

(2) allow persons with severe disabilities to actively participate in the planning and delivery of community-based employment services at the individual, local, and state level; and

(3) be coordinated among the departments of human services, jobs and training, and education to:

(i) promote the most efficient and effective funding;

(ii) avoid duplication of services; and

(iii) improve access and transition to employability services.

The commissioners of jobs and training, human services, and education shall report to the legislature by January 1993 on the steps taken to implement this section.

Sec. 2. PUBLIC GUARDIANSHIP; REPORT.

Except as specified in this section, the commissioner of human services shall, within 90 days of the effective date of this section, submit for publication in the State Register, the rule parts proposed under the authority of section 252A.21, subdivision 2. Notwithstanding the contrary requirements of section 252A.21, subdivision 2, the commissioner of human services shall not adopt any rule provision under this section requiring that the county staff that performs public guardianship or conservatorship duties on behalf of a person with mental retardation cannot be the same worker that provides case management services, unless the state provides sufficient new state funding to cover the additional county costs of complying with this requirement.

The commissioner shall submit a report to the legislature by January 15, 1993, which contains alternative proposals for providing services to public wards and which includes recommendations on the establishment of an independent public guardianship office.

Presented to the governor April 14, 1992

Signed by the governor April 17, 1992, 10:02 a.m.

CHAPTER 460—S.F.No. 2234

An act relating to occupations and professions; modifying disciplinary requirements of the board of social work; allowing the issuance of practice permits; clarifying requirements for changes in licensure level; amending Minnesota Statutes 1990, sections 148B.04, by adding a subdivision; 148B.15; 148B.18, subdivisions 9 and 12; 148B.21, subdivision 2, and by adding subdivisions; 148B.22, subdivision 2; 148B.28, subdivision 2; Minnesota Statutes 1991 Supplement, sections 148B.04, subdivision 3; 148B.05, subdivision 1; 148B.07, subdivi-

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sion 3; 148B.08, subdivision 1; and 148B.175, subdivisions 3, 4, 5, and 8; proposing coding for new law in Minnesota Statutes, chapter 148B; repealing Minnesota Statutes 1990, section 148B.05, subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1991 Supplement, section 148B.04, subdivision 3, is amended to read:

Subd. 3. **INFORMATION ON DISCIPLINARY ACTIONS.** If a board imposes disciplinary measures or takes disciplinary action of any kind, the name and business address of the licensee, the nature of the misconduct, and the action taken by the board, including all settlement agreements and other board orders, are public data.

Sec. 2. Minnesota Statutes 1990, section 148B.04, is amended by adding a subdivision to read:

Subd. 5. INFORMATION TO THE COMPLAINANT. The board shall furnish to a person who made a complaint a statement of the result of an investigation of the complaint and a description of the activities and actions of the board relating to the complaint.

Sec. 3. Minnesota Statutes 1991 Supplement, section 148B.05, subdivision 1, is amended to read:

Subdivision 1. **DISCIPLINARY ACTION BY A BOARD.** A suspension, revocation, condition, limitation, qualification, or restriction of an individual's license or right to practice is in effect pending determination of an appeal unless the court, upon petition and for good cause shown, orders otherwise. ~~The right to provide services is automatically suspended if (1) a guardian of the person of a licensee is appointed by order of a probate court pursuant to sections 525.54 to 525.61, for reasons other than the minority of the licensee, or (2) the licensee is committed by order of a probate court pursuant to chapter 253B or sections 526.09 to 526.11. The right to provide services remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated by the board after a hearing. In its discretion, a board may restore and reissue permission to provide services, but as a condition thereof may impose any disciplinary or corrective measure that it might originally have imposed.~~

Sec. 4. Minnesota Statutes 1991 Supplement, section 148B.07, subdivision 3, is amended to read:

Subd. 3. **PROFESSIONAL SOCIETIES.** A state or local professional society or association for licensees shall report forward to the appropriate board any termination, revocation, or suspension of membership or any other disciplinary action taken against a licensee. ~~If the society has received a complaint that might be grounds for discipline under this chapter against a member on which it has~~

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not taken any disciplinary action, the society shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the appropriate board complaint received concerning the ethics or conduct of the practice which the board regulates. The society or association shall forward a complaint to the appropriate board upon receipt of the complaint. The society or association shall also report to the appropriate board any disciplinary action taken against a member.

Sec. 5. Minnesota Statutes 1991 Supplement, section 148B.08, subdivision 1, is amended to read:

Subdivision 1. **REPORTING.** Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting in good faith a report under section 148B.07 or for otherwise reporting violations or alleged violations of this chapter. All the reports are confidential ~~and absolutely privileged communications.~~

Sec. 6. Minnesota Statutes 1990, section 148B.15, is amended to read:

148B.15 DISPUTE RESOLUTION.

Subdivision 1. **ARBITRATION.** Each board shall encourage regulated individuals to submit all fee disputes with clients to binding arbitration.

Subd. 2. **MEDIATION.** Each board shall encourage regulated individuals to submit all disputes with clients that are not related to violations of a code of professional conduct to voluntary mediation.

Sec. 7. Minnesota Statutes 1991 Supplement, section 148B.175, subdivision 3, is amended to read:

Subd. 3. **EXAMINATION.** If a board has probable cause to believe that an applicant or licensee has engaged in conduct prohibited by section 214.10, or statute or rule enforced by the board, it may issue an order directing the applicant or licensee to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this section, every applicant or licensee is considered to have consented to submit to a mental or physical examination or chemical dependency evaluation when ordered to do so in writing by the board and to have waived all objections to the admissibility of the examiner's or evaluator's testimony or reports on the grounds that the testimony or reports constitute a privileged communication.

Sec. 8. Minnesota Statutes 1991 Supplement, section 148B.175, subdivision 4, is amended to read:

Subd. 4. **FAILURE TO SUBMIT TO AN EXAMINATION.** Failure to submit to an examination or evaluation when ordered, unless the failure was due to circumstances beyond the control of the applicant or licensee, constitutes an admission that the applicant or licensee violated section 214.10, or statute or rule enforced by the board, based on the factual specifications in the examina-

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tion or evaluation order, and may result in an application being denied or a default and final disciplinary order being entered after a contested case hearing. The only issues to be determined at the hearing are whether the designated board member had probable cause to issue the examination or evaluation order and whether the failure to submit was due to circumstances beyond the control of the applicant or licensee. Neither the record of a proceeding under this subdivision nor the orders entered by the board are admissible, subject to subpoena, or to be used against the applicant or licensee in a proceeding in which the board is not a party or decision maker. Information obtained under this subdivision is classified as private under chapter 13 and the orders issued by a board as the result of an applicant or licensee to submit to an examination or evaluation are classified as public.

Sec. 9. Minnesota Statutes 1991 Supplement, section 148B.175, subdivision 5, is amended to read:

Subd. 5. **ACCESS TO DATA AND RECORDS.** In addition to ordering a physical or mental examination or chemical dependency evaluation and notwithstanding section 13.42, 144.651, 595.02, or any other law limiting access to medical or other health records, a board may obtain data and health records relating to an applicant or licensee without the applicant's or licensee's consent if the board has probable cause to believe that an applicant or licensee has engaged in conduct prohibited by section 214.10, or statute or rule enforced by the board. An applicant, licensee, insurance company, health care facility, provider as defined in section 144.335, subdivision 1, paragraph (b), or government agency shall comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released in accordance with a written request made under this subdivision, unless the information is false and the person or entity giving the information knew or had reason to know that the information was false. Information on individuals obtained under this section is investigative data under section 13.41.

Sec. 10. Minnesota Statutes 1991 Supplement, section 148B.175, subdivision 8, is amended to read:

Subd. 8. **AUTOMATIC SUSPENSION.** The right to practice is automatically suspended if (1) a guardian of a licensee is appointed by order of a probate court under sections 525.54 to 525.61, or (2) the licensee is committed by order of a probate court pursuant to chapter 253B or sections 526.09 to 526.11. The right to practice remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated by the board after a hearing or upon agreement between the board and the licensee. In its discretion, a board may restore and reissue permission to provide services, but as a condition of the permission may impose a disciplinary or corrective measure that it might originally have imposed.

Sec. 11. Minnesota Statutes 1990, section 148B.18, subdivision 9, is amended to read:

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Subd. 9. **PSYCHOTHERAPY.** "Psychotherapy" in clinical social work practice means the application of social work theory, methodology, and values in the treatment of a person or persons who have cognitive, emotional, behavioral, or social dysfunctions through psychosocial, psychological, or interpersonal methods. The treatment is a planned and structured program; conducted by a qualified mental health professional and which is based on information from a differential diagnostic examination assessment, and is directed toward the accomplishment of goals provided in a plan of care. Social workers qualified to practice The person-in-situation/environment configuration is considered and integrated into the diagnosis and treatment. Psychotherapy ~~are~~ may be conducted by licensed independent clinical social workers; or and by licensed graduate or licensed independent social workers who have training required by section 148B.21, subdivision 6; and practice under the supervision of either a licensed independent clinical social worker or, if approved by the board, by another qualified mental health professional.

Sec. 12. Minnesota Statutes 1990, section 148B.18, subdivision 12, is amended to read:

Subd. 12. **SUPERVISION.** "Supervision" means the direction of social work practice in face-to-face sessions. Further standards for supervision shall be determined by the social work licensing board. Supervision shall be provided:

(1) by a social worker licensed at least at the level of the worker being supervised and qualified under section 148B.21 to practice without supervision, except that a licensed graduate social worker may supervise a licensed social worker; or

(2) by another qualified professional or qualified mental health professional when the social work licensing board determines that supervision by a social worker as required in clause (1) is unobtainable, ~~and or~~ in other situations considered appropriate by the board of social work ~~examiners;~~ by another qualified professional.

Sec. 13. Minnesota Statutes 1990, section 148B.21, subdivision 2, is amended to read:

Subd. 2. **FEE.** Each applicant shall pay a nonrefundable fee set by the board. Fees paid to the board shall be deposited in the general state government special revenue fund.

Sec. 14. Minnesota Statutes 1990, section 148B.21, is amended by adding a subdivision to read:

Subd. 7. ESTABLISHMENT OF CANDIDACY STATUS. (a) The board may issue a practice permit to an applicant in the following situations, provided the applicant meets all other requirements for licensure:

(1) the applicant has applied to take the first examination for licensure given by the board following either graduation or anticipated graduation from an accredited program of social work; or

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(2) the applicant is licensed or certified to practice social work in Minnesota or another jurisdiction, meets the requirements in section 148B.24, has or is intending to establish a residence in Minnesota before being able to take the next examination for licensure given by the board, and has applied to take the same examination.

(b) The practice permit is valid until the board takes final action on the application, which shall occur within 60 days of the board's receipt of the applicant's examination results. The board, at its discretion, may extend the practice permit if the applicant fails to pass or take the examination. If the board determines that an extension of the practice permit is not warranted, the applicant must cease practicing social work immediately.

(c) An applicant who obtains a practice permit, and who has applied for a level of licensure which requires supervision upon licensure, may practice social work only under the supervision of a licensed social worker who is eligible to provide supervision under section 148B.18, subdivision 12. The applicant's supervisor must provide evidence to the board, before the applicant is approved by the board for licensure, that the applicant has practiced social work under supervision. This supervision will not apply toward the supervision requirement required after licensure.

Sec. 15. Minnesota Statutes 1990, section 148B.21, is amended by adding a subdivision to read:

Subd. 8. CHANGE OF LICENSURE LEVEL. An applicant who applies under this section for licensure as a licensed independent social worker or a licensed independent clinical social worker, and who is licensed at the time of application as a licensed graduate social worker, licensed independent social worker, or a licensed independent clinical social worker under section 148B.23, is not required to meet the educational requirement of this section. The applicant must meet all other requirements for licensure at the new level of licensure.

Sec. 16. **[148B.215] CONTESTED CASE HEARING.**

An applicant or a licensee who is the subject of an adverse action by the board may request a contested case hearing under chapter 14. An applicant or a licensee who desires to request a contested case hearing must submit a written request to the board within 90 days of receipt of notification of the adverse action, or within 90 days of the effective date of this section, whichever date occurs later.

Sec. 17. Minnesota Statutes 1990, section 148B.22, subdivision 2, is amended to read:

Subd. 2. **CONTINUING EDUCATION.** At the time of renewal, each licensee shall provide evidence satisfactory to the board that the licensee has completed during each ~~three-year~~ two-year period at least the equivalent of 45 ~~30~~ clock hours of continuing professional postdegree education in programs

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approved by the board and continues to be qualified to practice under sections 148B.18 to 148B.28.

Sec. 18. Minnesota Statutes 1990, section 148B.28, subdivision 2, is amended to read:

Subd. 2. **STUDENTS.** Nothing in sections 148B.18 to 148B.28 shall be construed to prevent students enrolled in an accredited program of social work to engage in the practice of social work; ~~or to prevent social work practice by individuals preparing for licensed independent clinical social work practice under qualified supervision in a social work setting.~~

Sec. 19. **CONTESTED CASE HEARING.**

A person who applied for licensure by the board of social work under Minnesota Statutes, section 148B.23, who desires to contest the board's decision regarding the application must submit a written request for a contested case hearing to the board of social work by December 31, 1992. This time limitation applies to both applicants who were denied licensure and applicants who were licensed at a different level of licensure than they requested.

Sec. 20. **REPEALER.**

Minnesota Statutes 1990, section 148B.05, subdivision 2, is repealed.

Sec. 21. **INSTRUCTION TO REVISOR.**

In the next edition of Minnesota Statutes, the revisor shall delete the term "social work licensing board" and insert "board of social work" where found in Minnesota Statutes, sections 148B.18 to 148B.28.

Presented to the governor April 14, 1992

Signed by the governor April 17, 1992, 9:58 a.m.

CHAPTER 461—S.F.No. 2368

An act relating to probate; allowing collection of personal property by affidavit; enacting the uniform transfer on death security registration act; providing for rights of creditors and revocation of beneficiary designation by will; amending Minnesota Statutes 1990, section 168A.14, by adding a subdivision; Minnesota Statutes 1991 Supplement, section 524.3-1201; proposing coding for new law in Minnesota Statutes, chapter 524.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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