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**SUBSTITUTE HOUSE BILL 2589**

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**State of Washington                      57th Legislature                      2002 Regular Session**

**By** House Committee on Health Care (originally sponsored by Representatives Linville, Mulliken, Cody, Skinner, Veloria and Kenney)

Read first time 02/08/2002. Referred to Committee on .

1            AN ACT Relating to licensure of audiologists and speech-language  
2 pathologists; amending RCW 18.35.010, 18.35.020, 18.35.030, 18.35.040,  
3 18.35.050, 18.35.060, 18.35.080, 18.35.090, 18.35.095, 18.35.100,  
4 18.35.105, 18.35.110, 18.35.120, 18.35.140, 18.35.150, 18.35.161,  
5 18.35.172, 18.35.175, 18.35.185, 18.35.190, 18.35.195, 18.35.205,  
6 18.35.230, 18.35.240, 18.35.250, and 18.35.260; and providing an  
7 effective date.

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

9            **Sec. 1.** RCW 18.35.010 and 1998 c 142 s 1 are each amended to read  
10 as follows:

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

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

1 (2) "~~(Certified)~~ Licensed audiologist" means a person who is  
2 (~~certified~~) licensed by the department to engage in the practice of  
3 audiology and meets the 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 interim permit holder, observing  
17 the nondiagnostic testing, fitting, and dispensing activities at all  
18 times.

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

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

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

1 licensed hearing instrument fitter/dispenser or (~~certified~~) licensed  
2 audiologist.

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

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

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

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

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

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

36 **Sec. 2.** RCW 18.35.020 and 1998 c 142 s 2 are each amended to read  
37 as follows:

1       (1) No person shall engage in the fitting and dispensing of hearing  
2 instruments or imply or represent that he or she is engaged in the  
3 fitting and dispensing of hearing instruments unless he or she is a  
4 licensed hearing instrument fitter/dispenser or a ((certified))  
5 licensed audiologist or holds an interim permit issued by the  
6 department as provided in this chapter and is an owner or employee of  
7 an establishment that is bonded as provided by RCW 18.35.240. The  
8 owner or manager of an establishment that dispenses hearing instruments  
9 is responsible under this chapter for all transactions made in the  
10 establishment name or conducted on its premises by agents or persons  
11 employed by the establishment engaged in fitting and dispensing of  
12 hearing instruments. Every establishment that fits and dispenses shall  
13 have in its employ at least one licensed hearing instrument  
14 fitter/dispenser or ((certified)) licensed audiologist at all times,  
15 and shall annually submit proof that all testing equipment at that  
16 establishment that is required by the board to be calibrated has been  
17 properly calibrated.

18       (2) Effective January 1, 2003, no person shall engage in the  
19 practice of audiology or imply or represent that he or she is engaged  
20 in the practice of audiology unless he or she is a licensed audiologist  
21 or holds an audiology interim permit issued by the department as  
22 provided in this chapter. Audiologists who are certified as  
23 educational staff associates by the state board of education are  
24 excluded unless they elect to become licensed under this chapter.

25       (3) Effective January 1, 2003, no person shall engage in the  
26 practice of speech-language pathology or imply or represent that he or  
27 she is engaged in the practice of speech-language pathology unless he  
28 or she is a licensed speech-language pathologist or holds a speech-  
29 language pathology interim permit issued by the department as provided  
30 in this chapter. Speech-language pathologists who are certified as  
31 educational staff associates by the state board of education are  
32 excluded unless they elect to become licensed under this chapter.

33       **Sec. 3.** RCW 18.35.030 and 1996 c 200 s 4 are each amended to read  
34 as follows:

35       Any person who engages in fitting and dispensing of hearing  
36 instruments shall provide to each person who enters into an agreement  
37 to purchase a hearing instrument a receipt at the time of the agreement  
38 containing the following information:

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

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

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

17 (4) At the time of delivery of the hearing instrument, the  
18 purchaser shall also be furnished with the serial number of the hearing  
19 instrument supplied.

20 **Sec. 4.** RCW 18.35.040 and 1998 c 142 s 3 are each amended to read  
21 as follows:

22 (1) An applicant for licensure as a hearing instrument  
23 fitter/dispenser must have the following minimum qualifications and  
24 shall pay a fee determined by the secretary as provided in RCW  
25 43.70.250. An applicant shall be issued a license under the provisions  
26 of this chapter if the applicant:

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

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

32 (b) Satisfactorily completes a minimum of a two-year degree program  
33 in hearing instrument fitter/dispenser instruction. The program must  
34 be approved by the board; and

35 (c) Has not committed unprofessional conduct as specified by the  
36 uniform disciplinary act.

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 (2) An applicant for (~~certification~~) licensure as a speech-  
4 language pathologist or audiologist must have the following minimum  
5 qualifications:

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

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

12 (c) Has completed postgraduate professional work experience  
13 approved by the board.

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

16 The applicant must present proof of qualifications to the board in  
17 the manner and on forms prescribed by the secretary and proof of  
18 completion of a minimum of four clock hours of AIDS education and  
19 training pursuant to rules adopted by the board.

20 **Sec. 5.** RCW 18.35.050 and 1996 c 200 s 6 are each amended to read  
21 as follows:

22 Except as otherwise provided in this chapter an applicant for  
23 license (~~or certification~~) shall appear at a time and place and  
24 before such persons as the department may designate to be examined by  
25 written or practical tests, or both. Examinations in hearing  
26 instrument fitting/dispensing, speech-language pathology, and audiology  
27 shall be held within the state at least once a year. The examinations  
28 shall be reviewed annually by the board and the department, and revised  
29 as necessary. The examinations shall include appropriate subject  
30 matter to ensure the competence of the applicant. Nationally  
31 recognized examinations in the fields of fitting and dispensing of  
32 hearing instruments, speech-language pathology, and audiology may be  
33 used to determine if applicants are qualified for licensure (~~or~~  
34 ~~certification~~). An applicant who fails an examination may apply for  
35 reexamination upon payment of a reexamination fee. The hearing  
36 instrument fitting/dispensing reexamination fee for hearing instrument  
37 fitter/dispensers and audiologists shall be set by the secretary under  
38 RCW 43.70.250.

1       **Sec. 6.** RCW 18.35.060 and 1998 c 142 s 4 are each amended to read  
2 as follows:

3       The department, upon approval by the board, shall issue an interim  
4 permit authorizing an applicant for speech-language pathologist  
5 ((certification)) licensure or audiologist ((certification)) licensure  
6 who, except for the postgraduate professional experience and the  
7 examination requirements, meets the academic and practicum requirements  
8 of RCW 18.35.040(2) to practice under direct supervision. The interim  
9 permit is valid for a period of one year from date of issuance. The  
10 board shall determine conditions for the interim permit.

11       **Sec. 7.** RCW 18.35.080 and 1997 c 275 s 4 are each amended to read  
12 as follows:

13       (1) The department shall license ((or certify)) each qualified  
14 applicant who satisfactorily completes the required examinations for  
15 his or her profession and complies with administrative procedures and  
16 administrative requirements established pursuant to RCW 43.70.250 and  
17 43.70.280.

18       (2) ~~((The board shall waive the examination and grant a speech-~~  
19 ~~language pathology certificate to a person engaged in the profession of~~  
20 ~~speech language pathology in this state on June 6, 1996, if the board~~  
21 ~~determines that the person meets commonly accepted standards for the~~  
22 ~~profession, as defined by rules adopted by the board. Persons eligible~~  
23 ~~for certification under this subsection must apply for a certificate~~  
24 ~~before July 1, 1997.~~

25       (3) ~~The board shall waive the examinations and grant an audiology~~  
26 ~~certificate to a person engaged in the profession of audiology in this~~  
27 ~~state on June 6, 1996, if the board determines that the person meets~~  
28 ~~the commonly accepted standards for the profession and has passed the~~  
29 ~~hearing instrument fitter/dispenser examination. Persons eligible for~~  
30 ~~certification under this subsection must apply for a certificate before~~  
31 ~~July 1, 1997.~~

32       (4) ~~The board shall grant an audiology certificate to a person~~  
33 ~~engaged in the profession of audiology, who has not been licensed as a~~  
34 ~~hearing instrument fitter/dispenser, but who meets the commonly~~  
35 ~~accepted standards for the profession of audiology and graduated from~~  
36 ~~a board approved program after January 1, 1993, and has passed sections~~  
37 ~~of the examination pertaining to RCW 18.35.070 (3), (4), and (5).~~

1 Persons eligible for certification under this subsection must apply for  
2 a certificate before July 1, 1997.

3 (5) Persons engaged in the profession of audiology who meet the  
4 commonly accepted standards for the profession of audiology and  
5 graduated from a board approved program prior to January 1, 1993, and  
6 who have not passed the hearing instrument fitter/dispenser examination  
7 shall be granted a temporary audiology certificate (nondispensing) for  
8 a period of two years from June 6, 1996, during which time they must  
9 pass sections of the hearing instrument fitter/dispenser examination  
10 pertaining to RCW 18.35.070 (1)(c), (2)(e) and (f), (3), (4), and (5).  
11 The board may extend the term of the temporary certificate upon review.  
12 Persons eligible for certification under this subsection must apply for  
13 a certificate before July 1, 1997.) The board shall waive the  
14 requirements of RCW 18.35.040 and 18.35.050 and grant an audiology  
15 license to a person who on January 1, 2003, holds a current audiology  
16 certificate issued by the department, or who is not certified as of  
17 April 1, 2002, but eligible for certification and applies for a license  
18 before January 1, 2003.

19 (3) The board shall waive the requirements of RCW 18.35.040 and  
20 18.35.050 and grant a speech-language pathology license to a person who  
21 on January 1, 2003, holds a current speech-language pathology  
22 certificate issued by the department, or who is not certified as of  
23 April 1, 2002, but eligible for certification and applies for a license  
24 before January 1, 2003.

25 **Sec. 8.** RCW 18.35.090 and 1998 c 142 s 5 are each amended to read  
26 as follows:

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

35 **Sec. 9.** RCW 18.35.095 and 1996 c 200 s 12 are each amended to read  
36 as follows:



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

12 (2) Hearing instrument fitter/dispenser inactive licensees applying  
13 for active licensure shall comply with the following: A licensee who  
14 has not fitted or dispensed hearing instruments for more than five  
15 years from the expiration of the licensee's full fee license shall  
16 retake the practical or the written, or both, hearing instrument  
17 fitter/dispenser examinations required under this chapter and other  
18 requirements as determined by the board. Persons who have inactive  
19 status in this state but who are actively licensed and in good standing  
20 in any other state shall not be required to take the hearing instrument  
21 fitter/dispenser practical examination, but must submit an affidavit  
22 attesting to their knowledge of the current Washington Administrative  
23 Code rules and Revised Code of Washington statutes pertaining to the  
24 fitting and dispensing of hearing instruments.

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

37 (4) Speech-language pathologist or audiologist inactive  
38 ((certificate)) license holders applying for active ((certification))  
39 licensure shall comply with requirements set forth by the board, which

1 may include completion of continuing competency requirements and taking  
2 an examination.

3 **Sec. 10.** RCW 18.35.100 and 1998 c 142 s 6 are each amended to read  
4 as follows:

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

14 (2) The department shall keep a record of the places of business of  
15 persons who hold licenses(~~(certificates)~~) or interim permits.

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

24 **Sec. 11.** RCW 18.35.105 and 1998 c 142 s 7 are each amended to read  
25 as follows:

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

1 holder)) provides that the records are to remain with the licensee ((~~or~~  
2 ~~certificate holder~~)), copies of such records shall be provided to the  
3 establishment or facility.

4 **Sec. 12.** RCW 18.35.110 and 1998 c 142 s 8 are each amended to read  
5 as follows:

6 In addition to causes specified under RCW 18.130.170 and  
7 18.130.180, any person licensed or holding an interim permit ((~~or~~  
8 ~~certificate~~)) under this chapter may be subject to disciplinary action  
9 by the board for any of the following causes:

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

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

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

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

25 (d) Falsifying hearing test or evaluation results;

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

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

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

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

3 (D) Acute or chronic dizziness;

4 (E) Any unilateral hearing loss;

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

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

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

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

38 (ii) Fitting and dispensing a hearing instrument to any person  
39 under eighteen years of age who has not been examined and cleared for

1 hearing instrument use within the previous six months by a physician  
2 specializing in otolaryngology except in the case of replacement  
3 instruments or except in the case of the parents or guardian of such  
4 person refusing, for good cause, to seek medical opinion: PROVIDED,  
5 That should the parents or guardian of such person refuse, for good  
6 cause, to seek medical opinion, the licensed hearing instrument  
7 fitter/dispenser or (~~certified~~) licensed audiologist shall obtain  
8 from such parents or guardian a certificate to that effect in a form as  
9 prescribed by the department;

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

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

27 (g) Permitting another to use his or her license(~~(certificate)~~)  
28 or interim permit;

29 (h) Stating or implying that the use of any hearing instrument will  
30 restore normal hearing, preserve hearing, prevent or retard progression  
31 of a hearing impairment, or any other false, misleading, or medically  
32 or audiologicaly unsupportable claim regarding the efficiency of a  
33 hearing instrument;

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

38 (j) Directly or indirectly offering, giving, permitting, or causing  
39 to be given, money or anything of value to any person who advised

1 another in a professional capacity as an inducement to influence that  
2 person, or to have that person influence others to purchase or contract  
3 to purchase any product sold or offered for sale by the hearing  
4 instrument fitter/dispenser, audiologist, or interim permit holder, or  
5 to influence any person to refrain from dealing in the products of  
6 competitors.

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

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

11 **Sec. 13.** RCW 18.35.120 and 1998 c 142 s 9 are each amended to read  
12 as follows:

13 A licensee or (~~certificate or~~) interim permit holder under this  
14 chapter may also be subject to disciplinary action if the licensee or  
15 (~~certificate or~~) interim permit holder:

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

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

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

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

1       **Sec. 14.** RCW 18.35.140 and 1998 c 142 s 10 are each amended to  
2 read as follows:

3       The powers and duties of the department, in addition to the powers  
4 and duties provided under other sections of this chapter, are as  
5 follows:

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

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

11       (3) To require the periodic examination of testing equipment, as  
12 defined by the board, and to carry out the periodic inspection of  
13 facilities or establishments of persons who are licensed (~~(or~~  
14 ~~certified)~~) under this chapter, as reasonably required within the  
15 discretion of the department.

16       (4) To appoint advisory committees as necessary.

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

26       **Sec. 15.** RCW 18.35.150 and 1996 c 200 s 19 are each amended to  
27 read as follows:

28       (1) There is created hereby the board of hearing and speech to  
29 govern the three separate professions: Hearing instrument  
30 fitting/dispensing, audiology, and speech-language pathology. The  
31 board shall consist of ten members to be appointed by the governor.

32       (2) Members of the board shall be residents of this state. Three  
33 members shall represent the public and shall have an interest in the  
34 rights of consumers of health services, and shall not be or have been  
35 a member of, or married to a member of, another licensing board, a  
36 licensee of a health occupation board, an employee of a health  
37 facility, nor derive his or her primary livelihood from the provision  
38 of health services at any level of responsibility. Two members shall

1 be hearing instrument fitter/dispensers who are licensed under this  
2 chapter, have at least five years of experience in the practice of  
3 hearing instrument fitting and dispensing, and must be actively engaged  
4 in fitting and dispensing within two years of appointment. Two members  
5 of the board shall be audiologists (~~(certified)~~) licensed under this  
6 chapter who have at least five years of experience in the practice of  
7 audiology and must be actively engaged in practice within two years of  
8 appointment. Two members of the board shall be speech-language  
9 pathologists (~~(certified)~~) licensed under this chapter who have at  
10 least five years of experience in the practice of speech-language  
11 pathology and must be actively engaged in practice within two years of  
12 appointment. One advisory nonvoting member shall be a medical  
13 physician licensed in the state of Washington.

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

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

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



1 and public, except the board may hold executive sessions to the extent  
2 permitted by chapter 42.30 RCW.

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

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

8 **Sec. 16.** RCW 18.35.161 and 1998 c 142 s 11 are each amended to  
9 read as follows:

10 The board shall have the following powers and duties:

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

14 (2) To adopt any other rules necessary to implement this chapter  
15 and which are not inconsistent with it;

16 (3) To develop, approve, and administer or supervise the  
17 administration of examinations to applicants for licensure (~~and~~  
18 ~~certification~~) under this chapter;

19 (4) To require a licensee or (~~certificate or~~) interim permit  
20 holder to make restitution to any individual injured by a violation of  
21 this chapter or chapter 18.130 RCW, the uniform disciplinary act. The  
22 authority to require restitution does not limit the board's authority  
23 to take other action deemed appropriate and provided for in this  
24 chapter or chapter 18.130 RCW;

25 (5) To pass upon the qualifications of applicants for licensure (~~(~~  
26 ~~certification~~~~)~~) or interim permits and to certify to the secretary;

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

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

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

37 (9) To adopt rules relating to standards of care relating to  
38 hearing instrument fitter/dispensers or audiologists, including the

1 dispensing of hearing instruments, and relating to speech-language  
2 pathologists, including dispensing of communication devices.

3 **Sec. 17.** RCW 18.35.172 and 1998 c 142 s 12 are each amended to  
4 read as follows:

5 The uniform disciplinary act, chapter 18.130 RCW, governs  
6 unlicensed practice, the issuance and denial of licenses(~~(~~  
7 ~~certificates~~~~)~~) and interim permits, and the discipline of licensees  
8 and (~~(certificate and)~~) permit holders under this chapter.

9 **Sec. 18.** RCW 18.35.175 and 1996 c 200 s 23 are each amended to  
10 read as follows:

11 It is unlawful to fit or dispense a hearing instrument to a  
12 resident of this state if the attempted sale or purchase is offered or  
13 made by telephone or mail order and there is no face-to-face contact to  
14 test or otherwise determine the needs of the prospective purchaser.  
15 This section does not apply to the sale of hearing instruments by  
16 wholesalers to licensees (~~(or certificate holders)~~) under this chapter.

17 **Sec. 19.** RCW 18.35.185 and 1998 c 142 s 13 are each amended to  
18 read as follows:

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

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

32 (b) The purchaser sends notice of the cancellation by certified  
33 mail, return receipt requested, to the establishment employing the  
34 licensed hearing instrument fitter/dispenser, (~~(certified)~~) licensed  
35 audiologist, or interim permit holder at the time the hearing  
36 instrument was originally purchased, and the notice is posted not later

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

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

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

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

10 **Sec. 20.** RCW 18.35.190 and 1998 c 142 s 14 are each amended to  
11 read as follows:

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

21 **Sec. 21.** RCW 18.35.195 and 1998 c 142 s 15 are each amended to  
22 read as follows:

23 (1) This chapter shall not apply to military or federal government  
24 employees.

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

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

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

1 healing art professional associations so long as such activities do not  
2 go beyond the scope of practice defined by this chapter; and  
3 (c) The practice of audiology or speech-language pathology by  
4 persons certified by the state board of education as educational staff  
5 associates, except for those persons electing to be licensed under this  
6 chapter.

7 **Sec. 22.** RCW 18.35.205 and 1998 c 142 s 16 are each amended to  
8 read as follows:

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

27 **Sec. 23.** RCW 18.35.230 and 1998 c 142 s 17 are each amended to  
28 read as follows:

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

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

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

1       **Sec. 24.** RCW 18.35.240 and 2000 c 93 s 2 are each amended to read  
2 as follows:

3       (1) Every individual engaged in the fitting and dispensing of  
4 hearing instruments shall be covered by a surety bond of ten thousand  
5 dollars or more, for the benefit of any person injured or damaged as a  
6 result of any violation by the licensee(~~(, certificate)~~) or permit  
7 holder, or their employees or agents, of any of the provisions of this  
8 chapter or rules adopted by the secretary.

9       (2) In lieu of the surety bond required by this section, the  
10 licensee or (~~certificate or~~) permit holder may deposit cash or other  
11 negotiable security in a banking institution as defined in chapter  
12 30.04 RCW or a credit union as defined in chapter 31.12 RCW. All  
13 obligations and remedies relating to surety bonds shall apply to  
14 deposits and security filed in lieu of surety bonds.

15       (3) If a cash deposit or other negotiable security is filed, the  
16 licensee or (~~certificate or~~) permit holder shall maintain such cash  
17 or other negotiable security for one year after discontinuing the  
18 fitting and dispensing of hearing instruments.

19       (4) Each invoice for the purchase of a hearing instrument provided  
20 to a customer must clearly display on the first page the bond number  
21 covering the licensee or (~~certificate or~~) interim permit holder  
22 responsible for fitting/dispensing the hearing instrument.

23       (5) All licensed hearing instrument fitter/dispensers,  
24 (~~certified~~) licensed audiologists, and permit holders must verify  
25 compliance with the requirement to hold a surety bond or cash or other  
26 negotiable security by submitting a signed declaration of compliance  
27 upon annual renewal of their license(~~(, certificate,)~~) or permit. Up  
28 to twenty-five percent of the credential holders may be randomly  
29 audited for surety bond compliance after the credential is renewed. It  
30 is the credential holder's responsibility to submit a copy of the  
31 original surety bond or bonds, or documentation that cash or other  
32 negotiable security is held in a banking institution during the time  
33 period being audited. Failure to comply with the audit documentation  
34 request or failure to supply acceptable documentation within thirty  
35 days may result in disciplinary action.

36       **Sec. 25.** RCW 18.35.250 and 2000 c 93 s 4 are each amended to read  
37 as follows:

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

10 (2) An action upon the bond, cash deposit, or other negotiable  
11 security shall be commenced by serving and filing a complaint.

12 **Sec. 26.** RCW 18.35.260 and 1998 c 142 s 20 are each amended to  
13 read as follows:

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

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

31 (3) A person who is not ~~((certified with the secretary as an))~~ a  
32 licensed audiologist ~~((under the requirements of this chapter))~~ may not  
33 represent himself or herself as being so ~~((certified))~~ licensed and may  
34 not use in connection with his or her name the words ~~((certified))~~  
35 licensed audiologist" or a variation, synonym, letter, word, sign,  
36 number, insignia, coinage, or whatever expresses, employs, or implies  
37 these terms, names, or functions of a ~~((certified))~~ licensed  
38 audiologist.

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

4           NEW SECTION.   **Sec. 27.** This act takes effect January 1, 2003.

--- END ---