

STATE OF WISCONSIN
HEARING AND SPEECH EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : HEARING AND SPEECH EXAMINING
HEARING AND SPEECH : BOARD ADOPTING RULES
EXAMINING BOARD : (CLEARINGHOUSE RULE 01-043)

ORDER

An order of the Hearing and Speech Examining Board to repeal HAS 6.02 (4o), (4r) and (8a), 6.06, 6.065 and 6.09; to amend ch. HAS 6 (title), 6.01, 6.02 (7), (8) and (9), 6.03 (5), 6.04 (5), 6.04 (8), 6.07 (1) (intro.) and (c), 6.08 (2) (b), (c) and (3); to repeal and recreate HAS 6.03 (6), 6.04 (6) and (7), 6.05 and 6.08 (1) (e) 2.; and to create HAS 6.02 (1m), Subchapter II, Subchapter III and Subchapter IV, relating to the licensure and regulation of speech-language pathologists, audiologists, temporary licensees and supervision of unlicensed individuals.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 459.24, Stats.

Statutes interpreted: ss. 459.22 (2) (e), 459.24 (6) (a) and (b); 459.26 (2)(a) and 459.34 (2), Stats.

In this proposed rule-making order the Hearing and Speech Examining Board amends its rules relating to the licensure and regulation of speech-language pathologists, audiologists, temporary licensees and supervision of unlicensed individuals. Under the current rules, provisions relating to the licensure of speech-language pathologist, audiologist, temporary licensees and unlicensed individuals are placed throughout the chapter. The proposed rules organizes ch. HAS 6 into subchapters that relate specifically to the licensure and regulation of the various individuals. This change is being done primarily for purposes of clarity and placement in the code. With minor exceptions, all of the provisions contained in the current rules have been retained and placed under the relevant subchapter. Some minor and technical changes are being made to the rules for purposes of clarity, grammar, form, punctuation and the use of plain language. The following is a summary of the changes made in each subchapter:

Subchapter I relates to the licensure and regulation of speech-language pathologists and audiologists. In this subchapter, the term "Au.D." is being defined to mean a doctor of audiology degree granted by a college or university approved by the board. In addition, the proposed rule clarifies that an Au.D. degree obtained from a college or university approved by the board is substantially equivalent to the examination, supervised clinical practicum, education and postgraduate clinical fellowship required for licensure as an audiologist.

Finally, the term "employee", is being omitted from the rules based upon a revision to s. 459.22 (2)

(e), Stats., by Section 2925 of 1999 Wis. Act 9. Prior to the revision, the statute provided that an "employee" of a speech-language pathologist or audiologist was not required to obtain a license in order to "assist" in the practice of speech-language pathology or audiology. Since most individuals who assist in the practice of speech-language pathology and audiology are not employees of the speech-language pathologists and audiologists who supervise them, the statute was amended to change "employee" to "individual". The rules are being revised to reflect that change.

Subchapter II relates to the licensure and regulation of temporary licensees. In this subchapter, the terms "supervision" and "temporary licensee" are defined for purposes of clarity.

Subchapter III relates to supervision of unlicensed individuals by speech-language pathologists and audiologists. In this subchapter, the following terms are defined:

- 1) "assist in the practice of speech-language pathology"
- 2) "assist in the practice of audiology"
- 3) "direct supervision of unlicensed individuals"
- 4) "full-time equivalent individual"

In addition, the rules clarify the ratio that must be used by speech-language pathologists and audiologists when supervising unlicensed individuals.

Subchapter IV relates to the discipline of speech-language pathologists, audiologists and temporary licensees. In proposed s. HAS 6.18 (3) (p), the board clarifies that failure to record certain information in client records is one of the grounds for discipline. The language contained in this subchapter is found primarily in the current rules under s. HAS 6.09.

TEXT OF RULE

SECTION 1. Chapter HAS 6 (title) is amended to read:

CHAPTER HAS 6 (title)

LICENSURE OF SPEECH-LANGUAGE PATHOLOGISTS ~~AND~~
AUDIOLOGISTS AND TEMPORARY LICENSEES

SUBCHAPTER I – SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

SECTION 2. HAS 6.01 is amended to read:

HAS 6.01 Authority and purpose. The rules in this chapter are adopted by the hearing and speech examining board under the authority of ss. 227.11 (2) and 459.24 to 459.34, Stats., to govern the licensure of speech-language pathologists ~~and~~, audiologists and temporary licensees.

SECTION 3. HAS 6.02 (1m) is created to read:

HAS 6.02 (1m) “Au.D.” means a doctor of audiology degree granted by a college or university approved by the board.

SECTION 4. HAS 6.02 (4o) and (4r) are repealed.

SECTION 5. HAS 6.02 (7) and (8) are amended to read:

HAS 6.02 (7) “Speech-language pathologist” has the meaning given in s. ~~459.40~~ 459.20 (4), Stats.

(8) “Speech-language pathology” has the meaning given in s. ~~459.40~~ 459.20 (5), Stats.

SECTION 6. HAS 6.02 (8a) is repealed.

SECTION 7. HAS 6.02 (9) is amended to read:

HAS 6.02 (9) “Supervised clinical practicum” means a program required by a college or university for completion of a master’s degree ~~which~~ that consists of supervised applications of speech-language pathology or audiology.

SECTION 8. HAS 6.03 (5) is amended to read:

HAS 6.03 (5) Evidence satisfactory to the board that the applicant has satisfied one of the following:

(a) ~~Has completed~~ Completed a supervised clinical practicum and received a master’s degree in speech-language pathology from a college or university approved by the board; ~~or,~~

(b) ~~Has completed~~ Completed education or training that the board determines is substantially equivalent to the requirements under par. (a).

SECTION 9. HAS 6.03 (6) is repealed and recreated to read:

HAS 6.03 (6) Written verification forwarded directly to the board by the NESPA examination administrator, ASHA, course providers or trainers, as appropriate, stating that the applicant has satisfied one of the following:

(a) Passed the NESPA examination required under s. HAS 6.05.

(b) Completed education or training that the board determines is substantially equivalent to passing the NESPA examination that may include verification that the applicant has been granted a certificate of clinical competence in speech-language pathology by ASHA.

SECTION 10. HAS 6.04 (5) is amended to read:

HAS 6.04 (5) Evidence satisfactory to the board that the applicant has satisfied one of the following:

(a) ~~Has completed~~ Completed a supervised clinical practicum and received a master's degree in audiology from a college or university approved by the board; ~~or,~~

(b) ~~Has completed~~ Completed education or training that the board determines is substantially equivalent to the requirements for licensure under par. (a), that may include evidence that the applicant has been granted an Au.D. degree from a college or university approved by the board.

SECTION 11. HAS 6.04 (6) and (7) are repealed and recreated to read:

HAS 6.04 (6) Written verification forwarded directly to the board by the NESPA examination administrator, ASHA, course providers or trainers, as appropriate, stating that the applicant has satisfied one of the following:

(a) Passed the NESPA examination required under s. HAS 6.05.

(b) Completed education or training that the board determines is substantially equivalent to passing the NESPA examination that may include evidence satisfactory to the board that the applicant has received one of the following:

1. A certificate of clinical competence in audiology granted by ASHA.

2. An Au.D. degree granted by a college or university approved by the board.

(7) Evidence satisfactory to the board that the applicant has satisfied one of the following:

(a) Completed a postgraduate clinical fellowship in audiology approved by the board.

(b) Completed education or training that the board determines is

substantially equivalent to the completion of a fellowship that may include written verification that the applicant has been granted an Au.D. degree from a college or university approved by the board.

SECTION 12. HAS 6.04 (8) is amended to read:

HAS 6.04 (8) Evidence satisfactory to the board that the applicant has passed the practical examination required under ~~s. HAS 6.05 (2) (b)~~ s. 459.26 (2) (b), Stats., or has completed education or training that the board determines is substantially equivalent to the completion of the examination.

SECTION 13. HAS 6.05 is repealed and recreated to read:

HAS 6.05 Examinations. (1) An applicant for licensure as a speech-language pathologist shall satisfy one of the following:

(a) Pass the NESPA examination required by ASHA for certification as a speech-language pathologist.

(b) Submit written evidence satisfactory to the board that he or she has completed education or training that the board determines is substantially equivalent to passing the NESPA examination that may include written verification that the applicant has been granted a certificate of clinical competence in speech-language pathology by ASHA.

(2) An applicant for licensure as an audiologist shall satisfy all of the following:

(a) Submit written evidence satisfactory to the board that he or she has satisfied one of the following:

1. Passed the NESPA examination required by ASHA for certification as an audiologist.

2. Completed education or training that the board determines is substantially equivalent to passing the NESPA examination that may include evidence satisfactory to the board that the applicant has received one of the following:

a. A certificate of clinical competence in audiology granted by ASHA.

b. An Au.D. degree granted by a college or university approved by the board.

(b) Submit written evidence satisfactory to the board that he or she has passed the practical examination required under s. 459.26 (2) (b), Stats., or submit evidence of completion of education or training that the board determines is substantially equivalent to completing the practical examination.

Note: The board accepts Certificates of Clinical Competence (CCC) in speech-language pathology and audiology granted by ASHA, as well as Au.D. degrees granted by colleges and universities approved by the board, as evidence of completion of education and training that is substantially equivalent to passing the NESPA examination.

SECTION 14. HAS 6.06 and 6.065 are repealed.

SECTION 15. HAS 6.07 (1) (intro.) and (c) are amended to read:

HAS 6.07 (1) (intro.) An applicant seeking licensure on the basis of a license in another jurisdiction shall do all of the following:

(c) Submit evidence to the board that the applicant holds a current speech-language pathologist or ~~an~~ audiologist license in another state or jurisdiction of the United States.

SECTION 16. HAS 6.08 (1) (e) 2. is repealed and recreated to read:

HAS 6.08 (1) (e) 2. If applying for a permit to practice audiology, evidence satisfactory to the board that the applicant has satisfied one of the following:

a. Completed a supervised clinical practicum and received a master's degree in audiology from a college or university approved by the board.

b. Completed education or training that the board determines is substantially equivalent to the requirements for licensure under par. (a), that may include evidence that the applicant has been granted an Au.D. degree from a college or university approved by the board.

SECTION 17. HAS 6.08 (2) (b), (c) and (3) are amended to read:

HAS 6.08 (2) (b) The fees required under s. 440.05 (1) (b) and ~~(2) (6)~~, Stats., as appropriate.

(c) Evidence satisfactory to the board that the applicant holds a current speech-language pathologist license or audiologist license in another state or jurisdiction of the United States.

(3) A license permit granted to an applicant applying under sub. (1) shall be valid for a period not to exceed 10 days in any calendar year. A license permit granted to an applicant applying under sub. (2) shall be valid for a period not to exceed 45 days in any calendar year. In determining whether to grant a license permit under sub. (2), the board shall determine whether the requirements for licensure in the other state or jurisdiction are substantially equivalent to the requirements for licensure under s. HAS 6.03 or 6.04, as appropriate.

SECTION 18. HAS 6.09 is repealed.

SECTION 19. Subchapter II is created to read:

SUBCHAPTER II – TEMPORARY LICENSEES

HAS 6.09 Definitions. In this subchapter and in ch. 459, Stats.:

(1) "Sufficient cause" means illness or other hardship.

(2) "Supervision" means any of the following:

(a) A face-to-face meeting, at least monthly, between the supervisor and the temporary licensee and other on-going communications by mail, telephone, pager, e-mail or other electronic means.

(b) On-site, in-view observation and guidance by the supervisor while an assigned activity is performed by the temporary licensee.

(3) "Temporary licensee" means an individual who has been granted a temporary license by the board under s. 459.24 (6), Stats., to engage in the practice of speech-language pathology or audiology during the completion of a postgraduate clinical fellowship.

HAS 6.10 Application for licensure. (1) Before commencing a postgraduate clinical fellowship, an individual shall obtain a temporary license under s. 459.24 (6), Stats. The applicant shall submit all of the following:

(a) An application on a form provided by the board.

Note: Application forms are available upon request to the board office at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(b) The fee specified in s. 440.05 (6), Stats.

(c) Subject to ss. 111.321, 111.322 and 111.335, Stats., evidence satisfactory to the board that the applicant does not have a conviction record.

(d) Evidence satisfactory to the board that the applicant has completed one of the following:

1. A supervised clinical practicum and received a master's degree in speech-language pathology or audiology, as appropriate, from a college or university approved by the board.

2. Education or training that the board determines is substantially equivalent to the completion of the requirements under subd. 1.

(e) If applying for a temporary license to practice speech-language pathology, an application to take the next available examination for licensure as a speech-language pathologist required under s. 459.26 (2) (a), Stats.

(f) If applying for a temporary license to practice audiology, an application to take the next available examinations for licensure as an audiologist required under s. 459.26 (2) (a) and (b), Stats.

(2) A temporary license is valid for a period designated by the board, not to exceed 9 months. A temporary license granted by the board to practice speech-language pathology may be renewed once, at the discretion of the board. A temporary license granted to practice audiology may be renewed once by the board if the applicant fails an examination for audiologist licensure under s. 459.26 (2) (a) or (b), Stats., and applies to take the next available examination or if the applicant shows, to the satisfaction of the board, sufficient cause for the renewal.

(3) The application and documents required for a temporary license may be reviewed by 2 members of the board to determine eligibility. The board may issue a temporary license prior to regular licensure to an applicant who meets the requirements under sub. (1).

_____ Note: The board accepts an Au.D. degree that has been granted by a college or university approved by the board as evidence of completion of education and training that is substantially equivalent to the completion of a supervised clinical practicum and receipt of a master's degree in audiology, passing the NESPA examination and completion of a postgraduate clinical fellowship in audiology.

HAS 6.11 Supervision. Supervision during the period of temporary licensure shall be face-to-face, at least monthly, with a speech-language pathologist or audiologist who shall once a month provide written approval in the client files of the clinical services provided.

HAS 6.12 Use of titles. An individual who holds a temporary license under s. 459.24 (6), Stats., may use the title "audiology intern," "speech-language pathology intern," "clinical fellow in audiology," or "clinical fellow in speech-language pathology."

HAS 6.13 Discipline. Temporary licensees and speech-language pathologists and audiologists who supervise temporary licensees may be subject to discipline under s. HAS 6.18.

SECTION 20. Subchapter III is created to read:

SUBCHAPTER III - UNLICENSED INDIVIDUALS

HAS 6.14 Definitions. In this chapter and in ch. 459, Stats.:

(1) (a) "Assist in the practice of speech-language pathology" means providing speech-language pathology services, while under direct supervision, that include any of the following:

1. Conducting speech-language screenings.
2. While in the presence of the speech-language pathologist, providing assistance during client evaluations that include:
 - a. Helping with informal documentation such as taking a written language sample; organizing test materials; preparing treatment materials; developing communication boards and performing assigned clerical duties.
 - b. Scheduling activities, preparing charts, records, graphs or displaying data related to client performance.
 - c. Performing calibration and regular maintenance of equipment.
 - d. Participating in research projects, in-service training and public relations programs.
3. While in the presence of the speech-language pathologist, providing assistance during a treatment session conducted by the speech-language pathologist that may include any of the following:
 - a. Structured speech-language drills; oral motor exercises; practice and reinforcement of established speech-language skills and applications to communication activities of daily living.
 - b. Informal documentation of the client's response to treatment.
4. Providing treatment to clients selected by the speech-language pathologist by adhering to the treatment plans established by the speech-language pathologist who is not present but is available for consultation, as needed.

(b) "Assist in the practice of speech-language pathology" does not include any of the following:

- evaluations.
1. Performing formal or informal speech-language pathology
 2. Interpreting screening or test results.
 3. Participating in client conferences or interdisciplinary team meetings or communicating with a client's family or other individuals outside of the presence of the supervising speech-language pathologist unless authorized by the speech-language pathologist.
 4. Writing evaluation consultation reports.
 5. Providing counseling to the client or the client's family.
 6. Writing, developing or modifying a client's individualized treatment plan.
 7. Deviating from the treatment plan.
 8. Working with clients without direct supervision by the speech-language pathologist.
 9. Signing formal client documents such as evaluations or progress notes.
 10. Selecting clients for service or discharging clients from service.
 11. Disclosing confidential client information unless authorized by the supervising speech-language pathologist.
 12. Referring a client to another health care provider.

(2) (a) "Assist in the practice of audiology" means providing audiology services that include any of the following:

1. Conducting hearing screenings including pure tone thresholds.
2. Servicing hearing instruments including applying lubrication, making tube changes on ear molds, cleaning and repairing cases or ear mold surfaces, checking battery status and returning hearing instruments to patients after servicing.
3. Preparing informal documentation of clients' responses to treatment or service.
4. Performing biological checks, calibrations and regular maintenance of equipment.

5. Preparing charts and records, scheduling activities and performing assigned clerical duties.

(b) "Assist in the practice of audiology" does not mean any of the following:

1. Performing diagnostic audiological evaluations.
2. Interpreting screening or test results.
3. Writing evaluation consultation reports.
4. Providing counseling to the client or the client's family.
5. Signing formal client documents including evaluations and progress notes.
6. Disclosing confidential client information unless authorized by the supervising audiologist.
7. Referring a client to another health care provider.

(3) "Direct supervision of unlicensed individuals" means:

(a) For purposes of monitoring unlicensed individuals who assist in the practice of speech-language pathology, providing direct observation and supervision of the clinical services provided by the individual to clients at least 50% of client contact time during the first 90 days of employment and no less than 25% thereafter. Direct supervision shall be scheduled and documented. Documentation of direct supervision shall include all of the following:

1. Identifying specific roles and tasks for the individual.
2. Ensuring that the tasks performed by the individual do not require the exercise of professional judgment or entail interpretation of results or the development or modification of treatment plans.
3. Providing appropriate training that is competency-based and specific to job performance.
4. Recording daily contacts between the speech-language pathologist and the unlicensed individual who assists in the practice of speech-language pathology.

(b) For purposes of monitoring unlicensed individuals who assist in the practice of audiology, providing comprehensive, periodic and documented supervision that includes:

1. Identifying specific roles and tasks for the individual.
2. Ensuring that the tasks performed by the individual do not require the exercise of professional judgment or entail interpretation of results or the development or modification of treatment plans.
3. Providing appropriate training that is competency-based and specific to job performance.

(4) "Full-time equivalent individual" means an unlicensed individual who, alone or in conjunction with other unlicensed individuals, assists in the practice of speech-language pathology or audiology for a combined total of 40 hours per week.

HAS 6.15 Direct supervision. (1) An unlicensed individual may assist in the practice of speech-language pathology or audiology only under the direct supervision of a speech-language pathologist or audiologist, as appropriate.

(2) For purposes of supervising unlicensed individuals who assist in the practice of speech-language pathology or audiology:

(a) A speech-language pathologist may supervise up to 2 full-time equivalent individuals at any given time.

(b) Except as provided in par. (c), an audiologist may supervise up to 5 full-time equivalent individuals at any given time.

(c) In industrial settings, an audiologist may supervise up to 10 full-time equivalent individuals at any given time.

HAS 6.16 Prohibited practice and use of titles. No person may engage in the practice of speech-language pathology or use the title "speech-language pathologist" or any similar title or engage in the practice of audiology or use the title "audiologist", "clinical audiologist" or any similar title, unless the person holds a current speech-language pathologist or audiologist license, as appropriate, granted by the board.

HAS 6.17 Discipline. A speech-language pathologist or audiologist who supervises an unlicensed individual may be subject to discipline under s. HAS 6.18.

SECTION 21. Subchapter IV is created to read:

SUBCHAPTER IV - DISCIPLINE

HAS 6.18 Grounds for discipline. (1) The board may reprimand a speech-language pathologist, audiologist, temporary licensee or a permittee, or deny, limit, suspend or revoke a license or permit, if it finds that the applicant, licensee or permittee has done any of the following:

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

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

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

(d) Advertised in a manner which is false, deceptive or misleading.

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

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

(g) Violated ch. 459, Stats., subchapter II, or any rule promulgated by the board under that subchapter.

(2) In addition to the grounds for discipline set forth in sub. (1), the board may reprimand an audiologist, or deny, limit, suspend or revoke a license or permit, if it finds that the applicant, licensee or permittee has done any of the following:

(a) Violated any federal or state statute, rule or regulation that relates to the practice of fitting and dealing in hearing aids.

(b) Failed to conduct a direct observation of the ear canal of a purchaser of a hearing aid.

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

(3) In this section, "conduct in the practice of speech-language pathology or audiology which evidences a lack of knowledge or ability to apply professional principles or skills"

includes:

(a) Subject to ss. 111.321, 111.322 and 111.34, Stats., practicing or attempting to practice speech-language pathology or audiology while the person's ability to practice is impaired by a mental or emotional disorder.

(b) Using the title "speech-language pathologist," "audiologist" or any similar title unless the individual holds a current speech-language pathologist or audiologist license granted under s. 459.24 (2) or (3), Stats.

(c) Violating the conditions or limitations placed upon a license or permit by the board.

(d) Engaging in conduct likely to deceive, defraud, or harm an individual or the public in the course of the practice of speech-language pathology or audiology.

(e) Having a license, certificate, permit or registration issued by another jurisdiction to practice as a speech-language pathologist or audiologist limited, suspended or revoked.

(f) Aiding or abetting an unlicensed person, knowingly conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person to evade the use of a title prohibited under s. 459.24 (1) or (1m), Stats.

(g) Engaging in sexual intimacies in connection with the practice of speech-language pathology or audiology.

(h) Failing to fully inform persons served of the nature and possible adverse effects of services rendered and products dispensed.

(i) Failing to evaluate the effectiveness of services rendered or products dispensed.

(j) Providing services or dispensing products when benefits cannot reasonably be expected.

(k) Guaranteeing the results of any treatment or procedure, directly or by implication, except that a reasonable statement of prognosis may be made.

(L) Evaluating or treating speech, language, or hearing disorders except in a professional relationship.

(m) Treating solely by correspondence.

(n) Failing to maintain adequate records of professional services rendered and products dispensed for a period of 5 years.

Note: Speech-language pathologists and audiologists are also required to maintain patient health care records in accordance with ss. 146.81 to 146.84, Stats.

(o) Failing to provide access to records of professional services rendered and products dispensed when requested by the board or its representative in connection with an investigation of a complaint filed against the applicant, licensee or permittee.

(p) Failing to record all of the following information in each client record:

1. The name of the licensee.
2. The date of entry of pertinent information.
3. Information sufficiently legible to allow interpretation by other individuals for the benefit of the client.

(q) Misrepresenting diagnostic information, services rendered, or products dispensed or engaging in any scheme to defraud in connection with obtaining reimbursement.

(r) Using persons in research or as the subject of a teaching demonstration without obtaining their informed consent.

(s) Failing to practice speech-language pathology or audiology within the scope of the licensee's competence, education, training and experience.

(t) Delegating the provision of clinical services to an unlicensed individual for whom the licensee does not provide direct supervision.

(u) Delegating the provision of clinical services to a temporary licensee for whom the licensee does not provide supervision.

(v) Knowingly permitting any professional staff or unlicensed individual to provide clinical services that exceed that person's competence, education, training and experience.

(w) Failing to assign credit to persons who have contributed to clinical services, a publication, presentation or product in proportion to their contribution.

(x) Failing to perform cerumen management in a competent manner.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____

Chairperson
Hearing and Speech Examining Board

g:\rules\has3.doc
7/27/01