



Tony Evers, Governor
Laura Gutiérrez, Secretary

HEARING AND SPEECH EXAMINING BOARD
Room N208, 4822 Madison Yards Way, 2nd Floor, Madison
Contact: Tom Ryan (608) 266-2112
January 7, 2019

The following agenda describes the issues that the Board 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 record of the actions of the Board.

AGENDA

1:00 P.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-3)

B. Approval of Minutes of October 8, 2018 (4-6)

C. Administrative Matters (7-14)

- 1) Election of Officers
- 2) Appointment of Liaisons and Alternates
- 3) Delegation of Authorities
 - a. Appointment of Monitoring Liaison and Delegated Authority Motion Regarding Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor
- 4) Board and Staff Updates
- 5) Board Member Status
 - a. Robert Broeckert – 7/1/2020
 - b. Barbara Johnson – 7/1/2021
 - c. Steven Klapperich – 7/1/2019
 - d. Thomas Krier – 7/1/2021
 - e. Scott Larson – 7/1/2017
 - f. Thomas Sather – 7/1/2015
 - g. Patricia Willis – 7/1/2018
 - h. Public Member (Hearing Aid User) – Vacant
 - i. Public Member – Vacant
 - j. Otolaryngologist Member – Vacant

D. Legislative and Administrative Rule Matters – Discussion and Consideration (15)

- 1) Review of Draft 2017 Wisconsin Act 108 Report **(16-20)**
- 2) Review of Draft Scope Statement Revising HAS 3,4,6,7 & 8, Relating to Corrections and Updating Obsolete Provisions **(21-25)**
- 3) Update on Research Requests, Legislation and Pending or Possible Rulemaking Projects

E. DSPS Occupational Licensure Review Requirement – Discussion (26)

F. Deliberation on Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Nominations, Elections, and Appointments
- 3) Administrative Matters
- 4) Election of Officers
- 5) Appointment of Liaisons and Alternates
- 6) Delegation of Authorities
- 7) Education and Examination Matters
- 8) Credentialing Matters
- 9) Practice Matters
- 10) Legislative and Administrative Rule Matters
- 11) Liaison Reports
- 12) Board Liaison Training and Appointment of Mentors
- 13) Informational Items
- 14) Division of Legal Services and Compliance (DLSC) Matters
- 15) Presentations of Petitions for Summary Suspension
- 16) Petitions for Designation of Hearing Examiner
- 17) Presentation of Stipulations, Final Decisions and Orders
- 18) Presentation of Proposed Final Decisions and Orders
- 19) Presentation of Interim Orders
- 20) Petitions for Re-Hearing
- 21) Petitions for Assessments
- 22) Petitions to Vacate Orders
- 23) Requests for Disciplinary Proceeding Presentations
- 24) Motions
- 25) Petitions
- 26) Appearances from Requests Received or Renewed
- 27) Speaking Engagements, Travel, or Public Relation Requests, and Reports

G. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.)

H. DLSC Matters

- 1) **Monitoring (27-28)**
 - a. Nickolas Wimble – Requesting Full Licensure **(29-46)**

I. Deliberation of Items Added After Preparation of the Agenda:

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Proposed Interim Orders

- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

J. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

K. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

L. Open Session Items Noticed Above Not Completed in the Initial Open Session

M. APPEARANCE: Ryan Zeinert, DSPS Licensing Examination Specialist - License Ratification

ADJOURNMENT

NEXT SCHEDULED MEETING: APRIL 8, 2019

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

**HEARING AND SPEECH EXAMINING BOARD
MEETING MINUTES
OCTOBER 8, 2018**

PRESENT: Robert Broeckert (*via teleconference, arrived at 2:40 p.m.*), Barbara Johnson, Steven Klapperich, Thomas Krier, Scott Larson, Thomas Sather (*via teleconference*), Patricia Willis (*via teleconference*)

STAFF: Tom Ryan, Executive Director; Helen Leong, Administrative Rules Coordinator; Kimberly Wood, Program Assistant Supervisor-Adv.; and other Department Staff

CALL TO ORDER

Barbara Johnson, Chair, called the meeting to order at 1:23 p.m. A quorum of six (6) members was confirmed.

ADOPTION OF AGENDA

MOTION: Steven Klapperich moved, seconded by Patricia Willis, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF JULY 9, 2018

MOTION: Steven Klapperich moved, seconded by Scott Larson, to approve the minutes of July 9, 2018 as published. Motion carried unanimously.

LEGISLATIVE AND ADMINISTRATIVE RULE MATTERS

Act 108, Report Due March 31, 2019

MOTION: Thomas Krier moved, seconded by Scott Larson, to designate Barbara Johnson to serve as liaison to DSPS staff for drafting the Act 108 report, relating to administrative rules, and to authorize the Chair, or highest-ranking officer, or longest serving member of the board, in order of succession, to approve the report for submission to the Joint Committee for Review of Administrative Rules. Motion carried unanimously.

MOTION: Steven Klapperich moved, seconded by Thomas Krier, to request DSPS staff draft a Scope Statement revising HAS 3, 4, 6, 7, and 8, relating to corrections and updating obsolete provisions in response to the Act 108 report findings. Motion carried unanimously.

CLOSED SESSION

MOTION: Scott Larson moved, seconded by Steven Klapperich, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.; consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and, to confer with legal counsel (s. 19.85(1)(g), Stats.). Barbara Johnson, Chair; read the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Barbara Johnson-yes; Steven Klapperich-yes; Thomas Krier-yes; Scott Larson-yes; Thomas Sather-yes; and Patricia Willis-yes. Motion carried unanimously.

The Board convened to Closed Session at 2:39 p.m.

(Robert Brockert was connected via Skype at 2:42 p.m.)

RECONVENE TO OPEN SESSION

MOTION: Scott Larson moved, seconded by Steven Klapperich, to reconvene to open session. Motion carried unanimously.

The Board reconvened into Open Session at 2:50 p.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

MOTION: Steven Klapperich moved, seconded by Thomas Krier, to affirm all motions made and votes taken in closed session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

DLSC MATTERS

Proposed Stipulations, Final Decisions and Orders

17 HAD 003 – Julie T. Van Dyck

MOTION: Thomas Sather moved, seconded by Patricia Willis, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Julie T. Van Dyck, DLSC Case Number 17 HAD 003. Motion carried unanimously.

APPEARANCE: RYAN ZEINERT, DSPS LICENSING EXAMINATION SPECIALIST – LICENSE RATIFICATION

MOTION: Scott Larson moved, seconded by Thomas Krier, that the Board Chair ratify the scores from the October 8, 2018 examinations and grant the licenses once requirements are met. Motion carried unanimously.

ADJOURNMENT

MOTION: Patricia Willis moved, seconded by Robert Broeckert, to adjourn the meeting.
Motion carried unanimously.

The meeting adjourned at 2:54 p.m.

DRAFT

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Maximilian Turner, Bureau Assistant, on behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 12/20/18 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Hearing and Speech Examining Board			
4) Meeting Date: 1/7/2019	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Matters 1) Election of Officers 2) Appointment of Liaisons and Alternates 3) Delegation of Authorities	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session		8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <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: 1) The Board should conduct Election of its Officers for 2019 2) The new Chairperson should review and appoint/reappoint Liaisons and Alternates as appropriate 3) The Board should review and then consider continuation or modification of previously delegated authorities			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive 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 Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

HEARING AND SPEECH EXAMINING BOARD

2018 Elections and Liaison Appointments

Elections and liaison appointments external of the Board were made in January 2018.

****** Denotes Liaison Appointments added or updated at the 4/9/2018 meeting.

2018 ELECTION RESULTS	
Board Chair	Barbara Johnson
Vice Chair	Patricia Willis
Secretary	Thomas Krier
2018 LIAISON APPOINTMENTS	
Credentialing Liaison(s)	Patricia Willis, Thomas Sather, Steven Klapperich, Robert Broeckert, Scott Larson, Barbara Johnson
**Exam Liaison(s)	Robert Broeckert, Steven Klapperich, Robert Broeckert , Scott Larson, Barbara Johnson
Continuing Education (CE) Liaison(s)	Patricia Willis, Thomas Sather, Thomas Krier, Barbara Johnson
Professional Assistance Program (PAP) and Monitoring Liaison	Robert Broeckert
Legislative Liaison(s)	Thomas Sather
Travel Liaison	Barbara Johnson
Website Liaison(s)	Thomas Krier, Robert Broeckert Scott Larson, Thomas Sather
Practice Question Liaison(s)	Steven Klapperich, Patricia Willis, Barbara Johnson
Occupational License Review Liaison	Barbara Johnson Alternate: Patricia Willis
**Screening Panel	Robert Broeckert, Steven Klapperich, Patricia Willis Alternate – Barbara Johnson, Scott Larson, Thomas Sather

DELEGATION MOTIONS

Delegation of Authority

Delegated Authority for Urgent Matters

MOTION: Steven Klapperich moved, seconded by Scott Larson, that, in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chair (or, in the absence of the Chair, the highest-ranking officer or longest serving board member in that succession), to appoint liaisons to the Department to act in urgent matters. Motion carried unanimously.

Document Signature Delegation

MOTION: Thomas Krier moved, seconded by Robert Broeckert, to delegate authority to the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair, chief presiding officer, or longest serving member of the Board, has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair, chief presiding officer, or longest serving member of the Board delegates the authority to Executive Director, or designee, to sign the name of any Board member on documents as necessary and appropriate. Motion carried unanimously.

Credentialing Authority Delegations

Delegation of Authority to Credentialing Liaison (Generic)

MOTION: Steven Klapperich moved, seconded by Patricia Willis, to delegate authority to the Credentialing Liaisons to make all credentialing decisions. Motion carried unanimously.

Delegation of Authority to DSPS When Rule and Statute Criteria is Met

MOTION: Patricia Willis moved, seconded by Steven Klapperich, to delegate credentialing authority to DSPS to act upon applications that meet the criteria of Rule and Statute and thereby would not need further Board or Board liaison review. Motion carried unanimously.

Voluntary Surrenders

MOTION: Steven Klapperich moved, seconded by Patricia Willis, to delegate authority to the assigned case advisor to accept or refuse a request for voluntary surrender of a license by a licensee who has a pending complaint or disciplinary matter per Wis. Stat. § 440.19. Motion carried unanimously.

Authorization for DSPS to Provide Board Member Contact Information to National Regulatory Bodies

MOTION: Robert Broeckert moved, seconded by Thomas Krier, to authorize Department staff to provide national regulatory bodies with all Board member contact information that the Department retains on file. Motion carried unanimously.

Optional Renewal Notice Insert Delegation

MOTION: Steven Klapperich moved, seconded by Patricia Willis to designate the highest-ranking officer (or longest serving member of the Board) to provide a brief statement or link relating to board-related business within the license renewal notice at the Board's or Board designee's request. Motion carried unanimously.

Occupational Licensure Study Liaison

MOTION: Patricia Willis moved, seconded by Scott Larson, to designate the Chair as the Board's liaison, and the Vice Chair as alternate, to represent and speak on behalf of the Board regarding occupational license review and related matters. Motion carried unanimously.

Legislative Liaison Delegation

MOTION: Robert Broeckert moved, seconded by Steven Klapperich, to delegate authority to the Legislative Liaisons to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

Travel Delegation

MOTION: Patricia Willis moved, seconded by Thomas Krier, to delegate authority to the Travel Liaison to approve any Board Member travel. Motion carried unanimously.

Continuing Education Delegation

MOTION: Scott Larson moved, seconded by Steven Klapperich, to delegate authority to the Continuing Education Liaison(s) to address all issues related to CE and education. Motion carried unanimously.

Examination Delegation




MOTION: Steven Klapperich moved, seconded by Thomas Krier, to delegate authority to the Examination Liaison(s) to address all issues related to examinations. Motion carried unanimously.

Monitoring Delegations

MOTION: Steven Klapperich moved, seconded by Robert Broeckert, to adopt the “Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor” as presented. Motion carried unanimously.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Ashley Ayres Monitoring and Intake Supervisor Division of Legal Services and Compliance		2) Date When Request Submitted: December 20, 2018 <div style="background-color: #f0f0f0; padding: 5px;"> 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 </div>											
3) Name of Board, Committee, Council, Sections: Hearing and Speech Examining Board													
4) Meeting Date: January 7, 2019	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Appointment of Monitoring Liaison and Delegated Authority Motion											
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? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:										
10) Describe the issue and action that should be addressed: Adopt or reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today's agenda packet.													
<table style="width: 100%; border: none;"> <tr> <td style="width: 60%; border: none;"> 11)  </td> <td style="width: 40%; border: none; text-align: right;"> Authorization </td> </tr> <tr> <td style="border: none;"> <hr/> Signature of person making this request </td> <td style="border: none; text-align: right;"> <hr/> Date </td> </tr> <tr> <td style="border: none;"> <hr/> Supervisor (if required) </td> <td style="border: none; text-align: right;"> <hr/> Date </td> </tr> <tr> <td colspan="2" style="border: none;"> <hr/> Executive Director signature (indicates approval to add post agenda deadline item to agenda) </td> </tr> <tr> <td colspan="2" style="border: none;"> <hr/> Date </td> </tr> </table>				11) 	Authorization	<hr/> Signature of person making this request	<hr/> Date	<hr/> Supervisor (if required)	<hr/> Date	<hr/> Executive Director signature (indicates approval to add post agenda deadline item to agenda)		<hr/> Date	
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Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor

The Monitoring Liaison (“Liaison”) is a Board/Section designee who works with department monitors to enforce Board/Section orders as explained below.

Current Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board/Section:

1. Grant a temporary reduction in random drug screen frequency upon Respondent’s request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor (“Monitor”) will draft an order and sign on behalf of the Liaison.
2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.
5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing education.
6. Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.
7. Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain the signature or written authorization from the Liaison.
8. Grant or deny a request to appear before the Board/Section in closed session.
9. Board Monitoring Liaison may determine whether Respondent’s petition is eligible for consideration by the full Board/Section.
10. (*Except Pharmacy*) Accept Respondent’s written request to surrender credential. If accepted by the Liaison, Monitor will consult with Board Counsel to determine if a stipulation is necessary. If a stipulation is not necessary, Monitor will draft an order and sign on behalf of the Liaison. If denied by the Liaison, the request to surrender credential will go to the full Board for review.
11. (*Except Pharmacy*) Grant Respondent’s petition for a reduction in drug screens per the standard schedule, below. If approved, Monitor will draft an order and sign on behalf of the Liaison.
 - a. Year 1: 49 screens (including 1 hair test, if required by original order)
 - b. Year 2: 36 screens (plus 1 hair test, if required by original order)
 - c. Year 3: 28 screens plus 1 hair test
 - d. Year 4: 28 screens plus 1 hair test
 - e. Year 5: 14 screens plus 1 hair test

12. (*Dentistry only*) – Ability to approve or deny all requests from a respondent.
13. (*Except Nursing*) – Board Monitoring Liaison may approve or deny Respondent's request to be excused from drug and alcohol testing for work, travel, etc.

Current Authorities Delegated to the Department Monitor

The Monitor may take the following actions on behalf of the Board/Section, draft an order and sign:

1. Grant full reinstatement of licensure if CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
 2. Suspend the license if Respondent has not completed Board/Section-ordered CE and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof completion and/or payment have been received.
 3. Suspend the license (or remove stay of suspension) if Respondent fails to enroll and participate in an Approved Program for drug and alcohol testing within 30 days of the order, or if Respondent ceases participation in the Approved Program without Board approval. This delegated authority only pertains to respondents who must comply with drug and/or alcohol testing requirements.
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**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Helen Leong, Administrative Rules Coordinator		2) Date When Request Submitted: December 20, 2018 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Hearing and Speech Examining Board			
4) Meeting Date: January 7, 2019	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative and Administrative Rule Matters – Discussion and Consideration 1) Review of draft 2017 Wisconsin Act 108 report 2) Review of draft Scope Statement for HAS 3, 4, 6, 7, and 8, relating to removing obsolete provisions 3) Update on Research Requests, Legislation, and Pending or Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session		8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:
10) Describe the issue and action that should be addressed:			
11) Authorization			
Signature of person making this request <i>Helen Leong</i>		Date <i>December 20, 2018</i>	
Supervisor (if required)		Date	
Executive 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 Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Barbara Johnson
Chairperson

Patricia Willis
Vice Chairperson

Thomas Krier
Secretary

**WISCONSIN HEARING AND SPEECH
EXAMINING BOARD**



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March 29, 2019

Senator Stephen Nass, Senate Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 10 South, State Capitol
Madison, WI 53702

Representative Joan Ballweg, Assembly Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 210 North, State Capitol
Madison, WI 53702

RE: Report Submitted in Compliance with s. 227.29 (1), Stats.

Dear Senator Nass and Representative Ballweg:

This report has been prepared and submitted in compliance with s. 227.29 (1), Stats.

I. Unauthorized rules, as defined in s. 227.26 (4) (a):

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are unauthorized rules, as defined in s. 227.26 (4) (a), Stats.

II. Rules for which the authority to promulgate has been restricted:

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are rules for which the authority to promulgate has been restricted.

III. Rules that are obsolete or that have been rendered unnecessary:

Rule	Description of why the rule is obsolete or has been rendered unnecessary.	Action taken to address or reason for not taking an action
s. HAS 3.03 (2) (d)	The topic listed for the practical examination is obsolete.	Scope Statement approved by the Board for submission to the Department of Administration and the Governor's Office on date .
s. HAS 4.03 (1) and (Note)	The referenced ANSI standard has been updated since this standard was adopted in 1998.	Scope Statement, SS 026-15 , expires February 4, 2020.
ss. HAS 6.04 (6)	Need to 1) remove the option of having a certificate of clinical competence, since	Scope Statement approved by the Board for submission to the

(a) and (b), HAS 6.07 (2) (b) 2.	one cannot qualify for the certificate without taking the Praxis Audiology exam, and 2) update the education requirements for reciprocal licenses.	Department of Administration and the Governor's Office on date.
s. HAS 7.03 (3) (b) 2.	References s. HAS 3.02, which has been repealed.	Scope Statement approved by the Board for submission to the Department of Administration and the Governor's Office on date.
s. HAS 8.03 (2) and (4)	References s. HAS 7.05, which has been repealed.	Scope Statement approved by the Board for submission to the Department of Administration and the Governor's Office on date.

IV. Rules that are duplicative or, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction:

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are duplicative, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction.

V. Rules that are economically burdensome:

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are rules that are economically burdensome.

Thank you.

Sincerely,

Barbara Johnson
Chairperson
Hearing and Speech Examining Board

HAS Chapter	Most Recent Project Status	s. 227.29 , Stats., Review	Section Notes / Comments
HAS 1, Licensure of Hearing Instrument Specialists	Last updated in 2012 to change the name of the department to DSPS.		
HAS 2, Hearing Instrument Specialists Temporary Trainees	Last updated: Amended 2.01 (2) to allow audiologists to provide direct supervision to trainees, CR 05-026 .		2.01 (1) Note: Update address <i>HL</i>
HAS 3, Hearing Instrument Specialists Examinations	Last Updated: Clean-up measure after adoption of the IHS test in CR 15-097 , CR 16-080 .		3.03 (2) (d) A topic the Board may use for the practical examination shown is use of master hearing instrument, this is obsolete. <i>BJ</i>
HAS 4, Hearing Instrument Specialists Measurement of Human Hearing	Scope Statement, SS 026-15 , expires February 4, 2020.		4.03 (1): ANSI standard adopted is 1996 version, and was updated most recently in 2010. <i>HL</i>
HAS 5, Hearing Instrument Specialists Unprofessional Conduct	Last updated: Amended 5.02 (2) (g) (intro.) and 2. to add failure to comply with the terms of sale on a receipt as an act of unprofessional conduct, CR 05-026		
HAS 6, Licensure of Speech-Language Pathologists, Audiologists, and Temporary Licensees	Last updated: Amended subchapters I and II in chapter 6, to update the chapter for NESPA requirements, CR 15-096 .		Barbara Johnson: 6.04 (6) (a) and (b) Applicants for licensure need to either pass the Praxis Audiology exam or a certificate of clinical competence in audiology from ASHA is considered to be equivalent. This is redundant, an Audiologist needs to pass the Praxis Audiology exam in

HAS Chapter	Most Recent Project Status	s. 227.29 , Stats., Review	Section Notes / Comments
			<p>order to get the CCC in Audiology from ASHA. I suggest having the requirement just be passing the Praxis Audiology exam. ASHA certification used to be a requirement for licensing before the minimum education for Audiologists was changed from a master's to a doctoral degree so I think we have some "left over" language from that time.</p> <p>6.07 (2) (b) (2) The applicant has completed a supervised clinical practicum and received a master's degree should be changed to a doctoral degree to be consistent with 6.07 (2) (b) (1) which states the requirements for licensure in the other state or territory need to be substantially equivalent to Wisconsin's requirements. There is still wording for the Board to determine if an applicant's education is substantially equivalent for the more experienced Audiologists who have master's degrees instead of doctoral degrees. A master's degree is still valid if it was earned before the graduation requirements changed to the doctoral degree.</p> <p>6.03 (1); 6.04 (1): Update address <i>HL</i></p>
HAS 7, Requirements for Renewal	Last updated: Repealed and recreated 7.03, amended 7.04, and created 7.06, CR 15-096 .		7.03 (3) (b) 2.: referenced section repealed <i>HL</i>

HAS Chapter	Most Recent Project Status	s. 227.29 , Stats., Review	Section Notes / Comments
HAS 8, Continuing Education Requirements	Last updated: Added a requirement for ethics CE and expands types of activities allowed for CE, CR 11-017 .		Helen Leong: 8.03 (2); 8.03 (4): referenced section repealed 8.04 (1): Update address 8.04 (7): Update note to refer to website.

STATEMENT OF SCOPE

Hearing and Speech Examining Board

Rule No.: HAS 3, 4, 6, 7, and 8

Relating to: Removing obsolete provisions

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only): N/A

2. Detailed description of the objective of the proposed rule:

The Board is conducting a thorough review of the HAS administrative rules in preparation of their first biennial report in response to 2017 Act 108 and s. 227.29, Stats. As a result of this review, the Board has identified several places where the rules reference obsolete standards and requirements or repealed provisions. The objective of the proposed rule is to review these affected chapters and correct or update these obsolete provisions.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

In accordance with the requirements of 2017 Act 108 and s. 227.29, Stats., the Board will take action to correct and update the obsolete provisions identified in the report, which is pending submission to the Legislature. This review will ensure that applicants and licensees have clear guidance on the requirements for licensure and renewal.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

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 459.095 (1), Stats., states that the Board shall “[p]romulgate rules establishing the criteria for approval of continuing education programs or courses of study required for renewal of a license under s. 459.09 and for approval of the sponsors and cosponsors of continuing education programs or courses of study.”

Section 459.12 (1) and (2), Stats., provide that the 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 “shall promulgate rules establishing the frequency of the calibrations, the standards for the calibrations and the standards for the certifications required by s. 459.085.”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

80 hours

6. List with description of all entities that may be affected by the proposed rule:

The project will improve the administrative rules affecting applicants for licensure and current licensees.
Rev. 3/6/2012

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

Contact Person: Helen Leong, Administrative Rules Coordinator
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Chair

Date Submitted

The Hearing and Speech Examining Board requested an opinion on whether the statutes allow for a specific rule change. Specifically, the Board would like for:

- 1) A licensee to be able to provide indirect supervision to more than one trainee,
- 2) The trainee be under “indirect supervision” once they pass the practical exam, and
- 3) The trainee remain under indirect supervision until they either pass the written exam or until the permit expires.

Short Answer: The statutory language does not allow for indirect supervision of a temporary trainee permit holder at any time. However, the rules could be changed to allow a licensee to provide *direct* supervision to more than one trainee.

A. THE WI STATUTE DOES NOT ALLOW FOR INDIRECT SUPERVISION OF A TEMPORARY TRAINEE PERMIT HOLDER AT ANY TIME.

The WI statute specifically states that a licensee “*shall* be responsible for the *direct supervision* and training” of an applicant who has been granted a temporary trainee permit.

459.07 Temporary trainee permit.

- (1) An applicant who fulfills the requirements regarding age, character and high school education as set forth in s. 459.06, may obtain a trainee permit upon application to the examining board. The name of the licensee who is supervising the trainee shall appear on the face of the permit.
- (2) Upon receiving an application under this section, accompanied by the fee under s. 440.05 (6), the examining board may grant a trainee permit which may entitle the applicant to practice fitting of hearing aids for a period of one year. A person holding a valid hearing instrument specialist license issued under this subchapter or a valid license to practice audiology issued under s. 459.24 (3) **shall be responsible for the direct supervision and training of the applicant** and shall be liable for all negligent acts and omissions of the trainee in the fitting of hearing aids.
- (3) A trainee permit may be renewed or regranted once if the trainee shows that he or she had sufficient cause for being unable to complete the requirements for permanent licensure.
- (4) The examining board shall encourage the establishment of educational courses for the training of all persons wishing to become licensed hearing instrument specialists.

The term “shall” as used in statute is typically interpreted to require the subject (as opposed to “may” which is permissive). Also, the WI statute refers to “direct supervision” as opposed to simply “supervision”. Therefore, the statutory language unambiguously *requires* that trainees be *directly* supervised by a licensee.

HAS 2.01(2) has been written to mirror the statutory language requiring “direct supervision” of a trainee permit holder. HAS 1.01(2a) has been written to define “Direct supervision” as being physically present at the time the trainee makes ear impressions or measurements of human hearing for the purpose of fitting or selling a hearing instrument or fits or sells a hearing instrument.

It is my understanding that MN has been cited as an example of what the Board would like to do. Please note that MN's statute is written very differently than the applicable WI statute. As an initial point, the MN statute refers merely to "supervision" required for 12 months (as opposed to "direct supervision" as in the WI statute).

153A.14 Subd. 4a.Trainees.

(a) A person who is not certified under this section may dispense hearing instruments as a trainee for a period not to exceed 12 months if the person:

- (1) submits an application on forms provided by the commissioner;
- (2) is under the supervision of a certified dispenser meeting the requirements of this subdivision;
- (3) meets all requirements for certification except passage of the examination required by this section; and
- (4) uses the title "dispenser trainee" in contacts with the patients, clients, or consumers.

Furthermore, the MN statute is also written to specifically provide that a trainee must be *directly* supervised until taking and passing the practical exam, after which they may dispense hearing instruments under *indirect* supervision until expiration of the trainee period.

(b) A certified hearing instrument dispenser may not supervise more than two trainees at the same time and may not directly supervise more than one trainee at a time. The certified dispenser is responsible for all actions or omissions of a trainee in connection with the dispensing of hearing instruments. A certified dispenser may not supervise a trainee if there are any commissioner, court, or other orders, currently in effect or issued within the last five years, that were issued with respect to an action or omission of a certified dispenser or a trainee under the certified dispenser's supervision.

Until taking and passing the practical examination testing the techniques described in subdivision 2h, paragraph (a), clause (2), trainees must be directly supervised in all areas described in subdivision 4b, and the activities tested by the practical examination. Thereafter, trainees may dispense hearing instruments under indirect supervision until expiration of the trainee period. Under indirect supervision, the trainee must complete two monitored activities a week. Monitored activities may be executed by correspondence, telephone, or other telephonic devices, and include, but are not limited to, evaluation of audiograms, written reports, and contracts. The time spent in supervision must be recorded and the record retained by the supervisor.

The WI statute contains no such language. WI's statute plainly states that a licensee "*shall* be responsible for the *direct supervision* and training" of an applicant who has been granted a temporary trainee permit. Under the WI statutes, a person is either a trainee permit holder or a licensee. A person would be considered a trainee until they have passed both the written and practical exams. The statutes do not refer to any in-between status when a person has passed the practical but not the written. There is no language in the statute that provides for a distinction between direct supervision at one stage and indirect supervision at another stage. The WI statute

clearly says there shall be direct supervision of an applicant who holds a temporary trainee permit.

**B. THE RULES COULD BE CHANGED TO ALLOW A LICENSEE TO PROVIDE
DIRECT SUPERVISION TO MORE THAN ONE TRAINEE.**

[HAS 2.01\(4\)](#) currently provides that “No more than one trainee at any given time may hold a trainee permit to practice the fitting of hearing instruments under the direct supervision of a given licensee”. However, the statute provides no quantity limit on the number of trainees that a licensee can *directly* supervise. Therefore, this rule could be rescinded or changed to allow a licensee to provide direct supervision for more than one trainee at a time.

Please let me know if you have any further questions.

Thank you.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Maximilian Turner, Bureau Assistant, on behalf of Tom Sather		2) Date When Request Submitted: 12/10/2018 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Hearing and Speech Examining Board			
4) Meeting Date: 1/7/2019	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? DSPS Occupational Licensure Review Requirement – Discussion	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <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: https://www.wbay.com/content/news/Target-2-Investigates-State-studies-deregulating-occupational-licenses-502108451.html?cid=facebook_WBAY_TV-2&fbclid=IwAR1d623F_Pcl-2MzVnDIRS0SZkkzr1OB8WWuKhysJrqYvzUPSv2VcHevSws			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive 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 Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			