An act to amend Sections 2530, 2530.1, 2531.02, 2531.06, 2533, 2533.3, 2533.4, 2534, 2539.1, and 2539.14 of, to amend the heading of Article 9 (commencing with Section 2539.1) of, and to add Article 8 (commencing with Section 2538.10) to, Chapter 5.3 of, and to repeal Chapter 7.5 (commencing with Section 3300) of, Division 2 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 933, as introduced, Runner. Speech-language pathology and audiology: hearing aid dispensers.

Existing law, the Speech-Language Pathologists and Audiologists Licensure Act, provides for the licensure and regulation of speech-language pathologists and audiologists by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. Existing law, the Hearing Aid Dispensers Law, also provides for the licensure and regulation of hearing aid dispensers by the board. Existing law establishes the Speech-Language Pathology and Audiology Fund for the purposes of carrying out the provisions of the Speech-Language Pathologists and Audiologists Licensure Act and the Hearing Aid Dispensers Law. Existing law establishes the Hearing Aid Dispensers Account in the fund and requires fees collected pursuant to the Hearing Aid Dispensers Law to be deposited in the account for the purposes of carrying out the provisions of that law and the Speech-Language Pathologists and Audiologists Licensure Act.

This bill would repeal the Hearing Aid Dispensers Law, abolish the Hearing Aid Dispensers Account, rename the Speech-Language Pathologists and Audiologists Licensure Act as the Speech-Language
Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act, and revise that act to include the licensing, regulatory, and disciplinary provisions applicable to hearing aid dispensers under the Hearing Aid Dispensers Law. The bill would make various technical changes relative to combining the laws applicable to speech-language pathologists and audiologists and hearing aid dispensers.


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

SECTION 1. Section 2530 of the Business and Professions Code is amended to read:

SECTION 2530. This act may be cited as the “Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act.”

SEC. 2. Section 2530.1 of the Business and Professions Code is amended to read:

SECTION 2530.1. The Legislature finds and declares that the practice of speech-language pathology and audiology and hearing aid dispensing in California affects the public health, safety, and welfare and there is a necessity for those professions to be subject to regulation and control.

SEC. 3. Section 2531.02 of the Business and Professions Code is amended to read:

SECTION 2531.02. Protection of the public shall be the highest priority for the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 4. Section 2531.06 of the Business and Professions Code is amended to read:

SECTION 2531.06. (a) The board is vested with the duties, powers, purposes, responsibilities, and jurisdiction over the licensing and regulation of hearing aid dispensers as provided under the Hearing Aid Dispenser Licensing Law (Chapter 7.5 (commencing with Section 3300)) Article 8 (commencing with Section 2538.10).
(b) In the performance of the duties and the exercise of the
powers vested in the board under this chapter, the board may
consult with hearing aid dispenser industry representatives.
(c) For the performance of the duties and the exercise of the
powers vested in the board under this chapter, the board shall
have possession and control of all records, papers, offices,
equipment, supplies, or other property, real or personal, held for
the benefit or use by the former Hearing Aid Dispensers Bureau.
(d) All regulations in Division 13.3 (commencing with Section
1399.100) of Title 16 of the California Code of Regulations are
continued in existence under the administration of the board.

SEC. 5. Section 2533 of the Business and Professions Code is
amended to read:

2533. (a) The board may refuse to issue, or issue subject to
terms and conditions, a license on the grounds specified in Section
480, or may suspend, revoke, or impose terms and conditions upon
the license of any licensee if he or she has been guilty of
unprofessional conduct. Unprofessional conduct shall include, but
shall not be limited to, the following:

(1) Conviction of a crime substantially related to the
qualifications, functions, and duties of a speech-language
pathologist or audiologist or hearing aid dispenser, as the case
may be. The record of the conviction shall be conclusive evidence
thereof.

(2) Securing a license by fraud or deceit.

(3) (A) The use or administering to himself or herself, of any
controlled substance; (B) the use of any of the dangerous drugs
specified in Section 4022, or of alcoholic beverages, to the extent,
or in a manner as to be dangerous or injurious to the licensee, to
any other person, or to the public, or to the extent that the use
impairs the ability of the licensee to practice speech-language
pathology or audiology safely; (C) more than one misdemeanor
involving the use, consumption, or self-administration
of any of the substances referred to in this section; or
(D) any
combination of paragraphs (1), (2), or (3) subparagraphs (A), (B),
or (C). The record of the conviction shall be conclusive evidence
of unprofessional conduct.
Advertising in violation of Section 17500. Advertising an academic degree that was not validly awarded or earned under the laws of this state or the applicable jurisdiction in which it was issued is deemed to constitute a violation of Section 17500.

Committing a dishonest or fraudulent act that is substantially related to the qualifications, functions, or duties of a licensee.

Incompetence or gross negligence in the practice of speech-language pathology or audiology.

Other acts that have endangered or are likely to endanger the health, welfare, and safety of the public.

In addition to taking action under subdivision (a), the board may, with regard to hearing aid dispensers, refuse to issue, issue subject to terms and conditions, or revoke a license, or impose conditions of probation upon a licensee, for any of the following:

1. Use of the term “doctor” or “physician” or “audiologist,” or any derivation thereof, except as authorized by law.

2. The use, or causing the use, of any advertising or promotional literature in a manner that has the capacity or tendency to mislead or deceive purchasers or prospective purchasers.

3. Any cause that would be grounds for denial of an application for a license.

4. Violation of Section 1689.6 or 1793.02 of the Civil Code.

SEC. 6. Section 2533.3 of the Business and Professions Code is amended to read:

Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or both.

SEC. 7. Section 2534 of the Business and Professions Code is amended to read:

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

SEC. 8. Article 8 (commencing with Section 2538.10) is added to Chapter 5.3 of Division 2 of the Business and Professions Code, to read:

Article 8. Hearing Aid Dispensers

2538.10. For the purposes of this article, the following definitions shall apply:

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

(b) “License” means a hearing aid dispenser’s license issued pursuant to this article and includes a temporary license.

(c) “Licensee” means a person holding a license.

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

(e) “Fund” means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund.

2538.11. (a) “Practice of fitting or selling hearing aids,” as used in this article, means those practices used for the purpose of selection and adaptation of hearing aids, including direct observation of the ear, testing of hearing in connection with the fitting and selling of hearing aids, taking of ear mold impressions, fitting or sale of hearing aids, and any necessary postfitting counseling.

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

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

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

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

2538.12. A licensee may conduct hearing screenings at a health
fair or similar event by the application of a binary puretone
screening at a preset intensity level for the purpose of identifying
the need for further hearing or medical evaluation.

Upon the conclusion of each hearing screening, the licensee shall
present to the person whose hearing was screened a written
statement containing the following provisions:

“Results of a hearing screening are not a medical evaluation of
your ear nor a diagnosis of a hearing disorder but are only the
identification of the need for further medical or hearing evaluation.”

A licensee conducting hearing screenings pursuant to this section
shall not make or seek referrals for testing, fitting, or dispensing
of hearing aids.

2538.13. In fitting hearing aids, a hearing aid dispenser shall
not take facial measurements or fit, adjust, or adapt lenses or
spects frames, except that a hearing aid dispenser may replace
the temple or temples of a person’s spectacle frames with a temple
or temples incorporating hearing aid components.

2538.14. “Hearing aid dispenser,” as used in this article, means
a person engaged in the practice of fitting or selling hearing aids
to an individual with impaired hearing.

2538.15. “Sell” or “sale” means any transfer of title or of the
right to use by lease, bailment, or any other contract, excluding
wholesale transactions with distributors or dealers.

2538.16. The board shall keep a record of all prosecutions for
violations of this article 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.

2538.17. 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.

2538.18. 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.

2538.19. (a) The board may prosecute any and all persons for any violation of this article.

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

2538.20. It is unlawful for an individual to engage in the practice of fitting or selling hearing aids, or to display a sign or in any other way to advertise or hold himself or herself out as being so engaged without having first obtained a license from the board under the provisions of this article. Nothing in this article shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of fitting or selling, or offering for sale,
hearing aids at retail without a license, provided that any and all fitting or selling of hearing aids is conducted by the individuals who are licensed pursuant to the provisions of this article. A person whose license as a hearing aid dispenser has been suspended or revoked shall not be the proprietor of a business that engages in the practice of fitting or selling hearing aids nor shall that person be a partner, shareholder, member, or fiduciary in a partnership, corporation, association, or trust that maintains or operates that business, during the period of the suspension or revocation. This restriction shall not apply to stock ownership in a corporation that is listed on a stock exchange regulated by the Securities and Exchange Commission if the stock is acquired in a transaction conducted through that stock exchange.

2538.21. This article does not apply to a person engaged in the practice of fitting hearing aids if his practice is for a governmental agency, or private clinic, or is part of the academic curriculum of an accredited institution of higher education, or part of a program conducted by a public, charitable institution or other nonprofit organization, and who does not engage directly or indirectly in the sale or offering for sale of hearing aids.

2538.22. This article does not apply to nor affect any physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 who does not directly or indirectly engage in the sale or offering for sale of hearing aids, nor to any audiologist licensed under this chapter, or to an individual supervised by the audiologist in conducting fitting procedures, and who does not directly or indirectly engage in the sale or offering for sale of hearing aids.

2538.23. (a) Hearing aids may be sold by catalog or direct mail provided that:

(1) The seller is licensed as a hearing-aid dispenser in this state.

(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 2538.36 and subdivision (b) of Section 2538.49 have 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 2538.38.

c) A licensed hearing-aid dispenser who sells a hearing aid under this section shall not be required to comply with subdivision (b) of Section 2538.49.

2538.24. Each person desiring to obtain a license to engage in the practice of fitting or selling hearing aids shall make application to the board. The application shall be made upon a form and shall be made in the manner as is provided by the board and shall be accompanied by the fee provided for in Section 2538.57.

2538.25. (a) The board shall prepare, approve, grade, and conduct examinations of applicants for a hearing aid dispenser’s license. The board may provide that the preparation and grading of the examination be conducted by a competent person or organization other than the board, provided, however, that the board shall establish the guidelines for the examination and shall approve the actual examination.

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

2538.26. The board shall issue a license to all applicants who have satisfied this chapter, who are at least 18 years of age, who possess a high school diploma or its equivalent, who have not committed acts or crimes constituting grounds for denial of licensure under Section 480, and who have paid the fees provided for in Section 2538.57. No license shall be issued to any person other than an individual.

2538.27. (a) An applicant who has fulfilled the requirements of Section 2538.24 and has made application therefor, may have a temporary license issued to him or her upon satisfactory proof to the board that the applicant holds a hearing aid dispenser’s license in another state, that the licensee has not been subject to formal disciplinary action by another licensing authority, and that the applicant has been engaged in the fitting and sale of hearing aids for the two years immediately prior to application.

(b) A temporary license issued pursuant to this section shall be valid for one year from date of issuance and is not renewable. A
temporary license shall automatically terminate upon issuance of
a license prior to expiration of the one-year period.
(c) The holder of a temporary license issued pursuant to this
section who fails either license examination shall be subject to and
shall comply with the supervision requirements of Section 2538.28
and any regulations adopted pursuant thereto.
2538.28. (a) An applicant who has fulfilled the requirements
of Section 2538.24, and has made application therefor, and who
proves to the satisfaction of the board that he or she will be
supervised and trained by a hearing aid dispenser who is approved
by the board may have a temporary license issued to him or her.
The temporary license shall entitle the temporary licensee to
fit or sell hearing aids as set forth in regulations of the board. The
supervising dispenser shall be responsible for any acts or omissions
committed by a temporary licensee under his or her supervision
that may constitute a violation of this chapter.
(b) The board shall adopt regulations setting forth criteria for
its refusal to approve a hearing aid dispenser to supervise a
temporary licensee, including procedures to appeal that decision.
(c) A temporary license issued pursuant to this section is
effective and valid for six months from date of issue. The board
may renew the temporary license for an additional period of six
months. Except as provided in subdivision (d), the board shall not
issue more than two renewals of a temporary license to any
applicant. Notwithstanding subdivision (d), if a temporary licensee
who is entitled to renew a temporary license does not renew the
temporary license and applies for a new temporary license at a
later time, the new temporary license shall only be issued and
renewed subject to the limitations set forth in this subdivision.
(d) A new temporary license may be issued pursuant to this
section if a temporary license issued pursuant to subdivision (c)
has lapsed for a minimum of three years from the expiration or
cancellation date of the previous temporary license. The bureau
may issue only one new temporary license under this subdivision.
2538.29. A temporary licensee under Section 2538.28 shall
take the license examination within the first 10 months after the
temporary 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.

2538.30. (a) A temporary licensee shall not be the sole
proprietor of, manage, or independently operate a business which
engages in the fitting or sale of hearing aids.
(b) A temporary licensee shall not advertise or otherwise
represent that he or she holds a license as a hearing aid dispenser.

2538.31. 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.

2538.32. Every applicant who obtains a passing score
determined by the Angoff criterion-referenced method of
establishing the point in each examination shall be deemed to have
passed that examination. An applicant shall pass the written
examination before he or she may take the practical examination.
An applicant shall obtain a passing score on both the written and
the practical examination in order to be issued a license.

2538.33. (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 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 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.

2538.34. (a) Every licensee who engages in the practice of
fitting or selling hearing aids shall have and maintain an established
retail business address to engage in that fitting or selling, routinely
open for service to customers or clients. The address of the
licensee’s place of business shall be registered with the bureau as
provided in Section 2538.33.
(b) Except as provided in subdivision (c), if a licensee maintains
more than one place of business within this state, he or she shall
apply for and procure a duplicate license for each branch office
maintained. The application shall state the name of the person and
the location of the place or places of business for which the
duplicate license is desired.
(c) A hearing aid dispenser may, without obtaining a duplicate
license for a branch office, engage on a temporary basis in the
practice of fitting or selling hearing aids at the primary or branch
location of another licensee’s business or at a location or facility
that he or she may use on a temporary basis, provided that the
hearing aid dispenser notifies the board in advance in writing of
the dates and addresses of those businesses, locations, or facilities
at which he or she will engage in the practice of fitting or selling
hearing aids.
2538.35. A licensee 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 licensee, 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 licensee,
and the address and office hours at which the licensee 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 licensee’s license and the name and
license number of any other hearing aid dispenser or temporary
licensee who provided any recommendation or consultation
regarding the purchase of the hearing aid.
(f) The terms of any guarantee or written warranty, required by
Section 1793.02 of the Civil Code, made to the purchaser with
respect to the hearing aid or hearing aids.
2538.36. (a) Whenever any of the following conditions are
found to exist either from observations by the licensee or on the
basis of information furnished by the prospective hearing aid user,
a licensee shall, prior to fitting or selling a hearing aid to any
individual, suggest to that individual in writing that his or her best
interests would be served if he or she would consult a licensed
physician specializing in diseases of the ear or if no such licensed
physician is available in the community then to a duly licensed
physician:
Visible congenital or traumatic deformity of the ear.

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

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

(4) Acute or chronic dizziness.

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

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

(7) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal.

(8) Pain or discomfort in the ear.

(b) No referral for medical opinion need be made by any licensee in the instance of replacement only of a hearing aid that has been lost or damaged beyond repair within one year of the date of purchase. A copy of the written recommendation shall be retained by the licensee for the period provided for in Section 2538.38. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the licensee for the period provided for in Section 2538.38. Nothing in this section required to be performed by a licensee shall mean that the licensee is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of this code.

2538.37. No hearing aid shall be sold by an individual licensed under this chapter, to a person 16 years of age or younger, unless within the preceding six months a recommendation for a hearing aid has been made by both a board-certified, or a board-eligible physician specializing in otolaryngology, and by a state licensed audiologist. A replacement of an identical hearing aid within one year shall be an exception to this requirement.

2538.38. A licensee shall, upon the consummation of a sale of a hearing aid, keep and maintain records in his or her office or place of business at all times and each record shall be kept and maintained for a seven-year period. All records related to the sale and fitting of hearing aids shall be open to inspection by the bureau or its authorized representatives upon reasonable notice. The records kept shall include:
(a) Results of test techniques as they pertain to fitting of the hearing aid.
(b) A copy of the written receipt required by Section 2538.35 and the written recommendation and receipt required by Section 2538.36 when applicable.
(c) Records of maintenance or calibration of equipment used in the practice of fitting or selling hearing aids.

2538.39. A hearing aid dispenser who is the owner, manager, or franchisee at a location where hearing aids are fit or sold, shall be responsible for the adequacy of the fitting or selling of any hearing aid fit and sold by any licensee or licensees at that location.

2538.40. Upon denial of an application for license, the board shall notify the applicant in writing, stating (1) the reason for the denial and (2) that the applicant has a right to a hearing under Section 2533.2 if he or she makes written request therefor within 60 days after notice of denial. Service of the notice required by this section may be made by certified mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise.

2538.41. Before setting aside the revocation or suspension of any license or modifying the probation of any licensee, the board may require the petitioner to pass the regular examination given for applicants for licenses.

2538.42. Any person who violates any of the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than 10 days nor more than one year, or by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

2538.43. It is unlawful to sell or barter, or offer to sell or barter, any license issued by the board.

2538.44. It is unlawful to purchase or procure by barter any license issued by the board with intent to use the same as evidence of the holder’s qualification to practice the fitting or selling of hearing aids.

2538.45. It is unlawful to alter with fraudulent intent in any material regard a license issued by the board.

2538.46. It is unlawful to use or attempt to use any license issued by the board that has been purchased, fraudulently issued, counterfeited, or materially altered as a valid license.
2538.47. It is unlawful to willfully make any false statement in a material regard in an application for an examination before the board for a license.

2538.48. It is unlawful to engage in the practice of fitting or selling hearing aids in this state without having at the time of so doing a valid, unrevoked and unexpired license or temporary license.

2538.49. It is unlawful for a licensed hearing aid dispenser to fit or sell a hearing aid unless he or she first does all of the following:

(a) Complies with all provisions of state laws and regulations relating to the fitting or selling of hearing aids.

(b) Conducts a direct observation of the purchaser’s ear canals.

(c) Informs the purchaser of the address and office hours at which the licensee shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

2538.50. It is unlawful to advertise by displaying a sign or otherwise or hold himself out to be a person engaged in the practice of fitting or selling hearing aids without having at the time of so doing a valid, unrevoked license or temporary license.

2538.51. It is unlawful to engage in the practice of fitting or selling hearing aids without the licensee having and maintaining an established business address, routinely open for service to his clients.

2538.52. When tests are conducted by persons licensed under this article in connection with the fitting and selling of hearing aids, the provisions of this article shall apply.

2538.53. (a) A license issued under this article expires at midnight on its assigned renewal date.

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

(c) Temporary license holders shall renew their licenses in accordance with Section 2538.27, and apply for that renewal on a form provided by the board, accompanied by the prescribed renewal fee for temporary licenses.

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

2538.54. Except as otherwise provided in this article, an expired
license may be renewed at any time within three years after its
expiration on filing of an application for renewal on a form
prescribed by the board, and payment of all accrued and unpaid
renewal fees. If the license is renewed after its expiration the
licensee, as a condition precedent to renewal, shall also pay the
delinquency fee prescribed by this article. Renewal under this
section shall be effective on the date on which the application is
filed, on the date on which the renewal fee is paid, or on the date
on which the delinquency fee, if any, is paid, whichever last occurs.
If so renewed, the license shall continue in effect through the date
provided in Section 2538.53 which next occurs after the effective
date of the renewal, when it shall expire if it is not again renewed.

2538.55. A license which has been suspended is subject to
expiration and shall be renewed as provided in this article but such
renewal does not entitle the holder of the license, while it remains
suspended and until it is reinstated, to engage in the fitting or
selling of hearing aids, or in any other activity or conduct in
violation of the order or judgment by which the license was
suspended. A license which has been revoked is subject to
expiration, but it may not be renewed. If it is reinstated after its
expiration, the licensee, as a condition precedent to its
reinstatement, shall pay a reinstatement fee in an amount equal to
the renewal fee in effect on the last regular renewal date before
the date on which it is reinstated, plus the delinquency fee, if any,
accrued at the time of its revocation.

2538.56. A license that is not renewed within three years after
its expiration may not be renewed, restored, reissued, or reinstated
thereafter, but the holder of the expired license may apply for and
obtain a new license if all of the following apply:
(a) He or she has not committed acts or crimes constituting
grounds for denial of licensure under Section 480.
(b) He or she pays all the fees that would be required of him or
her if he or she were then applying for a license for the first time.
(c) He or she takes and passes the examination that would be
required of him or her if he or she were then applying for a license
for the first time, or otherwise establishes to the satisfaction of the
board that he or she is qualified to engage in the practice of fitting
or selling hearing aids. The board may, by regulation, provide for
the waiver or refund of all or any part of the application fee in
those cases in which a license is issued without an examination
under this section.
2538.57. The amount of fees and penalties prescribed by this
article shall be those set forth in this section unless a lower fee is
fixed by the board:
(a) The fee for applicants applying for the first time for a license
is seventy-five dollars ($75), which shall not be refunded, except
to applicants who are found to be ineligible to take an examination
for a license. Those applicants are entitled to a refund of fifty
dollars ($50).
(b) The fees for taking or retaking the written and practical
examinations shall be amounts fixed by the board, which shall be
equal to the actual cost of preparing, grading, analyzing, and
administering the examinations.
(c) The initial temporary license fee is one hundred dollars
($100). The fee for renewal of a temporary license is one hundred
dollars ($100) for each renewal.
(d) The initial permanent license fee is two hundred eighty
dollars ($280). The fee for renewal of a permanent license is not
more than two hundred eighty dollars ($280) for each renewal.
(e) The initial branch office license fee is twenty-five dollars
($25). The fee for renewal of a branch office license is twenty-five
dollars ($25) for each renewal.
(f) The delinquency fee is twenty-five dollars ($25).
(g) The fee for issuance of a replacement license is twenty-five
dollars ($25).
(h) The continuing education course approval application fee
is fifty dollars ($50).
(i) The fee for official certification of licensure is fifteen dollars
($15).
SEC. 9. The heading of Article 9 (commencing with Section
2539.1) of Chapter 5.3 of Division 2 of the Business and
Professions Code is amended to read:
Article 9. Hearing Aids—Dispensing Audiology
ists
SEC. 10. Section 2539.1 of the Business and Professions Code
is amended to read:
2539.1. (a) (1) On and after January 1, 2010, in addition to satisfying the licensure and examination requirements described in Sections 2532 and 2532.2, no licensed audiologist shall sell hearing aids unless he or she completes an application for a dispensing audiology license, pays all applicable fees, and passes an examination, approved by the board, relating to selling hearing aids.

(2) The board shall issue a dispensing audiology license to a licensed audiologist who meets the requirements of paragraph (1).

(b) (1) On and after January 1, 2010, a licensed audiologist with an unexpired license to sell hearing aids pursuant to Chapter 7.5 (commencing with Section 3300) Article 8 (commencing with Section 2538.10) may continue to sell hearing aids pursuant to that license until that license expires pursuant to Section 2538.53, and upon that expiration the licensee shall be deemed to have satisfied the requirements described in subdivision (a) and may continue to sell hearing aids pursuant to his or her audiology license subject to the provisions of this chapter. Upon the expiration of the audiologist’s license to sell hearing aids, the board shall issue him or her a dispensing audiology license pursuant to paragraph (2) of subdivision (a). This paragraph shall not prevent an audiologist who also has a hearing aid dispenser’s license from maintaining dual or separate licenses if he or she chooses to do so.

(2) A licensed audiologist whose license to sell hearing aids, issued pursuant to Chapter 7.5 (commencing with Section 3300) Article 8 (commencing with Section 2538.10), is suspended, surrendered, or revoked shall not be authorized to sell hearing aids pursuant to this subdivision and he or she shall be subject to the requirements described in subdivision (a) as well as the other provisions of this chapter.

(c) A licensed hearing aid dispenser who meets the qualifications for licensure as an audiologist shall be deemed to have satisfied the requirements of paragraph (1) of subdivision (a) for the purposes of obtaining a dispensing audiology license.

(d) 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.

SEC. 11. Section 2539.14 of the Business and Professions Code is amended to read:

SEC. 12. Chapter 7.5 (commencing with Section 3300) of Division 2 of the Business and Professions Code is repealed.