

AMENDED IN SENATE SEPTEMBER 2, 2009

AMENDED IN SENATE JULY 16, 2009

AMENDED IN SENATE JULY 9, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1535

Introduced by Assembly Member Jones

February 27, 2009

An act to amend Sections 101, 149, 205, 2530.2, ~~2531.2, 2534, 2531, 2531.2, 2534, 2534.2~~, 3300, 3306, 3307, 3320.1, 3326, 3327, 3327.5, 3328, 3329, 3350, 3351.3, 3352, 3353, 3354, 3356, 3357, 3358, 3360, 3362, 3364, 3400, 3401, 3402, 3403, 3404, 3421, 3422, 3423, 3424, 3426, 3430, 3451, 3452, 3454, 3455, and 3456 of, to add Sections 2531.06 and 3322 to, to add Article 9 (commencing with Section 2539.1) to Chapter 5.3 of Division 2 of, to repeal Sections ~~2531.05~~, 3321, 3325, and 3330 of, and to repeal and add ~~Section 3320~~ *Sections 2531.05 and 3320* of, the Business and Professions Code, relating to hearing aids.

LEGISLATIVE COUNSEL'S DIGEST

AB 1535, as amended, Jones. Audiologists: hearing aids.

Existing law, the Speech-Language Pathologists and Audiologists Licensure Act, provides for the licensure and regulation of audiologists by the Speech-Language Pathology and Audiology Board, defines the practice of audiology, and makes a violation of that act a crime. Under existing law, the board is comprised of 3 licensed speech-language pathologists, 3 licensed audiologists, and 3 public members.

Existing law, the Hearing Aid Dispensers Licensing Law, provides for the licensure and regulation of hearing aid dispensers, who fit or sell hearing aids, by the Hearing Aid Dispensers Bureau. Existing law exempts audiologists and individuals supervised by audiologists from the hearing aid dispenser licensure requirement if those persons do not directly or indirectly engage in the sale or offering for sale of hearing aids.

This bill would define the practice of audiology to include the selling of hearing aids and would also exempt audiologists from the hearing aid dispenser licensure requirements. However, the bill would prohibit a licensed audiologist from selling hearing aids unless he or she has *completed an application for a dispensing audiologist certificate, paid all applicable fees, and* passed a specified examination approved by the board. The bill would also make various provisions relating to the sale of hearing aids applicable to audiologists, such as, but not limited to, requiring hearing aids sold by catalog or direct mail to meet certain requirements, requiring a specified written receipt to be provided to a purchaser upon the sale of a hearing aid, and requiring specified records pertaining to the sale of a hearing aid to be maintained for 7 years.

By making licensed audiologists subject to specified requirements relating to the sale of hearing aids, the violation of which would be a crime, the bill would impose a state-mandated local program.

The bill would also abolish the Hearing Aid Dispensers Bureau and would transfer the bureau's duties, powers, purposes, responsibilities, and jurisdiction over the licensing and regulation of hearing aid dispensers to the Speech-Language Pathology and Audiology Board, *which would be renamed the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board*. The bill would also provide for the transfer of funds from the Hearing Aid Dispensers Fund to the *Hearing Aid Dispensers Account in the* Speech-Language Pathology and Audiology ~~Board~~ Fund. Under the bill, the board would be comprised of 2 licensed speech-language pathologists, 2 licensed audiologists, one of whom shall be an audiologist that dispenses hearing aids, 2 licensed hearing aid dispensers, and 3 public members. *The bill would create the Hearing Aid Dispensing Committee, comprised of specified board members, to review and research the practice of fitting or selling hearing aids and to advise the board about this practice. The bill would require the board, by January 1, 2011, to review specified license fees to assess whether there is adequate revenue to support the board's functions.* The bill would make other conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 101 of the Business and Professions~~
2 ~~Code, as amended by Section 1 of Chapter 31 of the Statutes of~~
3 ~~2008, is amended to read:~~
4 ~~101. The department is comprised of:~~
5 ~~(a) The Dental Board of California.~~
6 ~~(b) The Medical Board of California.~~
7 ~~(c) The State Board of Optometry.~~
8 ~~(d) The California State Board of Pharmacy.~~
9 ~~(e) The Veterinary Medical Board.~~
10 ~~(f) The California Board of Accountancy.~~
11 ~~(g) The California Architects Board.~~
12 ~~(h) The Bureau of Barbering and Cosmetology.~~
13 ~~(i) The Board for Professional Engineers and Land Surveyors.~~
14 ~~(j) The Contractors' State License Board.~~
15 ~~(k) The Bureau for Private Postsecondary and Vocational~~
16 ~~Education.~~
17 ~~(l) The Structural Pest Control Board.~~
18 ~~(m) The Bureau of Home Furnishings and Thermal Insulation.~~
19 ~~(n) The Board of Registered Nursing.~~
20 ~~(o) The Board of Behavioral Sciences.~~
21 ~~(p) The State Athletic Commission.~~
22 ~~(q) The Cemetery and Funeral Bureau.~~
23 ~~(r) The State Board of Guide Dogs for the Blind.~~
24 ~~(s) The Bureau of Security and Investigative Services.~~
25 ~~(t) The Court Reporters Board of California.~~
26 ~~(u) The Board of Vocational Nursing and Psychiatric~~
27 ~~Technicians.~~
28 ~~(v) The Landscape Architects Technical Committee.~~
29 ~~(w) The Bureau of Electronic and Appliance Repair.~~
30 ~~(x) The Division of Investigation.~~

1 ~~(y) The Bureau of Automotive Repair.~~
2 ~~(z) The State Board of Registration for Geologists and~~
3 ~~Geophysicists.~~
4 ~~(aa) The Respiratory Care Board of California.~~
5 ~~(ab) The Acupuncture Board.~~
6 ~~(ac) The Board of Psychology.~~
7 ~~(ad) The California Board of Podiatric Medicine.~~
8 ~~(ae) The Physical Therapy Board of California.~~
9 ~~(af) The Arbitration Review Program.~~
10 ~~(ag) The Physician Assistant Committee.~~
11 ~~(ah) The Speech-Language Pathology and Audiology Board.~~
12 ~~(ai) The California Board of Occupational Therapy.~~
13 ~~(aj) The Osteopathic Medical Board of California.~~
14 ~~(ak) The Bureau of Naturopathic Medicine.~~
15 ~~(al) The Dental Hygiene Committee of California.~~
16 ~~(am) Any other boards, offices, or officers subject to its~~
17 ~~jurisdiction by law.~~

18 ~~SEC. 2. Section 149 of the Business and Professions Code is~~
19 ~~amended to read:~~

20 ~~149. (a) If, upon investigation, an agency designated in~~
21 ~~subdivision (e) has probable cause to believe that a person is~~
22 ~~advertising in a telephone directory with respect to the offering or~~
23 ~~performance of services, without being properly licensed by or~~
24 ~~registered with the agency to offer or perform those services, the~~
25 ~~agency may issue a citation under Section 148 containing an order~~
26 ~~of correction that requires the violator to do both of the following:~~

27 ~~(1) Cease the unlawful advertising.~~
28 ~~(2) Notify the telephone company furnishing services to the~~
29 ~~violator to disconnect the telephone service furnished to any~~
30 ~~telephone number contained in the unlawful advertising.~~

31 ~~(b) This action is stayed if the person to whom a citation is~~
32 ~~issued under subdivision (a) notifies the agency in writing that he~~
33 ~~or she intends to contest the citation. The agency shall afford an~~
34 ~~opportunity for a hearing, as specified in Section 125.9.~~

35 ~~(c) If the person to whom a citation and order of correction is~~
36 ~~issued under subdivision (a) fails to comply with the order of~~
37 ~~correction after that order is final, the agency shall inform the~~
38 ~~Public Utilities Commission of the violation and the Public Utilities~~
39 ~~Commission shall require the telephone corporation furnishing~~

1 services to that person to disconnect the telephone service furnished
2 to any telephone number contained in the unlawful advertising.

3 (d) ~~The good faith compliance by a telephone corporation with~~
4 ~~an order of the Public Utilities Commission to terminate service~~
5 ~~issued pursuant to this section shall constitute a complete defense~~
6 ~~to any civil or criminal action brought against the telephone~~
7 ~~corporation arising from the termination of service.~~

8 (e) ~~Subdivision (a) shall apply to the following boards, bureaus,~~
9 ~~committees, commissions, or programs:~~

10 (1) ~~The Bureau of Barbering and Cosmetology.~~

11 (2) ~~The Cemetery and Funeral Bureau.~~

12 (3) ~~The Veterinary Medical Board.~~

13 (4) ~~The Landscape Architects Technical Committee.~~

14 (5) ~~The California Board of Podiatric Medicine.~~

15 (6) ~~The Respiratory Care Board of California.~~

16 (7) ~~The Bureau of Home Furnishings and Thermal Insulation.~~

17 (8) ~~The Bureau of Security and Investigative Services.~~

18 (9) ~~The Bureau of Electronic and Appliance Repair.~~

19 (10) ~~The Bureau of Automotive Repair.~~

20 (11) ~~The California Architects Board.~~

21 (12) ~~The Speech-Language Pathology and Audiology Board.~~

22 (13) ~~The Board for Professional Engineers and Land Surveyors.~~

23 (14) ~~The Board of Behavioral Sciences.~~

24 (15) ~~The State Board for Geologists and Geophysicists.~~

25 (16) ~~The Structural Pest Control Board.~~

26 (17) ~~The Acupuncture Board.~~

27 (18) ~~The Board of Psychology.~~

28 (19) ~~The California Board of Accountancy.~~

29 (20) ~~The Bureau of Naturopathic Medicine.~~

30 SEC. 3. ~~Section 205 of the Business and Professions Code, as~~
31 ~~amended by Section 2 of Chapter 31 of the Statutes of 2008, is~~
32 ~~amended to read:~~

33 205. (a) ~~There is in the State Treasury the Professions and~~
34 ~~Vocations Fund. The fund shall consist of the following special~~
35 ~~funds:~~

36 (1) ~~Accountancy Fund.~~

37 (2) ~~California Board of Architectural Examiners' Fund.~~

38 (3) ~~Athletic Commission Fund.~~

39 (4) ~~Barbering and Cosmetology Contingent Fund.~~

40 (5) ~~Cemetery Fund.~~

1 ~~(6) Contractors' License Fund.~~
2 ~~(7) State Dentistry Fund.~~
3 ~~(8) State Funeral Directors and Embalmers Fund.~~
4 ~~(9) Guide Dogs for the Blind Fund.~~
5 ~~(10) Bureau of Home Furnishings and Thermal Insulation Fund.~~
6 ~~(11) California Board of Architectural Examiners-Landscape~~
7 ~~Architects Fund.~~
8 ~~(12) Contingent Fund of the Medical Board of California.~~
9 ~~(13) Optometry Fund.~~
10 ~~(14) Pharmacy Board Contingent Fund.~~
11 ~~(15) Physical Therapy Fund.~~
12 ~~(16) Private Investigator Fund.~~
13 ~~(17) Professional Engineers' and Land Surveyors' Fund.~~
14 ~~(18) Consumer Affairs Fund.~~
15 ~~(19) Behavioral Sciences Fund.~~
16 ~~(20) Licensed Midwifery Fund.~~
17 ~~(21) Court Reporters' Fund.~~
18 ~~(22) Structural Pest Control Fund.~~
19 ~~(23) Veterinary Medical Board Contingent Fund.~~
20 ~~(24) Vocational Nurses Account of the Vocational Nursing and~~
21 ~~Psychiatric Technicians Fund.~~
22 ~~(25) Electronic and Appliance Repair Fund.~~
23 ~~(26) Geology and Geophysics Fund.~~
24 ~~(27) Dispensing Opticians Fund.~~
25 ~~(28) Acupuncture Fund.~~
26 ~~(29) Physician Assistant Fund.~~
27 ~~(30) Board of Podiatric Medicine Fund.~~
28 ~~(31) Psychology Fund.~~
29 ~~(32) Respiratory Care Fund.~~
30 ~~(33) Speech-Language Pathology and Audiology Fund.~~
31 ~~(34) Board of Registered Nursing Fund.~~
32 ~~(35) Psychiatric Technician Examiners Account of the~~
33 ~~Vocational Nursing and Psychiatric Technicians Fund.~~
34 ~~(36) Animal Health Technician Examining Committee Fund.~~
35 ~~(37) Structural Pest Control Education and Enforcement Fund.~~
36 ~~(38) Structural Pest Control Research Fund.~~
37 ~~(39) State Dental Hygiene Fund.~~
38 ~~(40) State Dental Assistant Fund.~~
39 ~~(b) For accounting and recordkeeping purposes, the Professions~~
40 ~~and Vocations Fund shall be deemed to be a single special fund,~~

1 and each of the several special funds therein shall constitute and
2 be deemed to be a separate account in the Professions and
3 Vocations Fund. Each account or fund shall be available for
4 expenditure only for the purposes as are now or may hereafter be
5 provided by law.

6 *SECTION 1. Section 101 of the Business and Professions Code,*
7 *as amended by Section 1 of Chapter 18 of the Fourth Extraordinary*
8 *Session of the Statutes of 2009, is amended to read:*

9 101. The department is comprised of:

- 10 (a) The Dental Board of California.
- 11 (b) The Medical Board of California.
- 12 (c) The State Board of Optometry.
- 13 (d) The California State Board of Pharmacy.
- 14 (e) The Veterinary Medical Board.
- 15 (f) The California Board of Accountancy.
- 16 (g) The California Architects Board.
- 17 (h) The Bureau of Barbering and Cosmetology.
- 18 (i) The Board for Professional Engineers and Land Surveyors.
- 19 (j) The Contractors' State License Board.
- 20 (k) The Bureau for Private Postsecondary and Vocational
21 Education.
- 22 (l) The Bureau of Electronic and Appliance Repair, Home
23 Furnishings, and Thermal Insulation.
- 24 (m) The Board of Registered Nursing.
- 25 (n) The Board of Behavioral Sciences.
- 26 (o) The State Athletic Commission.
- 27 (p) The Cemetery and Funeral Bureau.
- 28 (q) The State Board of Guide Dogs for the Blind.
- 29 (r) The Bureau of Security and Investigative Services.
- 30 (s) The Court Reporters Board of California.
- 31 (t) The Board of Vocational Nursing and Psychiatric
32 Technicians.
- 33 (u) The Landscape Architects Technical Committee.
- 34 (v) The Division of Investigation.
- 35 (w) The Bureau of Automotive Repair.
- 36 (x) The Respiratory Care Board of California.
- 37 (y) The Acupuncture Board.
- 38 (z) The Board of Psychology.
- 39 (aa) The California Board of Podiatric Medicine.
- 40 (ab) The Physical Therapy Board of California.

1 (ac) The Arbitration Review Program.
2 ~~(ad) The Hearing Aid Dispensers Bureau.~~
3 ~~(ae)~~
4 (ad) The Physician Assistant Committee.
5 ~~(af)~~
6 (ae) The Speech-Language Pathology and Audiology and
7 Hearing Aid Dispensers Board.
8 ~~(ag)~~
9 (af) The California Board of Occupational Therapy.
10 ~~(ah)~~
11 (ag) The Osteopathic Medical Board of California.
12 ~~(ai)~~
13 (ah) The Naturopathic Medicine Committee.
14 ~~(aj)~~
15 (ai) The Dental Hygiene Committee of California.
16 ~~(ak)~~
17 (aj) Any other boards, offices, or officers subject to its
18 jurisdiction by law.

19 SEC. 2. Section 149 of the Business and Professions Code, as
20 amended by Section 3 of Chapter 18 of the Fourth Extraordinary
21 Session of the Statutes of 2009, is amended to read:

22 149. (a) If, upon investigation, an agency designated in
23 subdivision (e) has probable cause to believe that a person is
24 advertising in a telephone directory with respect to the offering or
25 performance of services, without being properly licensed by or
26 registered with the agency to offer or perform those services, the
27 agency may issue a citation under Section 148 containing an order
28 of correction that requires the violator to do both of the following:

29 (1) Cease the unlawful advertising.

30 (2) Notify the telephone company furnishing services to the
31 violator to disconnect the telephone service furnished to any
32 telephone number contained in the unlawful advertising.

33 (b) This action is stayed if the person to whom a citation is
34 issued under subdivision (a) notifies the agency in writing that he
35 or she intends to contest the citation. The agency shall afford an
36 opportunity for a hearing, as specified in Section 125.9.

37 (c) If the person to whom a citation and order of correction is
38 issued under subdivision (a) fails to comply with the order of
39 correction after that order is final, the agency shall inform the
40 Public Utilities Commission of the violation and the Public Utilities

1 Commission shall require the telephone corporation furnishing
2 services to that person to disconnect the telephone service furnished
3 to any telephone number contained in the unlawful advertising.

4 (d) The good faith compliance by a telephone corporation with
5 an order of the Public Utilities Commission to terminate service
6 issued pursuant to this section shall constitute a complete defense
7 to any civil or criminal action brought against the telephone
8 corporation arising from the termination of service.

9 (e) Subdivision (a) shall apply to the following boards, bureaus,
10 committees, commissions, or programs:

11 (1) The Bureau of Barbering and Cosmetology.

12 (2) The Cemetery and Funeral Bureau.

13 (3) The Veterinary Medical Board.

14 ~~(4) The Hearing Aid Dispensers Advisory Committee.~~

15 ~~(5)~~

16 (4) The Landscape Architects Technical Committee.

17 ~~(6)~~

18 (5) The California Board of Podiatric Medicine.

19 ~~(7)~~

20 (6) The Respiratory Care Board of California.

21 ~~(8)~~

22 (7) The Bureau of Electronic and Appliance Repair, Home
23 Furnishings, and Thermal Insulation.

24 ~~(9)~~

25 (8) The Bureau of Security and Investigative Services.

26 ~~(10)~~

27 (9) The Bureau of Automotive Repair.

28 ~~(11)~~

29 (10) The California Architects Board.

30 ~~(12)~~

31 (11) The Speech-Language Pathology and Audiology *and*
32 *Hearing Aid Dispensers* Board.

33 ~~(13)~~

34 (12) The Board for Professional Engineers and Land Surveyors.

35 ~~(14)~~

36 (13) The Board of Behavioral Sciences.

37 ~~(15)~~

38 (14) The Structural Pest Control Board within the Department
39 of Pesticide Regulation.

40 ~~(16)~~

1 (15) The Acupuncture Board.

2 ~~(17)~~

3 (16) The Board of Psychology.

4 ~~(18)~~

5 (17) The California Board of Accountancy.

6 ~~(19)~~

7 (18) The Naturopathic Medicine Committee.

8 SEC. 3. Section 205 of the Business and Professions Code, as
9 amended by Section 4 of Chapter 18 of the Fourth Extraordinary
10 Session of the Statutes of 2009, is amended to read:

11 205. (a) There is in the State Treasury the Professions and
12 Vocations Fund. The fund shall consist of the following special
13 funds:

14 (1) Accountancy Fund.

15 (2) California Architects Board Fund.

16 (3) Athletic Commission Fund.

17 (4) Barbering and Cosmetology Contingent Fund.

18 (5) Cemetery Fund.

19 (6) Contractors' License Fund.

20 (7) State Dentistry Fund.

21 (8) State Funeral Directors and Embalmers Fund.

22 (9) Guide Dogs for the Blind Fund.

23 (10) Home Furnishings and Thermal Insulation Fund.

24 (11) California Architects Board-Landscape Architects Fund.

25 (12) Contingent Fund of the Medical Board of California.

26 (13) Optometry Fund.

27 (14) Pharmacy Board Contingent Fund.

28 (15) Physical Therapy Fund.

29 (16) Private Investigator Fund.

30 (17) Professional Engineers' and Land Surveyors' Fund.

31 (18) Consumer Affairs Fund.

32 (19) Behavioral Sciences Fund.

33 (20) Licensed Midwifery Fund.

34 (21) Court Reporters' Fund.

35 (22) Veterinary Medical Board Contingent Fund.

36 (23) Vocational Nurses Account of the Vocational Nursing and
37 Psychiatric Technicians Fund.

38 (24) Electronic and Appliance Repair Fund.

39 (25) Geology and Geophysics Fund.

40 (26) Dispensing Opticians Fund.

1 (27) Acupuncture Fund.
 2 ~~(28) Hearing Aid Dispensers Fund.~~
 3 ~~(29)~~
 4 (28) Physician Assistant Fund.
 5 ~~(30)~~
 6 (29) Board of Podiatric Medicine Fund.
 7 ~~(31)~~
 8 (30) Psychology Fund.
 9 ~~(32)~~
 10 (31) Respiratory Care Fund.
 11 ~~(33)~~
 12 (32) Speech-Language Pathology and Audiology Fund.
 13 ~~(34)~~
 14 (33) Board of Registered Nursing Fund.
 15 ~~(35)~~
 16 (34) Psychiatric Technician Examiners Account of the
 17 Vocational Nursing and Psychiatric Technicians Fund.
 18 ~~(36)~~
 19 (35) Animal Health Technician Examining Committee Fund.
 20 ~~(37)~~
 21 (36) State Dental Hygiene Fund.
 22 ~~(38)~~
 23 (37) State Dental Assistant Fund.
 24 (38) *Hearing Aid Dispensers Account of the Speech-Language*
 25 *Pathology and Audiology Fund.*
 26 (b) For accounting and recordkeeping purposes, the Professions
 27 and Vocations Fund shall be deemed to be a single special fund,
 28 and each of the several special funds therein shall constitute and
 29 be deemed to be a separate account in the Professions and
 30 Vocations Fund. Each account or fund shall be available for
 31 expenditure only for the purposes as are now or may hereafter be
 32 provided by law.
 33 SEC. 4. Section 2530.2 of the Business and Professions Code
 34 is amended to read:
 35 2530.2. As used in this chapter, unless the context otherwise
 36 requires:
 37 (a) “Board” means the Speech-Language Pathology and
 38 ~~Audiology Board or any successor. Audiology and Hearing Aid~~
 39 ~~Dispensers Board.~~ *As used in this chapter or any other provision*
 40 *of law, “Speech-Language Pathology and Audiology Board” shall*

1 *be deemed to refer to the Speech-Language Pathology and*
2 *Audiology and Hearing Aid Dispensers Board or any other*
3 *successor.*

4 (b) "Person" means any individual, partnership, corporation,
5 limited liability company, or other organization or combination
6 thereof, except that only individuals can be licensed under this
7 chapter.

8 (c) A "speech-language pathologist" is a person who practices
9 speech-language pathology.

10 (d) The practice of speech-language pathology means all of the
11 following:

12 (1) The application of principles, methods, instrumental
13 procedures, and noninstrumental procedures for measurement,
14 testing, screening, evaluation, identification, prediction, and
15 counseling related to the development and disorders of speech,
16 voice, language, or swallowing.

17 (2) The application of principles and methods for preventing,
18 planning, directing, conducting, and supervising programs for
19 habilitating, rehabilitating, ameliorating, managing, or modifying
20 disorders of speech, voice, language, or swallowing in individuals
21 or groups of individuals.

22 (3) Conducting hearing screenings.

23 (4) Performing suctioning in connection with the scope of
24 practice described in paragraphs (1) and (2), after compliance with
25 a medical facility's training protocols on suctioning procedures.

26 (e) (1) Instrumental procedures referred to in subdivision (d)
27 are the use of rigid and flexible endoscopes to observe the
28 pharyngeal and laryngeal areas of the throat in order to observe,
29 collect data, and measure the parameters of communication and
30 swallowing as well as to guide communication and swallowing
31 assessment and therapy.

32 (2) Nothing in this subdivision shall be construed as a diagnosis.
33 Any observation of an abnormality shall be referred to a physician
34 and surgeon.

35 (f) A licensed speech-language pathologist shall not perform a
36 flexible fiberoptic nasendoscopic procedure unless he or she has
37 received written verification from an otolaryngologist certified by
38 the American Board of Otolaryngology that the speech-language
39 pathologist has performed a minimum of 25 flexible fiberoptic
40 nasendoscopic procedures and is competent to perform these

1 procedures. The speech-language pathologist shall have this written
2 verification on file and readily available for inspection upon request
3 by the board. A speech-language pathologist shall pass a flexible
4 fiberoptic nasendoscopic instrument only under the direct
5 authorization of an otolaryngologist certified by the American
6 Board of Otolaryngology and the supervision of a physician and
7 surgeon.

8 (g) A licensed speech-language pathologist shall only perform
9 flexible endoscopic procedures described in subdivision (e) in a
10 setting that requires the facility to have protocols for emergency
11 medical backup procedures, including a physician and surgeon or
12 other appropriate medical professionals being readily available.

13 (h) “Speech-language pathology aide” means any person
14 meeting the minimum requirements established by the board, who
15 works directly under the supervision of a speech-language
16 pathologist.

17 (i) (1) “Speech-language pathology assistant” means a person
18 who meets the academic and supervised training requirements set
19 forth by the board and who is approved by the board to assist in
20 the provision of speech-language pathology under the direction
21 and supervision of a speech-language pathologist who shall be
22 responsible for the extent, kind, and quality of the services provided
23 by the speech-language pathology assistant.

24 (2) The supervising speech-language pathologist employed or
25 contracted for by a public school may hold a valid and current
26 license issued by the board, a valid, current, and professional clear
27 clinical or rehabilitative services credential in language, speech,
28 and hearing issued by the Commission on Teacher Credentialing,
29 or other credential authorizing service in language, speech, and
30 hearing issued by the Commission on Teacher Credentialing that
31 is not issued on the basis of an emergency permit or waiver of
32 requirements. For purposes of this paragraph, a “clear” credential
33 is a credential that is not issued pursuant to a waiver or emergency
34 permit and is as otherwise defined by the Commission on Teacher
35 Credentialing. Nothing in this section referring to credentialed
36 supervising speech-language pathologists expands existing
37 exemptions from licensing pursuant to Section 2530.5.

38 (j) An “audiologist” is one who practices audiology.

39 (k) “The practice of audiology” means the application of
40 principles, methods, and procedures of measurement, testing,

1 appraisal, prediction, consultation, counseling, and instruction
2 related to auditory, vestibular, and related functions and the
3 modification of communicative disorders involving speech,
4 language, auditory behavior or other aberrant behavior resulting
5 from auditory dysfunction; and the planning, directing, conducting,
6 supervising, or participating in programs of identification of
7 auditory disorders, hearing conservation, cerumen removal, aural
8 habilitation, and rehabilitation, including, hearing aid
9 recommendation and evaluation procedures including, but not
10 limited to, specifying amplification requirements and evaluation
11 of the results thereof, auditory training, speech reading, and the
12 selling of hearing aids.

13 (l) "Audiology aide" means any person, meeting the minimum
14 requirements established by the board, who works directly under
15 the supervision of an audiologist.

16 (m) "Medical board" means the Medical Board of California.

17 (n) A "hearing screening" performed by a speech-language
18 pathologist means a binary puretone screening at a preset intensity
19 level for the purpose of determining if the screened individuals
20 are in need of further medical or audiological evaluation.

21 (o) "Cerumen removal" means the nonroutine removal of
22 cerumen within the cartilaginous ear canal necessary for access in
23 performance of audiological procedures that shall occur under
24 physician and surgeon supervision. Cerumen removal, as provided
25 by this section, shall only be performed by a licensed audiologist.
26 Physician and surgeon supervision shall not be construed to require
27 the physical presence of the physician, but shall include all of the
28 following:

29 (1) Collaboration on the development of written standardized
30 protocols. The protocols shall include a requirement that the
31 supervised audiologist immediately refer to an appropriate
32 physician any trauma, including skin tears, bleeding, or other
33 pathology of the ear discovered in the process of cerumen removal
34 as defined in this subdivision.

35 (2) Approval by the supervising physician of the written
36 standardized protocol.

37 (3) The supervising physician shall be within the general
38 vicinity, as provided by the physician-audiologist protocol, of the
39 supervised audiologist and available by telephone contact at the
40 time of cerumen removal.

1 (4) A licensed physician and surgeon may not simultaneously
2 supervise more than two audiologists for purposes of cerumen
3 removal.

4 *SEC. 5. Section 2531 of the Business and Professions Code is*
5 *amended to read:*

6 2531. (a) There is in the Department of Consumer Affairs a
7 Speech-Language Pathology and Audiology *and Hearing Aid*
8 *Dispensers* Board in which the enforcement and administration of
9 this chapter are vested. The Speech-Language Pathology and
10 Audiology *and Hearing Aid Dispensers* Board shall consist of nine
11 members, three of whom shall be public members.

12 (b) This section shall remain in effect only until January 1, 2012,
13 and as of that date is repealed, unless a later enacted statute, that
14 is enacted before January 1, 2012, deletes or extends that date. The
15 repeal of this section renders the board subject to the review
16 required by Division 1.2 (commencing with Section 473).

17 ~~SEC. 5.~~

18 *SEC. 6. Section 2531.05 of the Business and Professions Code*
19 *is repealed.*

20 *SEC. 7. Section 2531.05 is added to the Business and*
21 *Professions Code, to read:*

22 2531.05. (a) *The Hearing Aid Dispensing Committee is hereby*
23 *created within the jurisdiction of the board.*

24 (b) *The committee shall be comprised of the following board*
25 *members:*

26 (1) *The two licensed audiologists.*

27 (2) *The two licensed hearing aid dispensers.*

28 (3) *One public member of the board.*

29 (4) *The public member of the board who is a licensed physician*
30 *and surgeon and who is board certified in otolaryngology.*

31 (c) *The committee shall review and research the practice of*
32 *fitting or selling hearing aids and shall advise the board about*
33 *this practice based on that review and research.*

34 ~~SEC. 6.~~

35 *SEC. 8. Section 2531.06 is added to the Business and*
36 *Professions Code, to read:*

37 2531.06. The board is vested with the duties, powers, purposes,
38 responsibilities, and jurisdiction over the licensing and regulation
39 of hearing aid dispensers as provided under the Hearing Aid

1 Dispenser Licensing Law (Chapter 7.5 (commencing with Section
2 3300)).

3 ~~SEC. 7.~~

4 *SEC. 9.* Section 2531.2 of the Business and Professions Code
5 is amended to read:

6 2531.2. The membership of the board shall include two licensed
7 speech-language pathologists, two licensed audiologists, one of
8 whom shall be an audiologist that dispenses hearing aids, two
9 licensed hearing aid dispensers, and three public members one of
10 whom is a licensed physician and surgeon, board certified in
11 otolaryngology, and the remaining two public members who shall
12 not be licentiates of the board or of any board under this division
13 or of any board referred to in the Chiropractic Act or the
14 Osteopathic Act.

15 The Governor shall appoint the physician and surgeon member
16 and the other six licensed members qualified as provided in this
17 section. The initial appointments of the licensed hearing aid
18 dispenser members shall be made to fill the first licensed
19 audiologist member vacancy and the first licensed speech-language
20 pathologist member vacancy that occurs on or after January 1,
21 2010. The Senate Committee on Rules and the Speaker of the
22 Assembly shall each appoint a public member.

23 ~~SEC. 8.~~

24 *SEC. 10.* Section 2534 of the Business and Professions Code
25 is amended to read:

26 2534. The board shall report to the Controller at the beginning
27 of each month for the month preceding the amount and source of
28 all revenue received by it pursuant to this chapter and Chapter 7.5
29 (commencing with Section 3300), and shall pay the entire amount
30 thereof to the Treasurer for deposit in the Speech-Language
31 Pathology and Audiology—~~Board~~ Fund, which fund is hereby
32 created to carry out the purposes of this chapter and Chapter 7.5
33 (commencing with Section 3300).

34 *SEC. 11.* *Section 2534.2 of the Business and Professions Code*
35 *is amended to read:*

36 2534.2. The amount of the fees prescribed by this chapter is
37 that established by the following schedule:

38 (a) (1) The application fee and renewal fee *for speech-language*
39 *pathologists and nondispensing audiologists* shall be established
40 by the board in an amount that does not exceed one hundred fifty

dollars (\$150) but is sufficient to support the functions of the board that relate to the functions authorized by this chapter, *excluding Article 9 (commencing with Section 2539.1).*

(2) *The application fee and renewal fee for dispensing audiologists shall be established by the board in an amount that does not exceed two hundred eighty dollars (\$280) but is sufficient to support the functions of the board that relate to the functions authorized by this chapter.*

(b) The delinquency fee shall be twenty-five dollars (\$25).

(c) The reexamination fee shall be established by the board in an amount that does not exceed seventy-five dollars (\$75).

(d) The fee for registration of an aide shall be established by the board in an amount that does not exceed thirty dollars (\$30).

(e) A fee to be set by the board of not more than one hundred dollars (\$100) shall be charged for each application for approval as a speech-language pathology assistant.

(f) A fee of one hundred fifty dollars (\$150) shall be charged for the issuance of and for the renewal of each approval as a speech-language pathology assistant, unless a lower fee is established by the board.

(g) The duplicate wall certificate fee is twenty-five dollars (\$25).

(h) The duplicate renewal receipt fee is twenty-five dollars (\$25).

(i) The application fee and renewal fee for a temporary license is thirty dollars (\$30).

(j) The fee for issuance of a license status and history certification letter shall be established by the board in an amount not to exceed twenty-five dollars (\$25).

~~SEC. 9.~~

SEC. 12. Article 9 (commencing with Section 2539.1) is added to Chapter 5.3 of Division 2 of the Business and Professions Code, to read:

Article 9. Hearing Aids

2539.1. (a) (1) On and after January 1, 2010, in addition to satisfying the licensure and examination requirements described in Sections 2532 and 2532.2, no licensed audiologist shall sell hearing aids unless he or she has *completed an application for a dispensing audiologist certificate, paid all applicable fees, and*

1 passed an examination, approved by the board, relating to selling
2 hearing aids.

3 (2) *The board shall issue a dispensing audiologist certificate*
4 *to a licensed audiologist who meets the requirements of paragraph*
5 *(1).*

6 (b) On and after January 1, 2010, a licensed audiologist with
7 an unexpired license to sell hearing aids pursuant to Chapter 7.5
8 (commencing with Section 3300) may continue to sell hearing aids
9 pursuant to that license until that license expires pursuant to Section
10 3451, and upon that expiration the licensee shall be deemed to
11 have ~~passed the examination~~ *satisfied the requirements* described
12 in subdivision (a) and may continue to sell hearing aids pursuant
13 to his or her audiology license subject to the provisions of this
14 chapter. A licensed audiologist whose license to sell hearing aids,
15 issued pursuant to Chapter 7.5 (commencing with Section 3300),
16 is suspended or revoked shall not be authorized to sell hearing aids
17 pursuant to this subdivision and he or she shall be subject to the
18 ~~examination requirement~~ *requirements* described in subdivision
19 (a) as well as the other provisions of this chapter.

20 (c) For purposes of subdivision (a), the board shall provide the
21 hearing aid dispenser's examination provided by the former
22 Hearing Aid Dispensers Bureau until such time as the next
23 examination validation and occupational analysis is completed by
24 the Department of Consumer Affairs pursuant to Section 139 and
25 a determination is made that a different examination is to be
26 administered.

27 2539.2. (a) Hearing aids may be sold by catalog or direct mail
28 provided that:

29 (1) The seller is licensed as an audiologist in this state and is
30 authorized to sell hearing aids pursuant to Section 2539.1.

31 (2) There is no fitting, selection, or adaptation of the instrument
32 and no advice is given with respect to fitting, selection, or
33 adaptation of the instrument and no advice is given with respect
34 to the taking of an ear impression for an earmold by the seller.

35 (3) The seller has received a statement which is signed by a
36 physician and surgeon, audiologist, or a hearing aid dispenser,
37 licensed by the State of California which verifies that Section
38 2539.6 has been complied with.

(b) A copy of the statement referred to in paragraph (3) of subdivision (a) shall be retained by the seller for the period provided for in Section 2539.10.

2539.4. A licensed audiologist shall, upon the consummation of a sale of a hearing aid, deliver to the purchaser a written receipt, signed by or on behalf of the licensed audiologist, containing all of the following:

(a) The date of consummation of the sale.

(b) Specifications as to the make, serial number, and model number of the hearing aid or aids sold.

(c) The address of the principal place of business of the licensed audiologist, and the address and office hours at which the licensed audiologist shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

(d) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.

(e) The number of the licensed audiologist's license and the name and license number of any other hearing aid dispenser, temporary licensee, or audiologist who provided any recommendation or consultation regarding the purchase of the hearing aid.

(f) The terms of any guarantee or written warranty, required by Section 1793.02 of the Civil Code, made to the purchaser with respect to the hearing aid or hearing aids.

2539.6. (a) Whenever any of the following conditions are found to exist either from observations by the licensed audiologist or on the basis of information furnished by the prospective hearing aid user, a licensed audiologist shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that his or her best interests would be served if he or she would consult a licensed physician specializing in diseases of the ear or if no licensed physician is available in the community then to a duly licensed physician:

(1) Visible congenital or traumatic deformity of the ear.

(2) History of, or active, drainage from the ear within the previous 90 days.

(3) History of sudden or rapidly progressive hearing loss within the previous 90 days.

(4) Acute or chronic dizziness.

1 (5) Unilateral hearing loss of sudden or recent onset within the
2 previous 90 days.

3 (6) Significant air-bone gap (when generally acceptable
4 standards have been established).

5 (b) No referral for medical opinion need be made by any
6 licensed audiologist in the instance of replacement only of a hearing
7 aid that has been lost or damaged beyond repair within one year
8 of the date of purchase. A copy of the written recommendation
9 shall be retained by the licensed audiologist for the period provided
10 for in Section 2539.10. A person receiving the written
11 recommendation who elects to purchase a hearing aid shall sign a
12 receipt for the same, and the receipt shall be kept with the other
13 papers retained by the licensed audiologist for the period provided
14 for in Section 2539.10. Nothing in this section required to be
15 performed by a licensed audiologist shall mean that the licensed
16 audiologist is engaged in the diagnosis of illness or the practice of
17 medicine or any other activity prohibited by the provisions of this
18 code.

19 2539.8. No hearing aid shall be sold by an individual licensed
20 as an audiologist under this chapter to a person 16 years of age or
21 younger, unless within the preceding six months a recommendation
22 for a hearing aid has been made by both a board-certified, or a
23 board-eligible physician specializing in otolaryngology, and by a
24 state licensed audiologist. A replacement of an identical hearing
25 aid within one year shall be an exception to this requirement.

26 2539.10. A licensed audiologist shall, upon the consummation
27 of a sale of a hearing aid, keep and maintain records in his or her
28 office or place of business at all times and each such record shall
29 be kept and maintained for a seven-year period. These records
30 shall include:

31 (a) Results of test techniques as they pertain to fitting of the
32 hearing aid.

33 (b) A copy of the written receipt required by Section 2539.4
34 and the written recommendation and receipt required by Section
35 2539.6, when applicable.

36 2539.12. A licensed audiologist who is the owner, manager,
37 or franchisee at a location where hearing aids are fit or sold, shall
38 be responsible for the adequacy of the fitting or selling of any
39 hearing aid fit and sold by any licensee or licensees at that location.

1 2539.14. *Chapter 7.5 (commencing with Section 3300) does*
2 *not apply to a licensed audiologist who satisfies the requirements*
3 *of Section 2539.1.*

4 ~~SEC. 10.~~

5 SEC. 13. Section 3300 of the Business and Professions Code
6 is amended to read:

7 3300. For the purposes of this chapter, the following definitions
8 shall apply:

9 (a) "Person" includes any individual, partnership, corporation,
10 limited liability company, or other organization, or any combination
11 thereof.

12 (b) "Advertise" and its variants include the use of a newspaper,
13 magazine, or other publication, book, notice, circular, pamphlet,
14 letter, handbill, poster, bill, sign, placard, card, label, tag, window
15 display, store sign, radio, or television announcement, or any other
16 means or methods now or hereafter employed to bring to the
17 attention of the public the practice of fitting or selling of hearing
18 aids.

19 (c) "Board" means the Speech-Language Pathology and
20 Audiology and Hearing Aid Dispensers Board.

21 (d) "License" means a hearing aid dispenser's license issued
22 pursuant to this chapter and includes a temporary license.

23 (e) "Licensee" means a person holding a license.

24 (f) "Hearing aid" means any wearable instrument or device
25 designed for, or offered for the purpose of, aiding or compensating
26 for impaired human hearing.

27 (g) "Fund" means the Speech-Language Pathology and
28 Audiology Board Fund.

29 (h) "Account" means the Hearing Aid Dispensers Account of
30 the Speech-Language Pathology and Audiology Fund. As used in
31 this chapter or any other provision of law, "Hearing Aid
32 Dispensers Fund" shall be deemed to refer to the Hearing Aid
33 Dispensers Account of the Speech-Language Pathology and
34 Audiology Fund.

35 ~~SEC. 11.~~

36 SEC. 14. Section 3306 of the Business and Professions Code
37 is amended to read:

38 3306. (a) "Practice of fitting or selling hearing aids," as used
39 in this chapter, means those practices used for the purpose of
40 selection and adaptation of hearing aids, including direct

1 observation of the ear, testing of hearing in connection with the
2 fitting and selling of hearing aids, taking of ear mold impressions,
3 fitting or sale of hearing aids, and any necessary postfitting
4 counseling.

5 The practice of fitting or selling hearing aids does not include
6 the act of concluding the transaction by a retail clerk.

7 When any audiometer or other equipment is used in the practice
8 of fitting or selling hearing aids, it shall be kept properly calibrated
9 and in good working condition, and the calibration of the
10 audiometer or other equipment shall be checked at least annually.

11 (b) A hearing aid dispenser shall not conduct diagnostic hearing
12 tests when conducting tests in connection with the practice of
13 fitting or selling hearing aids.

14 (c) Hearing tests conducted pursuant to this chapter shall include
15 those that are in compliance with the Food and Drug
16 Administration Guidelines for Hearing Aid Devices and those that
17 are specifically covered in the licensing examination prepared and
18 administered by the board.

19 ~~SEC. 12.~~

20 *SEC. 15.* Section 3307 of the Business and Professions Code
21 is amended to read:

22 3307. "Hearing aid dispenser," as used in this chapter, means
23 a person engaged in the practice of fitting or selling hearing aids
24 to an individual with impaired hearing.

25 ~~SEC. 13.~~

26 *SEC. 16.* Section 3320 of the Business and Professions Code
27 is repealed.

28 ~~SEC. 14.~~

29 *SEC. 17.* Section 3320 is added to the Business and Professions
30 Code, to read:

31 3320. (a) The duties, powers, purposes, responsibilities, and
32 jurisdiction of the Hearing Aid Dispensers Bureau within the
33 Department of Consumer Affairs are hereby transferred to the
34 Speech-Language Pathology and Audiology Board.

35 (b) Any reference to the bureau in this chapter and its
36 regulations, and elsewhere, shall be construed as a reference to the
37 board.

38 (c) In the performance of the duties and the exercise of the
39 powers vested in the board under this chapter, the board may
40 consult with industry representatives.

1 (d) For the performance of the duties and the exercise of the
2 powers vested in the board under this chapter, the board shall have
3 possession and control of all records, papers, offices, equipment,
4 supplies, or other property, real or personal, held for the benefit
5 or use by the former Hearing Aid Dispensers Bureau.

6 (e) All regulations in Division 13.3 (commencing with Section
7 1399.100) of Title 16 of the California Code of Regulations are
8 continued in existence under the administration of the board.

9 ~~SEC. 15.~~

10 *SEC. 18.* Section 3320.1 of the Business and Professions Code
11 is amended to read:

12 3320.1. Protection of the public shall be the highest priority
13 for the board in exercising its licensing, regulatory, and disciplinary
14 functions. Whenever the protection of the public is inconsistent
15 with other interests sought to be promoted, the protection of the
16 public shall be paramount.

17 ~~SEC. 16.~~

18 *SEC. 19.* Section 3321 of the Business and Professions Code
19 is repealed.

20 ~~SEC. 17.~~

21 *SEC. 20.* Section 3322 is added to the Business and Professions
22 Code, to read:

23 3322. (a) The duty of administering and enforcing this chapter
24 is vested in the board.

25 (b) The board is vested with the duties, powers, purposes,
26 responsibilities, and jurisdiction granted under this chapter and
27 under Chapter 5.3 (commencing with Section 2530).

28 ~~SEC. 18.~~

29 *SEC. 21.* Section 3325 of the Business and Professions Code
30 is repealed.

31 ~~SEC. 19.~~

32 *SEC. 22.* Section 3326 of the Business and Professions Code
33 is amended to read:

34 3326. The board shall keep a record of all prosecutions for
35 violations of this chapter and of all examinations held for applicants
36 for licenses together with the names and addresses of all persons
37 taking examinations and of their success or failure to pass them.

38 ~~SEC. 20.~~

39 *SEC. 23.* Section 3327 of the Business and Professions Code
40 is amended to read:

1 3327. The board may recommend the preparation of and
2 administration of a course of instruction concerned with the fitting
3 and selection of hearing aids. The board may require applicants
4 to first complete the required course of instruction or otherwise
5 satisfy the board that the applicant possesses the necessary
6 background and qualifications to fit or sell hearing aids. If the
7 board promulgates regulations to implement this section to require
8 a course of instruction concerned with fitting and selling hearing
9 aids, the board shall obtain the advice of persons knowledgeable
10 in the preparation and administration of a course of instruction.

11 The board may publish and distribute information concerning
12 the examination requirements for obtaining a license to engage in
13 the practice of fitting and selling hearing aids within this state.

14 ~~SEC. 21.~~

15 *SEC. 24.* Section 3327.5 of the Business and Professions Code
16 is amended to read:

17 3327.5. All holders of licenses to sell or fit hearing aids shall
18 continue their education after receiving the license. The board shall
19 provide by regulation, as a condition to the renewal of a license,
20 that licensees shall submit documentation satisfactory to the board
21 that they have informed themselves of current practices related to
22 the fitting of hearing aids by having pursued courses of study
23 satisfactory to the board or by other means defined as equivalent
24 by the board.

25 Continuing education courses shall be subject to monitoring to
26 ensure compliance with the regulations adopted by the board
27 pursuant to this section.

28 ~~SEC. 22.~~

29 *SEC. 25.* Section 3328 of the Business and Professions Code
30 is amended to read:

31 3328. The board may adopt, amend, or repeal, in accordance
32 with the provisions of the Administrative Procedure Act,
33 regulations that are necessary to enable the board to carry into
34 effect the provisions of law relating to the practice of fitting or
35 selling hearing aids.

36 ~~SEC. 23.~~

37 *SEC. 26.* Section 3329 of the Business and Professions Code
38 is amended to read:

39 3329. (a) The board may prosecute any and all persons for
40 any violation of this chapter.

(b) The board shall hear and decide all matters, including but not limited to, any contested case or any petition for reinstatement or modification of probation, or may assign any of those matters to an administrative law judge in accordance with the Administrative Procedure Act. Except as otherwise provided in this chapter, all hearings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

~~SEC. 24.~~

SEC. 27. Section 3330 of the Business and Professions Code is repealed.

~~SEC. 25.~~

SEC. 28. Section 3350 of the Business and Professions Code is amended to read:

3350. It is unlawful for an individual to engage in the practice of fitting or selling hearing aids, or to display a sign or in any other way to advertise or hold himself or herself out as being so engaged without having first obtained a license from the board under the provisions of this chapter. Nothing in this chapter shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of fitting or selling, or offering for sale, hearing aids at retail without a license, provided that any and all fitting or selling of hearing aids is conducted by the individuals who are licensed pursuant to the provisions of this chapter. A person whose license as a hearing aid dispenser has been suspended or revoked shall not be the proprietor of a business that engages in the practice of fitting or selling hearing aids nor shall that person be a partner, shareholder, member, or fiduciary in a partnership, corporation, association, or trust that maintains or operates that business, during the period of the suspension or revocation. This restriction shall not apply to stock ownership in a corporation that is listed on a stock exchange regulated by the Securities and Exchange Commission if the stock is acquired in a transaction conducted through that stock exchange.

~~SEC. 26.~~

SEC. 29. Section 3351.3 of the Business and Professions Code is amended to read:

3351.3. This chapter does not apply to nor affect any physician and surgeon licensed under Chapter 5 (commencing with Section

2000) of Division 2 who does not directly or indirectly engage in the sale or offering for sale of hearing aids, nor to any audiologist licensed under Chapter 5.3 (commencing with Section 2530).

~~SEC. 27.~~

SEC. 30. Section 3352 of the Business and Professions Code is amended to read:

3352. Each person desiring to obtain a license to engage in the practice of fitting or selling hearing aids shall make application to the board. The application shall be made upon a form and shall be made in the manner as is provided by the board and shall be accompanied by the fee provided for in Section 3456.

~~SEC. 28.~~

SEC. 31. Section 3353 of the Business and Professions Code is amended to read:

3353. (a) The board shall prepare, approve, grade, and conduct examinations of applicants for a hearing aid dispenser's license. The board may provide that the preparation and grading of the examination be conducted by a competent person or organization other than the board, provided, however, that the board shall establish the guidelines for the examination and shall approve the actual examination.

(b) Each applicant shall take and pass a written examination and a practical examination compiled at the direction of the board covering the critical tasks involved in the practice of fitting and selling hearing aids and the knowledge, skills, and abilities needed to perform those tasks safely and competently.

~~SEC. 29.~~

SEC. 32. Section 3354 of the Business and Professions Code is amended to read:

3354. The board shall issue a license to all applicants who have satisfied this chapter, who are at least 18 years of age, who possess a high school diploma or its equivalent, who have not committed acts or crimes constituting grounds for denial of licensure under Section 480, and who have paid the fees provided for in Section 3456. No license shall be issued to any person other than an individual.

~~SEC. 30.~~

SEC. 33. Section 3356 of the Business and Professions Code is amended to read:

1 3356. (a) An applicant who has fulfilled the requirements of
2 Section 3352 and has made application therefor, may have a
3 temporary license issued to him or her upon satisfactory proof to
4 the board that the applicant holds a hearing aid dispenser's license
5 in another state, that the licensee has not been subject to formal
6 disciplinary action by another licensing authority, and that the
7 applicant has been engaged in the fitting and sale of hearing aids
8 for the two years immediately prior to application.

9 (b) A temporary license issued pursuant to this section shall be
10 valid for one year from date of issuance and is not renewable. A
11 temporary license shall automatically terminate upon issuance of
12 a license prior to expiration of the one-year period.

13 (c) The holder of a temporary license issued pursuant to this
14 section who fails either license examination shall be subject to and
15 shall comply with the supervision requirements of Section 3357
16 and any regulations adopted pursuant thereto.

17 ~~SEC. 31.~~

18 SEC. 34. Section 3357 of the Business and Professions Code
19 is amended to read:

20 3357. (a) An applicant who has fulfilled the requirements of
21 Section 3352, and has made application therefor, and who proves
22 to the satisfaction of the board that he or she will be supervised
23 and trained by a hearing aid dispenser who is approved by the
24 board may have a temporary license issued to him or her. The
25 temporary license shall entitle the temporary licensee to fit or sell
26 hearing aids as set forth in regulations of the board. The supervising
27 dispenser shall be responsible for any acts or omissions committed
28 by a temporary licensee under his or her supervision that may
29 constitute a violation of this chapter.

30 (b) The board shall adopt regulations setting forth criteria for
31 its refusal to approve a hearing aid dispenser to supervise a
32 temporary licensee, including procedures to appeal that decision.

33 (c) A temporary license issued pursuant to this section is
34 effective and valid for six months from date of issue. The board
35 may renew the temporary license for an additional period of six
36 months. The board shall not issue more than two renewals of a
37 temporary license to any applicant, and if a temporary licensee
38 who is entitled to renew a temporary license does not renew the
39 temporary license and applies for a new temporary license at a

1 later time, the new temporary license shall only be issued and
2 renewed subject to the limitations set forth in this subdivision.

3 ~~SEC. 32.~~

4 *SEC. 35.* Section 3358 of the Business and Professions Code
5 is amended to read:

6 3358. A temporary licensee under Section 3357 shall take the
7 license examination within the first 10 months after the temporary
8 license is issued. Failure to take the license examination within
9 that time shall result in expiration of the temporary license, and it
10 shall not be renewed unless the temporary licensee has first taken
11 the licensure examination. The board, however, may in its
12 discretion renew the temporary license if the licensee failed to take
13 the necessary examination due to illness or other hardship.

14 ~~SEC. 33.~~

15 *SEC. 36.* Section 3360 of the Business and Professions Code
16 is amended to read:

17 3360. Practical examinations shall be held by the board at least
18 twice a year. The time and place of any practical examination shall
19 be fixed by the board at least 45 days prior to the date it is to be
20 held.

21 ~~SEC. 34.~~

22 *SEC. 37.* Section 3362 of the Business and Professions Code
23 is amended to read:

24 3362. (a) Before engaging in the practice of fitting or selling
25 hearing aids, each licensee shall notify the board in writing of the
26 address or addresses where he or she is to engage, or intends to
27 engage, in the practice of fitting or selling hearing aids, and of any
28 changes in his or her place of business.

29 (b) If a street address is not the address at which the licensee
30 receives mail, the licensee shall also notify the board in writing of
31 the mailing address for each location where the licensee is to
32 engage, or intends to engage, in the practice of fitting or selling
33 hearing aids, and of any change in the mailing address of his or
34 her place or places of business.

35 ~~SEC. 35.~~

36 *SEC. 38.* Section 3364 of the Business and Professions Code
37 is amended to read:

38 3364. (a) Every licensee who engages in the practice of fitting
39 or selling hearing aids shall have and maintain an established retail
40 business address to engage in that fitting or selling, routinely open

1 for service to customers or clients. The address of the licensee's
2 place of business shall be registered with the bureau as provided
3 in Section 3362.

4 (b) Except as provided in subdivision (c), if a licensee maintains
5 more than one place of business within this state, he or she shall
6 apply for and procure a duplicate license for each branch office
7 maintained. The application shall state the name of the person and
8 the location of the place or places of business for which the
9 duplicate license is desired.

10 (c) A hearing aid dispenser may, without obtaining a duplicate
11 license for a branch office, engage on a temporary basis in the
12 practice of fitting or selling hearing aids at the primary or branch
13 location of another licensee's business or at a location or facility
14 that he or she may use on a temporary basis, provided that the
15 hearing aid dispenser notifies the board in advance in writing of
16 the dates and addresses of those businesses, locations, or facilities
17 at which he or she will engage in the practice of fitting or selling
18 hearing aids.

19 ~~SEC. 36.~~

20 *SEC. 39.* Section 3400 of the Business and Professions Code
21 is amended to read:

22 3400. Proceedings to deny, suspend, or revoke a license under
23 this chapter, shall be conducted in accordance with Chapter 5
24 (commencing with Section 11500) of Part 1 of Division 3 of Title
25 2 of the Government Code, and the board shall have all of the
26 powers granted therein.

27 ~~SEC. 37.~~

28 *SEC. 40.* Section 3401 of the Business and Professions Code
29 is amended to read:

30 3401. The board may deny, issue subject to terms and
31 conditions, suspend, or revoke a license, or impose conditions of
32 probation upon a licensee, for any of the following causes:

33 (a) Gross incompetency, which includes, but is not limited to,
34 the improper or unnecessary fitting of a hearing aid.

35 (b) Gross negligence.

36 (c) Repeated negligent acts.

37 (d) Conviction of any crime substantially related to the
38 qualifications, functions, or duties of a hearing aid dispenser.

39 (e) Obtaining a license by fraud or deceit.

1 (f) Use of the term “doctor” or “physician” or “clinic” or
2 “audiologist,” or any derivation thereof, except as authorized by
3 law.

4 (g) Fraud or misrepresentation in the fitting or selling of a
5 hearing aid.

6 (h) The employment, to perform any act covered by this chapter,
7 of any person whose license has been suspended, revoked, or who
8 does not possess a valid license issued under this chapter.

9 (i) The use, or causing the use, of any advertising or promotional
10 literature in a manner that has the capacity or tendency to mislead
11 or deceive purchasers or prospective purchasers.

12 (j) Habitual intemperance in the use of alcohol or any controlled
13 substance.

14 (k) Permitting another to use his or her license for any purpose.

15 (l) Violation of any provision of this chapter or of any regulation
16 adopted pursuant to this chapter.

17 (m) Any cause that would be grounds for denial of an application
18 for a license.

19 (n) Violation of Section 1689.6 or 1793.02 of the Civil Code.

20 ~~SEC. 38.~~

21 *SEC. 41.* Section 3402 of the Business and Professions Code
22 is amended to read:

23 3402. Upon denial of an application for license, the board shall
24 notify the applicant in writing, stating (1) the reason for the denial
25 and (2) that the applicant has a right to a hearing under Section
26 3400 if he or she makes written request therefor within 60 days
27 after notice of denial. Service of the notice required by this section
28 may be made by certified mail addressed to the applicant at the
29 latest address filed by the applicant in writing with the board in
30 his or her application or otherwise.

31 ~~SEC. 39.~~

32 *SEC. 42.* Section 3403 of the Business and Professions Code
33 is amended to read:

34 3403. A plea or verdict of guilty or a conviction following a
35 plea of nolo contendere, made to a charge substantially related to
36 the qualifications, functions, and duties of a hearing aid dispenser
37 is deemed to be a conviction within the meaning of this article.
38 The board may order the license suspended or revoked, impose
39 probationary conditions on a licensee, or may decline to issue a
40 license, when the time for appeal has elapsed, or the judgment of

1 conviction has been affirmed on appeal, or when an order granting
2 probation is made suspending the imposition of sentence,
3 irrespective of a subsequent order under Section 1203.4 of the
4 Penal Code allowing the person to withdraw his or her plea of
5 guilty and to enter a plea of not guilty, or setting aside the verdict
6 of guilty, or dismissing the accusation, information, or indictment.

7 ~~SEC. 40.~~

8 *SEC. 43.* Section 3404 of the Business and Professions Code
9 is amended to read:

10 3404. Before setting aside the revocation or suspension of any
11 license or modifying the probation of any licensee, the board may
12 require the petitioner to pass the regular examination given for
13 applicants for licenses.

14 ~~SEC. 41.~~

15 *SEC. 44.* Section 3421 of the Business and Professions Code
16 is amended to read:

17 3421. It is unlawful to sell or barter, or offer to sell or barter,
18 any license issued by the board.

19 ~~SEC. 42.~~

20 *SEC. 45.* Section 3422 of the Business and Professions Code
21 is amended to read:

22 3422. It is unlawful to purchase or procure by barter any license
23 issued by the board with intent to use the same as evidence of the
24 holder's qualification to practice the fitting or selling of hearing
25 aids.

26 ~~SEC. 43.~~

27 *SEC. 46.* Section 3423 of the Business and Professions Code
28 is amended to read:

29 3423. It is unlawful to alter with fraudulent intent in any
30 material regard a license issued by the board.

31 ~~SEC. 44.~~

32 *SEC. 47.* Section 3424 of the Business and Professions Code
33 is amended to read:

34 3424. It is unlawful to use or attempt to use any license issued
35 by the board that has been purchased, fraudulently issued,
36 counterfeited, or materially altered as a valid license.

37 ~~SEC. 45.~~

38 *SEC. 48.* Section 3426 of the Business and Professions Code
39 is amended to read:

1 3426. It is unlawful to willfully make any false statement in a
2 material regard in an application for an examination before the
3 board for a license.

4 ~~SEC. 46.~~

5 *SEC. 49.* Section 3430 of the Business and Professions Code
6 is amended to read:

7 3430. In addition to other proceedings provided for in this
8 chapter, whenever any person has engaged, or is about to engage,
9 in any acts or practices that constitute, or will constitute, an offense
10 against this chapter, the superior court for the county wherein the
11 acts or practices take place or are about to take place, may issue
12 an injunction or other appropriate order, restraining such conduct
13 on application of the board, the Attorney General, or the district
14 attorney of the county. If the acts or practices constitute, or will
15 constitute, an offense against Section 3306.5, the application to
16 the superior court may be made by the State Board of Optometry.
17 The proceedings under this section shall be governed by Chapter
18 3 (commencing with Section 525) of Title 7 of Part 2 of the Code
19 of Civil Procedure.

20 ~~SEC. 47.~~

21 *SEC. 50.* Section 3451 of the Business and Professions Code
22 is amended to read:

23 3451. (a) A license issued under this chapter expires at
24 midnight on its assigned renewal date.

25 (b) To renew an unexpired license, the licensee shall, on or
26 before the date of expiration of the license, apply for renewal on
27 a form provided by the board, accompanied by the prescribed
28 renewal fee.

29 (c) Temporary license holders shall renew their licenses in
30 accordance with Section 3357, and apply for that renewal on a
31 form provided by the board, accompanied by the prescribed
32 renewal fee for temporary licenses.

33 (d) Each duplicate license issued for a branch office shall expire
34 on the same date as the permanent license of the hearing aid
35 dispenser to whom the duplicate license was issued. These
36 duplicate licenses shall be renewed according to subdivision (b).

37 ~~SEC. 48.~~

38 *SEC. 51.* Section 3452 of the Business and Professions Code
39 is amended to read:

3452. Except as otherwise provided in this chapter, an expired license may be renewed at any time within three years after its expiration on filing of an application for renewal on a form prescribed by the board, and payment of all accrued and unpaid renewal fees. If the license is renewed after its expiration the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 3451 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

~~SEC. 49.~~

SEC. 52. Section 3454 of the Business and Professions Code is amended to read:

3454. A license that is not renewed within three years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the expired license may apply for and obtain a new license if all of the following apply:

(a) He or she has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) He or she pays all the fees that would be required of him or her if he or she were then applying for a license for the first time.

(c) He or she takes and passes the examination that would be required of him or her if he or she were then applying for a license for the first time, or otherwise establishes to the satisfaction of the board that he or she is qualified to engage in the practice of fitting or selling hearing aids. The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

~~SEC. 50.~~

SEC. 53. Section 3455 of the Business and Professions Code is amended to read:

3455. (a) *The Hearing Aid Dispensers Account is hereby created in the Speech-Language Pathology and Audiology Fund.*

(b) All money in the Hearing Aid Dispensers Fund on January 1, 2010, shall be transferred on that date to the *Hearing Aid Dispensers Account of the Speech-Language Pathology and*

1 Audiology-Board Fund. All fees collected pursuant to this chapter
2 shall be paid by the board into *the Hearing Aid Dispensers Account*
3 of the Speech-Language Pathology and Audiology-Board Fund.
4 All money in that *account and* fund shall be used to carry out the
5 purposes of this chapter and Chapter 5.3 (commencing with Section
6 2530), as provided in Section 2534.

7 ~~SEC. 51.~~

8 *SEC. 54.* Section 3456 of the Business and Professions Code
9 is amended to read:

10 3456. The amount of fees and penalties prescribed by this
11 chapter shall be those set forth in this section unless a lower fee
12 is fixed by the board:

13 (a) The fee for applicants applying for the first time for a license
14 is seventy-five dollars (\$75), which shall not be refunded, except
15 to applicants who are found to be ineligible to take an examination
16 for a license. Those applicants are entitled to a refund of fifty
17 dollars (\$50).

18 (b) The fees for taking or retaking the written and practical
19 examinations shall be amounts fixed by the board, which shall be
20 equal to the actual cost of preparing, grading, analyzing, and
21 administering the examinations.

22 (c) The initial temporary license fee is one hundred dollars
23 (\$100). The fee for renewal of a temporary license is one hundred
24 dollars (\$100) for each renewal.

25 (d) The initial permanent license fee is two hundred eighty
26 dollars (\$280). The fee for renewal of a permanent license is not
27 more than two hundred eighty dollars (\$280) for each renewal.

28 (e) The initial branch office license fee is twenty-five dollars
29 (\$25). The fee for renewal of a branch office license is twenty-five
30 dollars (\$25) for each renewal.

31 (f) The delinquency fee is twenty-five dollars (\$25).

32 (g) The fee for issuance of a replacement license is twenty-five
33 dollars (\$25).

34 (h) The continuing education course approval application fee
35 is fifty dollars (\$50). The fee for a continuing education course
36 transcript is ten dollars (\$10).

37 (i) The fee for official certification of licensure is fifteen dollars
38 (\$15). The fee for a license confirmation letter is ten dollars (\$10).

39 *SEC. 55. (a) The Legislature finds and declares that the license*
40 *fees for audiologists who sell hearing aids and the license fees for*

1 *hearing aid dispensers will need to be adjusted to reflect the*
2 *transfer of duties, powers, purposes, and responsibilities from the*
3 *Hearing Aid Dispensers Bureau to the Speech-Language Pathology*
4 *and Audiology and Hearing Aid Dispensers Board pursuant to*
5 *this act, and to ensure that the fees paid to support the board in*
6 *its regulation of licensed audiologists who sell hearing aids and*
7 *hearing aid dispensers are fairly appropriated.*

8 *(b) The Speech-Language Pathology and Audiology and Hearing*
9 *Aid Dispensers Board shall, no later than January 1, 2011, review*
10 *the license fees paid by audiologists and hearing aid dispensers*
11 *in order to assess whether that revenue is adequate to support the*
12 *functions of the board that relate to the functions authorized by*
13 *Chapter 5.3 (commencing with Section 2530) and Chapter 7.5*
14 *(commencing with Section 3300) of Division 2 of the Business and*
15 *Professions Code.*

16 ~~SEC. 52.~~

17 *SEC. 56.* No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.