

State of Wisconsin



2009 Senate Bill 358

Date of enactment: **May 13, 2010**
Date of publication*: **May 27, 2010**

2009 WISCONSIN ACT 356

AN ACT *to repeal* 15.407 (4) and 459.23; *to renumber* 459.01 (1); *to renumber and amend* 459.24 (3) (d), 459.24 (6) (b) and 459.28 (1); *to amend* 459.02 (2), 459.03 (1), 459.03 (2) (intro.), 459.03 (2) (b), 459.085, 459.10 (1) (g), 459.24 (1) (b), 459.24 (1m), 459.24 (3) (e), 459.24 (3) (f), 459.24 (3m) (a), 459.24 (6) (c), 459.26 (2) (a), 459.26 (2) (b) 4. and 459.34 (2) (d); and *to create* 459.01 (1d), 459.10 (1) (q) and (r), 459.24 (3) (d) 2. and 3., 459.24 (6) (b) 2., 459.26 (2) (am), 459.28 (1) (b), 459.34 (2) (i), 459.34 (2) (j) and 459.34 (2) (k) of the statutes; **relating to:** creating new grounds for discipline of hearing instrument specialists, audiologists, and speech–language pathologists, changing licensing requirements for audiologists, and granting rule–making authority.

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

SECTION 1. 15.407 (4) of the statutes is repealed.

SECTION 2. 459.01 (1) of the statutes is renumbered 459.01 (1m).

SECTION 3. 459.01 (1d) of the statutes is created to read:

459.01 (1d) “Deceptive advertising” means creating, using, or promoting the use of any advertising material, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation, however disseminated or published, which is misleading, false, or untruthful.

SECTION 4. 459.02 (2) of the statutes is amended to read:

459.02 (2) Nothing in this subchapter or subch. II shall prohibit any corporation or mercantile establishment which maintains an established business address from engaging in the business of selling or offering for sale hearing aids at retail without a license, provided that for the purpose of selling and fitting hearing aids it employs persons licensed under this subchapter or per-

sons issued licenses or permits to practice audiology under subch. II. ~~Such corporation or mercantile establishment shall annually file with the examining board a list of all persons employed for the purpose of selling and fitting hearing aids.~~

SECTION 5. 459.03 (1) of the statutes is amended to read:

459.03 (1) ~~Whoever practices fitting or selling of hearing aids under this subchapter~~ A hearing instrument specialist who engages in the practice of fitting and dealing in hearing aids shall deliver to each person supplied with a hearing aid a receipt. The receipt shall contain the licensee’s signature and show the licensee’s business address and license title and number of the hearing instrument specialist, together with specifications as to the make and model of the hearing aid furnished and full terms of sale clearly stated. If a hearing aid which is not new is sold, the receipt and the container thereof must be clearly marked as “used” or “reconditioned” whichever is applicable.

SECTION 6. 459.03 (2) (intro.) of the statutes is amended to read:

* Section 991.11, WISCONSIN STATUTES 2007–08 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

459.03 (2) (intro.) The receipt shall contain all of the following information, that shall be set out in not less than 8-point type:

SECTION 7. 459.03 (2) (b) of the statutes is amended to read:

459.03 (2) (b) A statement that the purchaser has been advised at the outset of the purchaser's relationship with by the hearing instrument specialist that any examination or representation made by ~~a~~ the hearing instrument specialist in connection with the fitting and selling of this hearing aid is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefore must not be regarded as medical opinion or advice.

SECTION 8. 459.085 of the statutes is amended to read:

459.085 Calibration of audiometric equipment. 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. ~~Certification of these calibrations shall be sent to the examining board with the renewal fee required in s. 459.09 (1) (a).~~

SECTION 9. 459.10 (1) (g) of the statutes is amended to read:

459.10 (1) (g) Engaged in ~~false, misleading or deceptive~~ advertising.

SECTION 10. 459.10 (1) (q) and (r) of the statutes are created to read:

459.10 (1) (q) Intentionally or negligently misrepresented the cause of a hearing impairment or the cure of a hearing impairment by the use of a hearing aid.

(r) Made an intentional or negligent misrepresentation regarding a hearing aid or services.

SECTION 11. 459.23 of the statutes is repealed.

SECTION 12. 459.24 (1) (b) of the statutes is amended to read:

459.24 (1) (b) Engage in the practice of audiology or use the title "audiologist," "clinical audiologist," or any similar title unless the person holds a current audiologist license granted by the examining board under sub. (3) or (6) (b).

SECTION 13. 459.24 (1m) of the statutes is amended to read:

459.24 (1m) PROHIBITED TITLES. No person may use the title "certified hearing aid audiologist" ~~or~~ "certified hearing instrument audiologist," "licensed hearing instrument audiologist," or "licensed hearing aid audiologist."

SECTION 14. 459.24 (3) (d) of the statutes is renumbered 459.24 (3) (d) (intro.) and amended to read:

459.24 (3) (d) (intro.) Submits evidence satisfactory to the examining board that he or she has completed a supervised clinical practicum and ~~received~~ satisfied one of the following:

1. Received a master's degree in audiology from a college or university approved by the examining board, or has completed education or training that the examining board determines is substantially equivalent to the completion of those requirements. This subdivision does not apply to applications received after December 31, 2009.

SECTION 15. 459.24 (3) (d) 2. and 3. of the statutes are created to read:

459.24 (3) (d) 2. Submits evidence satisfactory to the examining board that he or she possesses a doctoral degree in audiology from an accredited academic institution approved by the examining board by rule. The doctoral degree program must consist of not less than 3 years of educational course work and not less than 12 months of clinical rotation or externship. This subdivision applies to applications received after December 31, 2009.

3. Submits evidence satisfactory to the examining board that he or she has completed education or training that the examining board determines is substantially equivalent to the requirements under subd. 2. This subdivision applies to applications received after December 31, 2009.

SECTION 16. 459.24 (3) (e) of the statutes is amended to read:

459.24 (3) (e) Submits evidence satisfactory to the examining board that he or she has passed the ~~examination required for certification as an audiologist by the American Speech-Language-Hearing Association or passes an examination under s. 459.26 (2) (a) to determine fitness as an audiologist,~~ examinations selected or approved by the examining board by rule under s. 459.26 (2) (am), or has completed education or training that the examining board determines is substantially equivalent to ~~passing one of those examinations in determining fitness as an audiologist~~ the examinations selected or approved by the examining board under s. 459.26 (2) (am).

SECTION 17. 459.24 (3) (f) of the statutes is amended to read:

459.24 (3) (f) Submits evidence satisfactory to the examining board that he or she has completed a postgraduate clinical fellowship in audiology approved by the examining board or has completed education or training that the examining board determines is substantially equivalent to the completion of such a fellowship. This paragraph applies to applications received on or before December 31, 2009.

SECTION 18. 459.24 (3m) (a) of the statutes is amended to read:

459.24 (3m) (a) Deliver to each person supplied with a hearing aid a receipt. The receipt shall contain the signature and show the business address ~~and~~ license or permit title, and number of the licensee or permittee, together with specifications as to the make and model of

the hearing aid and full terms of sale clearly stated. If a hearing aid that is not new is sold, the receipt and the container must be clearly marked as “used” or “reconditioned”, whichever is applicable. The terms of the guarantee, if there is any given, shall be set out in not less than 8–point type.

SECTION 19. 459.24 (6) (b) of the statutes is renumbered 459.24 (6) (b) 1. and amended to read:

459.24 (6) (b) 1. Upon application, the examining board may grant a temporary license to practice audiology during the completion of the postgraduate fellowship required under sub. (3) (f) if the applicant practices under the supervision of an audiologist licensed under sub. (3), satisfies the requirements under sub. (3) (a) to (d), and has submitted an application to take the next available examinations for licensure as an audiologist under s. 459.26 (2) (a) and (b). No license may be issued under this paragraph after December 31, 2009.

SECTION 20. 459.24 (6) (b) 2. of the statutes is created to read:

459.24 (6) (b) 2. The examining board may grant a temporary license to practice audiology to an individual who satisfies the requirements under sub. (3) (a) to (e).

SECTION 21. 459.24 (6) (c) of the statutes is amended to read:

459.24 (6) (c) A temporary license granted under this subsection is valid for a period designated in rules promulgated by the examining board. The rules may designate a period that terminates if an applicant fails to take the next available examination under s. 459.26 (2) (a) or (b) for reasons other than inaction by the examining board or hardship. A temporary license granted under par. (a) may be renewed once by the examining board. A temporary license granted under par. (b) may be renewed once by the examining board if the applicant fails an examination for audiologist licensure under s. 459.26 (2) (a) or (b) and applies to take the next available examination or if the applicant shows, to the satisfaction of the examining board, sufficient cause for the renewal. An applicant for a temporary license shall pay the fee specified in s. 440.05 (6).

SECTION 22. 459.26 (2) (a) of the statutes is amended to read:

459.26 (2) (a) Examinations for speech–language pathologists shall consist of the examinations required for certification as a speech–language pathologist ~~or as an audiologist~~ by the American speech–language–hearing association or may consist of other written tests that require applicants to demonstrate minimum competency in services and subjects substantially related to the practice of speech–language pathology ~~or audiology~~ and that are substantially equivalent to the examinations required for such certification.

SECTION 23. 459.26 (2) (am) of the statutes is created to read:

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

SECTION 24. 459.26 (2) (b) 4. of the statutes is amended to read:

459.26 (2) (b) 4. Recording and evaluation of audiograms and speech audiometry to determine proper selection and ~~adaption~~ adaptation of a hearing aid.

SECTION 25. 459.28 (1) of the statutes is renumbered 459.28 (1) (intro.) and amended to read:

459.28 (1) (intro.) Upon application and payment of the fee specified in s. 440.05 (2), the examining board shall ~~grant~~ do the following:

(a) Grant a license to practice speech–language pathology or audiology under s. 459.24 (2) or (3) to an applicant who holds a current speech–language pathologist or audiologist license in another state or territory of the United States if the examining board determines that the requirements for licensure in the other state or territory are substantially equivalent to the requirements under s. 459.24 (2) or (3).

SECTION 26. 459.28 (1) (b) of the statutes is created to read:

459.28 (1) (b) Notwithstanding s. 459.24 (3) (d), grant a license to practice audiology under s. 459.24 (3) to an applicant who holds a current audiologist license in another state or territory of the United States if the examining board determines all of the following:

1. The requirements for licensure in the other state or territory are substantially equivalent to the requirements under s. 459.24 (3) (c), (e), and (em).

2. The applicant has submitted evidence satisfactory to the examining board that he or she has completed a supervised clinical practicum and received a master’s degree in audiology from a college or university approved by the examining board, or has completed education or training that the examining board determines is substantially equivalent to the completion of those requirements.

SECTION 27. 459.34 (2) (d) of the statutes is amended to read:

459.34 (2) (d) ~~Advertised Engaged in a manner which is false, deceptive or misleading advertising.~~

SECTION 28. 459.34 (2) (i) of the statutes is created to read:

459.34 (2) (i) Intentionally or negligently misrepresented the cause of a hearing impairment or the cure of a hearing impairment by the use of a hearing aid.

SECTION 29. 459.34 (2) (j) of the statutes is created to read:

459.34 (2) (j) Made an intentional or negligent misrepresentation regarding a hearing aid or services.

SECTION 30. 459.34 (2) (k) of the statutes is created to read:

459.34 (2) (k) Misused the words “doctor,” “clinic,” “clinical,” or other words, abbreviations, or symbols that

imply the involvement of the medical or audiology professions in the absence of such involvement.

(1) This act takes effect on December 31, 2009, or on the day after publication, whichever is later.

SECTION 31. Effective date.
