

**STATE OF WISCONSIN
HEARING AND SPEECH EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
HEARING AND SPEECH : CR 21-025
EXAMINING BOARD :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

None.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The Board reviewed Wisconsin Administrative Code HAS 1 and HAS 2 to revise requirements to increase opportunities for new applicants entering the profession while ensuring that trainee permit holders are directly supervised. The Board also ensured compliance with statutory requirements. The proposed rule examines the revision of existing policies and proposes new policies to improve opportunities for people interested in entering the profession. The Board examined rule changes that could increase opportunities for new trainees while continuing to adequately protect the public's health, safety, and welfare.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Board held a public hearing on April 5, 2021. No public comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Legislative Council Staff did not have any recommendations.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A

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 21-025)

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:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8306; telephone 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Kevyn Radcliffe, 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 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)

This Proposed Order of the Hearing and Speech Examining Board is approved for submission to the Governor and Legislature.

Dated 9 July 2021

Agency 
Chairperson
Hearing and Speech Examining Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date March 2, 2021</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) HAS 1, 2</p>	
<p>4. Subject Supervision of hearing instrument specialist temporary trainees</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected 20.165 (1) (g)</p>
<p>7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule 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:</p> <ul style="list-style-type: none">• 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.	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. This rule was posted for economic impact comments and none were received.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. None. This rule does not impact local governmental units.</p>	
<p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole. The Department estimates a one-time fiscal impact of \$496.16, which may be absorbed in the agency operating budget.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implementing this rule is increased opportunities for new applicants entering the hearing instrument specialist profession while ensuring trainee permit holders are directly supervised.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is increased opportunities for new applicants entering the hearing instrument specialist profession while ensuring trainee permit holders are directly supervised.</p>	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

17. Compare With Approaches Being Used by Federal Government
None

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

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ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

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19. Contact Name Dale Kleven	20. Contact Phone Number 608-261-4472
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This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-