

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2688

55th Legislature
1998 Regular Session

Passed by the House March 9, 1998
Yeas 95 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 3, 1998
Yeas 45 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2688** 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 2688

AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

State of Washington 55th Legislature 1998 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Skinner, Cody, Backlund, Conway and Anderson)

Read first time 01/29/98. Referred to Committee on .

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 No person shall engage in the fitting and dispensing of hearing
37 instruments or imply or represent that he or she is engaged in the
38 fitting and dispensing of hearing instruments unless he or she is a

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

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

17 (1) An applicant for licensure as a hearing instrument
18 fitter/dispenser must have the following minimum qualifications and
19 shall pay a fee determined by the secretary as provided in RCW
20 43.70.250. An applicant shall be issued a license under the provisions
21 of this chapter if the applicant:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 ~~(c) Has complied with administrative procedures, administrative~~
33 ~~requirements, and fees determined as provided in RCW 43.70.250 and~~
34 ~~43.70.280;~~

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

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

1 The provisions of RCW 18.35.030, 18.35.110, and 18.35.120 shall
2 apply to any person issued a hearing instrument fitter/dispenser
3 permit. Pursuant to the provisions of this section, a person issued a
4 hearing instrument fitter/dispenser permit may engage in the fitting
5 and dispensing of hearing instruments without having first passed the
6 hearing instrument fitter/dispenser examination provided under this
7 chapter.

8 (2) The hearing instrument fitter/dispenser permit shall contain
9 the names of the employer and the licensed or certified supervisor
10 under this chapter who are employing and supervising the hearing
11 instrument fitter/dispenser permit holder and those persons shall
12 execute an acknowledgment of responsibility for all acts of the hearing
13 instrument fitter/dispenser permit holder in connection with the
14 fitting and dispensing of hearing instruments.

15 (3) A hearing instrument fitter/dispenser permit holder may fit and
16 dispense hearing instruments, but only if the hearing instrument
17 fitter/dispenser permit holder is under the direct supervision of a
18 licensed hearing instrument fitter/dispenser or certified audiologist
19 under this chapter in a capacity other than as a hearing instrument
20 fitter/dispenser permit holder. Direct supervision by a licensed
21 hearing instrument fitter/dispenser or certified audiologist shall be
22 required whenever the hearing instrument fitter/dispenser permit holder
23 is engaged in the fitting or dispensing of hearing instruments during
24 the hearing instrument fitter/dispenser permit holder's employment.
25 The board shall develop and adopt guidelines on any additional
26 supervision or training it deems necessary.

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

30 (5) No certified audiologist or licensed hearing instrument
31 fitter/dispenser under this chapter may assume the responsibility for
32 more than one hearing instrument fitter/dispenser permit holder at any
33 one time.

34 (6)) The department, upon approval by the board, shall issue an
35 interim permit authorizing an applicant for speech-language pathologist
36 certification or audiologist certification who, except for the
37 postgraduate professional experience and the examination requirements,
38 meets the academic and practicum requirements of RCW 18.35.040(2) to
39 practice under ((interim permit)) direct supervision ((by a certified

1 ~~speech language pathologist or certified audiologist~~). The interim
2 permit is valid for a period of one year from date of issuance. The
3 board shall determine conditions for the interim permit.

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

6 Each person who engages in practice under this chapter shall comply
7 with administrative procedures and administrative requirements
8 established under RCW 43.70.250 and 43.70.280 and shall keep the
9 license, certificate, or interim permit conspicuously posted in the
10 place of business at all times. The secretary may establish mandatory
11 continuing education requirements and/or continued competency standards
12 to be met by licensees or certificate or interim permit holders as a
13 condition for license, certificate, or interim permit renewal.

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

16 (1) Every hearing instrument fitter/dispenser, audiologist, speech-
17 language pathologist, (~~hearing instrument fitter/dispenser permit~~
18 ~~holder,~~) or interim permit holder, who is regulated under this
19 chapter, shall notify the department in writing of the regular address
20 of the place or places in the state of Washington where the person
21 practices or intends to practice more than twenty consecutive business
22 days and of any change thereof within ten days of such change. Failure
23 to notify the department in writing shall be grounds for suspension or
24 revocation of the license, certificate, or interim permit.

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

27 (3) Any notice required to be given by the department to a person
28 who holds a license, certificate, or interim permit may be given by
29 mailing it to the address of the last establishment or facility of
30 which the person has notified the department, except that notice to a
31 licensee or certificate or interim permit holder of proceedings to
32 deny, suspend, or revoke the license, certificate, or interim permit
33 shall be by certified or registered mail or by means authorized for
34 service of process.

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

1 Each licensee and certificate and interim permit holder under this
2 chapter shall keep records of all services rendered for a minimum of
3 three years. These records shall contain the names and addresses of
4 all persons to whom services were provided. Hearing instrument
5 fitter/dispensers, audiologists, and interim permit holders shall also
6 record the date the hearing instrument warranty expires, a description
7 of the services and the dates the services were provided, and copies of
8 any contracts and receipts. All records, as required pursuant to this
9 chapter or by rule, shall be owned by the establishment or facility and
10 shall remain with the establishment or facility in the event the
11 licensee or certificate holder changes employment. If a contract
12 between the establishment or facility and the licensee or certificate
13 holder provides that the records are to remain with the licensee or
14 certificate holder, copies of such records shall be provided to the
15 establishment or facility.

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

18 In addition to causes specified under RCW 18.130.170 and
19 18.130.180, any person licensed or holding ((a)) an interim permit or
20 certificate under this chapter may be subject to disciplinary action by
21 the board for any of the following causes:

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

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

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

31 (c) Advertising a particular model, type, or kind of hearing
32 instrument for sale which purchasers or prospective purchasers
33 responding to the advertisement cannot purchase or are dissuaded from
34 purchasing and where it is established that the purpose of the
35 advertisement is to obtain prospects for the sale of a different model,
36 type, or kind than that advertised;

37 (d) Falsifying hearing test or evaluation results;

1 (e)(i) Whenever any of the following conditions are found or should
2 have been found to exist either from observations by the licensee or
3 certificate or interim permit holder or on the basis of information
4 furnished by the prospective hearing instrument user prior to fitting
5 and dispensing a hearing instrument to any such prospective hearing
6 instrument user, failing to advise that prospective hearing instrument
7 user in writing that the user should first consult a licensed physician
8 specializing in diseases of the ear or if no such licensed physician is
9 available in the community then to any duly licensed physician:

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

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

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

16 (D) Acute or chronic dizziness;

17 (E) Any unilateral hearing loss;

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

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

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

23 (I) Any other conditions that the board may by rule establish. It
24 is a violation of this subsection for any licensee or certificate
25 holder or that licensee's or certificate holder's employees and
26 putative agents upon making such required referral for medical opinion
27 to in any manner whatsoever disparage or discourage a prospective
28 hearing instrument user from seeking such medical opinion prior to the
29 fitting and dispensing of a hearing instrument. No such referral for
30 medical opinion need be made by any licensed hearing instrument
31 fitter/dispenser, certified audiologist, or interim permit holder in
32 the instance of replacement only of a hearing instrument which has been
33 lost or damaged beyond repair within twelve months of the date of
34 purchase. The licensed hearing instrument fitter/dispenser, certified
35 audiologist, or interim permit holder or their employees or putative
36 agents shall obtain a signed statement from the hearing instrument user
37 documenting the waiver of medical clearance and the waiver shall inform
38 the prospective user that signing the waiver is not in the user's best
39 health interest: PROVIDED, That the licensed hearing instrument

1 fitter/dispenser, certified audiologist, or interim permit holder shall
2 maintain a copy of either the physician's statement showing that the
3 prospective hearing instrument user has had a medical evaluation within
4 the previous six months or the statement waiving medical evaluation,
5 for a period of three years after the purchaser's receipt of a hearing
6 instrument. Nothing in this section required to be performed by a
7 licensee or certificate or interim permit holder shall mean that the
8 licensee or certificate or interim permit holder is engaged in the
9 diagnosis of illness or the practice of medicine or any other activity
10 prohibited under the laws of this state;

11 (ii) Fitting and dispensing a hearing instrument to any person
12 under eighteen years of age who has not been examined and cleared for
13 hearing instrument use within the previous six months by a physician
14 specializing in otolaryngology except in the case of replacement
15 instruments or except in the case of the parents or guardian of such
16 person refusing, for good cause, to seek medical opinion: PROVIDED,
17 That should the parents or guardian of such person refuse, for good
18 cause, to seek medical opinion, the licensed hearing instrument
19 fitter/dispenser or certified audiologist shall obtain from such
20 parents or guardian a certificate to that effect in a form as
21 prescribed by the department;

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

30 (f) Representing that the services or advice of a person licensed
31 to practice medicine and surgery under chapter 18.71 RCW or osteopathic
32 medicine and surgery under chapter 18.57 RCW or of a clinical
33 audiologist will be used or made available in the selection, fitting,
34 adjustment, maintenance, or repair of hearing instruments when that is
35 not true, or using the word "doctor," "clinic," or other like words,
36 abbreviations, or symbols which tend to connote a medical or
37 osteopathic medicine and surgery profession when such use is not
38 accurate;

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

3 (h) Stating or implying that the use of any hearing instrument will
4 restore normal hearing, preserve hearing, prevent or retard progression
5 of a hearing impairment, or any other false, misleading, or medically
6 or audiological unsupportable claim regarding the efficiency of a
7 hearing instrument;

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

12 (j) Directly or indirectly offering, giving, permitting, or causing
13 to be given, money or anything of value to any person who advised
14 another in a professional capacity as an inducement to influence that
15 person, or to have that person influence others to purchase or contract
16 to purchase any product sold or offered for sale by the hearing
17 instrument fitter/dispenser, audiologist, or interim permit holder, or
18 to influence any person to refrain from dealing in the products of
19 competitors.

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

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

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

26 A licensee or certificate or interim permit holder under this
27 chapter may also be subject to disciplinary action if the licensee or
28 certificate or interim permit holder:

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

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

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

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

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

13 The powers and duties of the department, in addition to the powers
14 and duties provided under other sections of this chapter, are as
15 follows:

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

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

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

26 (4) To appoint advisory committees as necessary.

27 (5) To keep a record of proceedings under this chapter and a
28 register of all persons licensed, certified, or holding interim permits
29 under this chapter. The register shall show the name of every living
30 licensee or interim permit holder for hearing instrument
31 fitting/dispensing, every living certificate or interim permit holder
32 for speech-language pathology, every living certificate or interim
33 permit holder for audiology, with his or her last known place of
34 residence and the date and number of his or her license, interim
35 permit, or certificate.

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

1 The board shall have the following powers and duties:

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

5 ~~((To develop guidelines on the training and supervision of
6 hearing instrument fitter/dispenser permit holders and to establish
7 requirements regarding the extent of apprenticeship training and
8 certification to the department;~~

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

11 ~~((4))~~ (3) To develop, approve, and administer or supervise the
12 administration of examinations to applicants for licensure and
13 certification under this chapter;

14 ~~((5))~~ (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 ~~((6))~~ (5) To pass upon the qualifications of applicants for
21 licensure, certification, or interim permits and to certify to the
22 secretary;

23 ~~((7))~~ (6) To recommend requirements for continuing education and
24 continuing competency requirements as a prerequisite to renewing a
25 license or certificate under this chapter;

26 ~~((8))~~ (7) To keep an official record of all its proceedings. The
27 record is evidence of all proceedings of the board that are set forth
28 in this record;

29 ~~((9))~~ (8) To adopt rules, if the board finds it appropriate, in
30 response to questions put to it by professional health associations,
31 hearing instrument fitter/dispensers or audiologists, speech-language
32 pathologists, interim permit holders, and consumers in this state; and

33 ~~((10))~~ (9) To adopt rules relating to standards of care relating
34 to hearing instrument fitter/dispensers or audiologists, including the
35 dispensing of hearing instruments, and relating to speech-language
36 pathologists, including dispensing of communication devices.

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

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

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

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

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

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

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

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

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

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

34 In addition to remedies otherwise provided by law, in any action
35 brought by or on behalf of a person required to be licensed or
36 certified or to hold ((a)) an interim permit ((~~hereunder~~)) under this
37 chapter, or by any assignee or transferee, it shall be necessary to
38 allege and prove that the licensee or certificate or interim permit

1 holder at the time of the transaction held a valid license,
2 certificate, or interim permit as required by this chapter, and that
3 such license, certificate, or interim permit has not been suspended or
4 revoked pursuant to RCW 18.35.110, 18.35.120, or 18.130.160.

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

7 (1) This chapter shall not apply to military or federal government
8 employees.

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

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

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

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

24 The legislature finds that the public health, safety, and welfare
25 would best be protected by uniform regulation of hearing instrument
26 fitter/dispensers, speech-language pathologists, audiologists, and
27 interim permit holders throughout the state. Therefore, the provisions
28 of this chapter relating to the licensing or certification of hearing
29 instrument fitter/dispensers, speech-language pathologists, and
30 audiologists and regulation of interim permit holders and their
31 respective establishments or facilities is exclusive. No political
32 subdivision of the state of Washington within whose jurisdiction a
33 hearing instrument fitter/dispenser, audiologist, or speech-language
34 pathologist establishment or facility is located may require any
35 registrations, bonds, licenses, certificates, or interim permits of the
36 establishment or facility or its employees or charge any fee for the
37 same or similar purposes: PROVIDED, HOWEVER, That nothing herein shall

1 limit or abridge the authority of any political subdivision to levy and
2 collect a general and nondiscriminatory license fee levied on all
3 businesses, or to levy a tax based upon the gross business conducted by
4 any firm within the political subdivision.

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

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

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

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

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

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

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

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

1 and dispensing of hearing instruments in order that the cash deposit or
2 other security may be released at the end of one year from that date.

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

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

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

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

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

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

33 (2) An action upon the bond shall be commenced by serving and
34 filing the complaint within one year from the date of the cancellation
35 of the bond. An action upon a cash deposit or other security shall be
36 commenced by serving and filing the complaint within one year from the
37 date of notification to the department of the change in ownership of
38 the establishment or the discontinuation of the fitting and dispensing

1 of hearing instruments by that establishment. Two copies of the
2 complaint shall be served by registered or certified mail, return
3 receipt requested, upon the department at the time the suit is started.
4 The service constitutes service on the surety. The secretary shall
5 transmit one copy of the complaint to the surety within five business
6 days after the copy has been received.

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

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

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

23 (1) A person who is not licensed with the secretary as a hearing
24 instrument fitter/dispenser under the requirements of this chapter may
25 not represent himself or herself as being so licensed and may not use
26 in connection with his or her name the words "licensed hearing
27 instrument fitter/dispenser," "hearing instrument specialist," or
28 "hearing aid fitter/dispenser," or a variation, synonym, word, sign,
29 number, insignia, coinage, or whatever expresses, employs, or implies
30 these terms, names, or functions of a licensed hearing instrument
31 fitter/dispenser.

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

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

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

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

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

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