



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Health- Board of Hearing and Speech

- Preproposal Statement of Inquiry was filed as WSR 15-03-068 ; or
- Expedited Rule Making--Proposed notice was filed as WSR _ ; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR

Title of rule and other identifying information: (Describe Subject)

Chapter 246-828 WAC Hearing and Speech. Amending the chapter to implement Engrossed House Bill (EHB) 2108 (Chapter 189, Laws of 2014) to establish standards for a nine-month certificate as a route to licensure for hearing aid specialists. Other changes include general updates for housekeeping, exam standards, continuing education, sexual misconduct standards, and adding a provision for temporary practice permits for military spouses.

Hearing location(s): Department of Health
Creekside Two at CenterPoint
20425 72nd Ave S
Suite 309
Kent, WA 98032

Date: May 27, 2015 Time: 9:00 a.m.

Submit written comments to:

Name: Janette Benham, Program Manager
Address: Board of Hearing and Speech
P.O. Box 47852
Olympia, WA 98504-7852
e-mail: <http://www3.doh.wa.gov/policyreview/>
fax 360-236-2901 by (date) 05/20/2015

Assistance for persons with disabilities: Contact

Janette Benham by 05/13/2015

TTY (800) 833-6388 or () 711

Date of intended adoption: 05/27/2015

(Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The Board of Hearing and Speech is proposing rule amendments to implement EHB 2108 which changed the hearing instrument fitter/dispenser credential to a hearing aid specialist credential and added a route to licensure for hearing aid specialists that includes a practical exam and a nine-month certificate from a hearing aid specialist program. The rules also propose general housekeeping updates, adding CE requirements for speech-language pathology assistants, adding multicultural education as an acceptable CE category, updating exam standards, updating sexual misconduct rules, and adding a provision for a temporary practice permit for military spouses.

Reasons supporting proposal:

EHB 2108 amended chapter 18.35 RCW to change the hearing instrument fitter/dispenser credential to a hearing aid specialist credential and add a practical exam and a nine-month certificate as a pathway to licensure for hearing aid specialists. In addition, RCW 43.70.041 requires a review of rules every five years. The board is updating and revising rules for general housekeeping changes to meet these requirements.

Statutory authority for adoption:

RCW 18.35.161, EHB 2108, RCW 18.130.062, and RCW 18.130.020

Statute being implemented:

Chapter 18.35 RCW, EHB 2108, RCW 43.70.041, RCW 18.340.020

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

DATE 04/21/2015

NAME (type or print)

James Deal

SIGNATURE

TITLE

Chair

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: **April 21, 2015**

TIME: **9:07 AM**

WSR **15-09-112**

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization) Department of Health, Board of Hearing and Speech

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Janette Benham	111 Israel Rd SE, Tumwater, WA 98501	360-236-4857
Implementation....Janette Benham	111 Israel Rd SE, Tumwater, WA 98501	360-236-4857
Enforcement.....Janette Benham	111 Israel Rd SE, Tumwater, WA 98501	360-236-4857

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone

fax

e-mail

No. Explain why no statement was prepared.

A small business economic impact statement was not prepared. The proposed rule would not impose more than minor costs on businesses in the industry.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Janette Benham

Address: 111 Israel Rd SE, Tumwater, WA 98501

phone 360-236-4857

fax 360-236-2901

e-mail janette.benham@doh.wa.gov

No: Please explain:

AMENDATORY SECTION (Amending WSR 03-21-114, filed 10/20/03, effective 11/20/03)

WAC 246-828-020 Examinations. (~~((1) The examination required of hearing instrument fitter/dispenser license applicants shall be the International Institute for Hearing Instrument Studies (IIHIS) including a passing score according to standards established by the International Hearing Society.~~

~~Applications for examinations shall be received by the department at least sixty days prior to the date of the scheduled examination. If the application is received less than sixty days before the next scheduled examination, the applicant will be scheduled for the second examination following receipt of the application.~~

~~(2) The examination required of audiology license applicants shall be the National Examination in Audiology (NESPA), including a passing examination score of six hundred or greater.~~

~~(3) The examination required of speech language pathologist license applicants shall be the National Examination in Speech Language Pathology (NESPA), including a passing examination score of six hundred or greater.)~~ (1) All hearing aid specialist credential applicants are required to take the written International Licensing Exam developed by the International Hearing Society or other entity approved by the board. Applicants must obtain a passing score as recommended by the examination administrator and as approved by the board.

(2) Hearing aid specialist credential applicants who have completed a board-approved nine-month certificate program are required to take the practical examination approved by the board. Applicants must obtain a passing score as recommended by the examination administrator and as approved by the board.

(3) Audiology credential applicants are required to take the Praxis audiology exam or other entity approved by the board. Applicants must obtain a passing score as recommended by the examination administrator and as approved by the board.

(4) Speech-language pathologist credential applicants are required to take the Praxis speech-language pathology exam or other entity approved by the board. Applicants must obtain a passing score as recommended by the examination administrator and as approved by the board.

(5) All credential applicants are required to take and pass a jurisprudence examination approved by the board. The passing score on the jurisprudence examination is one hundred percent.

AMENDATORY SECTION (Amending WSR 10-15-093, filed 7/20/10, effective 7/26/10)

WAC 246-828-025 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Board-approved institution of higher education" means:

(a) An institution offering a program in audiology or speech-language pathology leading to a master's degree(~~(7)~~) or its equivalent, or a doctorate degree or its equivalent, that has been accredited by

the council on academic accreditation in audiology and speech-language pathology, or an equivalent program.

(b) An institution offering a speech-language pathology assistant program or a speech, language, and hearing program approved by the state board for community and technical colleges, the higher education coordinating board, or an equivalent body from another state or province. This program must lead to an associate of arts or sciences degree, certificate of proficiency, or bachelor of arts or sciences degree.

(c) A board-approved institution (~~shall~~) must integrate instruction in multicultural health as part of its basic education preparation curriculum under RCW 43.70.615.

(2) "Direct supervision" means the supervisor is on-site and in view during the procedures or tasks.

(3) "Indirect supervision" means the procedures or tasks are performed under the supervising speech-language pathologist's, audiologist's, or hearing aid specialist's overall direction and control and the supervisor is accessible, but the supervisor's presence is not required during the performance of procedures or tasks.

(4) "Place or places of business" means a permanent address open to the public, which may include an "establishment" as defined in RCW 18.35.010(6), where a licensee engages in the fitting and dispensing of hearing instruments.

(5) "Postgraduate professional work experience" means a supervised full-time professional experience, or the part-time equivalent, as defined in these rules, involving direct (~~(patient/client)~~) patient or client contact, consultations, recordkeeping, and administrative duties relevant to a bona fide program of clinical work.

(a) "Full-time professional experience" means at least 30 hours per week over 36 weeks. Postgraduate professional work experience must be obtained over a period of at least 36 weeks. Applicants who obtain an Au.D. at a board-approved institution of higher education are considered to have met the postgraduate professional work experience requirement.

(b) "Part-time equivalent" means any of the following:

(i) 15-19 hours per week over 72 weeks;

(ii) 20-24 hours per week over 60 weeks;

(iii) 25-29 hours per week over 48 weeks.

~~((3) "Supervising speech language pathologist" means a licensed speech language pathologist or speech language pathologist certified as an educational staff associate by the superintendent of public instruction.~~

~~(4) "Direct supervision of a speech language pathology assistant" means the supervising speech language pathologist is on site and in view during the procedures or tasks.~~

~~(5) "Indirect supervision of a speech language pathology assistant" means the procedures or tasks are performed under the speech language pathologist's overall direction and control, but the speech language pathologist's presence is not required during the performance of the procedures or tasks.)~~

(6) "Purchaser" or "buyer" means a patient, client, or legally authorized representative.

WAC 246-828-040 Examination review and appeal procedures—Hearing aid specialist. (1) ~~((Each applicant who takes the examination for licensure and does not pass any part of the examination shall be provided information indicating the area of the examination in which the applicant was deficient with the notice of the examination results.~~

~~(2))~~ Any applicant who does not pass ~~((a part of))~~ the examination may request an informal review by the board of ~~((his or her))~~ the examination results. This request must be in writing and must be received by the department within thirty days of the ~~((postmark of the notice of examination results))~~ date the examination results were transmitted to the applicant.

~~((3))~~ (2) The procedure for the informal review is as follows:

(a) An applicant submitting a written request for an informal review by the deadline described in subsection ~~((2))~~ (1) of this section ~~((shall))~~ will be contacted by the department to arrange an appointment to appear ~~((personally in the Olympia office))~~ in person at a time and place determined by the department to review the ~~((part or parts of the examination failed))~~ examination.

(b) The applicant ~~((shall))~~ will be provided a form to complete ~~((in the Olympia office))~~ in defense of the applicant's examination answers ~~((and/or examination performance))~~ at the time of the examination review.

(c) The applicant ~~((shall))~~ will be identified only by applicant number for the purpose of this procedure. Letters of reference or requests for special consideration ~~((shall))~~ will not be read or considered by the board.

(d) ~~((That))~~ The applicant may bring textbooks or published material for use in completing the informal review, but such material must be retained by the ~~((Olympia office))~~ department until the board has completed the informal review ~~((request submitted by the applicant)).~~

(e) The applicant ~~((shall))~~ will not be allowed to take any notes or materials from the ~~((office upon leaving))~~ review location.

(f) The information submitted to the board for its consideration in the informal review must state the specific reason or reasons why the results of the examination should be changed. The board ~~((shall))~~ will not modify examination results unless the applicant can prove or show conclusive evidence of error in examination content or procedure, or bias, prejudice, or discrimination in the examination process. The board ~~((shall))~~ will not consider a challenge to the examination unless the total revised score including the questions or sections to be reviewed could result in a passing score in the examination.

(g) The board ~~((shall))~~ will schedule a closed session meeting to conduct the informal review of the material submitted by the applicant.

(h) The applicant ~~((shall))~~ will be notified in writing of the results of the informal review.

~~((4))~~ Any applicant who is not satisfied with the result of the examination review may request that a formal hearing be held before the board pursuant to the Administrative Procedure Act. Such a hearing request must be received by the department within thirty days of postmark of the notification of the result of the board's informal review

~~of the applicant's examination results. The request must be in writing and must state the specific reasons why the results of the examination should be changed. The board shall not modify examination results unless the applicant can prove or show conclusive evidence of error in examination content or procedure, or bias, prejudice, or discrimination in the examination process. The board shall not consider a challenge to the examination unless the total revised score including the questions or sections to be reconsidered could result in a passing score in the examination.~~

~~(5) The hearing shall not be scheduled until the applicant and the state's attorney have appeared before an administrative law judge for a prehearing conference to consider the following:~~

~~(a) The simplification of issues;~~

~~(b) The necessity of amendments to the notice of specific reasons for the examination result modification;~~

~~(c) The possibility of obtaining stipulations, admission of facts and documents;~~

~~(d) The limitation of the number of expert witnesses;~~

~~(e) A schedule for completion of all discovery; and,~~

~~(f) Such other matters as may aid in the disposition of the proceeding.~~

~~(6) The administrative law judge shall enter an order which recites the actions taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order shall control the subsequent course of the proceeding unless modified for good cause by subsequent prehearing order.~~

~~(7) Applicants shall receive at least twenty days notice of the time and place of the formal hearing. The hearing shall be restricted to the specific reasons the applicant has identified as the basis for a change in the examination score.)~~

AMENDATORY SECTION (Amending WSR 06-19-109, filed 9/20/06, effective 10/21/06)

WAC 246-828-045 Interim permit—Audiologist and speech-language pathologist. (1) The department ((shall)) will issue an interim permit to any audiologist or speech-language pathologist applicant who has shown to the satisfaction of the department that the applicant:

(a) Has completed the academic course work and clinical practicum as required in RCW 18.35.040.

(b) Is supervised by a speech-language pathologist or audiologist who is licensed and in good standing under chapter 18.35 RCW((, in good standing for at least two years)) unless otherwise approved by the board.

(c) Has paid the application and permit fee as required by WAC 246-828-990.

(2) ((RCW 18.35.030, 18.35.110, 18.35.120 apply to interim permit holders. An audiology interim permit holder may engage in the fitting and dispensing of hearing instruments.

~~(3))~~ The interim permit must contain the name and title of the supervisor licensed under chapter 18.35 RCW.

~~((4) A licensed audiologist or speech language pathologist under chapter 18.35 RCW may supervise up to four interim permit holders concurrently.))~~ (3) The interim permit expires one year from the date it is issued. The board may extend the interim permit an additional twenty-four months to accommodate part-time postgraduate professional work experience or upon request of the interim permit holder due to illness or extenuating circumstances.

AMENDATORY SECTION (Amending WSR 06-19-109, filed 9/20/06, effective 10/21/06)

WAC 246-828-04503 Postgraduate professional work experience—Audiologist and speech-language pathologist. (1) The interim permit period must consist of at least thirty-six weeks of full-time postgraduate professional work experience or its part-time equivalent.

(a) Postgraduate professional work experience of less than fifteen hours per week does not meet the requirement and may not be counted toward the postgraduate professional work experience. Experience of more than thirty hours per week may not be used to shorten the postgraduate professional work experience to less than thirty-six weeks.

(b) The supervisor must submit to the department, on a form provided by the department, documentation of supervision and progress during the postgraduate professional work experience, at the end of each three-month period.

(2) The supervisor must cosign all purchase agreements in the fitting and dispensing of hearing instruments.

~~((3) The interim permit expires one year from the date it is issued. The board may extend the interim permit an additional twenty-four months to accommodate part-time postgraduate professional work experience or upon request of the interim permit holder due to illness or extenuating circumstances.))~~

AMENDATORY SECTION (Amending WSR 06-19-109, filed 9/20/06, effective 10/21/06)

WAC 246-828-04505 Supervisor delegation for audiologist and speech-language pathologist interim permit holders. (1) The supervisor may delegate portions of the supervisory activities to another qualified supervisor of the same discipline in another facility. Before delegating supervision responsibility the supervisor must ~~((seek))~~ obtain department approval.

(2) The department may approve ~~((transfer of an interim permit holder to another eligible))~~ a qualified supervisor upon the written request of ~~((either))~~ the supervisor or the interim permit holder.

~~(3) ((The interim permit holder must immediately report the termination of the supervisor to the department in writing. The interim~~

~~permit holder may only resume practice after the supervisor is approved by the department.~~

~~(4)) The supervisor of an interim permit holder who desires to terminate the responsibility as supervisor must immediately notify the department in writing of the termination. The supervisor is responsible for the interim permit holder until the notification of termination is received by the department.~~

~~(4) The interim permit holder must immediately report the termination of a supervisor to the department in writing. The interim permit holder may only practice with an approved supervisor.~~

~~(5) An audiologist or speech-language pathologist licensed and in good standing under chapter 18.35 RCW may supervise up to four interim permit holders concurrently.~~

AMENDATORY SECTION (Amending WSR 10-15-093, filed 7/20/10, effective 7/26/10)

WAC 246-828-075 Supervisors of students. (1) Students enrolled in a board approved program may perform ~~((the duties of a))~~ hearing ~~((instrument fitter/dispenser))~~ aid specialist, audiologist, speech-language pathologist, or speech-language pathology assistant duties in the course of their training under ~~((appropriate))~~ supervision.

(a) A speech-language pathology student((s)) must be supervised by a speech-language pathologist licensed and in good standing under chapter 18.35 RCW~~((, in good standing for at least two years))~~.

(b) An audiology student((s)) must be supervised by an audiologist licensed in good standing under chapter 18.35 RCW~~((, in good standing for at least two years))~~.

(c) A hearing ~~((instrument fitter and dispenser))~~ aid specialist student((s)) must be supervised by ~~((either))~~ a hearing ~~((instrument fitter/dispenser or a licensed))~~ aid specialist or an audiologist licensed and in good standing under chapter 18.35 RCW~~((, in good standing for at least two years))~~ who has practiced for at least thirty-six of the last forty-eight months immediately preceding the beginning of supervision.

(2) Students may only perform ~~((only))~~ those activities ~~((that are))~~ within the scope of ~~((the profession as defined by the training program in which they are enrolled))~~ practice for which they are adequately trained.

(3) The student ~~((shall))~~ must at all times wear an identification badge readily visible to the public that identifies him or her as a student.

(4) The licensee who is supervising hearing ~~((instrument fitting and dispensing students must be physically present on the premises at all times. The supervisor))~~ aid specialist students must cosign all purchase agreements for the sale of hearing instruments. A supervisor may only be in a supervisor/supervisee relationship with a maximum of three students at a time.

(5) The licensee who is supervising speech-language pathology or audiology students may include simultaneous observations with the student or the submission of written reports or summaries by the student for supervisor monitoring, review and approval. At least fifty percent of each student's time in each diagnostic evaluation, including screening and identification, must be observed directly by a supervi-

sor. The observations may take place on site or by closed-circuit television.

AMENDATORY SECTION (Amending WSR 98-06-079, filed 3/3/98, effective 4/3/98)

WAC 246-828-080 Minimum standards of equipment. Minimum equipment in the fitting and dispensing of hearing instruments ~~((shall))~~ must include:

(1) Access to a selection of hearing instrument models, and hearing instrument supplies and services sufficiently complete to accommodate the various ~~((user))~~ patient or client needs.

(2) Facilities for the personal comfort of customers.

(3) A test environment with background noise no greater than current American National Standards Institute (ANSI) specifications ~~((S3.1-1960-(R-1971)))~~ S3.6-1996 plus 15 decibels (dB). When non-standard environments must be used, appropriate procedures ~~((shall))~~ must be employed and documented.

(4) Pure tone audiometer calibrated in accordance with WAC 246-828-090.

(5) Equipment appropriate for conducting speech audiometry (testing).

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-090 Standards for equipment calibration. (1) All electronic equipment utilized by licensees for the determination of audiometric thresholds for pure tones and for speech ~~((shall))~~ must conform to all current standards of the American National Standards Institute (ANSI). Licensees ~~((shall-insure))~~ must confirm that all such audiometric equipment has been evaluated electrically and acoustically at least once each year, adjusted or repaired if necessary, and that conformity with ~~((such))~~ ANSI standards was determined at that time. Licensees must maintain calibration records permanently and ~~((licensees-shall))~~ make the records available for inspection by the department at any time. No licensee may certify the calibration of his or her own equipment unless authorized to do so by the department. In addition, all licensees must use routine procedures for the daily inspection of audiometric equipment, or prior to use if used less often than on a daily basis, to generally determine that it is in normal working order.

(2) Hearing instruments, assistive listening devices, and electronic equipment used for assessment ~~((and/))~~ or monitoring of auditory and vestibular function must be maintained according to manufacturer's specifications.

(3) All instrumental technology used to diagnose ~~((and/))~~ or treat disorders of communication, swallowing, and hearing ~~((shall))~~ must be maintained in proper working order and be properly calibrated according to ~~((accepted-standards))~~ manufacturer's specifications.

WAC 246-828-095 Audiology minimum standards of practice. Licensed audiologists are independent practitioners who provide a comprehensive array of services related to the identification, assessment, (~~habitation~~) habilitation and rehabilitation, and prevention of auditory and vestibular impairments.

Audiologists serve in a number of roles including but not limited to clinician, therapist, teacher, consultant, researcher, and administrator. Audiologists provide services in hospitals, clinics, schools, nursing facilities, care centers, private practice, and other settings in which audiological services are relevant. Audiologists provide services to individuals of all ages.

Audiologists (~~must~~) may engage in and supervise only those aspects of the profession that are within the scope of their education, training, and experience.

Standard procedures for providing audiology services may include one or more of the following:

(1) Case history including:

(a) Documentation of referrals.

(b) Historical review of the nature, onset, progression and stability of the hearing problem, and associated otic and (~~or~~) vestibular symptoms.

(c) Review of communication difficulties.

(d) Review of medical, pharmacology, vocational, social, and family history pertinent to the etiology, assessment, and management of the underlying hearing disorder.

(2) Physical examination of the external ear including:

(a) Otoscopic examination of the external auditory canal to detect:

(i) Congenital or traumatic abnormalities of the external canal or tympanic membrane.

(ii) Inflammation or irritation of the external canal or tympanic membrane.

(iii) Perforation of the tympanic membrane (~~and~~) or discharge from the external canal.

(iv) A foreign body or impacted cerumen in the external canal.

(b) Cerumen management to clean the external canal and to remove excess cerumen for the preservation of hearing.

(c) Referral for otologic evaluation and (~~or~~) treatment when necessary.

(3) Identification of audiometry:

(a) Hearing screening administered as needed, requested, or mandated for those persons who may be identified as at risk for hearing impairment.

(b) Referral of persons who fail the screening for rescreening, audiologic assessment (~~and~~), or for medical or other examination and services.

(c) Audiologists may perform speech and language screening measures for initial identification and referral.

(4) Assessment of auditory function including:

(a) The administration of behavioral and (~~or~~) objective measures of the peripheral and central auditory system to determine the presence, degree, and nature of hearing loss or central auditory impairment, the effect of the hearing impairment on communication,

and(~~/or~~) the site of the lesion within the auditory system. Assessment may also include procedures to detect and quantify nonorganic hearing loss.

(i) When traditional audiometric techniques cannot be employed as in infants, children, or multiple impaired patients or clients, developmentally appropriate behavioral and(~~/or~~) objective measures may be employed.

(ii) Assessment and intervention of central auditory processing disorders in which there is evidence of communication disorders may be provided in collaboration with other professionals.

(b) Interpretation of measurement recommendations for habilitative(~~/~~) or rehabilitative management (~~and~~) or referral for further evaluation and the counseling of the patient or client and family.

(5) Assessment of vestibular function including administration and interpretation of behavioral and objective measures of equilibrium to detect pathology within the vestibular system, to determine the site of lesion, to monitor changes in balance, and to determine the contribution of visual, vestibular, and proprioceptive systems to balance.

(6) Habilitation(~~/~~) and rehabilitation of auditory and vestibular disorders including:

(a) Aural rehabilitation therapy.

(b) Fitting and dispensing of hearing instruments and assistive listening devices.

(c) Habilitative and rehabilitative nonmedical management of disorders of equilibrium.

(7) Industrial and community hearing conservation programs.

(8) Intraoperative neurophysiologic monitoring.

(9) Standardized and nonstandardized procedures may be employed for assessment(~~/~~) and habilitation(~~/~~) or rehabilitation of auditory and vestibular disorders. When standardized procedures are employed they must be conducted according to the standardized procedure or exception documented. Nonstandardized measures must be conducted according to established principles and procedures of the profession.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-100 Hearing instrument fitting and dispensing—
(~~Minimal~~) Minimum standards of practice. Minimum procedures in the fitting and dispensing of hearing instruments include:

(1) Obtaining case history including:

(a) (~~As required by WAC 246-828-280,~~) Documentation of referrals(~~/, or as otherwise required by this chapter~~).

(b) Historical evaluation including inquiry regarding hearing loss, onset of loss, and any associated symptoms including significant noise in the ears, vertigo, acute or chronic dizziness, nausea, ear-aches, or other such discomfort which may indicate the presence of medical illness. Specific inquiry should be made to determine if hearing loss has been sudden or rapidly progressive in the past ninety days, if there has been any active drainage or infection in ears during the past ninety days, and if there are any specific physical problems that may relate to the use of a hearing instrument.

(2) Examining the ears to reasonably determine if any of the following conditions exist:

- (a) Impacted ear wax.
- (b) Foreign body within the ear canal.
- (c) Discharge in the ear canal.
- (d) Presence of inflammation or irritation of the ear canal.
- (e) Perforation of the ear drum.
- (f) Any other abnormality.

(3) Hearing testing to include the following:

(a) Hearing loss, or residual hearing, ~~((shall))~~ must be established for each ear using pure tone threshold audiometry by air and bone conduction with effective masking as required.

(b) Appropriate live voice or recorded speech audiometry by ear phones to determine the following: Speech reception threshold, most comfortable level, uncomfortable level, and ~~((the speech discrimination percent))~~ word recognition score.

(c) Hearing testing ~~((shall))~~ must be conducted in ~~((the appropriate environment as required by))~~ compliance with WAC 246-828-080 ~~((, minimum standards of equipment, or as otherwise required by this chapter))~~ and 246-828-090.

(d) When pure tone audiometry indicates an air-bone gap of 15 ~~((db))~~ decibels (dB) or more ~~((,))~~ at 500, 1000, and 2000 hertz (Hz) ~~((,))~~; the presence of unilateral hearing loss ~~((,))~~; or any inconsistent audiometric findings, the patient or client ~~((shall))~~ must be advised of the potential help available through medical treatment. If the patient or client declines medical treatment, has been appropriately treated previously, or has been advised against medical treatment, the licensee ~~((shall))~~ must make an appropriate notation in the patient's or client's record.

(e) In the event a patient or client is referred to a licensee by an M.A. audiologist, otologist, otolaryngologist, or by a ~~((fitter/dispenser duly))~~ hearing aid specialist licensed under chapter 18.35 RCW, and the audiometric results obtained within the previous six months are provided to the licensee as a part of this referral, the applicable provisions of WAC 246-828-100 ~~((shall))~~ are not ~~((be))~~ required. However, a confirmatory audiometric examination is recommended.

(4) Medical evaluation requirements:

~~((a) ((If the prospective hearing instrument user is eighteen years of age or older, the hearing instrument dispenser may afford the prospective user an opportunity to waive the medical evaluation requirements of (b) of this subsection if the hearing instrument dispenser:~~

~~((i) Informs the prospective user that the exercise of the waiver is not in the user's best health interest;~~

~~((ii) Does not in any way actively encourage the prospective user to waive the medical evaluation;~~

~~((iii) Offers the prospective user the opportunity to sign the following statement:~~

~~I have been advised by (hearing instrument fitter/dispenser or audiologist name) that the Food and Drug Administration has determined that my best health interest would be served if I had a medical evaluation before purchasing a hearing instrument; and~~

~~((iv) Provides the prospective user with a copy of the signed waiver statement.~~

~~((b) Except as provided in (a) of this subsection, a hearing instrument dispenser shall not sell a hearing instrument unless the pro-~~

~~spective user has presented to the hearing instrument dispenser a written statement signed by a licensed physician that states that the patient's hearing loss has been medically evaluated and the patient may be considered a candidate for a hearing instrument. The medical evaluation must have taken place within the preceding six months))~~ Except as provided in (b) of this subsection, a hearing aid specialist or audiologist may not sell a hearing instrument unless the prospective patient or client has presented a written statement signed by a licensed physician that states that the patient's or client's hearing loss has been medically evaluated and the patient or client may be considered a candidate for a hearing instrument. The medical evaluation must have taken place within the preceding six months.

(b) If the prospective patient or client is eighteen years of age or older, the hearing aid specialist or audiologist may afford the prospective patient or client an opportunity to waive the medical evaluation requirements of (a) of this subsection if the hearing aid specialist or audiologist:

(i) Informs the prospective patient or client that the exercise of the waiver is not in the patient or client's best health interest;

(ii) Does not in any way actively encourage the prospective patient or client to waive the medical evaluation;

(iii) Offers the prospective patient or client the opportunity to sign the following statement:

I have been advised by (hearing aid specialist or audiologist name) the Food and Drug Administration has determined that my best health interest would be served if I had a medical evaluation before purchasing a hearing instrument; and

(iv) Provides the prospective patient or client with a copy of the signed waiver statement.

(5) Selection and fitting of the hearing instrument includes providing the patient or client:

(a) Information regarding the selection of the most appropriate method and model for amplification for the needs of the patient or client.

(b) The cost of the recommended instruments and services.

(c) ~~((An appropriate))~~ A custom made ear mold, when applicable.

(d) Final fitting of the hearing instrument to ensure physical and operational comfort.

(e) Adequate instructions and appropriate post-fitting adjustments to ensure the most successful use of the hearing instrument.

(6) Keeping records ~~((on))~~ for every patient or client ~~((to whom the licensee/certificate holder renders service))~~ in connection with the dispensing of a hearing instrument. ~~((These records must be preserved for at least three years after the dispensing of the first hearing instrument to the client. If other hearing instruments are subsequently dispensed to that client,))~~ Cumulative records must be ~~((maintained))~~ retained for all hearing instruments dispensed for at least three years ~~((after the most recent dispensing of an))~~ from the date the last hearing instrument ~~((to that))~~ was dispensed to the patient or client. The records must be available for the department inspection and must include:

(a) Patient's or client's case history.

(b) Source of referral and ~~((appropriate))~~ documents.

(c) Medical clearance for the hearing instrument ~~((user))~~ patient or client or the waiver set forth in subsection (4)~~((+a))~~ (b)(iii) of this section which has been signed after being fully informed that it is in the best health interest to seek medical evaluation.

(d) Copies of any contracts and receipts executed in connection with the fitting and dispensing of each hearing instrument provided.

(e) A complete record of tests, test results, and services provided (~~(except for minor services)~~).

(f) All correspondence specifically related to the service given (~~(the client)~~) or the hearing (~~(instrument or)~~) instrument(s) dispensed to the patient or client.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-105 Speech-language pathology—Minimum standards of practice. Licensed speech-language pathologists are independent practitioners who provide a comprehensive array of services related to the identification, assessment, habilitation(~~(/)~~) and rehabilitation, of communication disorders and dysphagia. Speech-language pathologists serve in a number of roles including but not limited to clinician, therapist, teacher, consultant, researcher, and administrator. Speech-language pathologists provide services in hospitals, clinics, schools, nursing facilities, care centers, private practice, and other settings in which speech-language pathology services are relevant. Speech-language pathologists provide services to individuals of all ages.

Services (~~(must)~~) may be provided and products dispensed only when benefit can reasonably be expected. All services provided and products dispensed must be evaluated for effectiveness. A (~~(certified)~~) licensed speech-language pathologist must engage in and supervise only those aspects of the profession that are within the scope of their education, training, and experience. Speech-language pathologists must provide services appropriate to each individual in his or her care, which may include one or more of the following standard procedures:

(1) Case history, including:

(a) Documentation of referrals.

(b) Review of (~~(the)~~) communication, cognitive (~~(and/)~~), or swallowing problems.

(c) Review of pertinent medical, pharmacological, social, and educational status.

(2) Examination of the oral mechanism for the purposes of determining adequacy for speech communication and swallowing.

(3) Screening to include: Speech and language.

(a) Hearing screening, limited to pure-tone air conduction and screening tympanometry.

(b) Swallowing screening. Children under the age of three years who are considered at risk are assessed, not screened;

(4) Assessment may include the following:

(a) Language may include parameters of phonology, morphology, syntax, semantics, and pragmatics; and include receptive and expressive communication in oral, written, graphic, and manual modalities;

(b) Speech may include articulation, fluency, and voice (including respiration, phonation, and resonance). Treatment (~~(shall)~~) must address appropriate areas;

(c) Swallowing;

(d) Cognitive aspects of communication may include communication disability and other functional disabilities associated with cognitive impairment;

(e) Central auditory processing disorders in collaboration with other qualified professionals;

(f) Social aspects of communication may include challenging behaviors, ineffective social skills, and lack of communication opportunities;

(g) Augmentative and alternative communication include the development of techniques and strategies that include selecting(~~(7)~~) and dispensing of aids and devices (excluding hearing instruments) and providing training to individuals, their families, and other communication partners in their use.

(5) Habilitation(~~(7)~~) and rehabilitation of communication and swallowing including:

(a) Treatment of speech disorders including articulation, fluency, and voice.

(b) Treatment of language disorders including phonology, morphology, syntax, semantics, and pragmatics(~~(7) and include~~), including receptive and expressive communication in oral, written, graphic, and manual modalities.

(c) Treatment of swallowing disorders.

(d) Treatment of the cognitive aspects of communication.

(e) Treatment of central auditory processing disorders in which there is evidence of speech, language, (~~and~~) or other cognitive communication disorders.

(f) Treatment of individuals with hearing loss, including aural rehabilitation and related counseling.

(g) Treatment of social aspects of communication, including challenging behaviors, ineffective social skills, and lack of communication opportunities.

(6) All services must be provided with referral to other qualified resources when appropriate.

AMENDATORY SECTION (Amending WSR 10-15-093, filed 7/20/10, effective 7/26/10)

WAC 246-828-112 Speech-language pathology assistants—Minimum standards of practice. (1) "Supervising speech-language pathologist" means a licensed speech-language pathologist or speech-language pathologist certified as an educational staff associate by the superintendent of public instruction.

(2) A speech-language pathology assistant may only perform procedures or tasks delegated by the speech-language pathologist and must maintain patient/client/student confidentiality as directed by the speech-language pathologist.

(~~(2)~~) (3) Speech-language pathology assistants may not represent themselves as speech-language pathologists.

(~~(3)~~) (4) The speech-language pathology assistant must be (~~continually~~) supervised by the speech-language pathologist while performing procedures or tasks listed in subsections (4) and (5) of this section. The following procedures or tasks may only be performed

under direct supervision and at the speech-language pathologist's discretion:

(a) Participating during parent conferences, case conferences, or interdisciplinary team meetings with the speech-language pathologist present.

(b) Assisting the speech-language pathologist during evaluations ~~((+))~~ and assessments of patients/clients/students.

~~((+4))~~ (5) The following procedures or tasks may be performed under direct or indirect supervision at the discretion of the supervising speech-language pathologist:

(a) Perform speech-language and hearing screenings for the speech-language pathologist. The speech-language pathology assistant may not interpret the results.

(b) Document patient/client/student performance (such as data, charts, graphs, progress notes, and treatment notes) and report this information to the speech-language pathologist.

(c) Implement treatment plans and protocols including individualized education programs (IEP) or individualized family service plans (IFSP) developed by the speech-language pathologist. These plans, programs, and protocols may include speech, language, augmentative and alternative communication (AAC), assistive technology (AT), and oral-motor therapies.

(d) Perform clerical duties such as preparing materials and scheduling activities as directed by the speech-language pathologist.

(e) Check and maintain equipment as directed by the speech-language pathologist.

(f) Sign treatment notes, progress notes, and other paperwork as directed by the speech-language pathologist.

~~((+5))~~ (6) The following procedures and tasks are excluded from the speech-language pathology assistant scope of practice:

(a) Tasks that require diagnosis, evaluation, or clinical interpretation.

(b) Screening and diagnosis of feeding and swallowing disorders.

(c) Development or modification of treatment plans.

(d) Implementation of therapy outside of the treatment plan.

(e) Selection of caseload.

(f) Discharge or exit patients/clients/students.

(g) Referral of patients/clients/students for additional services.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-220 Unfair or deceptive practices, unethical conduct and unfair methods of competition—Used or rebuilt products. (1) A licensee may not represent, directly or indirectly, that any industry product or part thereof is new, unused, or rebuilt, if it is not.

(2) In the marketing of a hearing instrument which has been used, or which contains used parts, a licensee must fully and nondeceptively disclose that the product or its parts are used in all advertising and promotional literature relating to the product, on the container, box or package in which the product is packed or enclosed and, if the product has the appearance of being new, on the product itself. The

required disclosure may be made by use of words such as "used," "secondhand," "repaired," or "rebuilt," whichever most accurately describes the product involved.

(3) A licensee (~~shall~~) may not misrepresent the identity of the rebuilder of a hearing instrument. If the rebuilding of a hearing instrument was done by other than the original manufacturer, a licensee (~~shall~~) must disclose this fact wherever the original manufacturer is identified.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-270 Personal disclosure. A (~~licensee~~) licensed audiologist or hearing aid specialist who contacts a (~~prospective purchaser~~) patient or client away from the licensee's place of business must:

(1) When the contact is in person, present the prospective (~~purchaser~~) patient or client with written notice of:

(a) (~~His or her name, the name of his or her business firm, his or her~~) Licensee's name, business name, business address and telephone number; and

(b) (~~The~~) Licensee's department-issued credential number (~~of his or her license~~)).

(2) When a licensee contacts a patient or client by telephone (~~contact with prospective purchasers~~) the licensee must disclose the (~~name of the licensee,~~) licensee's name, the name and (~~location of his or her principal~~) address of the licensee's establishment, and the purpose of call.

(3) When the contact is through a direct mail piece or other advertising initiated by the licensee, the material must clearly show (~~on all promotional items the business/establishment~~) the licensee's establishment name (~~, the principal~~) and establishment address (~~and telephone number, not just the address or telephone number where he/she will be on given days.~~

(4) A principal establishment is one which is bonded under RCW 18.35.240). If in-person or telephone contact is made as a result of the direct mail or other advertising, the prospective patient or client must be offered the licensee's establishment phone number.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-290 Purchaser (~~recission~~) rescission rights. In addition to the receipt and disclosure information required by RCW 18.35.030, 18.35.185, 63.14.040 and 63.14.120, every retail agreement for the sale of hearing instruments (~~shall~~) must contain or have attached the following notice to buyer in twelve point (~~type~~) font or larger. The language in part 1 under "Notice to Buyer" is intended to have the same legal effect as the notices required in RCW 63.14.040(2) and 63.14.120(3) and may be substituted for those notices.

The rights summarized in the "Notice to Buyer" must be made known to the purchaser before the contract is executed. The licensee must provide this "Notice to Buyer" in writing to the purchaser. The purchaser must ~~((demonstrate knowledge of these rights by initialing each numbered section))~~ acknowledge receipt of the "Notice to Buyer" ~~((and))~~ by signing his or her name in the ~~((appropriate))~~ designated space following the "Notice to Buyer."

Notice to Buyer

Do not sign this agreement before you read it or if any spaces intended for the agreed terms are blank.

You are entitled to receive a copy of this agreement at the time you sign it.

The seller's business address must be shown on the agreement.

Section 1 CANCELLATION - WITHIN THREE DAYS

~~((Purchaser's Initial.))~~

You may cancel this agreement within three days, without explaining your reasons, if the seller solicited it in person and you signed it at a place other than the seller's business address.

To cancel this agreement without explaining your reasons, you must notify the seller in writing that you are canceling the agreement. You may deliver the written notice to the seller at the seller's business address. Alternatively, you may send the written notice by certified mail, return receipt requested, to the seller at the seller's business address.

Your written notice must be ~~((mailed))~~ postmarked or delivered by midnight of the third business day after you signed this agreement.

Any merchandise you received under this agreement must be in its original condition. You must return it to the ~~((seller))~~ seller's business address or make it available to the seller at the same place it was delivered to you.

The seller must refund to you all deposits, including any down payment, and must return to you all goods traded in as part of the agreement.

You will incur no additional liability for canceling the agreement.

Section 2 ~~((RECISSION))~~ RESCISSION - WITHIN THIRTY DAYS

~~((Purchaser's Initial.))~~

You may rescind (or terminate) the agreement within thirty days, for reasonable cause. This thirty-day period is called the ~~((reci- sion))~~ rescission period."

To rescind this agreement, you must notify the seller in writing that you are rescinding the agreement for reasonable cause pursuant to RCW 18.35.185(1). (Reasonable cause does not include cosmetic concerns or a mere change of mind.) You may deliver the written notice to the seller at the seller's business address. Alternatively, you may send the written notice by certified mail, return receipt requested, to the seller at the seller's business address.

Your written notice must be ~~((mailed))~~ postmarked or delivered by midnight of the thirtieth day after delivery of the hearing instrument.

Any merchandise you received under this agreement must be in its original condition, except for normal wear and tear. You must return it to the ~~((seller))~~ seller's business address or make it available to the seller at the same place it was delivered to you.

The seller must refund to you all deposits, including any down payment, and must return to you all goods traded in as part of the agreement. However, for each hearing instrument you return, the seller may keep either one hundred fifty dollars or fifteen percent of the total purchase price, whichever is less(~~(. The seller also may deduct any costs incurred in making traded in goods ready for resale)~~), plus the price originally charged for custom-made earmolds.

The seller must refund your money and return your traded goods, or have them postmarked and in the mail to you, within ten business days after receiving your notice of (~~rescission~~) rescission.

You will incur no additional liability for rescinding the agreement.

Section 3 EXTENSION OF (~~RESCISSION~~) RESCISSION PERIOD
(~~Purchaser's Initial~~)

If you notify the seller within the thirty-day (~~rescission~~) rescission period that your hearing instrument has developed a problem that constitutes reasonable cause to rescind the agreement or that prevents you from evaluating your hearing instrument, the seller must extend the (~~rescission~~) rescission period. The (~~rescission~~) rescission period stops running on the date you notify the seller of the problem and starts running again on the date the seller notifies you that your hearing instrument is ready for redelivery.

You and the seller may agree to a (~~rescission~~) rescission period longer than thirty days.

Whenever the (~~rescission~~) rescission period is extended, the seller must provide you written notice of the last date upon which you may demand a refund and return of traded goods.

_____ Signature of Purchaser	_____ Date
_____ Signature of Seller	_____ Date
_____ Delivery Acknowledgment - Signature of Purchaser	_____ Date

AMENDATORY SECTION (Amending WSR 10-16-116, filed 8/2/10, effective 9/2/10)

WAC 246-828-305 How to obtain a temporary practice permit while the national background check is completed. Fingerprint-based national background checks may cause a delay in licensing or certification. Individuals who satisfy all other licensing or certification requirements and qualifications may receive a temporary practice permit while the national background check is completed.

(1) A temporary practice permit may be issued to an applicant who:

(a) Holds an unrestricted, active license or certification to practice as a speech-language pathologist, speech-language pathology assistant, audiologist, or hearing (~~instrument fitter/dispenser~~) aid specialist in another state that has substantially equivalent licensing or certification standards to those in Washington state;

- (b) Is not subject to denial of a license or certification or issuance of a conditional or restricted license or certification; and
- (c) Does not have a criminal record in Washington state.
- (2) A temporary practice permit grants the individual the full scope of practice under this chapter.
- (3) A temporary practice permit will not be renewed, reissued, or extended. A temporary practice permit expires when any one of the following occurs:
 - (a) The license or certification is granted;
 - (b) A notice of decision on application is mailed to the applicant, unless the notice of decision on the application specifically extends the duration of the temporary practice permit; or
 - (c) One hundred eighty days after the temporary practice permit is issued.
- (4) To receive a temporary practice permit, the applicant must:
 - (a) Submit the necessary application, fee(s), and documentation for the license or certification.
 - (b) Meet all requirements and qualifications for the license or certification, except the results from a fingerprint-based national background check, if required.
 - (c) Provide verification of having an active unrestricted license or certification to practice as a speech-language pathologist, speech-language pathology assistant, audiologist, or hearing (~~instrument fitter/dispenser~~) aid specialist from another state that has substantially equivalent licensing or certification standards as Washington state.
 - (d) Submit the fingerprint card and a written request for a temporary practice permit when the department notifies the applicant the national background check is required.

NEW SECTION

WAC 246-828-315 Temporary practice permit—Military spouse. A military spouse or state registered domestic partner of a military person may receive a temporary practice permit while completing any specific additional requirements that are not related to training or practice standards for the profession. The board adopts the procedural rules as adopted by the department of health in WAC 246-12-051.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-320 Minimum standards for fitting and dispensing locations. (1) The hours of business of each hearing instrument establishment (~~shall~~) must be prominently (~~and continuously~~) displayed and visible to the public at each regular place or places of business owned or operated by that establishment.

(2) Any regular place or places of business or any activities resulting from these locations must meet the minimum standards for facilities and equipment essential for the testing of hearing and the

fitting and dispensing of hearing instruments required in WAC 246-828-080 and 246-828-090.

~~((3) The term "place or places of business" means a location where a licensee engages or intends to engage in the fitting and dispensing of hearing instruments at a permanent address(es) open to the public on a regular basis.))~~

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-330 Notice of availability and location of follow-up services. Every licensee ~~((shall))~~ must provide to a hearing instrument purchaser, in writing prior to the signing of the contract, notice of availability of services. The notice ~~((shall))~~ must include the specific location of the follow-up service, including date and time if applicable.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-350 Reasonable cause for ~~((rescission))~~ rescission. RCW 18.35.190(2) allows the purchaser of the hearing instrument(s) to rescind the purchase and recover moneys for reasonable cause. The term "reasonable cause" includes:

(1) Any material misstatement of fact or misrepresentation by the licensee regarding the hearing instrument(s) or fitting and dispensing services to be provided which the purchaser relied on or which induced the purchaser into making the agreement;

(2) Failure by the licensee to provide the purchaser with the hearing instrument(s) and fitting and dispensing services which conform to those specified in the purchase agreement between the parties;

(3) Diagnosis of a medical condition unknown to the purchaser at the time of purchase, which precludes the purchaser from using the hearing instrument(s);

(4) Failure by the licensee to remedy a significant material defect of the hearing instrument(s) within a reasonable period of time in accordance with RCW 18.35.190 (2)(c);

(5) The hearing instrument(s) ~~((and/))~~ or fitting and dispensing services would not be in accordance with accepted practices of the industry; and

(6) Failure by the licensee to meet any standard of conduct prescribed in the laws regarding the fitting and dispensing of hearing instruments and this failure adversely affects in any way the transaction which the purchaser seeks to rescind.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-828-370 ((AIDS)) HIV/AIDS prevention and information education requirements. Applicants must complete four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

AMENDATORY SECTION (Amending WSR 07-07-065, filed 3/15/07, effective 4/15/07)

WAC 246-828-510 Continuing education. The ~~((ultimate aim of))~~ purpose of continuing education is to ensure the highest quality professional care. The objectives are to improve and increase the ability of the hearing ~~((instrument fitter/dispenser))~~ aid specialist, audiologist ~~((and))~~, speech-language pathologist, and speech-language pathology assistant to deliver the highest possible quality professional care and keep the professional abreast of current developments.

Continuing education consists of educational activities designed to review existing concepts and techniques and to convey information and knowledge about advances in hearing instrument ~~((fitting/dispens- ing))~~ fitting and dispensing, audiology, and speech-language pathology fields as applied to the work setting.

(1) Continuing education requirement. ~~((Licensees))~~ Credential holders must complete a minimum of thirty hours of continuing education every three years in the ~~((following))~~ categories ~~((:~~

~~((a))~~ At least one hour on infection control.

~~((b))~~ below. At least one hour of the continuing education must be on infection control. Multicultural education aimed at removing barriers to access to care may count for up to five hours of continuing education. At least twenty-five hours of continuing education must be related to profession specific skills and competencies.

~~((a))~~ Courses, seminars, workshops and postgraduate programs offered by accredited educational institutions. These educational activities ~~((shall))~~ must be recorded on an official transcript or ~~((certificate))~~ by documentation stating the number of continuing education ~~((units))~~ hours completed.

~~((e))~~ ~~((b))~~ Courses, seminars and workshops offering continuing clock or continuing educational units offered by profession-related organizations or industries. These ~~((units shall))~~ activities will be accepted with ~~((proof of completion))~~ documentation of the number of continuing education hours completed.

~~((d))~~ ~~((c))~~ Attendance at a continuing education program having a featured speaker(s) or panel, which has been provided by, sponsored by, or endorsed by a profession-related organization or industry. This activity will be accepted with documentation of the number of continuing education hours completed.

~~((e))~~ ~~((d))~~ Participation as a speaker or panel member in a continuing education program which has been provided by, sponsored by, or endorsed by a profession-related organization or industry. A maximum of eight hours, including preparation time, may be applied to the total three-year requirement.

~~((f))~~ ~~((e))~~ Completion of a written, video, internet, or audio continuing education program which has been provided by, sponsored by,

or endorsed by a profession-related organization or industry. Only programs in which proof of completion is provided or with tests that are ((independently graded shall)) not self-graded will be accepted.

~~(2) ((General information.~~

~~(a) The effective date of the continuing education requirement shall be three years after the licensee's 2007 renewal date.~~

~~(b) The board shall not grant credit for preparation time, except as provided in subsection (1)(e) of this section.~~

~~(3)) The board may grant an exception for continuing education requirements under certain circumstances including, but not limited to, severe illness. The ((licensee)) credential holder must submit a written request for exception to the board for review((, a written request for exception)). The board will approve or deny the request.~~

~~((4) This section incorporates by reference the requirements of)) (3) Credential holders may be randomly audited for continuing education compliance as specified in chapter 246-12 WAC, Part 7.~~

AMENDATORY SECTION (Amending WSR 93-17-044, filed 8/12/93, effective 9/12/93)

WAC 246-828-570 Adjudicative proceedings. The board adopts the model procedural rules for adjudicative proceedings as adopted by the department of health and contained in chapter 246-11 WAC, including subsequent amendments.

AMENDATORY SECTION (Amending WSR 06-10-025, filed 4/26/06, effective 5/27/06)

WAC 246-828-600 Approval of programs for ((two-year degree in hearing instrument fitter/dispenser)) hearing aid specialist instruction. ((The)) (1) Minimum educational requirements for licensure to practice as a hearing ((instrument fitter/dispenser)) aid specialist in Washington ((is)) are:

(a) Satisfactory completion of a two-year degree program in hearing ((instrument/fitter-dispenser)) aid specialist instruction approved by the board. The board will consider for approval any program which meets the requirements as outlined in this ((chapter-

~~(1)) section; or~~

(b) A two-year or four-year degree in a field of study approved by the board from an accredited institution and satisfactory completion of a nine-month certificate program in hearing aid specialist instruction approved by the board. Two-year and four-year degrees must be completed prior to enrolling in a nine-month certificate program. The board will consider for approval any program which meets the requirements as outlined in this section.

Acceptable prerequisite degrees for entry into nine-month certificate programs are baccalaureate or associate degrees from accredited institutions in any field of study which include five credits each of 100 level or greater English composition, basic math, and humanities.

(2) Procedure for approval of two-year degree programs in hearing aid specialist instruction:

(a) An authorized representative of an institution may apply for approval from the board.

~~((2))~~ (b) The application for approval must be submitted on forms provided by the department.

~~((3))~~ (c) The authorized representative of the program may request approval of the program as of the date of the application or retroactively to a specified date.

~~((4))~~ (d) The program application for approval must include, but may not be limited to, documentation required by the board pertaining to ~~((the))~~ curriculum standards as set in WAC 246-828-615 ~~((two-year degree in hearing instrument fitter/dispenser instruction standards))~~.

~~((5))~~ (e) A program must be fully recognized by the appropriate accreditation body in that jurisdiction.

~~((6))~~ (f) The board will evaluate the application and may conduct a site inspection of the program prior to granting approval by the board.

~~((7))~~ (g) Upon completion of the evaluation of the application, the board may grant or deny approval or grant approval conditioned upon appropriate modification of the application.

~~((8) The))~~ (h) An authorized representative of an approved program ~~((shall))~~ must notify the board of significant changes with respect to information provided on the application within sixty days of change.

~~((9) The board may inspect an approved program at reasonable intervals for compliance. Refer to WAC 246-828-605 Site review procedures for initial and continuing approval of program for two-year degree in hearing instrument fitter/dispenser instruction. The board may withdraw its approval if it finds the program has failed to comply with requirements of law, administrative rules, or representations in the application.)~~ (3) Procedure for approval of nine-month certificate programs in hearing aid specialist instruction:

(a) An authorized representative of a program may apply for approval from the board.

(b) The application for approval must be submitted on forms provided by the department.

(c) The authorized representative of the program may request approval of the program as of the date of the application or retroactively to a specified date.

(d) The program application for approval must include, but may not be limited to, documentation required by the board pertaining to curriculum standards as set in WAC 246-828-615.

(e) The board will evaluate the application and may conduct a site inspection of the program prior to granting approval by the board.

(f) Upon completion of the evaluation of the application, the board may grant or deny approval or grant approval conditioned upon appropriate modification of the application.

(g) An authorized representative of an approved program must notify the board of significant changes with respect to information provided on the application within sixty days of change.

(4) The board may inspect a currently approved program or a program requesting approval. These inspections may be at any reasonable time during the normal business hours of the program. The board may withdraw its approval if it finds the program has failed to comply with requirements of law, administrative rules, or representations in the application.

AMENDATORY SECTION (Amending WSR 06-10-025, filed 4/26/06, effective 5/27/06)

WAC 246-828-610 Process for denying or rescinding approval of a program for ((two-year degree in hearing instrument fitter/dispenser)) hearing aid specialist instruction. ((In the event)) If the board ((denies)) issues a notice of intent to deny an application, rescind((s)) approval, or grant((s)) conditional approval, the authorized representative of the applicant's program may request a review within thirty days ((of the board's adverse decision/action. Should a request for review of an adverse action be made after thirty days following the board's action, the contesting party must submit a new application to be considered for review)). Failure to request a review will result in the notice of intent becoming a final decision of the board. A program aggrieved by a final decision of the board affecting its approval status may appeal the board's decision in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW, or submit a new application to be considered for review.

AMENDATORY SECTION (Amending WSR 06-10-025, filed 4/26/06, effective 5/27/06)

WAC 246-828-615 Standards for ((approval of program for two-year degree in hearing instrument fitter/dispenser instruction)) hearing aid specialist programs. The curriculum of the program ((shall)) must include the components listed in this ((chapter)) section.

(1) The standards in this section are intended as minimum components of a curriculum, and are not intended as an exact description of program curricula. To ((assure)) ensure a graduate or certificate holder is competent and can function on his or her own, the curriculum should be designed to ((assure)) ensure proficiency in all ((these fields)) curriculum components through extensive practical work experience in addition to ((classroom teaching)) academic instruction. All ((the)) necessary instruments and laboratories based on industry standards are a prerequisite.

(2) Minimum ((areas of standard)) requirements for two-year degree programs:

(a) **Supervised practicum:** Including hands-on experience with patients.

(i) The supervised practicum must consist of a minimum of five hundred twenty hours.

(ii) Two hundred sixty of the five hundred twenty hours must be directly supervised. The remaining hours may be directly or indirectly supervised.

(b) **English composition:** Written presentations.

(c) **Occupational communications:** Oral presentations, documentation of professional activities.

(d) **Occupational human relations:** Code of professional ethics, interpersonal skills, teamwork.

(e) ((Basic math and computers)) **Acoustics:** The physics of sound((,)) and basic acoustics((, methods of programming hearing instruments, calculating pricing, costs and other business-related math skills)).

(f) **Hearing instrument sciences:** Basic electronics, circuit designs of hearing instruments, testing methodology of instruments, test standards, familiarity with all major types of instruments on the market, basic signal processing, programming of digital instruments using computers.

(g) **Hearing physiology and anatomy:** Anatomy and physiology of the human auditory system.

(h) **Pathophysiology of auditory system:** Introductory level study of genetic disorders and infectious diseases of the auditory system.

(i) **Psychological aspects of hearing loss:** Curricula should be designed so the student understands:

(i) How hearing loss affects patients and others close to them;

(ii) How to follow up with patients after initial fitting; and

(iii) Methods of ~~((teaching))~~ instruction on effective communication ~~((skills to the hearing impaired))~~ strategies for individuals with hearing impairments.

(j) **Audiometrics:** Performing pure tone and speech audiometry and interpretation, measuring output of instruments both in the lab and in the ear.

(k) **Earmolds:** Emphasis on ~~((practical skills and safety))~~ impression-taking techniques, practical skills, safety, selection, and modification. Direct supervision is required for all earmold impressions.

(l) **Instrument selection:** Recommending the best technology according to the patient's or client's needs from ~~((conventional))~~ basic through advanced ~~((digital/programmable))~~ analog and digital instruments, including referrals for ~~((medical))~~ medically implantable devices.

(m) **Health care and business:** Laws governing the profession, insurance aspects, health care management, advertising, marketing, purchase agreements, and sales.

(n) **Introduction to speech-language pathology and audiology.**

(o) **Overview of ~~((cochlear implants))~~ medically implantable devices,** including criteria for referral ~~((s for medical implantable devices))~~.

(3) Minimum requirements for nine-month certificate programs:

(a) **Supervised practicum:** Including hands-on experience with patients.

(i) The supervised practicum must consist of a minimum of five hundred twenty hours.

(ii) Two hundred sixty of the five hundred twenty hours must be directly supervised. The remaining hours may be directly or indirectly supervised.

(iii) Methods of instruction on effective communication strategies for individuals with hearing impairments.

(b) **Occupational communications:** Documentation of professional activities.

(c) **Occupational human relations:** Code of professional ethics.

(d) **Acoustics:** The physics of sound and basic acoustics.

(e) **Hearing instrument sciences:** Basic electronics, circuit designs of hearing instruments, testing methodology of instruments, test standards, familiarity with all major types of instruments on the market, basic signal processing, programming of digital instruments using computers.

(f) **Hearing physiology and anatomy:** Anatomy and physiology of the human auditory system.

(g) **Pathophysiology of auditory system:** Introductory level study of genetic disorders and infectious diseases of the auditory system.

(h) **Psychological aspects of hearing loss:** Curricula should be designed so the student understands:

(i) How hearing loss affects patients and others close to them;

(ii) How to follow up with patients after initial fitting; and

(iii) Methods of instruction on effective communication strategies for individuals with hearing impairments.

(i) **Audiometrics:** Performing pure tone and speech audiometry and interpretation, measuring output of instruments both in the lab and in the ear.

(j) **Earmolds:** Emphasis on impression-taking techniques, practical skills, safety, selection, and modification. Direct supervision is required for all earmold impressions.

(k) **Instrument selection:** Recommending the best technology according to the patient's or client's needs from basic through advanced analog and digital instruments, including referrals for medically implantable devices.

(l) **Health care and business:** Laws governing the profession, insurance aspects, health care management, advertising, marketing, purchase agreements, and sales.

(m) **Introduction to speech-language pathology and audiology.**

(n) **Overview of medically implantable devices, including criteria for referral.**

AMENDATORY SECTION (Amending WSR 10-15-093, filed 7/20/10, effective 7/26/10)

WAC 246-828-617 Requirements for speech-language pathology assistant certification. An applicant for certification as a speech-language pathology assistant must have the following minimum qualifications:

(1) An associate of arts or sciences degree, or a certificate of proficiency, with transcripts showing forty-five quarter hours or thirty semester hours of speech-language pathology course work and transcripts showing forty-five quarter hours or thirty semester hours of general education credit from a board-approved institution of higher education as defined in WAC 246-828-025 (1)(b). Transcripts must reflect, or applicant must demonstrate, one hundred hours of supervised patient/client/student work experience completed within a one-year time frame, or clinical experience practicum, with at least fifty of those hours under direct supervision; or

(2) A bachelor of arts or bachelor of sciences degree with transcripts from a speech, language, and hearing program from a board-approved institution of higher education as defined in WAC 246-828-025 (1)(b). Transcripts must reflect, or applicant must demonstrate, one hundred hours of supervised patient/client/student work experience completed within a one-year time frame, or clinical experience practicum, with at least fifty of those hours under direct supervision;

~~(3) A completed work experience verification form and competency checklist form developed by the board and submitted as part of the application verifying 600 hours of supervised experience within three years of application. Both forms must be submitted by July 1, 2011, to qualify for certification under this subsection. The competency checklist form shall indicate and verify that the applicant has demonstrated competencies in all the following categories:~~

- ~~(a) Interpersonal skills;~~
- ~~(b) Understanding of critical supervision issues;~~
- ~~(c) Administering treatment protocols;~~
- ~~(d) Maintaining clinical documentation and communication;~~
- ~~(e) Upholding ethical behavior and maintaining confidentiality;~~
- ~~(f) Following health and safety precautions;~~
- ~~(g) Foundational knowledge of the profession)).~~

AMENDATORY SECTION (Amending WSR 07-09-093, filed 4/18/07, effective 5/19/07)

WAC 246-828-620 Definitions—Sexual misconduct. The following definitions are applicable to the sexual misconduct rule, WAC 246-828-625:

(1) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(2) "Health care provider" means an individual applying for a credential or credentialed in a profession listed in chapter 18.35 RCW: Hearing (~~(instrument fitter/dispensers)~~) aid specialists, audiologists, and speech-language pathologists, and speech-language pathology assistants.

(3) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient or client and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian and person authorized to make health care decisions of the patient or client.

(4) "Legitimate health care purpose" means activities for examination, diagnosis, treatment, and personal care of patients or clients, including palliative care, as consistent with community standards of practice for the profession. The activity must be within the scope of practice of the health care provider.

(5) "Patient" or "client" means an individual who receives health care from a health care provider.

AMENDATORY SECTION (Amending WSR 07-09-093, filed 4/18/07, effective 5/19/07)

WAC 246-828-625 Sexual misconduct. (1) A health care provider (~~(shall)~~) may not engage, or attempt to engage, in sexual misconduct with a current patient, client, or (~~(with a)~~) key party (~~(of a current client or patient)~~), inside or outside the health care setting. Sexual misconduct (~~(shall)~~) constitutes grounds for disciplinary action. Sexual misconduct includes but is not limited to:

- (a) Sexual intercourse;
- (b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of prac-

tice for examination, diagnosis and treatment and within the health care practitioner's scope of practice;

(c) Rubbing against a patient or client or key party for sexual gratification;

(d) Kissing;

(e) Hugging, touching, fondling or caressing of a romantic or sexual nature;

(f) Examination of or touching genitals without using gloves;

(g) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;

~~((g))~~ (h) Not providing the patient or client a gown or draping except as may be necessary in emergencies;

~~((h))~~ (i) Dressing or undressing in the presence of the patient, client or key party;

~~((i))~~ (j) Removing patient or client's clothing or gown or draping without consent, emergent medical necessity or being in a custodial setting;

~~((j))~~ (k) Encouraging masturbation or other sex act in the presence of the health care provider;

~~((k))~~ (l) Masturbation or other sex act by the health care provider in the presence of the patient, client or key party;

~~((l))~~ (m) Suggesting or discussing the possibility of a dating ((or beginning a)), sexual or romantic relationship ((before)) after the professional relationship ends;

~~((m))~~ (n) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;

(o) Soliciting a date with a patient, client or key party;

(p) Discussing the sexual history, preferences or fantasies of the health care provider;

~~((n))~~ (q) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;

~~((o))~~ (r) Making statements regarding the patient, client or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;

~~((p))~~ (s) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client or key party;

~~((q))~~ (t) Photographing or filming the body or any body part or pose' of a patient, client, or key party, other than for legitimate health care purposes; and

~~((r))~~ (u) Showing a patient, client or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.030.

(3) A health care provider ~~((shall))~~ may not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient, client or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the health care provider's sexual needs.

~~((3) After a health care provider has terminated providing services to the client or patient,)) (4) A health care provider ((shall)) may not engage, or attempt to engage, in ((dating or beginning a sexu-~~

~~al or romantic relationship))~~ the activities listed in subsection (1) of this section with a former ((client or)) patient, client or key party ((of a former client or patient if:)) within two years after the provider-patient/client relationship ends.

(5) After the two-year period of time described in subsection (3) of this section, a health care provider may not engage, or attempt to engage, in the activities listed in subsection (1) of this section if:

(a) There is a significant likelihood that the ((former)) patient, client or key party will seek or require additional services from the health care provider; or

(b) There is an imbalance of power, influence, opportunity ((and/or)) or special knowledge ((held or acquired by the health care provider related to)) of the professional relationship.

~~((4))~~ (6) When evaluating whether a health care provider is prohibited from engaging, or attempting to engage, in sexual misconduct, the board of hearing and speech will consider factors, including but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the provider-patient relationship;

(b) Transfer of care to another health care provider;

(c) Duration of the provider-patient relationship;

(d) Amount of time that has passed since the last health care services to the patient or client;

(e) Communication between the health care provider and the patient or client between the last health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's or the client's personal or private information was shared with the health care provider;

(g) Nature of the patient or client's health condition during and since the professional relationship;

(h) The patient or client's emotional dependence and vulnerability;

(i) Normal revisit cycle for the profession and service; and

~~((j))~~ (7) Patient, client or key party initiation or consent does not excuse or negate the health care provider's responsibility.

~~((5))~~ (8) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to that profession; or

(c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the health care provider where there is no evidence of, or potential for, exploiting the patient or client.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-828-360

Procedure for declaratory ruling.

WAC 246-828-605

Site review procedures for initial and continuing approval of program for two-year degree in hearing instrument fitter/dispenser instruction.