

STATE OF WISCONSIN
HEARING AND SPEECH EXAMINING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : HEARING AND SPEECH
HEARING AND SPEECH : EXAMINING BOARD
EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Hearing and Speech Examining Board to repeal HAS 3.03 (2) (d); and to amend HAS 7.03 (3) (b) 2., and HAS 8.03 (2) and (4), relating to removing obsolete provisions.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 459.12, Stats.

Statutory authority: ss. 15.08 (5) (b), 459.095 (1), 459.12 (1) and (2), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., states that, “[e]ach examining board shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 459.095 (1), Stats., states that the Board shall “[p]romulgate rules establishing the criteria for approval of continuing education programs or courses of study required for renewal of a license under s. 459.09 and for approval of the sponsors and cosponsors of continuing education programs or courses of study.”

Section 459.12 (1), Stats., provides that the examining board “may make rules not inconsistent with the laws of this state which are necessary to carry out the intent of this chapter.”

Related statute or rule: HAS 1, 2, and 4

Plain language analysis:

The Board conducted a review of the HAS administrative rules in preparation of the Board’s biennial report in response to 2017 Act 108 and s. 227.29, Stats. It identified references to obsolete requirements or repealed provisions. Specifically, the Board:

- Removed the use of a master hearing instrument from the list of equipment on the potential list for the practical examination because it is no longer used in practice.
- Corrected administrative code cross-references as needed.

Summary of, and comparison with, existing or proposed federal regulation:

The Federal Trade Commission (FTC) is responsible for monitoring the business practices of hearing aid dispensers and vendors. The Food and Drug Administration (FDA) enforces regulations for the manufacture and sale of hearing aids as medical devices. This proposed rule does not apply to business practices, such as the manufacture or sale of hearing aids.

Comparison with rules in adjacent states:

Illinois: The Illinois Board of Speech-Language Pathology and Audiology, under the authority of Illinois Statutes 225 ILCS 110, regulates speech-language pathologists and audiologists under the authority of the Illinois Department of Financial and Professional Regulation (IDFPR). The Illinois Department of Public Health (IDPH) regulates the licensing of hearing instrument dispensers and trainees under Rule (68 Ill. Adm. Code 1465). Illinois requires a practical examination with similar topics as Wisconsin, as prescribed in 225 ILCS 50/9, for licensure requirements for a hearing instrument dispenser. However, it does not identify testing for specific equipment.

Iowa: The Iowa Board of Speech Pathology and Audiology regulates the professions of speech pathology and audiology under Iowa Administrative Code 645, Chapter 300. The Bureau of Professional Licensure in the Iowa Department of Public Health (IDPH) regulates the licensure of these professions. The Board of Hearing Aid Specialists regulates hearing aid specialists and temporary permits. Iowa does not require a practical examination for a license for a hearing instrument specialist.

Michigan: Michigan's Department of Licensing and Regulatory Affairs (LARA) includes the Board of Audiology, Board of Speech-Language Pathology, and direct licenses hearing aid dealers, salespersons, and trainees. Requirements for Michigan licensure are found in Article 15 of the Public Health Code, 1978 PA 368, MCL 333.16801 to 333.16811 and further outlined in administrative rule R 338.1 to 338.12 and R 338.601 through R 338.649. Specific equipment is not included within the examination for a hearing aid dealer license.

Minnesota: Minnesota's laws for Speech-Language Pathologists and Audiologists are found under Minnesota Statutes s. 148.511 through s. 148.5198. The Minnesota Department of Health includes the Speech-Language Pathologist and Audiologist Advisory Council which advises the department Commissioner and makes recommendations for speech-language pathologists, audiologists, and hearing aid dispensers. Hearing instrument dispensers must pass a practical examination which does not include a master hearing instrument. [Minnesota Statutes s. 153A.14]

Summary of factual data and analytical methodologies:

On July 9, 2018, the Board appointed liaisons to conduct a thorough review of the HAS administrative rules in preparation of the Board's biennial report in response to 2017 Act 108 and s. 227.29, Stats. The results of this review were considered by the full Board on October 8, 2018. The Board requested that a Scope Statement was prepared to correct the several places where the rules reference obsolete requirements or repealed provisions.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The rule was posted for economic impact comments and none were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Kassandra Walbrun, Administrative Rules Coordinator, Wisconsin Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, PO Box 8366, Madison, WI 53708; telephone: 608-261-4463; email: DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments must be received on or before Monday, October 5, 2020 to be included in the record of rule-making proceedings.

Written Comments:

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TEXT OF RULE

SECTION 1. HAS 3.03 (2) (d) is repealed.

SECTION 2. HAS 7.03 (3) (b) 2. is amended to read:

HAS 7.03 (3) (b) 2. If hearing instrument specialist renewal, passed the examination required under s. HAS ~~3.02~~ 3.01 (1) within the previous 12 months of application for renewal.

SECTION 3. HAS 8.03 (2) and (4) are amended to read:

HAS 8.03 (2) Except as provided under s. HAS ~~7.05 (1) (a) 4. and (2) (a) 3.~~ 7.03 (2), continuing education hours may be applied only to the biennial registration period in which the continuing education hours are acquired.

(4) A licensee who fails to meet the continuing education requirements by the renewal date shall not practice as a hearing instrument specialist, audiologist or speech-language pathologist, as appropriate, until his or her license is ~~restored~~ renewed or reinstated under s ch. HAS 7.05 7.

SECTION 4. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
