

CHAPTER 141

PRIVATE CAREER SCHOOLS

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141.20 CITATION.

Sections 141 20 to 141 35 may be cited as the Private Career School Act

History: 1999 c 214 art 3 s 1

141.21 DEFINITIONS.

[For text of subs 1 and 1a, see M S 1998]

Subd 3 **Solicitor.** "Solicitor" means a person who for a salary or for commission, acts as an agent, independent contractor, salesperson, or counselor in recruiting students for a program using any method, at any place except on the actual business premises of the school, other than only providing public information at the invitation or permission of a school or educational organization

[For text of subd 4, see M S 1998]

Subd 5 **School.** "School" means any person, within or outside the state, who maintains, advertises, solicits, or conducts any program for profit at any level other than baccalaureate or graduate programs, and is not specifically exempted by sections 141 21 to 141 35

Subd 6 **Course.** "Course" means any classroom or distance instruction, any subunit of a program, or any combination thereof

[For text of subd 7, see M S 1998]

Subd 8 **Program.** "Program" means any course or grouping of courses that is advertised or listed in a school's catalog, brochures, electronic display, or other publications, or for which the school grants a formal recognition

Subd 9 **Distance education school.** "Distance education school" means a school that establishes, keeps, or maintains a facility or location where a program is offered through distance instruction

Subd 10 **Distance instruction.** "Distance instruction" means any method of instruction outside the traditional m-classroom instruction, including, but not limited to, the use of the United States mail and other correspondence, Internet and other online computer-based education, or CD-ROM self-instruction

Subd 11 **Electronic display.** "Electronic display" means text, images, or sound rendered via any electronic device designed to present information, whether generated by the device or transmitted from another source

History: 1999 c 214 art 3 s 2-8

141.22 [Repealed, 1999 c 214 art 3 s 36]

141.25 LICENSE.

Subdivision 1 **Required.** A school must not maintain, advertise, solicit for, or conduct any program in Minnesota without first obtaining a license from the office

Subd 2 **Contract unenforceable.** A contract entered into with a person for a program by or on behalf of a person operating a school to which a license has not been issued under sections 141 21 to 141 35, is unenforceable in any action

Subd 3 **Application.** Application for a license shall be on forms prepared and furnished by the office, and shall include the following and other information as the office may require

- (1) the title or name of the school, ownership and controlling officers, members, managing employees, and director,
- (2) the specific programs which will be offered and the specific purposes of the instruction,
- (3) the place or places where the instruction will be given,
- (4) a listing of the equipment available for instruction in each program,
- (5) the maximum enrollment to be accommodated with equipment available in each specified program,
- (6) the qualifications of instructors and supervisors in each specified program,
- (7) a current balance sheet, income statement, and adequate supporting documentation, prepared and certified by an independent public accountant or CPA,
- (8) copies of all media advertising and promotional literature and brochures or electronic display currently used or reasonably expected to be used by the school,
- (9) copies of all Minnesota enrollment agreement forms and contract forms and all enrollment agreement forms and contract forms used in Minnesota, and
- (10) gross income earned in the preceding year from student tuition, fees, and other required institutional charges, unless the school files with the office a surety bond equal to at least \$50,000 as described in subdivision 5

[For text of subd 4, see M S 1998]

Subd 5 **Bond.** (a) No license shall be issued to any school which maintains, conducts, solicits for, or advertises within the state of Minnesota any program, unless the applicant files with the office a continuous corporate surety bond written by a company authorized to do business in Minnesota conditioned upon the faithful performance of all contracts and agreements with students made by the applicant

(b) The amount of the surety bond shall be ten percent of the preceding year's gross income from student tuition, fees, and other required institutional charges, but in no event less than \$10,000 nor greater than \$50,000, except that a school may deposit a greater amount at its own discretion. A school in each annual application for licensure must compute the amount of the surety bond and verify that the amount of the surety bond complies with this subdivision, unless the school maintains a surety bond equal to at least \$50,000. A school that operates at two or more locations may combine gross income from student tuition, fees, and other required institutional charges for all locations for the purpose of determining the annual surety bond requirement. The gross tuition and fees used to determine the amount of the surety bond required for a school having a license for the sole purpose of recruiting students in Minnesota shall be only that paid to the school by the students recruited from Minnesota.

(c) The bond shall run to the state of Minnesota and to any person who may have a cause of action against the applicant arising at any time after the bond is filed and before it is canceled for breach of any contract or agreement made by the applicant with any student. The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the principal sum deposited by the school under paragraph (b). The surety of any bond may cancel it upon giving 60 days' notice in writing to the office and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation.

(d) In lieu of bond, the applicant may deposit with the state treasurer a sum equal to the amount of the required surety bond in cash, or securities as may be legally purchased by savings banks or for trust funds in an aggregate market value equal to the amount of the required surety bond.

(e) Failure of a school to post and maintain the required surety bond or deposit under paragraph (d) may result in denial, suspension, or revocation of the school's license.

Subd 6 **Resident agent.** Schools located outside the state of Minnesota that offer, advertise, solicit for, or conduct any program within the state of Minnesota shall first file with the secretary of state a sworn statement designating a resident agent authorized to receive

service of process The statement shall designate the secretary of state as resident agent for service of process in the absence of a designated agent If a school fails to file the statement, the secretary of state is designated as the resident agent authorized to receive service of process The authorization shall be irrevocable as to causes of action arising out of transactions occurring prior to the filing of written notice of withdrawal from the state of Minnesota filed with the secretary of state

Subd 7 **Minimum standards.** A license shall be issued if the office first determines

(1) that the applicant has a sound financial condition with sufficient resources available to

(i) meet the school's financial obligations,

(ii) refund all tuition and other charges, within a reasonable period of time, in the event of dissolution of the school or in the event of any justifiable claims for refund against the school by the student body,

(iii) provide adequate service to its students and prospective students, and

(iv) maintain and support the school,

(2) that the applicant has satisfactory facilities with sufficient tools and equipment and the necessary number of work stations to prepare adequately the students currently enrolled, and those proposed to be enrolled,

(3) that the applicant employs a sufficient number of qualified teaching personnel to provide the educational programs contemplated,

(4) that the school has an organizational framework with administrative and instructional personnel to provide the programs and services it intends to offer,

(5) that the premises and conditions under which the students work and study are sanitary, healthful, and safe, according to modern standards,

(6) that the quality and content of each occupational course or program of study provides education and adequate preparation to enrolled students for entry level positions in the occupation for which prepared,

(7) that the living quarters which are owned, maintained, or approved by the applicant for students are sanitary and safe,

(8) that the contract or enrollment agreement used by the school complies with the provisions in section 141 265,

(9) that contracts and agreements do not contain a wage assignment provision or a confession of judgment clause, and

(10) that there has been no adjudication of fraud or misrepresentation in any criminal, civil, or administrative proceeding in any jurisdiction against the school or its owner, officers, agents, or sponsoring organization

Subd 8 **Fees and terms of license.** An application for an initial license under sections 141 21 to 141 35 shall be accompanied by a nonrefundable application fee established by the office that is sufficient to recover, but not exceed, its administrative costs

All licenses shall expire one year from the date issued by the office, except as provided in section 141 251

Subd 9 **Catalog, brochure, or electronic display.** Before a license is issued to a school, the school shall furnish to the office a catalog, brochure, or electronic display including

(1) identifying data, such as volume number and date of publication,

(2) name and address of the school and its governing body and officials,

(3) a calendar of the school showing legal holidays, beginning and ending dates of each course quarter, term, or semester, and other important dates,

(4) the school policy and regulations on enrollment including dates and specific entrance requirements for each program,

(5) the school policy and regulations about leave, absences, class cuts, make-up work, tardiness, and interruptions for unsatisfactory attendance,

(6) the school policy and regulations about standards of progress for the student including the grading system of the school, the minimum grades considered satisfactory, conditions

for interruption for unsatisfactory grades or progress, a description of any probationary period allowed by the school, and conditions of reentrance for those dismissed for unsatisfactory progress,

(7) the school policy and regulations about student conduct and conditions for dismissal for unsatisfactory conduct,

(8) a detailed schedule of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges,

(9) the school policy and regulations, including an explanation of section 141 271, about refunding tuition, fees, and other charges if the student does not enter the program, withdraws from the program, or the program is discontinued,

(10) a description of the available facilities and equipment,

(11) a course outline for each course offered showing course objectives, subjects or units in the course, type of work or skill to be learned, and approximate time, hours, or credits to be spent on each subject or unit,

(12) the school policy and regulations about granting credit for previous education and preparation,

(13) a procedure for investigating and resolving student complaints, and

(14) the name and address of the Minnesota higher education services office

A school that is exclusively a distance education school is exempt from clauses (3) and (5)

Subd 9a [Repealed, 1999 c 214 art 3 s 36]

Subd 9b [Repealed, 1999 c 214 art 3 s 36]

Subd 10 **Placement records.** (a) Before a license is issued to a school that offers, advertises or implies a placement service, the school shall file with the office for the past year and thereafter at reasonable intervals determined by the office, a certified copy of the school's placement record, containing a list of graduates, a description of their jobs, names of their employers, and other information as the office may prescribe

(b) Each school that offers a placement service shall furnish to each prospective student, prior to enrollment, written information concerning the percentage of the previous year's graduates who were placed in the occupation for which prepared or in related employment

Subd 11 [Repealed, 1999 c 214 art 3 s 36]

Subd 12 **Permanent records.** A school licensed under this chapter and located in Minnesota shall maintain a permanent record for each student for 50 years from the last date of the student's attendance. A school licensed under this chapter and offering distance instruction to a student located in Minnesota shall maintain a permanent record for each Minnesota student for 50 years from the last date of the student's attendance. Records include school transcripts, documents, and files containing student data about academic credits earned, courses completed, grades awarded, degrees awarded, and periods of attendance. To preserve permanent records, a school shall submit a plan that meets the following requirements

(1) at least one copy of the records must be held in a secure depository,

(2) an appropriate official must be designated to provide a student with copies of records or a transcript upon request,

(3) an alternative method of complying with clauses (1) and (2) must be established if the school ceases to exist, and

(4) a continuous surety bond must be filed with the office in an amount not to exceed \$20,000 if the school has no binding agreement for preserving student records or a trust must be arranged if the school ceases to exist

History: 1999 c 214 art 3 s 9-18

141.251 LICENSE RENEWAL.

Subdivision 1 **Application.** Application for renewal of a license must be made at least 30 days before expiration of the current license on a form provided by the office. A renewal application shall be accompanied by a nonrefundable fee established by the office that is sufficient to recover, but does not exceed, its administrative costs

Subd 2 Conditions. The office shall adopt rules establishing the conditions for renewal of a license. The conditions shall permit two levels of renewal based on the record of the school. A school that has demonstrated the quality of its program and operation through longevity and performance in the state may renew its license based on a relaxed standard of scrutiny. A school that has been in operation in Minnesota for a limited period of time or that has not performed adequately on performance indicators shall renew its license based on a strict standard of scrutiny. The office shall specify minimum longevity standards and performance indicators that must be met before a school may be permitted to operate under the relaxed standard of scrutiny. The performance indicators used in this determination shall include, but not be limited to, degree granting status, national accreditation, loan default rates, placement rate of graduates, student withdrawal rates, audit results, student complaints, and school status with the United States Department of Education. Schools that meet the requirements established in rule shall be required to submit a full rehensure report once every four years, and in the interim years will be exempt from the requirements of section 141 25, subdivision 3, clauses (4), (5), and (8), and Minnesota Rules, parts 4880 1700, subpart 6, and 4880 2100, subpart 4.

History: 1999 c 214 art 3 s 19

141.26 PERMITS FOR SOLICITORS.

[For text of subd 1, see M S 1998]

Subd 2 Application for permit. (a) The application for the permit shall state the full name, address, previous employment, and such other information concerning the solicitor applicant as the office may require.

(b) The application shall have attached to it a certified affidavit signed by a school official and the solicitor attesting to the fact that the applicant has been furnished a copy, has read and has knowledge of the provisions of this chapter and Minnesota Rules.

[For text of subs 3 to 6, see M S 1998]

History: 1999 c 214 art 3 s 20

141.265 INFORMATION TO STUDENTS.

Subdivision 1 Catalog, brochure, or electronic display. A school or its agent must provide the catalog, brochure, or electronic display required in section 141 25, subdivision 9, to a prospective student in a time or manner that gives the prospective student at least five days to read the catalog, brochure, or electronic display before signing a contract or enrollment agreement or before being accepted by a school that does not use a written contract or enrollment agreement.

Subd 2 Contract information. A contract or enrollment agreement used by a school must include at least the following:

- (1) the name and address of the school, clearly stated,
- (2) a clear and conspicuous disclosure that the agreement is a legally binding instrument upon written acceptance of the student by the school unless canceled under section 141 271,
- (3) the school's cancellation and refund policy that shall be clearly and conspicuously entitled "Buyer's Right to Cancel",
- (4) a clear statement of total cost of the program including tuition and all other charges,
- (5) the name and description of the program, including the number of hours or credits of classroom instruction, or distance instruction, that shall be included, and
- (6) a clear and conspicuous explanation of the form and means of notice the student should use in the event the student elects to cancel the contract or sale, the effective date of cancellation, and the name and address of the seller to which the notice should be sent or delivered.

Subd 3 Contract copies. Immediately upon signing of the enrollment agreement or the contract by a prospective student, the school or agent shall furnish to the prospective student an exact duplicate copy of the enrollment agreement or contract.

History: 1999 c 214 art 3 s 21

141.271 REFUNDS.

Subdivision 1 **Student.** For the purposes of this section, "student" means the party to the contract, whether the party is the student, the student's parent or guardian, or other person on behalf of the student

Subd 1a **Notice; right to refund.** Every school shall notify each student, in writing, of acceptance or rejection. In the event that the student is rejected by the school, all tuition, fees and other charges shall be refunded

Subd 2 **Schools using written contracts.** (a) Notwithstanding anything to the contrary, a school that uses a written contract or enrollment agreement shall refund all tuition, fees and other charges paid by a student, if the student gives written notice of cancellation within five business days after the day on which the contract was executed regardless of whether the program has started

(b) When a student has been accepted by the school and has entered into a contractual agreement with the school and gives written notice of cancellation following the fifth business day after the date of execution of contract, but before the start of the program in the case of resident schools, or before the first lesson has been serviced by the school in the case of distance education schools, all tuition, fees and other charges, except 15 percent of the total cost of the program but not to exceed \$50, shall be refunded to the student

Subd 3 **Schools not using written contracts.** (a) Notwithstanding anything to the contrary, a school that does not use a written contract or enrollment agreement shall refund all tuition, fees and other charges paid by a student if the student gives written notice of cancellation within five business days after the day on which the student is accepted by the school regardless of whether the program has started

(b) When a student has been accepted by the school and gives written notice of cancellation following the fifth business day after the day of acceptance by the school, but before the start of the program, in the case of resident schools, or before the first lesson has been serviced by the school, in the case of distance education schools, all tuition, fees and other charges, except 15 percent of the total cost of the program but not to exceed \$50, shall be refunded to the student

Subd 4 **Resident schools.** When a student has been accepted by a school offering a resident program and gives written notice of cancellation after the start of the period of instruction for which the student has been charged, but before completion of 75 percent of the period of instruction, the amount charged for tuition, fees, and all other charges shall be prorated as a portion of the total charges for tuition, fees, and all other charges. An additional 25 percent of the total cost of the period of instruction may be added, but shall not exceed \$100. After completion of 75 percent of the period of instruction for which the student has been charged, no refunds are required

Subd 5 **Distance education schools.** When a student has been accepted by a distance education school and gives written notice of cancellation after the first lesson has been completed by the student and serviced by the school, but before completion of 75 percent of the program, the amount charged for tuition, fees and all other charges for the completed lessons shall be prorated as a portion of the total charges for tuition, fees and all other charges. An additional 25 percent of the total cost of the program may be added but shall not exceed \$75. After completion of 75 percent of the program, no refunds are required

Subd 6 **Combination distance education--resident schools.** When a student has been accepted by a school that offers a combination distance education--resident program and gives written notice of cancellation after the start of the program or after the first lesson has been completed by the student and serviced by the school, whichever phase comes first, the school shall refund all tuition, fees and other charges as provided in subdivision 4 if cancellation occurs during the resident portion, and as provided in subdivision 5 if cancellation occurs during the distance instruction portion. If the cancellation occurs before the student has commenced one of the phases, the price of that phase shall not be considered in making the proration and the student shall be entitled to a full refund of the charges. Conversely, if the student has completed a phase of the program before cancellation, the charges may be retained by the school provided that the total tuition, fees and other charges for each phase have

been stated separately in the school's catalog or electronic display and contract or enrollment agreement

[For text of subs 7 to 11, see M S 1998]

Subd 12 Instrument not to be negotiated. A school shall not negotiate any promissory instrument received as payment of tuition or other charge prior to completion of 50 percent of the program. Prior to that time, instruments may be transferred by assignment to purchasers who shall be subject to all defenses available against the school named as payee.

[For text of subd 13, see M S 1998]

History: 1999 c 214 art 3 s 22-28

141.28 PROHIBITIONS.

[For text of subs 1 and 2, see M S 1998]

Subd 3 False statements. A school, agent, or solicitor shall not make, or cause to be made, any statement or representation, oral, written or visual, in connection with the offering or publicizing of a program, if the school, agent, or solicitor knows or reasonably should have known the statement or representation to be false, fraudulent, deceptive, substantially inaccurate, or misleading.

[For text of subd 4, see M S 1998]

Subd 5 Improbable program completion or employment. A school, agent, or solicitor shall not enroll a prospective student when it is obvious that the prospective student is unlikely to successfully complete a program or is unlikely to qualify for employment in the vocation or field for which the preparation is designed unless this fact is affirmatively disclosed to the prospective student. If a prospective student expresses a desire to enroll after such disclosure, a disclaimer may be obtained by the school. The disclaimer shall be signed by the student and shall state substantially one or both of the following: "I am fully aware that it is unlikely I will be able to successfully complete the program" and "I am fully aware of the improbability or impossibility that I will qualify for employment in the vocation or field for which the program was designed."

History: 1999 c 214 art 3 s 29,30

141.29 REVOCATION OF LICENSE OR PERMIT.

Subdivision 1 Grounds. The office may, after notice and upon providing an opportunity for a hearing, under chapter 14 if requested by the parties adversely affected, refuse to issue, refuse to renew, revoke, or suspend a license or solicitor's permit for any of the following grounds:

- (1) violation of any provisions of sections 141 21 to 141 35 or any rule adopted by the office,
- (2) furnishing to the office false, misleading, or incomplete information,
- (3) presenting to prospective students information relating to the school that is false, fraudulent, deceptive, substantially inaccurate, or misleading,
- (4) refusal to allow reasonable inspection or supply reasonable information after written request by the office,
- (5) the existence of any circumstance that would be grounds for the refusal of an initial or renewal license under section 141 25

[For text of subs 2 and 3, see M S 1998]

History: 1999 c 214 art 3 s 31

141.30 INSPECTION.

(a) The office or a delegate may inspect the instructional books and records, classrooms, dormitories, tools, equipment and classes of any school or applicant for license at any reason-

able time The office may require the submission of a certified public audit, or if there is no such audit available the office or a delegate may inspect the financial books and records of the school In no event shall such financial information be used by the office to regulate or set the tuition or fees charged by the school

(b) Data obtained from an inspection of the financial records of a school are nonpublic data as defined in section 13 02, subdivision 9 Data obtained from inspections may be disclosed to other members of the office, to law enforcement officials, or in connection with a legal or administrative proceeding commenced to enforce a requirement of law

History: 1999 c 227 s 13

141.31 INJUNCTION.

Upon application of the attorney general the district courts shall have jurisdiction to enjoin any violation of sections 141 21 to 141 35

History: 1999 c 214 art 3 s 32

141.32 PENALTY.

Violation of a provision of this chapter shall be a misdemeanor Each day's failure to comply with this chapter shall be a separate violation The office shall adopt rules establishing a list of civil penalties and the fine associated with each violation Fines for violations shall not exceed \$500 per day per violation

History: 1999 c 214 art 3 s 33

141.35 EXEMPTIONS.

Sections 141 21 to 141 35 shall not apply to the following

- (1) public post-secondary institutions,
- (2) private post-secondary institutions registered under sections 136A 61 to 136A 71 that are nonprofit, or that are for profit and registered under sections 136A 61 to 136A 71 as of December 31, 1998, or are approved to offer exclusively baccalaureate or postbaccalaureate programs,
- (3) schools of nursing accredited by the state board of nursing or an equivalent public board of another state or foreign country,
- (4) private schools complying with the requirements of section 120A 22, subdivision 4,
- (5) courses taught to students in a valid apprenticeship program taught by or required by a trade union,
- (6) schools exclusively engaged in training physically or mentally handicapped persons for the state of Minnesota,
- (7) schools licensed by boards authorized under Minnesota law to issue licenses,
- (8) schools and educational programs, or training programs, contracted for by persons, firms, corporations, government agencies, or associations, for the training of their own employees, for which no fee is charged the employee,
- (9) schools engaged exclusively in the teaching of purely avocational, recreational, or remedial subjects as determined by the office,
- (10) driver training schools and instructors as defined in section 171 33, subdivisions 1 and 2,
- (11) classes, courses, or programs conducted by a bona fide trade, professional, or fraternal organization, solely for that organization's membership,
- (12) programs in the fine arts provided by organizations exempt from taxation under section 290 05 and registered with the attorney general under chapter 309 For the purposes of this clause, "fine arts" means activities resulting in artistic creation or artistic performance of works of the imagination which are engaged in for the primary purpose of creative expression rather than commercial sale or employment In making this determination the office may seek the advice and recommendation of the Minnesota board of the arts,
- (13) classes, courses, or programs intended to fulfill the continuing education requirements for licensure or certification in a profession, that have been approved by a legislatively

or judicially established board or agency responsible for regulating the practice of the profession, and that are offered primarily to an individual practicing the profession,

(14) classes, courses, or programs intended to prepare students to sit for undergraduate, graduate, postgraduate, or occupational licensing and occupational entrance examinations,

(15) classes, courses, or programs providing 16 or fewer clock hours of instruction that are not part of the curriculum for an occupation or entry level employment,

(16) classes, courses, or programs providing instruction in personal development, modeling, or acting,

(17) training or instructional programs, in which one instructor teaches an individual student, that are not part of the curriculum for an occupation or are not intended to prepare a person for entry level employment, and

(18) schools with no physical presence in Minnesota engaged exclusively in offering distance instruction that are located in and regulated by other states or jurisdictions

History: 1999 c 214 art 3 s 34

141.36 [Repealed, 1999 c 214 art 3 s 36]