

Clearinghouse Rule 21-025

STATE OF WISCONSIN
HEARING AND SPEECH EXAMINING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : HEARING AND SPEECH
HEARING AND SPEECH : EXAMINING BOARD
EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Hearing and Speech Examining Board to amend HAS 2.01 (3) and (4), relating to supervision of hearing instrument specialist temporary trainees.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 459.12, Stats.

Statutory authority: Sections 15.08 (5) (b) and 459.12 (1) and (3), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., states that “[e]ach examining board shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 459.12 (1) and (3), Stats., states that, “[t]he examining board may make rules not inconsistent with the laws of this state which are necessary to carry out the intent of this chapter,” and that “[t]he examining board shall by rule prescribe the number of trainees a licensee may supervise under s. 459.07.”

Related statute or rule: Chapter HAS 1

Plain language analysis:

The Board reviewed chs. HAS 1 and 2 with the objectives of revising requirements to increase opportunities for new applicants entering the profession while ensuring trainee permit holders are directly supervised and compliance with statutory requirements. As a result of this review, the following updates have been made:

- Section HAS 2.01 (3) is amended to specify a trainee permit may be extended for a period of one year.
- Section HAS 2.01 (4) is amended to increase the total number of trainee permit holders a licensee may supervise at any given time from one to 3.

Summary of, and comparison with, existing or proposed federal regulation:

The Federal Trade Commission (FTC) is responsible for monitoring the business practices of hearing aid dispensers and vendors. The Food and Drug Administration (FDA) enforces regulations for the manufacture and sale of hearing aids as medical devices. This proposed rule does not apply to business practices, such as the manufacture or sale of hearing aids.

Comparison with rules in adjacent states:

Illinois: Hearing specialist trainees may receive a 6-month dispenser license, which is non-renewable. An applicant for a 6-month trainee dispenser license is required to submit a letter of verification from the licensed supervisor and a completed trainee form signed by the supervisor. Before a trainee license will be issued, the trainee must complete required courses and pay the trainee license fee (77 Ill. Adm. Code 682.200).

A licensed trainee may perform the functions of a hearing instrument dispenser under direct supervision of a designated licensed hearing instrument dispenser or audiologist. The designated licensed supervisor is responsible for all work performed by the trainee. One supervisor may supervise a limit of 3 trainees at any point in time (77 Ill. Adm. Code 682.215).

"Direct supervision" requires the licensed hearing instrument dispenser or audiologist to give final approval to all work performed by the trainee, sign off on all progress notes and contracts, and be physically present anytime the trainee has contact with a client (77 Ill. Adm. Code 682.100).

Iowa: Iowa Statutes chapter 645, section 121.2 allows the Iowa Board of Hearing Aid Specialists to issue temporary permits for hearing aid specialists trainees. Temporary permits are issued for one year and are non-renewable. The permit application includes a statement from the employer outlining the type of supervision to be provided to the trainee; a list of the subjects to be covered; the materials to be used for training; and an outline of the training program to be followed in preparing the trainee for examination.

A licensed hearing aid specialist employing a trainee with a temporary permit is responsible for:

- providing training;
- evaluating audiograms and determining which hearing aid and ear mold will best compensate for hearing loss of a particular person;
- notifying the board within 15 days of the termination of the trainee; and,
- for the first 90 days, providing a minimum of 20 hours of direct supervision per week in the physical presence of a holder of a temporary permit.

A licensed hearing aid specialist may supervise up to 3 trainees with temporary permits at the same time. Supervisors must cosign all audiometric evaluations and contracts

processed by the trainee for the duration of the temporary permit and submit a report for trainees prior to taking the board-approved examination and any retakes.

Michigan: Under Michigan statutes s. 339.1307, a Hearing Aid Trainee license is available through the Department of Licensing and Regulatory Affairs. A trainee license is valid for one year. A new trainee license may be issued by the board upon the filing of an application. The application fee is \$50.

Michigan requires a trainee work for and under the direction and supervision of a named licensed hearing aid dealer. A license may be transferred by a trainee to a new dealer upon the filing of an application for a transfer. There is no identified limit on the number of trainees that a named licensed hearing aid dealer may supervise.

Minnesota: A person may be approved to dispense hearing instruments as a trainee for a period not to exceed 12 months. Trainees must be under the supervision of a certified dispenser and must meet all requirements for certification except successful completion of the required examination.

There are 2 levels of supervision for a trainee, indirect and direct. A certified hearing instrument dispenser may indirectly supervise up to 2 trainees at the same time and directly supervise only one trainee at a time. Under indirect supervision, the trainee must complete 2 monitored activities a week. Monitored activities may be executed by correspondence, telephone, or other telephonic devices, and include evaluation of audiograms, written reports, and contracts. The trainee's time spent under supervision must be recorded and the record retained by the supervisor.

The certified dispenser is responsible for all actions or omissions of a trainee in connection with the dispensing of hearing instruments. Trainees must be directly supervised in all activities prior to passing the practical exam. Once a trainee passes the practical exam, trainees may dispense hearing instruments under indirect supervision until expiration of the trainee period. (Section 153A.14, 2020 Minnesota Statutes)

Summary of factual data and analytical methodologies:

The Board reviewed chs. HAS 1 and HAS 2 to revise requirements to increase opportunities for new applicants entering the profession while ensuring trainee permit holders are directly supervised and compliance with statutory requirements.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8306; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 1:00 p.m. on April 5, 2021, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. HAS 2.01 (3) and (4) are amended to read:

HAS 2.01 (3) A trainee permit may be ~~renewed or regranted only once and then only when~~ extended for a period of one year if the trainee shows sufficient cause to the board for not having completed the requirements for a permanent license.

(4) No more than ~~one trainee~~ 3 trainees at any given time may hold a trainee permit to practice the fitting of hearing instruments under the direct supervision of a given licensee.

SECTION 2. EFFECTIVE DATE. 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.

(END OF TEXT OF RULE)
