

CERTIFICATION OF ENROLLMENT
SUBSTITUTE HOUSE BILL 2589

57th Legislature
2002 Regular Session

Passed by the House March 9, 2002
Yeas 93 Nays 1

Speaker of the House of Representatives

Passed by the Senate March 6, 2002
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2589** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2589

AS AMENDED BY THE SENATE

Passed Legislature - 2002 Regular Session

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.

17 (3) The board shall waive the requirements of RCW 18.35.040 and
18 18.35.050 and grant a speech-language pathology license to a person who
19 on January 1, 2003, holds a current speech-language pathology
20 certificate issued by the department.

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

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

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

33 (1) A hearing instrument fitter/dispenser licensed under this
34 chapter and not actively practicing may be placed on inactive status by
35 the department at the written request of the licensee. The board shall
36 define by rule the conditions for inactive status licensure. In
37 addition to the requirements of RCW 43.24.086, the licensing fee for a

1 licensee on inactive status shall be directly related to the costs of
2 administering an inactive license by the department. A hearing
3 instrument fitter/dispenser on inactive status may be voluntarily
4 placed on active status by notifying the department in writing, paying
5 the remainder of the licensing fee for the licensing year, and
6 complying with subsection (2) of this section.

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

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

32 (4) Speech-language pathologist or audiologist inactive
33 (~~certificate~~) license holders applying for active (~~certification~~)
34 licensure shall comply with requirements set forth by the board, which
35 may include completion of continuing competency requirements and taking
36 an examination.

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

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

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

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

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

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

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

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

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

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

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

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

22 (d) Falsifying hearing test or evaluation results;

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

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

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

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

38 (D) Acute or chronic dizziness;

39 (E) Any unilateral hearing loss;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (4) To appoint advisory committees as necessary.

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

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

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

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

1 chapter who have at least five years of experience in the practice of
2 audiology and must be actively engaged in practice within two years of
3 appointment. Two members of the board shall be speech-language
4 pathologists (~~certified~~) licensed under this chapter who have at
5 least five years of experience in the practice of speech-language
6 pathology and must be actively engaged in practice within two years of
7 appointment. One advisory nonvoting member shall be a medical
8 physician licensed in the state of Washington.

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

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

28 (5) The board shall meet at least once each year, at a place, day
29 and hour determined by the board, unless otherwise directed by a
30 majority of board members. The board shall also meet at such other
31 times and places as are requested by the department or by three members
32 of the board. A quorum is a majority of the board. A hearing
33 instrument fitter/dispenser, speech-language pathologist, and
34 audiologist must be represented. Meetings of the board shall be open
35 and public, except the board may hold executive sessions to the extent
36 permitted by chapter 42.30 RCW.

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

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

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

5 The board shall have the following powers and duties:

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

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

11 (3) To develop, approve, and administer or supervise the
12 administration of examinations to applicants for licensure ((and
13 certification)) under this chapter;

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

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

22 (6) To recommend requirements for continuing education and
23 continuing competency requirements as a prerequisite to renewing a
24 license ((or certificate)) under this chapter;

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

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

32 (9) To adopt rules relating to standards of care relating to
33 hearing instrument fitter/dispensers or audiologists, including the
34 dispensing of hearing instruments, and relating to speech-language
35 pathologists, including dispensing of communication devices.

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

1 The uniform disciplinary act, chapter 18.130 RCW, governs
2 unlicensed practice, the issuance and denial of licenses(~~(~~
3 ~~certificates~~~~)~~) and interim permits, and the discipline of licensees
4 and (~~(certificate and)~~) permit holders under this chapter.

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

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

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

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

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

28 (b) The purchaser sends notice of the cancellation by certified
29 mail, return receipt requested, to the establishment employing the
30 licensed hearing instrument fitter/dispenser, (~~(certified)~~) licensed
31 audiologist, or interim permit holder at the time the hearing
32 instrument was originally purchased, and the notice is posted not later
33 than thirty days following the date of delivery, but the purchaser and
34 the licensed hearing instrument fitter/dispenser, (~~(certified)~~)
35 licensed audiologist, or interim permit holder may extend the deadline
36 for posting of the notice of rescission by mutual, written agreement.
37 In the event the hearing instrument develops a problem which qualifies

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

22 (2) If the transaction is rescinded under this section or as
23 otherwise provided by law and the hearing instrument is returned to the
24 licensed hearing instrument fitter/dispenser, ((certified)) licensed
25 audiologist, or interim permit holder, the licensed hearing instrument
26 fitter/dispenser, ((certified)) licensed audiologist, or interim permit
27 holder shall refund to the purchaser any payments or deposits for that
28 hearing instrument. However, the licensed hearing instrument
29 fitter/dispenser, ((certified)) licensed audiologist, or interim permit
30 holder may retain, for each hearing instrument, fifteen percent of the
31 total purchase price or one hundred twenty-five dollars, whichever is
32 less. After December 31, 1996, the rescission amount shall be determined
33 by the board. The licensed hearing instrument fitter/dispenser,
34 ((certified)) licensed audiologist, or interim permit holder shall also
35 return any goods traded in contemplation of the sale, less any costs
36 incurred by the licensed hearing instrument fitter/dispenser,
37 ((certified)) licensed audiologist, or interim permit holder in making
38 those goods ready for resale. The refund shall be made within ten

1 business days after the rescission. The buyer shall incur no
2 additional liability for such rescission.

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

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

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

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

19 (1) This chapter shall not apply to military or federal government
20 employees.

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

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

28 (b) Hearing instrument fitter/dispensers, speech-language
29 pathologists, or audiologists of other states, territories, or
30 countries, or the District of Columbia while appearing as clinicians of
31 bona fide educational seminars sponsored by speech-language pathology,
32 audiology, hearing instrument fitter/dispenser, medical, or other
33 healing art professional associations so long as such activities do not
34 go beyond the scope of practice defined by this chapter; and

35 (c) The practice of audiology or speech-language pathology by
36 persons certified by the state board of education as educational staff

1 associates, except for those persons electing to be licensed under this
2 chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (1) In addition to any other legal remedies, an action may be
37 brought in any court of competent jurisdiction upon the bond, cash
38 deposit, or security in lieu of a surety bond required by this chapter,

1 by any person having a claim against a licensee or (~~certificate or~~)
2 interim permit holder, agent, or employee for any violation of this
3 chapter or any rule adopted under this chapter. The aggregate
4 liability of the surety, cash deposit, or other negotiable security to
5 all claimants shall in no event exceed the sum of the bond. Claims
6 shall be satisfied in the order of judgment rendered.

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

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

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

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

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

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

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

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