Regulatory Analysis

Notice of Intended Action to be published: 481—Chapter 2063
"Discipline for Hearing Aid Specialists"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 147.76, 272C.2 and 272C.3

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 17A, 147, 154A and 272C

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 20, 2024	6200 Park Avenue
10 a.m.	Des Moines, Iowa

Information on virtual participation will be available on the Department of Inspections, Appeals, and Licensing's website prior to the hearing.

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Jessica O'Brien
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.281.6352
Email: jessica.o'brien@dia.iowa.gov

Purpose and Summary

These proposed rules comply with 2024 Iowa Acts, Senate File 2385, which eliminates the Hearing Aid Specialist Board and changes that terminology to Department (Department of Inspections, Appeals, and Licensing).

The proposed rulemaking provides protection to Iowans because the rulemaking publicly defines required professional standards for hearing aid specialists. This is important to both the public and to the licensee because the rule creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, it can subject a licensee to discipline against the licensee's license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Department has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

The 19 boards in the legacy Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the hearing aid specialist profession and are therefore excluded from the general disciplinary chapter.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

While there are no known costs to the public, professional standards of practice are undoubtedly associated with costs to the licensed professional. The rule in this chapter is related to standard of care, so there would be a cost to the practitioner in taking the needed time to review prevailing standards of care. The Department is unable to assess a cost related to this specific requirement.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fines are capped at $1,000 per public order.

Costs to the agency are the staff time needed to manage licensing activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this license at approximately 0.33 full-time equivalent (FTE) position. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, etc. Due to the low number of complaints associated with this license, costs specific to managing complaints and investigations are very minimal. Staff salaries to support the work of managing licensing activities are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557.

- **Classes of persons that will benefit from the proposed rulemaking:**

The intended benefit of this rule is to ensure public safety and maintain a high level of care for Iowans. This license receives a low number of complaints. Hearing aid specialist is a very small profession at approximately 445 licensed individuals. While a low number of complaints can call into question the extent to which a profession needs to be regulated, dispensing hearing aids is a form of health care that requires a level of skill, so the Department believes that regulation is necessary.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Because there are only a small number of complaints submitted, costs are extremely low. The Department believes the benefits achieved justify the low cost because dispensing hearing aids is a form of health care that requires a level of skill.

The Department has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Department believes that these requirements are important in order to ensure that Iowans receive health care from competent practitioners. There has been some standardization of consideration of criminal convictions.

- **Qualitative description of impact:**

Establishing minimum requirements and imposing discipline on licensees when requirements are not met ensures safety for the licensee and consumer. The cost of inaction would increase the potential for injury to the public and would leave the public without a method to file a complaint or seek discipline against a licensee who violates the standards of care.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Costs to the agency are the staff time needed to manage licensing activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this license at approximately 0.33 FTE position. This includes responding to questions from the public and licensees on items such as practice standards, continuing education, etc. Due to the low number of complaints associated with this license, costs specific to managing complaints and investigations are minimal.

Staff salaries to support the work of managing licensing activities are covered by the fund.

- **Anticipated effect on state revenues:**

Costs associated with implementing this rule are paid by individual licensees or establishments, not the State. Staff salaries to support the work of the license are covered by the fund. Licensing fees go to the fund to cover the operations of the regulated professions. Disciplinary fees collected under this authority go to the General Fund.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Because there are only a small number of complaints submitted, costs are extremely low. The Department believes that the benefits achieved justify the low cost because the practice of hearing aid dispensing requires skill and knowledge. The Department receives a low number of complaints and issues a small number of disciplinary actions. Hearing aid specialist is a very small profession at approximately 445 licensed individuals. While a low number of complaints can call into question the extent to which a profession needs to be regulated, dispensing hearing aids is a form of health care that requires a level of skill, so the Department believes that regulation is necessary.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Department has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Department believes that these requirements are important in order to ensure that Iowans receive health care from competent practitioners. There has been some standardization of consideration of criminal convictions.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The 19 boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the hearing aid specialist profession and are therefore excluded from the general disciplinary chapter. The Department has not identified any other alternatives to these disciplinary rules.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The 19 boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the hearing aid dispenser profession and are therefore excluded from the general disciplinary chapter. The Department has not identified any other alternatives to these disciplinary rules.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rule relates to high-stakes public safety concerns that are present whether the business is a small business or a large organization. The rule is meant to ensure public safety in terms of practice standards for hearing aid specialists. While some hearing aid specialists may be running a small business of their own, some also work for large hospitals, clinics and retailers. To exempt small businesses from adhering to this rule would jeopardize any member of the public who sought services from that small business. The risk to the public is greater than the potential harm or cost to the small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 481—Chapter 2063:

CHAPTER 2063
DISCIPLINE FOR HEARING AID SPECIALISTS

481—2063.1(154A,272C) Grounds for discipline. The department may impose any of the disciplinary sanctions provided in rule 481—504.3(272C) when the department determines that the licensee is guilty of any of the following acts or offenses or those listed in 481—Chapter 504:

2063.1(1) Failure to comply with the current Code of Ethics of the International Hearing Society (2023). The department hereby adopts by reference the current Code of Ethics of the International Hearing Society, available at www.ihsinfo.org.

2063.1(2) Advertising that hearing testing or hearing screening is a medical examination used to diagnose or refer.

2063.1(3) Except in cases of selling replacement hearing aids of the same make or model within one year of the original sale, a hearing aid will not be sold without adequate diagnostic testing and evaluation using established procedures to assess hearing needs as defined in 481—Chapter 2062. Testing equipment will be calibrated to current standards at least annually or more often if necessary. The distributor will keep with the testing equipment a certificate indicating the date of calibration.

This rule is intended to implement Iowa Code chapters 147, 154A and 272C.