

CHAPTER 154A

HEARING AIDS

Referred to in §147.76, 154F.2, 216E.7, 272C.1, 272C.6

[P]
Enforcement, §147.87, 147.92

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154A.1 Definitions.

As used in this chapter, unless the context requires otherwise:

1. “*Board*” means the board of hearing aid dispensers.
2. “*Department*” means the Iowa department of public health.
3. “*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, and excludes the temporary, charitable loan or educational loan of a hearing aid without remuneration.
4. “*Hearing aid*” means a wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing, and any parts, attachments, or accessories, including earmold, but excluding batteries and cords.
5. “*Hearing aid dispenser*” 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 this chapter or the board.
6. “*Hearing aid fitting*” means 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.
7. “*License*” means a license issued by the state under this chapter to hearing aid dispensers.
8. “*Person*” means a natural person.
9. “*Temporary permit*” means a permit issued while the applicant is in training to become a licensed hearing aid dispenser.

[C75, 77, 79, 81, §154A.1]

2001 Acts, ch 58, §18; 2007 Acts, ch 10, §145

154A.2 Establishment of board. Repealed by 2012 Acts, ch 1113, § 15. See § 147.12 – 147.14, 147.16.

154A.3 Term of office. Repealed by 2012 Acts, ch 1113, § 15. See § 147.19.

154A.4 Duties of the board. Repealed by 2012 Acts, ch 1113, § 15. See § 147.22, 147.34, 147.76.

154A.5 Public members. Repealed by 2012 Acts, ch 1113, § 15. See § 147.21(1).

154A.6 Disclosure of confidential information. Repealed by 2012 Acts, ch 1113, § 15. See § 147.21(2, 3).

154A.7 Board meetings.

The board shall meet at least one time per year at the seat of government and may hold additional meetings as deemed necessary. Additional meetings shall be held at the call of the chairperson or a majority of the members of the board.

[C75, 77, 79, 81, §154A.7]

86 Acts, ch 1245, §1146; 2012 Acts, ch 1113, §10

[T] Section amended

154A.8 Duties of department. Repealed by 2012 Acts, ch 1113, § 15.

154A.9 Applications. Repealed by 2012 Acts, ch 1113, § 15. See § 147.3.

154A.10 Issuance of licenses.

An applicant may obtain a license, if the applicant:

1. Successfully passes the qualifying examination prescribed in section 154A.12.
2. Is free of contagious or infectious disease.
3. Pays the necessary fees set by the board.

[C75, 77, 79, 81, §154A.10]

2012 Acts, ch 1113, §11

[T] Section amended

154A.11 Examinations. Repealed by 2012 Acts, ch 1113, § 15. See § 147.34, 147.37.

154A.12 Scope of examination.

1. The examination required by this chapter shall be designed to demonstrate the applicant's adequate technical qualifications including but not limited to the following:

- a. Evidence of knowledge in areas such as physics of sound, anatomy and physiology of hearing, and the function of hearing aids, as these areas pertain to the fitting or selection and sale of hearing aids.
- b. Evidence of knowledge of the medical and rehabilitation facilities that are available in the area served, for children and adults who have hearing problems.
- c. Evidence of knowledge of situations in which it is commonly believed that a hearing aid is inappropriate.

2. The board shall not require the applicant to possess the degree of professional competence normally expected of physicians.

[C75, 77, 79, 81, §154A.12]

2000 Acts, ch 1140, §39; 2009 Acts, ch 41, §263; 2012 Acts, ch 1113, §12

Referred to in §154A.10

[T] Subsection 1, paragraph a amended

154A.13 Temporary permit.

A person who has not been licensed as a hearing aid dispenser may obtain a temporary permit from the department upon completion of the application accompanied by the written verification of employment from a licensed hearing aid dispenser. The department shall issue a temporary permit for one year which shall not be renewed or reissued. The fee for issuance of the temporary permit shall be set by the board in accordance with the provisions for establishment of fees in section 147.80. The temporary permit entitles an applicant to

engage in the fitting or selection and sale of hearing aids under the supervision of a person holding a valid license.

[C75, 77, 79, 81, §154A.13]

2001 Acts, ch 58, §18; 2012 Acts, ch 1113, §13

[T] Section amended

154A.14 Reciprocity. Repealed by 2012 Acts, ch 1113, § 15. See § 147.44, 147.48, 147.49, 147.53.

154A.15 License renewal. Repealed by 2012 Acts, ch 1113, § 15. See § 147.10.

154A.16 Repealed by 77 Acts, ch 95, § 25.

154A.17 Fees. Repealed by 2012 Acts, ch 1113, § 15. See § 147.80.

154A.18 Display of license. Repealed by 2012 Acts, ch 1113, § 15. See § 147.7.

154A.19 Exceptions.

This chapter shall not prohibit a corporation, partnership, trust, association, or other organization maintaining an established business address from engaging in the business of selling or offering for sale hearing aids at retail without a license if it employs only licensed hearing aid dispensers in the direct fitting or selection and sale of hearing aids. Such an organization shall file annually with the board a list of all licensed hearing aid dispensers and persons holding temporary permits directly or indirectly employed by it. Such an organization shall also file with the board a statement on a form approved by the board that the organization submits itself to the rules and regulations of the board and the provisions of this chapter which the department deems applicable.

This chapter shall not apply to a person who engages in the practices covered by this chapter if this activity is part of the academic curriculum of an accredited institution of higher education, or part of a program conducted by a public or charitable institution, or nonprofit organization, unless the institution or organization also dispenses or sells hearing aids.

This chapter shall not prevent any person from engaging in practices covered by this chapter, provided the person, or organization employing the person, does not dispense or sell hearing aids.

[C75, 77, 79, 81, §154A.19]

2001 Acts, ch 58, §18

154A.20 Rights of purchaser.

1. A hearing aid dispenser shall deliver, to each person supplied with a hearing aid, a receipt which contains the licensee's signature and shows the licensee's business address and the number of the license, together with specifications as to the make, model, and serial number of the hearing aid furnished, and full terms of sale clearly stated, including the date of consummation of the sale of the hearing aid. If a hearing aid is sold which is not new, the receipt and the container must be clearly marked "used" or "reconditioned", with the terms of guarantee, if any.

2. The receipt shall bear 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.

3. 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 ninety days.
- c. History of sudden or rapidly progressive hearing loss within the previous ninety days.
- d. Acute or chronic dizziness.
- e. Unilateral hearing loss of sudden or recent onset within the previous ninety 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.

4. A copy of the written recommendation shall be retained by the licensed hearing aid dispenser for the period of seven years. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the licensed hearing aid dispenser for the period of seven years. Nothing in this section required to be performed by a licensed hearing aid dispenser shall mean that the hearing aid dispenser is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by this chapter.

5. No hearing aid shall be sold by any individual licensed under this chapter to a person twelve years of age or younger, unless within the preceding six months a recommendation for a hearing aid has been made by a physician specializing in otolaryngology. A replacement of an identical hearing aid within one year shall be an exception to this requirement.

6. A licensed hearing aid dispenser shall, upon the consummation of a sale of a hearing aid, keep and maintain records in the dispenser's office or place of business at all times and each such record shall be kept and maintained for a seven-year period. These records shall include:

- a. Results of test techniques as they pertain to fitting of the hearing aids.
- b. A copy of the written receipt and the written recommendation.

[C75, 77, 79, 81, §154A.20]

2001 Acts, ch 58, §18; 2002 Acts, ch 1119, §17, 18

154A.21 Notice of address.

A licensee or person holding a temporary permit shall notify the department in writing of the address of the place where the licensee or permittee engages or intends to engage in business as a hearing aid dispenser. The department shall keep a record of the place of business of licensees and persons holding temporary permits.

Any notice required to be given by the department to a licensee shall be adequately served if sent by certified mail to the address of the last place of business recorded.

[C75, 77, 79, 81, §154A.21]

2001 Acts, ch 58, §18

154A.22 Receipt of fees. Repealed by 2006 Acts, ch 1155, § 13, 15.

154A.23 Disciplinary orders — attorney general.

The board shall forward a copy of all final disciplinary orders, with associated complaints, to the attorney general for consideration for prosecution or enforcement when warranted. The attorney general and all county attorneys shall assist the board and the department in the enforcement of the provisions of this chapter.

[C75, 77, 79, 81, §154A.23]

2001 Acts, ch 58, §18; 2002 Acts, ch 1119, §19; 2012 Acts, ch 1113, §14

Referred to in §272C.5

[T] Section amended

154A.24 Suspension or revocation.

The board may revoke or suspend a license or temporary permit permanently or for a fixed period for any of the following causes:

1. Conviction of a felony. The record of conviction, or a certified copy, shall be conclusive evidence of conviction.
2. Procuring a license or temporary permit by fraud or deceit.
3. Unethical conduct in any of the following forms:
 - a. Obtaining a fee or making a sale by fraud or misrepresentation.
 - b. Knowingly employing, directly or indirectly, any suspended or unregistered person to perform any work covered by this chapter.
 - c. Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or any other representation, however disseminated or published, which is misleading, deceptive, or untruthful.
 - d. Advertising a particular model or type of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the advertised model or type, if it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model or type than that advertised.
 - e. Representing that the service or advice of a person licensed to practice medicine, or one who is certificated as a clinical audiologist by the board of speech pathology and audiology or its equivalent, will be used or made available in the fitting or selection, adjustment, maintenance, or repair of hearing aids when that is not true, or using the words "doctor", "clinic", "clinical audiologist", "state approved", or similar words, abbreviations, or symbols which tend to connote the medical or other professions, except where the title "certified hearing aid audiologist" has been granted by the national hearing aid society, or that the hearing aid dispenser has been recommended by this state or the board when such is not accurate.
 - f. Habitual intemperance.
 - g. Permitting another person to use the license or temporary permit.
 - h. Advertising a manufacturer's product or using a manufacturer's name or trademark to imply a relationship with the manufacturer that does not exist.
 - i. Directly or indirectly giving or offering to give, or permitting or causing to be given, money or anything of value to a person who advises another in a professional capacity, as an inducement to influence the person or cause the person to influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dispenser, or to influence others to refrain from dealing in the products of competitors.
 - j. Conducting business while suffering from a contagious or infectious disease.
 - k. Engaging in the fitting or selection and sale of hearing aids under a false name or alias, with fraudulent intent.
 - l. Selling a hearing aid to a person who has not been given tests utilizing appropriate established procedures and instrumentation in fitting or selection of hearing aids, except in cases of selling replacement hearing aids of the same make or model within one year of the original sale.
 - m. Gross incompetence or negligence in fitting or selection and selling of hearing aids.
 - n. Using an advertisement or other representation which has the effect of misleading or deceiving purchasers or prospective purchasers into the belief that any hearing aid or device, or part or accessory thereof, is a new invention or involves a new mechanical or scientific principle when such is not the fact.
 - o. Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features, such as the absence of anything in the ear or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle, and that in many cases of hearing loss, this type of instrument may not be suitable.
 - p. Stating or implying that the use of a hearing aid will restore normal hearing or preserve hearing or prevent or retard progressions of hearing impairment or any other false or misleading claim regarding the use or benefit of a hearing aid.
 - q. Representing or implying that a hearing aid is or will be "custom-made", "made to

order”, “prescription made”, or in any other sense especially fabricated for an individual person when such is not the case.

r. Violating any of the provisions of section 714.16.

s. Such other acts or omissions as the board may determine to be unethical conduct.

[C75, 77, 79, 81, §154A.24]

90 Acts, ch 1073, §1; 2001 Acts, ch 58, §18; 2007 Acts, ch 10, §146; 2011 Acts, ch 129, §87, 156

Referred to in §272C.3, 272C.4

154A.25 Prohibitions.

A person shall not:

1. Sell, barter, or offer to sell or barter a license or temporary permit.
2. Purchase or procure by barter a license or temporary permit with intent to use it as evidence of the holder’s qualifications to engage in business as a hearing aid dispenser.
3. Alter a license or temporary permit with fraudulent intent.
4. Use or attempt to use as a valid license a license or temporary permit which has been purchased, fraudulently obtained, counterfeited, or materially altered.
5. Willfully make a false statement in an application for a license or temporary permit or for renewal of a license or temporary permit.

[C75, 77, 79, 81, §154A.25]

2001 Acts, ch 58, §18

154A.26 Consumer protection.

Nothing in this chapter shall be construed to limit the right of a person who desires to file a complaint against a licensee or holder of a temporary permit from filing a complaint with the attorney general pursuant to the provisions of section 714.16.

[C75, 77, 79, 81, §154A.26]

154A.27 Penalties.

A violation of any provisions of this chapter is a simple misdemeanor.

[C75, 77, 79, 81, §154A.27]