

2003 ASSEMBLY BILL 841

February 16, 2004 – Introduced by Representatives UNDERHEIM, BERCEAU, KREIBICH, TOWNSEND, VRAKAS, ALBERS, HINES, BIES, WASSERMAN and OTT, cosponsored by Senator KEDZIE. Referred to Committee on Health.

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

Analysis by the Legislative Reference Bureau

This bill makes the following changes to the regulation of hearing instrument specialists, audiologists, and speech–language pathologists by the Hearing and Speech Examining Board (board):

1. Under current law, a person may not engage in the practice of dealing in or fitting hearing aids unless he or she has a hearing instrument specialist license or

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training permit issued by the board. In addition, a person who is issued a training permit must be supervised by a licensed hearing instrument specialist. Under this bill, a person licensed as an audiologist by the board may also supervise a person with a training permit.

2. Under current law, a person who is licensed as a hearing instrument specialist, an audiologist, or a speech–language pathologist must renew the license every two years. In addition, a person must complete 20 hours of continuing education to renew a license. Under this bill, a person does not have to complete continuing education the first time he or she applies to renew a license, but must complete continuing education for each subsequent renewal.

3. Current law specifies various grounds for which the board may discipline a person licensed as a hearing instrument specialist, a speech–language pathologist, or an audiologist. This bill allows the board to discipline a speech–language pathologist or an audiologist who engages in unprofessional conduct as defined by rule by the board. Under current law, the board may discipline a hearing instrument specialist for unprofessional conduct.

4. Under current law, the board may issue a temporary license that allows a person to practice as an audiologist or a speech–language pathologist for a period of no more than nine months. This bill eliminates the nine–month limit and allows the board to promulgate rules that designate the period of a temporary license. The rules may designate a period that terminates if an applicant fails to take the next available examination that is required for a license for reasons other than inaction by the board or hardship.

5. Under current law, a hearing instrument specialist or an audiologist must test the hearing or observe the ear canal of a person who purchases a hearing aid. This bill requires the testing or observation also for a person for whom a hearing aid is purchased.

6. The bill prohibits a hearing instrument specialist or audiologist from fitting or selling a hearing aid for a person 17 years or younger unless the person has been examined by a physician within the previous 90 days. Under current law, the prohibition applies to a person who is 16 years or younger.

7. Under current law, persons who are licensed by the Department of Public Instruction (DPI) as speech–language pathologists are exempt from the board’s licensing requirements. This bill also exempts persons licensed as audiologists by DPI. In addition, the bill clarifies that the exemptions apply only if a person’s entire practice of speech–language pathology or audiology is limited to the position for which the person is licensed by DPI.

8. Under current law, a person may be licensed by the board as a speech–language pathologist if he or she satisfies certain requirements, including completion of a postgraduate clinical fellowship. This bill provides that a person may also complete education or training that the board determines is substantially similar to such a fellowship.

9. Under current law, a person is not allowed to use a title related to audiology or speech–language pathology, or practice audiology or speech–language pathology, unless he or she is issued a license by the board. Prior to July 1, 1993, such persons

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were issued certificates of registration by the board. This bill eliminates all outdated references to audiology and speech–language pathology certificates of registration.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

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

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

4 15.405 **(6m)** (c) ~~One audiologist~~ Two audiologists licensed under subch. II of ch.
5 459. ~~This subdivision applies after June 30, 1993.~~

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

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

9 15.405 **(6m)** (d) ~~One~~ Two speech–language ~~pathologist~~ pathologists licensed
10 under subch. II of ch. 459. ~~This subdivision applies after June 30, 1993.~~

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

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

13 **440.05 Standard fees.** (intro.) The following standard fees apply to all initial
14 credentials, except as provided in ss. 440.42, 440.43, 440.44, 440.51, 444.03, 444.05,
15 444.11, 447.04 (2) (c) 2., 449.17, and 449.18 ~~and 459.46~~:

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

17 440.08 **(2)** (a) (intro.) Except as provided in par. (b) and in ss. 440.51, 442.04,
18 444.03, 444.05, 444.11, 448.065, 447.04 (2) (c) 2., 449.17, and 449.18 ~~and 459.46~~, the
19 renewal dates and renewal fees for credentials are as follows:

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

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

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

9 459.03 (1) Whoever practices fitting or selling of hearing aids under this
10 subchapter shall deliver to each person supplied with a hearing aid a receipt. The
11 receipt shall contain the licensee's signature and show the licensee's business
12 address and certificate license number, together with specifications as to the make
13 and model of the hearing aid furnished and full terms of sale clearly stated. If a
14 hearing aid which is not new is sold, the receipt and the container thereof must be
15 clearly marked as "used" or "reconditioned" whichever is applicable.

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

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

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

23 459.05 (1m) Whenever the examining board determines that another state or
24 jurisdiction has requirements equivalent to or higher than those in effect in the state
25 for the practice of fitting and selling hearing aids, and that such state or jurisdiction

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1 has a program equivalent to or stricter than the program for determining whether
2 applicants in this state are qualified to fit and sell hearing aids, the department may
3 issue a license by reciprocity to applicants who hold valid ~~certificates or~~ licenses to
4 deal in or fit hearing aids in such other state or jurisdiction, who pay the fee specified
5 in s. 440.05 (2) and who are otherwise qualified for licensure. No applicant for a
6 license by reciprocity under this subsection shall be required to submit to or undergo
7 a qualifying examination, if the applicant personally appears at the next meeting of
8 the examining board after filing the application to answer any questions the
9 examining board has.

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

11 459.07 (2) Upon receiving an application under this section, accompanied by
12 the fee under s. 440.05 (6), the examining board may grant a trainee permit which
13 may entitle the applicant to practice fitting of hearing aids for a period of one year.
14 A person holding a valid hearing instrument specialist license issued under this
15 subchapter or a valid license to practice audiology issued under s. 459.24 (3) shall be
16 responsible for the direct supervision and training of the applicant and shall be liable
17 for all negligent acts and omissions of the trainee in the fitting of hearing aids.

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

19 **459.085 Calibration of audiometric equipment.** Audiometric equipment
20 used in the evaluation of hearing sensitivity for the fitting and sale of hearing aids
21 shall be calibrated periodically, as specified by rule by the examining board.
22 Certification of these calibrations shall be sent to the examining board with the
23 renewal fee required in s. 459.09 (1) (a).

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

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

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

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

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

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

17 459.095 **(3)** In consultation with the department, promulgate rules that
18 require each person issued a license under this subchapter to whom s. 459.09 (1) (b)
19 applies to complete a specified continuing education program or course of study to
20 ensure competence with respect to a matter related to the practice of fitting and
21 dealing in hearing aids if the examining board has received a significant number of
22 consumer complaints about the matter or if the examining board otherwise
23 determines that there is a need for such a requirement. Rules promulgated under
24 this subsection shall establish criteria for the examining board's approval of the
25 continuing education program or course of study and of sponsors and cosponsors of

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1 the continuing education program or course of study. The rules shall also require the
2 examining board to administer, prior to the continuing education program or course
3 of study, an examination on the matter that is the subject of the continuing education
4 program or course of study and to waive a requirement to complete the continuing
5 education program or course of study if a person granted a license under this
6 subchapter passes the examination. A person who takes an examination specified
7 in this subsection shall pay the fee specified in s. 440.05 (1) (b).

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

9 459.10 (1) (i) Failed to conduct a direct observation of the purchaser's ear canal
10 of a person for whom a hearing aid is purchased.

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

12 459.10 (1) (p) Sold a hearing aid to for use by a person who was not given tests
13 by a hearing instrument specialist or an audiologist licensed under this chapter or
14 in another state using appropriate procedures and instrumentation or without
15 proper measurement of the functional intensity and range of the person's hearing.

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

17 459.22 (2) (f) Require an individual to be licensed under this subchapter to
18 engage in the practice of speech–language pathology or audiology, other than
19 engaging in the practice of fitting and dealing in hearing aids, in a position for which
20 the department of public instruction requires licensure as a speech and language
21 pathologist or audiologist, if the individual's entire practice of speech–language
22 pathology or audiology, other than engaging in the practice of fitting and dealing in
23 hearing aids, is limited to the duties of that position.

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

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

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

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

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

10 459.24 (2) (f) Submits evidence satisfactory to the examining board that he or
11 she has completed a postgraduate clinical fellowship in speech–language pathology
12 approved by the examining board or has completed education or training that the
13 examining board determines is substantially equivalent to the completion of such a
14 fellowship.

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

16 459.24 (3m) (a) Deliver to each person supplied with a hearing aid a receipt.
17 The receipt shall contain the signature and show the business address and ~~certificate~~
18 license or permit number of the licensee or permittee, together with specifications
19 as to the make and model of the hearing aid and full terms of sale clearly stated. If
20 a hearing aid that is not new is sold, the receipt and the container must be clearly
21 marked as “used” or “reconditioned”, whichever is applicable. The terms of the
22 guarantee, if there is any given, shall be set out in not less than 8–point type.

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

24 459.24 (4) **POSTING OF LICENSE CERTIFICATE.** ~~The department shall issue a~~
25 ~~certificate to each licensee, certifying that the holder is licensed.~~ Each person issued

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1 a license under this subchapter to practice speech–language pathology or audiology.
2 The licensee shall post the ~~certificate~~ license in a conspicuous place in the licensee's
3 place of business.

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

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

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

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

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

20 459.24 (5m) (a) 3. a. Require each person granted a speech–language
21 pathologist license to whom sub. (5) (b) applies to complete a specified continuing
22 education program or course of study to ensure competence with respect to a matter
23 related to the practice of speech–language pathology if the examining board has
24 received a significant number of consumer complaints about the matter or if the
25 examining board otherwise determines there is a need for such a requirement.

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

2 459.24 **(5m)** (a) 3. b. Require each person granted an audiologist license to
3 whom sub. (5) (b) applies to complete a specified continuing education program or
4 course of study to ensure competence with respect to a matter related to the practice
5 of audiology if the examining board has received a significant number of consumer
6 complaints about the matter or if the examining board determines there is a need for
7 such a requirement.

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

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

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

21 459.34 **(2)** (cm) Failed to conduct a direct observation of the ear canal of a
22 ~~purchaser of~~ person for whom a hearing aid is purchased. This paragraph does not
23 apply to speech–language pathologists.

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

