

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

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
HEARING AND SPEECH : CR 20-036
EXAMINING BOARD :
:**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS: N/A

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:

As directed under s. 227.9, Wis. Stats., the Hearing and Speech Examining Board conducted a review of the HAS administrative rules. As a result of this review, the Board identified references to obsolete provisions. Specifically, the Board removed the use of a master hearing instrument from the list of equipment on the potential list for the practical examination because it is no longer used in practice and corrected the administrative code cross-references where necessary.

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

The Hearing and Speech Examining Board held a public hearing on October 5, 2020. The Board did not receive any public hearing testimony or written comments regarding this proposed rule.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All recommendations suggested in the Clearinghouse Report have been accepted in whole.

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

This rule does not have an impact on small business.

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 20-036)

PROPOSED ORDER

An order of the Hearing and Speech Examining Board to repeal HAS 3.03 (2) (d); and to amend HAS 7.03 (3) (b) 2. and HAS 8.03 (2) and (4), relating to removing obsolete provisions.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 459.06 and 459.12, Stats.

Statutory authority: ss. 15.08 (5) (b), 459.095 (1), 459.12 (1), 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 459.095 (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), Stats., provides 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.”

Related statute or rule: HAS 1, 2, and 4

Plain language analysis:

The Board conducted a review of the HAS administrative rules in preparation of the Board’s biennial report in response to 2017 Act 108 and s. 227.29, Stats. It identified references to obsolete requirements or repealed provisions. Specifically, the Board:

- Removed the use of a master hearing instrument from the list of equipment on the potential list for the practical examination because it is no longer used in practice.
- Corrected administrative code cross-references as needed.

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: The Illinois Board of Speech-Language Pathology and Audiology, under the authority of Illinois Statutes 225 ILCS 110, regulates speech-language pathologists and audiologists under the authority of the Illinois Department of Financial and Professional Regulation (IDFPR). The Illinois Department of Public Health (IDPH) regulates the licensing of hearing instrument dispensers and trainees under Rule (68 Ill. Adm. Code 1465). Illinois requires a practical examination with similar topics as Wisconsin, as prescribed in 225 ILCS 50/9, for licensure requirements for a hearing instrument dispenser. However, it does not identify testing for specific equipment.

Iowa: The Iowa Board of Speech Pathology and Audiology regulates the professions of speech pathology and audiology under Iowa Administrative Code 645, Chapter 300. The Bureau of Professional Licensure in the Iowa Department of Public Health (IDPH) regulates the licensure of these professions. The Board of Hearing Aid Specialists regulates hearing aid specialists and temporary permits. Iowa does not require a practical examination for a license for a hearing instrument specialist.

Michigan: Michigan's Department of Licensing and Regulatory Affairs (LARA) includes the Board of Audiology, Board of Speech-Language Pathology, and direct licenses hearing aid dealers, salespersons, and trainees. Requirements for Michigan licensure are found in Article 15 of the Public Health Code, 1978 PA 368, MCL 333.16101 to 333.18838 and further outlined in administrative rule R 338.601 through R 338.649. It does not require specific equipment be part of licensure testing.

Minnesota: Minnesota's laws for Speech-Language Pathologists and Audiologists are found under Minnesota Statutes s. 148.511 through s. 148.5198. The Minnesota Department of Health (MDH) includes the Speech-Language Pathologist and Audiologist Advisory Council which advises the department Commissioner and makes recommendations for speech-language pathologists, audiologists, and hearing aid dispensers. Hearing aid dispensers and audiologists must pass a practical examination, with similar topics as Wisconsin, and does not include a master hearing instrument.

Summary of factual data and analytical methodologies:

On July 9, 2018, the Board appointed liaisons to conduct a thorough review of the HAS administrative rules in preparation of the Board's biennial report in response to 2017 Act 108 and s. 227.29, Stats. The results of this review were considered by the full Board on October 8, 2018. The Board requested that a Scope Statement was prepared to correct the several places where the rules reference obsolete requirements or repealed provisions.

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

This rule was posted on the agency website for solicitation of economic comments and none 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 phone at (608) 267-2435.

Agency contact person:

Kassandra Walbrun, Administrative Rules Coordinator, Wisconsin Department of Safety and Professional Services, Phone: 608-261-4463; email: DSPSAdminRules@wisconsin.gov.

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

Comments must be received on or before October 5, 2020 to be included in the record of rule-making proceedings.

Written Comments:

Kassandra Walbrun, Administrative Rules Coordinator,
Wisconsin Department of Safety and Professional Services,
4822 Madison Yards Way,
P.O. Box 8366, Madison, WI 53708-8366,

Email: DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. HAS 3.03 (2) (d) is repealed.

SECTION 2. HAS 7.03 (3) (b) 2. is amended to read:

HAS 7.03 (3) (b) 2. If hearing instrument specialist renewal, passed the examination required under s. HAS ~~3.02~~ 3.01 (1) within the previous 12 months of application for renewal.

SECTION 3. HAS 8.03 (2) and (4) are amended to read:

HAS 8.03 (2) Except as provided under s. HAS ~~7.05 (1) (a) 4. and (2) (a) 3.~~ 7.03 (2), continuing education hours may be applied only to the biennial registration period in which the continuing education hours are acquired.

(4) A licensee who fails to meet the continuing education requirements by the renewal date shall not practice as a hearing instrument specialist, audiologist or speech-language pathologist, as appropriate, until his or her license is ~~restored~~ renewed or reinstated under s ch. HAS 7.05 7.

SECTION 4. 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.

Date: 12-11-2020

Agency/Board: Barbara Johnson
Chair
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 8/25/20</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) HAS 3, 7, 8</p>	
<p>4. Subject Delete obsolete rule provisions.</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 s. 20.165 (1)(g), Wis. Stats.</p>
<p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input 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 administrative rule revisions under HAS 3, 7 and 8 removed the use of a master hearing instrument from the list of equipment on the potential list for the practical examination because it is no longer used in practice. The proposed rules also correct administrative code cross-references as needed.</p>	
<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) This rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units and the State's Economy as a whole.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implementing this rule is 1) to update the rule to meet current practice and 2) to comply with state statutes in updating the rules. The alternative is to leave the current rules in place, which will then remain outdated with current practices.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is clarity and complying with state statutes.</p>	
<p>17. Compare With Approaches Being Used by Federal Government None</p>	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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

Illinois: The Illinois Board of Speech-Language Pathology and Audiology, under the authority of Illinois Statutes 225 ILCS 110, regulates speech-language pathologists and audiologists under the authority of the Illinois Department of Financial and Professional Regulation (IDFPR). The Illinois Department of Public Health (IDPH) regulates the licensing of hearing instrument dispensers and trainees under Rule (68 Ill. Adm. Code 1465). Illinois requires a practical examination with similar topics as Wisconsin, as prescribed in 225 ILCS 50/9, for licensure requirements for a hearing instrument dispenser. However, it does not identify testing for specific equipment.

Iowa: The Iowa Board of Speech Pathology and Audiology regulates the professions of speech pathology and audiology under Iowa Administrative Code 645, Chapter 300. The Bureau of Professional Licensure in the Iowa Department of Public Health (IDPH) regulates the licensure of these professions. The Board of Hearing Aid Specialists regulates hearing aid specialists and temporary permits. Iowa does not require a practical examination for a license for a hearing instrument specialist. Iowa does not have specific equipment listed in its regulations.

Michigan: Michigan's Department of Licensing and Regulatory Affairs (LARA) includes the Board of Audiology, Board of Speech-Language Pathology, and direct licenses hearing aid dealers, salespersons, and trainees. Requirements for Michigan licensure are found in Article 15 of the Public Health Code, 1978 PA 368, MCL 333.16801 to 333.16811 and further outlined in administrative rule R 338.1 to 338.12 and R 338.601 through R 338.649. Specific equipment is not included within the examination for a hearing aid dealer license.

Minnesota: Minnesota's laws for Speech-Language Pathologists and Audiologists are found under Minnesota Statutes s. 148.511 through s. 148.5198. The Minnesota Department of Health includes the Speech-Language Pathologist and Audiologist Advisory Council which advises the department Commissioner and makes recommendations for speech-language pathologists, audiologists, and hearing aid dispensers. Hearing instrument dispensers must pass a practical examination which does not include a master hearing instrument. [Minnesota Statutes s. 153A.14]

19. Contact Name

Kassandra Walbrun

20. Contact Phone Number

608-261-4463

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
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