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HOUSE BILL 638

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Eliseo Lee Alcon

AN ACT

RELATING TO PROFESSIONAL LICENSES; AMENDING THE SPEECH-LANGUAGE  
PATHOLOGY, AUDIOLOGY AND HEARING AID DISPENSING PRACTICES ACT;  
ADDING A SCOPE OF PRACTICE FOR CLINICAL FELLOWS; INCREASING  
BOARD MEMBERSHIP; CONFORMING STATE LICENSURE TO NATIONAL  
STANDARDS; INCREASING LICENSE FEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-14B-2 NMSA 1978 (being Laws 1996,  
Chapter 57, Section 2, as amended) is amended to read:

"61-14B-2. DEFINITIONS.--As used in the Speech-Language  
Pathology, Audiology and Hearing Aid Dispensing Practices Act:

A. "apprentice" means a person working toward full  
licensure in speech-language pathology who meets the  
requirements for licensure as an apprentice in speech and  
language pursuant to the Speech-Language Pathology, Audiology

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1 and Hearing Aid Dispensing Practices Act;

2 B. "appropriate supervisor" means a person licensed  
3 pursuant to the provisions of the Speech-Language Pathology,  
4 Audiology and Hearing Aid Dispensing Practices Act who has a  
5 minimum of two years experience as a speech-language  
6 pathologist after the person's clinical fellowship year;

7 [~~B.~~] C. "auditory trainer" means a custom-fitted FM  
8 amplifying instrument other than a hearing aid designed to  
9 enhance signal-to-noise ratios;

10 [~~C.~~] D. "audiologist" means a person who engages in  
11 the practice of audiology, who may or may not dispense hearing  
12 aids and who meets the qualifications set forth in the Speech-  
13 Language Pathology, Audiology and Hearing Aid Dispensing  
14 Practices Act;

15 [~~D.~~] E. "board" means the speech-language  
16 pathology, audiology and hearing aid dispensing practices  
17 board;

18 [~~E.~~] F. "business location" means a permanent  
19 physical business location in New Mexico where records can be  
20 examined and process served;

21 [~~F.~~] G. "clinical fellow" means a person who has  
22 completed all academic course work and practicum requirements  
23 for a master's degree or the equivalent in speech-language  
24 pathology or audiology or both and engages in the practice of  
25 speech-language pathology or audiology as set forth in the

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1 provisions of the Speech-Language Pathology, Audiology and  
2 Hearing Aid Dispensing Practices Act;

3 ~~[G.]~~ H. "clinical fellowship year" or "CFY" means  
4 the time following the completion of all academic course work  
5 and practicum requirements for a master's degree in speech-  
6 language pathology or audiology or both and during which a  
7 clinical fellow is working ~~[towards]~~ toward a certificate of  
8 clinical competence from a nationally recognized speech-  
9 language or hearing association or the equivalent;

10 ~~[H. "CFY supervisor" means a person licensed  
11 pursuant to the provisions of the Speech-Language Pathology,  
12 Audiology and Hearing Aid Dispensing Practices Act who oversees  
13 the work of a clinical fellow and is so designated in the CFY  
14 plan that is approved by the board;]~~

15 I. "department" means the regulation and licensing  
16 department;

17 J. "hearing aid" means ~~[any]~~ a wearable instrument  
18 or device designed or offered for the purpose of aiding or  
19 compensating for impaired human hearing and any parts,  
20 attachments or accessories, including earmolds but excluding  
21 batteries and cords;

22 K. "hearing aid dispenser" means ~~[any]~~ a person  
23 other than ~~[a]~~ an audiologist or an otolaryngologist who is  
24 licensed to sell, fit and service hearing aids ~~[under]~~ pursuant  
25 to the Speech-Language Pathology, Audiology and Hearing Aid

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1 Dispensing Practices Act and maintains or occupies a permanent  
2 physical business location in New Mexico where records can be  
3 examined and process can be served;

4 L. "otolaryngologist" means a licensed physician  
5 who has completed a recognized residency in otolaryngology and  
6 is certified by the American board of otolaryngology;

7 M. "paraprofessional" means a person who provides  
8 adjunct speech-pathology or audiology services under the direct  
9 supervision of a licensed speech-language pathologist or  
10 audiologist;

11 N. "practice of audiology" means the application of  
12 principles, methods and procedures of measurement, testing,  
13 appraisal, prognostication, aural rehabilitation, aural  
14 habilitation, consultation, hearing aid selection and fitting,  
15 counseling, instruction and research related to hearing and  
16 disorders of hearing for the purpose of nonmedical diagnosis,  
17 prevention, identification, amelioration or the modification of  
18 communicative disorders involving speech, language auditory  
19 function or other aberrant behavior related to hearing  
20 disorders;

21 O. "practice of hearing aid dispensing" means the  
22 behavioral measurement of human hearing for the purpose of the  
23 selection and fitting of hearing aids or other rehabilitative  
24 devices to ameliorate the dysfunction of hearing sensitivity;  
25 this may include otoscopic inspection of the ear, fabrication

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1 of ear impressions and earmolds, instruction, consultation and  
2 counseling on the use and care of these instruments, medical  
3 referral when appropriate and the analysis of function and  
4 servicing of these instruments involving their modification or  
5 adjustment;

6 P. "practice of speech-language pathology" means  
7 the rendering or offering to render to individuals, groups,  
8 organizations or the public any service in speech or language  
9 pathology involving the nonmedical application of principles,  
10 methods and procedures for the measurement, testing, diagnosis,  
11 prognostication, counseling and instruction related to the  
12 development and disorders of communications, speech, fluency,  
13 voice, verbal and written language, auditory comprehension,  
14 cognition, dysphagia, oral pharyngeal or laryngeal sensorimotor  
15 competencies and treatment of persons requiring use of an  
16 augmentative communication device for the purpose of nonmedical  
17 diagnosing, preventing, treating and ameliorating such  
18 disorders and conditions in individuals and groups of  
19 individuals;

20 Q. "screening" means a pass-fail procedure to  
21 identify individuals who may require further assessment in the  
22 areas of speech-language pathology, audiology or hearing aid  
23 dispensing;

24 R. "speech-language pathologist" means a person who  
25 engages in the practice of speech-language pathology and who

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1 meets the qualifications set forth in the Speech-Language  
2 Pathology, Audiology and Hearing Aid Dispensing Practices Act;

3 S. "sponsor" means a licensed hearing aid  
4 dispenser, audiologist or otolaryngologist who has an  
5 endorsement to dispense hearing aids and:

6 (1) is employed in the same business location  
7 where the trainee is being trained; and

8 (2) has been actively engaged in the  
9 dispensing of hearing aids during three of the past five years;

10 T. "student" means [~~any~~] a person who is a full- or  
11 part-time student enrolled in an accredited college or  
12 university program in speech-language pathology, audiology or  
13 communicative disorders;

14 U. "supervisor" means a speech-language pathologist  
15 or audiologist licensed pursuant to the provisions of the  
16 Speech-Language Pathology, Audiology and Hearing Aid Dispensing  
17 Practices Act who provides supervision in the area of speech-  
18 language pathology or audiology; and

19 V. "trainee" means a person working toward full  
20 licensure as a hearing aid dispenser under the direct  
21 supervision of a sponsor."

22 Section 2. A new section of the Speech-Language  
23 Pathology, Audiology and Hearing Aid Dispensing Practices Act,  
24 Section 61-14B-3.2 NMSA 1978, is enacted to read:

25 "61-14B-3.2. [NEW MATERIAL] SCOPE OF PRACTICE--CLINICAL  
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1 FELLOW OF SPEECH-LANGUAGE PATHOLOGY.--

2 A. The scope of practice for a clinical fellow of  
3 speech-language pathology under the supervision by an  
4 appropriate supervisor shall include:

5 (1) rendering or offering to render  
6 professional services, including diagnosis, prevention,  
7 identification, evaluation, consultation, habilitation,  
8 rehabilitation, instruction, counseling, prognostication,  
9 training and research to individuals or groups of individuals  
10 who have or are suspected of having disorders of communication,  
11 including speech comprehension, voice, fluency, language in all  
12 its expressive and receptive forms, including oral expression,  
13 reading, writing and comprehension, oral pharyngeal function,  
14 oral motor function, dysphagia, functional maintenance therapy  
15 or cognitive-communicative processes; and

16 (2) determining the need for personal  
17 augmentative and alternative communication systems, computer  
18 access or assistive technology, recommending such systems and  
19 providing set-up, modification, training, trouble-shooting and  
20 follow-up in the utilization of such systems.

21 B. The scope of practice for a clinical fellow of  
22 speech-language pathology under the supervision by an  
23 appropriate supervisor may include:

24 (1) conducting pure-tone air conduction  
25 hearing screening or tympanometry screening, limited to a pass

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1 or fail determination, for the purpose of performing a speech  
2 and language evaluation or for the initial identification of  
3 individuals with other disorders of communications; and

4 (2) aural rehabilitation that is defined as  
5 services and procedures for facilitation of adequate receptive  
6 and expressive communication in individuals who are deaf or  
7 hearing impaired."

8 Section 3. Section 61-14B-5 NMSA 1978 (being Laws 1996,  
9 Chapter 57, Section 5, as amended) is amended to read:

10 "61-14B-5. SCOPE OF PRACTICE--AUDIOLOGISTS.--

11 A. The scope of practice for audiologists shall  
12 include:

13 (1) the rendering or offering to render  
14 professional services, including non-medical diagnosis,  
15 prevention, identification, evaluation, consultation,  
16 counseling, habilitation, rehabilitation and instruction on and  
17 prognostication of individuals having or suspected of having  
18 disorders of hearing, balance or central auditory processing;

19 (2) identification and evaluation of auditory  
20 function through the performance and interpretation of  
21 appropriate behavioral or electrophysiological tests for this  
22 purpose;

23 (3) making ear impressions for use with  
24 auditory trainers or for non-amplified devices such as swim  
25 molds or ear protectors;

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- 1 (4) cerumen management; [~~and~~]
- 2 (5) evaluation and management of tinnitus; and
- 3 (6) the scope of practice for hearing aid
- 4 dispensers.

5 B. The scope of practice for audiologists may  
6 include:

- 7 (1) consultation regarding noise control or
- 8 environmental noise evaluation;
- 9 (2) hearing conservation;
- 10 (3) calibration of equipment used in hearing
- 11 testing and environmental evaluation;
- 12 (4) fitting and management of auditory
- 13 trainers, including their general service, adjustment and
- 14 analysis of function, as well as instruction, orientation and
- 15 counseling in the use and care of these instruments;
- 16 (5) speech or language screening for the
- 17 purposes of audiological evaluation or initial identification
- 18 for referral of individuals with disorders of communication
- 19 other than hearing; [~~and~~]
- 20 (6) supervision of students, clinical fellows
- 21 and paraprofessionals; and

22 ~~[C. The scope of practice for audiologists may be~~

23 ~~expanded by special endorsement to include the dispensing of~~

24 ~~hearing aids. This expanded scope:~~

- 25 ~~(1) shall include the scope of practice for~~

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1 ~~audiologists as specified in Subsections A and B of this~~  
2 ~~section;~~

3 ~~(2) shall include the scope of practice for~~  
4 ~~hearing aid dispenser; and~~

5 ~~(3) may include]~~ (7) the sponsorship of  
6 hearing aid dispenser trainees."

7 Section 4. Section 61-14B-9 NMSA 1978 (being Laws 1996,  
8 Chapter 57, Section 9) is amended to read:

9 "61-14B-9. BOARD CREATED.--

10 A. There is created the "speech-language pathology,  
11 audiology and hearing aid dispensing practices board" that  
12 shall be administratively attached to the department.

13 B. The board shall consist of [~~ten~~] eleven members  
14 who have been New Mexico residents for at least five years  
15 prior to their appointment. Among the membership, [~~two~~] three  
16 members shall be licensed speech-language pathologists, two  
17 members shall be licensed audiologists, two members shall be  
18 licensed hearing aid dispensers, one member shall be a licensed  
19 otolaryngologist and three members shall represent the public  
20 and have no interest, direct or indirect, in the profession  
21 regulated.

22 C. [~~The~~] A licensed [~~members~~] member of the board  
23 shall not hold any elected or appointed office in any related  
24 professional organization."

25 Section 5. Section 61-14B-12.1 NMSA 1978 (being Laws  
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1 2005, Chapter 250, Section 3) is amended to read:

2 "61-14B-12.1. REQUIREMENTS FOR LICENSURE--  
3 AUDIOLOGIST.--A license to practice as an audiologist shall be  
4 issued to any person who:

5 A. files a completed application, accompanied by  
6 the required fees and documentation; certifies that the  
7 applicant is not guilty of any of the activities listed in  
8 Section 61-14B-21 NMSA 1978; and submits satisfactory evidence  
9 that the applicant:

10 (1) holds a master's degree in audiology or  
11 communication disorders; or an equivalent degree awarded prior  
12 to January 1, 2007; meets the academic requirements for  
13 certification by a nationally recognized [~~speech-language or~~]  
14 hearing association; and [~~currently holds~~] has earned a  
15 certificate of clinical competence from a nationally recognized  
16 [~~speech-language or~~] hearing association in the area that the  
17 applicant is seeking licensure; or

18 (2) has completed the current academic,  
19 practicum and employment experience requirements for a  
20 certificate of clinical competence in audiology from a  
21 nationally recognized [~~speech-language or~~] hearing association  
22 and has passed a nationally recognized standard examination; or

23 B. files a completed application, accompanied by  
24 the required fees and documentation; certifies that the  
25 applicant is not guilty of any of the activities listed in

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1 Section 61-14B-21 NMSA 1978; and submits satisfactory evidence  
2 that the applicant:

3 (1) holds a ~~[doctoral degree in]~~ doctor of  
4 audiology degree or equivalent degree regardless of degree name  
5 and meets academic requirements for certification by a  
6 nationally recognized ~~[speech-language or]~~ hearing association;  
7 and

8 (2) ~~[has completed the current academic,~~  
9 ~~practicum and employment requirements of a nationally~~  
10 ~~recognized speech-language or hearing association; and]~~ has  
11 passed a nationally recognized standard examination in  
12 audiology if required by rule."

13 Section 6. Section 61-14B-14 NMSA 1978 (being Laws 1996,  
14 Chapter 57, Section 14, as amended) is amended to read:

15 "61-14B-14. REQUIREMENTS FOR LICENSURE BY EXAMINATION--  
16 HEARING AID DISPENSER.--

17 A. A license to practice as a hearing aid dispenser  
18 shall be issued to ~~[any]~~ a person who files a completed  
19 application, passes the examination approved by the board, pays  
20 the required fees, provides required documentation and submits  
21 satisfactory evidence that the person:

22 ~~[(1) is an audiologist, a clinical fellow in~~  
23 ~~audiology or an otolaryngologist; or~~

24 ~~(2) is a person other than an audiologist, a~~  
25 ~~clinical fellow in audiology or an otolaryngologist applying~~

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1 ~~for a license under the Speech-Language Pathology, Audiology~~  
2 ~~and Hearing Aid Dispensing Practices Act and who:~~

3           ~~(a)~~ (1) has reached the age of majority and  
4 has at least a high school education or the equivalent;

5                   (2) has met any additional educational  
6 requirement of the board;

7           ~~(b)~~ (3) has worked for no less than seven  
8 months under a training permit; ~~and~~

9           ~~(c)~~ (4) certifies that ~~he~~ the person is not  
10 guilty of any of the activities listed in Section 61-14B-21  
11 NMSA 1978; and

12                   (5) maintains a surety bond in the amount of  
13 one thousand dollars (\$1,000).

14           B. The examination for hearing aid dispenser shall  
15 be conducted by the board quarterly unless there are no  
16 applicants for examination.

17           C. The board:

18                   (1) shall provide procedures to ~~assure~~  
19 ensure that examinations for licensure are offered as needed;

20                   (2) shall establish rules regarding the  
21 examination application deadline and other rules relating to  
22 the taking and retaking of licensure examinations;

23                   (3) shall determine a passing grade for the  
24 examination; and

25                   (4) may accept an applicant's examination

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1 scores used for national certification or other examination  
2 approved by the board."

3 Section 7. Section 61-14B-15 NMSA 1978 (being Laws 1996,  
4 Chapter 57, Section 15) is amended to read:

5 "61-14B-15. REQUIREMENTS FOR LICENSURE--CLINICAL FELLOW  
6 OF SPEECH-LANGUAGE PATHOLOGY--CLINICAL FELLOW OF AUDIOLOGY.--A  
7 license to practice as a clinical fellow of speech-language  
8 pathology or audiology shall be issued to [~~any~~] a person who  
9 files a completed application, [~~passes the examination approved~~  
10 ~~by the board prior to or within one year of applying for the~~  
11 ~~examination~~] pays the required fees, provides documentation and  
12 submits satisfactory evidence that the person:

13 A. has met all academic course work and practicum  
14 requirements for a master's degree in speech-language  
15 pathology, speech pathology, communication disorders or  
16 audiology or both for certification by a nationally recognized  
17 speech-language or hearing association;

18 [~~B. has filed a CFY plan that meets with board~~  
19 ~~approval;~~

20 ~~G.]~~ B. certifies that [~~he~~] the person has received  
21 no reprimands of unprofessional conduct or incompetency;

22 [~~D.]~~ C. applies for licensure under Section [~~12 of~~  
23 ~~the Speech Language Pathology, Audiology and Hearing Aid~~  
24 ~~Dispensing Practices Act~~] 61-14B-12 NMSA 1978 after completing  
25 the clinical fellowship year; and

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1                   [~~E.~~] D. has [~~a CFY~~] an appropriate supervisor [~~who~~;  
2                   ~~(1) is a speech language pathologist or~~  
3 ~~audiologist licensed under the provisions of the Speech~~  
4 ~~Language Pathology, Audiology and Hearing Aid Dispensing~~  
5 ~~Practices Act; and~~  
6                   ~~(2) has registered with the board as a CFY~~  
7 ~~supervisor for the clinical fellowship year]."~~

8                   Section 8. Section 61-14B-15.1 NMSA 1978 (being Laws  
9 1999, Chapter 128, Section 8, as amended) is amended to read:

10                   "61-14B-15.1. REQUIREMENTS FOR LICENSURE--APPRENTICE IN  
11 SPEECH AND LANGUAGE.--A license to practice as an apprentice in  
12 speech and language shall be issued by the board to a person  
13 who files a completed application accompanied by the required  
14 fees and documentation and provides satisfactory evidence that  
15 the applicant:

16                   A. is working toward full licensure pursuant to the  
17 provisions of the Speech-Language Pathology, Audiology and  
18 Hearing Aid Dispensing Practices Act;

19                   B. has a baccalaureate degree in speech-language  
20 pathology or communicative disorders or an equivalent degree or  
21 a baccalaureate degree in another field with thirty semester  
22 hours of credit in speech-language pathology or communicative  
23 [~~disorder~~] disorders;

24                   C. is enrolled in and successfully completes  
25 graduate classes in speech-language pathology [~~or~~],

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1 communicative disorders or a related field at a minimum rate of  
2 nine semester hours per year and is accepted into a master's  
3 level program in speech-language pathology or communicative  
4 disorders within two years of initial licensing;

5 D. maintains a minimum of a 3.0 grade point average  
6 in the master's degree course and other work;

7 E. is supervised by [~~a person licensed as a speech-~~  
8 ~~language pathologist who has a minimum of two years experience~~  
9 ~~as a speech-language pathologist~~] an appropriate supervisor;  
10 and

11 F. [~~receives a minimum of ten percent direct~~  
12 ~~supervision and ten percent indirect supervision~~] has arranged  
13 for appropriate supervision to meet the supervision  
14 requirements as defined by rule."

15 Section 9. Section 61-14B-18 NMSA 1978 (being Laws 1996,  
16 Chapter 57, Section 18) is amended to read:

17 "61-14B-18. SCOPE OF HEARING AID DISPENSING  
18 EXAMINATION.--In preparing the hearing aid dispensing  
19 examination, the board shall use tests that demonstrate:

20 A. knowledge in the fitting and sale of hearing  
21 aids, including basic physics of sound, anatomy and physiology  
22 of the ear and the function of hearing aids; and

23 B. proficient use of techniques for the fitting of  
24 hearing aids, including:

25 (1) pure-tone audiometry, including air

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1 conduction and bone conduction testing;

2 (2) live voice or recorded voice speech  
3 audiometry, including speech reception threshold and speech  
4 recognition score tests;

5 (3) masking when indicated;

6 (4) recording and evaluation of audiograms and  
7 speech audiometry for determining proper selection, fitting and  
8 adjustment of hearing aids;

9 (5) taking earmold impressions; and

10 (6) analyzing hearing aid function,  
11 modification and general service."

12 Section 10. Section 61-14B-19 NMSA 1978 (being Laws 1996,  
13 Chapter 57, Section 19) is amended to read:

14 "61-14B-19. LICENSE RENEWAL.--

15 A. Each licensee shall renew [~~his~~] the licensee's  
16 license every year by submitting a renewal application as  
17 provided for in the board's regulations. The board may require  
18 proof of continuing education as a requirement for renewal.

19 B. A sixty-day grace period shall be allowed to  
20 each licensee after each licensing period. A license may be  
21 renewed during the grace period upon payment of a renewal fee  
22 and a late fee as prescribed by the board.

23 C. Any license not renewed by the end of the grace  
24 period will be considered expired and the licensee shall not be  
25 eligible to practice within the state until the license is

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1 renewed. The board shall develop rules regarding requirements  
2 for renewal of an expired license and may require the licensee  
3 to reapply as a new applicant.

4 D. Clinical fellow licenses may be renewed for no  
5 more than three years; provided the clinical fellow has  
6 submitted evidence of:

7 (1) passing a recognized standard national  
8 examination in [~~either~~] speech-language pathology [~~or audiology~~  
9 ~~or both~~] prior to or within [~~his first~~] the clinical fellow's  
10 second year of the CFY. The CFY license will not be renewed  
11 the second year without evidence of passing a recognized  
12 standard national examination in [~~either~~] speech-language  
13 pathology [~~or audiology or both~~]; and

14 (2) evidence of continued supervision and  
15 satisfactory performance.

16 E. The board may issue rules providing for inactive  
17 status of licenses.

18 F. Hearing aid dispensing licenses may be renewed  
19 provided the hearing aid dispenser has submitted evidence that  
20 the licensee is board-certified by the national board for  
21 certification in hearing instrument sciences as provided in the  
22 speech-language pathology, audiology and hearing aid dispensing  
23 practices board's rules."

24 Section 11. Section 61-14B-20 NMSA 1978 (being Laws 1996,  
25 Chapter 57, Section 20, as amended) is amended to read:

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1 "61-14B-20. FEES.--The board shall establish a schedule  
2 of reasonable fees for applications, licenses, renewal of  
3 licenses, exams, penalties and administrative fees. The  
4 license and license renewal fees shall not exceed:

5 A. [~~fifty dollars (\$50.00)~~] one hundred dollars  
6 (\$100) for clinical fellows and apprentices in speech and  
7 language;

8 B. [~~one hundred dollars (\$100)~~] three hundred  
9 dollars (\$300) for audiologists or speech-language  
10 pathologists;

11 C. [~~three hundred dollars (\$300)~~] four hundred  
12 dollars (\$400) for hearing aid dispensers;

13 D. [~~two hundred dollars (\$200)~~] three hundred  
14 dollars (\$300) for examinations;

15 E. [~~one hundred dollars (\$100)~~] two hundred dollars  
16 (\$200) for late renewal fees;

17 [~~F. two hundred dollars (\$200) for hearing aid~~  
18 ~~dispensing endorsement;~~

19 ~~G.]~~ F. five hundred dollars (\$500) for a hearing  
20 aid dispenser trainee license, which fee includes examination,  
21 both written and practical; and

22 [~~H.]~~ G. reasonable administrative fees."

23 Section 12. REPEAL.--Section 61-14B-13 NMSA 1978 (being  
24 Laws 1996, Chapter 57, Section 13, as amended) is repealed.

25 Section 13. EFFECTIVE DATE.--The effective date of the  
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1 provisions of this act is July 1, 2009.

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