

**LETTER OPINION**  
**96-L-40**

March 26, 1996

Thomas M. Froelich, MS/CCC-A  
Chair, State Board of Examiners of  
Audiology and Speech-Language Pathology  
c/o Minot State University  
Department of Communication Disorders  
P.O. Box 86  
Minot, ND 58702-0086

Dear Mr. Froelich:

Thank you for your letter requesting my opinion about whether a speech aide can legally be used in speech-language pathology in the private sector, hospital setting or public schools under the supervision of a licensed speech-language pathologist. Your letter indicates that a speech aide is a non-master's degreed individual, not eligible to be licensed to practice speech-language pathology in North Dakota, used to provide "therapeutic services" under the supervision of a licensed speech-language pathologist.

N.D.C.C. ch. 43-37 provides for the licensing and regulation of speech-language pathologists. Pursuant to section 43-37-03, a person may not practice or represent oneself as a speech-language pathologist in this state unless licensed annually in accordance with chapter 43-47. This section then goes on to enumerate various exceptions to this licensure requirement. However, there is no exception for speech aides or other individuals whose titles indicate they are merely assisting the pathologist when, in fact, they are performing services which fall under the definition of the practice of speech-language pathology. If such individuals practice speech-language pathology as defined in N.D.C.C. § 43-37-02(7), they are required to be licensed in accordance with the provisions of chapter 43-37 unless they meet one of the specific exceptions enumerated in section 43-37-03. This is true whether the individual's activities are in the private sector, a hospital, or in the public schools.<sup>1</sup>

In a prior opinion interpreting N.D.C.C. ch. 43-37, this office stated chapter 43-37 would appear to allow a lay person to assist a

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<sup>1</sup> Pursuant to N.D.C.C. § 43-37-03(4), an individual who holds a valid credential as a speech-language pathologist issued by the Department of Public Instruction is exempt from the regulatory authority of the Board if the person performs "services solely within the confines or under the jurisdiction of the . . . state educational organization by which employed."

Thomas M. Froelich  
March 26, 1996  
Page 2

licensed audiologist. 1981 N.D. Op. Att'y Gen. 45. The opinion also noted that "the licensed audiologist must have total supervision of the testing process including the administration of the hearing test and the interpretation of the results of the hearing test." Id. at 46. Based on this opinion, N.D.C.C. ch. 43-37 allows a lay person to assist a speech-language pathologist in providing "therapeutic services" which do not require the exercise of professional judgment or training if the lay person is under the direct supervision and control of the licensed pathologist. Under such circumstances, the licensed speech-language pathologist would be legally and professionally responsible for the activities of the lay person.

In conclusion, a speech aide may not perform therapeutic services that constitute the practice of speech-language pathology unless the speech aide satisfies one of the specific exemptions contained in N.D.C.C. § 43-37-03. A speech aide may assist a licensed pathologist in performing therapeutic services; however, the speech aide must be under the direct supervision of the licensed pathologist and the task being performed by the speech aide may not require the exercise of professional judgment or training.

If the Board believes it is in the best interest of the public for properly trained speech aides to provide therapeutic speech-language pathology services under the direct supervision of a licensed pathologist, the Board may want to consider seeking a clarifying amendment to N.D.C.C. § 43-37-03 to exempt speech aides from licensure under those circumstances. Alternatively, the Board may want to consider seeking an appropriate amendment to N.D.C.C. ch. 43-37 to provide for the licensure and regulation of speech aides. Please note the deadline for state agencies to file bills with the Legislative Council is December 10, 1996.

Sincerely,

Heidi Heitkamp  
ATTORNEY GENERAL

dab/tmb