

CHAPTER 57

PUBLIC HEALTH PROGRAMS AND SERVICES — HEARING AID SPECIALISTS AND MEDICAL RESIDENCY TRAINING GRANTS

S.F. 274

AN ACT relating to programs and services under the purview of the department of public health including the board of hearing aid dispensers and the medical residency training matching grants program and including effective date and retroactive applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I HEARING AID SPECIALISTS

Section 1. Section 147.1, subsections 3 and 6, Code 2015, are amended to read as follows:

3. “*Licensed*” or “*certified*”, when applied to a physician and surgeon, podiatric physician, osteopathic physician and surgeon, physician assistant, psychologist, chiropractor, nurse, dentist, dental hygienist, dental assistant, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, physical therapist assistant, occupational therapist, occupational therapy assistant, orthotist, prosthetist, pedorthist, respiratory care practitioner, practitioner of cosmetology arts and sciences, practitioner of barbering, funeral director, dietitian, marital and family therapist, mental health counselor, social worker, massage therapist, athletic trainer, acupuncturist, nursing home administrator, hearing aid ~~dispenser~~ specialist, or sign language interpreter or transliterator means a person licensed under this subtitle.

6. “*Profession*” means medicine and surgery, podiatry, osteopathic medicine and surgery, practice as a physician assistant, psychology, chiropractic, nursing, dentistry, dental hygiene, dental assisting, optometry, speech pathology, audiology, pharmacy, physical therapy, physical therapist assisting, occupational therapy, occupational therapy assisting, respiratory care, cosmetology arts and sciences, barbering, mortuary science, marital and family therapy, mental health counseling, social work, dietetics, massage therapy, athletic training, acupuncture, nursing home administration, practice as a hearing aid ~~dispensing~~ specialist, sign language interpreting or transliterating, orthotics, prosthetics, or pedorthics.

Sec. 2. Section 147.2, subsection 1, Code 2015, is amended to read as follows:

1. A person shall not engage in the practice of medicine and surgery, podiatry, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, physical therapist assisting, nursing, dentistry, dental hygiene, dental assisting, optometry, speech pathology, audiology, occupational therapy, occupational therapy assisting, orthotics, prosthetics, pedorthics, respiratory care, pharmacy, cosmetology arts and sciences, barbering, social work, dietetics, marital and family therapy or mental health counseling, massage therapy, mortuary science, athletic training, acupuncture, nursing home administration, ~~hearing aid dispensing~~, or sign language interpreting or transliterating, or shall not practice as a physician assistant or a hearing aid specialist, unless the person has obtained a license for that purpose from the board for the profession.

Sec. 3. Section 147.13, subsection 22, Code 2015, is amended to read as follows:

22. For hearing aid ~~dispensing~~ specialists, the board of hearing aid ~~dispensers~~ specialists.

Sec. 4. Section 147.14, subsection 1, paragraph v, Code 2015, is amended to read as follows:

v. For hearing aid ~~dispensers~~ specialists, three licensed hearing aid ~~dispensers~~ specialists and two members who are not licensed hearing aid ~~dispensers~~ specialists who shall represent the general public. No more than two members of the board shall be employees of, or ~~dispensers~~ specialists principally for, the same hearing aid manufacturer.

Sec. 5. Section 154A.1, subsections 1, 3, 6, 7, and 9, Code 2015, are amended to read as follows:

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

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~~ hearing aid specialist, and excludes the temporary, charitable loan or educational loan of a hearing aid without remuneration.

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 to the selections, adaptations, and sales of hearing aids, 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 a hearing aid dispenser specialist.

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

Sec. 6. Section 154A.1, subsection 5, Code 2015, is amended by striking the subsection.

Sec. 7. Section 154A.1, Code 2015, is amended by adding the following new subsection:
NEW SUBSECTION. 6A. “*Hearing aid specialist*” means any person engaged in the fitting, dispensing, and sale of hearing aids and providing hearing aid services or maintenance, by means of procedures stipulated by this chapter or the board.

Sec. 8. Section 154A.13, Code 2015, is amended to read as follows:

154A.13 Temporary permit.

A person who has not been licensed as a hearing aid ~~dispenser~~ specialist 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~~ specialist. 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.

Sec. 9. Section 154A.19, Code 2015, is amended to read as follows:

154A.19 Exceptions.

1. 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~~ specialists 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~~ specialists 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.

2. 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.

3. 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.

Sec. 10. Section 154A.20, Code 2015, is amended to read as follows:

154A.20 Rights of purchaser.

1. A hearing aid ~~dispenser~~ specialist 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~~ 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.

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:

- 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 greater~~ greater than or equal to 15dB ANSI 500, 1000 and 2000 Hz. ~~average~~) 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~~ specialist 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~~ specialist for the period of seven years. Nothing in this section required to be performed by a licensed hearing aid ~~dispenser~~ specialist shall mean that the hearing aid ~~dispenser~~ specialist 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~~ specialist shall, upon the consummation of a sale of a hearing aid, keep and maintain records in the ~~dispenser's~~ specialist'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.

Sec. 11. Section 154A.21, Code 2015, is amended to read as follows:

154A.21 Notice of address.

1. 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~~ specialist. The department shall keep a record of the place of business of licensees and persons holding temporary permits.

2. 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.

Sec. 12. Section 154A.24, subsection 3, paragraphs e and i, Code 2015, are amended to read as follows:

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~~ specialist has been recommended by this state or the board when such is not accurate.

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~~ specialist, or to influence others to refrain from dealing in the products of competitors.

Sec. 13. Section 154A.25, subsection 2, Code 2015, is amended to read as follows:

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~~ specialist.

Sec. 14. Section 154F.2, subsection 1, paragraph b, Code 2015, is amended to read as follows:

b. Hearing aid fitting, the dispensing or sale of hearing aids, and the providing of hearing aid service and maintenance by a hearing aid ~~dispenser~~ specialist or holder of a temporary permit as defined and licensed under chapter 154A.

Sec. 15. Section 154F.2, subsection 2, Code 2015, is amended to read as follows:

2. A person exempted from the provisions of this chapter by this section shall not use the title “speech pathologist” or “audiologist” or any title or device indicating or representing in any manner that the person is a speech pathologist or is an audiologist; provided, a hearing aid ~~dispenser~~ specialist licensed under chapter 154A may use the title “certified hearing aid audiologist” when granted by the national hearing aid society; and provided, persons who meet the requirements of section 154F.3, subsection 1, who are certified by the department of education as speech clinicians may use the title “speech pathologist” and persons who meet the requirements of section 154F.3, subsection 2, who are certified by the department of education as hearing clinicians may use the title “audiologist”, while acting within the scope of their employment.

Sec. 16. Section 216E.7, Code 2015, is amended to read as follows:

216E.7 Exemptions.

This chapter does not apply to a hearing aid sold, leased, or transferred to a consumer by an audiologist licensed under chapter 154F, or a hearing aid ~~dispenser~~ specialist licensed under chapter 154A, if the audiologist or ~~dispenser~~ specialist provides either an express warranty for the hearing aid or provides for service and replacement of the hearing aid.

Sec. 17. Section 272C.1, subsection 6, paragraph v, Code 2015, is amended to read as follows:

v. The board of hearing aid ~~dispensers~~ specialists, created pursuant to chapter 154A.

DIVISION II
MEDICAL RESIDENCY TRAINING STATE MATCHING GRANTS PROGRAM —
REENACTMENT

Sec. 18. NEW SECTION. 135.176 **Medical residency training state matching grants program.**

1. The department shall establish a medical residency training state matching grants program to provide matching state funding to sponsors of accredited graduate medical education residency programs in this state to establish, expand, or support medical residency training programs. Funding for the program may be provided through the health care workforce shortage fund or the medical residency training account created in section 135.175. For the purposes of this section, unless the context otherwise requires, “*accredited*” means a graduate medical education program approved by the accreditation council for graduate medical education or the American osteopathic association. The grant funds may be used to support medical residency programs through any of the following:

a. The establishment of new or alternative campus accredited medical residency training programs. For the purposes of this paragraph, “*new or alternative campus accredited medical residency training program*” means a program that is accredited by a recognized entity approved for such purpose by the accreditation council for graduate medical education or the American osteopathic association with the exception that a new medical residency training program that, by reason of an insufficient period of operation is not eligible for accreditation on or before the date of submission of an application for a grant, may be deemed accredited if the accreditation council for graduate medical education or the American osteopathic association finds, after consultation with the appropriate accreditation entity, that there is reasonable assurance that the program will meet the accreditation standards of the entity prior to the date of graduation of the initial class in the program.

b. The provision of new residency positions within existing accredited medical residency or fellowship training programs.

c. The funding of residency positions which are in excess of the federal residency cap. For the purposes of this paragraph, “*in excess of the federal residency cap*” means a residency position for which no federal Medicare funding is available because the residency position is a position beyond the cap for residency positions established by the federal Balanced Budget Act of 1997, Pub. L. No. 105-33.

2. The department shall adopt rules pursuant to chapter 17A to provide for all of the following:

a. Eligibility requirements for and qualifications of a sponsor of an accredited graduate medical education residency program to receive a grant. The requirements and qualifications shall include but are not limited to all of the following:

(1) Only a sponsor that establishes a dedicated fund to support a residency program that meets the specifications of this section shall be eligible to receive a matching grant. A sponsor funding residency positions in excess of the federal residency cap, as defined in subsection 1, paragraph “c”, exclusive of funds provided under the medical residency training state matching grants program established in this section, is deemed to have satisfied this requirement and shall be eligible for a matching grant equal to the amount of funds expended for such residency positions, subject to the limitation on the maximum award of grant funds specified in paragraph “e”.

(2) A sponsor shall demonstrate, through documented financial information as prescribed by rule of the department, that funds have been reserved and will be expended by the sponsor in the amount required to provide matching funds for each residency proposed in the request for state matching funds.

(3) A sponsor shall demonstrate, through objective evidence as prescribed by rule of the department, a need for such residency program in the state.

b. The application process for the grant.

c. Criteria for preference in awarding of the grants, including preference in the residency specialty.

d. Determination of the amount of a grant. The total amount of a grant awarded to a sponsor shall be limited to no more than twenty-five percent of the amount that the sponsor

has demonstrated through documented financial information has been reserved and will be expended by the sponsor for each residency sponsored for the purpose of the residency program.

e. The maximum award of grant funds to a particular individual sponsor per year. An individual sponsor shall not receive more than twenty-five percent of the state matching funds available each year to support the program. However, if less than ninety-five percent of the available funds has been awarded in a given year, a sponsor may receive more than twenty-five percent of the state matching funds available if total funds awarded do not exceed ninety-five percent of the available funds. If more than one sponsor meets the requirements of this section and has established, expanded, or supported a graduate medical residency training program, as specified in subsection 1, in excess of the sponsor's twenty-five percent maximum share of state matching funds, the state matching funds shall be divided proportionately among such sponsors.

f. Use of the funds awarded. Funds may be used to pay the costs of establishing, expanding, or supporting an accredited graduate medical education program as specified in this section, including but not limited to the costs associated with residency stipends and physician faculty stipends.

Sec. 19. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 20. APPLICABILITY. This division of this Act applies retroactively to June 30, 2014.

DIVISION III MEDICAL RESIDENCY TRAINING STATE MATCHING GRANTS PROGRAM — AMENDMENTS

Sec. 21. Section 135.176, as enacted in this Act, is amended to read as follows:

135.176 Medical residency training state matching grants program.

1. The department shall establish a medical residency training state matching grants program to provide matching state funding to sponsors of accredited graduate medical education residency programs in this state to establish, expand, or support medical residency training programs. Funding for the program may be provided through the health care workforce shortage fund or the medical residency training account created in section 135.175. For the purposes of this section, unless the context otherwise requires, "accredited" means a graduate medical education program approved by the accreditation council for graduate medical education or the American osteopathic association. The grant funds may be used to support medical residency programs through any of the following:

a. The establishment of new or alternative campus accredited medical residency training programs. For the purposes of this paragraph, "new or alternative campus accredited medical residency training program" means a program that is accredited by a recognized entity approved for such purpose by the accreditation council for graduate medical education or the American osteopathic association with the exception that a new medical residency training program that, by reason of an insufficient period of operation is not eligible for accreditation on or before the date of submission of an application for a grant, may be deemed accredited if the accreditation council for graduate medical education or the American osteopathic association finds, after consultation with the appropriate accreditation entity, that there is reasonable assurance that the program will meet the accreditation standards of the entity prior to the date of graduation of the initial class in the program.

b. The provision of new residency positions within existing accredited medical residency or fellowship training programs.

c. The funding of residency positions which are in excess of the federal residency cap. For the purposes of this paragraph, "in excess of the federal residency cap" means a residency position for which no federal Medicare funding is available because the residency position is a position beyond the cap for residency positions established by the federal Balanced Budget Act of 1997, Pub. L. No. 105-33.

2. The department shall adopt rules pursuant to chapter 17A to provide for all of the following:

a. Eligibility requirements for and qualifications of a sponsor of an accredited graduate medical education residency program to receive a grant. The requirements and qualifications shall include but are not limited to all of the following:

~~(1) Only a sponsor that establishes a dedicated fund to support a residency program that meets the specifications of this section shall be eligible to receive a matching grant. A sponsor funding residency positions in excess of the federal residency cap, as defined in subsection 1, paragraph "c", exclusive of funds provided under the medical residency training state matching grants program established in this section, is deemed to have satisfied this requirement and shall be eligible for a matching grant equal to the amount of funds expended for such residency positions, subject to the limitation on the maximum award of grant funds specified in paragraph "e".~~

~~(2) A sponsor shall demonstrate, through documented financial information as prescribed by rule of the department, that funds have been reserved budgeted and will be expended by the sponsor in the amount required to provide matching funds for each residency proposed in the request for state matching funds.~~

~~(3) (2) A sponsor shall demonstrate, through objective evidence as prescribed by rule of the department, a need for such residency program in the state.~~

b. The application process for the grant.

c. Criteria for preference in awarding of the grants, including preference in the residency specialty.

d. Determination of the amount of a grant. The total amount of a grant awarded to a sponsor proposing the establishment of a new or alternative campus accredited medical residency training program as defined in subsection 1, paragraph "a", shall be limited to no more than twenty-five one hundred percent of the amount the sponsor has budgeted as demonstrated under paragraph "a". The total amount of a grant awarded to a sponsor proposing the provision of a new residency position within an existing accredited medical residency or fellowship training program as specified in subsection 1, paragraph "b" or the funding of residency positions which are in excess of the federal residency cap as defined in subsection 1, paragraph "c", shall be limited to no more than twenty-five percent of the amount that the sponsor has demonstrated through documented financial information has been reserved and will be expended by the sponsor budgeted for each residency position sponsored for the purpose of the residency program.

e. The maximum award of grant funds to a particular individual sponsor per year. An individual sponsor that establishes a new or alternative campus accredited medical residency training program as defined in subsection 1, paragraph "a" shall not receive more than twenty-five fifty percent of the state matching funds available each year to support the program. However, if less than ninety-five percent of the available funds has been awarded in a given year, a sponsor may receive more than twenty-five percent of the state matching funds available if total funds awarded do not exceed ninety-five percent of the available funds. If more than one sponsor meets the requirements of this section and has established, expanded, or supported a graduate medical residency training program, as specified in subsection 1, in excess of the sponsor's twenty-five percent maximum share of state matching funds, the state matching funds shall be divided proportionately among such sponsors. An individual sponsor proposing the provision of a new residency position within an existing accredited medical residency or fellowship training program as specified in subsection 1, paragraph "b" or the funding of residency positions which are in excess of the federal residency cap as defined in subsection 1, paragraph "c", shall not receive more than twenty-five percent of the state matching funds available each year to support the program.

f. Use of the funds awarded. Funds may be used to pay the costs of establishing, expanding, or supporting an accredited graduate medical education program as specified in this section, including but not limited to the costs associated with residency stipends and physician faculty stipends.