

2 SHB 2688 - S COMM AMD

3 By Committee on Health & Long-Term Care

4 ADOPTED 3/3/98

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

7 "Sec. 1. RCW 18.35.010 and 1996 c 200 s 2 are each amended to read  
8 as follows:

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

10 (1) "Assistive listening device or system" means an amplification  
11 system that is specifically designed to improve the signal to noise  
12 ratio for the listener, reduce interference from noise in the  
13 background, and enhance hearing levels at a distance by picking up  
14 sound from as close to source as possible and sending it directly to  
15 the ear of the listener, excluding hearing instruments as defined in  
16 this chapter.

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

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

29 (4) "Board" means the board of hearing and speech.

30 (5) "Department" means the department of health.

31 (6) "Direct supervision" means that the supervisor is physically  
32 present and in the same room with the ((hearing—instrument  
33 fitter/dispenser)) interim permit holder, observing the nondiagnostic  
34 testing, fitting, and dispensing activities ((of the hearing instrument  
35 fitter/dispenser permit holder)) at all times.

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

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

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

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

28 (11) "Hearing instrument" means any wearable prosthetic instrument  
29 or device designed for or represented as aiding, improving,  
30 compensating for, or correcting defective human hearing and any parts,  
31 attachments, or accessories of such an instrument or device, excluding  
32 batteries and cords, ear molds, and assistive listening devices.

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

36 (13) (~~"Hearing instrument fitter/dispenser"~~) "Interim permit  
37 holder" means a person who holds the permit created under RCW 18.35.060  
38 and who practices under the direct supervision of a licensed hearing

1 instrument fitter/dispenser or certified speech-language pathologist or  
2 certified audiologist.

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

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

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

16 **Sec. 2.** RCW 18.35.020 and 1996 c 200 s 3 are each amended to read  
17 as follows:

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

35 **Sec. 3.** RCW 18.35.040 and 1996 c 200 s 5 are each amended to read  
36 as follows:

1 (1) An applicant for licensure as a hearing instrument  
2 fitter/dispenser must have the following minimum qualifications and  
3 shall pay a fee determined by the secretary as provided in RCW  
4 43.70.250. An applicant shall be issued a license under the provisions  
5 of this chapter if the applicant:

6 (a)(i) Satisfactorily completes the hearing instrument  
7 fitter/dispenser examination required by this chapter; or

8 (ii) Holds a current, unsuspended, unrevoked license from another  
9 jurisdiction if the standards for licensing in such other jurisdiction  
10 are substantially equivalent to those prevailing in this state;

11 (b) ~~((After December 31, 1996, has at least six months of~~  
12 ~~apprenticeship training that meets requirements established by the~~  
13 ~~board. The board may waive part or all of the apprenticeship training~~  
14 ~~in recognition of formal education in fitting and dispensing of hearing~~  
15 ~~instruments or in recognition of previous licensure in Washington or in~~  
16 ~~another state, territory, or the District of Columbia;~~

17 ~~(c) Is at least twenty one years of age))~~ Satisfactorily completes  
18 a minimum of a two-year degree program in hearing instrument  
19 fitter/dispenser instruction. The program must be approved by the  
20 board; and

21 ~~((d))~~ (c) Has not committed unprofessional conduct as specified  
22 by the uniform disciplinary act.

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

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

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

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

35 (c) Has completed postgraduate professional work experience  
36 approved by the board.

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

1 The applicant must present proof of qualifications to the board in  
2 the manner and on forms prescribed by the secretary and proof of  
3 completion of a minimum of four clock hours of AIDS education and  
4 training pursuant to rules adopted by the board.

5 **Sec. 4.** RCW 18.35.060 and 1997 c 275 s 3 are each amended to read  
6 as follows:

7 ~~((1) The department shall issue a hearing instrument~~  
8 ~~fitting/dispensing permit to any applicant who has shown to the~~  
9 ~~satisfaction of the department that the applicant:~~

10 ~~(a) Is at least twenty one years of age;~~

11 ~~(b) If issued a hearing instrument fitter/dispenser permit, would~~  
12 ~~be employed and directly supervised in the fitting and dispensing of~~  
13 ~~hearing instruments by a person licensed or certified in good standing~~  
14 ~~as a hearing instrument fitter/dispenser or audiologist for at least~~  
15 ~~two years unless otherwise approved by the board;~~

16 ~~(c) Has complied with administrative procedures, administrative~~  
17 ~~requirements, and fees determined as provided in RCW 43.70.250 and~~  
18 ~~43.70.280;~~

19 ~~(d) Has not committed unprofessional conduct as specified by the~~  
20 ~~uniform disciplinary act; and~~

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

22 ~~The provisions of RCW 18.35.030, 18.35.110, and 18.35.120 shall~~  
23 ~~apply to any person issued a hearing instrument fitter/dispenser~~  
24 ~~permit. Pursuant to the provisions of this section, a person issued a~~  
25 ~~hearing instrument fitter/dispenser permit may engage in the fitting~~  
26 ~~and dispensing of hearing instruments without having first passed the~~  
27 ~~hearing instrument fitter/dispenser examination provided under this~~  
28 ~~chapter.~~

29 ~~(2) The hearing instrument fitter/dispenser permit shall contain~~  
30 ~~the names of the employer and the licensed or certified supervisor~~  
31 ~~under this chapter who are employing and supervising the hearing~~  
32 ~~instrument fitter/dispenser permit holder and those persons shall~~  
33 ~~execute an acknowledgment of responsibility for all acts of the hearing~~  
34 ~~instrument fitter/dispenser permit holder in connection with the~~  
35 ~~fitting and dispensing of hearing instruments.~~

36 ~~(3) A hearing instrument fitter/dispenser permit holder may fit and~~  
37 ~~dispense hearing instruments, but only if the hearing instrument~~  
38 ~~fitter/dispenser permit holder is under the direct supervision of a~~

1 ~~licensed hearing instrument fitter/dispenser or certified audiologist~~  
2 ~~under this chapter in a capacity other than as a hearing instrument~~  
3 ~~fitter/dispenser permit holder. Direct supervision by a licensed~~  
4 ~~hearing instrument fitter/dispenser or certified audiologist shall be~~  
5 ~~required whenever the hearing instrument fitter/dispenser permit holder~~  
6 ~~is engaged in the fitting or dispensing of hearing instruments during~~  
7 ~~the hearing instrument fitter/dispenser permit holder's employment.~~  
8 ~~The board shall develop and adopt guidelines on any additional~~  
9 ~~supervision or training it deems necessary.~~

10 ~~(4) The hearing instrument fitter/dispenser permit expires one year~~  
11 ~~from the date of its issuance except that on recommendation of the~~  
12 ~~board the permit may be reissued for one additional year only.~~

13 ~~(5) No certified audiologist or licensed hearing instrument~~  
14 ~~fitter/dispenser under this chapter may assume the responsibility for~~  
15 ~~more than one hearing instrument fitter/dispenser permit holder at any~~  
16 ~~one time.~~

17 ~~(6))~~ The department, upon approval by the board, shall issue an  
18 interim permit authorizing an applicant for speech-language pathologist  
19 certification or audiologist certification who, except for the  
20 postgraduate professional experience and the examination requirements,  
21 meets the academic and practicum requirements of RCW 18.35.040(2) to  
22 practice under ~~((interim permit))~~ direct supervision ~~((by a certified~~  
23 ~~speech language pathologist or certified audiologist))~~. The interim  
24 permit is valid for a period of one year from date of issuance. The  
25 board shall determine conditions for the interim permit.

26 **Sec. 5.** RCW 18.35.090 and 1997 c 275 s 5 are each amended to read  
27 as follows:

28 Each person who engages in practice under this chapter shall comply  
29 with administrative procedures and administrative requirements  
30 established under RCW 43.70.250 and 43.70.280 and shall keep the  
31 license, certificate, or interim permit conspicuously posted in the  
32 place of business at all times. The secretary may establish mandatory  
33 continuing education requirements and/or continued competency standards  
34 to be met by licensees or certificate or interim permit holders as a  
35 condition for license, certificate, or interim permit renewal.

36 **Sec. 6.** RCW 18.35.100 and 1996 c 200 s 13 are each amended to read  
37 as follows:

1 (1) Every hearing instrument fitter/dispenser, audiologist, speech-  
2 language pathologist, (~~hearing instrument fitter/dispenser permit~~  
3 ~~holder,~~) or interim permit holder, who is regulated under this  
4 chapter, shall notify the department in writing of the regular address  
5 of the place or places in the state of Washington where the person  
6 practices or intends to practice more than twenty consecutive business  
7 days and of any change thereof within ten days of such change. Failure  
8 to notify the department in writing shall be grounds for suspension or  
9 revocation of the license, certificate, or interim permit.

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

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

20 **Sec. 7.** RCW 18.35.105 and 1996 c 200 s 14 are each amended to read  
21 as follows:

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

1       **Sec. 8.** RCW 18.35.110 and 1996 c 200 s 15 and 1996 c 178 s 1 are  
2 each reenacted and amended to read as follows:

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

7       (1) For unethical conduct in dispensing hearing instruments.  
8 Unethical conduct shall include, but not be limited to:

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

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

16       (c) Advertising a particular model, type, or kind of hearing  
17 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 interim permit holder or on the basis of information  
26 furnished by the prospective hearing instrument user prior to fitting  
27 and dispensing a hearing instrument to any such prospective hearing  
28 instrument user, failing to advise that prospective hearing instrument  
29 user in writing that the user should first consult a licensed physician  
30 specializing in diseases of the ear or if no such licensed physician is  
31 available in the community then to any duly licensed physician:

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

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

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

38       (D) Acute or chronic dizziness;

39       (E) Any unilateral hearing loss;



1 (F) Significant air-bone gap when generally acceptable standards  
2 have been established as defined by the food and drug administration;  
3 (G) Visible evidence of significant cerumen accumulation or a  
4 foreign body in the ear canal;  
5 (H) Pain or discomfort in the ear; or  
6 (I) Any other conditions that the board may by rule establish. It  
7 is a violation of this subsection for any licensee or certificate  
8 holder or that licensee's or certificate holder's employees and  
9 putative agents upon making such required referral for medical opinion  
10 to in any manner whatsoever disparage or discourage a prospective  
11 hearing instrument user from seeking such medical opinion prior to the  
12 fitting and dispensing of a hearing instrument. No such referral for  
13 medical opinion need be made by any licensed hearing instrument  
14 fitter/dispenser, certified audiologist, or interim permit holder in  
15 the instance of replacement only of a hearing instrument which has been  
16 lost or damaged beyond repair within twelve months of the date of  
17 purchase. The licensed hearing instrument fitter/dispenser, certified  
18 audiologist, or interim permit holder or their employees or putative  
19 agents shall obtain a signed statement from the hearing instrument user  
20 documenting the waiver of medical clearance and the waiver shall inform  
21 the prospective user that signing the waiver is not in the user's best  
22 health interest: PROVIDED, That the licensed hearing instrument  
23 fitter/dispenser, certified audiologist, or interim permit holder shall  
24 maintain a copy of either the physician's statement showing that the  
25 prospective hearing instrument user has had a medical evaluation within  
26 the previous six months or the statement waiving medical evaluation,  
27 for a period of three years after the purchaser's receipt of a hearing  
28 instrument. Nothing in this section required to be performed by a  
29 licensee or certificate or interim permit holder shall mean that the  
30 licensee or certificate or interim permit holder is engaged in the  
31 diagnosis of illness or the practice of medicine or any other activity  
32 prohibited under the laws of this state;  
33 (ii) Fitting and dispensing a hearing instrument to any person  
34 under eighteen years of age who has not been examined and cleared for  
35 hearing instrument use within the previous six months by a physician  
36 specializing in otolaryngology except in the case of replacement  
37 instruments or except in the case of the parents or guardian of such  
38 person refusing, for good cause, to seek medical opinion: PROVIDED,  
39 That should the parents or guardian of such person refuse, for good

1 cause, to seek medical opinion, the licensed hearing instrument  
2 fitter/dispenser or certified audiologist shall obtain from such  
3 parents or guardian a certificate to that effect in a form as  
4 prescribed by the department;

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

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

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

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

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

33 (j) Directly or indirectly offering, giving, permitting, or causing  
34 to be given, money or anything of value to any person who advised  
35 another in a professional capacity as an inducement to influence that  
36 person, or to have that person influence others to purchase or contract  
37 to purchase any product sold or offered for sale by the hearing  
38 instrument fitter/dispenser, audiologist, or interim 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 **Sec. 9.** RCW 18.35.120 and 1996 c 200 s 17 are each amended to read  
8 as follows:

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

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

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

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

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

32 **Sec. 10.** RCW 18.35.140 and 1996 c 200 s 18 are each amended to  
33 read as follows:

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

1 (1) To provide space necessary to carry out the examination set  
2 forth in RCW 18.35.070 of applicants for hearing instrument  
3 fitter/dispenser licenses or audiology certification.

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

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

11 (4) To appoint advisory committees as necessary.

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

21 **Sec. 11.** RCW 18.35.161 and 1996 c 200 s 20 are each amended to  
22 read as follows:

23 The board shall have the following powers and duties:

24 (1) To establish by rule such minimum standards and procedures in  
25 the fitting and dispensing of hearing instruments as deemed appropriate  
26 and in the public interest;

27 ~~((To develop guidelines on the training and supervision of  
28 hearing instrument fitter/dispenser permit holders and to establish  
29 requirements regarding the extent of apprenticeship training and  
30 certification to the department;~~

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

33 ~~((4))~~ (3) To develop, approve, and administer or supervise the  
34 administration of examinations to applicants for licensure and  
35 certification under this chapter;

36 ~~((5))~~ (4) To require a licensee or certificate or interim permit  
37 holder to make restitution to any individual injured by a violation of  
38 this chapter or chapter 18.130 RCW, the uniform disciplinary act. The

1 authority to require restitution does not limit the board's authority  
2 to take other action deemed appropriate and provided for in this  
3 chapter or chapter 18.130 RCW;

4 ~~((+6+))~~ (5) To pass upon the qualifications of applicants for  
5 licensure, certification, or interim permits and to certify to the  
6 secretary;

7 ~~((+7+))~~ (6) To recommend requirements for continuing education and  
8 continuing competency requirements as a prerequisite to renewing a  
9 license or certificate under this chapter;

10 ~~((+8+))~~ (7) To keep an official record of all its proceedings. The  
11 record is evidence of all proceedings of the board that are set forth  
12 in this record;

13 ~~((+9+))~~ (8) To adopt rules, if the board finds it appropriate, in  
14 response to questions put to it by professional health associations,  
15 hearing instrument fitter/dispensers or audiologists, speech-language  
16 pathologists, interim permit holders, and consumers in this state; and

17 ~~((+10+))~~ (9) To adopt rules relating to standards of care relating  
18 to hearing instrument fitter/dispensers or audiologists, including the  
19 dispensing of hearing instruments, and relating to speech-language  
20 pathologists, including dispensing of communication devices.

21 **Sec. 12.** RCW 18.35.172 and 1996 c 200 s 22 are each amended to  
22 read as follows:

23 The uniform disciplinary act, chapter 18.130 RCW, governs  
24 unlicensed practice, the issuance and denial of licenses, certificates,  
25 and interim permits, and the discipline of licensees and certificate  
26 and permit holders under this chapter.

27 **Sec. 13.** RCW 18.35.185 and 1996 c 200 s 25 are each amended to  
28 read as follows:

29 (1) In addition to any other rights and remedies a purchaser may  
30 have, the purchaser of a hearing instrument shall have the right to  
31 rescind the transaction for other than the licensed hearing instrument  
32 fitter/dispenser, certified audiologist, or interim permit holder's  
33 breach if:

34 (a) The purchaser, for reasonable cause, returns the hearing  
35 instrument or holds it at the licensed hearing instrument  
36 fitter/dispenser, certified audiologist, or interim permit holder's  
37 disposal, if the hearing instrument is in its original condition less

1 normal wear and tear. "Reasonable cause" shall be defined by the board  
2 but shall not include a mere change of mind on the part of the  
3 purchaser or a change of mind related to cosmetic concerns of the  
4 purchaser about wearing a hearing instrument; and

5 (b) The purchaser sends notice of the cancellation by certified  
6 mail, return receipt requested, to the establishment employing the  
7 licensed hearing instrument fitter/dispenser, certified audiologist, or  
8 interim permit holder at the time the hearing instrument was originally  
9 purchased, and the notice is posted not later than thirty days  
10 following the date of delivery, but the purchaser and the licensed  
11 hearing instrument fitter/dispenser, certified audiologist, or interim  
12 permit holder may extend the deadline for posting of the notice of  
13 rescission by mutual, written agreement. In the event the hearing  
14 instrument develops a problem which qualifies as a reasonable cause for  
15 rescission or which prevents the purchaser from evaluating the hearing  
16 instrument, and the purchaser notifies the establishment employing the  
17 licensed hearing instrument fitter/dispenser, certified audiologist, or  
18 interim permit holder of the problem during the thirty days following  
19 the date of delivery and documents such notification, the deadline for  
20 posting the notice of rescission shall be extended by an equal number  
21 of days as those between the date of the notification of the problem to  
22 the date of notification of availability for redeliveries. Where the  
23 hearing instrument is returned to the licensed hearing instrument  
24 fitter/dispenser, certified audiologist, or interim permit holder for  
25 any inspection for modification or repair, and the licensed hearing  
26 instrument fitter/dispenser, certified audiologist, or interim permit  
27 holder has notified the purchaser that the hearing instrument is  
28 available for redelivery, and where the purchaser has not responded by  
29 either taking possession of the hearing instrument or instructing the  
30 licensed hearing instrument fitter/dispenser, certified audiologist, or  
31 interim permit holder to forward it to the purchaser, then the deadline  
32 for giving notice of the rescission shall extend no more than seven  
33 working days after this notice of availability.

34 (2) If the transaction is rescinded under this section or as  
35 otherwise provided by law and the hearing instrument is returned to the  
36 licensed hearing instrument fitter/dispenser, certified audiologist, or  
37 interim permit holder, the licensed hearing instrument  
38 fitter/dispenser, certified audiologist, or interim permit holder shall  
39 refund to the purchaser any payments or deposits for that hearing

1 instrument. However, the licensed hearing instrument fitter/dispenser,  
2 certified audiologist, or interim permit holder may retain, for each  
3 hearing instrument, fifteen percent of the total purchase price or one  
4 hundred twenty-five dollars, whichever is less. After December 31,  
5 1996, the rescission amount shall be determined by the board. The  
6 licensed hearing instrument fitter/dispenser, certified audiologist, or  
7 interim permit holder shall also return any goods traded in  
8 contemplation of the sale, less any costs incurred by the licensed  
9 hearing instrument fitter/dispenser, certified audiologist, or interim  
10 permit holder in making those goods ready for resale. The refund shall  
11 be made within ten business days after the rescission. The buyer shall  
12 incur no additional liability for such rescission.

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

16 **Sec. 14.** RCW 18.35.190 and 1996 c 200 s 26 are each amended to  
17 read as follows:

18 In addition to remedies otherwise provided by law, in any action  
19 brought by or on behalf of a person required to be licensed or  
20 certified or to hold ((a)) an interim permit ((hereunder)) under this  
21 chapter, or by any assignee or transferee, it shall be necessary to  
22 allege and prove that the licensee or certificate or interim permit  
23 holder at the time of the transaction held a valid license,  
24 certificate, or interim permit as required by this chapter, and that  
25 such license, certificate, or interim permit has not been suspended or  
26 revoked pursuant to RCW 18.35.110, 18.35.120, or 18.130.160.

27 **Sec. 15.** RCW 18.35.195 and 1996 c 200 s 27 are each amended to  
28 read as follows:

29 (1) This chapter shall not apply to military or federal government  
30 employees.

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

32 (a) Fitting or dispensing by students enrolled in a board-approved  
33 program who are directly supervised by a licensed hearing instrument  
34 fitter/dispenser ((or)), a certified audiologist under the provisions  
35 of this chapter, or an instructor at a two-year hearing instrument  
36 fitter/dispenser degree program that is approved by the board; and

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

8 **Sec. 16.** RCW 18.35.205 and 1996 c 200 s 28 are each amended to  
9 read as follows:

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

28 **Sec. 17.** RCW 18.35.230 and 1996 c 200 s 29 are each amended to  
29 read as follows:

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

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



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

4 **Sec. 18.** RCW 18.35.240 and 1996 c 200 s 30 are each amended to  
5 read as follows:

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

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

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

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

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

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

4 (7) Each invoice for the purchase of a hearing instrument provided  
5 to a customer must clearly display on the first page the bond number of  
6 the establishment or the licensee or certificate or interim permit  
7 holder fitting/dispensing the hearing instrument.

8 **Sec. 19.** RCW 18.35.250 and 1996 c 200 s 31 are each amended to  
9 read as follows:

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

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

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

1 required amount, unimpaired by unsatisfied judgment claims, has been  
2 furnished.

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

7 **Sec. 20.** RCW 18.35.260 and 1996 c 200 s 16 are each amended to  
8 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~~  
33 ~~as a hearing instrument fitter/dispenser permittee under the~~  
34 ~~requirements of this chapter may not represent himself or herself as~~  
35 ~~being so permitted and may not use in connection with his or her name~~  
36 ~~the words "hearing instrument fitter/dispenser permit holder" or a~~  
37 ~~variation, synonym, word, sign, number, insignia, coinage, or whatever~~

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

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

6 NEW SECTION. Sec. 21. Sections 1 through 14 and 16 through 20 of  
7 this act take effect January 1, 2003."

8 **SHB 2688** - S COMM AMD  
9 By Committee on Health & Long-Term Care

ADOPTED 3/3/98

10  
11 On page 1, line 1 of the title, after "dispensers;" strike the  
12 remainder of the title and insert "amending RCW 18.35.010, 18.35.020,  
13 18.35.040, 18.35.060, 18.35.090, 18.35.100, 18.35.105, 18.35.120,  
14 18.35.140, 18.35.161, 18.35.172, 18.35.185, 18.35.190, 18.35.195,  
15 18.35.205, 18.35.230, 18.35.240, 18.35.250, and 18.35.260; reenacting  
16 and amending RCW 18.35.110; and providing an effective date."

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