SENATE BILL 358 (LRB -2757)

An Act to repeal 15.407 (4) and 459.23; to renumber 459.01 (1); to renumber and amend 459.24 (3) (d), 459.24 (6) (b) and 459.28 (1); to amend 459.02 (2), 459.03 (1), 459.03 (2) (intro.), 459.03 (2) (b), 459.085, 459.10 (1) (g), 459.24 (1) (b), 459.24 (1m), 459.24 (3) (e), 459.24 (3) (f), 459.24 (3m) (a), 459.24 (6) (c), 459.26 (2) (a), 459.26 (2) (b) 4. and 459.34 (2) (d); and to create 459.01 (1d), 459.10 (1) (q) and (r), 459.24 (3) (d) 2. and 3., 459.24 (6) (b) 2., 459.26 (2) (am), 459.28 (1) (b), 459.34 (2) (i), 459.34 (2) (j) and 459.34 (2) (k) of the statutes; relating to: creating new grounds for discipline of hearing instrument specialists, audiologists, and speech-language pathologists, changing licensing requirements for audiologists, and granting rule-making authority. (FE)

2009

10-20.	S.	Introduced by Senators **Lehman**, **Taylor**, **Olsen** and **Kedzie**; cosponsored by Representatives **Zepnick**, **Turner**, **Kerkman**, **Danou**, **A. Ott**, **Newcomer** and **Townsend**.	
10-20.	S.	Read first time and referred to committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue	363
10-27.	S.	Fiscal estimate received.	

2010

01-06.	S.	**LRB correction**	469
03-01.	S.	Senate amendment 1 offered by Senator Lehman **(LRB a1697)**	601
03-03.	S.	Public hearing held.	
03-16.	S.	Executive action taken.	
03-19.	S.	Report adoption of Senate Amendment 1 recommended by committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue, Ayes 7, Noes 0	646
03-19.	S.	Report passage as amended recommended by committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue, Ayes 7, Noes 0	646
03-19.	S.	Available for scheduling.	
04-08.	S.	Placed on calendar 4-13-2010 pursuant to Senate Rule 18(1)	681
04-13.	S.	Read a second time.	
04-13.	S.	Senate amendment 1 **adopted**.	
04-13.	S.	Ordered to a third reading.	
04-13.	S.	Rules suspended.	
04-13.	S.	Read a third time and **passed**.	
04-13.	S.	Ordered immediately messaged.	
04-13.	A.	Received from Senate	807
04-13.	A.	Read first time and referred to committee on Rules	808
04-13.	A.	Made a special order of business at 11:12 A.M. on 4-15-2010 pursuant to Assembly Resolution 22	823
04-15.	A.	Read a second time.	
04-15.	A.	Ordered to a third reading.	
04-15.	A.	Rules suspended.	
04-15.	A.	Read a third time and **concurred in**.	
04-15.	A.	Ordered immediately messaged.	
04-16.	S.	Received from Assembly concurred in.	

mB

2009
ENROLLED BILL

09en S B-358

ADOPTED DOCUMENTS:

☒ Orig ☐ Engr ___ SubAmdt ___ 09-2757/1

Amendments to above (if none, write "NONE"): SA1

Corrections - show date (if none, write "NONE"): JAN. 6, 2010

Topic Rel

4-19-10
Date

Enrolling Drafter

State of Wisconsin
2009–2010 LEGISLATURE

CORRECTIONS IN:

2009 SENATE BILL 358

Prepared by the Legislative Reference Bureau
(January 6, 2010)

CORR

1. Page 5, line 22: after "audiologist,"" insert "or".

(END)

LRB–2757/1ccc–1
CJS:ph

Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31; Assembly Rule 36; and Joint Rule 56.

State of Wisconsin
2009 – 2010 LEGISLATURE

LRB–2757/1
TKK:jld&bjk:md

2009 SENATE BILL 358

October 20, 2009 – Introduced by Senators LEHMAN, TAYLOR, OLSEN and KEDZIE, cosponsored by Representatives ZEPNICK, TURNER, KERKMAN, DANOU, A. OTT, NEWCOMER and TOWNSEND. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

AN ACT ***to repeal*** 15.407 (4) and 459.23; ***to renumber*** 459.01 (1); ***to renumber and amend*** 459.24 (3) (d), 459.24 (6) (b) and 459.28 (1); ***to amend*** 459.02 (2), 459.03 (1), 459.03 (2) (intro.), 459.03 (2) (b), 459.085, 459.10 (1) (g), 459.24 (1) (b), 459.24 (1m), 459.24 (3) (e), 459.24 (3) (f), 459.24 (3m) (a), 459.24 (6) (c), 459.26 (2) (a), 459.26 (2) (b) 4. and 459.34 (2) (d); and ***to create*** 459.01 (1d), 459.10 (1) (q) and (r), 459.24 (3) (d) 2. and 3., 459.24 (6) (b) 2., 459.26 (2) (am), 459.28 (1) (b), 459.34 (2) (i), 459.34 (2) (j) and 459.34 (2) (k) of the statutes; **relating to:** creating new grounds for discipline of hearing instrument specialists, audiologists, and speech–language pathologists, changing licensing requirements for audiologists, 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 (board) in the Department of Regulation and Licensing

(department) 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 making an intentional or negligent representation regarding a hearing aid 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 aid.

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 board may grant a license to practice audiology to a person who holds a current audiologist license in another state or United States territory if the board determines that the requirements for licensure are substantially equivalent to the requirements in this state.

With certain exceptions, the bill changes the requirements for audiologist licensure effective January 1, 2010. Beginning on that date, to obtain an audiologist license a person must do all of the following:

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. The bill authorizes the board to grant a license to practice audiology to a person who holds a current audiologist license in another state or United States territory if the applicant received a masters degree in audiology or completed education or training that the board determines is substantially equivalent and the board determines that the requirements for licensure are substantially equivalent to the requirements in this state.

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 a person completing a postgraduate fellowship effective January 1,

2010. The bill permits the board to grant a temporary license to practice audiology to a person who satisfies all the requirements for licensure but who has not completed the practical techniques tests administered by the board.

Other changes. Under current law, a corporation or mercantile establishment that sells or offers to sell hearing aids must employ a person licensed by the department as a hearing aid specialist or licensed or permitted by the board to practice audiology. The corporation or mercantile establishment must annually file with the board a list of persons employed to sell or fit hearing aids. This bill eliminates the annual filing requirement.

Under current law, persons who use audiometric equipment to evaluate hearing sensitivity for the fitting and sale of hearing aids must periodically calibrate the equipment and send certification of the calibration to the board. This bill eliminates the requirement that a certificate of calibration be sent to the board.

Under current law, a Council on Speech Language Pathology and Audiology (council) in the department serves the board in an advisory capacity. This bill eliminates the council.

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.** 15.407 (4) of the statutes is repealed.

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

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

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

8 **SECTION 4.** 459.02 (2) of the statutes is amended to read:

9 459.02 **(2)** Nothing in this subchapter or subch. II shall prohibit any
10 corporation or mercantile establishment which maintains an established business
11 address from engaging in the business of selling or offering for sale hearing aids at
12 retail without a license, provided that for the purpose of selling and fitting hearing

aids 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.~~

SECTION 5. 459.03 (1) of the statutes is amended to read:

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

SECTION 6. 459.03 (2) (intro.) of the statutes is amended to read:

459.03 **(2)** (intro.) The receipt shall contain all of the following information, that shall be set out in not less than 8–point type:

SECTION 7. 459.03 (2) (b) of the statutes is amended to read:

459.03 **(2)** (b) A statement that the purchaser has been advised ~~at the outset of the purchaser's relationship with~~ by the hearing instrument specialist that any examination or representation made by ~~a~~ the hearing instrument specialist in connection with the fitting and selling of this hearing aid 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.

SECTION 8. 459.085 of the statutes is amended to read:

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

SECTION 9. 459.10 (1) (g) of the statutes is amended to read:

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

SECTION 10. 459.10 (1) (q) and (r) of the statutes are created to read:

459.10 **(1)** (q) Intentionally or negligently misrepresented the cause of a hearing impairment or the cure of a hearing impairment by the use of a hearing aid.

(r) Made an intentional or negligent misrepresentation regarding a hearing aid or services.

SECTION 11. 459.23 of the statutes is repealed.

SECTION 12. 459.24 (1) (b) of the statutes is amended to read:

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

SECTION 13. 459.24 (1m) of the statutes is amended to read:

459.24 **(1m)** PROHIBITED TITLES. No person may use the title "certified hearing aid audiologist" ~~or~~," "certified hearing instrument audiologist," "licensed hearing instrument audiologist," "licensed hearing aid audiologist~~.~~." INS. CORR

SECTION 14. 459.24 (3) (d) of the statutes is renumbered 459.24 (3) (d) (intro.) and amended to read:

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

1. 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. This subdivision does not apply to applications received after December 31, 2009.

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

459.24 **(3)** (d) 2. Submits evidence satisfactory to the examining board that he or she possesses a doctoral degree in audiology from an accredited academic institution approved by the examining board by rule. The doctoral degree program must consist of not less than 3 years of educational course work and not less than 12 months of clinical rotation or externship. This subdivision applies to applications received after December 31, 2009.

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

SECTION 16. 459.24 (3) (e) of the statutes is amended to read:

459.24 **(3)** (e) Submits evidence satisfactory to the examining board that he or she has passed the ~~examination required for certification as an audiologist by the American Speech–Language–Hearing Association or passes an examination under s. 459.26 (2) (a) to determine fitness as an audiologist,~~ examinations selected or approved by the examining board by rule under s. 459.26 (2) (am), 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~~ the examinations selected or approved by the examining board under s. 459.26 (2) (am).

SECTION 17. 459.24 (3) (f) of the statutes is amended to read:

459.24 **(3)** (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 applies to applications received on or before December 31, 2009.

SECTION 18. 459.24 (3m) (a) of the statutes is amended to read:

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

SECTION 19. 459.24 (6) (b) of the statutes is renumbered 459.24 (6) (b) 1. and amended to read:

459.24 **(6)** (b) 1. 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). No license may be issued under this paragraph after December 31, 2009.

SECTION 20. 459.24 (6) (b) 2. of the statutes is created to read:

459.24 **(6)** (b) 2. The examining board may grant a temporary license to practice audiology to an individual who satisfies the requirements under sub. (3) (a) to (e).

SECTION 21. 459.24 (6) (c) of the statutes is amended to read:

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

SECTION 22. 459.26 (2) (a) of the statutes is amended to read:

459.26 **(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.

1 **SECTION 23.** 459.26 (2) (am) of the statutes is created to read:

2 459.26 **(2)** (am) The examining board shall by rule select and approve
3 examinations for audiology.

4 **SECTION 24.** 459.26 (2) (b) 4. of the statutes is amended to read:

5 459.26 **(2)** (b) 4. Recording and evaluation of audiograms and speech
6 audiometry to determine proper selection and ~~adaption~~ adaptation of a hearing aid.

7 **SECTION 25.** 459.28 (1) of the statutes is renumbered 459.28 (1) (intro.) and
8 amended to read:

9 459.28 **(1)** (intro.) Upon application and payment of the fee specified in s.
10 440.05 (2), the examining board shall ~~grant~~ do the following:

11 (a) Grant a license to practice speech–language pathology or audiology under
12 s. 459.24 (2) or (3) to an applicant who holds a current speech–language pathologist
13 or audiologist license in another state or territory of the United States if the
14 examining board determines that the requirements for licensure in the other state
15 or territory are substantially equivalent to the requirements under s. 459.24 (2) or
16 (3).

17 **SECTION 26.** 459.28 (1) (b) of the statutes is created to read:

18 459.28 **(1)** (b) Notwithstanding s. 459.24 (3) (d), grant a license to practice
19 audiology under s. 459.24 (3) to an applicant who holds a current audiologist license
20 in another state or territory of the United States if the examining board determines
21 all of the following:

22 1. The requirements for licensure in the other state or territory are
23 substantially equivalent to the requirements under s. 459.24 (3) (c), (e), and (em).

24 2. The applicant has submitted evidence satisfactory to the examining board
25 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.

SECTION 27. 459.34 (2) (d) of the statutes is amended to read:

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

SECTION 28. 459.34 (2) (i) of the statutes is created to read:

459.34 **(2)** (i) Intentionally or negligently misrepresented the cause of a hearing impairment or the cure of a hearing impairment by the use of a hearing aid.

SECTION 29. 459.34 (2) (j) of the statutes is created to read:

459.34 **(2)** (j) Made an intentional or negligent misrepresentation regarding a hearing aid or services.

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

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

SECTION 31. Effective date.

(1) This act takes effect on December 31, 2009, or on the day after publication, whichever is later.

(END)

State of Wisconsin
2009 – 2010 LEGISLATURE

LRBa1697/1
TKK:cjs:jf

SENATE AMENDMENT 1,

TO 2009 SENATE BILL 358

March 1, 2010 – Offered by Senator LEHMAN.

At the locations indicated, amend the bill as follows:

1. Page 4, line 23: delete "or audiology".

2. Page 4, line 24: delete "or audiological".

(END)