

2007 DRAFTING REQUEST

Bill

Received: **06/06/2007**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Newcomer (608) 266-3007**

By/Representing: **Eric Knight**

This file may be shown to any legislator: **NO**

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Newcomer@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Licensure of speech-language pathologists and audiologists

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	tkuczens 07/23/2007	lkunkel 07/30/2007	nmatzke 07/30/2007	_____	lparisi 07/30/2007		
	tkuczens 08/23/2007	bkraft 08/31/2007		_____			
/1	tkuczens 09/17/2007	bkraft 09/17/2007	rschluet 08/31/2007	_____	mbarman 08/31/2007		State
/2			jfrantze 09/17/2007	_____	mbarman 09/17/2007	cduerst 11/26/2007	State

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For: "1/2" @ intro. 12-3-2007

<END>

2007 DRAFTING REQUEST

Bill

Received: **06/06/2007**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Newcomer (608) 266-3007**

By/Representing: **Eric Knight**

This file may be shown to any legislator: **NO**

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Newcomer@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Licensure of speech-language pathologists and audiologists

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	tkuczens 07/23/2007	lkunkel 07/30/2007	nmatzke 07/30/2007	_____	lparisi 07/30/2007		
	tkuczens 08/23/2007	bkraft 08/31/2007		_____			
/1	tkuczens 09/17/2007	bkraft 09/17/2007	rschluet 08/31/2007	_____	mbarman 08/31/2007		State
/2			jfrantze 09/17/2007	_____	mbarman 09/17/2007		State

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 06/06/2007

Received By: tkuczens

Wanted: As time permits

Identical to LRB:

For: Scott Newcomer (608) 266-3007

By/Representing: Eric Knight

This file may be shown to any legislator: NO

Drafter: tkuczens

May Contact:

Addl. Drafters:

Subject: Occupational Reg. - prof lic

Extra Copies:

Submit via email: YES

Requester's email: Rep.Newcomer@legis.wisconsin.gov

Carbon copy (CC:) to: tracy.kuczenski@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Licensure of speech-language pathologists and audiologists

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	tkuczens 07/23/2007	lkunkel 07/30/2007	nmatzke 07/30/2007	_____	lparisi 07/30/2007		
	tkucft 08/23/2007	bkraft 08/31/2007		_____			
/1			rschluet 08/31/2007	_____	mbarman 08/31/2007		State

1/2 bjk 9/17

[Handwritten signature]
9/17

FE Sent For:

2007 DRAFTING REQUEST

Bill

Received: **06/06/2007**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Newcomer (608) 266-3007**

By/Representing: **Eric Knight**

This file may be shown to any legislator: **NO**

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Newcomer@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Licensure of speech-language pathologists and audiologists

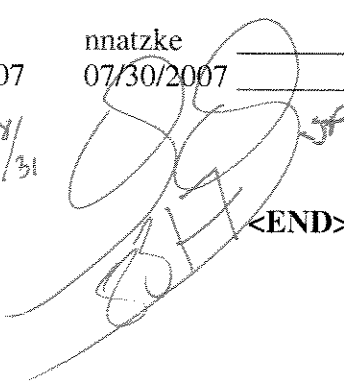
Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	tkuczens 07/23/2007	lkunkel 07/30/2007	martzke 07/30/2007		lparisi 07/30/2007		

FE Sent For:

1 bjk 8/31

<END>

2007 DRAFTING REQUEST

Bill

Received: 06/06/2007

Received By: tkuczens

Wanted: As time permits

Identical to LRB:

For: Scott Newcomer (608) 266-3007

By/Representing: Eric Knight

This file may be shown to any legislator: NO

Drafter: tkuczens

May Contact:

Addl. Drafters:

Subject: Occupational Reg. - prof lic

Extra Copies:

Submit via email: YES

Requester's email: Rep.Newcomer@legis.wisconsin.gov

Carbon copy (CC:) to: tracy.kuczenski@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Licensure of speech-language pathologists and audiologists

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	tkuczens	p/lmk 7/27	nwn 7/30	nwn/rs 7/30			

FE Sent For:

<END>

Kuczenski, Tracy

From: Parisi, Lori
Sent: Wednesday, June 06, 2007 2:29 PM
To: Kuczenski, Tracy
Subject: FW: Message for Tracy Kuczenski

Attachments: Chp 459 final draft.doc

From: Knight, Eric
Sent: Wednesday, June 06, 2007 2:23 PM
To: LRB.Legal
Subject: Message for Tracy Kuczenski

Tracy:

We are looking to get a bill drafting concerning the LICENSURE OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS. All the necessary information should be in the following attachment. If you have any questions or if you are not the right person for this bill let me know.

Thanks



Chp 459 final
draft.doc (102 K...

Eric Knight
Office of Rep. Scott Newcomer
608-266-3007
888-529-0033
Eric.Knight@legis.wi.gov

aid - 127 (1)
aids - 29 (1)

Attachment to 6/6/07 email from Eric Knight

HEARING AND SPEECH EXAMINING BOARD 459.035

CHAPTER 459

HEARING AND SPEECH EXAMINING BOARD

SUBCHAPTER I

LICENSURE OF HEARING INSTRUMENT SPECIALISTS

- 459.01 Definitions
- 459.02 License required to sell and fit hearing aids instruments.
- 459.03 Receipt required to be furnished to a person supplied with a hearing aid instrument
- 459.035 Medical exam before being fitted
- 459.04 Seller's guarantee
- 459.05 Issuance of license
- 459.06 License by examination
- 459.07 Temporary trainee permit
- 439.08 Notice to department of place of practice; notice to holders how given
- 459.085 Calibration of audiometric equipment
- 459.09 Renewal of license
- 459.095 Continuing education
- 459.10 Disciplinary grounds
- 459.105 Injunction
- 459.11 Testing Equipment
- 459.12 Rules
- 459.13 Penalty
- 459.14 Exemptions

LICENSURE OF SPEECH-LANGUAGE PATHOLOGISTS AND
AUDIOLOGISTS

SUBCHAPTER II

- 459.20 Definitions
- 459.22 Applicability
- 459.23 Duties of council on speech-language pathology and audiology
- 459.24 Licensure
- 459.26 Examination
- 459.28 Licensees of other jurisdictions
- 459.32 Limited permit
- 459.34 Disciplinary proceedings and actions

LICENSURE OF HEARING INSTRUMENT SPECIALISTS

459.01 Definitions. As used in this subchapter, unless the context clearly indicates a different meaning:

- (1) "Examining board" means the hearing and speech examining board.
- (2) "Hearing aid instrument" means any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories of such an instrument or device, except batteries and cords.
- (3) "Hearing instrument specialist" means any person who is or is required to be licensed under s. 459.05 to engage in the practice of dealing in or fitting hearing aids instruments.
- (4) "License" means a license issued by the department under s. 459.05 to hearing instrument specialists.
- (5) "Practice of fitting and dealing in hearing instruments" means the measurement of human hearing by means of an audiometer or by any other means accepted by the examining board solely for the

purpose of making selections, adaptations or sales of hearing aids instruments intended to compensate for impaired hearing. This term also includes making impressions for ear molds.

(6) "Sell" or "sale" means a transfer for a consideration of title or of the right to use.

(7) "Trainee permit" means a temporary, permit issued while the applicant is in training to become a licensed hearing instrument specialist.

459.02 License required to sell and fit hearing aids instruments.

(1) No person may engage in the practice of selling or fitting hearing aids instruments or display a sign or in any other way advertise or represent himself or herself as a person who practices the fitting or sale of hearing aid instrument unless he or she holds a valid license issued under this subchapter or a valid license or permit to practice audiology issued under subch. II. The license required by s. 459.05 shall be conspicuously posted in his or her office or place of business as registered with the department at all times. Duplicate licenses shall be issued by the department under this subchapter to valid license holders operating more than one office without additional payment.

(2) Nothing in this subchapter or subch. II shall prohibit any corporation or mercantile establishment which maintains an established business address from engaging in the business of selling or offering for sale hearing aids instruments at retail without a license, provided that for the purpose of selling and fitting hearing aids instruments it employs persons licensed under this subchapter or persons issued licenses or permits to practice audiology under subch. II. Such corporation or mercantile establishment shall annually file with the examining board a list of all persons employed for the purpose of selling and fitting hearing aids instruments.

459.03 Receipt required to be furnished to a person supplied with hearing aid instrument. (1)

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

(2) The following shall be set out in not less than 8-point type:

(a) The terms of the guarantee, if there is any given; and

(b) A statement that the purchaser has been advised at the outset of the purchaser's relationship with the hearing instrument specialist that any examination or representation made by a hearing instrument specialist in connection with the fitting and selling of this hearing aid instrument is not an examination, diagnosis or prescription by a person licensed to practice medicine or audiology in this state and therefore must not be regarded as medical or audiological opinion or advice.

459.035 Medical exam before being fitted. A hearing aid instrument shall not be fitted for or sold to a child 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 instrument.

459.04 Seller's guarantee. The seller of a hearing aid instrument shall give to the purchaser a personal guarantee that is at least identical in its terms to the guarantee of the manufacturer of the hearing aid instrument.

459.05 Issuance of license. (1) The department shall issue to each applicant who passes an examination under s. 459.06 and pays the fee specified in s. 440.05 (1) a license.

(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, instruments 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 s, the department may issue a license by reciprocity to applicants who hold valid certificates or licenses to deal in or fit hearing aids instruments 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

459.03 license
under
subch. II
what does
this mean?

meeting of the examining board after filing the application to answer any questions the examining board has.

459.06 License by examination. (1) Applicants may obtain a license by successfully passing a qualifying examination, provided the applicant is 18 years of age or older, does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, and has an education equivalent to a 4-year course in an accredited high school.

(2) The examination shall include but not be limited to:

(a) Tests of knowledge in the following areas as they pertain to the fitting of hearing aids instruments:

1. Basic physics of sound.
2. The anatomy and physiology of the ear.
3. The function of hearing aids instruments.

(b) Practical tests of proficiency in the following techniques as they pertain to the fitting of hearing aids instruments:

1. Pure tone audiometry, including air conduction testing and bone conduction testing.
2. Live voice or recorded voice speech audiometry including speech reception threshold testing and most comfortable loudness measurements and measurements of tolerance thresholds.
3. Masking when indicated.
4. Recording and evaluation of audiograms and speech audiometry to determine proper selection and adaptation of a hearing aid instrument.
5. Taking ear mold impressions.

(3) The applicant for license by examination shall appear at a time and place as the examining board designates, to be examined by means of written and practical tests in order to demonstrate that he or she is qualified to practice the fitting of hearing aids instruments. Such examinations shall be conducted at least twice a year and at such other times and places designated by the examining board.

(4) Applications for examinations shall be submitted to the examining board at least 30 days before the date set for the examination and shall be accompanied by the examination fee specified under s. 440.05 (1).

459.07 Temporary trainee permit. (1) An applicant who fulfills the requirements regarding age, character and high school education as set forth in s. 459.06 may obtain a trainee permit upon application to the examining board. The name of the licensee who is supervising the trainee shall appear on the face of the permit.

(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 instruments for a period of one year. A person holding a valid hearing instrument specialist license 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 instruments.

(3) A trainee permit may be renewed or regranted once if the trainee shows that he or she had sufficient cause for being unable to complete the requirements for permanent licensure.

(4) The examining board shall encourage the establishment of educational courses for the training of all persons wishing to become licensed hearing instrument specialists.

459.08 Notice to Department of place of practice; notice to holders of license; how given. (1) A person who holds a license shall notify the department in writing or in accordance with other notification procedures approved by the department of the regular address of the places where he or she engages or intends to engage in the practice of fitting or selling hearing aids instruments. The licensee shall inform the board of any changes in these addresses within 30 days of the change.

(2) The department shall keep a record of the places of practice of persons who hold licenses.

(3) Any notice required to be given by the department to a person who holds a license shall be mailed to the person by registered or certified mail at the address of the last place of practice of which he or she has notified the department.

459.085 Calibration of audiometric equipment. Audiometric equipment used in the evaluation of hearing sensitivity for the fitting and sale of hearing aids instruments 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).

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

(a) Pay to the department the applicable renewal fee specified under s. 440.08 (2) (a).

(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.

(2) A licensee shall keep the certificate 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 shall be issued by the department for posting in each location.

459.095 Continuing education. The examining board shall do all of the following:

(1) Promulgate 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.

(2) Approve continuing education programs and courses of study in accordance with the criteria established under sub. (1).

(3) In consultation with the department, promulgate rules that require each person issued a license under this subchapter to whom s. 459 (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 instruments 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. 4.40.05 (1) (b).

459.10 Disciplinary grounds. (1) Subject to subch. II of ch. 111 and the rules adopted under s. 440.03 (1) the examining board may promulgate rules regarding grounds for discipline and reprimand the licensee or permit holder or revoke, suspend, limit or deny the trainee permit or license, or any combination thereof, of any person who has done any of the following:

(a) Made any false statement or given any false information in connection with an application for a license or trainee permit or for renewal or reinstatement of a license or trainee permit.

(b) Been issued a license or trainee permit through error. (c) Been adjudicated mentally incompetent by a court.

(d) Been found guilty of an offense the circumstances of which substantially relate to the practice of fitting and dealing in hearing aids instruments.

(e) Violated this subchapter or ch. 440 or any federal or state statute or rule which relates to the practice of fitting and dealing in hearing aids instruments.

(f) Practiced as a hearing instrument specialist while the person's ability to practice was impaired by alcohol or other drugs or physical or mental disability or disease.

(g) Engaged in false, misleading or deceptive advertising. Engaged in, or caused or promoted the use of, any advertising material, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or other representation, however disseminated or published, which is misleading, deceiving, false or untruthful.

(h) Made a substantial misrepresentation in the course of practice, which was relied upon by a client or patient.

(i) Failed to conduct a direct observation of the purchaser's ear canal.

(j) Engaged in conduct which evidenced a lack of knowledge or ability to apply principles or skills of the practice of fitting and dealing in hearing aids instruments.

(k) Engaged in unprofessional conduct. In this subsection, "unprofessional conduct" means the violation of any standard of professional behavior which through experience, state statute or administrative rule has become established in the practice of fitting and dealing in hearing aids instruments.

(L) Obtained or attempted to obtain compensation by fraud or deceit.

(m) Violated any order of the examining board.

(n) Knowingly employed directly or indirectly, to perform any work regulated under this subchapter, any person not licensed or not holding a trainee permit under this subchapter, or whose license or trainee permit has been suspended or revoked.

(o) Permitted another person to use his or her license or trainee permit.

(p) Sold a hearing aid instrument to a person who was not given tests using appropriate procedures and instrumentation or without proper measurement of the functional intensity and range of the person's hearing.

(q) Misrepresented that the professional services or advice of a physician or audiologist will be used or made available in the fitting, sale, adjustment, service, maintenance or repair of a hearing instrument, when such is not true, or using the words "doctor", "clinic", "clinical" or like words, abbreviations or symbols without limitation by enumeration, which tend to connote or imply the medical or audiology professions when such is not the case.

(r) Make any statement regarding the cure or the cause of a hearing impairment by the use of a hearing instrument, unless the statement is true.

(s) Make any material misstatement of fact or misrepresentation regarding the hearing instrument or services.

(2) (a) An individual whose license or trainee permit is limited by the examining board under this subchapter may continue to practice under the license or permit if the individual does all of the following:

1. Refrains from engaging in unprofessional conduct.

2. Appears before the examining board or its officers or agents upon each request of the examining board.

3. Fully discloses to the examining board or its officers or agents the nature of the individual's practice and conduct.

4. Fully complies with the limits placed on his or her practice and conduct by the examining board.

5. Obtains any additional training, education or supervision required by the examining board.

6. Cooperates with all reasonable requests of the examining board.

b) The examining board may, as a condition of removing a limitation on a license or trainee permit issued under this subchapter or of reinstating a license or trainee permit that has been suspended or revoked under this subchapter, require the license or permit holder to obtain minimum results specified by the examining board on one or more physical, mental or professional competency examinations if the examining board determines that obtaining the minimum results is related to correcting one or more of the bases upon which the limitation, suspension or revocation was imposed.

(c) The examining board may, as a condition of reinstating a license that has been suspended under this subchapter, require the license holder to pass the examination required for initial licensure under s. 459.06.

459.105 Injunction. If it appears upon complaint to the examining board by any person or is known to the examining board that any person is practicing as a hearing instrument specialist without a license or trainee permit, the examining board, the attorney general or the district attorney of the proper county may investigate and may in addition to any other remedies, bring an action in the name and on behalf of this state against the person to enjoin the person from practice.

459.11 Testing equipment. The examining board may, in addition to any other powers granted, purchase and maintain or rent audiometric equipment and facilities necessary to carry out the examination of applicants for licenses.

459.12 Rules. (1) The examining board may make rules not inconsistent with the laws of this state which are necessary to carry out the intent of this subchapter.

(2) The examining board shall promulgate rules establishing the frequency of the calibration, the standards for the calibrations and the standards for the certifications required by s. 459.085.

(3) The examining board shall by rule prescribe the number of trainees a licensee may supervise under s. 459.07.

459.13 Penalty. Any person violating this subchapter or any rule promulgated under this subchapter shall forfeit not more than \$500.

459.14 Exemptions. (1) This subchapter does not apply to a physician licensed by the medical examining board.

(2) This subchapter does not apply to a person engaged in the practice of measuring human hearing for selecting hearing aids instruments or any other purpose if the person or the organization employing such person does not sell hearing aids instruments or hearing accessories

SUBCHAPTER II

LICENSURE OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGIST

459.20 Definitions. In this subchapter:

(1) "Audiologist" means an individual engaged in the practice of audiology.

(2) "Audiology" means all of the following:

• (a) Applying principles, methods or procedures of prevention, identification, assessment, measurement, interpretation, evaluation, consultation, intervention, treatment, conservation, management, counseling, instruction or research related to hearing, vestibular function, or any abnormal condition related to tinnitus, auditory sensitivity, acuity, function or processing, speech, language or other aberrant behavior resulting from hearing loss for the purpose of diagnosing, designing, and implementing management and treatment or other programs for the amelioration of such disorders and conditions.

• (b) Engaging in the practice of fitting and dealing in hearing aids instruments.

(3) "Examining board" means the hearing and speech examining board.

• (3g) "Hearing aid instrument" means any wearable or implantable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories of such an instrument or device, except batteries and cords.

(3m) "Licensee" means an individual licensed under this subchapter.

• (3p) "Practice of fitting and dealing in hearing aids instruments" means the measurement of human hearing by means of an audiometer or by any other means accepted by the examining board for the purpose of making selections, adaptations or sales of hearing aids instruments intended to compensate for impaired hearing, and includes making impressions for ear molds.

(3t) "Sell" or "sale" means a transfer for a consideration of title or of the right to use.

(4) "Speech-language pathologist" means an individual engaged in the practice of speech-language pathology.

(5) "Speech-language pathology" means applying principles, methods or procedures of prevention, identification, evaluation, consultation, intervention, instruction or research related to speech, language, cognition or swallowing or any abnormal condition involving speech, articulation, fluency, voice, verbal or written language, auditory comprehension, cognition or communication or oral, pharyngeal or laryngeal sensorimotor competencies.

459.22 Applicability . (1) This subchapter applies after June 30, 1993.

(2) This subchapter does not do any of the following:

(a) Authorize an individual licensed under this subchapter to engage in any practice for which a license is required under ch. 448.

• (b) Authorize a speech-language pathologist licensed under this subchapter to dispense or sell hearing aids instruments without obtaining a hearing instrument specialist license under subch. I.

(c) Require a hearing instrument specialist licensed under subch. 1 to be licensed as an audiologist under this subchapter to engage in the testing of hearing or in other practices or procedures solely for the purpose of fitting or selling hearing aids instruments.

(d) Require an individual who engages in the practice of speech–language pathology or audiology as part of a supervised course of study, including an internship or clinical practicum, leading to a degree in speech–language pathology or audiology at a college or university to be licensed under this subchapter if the individual is designated by a title which clearly indicates status as a student or trainee.

(e) Require an individual to be licensed under this subchapter to assist in the practice of speech–language pathology or audiology under the direct supervision of the speech–language pathologist or audiologist.

(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 instruments, 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 instruments, is limited to the duties of that position.

459.23 Duties of council on speech–language pathology and audiology. The council on speech–language pathology and audiology shall advise the examining board on matters pertaining to the establishment of codes of ethics, the imposition of discipline, the granting of licenses and the formulation of proposed rules relating to licensees and, upon request of the examining board, on any other matter relating to licensees.

459.24 Licensure. (1) LICENSE REQUIRED. Except as provided under s. 459.22, no person may do any of the following:

(a) Engage in the practice of speech–language pathology or use the title “speech–language pathologist” or any similar title without limitation by enumeration unless the person holds a current speech–language pathologist license granted by the examining board under sub. (2) or (6) (a).

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

(1m) PROHIBITED TITLES. No person may use the title “certified hearing aid audiologist,” or “licensed hearing aid audiologist” or “audioprosthologist” or other similar titles without limitation.

(2) SPEECH-LANGUAGE PATHOLOGIST LICENSE. The examining board shall grant a speech–language pathologist license to an individual who does all of the following:

(a) Submits an application for the license to the department on a form provided by the department.

(b) Pays the fee specified in s. 440.05 (1).

(c) Subject to ss. 111.321, 111.322 and 111.335, submits evidence satisfactory to the examining board that he or she does not have a conviction record.

(d) Submits evidence satisfactory to the examining board that he or she has completed a supervised clinical practicum and received a master’s degree in speech–language pathology from a college or university approved by the examining board, or has completed education or training that the examining board determines is substantially equivalent to the completion of those requirements.

(e) Submits evidence satisfactory to the examining board that he or she has passed the examination required for certification as a speech–language pathologist by the American Speech-Language-Hearing Association or passes an examination under s. 459.26 (2) (a) to determine fitness as a speech–language pathologist or has completed education or training that the examining board determines is substantially equivalent to passing one of those examinations in determining fitness as a speech–language pathologist.

(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.

(3) AUDIOLOGIST LICENSE. The examining board shall grant an audiologist license to an individual who does all of the following:

(a) Submits an application for the license to the department on a form provided by the department.

(b) Pays the fee specified in s. 440.05 (1).

(c) Subject to ss. 111.321, 111.322 and 111.335, submits evidence satisfactory to the examining board that he or she does not have a conviction record.

(d) Submits evidence satisfactory to the examining board that he or she has completed a supervised clinical practicum and received a master's degree in audiology from a college or university approved by the examining board, or has completed education or training that the examining board determines is substantially equivalent to the completion of those requirements. The requirement to receive a master's degree or equivalent does not apply after December 31, 2008.

[dm] After December 31, 2008, the applicant for an initial license who has never possessed a license under this statute, or who does not possess a valid license from another jurisdiction, must submit evidence that he or she possess a doctoral degree in audiology or equivalent from an accredited academic institution approved by the board by rule. The doctoral degree must consist of not less than three years of didactic course work and not less than twelve months of clinical rotation or externship.

(e) Submits evidence satisfactory to the examining board that he or she has passed ~~the a written examination required for certification as an audiologist by the American Speech-Language-Hearing Association approved by the board by rule or passes an examination under s. 459.26 (2) (a) to determine fitness as an audiologist,~~ or has completed education or training that the examining board determines is substantially equivalent to passing one of those examinations in determining fitness as an audiologist.

(em) Passes an examination under s. 459.26 (2) (b).

(f) Submits evidence satisfactory to the examining board that he or she has completed a postgraduate clinical fellowship in audiology 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. This paragraph does not apply after December 31, 2008.

(3m) FITTING AND SALE OF HEARING AIDS INSTRUMENTS. An audiologist licensed under this subchapter or an individual granted a permit to practice audiology under this subchapter who engages in the practice of fitting and dealing in hearing aids instruments shall do all of the following:

(a) Deliver to each person supplied with a hearing aid instrument a receipt. The receipt shall contain the signature and show the business address and license or permit name and number of the licensee or permittee, together with specifications as to the make and model of the hearing aid instrument and full terms of sale clearly stated. If a hearing aid instrument 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.

(b) Give to a purchaser of a hearing aid instrument a personal guarantee that is at least identical in its terms to the guarantee given by the manufacturer of the hearing aid instrument.

(4) POSTING OF LICENSE. Each person issued a license under this subchapter to practice speech-language pathology or audiology shall post the license in a conspicuous place in the licensee's place of business.

(5) EXPIRATION AND RENEWAL. 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 all of the following:

(a) The renewal fee specified in s. 440.08 (2) (a).

(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.

(5m) CONTINUING EDUCATION. (a) The examining board shall do all of the following:

1. Promulgate rules establishing the criteria for approval of continuing education programs or courses of study required for renewal of a license under sub. (5) and the criteria for approval of the sponsors and cosponsors of continuing education programs or courses of study.

2. Approve continuing education programs and courses of study in accordance with the criteria established under subd. 1.

3. In consultation with the department, promulgate rules that do each of the following:

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.

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.

(b) Rules promulgated under par. (a) 3. shall establish criteria for the examining board's approval of the specified 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 paragraph shall pay the fee specified in s. 440.05 (1) (b).

(6) TEMPORARY LICENSE. (a) Upon application, the examining board may grant a temporary license to practice speech-language pathology during the completion of the postgraduate fellowship required under sub. (2) (f) if the applicant practices under the supervision of a speech-language pathologist licensed under sub. (2), satisfies the requirements under sub. (2) (a) to (d) and has submitted an application to take the next available examination for licensure as a speech-language pathologist under s. 459.26 (2) (a).

(b) Upon application, the examining board may grant a temporary license to practice audiology during the completion of the postgraduate fellowship required under sub. (3) (f) if the applicant practices under the supervision of an audiologist licensed under sub. (3), satisfies the requirements under sub. (3) (a) to (d) and has submitted an application to take the next available examinations for licensure as an audiologist under s. 459.26 (2) (a) and (b). This paragraph does not apply after December 31, 2008.

(bm) After December 31, 2008, a person who meets the requirements of 459.24 (3) (a) (b) (c) (dm) (e) (em) and 459.26 (2) (a) and (b) shall be granted a permanent license.

(c) A temporary license granted under this subsection is valid for a period designated in rules promulgated by the examining board. 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).

*what if a
perm.
license?
his renewal
necessary?
required to
meet
(5) ed.
requirements?*

*to (em)
stated that
to (em)
Dec 31, 2008
a*

459.26 Examination. (1) The examining board shall conduct examinations for speech-language pathologist and audiologist licensure at least semiannually and at times and places determined by the examining board. The examining board shall provide public notice of each examination at least 60 days before the date of the examination.

(2) (a) Examinations for speech-language pathologists shall consist of the examinations required for certification as a speech-language pathologist ~~or as an audiologist~~ by the American speech-language-hearing association or may consist of other written tests that require applicants to demonstrate minimum competency in services and subjects substantially related to the practice of speech-language pathology ~~or audiology~~ and that are substantially equivalent to the examinations required for such certification. Examinations for audiology shall be selected and approved by the examining board by rule.

(b) An applicant for an audiologist license shall also complete an examination administered by the examining board that consists of practical tests of proficiency in techniques that pertain to the fitting of hearing aids instruments, including the following:

1. Pure tone audiometry, including air conduction testing and bone conduction testing.
2. Live voice or recorded voice speech audiometry including speech reception threshold testing and most comfortable loudness measurements and measurements of tolerance thresholds.
3. Masking when indicated.

*In
proof
4/24/24 (3/20)
(2/20)*

(Signature)

4. Recording and evaluation of audiograms and speech audiometry to determine proper selection and ~~adaptation~~ adaptation of a hearing aid instrument.

5. Taking ear mold impressions.

(c) The examining board may waive the requirement to complete the examination specified in par. (b) if it determines that an applicant for an audiologist license has completed education or training that is substantially equivalent to completing the examination.

(3) An individual is not eligible for examination unless he or she has satisfied the requirements for licensure under s. 459.24 (2) (a) to (d) or (3) (a) to (d) and, at least 30 days before the date of examination, submits an application for examination to the department on a form provided by the department and pays the fee specified in s. 440.05 (1).

459.28 Licensees of other jurisdictions. (1) Upon application and payment of the fee specified in s. 440.05 (2), the examining board shall grant a license to practice speech–language pathology or audiology under s. 459.24 (2) or (3) to an applicant who holds a current speech–language pathologist or audiologist license in another state or territory of the United States if the examining board determines that the requirements for licensure in the other state or territory are substantially equivalent to the requirements under s. 459.24 (2) or (3).

(2) The examining board may enter into reciprocal agreements with officials of other states or territories of the United States for licensing speech–language pathologists and audiologists and grant licenses to applicants who are licensed in those states or territories according to the terms of the reciprocal agreements.

459.32 Limited permit. (1) Upon application, the examining board shall grant a permit to practice speech–language pathology in association with a speech–language pathologist licensed under s. 459.24 (2), or to practice audiology in association with an audiologist licensed under s. 459.24 (3), to an individual who is not a resident of this state if the individual submits evidence satisfactory to the examining board of having satisfied the requirements for licensure under s. 459.24 (2) (c) and (d) or (3) (c) and (d). The permit shall be valid for the period designated by the examining board, not to exceed 10 days in any calendar year.

(2) Upon application, the examining board shall grant a permit to practice speech–language pathology or audiology to an individual who is not a resident of this state if the individual holds a current speech–language pathologist or audiologist license in another state or territory of the United States and the examining board determines that the requirements for licensure in the other state or territory are substantially equivalent to the requirements under s. 459.24 (2) or (3). The permit shall be valid for the period designated by the examining board, not to exceed 45 days in any calendar year.

(3) An applicant for a limited permit under sub. (1) or (2) shall pay the fee specified in s. 440.05 (6) and, if applicable, an applicant for a limited permit under sub. (2) shall also pay the fee specified in s. 440.05 (1) (b).

459.34 Disciplinary proceedings and actions. (1) Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations and conduct hearings to determine whether a violation of this subchapter or any rule promulgated under this subchapter has occurred.

(2) Subject to the rules promulgated under s. 440.03 (1), the examining board may reprimand a licensee or permittee or deny, limit, suspend or revoke a license or permit under this subchapter if it finds that the applicant, licensee or permittee has done any of the following:

(a) Made a material misstatement in an application for a license or permit or for renewal of a license.

(b) Engaged in conduct in the practice of speech–language pathology or audiology which evidences a lack of knowledge or ability to apply professional principles or skills.

(c) Subject to ss. 111.321, 111.322 and 111.335, been convicted of an offense the circumstances of which substantially relate to the practice of speech–language pathology or audiology.

(ce) Violated any federal or state statute, rule or regulation that relates to the practice of fitting and dealing in hearing aids instruments. This paragraph does not apply to speech–language pathologists.

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

(cs) Sold a hearing aid instrument 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.

~~(d)~~ Advertised in a manner which is false, deceptive or misleading. - Engaged in, or caused or promoted the use of, any advertising material, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or other representation, however disseminated or published, which is misleading, deceiving, false or untruthful.

~~(e)~~ Misrepresented that the professional services or advise of a physician or audiologist will be used or made available in the fitting, sale, adjustment, service, maintenance or repair of a hearing instrument, when such is not true, or using the words "doctor", "clinic", "clinical" or like words, abbreviations or symbols without limitation by enumeration, which tend to connote or imply the medical or audiology professions when such is not the case.

~~(f)~~ Make any material misstatement of fact or misrepresentation regarding the hearing instrument or services.

~~(e)~~ ~~(g)~~ Advertised, practiced or attempted to practice under another's name.

~~(f)~~ ~~(h)~~ Subject to ss. 111.321, 111.322 and 111.34, practiced speech-language pathology or audiology while the individual's ability to practice was impaired by alcohol or other drugs.

~~(g)~~ ~~(i)~~ Violated this subchapter or any rule promulgated under this subchapter.

~~(h)~~ ~~(j)~~ Engaged in unprofessional conduct as defined by rule by the examining board.

(2m) (a) An individual whose license or limited permit is limited by the examining board under this subchapter may continue to practice under the license or permit if the individual does all of the following:

1. Refrains from engaging in unprofessional conduct.
2. Appears before the examining board or its officers or agents upon each request of the examining board.
3. Fully discloses to the examining board or its officers or agents the nature of the individual's practice and conduct.
4. Fully complies with the limits placed on his or her practice and conduct by the examining board.
5. Obtains any additional training, education or supervision required by the examining board.
6. Cooperates with all reasonable requests of the examining board.

(b) The examining board may, as a condition of removing a limitation on a license or limited permit issued under this subchapter or of reinstating a license or limited permit that has been suspended or revoked under this subchapter, require the license or permit holder to obtain minimum results specified by the examining board on one or more physical, mental or professional competency examinations if the examining board determines that obtaining the minimum results is related to correcting one or more of the bases upon which the limitation, suspension or revocation was imposed.

(c) The examining board may, as a condition of reinstating a license that has been suspended under this subchapter, require the license holder to pass an examination required for initial licensure under s. 459.26 (2).

(3) In addition to or in lieu of a reprimand or denial, limitation, suspension or revocation of a license or permit under sub. (2), the examining board may assess against an applicant, licensee or permittee a forfeiture of not less than \$100 nor more than \$2,500 for each violation enumerated under sub. (2).



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2853/P1

TKK:.....

mk

d-note

in 7/23/07

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

3007

and granting rule-making authority

GenCat

1 AN ACT ...; relating to: replacing the term hearing aid with hearing
2 instrument, creating new grounds for discipline of hearing instrument
3 specialists, audiologists, and speech-language pathologists, changing the
4 definition of audiology, and changing licensing requirements for audiologists.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

5 SECTION 1. 15.405 (6m) (e) of the statutes is amended to read:
6 15.405 (6m) (e) Two public members. One of the public members shall be a
7 hearing aid instrument user.

History: 1973 c. 90, 156; 1975 c. 39, 86, 199, 200, 383, 422; 1977 c. 26, 29, 203; 1977 c. 418; 1979 c. 34 ss. 45, 47 to 52; 1979 c. 221, 304; 1981 c. 94 ss. 5, 9; 1981 c. 356; 1983 a. 27, 403, 485, 538; 1985 a. 340; 1987 a. 257 s. 2; 1987 a. 264, 265, 316; 1989 a. 316, 340; 1991 a. 39, 78, 160, 189, 269; 1993 a. 16, 102, 463, 465, 491; 1995 a. 27 s. 9126 (19); 1995 a. 225; 1995 a. 305 s. 1; 1995 a. 321, 417; 1997 a. 96, 252, 300; 2001 a. 16, 80; 2003 a. 111, 270; 2005 a. 25, 314.

8 SECTION 2. 29.193 (2) (a) 1. of the statutes is amended to read:

h-2 part

1 29.193 (2) (a) 1. "Accompanied" means being subject to continuous visual or
2 voice contact without the aid of any mechanical or electronic amplifying device other
3 than a hearing aid instrument.

History: 1997 a. 248 ss. 135 to 142, 323, 410; 1997 a. 249 ss. 3 to 13; 1997 a. 322 ss. 2, 3; 1999 a. 9, 32; 2001 a. 17.

4 SECTION 3. 45.40 (2) (a) of the statutes is amended to read:

5 45.40 (2) HEALTH CARE. (a) The department may provide health care aid to a
6 veteran for dental care, including dentures; vision care, including eyeglass frames
7 and lenses; and hearing care, including hearing aids instruments.

History: 2005 a. 22, 25.

8 SECTION 4. 77.54 (22) (b) of the statutes is amended to read:

9 77.54 (22) (b) Artificial limbs, artificial eyes, hearing aids instruments and
10 other equipment worn as a correction or substitute for any functioning portion of the
11 body.

History: 1971 c. 64, 154, 215, 311; 1973 c. 90, 156, 240; 1975 c. 39, 96, 102, 146, 200; 1977 c. 29; 1977 c. 83 ss. 13, 26; 1977 c. 250, 368, 418; 1979 c. 1, 34, 87, 174; 1981 c. 20; 1981 c. 79 s. 18; 1981 c. 96 s. 67; 1981 c. 264; 1981 c. 282 s. 47; 1981 c. 317; 1983 a. 27 ss. 1284d to 1284np, 2202 (38); 1983 a. 189 ss. 101, 106, 329 (5), (12), (13); 1983 a. 192, 287, 405, 426, 498, 510, 538, 544; 1985 a. 29, 149, 332; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31, 238, 270, 335, 359; 1991 a. 37, 39, 269, 316; 1993 a. 16, 263, 332; 1995 a. 27, 125, 225, 227; 1997 a. 27, 35, 41, 184, 237, 291; 1999 a. 9, 65, 83; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16, 103, 109; 2003 a. 99, 128; 2005 a. 25, 74, 141, 149, 335, 366, 479; s. 13.93 (2) (c); 2007 a. 11.

12 SECTION 5. 102.01 (2) (c) of the statutes is amended to read:

13 102.01 (2) (c) "Injury" means mental or physical harm to an employee caused
14 by accident or disease, and also means damage to or destruction of artificial
15 members, dental appliances, teeth, hearing aids instruments and eyeglasses, but, in
16 the case of hearing aids instruments or eyeglasses, only if such damage or
17 destruction resulted from accident which also caused personal injury entitling the
18 employee to compensation therefor either for disability or treatment.

History: 1975 c. 147 ss. 7 to 13, 54; 1975 c. 200; 1979 c. 89, 278; 1981 c. 92; 1983 a. 98, 189; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1995 a. 27 ss. 3737 to 3741, 9130 (4); 1995 a. 117, 417; 1997 a. 3; 1999 a. 9, 14; 2001 a. 37; 2003 a. 139.

19 SECTION 6. 149.14 (3) (k) of the statutes is amended to read:

Inert 3-4

1 149.14 (3) (k) Rental or purchase, as appropriate, of durable medical
2 equipment or disposable medical supplies, other than eyeglasses and hearing aids
3 instruments. ✓

History: 1979 c. 313; 1981 c. 39 s. 22; 1981 c. 83; 1981 c. 314 ss. 117, 146; 1983 a. 27; 1985 a. 29 s. 3202 (30); 1985 a. 332 s. 253; 1987 a. 27, 239; 1989 a. 332; 1991 a. 39, 269; 1995 a. 463; 1997 a. 27 ss. 3026c, 4847 to 4859; Stats. 1997 s. 149.14; 1997 a. 237; 1999 a. 9, 165; 2001 a. 16; 2003 a. 33; 2005 a. 74, ss. 93 to 122, 130, 131.

4 **SECTION 7.** 459.01 (2), (3) and (5) of the statutes are amended to read:

5 459.01 (2) "Hearing aid instrument" means any wearable instrument or device
6 designed for or offered for the purpose of aiding or compensating for impaired human
7 hearing and any parts, attachments or accessories of such an instrument or device,
8 except batteries and cords.

History: 1983 a. 189; 1989 a. 316; 1995 a. 170.

9 (3) "Hearing instrument specialist" means any person who is or is required to
10 be licensed under s. 459.05 to engage in the practice of dealing in or fitting hearing
11 aids instruments. ✓

History: 1983 a. 189; 1989 a. 316; 1995 a. 170.

12 (5) "Practice of fitting and dealing in hearing aids instruments" means the
13 measurement of human hearing by means of an audiometer or by any other means
14 accepted by the examining board solely for the purpose of making selections,
15 adaptations or sales of hearing aids instruments intended to compensate for
16 impaired hearing. This term also includes making impressions for ear molds.

History: 1983 a. 189; 1989 a. 316; 1995 a. 170.

17 **SECTION 8.** 459.02 of the statutes is amended to read:

18 **459.02 License required to sell and fit hearing aids instruments. (1)**
19 No person may engage in the practice of selling or fitting hearing aids instruments
20 or display a sign or in any other way advertise or represent himself or herself as a
21 person who practices the fitting or sale of hearing aids instruments unless he or she
22 holds a valid license issued under this subchapter or a valid license or permit to
23 practice audiology issued under subch. II. The license required by s. 459.05 shall be

1 conspicuously posted in his or her office or place of business as registered with the
2 department at all times. Duplicate licenses shall be issued by the department under
3 this subchapter to valid license holders operating more than one office without
4 additional payment.

5 (2) Nothing in this subchapter or subch. II shall prohibit any corporation or
6 mercantile establishment which maintains an established business address from
7 engaging in the business of selling or offering for sale hearing aids instruments at
8 retail without a license, provided that for the purpose of selling and fitting hearing
9 aids instruments it employs persons licensed under this subchapter or persons
10 issued licenses or permits to practice audiology under subch. II. Such corporation
11 or mercantile establishment shall annually file with the examining board a list of all
12 persons employed for the purpose of selling and fitting hearing aids instruments.

13 History: 1979 c. 162; 1989 a. 316; 1997 a. 49.

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

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

22 History: 1989 a. 316; 1991 a. 32; 1997 a. 49; 2003 a. 270.

SECTION 10. 459.03 (2) (b) of the statutes is amended to read:

23 459.03 (2) (b) A statement that the purchaser has been advised at the outset
24 of the purchaser's relationship with the hearing instrument specialist that any

Inser 4-13

1 examination or representation made by a hearing instrument specialist in
2 connection with the fitting and selling of this hearing aid instrument is not an
3 examination, diagnosis or prescription by a person licensed to practice medicine or
4 audiology in this state and therefore must not be regarded as medical or audiological
5 opinion or advice.

6 History: 1989 a. 316; 1991 a. 32; 1997 a. 49; 2003 a. 270.

SECTION 11. 459.035 and 459.04 of the statutes are amended to read:

7 **459.035 Medical exam before being fitted.** A hearing aid instrument shall not
8 be fitted for or sold to a person 17 years of age or younger unless within 90 days prior
9 to the fitting the person to be fitted has been examined by a physician to determine
10 whether or not he or she has any physical deficiencies that would prohibit the
11 effective use of a hearing aid instrument.

12 History: 1979 c. 162 s. 38 (4); 2003 a. 270.

SECTION # 459.04 of the statutes is amended to read:

459.04 Seller's guarantee. The seller of a hearing aid instrument shall give
13 to the purchaser a personal guarantee that is at least identical in its terms to the
14 guarantee of the manufacturer of the hearing aid instrument.

SECTION 12. 459.05 (1m) of the statutes is amended to read:

16 459.05 (1m) Whenever the examining board determines that another state or
17 jurisdiction has requirements equivalent to or higher than those in effect in the state
18 for the practice of fitting and selling hearing aids instruments, and that such state
19 or jurisdiction has a program equivalent to or stricter than the program for
20 determining whether applicants in this state are qualified to fit and sell hearing aids
21 instruments, the department may issue a license by reciprocity to applicants who
22 hold valid licenses to deal in or fit hearing aids instruments in such other state or
23 jurisdiction, who pay the fee specified in s. 440.05 (2) and who are otherwise qualified
24 for licensure. No applicant for a license by reciprocity under this subsection shall be

1 required to submit to or undergo a qualifying examination, if the applicant
2 personally appears at the next meeting of the examining board after filing the
3 application to answer any questions the examining board has.

History: 1975 c. 224; 1977 c. 29, 418; 1979 c. 162 s. 38 (4); 1991 a. 39; 2003 a. 270.

4 **SECTION 13.** 459.06 (2) (a) (intro.) ^{and} 3. (b) (intro.) ^{and} 4. and (3) of the statutes are
5 amended to read:

6 459.06 (2) (a) (intro.) Tests of knowledge in the following areas as they pertain
7 to the fitting of hearing aids instruments:

History: 1975 c. 224; 1977 c. 29; 1979 c. 162 s. 38 (4); 1981 c. 380; 1981 c. 391 s. 211; 1983 a. 229.

8 3. The function of hearing aids instruments.

History: 1975 c. 224; 1977 c. 29; 1979 c. 162 s. 38 (4); 1981 c. 380; 1981 c. 391 s. 211; 1983 a. 229.

9 (b) (intro.) Practical tests of proficiency in the following techniques as they
10 pertain to the fitting of hearing aids instruments:

History: 1975 c. 224; 1977 c. 29; 1979 c. 162 s. 38 (4); 1981 c. 380; 1981 c. 391 s. 211; 1983 a. 229.

11 4. Recording and evaluation of audiograms and speech audiometry to
12 determine proper selection and adaption of a hearing aid instrument.

History: 1975 c. 224; 1977 c. 29; 1979 c. 162 s. 38 (4); 1981 c. 380; 1981 c. 391 s. 211; 1983 a. 229.

13 (3) The applicant for license by examination shall appear at a time and place
14 as the examining board designates, to be examined by means of written and practical
15 tests in order to demonstrate that he or she is qualified to practice the fitting of
16 hearing aids instruments. Such examinations shall be conducted at least twice a
17 year and at such other times and places designated by the examining board. ✓

History: 1975 c. 224; 1977 c. 29; 1979 c. 162 s. 38 (4); 1981 c. 380; 1981 c. 391 s. 211; 1983 a. 229.

18 **SECTION 14.** 459.07 (2) of the statutes is amended to read:

19 459.07 (2) Upon receiving an application under this section, accompanied by
20 the fee under s. 440.05 (6), the examining board may grant a trainee permit which
21 may entitle the applicant to practice fitting of hearing aids instruments for a period
22 of one year. A person holding a valid hearing instrument specialist license issued
23 under this subchapter or a valid license to practice audiology issued under s. 459.24

1 (3) shall be responsible for the direct supervision and training of the applicant and
2 shall be liable for all negligent acts and omissions of the trainee in the fitting of
3 hearing aids instruments.

4 **History:** 1977 c. 29; 1979 c. 162 s. 38 (4); 1995 a. 170; 2003 a. 270.

SECTION 15. 459.08 (1) of the statutes is amended to read:

5 459.08 (1) A person who holds a license shall notify the department in writing
6 or in accordance with other notification procedures approved by the department of
7 the regular address of the places where he or she engages or intends to engage in the
8 practice of fitting or selling hearing aids instruments. The licensee shall inform the
9 board of any changes in these addresses within 30 days of the change.

10 **History:** 1979 c. 162 ss. 37, 38 (4); 1983 a. 289; 1997 a. 27.

SECTION 16. 459.085 of the statutes is amended to read:

11 **459.085 Calibration of audiometric equipment.** Audiometric equipment
12 used in the evaluation of hearing sensitivity for the fitting and sale of hearing aids
13 instruments shall be calibrated periodically, as specified by rule by the examining
14 board. Certification of these calibrations shall be sent to the examining board with
15 the renewal fee required in s. 459.09 (1) (a).

16 **History:** 1995 a. 170; 2003 a. 270.

SECTION 17. 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 instruments if the examining board has received a significant
22 number of consumer complaints about the matter or if the examining board
23 otherwise determines that there is a need for such a requirement. Rules
24 promulgated under this subsection shall establish criteria for the examining board's

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

History: 1997 a. 49; 2003 a. 270.

9 **SECTION 18.** 459.10 (1) (d) and (e) of the statutes are amended to read:

10 459.10 (1) (d) Been found guilty of an offense the circumstances of which
 11 substantially relate to the practice of fitting and dealing in hearing aids instruments. ✓

History: 1983 a. 229; 1989 a. 316; 1997 a. 191; 2003 a. 270.

12 (e) Violated this subchapter or ch. 440 or any federal or state statute or rule
 13 which relates to the practice of fitting and dealing in hearing aids instruments. ✓

History: 1983 a. 229; 1989 a. 316; 1997 a. 191; 2003 a. 270.

14 **SECTION 19.** 459.10 (1) (g) of the statutes is amended to read:

15 459.10 (1) (g) Engaged in false, misleading or deceptive advertising. In this
 16 section, "deceptive advertising" means creating, using, or promoting the use of any
 17 advertising material, promotional literature, testimonial, guarantee, warranty,
 18 label, brand, insignia or other representation, however disseminated or published,
 19 which is misleading, false or untruthful. ← keep ✓

History: 1983 a. 229; 1989 a. 316; 1997 a. 191; 2003 a. 270.

20 **SECTION 20.** 459.10 (1) (i), (j), (k) and (p) of the statutes are amended to read:

21 459.10 (i) Failed to conduct a direct observation of the ear canal of a person for whom
 22 a hearing aid instrument is purchased.

History: 1983 a. 229; 1989 a. 316; 1997 a. 191; 2003 a. 270.

1 (j) Engaged in conduct which evidenced a lack of knowledge or ability to apply
2 principles or skills of the practice of fitting and dealing in hearing aids instruments.

3 History: 1983 a. 229; 1989 a. 316; 1997 a. 191; 2003 a. 270.

3 (k) Engaged in unprofessional conduct. In this subsection, "unprofessional
4 conduct" means the violation of any standard of professional behavior which through
5 experience, state statute or administrative rule has become established in the
6 practice of fitting and dealing in hearing aids instruments.

7 History: 1983 a. 229; 1989 a. 316; 1997 a. 191; 2003 a. 270.

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

11 History: 1983 a. 229; 1989 a. 316; 1997 a. 191; 2003 a. 270.

11 **SECTION 21.** 459.10 (1) (q), (r), (s) and (t) of the statutes are created to read:

12 459.10 (1) (q) Misrepresented that the professional services or advice of a
13 physician or audiologist will be used or made available in the fitting, sale,
14 adjustment, service, maintenance, or repair of a hearing instrument when such
15 services or advice will not be used or made available.

16 (r) Misrepresented the cause of a hearing impairment or the cure of a hearing
17 impairment by the use of a hearing instrument.

18 (s) Made a misrepresentation regarding a hearing instrument or services.

19 (t) Misused the words "doctor," "clinic," "clinical," or other words, abbreviations,
20 or symbols that imply the involvement of the medical or audiology professions in the
21 absence of such involvement.

22 **SECTION 22.** 459.14 (2) of the statutes is amended to read:

23 459.14 (2) This subchapter does not apply to a person engaged in the practice
24 of measuring human hearing for selecting hearing aids instruments or any other

1 purpose if the person or the organization employing such person does not sell hearing
2 aids instruments or hearing accessories.

3 History: 1989 a. 316.

3 **SECTION 23.** 459.20 (2) (a) ^{and} (b), (3g) and (3p) of the statutes are amended to read:

4 459.20 (2) (a) Applying principles, methods or procedures of prevention,
5 identification, assessment, measurement, interpretation, evaluation, consultation,
6 intervention, treatment, conservation, management, counseling, instruction ^{or}
7 research related to hearing, vestibular function, or any abnormal condition related
8 to tinnitus, auditory sensitivity, acuity, function or processing, speech, language ^{or}
9 other aberrant behavior resulting from hearing loss for the purpose of diagnosing
10 such abnormal condition and designing and implementing a plan for the treatment,
11 management, or amelioration of such abnormal condition.

12 History: 1989 a. 316; 1997 a. 49.

12 (b) Engaging in the practice of fitting and dealing in hearing aids instruments.

13 History: 1989 a. 316; 1997 a. 49.

13 (3g) "Hearing aid instrument" means any wearable or implantable instrument
14 or device designed for or offered for the purpose of aiding or compensating for
15 impaired human hearing and any parts, attachments or accessories of such an
16 instrument or device, except batteries and cords.

17 History: 1989 a. 316; 1997 a. 49.

17 (3p) "Practice of fitting and dealing in hearing aids instruments" means the
18 measurement of human hearing by means of an audiometer or by any other means
19 accepted by the examining board for the purpose of making selections, adaptations
20 or sales of hearing aids instruments intended to compensate for impaired hearing,
21 and includes making impressions for ear molds.

22 History: 1989 a. 316; 1997 a. 49.

22 **SECTION 24.** 459.22 (2) (b), (c) and (f) of the statutes are amended to read:

1 459.22 (2) (b) Authorize a speech-language pathologist licensed under this
2 subchapter to dispense or sell hearing aids instruments without obtaining a hearing
3 instrument specialist license under subch. I.

History: 1989 a. 316; 1995 a. 27 s. 9145 (1); 1997 a. 27, 49; 1999 a. 9; 2003 a. 270.

4 (c) Require a hearing instrument specialist licensed under subch. I to be
5 licensed as an audiologist under this subchapter to engage in the testing of hearing
6 or in other practices or procedures solely for the purpose of fitting or selling hearing
7 aids instruments.

History: 1989 a. 316; 1995 a. 27 s. 9145 (1); 1997 a. 27, 49; 1999 a. 9; 2003 a. 270.

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

History: 1989 a. 316; 1995 a. 27 s. 9145 (1); 1997 a. 27, 49; 1999 a. 9; 2003 a. 270.

15 **SECTION 25.** 459.24 (1) (a) of the statutes is amended to read:

16 459.24 (1) (a) Engage in the practice of speech-language pathology or use the
17 title "speech-language pathologist" or any similar title unless the person holds a
18 current speech-language pathologist license granted by the examining board under
19 sub. (2) or (6) (a).

History: 1989 a. 316; 1995 a. 16, 66; 1997 a. 49; 1999 a. 9; 2003 a. 270.

20 **SECTION 26.** 459.24 (1) (b) of the statutes is amended to read:

21 459.24 (1) (b) Engage in the practice of audiology or use the title "audiologist,"
22 "clinical audiologist," "audioprosthologist," or any similar title unless the person

1 holds a current audiologist license granted by the examining board under sub. (3) or
2 (6) (b).

History: 1989 a. 316; 1993 a. 16, 66; 1997 a. 49; 1999 a. 9; 2003 a. 270.

3 SECTION 27. 459.24 (1m) of the statutes is amended to read:

4 459.24 (1m) PROHIBITED TITLES. No person may use the title "certified hearing
5 aid instrument audiologist" or "licensed hearing aid instrument audiologist". ✓

History: 1989 a. 316; 1993 a. 16, 66; 1997 a. 49; 1999 a. 9; 2003 a. 270.

6 (6) *History: 1989 a. 316; 1993 a. 16, 66; 1997 a. 49; 1999 a. 9; 2003 a. 270.* SECTION 28. 459.24 (3) (d) of the statutes is *renumbered 459.24(3)(d)(intro.) and* amended to read:

7 459.24 (3) (d) *(intro.)* Submits evidence satisfactory to the examining board that he or
8 she has completed a supervised clinical practicum and ~~received~~ satisfied one of the
9 following:

- 10 1. Received a master's degree in audiology from a college or university
11 approved by the examining board, or has completed education or training that the
12 examining board determines is substantially equivalent to the completion of those
13 requirements. This subdivision applies to applications received before January 1,
14 2009. ✓

History: 1989 a. 316; 1993 a. 16, 66; 1997 a. 49; 1999 a. 9; 2003 a. 270.

15 SECTION 29. 459.24 (3) (d) 2. and 3. of the statutes are created to read:

16 459.24 (3) (d) 2. Submits evidence satisfactory to the examining board that he
17 or she possesses a doctoral degree in audiology from an accredited academic
18 institution approved by the board by rule. ✓ The doctoral degree program must consist
19 of not less than three *3* years of educational course work and not less than 12 months
20 of clinical rotation or externship. This subdivision applies to applications received
21 on or after January 1, 2009.

22 3. Submits evidence satisfactory to the examining board that he or she has
23 completed education or training that the examining board determines is

1 substantially equivalent to the requirements under subd. 2. This subdivision applies
2 to applications received on or after January 1, 2009. ✓

3 **SECTION 30.** 459.24 (3) (e) of the statutes is amended to read:

4 459.24 (3) (e) Submits evidence satisfactory to the examining board that he or
5 she has passed the examination required for certification as an audiologist by the
6 American Speech-Language-Hearing Association or passes an examination under
7 s. 459.26 (2) (a) to determine fitness as an audiologist, selected or approved by the
8 board by rule under s. 459.26 (2) (am), or has completed education or training that
9 the examining board determines is substantially equivalent to passing one of those
10 examinations in determining fitness as an audiologist the examination selected or
11 approved by the board under s. 459.26 (2) (am). (b)

12 **History:** 1989 a. 316; 1993 a. 16, 66; 1997 a. 49; 1999 a. 9; 2003 a. 270.

13 **SECTION 31.** 459.24 (3) (f) of the statutes is amended to read:

14 459.24 (3) (f) Submits evidence satisfactory to the examining board that he or
15 she has completed a postgraduate clinical fellowship in audiology approved by the
16 examining board or has completed education or training that the examining board
17 determines is substantially equivalent to the completion of such a fellowship. This
paragraph applies to applications received before January 1, 2009.

18 **History:** 1989 a. 316; 1993 a. 16, 66; 1997 a. 49; 1999 a. 9; 2003 a. 270.

19 **SECTION 32.** 459.24 (3m) of the statutes is amended to read:

20 459.24 (3m) FITTING AND SALE OF HEARING AIDS INSTRUMENTS. An audiologist
21 licensed under this subchapter or an individual granted a permit to practice
22 audiology under this subchapter who engages in the practice of fitting and dealing
23 in hearing aids instruments shall do all of the following:

24 (a) Deliver to each person supplied with a hearing aid instrument a receipt.

The receipt shall contain the signature and show the business address and license

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

7 (b) Give to a purchaser of a hearing aid instrument a personal guarantee that
 8 is at least identical in its terms to the guarantee given by the manufacturer of the
 9 hearing aid instrument.

History: 1989 a. 316; 1993 a. 16, 66; 1997 a. 49; 1999 a. 9; 2003 a. 270.

10 SECTION 33. 459.24 (6) (b) of the statutes is amended to read:

11 459.24 (6) (b) 1. Upon application, the The examining board may grant a
 12 temporary license to practice audiology to an applicant who, during the completion
 13 of the postgraduate fellowship required under sub. (3) (f) ~~if the applicant~~, practices
 14 under the supervision of an audiologist licensed under sub. (3), satisfies the
 15 requirements under sub. (3) (a) to (d), and has submitted an application to take the
 16 next available examinations for licensure as an audiologist under s. 459.26 (2) (a)

17 ~~(am) and (b)~~. No license may be issued under this paragraph after December 31,
 18 2008.

History: 1989 a. 316; 1993 a. 16, 66; 1997 a. 49; 1999 a. 9; 2003 a. 270.

19 SECTION 34. 459.24 (6) (c) of the statutes is amended to read:

20 459.24 (6) (c) A temporary license granted under this subsection is valid for a
 21 period designated in rules promulgated by the examining board. The rules may
 22 designate a period that terminates if an applicant fails to take the next available
 23 examination under s. 459.26 (2) (a) ~~or (b)~~ for reasons other than inaction by the
 24 examining board or hardship. A temporary license granted under par. (a) may be

1 renewed [✓]once by the examining board. ~~A temporary license granted under par. (b)~~
 2 may be renewed once by the examining board if the applicant fails an examination
 3 for audiologist licensure under s. 459.26 (2) (a) or (b) and applies to take the next
 4 available examination or if the applicant shows, to the satisfaction of the examining
 5 board, sufficient cause for the renewal. An applicant for a temporary license shall
 6 pay the fee specified in s. 440.05 (6).

7 History: 1989 a. 316; 1993 a. 16, 66; 1997 a. 49; 1999 a. 9; 2003 a. 270.

7 SECTION 35. 459.26 (2) (a) of the statutes is amended to read:

8 459.26 (2) (a) Examinations for speech-language pathologists [✓] shall consist of
 9 the examinations required for certification as a speech-language pathologist or as
 10 an audiologist by the American speech-language-hearing association or may consist
 11 of other written tests that require applicants to demonstrate minimum competency
 12 in services and subjects substantially related to the practice of speech-language
 13 pathology or audiology and that are substantially equivalent to the examinations
 14 required for such certification. ✓

15 History: 1989 a. 316; 1991 a. 39; 1997 a. 49.

15 SECTION 36. 459.26 (2) (b) (intro.) and 4. of the statutes are amended to read:

16 ^{459.26 (2) ← (B)} (b) (intro.) The examining board shall by rule select and approve examinations
 17 for audiology. ✓ An applicant for an audiologist license shall also complete an
 18 examination administered by the examining board that consists of practical tests of
 19 proficiency in techniques that pertain to the fitting of hearing aids instruments,
 20 including the following:

21 History: 1989 a. 316; 1991 a. 39; 1997 a. 49.

21 4. Recording and evaluation of audiograms and speech audiometry to
 22 determine proper selection and ~~adaption~~ [✓]adaptation of a hearing aid instrument.

23 History: 1989 a. 316; 1991 a. 39; 1997 a. 49.

23 SECTION 37. 459.34 (2) (ce), (cm) and (cs) of the statutes are amended to read:

1 459.34 (2) (ce) Violated any federal or state statute, rule or regulation that
2 relates to the practice of fitting and dealing in hearing aids instruments. This
3 paragraph does not apply to speech-language pathologists.

History: 1989 a. 316; 1997 a. 49, 191; 2003 a. 270.

4 (cm) Failed to conduct a direct observation of the ear canal of a person for whom
5 a hearing aid instrument is purchased. This paragraph does not apply to
6 speech-language pathologists.

History: 1989 a. 316; 1997 a. 49, 191; 2003 a. 270.

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

History: 1989 a. 316; 1997 a. 49, 191; 2003 a. 270.

12 **SECTION 38.** 459.34 (2) (d) of the statutes is amended to read:

13 459.34 (2) (d) Advertis[✓]ed Engaged ~~in a manner which is false, deceptive or~~
14 misleading advertising. In this section, "deceptive advertising" means creating,
15 using, or promoting the use of any advertising material, promotional literature,
16 testimonial, guarantee, warranty, label, brand, insignia, or other representation,
17 however disseminated or published, which is misleading, false or untruthful.

History: 1989 a. 316; 1997 a. 49, 191; 2003 a. 270.

18 **SECTION 39.** 459.34 (2) (i) of the statutes is created to read:

19 459.34 (2) (i) Misrepresented that the professional services or advice of a
20 physician or audiologist will be used or made available in the fitting, sale,
21 adjustment, service, maintenance, or repair of a hearing instrument when such
22 services or advice will not be used or made available. ✓

23 **SECTION 40.** 459.34 (2) (j) of the statutes is created to read:

1 459.34 (2) (j) Made a misrepresentation regarding a hearing instrument or
2 services. ✓

3 **SECTION 41.** 459.34 (2) (k) of the statutes is created to read:

4 459.34 (2) (k) Misused the words "doctor," "clinic," "clinical," or other words,
5 abbreviations, or symbols that imply the involvement of the medical or audiology
6 professions in the absence of such involvement. ✓

7 **SECTION 42.** 968.27 (7) (b) of the statutes is amended to read:

8 968.27 (7) (b) A hearing aid instrument or similar device being used to correct
9 subnormal hearing to not better than normal.

10 **History:** 1971 c. 40 s. 93; 1987 a. 399; 1991 a. 39; 1997 a. 218.

(END)



2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2853/Plins
TKK:.....

1 **Insert 2-4**

2 ~~SECTION 1.~~ 29.324 (1) (a) of the statutes is amended to read:

3 29.324 (1) (a) "Contact" means visual or voice contact without the aid of any
4 mechanical or electronic amplifying device other than a hearing aid instrument.

5 History: 1983 a. 546; 1997 a. 248 s. 506; Stats. 1997 s. 29.324.

6 ~~SECTION 2.~~ **Insert 3-4** X

7 ~~SECTION 2.~~ 459.01 (1) of the statutes is renumbered 459.01 (1m).

8 ~~SECTION 3.~~ 459.01 (1d) of the statutes is created to read:

9 459.01 (1d) "Deceptive advertising" means creating, using, or promoting the
10 use of any advertising material, promotional literature, testimonial, guarantee,
11 warranty, label, brand, insignia, or other representation, however disseminated or
12 published, which is misleading, false, or untruthful.

13 **Insert 4-13**

14 ~~SECTION 4.~~ 459.03 (title) of the statutes is amended to read:

15 **459.03 (title) Receipt required to be furnished to a person supplied with
 hearing aid instrument.**

History: 1989 a. 316; 1991 a. 32; 1997 a. 49; 2003 a. 270.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2853/P1dn

TKK:.....

ink

(date)

Representative Newcomer:

This draft makes changes to Chapter 459 based upon materials submitted with the drafting request ("drafting materials"). Please carefully review this draft to be sure that I have captured your intent. ✓ I have a number of questions about this draft: ✓

and 459.24(3m)(a)

* 1. Information on receipts issued for hearing instruments. ✓ The drafting materials propose adding "name" after license under s. 459.03. What is a "license name"? Should the word, license, be replaced with licensee? ✓

* 2. Disciplinary grounds under s. 459.10 (1) and 459.34 (2). ✓

a. The drafting materials proposed three new grounds for discipline for persons making a false statement or a misrepresentation under sections 459.10 (1) (q), (r), and (s) and two grounds under 459.34 (2) (e) and (f). ✓

* i. I separated out the misuse of the words "doctor," "clinic," etc. ✓ from proposed s. 459.10 (1) (q) to create a fourth ground for discipline under s. 459.10 (1) (t). Okay? ✓

ii. Because it is LRB drafting practice to minimize confusion in the statutes by avoiding the renumbering of sections whenever possible, I created paragraphs (i) and (j), instead of renumbering current paragraphs (e) through (h). ✓ I also separated out the misuse of the words "doctor," "clinic," etc. ✓ from proposed s. 459.34 (2) (e) to create a third ground for discipline under s. 459.34 (2) (k). Okay? ✓

b. As drafted, a person who makes a misrepresentation or false statement will be subject to discipline regardless of whether the misrepresentation or false statement was made intentionally, negligently, or by accident. Okay? ✓

* c. The drafting materials propose changing s. 459.10 (1) (r) as follows: "make any statement regarding the cure or the cause of a hearing impairment by the use of a hearing instrument." I found this to be confusing; could the use of a hearing instrument cause a hearing impairment? Instead, I drafted the following:

"Intentionally made a false statement regarding the cause of a hearing impairment or the cure of a hearing impairment by the use of a hearing instrument." Did I correctly capture your intent? ✓

I created a definition of "deceptive advertising" at s. 459.01(1d).

d. I modified proposed ss. 459.10 (1) (s) and 459.34 (2) (f); the use of the phrases "material misstatement of fact" and "misrepresentation" is redundant. Okay? ✓

3. Deceptive advertising under ss. 459.10 (1) (g) and 459.34 (2) (d). Please review my treatment of the sections regulating false, misleading, or deceptive advertising, which differs from the drafting materials. Did I accurately capture the prohibited activity? ✓

4. Definition of "audiology" under s. 459.20 (2). Please review the definition of "audiology," which modifies the drafting materials. Did I accurately capture the meaning of the term? ✓

5. Titles under s. 459.24 (1) (a) and (b). I did not include the phrase "without limitation by enumeration." The use of this language and "similar titles" is redundant. ✓

6. Prohibited titles under s. 459.24 (1m). The drafting materials add the title, "audioprostologist" to two different sections, s. 459.24 (1) (b) and s. 459.24 (1m), resulting in the following inconsistency: the use of the term, "audioprostologist," is permitted under section 459.24 (1) (b) if the person holds a license, but is prohibited under any circumstance under s. 459.24 (1m). Although I changed "hearing aid" to "hearing instrument" in the prohibited titles, "certified hearing aid audiologist" and "licensed hearing aid audiologist" I made no other changes to s. 459.24 (1m). Okay? ✓

7. Changes to educational requirements for audiologists under s. 459.24 (3) (d). Please note the following:

a. Because all of the conditions under sub. (3) apply to persons who do not already have a license, I don't believe it is necessary to include the language referencing "an applicant . . . who has never possessed a license." ✓

b. I replaced the word, didactic, with educational; didactic is a less familiar term (it appears nowhere else in the statutes). Okay? ✓

8. Changes to requirements for temporary licensees under s. 459.24 (6) (b). I was confused by the reference to a "permanent license" in proposed s. 459.24 (6) (bm) of the drafting materials. Did you intend that persons who satisfy the requirements under this paragraph need never apply for a license renewal or meet any of the continuing educational requirements under par. (5m)? Or did you intend that, after December 31, 2008, audiologists no longer be permitted to apply for temporary licensure and that they would have to follow the path for licensure under s. 459.24 (3)?

I proceeded under the assumption that you wished to eliminate the path for temporary licensure, and eliminated the availability of a license under s. 459.24 (6) (b) after December 31, 2008. Okay? ✓

9. Changes to examination requirements for temporary licensees under s. 459.24 (6) (c).

a. The drafting materials instructed me to eliminate the reference to examinations under 459.26 (2) (b). Was it your intent that, until December 31, 2008, an applicant for a temporary license to practice audiology can avoid taking the examination required under this section? ↓

b. The drafting materials instructed me to eliminate the term, "once," for applicants for renewal of a license granted under par. (a). As drafted, temporary licensees practicing speech-language pathology may now have their licenses renewed indefinitely by the board even if the temporary licensee does not pass the examination required under s. 459.24 (2) (e) and never completes the clinical fellowship required under s. 459.24 (2) (f), provided they continue to work under the supervision of a speech language pathologist licensed under sub. (2). Is that your intent?

c. The drafting materials instructed me to eliminate the sentence permitting temporary licensees under s. 459.24 (6) (b) to renew the temporary license. Would there be any persons who currently hold a temporary license to practice audiology that should be permitted to renew their license under current law? That is, instead of deleting this sentence entirely, should I amend the provision governing renewal to read, "Until December 31, 2008, a temporary license granted under par. (b) may be renewed once...?"

I look forward to hearing from you after you have had an opportunity to review this draft.

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2853/P1dn
TKK:lmk:nwn

July 30, 2007

Representative Newcomer:

This draft makes changes to Chapter 459 based upon materials submitted with the drafting request ("drafting materials"). Please carefully review this draft to be sure that I have captured your intent. I have a number of questions about this draft:

1. Information on receipts issued for hearing instruments. The drafting materials propose adding "name" after license under ss. 459.03 and 459.24 (3m) (a). What is a "license name"? Should the word, license, be replaced with licensee?

2. Disciplinary grounds under s. 459.10 (1) and 459.34 (2).

a. The drafting materials proposed three new grounds for discipline for persons making a false statement or a misrepresentation under sections 459.10 (1) (q), (r), and (s) and two grounds under 459.34 (2) (e) and (f).

i. I separated out the misuse of the words "doctor," "clinic," etc., from proposed s. 459.10 (1) (q) to create a fourth ground for discipline under s. 459.10 (1) (t). Okay?

ii. Because it is LRB drafting practice to minimize confusion in the statutes by avoiding the renumbering of sections whenever possible, I created paragraphs (i) and (j), instead of renumbering current paragraphs (e) through (h). I also separated out the misuse of the words "doctor," "clinic," etc., from proposed s. 459.34 (2) (e) to create a third ground for discipline under s. 459.34 (2) (k). Okay?

b. As drafted, a person who makes a misrepresentation or false statement will be subject to discipline regardless of whether the misrepresentation or false statement was made intentionally, negligently, or by accident. Okay?

c. The drafting materials propose changing s. 459.10 (1) (r) as follows: "make any statement regarding the cure or the cause of a hearing impairment by the use of a hearing instrument..." I found this to be confusing; could the use of a hearing instrument cause a hearing impairment? Instead, I drafted the following:

"Intentionally made a false statement regarding the cause of a hearing impairment or the cure of a hearing impairment by the use of a hearing instrument." Did I correctly capture your intent?

d. I modified proposed ss. 459.10 (1) (s) and 459.34 (2) (f); the use of the phrases “material misstatement of fact” and “misrepresentation” is redundant. Okay?

3. Deceptive advertising under ss. 459.10 (1) (g) and 459.34 (2) (d). Please review my treatment of the sections regulating false, misleading, or deceptive advertising, which differs from the drafting materials. I created a definition of “deceptive advertising” at s. 459.01 (1d). Did I accurately capture the prohibited activity?

4. Definition of “audiology” under s. 459.20 (2). Please review the definition of “audiology,” which modifies the drafting materials. Did I accurately capture the meaning of the term?

5. Titles under s. 459.24 (1) (a) and (b). I did not include the phrase “without limitation by enumeration.” The use of this language and “similar titles” is redundant.

6. Prohibited titles under s. 459.24 (1m). The drafting materials add the title, “audioprosthologist” to two different sections, ss. 459.24 (1) (b) and s. 459.24 (1m), resulting in the following inconsistency: the use of the term, “audioprosthologist,” is permitted under section 459.24 (1) (b) if the person holds a license, but is prohibited under any circumstance under s. 459.24 (1m). Although I changed “hearing aid” to “hearing instrument” in the prohibited titles, “certified hearing aid audiologist” and “licensed hearing aid audiologist,” I made no other changes to s. 459.24 (1m). Okay?

7. Changes to educational requirements for audiologists under s. 459.24 (3) (d). Please note the following:

a. Because all of the conditions under sub. (3) apply to persons who do not already have a license, I don’t believe it is necessary to include the language referencing “an applicant . . . who has never possessed a license. . . .”

b. I replaced the word, didactic, with educational; didactic is a less familiar term (it appears nowhere else in the statutes). Okay?

8. Changes to requirements for temporary licensees under s. 459.24 (6) (b). I was confused by the reference to a “permanent license” in proposed s. 459.24 (6) (bm) of the drafting materials. Did you intend that persons who satisfy the requirements under this paragraph need never apply for a license renewal or meet any of the continuing educational requirements under sub. (5m)? Or did you intend that, after December 31, 2008, audiologists no longer be permitted to apply for temporary licensure and that they would have to follow the path for licensure under s. 459.24 (3)?

I proceeded under the assumption that you wished to eliminate the path for temporary licensure, and eliminated the availability of a license under s. 459.24 (6) (b) after December 31, 2008. Okay?

9. Changes to examination requirements for temporary licensees under s. 459.24 (6) (c).

a. The drafting materials instructed me to eliminate the reference to examinations under 459.26 (2) (b). Was it your intent that, until December 31, 2008, an applicant for a temporary license to practice audiology can avoid taking the examination required under this section?

b. The drafting materials instructed me to eliminate the term, "once," for applicants for renewal of a license granted under par. (a). As drafted, temporary licensees practicing speech-language pathology may now have their licenses renewed indefinitely by the board even if the temporary licensee does not pass the examination required under s. 459.24 (2) (e) and never completes the clinical fellowship required under s. 459.24 (2) (f), provided they continue to work under the supervision of a speech language pathologist licensed under sub. (2). Is that your intent?

c. The drafting materials instructed me to eliminate the sentence permitting temporary licensees under s. 459.24 (6) (b) to renew the temporary license. Would there be any persons who currently hold a temporary license to practice audiology that should be permitted to renew their license under current law? That is, instead of deleting this sentence entirely, should I amend the provision governing renewal to read, "Until December 31, 2008, a temporary license granted under par. (b) may be renewed once...?"

I look forward to hearing from you after you have had an opportunity to review this draft.

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

Kuczenski, Tracy

From: Knight, Eric
Sent: Thursday, August 16, 2007 10:39 AM
To: Kuczenski, Tracy
Subject: RE: Message for Tracy Kuczenski

Tracy: Per your notes on LRB 28/53/p1dn, these are the answers I was able to come up with. Let me know if you have further questions. Thanks.

The Wisconsin Speech Language/Pathology and Audiology Professional Association has carefully reviewed LRB-2853 and offers the following response to the questions submitted by the legislative drafting attorney. Before proceeding with the response there is a question relating to the dates in Sections 32, 33, and 35. January 1, 2008 was used in place of December 31, 2008. Is there an explanation for the date change?

1. Information on receipts issued for hearing instruments.

By license name the Association was referring to the type of license. The Hearing and Speech Board recommends using *license title*. ✓

2. Disciplinary grounds under s. 459.10 (1) and 459.34 (2).

- a.
 - i. Yes, separating out the misuse of the words “doctor”, “clinic”, etc., from proposed s. 459.10 (1) (q) to create a fourth ground for discipline is okay. ✓
 - ii. Yes, creating paragraphs (i) and (j), instead of renumbering current paragraphs (e) through (h) as is separating out the misuse of the words “doctor”, clinic, etc., from proposed s. 459.34 (2) (e) to create a third ground for discipline under s. 459.34 (2) (k) is okay. ✓
- b. A person who intentionally or negligently makes a misrepresentation or false statement should be subject to discipline; however the Association questions the harshness of the term *by accident*, is there an alternative from other board regulations or can it be eliminated? ✓
- c. The Association’s intent is preserved with the use of the phrase, “Intentionally made a false statement regarding the cause of a hearing impairment or the cure of a hearing impairment by the use of a hearing instrument.” ✓
- d. Modification of “material misstatement of fact” and “misrepresentation” is okay. ✓

3. Deceptive advertising under ss. 459.10 (1) (g) and 459.34 (2) (d).

The definition of “deceptive advertising” at s. 459.01 (1d) accurately captures the prohibited activity. ✓

4. Definition of “audiology” under s. 459.20 (2).

The drafting attorney accurately captured the definition of “audiology.” ✓

5. Titles under s. 459.24 (1) (a) and (b).

The Association understands that this section has been an issue before the Hearing and Speech Board and the term "similar titles" was considered weak by itself and therefore we request that the clause "without limitation by enumeration" be included to help enforcement. *ok*

6. Prohibited titles under s. 459.24 (1m).

The resolution to this contradiction should be that NO one may use the audioprosthology term, not audiologists or hearing instrument specialists. Please draft language to amend the contradiction.

The Hearing and Speech Board requested that the terms "*certified hearing aid audiologist*" and "*licensed hearing aid audiologist*" be left in the statutes as those terms are occasionally reported. They also requested the inclusion of "*certified hearing instrument audiologist*" and "*licensed hearing instrument audiologist*" to the list. ✓

7. Changes to educational requirements for audiologists under s. 459.24 (3) (d).

- a. The Association agrees that the language is not necessary. ✓
- b. Replacing the word, didactic, with educational is okay. ✓

8. Changes to requirements for temporary licensees under s. 459.24 (6) (b).

The Association did not intent that persons who satisfy the requirements under this paragraph need never apply for a license renewal or meet any of the continuing educational requirements under sub. (5m).

The Association did intend that, after December 31, 2008, audiologists no longer be permitted to apply for temporary licensure and that they would have to follow the path for licensure under s. 459.24 (3).

The assumption to eliminate the path for temporary licensure was correct. Eliminating the availability of a license under s. 459.24 (6) (b) after December 31, 2008 was our intent. ✓

9. Changes to examination requirements for temporary licensees under s. 459.24 (6) (c).

- a. The Association's intent was that an applicant would no longer be required to hold a temporary license; however the applicant would need to take and pass a practical examination given by the Hearing and Speech Board.
- b. The Association did not intend to change the regulations for speech/language pathologists. The intent was to eliminate the need for audiologists as there would no longer be a temporary license offered for that profession.
- c. The renewal of the temporary license for audiologists should remain in effect until the onset of the AuD requirements. The renewal should not be limited. However, removing the "once" language does not seem to be critical since, with the change suggested, it will be cut off on December 31, 2008. Since this bill may not be become law until 2008, one renewal of the temporary license should be sufficient for all current temporary license holders. The term "once" was added in the last license change in order to reduce the amount of times a speech/language pathologist can renew a license. The Hearing and Speech Board does not want this removed. ✓

Eric Knight
Office of Rep. Scott Newcomer
608-266-3007
888-529-0033

Eric.Knight@legis.wi.gov

From: Kuczenski, Tracy
Sent: Wednesday, June 06, 2007 3:11 PM
To: Knight, Eric
Subject: RE: Message for Tracy Kuczenski

Thanks, Eric --

I'll get back to you with any questions.

Tracy

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 266-9867
Tracy.Kuczenski@legis.wisconsin.gov

From: Parisi, Lori
Sent: Wednesday, June 06, 2007 2:29 PM
To: Kuczenski, Tracy
Subject: FW: Message for Tracy Kuczenski

From: Knight, Eric
Sent: Wednesday, June 06, 2007 2:23 PM
To: LRB.Legal
Subject: Message for Tracy Kuczenski

Tracy:

We are looking to get a bill drafting concerning the LICENSURE OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS. All the necessary information should be in the following attachment. If you have any questions or if you are not the right person for this bill let me know.

Thanks

<< File: Chp 459 final draft.doc >>

Eric Knight
Office of Rep. Scott Newcomer
608-266-3007
888-529-0033
Eric.Knight@legis.wi.gov