



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2853/PT

TKK:lmk:nwn

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Invt ←
d-note ←

in 8/23/07

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2007 Bill

Joan

SA ✓
X-REP ✓

Boyer ←

1 AN ACT *to renumber* 459.01 (1); *to renumber and amend* 459.24 (3) (d); *to*
2 *amend* 15.405 (6m) (e), 29.193 (2) (a) 1., 29.324 (1) (a), 45.40 (2) (a), 77.54 (22)
3 (b), 102.01 (2) (c), 149.14 (3) (k), 459.01 (2), (3) and (5), 459.02, 459.03 (title),
4 459.03 (1), 459.03 (2) (b), 459.035, 459.04, 459.05 (1m), 459.06 (2) (a) (intro.) and
5 3. and (b) (intro.) and 4. and (3), 459.07 (2), 459.08 (1), 459.085, 459.095 (3),
6 459.10 (1) (d) and (e), 459.10 (1) (g), 459.10 (1) (i), (j), (k) and (p), 459.14 (2),
7 459.20 (2) (a) and (b), (3g) and (3p), 459.22 (2) (b), (c) and (f), 459.24 (1) (b),
8 459.24 (1m), 459.24 (3) (e), 459.24 (3) (f), 459.24 (3m), 459.24 (6) (b), 459.24 (6)
9 (c), 459.26 (2) (a), 459.26 (2) (b) (intro.) and 4., 459.34 (2) (ce), (cm) and (cs),
10 459.34 (2) (d) and 968.27 (7) (b); and *to create* 459.01 (1d), 459.10 (1) (q), (r),
11 (s) and (t), 459.24 (3) (d) 2. and 3., 459.34 (2) (i), 459.34 (2) (j) and 459.34 (2) (k)
12 of the statutes; **relating to:** replacing the term hearing aid with hearing
13 instrument, creating new grounds for discipline of hearing instrument
14 specialists, audiologists, and speech-language pathologists, changing the

1 definition of audiology, and changing licensing requirements for audiologists,
2 and granting rule-making authority.

Analysis by the Legislative Reference Bureau

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

Insert
envis

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

3 SECTION 1. 15.405 (6m) (e) of the statutes is amended to read:

4 15.405 (6m) (e) Two public members. One of the public members shall be a
5 hearing aid instrument user.

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

7 29.193 (2) (a) 1. "Accompanied" means being subject to continuous visual or
8 voice contact without the aid of any mechanical or electronic amplifying device other
9 than a hearing aid instrument.

10 SECTION 3. 29.324 (1) (a) of the statutes is amended to read:

11 29.324 (1) (a) "Contact" means visual or voice contact without the aid of any
12 mechanical or electronic amplifying device other than a hearing aid instrument.

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

14 45.40 (2) HEALTH CARE. (a) The department may provide health care aid to a
15 veteran for dental care, including dentures; vision care, including eyeglass frames
16 and lenses; and hearing care, including hearing aids instruments.

17 SECTION 5. 77.54 (22) (b) of the statutes is amended to read:

18 77.54 (22) (b) Artificial limbs, artificial eyes, hearing aids instruments and
19 other equipment worn as a correction or substitute for any functioning portion of the
20 body.

✓
1 **SECTION 6.** 102.01 (2) (c) of the statutes is amended to read:

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

✓
8 **SECTION 7.** 149.14 (3) (k) of the statutes is amended to read:

9 149.14 (3) (k) Rental or purchase, as appropriate, of durable medical
10 equipment or disposable medical supplies, other than eyeglasses and hearing aids
11 instruments.

✓
12 **SECTION 8.** 459.01 (1) of the statutes is renumbered 459.01 (1m).

✓
13 **SECTION 9.** 459.01 (1d) of the statutes is created to read:

14 459.01 (1d) "Deceptive advertising" means creating, using, or promoting the
15 use of any advertising material, promotional literature, testimonial, guarantee,
16 warranty, label, brand, insignia, or other representation, however disseminated or
17 published, which is misleading, false, or untruthful.

✓
18 **SECTION 10.** 459.01 (2), (3) and (5) of the statutes are amended to read:

19 459.01 (2) "Hearing aid instrument" means any wearable instrument or device
20 designed for or offered for the purpose of aiding or compensating for impaired human
21 hearing and any parts, attachments or accessories of such an instrument or device,
22 except batteries and cords.

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

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

6 SECTION 11. 459.02 of the statutes is amended to read:

7 **459.02 License required to sell and fit hearing aids instruments. (1)**

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

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

25 SECTION 12. 459.03 (title) of the statutes is amended to read:

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

3 **SECTION 13.** 459.03 (1) of the statutes is amended to read:

4 459.03 (1) Whoever practices fitting or selling of hearing aids instruments
5 under this subchapter shall deliver to each person supplied with a hearing aid
6 instrument a receipt. The receipt shall contain the licensee's signature and show the
7 licensee's business address and license name ^(title) and number, together with
8 specifications as to the make and model of the hearing aid instrument furnished and
9 full terms of sale clearly stated. If a hearing aid instrument which is not new is sold,
10 the receipt and the container thereof must be clearly marked as "used" or
11 "reconditioned" whichever is applicable.

12 **SECTION 14.** 459.03 (2) (b) of the statutes is amended to read:

13 459.03 (2) (b) A statement that the purchaser has been advised at the outset
14 of the purchaser's relationship with the hearing instrument specialist that any
15 examination or representation made by a hearing instrument specialist in
16 connection with the fitting and selling of this hearing aid instrument is not an
17 examination, diagnosis or prescription by a person licensed to practice medicine or
18 audiology in this state and therefore must not be regarded as medical or audiological
19 opinion or advice.

20 **SECTION 15.** 459.035 of the statutes is amended to read:

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

1 **SECTION 16.** 459.04 of the statutes is amended to read:

2 **459.04 Seller's guarantee.** The seller of a hearing aid instrument shall give
3 to the purchaser a personal guarantee that is at least identical in its terms to the
4 guarantee of the manufacturer of the hearing aid instrument.

5 **SECTION 17.** 459.05 (1m) of the statutes is amended to read:

6 **459.05 (1m)** Whenever the examining board determines that another state or
7 jurisdiction has requirements equivalent to or higher than those in effect in the state
8 for the practice of fitting and selling hearing aids instruments, and that such state
9 or jurisdiction has a program equivalent to or stricter than the program for
10 determining whether applicants in this state are qualified to fit and sell hearing aids
11 instruments, the department may issue a license by reciprocity to applicants who
12 hold valid licenses to deal in or fit hearing aids instruments in such other state or
13 jurisdiction, who pay the fee specified in s. 440.05 (2) and who are otherwise qualified
14 for licensure. No applicant for a license by reciprocity under this subsection shall be
15 required to submit to or undergo a qualifying examination, if the applicant
16 personally appears at the next meeting of the examining board after filing the
17 application to answer any questions the examining board has.

18 **SECTION 18.** 459.06 (2) (a) (intro.) and 3. and (b) (intro.) and 4. and (3) of the
19 statutes are amended to read:

20 **459.06 (2) (a) (intro.)** Tests of knowledge in the following areas as they pertain
21 to the fitting of hearing aids instruments:

22 3. The function of hearing aids instruments.

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

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

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

8 SECTION 19. 459.07 (2) of the statutes is amended to read:

9 459.07 (2) Upon receiving an application under this section, accompanied by
10 the fee under s. 440.05 (6), the examining board may grant a trainee permit which
11 may entitle the applicant to practice fitting of hearing aids instruments for a period
12 of one year. A person holding a valid hearing instrument specialist license issued
13 under this subchapter or a valid license to practice audiology issued under s. 459.24
14 (3) shall be responsible for the direct supervision and training of the applicant and
15 shall be liable for all negligent acts and omissions of the trainee in the fitting of
16 hearing aids instruments.

17 SECTION 20. 459.08 (1) of the statutes is amended to read:

18 459.08 (1) A person who holds a license shall notify the department in writing
19 or in accordance with other notification procedures approved by the department of
20 the regular address of the places where he or she engages or intends to engage in the
21 practice of fitting or selling hearing aids instruments. The licensee shall inform the
22 board of any changes in these addresses within 30 days of the change.

23 SECTION 21. 459.085 of the statutes is amended to read:

24 **459.085 Calibration of audiometric equipment.** Audiometric equipment
25 used in the evaluation of hearing sensitivity for the fitting and sale of hearing aids

1 instruments shall be calibrated periodically, as specified by rule by the examining
2 board. Certification of these calibrations shall be sent to the examining board with
3 the renewal fee required in s. 459.09 (1) (a).

4 **SECTION 22.** 459.095 (3) of the statutes is amended to read:

5 459.095 (3) In consultation with the department, promulgate rules that
6 require each person issued a license under this subchapter to whom s. 459.09 (1) (b)
7 applies to complete a specified continuing education program or course of study to
8 ensure competence with respect to a matter related to the practice of fitting and
9 dealing in hearing aids instruments if the examining board has received a significant
10 number of consumer complaints about the matter or if the examining board
11 otherwise determines that there is a need for such a requirement. Rules
12 promulgated under this subsection shall establish criteria for the examining board's
13 approval of the continuing education program or course of study and of sponsors and
14 cosponsors of the continuing education program or course of study. The rules shall
15 also require the examining board to administer, prior to the continuing education
16 program or course of study, an examination on the matter that is the subject of the
17 continuing education program or course of study and to waive a requirement to
18 complete the continuing education program or course of study if a person granted a
19 license under this subchapter passes the examination. A person who takes an
20 examination specified in this subsection shall pay the fee specified in s. 440.05 (1) (b).

21 **SECTION 23.** 459.10 (1) (d) and (e) of the statutes are amended to read:

22 459.10 (1) (d) Been found guilty of an offense the circumstances of which
23 substantially relate to the practice of fitting and dealing in hearing aids instruments.

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

1 **SECTION 24.** 459.10 (1) (g) of the statutes is amended to read:

2 459.10 (1) (g) Engaged in false, ~~misleading or~~ deceptive advertising.

3 **SECTION 25.** 459.10 (1) (i), (j), (k) and (p) of the statutes are amended to read:

4 459.10 (1) (i) Failed to conduct a direct observation of the ear canal of a person
5 for whom a hearing aid instrument is purchased.

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

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

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

16 **SECTION 26.** 459.10 (1) (q), (r), (s) and (t) of the statutes are created to read:

* 17 459.10 (1) (q) Intentionally or negligently Misrepresented that the services or advice of a physician or
18 audiologist will be used or made available in the fitting, sale, adjustment, service,
19 maintenance, or repair of a hearing instrument when such services or advice will not
20 be used or made available.

* 21 Intentionally or negligently (r) Misrepresented the cause of a hearing impairment, or the cure of a hearing
22 impairment by the use of a hearing instrument.

* 23 an intentional or negligent (s) Made a misrepresentation regarding a hearing instrument or services.

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

4 **SECTION 27.** 459.14 (2) of the statutes is amended to read:

5 459.14 (2) This subchapter does not apply to a person engaged in the practice
6 of measuring human hearing for selecting hearing aids instruments or any other
7 purpose if the person or the organization employing such person does not sell hearing
8 aids instruments or hearing accessories.

9 **SECTION 28.** 459.20 (2) (a) and (b), (3g) and (3p) of the statutes are amended
10 to read:

* 11 459.20 (2) (a) Applying principles, methods or procedures of prevention,
12 identification, assessment, measurement, interpretation, evaluation, consultation,
13 intervention, treatment, conservation, management, counseling, instruction, or
14 research related to hearing, vestibular function, or any abnormal condition related
15 to tinnitus, auditory sensitivity, acuity, function or processing, speech, language, or
16 other aberrant behavior resulting from hearing loss for the purpose of diagnosing
17 such abnormal condition and designing and implementing a plan for the treatment,
18 management, or amelioration of such abnormal condition.

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

20 (3g) "Hearing aid instrument" means any wearable or implantable instrument
21 or device designed for or offered for the purpose of aiding or compensating for
22 impaired human hearing and any parts, attachments or accessories of such an
23 instrument or device, except batteries and cords.

24 (3p) "Practice of fitting and dealing in hearing aids instruments" means the
25 measurement of human hearing by means of an audiometer or by any other means

1 accepted by the examining board for the purpose of making selections, adaptations
2 or sales of hearing aids instruments intended to compensate for impaired hearing,
3 and includes making impressions for ear molds.

4 SECTION 29. 459.22 (2) (b), (c) and (f) of the statutes are amended to read:

5 459.22 (2) (b) Authorize a speech-language pathologist licensed under this
6 subchapter to dispense or sell hearing aids instruments without obtaining a hearing
7 instrument specialist license under subch. I.

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

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

19 SECTION 30. 459.24 (1) (b) of the statutes is amended to read:

20 459.24 (1) (b) Engage in the practice of audiology or use the title "audiologist,"
21 "clinical audiologist," "audioprosthologist," or any similar title unless the person
22 holds a current audiologist license granted by the examining board under sub. (3) or
23 (6) (b).

24 SECTION 31. 459.24 (1m) of the statutes is amended to read:

Insert 11-19

without limitation
by enumeration

* 21

Handwritten notes in a bubble: "audioprosthesologist" with arrows pointing to "instrument audiologist" and "audiologist"; "certified hearing instrument audiologist" with arrows pointing to "certified hearing instrument audiologist"; "licensed hearing instrument audiologist" with arrows pointing to "certified hearing instrument audiologist".

1 459.24 (1m) PROHIBITED TITLES. No person may use the title "certified hearing
2 ^{plain} aid instrument audiologist" or "licensed hearing ^{plain} aid instrument audiologist".

3 SECTION 32. 459.24 (3) (d) of the statutes is renumbered 459.24 (3) (d) (intro.)
4 and amended to read:

5 459.24 (3) (d) (intro.) Submits evidence satisfactory to the examining board
6 that he or she has completed a supervised clinical practicum and received satisfied
7 one of the following:

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

12 2009. ✓ Jan ori December 31, 2008
13 SECTION 33. 459.24 (3) (d) 2. and 3. of the statutes are created to read:

14 459.24 (3) (d) 2. Submits evidence satisfactory to the examining board that he
15 or she possesses a doctoral degree in audiology from an accredited academic
16 institution approved by the board by rule. The doctoral degree program must consist
17 of not less than 3 years of educational course work and not less than 12 months of
18 clinical rotation or externship. This subdivision applies to applications received on

19 or after January 1, 2009. December 31, 2008

20 3. Submits evidence satisfactory to the examining board that he or she has
21 completed education or training that the examining board determines is
22 substantially equivalent to the requirements under subd. 2. This subdivision applies
23 to applications received on or after January 1, 2009. December 31, 2008

24 SECTION 34. 459.24 (3) (e) of the statutes is amended to read:

1 459.24 (3) (e) Submits evidence satisfactory to the examining board that he or
2 she has passed the examination required for certification as an audiologist by the
3 American Speech-Language-Hearing Association or passes an examination under
4 s. 459.26 (2) (a) to determine fitness as an audiologist, selected or approved by the
5 board by rule under s. 459.26 (2) (b), or has completed education or training that the
6 examining board determines is substantially equivalent to ~~passing one of those~~
7 ~~examinations in determining fitness as an audiologist~~ the examination selected or
8 approved by the board under s. 459.26 (2) (b).

9 **SECTION 35.** 459.24 (3) (f) of the statutes is amended to read:

10 459.24 (3) (f) Submits evidence satisfactory to the examining board that he or
11 she has completed a postgraduate clinical fellowship in audiology approved by the
12 examining board or has completed education or training that the examining board
13 determines is substantially equivalent to the completion of such a fellowship. This
14 paragraph applies to applications received before January 1, 2009. *on or* *December 31, 2008*

15 **SECTION 36.** 459.24 (3m) of the statutes is amended to read:

16 459.24 (3m) FITTING AND SALE OF HEARING AIDS INSTRUMENTS. An audiologist
17 licensed under this subchapter or an individual granted a permit to practice
18 audiology under this subchapter who engages in the practice of fitting and dealing
19 in hearing aids instruments shall do all of the following:

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

21 The receipt shall contain the signature and show the business address and, license
22 or permit name and number of the licensee or permittee, together with specifications
23 as to the make and model of the hearing aid instrument and full terms of sale clearly
24 stated. If a hearing aid instrument that is not new is sold, the receipt and the
25 container must be clearly marked as "used" or "reconditioned", whichever is

1 applicable. The terms of the guarantee, if there is any given, shall be set out in not
2 less than 8-point type.

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

6 SECTION ~~37~~. 459.24 (6) (b) of the statutes is amended to read:

7 459.24 (6) (b) ~~Upon application, the~~ The examining board may grant a
8 temporary license to practice audiology to an applicant who, during the completion
9 of the postgraduate fellowship required under sub. (3) (f) ~~if the applicant~~, practices
10 under the supervision of an audiologist licensed under sub. (3), satisfies the
11 requirements under sub. (3) (a) to (d), and has submitted an application to take the
12 next available examinations for licensure as an audiologist under s. 459.26 (2) ~~(a) and~~
13 (b). No license may be issued under this paragraph after December 31, 2008.

14 SECTION ~~38~~. 459.24 (6) (c) of the statutes is amended to read:

15 459.24 (6) (c) A temporary license granted under this subsection is valid for a
16 period designated in rules promulgated by the examining board. The rules may
17 designate a period that terminates if an applicant fails to take the next available
18 examination under s. 459.26 (2) (a) ^{plain} ~~or (b)~~ for reasons other than inaction by the
19 examining board or hardship. A temporary license granted under par. (a) may be ^{plain}
20 renewed ^{plain} ~~once~~ by the examining board. A temporary license granted under par. (b)
21 may be renewed once by the examining board if the applicant fails an examination
22 for audiologist licensure under s. 459.26 (2) (a) or (b) and applies to take the next
23 available examination or if the applicant shows, to the satisfaction of the examining
24 board, sufficient cause for the renewal. An applicant for a temporary license shall
25 pay the fee specified in s. 440.05 (6).

1 **SECTION 39.** 459.26 (2) (a) of the statutes is amended to read:

2 459.26 (2) (a) Examinations for speech-language pathologists shall consist of
3 the examinations required for certification as a speech-language pathologist ~~or as~~
4 ~~an audiologist~~ by the American speech-language-hearing association or may consist
5 of other written tests that require applicants to demonstrate minimum competency
6 in services and subjects substantially related to the practice of speech-language
7 pathology ~~or audiology~~ and that are substantially equivalent to the examinations
8 required for such certification.

9 **SECTION 40.** 459.26 (2) (b) (intro.) and 4. of the statutes are amended to read:

10 459.26 (2) (b) (intro.) The examining board shall by rule select and approve
11 examinations for audiology. An applicant for an audiologist license shall also
12 complete an examination administered by the examining board that consists of
13 practical tests of proficiency in techniques that pertain to the fitting of hearing aids
14 instruments, including the following:

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

17 **SECTION 41.** 459.34 (2) (ce), (cm) and (cs) of the statutes are amended to read:

18 459.34 (2) (ce) Violated any federal or state statute, rule or regulation that
19 relates to the practice of fitting and dealing in hearing aids instruments. This
20 paragraph does not apply to speech-language pathologists.

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

24 (cs) Sold a hearing aid instrument for use by a person who was not given tests
25 by a hearing instrument specialist or audiologist licensed under this chapter or in

1 another state using appropriate procedures and instrumentation or without proper
2 measurement of the functional intensity and range of the person's hearing. This
3 paragraph does not apply to speech-language pathologists.

4 SECTION ~~42~~. 459.34 (2) (d) of the statutes is amended to read:

5 459.34 (2) (d) ~~Advertised Engaged~~ in ~~a manner which is false, deceptive or~~
6 ~~misleading~~ advertising.

7 SECTION ~~43~~. 459.34 (2) (i) of the statutes is created to read:

8 459.34 (2) (i) Intentionally or negligently Misrepresented that the professional services or advice of a
9 physician or audiologist will be used or made available in the fitting, sale,
10 adjustment, service, maintenance, or repair of a hearing instrument when such
11 services or advice will not be used or made available.

12 SECTION ~~44~~. 459.34 (2) (j) of the statutes is created to read:

13 459.34 (2) (j) Made an intentional or negligent ~~a~~ misrepresentation regarding a hearing instrument or
14 services.

15 SECTION ~~45~~. 459.34 (2) (k) of the statutes is created to read:

16 459.34 (2) (k) Misused the words "doctor," "clinic," "clinical," or other words,
17 abbreviations, or symbols that imply the involvement of the medical or audiology
18 professions in the absence of such involvement.

19 SECTION ~~46~~. 968.27 (7) (b) of the statutes is amended to read:

20 968.27 (7) (b) A hearing aid instrument or similar device being used to correct
21 subnormal hearing to not better than normal.

22 (END)

D-note

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2853/Plins

TKK:lmk:own

Lebjk

1 **Insert analysis**

2 This bill makes the following changes to the regulation of speech-language
3 pathologists and audiologists. ✓

4 ***Prohibited conduct.***

5 1. Deceptive advertising. Under current law, the Hearing and Speech
6 Examining Board in the Department of Regulation and Licensing (board) may
7 reprimand the holder of a license or permit issued by the board or revoke, ✓ suspend, ✓
8 limit, ✓ or deny a license or permit if the holder or applicant engages in certain
9 prohibited conduct, ✓ including false, ✓ misleading, ✓ or deceptive advertising. ✓ The bill
10 prohibits deceptive advertising instead of false, ✓ misleading, ✓ or deceptive advertising. ✓
11 In addition, ✓ the bill creates a definition for “deceptive advertising” which includes
12 creating or using promotional literature, ✓ testimonials, ✓ insignia, ✓ or other
13 representation which is misleading, ✓ false, or untruthful. ✓

14 2. Misrepresentation. The bill prohibits the holder of a license or permit from
15 intentionally or negligently representing that the services or advice of a physician
16 or audiologist will be used in connection with the fitting, ✓ sale, ✓ or maintenance of a
17 hearing instrument when the service or advice will not be used. ✓ The bill prohibits ✓
18 the holder of a license or permit from making an intentional or negligent
19 representation regarding a hearing instrument or services. ✓ The bill also prohibits
20 the holder of a license or permit from misusing words that imply the involvement of
21 the medical or audiology professions when there is no such involvement. ✓ Finally, the
22 bill prohibits a hearing instrument specialist from intentionally or negligently

1 misrepresenting the cause of a hearing impairment, or the cure of a hearing
2 impairment by the use of a hearing instrument.

3 3. Use of titles. Under current law, no person may use the titles "certified
4 hearing aid audiologist" or "licensed hearing aid audiologist." The bill also prohibits
5 any person from using any of the following titles: "certified hearing instrument
6 audiologist," "licensed hearing instrument audiologist," or "audioprosthologist."

7 ***Audiologist license***. Under current law, a person seeking an audiologist
8 license must have received a master's degree in audiology or completed education or
9 training that the board determines is substantially equivalent. The person must also
10 complete a postgraduate clinical fellowship in audiology approved by the board or
11 substantially equivalent education or training. The person must also pass an
12 examination required for certification by the American Speech-Language-Hearing
13 Association or a substantially equivalent exam, as well as practical techniques tests
14 administered by the board.

15 The bill changes the requirements for audiologist licensure effective January
16 1, 2009. Beginning on that date, to obtain an audiologist license a person must do
17 all of the following:

18 1. Either possess a doctoral degree in audiology or submit evidence of
19 substantially equivalent education or training. The doctoral degree program must
20 consist of not less than 3 years of educational course work and not less than 12
21 months of clinical rotation or externship.

22 2. Pass an exam selected or approved by the board as well as practical
23 techniques tests administered by the board. The bill requires the board to select and
24 approve examinations for audiology by rule.

1 **Temporary license to practice audiology.** Under current law, the board may
 2 grant a temporary license to practice audiology to a person who is completing a
 3 postgraduate fellowship if the person practices under the supervision of licensed
 4 audiologist and satisfies other requirements. The bill eliminates temporary
 5 licensure for audiologists effective January 1, 2009.

6 **Other changes.**

7 Current law defines audiology as applying principles, methods, or procedures
 8 of prevention, identification, evaluation, consultation, intervention, instruction, or
 9 research related to hearing, vestibular function, or any abnormal condition related
 10 to tinnitus, auditory sensitivity, acuity, function or processing, speech language, or
 11 other aberrant behavior resulting from hearing loss. The bill amends the definition
 12 to include assessment, measurement, interpretation, treatment, conservation,
 13 management, and counseling to the principles, methods, or procedures applied by an
 14 audiologist. The bill also requires that these activities be undertaken for the purpose
 15 of diagnosing abnormal conditions and designing and implementing a plan for the
 16 treatment, management, or amelioration of the abnormal condition.

17 The bill also eliminates all statutory references to "hearing aid" and substitutes
 18 the term "hearing instrument".

move so period is inside quotation mark.

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

19 **Insert 11-19**

20 **SECTION 4. 459.24 (1) (a)** of the statutes is amended to read:

21 459.24 (1) (a) Engage in the practice of speech-language pathology or use the
 22 title "speech-language pathologist" or any similar title without limitation by

- 1 enumeration unless the person holds a current speech-language pathologist license
- 2 granted by the examining board under sub. (2) or (6) (a).

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

3

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2853/P1dn

TKK:lmk:own

Date

Representative Newcomer:

This introducible draft addresses the points raised in the Wisconsin Speech Language/Pathology and Audiology Professional Association's response to questions in my drafter's note dated July 30.

The Association asked why I had used January 1, 2008 in Sections 32, 33, and 35 of the draft. The Association mis-read the date. I used January 1, 2009. However, there is no reason to use the January date rather than December 31, 2008. For that reason, and to comply with the Association's request, I changed the dates in these sections to December 31, 2008.

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2853/P1dn
TKK:bjk:rs

August 31, 2007

Representative Newcomer:

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Tracy K. Kuczenski
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Phone: (608) 266-9867
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Kuczenski, Tracy

From: Knight, Eric
Sent: Monday, September 10, 2007 2:14 PM
To: Kuczenski, Tracy
Subject: LRB 07-2853/1

Tracy: One more change to LRB 07-2853/1, Thanks

On page 13 of the draft, Section 32, the language "or any similar title without limitation by enumeration" needs to be inserted after the list of prohibited titles.

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



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2853/0
TKK:lmk&bjk:fs
2
stays
RMNR

in 9/17/07

2007 BILL

SA ✓

-regen. cat.

1 AN ACT *to renumber* 459.01 (1); *to renumber and amend* 459.24 (3) (d); *to*
2 *amend* 15.405 (6m) (e), 29.193 (2) (a) 1., 29.324 (1) (a), 45.40 (2) (a), 77.54 (22)
3 (b), 102.01 (2) (c), 149.14 (3) (k), 459.01 (2), (3) and (5), 459.02, 459.03 (title),
4 459.03 (1), 459.03 (2) (b), 459.035, 459.04, 459.05 (1m), 459.06 (2) (a) (intro.) and
5 3. and (b) (intro.) and 4. and (3), 459.07 (2), 459.08 (1), 459.085, 459.095 (3),
6 459.10 (1) (d) and (e), 459.10 (1) (g), 459.10 (1) (i), (j), (k) and (p), 459.14 (2),
7 459.20 (2) (a) and (b), (3g) and (3p), 459.22 (2) (b), (c) and (f), 459.24 (1) (a),
8 459.24 (1) (b), 459.24 (1m), 459.24 (3) (e), 459.24 (3) (f), 459.24 (3m), 459.24 (6)
9 (b), 459.26 (2) (a), 459.26 (2) (b) (intro.) and 4., 459.34 (2) (ce), (cm) and (cs),
10 459.34 (2) (d) and 968.27 (7) (b); and *to create* 459.01 (1d), 459.10 (1) (q), (r),
11 (s) and (t), 459.24 (3) (d) 2. and 3., 459.34 (2) (i), 459.34 (2) (j) and 459.34 (2) (k)
12 of the statutes; **relating to:** replacing the term hearing aid with hearing
13 instrument, creating new grounds for discipline of hearing instrument
14 specialists, audiologists, and speech-language pathologists, changing the

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1 definition of audiology, and changing licensing requirements for audiologists,
2 and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes the following changes to the regulation of speech-language pathologists and audiologists.

Prohibited conduct.

1. Deceptive advertising. Under current law, the Hearing and Speech Examining Board in the Department of Regulation and Licensing (board) may reprimand the holder of a license or permit issued by the board or revoke, suspend, limit, or deny a license or permit if the holder or applicant engages in certain prohibited conduct, including false, misleading, or deceptive advertising. The bill prohibits deceptive advertising instead of false, misleading, or deceptive advertising. In addition, the bill creates a definition for “deceptive advertising” which includes creating or using promotional literature, testimonials, insignia, or other representation which is misleading, false, or untruthful.

2. Misrepresentation. The bill prohibits the holder of a license or permit from intentionally or negligently representing that the services or advice of a physician or audiologist will be used in connection with the fitting, sale, or maintenance of a hearing instrument when the service or advice will not be used. The bill prohibits the holder of a license or permit from making an intentional or negligent representation regarding a hearing instrument or services. The bill also prohibits the holder of a license or permit from misusing words that imply the involvement of the medical or audiology professions when there is no such involvement. Finally, the bill prohibits a hearing instrument specialist from intentionally or negligently misrepresenting the cause of a hearing impairment, or the cure of a hearing impairment by the use of a hearing instrument.

3. Use of titles. Under current law, no person may use the titles “certified hearing aid audiologist” or “licensed hearing aid audiologist.” The bill also prohibits any person from using any of the following titles: “certified hearing instrument audiologist,” “licensed hearing instrument audiologist,” or “audioprosthologist.”

Audiologist license. Under current law, a person seeking an audiologist license must have received a master’s degree in audiology or completed education or training that the board determines is substantially equivalent. The person must also complete a postgraduate clinical fellowship in audiology approved by the board or substantially equivalent education or training. The person must also pass an examination required for certification by the American Speech-Language-Hearing Association or a substantially equivalent exam, as well as practical techniques tests administered by the board.

The bill changes the requirements for audiologist licensure effective January 1, 2009. Beginning on that date, to obtain an audiologist license a person must do all of the following:

BILL

1. Either possess a doctoral degree in audiology or submit evidence of substantially equivalent education or training. The doctoral degree program must consist of not less than three years of educational course work and not less than 12 months of clinical rotation or externship.

2. Pass an exam selected or approved by the board as well as practical techniques tests administered by the board. The bill requires the board to select and approve examinations for audiology by rule.

Temporary license to practice audiology. Under current law, the board may grant a temporary license to practice audiology to a person who is completing a postgraduate fellowship if the person practices under the supervision of a licensed audiologist and satisfies other requirements. The bill eliminates temporary licensure for audiologists effective January 1, 2009.

Other changes.

Current law defines audiology as applying principles, methods, or procedures of prevention, identification, evaluation, consultation, intervention, 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. The bill amends the definition to include assessment, measurement, interpretation, treatment, conservation, management, and counseling to the principles, methods, or procedures applied by an audiologist. The bill also requires that these activities be undertaken for the purpose of diagnosing abnormal conditions and designing and implementing a plan for the treatment, management, or amelioration of the abnormal condition.

The bill also eliminates all statutory references to "hearing aid" and substitutes the term "hearing instrument."

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

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

1 **SECTION 1.** 15.405 (6m) (e) of the statutes is amended to read:

2 15.405 (**6m**) (e) Two public members. One of the public members shall be a
3 hearing aid instrument user.

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

5 29.193 (**2**) (a) 1. "Accompanied" means being subject to continuous visual or
6 voice contact without the aid of any mechanical or electronic amplifying device other
7 than a hearing aid instrument.

BILL

1 **SECTION 3.** 29.324 (1) (a) of the statutes is amended to read:

2 29.324 (1) (a) "Contact" means visual or voice contact without the aid of any
3 mechanical or electronic amplifying device other than a hearing aid instrument.

4 **SECTION 4.** 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.

8 **SECTION 5.** 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.

12 **SECTION 6.** 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.

19 **SECTION 7.** 149.14 (3) (k) of the statutes is amended to read:

20 149.14 (3) (k) Rental or purchase, as appropriate, of durable medical
21 equipment or disposable medical supplies, other than eyeglasses and hearing aids
22 instruments.

23 **SECTION 8.** 459.01 (1) of the statutes is renumbered 459.01 (1m).

24 **SECTION 9.** 459.01 (1d) of the statutes is created to read:

BILL

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

5 **SECTION 10.** 459.01 (2), (3) and (5) of the statutes are amended to read:

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

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

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

18 **SECTION 11.** 459.02 of the statutes is amended to read:

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

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1 department at all times. Duplicate licenses shall be issued by the department under
2 this subchapter to valid license holders operating more than one office without
3 additional payment.

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

12 **SECTION 12.** 459.03 (title) of the statutes is amended to read:

13 **459.03 (title) Receipt required to be furnished to a person supplied with**
14 **hearing aid instrument.**

15 **SECTION 13.** 459.03 (1) of the statutes is amended to read:

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

24 **SECTION 14.** 459.03 (2) (b) of the statutes is amended to read:

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1 459.03 (2) (b) A statement that the purchaser has been advised at the outset
2 of the purchaser's relationship with the hearing instrument specialist that any
3 examination or representation made by a hearing instrument specialist in
4 connection with the fitting and selling of this hearing aid instrument is not an
5 examination, diagnosis or prescription by a person licensed to practice medicine or
6 audiology in this state and therefore must not be regarded as medical or audiological
7 opinion or advice.

8 **SECTION 15.** 459.035 of the statutes is amended to read:

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

14 **SECTION 16.** 459.04 of the statutes is amended to read:

15 **459.04 Seller's guarantee.** The seller of a hearing aid instrument shall give
16 to the purchaser a personal guarantee that is at least identical in its terms to the
17 guarantee of the manufacturer of the hearing aid instrument.

18 **SECTION 17.** 459.05 (1m) of the statutes is amended to read:

19 459.05 (1m) Whenever the examining board determines that another state or
20 jurisdiction has requirements equivalent to or higher than those in effect in the state
21 for the practice of fitting and selling hearing aids instruments, and that such state
22 or jurisdiction has a program equivalent to or stricter than the program for
23 determining whether applicants in this state are qualified to fit and sell hearing aids
24 instruments, the department may issue a license by reciprocity to applicants who
25 hold valid licenses to deal in or fit hearing aids instruments in such other state or

BILL**SECTION 17**

1 jurisdiction, who pay the fee specified in s. 440.05 (2) and who are otherwise qualified
2 for licensure. No applicant for a license by reciprocity under this subsection shall be
3 required to submit to or undergo a qualifying examination, if the applicant
4 personally appears at the next meeting of the examining board after filing the
5 application to answer any questions the examining board has.

6 **SECTION 18.** 459.06 (2) (a) (intro.) and 3. and (b) (intro.) and 4. and (3) of the
7 statutes are amended to read:

8 459.06 (2) (a) (intro.) Tests of knowledge in the following areas as they pertain
9 to the fitting of hearing aids instruments:

10 3. The function of hearing aids instruments.

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

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

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

20 **SECTION 19.** 459.07 (2) of the statutes is amended to read:

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

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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 **SECTION 20.** 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 **SECTION 21.** 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 **SECTION 22.** 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
25 approval of the continuing education program or course of study and of sponsors and

BILL**SECTION 22**

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

8 **SECTION 23.** 459.10 (1) (d) and (e) of the statutes are amended to read:

9 459.10 (1) (d) Been found guilty of an offense the circumstances of which
10 substantially relate to the practice of fitting and dealing in hearing aids instruments.

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

13 **SECTION 24.** 459.10 (1) (g) of the statutes is amended to read:

14 459.10 (1) (g) Engaged in ~~false, misleading or~~ deceptive advertising.

15 **SECTION 25.** 459.10 (1) (i), (j), (k) and (p) of the statutes are amended to read:

16 459.10 (1) (i) Failed to conduct a direct observation of the ear canal of a person
17 for whom a hearing aid instrument is purchased.

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

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

24 (p) Sold a hearing aid instrument for use by a person who was not given tests
25 by a hearing instrument specialist or an audiologist licensed under this chapter or

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1 in another state using appropriate procedures and instrumentation or without
2 proper measurement of the functional intensity and range of the person's hearing.

3 **SECTION 26.** 459.10 (1) (q), (r), (s) and (t) of the statutes are created to read:

4 459.10 (1) (q) Intentionally or negligently misrepresented that the services or
5 advice of a physician or audiologist will be used or made available in the fitting, sale,
6 adjustment, service, maintenance, or repair of a hearing instrument when such
7 services or advice will not be used or made available.

8 (r) Intentionally or negligently misrepresented the cause of a hearing
9 impairment or the cure of a hearing impairment, by the use of a hearing instrument.

10 (s) Made an intentional or negligent misrepresentation regarding a hearing
11 instrument or services.

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

15 **SECTION 27.** 459.14 (2) of the statutes is amended to read:

16 459.14 (2) This subchapter does not apply to a person engaged in the practice
17 of measuring human hearing for selecting hearing ~~aids~~ instruments or any other
18 purpose if the person or the organization employing such person does not sell hearing
19 ~~aids~~ instruments or hearing accessories.

20 **SECTION 28.** 459.20 (2) (a) and (b), (3g) and (3p) of the statutes are amended
21 to read:

22 459.20 (2) (a) Applying principles, methods, or procedures of prevention,
23 identification, assessment, measurement, interpretation, evaluation, consultation,
24 intervention, treatment, conservation, management, counseling, instruction, or
25 research related to hearing, vestibular function, or any abnormal condition related

BILL**SECTION 28**

1 to tinnitus, auditory sensitivity, acuity, function or processing, speech, language, or
2 other aberrant behavior resulting from hearing loss for the purpose of diagnosing
3 such abnormal condition and designing and implementing a plan for the treatment,
4 management, or amelioration of such abnormal condition.

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

6 (3g) "Hearing aid instrument" means any wearable or implantable instrument
7 or device designed for or offered for the purpose of aiding or compensating for
8 impaired human hearing and any parts, attachments or accessories of such an
9 instrument or device, except batteries and cords.

10 (3p) "Practice of fitting and dealing in hearing aids instruments" means the
11 measurement of human hearing by means of an audiometer or by any other means
12 accepted by the examining board for the purpose of making selections, adaptations
13 or sales of hearing aids instruments intended to compensate for impaired hearing,
14 and includes making impressions for ear molds.

15 **SECTION 29.** 459.22 (2) (b), (c) and (f) of the statutes are amended to read:

16 459.22 (2) (b) Authorize a speech-language pathologist licensed under this
17 subchapter to dispense or sell hearing aids instruments without obtaining a hearing
18 instrument specialist license under subch. I.

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

23 (f) Require an individual to be licensed under this subchapter to engage in the
24 practice of speech-language pathology or audiology, other than engaging in the
25 practice of fitting and dealing in hearing aids instruments, in a position for which the

BILL

1 department of public instruction requires licensure as a speech and language
2 pathologist or audiologist, if the individual's entire practice of speech-language
3 pathology or audiology, other than engaging in the practice of fitting and dealing in
4 hearing aids instruments, is limited to the duties of that position.

5 **SECTION 30.** 459.24 (1) (a) of the statutes is amended to read:

6 459.24 (1) (a) Engage in the practice of speech-language pathology or use the
7 title "speech-language pathologist" or any similar title without limitation by
8 enumeration unless the person holds a current speech-language pathologist license
9 granted by the examining board under sub. (2) or (6) (a).

10 **SECTION 31.** 459.24 (1) (b) of the statutes is amended to read:

11 459.24 (1) (b) Engage in the practice of audiology or use the title "audiologist,"
12 "clinical audiologist," or any similar title without limitation by enumeration unless
13 the person holds a current audiologist license granted by the examining board under
14 sub. (3) or (6) (b).

15 **SECTION 32.** 459.24 (1m) of the statutes is amended to read:

16 459.24 (1m) PROHIBITED TITLES. No person may use the title "certified hearing
17 aid audiologist," "audioprosthologist," "certified hearing instrument audiologist,"
18 "licensed hearing instrument audiologist," [↑] [↑] ~~or~~ "licensed hearing aid audiologist".

SB or any similar title without limitation by enumeration

19 **SECTION 33.** 459.24 (3) (d) of the statutes is renumbered 459.24 (3) (d) (intro.)

20 and amended to read:

21 459.24 (3) (d) (intro.) Submits evidence satisfactory to the examining board
22 that he or she has completed a supervised clinical practicum and received satisfied
23 one of the following:

- 24 1. Received a master's degree in audiology from a college or university
25 approved by the examining board, or has completed education or training that the

BILL**SECTION 33**

1 examining board determines is substantially equivalent to the completion of those
2 requirements. This subdivision applies to applications received on or before
3 December 31, 2008.

4 **SECTION 34.** 459.24 (3) (d) 2. and 3. of the statutes are created to read:

5 459.24 (3) (d) 2. Submits evidence satisfactory to the examining board that he
6 or she possesses a doctoral degree in audiology from an accredited academic
7 institution approved by the board by rule. The doctoral degree program must consist
8 of not less than 3 years of educational course work and not less than 12 months of
9 clinical rotation or externship. This subdivision applies to applications received
10 after December 31, 2008.

11 3. Submits evidence satisfactory to the examining board that he or she has
12 completed education or training that the examining board determines is
13 substantially equivalent to the requirements under subd. 2. This subdivision applies
14 to applications received after December 31, 2008.

15 **SECTION 35.** 459.24 (3) (e) of the statutes is amended to read:

16 459.24 (3) (e) Submits evidence satisfactory to the examining board that he or
17 she has passed the examination ~~required for certification as an audiologist by the~~
18 ~~American Speech-Language-Hearing Association or passes an examination under~~
19 ~~s. 459.26 (2) (a) to determine fitness as an audiologist, selected or approved by the~~
20 board by rule under s. 459.26 (2) (b), or has completed education or training that the
21 examining board determines is substantially equivalent to ~~passing one of those~~
22 ~~examinations in determining fitness as an audiologist~~ the examination selected or
23 approved by the board under s. 459.26 (2) (b).

24 **SECTION 36.** 459.24 (3) (f) of the statutes is amended to read:

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1 459.24 (3) (f) Submits evidence satisfactory to the examining board that he or
2 she has completed a postgraduate clinical fellowship in audiology approved by the
3 examining board or has completed education or training that the examining board
4 determines is substantially equivalent to the completion of such a fellowship. This
5 paragraph applies to applications received on or before December 31, 2008.

6 **SECTION 37.** 459.24 (3m) of the statutes is amended to read:

7 459.24 (3m) FITTING AND SALE OF HEARING AIDS INSTRUMENTS. An audiologist
8 licensed under this subchapter or an individual granted a permit to practice
9 audiology under this subchapter who engages in the practice of fitting and dealing
10 in hearing aids instruments shall do all of the following:

11 (a) Deliver to each person supplied with a hearing aid instrument a receipt.
12 The receipt shall contain the signature and show the business address and, license
13 or permit title, and number of the licensee or permittee, together with specifications
14 as to the make and model of the hearing aid instrument and full terms of sale clearly
15 stated. If a hearing aid instrument that is not new is sold, the receipt and the
16 container must be clearly marked as "used" or "reconditioned", whichever is
17 applicable. The terms of the guarantee, if there is any given, shall be set out in not
18 less than 8-point type.

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

22 **SECTION 38.** 459.24 (6) (b) of the statutes is amended to read:

23 459.24 (6) (b) ~~Upon application, the~~ The examining board may grant a
24 temporary license to practice audiology to an applicant who, during the completion
25 of the postgraduate fellowship required under sub. (3) (f) ~~if the applicant,~~ practices

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1 under the supervision of an audiologist licensed under sub. (3), satisfies the
2 requirements under sub. (3) (a) to (d), and has submitted an application to take the
3 next available examinations for licensure as an audiologist under s. 459.26 (2) (a) and
4 (b). No license may be issued under this paragraph after December 31, 2008.

5 **SECTION 39.** 459.26 (2) (a) of the statutes is amended to read:

6 459.26 (2) (a) Examinations for speech-language pathologists shall consist of
7 the examinations required for certification as a speech-language pathologist ~~or as~~
8 ~~an audiologist~~ by the American speech-language-hearing association or may consist
9 of other written tests that require applicants to demonstrate minimum competency
10 in services and subjects substantially related to the practice of speech-language
11 pathology ~~or audiology~~ and that are substantially equivalent to the examinations
12 required for such certification.

13 **SECTION 40.** 459.26 (2) (b) (intro.) and 4. of the statutes are amended to read:

14 459.26 (2) (b) (intro.) The examining board shall by rule select and approve
15 examinations for audiology. An applicant for an audiologist license shall also
16 complete an examination administered by the examining board that consists of
17 practical tests of proficiency in techniques that pertain to the fitting of hearing aids
18 instruments, including the following:

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

21 **SECTION 41.** 459.34 (2) (ce), (cm) and (cs) of the statutes are amended to read:

22 459.34 (2) (ce) Violated any federal or state statute, rule or regulation that
23 relates to the practice of fitting and dealing in hearing aids instruments. This
24 paragraph does not apply to speech-language pathologists.

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

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

9 **SECTION 42.** 459.34 (2) (d) of the statutes is amended to read:

10 459.34 (2) (d) ~~Advertised Engaged in a manner which is false, deceptive or~~
11 ~~misleading advertising.~~

12 **SECTION 43.** 459.34 (2) (i) of the statutes is created to read:

13 459.34 (2) (i) Intentionally or negligently misrepresented that the professional
14 services or advice of a physician or audiologist will be used or made available in the
15 fitting, sale, adjustment, service, maintenance, or repair of a hearing instrument
16 when such services or advice will not be used or made available.

17 **SECTION 44.** 459.34 (2) (j) of the statutes is created to read:

18 459.34 (2) (j) Made an intentional or negligent misrepresentation regarding a
19 hearing instrument or services.

20 **SECTION 45.** 459.34 (2) (k) of the statutes is created to read:

21 459.34 (2) (k) Misused the words "doctor," "clinic," "clinical," or other words,
22 abbreviations, or symbols that imply the involvement of the medical or audiology
23 professions in the absence of such involvement.

24 **SECTION 46.** 968.27 (7) (b) of the statutes is amended to read:

Duerst, Christina

From: Knight, Eric
Sent: Monday, November 26, 2007 2:09 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-2853/2 Topic: Licensure of speech-language pathologists and audiologists

Please Jacket LRB 07-2853/2 for the ASSEMBLY.