



Tony Evers, Governor
Dawn Crim, Secretary

VIRTUAL/TELECONFERENCE
HEARING AND SPEECH EXAMINING BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Valerie Payne (608) 266-2112
July 12, 2021

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 April 5, 2021 (4-5)**
- C. Reminders: Conflicts of Interest, Scheduling Concerns
- D. **Administrative Matters**
 - 1) Department, Staff and Board Updates
 - 2) Board Members – Term Expiration Dates
- E. **Legislative and Policy Matters – Discussion and Consideration (6-10)**
 - 1) 2021 Senate Bill 309 (Telehealth)
- F. **Administrative Rule Matters – Discussion and Consideration (11)**
 - 1) HAS 1 and 2, Relating to Direct Supervision of Hearing Instrument Specialist Temporary Trainees
 - 2) HAS 3, 7, and 8, Relating to Removing Obsolete Provisions **(12-15)**
 - 3) HAS 4 and 6, Relating to Audiometric Testing and Reciprocal Licensure **(16-17)**
 - 4) HAS 5 and 6, Relating to Telehealth **(18-22)**
 - 5) Pending or Possible Rulemaking Projects
- G. **COVID-19 – Discussion and Consideration**
- H. Discussion and Consideration of 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 Policy Matters
- 11) Administrative Rule Matters
- 12) Liaison Reports
- 13) Board Liaison Training and Appointment of Mentors
- 14) Informational Items
- 15) Division of Legal Services and Compliance (DLSC) Matters
- 16) Presentations of Petitions for Summary Suspension
- 17) Petitions for Designation of Hearing Examiner
- 18) Presentation of Stipulations, Final Decisions and Orders
- 19) Presentation of Proposed Final Decisions and Orders
- 20) Presentation of Interim Orders
- 21) Petitions for Re-Hearing
- 22) Petitions for Assessments
- 23) Petitions to Vacate Orders
- 24) Requests for Disciplinary Proceeding Presentations
- 25) Motions
- 26) Petitions
- 27) Appearances from Requests Received or Renewed
- 28) Speaking Engagements, Travel, or Public Relation Requests, and Reports

I. 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.)

J. Deliberation on Division of Legal Services and Compliance Matters

- 1) **Proposed Stipulations, Final Decisions and Orders**
 - a. 19 HAD 004 – Matthew J. Schultz, H.I.S. (**23-28**)

K. 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

L. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

O. License Ratification – Discussion and Consideration

ADJOURNMENT

NEXT MEETING: OCTOBER 4, 2021

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. Requests for interpreters for the deaf or hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
HEARING AND SPEECH EXAMINING BOARD
MEETING MINUTES
APRIL 5, 2021**

- PRESENT:** Robert Broeckert, Barbara Johnson (*excused at 1:31 p.m., returned at 1:58 p.m.*), Catherine Kanter, Steven Klapperich, Thomas Krier, Kathleen Pazak, David Seligman
- EXCUSED:** Michael Harris
- STAFF:** Valerie Payne, Executive Director; Jon Derenne, Legal Counsel; Kevyn Radcliffe, Administrative Rules Coordinator; Megan Glaeser, Bureau Assistant; and other Department Staff

CALL TO ORDER

Robert Broeckert, Chairperson, called the meeting to order at 1:00 p.m. A quorum was confirmed with seven (7) members present.

ADOPTION OF AGENDA

- MOTION:** Steven Klapperich moved, seconded by David Seligman, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF JANUARY 11, 2021

- MOTION:** Barbara Johnson moved, seconded by Kathleen Pazak, to approve the Minutes of January 11, 2021 as published. Motion carried unanimously.

PUBLIC HEARING: CLEARINGHOUSE RULE 21-025 – HAS 1 AND 2, RELATING TO SUPERVISION OF HEARING INSTRUMENT SPECIALIST TEMPORARY TRAINEES

Review and Respond to Public Comments and Clearinghouse Report

- MOTION:** David Seligman moved, seconded by Steven Klapperich, to authorize the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to approve the Legislative Report and Final Rule for Clearinghouse Rule 21-025, relating to supervision of hearing instrument specialist temporary trainees, for submission to the Governor's Office and Legislature. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Department, Staff and Board Updates

MOTION: Barbara Johnson moved, seconded by Catherine Kanter, to rescind the following motion from the board's January 11, 2021 meeting delegating authority to the Credentialing Liaison(s):

Delegation of Authority to Credentialing Liaison(s)

MOTION Catherine Kanter moved, seconded by Kathleen Pazak, to delegate authority to the Credentialing Liaison(s) to serve as a liaison between the Department and the Board and to act on behalf of the Board in regard to credentialing applications or questions presented to them, including the signing of documents related to applications. Motion carried unanimously. Motion carried unanimously.

(Barbara Johnson was excused at 1:31 p.m., and returned at 1:58 p.m.)

ADMINISTRATIVE RULE MATTERS

Update on s. 227.29 Report

MOTION: Barbara Johnson moved, seconded by Thomas Krier, to request DSPS staff draft a Scope Statement revising HAS 4 and HAS 6 relating to audiometric testing and reciprocal licensure, and to designate Robert Broeckert to advise DSPS staff. Motion carried unanimously.

COVID-19

MOTION: Barbara Johnson moved, seconded by Robert Broeckert, to express the support and encouragement of the Board for its licensees to receive a COVID-19 vaccine as soon as they are eligible to do so, and the vaccine is available to them. Motion carried unanimously.

LICENSE RATIFICATION

MOTION: Barbara Johnson moved, seconded by Catherine Kanter, to delegate authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to ratify the scores from the examinations originally scheduled for April 5, 2021 and rescheduled for a future date, and to grant the licenses once requirements are met. Motion carried unanimously.




ADJOURNMENT

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

The meeting adjourned at 2:25 p.m.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Valerie Payne, Executive Director, on behalf of Robert Broeckert, Board Chair		2) Date when request submitted: 7/6/2021 <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: 7/12/2021	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Under Legislative and Policy Matters, add 2021 Senate Bill 309																
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <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: Review and discussion of Senate Bill 309 relating to defining telehealth. This bill requires DSPS and any attached examining board or affiliated credentialing board to define and use "telehealth" and related terms consistent with the bill in all promulgated rules.																		
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2021 SENATE BILL 309

April 21, 2021 - Introduced by Senators KOOYENGA, BALLWEG, CARPENTER, COWLES, ERPENBACH, MARKLEIN, RINGHAND and L. TAYLOR, cosponsored by Representatives LOUDENBECK, ROZAR, MAGNAFICI, ARMSTRONG, BOWEN, BROOKS, DITTRICH, KUGLITSCH, KURTZ, MURSAU, PLUMER, J. RODRIGUEZ, SPREITZER, STUBBS, SUBECK and CONSIDINE. Referred to Committee on Insurance, Licensing and Forestry.

1 **AN ACT to renumber and amend** 250.15 (1); and **to create** 250.15 (1) (b), 250.15
2 (2) (d), 440.01 (1) (ab), (bm), (dg) and (hm) and 440.17 of the statutes; **relating**
3 **to:** funding for free and charitable clinics and defining telehealth.

Analysis by the Legislative Reference Bureau

This bill defines “free and charitable clinics” as health care organizations that use a volunteer and staff model to provide health services to uninsured, underinsured, underserved, economically and socially disadvantaged, and vulnerable populations and that meet criteria specified in the bill. The bill incorporates into statutory language an allocation made in the biennial budget act, 2019 Wisconsin Act 9, that requires the Department of Health Services to give \$500,000 in grants annually to free and charitable clinics.

Additionally, this bill incorporates the definitions of “telehealth” and other related terms from the Medical Assistance program into the statutory chapters that pertain to occupational licensing. “Telehealth” means a practice of health care delivery, diagnosis, consultation, treatment, or transfer of medically relevant data by means of audio, video, or data communications that are used either during a patient visit or a consultation or are used to transfer medically relevant data about a patient. The bill requires the Department of Safety and Professional Services and any attached examining board or affiliated credentialing board to define and use “telehealth” and related terms consistent with this bill in all promulgated rules.

SENATE BILL 309

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 250.15 (1) of the statutes is renumbered 250.15 (1) (intro.) and
2 amended to read:

3 250.15 (1) ~~DEFINITION~~ DEFINITIONS. (intro.) In this section, “community;

4 (a) “Community health center” means a health care entity that provides
5 primary health care, health education and social services to low-income individuals.

6 **SECTION 2.** 250.15 (1) (b) of the statutes is created to read:

7 250.15 (1) (b) “Free and charitable clinics” means health care organizations
8 that use a volunteer and staff model to provide health services to uninsured,
9 underinsured, underserved, economically and socially disadvantaged, and
10 vulnerable populations and that meet all of the following criteria:

11 1. The organizations are nonprofit and tax exempt under section 501 (c) (3) of
12 the Internal Revenue Code or are a part of a larger nonprofit, tax-exempt
13 organization.

14 2. The organizations are located in this state or serve residents in this state.

15 3. The organizations restrict eligibility to receive services to individuals who
16 are uninsured, underinsured, or have limited or no access to primary, specialty, or
17 prescription care.

18 4. The organizations provide one or more of the following services:

19 a. Medical care.

20 b. Mental health care.

21 c. Dental care.

SENATE BILL 309

1 d. Prescription medications.

2 5. The organizations use volunteer health care professionals, nonclinical
3 volunteers, and partnerships with other health care providers to provide the services
4 under subd. 4.

5 6. The organizations are not federally qualified health centers as defined in 42
6 USC 1396d (1) (2) and do not receive reimbursement from the federal centers for
7 medicare and medicaid services under a federally qualified health center payment
8 methodology.

9 **SECTION 3.** 250.15 (2) (d) of the statutes is created to read:

10 250.15 (2) (d) To free and charitable clinics, \$500,000.

11 **SECTION 4.** 440.01 (1) (ab), (bm), (dg) and (hm) of the statutes are created to
12 read:

13 440.01 (1) (ab) “Asynchronous telehealth service” means telehealth that is
14 used to transmit medical data about a patient to a health care provider when the
15 transmission is not a 2-way, real-time interactive communication.

16 (bm) “Interactive telehealth” means telehealth delivered using multimedia
17 communication technology that permits 2-way, real-time, interactive
18 communications between a health care provider at a distant site and the patient or
19 the patient’s health care provider.

20 (dg) “Remote patient monitoring” means telehealth in which a patient’s
21 medical data is transmitted to a health care provider for monitoring and response if
22 necessary.

23 (hm) “Telehealth” means a practice of health care delivery, diagnosis,
24 consultation, treatment, or transfer of medically relevant data by means of audio,
25 video, or data communications that are used either during a patient visit or a

SENATE BILL 309**SECTION 4**

1 consultation or are used to transfer medically relevant data about a patient.
2 “Telehealth” includes asynchronous telehealth services, interactive telehealth, and
3 remote patient monitoring.




4 **SECTION 5.** 440.17 of the statutes is created to read:

5 **440.17 Telehealth.** If the department, an examining board, or an affiliated
6 credentialing board promulgates rules related to telehealth, the department, the
7 examining board, or the affiliated credentialing board shall define “telehealth” to
8 have the meaning given in s. 440.01 (1) (hm).

9 (END)

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 06/29/21 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting																
3) Name of Board, Committee, Council, Sections: Hearing and Speech Examining Board																		
4) Meeting Date: 07/12/21	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. HAS 1 and 2, Relating to Direct Supervision of Hearing Instrument Specialist Temporary Trainees 2. HAS 3, 7, and 8, Relating to Removing Obsolete Provisions 3. HAS 4 and 6, Relating to Audiometric Testing and Reciprocal Licensure 4. HAS 5 and 6, Relating to Telehealth 5. 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? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <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: HAS 1 and 2, Relating to Direct Supervision of Hearing Instrument Specialist Temporary Trainees <ul style="list-style-type: none"> • No attachment (copy of rule can be found here if needed: https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx) HAS 3, 7, and 8, Relating to Removing Obsolete Provisions <ul style="list-style-type: none"> • Attachment: Adoption Order HAS 4 and 6, Relating to Audiometric Testing and Reciprocal Licensure <ul style="list-style-type: none"> • Attachment: Scope Statement HAS 5 and 6, Relating to Telehealth <ul style="list-style-type: none"> • Attachments: Preliminary Rule Draft, ASHA Definition 																		
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STATE OF WISCONSIN
HEARING AND SPEECH EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	HEARING AND SPEECH
HEARING AND SPEECH	:	EXAMINING BOARD
EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 20-036)

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 report:

This rule was posted on the agency website for solicitation of economic impact 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:

Nilajah Hardin, Administrative Rules Coordinator
Division of Policy Development
Wisconsin Department of Safety and Professional Services
4822 Madison Yards Way
P.O. Box 8366
Madison, Wisconsin 53708
(608) 267-7139
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)

Dated _____

Agency _____

Chairperson
Hearing and Speech Examining Board

STATEMENT OF SCOPE

HEARING AND SPEECH EXAMINING BOARD

Rule No.: HAS 4 and 6

Relating to: Audiometric Testing and Reciprocal Licensure

Rule Type: Permanent

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

N/A

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

The objective of this rule is to update references on audiometric testing standards that are outdated in HAS 4.03(1) and (Note), as well as requirements for audiologist licensure that are not in line with current practice for the profession in HAS 6.04 (6) (a) and (b) and 6.07 (2) (b) 2. This rule will also implement 2019 Wisconsin Act 143.

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:

The above changes were identified in the Board's recent biennial report to the legislature under s. 227.29. Updating standards for audiometric testing and clarifying licensure requirements will benefit current credential holders and applicants entering the hearing instrument specialist or audiology profession.

2019 Wisconsin Act 143 entitles service members, former service members who were discharged within the prior four years under conditions other than dishonorable, and spouses of service members or former service members to obtain a credential if the person resides in Wisconsin and is in good standing with the governmental authorities in every jurisdiction outside Wisconsin that have granted the individual a credential that qualifies the individual to perform acts authorized under the appropriate credential granted by the department or credentialing board. The license may be renewed indefinitely.

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

Section 15.08 (5) (b), Stats.: 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.

Section 440.09(5), Stats.: [t]he department or credentialing board, as appropriate, may promulgate rules necessary to implement this section.

Section 459.085, Stats.: Audiometric equipment used in the evaluation of hearing sensitivity for the fitting and sale of hearing aids shall be calibrated periodically, as specified by rule by the examining board.

Section 459.12 (1), Stats.: 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.

Section 459.26 (2)(am), Stats.: The examining board shall by rule select and approve examinations for audiology.

Section 459.28 (2), Stats.: The examining board may enter into reciprocal agreements with officials of other states or territories of the United States for licensing speech-language pathologists and audiologists and grant licenses to applicants who are licensed in those states or territories according to the terms of the reciprocal agreements.

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

The staff time needed to develop the rules is expected to be about 80 hours, depending on the complexity. The agency will utilize existing staff. There are no other resources necessary to develop the rules.

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

Hearing Instrument Specialist, Audiologist, and Speech-Language Pathologist Credential holders; Service members, former service members, and their spouses seeking credentials as Hearing Instrument Specialists, Audiologists, or Speech-Language Pathologists in Wisconsin.

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: Nilajah Hardin, (608) 267-7139, DSPSAdminRules@wisconsin.gov

Approved for publication:

Approved for implementation:

Authorized Signature

Authorized Signature

Date Submitted

Date Submitted

STATE OF WISCONSIN
HEARING AND SPEECH EXAMINING BOARD

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

PROPOSED ORDER

An order of the Hearing and Speech Examining Board to create HAS 5.015, 5.018, 5.02(1m), 6.715 (4m), and 6.18 (4) and (5), relating to telehealth.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 459.12, Stats.

Statutory authority: Sections 15.08 (5) (b), 459.12 (1), and 459.34 (2) h, Stats.

Explanation of agency authority:

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. [s. 15.08 (5) (b), Stats.]

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. [s. 459.12(1), Stats.]

The examining board may reprimand a licensee or permittee or deny, limit, suspend or revoke a license or permit under this subchapter if it finds that the applicant, licensee or permittee has been engaged in unprofessional conduct as defined by rule by the examining board. [s. 459.34 (2)(h), Stats.]

Related statute or rule: Chapters HAS 5 and 6

Plain language analysis:

The objective of the rule is to provide greater clarity for hearing instrument specialists, speech-language pathologists, audiologists, and temporary licensees regarding the practice of telehealth.

Summary of, and comparison with, existing or proposed federal regulation: None

Comparison with rules in adjacent states:

Illinois:

In the Illinois Compiled Statutes Chapter 225, the Telehealth Act provides a definition for “Health care professional” which includes speech-language pathologists, audiologists, and hearing instrument dispensers. This Act also provides a definition of “Telehealth” as “the evaluation, diagnosis, or interpretation of electronically transmitted patient-specific data between a remote location and a licensed health care professional that generates interaction or treatment recommendations. ‘Telehealth’ includes telemedicine and the delivery of health care services provided by way of an interactive telecommunications system, as defined in subsection (a) of Section 356z.22 of the Illinois Insurance Code.” If the patient being treated is in Illinois, then the healthcare professional providing treatment via telehealth must be licensed to practice in Illinois (225 ILCS 150).

Illinois Executive Order 2020-09 expanded the definition of “Telehealth Services” to include provision of healthcare to a patient in any location through electronic or telephonic methods, in response to the COVID-19 pandemic for the duration of the Illinois Gubernatorial Disaster Proclamation. Executive Order 2021-14 re-issued Executive Order 2020-09 and extended it through at least July 24, 2021.

Iowa:

The Iowa Administrative Code Chapter 300, rule 645.300.2 includes that the provision of speech pathology or audiology services in Iowa via telephonic, electronic, or other methods, requires an Iowa license (IAC 645.300.2(147)).

Michigan:

The Michigan Compiled Laws, Chapter 333, Act 368 provides that Telehealth is defined as long-distance health care through telecommunication technologies. Telehealth may include telemedicine, which is defined in MCL 500.3476 (MCL 300.26283). Act 368 includes Michigan laws relating to the practice of speech-language pathology and audiology.

Minnesota:

The practice of speech-language pathology and audiology are provided for in Minnesota Statutes ss.148.511 to 148.5198. Telehealth, telemedicine, or telepractice is not specifically mentioned.

The Minnesota Department of Health provides the following definition related to Telehealth: “The provision of speech-pathology or audiology services in Minnesota through telepractice, electronic, or other means, regardless of the location of the speech-language pathologist or audiologist, shall constitute the practice of speech-language pathology or audiology and shall require Minnesota licensure.” (source: <https://www.health.state.mn.us/facilities/providers/slpa/telepractice.html>)

Summary of factual data and analytical methodologies:

The Board reviewed chs. HAS 5 and HAS 6 to clarify the provision of telehealth services. The Board also referenced Wisconsin Administrative Code s. Med 24.02 when creating a definition of Telehealth specifically for the practice of speech-language pathology and audiology in the state. The Board also reviewed and considered the definition relating to telehealth provided by the American Speech-Language- Hearing Association (ASHA).

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

The proposed rules will be 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.

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.

TEXT OF RULE

SECTION 1. HAS 5.015 and 5.018 are created to read:

HAS 5.015 Definition. In this chapter, “telehealth” means the application of telecommunication technology to sell or fit hearing aids at a distance. Telehealth does not include the provision hearing aid services through an audio-only telephone, email messages, text messages, facsimile transmission, mail or parcel service, or any combination thereof.

5.018 Wisconsin license required. A person engaging in the practice of selling or fitting hearing aids to a patient located in this state shall be licensed under ch. 459, Stats., as a hearing instrument specialist or audiologist.

SECTION 2. HAS 5.02 (1m) is created to read:

(1m) The standards of practice and professional conduct apply to a licensee regardless of whether services are provided in person or by telehealth.

SECTION 3. HAS 6.175 (4m) is created to read:

HAS 6.175 (4m) “Telehealth” means the application of telecommunication technology to deliver speech-language pathology services, audiology services, or both, at a distance for assessment, intervention, or consultation. Telehealth does not include the provision of speech-language pathology or audiology services through an audio-only telephone, email messages, text messages, facsimile transmission, mail or parcel service, or any combination thereof.

SECTION 4. HAS 6.18 (4) and (5) are created to read:

HAS 6.18 (4) The standards of practice and professional conduct apply to a licensee regardless of whether speech-pathology or audiology services are provided in person or by telehealth.

(5) A speech-language pathologist or audiologist who is diagnosing or treating a patient located in this state shall be licensed under ch. 459, Stats.

SECTION 5. 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)

HAS 5 and 6 - Telehealth

For Consideration and Comparison:

American Speech-Language-Hearing Association (ASHA) Definition: “**Telepractice** is the application of telecommunications technology to the delivery of speech language pathology and audiology professional services at a distance by linking clinician to client or clinician to clinician for assessment, intervention, and/or consultation. In 2005, ASHA determined that telepractice is an appropriate model of service delivery for audiologists and speech-language pathologists (SLPs) (ASHA, n.d.)...ASHA adopted the term **telepractice** rather than the frequently used terms **telemedicine** or **telehealth** to avoid the misperception that these services are used only in health care settings. Other terms such as **teleaudiology**, **telespeech**, and **speech teletherapy** are also used by practitioners in addition to **telepractice**. Services delivered by audiologists and speech-language pathologists are included in the broader generic term **telerehabilitation** (American Telemedicine Association, 2010).” <https://www.asha.org/practice-portal/professional-issues/telepractice/>