

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to telehealth appointments

The Board of Hearing Aid Specialists hereby amends Chapter 123, “Practice of Hearing Aid Dispensing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 154A.

Purpose and Summary

This rule making provides the minimum standards of care for hearing aid specialists when providing hearing aid testing or adjustment services during a telehealth appointment. This rule making adds new rule 645—123.5(154A) to Chapter 123 and instructs that when a hearing aid specialist seeks to provide testing or adjustment services to a client remotely, the services must be provided in accordance with rule 645—123.5(154A) in order to adequately protect the public during a telehealth appointment.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 7, 2021, as **ARC 5554C**. A public hearing was held on April 28, 2021, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. Four comments were received, all of which were supportive of the rule making. One change from the Notice has been made. New paragraph 123.4(1)“g” in Item 1 has been revised to allow for a client’s verbal or written consent to a service or services through a telehealth appointment.

Adoption of Rule Making

This rule making was adopted by the Board on September 13, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 10, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following new paragraph **123.4(1)“g”**:

g. A notation that the client consented, either verbally or in writing, to a service or services provided through a telehealth appointment, if applicable.

ITEM 2. Adopt the following new rule 645—123.5(154A):

645—123.5(154A) Telehealth appointments. A licensee may conduct a telehealth appointment so long as the services are provided in accordance with this rule.

123.5(1) A “telehealth appointment” is one wherein the licensee provides testing or adjustment services to a client using technology where the hearing aid specialist and the client are not at the same physical location during the appointment.

123.5(2) Conducting a telehealth appointment with a client who is physically located in Iowa during the appointment, regardless of the location of the hearing aid specialist, shall require Iowa licensure.

123.5(3) When conducting a telehealth appointment, a licensee shall utilize technology that is secure, HIPAA-compliant, and that includes, at a minimum, audio and video equipment that allows for two-way, real-time interactive communication between the licensee and the client. The licensee may use non-real-time technologies to prepare for an appointment or to communicate with clients between appointments.

123.5(4) A licensee who conducts a telehealth appointment shall be held to the same standard of care as a licensee who provides in-person services. A licensee shall not utilize a telehealth appointment if the standard of care for the particular service cannot be met using telehealth technology.

123.5(5) Prior to the first telehealth appointment with a client, the licensee shall obtain informed consent from the client that is specific to the service or services that will be provided in the telehealth appointment. The informed consent shall specifically inform the client of, at a minimum, the following:

- a. The risks and limitations of the use of technology to the specific service;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth appointment.

123.5(6) A licensee shall only conduct a telehealth appointment if the licensee is competent to provide the particular service using telehealth technology. A licensee’s competence to provide a particular service using telehealth technology shall be established by the licensee’s education, training, and experience.

123.5(7) A licensee who conducts a telehealth appointment shall note in the client’s record that the service or services were provided through a telehealth appointment.

[Filed 9/14/21, effective 11/10/21]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/6/21.