

Report From Agency

**STATE OF WISCONSIN
HEARING AND SPEECH EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
HEARING AND SPEECH : CR 22-059
EXAMINING BOARD :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The objective of the rule is to update the outdated 1998 ANSI 3.6 audiometric standards, remove the option of a certificate of clinical competence as an educational licensure requirement, and implement 2017 Act 143 which entitles service members, former service members who were discharged within the prior four years under conditions other than dishonorable, and spouses of service members or former service members, to obtain an audiologist or speech language pathology credential if the person resides in Wisconsin, and is in good standing with the governmental authorities in every jurisdiction outside Wisconsin that have granted the individual a credential that qualifies the individual to perform these authorized services under the appropriate credential. The license, once granted, may be renewed indefinitely.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Hearing and Speech Examining Board held a public hearing on October 10, 2022. No public comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 2a: In general, the agency should more fully explain its intent for the proposed rule in relation to CHR 22-050, another proposed rule recently submitted to the Clearinghouse for review. Generally, the two rules are similar in content, and it appears possible that CHR 22-059 might be characterized as a "second draft" relative to CHR 22-050. In particular, several substantive provisions of CHR 22-059 appear intended to

address Clearinghouse comments to CHR 22-050. If the connection between the two Clearinghouse rules is accurate, it may be useful, as also noted below, to proceed with one rulemaking and formally cease activity on the other, using the withdrawal procedure specified in s. 227,14 (6) (b), Stats.

Response: The agency will proceed with rulemaking and address Clearinghouse comments to CHR 22-059, and formally withdraw rulemaking on CHR 22-050, according to the procedure specified in s. 227,14 (6) (b), Stats.

Comment 4a: In Section 1 of the proposed rule, amending s. HAS 4.03 (1) (Note), the Note should appear only once. Also, the texts of the two Notes differ from one another. The first Note does not accurately reflect the text of the Note in the existing administrative code, and it should be removed. Additionally, the word “the” should not be capitalized, so that the entity identified in the Note is referred to as “the American National Standards Institute.”

Response: These suggested changes have been reflected in the final rule text.

Comment 4b: Further revisions are recommended to s. HAS 6.07 (2) (a), for speech-language pathologists, and s. HAS 6.07 (2) (b), for audiologists (within the section of the proposed rule labeled “Section X”) as explained herein. Note that these provisions incorporate statutory requirements under s. 440.09 (2) (a) to (f) and (2m), Stats., into the proposed rule. However, not all of the requirements under s. 440.09 (2) (a) to (f) and (2m), Stats., are included.

However, the proposed rule fails to implement the requirement, under s. 440.09 (2) (c), Stats., that an applicant must hold “a license, certification, registration, or permit that was granted by a governmental authority in a jurisdiction outside this state that qualifies the individual to perform the acts authorized under the appropriate credential granted by the department or a credentialing board.” Consistent treatment of each statutory provision recommends in favor of a reference to this requirement for each credential under this rule. For example, references could be created as “s. HAS 6.07 (2) (a) 5.” In relation to speech-language pathology and “s. HAS 6.07 (2) (b) 5.” In relation to audiology.

Note that the statutory requirement under s. 440.09 (2) (c), Stats., is similar to, but distinct from, that under s. 440.09 (2) (f), Stats. Under par. (f), an applicant must be in good standing with “the governmental authorities in every jurisdiction outside this state that have granted the individual” a qualifying credential. However, there may be some cases in which the applicant has been granted to credentials in any other jurisdiction. They would not fail to meet the requirement under par. (f), because there would be no jurisdictions to which it applied. In those cases, the separate requirement under par. (c) would ensure that an individual could not receive a reciprocal credential unless they actually hold a qualifying credential in another jurisdiction.

Because of the fact that the requirements under pars. (c) and (f) are distinct from one another, and they are designed to work together, as explained above, they both should be included in the proposed rule. This will be accomplished if all of the current provisions are retained in s. HAS 6.07 (2) (a) 1. To 4., and if provisions reflecting the requirement

under s. HAS (2) (c), Stats., are also created (as suggested above, as “s. HAS 6.07 (2) (a) 5.” In relation to speech-language pathology and as “s. HAS 6.07 (2) (b) 5.” in relation to audiology).

Response: These suggested changes have been reflected in the final rule text.

Comment 4c: The section of the proposed rule labeled “Section X” also repeals s. HAS 6.07 (1) (c) and recreates a section on RECIPROCAL AGREEMENTS and recreates it to say as follows:

(c) RECIPROCAL AGREEMENTS. A license to practice speech-language pathology or audiology may be granted to applicants according to the terms of a reciprocal agreement the board has entered into with another state or territory.

Notably, there is no s. HAS 6.07 (1) (c) included in the existing administrative code. Instead, this paragraph is created in Section 3 of the proposed rule.

Response: These suggested changes have been reflected in the final rule text.

Comment 4d: The section should be revised to refer to the fact that the credentials may be renewed pursuant to the specified in statute, so that this will be included in the promulgated rule. If a Note similar to that Created in Section 3 is retained, it should be revised to properly introduce the text of s. 440.09 (3), Stats.

Response: These suggested changes have been reflected in the final rule text.

Comment 4e: After the section of the proposed rule, Labeled “SECTION X,” the following text appears in strikethrough, as this language was originally proposed in CHR 22-050. A more appropriate step would be to modify the proposed rule instead of attempting to address it in this proposed rule.

Response: These suggested changes have been reflected in the final rule text.

Comment 5: The relating clause for the proposed rule should be updated to refer to both topics of the fiscal estimate, the EIA and the notice of submittal.

Response: These suggested changes have been reflected in the final rule text.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

N/A