

Statutes and Regulations
Audiologists,
Hearing Aid Dealers,
Speech-Language Pathologists,
and Speech-Language
Pathologist Assistants

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DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT

***DIVISION OF CORPORATIONS, BUSINESS
AND PROFESSIONAL LICENSING***

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CHAPTER 11.
AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS.

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Sec. 08.11.010. Qualifications for audiologist license. The department shall issue a license to practice audiology to an individual who

- (1) is 18 years of age or older;
- (2) applies on a form provided by the department;
- (3) pays the fee required under AS 08.11.050;
- (4) furnishes evidence satisfactory to the department that the person
 - (A) has not engaged in conduct that is a ground for imposing disciplinary sanctions under AS 08.11.080;
 - (B) holds a master's degree or doctorate in audiology from an accredited educational institution approved by the department; and either has
 - (i) a Certificate of Clinical Competence in Audiology from the American Speech-Language-Hearing Association or the equivalent of the certificate; or
 - (ii) practiced audiology for two years as of January 1, 1986, or is in the process of completing the year of supervised clinical experience required for the Certificate of Clinical Competence of the American Speech-Language-Hearing Association.

Sec. 08.11.015. Qualifications for speech-language pathologist license. The department shall issue a license to practice speech-language pathology to an individual who

- (1) is 18 years of age or older;
- (2) applies on a form provided by the department;
- (3) pays the fee required under AS 08.11.050;
- (4) has not engaged in conduct that is a ground for imposing disciplinary sanctions under AS 08.11.085; and
- (5) furnishes evidence satisfactory to the department that the person holds a Certificate of Clinical Competence in speech-language pathology from the American Speech-Language-Hearing Association or the equivalent of the certificate.

Sec. 08.11.020. Temporary license to practice audiology as an audiologist. (a) On receipt of the completed application the department shall issue a temporary license for the practice of audiology as an audiologist to an individual who is licensed to practice audiology in another state and has submitted to the department an application for a license under AS 08.11.010.

(b) The department may issue a temporary license to the following:

- (1) a nonresident for the practice of audiology as an audiologist in the state for 30 days or less in a calendar year, if the individual is licensed to practice audiology in another state, territory of the United States, foreign country, or province that has requirements for a license to practice audiology that are substantially equivalent to or higher than the requirements of AS 08.11.010;
- (2) a nonresident for the practice of audiology as an audiologist in the state for 30 days or less in a calendar year, if the individual meets the qualifications and requirements for a license under AS 08.11.010, and resides in a

state or territory of the United States or a foreign country or province that does not license individuals to practice audiology.

(c) The department may impose by regulation additional limitations that it determines appropriate on a temporary license issued under this section.

Sec. 08.11.025. Temporary license to practice speech-language pathology as a speech-language pathologist.

(a) The department may issue a temporary license for the practice of speech-language pathology as a speech-language pathologist to an individual who is licensed to practice speech-language pathology in another state and has submitted to the department an application for a license and appropriate fees under AS 08.11.015.

(b) Subject to (c) and (d) of this section, the department may issue a temporary license to the following:

(1) a nonresident for the practice of speech-language pathology as a speech-language pathologist in the state for 60 days or less in a calendar year, if the individual is licensed to practice speech-language pathology in another state, territory of the United States, foreign country, or province that has requirements for a license to practice speech-language pathology that are substantially equivalent to or higher than the requirements of AS 08.11.015;

(2) a nonresident for the practice of speech-language pathology as a speech-language pathologist in the state for 60 days or less in a calendar year, if the individual meets the qualifications and requirements for a license under AS 08.11.015 and resides in a state or territory of the United States or a foreign country or province that does not license individuals to practice speech-language pathology;

(3) a person, whether a resident or not, who is in the process of completing a year of supervised clinical experience required for a certificate of clinical competence in speech-language pathology from the American Speech-Language Hearing Association.

(c) The department shall deny a temporary license to an applicant under (b) of this section if the board finds that the applicant has committed an act that is grounds for a disciplinary sanction under AS 08.11.085.

(d) The department may impose by regulation additional limitations that it determines appropriate on a temporary license issued under this section.

Sec. 08.11.030. Reinstatement of lapsed license or registration; renewal of suspended license or registration.

(a) *[Repealed, Sec. 49 ch 94 SLA 1987].*

(b) *[Repealed, Sec. 49 ch 94 SLA 1987].*

(c) The department may reinstate a lapsed license or registration if the license or registration has lapsed for less than two years and if the individual submits to the department an application for renewal and pays a delinquency fee in addition to the renewal fee.

(d) A suspended license or registration is subject to expiration and must be renewed as provided in AS 08.01.100, but the renewal does not entitle the individual while the license or registration remains suspended to practice audiology, speech-language pathology, or as a speech-language pathologist assistant, or to engage in other activity or conduct that violates the order or judgement that suspended the license.

Sec. 08.11.040. Display of license. (a) An individual licensed to practice audiology as an audiologist or licensed to practice speech-language pathology as a speech-language pathologist in the state shall display the license in a prominent place at each place of business of the individual.

(b) If an audiologist or speech-language pathologist has more than one place of business, the department shall, on request and payment of a fee, issue a duplicate license for each place of business of the individual.

Sec. 08.11.042. Activities of speech-language pathologist assistant. (a) A person may not practice as a speech-language pathologist assistant in the state without registration under this chapter.

(b) Except as provided in (e) of this section, a person registered under this chapter and who is under the immediate supervision of a person licensed as a speech-language pathologist in the state may perform treatment of a person who is medically fragile, as determined by the licensed speech-language pathologist, or who otherwise demonstrates a need for assistance with feeding or swallowing.

(c) Except as provided in (b) and (e) of this section, a person registered under this chapter and who is under the direct supervision of a person licensed as a speech-language pathologist in the state may perform screening and treatment techniques or activities and assist the speech-language pathologist during assessments, research, in-service training, and public relations activities.

(d) Except as provided in (b), (c), and (e) of this section, a person registered under this chapter and who is under the indirect supervision of a person licensed as a speech-language pathologist in the state may

(1) perform screening and treatment activities, excluding interpretation, if the supervising speech-language pathologist has previously given instruction on the performance of those screening and treatment activities, has observed the assistant in the performance of those activities, and has determined that the speech-language pathologist assistant is competent to perform those activities;

(2) conduct clerical tasks, including record keeping, documentation of a person's progress toward meeting established objectives as stated in the treatment plan or individualized education plan, scheduling, and equipment maintenance;

(3) implement a documented treatment plan, individualized education plan, or protocol developed by the supervising speech-language pathologist;

(4) sign treatment notes if the note is reviewed and cosigned by the supervising speech-language pathologist; and

(5) discuss with the client and the client's family members or guardian behaviors observed by the speech-language pathologist assistant during treatment of the client when the behaviors are supported by documented objective data.

(e) A registered speech-language pathologist assistant may not

(1) administer diagnostic assessment tools, perform formal or informal evaluations, or interpret test or evaluation results;

(2) participate in family conferences, on an interdisciplinary team, at a staff meeting, or at an individualized education plan meeting in which diagnostic information is interpreted or in which plans for a client's treatment are developed or reviewed without the presence of a licensed speech-language pathologist;

(3) write, develop, or modify a client's treatment plan or individualized education plan;

(4) assist a client without following a documented treatment plan or individualized education plan that has been prepared by a licensed and adequately trained speech-language pathologist;

(5) sign a client record or billing record that does not contain the signature of a licensed speech-language pathologist;

(6) select a person for speech-language pathology services;

(7) provide counseling to a client or a client's family or guardian;

(8) disclose clinical or confidential information, either orally, in writing, or by electronic means, to anyone not designated in writing to receive the communication by a licensed speech-language pathologist; or

(9) perform screening of feeding or swallowing functions.

Sec. 08.11.043. Qualifications for speech-language pathologist assistant registration. (a) The department shall register an individual as a speech-language pathologist assistant if the individual submits an application on a form approved by the department, pays the required fee, and

(1) submits proof satisfactory to the department that the individual has successfully completed

(A) an associate of applied science degree in disabilities with a speech-language support emphasis either from the University of Alaska Anchorage in affiliation with Prince William Sound Community College or from another approved program; or

(B) a bachelor's degree in speech-language pathology from an accredited institution; and

(2) submits proof satisfactory to the department that the individual has successfully completed 100 hours of field work supervised by a licensed speech-language pathologist.

(b) Notwithstanding the requirements of (a) of this section, the department shall register an individual as a speech-language pathologist assistant if the individual provides proof satisfactory to the department that the individual has been employed in a position for at least one year preceding July 1, 2004, that includes the practice of speech-language pathologist assistant as set out in AS 08.11.042 and if the individual

(1) submits an application on a form approved by the department;

(2) pays the required fee;

(3) submits proof satisfactory to the department that the individual has passed a competency-based checklist examination adopted by the department; and

(4) submits a written recommendation from a licensed speech-language pathologist in support of the application.

(c) The department shall maintain a registry of individuals registered under this section and shall notify an applicant in writing of a decision to approve or deny an application under this section. An approval is valid for two years, except as provided under AS 08.11.083.

(d) The department shall renew a valid registration issued under this chapter if the speech-language pathologist assistant submits a timely application on a form approved by the department accompanied by a sworn statement that the applicant has available documentation of approved continuing education consisting of 15 clock hours for the preceding two years. The department shall approve continuing education if the education is provided at state or regional conferences, workshops, formal in-service training, independent study programs, or a combination of these, and pertains to communication disorders.

Sec. 08.11.045. Supervision of a speech-language pathologist assistant. (a) A speech-language pathologist qualified under (b) of this section shall design and implement a plan for supervision of a speech-language pathologist assistant that protects the client and that maintains the highest possible standard of care. The amount of supervision required in the plan must be documented and must take into account the experience and skills of the speech-language pathologist assistant, the client's needs, the service setting, the tasks assigned, and the laws governing the activities of the speech-language pathologist assistant. A plan for supervision must provide for direct supervision of the speech-language pathologist assistant for at least 50 percent of the speech-language pathologist assistant services during the first 90 days of employment of the speech-language pathologist assistant and, after the first 90 days of employment, for at least 20 percent of the speech-language pathologist assistant services.

(b) A speech-language pathologist is qualified to supervise a speech-language pathologist assistant only if the speech-language pathologist is familiar with all applicable laws and

(1) is licensed under this chapter; or

(2) has a valid Type A or Type C teaching certificate issued under AS 14.20 with an endorsement in speech-language pathology, speech and hearing sciences, or communication disorders.

(c) A speech-language pathologist qualified under (b) of this section who agrees to supervise a speech-language pathologist assistant shall

(1) monitor and evaluate the services provided and documentation completed by the speech-language pathologist assistant, including the competency level for the type of client and service site and compliance with all applicable laws;

(2) assist the speech-language pathologist assistant in the development of a professional development plan that includes at least 15 clock hours of approved continuing education under AS 08.11.043(d) biennially; and

(3) direct the handling of emergencies by the speech-language pathologist assistant.

(d) A speech-language pathologist may not supervise more than two individuals or carry a higher caseload of clients while supervising a speech-language pathologist assistant than when the speech-language pathologist was not supervising a speech-language pathologist assistant.

Sec. 08.11.050. Fees. The department shall set fees under AS 08.01.065 for each of the following:

- (1) application;
- (2) credential review;
- (3) audiologist license and speech-language pathologist license;
- (4) temporary license;
- (5) renewal of license;
- (6) delinquency;
- (7) reinstatement;
- (8) duplicate license;
- (9) speech-language pathologist assistant registration application and renewal.

Sec. 08.11.070. Dealing in hearing aids. An audiologist may deal in hearing aids as a hearing aid dealer without being licensed as a hearing aid dealer under AS 08.55, but shall comply with AS 08.55.050, 08.55.070, 08.55.100, 08.55.110(a), 08.55.110(b)(3) and (c) - (h), and 08.55.130(7) - (13) when dealing in hearing aids.

Sec. 08.11.080. Grounds for imposition of disciplinary sanctions on an audiologist. (a) After a hearing, the department may impose a disciplinary sanction on an audiologist when the department finds that the licensee

- (1) secured a license through deceit, fraud, or intentional misrepresentation;
- (2) engaged in deceit, fraud, or intentional misrepresentation in the course of practicing audiology;
- (3) advertised professional services in a false or misleading manner;
- (4) has been convicted of a felony or other crime that affects the person's ability to continue to practice competently and safely;
- (5) continued to practice audiology after becoming unfit due to
 - (A) professional incompetence;
 - (B) use of drugs or alcohol in a manner that affects the person's ability to practice audiology competently and safely;
 - (C) physical or mental disability;
- (6) permitted another person to use the licensee's license;
- (7) employed a person who does not have a valid current license to practice audiology to perform work as an audiologist covered by this chapter;
- (8) failed to comply with a provision of this chapter or a regulation adopted under this chapter, or an order of the department.

(b) The department may not impose disciplinary sanctions on an audiologist for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if the audiologist

- (1) or another licensed health care provider is available to provide follow-up care;
- (2) requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the audiologist is not the person's primary care provider and, if the person consents, the audiologist sends the records to the person's primary care provider; and
- (3) meets the requirements established by the department in regulation.

(c) The department shall adopt regulations restricting the evaluation, diagnosis, supervision, and treatment of a person as authorized under (b) of this section by establishing standards of care, including standards for training, confidentiality, supervision, practice, and related issues.

Sec. 08.11.083. Grounds for imposition of disciplinary sanctions on a speech-language pathologist assistant.

(a) After a hearing, the department may impose a disciplinary sanction on a registered speech-language pathologist assistant when the department finds that the registrant

- (1) secured a registration through deceit, fraud, or intentional misrepresentation;
- (2) fraudulently or deceptively used a registration;
- (3) altered a registration;

- (4) sold, bartered, or offered to sell or barter a registration;
 - (5) engaged in deceit, fraud, or intentional misrepresentation in the course of assisting in the practicing of speech-language pathology;
 - (6) advertised speech-language services in a manner that is false, misleading, or deceptive;
 - (7) has been convicted of a felony or other crime that affects the person's ability to continue to practice competently and safely, including a crime involving drugs or alcohol;
 - (8) engaged in unprofessional conduct, in sexual misconduct, or in lewd or immoral behavior in connection with the delivery of professional services to clients;
 - (9) continued to practice speech-language pathology after becoming unfit due to
 - (A) professional incompetence or gross negligence;
 - (B) use of drugs or alcohol in a manner that affects the person's ability to practice speech-language pathology competently and safely;
 - (C) a physical or mental disability;
 - (10) permitted another person to use the registrant's registration;
 - (11) has been disciplined by an official government body with jurisdiction over licensure, certification, or registration of a health care or teaching practice; a certified copy of the final disciplinary action constitutes conclusive evidence against the person;
 - (12) failed to maintain confidentiality except as otherwise required or permitted by law;
 - (13) failed to comply with a provision of this chapter or a regulation adopted under this chapter, or an order of the department.
- (b) The department may not impose disciplinary sanctions on a speech-language pathologist assistant for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if the speech-language pathologist assistant
- (1) or another licensed health care provider is available to provide follow-up care;
 - (2) requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the speech-language pathologist assistant is not the person's primary care provider and, if the person consents, the speech-language pathologist assistant sends the records to the person's primary care provider; and
 - (3) meets the requirements established by the board in regulation.
- (c) The department shall adopt regulations restricting the evaluation, diagnosis, supervision, and treatment of a person as authorized under (b) of this section by establishing standards of care, including standards for training, confidentiality, supervision, practice, and related issues.

Sec. 08.11.085. Grounds for imposition of disciplinary sanctions on a speech-language pathologist. (a) After a hearing, the department may impose a disciplinary sanction on a speech-language pathologist when the department finds that the licensee

- (1) secured a license or temporary license through deceit, fraud, or intentional misrepresentation;
 - (2) fraudulently or deceptively used a license or temporary license;
 - (3) altered a license or temporary license;
 - (4) sold, bartered, or offered to sell or barter a license or temporary license;
 - (5) engaged in deceit, fraud, or intentional misrepresentation in the course of practicing speech-language pathology;
 - (6) advertised professional services in a false or misleading manner;
 - (7) has been convicted of a felony or other crime that affects the person's ability to continue to practice competently and safely;
 - (8) engaged in unprofessional conduct, in sexual misconduct, or in lewd or immoral behavior in connection with the delivery of professional services to clients;
 - (9) continued to practice speech-language pathology after becoming unfit due to
 - (A) professional incompetence;
 - (B) use of drugs or alcohol in a manner that affects the person's ability to practice speech-language pathology competently and safely;
 - (C) a physical or mental disability;
 - (10) permitted another person to use the licensee's license or temporary license;
 - (11) employed a person who does not have a valid current license or temporary license to practice speech-language pathology to perform work as a speech-language pathologist covered by this chapter;
 - (12) failed to comply with a provision of this chapter or a regulation adopted under this chapter, or an order of the department.
- (b) The department may not impose disciplinary sanctions on a speech-language pathologist for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if the speech-language pathologist
- (1) or another licensed health care provider is available to provide follow-up care;
 - (2) requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the speech-language pathologist is not the person's primary care provider and, if the person consents, the speech-language pathologist sends the records to the person's primary care provider; and
 - (3) meets the requirements established by the board in regulation.

(c) The department shall adopt regulations restricting the evaluation, diagnosis, supervision, and treatment of a person as authorized under (b) of this section by establishing standards of care, including standards for training, confidentiality, supervision, practice, and related issues.

Sec. 08.11.090. Disciplinary sanctions. (a) When it finds that an audiologist has committed an act listed in AS 08.11.080, that a speech-language pathologist has committed an act listed in AS 08.11.085, or that a speech-language pathologist assistant has committed an act listed in AS 08.11.083, the department may impose the following sanctions singly or in combination:

- (1) permanently revoke a license or registration to practice;
- (2) suspend a license or registration for a determinate period of time;
- (3) censure a licensee or registrant;
- (4) issue a letter of reprimand;
- (5) place a licensee or registrant on probationary status and require the licensee or registrant to
 - (A) report regularly to the department on matters involving the basis of probation;
 - (B) limit practice to those areas prescribed;
 - (C) continue professional education until a satisfactory degree of skill has been attained in those areas determined by the department to need improvement;
- (6) impose limitations or conditions on the practice of a licensee or registrant.

(b) The department may withdraw a limitation, condition, or probationary status if it finds that the deficiency that required the sanction has been remedied.

(c) The department may summarily suspend a license or registration before final hearing or during the appeals process if the department finds that the licensee or registrant poses a clear and immediate danger to the public welfare and safety if the licensee or registrant continues to practice. An individual whose license or registration is suspended under this subsection is entitled to a hearing conducted by the office of administrative hearings (AS 44.64.010) not later than seven days after the effective date of the order. The individual may appeal the suspension after the hearing to the superior court.

(d) The department may reinstate a license or registration that has been suspended or revoked if the department finds after a hearing that the individual is able to practice with reasonable skill and safety.

(e) One year after revocation of a license or registration issued under this chapter, the individual whose license or registration was revoked may reapply for the license or registration. The department may require an examination for reinstatement.

- (f) The department may place a registrant on probation, with the costs of probation to be born by the registrant
- (1) in lieu of revocation or suspension;
 - (2) upon the issuance of a registration to an individual who has been found guilty of unprofessional conduct but who otherwise qualifies for registration under this chapter; or
 - (3) as a condition upon the reissuance or reinstatement of any registration that has been suspended or revoked by the department.

(g) The department may require a registrant who has been placed on probation or who has been suspended to obtain additional professional training, including continuing education or clinical or field work.

Sec. 08.11.095. Revocation of speech-language pathologist license. After a hearing, the department shall revoke the speech-language pathologist license of a person who does not continue to be able to furnish the evidence required for licensure under AS 08.11.015(5).

Sec. 08.11.100. Prohibited acts. (a) Unless a person is licensed as an audiologist under this chapter, the person may not

- (1) practice audiology;
 - (2) use a title indicating or representing that the person practices as an audiologist;
 - (3) advertise that the person practices audiology.
- (b) Unless a person is licensed as a speech-language pathologist under this chapter, the person may not
- (1) practice speech-language pathology;
 - (2) use a title indicating or representing that the person practices as a speech-language pathologist;
 - (3) advertise that the person practices speech-language pathology.

Sec. 08.11.110. Penalty. A person who violates AS 08.11.100 is guilty of a class B misdemeanor.

Sec. 08.11.120. Audiology exemptions. (a) This chapter does not apply to an individual who practices audiology consistent with the accepted standards and code of ethics of the individual's profession as part of the individual's duties as

- (1) a physician licensed under AS 08.64;
- (2) an employee of the federal government who is required to practice audiology during the employment, if
 - (A) the employer maintains appropriate supervision of the individual's practice of audiology;
 - (B) the individual practices audiology as part of the duties for which the individual is employed;

(C) the individual practices audiology in the facility where the individual is employed or under the supervision of the federal governmental unit where the individual is employed; and

(D) the individual does not render or offer to render audiology services to the public for compensation in addition to the salary the individual receives from the federal governmental unit;

(3) a student, intern, or resident pursuing a course of study in audiology at an accredited college or a clinical training facility approved by the department, if the activities of the student, intern, or resident constitute part of a supervised course of study and the student, intern, or resident is designated as an “audiology intern,” “audiology trainee,” or other title approved by the department that clearly indicates that the person is training to be an audiologist.

(b) Notwithstanding the provisions of this chapter,

(1) a nurse licensed under AS 08.68 may perform hearing sensitivity evaluations;

(2) an individual licensed as a hearing aid dealer under AS 08.55 may deal in hearing aids;

(3) an individual holding a class A certificate issued by the Conference of Executives of American Schools of the Deaf may teach the hearing impaired;

(4) an individual may engage in the testing of hearing as part of a hearing conservation program that complies with the regulations of the Occupational Safety and Health Administration of the federal government if the individual is certified to do the testing by a state or federal agency acceptable to the Occupational Safety and Health Administration;

(5) an individual may perform hearing screening under AS 47.20.310 if authorized to do so under a protocol adopted under AS 47.20.310(e) by the Department of Health.

(c) An individual who is not an audiologist, but who is exempt under this section, may not use a title or description stating or implying that the person is an audiologist.

(d) An individual exempt under (a)(2) of this section may consult with and disseminate research findings and scientific information to accredited academic institutions or governmental agencies, and offer lectures to the public for a fee, monetary or otherwise, without being licensed under this chapter.

(e) An individual who is not licensed under this chapter but who teaches the practice of audiology in an audiologist training program at a college or university may use the title “audiologist” but may not practice audiology.

Sec. 08.11.125. Speech-language pathology exemptions. (a) Except as otherwise specifically provided in this section, this chapter does not apply to an individual who practices speech-language pathology as part of the individual’s duties as

(1) a physician licensed under AS 08.64;

(2) an employee of, or contractor with, a school district while practicing speech-language pathology for the school district;

(3) a student, intern, or resident pursuing a course of study in speech-language pathology at an accredited college or a clinical training facility approved by the department if the activities of the student, intern, or resident constitute part of a supervised course of study and the student, intern, or resident is designated as a “speech-language pathology intern,” “speech-language pathology trainee,” or other title approved by the department that clearly indicates that the person is training to be a speech-language pathologist.

(b) An individual who is not licensed as a speech-language pathologist but who is exempt under (a)(1) or (3) of this section may not use a title or description stating or implying that the person is a speech-language pathologist.

(c) An individual who is not licensed under this chapter but who teaches the practice of speech-language pathology in a speech-language pathology training program at a college or university may use the title “speech-language pathologist” but may not practice speech-language pathology.

Sec. 08.11.130. Administrative Procedures Act. AS 44.62 (Administrative Procedure Act) applies to regulations and proceedings under this chapter.

Sec. 08.11.200. Definitions. In this chapter, unless the context indicates otherwise,

(1) “audiologist” means an individual who is licensed under AS 08.11.010 to practice audiology in the state;

(2) “dealing in hearing aids” has the meaning given in AS 08.55.200;

(3) “department” means the Department of Commerce, Community, and Economic Development;

(4) “direct supervision” means supervision that is on-site or available by visual or real-time electronic means through which a supervising speech-language pathologist observes and guides a speech-language pathologist assistant while the assistant performs a clinical activity; “direct supervision” may include demonstration, coaching, and observation to the extent that the demonstration, coaching, or observation otherwise meets the requirements of this paragraph;

(5) “hearing aid” has the meaning given in AS 08.55.200;

(6) “immediate supervision” means supervision in the physical presence of the speech-language pathologist assistant during the provision of client services by the speech-language pathologist assistant;

(7) “indirect supervision” means supervision by telephonic or electronic means or by intermittent on-site visits while located either inside or outside of the facility in which the speech-language pathologist assistant is located; “indirect supervision” may include demonstrations, record review, evaluation of audiotaped or videotaped client services, or communication by telephone or electronic mail to the extent that these activities otherwise meet the requirements of this paragraph;

(8) “practice of audiology” means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, habilitation, rehabilitation, counseling and instruction related to hearing and hearing impairment for the purpose of modifying communicative disorders involving speech, language, auditory function, including auditory training, speech reading and the recommendation, evaluation, fitting, and sale of hearing aids, including the fitting of ear molds;

(9) “practice of speech-language pathology” means the application of principles, methods, and procedures related to the development and disorders of human communication, including

(A) screening for, identifying, assessing, interpreting, diagnosing, rehabilitating, and preventing disorders of speech, such as disorders related to articulation, fluency, voice, and language;

(B) screening for, identifying, assessing, interpreting, diagnosing, and rehabilitating disorders of oral-pharyngeal function or dysphagia or related disorders;

(C) screening for, identifying, assessing, interpreting, diagnosing, and rehabilitating cognitive and communication disorders;

(D) assessing, selecting, and developing augmentative and alternative communication systems and providing training in their use;

(E) providing aural rehabilitation and related counseling services to hearing impaired individuals and their families;

(F) enhancing speech-language proficiency and communication effectiveness, such as accent reduction; and

(G) screening of hearing and other factors for the purpose of speech-language evaluation or the initial identification of individuals with other communication disorders, if judgments and descriptive statements about the results of the screening are limited to pass-fail determinations;

(10) “screening” means a procedure in which a client is identified by either “pass” or “fail” for purposes of necessitating further evaluation of speech, language, or hearing;

(11) “speech-language pathologist” means an individual who is licensed under AS 08.11.015 to practice speech-language pathology in the state;

(12) “supervision” means the provision of direction and evaluation of the tasks assigned.

**CHAPTER 55.
HEARING AID DEALERS.**

Section

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Sec. 08.55.010. Qualifications for license. (a) The department shall issue a license to act as a hearing aid dealer to an individual who

- (1) is 18 years of age or older;
- (2) applies on a form provided by the department;
- (3) has a high school diploma or the equivalent;
- (4) has a business license issued under AS 43.70.020;
- (5) furnishes evidence satisfactory to the department that the individual has not engaged in conduct that is a ground for imposing disciplinary sanctions under AS 08.55.130;
- (6) submits with the application a statement disclosing whether the applicant
 - (A) has, during the five-year period immediately preceding the date of the application been convicted of a felony, or had a final judgement entered against the applicant in a civil action, if the felony or civil action involved fraud, embezzlement, or misappropriation of property;
 - (B) is subject to an injunctive order that is currently in effect from a pending proceeding or action brought by a public agency;
 - (C) is a defendant in a pending criminal or civil action relating to fraud, embezzlement, misappropriation of property, or the antitrust or trade regulation laws of the United States or a state;
 - (D) has, during the five-year period immediately preceding the date of application, been reorganized, had a debt adjustment, or has been adjudicated a bankrupt under bankruptcy proceedings due to insolvency or was a principal executive officer or general partner of a business that has been reorganized, had a debt adjustment, or has been adjudicated a bankrupt due to insolvency during the five-year period;
- (7) furnishes a description of each item in (6) of this subsection that the applicant disclosed as being applicable to the applicant.
 - (b) An individual who is a physician or an audiologist may deal in hearing aids without being licensed under this chapter, but shall comply with AS 08.55.050, 08.55.070, 08.55.100, 08.55.110(a), 08.55.110(b)(3) and (c) - (h), and 08.55.130(7) - (13) when dealing in hearing aids.
 - (c) If an individual licensed under this chapter has more than one place of business, the department shall, on request and payment of a fee, issue a duplicate license for each place of business of the individual.

Sec. 08.55.020. Renewal of license. (a) *[Repealed, Sec. 49 ch 94 SLA 1987].*

(b) On or before the expiration of a license under this chapter, a licensee may apply for renewal of the license, and the department shall renew the license if the licensee pays the renewal fee, has a current business license to act as a hearing aid dealer under AS 43.70.020, and provides evidence satisfactory to the department that the individual has not engaged in conduct that is grounds for imposing disciplinary sanctions under AS 08.55.130.

(c) *[Repealed, Sec. 49 ch 94 SLA 1987].*

(d) The department may reinstate a lapsed license under (b) of this section if the license has not lapsed for more than two years and if the person pays a delinquency fee in addition to the renewal fee.

Sec. 08.55.030. Bond required. (a) Except as otherwise provided in this section, an applicant for a license under AS 08.55.010 shall at the time of applying for the license file with the department a surety bond in the amount of \$5,000 running to the state and conditioned on the applicant's promise to pay all

- (1) taxes and contributions due the state and political subdivisions of the state;

(2) amounts that may be adjudged against the applicant by reason of negligently or improperly dealing in hearing aids or breaching a contract when dealing in hearing aids.

(b) In lieu of the surety bond, the applicant may file with the department a cash deposit, a certificate of deposit payable to the state, or a negotiable security acceptable to the department, if the deposit, certificate of deposit, or security is in the amount specified for the bond.

(c) The surety shall be maintained in effect while each of the hearing aid dealers for whom the surety is filed is licensed and for three years after each of the dealers ceases to be licensed. During this period, one form of surety may be substituted for another as long as a surety in the required amount is maintained at all times during the period. An action may not be commenced on or against the surety with regard to a particular hearing aid dealer later than three years after the dealer ceases to be licensed under this chapter. In this subsection, "surety" means the bond, cash deposit, certificate of deposit, or negotiable security required by this section.

(d) An applicant for a license under this section who is an employee of a hearing aid dealer, acts as a hearing aid dealer in the employment, and does not act as a hearing aid dealer outside the employment, is not required to file the bond required by (a) of this section if the employer files with the department a surety bond in the amount of \$10,000 that covers the employees of the hearing aid dealer, runs to the state, and is conditioned on the employer's promise to pay all

(1) taxes and contributions due the state and political subdivisions of the state;

(2) amounts that may be adjudged against the employer or the employees by reason of the employees negligently or improperly dealing in hearing aids or breaching a contract when dealing in hearing aids.

(e) The bond under (d) of this section may be used to satisfy the bonding requirement for the employer under (a) of this section if the bond is also conditioned on the employer's promise to pay all amounts that may be adjudged against the employer by reason of the employer negligently or improperly dealing in hearing aids or breaching a contract when dealing in hearing aids.

Sec. 08.55.040. Fees. The department shall set fees under AS 08.01.065 for each of the following:

- (1) application;
- (2) hearing aid dealer license;
- (3) renewal of license;
- (4) renewal delinquency;
- (5) duplicate license.

Sec. 08.55.050. Items to be provided by hearing aid dealer. (a) A hearing aid dealer shall give the following items to a consumer at the time the consumer contracts with the hearing aid dealer to buy or lease a hearing aid:

(1) an instructional brochure that contains operating instructions, purchase privileges, and performance data for the hearing aid;

(2) a statement of the dealer's registration number;

(3) a statement of the manufacturer's specifications, make, model, and serial number for the hearing aid;

(4) a clear statement of the full terms of the contract; and

(5) a written statement indicating that the consumer may file a written complaint about a hearing aid or a hearing aid dealer with the department and giving the mailing address and location address of the department.

(b) Before the sale of a used hearing aid, the hearing aid dealer shall clearly mark the receipt and the container for the hearing aid as "used" or "reconditioned," whichever is applicable, and with the terms of a guarantee that the dealer provides.

Sec. 08.55.060. Prior medical evaluation. (a) A hearing aid dealer who is not a physician may not sell or lease a hearing aid unless the prospective user of the hearing aid presents to the hearing aid dealer a written statement signed by a physician stating that the physician has evaluated the prospective user's hearing and that the prospective user is a candidate for a hearing aid.

(b) The exam on which the physician bases the statement required in (a) of this section must have occurred within the six months immediately preceding the date when the prospective user presents the statement to the hearing aid dispenser.

(c) If the prospective user is 18 years of age or older, the hearing aid dealer may afford the prospective user an opportunity to waive in writing the evaluation required by (a) of this section if the hearing aid dealer

(1) informs the prospective user that the exercise of the waiver is not in the best interest of the prospective user's health;

(2) does not actively encourage the prospective user to waive the evaluation; and

(3) affords the prospective user the opportunity to sign the following statement:

I have been advised by (HEARING AID DEALER'S NAME) that it would be in my best interest if I had a medical evaluation by a licensed physician (preferably a physician who specializes in diseases of the ear) before purchasing or leasing a hearing aid.

(PROSPECTIVE USER'S SIGNATURE)

(d) The hearing aid dealer shall retain the evaluation statement of the physician, or the prospective user's signed waiver statement for four years after the date of the sale of the hearing aid.

Sec. 08.55.070. Transmittal of hearing aid by mail. If a hearing aid dealer mails a hearing aid to a customer, the dealer shall send the hearing aid by certified mail.

Sec. 08.55.080. Complaints. (a) A person may file a complaint with the department about a hearing aid or a hearing aid dealer within three years from the date of the cause of the complaint.

(b) A hearing aid dealer shall prominently display in the business establishment of the dealer a sign indicating that a person may file a complaint with the department about a hearing aid or a hearing aid dealer and giving the mailing and location address of the department.

Sec. 08.55.100. Calibration requirements. A hearing aid dealer shall maintain in conformity with the standards set by the American National Standard Institute the calibration of each audiometer used by the hearing aid dispenser, and shall keep a record of the results of the annual calibration of each audiometer used by the dealer.

Sec. 08.55.110. Cancellation option. (a) In addition to the cancellation allowed under AS 45.02.350, a person who has purchased or leased a hearing aid from a hearing aid dealer may cancel the sale or lease as provided under (b) of this section or by giving written notice of the intention to cancel the sale or lease to the dealer not later than 30 days following the later of the date (1) the person receives the hearing aid, or (2) the hearing aid dealer provides the person with the notice under (c) of this section. The person may use the notice received under (c) of this section to cancel the sale or lease by signing the form where indicated.

(b) In addition to the other rights and remedies the purchaser or lessee of a hearing aid may have, the purchaser or lessee of a hearing aid has the right to cancel the sale or lease by giving written notice of the cancellation to the hearing aid dealer if

(1) the hearing aid dealer is not a physician or an audiologist, and within 60 days from the receipt by the purchaser or lessee of the hearing aid or the notice to be provided under (c) of this section, whichever receipt is later, a physician or an audiologist advises the person in writing to cancel the sale or lease and specifies in writing the medical or audiological reason for the advice; or

(2) the hearing aid dealer, if not a physician or audiologist, has violated a provision of this chapter in the sale or lease of the hearing aid to the person;

(3) the hearing aid dealer who is a physician or audiologist has violated (a) or (c) - (h) of this section or AS 08.55.050, 08.55.070, 08.55.100, or 08.55.130(7) - (13) in the sale or lease of the hearing aid to the person.

(c) A hearing aid dealer shall give a person who has purchased or leased a hearing aid from the dealer notice of the right to cancel the purchase or lease that is substantially identical to the following form with all of the information filled in except the signature and date lines for the purchaser or lessee:

NOTICE OF RIGHT TO CANCEL

Name of Hearing Aid Dealer

Address of Hearing Aid Dealer

Date of Sale or Lease

You may cancel this transaction within 30 days from the date you receive the hearing aid or this notice, whichever is later.

You may also cancel this transaction within 60 days from the date you receive the hearing aid or this notice, whichever is later, if the hearing aid dealer is not a licensed physician or a licensed audiologist and if a licensed physician or a licensed audiologist advises you in writing to cancel this transaction.

If you cancel this transaction, the property you traded in, the payments you made under the sale or lease (less certain costs allowed by state law) and any negotiable instrument executed by you will be returned within 20 days following receipt by the hearing aid dealer of your cancellation notice, and the hearing aid dealer will cancel any security interest arising out of the sale or lease.

If you cancel, you must make available to the hearing aid dealer, in as good a condition as when received, less normal wear and tear, the goods delivered to you under this sale or lease, unless the dealer notifies you to keep the goods or to hold them until the dealer collects them.

If the goods have been damaged, the hearing aid dealer may deduct from any refund due you the reasonable costs incurred in repairing the goods to make them suitable for resale. If the goods have been damaged beyond repair, you are liable for the full purchase price, even if you are just leasing the goods.

If you make the goods available for the hearing aid dealer to collect after your cancellation, and within 20 days of receiving your cancellation the hearing aid dealer does not collect them from you or provide you with instructions for returning the goods by mail, you may retain or dispose of the goods without further obligation to the hearing aid dealer. If you fail to make the goods available for the hearing aid dealer to collect after your cancellation, then the sale or lease is not cancelled and you remain liable for performance of the obligations of the sale or lease.

To cancel this transaction, mail (by certified mail, return receipt requested) or deliver a signed and dated copy of this notice or another written notice to (name of hearing aid dealer), at (address of hearing aid dealer's place of business) and (hearing aid dealer's telephone number) no later than midnight of (date).

I hereby cancel this transaction.

(Date) _____

(Purchaser's or Lessee's Signature)

I have read and understand the terms of cancellation of this purchase/lease.

Purchaser's or Lessee's Signature

Date

(d) If a purchaser or lessee of a hearing aid cancels the purchase or lease under (a) or (b) of this section, the hearing aid dealer shall within 20 days of receipt of a notice of the cancellation

(1) refund to the purchaser or lessee all deposits, including the down payment, less (A) 10 percent of the total purchase price for each 30 days that the purchaser or lessee had the hearing aid, to pay for the reasonable rental value of the hearing aid; (B) the reasonable price of ear molds or custom casings prepared for the purchaser or lessee; and (C) the reasonable costs actually incurred by the hearing aid dealer to make goods that were traded in by the purchaser or lessee ready for sale; the hearing aid dealer may retain the money allowed under this paragraph only up to the amount of a down payment made by the purchaser or lessee;

(2) return to the purchaser or lessee all goods traded in to the hearing aid dealer as part of the sale or lease;

(3) return to the purchaser or lessee a negotiable instrument signed by the purchaser or lessee; and

(4) cancel a security interest taken by the hearing aid dealer for the purchase or lease.

(e) If the hearing aid returned by the purchaser or lessee has been damaged, the hearing aid dealer may deduct from any refund due the purchaser or lessee the reasonable costs incurred in repairs necessary to make the hearing aid suitable for resale. If the hearing aid is damaged beyond repair, the purchaser or lessee is liable for the full purchase price.

(f) The purchaser or lessee may retain or dispose of the hearing aid if within 20 days of receipt of notice of cancellation, the hearing aid dealer fails

(1) to collect the hearing aid from the purchaser or lessee; or

(2) to provide the purchaser or lessee with instructions for returning the hearing aid by mail.

(g) If a purchaser or lessee of a hearing aid fails to make the hearing aid available for the hearing aid dealer to collect, the purchaser or lessee remains liable for the purchase or lease.

(h) To give written notice under this section, a person shall deliver the notice to the hearing aid dealer in person or to the place of business of the dealer, or mail the notice to the place of business of the dealer by certified mail, return receipt requested.

Sec. 08.55.120. Testing of hearing. (a) A hearing aid dealer may take threshold measurements to determine the need for a hearing aid, but may not perform diagnostic procedures to determine the cause of a hearing impairment or charge a fee for a hearing measurement.

(b) A hearing aid dealer shall include in every printed advertisement for the services of the dealer the following statement bordered in black:

Alaska law permits a hearing aid dealer who is not a licensed physician or a licensed audiologist to test hearing only for the purpose of selling or leasing hearing aids; the tests given by a hearing aid dealer are not to be used to diagnose the cause of a hearing impairment.

Sec. 08.55.130. Grounds for imposition of disciplinary sanctions. After a hearing, the department may impose a disciplinary sanction on an individual licensed under this chapter when the department finds that the person

- (1) secured a license through deceit, fraud, or intentional misrepresentation;
- (2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities;
- (3) advertised professional services in a false or misleading manner;
- (4) has been convicted of a felony or other crime that affects the individual's ability to continue to practice competently and safely;
- (5) failed to comply with a provision of this chapter or a regulation adopted under this chapter, or an order of the department;
- (6) continued to practice after becoming unfit due to
 - (A) professional incompetence;
 - (B) addiction to or severe dependency on alcohol or another drug that impairs the individual's ability to practice safely;
 - (C) physical or mental disability;
- (7) employed a person who did not have a valid current license to deal in hearing aids to perform work covered by this chapter;
- (8) failed or refused to honor a representation, promise, agreement or warranty made by the person while dealing in hearing aids;
- (9) advertised a model, type, or kind of hearing aid for sale that the person does not sell;
- (10) failed to maintain a business address and telephone number at which the individual could normally be reached during regular business hours;
- (11) included in a contract or receipt for the purchase or lease of a hearing aid a confession of judgment or a waiver of a right of the consumer under this chapter;
- (12) used undue influence, coercion, or other wilful act or representation to interfere with the exercise by the consumer of the rights provided in this chapter;
- (13) negotiated, transferred, sold, or assigned a note or other evidence of indebtedness to a finance company or other third party within two months of delivering a hearing aid to a purchaser or lessee of the hearing aid by mail or in person;
- (14) permitted another person to use the licensee's license;
- (15) dealt in hearing aids while suffering from a serious disease that was contagious or infectious.

Sec. 08.55.140. Disciplinary sanctions. (a) When it finds that a licensee has committed an act listed in AS 08.55.130, the department may impose the following sanctions singly or in combination:

- (1) permanently revoke a license to practice;
 - (2) suspend a license for a determinate period of time;
 - (3) censure a licensee;
 - (4) issue a letter of reprimand;
 - (5) place a licensee on probationary status and require the licensee to
 - (A) report regularly to the department on matters involving the basis of probation;
 - (B) limit practice to those areas prescribed;
 - (C) continue professional education until a satisfactory degree of skill has been attained in those areas determined by the department to need improvement;
 - (6) impose limitations or conditions on the practice of a licensee.
- (b) The department may withdraw a limitation, condition, or probationary status if it finds that the deficiency that required the sanction has been remedied.
- (c) The department may summarily suspend a license before final hearing or during the appeals process if the department finds that the licensee poses a clear and immediate danger to the public welfare and safety if the licensee continues to practice. A person whose license is suspended under this subsection is entitled to a hearing by the office of administrative hearings (AS 44.64.010) not later than seven days after the effective date of the order. The person may appeal the suspension after the hearing to the superior court.
- (d) The department may reinstate a license that has been suspended or revoked if the department finds after a hearing that the applicant is able to deal in hearing aids with reasonable skill and safety.

Sec. 08.55.150. Prohibited acts. (a) Unless a person is licensed under this chapter or is licensed as an audiologist under AS 08.11, the person may not

- (1) deal in hearing aids;
- (2) use a title indicating or representing that the person deals in hearing aids or is licensed to deal in hearing aids;
- (3) advertise that the person deals in hearing aids.

- (b) A person may not
- (1) sell, barter, or offer to sell or barter a license issued under this chapter;
 - (2) purchase or obtain by barter a license issued under this chapter with the intent to use it as evidence of the holder's qualification to deal in hearing aids;
 - (3) materially alter a license issued under this chapter with fraudulent intent;
 - (4) use or attempt to use as valid a license to deal in hearing aids that has been purchased, fraudulently obtained, counterfeited, or materially altered.

Sec. 08.55.160. Penalty. A person who violates AS 08.55.150 is guilty of a class B misdemeanor.

Sec. 08.55.170. Notice of place of business. A person who holds a license under this chapter shall notify the department in writing of the regular address of the place or places where the person deals or intends to deal in hearing aids.

Sec. 08.55.180. Administrative Procedure Act. AS 44.62 (Administrative Procedure Act) applies to regulations and proceedings under this chapter.

Sec. 08.55.200. Definitions. In this chapter

- (1) "audiologist" means an individual licensed as an audiologist under AS 08.11;
- (2) "dealing in hearing aids" means the sale or lease, or attempted sale or lease of hearing aids, and the recommendation, selection, fitting, or adaptation of hearing aids;
- (3) "department" means the Department of Commerce, Community, and Economic Development;
- (4) "hearing aid" means a prosthetic instrument or device designed for or represented as aiding, improving, or correcting defective human hearing and the parts, attachments, or accessories of the instrument or device; "hearing aid" does not include cochlear implants, middle-ear implants, vibro-tactile speech-reading aids, other aids for cued speech, or group or individual auditory training units and assistive devices;
- (5) "hearing aid dealer" means an individual licensed under AS 08.55.010;
- (6) "physician" means a person licensed as a physician under AS 08.64.

CHAPTER 7.
AUDIOLOGISTS, SPEECH-LANGUAGE PATHOLOGISTS, AND
SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS.

Section

10. Approved academic degree

20. Telemedicine

30. Consent to send records

90. Definitions

12 AAC 07.010. APPROVED ACADEMIC DEGREE. A masters or doctoral degree from an accredited institution which is based on a curriculum that covers the principles, methods, and procedures included in the definition of the “practice of audiology” in AS 08.11.200(8), or is equivalent to the standards adopted by the American Speech-Language-Hearing Association, is a degree in audiology approved by the department as required in AS 08.11.010(4)(B).

Authority: AS 08.01.050 AS 08.01.080 AS 08.11.010

12 AAC 07.020. TELEMEDICINE. (a) A person who is licensed or registered under AS 08.11 may provide telemedicine services to a client in the state if

- (1) the telemedicine services are of the same scope, nature, and quality as those services provided in person;
 - (2) the quality of electronic transmissions used to provide telemedicine services allow the licensee or registrant to provide services equivalent to those provided in person;
 - (3) the licensee or registrant has the skill and ability to operate equipment used to provide telemedicine services;
 - (4) the licensee or registrant assesses the client’s level of comfort in receiving telemedicine services and makes appropriate adjustments to the treatment plan based on that assessment;
 - (5) the licensee or registrant ensures the presence of telemedicine facilitator who is physically present with the client, when appropriate;
 - (6) the licensee or registrant ensures that the client can contact a licensed health care provider in person as part of the client’s treatment plan;
 - (7) the licensee or registrant ensures that the electronic transmissions used to provide telemedicine services have sufficient security to ensure the protection of the client’s medical records as if the client were receiving in-person treatment; and
 - (8) the licensee or registrant does not provide telemedicine services solely through written correspondence; however, written correspondence may be used to supplement telemedicine services.
- (b) Nothing in this section prevents the use of asynchronous telemedicine.

Authority: AS 08.11.080 AS 08.11.083 AS 08.11.085

12 AAC 07.030. CONSENT TO SEND RECORDS. (a) A licensee or registrant who provides telemedicine services under 12 AAC 07.020 shall document the efforts to obtain the client’s consent to send all records to the client’s primary care provider, if the licensee or registrant is not the client’s primary care provider.

(b) If a client provides consent under (a) of this section, the licensee or registrant who provides telemedicine services shall obtain that consent in writing signed by the client or the client’s legal guardian.

Authority: AS 08.11.080 AS 08.11.083 AS 08.11.085

12 AAC 07.090. DEFINITIONS. In this chapter,

- (1) “asynchronous telemedicine” means the capturing and transmitting of data for the later viewing or interpreting by a person licensed or registered under AS 08.11;
- (2) “in-person treatment” means providing consultation, testing, or therapeutic services to a client who is physically present at the same location as the provider;
- (3) “licensed health care provider” means
 - (A) a person who holds the same category of license or registration as the provider of telemedicine services, or another audiologist or speech-language pathologist licensed under AS 08.11;
 - (B) a physician, osteopathic physician, or physician assistant licensed under AS 08.64; or
 - (C) an advanced practice registered nurse under AS 08.68;
- (4) “telemedicine services” has the meaning given in AS 44.33.381(c);
- (5) “telemedicine facilitator” means a person at the client site trained in the use of telemedicine technology and trained to assist a client in understanding and using that technology at the direction of the licensee or registrant.

Authority: AS 08.11.080 AS 08.11.083 AS 08.11.085