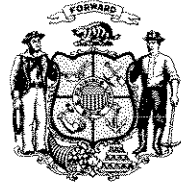


WISCONSIN STATE SENATE



Carol Roessler
STATE SENATOR

To: Members of the Senate Committee on Health, Children, Families, Aging and Long Term Care

From: Senator Carol Roessler, Chair

Date: October 17, 2003

Re: Clearinghouse Rule 03-025 relating to definitions, grounds for discipline and minor, and technical changes.

CR 03-025 has been referred to the Senate Health, Children, Families, Aging and Long Term Care Committee. In the proposed rules, the Hearing and Speech Examining Board amends numerous provisions contained in ch. HAS 6, Code and creates several additional provisions. The proposed changes specifically relate to: the Practice of Audiology; the Practice of Speech-Language Pathology; and Minor and Technical Changes.

If you would like the committee to hold a hearing on CR 03-025, please contact Jennifer Halbur in my office by **October 31, 2003**.

STATE OF WISCONSIN
HEARING AND SPEECH EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : HEARING AND SPEECH EXAMINING
HEARING AND SPEECH : BOARD
EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 03-025)

TO: Alan J. Lasee
President of the Senate
Room 219 South, State Capital
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the HEARING AND SPEECH EXAMINING BOARD is submitting in final draft form rules relating to definitions, grounds for discipline and minor and technical changes.

If you have any questions concerning the final draft form or desire additional information, please contact Joel Garb at 261-2385

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

**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 03-025
HEARING AND SPEECH : (s. 227.19 (3), Stats.)
EXAMINING BOARD :**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

This rule-making order clarifies and updates the administrative rules. Section HAS 6.14 (3) (a) is amended to change the percentage of direct observation and supervision of the clinical services requirement after the first 90 days from "not less than 25%" to "not less than 10%." This revision reflects the national standard of practice for speech-language pathologists.

Revision to ch. HAS 6 includes definitions relating to the practice of audiology and creates additional grounds for discipline for audiologists and speech-language pathologists.

Revisions to chs. HAS 2 to 5 clarify those chapters that relate only to the regulation of hearing instrument specialists and do not relate to the regulation of audiologists and speech-language pathologists.

Section HAS 6.18 is revised to state that failure to maintain proper calibration of audiometric equipment, maintain adequate records of certification of calibrations for a period of 5 years, and failure to clearly state the full terms of sale on all receipts, as required under s. 459.24 (3m) (a), Stats., constitutes grounds for discipline.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on March 28, 2003. There were no appearances at the public hearing and no written comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Response to Comment 2.b. Use of the term "hearing aid." It is recommended that no change be made to the proposed rule. The term "hearing instrument" is used in other parts of the rules and is more widely used in professional circles. The board has requested that ch. 459, Stats., be revised to change all of the references to "hearing aid" in the statutes to "hearing instrument" to reflect current terminology.

Response to Comment 2.c. Definition of "full term of sale." It is recommended that no change be made to the proposed rule. The intent of the board is to define the term as it is used in s. 459.24 (3m) a., Stats., and to clarify that the provisions in chs. HAS 1 and 5, Code, relate only to the practice of hearing instrument specialists. [See ss. HAS 1.01 (2m) and 5.02 (2) (g), Code.]

Response to Comment 2.f. The recommended revision (place s. HAS 6.18 (3) (y) under s. HAS 6.18 (1) and create the rule as s. HAS 6.18 (1) (h) was accepted. It is recommended that s. HAS 6.18 (1) (g) be retained because it reflects the specific language contained in the statutes (see s. 459.34 (2) (g), Stats.).

All of the other recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

STATE OF WISCONSIN
HEARING AND SPEECH EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	HEARING AND SPEECH
HEARING AND SPEECH	:	EXAMINING BOARD
EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 03-025)

PROPOSED ORDER

An order of the Hearing and Speech Examining Board to renumber HAS 6.14 (1) (a) 2. a. to d. and 3. (intro); to renumber and amend HAS 6.14 (1) (a) 4.; to amend chs. HAS 2 (title), HAS (3) (title), HAS 4 (title) and HAS 5 (title), HAS 6.14 (1) (a) 1. and 2., (1) (b) 5. and 11., (2) (a) 2., (3) (a) (intro.) and 4.; to create HAS 6.02 (4g) and (5g), 6.14 (1) (b) 13., 14. and 15., 6.18 (1) (h), (2) (d), (e) and (f), relating to definitions, grounds for discipline and minor and technical changes.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2), Stats.

Statutes interpreted: s. 459.22 (2) (e), 459.24 (3m) and 459.34 (2), Stats.

In the proposed rules, the Hearing and Speech Examining Board amends numerous provisions contained in ch. HAS 6, Code and creates several additional provisions. The proposed changes may be summarized as follows:

1. Practice of Audiology. The board proposes to create definitions in ch. HAS 6 for "full terms of sale" and "personal guarantee." These terms are referenced in ch. 459, Stats., but are not defined. The definitions are almost identical to the ones found in ch. HAS 1, Code, except those provisions apply only to hearing instrument specialists.

In addition, the board proposes to create four additional grounds for discipline that relate to the calibration of audiometric equipment, the disclosure of the full terms of sale on receipts and/or compliance with federal and state laws that relate to the practice of audiology. The proposed provisions are almost identical to those found in ch. HAS 5, Code, except those provisions apply only to hearing instrument specialists.

2. Practice of Speech-Language Pathology. The board proposes to revise two definitions contained in subch. III of ch. HAS 6, Code, that relate to the practice of speech-language pathology by unlicensed individuals. The first definition is "assist in the practice of speech-language pathology" and the second definition is "direct supervision of unlicensed individuals." In Wisconsin, an individual may not engage in the practice of

speech-language pathology unless the individual holds a permanent license or a temporary license granted by the board. Some states license support staff, such as speech assistants. Wisconsin does not license support staff. However, Wisconsin law does permit support staff to "assist in the practice of speech-language pathology" under the "direct supervision" of a licensed speech-language pathologist. The board is proposing to revise the rules to provide further guidance to speech-language pathologists who supervise support staff. [See, s. 459.22 (2) (e), Stats.]

The board also proposes to create an additional ground for discipline that will require speech-language pathologists to comply with federal and state laws that relate to the practice of speech-language pathology.

(3) Minor and Technical Changes. The board is proposing to make several minor and technical changes to the rules that includes, but is not limited to, revision of the titles to chs. HAS 2 to 5, Code, to clarify that those provisions apply only to hearing instrument specialists and replacement of the term "patient" with the term "client," as appropriate.

TEXT OF RULE

SECTION 1. Chapter HAS 2 (title) is amended to read:

CHAPTER HAS 2 (title)

Hearing Instrument Specialists
Temporary Trainees

SECTION 2. Chapter HAS 3 (title) is amended to read:

CHAPTER HAS 3 (title)

Hearing Instrument Specialists
Examinations

SECTION 3. Chapter HAS 4 (title) is amended to read:

CHAPTER HAS 4 (title)

Hearing Instrument Specialists
Measurement of Human Hearing

SECTION 4. Chapter HAS 5 (title) is amended to read:

CHAPTER HAS 5 (title)
Hearing Instrument Specialists
Unprofessional Conduct

SECTION 5. HAS 6.02 (4g) and (5g) are created to read:

HAS 6.02 (4g) "Full terms of sale" means the conditions of a sale agreed to by an audiologist and the purchaser of a hearing instrument.

(5g) "Personal guarantee" means a promise made by an audiologist to a hearing instrument purchaser to provide the minimum product warranty offered by a manufacturer.

SECTION 6. HAS 6.14 (1) (a) 1. and 2. are amended to read:

HAS 6.14 (1) (a) 1. ~~Conducting~~ Assisting the speech-language pathologists with speech-language screenings.

2. While in the presence of the speech-language pathologist, providing assistance during client ~~evaluations that include:~~ evaluations.

SECTION 7. HAS 6.14 (1) (a) 2. a. to d. are renumbered HAS 6.14 (1) (a) 3., 4., 5. and 6.

SECTION 8. HAS 6.14 (1) (a) 3. (intro.) is renumbered HAS 6.14 (1) (a) 7.

SECTION 9. HAS 6.14 (1) (a) 4. is renumbered HAS 6.14 (1) (a) 8. and amended to read:

HAS 6.14 (1) (a) 8. Providing treatment to clients selected by the speech-language pathologist by adhering to the treatment plans established by the speech-language pathologist who is ~~not present but~~ available on site for consultation, as needed.

SECTION 10. HAS 6.14 (1) (b) 5. and 11. are amended to read:

HAS 6.14 (1) (b) 5. ~~Providing counseling~~ Counseling to the client or the client's family or consulting with the client, the client's family or other individuals regarding the client's status or service.

11. Disclosing confidential client information to anyone other than the supervising speech-language pathologist unless authorized by the supervising speech-language pathologist.

SECTION 11. HAS 6.14 (1) (b) 13., 14. and 15. are created to read:

HAS 6.14 (1) (b) 13. Representing himself or herself as a speech-language pathologist.

14. Using a checklist to tabulate results of feeding or swallowing evaluations.

15. Demonstrating swallowing strategies or precautions to a client, the family of a client or staff.

SECTION 12. HAS 6.14 (2) (a) 2. is amended to read:

HAS 6.14 (2) (a) 2. Servicing hearing instruments including applying lubrication, making tube changes on ear molds, cleaning and repairing cases or ear mold surfaces, checking battery status and returning hearing instruments to ~~patients~~ clients after servicing.

SECTION 13. HAS 6.14 (3) (a) (intro.) is amended to read:

HAS 6.14 (3) (a) (intro.) For purposes of monitoring unlicensed individuals who assist in the practice of speech-language pathology, providing direct observation and supervision of the clinical services provided by the individual to clients at least 50% of client contact time during the first 90 days of employment and no less than ~~25%~~ 10% thereafter. Direct supervision shall be scheduled and documented. Documentation of direct supervision shall include all of the following:

SECTION 14. HAS 6.14 (3) (a) 4. is amended to read:

HAS 6.14 (3) 4. ~~Recording daily contacts between the speech language pathologist and~~ Maintaining a record of direct supervision provided by the speech-language pathologist over the unlicensed individual who assists in the practice of speech-language pathology.

SECTION 15. HAS 6.18 (1) (h) is created to read:

HAS 6.18 (1) (g) Violating any federal or state statute, rule or regulation that relates to the practice of speech-language pathology or audiology, as appropriate.

SECTION 15. HAS 6.18 (2) (d), (e) and (f) are created to read:

HAS 6.18 (2) (d) Failed to calibrate audiometric equipment at least once every 12 months.

(e) Failed to maintain adequate records of certification of calibrations of audiometric equipment for a period of 5 years or failed to provide access to those records when requested by the board or its representative.

(f) Failed to clearly state the full terms of sale on a receipt, as required in s. 459.24 (3m), Stats. The full terms of sale shall include all of the following:

1. The amount and method of payment.
2. The date, place and method of delivery.
3. The terms of any personal guarantee.
4. The nature and duration of the trial period and extension, if any.
5. The refund policy and amount, if any.
6. The product return and exchange policy, if any.
7. The product repair policy, if any.

(END OF TEXT OF RULE)

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.), Wis. Stats.

Dated _____ Agency _____
Chairperson
Hearing and Speech Examining Board

FISCAL ESTIMATE

The Department of Regulation and Licensing will incur \$500 in costs to print and distribute this rule change.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Wis. Stat.

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6/23/03



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 03-025

AN ORDER to renumber HAS 6.14 (1) (a) 2. a. to d. and 3. (intro.); to renumber and amend HAS 6.14 (1) (a) 4.; to amend chapters HAS 2 (title), 3 (title), 4 (title) and 5 (title) and HAS 6.14 (1) (a) 1. and 2. and (b) 5. and 11., (2) (a) 2. and (3) (a) (intro.) and 4.; to create HAS 6.02 (4g) and (5g), 6.14 (1) (b) 13., 14. and 15., 6.18 (2) (d), (e) and (f) and (3) (y), relating to definitions, grounds for discipline and minor, and technical changes.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

03-03-2003 RECEIVED BY LEGISLATIVE COUNCIL.

03-21-2003 REPORT SENT TO AGENCY.

RS:DD



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Clearinghouse Director

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CLEARINGHOUSE RULE 03-025

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]

2. Form, Style and Placement in Administrative Code

a. The department's analysis fails to describe the substantive changes made by the rule; a reader of the analysis has no clue as to what the rule does and its significance. Also, in the statement of statutes interpreted, it appears that s. 459.22 (1) (e), Stats., does not exist.

b. Section HAS 6.02 (4g) and (5g) reference "hearing instrument." See current s. HAS 6.02 (4t), which defines "hearing aid." It appears that "hearing aid" should be used in place of "hearing instrument."

c. It appears that a definition of "full terms of sale" as provided in s. HAS 6.02 (4g) is unnecessary given the substance of s. HAS 6.18 (2) (f). In fact, in light of s. HAS 6.18 (2) (f), the meaning and significance of the definition are unclear.

d. In s. HAS 6.18 (2) (d), it is suggested that consideration be given to replacing "not less than" with "at least."

e. In s. HAS 6.18 (2) (f) 3., it appears that "personal" should precede "guarantee." See s. HAS 6.02 (5g).

f. It appears that s. HAS 6.18 (3) (y) might be better placed in s. HAS 6.18 (1). Consideration should be given to replacing current s. HAS 6.18 (1) (g) with the language in proposed s. HAS 6.18 (3) (y).