



STATE OF WISCONSIN
Department of Safety and Professional Services
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**HEARING AND SPEECH EXAMINING BOARD
ROOM 121A, 1400 E. WASHINGTON AVENUE, MADISON
CONTACT: ANGELA HELLENBRAND (608) 261-5406
JULY 8, 2013**

The following agenda describes the issues that the Board, Council, Committee or Section plans to consider at the meeting. At the time of the meeting items may be removed from the agenda. Please consult the meeting minutes for a description of the actions and deliberations of the Board, Council, Committee or Section.

1:00 P.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. **Approval of Agenda (1-2)**
- B. **Approval of Minutes of April 22, 2013 (3-6)**
- C. **Executive Director Matters – Discussion and Consideration**
 - 1) **DSPS Job Ready Initiative (7-8)**
- D. **Education and Examination Matters – Discussion and Consideration**
 - 1) **IHS International Licensing Examination**
- E. **Administrative Matters – Discussion and Consideration**
 - 1) **DSPS Public Board Agenda Request Form (9-10)**
- F. **Credentialing Matters – Discussion and Consideration**
 - 1) **Administrative Processing (11-12)**
- G. **Practice Matters – Discussion and Consideration**
 - 1) **Resale of Used/Previously Worn Hearing Aids (13-14)**
- H. **Legislation and Administrative Rule Matters – Discussion and Consideration**
 - 1) **Rulemaking Order CR 12-050 to amend HAS 6 relating to deceptive advertising (15-20)**
 - 2) **HAS 6.10 relating to temporary permits (21-22)**

- I. Items Received After Printing of the Agenda:
- 1) Introductions, Announcements and Recognition
 - 2) Presentations of Petition(s) for Summary Suspension
 - 3) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
 - 4) Presentation of Proposed Final Decision and Order(s)
 - 5) Status of Statute and Administrative Rule Matters
 - 6) Informational Item(s)
 - 7) Correspondence or Inquiries Received by Legal Counsel
 - 8) DLSC Matters
 - 9) Education and Examination Matters
 - 10) Credentialing Matters
 - 11) Practice Questions/Issues
 - 12) Legislation/Administrative Rule Matters
 - 13) Liaison Report(s)

J. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (Wis. Stat. § 19.85 (1) (a)); consider closing disciplinary investigation with administrative warning (Wis. Stat. § 19.85 (1) (b), and Wis. Stat. § 440.205); consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g))

K. **DLSC Matters – Discussion and Consideration**

- 1) Review of Case Status Report

L. Deliberation of Items Received After Printing of the Agenda:

- 1) Application Issues and/or Reviews
- 2) Professional Assistance Procedure (PAP)
- 3) Monitoring Matters
- 4) Proposed Stipulation(s), Final Decision(s) and Order(s)
- 5) Administrative Warning(s)
- 6) Orders Fixing Costs/Matters Related to Costs
- 7) Proposed Final Decision(s) and Order(s)
- 8) Petitions for Summary Suspension(s)
- 9) Petitions for Re-hearings
- 10) Case Closings
- 11) Education or Examination Issues
- 12) Credential Issues
- 13) Appearances from Requests Received or Renewed
- 14) Motions

RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

Voting on Items Considered or Deliberated on in closed Session if Voting is Appropriate

ADJOURNMENT

**HEARING AND SPEECH EXAMINING BOARD
MINUTES
APRIL 22, 2013**

PRESENT: Okie Allen, Samuel Gubbels, Doreen Jensen, Steven Klapperich, Edward Korabic, Thomas Sather, Patricia Willis and Peter Zellmer

STAFF: Dan Williams, Executive Director; David Carlson, Communications Specialist; and Angela Hellenbrand, Executive Director

CALL TO ORDER

Steven Klapperich, Chair, called the meeting to order at 1:29 p.m. A quorum of 8 was present.

APPROVAL OF AGENDA

Amendment:

- Remove Item N.
-

MOTION: Edward Korabic moved, seconded by Samuel Gubbels, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF JANUARY 7, 2013

MOTION: Doreen Jensen moved, seconded by Thomas Sather, to approve the Minutes of January 7, 2013 as published. Motion carried unanimously.

MOTION: Okie Allen moved, seconded by Doreen Jensen, to acknowledge the Chair's appointment of Thomas Sather as a Credentialing Liaison in place of Doreen Jensen. Motion carried unanimously.

EXECUTIVE DIRECTOR MATTERS

MOTION: Peters Zellmer moved, seconded by Patricia Willis, to delegate authority to the Credentialing Liaisons to address all issues related to credentialing matters. Motion carried unanimously.

- MOTION:** Peter Zellmer moved, seconded by Doreen Jensen that the Board delegates authority to the Chair or designated Section member to sign documents on behalf of the Section. In order to carry out duties of the Board, the Chair or Board member has the ability to delegate this signature authority to the Executive Director for purposes of facilitating the completion of assignments during or between meetings. The Chair or the Board member may delegate the authority to the Executive Director, to sign the name of the Chair or Board member on documents as necessary. Motion carried unanimously.
- MOTION:** Peter Zellmer moved, seconded by Samuel Gubbels, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department where knowledge or experience in the profession is required to carry out the duties of the Section in accordance with the law. Motion carried unanimously.
- MOTION:** Peter Zellmer moved, seconded by Doreen Jensen, to adopt the Roles and Authorities Delegated to the Monitoring Liaison document. Motion carried unanimously.

LEGISLATIVE ADMINISTRATIVE RULES MATTERS

- MOTION:** Okie Allen moved, seconded by Peter Zellmer, to acknowledge that the Board has completed a review of all HAS Code chapters pursuant to Executive Order 61 and is recommending no changes. Motion carried unanimously.
- MOTION:** Peter Zellmer moved, seconded by Okie Allen, to research the possibility of adding an exam day the first week of June for Hearing Instrument Specialist and Audiologist licensees. Motion carried unanimously.
- MOTION:** Peter Zellmer moved, seconded by Edward Korabic, to have staff continue work on HAS 6.10 and bring a draft to the July Board meeting for consideration. Motion carried unanimously.

MOTION: Thomas Sather moved, seconded by Doreen Jensen, to approve all changes made in the Speech Language Pathology Positions Statement included in the packet for today's meeting and attached to these minutes. Motion carried unanimously.

MOTION: Samuel Gubbels moved, seconded by Edward Korabic, to have DSPTS staff research, for the next meeting, the range of times needed for administrative processing of all applications. Motion carried unanimously.

MOTION: Okie Allen moved, seconded by Thomas Sather, to have a discussion at the next meeting regarding the IHS ILE exam. Motion carried unanimously.

CLOSED SESSION

MOTION: Peter Zellmer moved, seconded by Samuel Gubbels, to convene to closed session to deliberate on cases following hearing (Wis. Stat. § 19.85 (1) (a)); to consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b) and Wis. Stat. § 440.205); consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)) and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Motion carried unanimously in a roll call vote. Okie Allen-yes; Samuel Gubbels-yes; Doreen Jensen-yes; Steven Klapperich-yes; Edward Korabic-yes; Thomas Sather; Patricia Willis-yes; and Peter Zellmer-yes.

Open session recessed at 4:19 p.m.

RECONVENE INTO OPEN SESSION

MOTION: Doreen Jensen moved, seconded by Edward Korabic, to reconvene into open session. Motion carried unanimously.

Open session reconvened at 4:34 p.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

MOTION: Samuel Gubbels moved, seconded by Doreen Jensen, to affirm the following actions taken in closed session. Motion carried unanimously.

DELIBERATION ON ADMINISTRATIVE WARNING(S)

MOTION: Peter Zellmer moved, seconded by Patricia Willis, to issue an Administrative Warning in case number 12 HAD 005/M.E.S. Motion carried unanimously.

CASE CLOSINGS

MOTION: Edward Korabic moved, seconded by Samuel Gubbels, to close case 12 HAD 005/A.B. for No Violation. Motion carried unanimously.

MOTION: Edward Korabic moved, seconded by Samuel Gubbels, to close case 12 HAD 007 for Insufficient Evidence. Motion carried unanimously.

GRANTING OF LICENSES

MOTION: Edward Korabic moved, seconded by Okie Allen, that the Board ratify the scores from the April 22, 2013 exams and give Steven Klapperich the authorization to grant the licenses. Motion carried unanimously.

ADJOURNMENT

MOTION: Okie Allen moved, seconded by Thomas Sather, to adjourn the meeting. Motion carried unanimously.

Meeting adjourned at 4:37 p.m.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Angela Hellenbrand Executive Director		2) Date When Request Submitted: 25 June 2013 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Hearing & Speech Examining Board			
4) Meeting Date: 8 July 2013	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Executive Director Matters - DSPS Job Ready Initiative	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: n/a	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Angela Hellenbrand Executive Director		2) Date When Request Submitted: 26 June 2013 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Hearing & Speech Examining Board			
4) Meeting Date: 8 July 2013	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Matters -DPS Public Board Agenda Item	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: New feature on the DPS website under "Boards & Council" for public to request a topic go before the Board.			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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**State of Wisconsin
Department of Safety & Professional Services**

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1) Name and Title of Person Submitting the Request: Angela Hellenbrand Executive Director		2) Date When Request Submitted: 25 June 2013 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Hearing & Speech Examining Board			
4) Meeting Date: 8 July 2013	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Credentialing Matters -Administrative Processing	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: <i>Per Amy Booth: License/Permit Program Associate</i> -Approximately 10-15 business days to process application --Must meet all application requirements before being placed on the examination roster. --Additional time required if, upon initial review, the applicant needs to submit more information (time for applicant to submit additional items & for DSPPS to review) -We need to receive, process and approve a completed H.I.S. application 30 days prior to the exam date. <i>The office of exams and education requires 30 days before the exam date to allow time to schedule applicants and hire appropriate number of proctors.</i> <i>Possible resolution: "Applications and all supporting documents should be submitted to DSPPS at least 45 days prior to the examination."</i>			
11) Authorization <hr/> Signature of person making this request Date <hr/> Supervisor (if required) Date <hr/> Bureau Director signature (indicates approval to add post agenda deadline item to agenda) Date			
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**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sharon Henes Paralegal		2) Date When Request Submitted: <i>25 June 2013</i>	
		Items will be considered late if submitted after 4:30 p.m. and less than: ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others	
3) Name of Board, Committee, Council, Sections: Hearing and Speech Examining Board			
4) Meeting Date: 8 July 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Adoption of Rulemaking Order CR 12-050 amending HAS 6 relating to deceptive advertising.	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Adopt Rulemaking Order			
11) Authorization			
<i>Sharon Henes</i>		<i>25 July 2013</i>	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
HEARING AND SPEECH EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	HEARING AND SPEECH
HEARING AND SPEECH	:	EXAMINING BOARD
EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 12-050)

ORDER

An order of the Hearing and Speech Examining Board to amend HAS 6.18 (1) (d) and to create HAS 6.175 (1m) relating to deceptive advertising.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 459.01(1d) and 459.34(2)(d), Stats.

Statutory authority:

Sections 15.08 (5) (b), and 459.12(1), Stats.

Explanation of agency authority:

2009 Act 356 amended s. 459.34(2)(d), Stats., to expand and further clarify the definition of deceptive practices.

Each 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. The hearing and speech examining board may make rules not inconsistent with the laws of this state which are necessary to carry out the intent of ch. 459.

Related statute or rule:

Sections 459.01(1d) and 459.34(2)(d), Stats.

Plain language analysis:

The passage of 2009 Wisconsin Act 356 created a definition for deceptive practices which further clarifies what constitutes deceptive advertising. The new definition

includes a list of specified types of representation or materials which are considered deceptive advertising if they are misleading, false or untruthful.

The Act also amends deceptive practices as a basis for professional discipline by eliminating the words false and misleading which are now included in the new definition.

This rule is amended to be consistent with the statutory changes.

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

None

Comparison with rules in adjacent states:

The comparison information with the rules in adjacent states was obtained directly from a review of the following statutes and rules.

Iowa

645 Iowa Admin. Code 304.2(4) defines professional incompetency as including but not limited to the use of untruthful or improbable statements in advertisements and actions by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

<http://www.legis.state.ia.us/aspx/ACODOCS/DOCS/304.2.pdf>

Illinois:

68 Illinois Admin. Code 1465.95(j) provides that the licensing authority may take disciplinary action against a speech-language pathology and audiology license based upon its finding of unethical, unauthorized or unprofessional conduct which includes “deceptive, misleading, false representation.”

<http://www.ilga.gov/commission/jcar/admincode/068/06801465sections.html>

Minnesota:

Chapter 148.5195(10), of the Minnesota Statutes, provides that disciplinary action may be taken against an audiologist for advertising in a manner that is false or misleading or engaging in conduct that is likely to deceive, defraud or harm the public.

<http://www.revisor.mn.gov/statutes/?id=148.5195>

Michigan:

The State of Michigan does not have administrative rules governing advertising by audiologists. http://www.michigan.gov/lara/0,1607,7-154-27417_2529_31491---,00.html

The comparison of the proposed rules to the adjacent states demonstrates that the proposed rules are relatively comparable to those in adjacent states.

Summary of factual data and analytical methodologies:

No additional factual data or analytical methodologies used. The modifications were prescribed by 2009 Act 356.

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

This rule creates a change in a definition to match the statutory definition created by 2009 Act 356 which does not impact small businesses. This rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units and individuals, for a period of 14 days. No comments were received relating to the economic impact of the rule.

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 Greg.Gasper@wisconsin.gov or by calling (608) 266-8608.

Agency contact person:

Sharon Henes, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2385; email at sharon.henes@wisconsin.gov.

TEXT OF RULE

Section 1. HAS 6.175 (1m) is created to read:

HAS 6.175 (1m) “Deceptive advertising” means creating, using, or promoting the use of any advertising material, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation, however disseminated or published, which is misleading, false or untruthful.

Section 2. HAS 6.18 (1) (d) is amended to read:

HAS 6.18 (1) (d) ~~Advertised~~ Engaged in a manner which is false, deceptive or misleading advertising.

Section 3. EFFECTIVE DATE. The effective date shall be the first day of the month following publication in the Wisconsin Administrative Register.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Chair
Hearing and Speech Examining Board

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4) Meeting Date: 8 July 2013	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Discussion and consideration of amending 6.10 relating to temporary permits.	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
<i>Sharon Henes</i>		<i>25 July 2013</i>	
Signature of person making this request		Date	
Supervisor (if required)		Date	
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