LEGISLATURE OF THE STATE OF IDAHO  
Sixty-fourth Legislature First Regular Session – 2017

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 46

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO SIGN LANGUAGE INTERPRETERS; AMENDING SECTION 54-2902, IDAHO CODE, TO REVISE THE DECLARATION OF POLICY REGARDING THE LICENSURE OF SIGN LANGUAGE INTERPRETERS; AMENDING SECTION 54-2903, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2904, IDAHO CODE, TO PROVIDE WHEN A LICENSE FOR SIGN LANGUAGE INTERPRETING IS REQUIRED; AMENDING SECTION 54-2905, IDAHO CODE, TO PROVIDE EXEMPTIONS FOR LICENSURE FOR SIGN LANGUAGE INTERPRETING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2908, IDAHO CODE, TO PROVIDE THE SPEECH, HEARING AND COMMUNICATION SERVICES LICENSURE BOARD, TO REVISE MEMBERSHIP, TO REVISE POWERS AND DUTIES, AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 29, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2916A, IDAHO CODE, TO PROVIDE FOR LICENSURE OF SIGN LANGUAGE INTERPRETERS; AMENDING SECTION 54-2917, IDAHO CODE, TO PROVIDE FOR DUAL LICENSURE OF CERTAIN PROFESSIONS; AMENDING SECTION 54-2919, IDAHO CODE, TO PROVIDE A PROVISIONAL PERMIT FOR SIGN LANGUAGE INTERPRETERS; AMENDING SECTION 54-2924, IDAHO CODE, TO ADD SIGN LANGUAGE INTERPRETING, HEARING AID DEALING OR FITTING TO THOSE PRACTICES THE BOARD MAY INVESTIGATE; AMENDING SECTION 54-2927, IDAHO CODE, TO REVISE PROVISIONS FOR UNLAWFUL PRACTICE AND PENALTIES; AND PROVIDING EFFECTIVE DATES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-2902, Idaho Code, be, and the same is hereby amended to read as follows:

54-2902. DECLARATION OF POLICY. To protect the public health, safety and welfare, and to provide for administrative supervision, licensure and regulation, every person practicing or offering to practice audiology, speech-language pathology, sign language interpreting or hearing aid dealing and fitting services as defined in this chapter, who meets and maintains prescribed standards of competence and conduct, shall be licensed as provided in this chapter. This chapter shall be liberally construed to promote the public interest and to accomplish the purpose stated herein.

SECTION 2. That Section 54-2903, Idaho Code, be, and the same is hereby amended to read as follows:

54-2903. DEFINITIONS. As used in this chapter:
(1) "Applicant" means a person applying for a license or permit under this chapter.
(2) "Audiologist" means a natural person who meets the requirements of this chapter, is duly licensed in accordance with this chapter and is engaged in the practice of audiology.
(3) "Board" means the speech, and hearing and communication services licensure board.

(4) "Bureau" means the bureau of occupational licenses.

(5) "Department" means the department of self-governing agencies.

(6) "Hearing aid" means any wearable electronic instrument or other device designed for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, including earmolds attached to the hearing aid, but excluding batteries and cords. "Hearing aid" does not include those devices classified by the federal drug administration as assistive listening devices.

(7) "Hearing aid dealer and fitter" means a person licensed pursuant to this chapter to provide hearing aid evaluations and to sell, dispense and fit hearing aids in the state of Idaho.

(8) "Hearing aid evaluation" means the measurement of human hearing for the purpose of selecting or adapting a hearing aid, and not for obtaining medical diagnosis or legal documentation, and includes the following:

(a) Air conduction threshold testing;

(b) Bone conduction threshold testing;

(c) Speech reception threshold testing;

(d) Speech discrimination testing;

(e) Most comfortable loudness level testing; and

(f) Uncomfortable loudness level testing.

(9) "Improper fitting" means a pattern of hearing aid selections or adaptations which cause physical damage to any portion of the ear, in which the electroacoustic characteristics of the hearing aid are inadequate for the consumer, or in which the hearing aid is physically or acoustically unsuited to the consumer including, but not limited to:

(a) An all-in-the-ear hearing aid which continually falls out of the ear;

(b) Any hearing aid or earmold which causes inappropriate feedback, pain or discomfort to the ear within thirty (30) days of the original delivery of the hearing aid to the consumer;

(c) Fitting a consumer with impacted cerumen; or

(d) Fitting a consumer with either an apparent unilateral sensorineural hearing loss or a significant air-bone gap without prior medical evaluation and approval.

(10) "License" means a license issued by the board under this chapter authorizing practice as a speech-language pathologist, audiologist, or hearing aid dealer and fitter.

(11) "Practice of audiology" means to apply the principles, methods and procedures of measurement, evaluation, testing, counseling, consultation and instruction that relate to the development and disorders of hearing, vestibular functions and related language and speech disorders to prevent, modify or rehabilitate the disorders or to assist individuals in auditory and related skills for communication, and may include intraoperative monitoring and the fitting, adjustment, programming, selling and dispensing of hearing aids and assistive devices.

(12) "Practice of fitting and dealing in hearing aids" means the selection, adaptation, dispensing, fitting or sale of hearing aids, and includes the testing of hearing by means of an audiometer, or by any other device de-
signed specifically for these purposes. The practice also includes the making of impressions for earmolds.

(13) "Practice of sign language interpreting" means the application of the process of providing effective communication between and among persons who are deaf, hard of hearing or deaf-blind, speech impaired and those who can hear. The process includes, but is not limited to, communication between American sign language or other forms of manual communication and English. The process may also involve various other modalities that involve visual, gestural and tactile methods.

(14) "Practice of speech-language pathology" means the application of principles, methods and procedures of measurement, evaluation, testing, counseling, rehabilitation, screening, consultation and instruction that relate to the development and disorders of human communication including, but not limited to, speech (articulation, fluency, voice, accent reduction) and language, swallowing, cognitive communication disorders, augmentative and alternative communication systems and related hearing disorders.

(15) "Provisional permit" means a permit issued to an applicant who is registered to obtain required experience to become licensed.

(16) "Sign language interpreter" means a natural person who meets the requirements of this chapter, is duly licensed in accordance with this chapter, and who engages in the practice of sign language interpreting.

(17) "Speech-language pathologist" means a natural person who meets the requirements of this chapter, is duly licensed in accordance with this chapter, and who engages in the practice of speech-language pathology.

(18) "Speech-language pathologist aide" means a natural person who meets the requirements of this chapter, is duly licensed in accordance with this chapter, and who works under the direction and supervision of a speech-language pathologist. A speech-language pathologist aide shall not act or provide services independently of a supervising speech-language pathologist licensed in Idaho.

(19) "Speech-language pathologist assistant" means a natural person who meets the requirements of this chapter, is duly licensed in accordance with this chapter, and works under the direction and supervision of a speech-language pathologist. A speech-language pathologist assistant shall not act or provide services independently of a supervising speech-language pathologist licensed in Idaho.

SECTION 3. That Section 54-2904, Idaho Code, be, and the same is hereby amended to read as follows:

54-2904. LICENSE REQUIRED. (1) Except as otherwise provided in this chapter, it shall be unlawful for any person to engage in the practice or to perform or offer to practice audiology or speech-language pathology or sign language interpreting or to act as a hearing aid dealer or fitter unless such person is duly licensed in accordance with this chapter. A license issued pursuant to this chapter shall be posted in the licensee's established place of business or carried upon the person, and shall be presented as proof of licensure upon demand.

(2) It is unlawful for any person or business entity, or its employees, agents or representatives, to use in connection with his or her name, or name of activity of the business, the words "audiologist," "audiometrist,"
"hearing clinician," "hearing therapist," or any other title, abbreviation or insignia indicating or implying directly or indirectly that such person, business entity, employee, agent or representative is engaged in the practice of audiology, unless such services are provided by an audiologist licensed in accordance with this chapter or lawfully exempt pursuant to section 54-2905(1)(c), Idaho Code.

(3) It is unlawful for any person or business entity, or its employees, agents or representatives, to use in connection with his or her name, or name of activity of the business, the words "speech pathologist," "speech therapist," "speech correctionist," "speech clinician," "language therapist," "language pathologist," "voice therapist," "voice pathologist," "logopedist," "communicologist," "aphasiologist," or any other title, abbreviation or insignia indicating or implying directly or indirectly that such person, business entity, employee, agent or representative is engaged in the practice of speech-language pathology, unless such services are provided by a speech-language pathologist licensed in accordance with this chapter or lawfully exempt pursuant to section 54-2905(1)(c), Idaho Code.

(4) It is unlawful for any person or business entity, or its employees, agents or representatives, to use in connection with his or her name, or name of activity of the business, the words "hearing aid dealer and fitter" or any other title, abbreviation or insignia indicating or implying directly or indirectly that such person, business entity, employee, agent or representative is engaged in the practice of audiology or hearing aid dealing and fitting, unless such services are provided by an audiologist or hearing aid dealer and fitter licensed in accordance with this chapter.

(5) It is unlawful for any person or business entity, or its employees, agents or representatives, to use in connection with his or her name, or name of activity of the business, the words "sign language interpreter" or any other title, abbreviation or insignia indicating or implying directly or indirectly that such person, business entity, employee, agent or representative is engaged in the practice of sign language interpreting, unless such services are provided by a sign language interpreter licensed in accordance with this chapter.

SECTION 4. That Section 54-2905, Idaho Code, be, and the same is hereby amended to read as follows:

54-2905. EXEMPTIONS. (1) Nothing in this chapter shall be construed to restrict:
(a) Any person licensed or regulated by the state of Idaho from engaging in the profession or practice for which he or she is licensed or regulated including, but not limited to, any certified or accredited teacher of the deaf, nurse, physician, occupational therapist, physical therapist, surgeon, or any other licensed or regulated practitioner of the healing arts;
(b) Any employee working under the direct supervision of those persons referred to in this section, so as long as such employee does not hold himself or herself out as an audiologist, speech-language pathologist, speech-language pathologist aide or assistant, sign language interpreter, hearing aid dealer or fitter, or a person engaged in the
practice of audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting; or
(c) Any person working in an Idaho public school setting who has received and holds, in good standing, a pupil personnel services certificate with a speech-language pathologist endorsement or audiologist endorsement, or any person working as a speech-language pathologist aide or speech-language pathologist assistant, as those terms are defined in section 54-2903, Idaho Code, in a public school setting under the direction and supervision of a person with such endorsement in good standing. Such persons, while practicing in the public school setting, shall be exempt from all provisions of this chapter; provided however, that any such person working in an Idaho public school setting with a pupil personnel services certificate with a speech-language pathologist endorsement or audiology endorsement, or a speech-language pathologist aide or speech-language pathologist assistant, shall be prohibited from practicing independently in a setting other than a public school unless such person is duly licensed as set forth in this chapter.

(2) Licensure shall not be required for persons pursuing a course of study leading to a degree in audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting at a college or university with a curriculum acceptable to the board provided that:
(a) Activities and services otherwise regulated by this chapter constitute a part of a planned course of study at that institution;
(b) Such persons are designated by a title such as "intern," "trainee," "student," or by other such title clearly indicating the status appropriate to their level of education; and
(c) Such persons work under the supervision of a person licensed by this state to practice audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting in accordance with administrative rules governing supervision as adopted by the board. The supervising audiologist, speech-language pathologist, sign language interpreter, or hearing aid dealer and fitter accepts full responsibility for the activities and services provided by such persons supervised.

(3) Nothing in this chapter shall restrict a person residing in another state or country and authorized to practice audiology, speech-language pathology, sign language interpreting, or hearing aid dealing or fitting there in that jurisdiction, who is called in consultation by a person licensed in this state to practice audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting, or who for the purpose of furthering audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting education is invited into this state to conduct a lecture, clinic or demonstration, while engaged in activities in connection with the consultation, lecture, clinic or demonstration, as long as such person does not open an office or appoint a place to meet clients or receive calls in this state.

(4) The provisions of this chapter regarding licensure of sign language interpreters shall not apply to the following:
(a) A person holding a current general license, unless the license is provisional, is allowed to interpret in a preschool and/or K-12 setting pursuant to section 33-1304, Idaho Code.

(b) A person who is deaf or hard of hearing and does not possess interpreter certification or credentials may, at the discretion of the board by rule, perform in the role of a deaf interpreter.

(c) A student enrolled in a sign language interpreter educational program provided by an accredited college or university performing sign language interpretation as an integral part of the student's course of study and as supervised by a licensed sign language interpreter.

(d) Individuals licensed as sign language interpreters in another state authorizing such individuals to practice sign language interpreting in Idaho for a period not to exceed thirty (30) days pursuant to such terms and requirements as set forth in the rules of the board.

(e) A person providing services to the activities and services of any religious denomination or sect;

(f) Interpreting in an inconsequential situation, which means the level of significance is such that a licensed interpreter would not be deemed necessary for effective communication during that interaction. Inconsequential situations may include, but are not limited to: ordering food at a restaurant, checking into a hotel or purchasing an item from a retailer;

(g) A person providing services in a private, noncommercial, family event; or

(h) Exigent emergency circumstances for temporary interpreting services until a qualified interpreter can be obtained.

(5) Interpreters and video remote interpreting services performing interpretation for the judicial department will be selected and assigned and will provide interpreting services pursuant to rules and orders promulgated by the Idaho supreme court to ensure full access to the courts and court services for all deaf and hard of hearing persons as required by the due process provisions of the United States and Idaho constitutions and the provisions of the Americans with disabilities act (ADA).

SECTION 5. That Section 54-2908, Idaho Code, be, and the same is hereby amended to read as follows:

54-2908. SPEECH, AND HEARING AND COMMUNICATION SERVICES LICENSURE BOARD. (1) There is hereby established in the department of self-governing agencies a speech, and hearing and communication services licensure board. The board shall consist of seven (7) members appointed by the governor. The governor may consider recommendations for appointment to the board from the Idaho speech language, language, hearing association, inc. (ISHA), any Idaho association of hearing aid dealers and fitters, any Idaho association of sign language interpreters and any individual residing in this state. Three two (2) members of the board shall be speech-language pathologists, one (1) member shall be licensed as a sign language interpreter, two (2) members shall be audiologists, one (1) member shall be a hearing aid dealer and fitter, and one (1) member shall be appointed from the public at-large. Each nonpublic member shall:
(a) Have been a resident of the state of Idaho for no less than one (1) year immediately preceding his or her appointment;
(b) Have been engaged in rendering services to the public, teaching, or performing research in the field of audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting for a period of not less than five (5) years preceding his or her appointment;
(c) Be a currently practicing audiologist, speech-language pathologist, sign language interpreter, or hearing aid dealer and fitter; and
(d) At all times during such appointment to the board, maintain a valid license in audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting, except for the first appointees who shall meet the eligibility requirements for licensure as specified in this chapter at all times after initial appointment.

(2) The public member appointed as provided herein shall have been a resident of the state of Idaho for not less than one (1) year immediately preceding his appointment. Further, such public member shall not be associated with or financially interested in the practice or business of audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting, nor shall such public member be engaged in an allied or related profession or occupation.

(3) Members shall serve a term of three (3) years at the pleasure of the governor and shall be staggered as follows: two (2) members whose terms expire July 1, 2008; two (2) members whose terms expire July 1, 2009; and three (3) members whose terms expire July 1, 2010. The governor shall appoint members and their terms shall begin July 1, 2008. In the event of a vacancy other than expiration of a term, the governor shall appoint a replacement to fill the vacancy for the remainder of the unexpired term.

(4) Members shall disqualify themselves and, upon the motion of any interested party, upon proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias that interferes with their fair and impartial service.

SECTION 6. That Chapter 29, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-2916A, Idaho Code, and to read as follows:

54-2916A. QUALIFICATIONS FOR LICENSURE -- SIGN LANGUAGE INTERPRETER. To be eligible for licensure as a sign language interpreter, the applicant shall:
(1) File a written application with the board on forms prescribed and furnished by the board. A nonrefundable application fee shall accompany the completed written application. Such fees shall be established by the administrative rules of the board and shall be in such amounts as are reasonable and necessary for the proper execution and enforcement of this chapter;
(2) Provide verification acceptable to the board of the following:
   (a) Be at least twenty-one (21) years of age;
   (b) Good moral character;
   (c) Never having had a license or certification revoked or otherwise sanctioned as part of disciplinary action from this or any other state;
(d) Never having been convicted, found guilty or received a withheld judgment for any felony; and
(e) Never having been found by the board to have engaged in conduct prohibited by this chapter.

The board may take into consideration the rehabilitation of the applicant and other mitigating circumstances when considering applications for licensure.

(3) Provide evidence satisfactory to the board of having successfully passed a nationally recognized competency examination approved by the board or achieved certification defined by board rule;

(4) Provide educational documentation satisfactory to the board that the applicant has successfully graduated from a four-year course at an accredited high school or the equivalent; and

(5) Provide documentation that the applicant has successfully passed an examination approved by the board.

SECTION 7. That Section 54-2917, Idaho Code, be, and the same is hereby amended to read as follows:

54-2917. DUAL LICENSURE. A person may be licensed as both an audiologist and a speech-language pathologist or sign language interpreter, if such person duly meets the requirements of licensure for both each such license. A person obtaining licensure as both an audiologist and a speech-language pathologist or sign language interpreter shall be charged fees as though the person had obtained only one (1) license.

SECTION 8. That Section 54-2919, Idaho Code, be, and the same is hereby amended to read as follows:

54-2919. PROVISIONAL PERMIT. The board shall adopt rules providing for a provisional permit to allow a person to engage in the practice of audiology or speech-language pathology while completing either the required postgraduate experience or a comparable experience as part of a doctoral program in audiology as required by this chapter. The board may further provide for a provisional permit to allow a person to engage in fitting and dealing hearing aids or sign language interpreting pursuant to rules adopted by the board. The holder of a provisional permit may practice only while under the supervision of a person fully licensed under this chapter.

SECTION 9. That Section 54-2924, Idaho Code, be, and the same is hereby amended to read as follows:

54-2924. INVESTIGATIONS AND DISCIPLINARY ACTIONS -- PROCEDURES. (1) The board is authorized to institute any investigation, hearing or other legal proceeding necessary to effect compliance with this chapter.

(2) The board or its hearing officer, upon a finding that action is necessary, shall have the power pursuant to this chapter to administer oaths, take depositions of witnesses within or without the state in the manner provided by the administrative rules adopted by the board, and shall have power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records and papers as it may desire at any hear-
ing and for that purpose the board may issue a subpoena for any witness or a
subpoena duces tecum to compel the production of any books, records or pa-
pers, directed to the sheriff of any county of the state of Idaho, where such
witness resides or may be found, which shall be served and returned. The
board may require a licensee to be examined to determine his or her mental
or physical competence when the board has probable cause to believe the li-
censee is suffering from an impairment that might impede his or her ability
to practice competently. The board may accept a voluntary restriction of-
fered by a licensee on a licensee's scope of practice due to impairment of the
licensee's competence.

(3) When it is brought to the attention of the board by the written
statement of any person that a person licensed under this chapter has done
any act or thing in violation of any provision of this chapter, the board
shall make an investigation of such person and, if it is determined there is
probable cause to institute proceedings against such person, the board shall
commence a formal proceeding against the person in accordance with chapter
52, title 67, Idaho Code, and with the administrative rules adopted by the
board.

(4) The board may investigate any person to the extent necessary to de-
termine if the person is engaged in the unlawful practice of audiology or
speech-language pathology, sign language interpreting or hearing aid deal-
ing or fitting. If an investigation indicates that a person may be prac-
ticing audiology, sign language interpreting, hearing aid dealing or fitting,
or speech-language pathology unlawfully, the board shall inform the person
of the alleged violation. The board shall refer all violations of this sec-
tion made known to it to appropriate prosecuting attorneys whether or not the
person ceases the unlawful practice. The board may render assistance to a
prosecuting attorney in the prosecution of a case pursuant to this section.

(5) The board may, in the name of the people of the state of Idaho, apply
for injunctive relief in any court of competent jurisdiction to enjoin any
person from committing any act in violation of this chapter. Such injunction
proceedings shall be in addition to, and not in lieu of, all penalties and
other remedies provided for in this chapter.

SECTION 10. That Section 54-2927, Idaho Code, be, and the same is hereby
amended to read as follows:

54-2927. UNLAWFUL PRACTICE -- PENALTIES. (1) It shall be unlawful
for any person to practice or offer to practice audiology, speech-language
pathology, sign language interpreting, or hearing aid dealing and fitting in
this state, or to use in connection with his or her name or otherwise assume,
use or advertise any title or description tending to convey the impression
that he or she is an audiologist, speech-language pathologist, sign language
interpreter, or hearing aid dealer and fitter, unless such person has been
appropriately licensed under the provisions of this chapter.

(2) It shall be unlawful for any person to aid, abet or require another
person, licensed or unlicensed, to directly or indirectly violate or evade
any provision of this chapter, or to combine or conspire with another person,
or permit one's license to be used by another person, or to act as an agent,
partner, associate or otherwise, of another person with the intent to vio-
late or evade the provisions of this chapter.
(3) A violation of the provisions of this chapter shall constitute a misdemeanor and any person convicted thereof shall be fined an amount not to exceed one thousand dollars ($1,000), or imprisoned in a county jail for a period not to exceed six (6) months, or shall be punished by both such fine and imprisonment.

SECTION 11. Sections 1, 2, and 4 through 9 of this act shall be in full force and effect on and after July 1, 2017, and Sections 3 and 10 of this act shall be in full force and effect on and after July 1, 2018.