the dispenser packet for additional context

Commented [AM6]: Clarity - Same comment—does this include July 1? "on or before" is preferable to avoid any confusion.

Commented [AM7]: Clarity - Since "board" is not defined anywhere in the article or chapter, we must use the full term in the first reference of each rule.

Commented [AM8]: Style - Plural/singular issue here.

20:72:01:03. Waiver of attendance requirement. The Board of Licensed Hearing Aid Dispensers and Audiologists may waive the continuing education requirement of § 20:72:01:02 may be waived by the board only upon receipt of evidence submitted by the licensee verifying the licensee's inability to acquire any continuing education because of illness of the licensee or that of a member of the licensee's immediate family, substantiated by the attending physician, or because of any other circumstances beyond the licensee's normal control, substantiated by evidence satisfactory to the board an application for a waiver from an audiologist on or before June first. A The board may grant the waiver may be granted by the board for:

Commented [AM9]: Clarity - Suggest "Waiver of continuing education requirement." Similar to the HAD rules. If updated, the table of contents will also need revision.

Commented [AM10]: Clarity - Active voice is preferable ARSD DM, pg. 14.

- (1) If the audiologist has an illness certified by the audiologist's attending physician, physician assistant, or nurse practitioner; or
- (2) For undue hardship upon good cause shown to the satisfaction of the board. The waiver must be submitted to the board by June first each year.

Commented [AM11]: Clarity - Similar to the HAD rules should this have additional specification that the illness prevented the audiologist from completing the requirement? Recommend it be made more explicit.

Commented [JG12R11]: Clarity - Same comments as with HAD rules for me too, re: "undue hardship."

Source: 24 SDR 33, effective September 22, 1997.

General Authority: SDCL 36-24-46 36-24-47(2).

Law Implemented: SDCL 36-24-12.1(15)(4), 36-24-28.1.

CHAPTER 20:72:02
PROVISIONAL LICENSURE

(Repealed)

Section

20:72:02:01 Requirements for provisional license, Repealed.

~~20:72:02:01. Requirements for provisional license. The provisional license allows the applicant for an audiology license to complete the requirements of SDCL 36-24-17.3. A provisional license expires annually on July first and may be renewed twice by completing the form supplied by the board, paying the required fees, and completing the continuing education requirement in § 20:72:01:02 Repealed.~~

Source: 24 SDR 33, effective September 22, 1997.

~~General Authority: SDCL 36-24-24.3, 36-24-28.1.~~

~~Law Implemented: SDCL 36-24-24.3, 36-24-28.1.~~

CHAPTER 20:72:03
APPLICATION FOR LICENSURE

Section

- 20:72:03:01 Information required, Repealed.
- 20:72:03:02 Remittance of fees, Repealed.
- 20:72:03:03 Fee schedule for applications.
- 20:72:03:04 Annual license renewal -- Renewal fees -- Thirty-day grace period for renewal --
Late fee.
- 20:72:03:05 Incomplete application.

20:72:03:01. Information required. ~~The board shall determine qualification for licensure from information given on the application form; examination, if required; fees as required by § 20:72:03:04; and any additional information the board considers necessary for clarification of submitted material.~~

~~Persons seeking audiology licensure must include with the application the following information:~~

- ~~(1) Type of annual license;~~
- ~~(2) Name, address, phone number, and date of birth of applicant;~~
- ~~(3) Name of employer, address, and phone number;~~
- ~~(4) Name of supervisor;~~
- ~~(5) Name and location of regionally accredited college or universities attended where master's degree or doctorate in audiology was issued;~~
- ~~(6) Proof of passing the national examination in audiology;~~
- ~~(7) Verification of completion of a supervised graduate professional experience in audiology supervised by a licensed or certified audiologist; and~~
- ~~(8) Employment record for the previous five years Repealed.~~

Source: 24 SDR 33, effective September 22, 1997.

~~General Authority: SDCL 36-24-46.~~

~~Law Implemented: SDCL 36-24-17.1, 36-24-17.3.~~

20:72:03:02. Remittance of fees. ~~Application fees for an annual license must be remitted to the board in the form of a cashier's check, personal check, certified check, or money order made payable to the South Dakota Board of Hearing Aid Dispensers and Audiologists. The board may take no action on any application for license until the fee is received.~~ Repealed.

Source: 24 SDR 33, effective September 22, 1997.

— ~~General Authority: SDCL 36-24-46.~~

— ~~Law Implemented: SDCL 36-24-17.1.~~

DRAFT

20:72:03:03. **Fee schedule for applications.** The **application** fee ~~for application~~ for an annual

Commented [AM13]: Clarity - Since this is really only one fee now, could this be updated?

initial **audiologist** license is as follows:

Commented [JG14]: Clarity - Without this addition, it is not express in the text what this application fee is for. This is akin to the above concern on the two different types of licenses issued by the Board.

— (1) Audiologist, \$200;

— (2) Provisional audiologist, \$100 two hundred dollars. All fees paid to the ~~board~~ **Board of**

Licensed Hearing Aid Dispensers and Audiologists are non-refundable.

Source: 24 SDR 33, effective September 22, 1997.

General Authority: SDCL ~~36-24-46~~ 36-24-17.3(2).

Law Implemented: SDCL ~~36-24-17.1~~ 36-24-17.3(2), 36-24-25.1(2).

Commented [JG15]: Legality - If this is going to be cited as Law Implemented, it should also be cited as General Authority ("set by the board by rule promulgated pursuant to chapter 1-26").

20:72:03:04. Annual license renewal -- Renewal fees -- Thirty-day grace period for

renewal -- Late fee. ~~Each person who holds a license shall renew. The annual renewal fee is two hundred dollars if paid by July first~~ ~~of each year~~ by the payment to the board of a fee as follows:

— (1) Audiologist, \$200;

— (2) Provisional audiologist, \$100.

— A 30-day grace period is allowed after July first during which the renewal fee may be paid.

An applicant seeking to renew a license after the 30-day grace period ending ~~Applications~~ A renewal application received after August 1 ~~first of the renewal year must pay a late fee. The~~ are is subject to an additional fifty dollar late fee is an additional \$50.

All fees paid to the ~~board~~ Board of Licensed Hearing Aid Dispensers and Audiologists are non-refundable.

Source: 24 SDR 33, effective September 22, 1997.

General Authority: SDCL 36-24-28.1, ~~36-24-46.~~

Law Implemented: SDCL 36-24-28.1.

Commented [AM16]: Clarity - "on or before"?

Commented [JG17]: Clarity - As this is described as an "annual renewal" earlier, it is unnecessary to use the phrase "of each year" here.

Commented [AM18]: Legality - Please see the comment regarding the legality of this on the hearing aid dispenser rule. The same issue/conflict exists here.

Commented [JG19R18]: Clarity - See my comments in addition.

Commented [AM20]: Style - We typically do not hyphenate this word.

20:72:03:05. Incomplete application. An application for initial licensure deemed

Commented [JG21]: Form - There was some wonky formatting that was occurring here. Need for double-spacing was fixed. ARSD DM, pg. 5.

incomplete by the ~~board~~ **Board of Licensed Hearing Aid Dispensers and Audiologists** must be

completed ~~within one year from the date received by the board,~~

Commented [AM22]: Clarity - "by the applicant"?

or the board must consider the application withdrawn.

Source:

General Authority: SDCL 36-24-47(7).

Law Implemented: SDCL 36-24-47(7).



Board of Hearing Aid Dispensers and Audiologists

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DRAFT-OFFICIAL BOARD MINUTES FOR JANUARY 15, 2025 Video Conference

MEMBERS PRESENT: Norman Sorensen, President
Clint Hinker, Vice-President
Kari Fieber, Member
Julie Paluch, Lay Member

MEMBERS ABSENT: Vacant, Member

OTHERS PRESENT: Brooke Tellinghuisen Geddes, Executive Secretary
Katie Funke, Executive Assistant
Megan Borchert, Legal Counsel- Attorney General's Office

CALL TO ORDER/WELCOME AND INTRODUCTIONS: Sorensen called the meeting to order at 11:00 a.m. MST.

ROLL CALL: Sorensen asked Tellinghuisen Geddes to call the roll. Sorensen, yes; Fieber, yes; Paluch, yes; Hinker, yes. A quorum was present.

CORRECTIONS OR ADDITIONS TO THE AGENDA: None.

APPROVAL OF THE AGENDA: Hinker made a motion to approve the agenda. Paluch seconded the motion. **MOTION PASSED** by unanimous voice vote.

PUBLIC COMMENT: Sorensen called for public comment. There was no public comment.

APPROVAL OF THE MINUTES FROM July 15, 2024: Paluch made a motion to approve the minutes from July 15, 2024. Hinker seconded the motion. **MOTION PASSED** by unanimous voice vote.

FY FINANCIAL UPDATE: Tellinghuisen Geddes reported fiscal year-end financials as of June 30, 2024 as: expenses of \$38,351.21; revenue of \$44,965.23; and a cash center balance of \$119,465.03.

ADMINISTRATIVE RULES UPDATE: The board discussed the administrative rules changes.

Borchert advised there was one small typo in ARSD 20:72:01:02, and the rule should read “ A licensee, other than a licensee initially licensed after the first day of the annual licensure period” not “after the first day or the annual licensure period”. Hinker moved to authorize the board to move forward with the rules promulgation process with the correction as discussed in ARSD 20:72:01:02. Paluch seconded the motion. **MOTION PASSED** by unanimous voice vote.

BOARD MEMEBR APPOINTMENTS-UPDATE: Tellinghuisen Geddes provided an update on the new board member appointments.

ELECTION OF OFFICERS-CLARIFICATION: Tellinghuisen Geddes clarified that Hinker is the elected Vice-President, not Secretary/Treasurer.

PRACTICUM WAIVER POLICY: Hinker moved, pursuant to the licensure by endorsement statute, to waive the practicum exam for Hearing Aid Dispensing applicants who hold a current license to practice hearing aid dispensing in another state and have passed the board-approved national examination. Fieber seconded the motion. **MOTION PASSED** by unanimous voice vote.

SCHEDULE NEXT MEETING: The next meeting is scheduled for Monday, July 14, 2025, at 11:00 a.m. MDT / 12:00 p.m. CDT via Microsoft Teams. This meeting will also tentatively serve as the public rules hearing for the administrative rules promulgation process.

EXECUTIVE SESSION PURSUANT TO SDCL 1-25-2: The Board did not enter executive session.

EXECUTIVE SECRETARY CONTRACT RENEWAL: Hinker moved to renew the Executive Secretary contract with a cost-of-living increase consistent with the cost-of-living increase granted by the state and an additional \$1,000 in expenses. Paluch seconded the motion. **MOTION PASSED** by unanimous voice vote.

APPLICATION RATIFICATION:

Fieber made a motion to ratify the following application approvals since July 15, 2024. Hinker seconded the motion. **MOTION PASSED** by unanimous voice vote.

Beard, D.: Hearing Aid Dispenser license issued August 29, 2024.

Cole, C.: Hearing Aid Dispenser license issued September 26, 2024.

Cruz, R.: Hearing Aid Dispenser license issued September 17, 2024.

DeSimone, J.: Hearing Aid Dispenser license issued July 29, 2024.

Heiden, D.: Provisional Hearing Aid Dispenser license issued November 1, 2024.

Mackey, T.: Hearing Aid Dispenser license issued October 30, 2024.

Martino, M.: Audiologist license issued November 19, 2024.

McManon, M.: Audiologist license issued September 11, 2024.

Moser, P.: Provisional Hearing Aid Dispenser license issued October 7, 2024.

Shaffer, M.: Audiologist license issued July 23, 2024.

VanderWeyst, K.: Hearing Aid Dispenser license issued August 22, 2024.

Ver Steeg, K.: Provisional Hearing Aid Dispenser license issued October 7, 2024.

Winkler, A.: Audiologist license issued September 3, 2024.

ANY OTHER BUSINESS COMING IN BETWEEN DATE OF MAILING AND DATE OF MEETING: None.

Fieber made a motion to adjourn the meeting at 11:36 a.m. MST. Paluch seconded the motion.
MOTION PASSED by unanimous voice vote.

Respectfully submitted,



Brooke Tellinghuisen Geddes
Executive Secretary

1-27-1.17. Draft minutes of public meeting to be available--Exceptions--Violation as misdemeanor. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

STATE OF SOUTH DAKOTA
REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 05/31/2025

AGENCY 09 HEALTH		BOARD OF HEARING AID DISPENSERS - INFO				
BUDGET UNIT 09203	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	
COMPANY NO 6503						
COMPANY NAME PROFESSIONAL & LICENSING BOARDS						
092030061811	6503	4293954	HEARING AID DISPENSER	10,000.00	24,500.00	
ACCT: 4293			BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)	10,000.00	24,500.00	*
ACCT: 42			LICENSES, PERMITS & FEES	10,000.00	24,500.00	**
092030061811	6503	4920045	NONOPERATING REVENUES	.00	4,318.24	
ACCT: 4920			NONOPERATING REVENUE	.00	4,318.24	*
ACCT: 49			OTHER REVENUE	.00	4,318.24	**
CNTR: 092030061811				10,000.00	28,818.24	***
CNTR: 092030061				10,000.00	28,818.24	****
CNTR: 0920300				10,000.00	28,818.24	*****
COMP: 6503				10,000.00	28,818.24	*****
B UNIT: 09203				10,000.00	28,818.24	*****

AGENCY	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
09			HEALTH		
BUDGET UNIT	09203		BOARD OF HEARING AID DISPENSERS - INFO		
CENTER-5	09203		BOARD OF HEARING AID DISPENSERS - INFO		
CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO	6503				
COMPANY NAME	PROFESSIONAL & LICENSING BOARDS				
092030061811	6503	51010300000000000000	BOARD & COMM MERS FEES	332.00	1,826.00
ACCT: 5101		EMPLOYEE SALARIES		332.00	1,826.00 *
092030061811	6503	51020100000000000000	OASI-EMPLOYER'S SHARE	25.39	141.83
ACCT: 5102		EMPLOYEE BENEFITS		25.39	141.83 *
ACCT: 51		PERSONAL SERVICES		357.39	1,967.83 **
092030061811	6503	52030300000000000000	AUTO-PRIV (IN-ST.) H/RTE	.00	235.84
092030061811	6503	52031400000000000000	TAXABLE MEALS/IN-STATE	.00	28.00
ACCT: 5203		TRAVEL		.00	263.84 *
092030061811	6503	52040500000000000000	COMPUTER CONSULTANT	87.00	1,148.25
092030061811	6503	52040800000000000000	LEGAL CONSULTANT	.00	2,530.00
092030061811	6503	52040900000000000000	MANAGEMENT CONSULTANT	2,340.31	28,188.77
092030061811	6503	52041810000000000000	BIT DEVELOPMENT COSTS	.00	140.05
092030061811	6503	52042000000000000000	CENTRAL SERVICES	256.70	1,987.69
092030061811	6503	52042040000000000000	RECORDS MGMT SERVICES	.00	266.00
092030061811	6503	52042070000000000000	HUMAN RESOURCES SERVICES	.00	266.68
092030061811	6503	52042090000000000000	RENTS-OTHER	.00	187.25
092030061811	6503	52045900000000000000	INS PREMIUMS & SURETY BDS	.00	860.00
092030061811	6503	52049600000000000000	OTHER CONTRACTUAL SERVICE	cc 154.06	471.16
ACCT: 5204		CONTRACTUAL SERVICES		2,838.07	36,045.85 *
092030061811	6503	52053100000000000000	PRINTING-STATE	.00	100.24
092030061811	6503	52053500000000000000	POSTAGE	.00	85.32
ACCT: 5205		SUPPLIES & MATERIALS		.00	185.56 *
ACCT: 52		OPERATING EXPENSES		2,838.07	36,495.25 **
COMP: 6503	PROFESSIONAL & LICENSING BOARDS			3,195.46	38,463.08 ***
CENTER: 092030061811				3,195.46	38,463.08 ***
B UNIT: 09203				3,195.46	38,463.08 *****

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BA1409R1

STATE OF SOUTH DAKOTA
CASH CENTER BALANCES
AS OF: 05/31/2025

AGENCY: 09 HEALTH
BUDGET UNIT: 09203 BOARD OF HEARING AID DISPENSERS - INFO

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	092000061811	1140000	110,020.19	DR	BOARD OF HEARING AID DISPENSERS
COMPANY/SOURCE TOTAL 6503 618			110,020.19	DR *	
COMP/BUDG UNIT TOTAL 6503 09203			110,020.19	DR **	
BUDGET UNIT TOTAL 09203			110,020.19	DR ***	