

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/22/2014**

Bill/Resolution No.: SB 2110

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill will have no fiscal impact. All proposed changes will not financially impact either the state of ND or the licensing board.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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**Date Prepared:** 01/26/2015

**2015 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2110**

# 2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Missouri River Room, State Capitol

SB 2110  
1/15/2015  
Job # 22024

Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

BILL for an Act to amend and reenact section 43-33-01, subsection 1 of section 43-33-02, subsection 1 of section 43-33-03, sections 43-33-04 and 43-33-06, subsection 2 of section 43-33-07, section 43-33-09, subdivision c of subsection 2 of section 43-33-12, subsection 4 of section 43-33-15, and section 43-33-18 of the North Dakota Century Code, relating to licensing hearing aid specialists; to repeal section 43-33-08 of the North Dakota Century Code, relating to temporary trainee permits; and to provide a penalty.

## Minutes:

Attachments 1

**Chairman Dever:** Opened the hearing on SB 2110.

**Ned Schauer, Chairman, Board of Hearing Aid Specialists:** See Attachment #1 for testimony in support of the bill. (Attachment is a copy of the bill, with a section of code as well, and Ned Schauer proceeded to walk through the bill)

**(4:58) Charles Swenson, Licensed Hearing Aid Specialist:** Testified in support of the bill. (Noted that the licenses of the office and the licenses of the individual are personal licenses to dispense hearing aids.)

**(5:27) Ned Schauer:** Returned to Attachment #1 for explanation of the bill.

**(7:49) Chairman Dever:** Do you have to be an audiologist to dispense hearing aids?

**Ned Schauer:** No. They have to pass the same exam. (Returned to attachment #1)

**(10:39) Chairman Dever:** Are audiologists licensed separately?

**Ned Schauer:** Yes, to do audiological work, but to fit hearing aids they have to be licensed through 43-33. So they have to pass the same exams we do. So, we were willing to concede that they do not have to do all the practical exams. They would take the written and show us that they can make ear impression and they are good to go.

**(11:05)** (returns to attachment #1)

**(16:46)Chairman Dever:** Can you walk us through what would be involved in becoming a hearing aid specialist?

**Charles Swenson:** It takes approximately a year to go through. I did a distance learning course from the international hearing society. They recommend that it takes 9 months to a year to complete. It is a lot the same that the audiologists have in their college education but the difference being that we don't have to go into the detail that they do with pathology. The audiologists are more concerned about the pathology of hearing. As a hearing instrument specialist, we only need to recognize that there is a problem. The state law requires 8 specific things that are needed to refer to a medical professional and we have to be aware of those things. There is enough education in that to cover that sort of thing. In addition to that, you have to have familiarity with everything from the procedures, which are relatively simple as far as testing goes, to being able to analyze the results of those tests to be able to fit the hearing aid properly. Most of that is done by computer, however it is subjective. People need to be able to have some sort of input. They need to be able to understand the human voice and hearing to be able to adjust the hearing aid to work for each individual person. Fitting of the hearing aid is very important. It is not something you can do once and understand. One of the primary concerns at our annual meeting was the comfort and safety of our consumers. With the training permit as it is written, states that after one week of training you can run an office. One week is not safe for the consumer. Individuals hearing can be damaged. It took me almost two years between training and working in the office to be able to do this myself. Fittings and repairing are very important and require experience. It almost requires an internship. Some states do require an internship.

**Senator Cook:** How do you charge for your services? Do you charge for the test and then the hearing aid also or you just charge for the hearing aid and the test is free?

**Ned Schauer:** The test is free for right now. We are changing that to a screening for free. The testing is rolled into the price of our hearing instruments. We have discussed unbundling because we are competing with discount stores.

**Senator Cook:** I can go to my eye doctor and get the results and go to anyone to get glasses; can I do that with a hearing aid?

**Ned Schauer:** Yes you can. You can even order hearing aids online.

**Senator Cook:** Are hearing aids subject to sales tax?

**Ned Schauer:** They are not. They are a medical device. Also, the trainee permit is extremely out of control and we would like to eliminate it. I think it is much safer for the general public.

**Chairman Dever:** The problem was that the temporary trainees were able to act independently?

**Ned Schauer:** They would have to have their work reviewed.

**Senator Flakoll:** How many trainees in the state? Did you vote as a board to provide the repealer?

**Ned Schauer:** Right now I believe there are not any that have training permits; there might be some training but without the permit. It is not required. The board was unanimous on all of this.

**Senator Flakoll:** How often do current providers have to have professional development to stay current?

**Ned Schauer:** Ten continuing education credits per year.

**Senator Davison:** What is the cost of the testing?

**Ned Schauer:** I believe it is \$150.

**Senator Davison:** With the repeal of 43:33:08 are we eliminating people away that are currently doing the job?

**Ned Schauer:** No, I do not believe so. You also can take the exam any time.

**Chairman Dever:** How many licensees are there?

**Charles Swenson:** 72 audiologist and hearing aid specialists. SD has 269.

**Chairman Dever:** What is the cost of the annual dues?

**Ned Schauer:** Licensing fees are \$150. There is dues for the ND Hearing Society which you do not have to belong to.

**Chairman Dever:** Do you consider yourselves in the position to start paying the per diem that you have not paid previously?

**Ned Schauer:** We are.

**Chairman Dever:** It sounds like the test is the standard. Does that set a high threshold?

**Ned Schauer:** I believe it does.

**Chairman Dever:** Do I understand that you are required to provide for a 30 day return?

**Ned Schauer:** Yes that is federal and state.

**Chairman Dever:** You have explained the bill very well.

**Ned Schauer:** We here to help the general public. That is our duty as a board.

**Chairman Dever:** Closed the hearing on SB 2110.

# 2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Missouri River Room, State Capitol

SB 2110  
1/16/2015  
Job # 22059

- Subcommittee  
 Conference Committee

Committee Clerk Signature



**Minutes:**

No Attachments

**Chairman Dever:** Opened SB 2110 for committee discussion.

**Senator Cook:** Moved to amend SB 2110 to remove section 10.

**Senator Flakoll:** Seconded.

**Senator Cook** discussed with the committee on what the intent of the amendment was. It was determined that the new language needed to be taken out so the amendment was revised to remove lines 10, 11, and the new language on line 12 because it was determined that the rest of the section needed to stay. The committee wanted for people to still be able to buy hearing aids over the internet.

**A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.**

**Amendment Passed.**

**Senator Cook:** Moved a Do Pass As Amended.

**Senator Flakoll:** Seconded.

**A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.**

**Motion passed.**

**Senator Cook is the carrier.**

15.8038.01001  
Title.02000

Adopted by the Government and Veterans  
Affairs Committee  
January 16, 2015

*Handwritten signature and date: 1/16/15*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2110

Page 7, remove lines 10 and 11

Page 7, line 12, remove "a licensed hearing aid specialist free of any undisclosed charge to the purchaser."

Renumber accordingly



Date: 1/14  
 Roll Call Vote #: 2

**2015 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2110**

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Cook Seconded By Flakoll

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais	✓	
Vice Chairman Poolman	✓		Senator Nelson	✓	
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Cook

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2110: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2110 was placed on the Sixth order on the calendar.

Page 7, remove lines 10 and 11

Page 7, line 12, remove "a licensed hearing aid specialist free of any undisclosed charge to the purchaser."

Renumber accordingly

**2015 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2110**

# 2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Fort Union, State Capitol

SB 2110  
3/6/2015  
Job #24432

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Kenneth M. Tolson*

## Explanation or reason for introduction of bill/resolution:

Relating to licensing hearing aid specialists; relating to temporary trainee permits; and to provide a penalty

## Minutes:

**Chairman Kasper** opened the hearing on SB 2110.

**Ned Schauer, Schauer Hearing Aid Centers; Chair, Board of Examiners-Hearing Aid Specialists:** (Appeared in support.) Some of the changes are pretty straight-forward. "Hard-of-hearing" is being changed to "Hearing Impaired." Title of a hearing aid, we just changed to ownership. There is no title. This is on page 2, line 1. We're also taking out the trainee permit. We're eliminating the trainee section of this law. In the past, someone could do 40 hours of training in their supervisor's office and see the general public on their own. And I've done this since 1985, so I know why this was implemented; so that person could generate revenue. We don't believe that 40 hours of training, you have the ability to do the hearing testing and fitting hearing aids on your own. What we came with was; you can train under a supervisor until you are fully licensed, and then you can see the public on your own. We think that's in the best interest of the public.

**Chairman Kasper:** And where are you taking that out?

**Ned Schauer:** That's on 43-33-01, line 5, 6. We're eliminating the trainee permit, and that's why. So we're still on page 2. Licensee's primary office is where we need our license displayed. Duplicate licenses used to have to be printed out by our executive secretary. And there's really no need for that, so we'd like to just copy them. Also on page 2, on the contract, we're adding the serial numbers of hearing aids. Page 3; this was a person engaging in the practice of measuring human hearing for the purpose of selection of hearing instruments. That did not need to be in there. As long as that person doesn't sell hearing aids, they can do hearing screenings. Some of the clinics and hospitals do them at the plants, and we have no problem with that. So we're eliminating that, and that's lines 3 and 4 of page 3. Page 3, we no longer use an identification card for a license. We have our license is in office. On 23-31 in page 3; deals with reciprocity from other states. It is so hard for us to determine if someone is coming from Colorado, and we had this a few years ago.

They pass the national board exam, national board certification exams, and do two years and they're licensed. Our licensing procedure is totally different. Do we grant them a license or not? We'd like to eliminate that whole section, where you come to our state, take our exams, and get our license. We use the International Hearing Society's written exam as our state exam, and I believe there's 40-some states now that use that as a written exam. So, if you've taken that and come to our state, our board looks at that and says, OK. You've passed the written. Because it's the same written as ours. The practical exam, they have to take our practical exam still. Before, we were looking at each state, what their exam process was, and trying to determine whether that was equivalent or higher than our exams. So we'd like to just eliminate that. And page 4, lines 1-8 pertains to the same thing. Page 4, line 16; we've had some problems in our exam process. It's testing on the computer we use for our practical exam. People have complained because they say there's college training involved. What we're saying is, for college training, you use pretty much everything. So we'd like to change that training to education, so you don't need to have a college education to pass your exams and become licensed. That's line 16 on page 4. Page 5 will pertain to someone who has a doctorate in audiology coming to our state. We don't think they need to take all of our practical exams. We realize they know how to test hearing. They've got a doctorate in audiology, they've done a year externship. Actually, Doug Schauer came to our meeting in April, and spoke for this. So we all agreed that they come and take, they don't need to take our testing portion. They will do their impressions and take our written exams, but not take the testing portions of our practical exams.

**Chairman Kasper** What's the difference between the testing portion and the written exam?

**Ned Schauer** The written exam is a four-part written exam from the International Hearing Society. We use their exam. Once you've passed that, then you take a practical exam, which is audiometer calibration, otoscopic examination; it's a hands on exam.

**Ned Schauer** Moving on to page 6, just changing some wording on lines 3 and 4. Symbols which tend to connote medical profession instead of audiological professional. Page 6, lines 29-31; this is for our board members if we do anything extra. Personally, I travel to Devils Lake to sit on a sub-committee. To go through all of this, it's hard to get anyone to volunteer their time. So, what we're saying here is, we'd like to get paid. This is what state employees get paid, if we do anything extra from our normal board activities. Our normal board activities, we get mileage and expenses. And that continues on to page 7. The last section was changed. The Senate changed that. What we were trying to do is limit internet selling of hearing aids in the state. Originally, we had in, any person who sells a hearing aid to an individual located in North Dakota for individual use, that person must have his first fitting done by a licensed hearing instrument specialist or audiologist. The Senate took it out because they didn't think it would fly. From what we can understand, eliminating internet sales and mail order sales, we can't do it. It's interfering with free trade. We thought if we got this in, we could at least limit it somewhat. The Senate didn't agree, and took it out. We'll work on it, and see what else we can do. So that should pretty much take care of it. Any questions?

(10:57)

**Chairman Kasper** What is the section you're repealing on Section 11?

**Ned Schauer** That was in there from before, I believe. 43-33-08. That is the temporary trainee's permit. We'd like to eliminate that completely, for protection of the consumer. If you read through this, there's a lot of gray areas in that. Our board has interpreted it several different ways through the years.

**Rep. B. Koppelman** The struck language at the bottom of page 3 and top of page 4. It appears like you're taking away the board's ability to have reciprocity with states that have more strict requirements. Thus requiring those people that could have otherwise received reciprocity to write tests. Is it going to make it harder for those people to come into North Dakota because now they have to re-test for things that they might have received reciprocity for before?

**Ned Schauer** I don't believe so. There's 40 some states now that use the International Hearing Society's written exam as their exam. So if they've taken that written exam, we look at that and say, you've passed our written exam. Will they need to take our practical exam? Yes. What we've found in the past is, there are so many different exam processes in so many different states, for us to determine whether it's equivalent to or harder than our exams is very hard. Maybe it will restrict it somewhat, but if they've taken exams in their state that are more difficult than ours, they should have no problem coming and taking our exams. All we want competent people working in this profession.

**Rep. B. Koppelman** My second question relates to section 9, and I believe your testimony was that you wanted to be paid the same as other state employees are being paid as board members.

**Ned Schauer** Not for normal board duties. If we do something beyond normal duties, we would like to get paid.

**Rep. B. Koppelman** So you understand, this section of law does not deal with state employees. It deals with members of the legislature. One of the things that my experience has taught me on dealing with boards and stuff is #1; either you get paid for your days or time or you don't. It's not normally like you wouldn't get paid for a board meeting, but now you would get paid for the days when you travel. I'm talking aside from mileage and meals. I'm talking actual pay. Most boards do not have a pay that is the same as the legislature, and it's for probably a variety of reasons. So I think I have some concerns about drawing a direct parallel into what elected members of the legislature are paid vs. appointed board members for an administrative board. I just wanted to share that with you and see if you have any comments.

**Ned Schauer** We ran this through the Attorney General's Office, and they thought this was a good way for us to be compensated for anything that we did additional to normal board duties. So we just went with that. To be honest, I didn't put a lot of thought into it.

**Rep. Seibel** Who are you compensated by? Is it out of the Board's funds?

**Ned Schauer** It is out of the Board's funds.

**Vice Chair Rohr** On page 5, lines 11-14, who determines that they are indeed a graduate of an accredited institution?

**Ned Schauer** I believe anyone with a doctorate degree now is getting it from an accredited institution.

**Vice Chair Rohr** There are a lot of non-traditional doctoral programs out there.

**Ned Schauer** That's true, and the Doctorate of Audiology, you used to be able to do it online. You no longer can. You have to attend an accredited institution. Everyone now has to graduate from an accredited institution. You cannot do a doctorate online like you used to be able to do.

**Vice Chair Rohr** Who makes sure that's happening?

**Ned Schauer** Our board. We will check with their board to make sure.

**Rep. Wallman** Do you know if we're seeing more folks in North Dakota who are coming to be served and receive hearing aids? We talk a lot about baby boomers. Is that growing in ND?

**Ned Schauer** It is. Usually it grows with the age getting higher, more noise-related loss. There's still a certain penetration rate of people who have hearing loss know it and won't do anything about it. It's been consistent for years; 10-15 percent will actually do something about their hearing loss.

**Rep. Wallman** There was a bill on the Senate side that would add a level of care for dental practitioners. We've been talking a lot in this session about access. This change in trainees, they can see the public on their own, as I think I understand the bill used to say, and now they wouldn't be able to. Is that going to diminish the ability for people to access fittings and the ability to receive hearing aids?

**Ned Schauer** It might somewhat, but if they're being seen by someone who is not competent, that's not a good thing either.

**Rep. Wallman** Right now, a person who is in training, they would have their education; they have to have a certain number of hours, and then they get their license. Is that correct?

**Ned Schauer** That is correct. I did the same thing in 1985. My family has had this practice since 1964, and I did so many hours in our main office. I then was able to go out on my own. My supervisor had to review everything at the end of the week. Honestly, I was not competent. With 40 hours, you just, you're not ready.

**Rep. Wallman** Right not, the trainee would be supervised in an office with somebody who is, and so that person would no longer be able to interact with the public in any way?

**Ned Schauer** That is right.

(19:47)

**Rep. Amerman** Now you want them to do their training under a supervisor. How long would they have to train? And is there a certain amount of time?

**Ned Schauer** There is no time limit. To pass all our exams, it takes about a year to get through everything. Then they are ready to take their written exams. The practical portion is done in the office with their supervisor. So they're doing hands-on in the office that whole time. But there is no set time limit.

**Rep. Amerman** In the reciprocity, I understand what you're trying to do. You're trying to make sure they take the exams so they know what they're doing. If you have people working in the border towns, reciprocity also means they could go from say Fargo to Moorhead and do this type of work. Now, if we start doing it to individuals coming in to our state, do you think that might handicap them?

**Ned Schauer** I believe that already happens. If you're going to operate in Moorhead, you have to be licensed in Minnesota, and you have to take Minnesota's exams because they don't recognize ours. Ideally, I would like to see a national exam, and I mentioned that to our regional governor at the International Hearing Society. They don't seem to think they can get that done.

**Rep. Schneider** On the compensation part of section 9 on page 6, it's not really doing what you explained to us you wanted it to do. The way it's written right now, you'd be compensated for your board meetings as well. Does somebody approve the per diem and things?

**Ned Schauer** Our treasurer would have to approve that; yes.

**Rep. Steiner** Are there two paths here? So if someone is a qualified audiologist from Florida, they come up here, they've had the test, they have a doctor of audiology, they still need to do a practical test, and they can set up a shop?

**Ned Schauer** They still need to do the written and part of our practical exam.

**Rep. Steiner:** Are we blocking people who normally come in through a different avenue, another path where they train with you and you have to give them permission to train with your company, and then they go off on their own. Is that a second path, or are you eliminating that path?

**Ned Schauer** No, we're not. That's a second path, so if someone would train with me and pass all the exams, they can go on their own, they can stay with me, whatever. But if you're an audiologist from Florida and you want to move here, you still need to take those exams. It comes down to you have to pass our state exams, no matter if you have a doctorate in audiology, if you've trained with a hearing instrument specialist, the exams have to be passed. And we think that's the best avenue for the public, to protect the public. So everyone has passed our state exams, and we know is competent to do this.

**Vice Chair Rohr** Are you saying that the Individual with the second pathway would not have to do any didactic at all? Like be in a college classroom or take online classes?

**Ned Schauer** No, and that's the way the law has been written for years. You do not need college education or training to do this, but you have to pass the exams.

**Rep. Laning** Do the bill changes that you're proposing change anybody's present job status or jeopardize their employment in any way?

**Ned Schauer** No, it does not.

**Rep. Mooney** How extensive is that examination? What is detailed with that exam?

**Ned Schauer** There is a 4-part written exam through the International Hearing Society. Somewhere above 40 states use that written exam. Normally what people do is pass their written exam first, and then take the practical exam. The practical exam, we have three board members for an exam team. There's always an audiologist, a doctor of audiology or two, and one or two hearing instrument specialists on that exam team. So you come in with your own equipment, and you set it up, you do a biological calibration wo we know how to calibrate their audiometer, and why they're doing it. We ask questions as they go along. They do an otoscopic exam, which is looking in the ear canal, explaining to us what they're seeing. They do an ear impression so we know they know how to do ear impressions. The actual audiological testing is done on laptops. I believe there are 16 patients on there that we choose from, and they test on the audiometer. That gives results; takes it out of our hands somewhat because either they come out with the correct results or not.

**Rep. Mooney** How long does it take an individual? What is the burden to me to do that?

**Ned Schauer** The actual length of the exam depends on how good you are. The practical portion can be done fairly quickly, probably an hour. They set up an exam time, we meet twice a year, so they can take their practical exams when our board meets. They can take their written exams anytime. They just need one board member to proctor it.

**Rep. Mooney** One of the reasons I am fixated on that is, one of the other committees I sit on is Human Services, and we had a lot of work that was centered around reciprocity, either the lack of, or the inability for other professionals from other states to be able to come into our state and practice fairly readily because we have huge problems with professional access in a lot of areas of the state. Related to that, then, is it standard that Minnesota, South Dakota and Montana do not accept North Dakota as a reciprocity situation?

**Ned Schauer** As far as I know, none of those three states will take our licensing. We go there, we take their exams. They're all very similar.

**Rep. Mooney** But it's that same or similar process?

**Ned Schauer** Yes, that's right.

(28:53)

**Chairman Kasper** How many audiologists are there licensed in North Dakota currently?

**Ned Schauer** Just audiologists, I'm not sure. Audiologists, hearing instrument specialists, licensed to dispense hearing aids, it's somewhere around 60-65.

**Chairman Kasper** These are the folks eight now that can do the hearing aid tests?

**Ned Schauer** Yes.

**Chairman Kasper** How does a person get started and do you have a formal trainee program that's in another section of statute? Or are you going to eliminate trainees altogether, with what we're doing here?

**Ned Schauer** We'll eliminate trainees altogether. If someone wants to get in this line of work; about three or four years ago, I had a gentleman call me, asking what he needed to do to get licensed. He actually trained with me. It took him about two years to get through all the exam processes, the training. He eventually went on his own, which was fine. That's one way to do it. Getting your doctorate in audiology is another way to do it. There is probably more hearing instrument specialists than doctorate in audiology. Their scope of practice is a lot larger than ours. They can test children. We can't test anyone 18 or younger. Usually they'll be in a clinical setting.

**Chairman Kasper** When you trained this person, did you pay them while they were training?

**Ned Schauer** No I did not.

**Chairman Kasper** When you're training these folks, are they dealing with the public or are you just giving them schooling?

**Ned Schauer** No, they are not.

**Chairman Kasper** What entails training?

**Ned Schauer** I get them the lesson plans from the International Hearing Society, and all the textbooks that come with it. So they have all the reading material they need. I give them instruction. You can go online and find a lot of your information. Sometimes we just Googled things and I explained it. The practical portion; I have her test my hearing, do her impressions on me. We use another of our board members as a guinea pig, also. No, I don't have them see the general public.

**Chairman Kasper** How long is the period of time that you would suggest a person would need to go through a training process to be able to take an exam that they could pass?

**Ned Schauer** I would say a minimum of one year, and maybe closer to two years.

**Chairman Kasper** While these folks are training, they usually have another job some other place or they're unemployed trying to become employed?

**Ned Schauer** Right. The law was written for the trainee permit for that reason; so you could come on board, get your trainee's license, work under your supervisor for 40 hours, and then go out and make money. You could get paid commission.

**Chairman Kasper** I'm puzzled. I've heard you say that, on the one hand, there's people that go out there that really aren't qualified because they didn't get the training, and they just can't learn how to do things by the book. On the other hand, you're wanting to eliminate your training opportunity, where people can work with someone who is already in the profession, to help people come on board to be maybe more qualified to do the services the correct way. Which way is it?

**Ned Schauer** If somebody comes to my office and wants to train, and is serious, I would pay them to train in my office. I realize people have to make money. Ultimately, I think we have to protect the public. If you don't want people out there that aren't competent to do their job. Believe me, I know, after 40 hours you're certainly not.

**Chairman Kasper** The way things are working right now, first of all, you want to eliminate the trainee permit. What you're eliminating; you're no longer going to be identifying people who are standing up and saying, I want to be trained, because there's no more permits. So there's going to be people working for audiologists all across North Dakota, we don't know who they are, we don't know how many hours they're going to be in training, you don't know the type of practical services they've had, and all of a sudden, their trainer says it's time for you to take the test because I think you've learned all you can learn. So, they go take the test, and they pass. Now they're ready to work with the public, but we really don't know if they're qualified.

**Ned Schauer** I think you do, because they've passed their exams. To be able to pass that exam process, you pretty much have to know what you're doing. Even there, I'd say a Doctorate of Audiology coming out of college, doing a one-year externship, and coming and passing all our exams, they're qualified, but they're not as qualified as someone who has done this for years, in the field. What we're trying to do is protect the public. I know where you're going.

**Chairman Kasper** It appears you're trying to protect the people in your profession. It appears there's a little bit of fence-building going on here.

**Ned Schauer** It may appear like that.

**Chairman Kasper** How many new audiologists have been licensed in the past five years?

**Ned Schauer** I'd say somewhere between 20 and 30.

**Chairman Kasper** That means some have retired.

**Ned Schauer** Not a lot of them have retired that I know of.

**Chairman Kasper** So we're increasing on numbers. How long does a person generally have to wait, the public, before they can get a test from an audiologist that's certified, to be able to determine whether or not they want to have hearing aids?

**Ned Schauer** It depends what facility. At my facility, they can usually get in that week. It depends on what facility you go to.

**Chairman Kasper** So we have facilities in the hospitals or clinics as well as the stand-alone independent operators?

**Ned Schauer** Yes.

**Chairman Kasper** What percentage are the stand-alone independents compared to the ones that are in a medical facility?

**Ned Schauer** Hearing instrument specialists, all of them are probably independent. Audiologists, I'm going to say probably 20-percent are independent, maybe as high as 30-percent. Most audiologists work for a medical facility.

**Chairman Kasper** And so, your board deals with both the audiologists and the independents?

**Ned Schauer** Yes, as far as the exams to dispense hearing aids, they can work as an audiologist if they're not dispensing hearing aids. They have their own board for that.

**Chairman Kasper** Is there any ongoing continuing education required for that?

**Ned Schauer** Everyone needs 10 hours of continuing education per year.

**Chairman Kasper** Who provides that?

**Ned Schauer** The N.D. Hearing Society provides 10 hours. They have their state meeting in the spring usually. Through the speakers, you can get your 10 hours of continuing ed. You can also go online. Most of the manufacturers also have classes.

**Chairman Kasper** Are there public complaints that come before your board for poor service?

**Ned Schauer** Yes.

**Chairman Kasper:** How are those handled?

**Ned Schauer:** They come in front of the board. We usually have Mr. Edward Erickson from the Attorney General's Office attend.

**Chairman Kasper:** So a public person comes before your board?

**Ned Schauer:** It's an open board meeting.

**Chairman Kasper:** I'm talking just about a complaint. If someone says, I was wronged by this person who I brought these hearing aids from. I want some restitution. I want something fixed. So they come before your board? And you meet twice a year?

**Ned Schauer:** Yes. And yes.

**Chairman Kasper:** So we have people all over the state of North Dakota that might be sitting there for six months, not having the opportunity to have anything addressed with hearing aids that don't work?

**Ned Schauer:** Yes. We had a gentleman whose son was an attorney. He brought in front of our board, or to the Attorney General's Office. It gets brought to our attention before the board meetings. But that's when we address those issues.

**Chairman Kasper:** And what power does your board have to discipline people? Does the board rule whether or not there was an event that the public was aggrieved? Or do you have to go some other place?

**Ned Schauer:** We can make a ruling. The last one I'm remembering is, we can fine them monetarily. We can suspend their license. We have different avenues we can use.

**Chairman Kasper:** Do you generally make a ruling the same day the person comes before your board?

**Ned Schauer:** Not by any means.

**Chairman Kasper:** So when do you make your ruling? The next meeting?

**Ned Schauer:** In that case, I think it went a couple of years. It was in the process when I got onto the board. It can take quite some time, and that's why we've tried to work with the Attorney General's Office; to see what we can do and what we can't do legally, and what our options are.

**Chairman Kasper:** The first step you might have is more meetings.

**Ned Schauer:** That's true, but everyone on the board also has their own practice, or works for someone.

**Chairman Kasper:** How is your board selected?

**Ned Schauer:** They are appointed by the Governor.

**Chairman Kasper:** How many are on your board?

**Ned Schauer:** Ten. We have four hearing instrument specialists, three audiologists, two consumers and one ear-nose-and-throat doctor.

**Chairman Kasper:** And do they serve for a period of four years? And are they staggered so that you're coming and going?

**Ned Schauer:** Yes. And yes.

**Rep. Amerman:** On page 3 at the top, on line 3; can you explain to me again, what's that doing to take that out?

**Ned Schauer:** If you are not dispensing hearing aid instruments, selling them; you can go out and do hearing tests. I had a lady from Minot complain that one of the medical facilities there was going out to the plants and doing hearing screenings. They can do that legally. They don't have to be licensed under our law if they're just doing hearing screenings. If they're selling hearing aids, they have to be licensed. I know one of the ENTs that used to be in town here; his wife did all of his testing. They didn't dispense hearing aids, so she could legally do that.

**Rep. Amerman:** It says this chapter does not prevent or restrict the selling of these hearing aids, but then that's being struck. I'll figure it out someday.

**Ned Schauer:** If you want to actually sell a hearing aid, you have to be licensed through this century code. If, for example, you're in a medical facility, and you want to go out to one of the power plants and do hearing screenings, you can do that without being licensed in this century code.

**Vice Chair Rohr:** These changes that you're advocating in this bill, are they pretty major?

**Ned Schauer:** They are.

**Vice Chair Rohr:** So are we doing this in light of an increased number of consumer complaints vs. a decrease?

**Ned Schauer:** I don't think there has been an increase. We are doing because the board thinks it is right. We've had problems with this before; we've had problems with the reciprocity part of it, determining whether we can grant someone a license from another state. We all know the trainee permit is obsolete. We're trying to do the right thing. What we did is discussed it in the board; all the board members agreed with this. The ND Hearing Society ok'd this also. We didn't just come up with this and say, we're doing it no matter what anybody thinks.

**Vice Chair Rohr:** So what do you have in place to make sure that if you see an increased number of consumer complaints that you bring this law back? Because the training section is where I'm having the most concern. The trainee permit issue and all that.

**Ned Schauer:** Where is your concern at? I guess I don't understand.

**Vice Chair Rohr:** I just feel like we're diluting the program by doing that.

**Ned Schauer:** We believe we're making it better, because now, if you're a licensed dispenser, you can see the public. If you are not, you cannot see the public on your own. The way it is now, after that 40 hours of training, I was in that same situation in the mid-80s. I had X amount of training in an office in Jamestown we had. I came to Bismarck and ran an office. Believe me, I did not feel competent.

**Rep. Laning** I just had a response to Rep. Amerman's thought. In our plants, we test hearing of our employees. Those people are not dispensing hearing aids at all, but this essentially clarifies it, and says it's legal for them to do testing on your hearing. There's not really any result from it other than to let your employee know he's maintaining or losing hearing. As far as I see it, it just makes that legal.

**Ned Schauer:** Exactly.

**Rep. B. Koppelman:** Does it say in the Century Code that that number of training hours is 40, or is that done by policy? Under your current practice, where does the 40 hours appear?

**Ned Schauer** It's in the Century Code. Under current practice, trainees shall train in the same place of business as the supervisor, and must complete at least 30 hours of book and visual training, and at least 10 hours of training with an audiometer. That is on page 3, line 2. This is 43-33-08. I'm looking at the way it's written now.

**Rep. B. Koppelman** If I understand this correctly, or at least how it could be done in the past, you've had a trainee who has done their 40 hours of training, then they're allowed to see customers. I'm guessing they're under the general supervision of whoever they're training under. So there is some safeguards that they're under either direct or indirect supervision of the licensed person. Then you keep going back to the 40 hours. To me, what you guys should be looking at is either put it at the discretion of their supervisor, and saying when the trainer thinks that person is ready; or X number of hours, then they can do this. But that would be more productive in the training model rather than repealing the whole training section. As opposed to, under the current model, it appears that that individual, as a trainee, much like an apprentice or a resident in other fields, can make money for themselves while making money for their trainer/employer, and have a livelihood while they prepare to become licensed. What you guys are proposing is a model that's more similar to what you in your practice were doing, where you're making it an unpaid internship until they can become fully fledged, or ready to take their test, at which point that's going to greatly diminish the number of people who can afford to enter your industry. Is that your intent?

**Ned Schauer** No. Our intent is to have people who are competent at their job. Believe me, we discussed how many hours would be enough. Our board has discussed that at great length. Not all supervisors can do that.

**Rep. B. Koppelman** Here's the problem: no licensed person is required to take on an apprentice, if we can call them that. So the person who isn't comfortable doing it, or isn't a

good teacher, would not have to take on a student under current law. Number two: You have said you weren't eliminating the trainee permit because of harm that was done to the public so much as your guys' feeling that they weren't ready. And the point three that I heard, and you've said this in numerous parts of the bill; you guys are a licensing board. As a licensing board, you're expected to have a certain level of expertise. Except, what you're doing in this bill is getting rid of all your latitude to interpret that that expertise is. You're saying, we can't determine reciprocity. It's too tough. It takes too much time. We can't do it, although the language says you may. It's permissive. You guys have a process for the training permit, and a whole section that deals with it. And you guys could possibly amend that or maybe even write rules that go with that to define that, based on what the experts think. But yet, you want to do away with the whole thing. At some point, people are going to start questioning the validity of the board, if you're taking away all the abilities for your board to help populate your industry. Do you understand where my concerns are coming from?

**Ned Schauer** I understand where your concerns are coming from, but we're in a dilemma where all of us as board members also own our own practices or work for someone; we only have so much time. So, to determine reciprocity from another state, if someone comes from Florida or California, we have to research all those states.

**Chairman Kasper** Do you not have an executive director who could do that?

**Ned Schauer** We do not. We're all members who do other things. We have practices to run. Our time is somewhat limited. As far as the trainee permit, we've discussed that at great length, tried to go other ways with it. You don't have to have a trainee. As far as having your supervisor determine whether you're ready to see the public, believe me, there's some people in all industries that are not too scrupulous. This was put into effect for that reason; so you could come on board, do your 40 hours, go out, do your testing, do your hearing aids, make your commission.

**Chairman Kasper** I thought I heard you say the test itself will weed out whether or not they're qualified.

**Ned Schauer** It will, but up until that point, you can have that trainee's permit, I believe you have it for a year if you haven't passed your exams. You can renew it for another year.

**Rep. Karls** This seems like a huge board for a small organization.

**Ned Schauer** It may be. I don't know a lot about board, and I've been on this one for about three years now. That's the way it's been for a long time.

**Rep. Karls** Does your board ever have someone who has been poorly treated and they come back to your board with a complaint, and maybe there's legal action involved, and I'm thinking of the podiatry board, where this happened some years ago, and they didn't have enough licenses to pay the court costs to defend their board.

**Ned Schauer** As far as I know, no one has come back against the board, and that's why we have Edward Erickson from the Attorney General's Office, who will come to our board meetings if we need legal advice.

**Rep. Karls** What does a license cost in your profession?

**Ned Schauer** I think it's about \$150 for the licensing fee. The written exam costs money; the practical exam costs money. We're actually pretty cheap. I know Minnesota is up around \$700-\$800 for just their exam fees.

**Chairman Kasper** Do you have annual renewal fees?

**Ned Schauer:** \$150.

**Rep. M. Johnson** For the person that chooses just to go straight to licensure without the training, how do they receive their training for the practical portion of the exam?

**Ned Schauer** If you wanted to get licensed and didn't want to go through any training.

**Rep. M. Johnson** For the practical portion of the exam, they're going to need proficiency in the fittings and all of that. So you can forego the training permit and just go straight to the licensing exam. For the practical portion of that exam, how do folks that forego the training get trained in the practical portion of that exam?

**Ned Schauer** You almost have to train with someone in this industry. I know in West Spokane, they do have a two-year degree you can do at one of the colleges out there.

**Rep. M. Johnson** So they're at vo-techs or something?

**Ned Schauer:** There are very, very few.

**Rep. M. Johnson:** So, most of the folks receive their practical training for the licensing by going through the training process.

**Rep. Seibel** Under the trainee permit, someone currently can see patients on their own. And if you get rid of the training permit, and this becomes law, they will not be able to see clients or patients until they pass the exam.

**Ned Schauer** That is correct.

**Rep. Louser** My question is on the reciprocity. Is there anything North Dakota-specific that they test on when somebody comes here? Is there anything unique to N.D. in either the written or the practical?

**Ned Schauer** There really isn't. I know some states' exam processes are harder. In Colorado, you work under someone for two years, you take your national board certification exams and you're licensed there. Personally I don't think much of the national board certification exams. I don't think it's a good exam process.

**Rep. Louser** Is there anything on the test that says, that asks them if they understand the board process or the licensing process, or the continuing ed process in North Dakota as opposed to where they came from?

**Ned Schauer** Yes. We do have a section on North Dakota state law.

(59:23)

**Rep. Amerman** So if you take away the permit, and now they'll work under a supervisor for up to a year or maybe two years. When you train there is usually some kind of costs. Are there any costs to the trainees? Are there any books they have to buy; any materials?

**Ned Schauer:** I can only speak for myself. I purchase everything. I buy the books, I do the study materials. In one case, I paid for everything. I paid his exam fees, everything. But I can only speak for myself.

**Vice Chair Rohr** If the person takes the written exam and passes it; and takes the training and they fail; are we closing the door for that person to find someone to take them under their wing to train them so they can pass the test?

**Ned Schauer** So you're saying if they take the written exam independently?

**Vice Chair Rohr:** I guess my concern is, if we're looking at competent people out there, then are we closing the door and making this an exclusive practice here in North Dakota to limit the number of people that can go and become trained in order to pass the test? What if everybody comes to you and you say, "No, I don't want anybody." Because they aren't required to take anybody to train them.

**Ned Schauer:** I don't know the answer to that. I don't know how you would require like myself to take somebody. At the same time, you're saying that person has to make money. I'm an independent business. I have to look at my bottom line also. That is a legitimate question. There are some two-year associate degrees now. Are you getting paid while you're going to college for two years? No.

**Rep. Wallman** Under the current law, no one has to take a trainee. Is that correct? So, all this does is take away the permit that would allow a trainee to work on the public. They can still be trained; they can go to anyone's office that's willing to take them; they can get paid or not paid. All this changes in that regard is that the permit goes away so that no one can come and hang out a shingle, have a bunch of trainees come and basically work on the public.

**Ned Schauer** Exactly.

**Chairman Kasper** Could you not have amended the trainee part of the law to require certain restrictions of that trainee before they could work on the public? Would that not have been maybe a better solution?

**Ned Schauer** We discussed that, and just couldn't come to anything where, what would be the correct number of hours.

**Chairman Kasper** With all of your background, you have 10 board members. You do these screenings and tests every day. You're telling me that 10 smart individuals couldn't come up with a formula to require a certain number of training hours to be safely in the realm of being able to work with the public.

**Ned Schauer:** We could not.

**Chairman Kasper:** One last question from me: I'm getting the sense from this committee, as is mine, I don't like this bill at all. I think it is poorly thought out, poorly drafted, and does not much of anything. If this bill fails, what happens to your ability to do your job?

**Ned Schauer:** My job personally or my job as chair of the committee?

**Chairman Kasper:** Your job as serving the public. Let's forget about the chair of the committee.

**Ned Schauer:** It doesn't affect me at all.

**Chairman Kasper:** Because I don't have a lot of like for your committee either, frankly. Not the individuals, just the process. I understand the dilemma that you're not paid a lot. Maybe what we should have been looking at in this bill is increasing your pay so that your board can meet more often, so that you could serve the public better than what you currently are at twice a year where you have complaints, and as you said in your own testimony, that sometimes it takes years for a resolution, which I think is very, very poor.

No opposition or neutral.

Hearing closed.

**Chairman Kasper:** Committee, would you like to have a discussion right now, while this is fresh in our memory, or do you want to sit on it for a while?

**Rep. Laning** I guess I have to disagree with you, Mr. Chairman. I don't think this thing does much at all other than get rid of this training permit. It looks to me like they've already standardized on an international test for qualification coming into North Dakota. And all a person has to do after that is to have enough experience to pass their practical. And they do that essentially now. Other than wiping out this training permit, which I think is probably a good thing, if the permit allows an inexperienced person to be testing for hearing aids, you could get a bunch of charlatans out there that are selling hearing aids for nothing. I don't think there is anything wrong with this, to be honest with you.

**Rep. B. Koppelman** I think many of us share the concerns about the repeal of the 43-33-08 section for training. I also have concerns about the paying of board members. I think the way it's written is a little different than his understanding in how he testified. And so, if this

bill was to move on, I'd like to think that should be worked on to fix that. And probably do it in a way that's similar to the way other boards do it, not matching it to legislative members.

**Chairman Kasper:** We're going to appoint a sub-committee to work on this bill.

Subcommittee Rep. B. Koppelman, Rep. Wallman, Rep. M. Johnson

**Chairman Kasper:** Check the repealing section, check on ideas on how to fix some of the things in here that you've heard being expressed as concerns. And we've got plenty of time for you to do your work, but maybe next week, Friday or something along those lines, we might be able to have a report from the sub-committee.

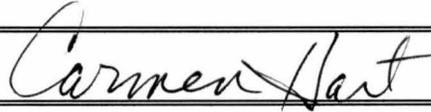
# 2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Fort Union, State Capitol

SB 2110  
3/20/2015  
25217

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to licensing hearing aid specialists; relating to temporary trainee permits; and to provide a penalty

## Minutes:

"Click to enter attachment information."

**Chairman Kasper** opened the meeting on SB 2110.

**Rep. B. Koppelman** This bill is the one that made changes to the way the board of hearing aid specialists operates, some of their procedures, and whether or not they were going to get paid for their service. I started out by trying to schedule meetings for this and talked with Ned Schauer. He had me talk to Nathan Voss from Fargo who is another member on that board. After about one week we finally got together, and at first I thought they wanted to kill most of the bill and just keep a couple things. Then they talked to other board members and nobody could agree on what they wanted to keep. Ned sent me an email that says, "As we discussed on the phone earlier and after talking to Nathan, we have decided we would like to kill the bill. We will look it over on what we want to do and reintroduce it next session." I think they will work out their differences during the interim. It didn't sound like anything was dire in nature. Once I provided them with some information on what boards and commissions were paid and wanted to know their feedback, I think they realized that their request in the bill would have pretty much bankrupted their board. The subcommittee actually didn't need to meet. I make a motion for a DO NOT PASS.

**Rep. Dockter** seconded the motion.

**Chairman Kasper** Obviously, when the entity that introduces the bill asks you to kill it, we should probably accommodate them. Thank you, Rep. Koppelman, for encouraging them to get their act together and come back next session with something that works for their board and profession.

A roll call vote was taken. 14 Yeas, 0 Nays, 0 Absent.

**Rep. B. Koppelman** will carry the bill.

Date: 3-20-15  
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2110**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Koppelman Seconded By Dockter

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman	X	
Vice Chair Karen Rohr	X		Rep. Gail Mooney	X	
Rep. Jason Dockter	X		Rep. Mary Schneider	X	
Rep. Mary C. Johnson	X		Rep. Kris Wallman	X	
Rep. Karen Karls	X				
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Jay Seibel	X				
Rep. Vicky Steiner	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment B. Koppelman

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2110, as engrossed: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends DO NOT PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2110 was placed on the Fourteenth order on the calendar.**

**2015 TESTIMONY**

**SB 2110**

SB 2110 # 1  
1/15  
Pg 1

Introduced by

Government and Veterans Affairs Committee

(At the request of the Board of Hearing Aid Specialists)

1 A BILL for an Act to amend and reenact section 43-33-01, subsection 1 of section 43-33-02,  
2 subsection 1 of section 43-33-03, sections 43-33-04 and 43-33-06, subsection 2 of section  
3 43-33-07, section 43-33-09, subdivision c of subsection 2 of section 43-33-12, subsection 4 of  
4 section 43-33-15, and section 43-33-18 of the North Dakota Century Code, relating to licensing  
5 hearing aid specialists; to repeal section 43-33-08 of the North Dakota Century Code, relating to  
6 temporary trainee permits; and to provide a penalty.

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

8 **SECTION 1. AMENDMENT.** Section 43-33-01 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **43-33-01. Definitions.**

11 As used in this chapter, unless the context requires otherwise:

- 12 1. "Board" means the board of hearing aid specialists.
- 13 2. "Hearing aid" or "hearing instrument" means any wearable instrument or device  
14 designed for or offered for the purpose of aiding or compensating for impaired human  
15 hearing and any parts, attachments, or accessories including earmold, but excluding  
16 batteries, cords, and earmold tubing.
- 17 3. "License" means a license issued under this chapter to a hearing aid specialist.
- 18 4. "Licensee" means a hearing aid specialist licensed under this chapter.
- 19 5. "Practice of fitting and dispensing hearing instruments" means the measurement of  
20 human hearing to determine hearing loss by means of an audiometer or by any means  
21 solely for the purpose of making selections, adaptations, repairs, or sale of hearing  
22 instruments. The term also includes the making of impressions for earmolds. A  
23 licensee, at the request of a physician or member of related professions, may make

1 audiograms for the professional's use in consultation with the ~~hard-of-hearing~~ hearing  
2 impaired.

3 6. "Sell" or "sale" includes a transfer of ~~title~~ ownership or of the right to use by lease,  
4 bailment, or any other contract. This excludes wholesale to distributors or dispensers.

5 7. ~~"Trainee permit" means a temporary permit issued while an applicant is in training to~~  
6 ~~become a licensee.~~

7 **SECTION 2. AMENDMENT.** Subsection 1 of section 43-33-02 of the North Dakota Century  
8 Code is amended and reenacted as follows:

9 1. A person may not engage in the sale of or practice of fitting hearing instruments or  
10 display a sign or in any other way advertise or represent that that person practices the  
11 fitting and sale of hearing instruments unless that person holds an unsuspended,  
12 unrevoked license issued by the board as provided in this chapter. The license must  
13 be conspicuously posted in the licensee's primary office or place of business.  
14 ~~Duplicate licenses must be issued by the board to valid licenseholders operating~~ if a  
15 licensee operates more than one office ~~for a fee determined by the board~~ or place of  
16 business the licensee shall copy the license and shall display the copied license at the  
17 other office or place of business. A license confers upon the holder the right to select,  
18 fit, and sell hearing instruments, and the right to conduct any necessary hearing  
19 testing incident to the selecting, fitting, and selling of hearing instruments.

20 **SECTION 3. AMENDMENT.** Subsection 1 of section 43-33-03 of the North Dakota Century  
21 Code is amended and reenacted as follows:

22 1. Any person who practices the fitting and sale of hearing instruments shall deliver to  
23 each person supplied with a hearing instrument a receipt that contains the licensee's  
24 signature, the licensee's business address, the number of the licensee's certificate, the  
25 serial number and the make and model of the hearing instrument furnished, and the  
26 full terms of the sale. If an instrument that is not new is sold, the receipt and the  
27 instrument's container must be clearly marked as "used" or "reconditioned" whichever  
28 is applicable, with the terms of guarantee, if any.

29 **SECTION 4. AMENDMENT.** Section 43-33-04 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **43-33-04. Persons and practices not affected.**

2       This chapter does not prevent or restrict:

- 3       1. A person from engaging in the practice of measuring human hearing ~~for the purpose of~~
- 4       ~~selection of hearing instruments~~ if the person or organization employing that person
- 5       does not sell hearing instruments.
- 6       2. A person employed as a hearing aid specialist by the federal government from
- 7       engaging in the practice of fitting and dispensing hearing instruments if the person
- 8       performs the practice solely within the confines or under the jurisdiction of the
- 9       government of the United States.
- 10      3. Activities and services of a person pursuing a course of study leading to a graduate
- 11      degree in audiology at a college or university if the activities or services are under the
- 12      direct supervision of a licensee, constitute a part of a supervised course of study, and
- 13      the person is designated an audiology intern or trainee or by another title clearly
- 14      indicating the training status appropriate to the level of training.

15       **SECTION 5. AMENDMENT.** Section 43-33-06 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17       **43-33-06. Issuance of license.**

18      1. The board shall register each applicant without discrimination if the applicant passes an  
19 examination as provided in section 43-33-07, and upon the applicant's payment of a fee as  
20 established by the board, shall issue to the applicant a license signed by the secretary of the  
21 board. The license is effective until the expiration date stated on the license ~~and identification-~~  
22 ~~card.~~

23      2. ~~Whenever the board determines that another state or jurisdiction has requirements~~  
24 ~~equivalent to or higher than those in effect pursuant to this chapter for the practice to~~  
25 ~~fit and sell hearing instruments, and that the state or jurisdiction has a program~~  
26 ~~equivalent to or stricter than the program for determining whether applicants pursuant~~  
27 ~~to this chapter are qualified to dispense and fit hearing instruments, the board may~~  
28 ~~issue certificates of endorsement to applicants who hold current, unsuspended and~~  
29 ~~unrevoked certificates or licenses by examination to fit and sell hearing instruments in~~  
30 ~~the other state or jurisdiction. The board may not issue a license to an applicant for a~~  
31 ~~certificate of endorsement if the applicant's license or certificate from the other state or~~

1           ~~jurisdiction was obtained by experience. An applicant for a certificate of endorsement~~  
2           ~~may not be required to submit to or undergo a qualifying examination, but the~~  
3           ~~applicant must pay the fees required by the board. The holder of a certificate of~~  
4           ~~endorsement must be registered in the same manner as holders of a license. The fee~~  
5           ~~for an initial certificate of endorsement must be the same as the fee for an initial~~  
6           ~~license. Fees, grounds for renewal, and procedures for the suspension and revocation~~  
7           ~~of certificates of endorsement must be the same as for renewal, suspension, and~~  
8           ~~revocation of a license.~~

9           **SECTION 6. AMENDMENT.** Subsection 2 of section 43-33-07 of the North Dakota Century  
10 Code is amended and reenacted as follows:

11           2. The applicant for license by examination shall appear at a time, place, and before  
12           such persons as the board designates, to be examined by means of written and  
13           practical tests to demonstrate that the applicant is qualified to practice the fitting and  
14           sale of hearing instruments. The examination administered as directed by the board  
15           constituting standards for licensing may not be conducted in such a manner that  
16           college ~~training~~education is required to pass the examination. The examination may  
17           not imply that the applicant must possess the degree of medical competence normally  
18           expected of physicians.

19           **SECTION 7. AMENDMENT.** Section 43-33-09 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21           **43-33-09. Scope of examination.**

- 22           1. The qualifying examination provided in section 43-33-07 consists of:
- 23           4. a. Tests of knowledge in the following areas pertaining to the fitting and sale of  
24           hearing instruments:
- 25           a. (1) Basic physics of sound;
- 26           b. (2) The anatomy and physiology of the ear;
- 27           c. (3) The function of hearing instruments;
- 28           d. (4) Elementary audiology; and
- 29           e. (5) Any other requirements established by the board.
- 30           2. b. Practical tests of proficiency in the following techniques pertaining to the fitting of  
31           hearing instruments:

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- 1 a- (1) Pure tone audiometry, including air conduction testing and bone conduction
- 2 testing;
- 3 b- (2) Live voice or recorded voice speech audiometry, including speech reception
- 4 threshold testing and speech discrimination testing;
- 5 e- (3) Masking when indicated;
- 6 d- (4) Recording and evaluation of audiograms and speech audiometry to
- 7 determine proper selection and adaptation of a hearing instrument;
- 8 e- (5) Taking earmold impressions;
- 9 f- (6) Hearing instrument modification technique; and
- 10 g- (7) Any other requirements established by the board.

11 2. An applicant who holds a doctor of audiology degree from an accredited institution  
12 shall meet all licensing requirements, except for purposes of the practical tests of  
13 proficiency is only required to take and pass the tests required under paragraphs 5  
14 and 7 of subdivision b of subsection 1.

15 **SECTION 8. AMENDMENT.** Subdivision c of subsection 2 of section 43-33-12 of the North  
16 Dakota Century Code is amended and reenacted as follows:

- 17 c. Unethical conduct. Unethical conduct means:
  - 18 (1) Obtaining any fee or making any sale by fraud or misrepresentation.
  - 19 (2) Knowingly employing, directly or indirectly, any suspended or unregistered
  - 20 person to perform any work covered by this chapter.
  - 21 (3) Using, or causing or promoting the use of, any advertising matter,
  - 22 promotional literature, testimonial, guarantee, warranty, label, brand,
  - 23 insignia, or any other representation, however disseminated or published,
  - 24 which is misleading, deceptive, or untruthful.
  - 25 (4) Advertising a particular model or type of hearing instrument for sale when
  - 26 purchasers or prospective purchasers responding to the advertisement
  - 27 cannot purchase the advertised model or type if it is established that the
  - 28 purpose of the advertisement is to obtain prospects for the sale of a different
  - 29 model or type than that advertised.
  - 30 (5) Representing that the service or advice of a person licensed to practice
  - 31 medicine will be used or made available in the selection, fitting, adjustment,

- 1 maintenance, or repair of hearing instruments when that is not true, or using  
2 the word "doctor", "clinic", "audiologist", or similar words, abbreviations, or  
3 symbols which tend to connote the medical profession or ~~audiological-~~  
4 ~~profession~~professional audiologist when that is not accurate, or use of the  
5 titles "hearing instrument specialist", "hearing aid specialist", "board-certified  
6 hearing aid specialist", or "board-certified hearing instrument specialist"  
7 when the qualifying requirements have not been met through the  
8 international hearing society or national board for certification in hearing  
9 instrument sciences.
- 10 (6) Habitual intemperance.  
11 (7) Gross immorality.  
12 (8) Permitting another to use the person's license.  
13 (9) Advertising a manufacturer's product or using a manufacturer's name or  
14 trademark that implies a relationship with the manufacturer which does not  
15 exist.
- 16 (10) To directly or indirectly give or offer to give, or permit or cause to be given  
17 money or anything of value to any person who advises another in a  
18 professional capacity as an inducement to influence them or have them  
19 influence others to purchase or contract to purchase products sold or  
20 offered for sale by a licensee, or to influence persons to refrain from dealing  
21 in the products of competitors.
- 22 (11) Sale of a hearing instrument to a person without adequate and proper  
23 audiometric testing.
- 24 (12) Sale of a hearing instrument to a person when the need for a hearing  
25 instrument has not been established after adequate and proper audiometric  
26 testing.

27 **SECTION 9. AMENDMENT.** Subsection 4 of section 43-33-15 of the North Dakota Century  
28 Code is amended and reenacted as follows:

- 29 4. Except for the secretary-treasurer, each board member ~~shall serve without~~ is entitled to  
30 receive per diem compensation except in the amount provided for members of the  
31 legislative management under section 54-35-10 and is entitled to receive

1            reimbursement for mileage and travel expenses while engaged in the performance of  
2            the duties of the office as is provided for necessarily incurred in the conduct of board  
3            business at the same rate as state employees. The board shall establish the amount  
4            of compensation for the secretary-treasurer.

5            **SECTION 10. AMENDMENT.** Section 43-33-18 of the North Dakota Century Code is  
6            amended and reenacted as follows:

7            **43-33-18. Violations - Penalty - Injunction.**

8            Any person who fits or dispenses hearing instruments without a license ~~or trainee permit~~ as  
9            provided in this chapter or who violates section 43-33-13 is guilty of a class B misdemeanor.  
10          Any person that sells a hearing instrument to an individual located in North Dakota for individual  
11          use is guilty of a class B misdemeanor if the seller does not provide an initial fitting in person by  
12          a licensed hearing aid specialist free of any undisclosed charge to the purchaser. In addition to  
13          the criminal penalties provided, the civil remedy of injunction is available to restrain and enjoin  
14          violations of any provisions of this chapter without proof of actual damages sustained by any  
15          person.

16          **SECTION 11. REPEAL.** Section 43-33-08 of the North Dakota Century Code is repealed.

**43-33-08. Temporary trainee permit.**

1. An applicant who fulfills the requirements regarding age, character, education, and health as set forth in section 43-33-07 may obtain a trainee permit upon application to the board. Previous experience or a waiting period may not be required to obtain a trainee permit.
2. Upon receiving an application accompanied by a fee as established by the board, the board shall issue a trainee permit that permits the applicant to engage in the training of fitting and sale of hearing instruments for a period of one year under the direct supervision of a licensee. The trainee shall train in the same place of business as that of the supervisor and must complete at least thirty hours of book and visual aid training and at least ten hours of training with an audiometer, as well as a minimum of one week with the supervisor before the trainee's first public contact alone. A trainee may not deal with the public outside the supervisor's office or place of business until these requirements have been fulfilled. After this initial period of training, the trainee must spend one day per week in the office or place of business with the supervisor. The trainee may not make any sale of a hearing instrument without first consulting with the supervisor and obtaining the supervisor's approval for the sale.
3. If a person who holds a temporary trainee permit has not successfully passed the licensing examination during the one-year period from the date of issuance, the temporary trainee permit may be renewed or reissued once upon payment of a fee established by the board.
4. A supervisor may not have more than three trainees under supervision at a time.