

2003 Assembly Bill 841

Date of enactment: April 16, 2004  
Date of publication\*: April 30, 2004

## 2003 WISCONSIN ACT 270

AN ACT *to repeal* 15.405 (6m) (c) 1., 15.405 (6m) (d) 1., 440.04 (8) and subchapter III of chapter 459 [precedes 459.40]; *to renumber and amend* 15.405 (6m) (c) 2., 15.405 (6m) (d) 2., 459.09 and 459.24 (5); *to amend* 440.05 (intro.), 440.08 (2) (a) (intro.), 440.23 (1), 459.03 (1), 459.035, 459.05 (1m), 459.07 (2), 459.085, 459.095 (3), 459.10 (1) (i), 459.10 (1) (p), 459.22 (2) (f), 459.24 (1) (a), 459.24 (1) (b), 459.24 (2) (f), 459.24 (3m) (a), 459.24 (4), 459.24 (5m) (a) 3. a., 459.24 (5m) (a) 3. b., 459.24 (6) (c), 459.34 (2) (cm) and 459.34 (2) (cs); and *to create* 459.34 (2) (h) of the statutes; **relating to**: various changes to the regulation of hearing instrument specialists, speech–language pathologists, and audiologists and granting rule–making authority.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 15.405 (6m) (c) 1. of the statutes is repealed.

**SECTION 2.** 15.405 (6m) (c) 2. of the statutes is renumbered 15.405 (6m) (c) and amended to read:

15.405 (6m) (c) ~~One audiologist~~ Two audiologists licensed under subch. II of ch. 459. ~~This subdivision applies after June 30, 1993.~~

**SECTION 3.** 15.405 (6m) (d) 1. of the statutes is repealed.

**SECTION 4.** 15.405 (6m) (d) 2. of the statutes is renumbered 15.405 (6m) (d) and amended to read:

15.405 (6m) (d) ~~One~~ Two speech–language pathologist ~~pathologists~~ licensed under subch. II of ch. 459. ~~This subdivision applies after June 30, 1993.~~

**SECTION 5.** 440.04 (8) of the statutes is repealed.

**SECTION 6.** 440.05 (intro.) of the statutes is amended to read:

**440.05 Standard fees.** (intro.) The following standard fees apply to all initial credentials, except as pro-

vided in ss. 440.42, 440.43, 440.44, 440.51, 444.03, 444.05, 444.11, 447.04 (2) (c) 2., 449.17, and 449.18 ~~and 459.46~~:

**SECTION 7.** 440.08 (2) (a) (intro.) of the statutes is amended to read:

440.08 (2) (a) (intro.) Except as provided in par. (b) and in ss. 440.51, 442.04, 444.03, 444.05, 444.11, 448.065, 447.04 (2) (c) 2., 449.17, and 449.18 ~~and 459.46~~, the renewal dates and renewal fees for credentials are as follows:

**SECTION 8.** 440.23 (1) of the statutes is amended to read:

440.23 (1) If the holder of a credential pays a fee required under s. 440.05 (1) or (6), 440.08, 444.03, 444.05, or 444.11 ~~or 459.46 (2) (b)~~ by check or debit or credit card and the check is not paid by the financial institution upon which the check is drawn or if the demand for payment under the debit or credit card transaction is not paid by the financial institution upon which demand is made, the department may cancel the credential on or after the 60th day after the department receives the notice from the financial institution, subject to sub. (2).

\* Section 991.11, WISCONSIN STATUTES 2001–02 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

**SECTION 9.** 459.03 (1) of the statutes is amended to read:

459.03 (1) Whoever practices fitting or selling of hearing aids under this subchapter shall deliver to each person supplied with a hearing aid a receipt. The receipt shall contain the licensee's signature and show the licensee's business address and ~~certificate~~ license number, together with specifications as to the make and model of the hearing aid furnished and full terms of sale clearly stated. If a hearing aid which is not new is sold, the receipt and the container thereof must be clearly marked as "used" or "reconditioned" whichever is applicable.

**SECTION 10.** 459.035 of the statutes is amended to read:

**459.035 Medical exam before being fitted.** A hearing aid shall not be fitted for or sold to a ~~child~~ person ~~16~~ 17 years of age or younger unless within 90 days prior to the fitting the person to be fitted has been examined by a physician to determine whether or not he or she has any physical deficiencies that would prohibit the effective use of a hearing aid.

**SECTION 11.** 459.05 (1m) of the statutes is amended to read:

459.05 (1m) Whenever the examining board determines that another state or jurisdiction has requirements equivalent to or higher than those in effect in the state for the practice of fitting and selling hearing aids, and that such state or jurisdiction has a program equivalent to or stricter than the program for determining whether applicants in this state are qualified to fit and sell hearing aids, the department may issue a license by reciprocity to applicants who hold valid ~~certificates or~~ licenses to deal in or fit hearing aids in such other state or jurisdiction, who pay the fee specified in s. 440.05 (2) and who are otherwise qualified for licensure. No applicant for a license by reciprocity under this subsection shall be required to submit to or undergo a qualifying examination, if the applicant personally appears at the next meeting of the examining board after filing the application to answer any questions the examining board has.

**SECTION 12.** 459.07 (2) of the statutes is amended to read:

459.07 (2) Upon receiving an application under this section, accompanied by the fee under s. 440.05 (6), the examining board may grant a trainee permit which may entitle the applicant to practice fitting of hearing aids for a period of one year. A person holding a valid hearing instrument specialist license issued under this subchapter or a valid license to practice audiology issued under s. 459.24 (3) shall be responsible for the direct supervision and training of the applicant and shall be liable for all negligent acts and omissions of the trainee in the fitting of hearing aids.

**SECTION 13.** 459.085 of the statutes is amended to read:

**459.085 Calibration of audiometric equipment.**

Audiometric equipment used in the evaluation of hearing sensitivity for the fitting and sale of hearing aids shall be calibrated periodically, as specified by rule by the examining board. Certification of these calibrations shall be sent to the examining board with the renewal fee required in s. 459.09 (1) (a).

**SECTION 14.** 459.09 of the statutes is renumbered 459.09 (1) (intro.) and amended to read:

459.09 **Renewal and posting of license.** (1) (intro.) Each person issued a license under this subchapter shall, on or before the applicable renewal date specified under s. 440.08 (2) (a), pay do all of the following:

(a) Pay to the department the applicable renewal fee specified under s. 440.08 (2) (a) ~~and, for a license that expires on or after February 1, 2001, submit.~~

(b) Submit with the renewal application proof that he or she completed, within the 2 years immediately preceding the date of his or her application, 20 hours of continuing education programs or courses of study approved or required under rules promulgated under s. 459.095. This paragraph does not apply to an applicant for renewal of a license that expires on the first renewal date after the date on which the examining board initially granted the license.

(2) A licensee shall keep ~~the certificate a~~ license issued under this subchapter conspicuously posted in his or her office or place of business at all times. Where more than one office is operated by the licensee, duplicate ~~certificates~~ licenses shall be issued by the department for posting in each location.

**SECTION 15.** 459.095 (3) of the statutes is amended to read:

459.095 (3) In consultation with the department, promulgate rules that require each person issued a license under this subchapter to whom s. 459.09 (1) (b) applies to complete a specified continuing education program or course of study to ensure competence with respect to a matter related to the practice of fitting and dealing in hearing aids if the examining board has received a significant number of consumer complaints about the matter or if the examining board otherwise determines that there is a need for such a requirement. Rules promulgated under this subsection shall establish criteria for the examining board's approval of the continuing education program or course of study and of sponsors and cosponsors of the continuing education program or course of study. The rules shall also require the examining board to administer, prior to the continuing education program or course of study, an examination on the matter that is the subject of the continuing education program or course of study and to waive a requirement to complete the continuing education program or course of study if a person granted a license under this subchapter passes the examination.

A person who takes an examination specified in this subsection shall pay the fee specified in s. 440.05 (1) (b).

**SECTION 16.** 459.10 (1) (i) of the statutes is amended to read:

459.10 (1) (i) Failed to conduct a direct observation of the purchaser's ear canal of a person for whom a hearing aid is purchased.

**SECTION 17.** 459.10 (1) (p) of the statutes is amended to read:

459.10 (1) (p) Sold a hearing aid to for use by a person who was not given tests by a hearing instrument specialist or an audiologist licensed under this chapter or in another state using appropriate procedures and instrumentation or without proper measurement of the functional intensity and range of the person's hearing.

**SECTION 18.** 459.22 (2) (f) of the statutes is amended to read:

459.22 (2) (f) Require an individual to be licensed under this subchapter to engage in the practice of speech-language pathology or audiology, other than engaging in the practice of fitting and dealing in hearing aids, in a position for which the department of public instruction requires licensure as a speech and language pathologist or audiologist, if the individual's entire practice of speech-language pathology or audiology, other than engaging in the practice of fitting and dealing in hearing aids, is limited to the duties of that position.

**SECTION 19.** 459.24 (1) (a) of the statutes is amended to read:

459.24 (1) (a) Engage in the practice of speech-language pathology or use the title "speech-language pathologist" or any similar title unless the person holds a current speech-language pathologist license granted by the examining board under sub. (2) or (6) (a).

**SECTION 20.** 459.24 (1) (b) of the statutes is amended to read:

459.24 (1) (b) Engage in the practice of audiology or use the title "audiologist", "clinical audiologist" or any similar title unless the person holds a current audiologist license granted by the examining board under sub. (3) or (6) (b).

**SECTION 21.** 459.24 (2) (f) of the statutes is amended to read:

459.24 (2) (f) Submits evidence satisfactory to the examining board that he or she has completed a postgraduate clinical fellowship in speech-language pathology approved by the examining board or has completed education or training that the examining board determines is substantially equivalent to the completion of such a fellowship.

**SECTION 22.** 459.24 (3m) (a) of the statutes is amended to read:

459.24 (3m) (a) Deliver to each person supplied with a hearing aid a receipt. The receipt shall contain the signature and show the business address and certificate license or permit number of the licensee or permittee,

together with specifications as to the make and model of the hearing aid and full terms of sale clearly stated. If a hearing aid that is not new is sold, the receipt and the container must be clearly marked as "used" or "reconditioned", whichever is applicable. The terms of the guarantee, if there is any given, shall be set out in not less than 8-point type.

**SECTION 23.** 459.24 (4) of the statutes is amended to read:

459.24 (4) ~~POSTING OF LICENSE CERTIFICATE. The department shall issue a certificate to each licensee, certifying that the holder is licensed. Each person issued a license under this subchapter to practice speech-language pathology or audiology. The licensee shall post the certificate license in a conspicuous place in the licensee's place of business.~~

**SECTION 24.** 459.24 (5) of the statutes is renumbered 459.24 (5) (intro.) and amended to read:

459.24 (5) EXPIRATION AND RENEWAL. (intro.) The renewal dates for licenses granted under this subchapter, other than temporary licenses granted under sub. (6), are specified in s. 440.08 (2) (a). Renewal applications shall be submitted to the department on a form provided by the department and shall include ~~the~~ all of the following:

(a) ~~The~~ renewal fee specified in s. 440.08 (2) (a) ~~and, for licenses that expire on or after February 1, 2001, proof.~~

(b) Proof that the applicant completed, within the 2 years immediately preceding the date of his or her application, 20 hours of continuing education programs or courses of study approved or required under rules promulgated under sub. (5m). This paragraph does not apply to an applicant for renewal of a license that expires on the first renewal date after the date on which the examining board initially granted the license.

**SECTION 25.** 459.24 (5m) (a) 3. a. of the statutes is amended to read:

459.24 (5m) (a) 3. a. Require each person granted a speech-language pathologist license to whom sub. (5) (b) applies to complete a specified continuing education program or course of study to ensure competence with respect to a matter related to the practice of speech-language pathology if the examining board has received a significant number of consumer complaints about the matter or if the examining board otherwise determines there is a need for such a requirement.

**SECTION 26.** 459.24 (5m) (a) 3. b. of the statutes is amended to read:

459.24 (5m) (a) 3. b. Require each person granted an audiologist license to whom sub. (5) (b) applies to complete a specified continuing education program or course of study to ensure competence with respect to a matter related to the practice of audiology if the examining board has received a significant number of consumer complaints about the matter or if the examining board determines there is a need for such a requirement.

**SECTION 27.** 459.24 (6) (c) of the statutes is amended to read:

459.24 (6) (c) A temporary license granted under this subsection is valid for a period designated in rules promulgated by the examining board, not to exceed 9 months. The rules may designate a period that terminates if an applicant fails to take the next available examination under s. 459.26 (2) (a) or (b) for reasons other than inaction by the examining board or hardship. A temporary license granted under par. (a) may be renewed once by the examining board. A temporary license granted under par. (b) may be renewed once by the examining board if the applicant fails an examination for audiologist licensure under s. 459.26 (2) (a) or (b) and applies to take the next available examination or if the applicant shows, to the satisfaction of the examining board, sufficient cause for the renewal. An applicant for a temporary license shall pay the fee specified in s. 440.05 (6).

**SECTION 28.** 459.34 (2) (cm) of the statutes is amended to read:

459.34 (2) (cm) Failed to conduct a direct observation of the ear canal of a ~~purchaser of~~ person for whom a hearing aid is purchased. This paragraph does not apply to speech-language pathologists.

**SECTION 29.** 459.34 (2) (cs) of the statutes is amended to read:

459.34 (2) (cs) Sold a hearing aid ~~to~~ for use by a person who was not given tests by a hearing instrument specialist or audiologist licensed under this chapter or in another state using appropriate procedures and instrumentation or without proper measurement of the functional intensity and range of the person's hearing. This paragraph does not apply to speech-language pathologists.

**SECTION 30.** 459.34 (2) (h) of the statutes is created to read:

459.34 (2) (h) Engaged in unprofessional conduct as defined by rule by the examining board.

**SECTION 31.** Subchapter III of chapter 459 [precedes 459.40] of the statutes is repealed.

**SECTION 32. Nonstatutory provisions.**

(1) NEW MEMBERS OF HEARING AND SPEECH EXAMINING BOARD. Notwithstanding the length of term specified in section 15.405 (6m) (intro.) of the statutes, the additional members of the hearing and speech examining board under this act shall be initially appointed for the following terms:

(a) One speech-language pathologist member, for a term expiring on July 1, 2007.

(b) One audiologist member, for a term expiring on July 1, 2008.