

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 121, “Licensure of Hearing Aid Dispensers,” and Chapter 122, “Continuing Education for Hearing Aid Dispensers,” to adopt new Chapter 123, “Practice of Hearing Aid Dispensing,” and to amend Chapter 124, “Discipline for Hearing Aid Dispensers,” Iowa Administrative Code.

These proposed amendments clarify the requirements for submission of supervision reports by temporary permit holders; rescind the requirement for mailing a renewal notice that is outdated given the current on-line renewal system; provide clarity in practice requirements, consistent with Iowa law and federal regulations; and revise the continuing education requirements by updating the definition of “independent study,” adding a new requirement for ethics coursework, increasing the hours allowed for independent study and on-line coursework, and providing credit for mandatory reporter training.

Any interested person may make written comments on the proposed amendments no later than January 25, 2011, addressed to Sharon Dozier, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail sdozier@idph.state.ia.us.

A public hearing will be held on January 18, 2011, from 10 to 11 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 154A and 272C.

The following amendments are proposed.

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

g. Submit, on a board-approved form, a ~~final, completed~~ supervision report for trainees prior to taking the board-approved examination. A supervision report is required each time the temporary permit holder submits a request to take the examination.

ITEM 2. Amend subrule 121.4(6) as follows:

121.4(6) Examination candidates who hold a temporary permit are required to ~~have~~ submit a ~~completed~~ supervisory report in accordance with paragraph 121.3(1)“g.”

ITEM 3. Amend subrule 121.9(1) as follows:

121.9(1) The biennial license renewal period for a 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 board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.~~

ITEM 4. Amend rule ~~645—~~**122.1(154A)**, definition of “Independent study,” as follows:

“Independent study” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules ~~and includes a posttest.~~

ITEM 5. 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 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 law and rules, or ethics.

ITEM 6. Amend paragraph **122.3(2)“b”** as follows:

~~b. A maximum of 4 hours of credit for telnet courses. Independent study telnet courses are acceptable only when an on-site monitor is present.~~ A maximum of 8 hours of credit may be obtained by independent study, including on-line instruction. Independent study hours are subject to the requirements stated in the rules in this chapter and in 645—Chapter 4.

ITEM 7. Adopt the following **new** paragraph **122.3(2)“d”**:

d. Mandatory reporter training, as specified in 645—subrule 121.9(4). Hours reported for credit shall not exceed the hours required for compliance.

ITEM 8. Adopt the following **new** 645—Chapter 123:

CHAPTER 123
PRACTICE OF HEARING AID DISPENSING

645—123.1(154A) Definitions. For the purposes of these rules, the following definitions apply:

“Health history” means a series of questions pertaining to all of the following: client hearing needs and expectations; communication issues; otological conditions; medications; and previous amplification.

“Hearing aid fitting” means any of the following: the measurement of human hearing by any means for the purpose of selections, adaptations, and sales of hearing aids, and the instruction and counseling pertaining thereto, and demonstration of techniques in the use of hearing aids, and the making of earmold impressions as part of the fitting of hearing aids.

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

645—123.2(154A) Requirements prior to sale of a hearing aid.

123.2(1) No hearing aid shall be sold to an individual 18 years of age or older unless the individual:

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

b. Presents a physician statement verifying that a medical evaluation, preferably by a physician specializing in diseases of the ear, has been done within the previous six months and stating the individual’s hearing loss and that the individual may benefit from a hearing aid. In lieu of this requirement, the individual may verify in writing that the individual has been informed that it is in the individual’s best health interests to obtain a medical evaluation by 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, and that the individual chooses to waive said evaluation; and

c. Is given a hearing examination that utilizes appropriate established procedures and instrumentation for the measurement of hearing and the fitting of hearing aids and that includes, but is not limited to, an assessment of the following: air conduction; bone conduction; masking capability; speech reception thresholds; speech discrimination; uncomfortable loudness levels (UCL) and most comfortable levels (MCL). An examination that includes these procedures within the past 12 months shall be an exception to this requirement if the procedures and results are documented in the client record.

123.2(2) Whenever any of the following conditions are found to exist either from observations by the licensed hearing aid dispenser or person holding a temporary permit or on the basis of information furnished by a prospective hearing aid user, the hearing aid dispenser 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:

- a. Visible congenital or traumatic deformity of the ear.
- b. History of, or active drainage from the ear within the previous 90 days.
- c. History of sudden or rapidly progressive hearing loss within the previous 90 days.
- d. Acute or chronic dizziness.
- e. Unilateral hearing loss of sudden or recent onset within the previous 90 days.
- f. Significant air-bone gap (greater than or equal to 15dB ANSI 500, 1000 and 2000 Hz. average).
- g. Obstruction of the ear canal, by structures of undetermined origin, such as foreign bodies, impacted cerumen, redness, swelling, or tenderness from localized infections of the otherwise normal ear canal.

123.2(3) Testing shall not be required in cases in which replacement hearing aids of the same make or model are sold within one year of the original sale.

123.2(4) Except as otherwise provided in these rules, for individuals younger than 18 years of age, all of the requirements stated in these rules are applicable. In addition, the following are required:

- a. Written authorization of a parent or legal guardian consenting to the services covered in these rules, and
- b. An original signature on all documents required by law or these rules to be signed, including but not limited to, all sales transactions and receipts, required notifications, and warranty agreements.

123.2(5) For individuals 12 years of age or younger, all of the requirements stated in these rules are applicable. In addition, the parent or legal guardian must first present a written, signed recommendation for a hearing aid from a licensed physician specializing in otolaryngology. The recommendation must have been made within the preceding six months. A replacement of an identical hearing aid within one year shall be an exception to this requirement.

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. Licensee's signature.
2. Licensee's business address.
3. Licensee's license number.
4. Client signature and address.
5. Make, model, and serial number of the hearing aid furnished.
6. Statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, if that is the fact.
7. Full terms of sale, including:
 - The date of sale;
 - Specific warranty terms, including whether any extended warranty is available through the manufacturer;
 - Specific return policy; and
 - Whether any trial period is available.
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 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."

645—123.4(154A) Requirements for record keeping. A licensee shall keep and maintain records in the licensee's office or place of business for a seven-year period.

123.4(1) The records for each person shall include:

- a. A complete record of each test performed and the results of the test.
- b. A copy of any written recommendations.
- c. A copy of medical clearances or waivers.

- d. A copy of the written sales receipt.
- e. A copy of terms of sale, including any warranty.
- f. A written record of any adjustments or services provided on the hearing aid device, including whether such services were provided under warranty or other agreement.

123.4(2) No less than 30 days prior to closure of a licensee's business, the licensee shall provide written notification to clients of the location at which records will be maintained for a period of no less than 30 days following closure and the procedure to obtain those records. The licensee may arrange the transfer of records to another licensee for the purpose of maintenance of the records, provided that all contractual agreements have been satisfied.

These rules are intended to implement Iowa Code chapter 154A.

ITEM 9. Amend subrule 124.2(6) as follows:

124.2(6) Failure to place ~~the hearing aid dispenser's name, office address, and telephone number~~ all of the following in an advertisement relating to hearing aids:

- a. Hearing aid dispenser's name.
- b. Hearing aid dispenser's office address.
- c. Hearing aid dispenser's telephone number.
- d. The qualifying words in the same size type as the title of the business: "for the purpose of fitting, selection, adaption, and sale of hearing aids." However, the qualifying words are not required if the advertisement includes the words "hearing test," "hearing evaluation," "free hearing test," "free hearing evaluation," "hearing measurement," or "free hearing measurement," and the title of the business which is advertising appears in the advertisement and includes the words "hearing aid."

ITEM 10. Amend subrule 124.2(9) as follows:

124.2(9) Except in cases of selling replacement hearing aids of the same make or model within one year of the original sale, a hearing aid shall not be sold without adequate diagnostic testing and evaluation using established procedures to assess hearing needs as defined in 645—Chapter 123. Instruments shall be calibrated to current standards at least annually or more often if necessary. The distributor shall keep with the instruments a certificate indicating the date of calibration. ~~"Established procedures" means use of pure tone air conduction and bone conduction and speech audiometry.~~