

2 **ESHB 2309** - S COMM AMD

3 By Committee on Health & Long-Term Care

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. Sec. 1. A new section is added to chapter 18.35 RCW  
8 to read as follows:

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

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

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

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

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

25 (2) "Certified audiologist" means a person who is certified by the  
26 department to engage in the practice of audiology and meets the  
27 qualifications in this chapter.

28 (3) "Audiology" means the application of principles, methods, and  
29 procedures related to hearing and the disorders of hearing and to  
30 related language and speech disorders, whether of organic or nonorganic  
31 origin, peripheral or central, that impede the normal process of human  
32 communication including, but not limited to, disorders of auditory  
33 sensitivity, acuity, function, processing, or vestibular function, the  
34 application of aural habilitation, rehabilitation, and appropriate

1 devices including fitting and dispensing of hearing instruments, and  
2 cerumen management to treat such disorders.

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

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

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

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

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

20 (9) "Fitting and dispensing of hearing instruments" means the sale,  
21 lease, or rental or attempted sale, lease, or rental of hearing  
22 instruments together with the selection and modification of hearing  
23 instruments and the administration of nondiagnostic tests as specified  
24 by RCW 18.35.110 and the use of procedures essential to the performance  
25 of these functions; and includes recommending specific hearing  
26 instrument systems, specific hearing instruments, or specific hearing  
27 instrument characteristics, the taking of impressions for ear molds for  
28 these purposes, the use of nondiagnostic procedures and equipment to  
29 verify the appropriateness of the hearing instrument fitting, and  
30 hearing instrument orientation. The fitting and dispensing of hearing  
31 instruments as defined by this chapter may be equally provided by a  
32 licensed hearing instrument fitter/dispenser or certified audiologist.

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

38 (11) "Hearing ((~~aid~~)) instrument" means any wearable prosthetic  
39 instrument or device designed for or represented as aiding, improving,

1 compensating for, or correcting defective human hearing and any parts,  
2 attachments, or accessories of such an instrument or device, excluding  
3 batteries and cords ~~((and)),~~ ear molds, and assistive listening  
4 devices.

5 ~~((4)) "Fitting and dispensing of hearing aids" means the sale,~~  
6 ~~lease, or rental or attempted sale, lease, or rental of hearing aids~~  
7 ~~together with the selection and adaptation of hearing aids and the use~~  
8 ~~of those tests and procedures essential to the performance of these~~  
9 ~~functions. It includes the taking of impressions for ear molds for~~  
10 ~~these purposes.~~

11 ~~(5))~~ (12) "Hearing instrument fitter/dispenser" means a person who  
12 is licensed to engage in the practice of fitting and dispensing of  
13 hearing instruments and meets the qualifications of this chapter.

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

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

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

20 (15) "Certified speech-language pathologist" means a person who is  
21 certified by the department to engage in the practice of speech-  
22 language pathology and meets the qualifications of this chapter.

23 (16) "Speech-language pathology" means the application of  
24 principles, methods, and procedures related to the development and  
25 disorders, whether of organic or nonorganic origin, that impede oral,  
26 pharyngeal, or laryngeal sensorimotor competencies and the normal  
27 process of human communication including, but not limited to, disorders  
28 and related disorders of speech, articulation, fluency, voice, verbal  
29 and written language, auditory comprehension, cognition/communication,  
30 and the application of augmentative communication treatment and devices  
31 for treatment of such disorders.

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

34 No person shall engage in the fitting and dispensing of hearing  
35 ~~((aids))~~ instruments or imply or represent that he or she is engaged in  
36 the fitting and dispensing of hearing ~~((aids))~~ instruments unless he or  
37 she ~~((holds))~~ is a ~~((valid license))~~ licensed hearing instrument  
38 fitter/dispenser or a certified audiologist or holds a hearing

1 instrument fitter/dispenser permit or audiology interim permit issued  
2 by the department as provided in this chapter and is an owner or  
3 employee of an establishment that is bonded as provided by RCW  
4 18.35.240. The owner or manager of ~~((a))~~ an establishment that  
5 dispenses hearing ~~((aid establishment))~~ instruments is responsible  
6 under this chapter for all transactions made in the establishment name  
7 or conducted on its premises by agents or ~~((employees of))~~ persons  
8 employed by the establishment engaged in fitting and dispensing of  
9 hearing ~~((aids))~~ instruments. Every establishment that fits and  
10 dispenses shall have in its employ at least one licensed ~~((fitter-~~  
11 ~~dispenser))~~ hearing instrument fitter/dispenser or certified  
12 audiologist at all times, and shall annually submit proof that all  
13 ~~((audiometric))~~ testing equipment at that establishment that is  
14 required by the board to be calibrated has been properly calibrated.

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

17 Any person who engages in ~~((the))~~ fitting and dispensing of hearing  
18 ~~((aids))~~ instruments shall provide to each person who enters into an  
19 agreement to purchase a hearing ~~((aid))~~ instrument a receipt at the  
20 time of the agreement containing the following information:

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

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

27 (3) A disclosure of the cost of all services including but not  
28 limited to the cost of testing and fitting, the actual cost of the  
29 hearing ~~((aid))~~ instrument furnished, the cost of ear molds if any, and  
30 the terms of the sale. These costs, including the cost of ear molds,  
31 shall be known as the total purchase price. The receipt shall also  
32 contain a statement of the purchaser's recision rights under this  
33 chapter and an acknowledgment that the purchaser has read and  
34 understands these rights. Upon request, the purchaser shall also be  
35 supplied with a signed and dated copy of any hearing evaluation  
36 performed by the seller.

1 (4) At the time of delivery of the hearing ~~((aid))~~ instrument, the  
2 purchaser shall also be furnished with the serial number of the hearing  
3 ~~((aid))~~ instrument supplied.

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

6 ~~((1))~~ (1) An applicant for ~~((license shall be at least eighteen years of~~  
7 age)) licensure as a hearing instrument fitter/dispenser must have the  
8 following minimum qualifications and shall pay a fee determined by the  
9 secretary as provided in RCW 43.70.250. An applicant shall ~~((not))~~ be  
10 issued a license under the provisions of this chapter ~~((unless))~~ if the  
11 applicant:

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

14 ~~((2))~~ (ii) Holds a current, unsuspended, unrevoked license ~~((or~~  
15 certificate)) from ~~((a state or jurisdiction with which the department~~  
16 has entered into a reciprocal agreement, and shows evidence  
17 satisfactory to the department that the applicant is licensed in good  
18 standing in the other jurisdiction)) another jurisdiction if the  
19 standards for licensing in such other jurisdiction are substantially  
20 equivalent to those prevailing in this state;

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

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

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

30 The applicant must present proof of qualifications to the board in  
31 the manner and on forms prescribed by the secretary and proof of  
32 completion of a minimum of four clock hours of AIDS education and  
33 training pursuant to rules adopted by the board.

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

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

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

5 (c) Has completed postgraduate professional work experience  
6 approved by the board.

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

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

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

15 Except as otherwise provided in this chapter an applicant for  
16 license or certification shall appear at a time and place and before  
17 such persons as the department may designate to be examined by written  
18 ~~((and))~~ or practical tests, or both. ~~((The department shall give an~~  
19 ~~examination in May and November of each year.))~~ Examinations in hearing  
20 instrument fitting/dispensing, speech-language pathology, and audiology  
21 shall be held within the state at least once a year. The examinations  
22 shall be reviewed annually by the board and the department, and revised  
23 as necessary. ~~((No examination of any established association may be~~  
24 ~~used as the exclusive replacement for the examination unless approved~~  
25 ~~by the board.))~~ The examinations shall include appropriate subject  
26 matter to ensure the competence of the applicant. Nationally  
27 recognized examinations in the fields of fitting and dispensing of  
28 hearing instruments, speech-language pathology, and audiology may be  
29 used to determine if applicants are qualified for licensure or  
30 certification. An applicant who fails an examination may apply for  
31 reexamination upon payment of a reexamination fee. The hearing  
32 instrument fitting/dispensing reexamination fee for hearing instrument  
33 fitter/dispensers and audiologists shall be set by the secretary under  
34 RCW 43.70.250.

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

1 (1) The department shall issue a ~~((trainee—license))~~ hearing  
2 instrument fitter/dispenser permit to any applicant who has shown to  
3 the satisfaction of the department that the applicant:

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

6 (b) If issued a ~~((trainee—license))~~ hearing instrument  
7 fitter/dispenser permit, would be employed and directly supervised in  
8 the fitting and dispensing of hearing ~~((aids))~~ instruments by a person  
9 licensed or certified in good standing as a ~~((fitter—dispenser))~~  
10 hearing instrument fitter/dispenser or audiologist for at least ~~((one~~  
11 year)) two years unless otherwise approved by the board; ~~((and))~~

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

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

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

17 The provisions of RCW 18.35.030, 18.35.110, and 18.35.120 shall  
18 apply to any person issued a ~~((trainee—license))~~ hearing instrument  
19 fitter/dispenser permit. Pursuant to the provisions of this section,  
20 a person issued a ~~((trainee—license))~~ hearing instrument  
21 fitter/dispenser permit may engage in the fitting and dispensing of  
22 hearing ~~((aids))~~ instruments without having first passed the hearing  
23 instrument fitter/dispenser examination provided under this chapter.

24 (2) The ~~((trainee—license))~~ hearing instrument fitter/dispenser  
25 permit shall contain the names of the ~~((person))~~ employer and the  
26 licensed or certified supervisor under this chapter who ~~((is))~~ are  
27 employing and supervising the ~~((trainee))~~ hearing instrument  
28 fitter/dispenser permit holder and ~~((that))~~ those persons shall execute  
29 an acknowledgment of responsibility for all acts of the ~~((trainee))~~  
30 hearing instrument fitter/dispenser permit holder in connection with  
31 the fitting and dispensing of hearing ~~((aids))~~ instruments.

32 (3) A ~~((trainee))~~ hearing instrument fitter/dispenser permit holder  
33 may fit and dispense hearing ~~((aids))~~ instruments, but only if the  
34 ~~((trainee))~~ hearing instrument fitter/dispenser permit holder is under  
35 the direct supervision of a ~~((person))~~ licensed hearing instrument  
36 fitter/dispenser or certified audiologist under this chapter in a  
37 capacity other than as a ~~((trainee))~~ hearing instrument  
38 fitter/dispenser permit holder. Direct supervision by a licensed  
39 ~~((fitter—dispenser))~~ hearing instrument fitter/dispenser or certified

1 audiologist shall be required whenever the (~~trainee~~) hearing  
2 instrument fitter/dispenser permit holder is engaged in the fitting or  
3 dispensing of hearing (~~aids~~) instruments during the (~~trainee's first~~  
4 ~~three months of full-time~~) hearing instrument fitter/dispenser permit  
5 holder's employment. The board shall develop and adopt guidelines on  
6 any additional supervision or training it deems necessary.

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

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

19 (6) The department, upon approval by the board, shall issue an  
20 interim permit authorizing an applicant for speech-language pathologist  
21 certification or audiologist certification who, except for the  
22 postgraduate professional experience and the examination requirements,  
23 meets the academic and practicum requirements of RCW 18.35.040 to  
24 practice under interim permit supervision by a certified speech-  
25 language pathologist or certified audiologist. The interim permit is  
26 valid for a period of one year from date of issuance. The board shall  
27 determine conditions for the interim permit.

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

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

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

34 (a) Basic physics of sound;

35 (b) The human hearing mechanism, including the science of hearing  
36 and the causes and rehabilitation of abnormal hearing and hearing  
37 disorders; and

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



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

3 (a) Pure tone audiometry, including air conduction testing and bone  
4 conduction testing;

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

7 (c) Effective masking;

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

10 (e) Selection and adaptation of hearing (~~aids~~) instruments and  
11 testing of hearing (~~aids~~) instruments; and

12 (f) Taking ear mold impressions.

13 (3) Evidence of knowledge regarding the medical and rehabilitation  
14 facilities for children and adults that are available in the area  
15 served.

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

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

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

22 (1) The department shall license or certify each qualified  
23 applicant, without discrimination, who satisfactorily completes the  
24 required examinations for his or her profession and, upon payment of a  
25 fee determined by the secretary as provided in RCW 43.70.250 to the  
26 department, shall issue to the applicant a license or certificate. A  
27 person shall not knowingly make a false, material statement in an  
28 application for a license, certification, or permit or for a renewal of  
29 a license, certification, or permit.

30 If a (~~person~~) prospective hearing instrument fitter/dispenser  
31 does not apply for a license within three years of the successful  
32 completion of the hearing instrument fitter/dispenser license  
33 examination, reexamination is required for licensure. The license  
34 shall be effective until the licensee's next birthday at which time it  
35 is subject to renewal. Subsequent renewal dates shall coincide with  
36 the licensee's birthday.

37 (2) The board shall waive the examination and grant a speech-  
38 language pathology certificate to a person engaged in the profession of

1 speech-language pathology in this state on the effective date of this  
2 section if the board determines that the person meets commonly accepted  
3 standards for the profession, as defined by rules adopted by the board.  
4 Persons eligible for certification under this subsection must apply for  
5 a certificate before July 1, 1997.

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

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

21 (5) Persons engaged in the profession of audiology who meet the  
22 commonly accepted standards for the profession of audiology and  
23 graduated from a board-approved program prior to January 1, 1993, and  
24 who have not passed the hearing instrument fitter/dispenser examination  
25 shall be granted a temporary audiology certificate (nondispensing) for  
26 a period of two years from the effective date of this section during  
27 which time they must pass sections of the hearing instrument  
28 fitter/dispenser examination pertaining to RCW 18.35.070 (1)(c), (2)(e)  
29 and (f), (3), (4), and (5). The board may extend the term of the  
30 temporary certificate upon review. Persons eligible for certification  
31 under this subsection must apply for a certificate before July 1, 1997.

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

34 An applicant holding a credential in another state, territory, or  
35 the District of Columbia may be credentialed to practice in this state  
36 without examination if the board determines that the other state's  
37 credentialing standards are substantially equivalent to the standards  
38 in this state.

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

3       Each person who engages in (~~the fitting and dispensing of hearing~~  
4 ~~aids~~) practice under this chapter shall, as the department prescribes  
5 by rule, pay to the department a fee established by the secretary under  
6 RCW 43.70.250 for a renewal of the license, certificate, or permit and  
7 shall keep the license, certificate, or permit conspicuously posted in  
8 the place of business at all times. The license, certificate, or  
9 permit of any person who fails to renew his or her license (~~prior to~~  
10 ~~the expiration date must pay a penalty fee in addition to the renewal~~  
11 ~~fee and satisfy the requirements~~), certificate, or permit prior to the  
12 expiration date shall automatically lapse. Within three years from the  
13 date of lapse and upon recommendation of the board, the secretary may  
14 revive a lapsed license or certificate upon payment of all past unpaid  
15 renewal fees and a penalty fee to be determined by the secretary and  
16 satisfaction of any requirements, which may include reexamination, that  
17 may be set forth by rule promulgated by the secretary for  
18 reinstatement. The secretary may by rule establish mandatory  
19 continuing education requirements and/or continued competency standards  
20 to be met by licensees or certificate or permit holders as a condition  
21 for license, certificate, or permit renewal.

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

24       (1) A (~~person~~) hearing instrument fitter/dispenser licensed under  
25 this chapter and not actively (~~fitting and dispensing hearing aids~~)  
26 practicing may be placed on inactive status by the department at the  
27 written request of the licensee. The board shall define by rule the  
28 conditions for inactive status licensure. In addition to the  
29 requirements of RCW 43.24.086, the licensing fee for a licensee on  
30 inactive status shall be directly related to the costs of administering  
31 an inactive license by the department. A (~~person~~) hearing instrument  
32 fitter/dispenser on inactive status may be voluntarily placed on active  
33 status by notifying the department in writing, paying the remainder of  
34 the licensing fee for the licensing year, and complying with subsection  
35 (2) of this section.

36       (2) Hearing instrument fitter/dispenser inactive licensees applying  
37 for active licensure shall comply with the following: A licensee who  
38 has not fitted or dispensed hearing (~~aids~~) instruments for more than

1 five years from the expiration of the licensee's full fee license shall  
2 retake the practical or the written, or both, hearing instrument  
3 fitter/dispenser examinations required under this chapter and ((shall  
4 have completed continuing education requirements within the previous  
5 twelve month period. Persons who have been on inactive status from two  
6 to five years must have within the previous twelve months completed  
7 continuing education requirements. Persons who have been on inactive  
8 status for one year or less shall upon application be reinstated as  
9 active licensees)) other requirements as determined by the board.  
10 Persons who have inactive status in this state but who are actively  
11 licensed and in good standing in any other state shall not be required  
12 to ((meet continuing education requirements or to)) take the hearing  
13 instrument fitter/dispenser practical examination((s)), but must submit  
14 an affidavit attesting to their knowledge of the current Washington  
15 Administrative Code rules and Revised Code of Washington statutes  
16 pertaining to the fitting and dispensing of hearing ((aids))  
17 instruments.

18 (3) A speech-language pathologist or audiologist certified under  
19 this chapter and not actively practicing either speech-language  
20 pathology or audiology may be placed on inactive status by the  
21 department at the written request of the certificate holder. The board  
22 shall define by rule the conditions for inactive status certification.  
23 In addition to the requirements of RCW 43.24.086, the fee for a  
24 certificate on inactive status shall be directly related to the cost of  
25 administering an inactive certificate by the department. A person on  
26 inactive status may be voluntarily placed on active status by notifying  
27 the department in writing, paying the remainder of the fee for the  
28 year, and complying with subsection (4) of this section.

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

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

35 (1) Every ((person who holds a license)) hearing instrument  
36 fitter/dispenser, audiologist, speech-language pathologist, hearing  
37 instrument fitter/dispenser permit holder, or interim permit holder,  
38 who is regulated under this chapter, shall notify the department in

1 writing of the regular address of the place or places in the state of  
2 Washington where the person (~~engages or intends to engage in the~~  
3 ~~fitting and dispensing of hearing aids~~) practices or intends to  
4 practice more than twenty consecutive business days and of any change  
5 thereof within ten days of such change. Failure to notify the  
6 department in writing shall be grounds for suspension or revocation of  
7 license, certificate, or permit.

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

10 (3) Any notice required to be given by the department to a person  
11 who holds a license, certificate, or permit may be given by mailing it  
12 to the address of the last (~~place of business~~) establishment or  
13 facility of which the person has notified the department, except that  
14 notice to a licensee or certificate or permit holder of proceedings to  
15 deny, suspend, or revoke the license, certificate, or permit shall be  
16 by certified or registered mail or by means authorized for service of  
17 process.

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

20 Each licensee and certificate and permit holder under this chapter  
21 shall keep records of all services rendered for a (~~period~~) minimum of  
22 three years. These records shall contain the names and addresses of  
23 all persons to whom services were provided(~~(7)~~). Hearing instrument  
24 fitter/dispensers, audiologists, and permit holders shall also record  
25 the date the hearing instrument warranty expires, a description of the  
26 services and the dates the services were provided, and copies of any  
27 contracts and receipts. All records, as required pursuant to this  
28 chapter or by rule, (~~kept by licensees~~) shall be owned by the  
29 establishment or facility and shall remain with the establishment or  
30 facility in the event the licensee or certificate holder changes  
31 employment. If a contract between the establishment or facility and  
32 the licensee or certificate holder provides that the records are to  
33 remain with the licensee or certificate holder, copies of such records  
34 shall be provided to the establishment or facility.

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

1 In addition to causes specified under RCW 18.130.170 and  
2 18.130.180, any person licensed or holding a permit or certificate  
3 under this chapter may be subject to disciplinary action by the board  
4 for any of the following causes:

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

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

12 (b) Failing or refusing to honor or to perform as represented any  
13 representation, promise, agreement, or warranty in connection with the  
14 promotion, sale, dispensing, or fitting of the hearing (~~aids~~)  
15 instrument;

16 (c) Advertising a particular model, type, or kind of hearing  
17 (~~aids~~) instrument for sale which purchasers or prospective purchasers  
18 responding to the advertisement cannot purchase or are dissuaded from  
19 purchasing and where it is established that the purpose of the  
20 advertisement is to obtain prospects for the sale of a different model,  
21 type, or kind than that advertised;

22 (d) Falsifying hearing test or evaluation results;

23 (e)(i) Whenever any of the following conditions are found or should  
24 have been found to exist either from observations by the licensee or  
25 certificate or permit holder or on the basis of information furnished  
26 by the prospective hearing (~~aids~~) instrument user prior to fitting and  
27 dispensing a hearing (~~aids~~) instrument to any such prospective hearing  
28 (~~aids~~) instrument user, failing to advise that prospective hearing  
29 (~~aids~~) instrument user in writing that the user should first consult  
30 a licensed physician specializing in diseases of the ear or if no such  
31 licensed physician is available in the community then to any duly  
32 licensed physician:

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

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

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

39 (D) Acute or chronic dizziness;

1 (E) Any unilateral hearing loss;

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

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

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

7 (I) Any other conditions that the board may by rule establish. It  
8 is a violation of this subsection for any licensee or certificate  
9 holder or that licensee's or certificate holder's employees and  
10 putative agents upon making such required referral for medical opinion  
11 to in any manner whatsoever disparage or discourage a prospective  
12 hearing ((aid)) instrument user from seeking such medical opinion prior  
13 to the fitting and dispensing of a hearing ((aid)) instrument. No such  
14 referral for medical opinion need be made by any ((licensee)) licensed  
15 hearing instrument fitter/dispenser, certified audiologist, or permit  
16 holder in the instance of replacement only of a hearing ((aid))  
17 instrument which has been lost or damaged beyond repair within ((six))  
18 twelve months of the date of purchase. The ((licensee)) licensed  
19 hearing instrument fitter/dispenser, certified audiologist, or permit  
20 holder or ((the licensee's)) their employees or putative agents shall  
21 obtain a signed statement from the hearing ((aid)) instrument user  
22 documenting the waiver of medical clearance and the waiver shall inform  
23 the prospective user that signing the waiver is not in the user's best  
24 health interest: PROVIDED, That the ((licensee)) licensed hearing  
25 instrument fitter/dispenser, certified audiologist, or permit holder  
26 shall maintain a copy of either the physician's statement showing that  
27 the prospective hearing ((aid)) instrument user has had a medical  
28 evaluation within the previous six months or the statement waiving  
29 medical evaluation, for a period of three years after the purchaser's  
30 receipt of a hearing ((aid)) instrument. Nothing in this section  
31 required to be performed by a licensee or certificate or permit holder  
32 shall mean that the licensee or certificate or permit holder is engaged  
33 in the diagnosis of illness or the practice of medicine or any other  
34 activity prohibited under the laws of this state;

35 (ii) Fitting and dispensing a hearing ((aid)) instrument to any  
36 person under eighteen years of age who has not been examined and  
37 cleared for hearing ((aid)) instrument use within the previous six  
38 months by a physician specializing in otolaryngology except in the case  
39 of replacement instruments or except in the case of the parents or

1 guardian of such person refusing, for good cause, to seek medical  
2 opinion: PROVIDED, That should the parents or guardian of such person  
3 refuse, for good cause, to seek medical opinion, the ((licensee))  
4 licensed hearing instrument fitter/dispenser or certified audiologist  
5 shall obtain from such parents or guardian a certificate to that effect  
6 in a form as prescribed by the department;

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

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

23 (g) Permitting another to use his or her license, certificate, or  
24 permit;

25 (h) Stating or implying that the use of any hearing ((aid))  
26 instrument will restore normal hearing, preserve hearing, prevent or  
27 retard progression of a hearing impairment, or any other false,  
28 misleading, or medically or audilogically unsupportable claim  
29 regarding the efficiency of a hearing ((aid)) instrument;

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

34 (j) Directly or indirectly offering, giving, permitting, or causing  
35 to be given, money or anything of value to any person who advised  
36 another in a professional capacity as an inducement to influence that  
37 person, or to have that person influence others to purchase or contract  
38 to purchase any product sold or offered for sale by the ((licensee))  
39 hearing instrument fitter/dispenser, audiologist, or permit holder, or



1 to influence any person to refrain from dealing in the products of  
2 competitors.

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

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

7 NEW SECTION. **Sec. 16.** A new section is added to chapter 18.35 RCW  
8 to read as follows:

9 (1) A person who is not licensed with the secretary as a hearing  
10 instrument fitter/dispenser under the requirements of this chapter may  
11 not represent himself or herself as being so licensed and may not use  
12 in connection with his or her name the words "licensed hearing  
13 instrument fitter/dispenser," "hearing instrument specialist," or  
14 "hearing aid fitter/dispenser," or a variation, synonym, word, sign,  
15 number, insignia, coinage, or whatever expresses, employs, or implies  
16 these terms, names, or functions of a licensed hearing instrument  
17 fitter/dispenser.

18 (2) A person who is not certified with the secretary as a speech-  
19 language pathologist under the requirements of this chapter may not  
20 represent himself or herself as being so certified and may not use in  
21 connection with his or her name the words including "certified speech-  
22 language pathologist" or a variation, synonym, word, sign, number,  
23 insignia, coinage, or whatever expresses, employs, or implies these  
24 terms, names, or functions as a certified speech-language pathologist.

25 (3) A person who is not certified with the secretary as an  
26 audiologist under the requirements of this chapter may not represent  
27 himself or herself as being so certified and may not use in connection  
28 with his or her name the words "certified audiologist" or a variation,  
29 synonym, letter, word, sign, number, insignia, coinage, or whatever  
30 expresses, employs, or implies these terms, names, or functions of a  
31 certified audiologist.

32 (4) A person who does not hold a permit issued by the secretary as  
33 a hearing instrument fitter/dispenser permittee under the requirements  
34 of this chapter may not represent himself or herself as being so  
35 permitted and may not use in connection with his or her name the words  
36 "hearing instrument fitter/dispenser permit holder" or a variation,  
37 synonym, word, sign, number, insignia, coinage, or whatever expresses,

1 employs, or implies these terms, names, or functions of a hearing  
2 instrument fitter/dispenser permit holder.

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

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

8 A licensee or certificate or permit holder under this chapter may  
9 also be subject to disciplinary action if the licensee or certificate  
10 or permit holder:

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

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

21 (3) Has a judgment entered against him or her under chapter 19.86  
22 RCW and two years have not elapsed since the entry of the final  
23 judgment; but a license or certificate shall not be issued unless there  
24 has been full compliance with the terms of such judgment, if any. The  
25 judgment shall not be grounds for denial, suspension, nonrenewal, or  
26 revocation of a license or certificate unless the judgment arises out  
27 of and is based on acts of the applicant, licensee, certificate holder,  
28 or employee of the licensee or certificate holder; or

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

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

33 The powers and duties of the department, in addition to the powers  
34 and duties provided under other sections of this chapter, are as  
35 follows:

36 (1) To provide ((~~facilities~~)) space necessary to carry out the  
37 examination ((~~of applicants for license~~)) set forth in RCW 18.35.070 of

1 applicants for hearing instrument fitter/dispenser licenses or  
2 audiology certification.

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

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

10 (4) To appoint advisory committees as necessary.

11 (5) To keep a record of proceedings under this chapter and a  
12 register of all persons licensed, certified, or holding permits under  
13 this chapter. The register shall show the name of every living  
14 licensee or permit holder for hearing instrument fitting/dispensing,  
15 every living certificate or interim permit holder for speech-language  
16 pathology, every living certificate or interim permit holder for  
17 audiology, with his or her last known place of residence and the date  
18 and number of his or her license, permit, or certificate.

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

21 (1) There is created hereby the board ~~((on fitting and dispensing~~  
22 of hearing aids)) of hearing and speech to govern the three separate  
23 professions: Hearing instrument fitting/dispensing, audiology, and  
24 speech-language pathology. The board shall consist of ~~((seven))~~ ten  
25 members to be appointed by the governor.

26 (2) Members of the board shall be residents of this state. ~~((Two))~~  
27 Three members shall represent the public and shall have an interest in  
28 the rights of consumers of health services, and shall not be or have  
29 been a member of, or married to a member of, another licensing board,  
30 a licensee of a health occupation board, an employee of a health  
31 facility, nor derive his or her primary livelihood from the provision  
32 of health services at any level of responsibility. Two members shall  
33 be ~~((persons experienced in the fitting of hearing aids))~~ hearing  
34 instrument fitter/dispensers who ~~((shall hold valid licenses))~~ are  
35 licensed under this chapter ~~((and who do not have a masters level~~  
36 college degree in audiology)), have at least five years of experience  
37 in the practice of hearing instrument fitting and dispensing, and must  
38 be actively engaged in fitting and dispensing within two years of

1 appointment. Two members of the board shall be audiologists certified  
2 under this chapter who have at least five years of experience in the  
3 practice of audiology and must be actively engaged in practice within  
4 two years of appointment. Two members of the board shall be speech-  
5 language pathologists certified under this chapter who have at least  
6 five years of experience in the practice of speech-language pathology  
7 and must be actively engaged in practice within two years of  
8 appointment. One advisory nonvoting member shall be a medical ((or  
9 osteopathic)) physician ((specializing in diseases of the ear. Two  
10 members must be experienced in the fitting of hearing aids, must be  
11 licensed under this chapter, and shall have received at a minimum a  
12 masters level college degree in audiology)) licensed in the state of  
13 Washington.

14 (3) The term of office of a member is three years. Of the initial  
15 appointments, one hearing instrument fitter/dispenser, one speech-  
16 language pathologist, one audiologist, and one consumer shall be  
17 appointed for a term of two years, and one hearing instrument  
18 fitter/dispenser, one speech-language pathologist, one audiologist, and  
19 two consumers shall be appointed for a term of three years.  
20 Thereafter, all appointments shall be made for expired terms. No  
21 member shall be appointed to serve more than two consecutive terms. A  
22 member shall continue to serve until a successor has been appointed.  
23 The governor shall either reappoint the member or appoint a successor  
24 to assume the member's duties at the expiration of his or her  
25 predecessor's term. A vacancy in the office of a member shall be  
26 filled by appointment for the unexpired term.

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

34 (5) The board shall meet at least once each year, at a place, day  
35 and hour determined by the board, unless otherwise directed by a  
36 majority of board members. The board shall also meet at such other  
37 times and places as are requested by the department or by three members  
38 of the board. A quorum is a majority of the board. A hearing  
39 instrument fitter/dispenser, speech-language pathologist, and

1 audiologist must be represented. Meetings of the board shall be open  
2 and public, except the board may hold executive sessions to the extent  
3 permitted by chapter 42.30 RCW.

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

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

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

11 The board shall have the following powers and duties:

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

15 (2) To develop guidelines on the training and supervision of  
16 ~~((trainees))~~ hearing instrument fitter/dispenser permit holders and to  
17 establish requirements regarding the extent of apprenticeship training  
18 and certification to the department;

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

21 (4) To develop, approve, and administer ~~((all—licensing~~  
22 ~~examinations required by this chapter))~~ or supervise the administration  
23 of examinations to applicants for licensure and certification under  
24 this chapter; ((and))

25 (5) To require a licensee or certificate or permit holder to make  
26 restitution to any individual injured by a violation of this chapter or  
27 chapter 18.130 RCW, the uniform disciplinary act. The authority to  
28 require restitution does not limit the board's authority to take other  
29 action deemed appropriate and provided for in this chapter or chapter  
30 18.130 RCW;

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

33 (7) To recommend requirements for continuing education and  
34 continuing competency requirements as a prerequisite to renewing a  
35 license or certificate under this chapter;

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

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

5       (10) To adopt rules relating to standards of care relating to  
6 hearing instrument fitter/dispensers or audiologists, including the  
7 dispensing of hearing instruments, and relating to speech-language  
8 pathologists, including dispensing of communication devices.

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

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

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

15       The uniform disciplinary act, chapter 18.130 RCW, governs  
16 unlicensed practice, the issuance and denial of licenses, certificates,  
17 and permits, and the discipline of licensees and certificate and permit  
18 holders under this chapter.

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

21       It is unlawful to (~~sell~~) fit or dispense a hearing (~~aid~~)  
22 instrument to a resident of this state if the attempted sale or  
23 purchase is offered or made by telephone or mail order and there is no  
24 face-to-face contact to test or otherwise determine the needs of the  
25 prospective purchaser. This section does not apply to the sale of  
26 hearing (~~aids~~) instruments by wholesalers to licensees or certificate  
27 holders under this chapter.

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

30       Acts and practices in the course of trade in the promoting,  
31 advertising, selling, fitting, and dispensing of hearing (~~aids~~)  
32 instruments shall be subject to the provisions of chapter 19.86 RCW  
33 (Consumer Protection Act) and RCW 9.04.050 (False Advertising Act) and  
34 any violation of the provisions of this chapter shall constitute  
35 violation of RCW 19.86.020.

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

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

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

16       (b) The purchaser sends notice of the cancellation by certified  
17 mail, return receipt requested, to the establishment employing the  
18 ~~((licensee))~~ licensed hearing instrument fitter/dispenser, certified  
19 audiologist, or permit holder at the time the hearing ~~((aid))~~  
20 instrument was originally purchased, and the notice is posted not later  
21 than thirty days following the date of delivery, but the purchaser and  
22 the ~~((licensee))~~ licensed hearing instrument fitter/dispenser,  
23 certified audiologist, or permit holder may extend the deadline for  
24 posting of the notice of rescission by mutual, written agreement. In  
25 the event the hearing ~~((aid is in the possession of the licensee or the~~  
26 ~~licensee's representative))~~ instrument develops a problem which  
27 qualifies as a reasonable cause for rescission or which prevents the  
28 purchaser from evaluating the hearing instrument, and the purchaser  
29 notifies the establishment employing the licensed hearing instrument  
30 fitter/dispenser, certified audiologist or permit holder of the problem  
31 during the thirty days following the date of delivery and documents  
32 such notification, the deadline for posting the notice of rescission  
33 shall be extended by an equal number of days ~~((that the aid is in the~~  
34 ~~possession of the licensee or the licensee's representative))~~ as those  
35 between the date of the notification of the problem to the date of  
36 notification of availability for redeliveries. Where the hearing  
37 ~~((aid))~~ instrument is returned to the ~~((licensee))~~ licensed hearing  
38 instrument fitter/dispenser, certified audiologist, or permit holder  
39 for any inspection for modification or repair, and the ~~((licensee))~~

1 licensed hearing instrument fitter/dispenser, certified audiologist, or  
2 permit holder has notified the purchaser that the hearing ((aid))  
3 instrument is available for redelivery, and where the purchaser has not  
4 responded by either taking possession of the hearing ((aid)) instrument  
5 or instructing the ((licensee)) licensed hearing instrument  
6 fitter/dispenser, certified audiologist, or permit holder to forward it  
7 to the purchaser, then the deadline for giving notice of the rescision  
8 shall ((begin)) extend no more than seven working days after this  
9 notice of availability.

10 (2) If the transaction is rescinded under this section or as  
11 otherwise provided by law and the hearing ((aid)) instrument is  
12 returned to the ((licensee)) licensed hearing instrument  
13 fitter/dispenser, certified audiologist, or permit holder, the  
14 ((licensee)) licensed hearing instrument fitter/dispenser, certified  
15 audiologist, or permit holder shall refund to the purchaser any  
16 payments or deposits for that hearing ((aid)) instrument. However, the  
17 ((licensee)) licensed hearing instrument fitter/dispenser, certified  
18 audiologist, or permit holder may retain, for each hearing ((aid),  
19 ~~fifteen percent of the total purchase price or one hundred dollars,~~  
20 ~~whichever is less~~) instrument, fifteen percent of the total purchase  
21 price or one hundred twenty-five dollars, whichever is less. After  
22 December 31, 1996, the rescision amount shall be determined by the  
23 board. The ((licensee)) licensed hearing instrument fitter/dispenser,  
24 certified audiologist, or permit holder shall also return any goods  
25 traded in contemplation of the sale, less any costs incurred by the  
26 ((licensee)) licensed hearing instrument fitter/dispenser, certified  
27 audiologist, or permit holder in making those goods ready for resale.  
28 The refund shall be made within ten business days after the rescission.  
29 The buyer shall incur no additional liability for such rescission.

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

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

35 In addition to remedies otherwise provided by law, in any action  
36 brought by or on behalf of a person required to be licensed or  
37 certified or to hold a permit hereunder, or by any assignee or  
38 transferee ((thereof, arising out of the business of fitting and



1 ~~dispensing of hearing aids~~)), it shall be necessary to allege and prove  
2 that the licensee or certificate or permit holder at the time of the  
3 transaction held a valid license, certificate, or permit as required by  
4 this chapter, and that such license, certificate, or permit has not  
5 been suspended or revoked pursuant to RCW 18.35.110, 18.35.120, or  
6 18.130.160.

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

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

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

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

16 (b) Hearing instrument fitter/dispensers, speech-language  
17 pathologists, or audiologists of other states, territories, or  
18 countries, or the District of Columbia while appearing as clinicians of  
19 bona fide educational seminars sponsored by speech-language pathology,  
20 audiology, hearing instrument fitter/dispenser, medical, or other  
21 healing art professional associations so long as such activities do not  
22 go beyond the scope of practice defined by this chapter.

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

25 The legislature finds that the public health, safety, and welfare  
26 would best be protected by uniform regulation of hearing ~~((aid fitter-~~  
27 ~~dispensers))~~ instrument fitter/dispensers, speech-language  
28 pathologists, audiologists, and permit holders throughout the state.  
29 Therefore, the provisions of this chapter relating to the licensing or  
30 certification of hearing ~~((aid fitter dispensers and hearing aid))~~  
31 instrument fitter/dispensers, speech-language pathologists, and  
32 audiologists and regulation of permit holders and their respective  
33 establishments or facilities is exclusive. No political subdivision of  
34 the state of Washington within whose jurisdiction a hearing ~~((aid))~~  
35 instrument fitter/dispenser, audiologist, or speech-language  
36 pathologist establishment or facility is located may require any  
37 registrations, bonds, licenses, certificates, or permits of the

1 establishment or facility or its employees or charge any fee for the  
2 same or similar purposes: PROVIDED, HOWEVER, That nothing herein shall  
3 limit or abridge the authority of any political subdivision to levy and  
4 collect a general and nondiscriminatory license fee levied on all  
5 businesses, or to levy a tax based upon the gross business conducted by  
6 any firm within the political subdivision.

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

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

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

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

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

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

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

32 (3) If a cash deposit is filed, the department shall deposit the  
33 funds ~~((with the state treasurer))~~. The cash or other negotiable  
34 security deposited with the department shall be returned to the  
35 depositor one year after the establishment has discontinued the fitting  
36 and dispensing of hearing ~~((aids))~~ instruments if no legal action has  
37 been instituted against the establishment, its agents or employees, or

1 the cash deposit or other security. The establishment owners shall  
2 notify the department if the establishment is sold, changes names, or  
3 has discontinued the fitting and dispensing of hearing ~~((aids))~~  
4 instruments in order that the cash deposit or other security may be  
5 released at the end of one year from that date.

6 (4) A surety may file with the department notice of withdrawal of  
7 the bond of the establishment. Upon filing a new bond, or upon the  
8 expiration of sixty days after the filing of notice of withdrawal by  
9 the surety, the liability of the former surety for all future acts of  
10 the establishment terminates.

11 (5) Upon the filing with the department notice by a surety of  
12 withdrawal of the surety on the bond of an establishment or upon the  
13 cancellation by the department of the bond of a surety under this  
14 section, the department shall immediately give notice to the  
15 establishment by certified or registered mail with return receipt  
16 requested addressed to the establishment's last place of business as  
17 filed with the department.

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

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

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

27 (1) In addition to any other legal remedies, an action may be  
28 brought in any court of competent jurisdiction upon the bond, cash  
29 deposit, or security in lieu of a surety bond required by this chapter,  
30 by any person having a claim against a licensee or certificate or  
31 permit holder, agent, or establishment for any violation of this  
32 chapter or any rule adopted under this chapter. The aggregate  
33 liability of the surety to all claimants shall in no event exceed the  
34 sum of the bond. Claims shall be satisfied in the order of judgment  
35 rendered.

36 (2) An action upon the bond shall be commenced by serving and  
37 filing the complaint within one year from the date of the cancellation  
38 of the bond. An action upon a cash deposit or other security shall be

1 commenced by serving and filing the complaint within one year from the  
2 date of notification to the department of the change in ownership of  
3 the establishment or the discontinuation of the fitting and dispensing  
4 of hearing ((aids)) instruments by that establishment. Two copies of  
5 the complaint shall be served by registered or certified mail, return  
6 receipt requested, upon the department at the time the suit is started.  
7 The service constitutes service on the surety. The secretary shall  
8 transmit one copy of the complaint to the surety within five business  
9 days after the copy has been received.

10 (3) The secretary shall maintain a record, available for public  
11 inspection, of all suits commenced under this chapter under surety  
12 bonds, or the cash or other security deposited in lieu of the surety  
13 bond. In the event that any final judgment impairs the liability of  
14 the surety upon a bond so furnished or the amount of the deposit so  
15 that there is not in effect a bond undertaking or deposit in the full  
16 amount prescribed in this section, the department shall suspend the  
17 license or certificate until the bond undertaking or deposit in the  
18 required amount, unimpaired by unsatisfied judgment claims, has been  
19 furnished.

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

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

27 (1) This chapter applies only to the secretary and the boards and  
28 commissions having jurisdiction in relation to the professions licensed  
29 under the chapters specified in this section. This chapter does not  
30 apply to any business or profession not licensed under the chapters  
31 specified in this section.

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

- 34 (i) Dispensing opticians licensed under chapter 18.34 RCW;
- 35 (ii) Naturopaths licensed under chapter 18.36A RCW;
- 36 (iii) Midwives licensed under chapter 18.50 RCW;
- 37 (iv) Ocularists licensed under chapter 18.55 RCW;

1 (v) Massage operators and businesses licensed under chapter 18.108  
2 RCW;

3 (vi) Dental hygienists licensed under chapter 18.29 RCW;

4 (vii) Acupuncturists licensed under chapter 18.06 RCW;

5 (viii) Radiologic technologists certified and X-ray technicians  
6 registered under chapter 18.84 RCW;

7 (ix) Respiratory care practitioners certified under chapter 18.89  
8 RCW;

9 (x) Persons registered or certified under chapter 18.19 RCW;

10 (xi) Persons registered as nursing pool operators under chapter  
11 18.52C RCW;

12 (xii) Nursing assistants registered or certified under chapter  
13 18.79 RCW;

14 (xiii) Health care assistants certified under chapter 18.135 RCW;

15 (xiv) Dietitians and nutritionists certified under chapter 18.138  
16 RCW;

17 (xv) Sex offender treatment providers certified under chapter  
18 18.155 RCW;

19 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW  
20 18.71.205;

21 (xvii) Persons registered as adult family home operators under RCW  
22 18.48.020; and

23 (xviii) Denturists licensed under chapter 18.30 RCW.

24 (b) The boards and commissions having authority under this chapter  
25 are as follows:

26 (i) The podiatric medical board as established in chapter 18.22  
27 RCW;

28 (ii) The chiropractic quality assurance commission as established  
29 in chapter 18.25 RCW;

30 (iii) The dental quality assurance commission as established in  
31 chapter 18.32 RCW;

32 (iv) The board (~~(on fitting and dispensing)~~) of hearing (~~(aids)~~)  
33 and speech as established in chapter 18.35 RCW;

34 (v) The board of examiners for nursing home administrators as  
35 established in chapter 18.52 RCW;

36 (vi) The optometry board as established in chapter 18.54 RCW  
37 governing licenses issued under chapter 18.53 RCW;

1 (vii) The board of osteopathic medicine and surgery as established  
2 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and  
3 18.57A RCW;

4 (viii) The board of pharmacy as established in chapter 18.64 RCW  
5 governing licenses issued under chapters 18.64 and 18.64A RCW;

6 (ix) The medical quality assurance commission as established in  
7 chapter 18.71 RCW governing licenses and registrations issued under  
8 chapters 18.71 and 18.71A RCW;

9 (x) The board of physical therapy as established in chapter 18.74  
10 RCW;

11 (xi) The board of occupational therapy practice as established in  
12 chapter 18.59 RCW;

13 (xii) The nursing care quality assurance commission as established  
14 in chapter 18.79 RCW governing licenses issued under that chapter;

15 (xiii) The examining board of psychology and its disciplinary  
16 committee as established in chapter 18.83 RCW; and

17 (xiv) The veterinary board of governors as established in chapter  
18 18.92 RCW.

19 (3) In addition to the authority to discipline license holders, the  
20 disciplining authority has the authority to grant or deny licenses  
21 based on the conditions and criteria established in this chapter and  
22 the chapters specified in subsection (2) of this section. This chapter  
23 also governs any investigation, hearing, or proceeding relating to  
24 denial of licensure or issuance of a license conditioned on the  
25 applicant's compliance with an order entered pursuant to RCW 18.130.160  
26 by the disciplining authority.

27 (4) All disciplining authorities shall adopt procedures to ensure  
28 substantially consistent application of this chapter, the Uniform  
29 Disciplinary Act, among the disciplining authorities listed in  
30 subsection (2) of this section.

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

33 NEW SECTION. **Sec. 34.** The board of hearing and speech shall  
34 conduct a study in consultation with the governing authorities of the  
35 Washington hearing aid society, the Washington speech and hearing  
36 association, and the Washington society of audiology to develop  
37 recommendations on the appropriateness of a two-year degree as an entry

1 level requirement for licensing hearing instrument fitter/dispensers  
2 under chapter 18.35 RCW. The study and recommendations, at a minimum,  
3 must include consideration of the fiscal impact of the proposal, the  
4 effect on access of the public to services, the feasibility of  
5 providing a two-year degree curriculum, and the status of those  
6 currently licensed as hearing instrument fitter/dispensers under  
7 chapter 18.35 RCW. The study must be coordinated with the state board  
8 for community and technical colleges and the department of health. The  
9 recommendations shall be presented to the senate health and human  
10 services and the house of representatives health care committees prior  
11 to January 1, 1998.

12 NEW SECTION. **Sec. 35.** Recognizing the trend in utilization of  
13 speech-language pathologist assistants and audiologist assistants  
14 across practice settings, the board of hearing and speech shall, on an  
15 ongoing basis, collect data on: The number of assistants in specific  
16 practice settings; supervisor to speech-language pathologist assistant  
17 or audiologist assistant ratios; and the level of education and  
18 training of speech-language pathologist assistants and audiologist  
19 assistants.

20 NEW SECTION. **Sec. 36.** If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected."

24 **ESHB 2309** - S COMM AMD  
25 By Committee on Health & Long-Term Care

26  
27 On page 1, line 1 of the title, after "professions;" strike the  
28 remainder of the title and insert "amending RCW 18.35.010, 18.35.020,  
29 18.35.030, 18.35.040, 18.35.050, 18.35.060, 18.35.070, 18.35.080,  
30 18.35.085, 18.35.090, 18.35.095, 18.35.100, 18.35.105, 18.35.110,  
31 18.35.120, 18.35.140, 18.35.150, 18.35.161, 18.35.172, 18.35.175,  
32 18.35.180, 18.35.185, 18.35.190, 18.35.195, 18.35.205, 18.35.230,  
33 18.35.240, and 18.35.250; reenacting and amending RCW 18.130.040;

- 1 adding new sections to chapter 18.35 RCW; creating new sections; and
- 2 repealing RCW 18.35.170."

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