
ENGROSSED SUBSTITUTE HOUSE BILL 2309

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Dyer, Conway, Murray, D. Sommers, Dellwo, Cairnes, Ogden, Linville, Cody and Mason)

Read first time 02/02/96.

1 AN ACT Relating to regulation of hearing and speech professions;
2 amending RCW 18.35.010, 18.35.020, 18.35.030, 18.35.040, 18.35.050,
3 18.35.060, 18.35.070, 18.35.080, 18.35.085, 18.35.090, 18.35.095,
4 18.35.100, 18.35.105, 18.35.110, 18.35.120, 18.35.140, 18.35.150,
5 18.35.161, 18.35.172, 18.35.175, 18.35.180, 18.35.185, 18.35.190,
6 18.35.195, 18.35.205, 18.35.230, 18.35.240, and 18.35.250; reenacting
7 and amending RCW 18.130.040; adding new sections to chapter 18.35 RCW;
8 creating new sections; and repealing RCW 18.35.170.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.35 RCW
11 to read as follows:

12 It is the intent of this chapter to protect the public health,
13 safety, and welfare; to protect the public from being misled by
14 incompetent, unethical, and unauthorized persons; and to assure the
15 availability of hearing and speech services of high quality to persons
16 in need of such services.

17 **Sec. 2.** RCW 18.35.010 and 1993 c 313 s 1 are each amended to read
18 as follows:

1 As used in this chapter, unless the context requires otherwise:

2 (1) (~~"Department" means the department of health.~~

3 ~~(2))~~ "Assistive listening device or system" means an amplification
4 system that is specifically designed to improve the signal to noise
5 ratio for the listener, reduce interference from noise in the
6 background, and enhance hearing levels at a distance by picking up
7 sound from as close to source as possible and sending it directly to
8 the ear of the listener, excluding hearing instruments as defined in
9 this chapter.

10 (2) "Audiologist" means a person who is certified by the department
11 to engage in the practice of audiology and meets the qualifications in
12 this chapter.

13 (3) "Audiology" means the application of principles, methods, and
14 procedures related to hearing and the disorders of hearing and to
15 related language and speech disorders, whether of organic or nonorganic
16 origin, peripheral or central, that impede the normal process of human
17 communication including, but not limited to, disorders of auditory
18 sensitivity, acuity, function, processing, or vestibular function, the
19 application of aural habilitation, rehabilitation, and appropriate
20 devices including fitting and dispensing of hearing instruments, and
21 cerumen management to treat such disorders.

22 (4) "Board" means the board (~~(on fitting and dispensing))~~ of
23 hearing (~~(aids))~~ and speech.

24 (~~(3))~~ (5) "Department" means the department of health.

25 (6) "Direct supervision" means that the supervisor is physically
26 present and in the same room with the hearing instrument
27 fitter/dispenser permit holder, observing the nondiagnostic testing,
28 fitting, and dispensing activities of the hearing instrument
29 fitter/dispenser permit holder at all times.

30 (7) "Establishment" means any permanent site housing a person
31 engaging in the practice of fitting and dispensing of hearing
32 instruments by a hearing instrument fitter/dispenser or audiologist;
33 where the client can have personal contact and counsel during the
34 firm's business hours; where business is conducted; and the address of
35 which is given to the state for the purpose of bonding.

36 (8) "Facility" means any permanent site housing a person engaging
37 in the practice of speech language pathology and/or audiology,
38 excluding the sale, lease, or rental of hearing instruments.

1 (9) "Fitting and dispensing of hearing instruments" means the sale,
2 lease, or rental or attempted sale, lease, or rental of hearing
3 instruments together with the selection and modification of hearing
4 instruments and the administration of nondiagnostic tests as specified
5 by RCW 18.35.110 and the use of procedures essential to the performance
6 of these functions; and includes recommending specific hearing
7 instrument systems, specific hearing instruments, or specific hearing
8 instrument characteristics, the taking of impressions for ear molds for
9 these purposes, the use of nondiagnostic procedures and equipment to
10 verify the appropriateness of the hearing instrument fitting, and
11 hearing instrument orientation. The fitting and dispensing of hearing
12 instruments as defined by this chapter may be equally provided by a
13 licensed hearing instrument fitter/dispenser or certified audiologist.

14 (10) "Good standing" means a licensed hearing instrument
15 fitter/dispenser or certified audiologist or speech language
16 pathologist whose license or certificate has not been subject to
17 sanctions pursuant to chapter 18.130 RCW or sanctions by other states,
18 territories, or the District of Columbia in the last two years.

19 (11) "Hearing ((aid)) instrument" means any wearable prosthetic
20 instrument or device designed for or represented as aiding, improving,
21 compensating for, or correcting defective human hearing and any parts,
22 attachments, or accessories of such an instrument or device, excluding
23 batteries and cords ((and)), ear molds, and assistive listening
24 devices.

25 ~~((4) "Fitting and dispensing of hearing aids" means the sale,~~
26 ~~lease, or rental or attempted sale, lease, or rental of hearing aids~~
27 ~~together with the selection and adaptation of hearing aids and the use~~
28 ~~of those tests and procedures essential to the performance of these~~
29 ~~functions. It includes the taking of impressions for ear molds for~~
30 ~~these purposes.~~

31 ~~(5))~~ (12) "Hearing instrument fitter/dispenser" means a person who
32 is licensed to engage in the practice of fitting and dispensing of
33 hearing instruments and meets the qualifications of this chapter.

34 (13) "Hearing instrument fitter/dispenser permit holder" means a
35 person who practices under the direct supervision of a licensed hearing
36 instrument fitter/dispenser or certified audiologist.

37 (14) "Secretary" means the secretary of health.

38 ~~((6) "Establishment" means any facility engaged in the fitting and~~
39 ~~dispensing of hearing aids.))~~

1 (15) "Speech-language pathologist" means a person who is certified
2 by the department to engage in the practice of speech-language
3 pathology and meets the qualifications of this chapter.

4 (16) "Speech-language pathology" means the application of
5 principles, methods, and procedures related to the development and
6 disorders, whether of organic or nonorganic origin, that impede oral,
7 pharyngeal, or laryngeal sensorimotor competencies and the normal
8 process of human communication including, but not limited to, disorders
9 and related disorders of speech, articulation, fluency, voice, verbal
10 and written language, auditory comprehension, cognition/communication,
11 and the application of augmentative communication treatment and devices
12 for treatment of such disorders.

13 **Sec. 3.** RCW 18.35.020 and 1989 c 198 s 1 are each amended to read
14 as follows:

15 No person shall engage in the fitting and dispensing of hearing
16 ~~((aids))~~ instruments or imply or represent that he or she is engaged in
17 the fitting and dispensing of hearing ~~((aids))~~ instruments unless he or
18 she ~~((holds))~~ is a ~~((valid license))~~ licensed hearing instrument
19 fitter/dispenser or a certified audiologist or holds a hearing
20 instrument fitter/dispenser permit or audiology interim permit issued
21 by the department as provided in this chapter and is an owner or
22 employee of an establishment that is bonded as provided by RCW
23 18.35.240. The owner or manager of ((a)) an establishment that
24 dispenses hearing ~~((aid establishment))~~ instruments is responsible
25 under this chapter for all transactions made in the establishment name
26 or conducted on its premises by agents or ~~((employees of))~~ persons
27 employed by the establishment engaged in fitting and dispensing of
28 hearing ~~((aids))~~ instruments. Every establishment that fits and
29 dispenses shall have in its employ at least one licensed ~~((fitter-~~
30 dispenser)) hearing instrument fitter/dispenser or certified
31 audiologist at all times, and shall annually submit proof that all
32 ~~((audiometric))~~ testing equipment at that establishment that is
33 required by the board to be calibrated has been properly calibrated.

34 **Sec. 4.** RCW 18.35.030 and 1983 c 39 s 3 are each amended to read
35 as follows:

36 Any person who engages in ~~((the))~~ fitting and dispensing of hearing
37 ~~((aids))~~ instruments shall provide to each person who enters into an

1 agreement to purchase a hearing ~~((aid))~~ instrument a receipt at the
2 time of the agreement containing the following information:

3 (1) The seller's name, signature, license, certificate, or permit
4 number, address, and phone number of his or her regular place of
5 business;

6 (2) A description of the ~~((aid))~~ instrument furnished, including
7 make, model, circuit options, and the term "used" or "reconditioned" if
8 applicable;

9 (3) A disclosure of the cost of all services including but not
10 limited to the cost of testing and fitting, the actual cost of the
11 hearing ~~((aid))~~ instrument furnished, the cost of ear molds if any, and
12 the terms of the sale. These costs, including the cost of ear molds,
13 shall be known as the total purchase price. The receipt shall also
14 contain a statement of the purchaser's recision rights under this
15 chapter and an acknowledgment that the purchaser has read and
16 understands these rights. Upon request, the purchaser shall also be
17 supplied with a signed and dated copy of any hearing evaluation
18 performed by the seller.

19 (4) At the time of delivery of the hearing ~~((aid))~~ instrument, the
20 purchaser shall also be furnished with the serial number of the hearing
21 ~~((aid))~~ instrument supplied.

22 **Sec. 5.** RCW 18.35.040 and 1991 c 3 s 81 are each amended to read
23 as follows:

24 ~~((1))~~ (1) An applicant for ~~((license shall be at least eighteen years of~~
25 age)) licensure as a hearing instrument fitter/dispenser must have the
26 following minimum qualifications and shall pay a fee determined by the
27 secretary as provided in RCW 43.70.250. An applicant shall ~~((not))~~ be
28 issued a license under the provisions of this chapter ~~((unless))~~ if the
29 applicant:

30 ~~((1))~~ (a)(i) Satisfactorily completes the hearing instrument
31 fitter/dispenser examination required by this chapter; or

32 ~~((2))~~ (ii) Holds a current, unsuspended, unrevoked license ~~((or~~
33 certificate)) from ~~((a state or jurisdiction with which the department~~
34 has entered into a reciprocal agreement, and shows evidence
35 satisfactory to the department that the applicant is licensed in good
36 standing in the other jurisdiction)) another jurisdiction if the
37 standards for licensing in such other jurisdiction are substantially
38 equivalent to those prevailing in this state;

1 (b) After December 31, 1996, has at least six months of
2 apprenticeship training that meets requirements established by the
3 board. The board may waive part or all of the apprenticeship training
4 in recognition of formal education in fitting and dispensing of hearing
5 instruments or in recognition of previous licensure in Washington or in
6 another state, territory, or the District of Columbia;

7 (c) Is at least twenty-one years of age; and

8 (d) Has not committed unprofessional conduct as specified by the
9 uniform disciplinary act.

10 The applicant must present proof of qualifications to the board in
11 the manner and on forms prescribed by the secretary and proof of
12 completion of a minimum of four clock hours of AIDS education and
13 training pursuant to rules adopted by the board.

14 (2) An applicant for certification as a speech-language pathologist
15 or audiologist must have the following minimum qualifications:

16 (a) Has not committed unprofessional conduct as specified by the
17 uniform disciplinary act;

18 (b) Has a master's degree or the equivalent, or a doctorate degree
19 or the equivalent, from a program at a board-approved institution of
20 higher learning, which includes completion of a supervised clinical
21 practicum experience as defined by rules adopted by the board; and

22 (c) Has completed postgraduate professional work experience
23 approved by the board.

24 All qualified applicants must satisfactorily complete the speech-
25 language pathology or audiology examinations required by this chapter.

26 The applicant must present proof of qualifications to the board in
27 the manner and on forms prescribed by the secretary and proof of
28 completion of a minimum of four clock hours of AIDS education and
29 training pursuant to rules adopted by the board.

30 **Sec. 6.** RCW 18.35.050 and 1993 c 313 s 2 are each amended to read
31 as follows:

32 Except as otherwise provided in this chapter an applicant for
33 license or certification shall appear at a time and place and before
34 such persons as the department may designate to be examined by written
35 ~~((and))~~ or practical tests, or both. ~~((The department shall give an~~
36 ~~examination in May and November of each year.))~~ Examinations in hearing
37 instrument fitting/dispensing, speech-language pathology, and audiology
38 shall be held within the state at least once a year. The examinations

1 shall be reviewed annually by the board and the department, and revised
2 as necessary. (~~No examination of any established association may be~~
3 ~~used as the exclusive replacement for the examination unless approved~~
4 ~~by the board.~~) The examinations shall include appropriate subject
5 matter to ensure the competence of the applicant. Nationally
6 recognized examinations in the fields of fitting and dispensing of
7 hearing instruments, speech-language pathology, and audiology may be
8 used to determine if applicants are qualified for licensure or
9 certification. An applicant who fails an examination may apply for
10 reexamination upon payment of a reexamination fee. The hearing
11 instrument fitting/dispensing reexamination fee for hearing instrument
12 fitter/dispensers and audiologists shall be set by the secretary under
13 RCW 43.70.250.

14 **Sec. 7.** RCW 18.35.060 and 1993 c 313 s 3 are each amended to read
15 as follows:

16 (1) The department shall issue a (~~trainee license~~) hearing
17 instrument fitting/dispensing permit to any applicant who has shown to
18 the satisfaction of the department that the applicant:

19 (a) (~~The applicant~~) Is at least (~~eighteen~~) twenty-one years of
20 age;

21 (b) If issued a (~~trainee license~~) hearing instrument
22 fitter/dispenser permit, would be employed and directly supervised in
23 the fitting and dispensing of hearing (~~aids~~) instruments by a person
24 licensed or certified in good standing as a (~~fitter dispenser~~)
25 hearing instrument fitter/dispenser or audiologist for at least (~~one~~
26 year) two years unless otherwise approved by the board; (~~and~~)

27 (c) Has paid an application fee determined by the secretary as
28 provided in RCW 43.70.250, to the department;

29 (d) Has not committed unprofessional conduct as specified by the
30 uniform disciplinary act; and

31 (e) Is a high school graduate or the equivalent.

32 The provisions of RCW 18.35.030, 18.35.110, and 18.35.120 shall
33 apply to any person issued a (~~trainee license~~) hearing instrument
34 fitter/dispenser permit. Pursuant to the provisions of this section,
35 a person issued a (~~trainee license~~) hearing instrument
36 fitter/dispenser permit may engage in the fitting and dispensing of
37 hearing (~~aids~~) instruments without having first passed the hearing
38 instrument fitter/dispenser examination provided under this chapter.

1 (2) The ~~((trainee license))~~ hearing instrument fitter/dispenser
2 permit shall contain the names of the ~~((person))~~ employer and the
3 licensed or certified supervisor under this chapter who ~~((is))~~ are
4 employing and supervising the ((trainee)) hearing instrument
5 fitter/dispenser permit holder and ~~((that))~~ those persons shall execute
6 an acknowledgment of responsibility for all acts of the ~~((trainee))~~
7 hearing instrument fitter/dispenser permit holder in connection with
8 the fitting and dispensing of hearing ~~((aids))~~ instruments.

9 (3) A ~~((trainee))~~ hearing instrument fitter/dispenser permit holder
10 may fit and dispense hearing ~~((aids))~~ instruments, but only if the
11 ~~((trainee))~~ hearing instrument fitter/dispenser permit holder is under
12 the direct supervision of a ~~((person))~~ licensed hearing instrument
13 fitter/dispenser or certified audiologist under this chapter in a
14 capacity other than as a ~~((trainee))~~ hearing instrument
15 fitter/dispenser permit holder. Direct supervision by a licensed
16 ~~((fitter-dispenser))~~ hearing instrument fitter/dispenser or certified
17 audiologist shall be required whenever the ~~((trainee))~~ hearing
18 instrument fitter/dispenser permit holder is engaged in the fitting or
19 dispensing of hearing ~~((aids))~~ instruments during the ~~((trainee's first~~
20 ~~three months of full-time))~~ hearing instrument fitter/dispenser permit
21 holder's employment. The board shall develop and adopt guidelines on
22 any additional supervision or training it deems necessary.

23 (4) The ~~((trainee license))~~ hearing instrument fitter/dispenser
24 permit shall expire one year from the date of its issuance except that
25 on recommendation of the board the ~~((license))~~ permit may be reissued
26 for one additional year only.

27 (5) No ~~((person licensed))~~ certified audiologist or licensed
28 hearing instrument fitter/dispenser under this chapter may assume the
29 responsibility for more than ~~((two trainees))~~ one hearing instrument
30 fitter/dispenser permit holder at any one time ~~((, except that the~~
31 ~~department may approve one additional trainee if none of the trainees~~
32 ~~is within the initial ninety day period of direct supervision and the~~
33 ~~licensee demonstrates to the department's satisfaction that adequate~~
34 ~~supervision will be provided for all trainees))~~.

35 (6) The department, upon approval by the board, shall issue an
36 interim permit authorizing an applicant for speech-language pathologist
37 certification or audiologist certification who, except for the
38 postgraduate professional experience and the examination requirements,
39 meets the academic and practicum requirements of RCW 18.35.040 to

1 practice under interim permit supervision by a certified speech-
2 language pathologist or certified audiologist. The interim permit is
3 valid for a period of one year from date of issuance. The board shall
4 determine conditions for the interim permit.

5 **Sec. 8.** RCW 18.35.070 and 1973 1st ex.s. c 106 s 7 are each
6 amended to read as follows:

7 The hearing instrument fitter/dispenser written or practical
8 examination, or both, provided in RCW 18.35.050 shall consist of:

9 (1) Tests of knowledge in the following areas as they pertain to
10 the fitting of hearing ~~((aids))~~ instruments:

11 (a) Basic physics of sound;

12 (b) The human hearing mechanism, including the science of hearing
13 and the causes and rehabilitation of abnormal hearing and hearing
14 disorders; and

15 (c) Structure and function of hearing ~~((aids))~~ instruments.

16 (2) Tests of proficiency in the following ~~((techniques))~~ areas as
17 they pertain to the fitting of hearing ~~((aids))~~ instruments:

18 (a) Pure tone audiometry, including air conduction testing and bone
19 conduction testing;

20 (b) Live voice or recorded voice speech audiometry, including
21 speech reception threshold testing and speech discrimination testing;

22 (c) Effective masking;

23 (d) Recording and evaluation of audiograms and speech audiometry to
24 determine hearing ~~((aid))~~ instrument candidacy;

25 (e) Selection and adaptation of hearing ~~((aids))~~ instruments and
26 testing of hearing ~~((aids))~~ instruments; and

27 (f) Taking ear mold impressions.

28 (3) Evidence of knowledge regarding the medical and rehabilitation
29 facilities for children and adults that are available in the area
30 served.

31 (4) Evidence of knowledge of grounds for revocation or suspension
32 of license under the provisions of this chapter.

33 (5) Any other tests as the ~~((department))~~ board may by rule
34 establish.

35 **Sec. 9.** RCW 18.35.080 and 1991 c 3 s 83 are each amended to read
36 as follows:

1 (1) The department shall license or certify each qualified
2 applicant, without discrimination, who satisfactorily completes the
3 required examinations for his or her profession and, upon payment of a
4 fee determined by the secretary as provided in RCW 43.70.250 to the
5 department, shall issue to the applicant a license. A person shall not
6 knowingly make a false, material statement in an application for a
7 license, certification, or permit or for a renewal of a license,
8 certification, or permit.

9 If a ((~~person~~)) prospective hearing instrument fitter/dispenser
10 does not apply for a license within three years of the successful
11 completion of the hearing instrument fitter/dispenser license
12 examination, reexamination is required for licensure. The license
13 shall be effective until the licensee's next birthday at which time it
14 is subject to renewal. Subsequent renewal dates shall coincide with
15 the licensee's birthday.

16 (2) The board shall waive the examination and grant a speech-
17 language pathology certificate to a person engaged in the profession of
18 speech-language pathology in this state on the effective date of this
19 section if the board determines that the person meets commonly accepted
20 standards for the profession, as defined by rules adopted by the board.
21 Persons eligible for certification under this subsection must apply for
22 a license before July 1, 1997.

23 (3) The board shall waive the examinations and grant an audiology
24 certificate to a person engaged in the profession of audiology in this
25 state on the effective date of this section if the board determines
26 that the person meets the commonly accepted standards for the
27 profession and has passed the hearing instrument fitter/dispenser
28 examination. Persons eligible for certification under this subsection
29 must apply for a certificate before July 1, 1997.

30 (4) The board shall grant an audiology certificate to a person
31 engaged in the profession of audiology, who has not been licensed as a
32 hearing aid fitter/dispenser, but who meets the commonly accepted
33 standards for the profession of audiology and graduated from a board-
34 approved program after January 1, 1993, and has passed sections of the
35 examination pertaining to RCW 18.35.070 (3), (4), and (5). Persons
36 eligible for certification under this subsection must apply for a
37 certificate before July 1, 1997.

38 (5) Persons engaged in the profession of audiology who meet the
39 commonly accepted standards for the profession of audiology and

1 graduated from a board-approved program prior to January 1, 1993, and
2 who have not passed the hearing instrument fitter/dispenser examination
3 shall be granted a temporary audiology certificate (nondispensing) for
4 a period of two years from the effective date of this section during
5 which time they must pass sections of the hearing instrument
6 fitter/dispenser examination pertaining to RCW 18.35.070 (1)(c), (2)(e)
7 and (f), (3), (4), and (5). The board may extend the term of the
8 temporary certificate upon review. Persons eligible for certification
9 under this subsection must apply for a certificate before July 1, 1997.

10 **Sec. 10.** RCW 18.35.085 and 1991 c 332 s 31 are each amended to
11 read as follows:

12 An applicant holding a credential in another state, territory, or
13 the District of Columbia may be credentialed to practice in this state
14 without examination if the board determines that the other state's
15 credentialing standards are substantially equivalent to the standards
16 in this state.

17 **Sec. 11.** RCW 18.35.090 and 1991 c 3 s 84 are each amended to read
18 as follows:

19 Each person who engages in ~~((the fitting and dispensing of hearing~~
20 ~~aids))~~ practice under this chapter shall, as the department prescribes
21 by rule, pay to the department a fee established by the secretary under
22 RCW 43.70.250 for a renewal of the license, certificate, or permit and
23 shall keep the license, certificate, or permit conspicuously posted in
24 the place of business at all times. The license, certificate, or
25 permit of any person who fails to renew his or her license ((prior to
26 the expiration date must pay a penalty fee in addition to the renewal
27 fee and satisfy the requirements)), certificate, or permit prior to the
28 expiration date shall automatically lapse. Within three years from the
29 date of lapse and upon recommendation of the board, the secretary may
30 revive a lapsed license or certificate upon payment of all past unpaid
31 renewal fees and a penalty fee to be determined by the secretary and
32 satisfaction of any requirements, which may include reexamination, that
33 may be set forth by rule promulgated by the secretary for
34 reinstatement. The secretary may by rule establish mandatory
35 continuing education requirements and/or continued competency standards
36 to be met by licensees or certificate or permit holders as a condition
37 for license, certificate, or permit renewal.

1 **Sec. 12.** RCW 18.35.095 and 1993 c 313 s 12 are each amended to
2 read as follows:

3 (1) A ~~((person))~~ hearing instrument fitter/dispenser licensed under
4 this chapter and not actively ~~((fitting and dispensing hearing aids))~~
5 practicing may be placed on inactive status by the department at the
6 written request of the licensee. The board shall define by rule the
7 conditions for inactive status licensure. In addition to the
8 requirements of RCW 43.24.086, the licensing fee for a licensee on
9 inactive status shall be directly related to the costs of administering
10 an inactive license by the department. A ~~((person))~~ hearing instrument
11 fitter/dispenser on inactive status may be voluntarily placed on active
12 status by notifying the department in writing, paying the remainder of
13 the licensing fee for the licensing year, and complying with subsection
14 (2) of this section.

15 (2) Hearing instrument fitter/dispenser inactive licensees applying
16 for active licensure shall comply with the following: A licensee who
17 has not fitted or dispensed hearing ~~((aids))~~ instruments for more than
18 five years from the expiration of the licensee's full fee license shall
19 retake the practical or the written, or both, hearing instrument
20 fitter/dispenser examinations required under this chapter and ~~((shall~~
21 ~~have completed continuing education requirements within the previous~~
22 ~~twelve month period. Persons who have been on inactive status from two~~
23 ~~to five years must have within the previous twelve months completed~~
24 ~~continuing education requirements. Persons who have been on inactive~~
25 ~~status for one year or less shall upon application be reinstated as~~
26 ~~active licensees))~~ other requirements as determined by the board.
27 Persons who have inactive status in this state but who are actively
28 licensed and in good standing in any other state shall not be required
29 to ~~((meet continuing education requirements or to))~~ take the hearing
30 instrument fitter/dispenser practical examination~~((s))~~, but must submit
31 an affidavit attesting to their knowledge of the current Washington
32 Administrative Code rules and Revised Code of Washington statutes
33 pertaining to the fitting and dispensing of hearing ~~((aids))~~
34 instruments.

35 (3) A speech-language pathologist or audiologist certified under
36 this chapter and not actively practicing either speech-language
37 pathology or audiology may be placed on inactive status by the
38 department at the written request of the certificate holder. The board
39 shall define by rule the conditions for inactive status certification.

1 In addition to the requirements of RCW 43.24.086, the fee for a
2 certificate on inactive status shall be directly related to the cost of
3 administering an inactive certificate by the department. A person on
4 inactive status may be voluntarily placed on active status by notifying
5 the department in writing, paying the remainder of the fee for the
6 year, and complying with subsection (4) of this section.

7 (4) Speech-language pathologist or audiologist inactive certificate
8 holders applying for active certification shall comply with
9 requirements set forth by the board, which may include completion of
10 continuing competency requirements and taking an examination.

11 **Sec. 13.** RCW 18.35.100 and 1983 c 39 s 8 are each amended to read
12 as follows:

13 (1) Every ~~((person who holds a license))~~ hearing instrument
14 fitter/dispenser, audiologist, speech-language pathologist, hearing
15 instrument fitter/dispenser permit holder, or interim permit holder,
16 who is regulated under this chapter, shall notify the department in
17 writing of the regular address of the place or places in the state of
18 Washington where the person ~~((engages or intends to engage in the~~
19 ~~fitting and dispensing of hearing aids))~~ practices or intends to
20 practice more than twenty consecutive business days and of any change
21 thereof within ten days of such change. Failure to notify the
22 department in writing shall be grounds for suspension or revocation of
23 license, certificate, or permit.

24 (2) The department shall keep a record of the places of business of
25 persons who hold licenses, certificates, or permits.

26 (3) Any notice required to be given by the department to a person
27 who holds a license, certificate, or permit may be given by mailing it
28 to the address of the last ~~((place of business))~~ establishment or
29 facility of which the person has notified the department, except that
30 notice to a licensee or certificate or permit holder of proceedings to
31 deny, suspend, or revoke the license, certificate, or permit shall be
32 by certified or registered mail or by means authorized for service of
33 process.

34 **Sec. 14.** RCW 18.35.105 and 1989 c 198 s 6 are each amended to read
35 as follows:

36 Each licensee and certificate and permit holder under this chapter
37 shall keep records of all services rendered for a ~~((period))~~ minimum of

1 three years. These records shall contain the names and addresses of
2 all persons to whom services were provided(~~(7)~~). Hearing instrument
3 fitter/dispensers, audiologists, and permit holders shall also record
4 the date the hearing instrument warranty expires, a description of the
5 services and the dates the services were provided, and copies of any
6 contracts and receipts. All records, as required pursuant to this
7 chapter or by rule, (~~kept by licensees~~) shall be owned by the
8 establishment or facility and shall remain with the establishment or
9 facility in the event the licensee or certificate holder changes
10 employment. If a contract between the establishment or facility and
11 the licensee or certificate holder provides that the records are to
12 remain with the licensee or certificate holder, copies of such records
13 shall be provided to the establishment or facility.

14 **Sec. 15.** RCW 18.35.110 and 1993 c 313 s 4 are each amended to read
15 as follows:

16 In addition to causes specified under RCW 18.130.170 and
17 18.130.180, any person licensed or holding a permit or certificate
18 under this chapter may be subject to disciplinary action by the board
19 for any of the following causes:

20 (1) For unethical conduct in (~~dealing in~~) dispensing hearing
21 (~~aids~~) instruments. Unethical conduct shall include, but not be
22 limited to:

23 (a) Using or causing or promoting the use of, in any advertising
24 matter, promotional literature, testimonial, guarantee, warranty,
25 label, brand, insignia, or any other representation, however
26 disseminated or published, which is false, misleading or deceptive;

27 (b) Failing or refusing to honor or to perform as represented any
28 representation, promise, agreement, or warranty in connection with the
29 promotion, sale, dispensing, or fitting of the hearing (~~aids~~)
30 instrument;

31 (c) Advertising a particular model, type, or kind of hearing
32 (~~aids~~) instrument for sale which purchasers or prospective purchasers
33 responding to the advertisement cannot purchase or are dissuaded from
34 purchasing and where it is established that the purpose of the
35 advertisement is to obtain prospects for the sale of a different model,
36 type, or kind than that advertised;

37 (d) Falsifying hearing test or evaluation results;

1 (e)(i) Whenever any of the following conditions are found or should
2 have been found to exist either from observations by the licensee or
3 certificate or permit holder or on the basis of information furnished
4 by the prospective hearing ((~~aid~~)) instrument user prior to fitting and
5 dispensing a hearing ((~~aid~~)) instrument to any such prospective hearing
6 ((~~aid~~)) instrument user, failing to advise that prospective hearing
7 ((~~aid~~)) instrument user in writing that the user should first consult
8 a licensed physician specializing in diseases of the ear or if no such
9 licensed physician is available in the community then to any duly
10 licensed physician:

11 (A) Visible congenital or traumatic deformity of the ear, including
12 perforation of the eardrum;

13 (B) History of, or active drainage from the ear within the previous
14 ninety days;

15 (C) History of sudden or rapidly progressive hearing loss within
16 the previous ninety days;

17 (D) Acute or chronic dizziness;

18 (E) Any unilateral hearing loss;

19 (F) Significant air-bone gap when generally acceptable standards
20 have been established as defined by the food and drug administration;

21 (G) Visible evidence of significant cerumen accumulation or a
22 foreign body in the ear canal;

23 (H) Pain or discomfort in the ear; or

24 (I) Any other conditions that the board may by rule establish. It
25 is a violation of this subsection for any licensee or certificate
26 holder or that licensee's or certificate holder's employees and
27 putative agents upon making such required referral for medical opinion
28 to in any manner whatsoever disparage or discourage a prospective
29 hearing ((~~aid~~)) instrument user from seeking such medical opinion prior
30 to the fitting and dispensing of a hearing ((~~aid~~)) instrument. No such
31 referral for medical opinion need be made by any ((~~licensee~~)) licensed
32 hearing instrument fitter/dispenser, certified audiologist, or permit
33 holder in the instance of replacement only of a hearing ((~~aid~~))
34 instrument which has been lost or damaged beyond repair within ((~~six~~))
35 twelve months of the date of purchase. The ((~~licensee~~)) licensed
36 hearing instrument fitter/dispenser, certified audiologist, or permit
37 holder or ((~~the licensee's~~)) their employees or putative agents shall
38 obtain a signed statement from the hearing ((~~aid~~)) instrument user
39 documenting the waiver of medical clearance and the waiver shall inform

1 the prospective user that signing the waiver is not in the user's best
2 health interest: PROVIDED, That the ((licensee)) licensed hearing
3 instrument fitter/dispenser, certified audiologist, or permit holder
4 shall maintain a copy of either the physician's statement showing that
5 the prospective hearing ((aid)) instrument user has had a medical
6 evaluation within the previous six months or the statement waiving
7 medical evaluation, for a period of three years after the purchaser's
8 receipt of a hearing ((aid)) instrument. Nothing in this section
9 required to be performed by a licensee or certificate or permit holder
10 shall mean that the licensee or certificate or permit holder is engaged
11 in the diagnosis of illness or the practice of medicine or any other
12 activity prohibited under the laws of this state;

13 (ii) Fitting and dispensing a hearing ((aid)) instrument to any
14 person under eighteen years of age who has not been examined and
15 cleared for hearing ((aid)) instrument use within the previous six
16 months by a physician specializing in otolaryngology except in the case
17 of replacement instruments or except in the case of the parents or
18 guardian of such person refusing, for good cause, to seek medical
19 opinion: PROVIDED, That should the parents or guardian of such person
20 refuse, for good cause, to seek medical opinion, the ((licensee))
21 licensed hearing instrument fitter/dispenser or certified audiologist
22 shall obtain from such parents or guardian a certificate to that effect
23 in a form as prescribed by the department;

24 (iii) Fitting and dispensing a hearing ((aid)) instrument to any
25 person under eighteen years of age who has not been examined by an
26 audiologist who holds at least a master's degree in audiology for
27 recommendations during the previous six months, without first advising
28 such person or his or her parents or guardian in writing that he or she
29 should first consult an audiologist who holds at least a master's
30 degree in audiology, except in cases of hearing ((aids)) instruments
31 replaced within ((six)) twelve months of their purchase;

32 (f) Representing that the services or advice of a person licensed
33 to practice medicine and surgery under chapter 18.71 RCW or osteopathy
34 and surgery under chapter 18.57 RCW or of a clinical audiologist will
35 be used or made available in the selection, fitting, adjustment,
36 maintenance, or repair of hearing ((aids)) instruments when that is not
37 true, or using the word "doctor," "clinic," or other like words,
38 abbreviations, or symbols which tend to connote a medical or
39 osteopathic profession when such use is not accurate;

1 (g) Permitting another to use his or her license, certificate, or
2 permit;

3 (h) Stating or implying that the use of any hearing ((~~aid~~)
4 instrument will restore normal hearing, preserve hearing, prevent or
5 retard progression of a hearing impairment, or any other false,
6 misleading, or medically or audiologically unsupportable claim
7 regarding the efficiency of a hearing ((~~aid~~) instrument;

8 (i) Representing or implying that a hearing ((~~aid~~) instrument is
9 or will be "custom-made," "made to order," "prescription made," or in
10 any other sense specially fabricated for an individual when that is not
11 the case; or

12 (j) Directly or indirectly offering, giving, permitting, or causing
13 to be given, money or anything of value to any person who advised
14 another in a professional capacity as an inducement to influence that
15 person, or to have that person influence others to purchase or contract
16 to purchase any product sold or offered for sale by the ((~~licensee~~)
17 hearing instrument fitter/dispenser, audiologist, or permit holder, or
18 to influence any person to refrain from dealing in the products of
19 competitors.

20 (2) Engaging in any unfair or deceptive practice or unfair method
21 of competition in trade within the meaning of RCW 19.86.020.

22 (3) Aiding or abetting any violation of the rebating laws as stated
23 in chapter 19.68 RCW.

24 NEW SECTION. Sec. 16. A new section is added to chapter 18.35 RCW
25 to read as follows:

26 (1) A person who is not licensed with the secretary as a hearing
27 instrument fitter/dispenser under the requirements of this chapter may
28 not represent himself or herself as being so licensed and may not use
29 in connection with his or her name the words "licensed hearing
30 instrument fitter/dispenser," "hearing instrument specialist," or
31 "hearing aid fitter/dispenser," or a variation, synonym, word, sign,
32 number, insignia, coinage, or whatever expresses, employs, or implies
33 these terms, names, or functions of a licensed hearing instrument
34 fitter/dispenser.

35 (2) A person who is not certified with the secretary as a speech-
36 language pathologist under the requirements of this chapter may not
37 represent himself or herself as being so certified and may not use in
38 connection with his or her name the words including "certified speech-

1 language pathologist" or a variation, synonym, word, sign, number,
2 insignia, coinage, or whatever expresses, employs, or implies these
3 terms, names, or functions as a certified speech-language pathologist.

4 (3) A person who is not certified with the secretary as an
5 audiologist under the requirements of this chapter may not represent
6 himself or herself as being so certified and may not use in connection
7 with his or her name the words "certified audiologist" or a variation,
8 synonym, letter, word, sign, number, insignia, coinage, or whatever
9 expresses, employs, or implies these terms, names, or functions of a
10 certified audiologist.

11 (4) A person who does not hold a permit issued by the secretary as
12 a hearing instrument fitter/dispenser permittee under the requirements
13 of this chapter may not represent himself or herself as being so
14 permitted and may not use in connection with his or her name the words
15 "hearing instrument fitter/dispenser permit holder" or a variation,
16 synonym, word, sign, number, insignia, coinage, or whatever expresses,
17 employs, or implies these terms, names, or functions of a hearing
18 instrument fitter/dispenser permit holder.

19 (5) Nothing in this chapter prohibits a person credentialed in this
20 state under another act from engaging in the practice for which he or
21 she is credentialed.

22 **Sec. 17.** RCW 18.35.120 and 1983 c 39 s 10 are each amended to read
23 as follows:

24 A licensee or certificate or permit holder under this chapter may
25 also be subject to disciplinary action if the licensee or certificate
26 or permit holder:

27 (1) Is found guilty in any court of any crime involving forgery,
28 embezzlement, obtaining money under false pretenses, larceny,
29 extortion, or conspiracy to defraud and ten years have not elapsed
30 since the date of the conviction; or

31 (2) Has a judgment entered against him or her in any civil action
32 involving forgery, embezzlement, obtaining money under false pretenses,
33 larceny, extortion, or conspiracy to defraud and five years have not
34 elapsed since the date of the entry of the final judgment in the
35 action, but a license shall not be issued unless the judgment debt has
36 been discharged; or

37 (3) Has a judgment entered against him or her under chapter 19.86
38 RCW and two years have not elapsed since the entry of the final

1 judgment; but a license or certificate shall not be issued unless there
2 has been full compliance with the terms of such judgment, if any. The
3 judgment shall not be grounds for denial, suspension, nonrenewal, or
4 revocation of a license or certificate unless the judgment arises out
5 of and is based on acts of the applicant, licensee, certificate holder,
6 or employee of the licensee or certificate holder; or

7 (4) Commits unprofessional conduct as defined in RCW 18.130.180 of
8 the uniform disciplinary act.

9 **Sec. 18.** RCW 18.35.140 and 1993 c 313 s 5 are each amended to read
10 as follows:

11 The powers and duties of the department, in addition to the powers
12 and duties provided under other sections of this chapter, are as
13 follows:

14 (1) To provide ~~((facilities))~~ space necessary to carry out the
15 examination ~~((of applicants for license))~~ set forth in RCW 18.35.070 of
16 applicants for hearing instrument fitter/dispenser licenses or
17 audiology certification.

18 (2) To authorize all disbursements necessary to carry out the
19 provisions of this chapter.

20 (3) To require the periodic examination of ~~((the audiometric))~~
21 testing equipment, as defined by the board, and to carry out the
22 periodic inspection of facilities or establishments of persons who
23 ~~((deal in hearing aids))~~ are licensed or certified under this chapter,
24 as reasonably required within the discretion of the department.

25 (4) To appoint advisory committees as necessary.

26 (5) To keep a record of proceedings under this chapter and a
27 register of all persons licensed, certified, or holding permits under
28 this chapter. The register shall show the name of every living
29 licensee or permit holder for hearing instrument fitting/dispensing,
30 every living certificate or interim permit holder for speech-language
31 pathology, every living certificate or interim permit holder for
32 audiology, with his or her last known place of residence and the date
33 and number of his or her license, permit, or certificate.

34 **Sec. 19.** RCW 18.35.150 and 1993 c 313 s 6 are each amended to read
35 as follows:

36 (1) There is created hereby the board ~~((on fitting and dispensing~~
37 of hearing aids)) of hearing and speech to govern the three separate

1 professions: Hearing instrument fitting/dispensing, audiology, and
2 speech-language pathology. The board shall consist of (~~seven~~) ten
3 members to be appointed by the governor.

4 (2) Members of the board shall be residents of this state. (~~Two~~)
5 Three members shall represent the public and shall have an interest in
6 the rights of consumers of health services, and shall not be or have
7 been a member of, or married to a member of, another licensing board,
8 a licensee of a health occupation board, an employee of a health
9 facility, nor derive his or her primary livelihood from the provision
10 of health services at any level of responsibility. Two members shall
11 be (~~persons experienced in the fitting of hearing aids~~) hearing
12 instrument fitter/dispensers who (~~shall hold valid licenses~~) are
13 licensed under this chapter (~~and who do not have a masters level~~
14 college degree in audiology), have at least five years of experience
15 in the practice of hearing instrument fitting and dispensing, and must
16 be actively engaged in fitting and dispensing within two years of
17 appointment. Two members of the board shall be audiologists certified
18 under this chapter who have at least five years of experience in the
19 practice of audiology and must be actively engaged in practice within
20 two years of appointment. Two members of the board shall be speech-
21 language pathologists certified under this chapter who have at least
22 five years of experience in the practice of speech-language pathology
23 and must be actively engaged in practice within two years of
24 appointment. One advisory nonvoting member shall be a medical (~~or~~
25 osteopathic) physician (~~specializing in diseases of the ear. Two~~
26 members must be experienced in the fitting of hearing aids, must be
27 licensed under this chapter, and shall have received at a minimum a
28 masters level college degree in audiology) licensed in the state of
29 Washington.

30 (3) The term of office of a member is three years. Of the initial
31 appointments, one hearing instrument fitter/dispenser, one speech-
32 language pathologist, one audiologist, and one consumer shall be
33 appointed for a term of two years, and one hearing instrument
34 fitter/dispenser, one speech-language pathologist, one audiologist, and
35 two consumers shall be appointed for a term of three years.
36 Thereafter, all appointments shall be made for expired terms. No
37 member shall be appointed to serve more than two consecutive terms. A
38 member shall continue to serve until a successor has been appointed.
39 The governor shall either reappoint the member or appoint a successor

1 to assume the member's duties at the expiration of his or her
2 predecessor's term. A vacancy in the office of a member shall be
3 filled by appointment for the unexpired term.

4 (4) (~~The chair of the board shall be elected from the membership~~
5 ~~of the board at the beginning of each year.~~) The chair shall rotate
6 annually among the hearing instrument fitter/dispensers, speech-
7 language pathologists, audiologists, and public members serving on the
8 board. In the absence of the chair, the board shall appoint an interim
9 chair. In event of a tie vote, the issue shall be brought to a second
10 vote and the chair shall refrain from voting.

11 (5) The board shall meet at least once each year, at a place, day
12 and hour determined by the board, unless otherwise directed by a
13 majority of board members. The board shall also meet at such other
14 times and places as are requested by the department or by three members
15 of the board. A quorum is a majority of the board. A hearing
16 instrument fitter/dispenser, speech-language pathologist, and
17 audiologist must be represented. Meetings of the board shall be open
18 and public, except the board may hold executive sessions to the extent
19 permitted by chapter 42.30 RCW.

20 (6) Members of the board shall be compensated in accordance with
21 RCW 43.03.240 and shall be reimbursed for their travel expenses in
22 accordance with RCW 43.03.050 and 43.03.060.

23 (7) The governor may remove a member of the board for cause at the
24 recommendation of a majority of the board.

25 **Sec. 20.** RCW 18.35.161 and 1993 c 313 s 7 are each amended to read
26 as follows:

27 The board shall have the following powers and duties:

28 (1) To establish by rule such minimum standards and procedures in
29 the fitting and dispensing of hearing (~~aids~~) instruments as deemed
30 appropriate and in the public interest;

31 (2) To develop guidelines on the training and supervision of
32 (~~trainees~~) hearing instrument fitter/dispenser permit holders and to
33 establish requirements regarding the extent of apprenticeship training
34 and certification to the department;

35 (3) To adopt any other rules necessary to implement this chapter
36 and which are not inconsistent with it;

37 (4) To develop, approve, and administer (~~all licensing~~
38 ~~examinations required by this chapter~~) or supervise the administration

1 of examinations to applicants for licensure and certification under
2 this chapter; ((and))

3 (5) To require a licensee or certificate or permit holder to make
4 restitution to any individual injured by a violation of this chapter or
5 chapter 18.130 RCW, the uniform disciplinary act. The authority to
6 require restitution does not limit the board's authority to take other
7 action deemed appropriate and provided for in this chapter or chapter
8 18.130 RCW;

9 (6) To pass upon the qualifications of applicants for licensure,
10 certification, or permits and to certify to the secretary;

11 (7) To recommend requirements for continuing education and
12 continuing competency requirements as a prerequisite to renewing a
13 license or certificate under this chapter;

14 (8) To keep an official record of all its proceedings. The record
15 is evidence of all proceedings of the board that are set forth in this
16 record;

17 (9) To adopt rules, if the board finds it appropriate, in response
18 to questions put to it by professional health associations, hearing
19 instrument fitter/dispensers or audiologists, speech-language
20 pathologists, permit holders, and consumers in this state; and

21 (10) To adopt rules relating to standards of care relating to
22 hearing instrument fitter/dispensers or audiologists, including the
23 dispensing of hearing instruments, and relating to speech-language
24 pathologists, including dispensing of communication devices.

25 NEW SECTION. Sec. 21. A new section is added to chapter 18.35 RCW
26 to read as follows:

27 Violation of the standards adopted by rule under RCW 18.35.161 is
28 unprofessional conduct under this chapter and chapter 18.130 RCW.

29 **Sec. 22.** RCW 18.35.172 and 1987 c 150 s 21 are each amended to
30 read as follows:

31 The uniform disciplinary act, chapter 18.130 RCW, governs
32 unlicensed practice, the issuance and denial of licenses, certificates,
33 and permits, and the discipline of licensees and certificate and permit
34 holders under this chapter.

35 **Sec. 23.** RCW 18.35.175 and 1983 c 39 s 21 are each amended to read
36 as follows:

1 It is unlawful to (~~sell~~) fit or dispense a hearing (~~aid~~)
2 instrument to a resident of this state if the attempted sale or
3 purchase is offered or made by telephone or mail order and there is no
4 face-to-face contact to test or otherwise determine the needs of the
5 prospective purchaser. This section does not apply to the sale of
6 hearing (~~aids~~) instruments by wholesalers to licensees under this
7 chapter.

8 **Sec. 24.** RCW 18.35.180 and 1973 1st ex.s. c 106 s 18 are each
9 amended to read as follows:

10 Acts and practices in the course of trade in the promoting,
11 advertising, selling, fitting, and dispensing of hearing (~~aids~~)
12 instruments shall be subject to the provisions of chapter 19.86 RCW
13 (Consumer Protection Act) and RCW 9.04.050 (False Advertising Act) and
14 any violation of the provisions of this chapter shall constitute
15 violation of RCW 19.86.020.

16 **Sec. 25.** RCW 18.35.185 and 1993 c 313 s 9 are each amended to read
17 as follows:

18 (1) In addition to any other rights and remedies a purchaser may
19 have, the purchaser of a hearing (~~aid~~) instrument shall have the
20 right to rescind the transaction for other than the (~~licensee's~~)
21 licensed hearing instrument fitter/dispenser, certified audiologist, or
22 permit holder's breach if:

23 (a) The purchaser, for reasonable cause, returns the hearing
24 (~~aid~~) instrument or holds it at the (~~licensee's~~) licensed hearing
25 instrument fitter/dispenser, certified audiologist, or permit holder's
26 disposal, if the hearing (~~aid~~) instrument is in its original
27 condition less normal wear and tear. "Reasonable cause" shall be
28 defined by the board but shall not include a mere change of mind on the
29 part of the purchaser or a change of mind related to cosmetic concerns
30 of the purchaser about wearing a hearing (~~aid~~) instrument; and

31 (b) The purchaser sends notice of the cancellation by certified
32 mail, return receipt requested, to the establishment employing the
33 (~~licensee~~) licensed hearing instrument fitter/dispenser, certified
34 audiologist, or permit holder at the time the hearing (~~aid~~)
35 instrument was originally purchased, and the notice is posted not later
36 than thirty days following the date of delivery, but the purchaser and
37 the (~~licensee~~) licensed hearing instrument fitter/dispenser,

1 certified audiologist, or permit holder may extend the deadline for
2 posting of the notice of rescission by mutual, written agreement. In
3 the event the hearing ((aid is in the possession of the licensee or the
4 licensee's representative)) instrument develops a problem which
5 qualifies as a reasonable cause for recision or which prevents the
6 purchaser from evaluating the hearing instrument, and the purchaser
7 notifies the establishment employing the licensed hearing instrument
8 fitter/dispenser, certified audiologist or permit holder of the problem
9 during the thirty days following the date of delivery and documents
10 such notification, the deadline for posting the notice of rescission
11 shall be extended by an equal number of days ((that the aid is in the
12 possession of the licensee or the licensee's representative)) as those
13 between the date of the notification of the problem to the date of
14 notification of availability for redeliveries. Where the hearing
15 ((aid)) instrument is returned to the ((licensee)) licensed hearing
16 instrument fitter/dispenser, certified audiologist, or permit holder
17 for any inspection for modification or repair, and the ((licensee))
18 licensed hearing instrument fitter/dispenser, certified audiologist, or
19 permit holder has notified the purchaser that the hearing ((aid))
20 instrument is available for redelivery, and where the purchaser has not
21 responded by either taking possession of the hearing ((aid)) instrument
22 or instructing the ((licensee)) licensed hearing instrument
23 fitter/dispenser, certified audiologist, or permit holder to forward it
24 to the purchaser, then the deadline for giving notice of the recision
25 shall ((begin)) extend no more than seven working days after this
26 notice of availability.

27 (2) If the transaction is rescinded under this section or as
28 otherwise provided by law and the hearing ((aid)) instrument is
29 returned to the ((licensee)) licensed hearing instrument
30 fitter/dispenser, certified audiologist, or permit holder, the
31 ((licensee)) licensed hearing instrument fitter/dispenser, certified
32 audiologist, or permit holder shall refund to the purchaser any
33 payments or deposits for that hearing ((aid)) instrument. However, the
34 ((licensee)) licensed hearing instrument fitter/dispenser, certified
35 audiologist, or permit holder may retain, for each hearing ((aid,
36 fifteen percent of the total purchase price or one hundred dollars,
37 whichever is less)) instrument, fifteen percent of the total purchase
38 price or one hundred twenty-five dollars, whichever is less. After
39 December 31, 1996, the recision amount shall be determined by the

1 board. The ((licensee)) licensed hearing instrument fitter/dispenser,
2 certified audiologist, or permit holder shall also return any goods
3 traded in contemplation of the sale, less any costs incurred by the
4 ((licensee)) licensed hearing instrument fitter/dispenser, certified
5 audiologist, or permit holder in making those goods ready for resale.
6 The refund shall be made within ten business days after the rescission.
7 The buyer shall incur no additional liability for such rescission.

8 (3) For the purposes of this section, the purchaser shall have
9 recourse against the bond held by the establishment entering into a
10 purchase agreement with the buyer, as provided by RCW 18.35.240.

11 **Sec. 26.** RCW 18.35.190 and 1989 c 198 s 8 are each amended to read
12 as follows:

13 In addition to remedies otherwise provided by law, in any action
14 brought by or on behalf of a person required to be licensed or
15 certified or to hold a permit hereunder, or by any assignee or
16 transferee ~~((thereof, arising out of the business of fitting and~~
17 ~~dispensing of hearing aids)),~~ it shall be necessary to allege and prove
18 that the licensee or certificate or permit holder at the time of the
19 transaction held a valid license, certificate, or permit as required by
20 this chapter, and that such license, certificate, or permit has not
21 been suspended or revoked pursuant to RCW 18.35.110, 18.35.120, or
22 18.130.160.

23 **Sec. 27.** RCW 18.35.195 and 1983 c 39 s 22 are each amended to read
24 as follows:

25 (1) This chapter shall not apply to military or federal government
26 employees~~((, nor shall it apply to))~~.

27 (2) This chapter does not prohibit or regulate:

28 (a) Fitting or dispensing by students enrolled in ((an accredited))
29 a board-approved program who are directly supervised by a licensed
30 hearing ((aid)) instrument fitter/dispenser or certified audiologist
31 under the provisions of this chapter; and

32 (b) Hearing instrument fitter/dispensers, speech-language
33 pathologists, or audiologists of other states, territories, or
34 countries, or the District of Columbia while appearing as clinicians of
35 bona fide educational seminars sponsored by speech-language pathology,
36 audiology, hearing instrument fitter/dispenser, medical, or other

1 healing art professional associations so long as such activities do not
2 go beyond the scope of practice defined by this chapter.

3 **Sec. 28.** RCW 18.35.205 and 1983 c 39 s 24 are each amended to read
4 as follows:

5 The legislature finds that the public health, safety, and welfare
6 would best be protected by uniform regulation of hearing (~~(aid fitter-~~
7 ~~dispensers)) instrument fitter/dispensers, speech-language
8 pathologists, audiologists, and permit holders throughout the state.
9 Therefore, the provisions of this chapter relating to the licensing or
10 certification of hearing (~~(aid fitter dispensers and hearing aid))~~
11 instrument fitter/dispensers, speech-language pathologists, and
12 audiologists and regulation of permit holders and their respective
13 establishments or facilities is exclusive. No political subdivision of
14 the state of Washington within whose jurisdiction a hearing (~~(aid))~~
15 instrument fitter/dispenser, audiologist, or speech-language
16 pathologist establishment or facility is located may require any
17 registrations, bonds, licenses, certificates, or permits of the
18 establishment or facility or its employees or charge any fee for the
19 same or similar purposes: PROVIDED, HOWEVER, That nothing herein shall
20 limit or abridge the authority of any political subdivision to levy and
21 collect a general and nondiscriminatory license fee levied on all
22 businesses, or to levy a tax based upon the gross business conducted by
23 any firm within the political subdivision.~~

24 **Sec. 29.** RCW 18.35.230 and 1989 c 198 s 9 are each amended to read
25 as follows:

26 (1) Each licensee or certificate or permit holder shall name a
27 registered agent to accept service of process for any violation of this
28 chapter or rule adopted under this chapter.

29 (2) The registered agent may be released at the expiration of one
30 year after the license, certificate, or permit issued under this
31 chapter has expired or been revoked.

32 (3) Failure to name a registered agent for service of process for
33 violations of this chapter or rules adopted under this chapter may be
34 grounds for disciplinary action.

35 **Sec. 30.** RCW 18.35.240 and 1993 c 313 s 11 are each amended to
36 read as follows:

1 (1) Every establishment engaged in the fitting and dispensing of
2 hearing ~~((aids))~~ instruments shall file with the department a surety
3 bond in the sum of ten thousand dollars, running to the state of
4 Washington, for the benefit of any person injured or damaged as a
5 result of any violation by the establishment's employees or agents of
6 any of the provisions of this chapter or rules adopted by the
7 secretary.

8 (2) In lieu of the surety bond required by this section, the
9 establishment may file with the department a cash deposit or other
10 negotiable security acceptable to the department. All obligations and
11 remedies relating to surety bonds shall apply to deposits and security
12 filed in lieu of surety bonds.

13 (3) If a cash deposit is filed, the department shall deposit the
14 funds ~~((with the state treasurer))~~. The cash or other negotiable
15 security deposited with the department shall be returned to the
16 depositor one year after the establishment has discontinued the fitting
17 and dispensing of hearing ~~((aids))~~ instruments if no legal action has
18 been instituted against the establishment, its agents or employees, or
19 the cash deposit or other security. The establishment owners shall
20 notify the department if the establishment is sold, changes names, or
21 has discontinued the fitting and dispensing of hearing ~~((aids))~~
22 instruments in order that the cash deposit or other security may be
23 released at the end of one year from that date.

24 (4) A surety may file with the department notice of withdrawal of
25 the bond of the establishment. Upon filing a new bond, or upon the
26 expiration of sixty days after the filing of notice of withdrawal by
27 the surety, the liability of the former surety for all future acts of
28 the establishment terminates.

29 (5) Upon the filing with the department notice by a surety of
30 withdrawal of the surety on the bond of an establishment or upon the
31 cancellation by the department of the bond of a surety under this
32 section, the department shall immediately give notice to the
33 establishment by certified or registered mail with return receipt
34 requested addressed to the establishment's last place of business as
35 filed with the department.

36 (6) The department shall immediately cancel the bond given by a
37 surety company upon being advised that the surety company's license to
38 transact business in this state has been revoked.

1 (7) Each invoice for the purchase of a hearing ~~((aid))~~ instrument
2 provided to a customer must clearly display on the first page the bond
3 number of the establishment or the licensee ~~((selling))~~ or certificate
4 or permit holder fitting/dispensing the hearing ~~((aid))~~ instrument.

5 **Sec. 31.** RCW 18.35.250 and 1991 c 3 s 86 are each amended to read
6 as follows:

7 (1) In addition to any other legal remedies, an action may be
8 brought in any court of competent jurisdiction upon the bond, cash
9 deposit, or security in lieu of a surety bond required by this chapter,
10 by any person having a claim against a licensee or certificate or
11 permit holder, agent, or establishment for any violation of this
12 chapter or any rule adopted under this chapter. The aggregate
13 liability of the surety to all claimants shall in no event exceed the
14 sum of the bond. Claims shall be satisfied in the order of judgment
15 rendered.

16 (2) An action upon the bond shall be commenced by serving and
17 filing the complaint within one year from the date of the cancellation
18 of the bond. An action upon a cash deposit or other security shall be
19 commenced by serving and filing the complaint within one year from the
20 date of notification to the department of the change in ownership of
21 the establishment or the discontinuation of the fitting and dispensing
22 of hearing ~~((aids))~~ instruments by that establishment. Two copies of
23 the complaint shall be served by registered or certified mail, return
24 receipt requested, upon the department at the time the suit is started.
25 The service constitutes service on the surety. The secretary shall
26 transmit one copy of the complaint to the surety within five business
27 days after the copy has been received.

28 (3) The secretary shall maintain a record, available for public
29 inspection, of all suits commenced under this chapter under surety
30 bonds, or the cash or other security deposited in lieu of the surety
31 bond. In the event that any final judgment impairs the liability of
32 the surety upon a bond so furnished or the amount of the deposit so
33 that there is not in effect a bond undertaking or deposit in the full
34 amount prescribed in this section, the department shall suspend the
35 license or certificate until the bond undertaking or deposit in the
36 required amount, unimpaired by unsatisfied judgment claims, has been
37 furnished.

1 (4) If a judgment is entered against the deposit or security
2 required under this chapter, the department shall, upon receipt of a
3 certified copy of a final judgment, pay the judgment from the amount of
4 the deposit or security.

5 **Sec. 32.** RCW 18.130.040 and 1995 c 336 s 2, 1995 c 323 s 16, 1995
6 c 260 s 11, and 1995 c 1 s 19 (Initiative Measure No. 607) are each
7 reenacted and amended to read as follows:

8 (1) This chapter applies only to the secretary and the boards and
9 commissions having jurisdiction in relation to the professions licensed
10 under the chapters specified in this section. This chapter does not
11 apply to any business or profession not licensed under the chapters
12 specified in this section.

13 (2)(a) The secretary has authority under this chapter in relation
14 to the following professions:

- 15 (i) Dispensing opticians licensed under chapter 18.34 RCW;
- 16 (ii) Naturopaths licensed under chapter 18.36A RCW;
- 17 (iii) Midwives licensed under chapter 18.50 RCW;
- 18 (iv) Ocularists licensed under chapter 18.55 RCW;
- 19 (v) Massage operators and businesses licensed under chapter 18.108
20 RCW;
- 21 (vi) Dental hygienists licensed under chapter 18.29 RCW;
- 22 (vii) Acupuncturists licensed under chapter 18.06 RCW;
- 23 (viii) Radiologic technologists certified and X-ray technicians
24 registered under chapter 18.84 RCW;
- 25 (ix) Respiratory care practitioners certified under chapter 18.89
26 RCW;
- 27 (x) Persons registered or certified under chapter 18.19 RCW;
- 28 (xi) Persons registered as nursing pool operators under chapter
29 18.52C RCW;
- 30 (xii) Nursing assistants registered or certified under chapter
31 18.79 RCW;
- 32 (xiii) Health care assistants certified under chapter 18.135 RCW;
- 33 (xiv) Dietitians and nutritionists certified under chapter 18.138
34 RCW;
- 35 (xv) Sex offender treatment providers certified under chapter
36 18.155 RCW;
- 37 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
38 18.71.205;

1 (xvii) Persons registered as adult family home operators under RCW
2 18.48.020; and
3 (xviii) Denturists licensed under chapter 18.30 RCW.
4 (b) The boards and commissions having authority under this chapter
5 are as follows:
6 (i) The podiatric medical board as established in chapter 18.22
7 RCW;
8 (ii) The chiropractic quality assurance commission as established
9 in chapter 18.25 RCW;
10 (iii) The dental quality assurance commission as established in
11 chapter 18.32 RCW;
12 (iv) The board (~~(on fitting and dispensing)~~) of hearing (~~(aids)~~)
13 and speech as established in chapter 18.35 RCW;
14 (v) The board of examiners for nursing home administrators as
15 established in chapter 18.52 RCW;
16 (vi) The optometry board as established in chapter 18.54 RCW
17 governing licenses issued under chapter 18.53 RCW;
18 (vii) The board of osteopathic medicine and surgery as established
19 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
20 18.57A RCW;
21 (viii) The board of pharmacy as established in chapter 18.64 RCW
22 governing licenses issued under chapters 18.64 and 18.64A RCW;
23 (ix) The medical quality assurance commission as established in
24 chapter 18.71 RCW governing licenses and registrations issued under
25 chapters 18.71 and 18.71A RCW;
26 (x) The board of physical therapy as established in chapter 18.74
27 RCW;
28 (xi) The board of occupational therapy practice as established in
29 chapter 18.59 RCW;
30 (xii) The nursing care quality assurance commission as established
31 in chapter 18.79 RCW governing licenses issued under that chapter;
32 (xiii) The examining board of psychology and its disciplinary
33 committee as established in chapter 18.83 RCW; and
34 (xiv) The veterinary board of governors as established in chapter
35 18.92 RCW.
36 (3) In addition to the authority to discipline license holders, the
37 disciplining authority has the authority to grant or deny licenses
38 based on the conditions and criteria established in this chapter and
39 the chapters specified in subsection (2) of this section. This chapter

1 also governs any investigation, hearing, or proceeding relating to
2 denial of licensure or issuance of a license conditioned on the
3 applicant's compliance with an order entered pursuant to RCW 18.130.160
4 by the disciplining authority.

5 (4) All disciplining authorities shall adopt procedures to ensure
6 substantially consistent application of this chapter, the Uniform
7 Disciplinary Act, among the disciplining authorities listed in
8 subsection (2) of this section.

9 NEW SECTION. **Sec. 33.** RCW 18.35.170 and 1993 c 313 s 8 & 1973 1st
10 ex.s. c 106 s 17 are each repealed.

11 NEW SECTION. **Sec. 34.** The board of hearing and speech shall
12 conduct a study in consultation with the governing authorities of the
13 Washington hearing aid society, the Washington speech and hearing
14 association, and the Washington society of audiology to develop
15 recommendations on the appropriateness of a two-year degree as an entry
16 level requirement for licensing hearing instrument fitter/dispensers
17 under chapter 18.35 RCW. The study and recommendations, at a minimum,
18 must include consideration of the fiscal impact of the proposal, the
19 effect on access of the public to services, the feasibility of
20 providing a two-year degree curriculum, and the status of those
21 currently licensed as hearing instrument fitter/dispensers under
22 chapter 18.35 RCW. The study must be coordinated with the state board
23 for community and technical colleges and the department of health. The
24 recommendations shall be presented to the senate health and human
25 services and the house of representatives health care committees prior
26 to January 1, 1998.

27 NEW SECTION. **Sec. 35.** Recognizing the trend in utilization of
28 speech-language pathologist assistants and audiologist assistants
29 across practice settings, the board of hearing and speech shall, on an
30 ongoing basis, collect data on: The number of assistants in specific
31 practice settings; supervisor to speech-language pathologist assistant
32 or audiologist assistant ratios; and the level of education and
33 training of speech-language pathologist assistants and audiologist
34 assistants.

1 NEW SECTION. **Sec. 36.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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