

AMENDED IN SENATE SEPTEMBER 4, 2009

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, 2220.5, 2530.2, 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 3321, 3325, and 3330 of, and to repeal and add 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 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 bill would incorporate additional changes to Sections 101 and 149 of the Business and Professions Code, proposed by AB 48 and SB 819, to be operative only if this bill and one or both of the other bills are chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

The bill would incorporate additional changes to Sections 2530.2, 3357, 3362, and 3456 of the Business and Professions Code proposed by both this bill and SB 821, to be operative only if SB 821 and this bill are both chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

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 18 of the Fourth
3 Extraordinary Session of the Statutes of 2009, 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 Bureau of Electronic and Appliance Repair, Home
18 Furnishings, and Thermal Insulation.

- 1 (m) The Board of Registered Nursing.
- 2 (n) The Board of Behavioral Sciences.
- 3 (o) The State Athletic Commission.
- 4 (p) The Cemetery and Funeral Bureau.
- 5 (q) The State Board of Guide Dogs for the Blind.
- 6 (r) The Bureau of Security and Investigative Services.
- 7 (s) The Court Reporters Board of California.
- 8 (t) The Board of Vocational Nursing and Psychiatric
- 9 Technicians.
- 10 (u) The Landscape Architects Technical Committee.
- 11 (v) The Division of Investigation.
- 12 (w) The Bureau of Automotive Repair.
- 13 (x) The Respiratory Care Board of California.
- 14 (y) The Acupuncture Board.
- 15 (z) The Board of Psychology.
- 16 (aa) The California Board of Podiatric Medicine.
- 17 (ab) The Physical Therapy Board of California.
- 18 (ac) The Arbitration Review Program.
- 19 (ad) The Physician Assistant Committee.
- 20 (ae) The Speech-Language Pathology and Audiology and
- 21 Hearing Aid Dispensers Board.
- 22 (af) The California Board of Occupational Therapy.
- 23 (ag) The Osteopathic Medical Board of California.
- 24 (ah) The Naturopathic Medicine Committee.
- 25 (ai) The Dental Hygiene Committee of California.
- 26 (aj) Any other boards, offices, or officers subject to its
- 27 jurisdiction by law.
- 28 *SEC. 1.1. Section 101 of the Business and Professions Code,*
- 29 *as amended by Section 1 of Chapter 18 of the Fourth Extraordinary*
- 30 *Session of the Statutes of 2009, is amended to read:*
- 31 101. The department is comprised of:
- 32 (a) The Dental Board of California.
- 33 (b) The Medical Board of California.
- 34 (c) The State Board of Optometry.
- 35 (d) The California State Board of Pharmacy.
- 36 (e) The Veterinary Medical Board.
- 37 (f) The California Board of Accountancy.
- 38 (g) The California Architects Board.
- 39 (h) The Bureau of Barbering and Cosmetology.
- 40 (i) The Board for Professional Engineers and Land Surveyors.

- 1 (j) The Contractors' State License Board.
- 2 (k) The Bureau for Private Postsecondary ~~and Vocational~~
- 3 Education.
- 4 (l) The Bureau of Electronic and Appliance Repair, Home
- 5 Furnishings, and Thermal Insulation.
- 6 (m) The Board of Registered Nursing.
- 7 (n) The Board of Behavioral Sciences.
- 8 (o) The State Athletic Commission.
- 9 (p) The Cemetery and Funeral Bureau.
- 10 (q) The State Board of Guide Dogs for the Blind.
- 11 (r) The Bureau of Security and Investigative Services.
- 12 (s) The Court Reporters Board of California.
- 13 (t) The Board of Vocational Nursing and Psychiatric
- 14 Technicians.
- 15 (u) The Landscape Architects Technical Committee.
- 16 (v) The Division of Investigation.
- 17 (w) The Bureau of Automotive Repair.
- 18 (x) The Respiratory Care Board of California.
- 19 (y) The Acupuncture Board.
- 20 (z) The Board of Psychology.
- 21 (aa) The California Board of Podiatric Medicine.
- 22 (ab) The Physical Therapy Board of California.
- 23 (ac) The Arbitration Review Program.
- 24 ~~(ad) The Hearing Aid Dispensers Bureau.~~
- 25 ~~(ae)~~
- 26 (ad) The Physician Assistant Committee.
- 27 ~~(af)~~
- 28 (ae) The Speech-Language Pathology and Audiology *and*
- 29 *Hearing Aid Dispensers* Board.
- 30 ~~(ag)~~
- 31 (af) The California Board of Occupational Therapy.
- 32 ~~(ah)~~
- 33 (ag) The Osteopathic Medical Board of California.
- 34 ~~(ai)~~
- 35 (ah) The Naturopathic Medicine Committee.
- 36 ~~(aj)~~
- 37 (ai) The Dental Hygiene Committee of California.
- 38 ~~(ak)~~
- 39 (aj) Any other boards, offices, or officers subject to its
- 40 jurisdiction by law.

1 *SEC. 1.2. Section 101 of the Business and Professions Code,*
2 *as amended by Section 1 of Chapter 18 of the Fourth Extraordinary*
3 *Session of the Statutes of 2009, 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 Bureau of Electronic and Appliance Repair, Home
- 18 Furnishings, and Thermal Insulation.
- 19 (m) The Board of Registered Nursing.
- 20 (n) The Board of Behavioral Sciences.
- 21 (o) The State Athletic Commission.
- 22 (p) The Cemetery and Funeral Bureau.
- 23 (q) The State Board of Guide Dogs for the Blind.
- 24 (r) The Bureau of Security and Investigative Services.
- 25 (s) The Court Reporters Board of California.
- 26 (t) The Board of Vocational Nursing and Psychiatric
- 27 Technicians.
- 28 (u) The Landscape Architects Technical Committee.
- 29 (v) The Division of Investigation.
- 30 (w) The Bureau of Automotive Repair.
- 31 (x) The Respiratory Care Board of California.
- 32 (y) The Acupuncture Board.
- 33 (z) The Board of Psychology.
- 34 (aa) The California Board of Podiatric Medicine.
- 35 (ab) The Physical Therapy Board of California.
- 36 (ac) The Arbitration Review Program.
- 37 ~~(ad) The Hearing Aid Dispensers Bureau.~~
- 38 ~~(ae)~~
- 39 (ad) The Physician Assistant Committee.
- 40 ~~(af)~~

1 (ae) The Speech-Language Pathology and Audiology and
2 Hearing Aid Dispensers Board.

3 ~~(ag)~~

4 (af) The California Board of Occupational Therapy.

5 ~~(ah)~~

6 (ag) The Osteopathic Medical Board of California.

7 ~~(ai)~~

8 (ah) The Naturopathic Medicine Committee.

9 ~~(aj)~~

10 (ai) The Dental Hygiene Committee of California.

11 (aj) *The Professional Fiduciaries Bureau.*

12 (ak) Any other boards, offices, or officers subject to its
13 jurisdiction by law.

14 *SEC. 1.3. Section 101 of the Business and Professions Code,*
15 *as amended by Section 1 of Chapter 18 of the Fourth Extraordinary*
16 *Session of the Statutes of 2009, is amended to read:*

17 101. The department is comprised of:

18 (a) The Dental Board of California.

19 (b) The Medical Board of California.

20 (c) The State Board of Optometry.

21 (d) The California State Board of Pharmacy.

22 (e) The Veterinary Medical Board.

23 (f) The California Board of Accountancy.

24 (g) The California Architects Board.

25 (h) The Bureau of Barbering and Cosmetology.

26 (i) The Board for Professional Engineers and Land Surveyors.

27 (j) The Contractors' State License Board.

28 (k) The Bureau for Private Postsecondary ~~and Vocational~~
29 Education.

30 (l) The Bureau of Electronic and Appliance Repair, Home
31 Furnishings, and Thermal Insulation.

32 (m) The Board of Registered Nursing.

33 (n) The Board of Behavioral Sciences.

34 (o) The State Athletic Commission.

35 (p) The Cemetery and Funeral Bureau.

36 (q) The State Board of Guide Dogs for the Blind.

37 (r) The Bureau of Security and Investigative Services.

38 (s) The Court Reporters Board of California.

39 (t) The Board of Vocational Nursing and Psychiatric
40 Technicians.

- 1 (u) The Landscape Architects Technical Committee.
- 2 (v) The Division of Investigation.
- 3 (w) The Bureau of Automotive Repair.
- 4 (x) The Respiratory Care Board of California.
- 5 (y) The Acupuncture Board.
- 6 (z) The Board of Psychology.
- 7 (aa) The California Board of Podiatric Medicine.
- 8 (ab) The Physical Therapy Board of California.
- 9 (ac) The Arbitration Review Program.
- 10 ~~(ad) The Hearing Aid Dispensers Bureau.~~
- 11 ~~(ae)~~
- 12 (ad) The Physician Assistant Committee.
- 13 ~~(af)~~
- 14 (ae) The Speech-Language Pathology and Audiology *and*
- 15 *Hearing Aid Dispensers* Board.
- 16 ~~(ag)~~
- 17 (af) The California Board of Occupational Therapy.
- 18 ~~(ah)~~
- 19 (ag) The Osteopathic Medical Board of California.
- 20 ~~(ai)~~
- 21 (ah) The Naturopathic Medicine Committee.
- 22 ~~(aj)~~
- 23 (ai) The Dental Hygiene Committee of California.
- 24 (aj) *The Professional Fiduciaries Bureau.*
- 25 (ak) Any other boards, offices, or officers subject to its
- 26 jurisdiction by law.
- 27 SEC. 2. Section 149 of the Business and Professions Code, as
- 28 amended by Section 3 of Chapter 18 of the Fourth Extraordinary
- 29 Session of the Statutes of 2009, is amended to read:
- 30 149. (a) If, upon investigation, an agency designated in
- 31 subdivision (e) has probable cause to believe that a person is
- 32 advertising in a telephone directory with respect to the offering or
- 33 performance of services, without being properly licensed by or
- 34 registered with the agency to offer or perform those services, the
- 35 agency may issue a citation under Section 148 containing an order
- 36 of correction that requires the violator to do both of the following:
- 37 (1) Cease the unlawful advertising.
- 38 (2) Notify the telephone company furnishing services to the
- 39 violator to disconnect the telephone service furnished to any
- 40 telephone number contained in the unlawful advertising.

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

5 (c) If the person to whom a citation and order of correction is
6 issued under subdivision (a) fails to comply with the order of
7 correction after that order is final, the agency shall inform the
8 Public Utilities Commission of the violation and the Public Utilities
9 Commission shall require the telephone corporation furnishing
10 services to that person to disconnect the telephone service furnished
11 to any telephone number contained in the unlawful advertising.

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

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

- 19 (1) The Bureau of Barbering and Cosmetology.
- 20 (2) The Cemetery and Funeral Bureau.
- 21 (3) The Veterinary Medical Board.
- 22 (4) The Landscape Architects Technical Committee.
- 23 (5) The California Board of Podiatric Medicine.
- 24 (6) The Respiratory Care Board of California.
- 25 (7) The Bureau of Electronic and Appliance Repair, Home
26 Furnishings, and Thermal Insulation.
- 27 (8) The Bureau of Security and Investigative Services.
- 28 (9) The Bureau of Automotive Repair.
- 29 (10) The California Architects Board.
- 30 (11) The Speech-Language Pathology and Audiology and
31 Hearing Aid Dispensers Board.
- 32 (12) The Board for Professional Engineers and Land Surveyors.
- 33 (13) The Board of Behavioral Sciences.
- 34 (14) The Structural Pest Control Board within the Department
35 of Pesticide Regulation.
- 36 (15) The Acupuncture Board.
- 37 (16) The Board of Psychology.
- 38 (17) The California Board of Accountancy.
- 39 (18) The Naturopathic Medicine Committee.

1 *SEC. 2.1. Section 149 of the Business and Professions Code,*
2 *as amended by Section 3 of Chapter 18 of the Fourth Extraordinary*
3 *Session of the Statutes of 2009, is amended to read:*

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

11 (1) Cease the unlawful advertising.

12 (2) Notify the telephone company furnishing services to the
13 violator to disconnect the telephone service furnished to any
14 telephone number contained in the unlawful advertising.

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

19 (c) If the person to whom a citation and order of correction is
20 issued under subdivision (a) fails to comply with the order of
21 correction after that order is final, the agency shall inform the
22 Public Utilities Commission of the violation and the Public Utilities
23 Commission shall require the telephone corporation furnishing
24 services to that person to disconnect the telephone service furnished
25 to any telephone number contained in the unlawful advertising.

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

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

33 (1) The Bureau of Barbering and Cosmetology.

34 (2) The Cemetery and Funeral Bureau.

35 (3) The Veterinary Medical Board.

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

37 ~~(5)~~

38 (4) The Landscape Architects Technical Committee.

39 ~~(6)~~

40 (5) The California Board of Podiatric Medicine.

1 ~~(7)~~
2 (6) The Respiratory Care Board of California.
3 ~~(8)~~
4 (7) The Bureau of Electronic and Appliance Repair, Home
5 Furnishings, and Thermal Insulation.
6 ~~(9)~~
7 (8) The Bureau of Security and Investigative Services.
8 ~~(10)~~
9 (9) The Bureau of Automotive Repair.
10 ~~(11)~~
11 (10) The California Architects Board.
12 ~~(12)~~
13 (11) The Speech-Language Pathology and Audiology *and*
14 *Hearing Aid Dispensers* Board.
15 ~~(13)~~
16 (12) The Board for Professional Engineers and Land Surveyors.
17 ~~(14)~~
18 (13) The Board of Behavioral Sciences.
19 ~~(15)~~
20 (14) The Structural Pest Control Board within the Department
21 of Pesticide Regulation.
22 ~~(16)~~
23 (15) The Acupuncture Board.
24 ~~(17)~~
25 (16) The Board of Psychology.
26 ~~(18)~~
27 (17) The California Board of Accountancy.
28 ~~(19)~~
29 (18) The Naturopathic Medicine Committee.
30 (19) *The Bureau for Private Postsecondary Education.*
31 *SEC. 2.2. Section 149 of the Business and Professions Code,*
32 *as amended by Section 3 of Chapter 18 of the Fourth Extraordinary*
33 *Session of the Statutes of 2009, is amended to read:*
34 149. (a) If, upon investigation, an agency designated in
35 subdivision (e) has probable cause to believe that a person is
36 advertising in a telephone directory with respect to the offering or
37 performance of services, without being properly licensed by or
38 registered with the agency to offer or perform those services, the
39 agency may issue a citation under Section 148 containing an order
40 of correction that requires the violator to do both of the following:

- 1 (1) Cease the unlawful advertising.
- 2 (2) Notify the telephone company furnishing services to the
- 3 violator to disconnect the telephone service furnished to any
- 4 telephone number contained in the unlawful advertising.
- 5 (b) This action is stayed if the person to whom a citation is
- 6 issued under subdivision (a) notifies the agency in writing that he
- 7 or she intends to contest the citation. The agency shall afford an
- 8 opportunity for a hearing, as specified in Section 125.9.
- 9 (c) If the person to whom a citation and order of correction is
- 10 issued under subdivision (a) fails to comply with the order of
- 11 correction after that order is final, the agency shall inform the
- 12 Public Utilities Commission of the violation and the Public Utilities
- 13 Commission shall require the telephone corporation furnishing
- 14 services to that person to disconnect the telephone service furnished
- 15 to any telephone number contained in the unlawful advertising.
- 16 (d) The good faith compliance by a telephone corporation with
- 17 an order of the Public Utilities Commission to terminate service
- 18 issued pursuant to this section shall constitute a complete defense
- 19 to any civil or criminal action brought against the telephone
- 20 corporation arising from the termination of service.
- 21 (e) Subdivision (a) shall apply to the following boards, bureaus,
- 22 committees, commissions, or programs:
- 23 (1) The Bureau of Barbering and Cosmetology.
- 24 (2) The Cemetery and Funeral Bureau.
- 25 (3) The Veterinary Medical Board.
- 26 ~~(4) The Hearing Aid Dispensers Advisory Committee.~~
- 27 ~~(5)~~
- 28 (4) The Landscape Architects Technical Committee.
- 29 ~~(6)~~
- 30 (5) The California Board of Podiatric Medicine.
- 31 ~~(7)~~
- 32 (6) The Respiratory Care Board of California.
- 33 ~~(8)~~
- 34 (7) The Bureau of Electronic and Appliance Repair, Home
- 35 Furnishings, and Thermal Insulation.
- 36 ~~(9)~~
- 37 (8) The Bureau of Security and Investigative Services.
- 38 ~~(10)~~
- 39 (9) The Bureau of Automotive Repair.
- 40 ~~(11)~~

1 (10) The California Architects Board.

2 ~~(12)~~

3 (11) The Speech-Language Pathology and Audiology and
4 Hearing Aid Dispensers Board.

5 ~~(13)~~

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

7 ~~(14)~~

8 (13) The Board of Behavioral Sciences.

9 ~~(15)~~

10 (14) The Structural Pest Control Board within the Department
11 of Pesticide Regulation.

12 ~~(16)~~

13 (15) The Acupuncture Board.

14 ~~(17)~~

15 (16) The Board of Psychology.

16 ~~(18)~~

17 (17) The California Board of Accountancy.

18 ~~(19)~~

19 (18) The Naturopathic Medicine Committee.

20 (19) *The Physical Therapy Board.*

21 *SEC. 2.3. Section 149 of the Business and Professions Code,*
22 *as amended by Section 3 Chapter 18 of the Fourth Extraordinary*
23 *Session of the Statutes of 2009, is amended to read:*

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

31 (1) Cease the unlawful advertising.

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

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

39 (c) If the person to whom a citation and order of correction is
40 issued under subdivision (a) fails to comply with the order of

1 correction after that order is final, the agency shall inform the
2 Public Utilities Commission of the violation and the Public Utilities
3 Commission shall require the telephone corporation furnishing
4 services to that person to disconnect the telephone service furnished
5 to any telephone number contained in the unlawful advertising.

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

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

13 (1) The Bureau of Barbering and Cosmetology.

14 (2) The Cemetery and Funeral Bureau.

15 (3) The Veterinary Medical Board.

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

17 ~~(5)~~

18 (4) The Landscape Architects Technical Committee.

19 ~~(6)~~

20 (5) The California Board of Podiatric Medicine.

21 ~~(7)~~

22 (6) The Respiratory Care Board of California.

23 ~~(8)~~

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

26 ~~(9)~~

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

28 ~~(10)~~

29 (9) The Bureau of Automotive Repair.

30 ~~(11)~~

31 (10) The California Architects Board.

32 ~~(12)~~

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

35 ~~(13)~~

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

37 ~~(14)~~

38 (13) The Board of Behavioral Sciences.

39 ~~(15)~~

1 (14) The Structural Pest Control Board within the Department
2 of Pesticide Regulation.

3 ~~(16)~~

4 (15) The Acupuncture Board.

5 ~~(17)~~

6 (16) The Board of Psychology.

7 ~~(18)~~

8 (17) The California Board of Accountancy.

9 ~~(19)~~

10 (18) The Naturopathic Medicine Committee.

11 (19) *The Bureau for Private Postsecondary Education.*

12 (20) *The Physical Therapy Board.*

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

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

19 (1) Accountancy Fund.

20 (2) California Architects Board Fund.

21 (3) Athletic Commission Fund.

22 (4) Barbering and Cosmetology Contingent Fund.

23 (5) Cemetery Fund.

24 (6) Contractors' License Fund.

25 (7) State Dentistry Fund.

26 (8) State Funeral Directors and Embalmers Fund.

27 (9) Guide Dogs for the Blind Fund.

28 (10) Home Furnishings and Thermal Insulation Fund.

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

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

31 (13) Optometry Fund.

32 (14) Pharmacy Board Contingent Fund.

33 (15) Physical Therapy Fund.

34 (16) Private Investigator Fund.

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

36 (18) Consumer Affairs Fund.

37 (19) Behavioral Sciences Fund.

38 (20) Licensed Midwifery Fund.

39 (21) Court Reporters' Fund.

40 (22) Veterinary Medical Board Contingent Fund.

- 1 (23) Vocational Nurses Account of the Vocational Nursing and
2 Psychiatric Technicians Fund.
3 (24) Electronic and Appliance Repair Fund.
4 (25) Geology and Geophysics Fund.
5 (26) Dispensing Opticians Fund.
6 (27) Acupuncture Fund.
7 (28) Physician Assistant Fund.
8 (29) Board of Podiatric Medicine Fund.
9 (30) Psychology Fund.
10 (31) Respiratory Care Fund.
11 (32) Speech-Language Pathology and Audiology Fund.
12 (33) Board of Registered Nursing Fund.
13 (34) Psychiatric Technician Examiners Account of the
14 Vocational Nursing and Psychiatric Technicians Fund.
15 (35) Animal Health Technician Examining Committee Fund.
16 (36) State Dental Hygiene Fund.
17 (37) State Dental Assistant Fund.
18 (38) Hearing Aid Dispensers Account of the Speech-Language
19 Pathology and Audiology Fund.
20 (b) For accounting and recordkeeping purposes, the Professions
21 and Vocations Fund shall be deemed to be a single special fund,
22 and each of the several special funds therein shall constitute and
23 be deemed to be a separate account in the Professions and
24 Vocations Fund. Each account or fund shall be available for
25 expenditure only for the purposes as are now or may hereafter be
26 provided by law.
27 *SEC. 3.5. Section 2220.5 of the Business and Professions Code*
28 *is amended to read:*
29 2220.5. (a) The Medical Board of California is the only
30 licensing board that is authorized to investigate or commence
31 disciplinary actions relating to physicians and surgeons who have
32 been issued a certificate pursuant to Section 2050.
33 (b) For purposes of this section, “investigate or commence
34 disciplinary actions” shall mean written, oral, or telephonic
35 communication with a physician or surgeon concerning his or her
36 violation of the Medical Practice Act *or any other provision of*
37 *this division.*
38 (c) Written complaints that are subject to Section 43.96 of the
39 Civil Code, relating to the professional conduct or professional

1 competence of physicians and surgeons, shall be processed in
2 accordance with that section.

3 SEC. 4. Section 2530.2 of the Business and Professions Code
4 is amended to read:

5 2530.2. As used in this chapter, unless the context otherwise
6 requires:

7 (a) "Board" means the Speech-Language Pathology and
8 Audiology and Hearing Aid Dispensers Board. As used in this
9 chapter or any other provision of law, "Speech-Language Pathology
10 and Audiology Board" shall be deemed to refer to the
11 Speech-Language Pathology and Audiology and Hearing Aid
12 Dispensers Board or any other successor.

13 (b) "Person" means any individual, partnership, corporation,
14 limited liability company, or other organization or combination
15 thereof, except that only individuals can be licensed under this
16 chapter.

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

19 (d) The practice of speech-language pathology means all of the
20 following:

21 (1) The application of principles, methods, instrumental
22 procedures, and noninstrumental procedures for measurement,
23 testing, screening, evaluation, identification, prediction, and
24 counseling related to the development and disorders of speech,
25 voice, language, or swallowing.

26 (2) The application of principles and methods for preventing,
27 planning, directing, conducting, and supervising programs for
28 habilitating, rehabilitating, ameliorating, managing, or modifying
29 disorders of speech, voice, language, or swallowing in individuals
30 or groups of individuals.

31 (3) Conducting hearing screenings.

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

35 (e) (1) Instrumental procedures referred to in subdivision (d)
36 are the use of rigid and flexible endoscopes to observe the
37 pharyngeal and laryngeal areas of the throat in order to observe,
38 collect data, and measure the parameters of communication and
39 swallowing as well as to guide communication and swallowing
40 assessment and therapy.

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

4 (f) A licensed speech-language pathologist shall not perform a
5 flexible fiberoptic nasendoscopic procedure unless he or she has
6 received written verification from an otolaryngologist certified by
7 the American Board of Otolaryngology that the speech-language
8 pathologist has performed a minimum of 25 flexible fiberoptic
9 nasendoscopic procedures and is competent to perform these
10 procedures. The speech-language pathologist shall have this written
11 verification on file and readily available for inspection upon request
12 by the board. A speech-language pathologist shall pass a flexible
13 fiberoptic nasendoscopic instrument only under the direct
14 authorization of an otolaryngologist certified by the American
15 Board of Otolaryngology and the supervision of a physician and
16 surgeon.

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

22 (h) “Speech-language pathology aide” means any person
23 meeting the minimum requirements established by the board, who
24 works directly under the supervision of a speech-language
25 pathologist.

26 (i) (1) “Speech-language pathology assistant” means a person
27 who meets the academic and supervised training requirements set
28 forth by the board and who is approved by the board to assist in
29 the provision of speech-language pathology under the direction
30 and supervision of a speech-language pathologist who shall be
31 responsible for the extent, kind, and quality of the services provided
32 by the speech-language pathology assistant.

33 (2) The supervising speech-language pathologist employed or
34 contracted for by a public school may hold a valid and current
35 license issued by the board, a valid, current, and professional clear
36 clinical or rehabilitative services credential in language, speech,
37 and hearing issued by the Commission on Teacher Credentialing,
38 or other credential authorizing service in language, speech, and
39 hearing issued by the Commission on Teacher Credentialing that
40 is not issued on the basis of an emergency permit or waiver of

1 requirements. For purposes of this paragraph, a “clear” credential
2 is a credential that is not issued pursuant to a waiver or emergency
3 permit and is as otherwise defined by the Commission on Teacher
4 Credentialing. Nothing in this section referring to credentialed
5 supervising speech-language pathologists expands existing
6 exemptions from licensing pursuant to Section 2530.5.

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

8 (k) “The practice of audiology” means the application of
9 principles, methods, and procedures of measurement, testing,
10 appraisal, prediction, consultation, counseling, and instruction
11 related to auditory, vestibular, and related functions and the
12 modification of communicative disorders involving speech,
13 language, auditory behavior or other aberrant behavior resulting
14 from auditory dysfunction; and the planning, directing, conducting,
15 supervising, or participating in programs of identification of
16 auditory disorders, hearing conservation, cerumen removal, aural
17 habilitation, and rehabilitation, including, hearing aid
18 recommendation and evaluation procedures including, but not
19 limited to, specifying amplification requirements and evaluation
20 of the results thereof, auditory training, speech reading, and the
21 selling of hearing aids.

22 (l) “Audiology aide” means any person, meeting the minimum
23 requirements established by the board, who works directly under
24 the supervision of an audiologist.

25 (m) “Medical board” means the Medical Board of California.

26 (n) A “hearing screening” performed by a speech-language
27 pathologist means a binary puretone screening at a preset intensity
28 level for the purpose of determining if the screened individuals
29 are in need of further medical or audiological evaluation.

30 (o) “Cerumen removal” means the nonroutine removal of
31 cerumen within the cartilaginous ear canal necessary for access in
32 performance of audiological procedures that shall occur under
33 physician and surgeon supervision. Cerumen removal, as provided
34 by this section, shall only be performed by a licensed audiologist.
35 Physician and surgeon supervision shall not be construed to require
36 the physical presence of the physician, but shall include all of the
37 following:

38 (1) Collaboration on the development of written standardized
39 protocols. The protocols shall include a requirement that the
40 supervised audiologist immediately refer to an appropriate

1 physician any trauma, including skin tears, bleeding, or other
2 pathology of the ear discovered in the process of cerumen removal
3 as defined in this subdivision.

4 (2) Approval by the supervising physician of the written
5 standardized protocol.

6 (3) The supervising physician shall be within the general
7 vicinity, as provided by the physician-audiologist protocol, of the
8 supervised audiologist and available by telephone contact at the
9 time of cerumen removal.

10 (4) A licensed physician and surgeon may not simultaneously
11 supervise more than two audiologists for purposes of cerumen
12 removal.

13 *SEC. 4.5. Section 2530.2 of the Business and Professions Code*
14 *is amended to read:*

15 2530.2. As used in this chapter, unless the context otherwise
16 requires:

17 (a) “Board” means the Speech-Language Pathology and
18 Audiology and Hearing Aid Dispensers Board. *As used in this*
19 *chapter or any other provision of law, “Speech-Language*
20 *Pathology and Audiology Board” shall be deemed to refer to the*
21 *Speech-Language Pathology and Audiology and Hearing Aid*
22 *Dispensers Board or any successor.*

23 (b) “Person” means any individual, partnership, corporation,
24 limited liability company, or other organization or combination
25 thereof, except that only individuals can be licensed under this
26 chapter.

27 (c) A “speech-language pathologist” is a person who practices
28 speech-language pathology.

29 (d) The practice of speech-language pathology means all of the
30 following:

31 (1) The application of principles, methods, instrumental
32 procedures, and noninstrumental procedures for measurement,
33 testing, screening, evaluation, identification, prediction, and
34 counseling related to the development and disorders of speech,
35 voice, language, or swallowing.

36 (2) The application of principles and methods for preventing,
37 planning, directing, conducting, and supervising programs for
38 habilitating, rehabilitating, ameliorating, managing, or modifying
39 disorders of speech, voice, language, or swallowing in individuals
40 or groups of individuals.

1 (3) Conducting hearing screenings.

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

5 (e) (1) Instrumental procedures referred to in subdivision (d)
6 are the use of rigid and flexible endoscopes to observe the
7 pharyngeal and laryngeal areas of the throat in order to observe,
8 collect data, and measure the parameters of communication and
9 swallowing as well as to guide communication and swallowing
10 assessment and therapy.

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

14 (f) A licensed speech-language pathologist shall not perform a
15 flexible fiberoptic nasendoscopic procedure unless he or she has
16 received written verification from an otolaryngologist certified by
17 the American Board of Otolaryngology that the speech-language
18 pathologist has performed a minimum of 25 flexible fiberoptic
19 nasendoscopic procedures and is competent to perform these
20 procedures. The speech-language pathologist shall have this written
21 verification on file and readily available for inspection upon request
22 by the board. A speech-language pathologist shall pass a flexible
23 fiberoptic nasendoscopic instrument only under the direct
24 authorization of an otolaryngologist certified by the American
25 Board of Otolaryngology and the supervision of a physician and
26 surgeon.

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

32 (h) "Speech-language pathology aide" means any person
33 meeting the minimum requirements established by the board, who
34 works directly under the supervision of a speech-language
35 pathologist.

36 (i) (1) "Speech-language pathology assistant" means a person
37 who meets the academic and supervised training requirements set
38 forth by the board and who is approved by the board to assist in
39 the provision of speech-language pathology under the direction
40 and supervision of a speech-language pathologist who shall be

1 responsible for the extent, kind, and quality of the services provided
2 by the speech-language pathology assistant.

3 (2) The supervising speech-language pathologist employed or
4 contracted for by a public school may hold a valid and current
5 license issued by the board, a valid, current, and professional clear
6 clinical or rehabilitative services credential in language, speech,
7 and hearing issued by the Commission on Teacher Credentialing,
8 or other credential authorizing service in language, speech, and
9 hearing issued by the Commission on Teacher Credentialing that
10 is not issued on the basis of an emergency permit or waiver of
11 requirements. For purposes of this paragraph, a “clear” credential
12 is a credential that is not issued pursuant to a waiver or emergency
13 permit and is as otherwise defined by the Commission on Teacher
14 Credentialing. Nothing in this section referring to credentialed
15 supervising speech-language pathologists expands existing
16 exemptions from licensing pursuant to Section 2530.5.

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

18 (k) “The practice of audiology” means the application of
19 principles, methods, and procedures of measurement, testing,
20 appraisal, prediction, consultation, counseling, instruction related
21 to auditory, vestibular, and related functions and the modification
22 of communicative disorders involving speech, language, auditory
23 behavior or other aberrant behavior resulting from auditory
24 dysfunction; and the planning, directing, conducting, supervising,
25 or participating in programs of identification of auditory disorders,
26 hearing conservation, cerumen removal, aural habilitation, and
27 rehabilitation, including, hearing aid recommendation and
28 evaluation procedures including, but not limited to, specifying
29 amplification requirements and evaluation of the results thereof,
30 auditory training, and speech reading, *and the selling of hearing*
31 *aids.*

32 (l) “Audiology aide” means any person, meeting the minimum
33 requirements established by the board, ~~who works directly under~~
34 ~~the supervision of an audiologist.~~ *board. An audiology aide may*
35 *not perform any function that constitutes the practice of audiology*
36 *unless he or she is under the supervision of an audiologist. The*
37 *board may by regulation exempt certain functions performed by*
38 *an industrial audiology aide from supervision provided that his*
39 *or her employer has established a set of procedures or protocols*
40 *that the aide shall follow in performing these functions.*

1 (m) “Medical board” means the Medical Board of California
2 ~~or a division of the board.~~

3 (n) A “hearing screening” performed by a speech-language
4 pathologist means a binary puretone screening at a preset intensity
5 level for the purpose of determining if the screened individuals
6 are in need of further medical or audiological evaluation.

7 (o) “Cerumen removal” means the nonroutine removal of
8 cerumen within the cartilaginous ear canal necessary for access in
9 performance of audiological procedures that shall occur under
10 physician and surgeon supervision. Cerumen removal, as provided
11 by this section, shall only be performed by a licensed audiologist.
12 Physician and surgeon supervision shall not be construed to require
13 the physical presence of the physician, but shall include all of the
14 following:

15 (1) Collaboration on the development of written standardized
16 protocols. The protocols shall include a requirement that the
17 supervised audiologist immediately refer to an appropriate
18 physician any trauma, including skin tears, bleeding, or other
19 pathology of the ear discovered in the process of cerumen removal
20 as defined in this subdivision.

21 (2) Approval by the supervising physician of the written
22 standardized protocol.

23 (3) The supervising physician shall be within the general
24 vicinity, as provided by the physician-audiologist protocol, of the
25 supervised audiologist and available by telephone contact at the
26 time of cerumen removal.

27 (4) A licensed physician and surgeon may not simultaneously
28 supervise more than two audiologists for purposes of cerumen
29 removal.

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

32 2531. (a) There is in the Department of Consumer Affairs a
33 Speech-Language Pathology and Audiology and Hearing Aid
34 Dispensers Board in which the enforcement and administration of
35 this chapter are vested. The Speech-Language Pathology and
36 Audiology and Hearing Aid Dispensers Board shall consist of nine
37 members, three of whom shall be public members.

38 (b) This section shall remain in effect only until January 1, 2012,
39 and as of that date is repealed, unless a later enacted statute, that
40 is enacted before January 1, 2012, deletes or extends that date. The

1 repeal of this section renders the board subject to the review
2 required by Division 1.2 (commencing with Section 473).

3 SEC. 6. Section 2531.05 of the Business and Professions Code
4 is repealed.

5 SEC. 7. Section 2531.05 is added to the Business and
6 Professions Code, to read:

7 2531.05. (a) The Hearing Aid Dispensing Committee is hereby
8 created within the jurisdiction of the board.

9 (b) The committee shall be comprised of the following board
10 members:

11 (1) The two licensed audiologists.

12 (2) The two licensed hearing aid dispensers.

13 (3) One public member of the board.

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

16 (c) The committee shall review and research the practice of
17 fitting or selling hearing aids and shall advise the board about this
18 practice based on that review and research.

19 SEC. 8. Section 2531.06 is added to the Business and
20 Professions Code, to read:

21 2531.06. The board is vested with the duties, powers, purposes,
22 responsibilities, and jurisdiction over the licensing and regulation
23 of hearing aid dispensers as provided under the Hearing Aid
24 Dispenser Licensing Law (Chapter 7.5 (commencing with Section
25 3300)).

26 SEC. 9. Section 2531.2 of the Business and Professions Code
27 is amended to read:

28 2531.2. The membership of the board shall include two licensed
29 speech-language pathologists, two licensed audiologists, one of
30 whom shall be an audiologist that dispenses hearing aids, two
31 licensed hearing aid dispensers, and three public members one of
32 whom is a licensed physician and surgeon, board certified in
33 otolaryngology, and the remaining two public members who shall
34 not be licentiates of the board or of any board under this division
35 or of any board referred to in the Chiropractic Act or the
36 Osteopathic Act.

37 The Governor shall appoint the physician and surgeon member
38 and the other six licensed members qualified as provided in this
39 section. The initial appointments of the licensed hearing aid
40 dispenser members shall be made to fill the first licensed

1 audiologist member vacancy and the first licensed speech-language
2 pathologist member vacancy that occurs on or after January 1,
3 2010. The Senate Committee on Rules and the Speaker of the
4 Assembly shall each appoint a public member.

5 SEC. 10. Section 2534 of the Business and Professions Code
6 is amended to read:

7 2534. The board shall report to the Controller at the beginning
8 of each month for the month preceding the amount and source of
9 all revenue received by it pursuant to this chapter and Chapter 7.5
10 (commencing with Section 3300), and shall pay the entire amount
11 thereof to the Treasurer for deposit in the Speech-Language
12 Pathology and Audiology Fund, which fund is hereby created to
13 carry out the purposes of this chapter and Chapter 7.5 (commencing
14 with Section 3300).

15 SEC. 11. Section 2534.2 of the Business and Professions Code
16 is amended to read:

17 2534.2. The amount of the fees prescribed by this chapter is
18 that established by the following schedule:

19 (a) (1) The application fee and renewal fee for speech-language
20 pathologists and nondispensing audiologists shall be established
21 by the board in an amount that does not exceed one hundred fifty
22 dollars (\$150) but is sufficient to support the functions of the board
23 that relate to the functions authorized by this chapter, excluding
24 Article 9 (commencing with Section 2539.1).

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

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

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

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

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

38 (f) A fee of one hundred fifty dollars (\$150) shall be charged
39 for the issuance of and for the renewal of each approval as a

1 speech-language pathology assistant, unless a lower fee is
2 established by the board.

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

4 (h) The duplicate renewal receipt fee is twenty-five dollars
5 (\$25).

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

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

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

14
15 Article 9. Hearing Aids
16

17 2539.1. (a) (1) On and after January 1, 2010, in addition to
18 satisfying the licensure and examination requirements described
19 in Sections 2532 and 2532.2, no licensed audiologist shall sell
20 hearing aids unless he or she has completed an application for a
21 dispensing audiologist certificate, paid all applicable fees, and
22 passed an examination, approved by the board, relating to selling
23 hearing aids.

24 (2) The board shall issue a dispensing audiologist certificate to
25 a licensed audiologist who meets the requirements of paragraph
26 (1).

27 (b) On and after January 1, 2010, a licensed audiologist with
28 an unexpired license to sell hearing aids pursuant to Chapter 7.5
29 (commencing with Section 3300) may continue to sell hearing aids
30 pursuant to that license until that license expires pursuant to Section
31 3451, and upon that expiration the licensee shall be deemed to
32 have satisfied the requirements described in subdivision (a) and
33 may continue to sell hearing aids pursuant to his or her audiology
34 license subject to the provisions of this chapter. A licensed
35 audiologist whose license to sell hearing aids, issued pursuant to
36 Chapter 7.5 (commencing with Section 3300), is suspended or
37 revoked shall not be authorized to sell hearing aids pursuant to
38 this subdivision and he or she shall be subject to the requirements
39 described in subdivision (a) as well as the other provisions of this
40 chapter.

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

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

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

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

(3) The seller has received a statement which is signed by a physician and surgeon, audiologist, or a hearing aid dispenser, licensed by the State of California which verifies that Section 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

1 recommendation or consultation regarding the purchase of the
2 hearing aid.

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

6 2539.6. (a) Whenever any of the following conditions are
7 found to exist either from observations by the licensed audiologist
8 or on the basis of information furnished by the prospective hearing
9 aid user, a licensed audiologist shall, prior to fitting or selling a
10 hearing aid to any individual, suggest to that individual in writing
11 that his or her best interests would be served if he or she would
12 consult a licensed physician specializing in diseases of the ear or
13 if no licensed physician is available in the community then to a
14 duly licensed physician:

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

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

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

20 (4) Acute or chronic dizziness.

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

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

25 (b) No referral for medical opinion need be made by any
26 licensed audiologist in the instance of replacement only of a hearing
27 aid that has been lost or damaged beyond repair within one year
28 of the date of purchase. A copy of the written recommendation
29 shall be retained by the licensed audiologist for the period provided
30 for in Section 2539.10. A person receiving the written
31 recommendation who elects to purchase a hearing aid shall sign a
32 receipt for the same, and the receipt shall be kept with the other
33 papers retained by the licensed audiologist for the period provided
34 for in Section 2539.10. Nothing in this section required to be
35 performed by a licensed audiologist shall mean that the licensed
36 audiologist is engaged in the diagnosis of illness or the practice of
37 medicine or any other activity prohibited by the provisions of this
38 code.

39 2539.8. No hearing aid shall be sold by an individual licensed
40 as an audiologist under this chapter to a person 16 years of age or

1 younger, unless within the preceding six months a recommendation
2 for a hearing aid has been made by both a board-certified, or a
3 board-eligible physician specializing in otolaryngology, and by a
4 state licensed audiologist. A replacement of an identical hearing
5 aid within one year shall be an exception to this requirement.

6 2539.10. A licensed audiologist shall, upon the consummation
7 of a sale of a hearing aid, keep and maintain records in his or her
8 office or place of business at all times and each such record shall
9 be kept and maintained for a seven-year period. These records
10 shall include:

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

13 (b) A copy of the written receipt required by Section 2539.4
14 and the written recommendation and receipt required by Section
15 2539.6, when applicable.

16 2539.12. A licensed audiologist who is the owner, manager,
17 or franchisee at a location where hearing aids are fit or sold, shall
18 be responsible for the adequacy of the fitting or selling of any
19 hearing aid fit and sold by any licensee or licensees at that location.

20 ~~2539.14. Chapter 7.5 (commencing with Section 3300) does~~
21 ~~The provisions of subdivisions (b) and (c) of Section 3306 and the~~
22 ~~provisions of Section 3306.3 do not apply to a licensed audiologist~~
23 ~~who satisfies the requirements of Section 2539.1.~~

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

26 3300. For the purposes of this chapter, the following definitions
27 shall apply:

28 (a) "Person" includes any individual, partnership, corporation,
29 limited liability company, or other organization, or any combination
30 thereof.

31 (b) "Advertise" and its variants include the use of a newspaper,
32 magazine, or other publication, book, notice, circular, pamphlet,
33 letter, handbill, poster, bill, sign, placard, card, label, tag, window
34 display, store sign, radio, or television announcement, or any other
35 means or methods now or hereafter employed to bring to the
36 attention of the public the practice of fitting or selling of hearing
37 aids.

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

1 (d) “License” means a hearing aid dispenser’s license issued
2 pursuant to this chapter and includes a temporary license.

3 (e) “Licensee” means a person holding a license.

4 (f) “Hearing aid” means any wearable instrument or device
5 designed for, or offered for the purpose of, aiding or compensating
6 for impaired human hearing.

7 (g) “Fund” means the Speech-Language Pathology and
8 Audiology Fund.

9 (h) “Account” means the Hearing Aid Dispensers Account of
10 the Speech-Language Pathology and Audiology Fund. As used in
11 this chapter or any other provision of law, “Hearing Aid Dispensers
12 Fund” shall be deemed to refer to the Hearing Aid Dispensers
13 Account of the Speech-Language Pathology and Audiology Fund.

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

16 3306. (a) “Practice of fitting or selling hearing aids,” as used
17 in this chapter, means those practices used for the purpose of
18 selection and adaptation of hearing aids, including direct
19 observation of the ear, testing of hearing in connection with the
20 fitting and selling of hearing aids, taking of ear mold impressions,
21 fitting or sale of hearing aids, and any necessary postfitting
22 counseling.

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

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

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

32 (c) Hearing tests conducted pursuant to this chapter shall include
33 those that are in compliance with the Food and Drug
34 Administration Guidelines for Hearing Aid Devices and those that
35 are specifically covered in the licensing examination prepared and
36 administered by the board.

37 SEC. 15. Section 3307 of the Business and Professions Code
38 is amended to read:

1 3307. “Hearing aid dispenser,” as used in this chapter, means
2 a person engaged in the practice of fitting or selling hearing aids
3 to an individual with impaired hearing.

4 SEC. 16. Section 3320 of the Business and Professions Code
5 is repealed.

6 SEC. 17. Section 3320 is added to the Business and Professions
7 Code, to read:

8 3320. (a) The duties, powers, purposes, responsibilities, and
9 jurisdiction of the Hearing Aid Dispensers Bureau within the
10 Department of Consumer Affairs are hereby transferred to the
11 Speech-Language Pathology and Audiology Board.

12 (b) Any reference to the bureau in this chapter and its
13 regulations, and elsewhere, shall be construed as a reference to the
14 board.

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

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

23 (e) All regulations in Division 13.3 (commencing with Section
24 1399.100) of Title 16 of the California Code of Regulations are
25 continued in existence under the administration of the board.

26 SEC. 18. Section 3320.1 of the Business and Professions Code
27 is amended to read:

28 3320.1. Protection of the public shall be the highest priority
29 for the board in exercising its licensing, regulatory, and disciplinary
30 functions. Whenever the protection of the public is inconsistent
31 with other interests sought to be promoted, the protection of the
32 public shall be paramount.

33 SEC. 19. Section 3321 of the Business and Professions Code
34 is repealed.

35 SEC. 20. Section 3322 is added to the Business and Professions
36 Code, to read:

37 3322. (a) The duty of administering and enforcing this chapter
38 is vested in the board.

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

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

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

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

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

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

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

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

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

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

1 SEC. 25. Section 3328 of the Business and Professions Code
2 is amended to read:

3 3328. The board may adopt, amend, or repeal, in accordance
4 with the provisions of the Administrative Procedure Act,
5 regulations that are necessary to enable the board to carry into
6 effect the provisions of law relating to the practice of fitting or
7 selling hearing aids.

8 SEC. 26. Section 3329 of the Business and Professions Code
9 is amended to read:

10 3329. (a) The board may prosecute any and all persons for
11 any violation of this chapter.

12 (b) The board shall hear and decide all matters, including but
13 not limited to, any contested case or any petition for reinstatement
14 or modification of probation, or may assign any of those matters
15 to an administrative law judge in accordance with the
16 Administrative Procedure Act. Except as otherwise provided in
17 this chapter, all hearings shall be conducted in accordance with
18 Chapter 5 (commencing with Section 11500) of Part 1 of Division
19 3 of Title 2 of the Government Code.

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

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

24 3350. It is unlawful for an individual to engage in the practice
25 of fitting or selling hearing aids, or to display a sign or in any other
26 way to advertise or hold himself or herself out as being so engaged
27 without having first obtained a license from the board under the
28 provisions of this chapter. Nothing in this chapter shall prohibit a
29 corporation, partnership, trust, association or other like organization
30 maintaining an established business address from engaging in the
31 business of fitting or selling, or offering for sale, hearing aids at
32 retail without a license, provided that any and all fitting or selling
33 of hearing aids is conducted by the individuals who are licensed
34 pursuant to the provisions of this chapter. A person whose license
35 as a hearing aid dispenser has been suspended or revoked shall not
36 be the proprietor of a business that engages in the practice of fitting
37 or selling hearing aids nor shall that person be a partner,
38 shareholder, member, or fiduciary in a partnership, corporation,
39 association, or trust that maintains or operates that business, during
40 the period of the suspension or revocation. This restriction shall

1 not apply to stock ownership in a corporation that is listed on a
2 stock exchange regulated by the Securities and Exchange
3 Commission if the stock is acquired in a transaction conducted
4 through that stock exchange.

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

7 ~~3351.3. This chapter does not apply to nor affect any physician~~
8 ~~and surgeon licensed under Chapter 5 (commencing with Section~~
9 ~~2000) of Division 2 who does not directly or indirectly engage in~~
10 ~~the sale or offering for sale of hearing aids, nor to any audiologist~~
11 ~~licensed under Chapter 5.3 (commencing with Section 2530).~~

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

14 3352. Each person desiring to obtain a license to engage in the
15 practice of fitting or selling hearing aids shall make application to
16 the board. The application shall be made upon a form and shall be
17 made in the manner as is provided by the board and shall be
18 accompanied by the fee provided for in Section 3456.

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

21 3353. (a) The board shall prepare, approve, grade, and conduct
22 examinations of applicants for a hearing aid dispenser's license.
23 The board may provide that the preparation and grading of the
24 examination be conducted by a competent person or organization
25 other than the board, provided, however, that the board shall
26 establish the guidelines for the examination and shall approve the
27 actual examination.

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

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

35 3354. The board shall issue a license to all applicants who have
36 satisfied this chapter, who are at least 18 years of age, who possess
37 a high school diploma or its equivalent, who have not committed
38 acts or crimes constituting grounds for denial of licensure under
39 Section 480, and who have paid the fees provided for in Section

1 3456. No license shall be issued to any person other than an
2 individual.

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

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

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

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

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

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

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

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

1 who is entitled to renew a temporary license does not renew the
2 temporary license and applies for a new temporary license at a
3 later time, the new temporary license shall only be issued and
4 renewed subject to the limitations set forth in this subdivision.

5 *SEC. 34.5. Section 3357 of the Business and Professions Code*
6 *is amended to read:*

7 3357. (a) An applicant who has fulfilled the requirements of
8 Section 3352, and has made application therefor, and who proves
9 to the satisfaction of the ~~bureau~~ board that he or she will be
10 supervised and trained by a hearing aid dispenser who is approved
11 by the ~~bureau~~ board may have a temporary license issued to him
12 or her. The temporary license shall entitle the temporary licensee
13 to fit or sell hearing aids as set forth in regulations of the ~~bureau~~
14 board. The supervising dispenser shall be responsible for any acts
15 or omissions committed by a temporary licensee under his or her
16 supervision that may constitute a violation of this chapter.

17 (b) The ~~bureau~~ board shall adopt regulations setting forth criteria
18 for its refusal to approve a hearing aid dispenser to supervise a
19 temporary licensee, including procedures to appeal that decision.

20 (c) A temporary license issued pursuant to this section is
21 effective and valid for six months from date of issue. The ~~bureau~~
22 board may renew the temporary license for an additional period
23 of six months. ~~The bureau~~ *Except as provided in subdivision (d),*
24 *the board* shall not issue more than two renewals of a temporary
25 license to any applicant. ~~If~~ *Notwithstanding subdivision (d), if a*
26 *temporary licensee who is entitled to renew a temporary license*
27 *does not renew the temporary license and applies for a new*
28 *temporary license at a later time, the new temporary license shall*
29 *only be issued and renewed subject to the limitations set forth in*
30 *this subdivision.*

31 (d) *A new temporary license may be issued pursuant to this*
32 *section if a temporary license issued pursuant to subdivision (c)*
33 *has lapsed for a minimum of three years from the expiration or*
34 *cancellation date of the previous temporary license. The bureau*
35 *may issue only one new temporary license under this subdivision.*

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

38 3358. A temporary licensee under Section 3357 shall take the
39 license examination within the first 10 months after the temporary
40 license is issued. Failure to take the license examination within

that time shall result in expiration of the temporary license, and it shall not be renewed unless the temporary licensee has first taken the licensure examination. The board, however, may in its discretion renew the temporary license if the licensee failed to take the necessary examination due to illness or other hardship.

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

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

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

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

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

SEC. 37.5. *Section 3362 of the Business and Professions Code is amended to read:*

3362. (a) Before engaging in the practice of fitting or selling hearing aids, each licensee shall notify the ~~bureau~~ board in writing of the address or addresses where he or she is to engage, or intends to engage, in the *practice of fitting or selling* ~~of~~ hearing aids, and of any changes in his or her place of business *within 30 days of engaging in that practice.*

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

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

1 3364. (a) Every licensee who engages in the practice of fitting
2 or selling hearing aids shall have and maintain an established retail
3 business address to engage in that fitting or selling, routinely open
4 for service to customers or clients. The address of the licensee's
5 place of business shall be registered with the bureau as provided
6 in Section 3362.

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

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

22 SEC. 39. Section 3400 of the Business and Professions Code
23 is amended to read:

24 3400. Proceedings to deny, suspend, or revoke a license under
25 this chapter, shall be conducted in accordance with Chapter 5
26 (commencing with Section 11500) of Part 1 of Division 3 of Title
27 2 of the Government Code, and the board shall have all of the
28 powers granted therein.

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

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

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

36 (b) Gross negligence.

37 (c) Repeated negligent acts.

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

40 (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. 41. Section 3402 of the Business and Professions Code
21 is amended to read:

22 3402. Upon denial of an application for license, the board shall
23 notify the applicant in writing, stating (1) the reason for the denial
24 and (2) that the applicant has a right to a hearing under Section
25 3400 if he or she makes written request therefor within 60 days
26 after notice of denial. Service of the notice required by this section
27 may be made by certified mail addressed to the applicant at the
28 latest address filed by the applicant in writing with the board in
29 his or her application or otherwise.

30 SEC. 42. Section 3403 of the Business and Professions Code
31 is amended to read:

32 3403. A plea or verdict of guilty or a conviction following a
33 plea of nolo contendere, made to a charge substantially related to
34 the qualifications, functions, and duties of a hearing aid dispenser
35 is deemed to be a conviction within the meaning of this article.
36 The board may order the license suspended or revoked, impose
37 probationary conditions on a licensee, or may decline to issue a
38 license, when the time for appeal has elapsed, or the judgment of
39 conviction has been affirmed on appeal, or when an order granting
40 probation is made suspending the imposition of sentence,

1 irrespective of a subsequent order under Section 1203.4 of the
2 Penal Code allowing the person to withdraw his or her plea of
3 guilty and to enter a plea of not guilty, or setting aside the verdict
4 of guilty, or dismissing the accusation, information, or indictment.

5 SEC. 43. Section 3404 of the Business and Professions Code
6 is amended to read:

7 3404. Before setting aside the revocation or suspension of any
8 license or modifying the probation of any licensee, the board may
9 require the petitioner to pass the regular examination given for
10 applicants for licenses.

11 SEC. 44. Section 3421 of the Business and Professions Code
12 is amended to read:

13 3421. It is unlawful to sell or barter, or offer to sell or barter,
14 any license issued by the board.

15 SEC. 45. Section 3422 of the Business and Professions Code
16 is amended to read:

17 3422. It is unlawful to purchase or procure by barter any license
18 issued by the board with intent to use the same as evidence of the
19 holder's qualification to practice the fitting or selling of hearing
20 aids.

21 SEC. 46. Section 3423 of the Business and Professions Code
22 is amended to read:

23 3423. It is unlawful to alter with fraudulent intent in any
24 material regard a license issued by the board.

25 SEC. 47. Section 3424 of the Business and Professions Code
26 is amended to read:

27 3424. It is unlawful to use or attempt to use any license issued
28 by the board that has been purchased, fraudulently issued,
29 counterfeited, or materially altered as a valid license.

30 SEC. 48. Section 3426 of the Business and Professions Code
31 is amended to read:

32 3426. It is unlawful to willfully make any false statement in a
33 material regard in an application for an examination before the
34 board for a license.

35 SEC. 49. Section 3430 of the Business and Professions Code
36 is amended to read:

37 3430. In addition to other proceedings provided for in this
38 chapter, whenever any person has engaged, or is about to engage,
39 in any acts or practices that constitute, or will constitute, an offense
40 against this chapter, the superior court for the county wherein the

1 acts or practices take place or are about to take place, may issue
2 an injunction or other appropriate order, restraining such conduct
3 on application of the board, the Attorney General, or the district
4 attorney of the county. If the acts or practices constitute, or will
5 constitute, an offense against Section 3306.5, the application to
6 the superior court may be made by the State Board of Optometry.
7 The proceedings under this section shall be governed by Chapter
8 3 (commencing with Section 525) of Title 7 of Part 2 of the Code
9 of Civil Procedure.

10 SEC. 50. Section 3451 of the Business and Professions Code
11 is amended to read:

12 3451. (a) A license issued under this chapter expires at
13 midnight on its assigned renewal date.

14 (b) To renew an unexpired license, the licensee shall, on or
15 before the date of expiration of the license, apply for renewal on
16 a form provided by the board, accompanied by the prescribed
17 renewal fee.

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

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

26 SEC. 51. Section 3452 of the Business and Professions Code
27 is amended to read:

28 3452. Except as otherwise provided in this chapter, an expired
29 license may be renewed at any time within three years after its
30 expiration on filing of an application for renewal on a form
31 prescribed by the board, and payment of all accrued and unpaid
32 renewal fees. If the license is renewed after its expiration the
33 licensee, as a condition precedent to renewal, shall also pay the
34 delinquency fee prescribed by this chapter. Renewal under this
35 section shall be effective on the date on which the application is
36 filed, on the date on which the renewal fee is paid, or on the date
37 on which the delinquency fee, if any, is paid, whichever last occurs.
38 If so renewed, the license shall continue in effect through the date
39 provided in Section 3451 which next occurs after the effective date
40 of the renewal, when it shall expire if it is not again renewed.

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

3 3454. A license that is not renewed within three years after its
4 expiration may not be renewed, restored, reissued, or reinstated
5 thereafter, but the holder of the expired license may apply for and
6 obtain a new license if all of the following apply:

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

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

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

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

21 3455. (a) The Hearing Aid Dispensers Account is hereby
22 created in the Speech-Language Pathology and Audiology Fund.

23 (b) All money in the Hearing Aid Dispensers Fund on January
24 1, 2010, shall be transferred on that date to the Hearing Aid
25 Dispensers Account of the Speech-Language Pathology and
26 Audiology Fund. All fees collected pursuant to this chapter shall
27 be paid by the board into the Hearing Aid Dispensers Account of
28 the Speech-Language Pathology and Audiology Fund. All money
29 in that account and fund shall be used to carry out the purposes of
30 this chapter and Chapter 5.3 (commencing with Section 2530), as
31 provided in Section 2534.

32 SEC. 54. Section 3456 of the Business and Professions Code
33 is amended to read:

34 3456. The amount of fees and penalties prescribed by this
35 chapter shall be those set forth in this section unless a lower fee
36 is fixed by the board:

37 (a) The fee for applicants applying for the first time for a license
38 is seventy-five dollars (\$75), which shall not be refunded, except
39 to applicants who are found to be ineligible to take an examination

1 for a license. Those applicants are entitled to a refund of fifty
2 dollars (\$50).

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

7 (c) The initial temporary license fee is one hundred dollars
8 (\$100). The fee for renewal of a temporary license is one hundred
9 dollars (\$100) for each renewal.

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

13 (e) The initial branch office license fee is twenty-five dollars
14 (\$25). The fee for renewal of a branch office license is twenty-five
15 dollars (\$25) for each renewal.

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

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

19 (h) The continuing education course approval application fee
20 is fifty dollars (\$50). The fee for a continuing education course
21 transcript is ten dollars (\$10).

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

24 *SEC. 54.5. Section 3456 of the Business and Professions Code*
25 *is amended to read:*

26 3456. The amount of fees and penalties prescribed by this
27 chapter shall be those set forth in this section unless a lower fee
28 is fixed by the ~~bureau~~ board:

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

34 (b) The fees for taking or retaking the written and practical
35 examinations shall be amounts fixed by the ~~bureau~~ board, which
36 shall be equal to the actual cost of preparing, grading, analyzing,
37 and administering the examinations.

38 (c) The initial temporary license fee is one hundred dollars
39 (\$100). The fee for renewal of a temporary license is one hundred
40 dollars (\$100) for each renewal.

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

4 (e) The initial branch office license fee is twenty-five dollars
5 (\$25). The fee for renewal of a branch office license is twenty-five
6 dollars (\$25) for each renewal.

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

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

10 (h) The continuing education course approval application fee
11 is fifty dollars (\$50). ~~The fee for a continuing education course~~
12 ~~transcript is ten dollars (\$10).~~

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

15 SEC. 55. (a) The Legislature finds and declares that the license
16 fees for audiologists who sell hearing aids and the license fees for
17 hearing aid dispensers will need to be adjusted to reflect the transfer
18 of duties, powers, purposes, and responsibilities from the Hearing
19 Aid Dispensers Bureau to the Speech-Language Pathology and
20 Audiology and Hearing Aid Dispensers Board pursuant to this act,
21 and to ensure that the fees paid to support the board in its regulation
22 of licensed audiologists who sell hearing aids and hearing aid
23 dispensers are fairly appropriated.

24 (b) The Speech-Language Pathology and Audiology and Hearing
25 Aid Dispensers Board shall, no later than January 1, 2011, review
26 the license fees paid by audiologists and hearing aid dispensers in
27 order to assess whether that revenue is adequate to support the
28 functions of the board that relate to the functions authorized by
29 Chapter 5.3 (commencing with Section 2530) and Chapter 7.5
30 (commencing with Section 3300) of Division 2 of the Business
31 and Professions Code.

32 *SEC. 56. In transferring the duties, powers, purposes,*
33 *responsibilities, and jurisdiction of the Hearing Aid Dispenser's*
34 *Bureau to the Speech-Language Pathology and Audiology Board*
35 *and Hearing Aid Dispensers Board, it is the intent of the*
36 *Legislature that, to the extent possible, the appointed members of*
37 *the board shall remain as members of the board subject to the*
38 *terms specified under this act. It is the intent of the Legislature*
39 *that the executive officer of the board shall remain as the executive*
40 *officer of the board under the terms of this act.*

1 *SEC. 57. (a) Section 1.1 of this bill incorporates amendments*
2 *to Section 101 of the Business and Professions Code proposed by*
3 *both this bill and AB 48. It shall only become operative if (1) both*
4 *bills are enacted and become effective on or before January 1,*
5 *2010, (2) each bill amends Section 101 of the Business and*
6 *Professions Code, (3) SB 819 is not enacted or as enacted does*
7 *not amend that section, and (4) this bill is enacted after AB 48, in*
8 *which case Sections 1, 1.2, and 1.3 of this bill shall not become*
9 *operative.*

10 *(b) Section 1.2 of this bill incorporates amendments to Section*
11 *101 of the Business and Professions Code proposed by both this*
12 *bill and SB 819. It shall only become operative if (1) both bills are*
13 *enacted and become effective on or before January 1, 2010, (2)*
14 *each bill amends Section 101 of the Business and Professions*
15 *Code, (3) AB 48 is not enacted or as enacted does not amend that*
16 *section, and (4) this bill is enacted after SB 819, in which case*
17 *Section 101 of the Business and Professions Code as amended by*
18 *SB 819, shall remain operative only until the operative date of this*
19 *bill, at which time Section 1.2 of this bill shall become operative,*
20 *and Sections 1, 1.1, and 1.3 of this bill shall not become operative.*

21 *(c) Section 1.3 of this bill incorporates amendments to Section*
22 *101 of the Business and Professions Code proposed by this bill,*
23 *AB 48, and SB 819. It shall only become operative if (1) all three*
24 *bills are enacted and become effective on or before January 1,*
25 *2010, (2) all three bills amend Section 101 of the Business and*
26 *Professions Code, and (3) this bill is enacted after AB 48, and SB*
27 *819, in which case Section 101 of the Business and Professions*
28 *Code as amended by SB 819, shall remain operative only until the*
29 *operative date of this bill, at which time Section 1.3 of this bill*
30 *shall become operative and Sections 1, 1.1, and 1.2 of this bill*
31 *shall not become operative.*

32 *SEC. 58. (a) Section 2.1 of this bill incorporates amendments*
33 *to Section 149 of the Business and Professions Code proposed by*
34 *both this bill and AB 48. It shall only become operative if (1) both*
35 *bills are enacted and become effective on or before January 1,*
36 *2010, (2) each bill amends Section 149 of the Business and*
37 *Professions Code, (3) SB 819 is not enacted or as enacted does*
38 *not amend that section, and (4) this bill is enacted after AB 48, in*
39 *which case Sections 2, 2.2, and 2.3 of this bill shall not become*
40 *operative.*

1 (b) Section 2.2 of this bill incorporates amendments to Section
2 149 of the Business and Professions Code proposed by both this
3 bill and SB 819. It shall only become operative if (1) both bills are
4 enacted and become effective on or before January 1, 2010, (2)
5 each bill amends Section 149 of the Business and Professions
6 Code, (3) AB 48 is not enacted or as enacted does not amend that
7 section, and (4) this bill is enacted after SB 819, in which case
8 Section 149 of the Business and Professions Code as amended by
9 SB 819, shall remain operative only until the operative date of this
10 bill, at which time Section 2.2 of this bill shall become operative,
11 and Sections 2, 2.1, and 2.3 of this bill shall not become operative.

12 (c) Section 2.3 of this bill incorporates amendments to Section
13 149 of the Business and Professions Code proposed by this bill,
14 AB 48, and SB 819. It shall only become operative if (1) all three
15 bills are enacted and become effective on or before January 1,
16 2010, (2) all three bills amend Section 149 of the Business and
17 Professions Code, and (3) this bill is enacted after AB 48, and SB
18 819 in which case Section 149 of the Business and Professions
19 Code as amended by SB 819, shall remain operative only until the
20 operative date of this bill, at which time Section 2.3 of this bill
21 shall become operative and Sections 2, 2.1, and 2.2 of this bill
22 shall not become operative.

23 SEC. 59. Section 4.5 of this bill incorporates amendments to
24 Section 2530.2 of the Business and Professions Code proposed by
25 both this bill and SB 821. It shall only become operative if (1) both
26 bills are enacted and become effective on or before January 1,
27 2010, (2) each bill amends Section 2530.2 of the Business and
28 Professions Code, and (3) this bill is enacted after SB 821, in which
29 case Section 4 of this bill shall not become operative.

30 SEC. 60. Section 34.5 of this bill incorporates amendments to
31 Section 3357 of the Business and Professions Code proposed by
32 both this bill and SB 821. It shall only become operative if (1) both
33 bills are enacted and become effective on or before January 1,
34 2010, (2) each bill amends Section 3357 of the Business and
35 Professions Code, and (3) this bill is enacted after SB 821, in which
36 case Section 34 of this bill shall not become operative.

37 SEC. 61. Section 37.5 of this bill incorporates amendments to
38 Section 3362 of the Business and Professions Code proposed by
39 both this bill and SB 821. It shall only become operative if (1) both
40 bills are enacted and become effective on or before January 1,

1 2010, (2) each bill amends Section 3362 of the Business and
2 Professions Code, and (3) this bill is enacted after SB 821, in which
3 case Section 37 of this bill shall not become operative.

4 SEC. 62. Section 54.5 of this bill incorporates amendments to
5 Section 3456 of the Business and Professions Code proposed by
6 both this bill and SB 821. It shall only become operative if (1) both
7 bills are enacted and become effective on or before January 1,
8 2010, (2) each bill amends Section 3456 of the Business and
9 Professions Code, and (3) this bill is enacted after SB 821, in which
10 case Section 54 of this bill shall not become operative.

11 ~~SEC. 56.~~

12 SEC. 63. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.