

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 147.76, the Board of Hearing Aid Dispensers hereby gives Notice of Intended Action to amend Chapter 4, “Board Administrative Processes,” Chapter 5, “Fees,” Chapter 121, “Licensure of Hearing Aid Dispensers,” Chapter 122, “Continuing Education for Hearing Aid Dispensers,” Chapter 123, “Practice of Hearing Aid Dispensing,” and Chapter 124, “Discipline for Hearing Aid Dispensers,” Iowa Administrative Code.

These proposed amendments revise language relating to the professional title for Hearing Aid Dispensers, which will be changed to Hearing Aid Specialists on July 1, 2015, following the passage of 2015 Iowa Acts, Senate File 274, division I, which amends the title for these professionals in Iowa Code chapter 154A.

Any interested person may make written comments on the proposed amendments no later than July 14, 2015. Written comments should be addressed to Sharon Dozier, Board Executive, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075 or sent by e-mail to [sharon.dozier@idph.iowa.gov](mailto:sharon.dozier@idph.iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 147 and 154A as amended by 2015 Iowa Acts, Senate File 274, division I.

The following amendments are proposed.

ITEM 1. Amend rule **645—4.1(17A)**, definition of “Board,” as follows:

“*Board*” means the professional licensing board of any of the following: athletic training, barbering, behavioral science, chiropractic, cosmetology arts and sciences, dietetics, hearing aid ~~dispensers~~ specialists, massage therapy, mortuary science, nursing home administrators, optometry, physical and occupational therapy, physician assistants, podiatry, psychology, respiratory care, sign language interpreters and transliterators, social work, and speech pathology and audiology.

ITEM 2. Amend rule 645—5.7(147,154A), catchwords, as follows:

**645—5.7(147,154A) Hearing aid ~~dispensers~~ specialists license fees.**

ITEM 3. Amend **645—Chapter 121**, title, as follows:

**LICENSURE OF HEARING AID ~~DISPENSERS~~ SPECIALISTS**

ITEM 4. Amend the following definitions in rule **645—121.1(154A)**:

“*Board*” means the board of hearing aid ~~dispensers~~ specialists.

“*Dispense*” or “*sell*” means a transfer of title or of the right to use by lease, bailment, or any other means, but excludes a wholesale transaction with a distributor or ~~dispenser~~ specialist, and excludes the temporary, charitable loan or educational loan of a hearing aid without remuneration.

“*Hearing aid ~~dispenser~~ specialist*” means any person engaged in the fitting, dispensing and the sale of hearing aids and providing hearing aid services or maintenance by means of procedures stipulated by Iowa Code chapter 154A or the board.

“*License*” means a license issued by the state to hearing aid ~~dispensers~~ specialists.

“*Licensee*” means any person licensed to practice as a hearing aid ~~dispenser~~ specialist in the state of Iowa.

*“Licensure by endorsement”* means the issuance of an Iowa license to practice as a hearing aid ~~dispenser~~ specialist to an applicant who is or has been licensed in another state.

*“Reciprocal license”* means the issuance of an Iowa license to practice as a hearing aid ~~dispenser~~ specialist to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of hearing aid ~~dispensers~~ specialists to license persons who have the same or similar qualifications to those required in Iowa.

*“Temporary permit”* means a permit issued while the applicant is in training to become a licensed hearing aid ~~dispenser~~ specialist.

ITEM 5. Amend subrule 121.2(4), introductory paragraph, as follows:

**121.2(4)** The licensed hearing aid ~~dispenser~~ specialist employing the holder of a temporary permit shall be responsible for the following:

ITEM 6. Amend paragraph **121.3(1)“a”** as follows:

a. Have a current hearing aid ~~dispenser~~ specialist license that has been valid for the immediately preceding 24 months;

ITEM 7. Amend subrules 121.4(1) and 121.4(3) as follows:

**121.4(1)** The applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Hearing Aid ~~Dispensers~~ Specialists, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**121.4(3)** Each application shall be accompanied by the application fee payable to the Board of Hearing Aid ~~Dispensers~~ Specialists. The board shall also receive the examination fee payable to the International Hearing Society; for any examination held prior to the implementation of the on-line examination.

ITEM 8. Amend rule 645—121.6(154A), introductory paragraph, as follows:

**645—121.6(154A) Licensure by endorsement.** An applicant who has been a licensed hearing aid ~~dispenser~~ specialist under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

ITEM 9. Amend rule 645—121.8(154A) as follows:

**645—121.8(154A) Display of license.** Persons licensed as hearing aid ~~dispensers~~ specialists shall display their original licenses in a conspicuous public place at the primary site of practice.

ITEM 10. Amend subrules 121.9(1) and 121.9(6) as follows:

**121.9(1)** The biennial license renewal period for a hearing aid specialist license ~~to dispense hearing aids~~ shall begin on January 1 of each odd-numbered year and end on December 31 of the next even-numbered year. All licensees shall renew on a biennial basis. The licensee is responsible for renewing the license prior to its expiration.

**121.9(6)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a hearing aid ~~dispenser~~ specialist in Iowa until the license is reactivated. A licensee who practices as a hearing aid ~~dispenser~~ specialist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

ITEM 11. Amend subrule 121.14(3), introductory paragraph, as follows:

**121.14(3)** Provide verification of current competence to practice as a hearing aid ~~dispenser~~ specialist by satisfying one of the following criteria:

ITEM 12. Amend rule 645—121.15(17A,147,272C) as follows:

**645—121.15(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—121.14(17A,147,272C) prior to practicing as a hearing aid ~~dispenser~~ specialist in this state.

ITEM 13. Amend **645—Chapter 122**, title, as follows:

CONTINUING EDUCATION FOR HEARING AID ~~DISPENSERS~~ SPECIALISTS

ITEM 14. Amend rule **645—122.1(154A)**, definitions of “Board” and “Licensee,” as follows:

“*Board*” means the board of hearing aid ~~dispensers~~ specialists.

“*Licensee*” means any person licensed to practice as a hearing aid ~~dispenser~~ specialist in the state of Iowa.

ITEM 15. Amend subrule 122.2(1) as follows:

**122.2(1)** The biennial continuing education compliance period shall extend for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a hearing aid ~~dispenser~~ specialist in this state shall be required to complete a minimum of 32 hours of continuing education approved by the board. For the 2011-2012 compliance period for license renewal on January 1, 2013, and every renewal biennium thereafter, a minimum of 2 hours shall be in the content areas of Iowa hearing aid ~~dispenser~~ specialist law and rules, or ethics.

ITEM 16. Amend rule **645—123.1(154A)**, definition of “Sales receipt,” as follows:

“*Sales receipt*” means a written record that is provided to a person who purchases a hearing aid. The sales receipt must be in compliance with these rules and be signed by the purchaser and the licensed hearing aid ~~dispenser~~ specialist. The requirements for the sales receipt may be found in rule 645—123.3(154A).

ITEM 17. Amend paragraph **123.2(1)“a”** as follows:

a. Provides a health history to a licensed hearing aid ~~dispenser~~ specialist who is responsible for reducing the history to written form;

ITEM 18. Amend subrule 123.2(2) as follows:

**123.2(2)** Any medical evaluation completed by a licensed physician in accordance with these rules requires all of the following prior to the sale of a hearing aid to an individual: receipt of the physician statement and clearance for amplification; and completion by the licensed hearing aid ~~dispenser~~ specialist of a current written health history and hearing examination that includes all of the procedures required in these rules, unless the physician order specifies otherwise. In the event an audiogram is provided by the physician, this testing requirement is waived. All records provided to the licensed hearing aid ~~dispenser~~ specialist shall be maintained in the individual’s records in accordance with the record-keeping requirements in these rules.

ITEM 19. Amend subrule 123.2(3), introductory paragraph, as follows:

**123.2(3)** Whenever any of the following conditions are found to exist either from observations by the licensed hearing aid ~~dispenser~~ specialist or person holding a temporary permit or on the basis of information furnished by a prospective hearing aid user, the hearing aid ~~dispenser~~ specialist or person holding a temporary permit shall, prior to fitting and selling a hearing aid to any individual, suggest to that individual in writing that the individual’s best interests would be served if the individual would consult a licensed physician specializing in diseases of the ear, or if no such licensed physician is available in the community, then a duly licensed physician:

ITEM 20. Amend rule 645—123.3(154A) as follows:

**645—123.3(154A) Requirements for sales receipt.** Upon sale of a hearing aid device, the licensee shall provide to the person a sales receipt, which shall include the following:

1. to 7. No change.

8. The following statement in type no smaller than the largest used in the body copy portion of the receipt: “The purchaser has been advised that any examination or representation made by a licensed hearing aid ~~dispenser~~ specialist in connection with the fitting or selection and selling of this hearing aid is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefore, must not be regarded as medical opinion or advice.”

ITEM 21. Amend **645—Chapter 124**, title, as follows:

**DISCIPLINE FOR HEARING AID ~~DISPENSERS~~ SPECIALISTS**

ITEM 22. Amend rule 645—124.1(154A,272C) as follows:

**645—124.1(154A,272C) Definitions.**

“*Board*” means the board of hearing aid ~~dispensers~~ specialists.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice as a hearing aid ~~dispenser~~ specialist in Iowa.

ITEM 23. Amend paragraphs **124.2(3)“b”** to **“d”** as follows:

*b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other hearing aid ~~dispensers~~ specialists in the state of Iowa acting in the same or similar circumstances;

*c.* A failure to exercise the degree of care which is ordinarily exercised by the average hearing aid ~~dispenser~~ specialist acting in the same or similar circumstances;

*d.* Failure to conform to the minimal standard of acceptable and prevailing practice of licensed hearing aid ~~dispensers~~ specialists in this state.

ITEM 24. Amend paragraphs **124.2(6)“a”** to **“c”** as follows:

*a.* Hearing aid ~~dispenser’s~~ specialist’s name.

*b.* Hearing aid ~~dispenser’s~~ specialist’s address of primary site of practice.

*c.* Hearing aid ~~dispenser’s~~ specialist’s telephone number.

ITEM 25. Amend subrule 124.2(19) as follows:

**124.2(19)** Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual’s practice as a hearing aid ~~dispenser~~ specialist in another state, district, territory or country.

ITEM 26. Amend subrule 124.2(29) as follows:

**124.2(29)** Knowingly aiding, assisting, or advising a person to unlawfully practice as a hearing aid ~~dispenser~~ specialist.

ITEM 27. Amend subrule 124.2(31) as follows:

**124.2(31)** Representing oneself as a licensed hearing aid ~~dispenser~~ specialist when one’s license has been suspended or revoked, or when one’s license is on inactive status.