
HOUSE BILL 2688

State of Washington 55th Legislature 1998 Regular Session

By Representatives Skinner, Cody, Backlund, Conway and Anderson

Read first time 01/19/98. Referred to Committee on Health Care.

1 AN ACT Relating to hearing instrument fitters and dispensers;
2 amending RCW 18.35.010, 18.35.040, 18.35.040, 18.35.060, 18.35.090,
3 18.35.100, 18.35.105, 18.35.120, 18.35.140, 18.35.161, 18.35.172,
4 18.35.185, 18.35.190, 18.35.195, 18.35.205, 18.35.230, 18.35.240,
5 18.35.250, and 18.35.260; reenacting and amending RCW 18.35.110;
6 repealing RCW 18.35.020; and providing an effective date.

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

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

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

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

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

4 (3) "Audiology" means the application of principles, methods, and
5 procedures related to hearing and the disorders of hearing and to
6 related language and speech disorders, whether of organic or nonorganic
7 origin, peripheral or central, that impede the normal process of human
8 communication including, but not limited to, disorders of auditory
9 sensitivity, acuity, function, processing, or vestibular function, the
10 application of aural habilitation, rehabilitation, and appropriate
11 devices including fitting and dispensing of hearing instruments, and
12 cerumen management to treat such disorders.

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

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

15 (~~(6) ("Direct supervision" means that the supervisor is physically~~
16 ~~present and in the same room with the hearing instrument~~
17 ~~fitter/dispenser permit holder, observing the nondiagnostic testing,~~
18 ~~fitting, and dispensing activities of the hearing instrument~~
19 ~~fitter/dispenser permit holder at all times.~~

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

26 (~~((8))~~) (7) "Facility" means any permanent site housing a person
27 engaging in the practice of speech-language pathology and/or audiology,
28 excluding the sale, lease, or rental of hearing instruments.

29 (~~((9))~~) (8) "Fitting and dispensing of hearing instruments" means
30 the sale, lease, or rental or attempted sale, lease, or rental of
31 hearing instruments together with the selection and modification of
32 hearing instruments and the administration of nondiagnostic tests as
33 specified by RCW 18.35.110 and the use of procedures essential to the
34 performance of these functions; and includes recommending specific
35 hearing instrument systems, specific hearing instruments, or specific
36 hearing instrument characteristics, the taking of impressions for ear
37 molds for these purposes, the use of nondiagnostic procedures and
38 equipment to verify the appropriateness of the hearing instrument
39 fitting, and hearing instrument orientation. The fitting and

1 dispensing of hearing instruments as defined by this chapter may be
2 equally provided by a licensed hearing instrument fitter/dispenser or
3 certified audiologist.

4 ~~((10))~~ (9) "Good standing" means a licensed hearing instrument
5 fitter/dispenser or certified audiologist or speech-language
6 pathologist whose license or certificate has not been subject to
7 sanctions pursuant to chapter 18.130 RCW or sanctions by other states,
8 territories, or the District of Columbia in the last two years.

9 ~~((11))~~ (10) "Hearing instrument" means any wearable prosthetic
10 instrument or device designed for or represented as aiding, improving,
11 compensating for, or correcting defective human hearing and any parts,
12 attachments, or accessories of such an instrument or device, excluding
13 batteries and cords, ear molds, and assistive listening devices.

14 ~~((12))~~ (11) "Hearing instrument fitter/dispenser" means a person
15 who is licensed to engage in the practice of fitting and dispensing of
16 hearing instruments and meets the qualifications of this chapter.

17 ~~((13) "Hearing instrument fitter/dispenser"))~~ (12) "Interim permit
18 holder" or "interim permit" means a person who holds the permit created
19 under RCW 18.35.060 and who practices under the direct supervision of
20 a (~~licensed hearing instrument fitter/dispenser or~~) certified speech-
21 language pathologist or certified audiologist.

22 ~~((14))~~ (13) "Secretary" means the secretary of health.

23 ~~((15))~~ (14) "Certified speech-language pathologist" means a
24 person who is certified by the department to engage in the practice of
25 speech-language pathology and meets the qualifications of this chapter.

26 ~~((16))~~ (15) "Speech-language pathology" means the application of
27 principles, methods, and procedures related to the development and
28 disorders, whether of organic or nonorganic origin, that impede oral,
29 pharyngeal, or laryngeal sensorimotor competencies and the normal
30 process of human communication including, but not limited to, disorders
31 and related disorders of speech, articulation, fluency, voice, verbal
32 and written language, auditory comprehension, cognition/communication,
33 and the application of augmentative communication treatment and devices
34 for treatment of such disorders.

35 **Sec. 2.** RCW 18.35.040 and 1996 c 200 s 5 are each amended to read
36 as follows:

37 (1) An applicant for licensure as a hearing instrument
38 fitter/dispenser must have the following minimum qualifications and

1 shall pay a fee determined by the secretary as provided in RCW
2 43.70.250. An applicant shall be issued a license under the provisions
3 of this chapter if the applicant:

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

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

9 (b) After December 31, (~~(1996, has at least six months of~~
10 ~~apprenticeship training that meets requirements established by the~~
11 ~~board. The board may waive part or all of the apprenticeship training~~
12 ~~in recognition of formal education in fitting and dispensing of hearing~~
13 ~~instruments or in recognition of previous licensure in Washington or in~~
14 ~~another state, territory, or the District of Columbia)) 2003,
15 satisfactorily completes a minimum of a two-year degree program in
16 hearing instrument fitter/dispenser instruction. The program must be
17 approved by the board;~~

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

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

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

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

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

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

33 (c) Has completed postgraduate professional work experience
34 approved by the board.

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

37 The applicant must present proof of qualifications to the board in
38 the manner and on forms prescribed by the secretary and proof of

1 completion of a minimum of four clock hours of AIDS education and
2 training pursuant to rules adopted by the board.

3 **Sec. 3.** RCW 18.35.040 and 1998 c . . . s 2 (section 2 of this act)
4 are each amended to read as follows:

5 (1) An applicant for licensure as a hearing instrument
6 fitter/dispenser must have the following minimum qualifications and
7 shall pay a fee determined by the secretary as provided in RCW
8 43.70.250. An applicant shall be issued a license under the provisions
9 of this chapter if the applicant:

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

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

15 (b) After December 31, 2003, satisfactorily completes a minimum of
16 a two-year degree program in hearing instrument fitter/dispenser
17 instruction. The program must be approved by the board; and

18 (c) ~~((Is at least twenty one years of age; and~~

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

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

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

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

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

33 (c) Has completed postgraduate professional work experience
34 approved by the board.

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

37 The applicant must present proof of qualifications to the board in
38 the manner and on forms prescribed by the secretary and proof of

1 completion of a minimum of four clock hours of AIDS education and
2 training pursuant to rules adopted by the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (1) Every hearing instrument fitter/dispenser, audiologist, speech-
37 language pathologist, (~~hearing instrument fitter/dispenser permit~~

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

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

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

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

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

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

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

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

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

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

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

20 (d) Falsifying hearing test or evaluation results;

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

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

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

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

36 (D) Acute or chronic dizziness;

37 (E) Any unilateral hearing loss;

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

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

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

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

31 (ii) Fitting and dispensing a hearing instrument to any person
32 under eighteen years of age who has not been examined and cleared for
33 hearing instrument use within the previous six months by a physician
34 specializing in otolaryngology except in the case of replacement
35 instruments or except in the case of the parents or guardian of such
36 person refusing, for good cause, to seek medical opinion: PROVIDED,
37 That should the parents or guardian of such person refuse, for good
38 cause, to seek medical opinion, the licensed hearing instrument
39 fitter/dispenser or certified audiologist shall obtain from such

1 parents or guardian a certificate to that effect in a form as
2 prescribed by the department;

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

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

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

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

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

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

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

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

5 **Sec. 9.** RCW 18.35.120 and 1996 c 200 s 17 are each amended to read
6 as follows:

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

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

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

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

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

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

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

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

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

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

8 (4) To appoint advisory committees as necessary.

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

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

20 The board shall have the following powers and duties:

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

24 ~~(2) ((To develop guidelines on the training and supervision of
25 hearing instrument fitter/dispenser permit holders and to establish
26 requirements regarding the extent of apprenticeship training and
27 certification to the department;~~

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

30 ~~((4)))~~ (3) To develop, approve, and administer or supervise the
31 administration of examinations to applicants for licensure and
32 certification under this chapter;

33 ~~((5)))~~ (4) To require a licensee or certificate or interim permit
34 holder to make restitution to any individual injured by a violation of
35 this chapter or chapter 18.130 RCW, the uniform disciplinary act. The
36 authority to require restitution does not limit the board's authority
37 to take other action deemed appropriate and provided for in this
38 chapter or chapter 18.130 RCW;

1 (~~(6)~~) (5) To pass upon the qualifications of applicants for
2 licensure, certification, or interim permits and to certify to the
3 secretary;

4 (~~(7)~~) (6) To recommend requirements for continuing education and
5 continuing competency requirements as a prerequisite to renewing a
6 license or certificate under this chapter;

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

10 (~~(9)~~) (8) To adopt rules, if the board finds it appropriate, in
11 response to questions put to it by professional health associations,
12 hearing instrument fitter/dispensers or audiologists, speech-language
13 pathologists, interim permit holders, and consumers in this state; and

14 (~~(10)~~) (9) To adopt rules relating to standards of care relating
15 to hearing instrument fitter/dispensers or audiologists, including the
16 dispensing of hearing instruments, and relating to speech-language
17 pathologists, including dispensing of communication devices.

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

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

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

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

31 (a) The purchaser, for reasonable cause, returns the hearing
32 instrument or holds it at the licensed hearing instrument
33 fitter/dispenser, certified audiologist, or interim permit holder's
34 disposal, if the hearing instrument is in its original condition less
35 normal wear and tear. "Reasonable cause" shall be defined by the board
36 but shall not include a mere change of mind on the part of the

1 purchaser or a change of mind related to cosmetic concerns of the
2 purchaser about wearing a hearing instrument; and

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

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

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

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

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

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

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

27 (1) This chapter shall not apply to military or federal government
28 employees.

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

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

35 (b) Hearing instrument fitter/dispensers, speech-language
36 pathologists, or audiologists of other states, territories, or
37 countries, or the District of Columbia while appearing as clinicians of

1 bona fide educational seminars sponsored by speech-language pathology,
2 audiology, hearing instrument fitter/dispenser, medical, or other
3 healing art professional associations so long as such activities do not
4 go beyond the scope of practice defined by this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 **Sec. 20.** RCW 18.35.260 and 1996 c 200 s 16 are each amended to
6 read as follows:

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

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

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

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

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

4 NEW SECTION. **Sec. 21.** RCW 18.35.020 and 1996 c 200 s 3, 1989 c
5 198 s 1, 1983 c 39 s 2, & 1973 1st ex.s. c 106 s 2 are each repealed.

6 NEW SECTION. **Sec. 22.** Sections 1, 3 through 14, and 16 through 21
7 of this act take effect January 1, 2004.

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