

## CHAPTER 148

## PUBLIC HEALTH OCCUPATIONS

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## CHIROPRACTORS

### 148.01 CHIROPRACTIC.

Subdivision 1. **Definitions.** For the purposes of sections 148.01 to 148.10, "chiropractic" is defined as the science of adjusting any abnormal articulations of the human body, especially those of the spinal column, for the purpose of giving freedom of action to impinged nerves that may cause pain or deranged function.

Subd. 2. **Exclusions.** The practice of chiropractic is not the practice of medicine, surgery, or osteopathy.

Subd. 3. **Inclusions.** Chiropractic practice includes those noninvasive means of clinical, physical, and laboratory measures and analytical x-ray of the bones of the skeleton which are necessary to make a determination of the presence or absence of a chiropractic condition. The practice of chiropractic may include procedures which are used to prepare the patient for chiropractic adjustment or to complement the chiropractic adjustment. The procedures may not be used as independent therapies or separately from chiropractic adjustment. No device which utilizes heat or sound shall be used in the treatment of a chiropractic condition unless it has been approved by the Federal Communications Commission. No device shall be used above the neck of the patient. Any chiropractor who utilizes procedures in violation of this subdivision shall be guilty of unprofessional conduct and subject to disciplinary procedures according to section 148.10.

**History:** (5725, 5731(c)) 1919 c 64 s 2,8; 1927 c 230; 1975 c 362 s 1; 1983 c 346 s 1

### 148.02 CHIROPRACTORS; STATE BOARD OF EXAMINERS.

There is hereby created and established a board to be known by the name and style of State Board of Chiropractic Examiners.

**History:** (5724) 1919 c 64 s 1

### 148.03 APPOINTMENT.

The governor shall appoint a Board of Chiropractic Examiners consisting of two public members as defined by section 214.02 and five resident chiropractors who shall have practiced chiropractic in this state for at least three years immediately prior to the time of appointment, all of whom shall be graduates of a course of chiropractic, but no

more than two of whom shall be graduates of the same school or college of chiropractic. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214. The board shall have the authority to prescribe rules relative to the examination of applicants for license to practice chiropractic and for the annual renewal of licenses. Vacancies caused by death or otherwise shall be filled by the governor within 60 days. No member of the board shall be financially interested in any chiropractic school or college or be in any way affiliated with the practice of other methods of healing as are now regulated by law in this state.

**History:** (5726) 1919 c 64 s 3; 1943 c 155 s 1; 1959 c 186 s 1; 1973 c 638 s 10; 1975 c 136 s 8; 1976 c 222 s 45; 1976 c 239 s 54; 1991 c 199 art 1 s 41

#### 148.031 CONTINUING EDUCATION.

The board shall adopt rules requiring continuing education for chiropractors licensed under this chapter who regularly practice in the area of workers' compensation. These rules shall include rules relating to continuing education designed to assure the coordination of treatment, rehabilitation, and other chiropractic services provided to injured employees under chapter 176. Rules relative to education under chapter 176 shall be adopted jointly with the commissioner of labor and industry. These rules shall be consistent with section 214.12.

**History:** 1983 c 290 s 18

#### 148.04 PROCEDURE.

The officers of the Board of Chiropractic Examiners shall have power to administer oaths, summon witnesses, and take testimony as to matters pertaining to its duties. It shall adopt a minimum of educational requirements not inconsistent with the provisions of sections 148.01 to 148.10, which shall be without prejudice, partiality, or discrimination as to the different schools or colleges of chiropractic. The board shall meet at such times as the majority of the board may deem proper. A majority of the board shall constitute a quorum for the transaction of business. The secretary shall keep a record of its proceedings. This report shall be prima facie evidence of all matters therein recorded.

**History:** (5727) 1919 c 64 s 4; 1967 c 149 s 1; 1973 c 638 s 11; 1975 c 136 s 9

#### 148.05 LICENSE AND FEE.

At its first meeting the State Board of Chiropractic Examiners shall issue to each member a license to practice chiropractic, for which the member shall pay a fee set by the board. The board shall have a common seal and promulgate rules to govern its actions.

**History:** (5728) 1919 c 64 s 5; 1976 c 222 s 46; 1986 c 444

#### 148.06 APPLICATION; EXAMINATION; LICENSE; FEE.

Subdivision 1. **License required; qualifications.** No person shall practice chiropractic in this state without first being licensed by the State Board of Chiropractic Examiners. The applicant shall have earned at least one-half of all academic credits required for awarding of a baccalaureate degree from the University of Minnesota, or other university, college, or community college of equal standing, in subject matter determined by the board, and taken a four-year resident course of at least eight months each in a school or college of chiropractic or in a chiropractic program that is accredited by the Council on Chiropractic Education or accredited by an agency approved by the United States Office of Education or their successors as of January 1, 1988. The board may issue licenses to practice chiropractic without compliance with prechiropractic or academic requirements listed above if in the opinion of the board

the applicant has the qualifications equivalent to those required of other applicants, the applicant satisfactorily passes written and practical examinations as required by the Board of Chiropractic Examiners, and the applicant is a graduate of a college of chiropractic with a reciprocal recognition agreement with the Council on Chiropractic Education as of January 1, 1988. The board may recommend a two-year prechiropractic course of instruction to any university, college, or community college which in its judgment would satisfy the academic prerequisite for licensure as established by this section.

An examination for a license shall be in writing and shall include testing in:

- (a) The basic sciences including but not limited to anatomy, physiology, bacteriology, pathology, hygiene, and chemistry as related to the human body or mind;
- (b) The clinical sciences including but not limited to the science and art of chiropractic, chiropractic physiotherapy, diagnosis, roentgenology, and nutrition; and
- (c) Professional ethics and any other subjects that the board may deem advisable.

The board may consider a valid certificate of examination from the National Board of Chiropractic Examiners as evidence of compliance with the examination requirements of this subdivision. The applicant shall be required to give practical demonstration in vertebral palpation, neurology, adjusting and any other subject that the board may deem advisable. A license, countersigned by the members of the board and authenticated by the seal thereof, shall be granted to each applicant who correctly answers 75 percent of the questions propounded in each of the subjects required by this subdivision and meets the standards of practical demonstration established by the board. Each application shall be accompanied by a fee set by the board. The fee shall not be returned but the applicant may, within one year, apply for examination without the payment of an additional fee. The board may grant a license to an applicant who holds a valid license to practice chiropractic issued by the appropriate licensing board of another state, provided the applicant meets the other requirements of this section and satisfactorily passes a practical examination approved by the board. The burden of proof is on the applicant to demonstrate these qualifications or satisfaction of these requirements.

Subd. 2. [Repealed, 1976 c 222 s 209]

**History:** (5729) 1919 c 64 s 6; 1927 c 230; 1959 c 186 s 2; 1967 c 706 s 1; 1974 c 564 s 1; 1976 c 222 s 47; 1977 c 193 s 1; 1983 c 346 s 2; 1986 c 444; 1987 c 345 s 1; 1988 c 642 s 6; 1999 c 55 s 1; 2001 c 121 s 1

#### 148.07 RENEWAL FEES; EXPENSES.

Subdivision 1. **Renewal fees.** All persons practicing chiropractic within this state, or licensed so to do, shall pay, on or before the date of expiration of their licenses, to the Board of Chiropractic Examiners a renewal fee set by the board, with a penalty set by the board for each month or portion thereof for which a license fee is in arrears and upon payment of the renewal and upon compliance with all the rules of the board, shall be entitled to renewal of their license.

Subd. 2. **Expenses.** The expenses of administering sections 148.01 to 148.105 shall be paid from the appropriation made to the State Board of Chiropractic Examiners. Expenditures and revenues must be managed in accordance with the statewide accounting principles and requirements of the commissioner of finance.

Subd. 3. [Repealed, 1975 c 136 s 77]

**History:** (5730) 1919 c 64 s 7; 1927 c 230 s 1; 1943 c 155 s 2; 1955 c 847 s 12; 1959 c 186 s 3; 1965 c 64 s 1; 1967 c 149 s 2; 1969 c 399 s 1; 1973 c 638 s 12,13; 1976 c 222 s 48; 1983 c 346 s 3; 1987 c 345 s 2

S - Civil & Family Law Division

#### 148.08 RULES.

Subdivision 1. [Repealed, 1976 c 222 s 209]

Subd. 2. **How regulated.** Chiropractors shall be subject to the same rules and regulations, both municipal and state, that govern other licensed doctors or physicians in the control of contagious and infectious diseases, and shall be entitled to sign health and death records, and to all rights and privileges of other doctors or physicians in all matters pertaining to the public health, except prescribing internal drugs or the practice of medicine, physical therapy, surgery and obstetrics.

Subd. 3. **Rules.** The Board of Chiropractic Examiners shall promulgate rules necessary to administer sections 148.01 to 148.105 to protect the health, safety, and welfare of the public, including rules governing the practice of chiropractic and defining any terms, whether or not used in sections 148.01 to 148.105, if the definitions are not inconsistent with the provisions of sections 148.01 to 148.105.

**History:** (5731) 1919 c 64 s 8; 1927 c 230; 1975 c 362 s 2; 1983 c 346 s 4; 1985 c 248 s 70; 1987 c 345 s 3; 1Sp2001 c 9 art 15 s 32

#### 148.09 INDEPENDENT EXAMINATION.

A doctor of chiropractic conducting a physical examination of a patient or a review of records by a doctor of chiropractic, for the purpose of generating a report or opinion to aid a reparation obligor under chapter 65B in making a determination regarding the condition or further treatment of the patient, shall meet the following requirements:

(1) the doctor of chiropractic must either be an instructor at an accredited school of chiropractic or have devoted not less than 50 percent of practice time to direct patient care during the two years immediately preceding the examination;

(2) the doctor of chiropractic must have completed any annual continuing education requirements for chiropractors prescribed by the Board of Chiropractic Examiners;

(3) the doctor of chiropractic must not accept a fee of more than \$500 for each independent exam conducted; and

(4) the doctor of chiropractic must register with the Board of Chiropractic Examiners as an independent examiner and adhere to all rules governing the practice of chiropractic.

**History:** 1990 c 611 s 1

#### 148.10 LICENSES REVOKED; NEW LICENSES.

Subdivision 1. **Grounds.** (a) The state Board of Chiropractic Examiners may refuse to grant, or may revoke, suspend, condition, limit, restrict or qualify a license to practice chiropractic, or may cause the name of a person licensed to be removed from the records in the office of the court administrator of the district court for:

(1) Advertising that is false or misleading; that violates a rule of the board; or that claims the cure of any condition or disease.

(2) The employment of fraud or deception in applying for a license or in passing the examination provided for in section 148.06 or conduct which subverts or attempts to subvert the licensing examination process.

(3) The practice of chiropractic under a false or assumed name or the impersonation of another practitioner of like or different name.

(4) The conviction of a crime involving moral turpitude.

(5) The conviction, during the previous five years, of a felony reasonably related to the practice of chiropractic.

(6) Habitual intemperance in the use of alcohol or drugs.

(7) Practicing under a license which has not been renewed.

(8) Advanced physical or mental disability.

(9) The revocation or suspension of a license to practice chiropractic; or other disciplinary action against the license; or the denial of an application for a license by the proper licensing authority of another state, territory or country; or failure to report

to the board that charges regarding the person's license have been brought in another state or jurisdiction.

(10) The violation of, or failure to comply with, the provisions of sections 148.01 to 148.105, the rules of the state Board of Chiropractic Examiners, or a lawful order of the board.

(11) Unprofessional conduct.

(12) Being unable to practice chiropractic with reasonable skill and safety to patients by reason of illness, professional incompetence, senility, drunkenness, use of drugs, narcotics, chemicals or any other type of material, or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills. If the board has probable cause to believe that a person comes within this clause, it shall direct the person to submit to a mental or physical examination. For the purpose of this clause, every person licensed under this chapter shall be deemed to have given consent to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitute a privileged communication. Failure of a person to submit to such examination when directed shall constitute an admission of the allegations, unless the failure was due to circumstances beyond the person's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. A person affected under this clause shall at reasonable intervals be afforded an opportunity to demonstrate that the person can resume the competent practice of chiropractic with reasonable skill and safety to patients.

In addition to ordering a physical or mental examination, the board may, notwithstanding section 13.384, 144.651, or any other law limiting access to health data, obtain health data and health records relating to a licensee or applicant without the licensee's or applicant's consent if the board has probable cause to believe that a doctor of chiropractic comes under this clause. The health data may be requested from a provider, as defined in section 144.335, subdivision 1, paragraph (b), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, 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 pursuant to a written request under this subdivision, unless the information is false and the provider or entity giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is classified as private under sections 13.01 to 13.87.

In any proceeding under this clause, neither the record of proceedings nor the orders entered by the board shall be used against a person in any other proceeding.

(13) Aiding or abetting an unlicensed person in the practice of chiropractic, except that it is not a violation of this clause for a doctor of chiropractic to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of the license or registration or delegated authority.

(14) Improper management of health records, including failure to maintain adequate health records as described in clause (18), to comply with a patient's request made under section 144.335 or to furnish a health record or report required by law.

(15) Failure to make reports required by section 148.102, subdivisions 2 and 5, or to cooperate with an investigation of the board as required by section 148.104, or the submission of a knowingly false report against another doctor of chiropractic under section 148.10, subdivision 3.

(16) Splitting fees, or promising to pay a portion of a fee or a commission, or accepting a rebate.

(17) Revealing a privileged communication from or relating to a patient, except when otherwise required or permitted by law.

(18) Failing to keep written chiropractic records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, test results, and x-rays. Unless otherwise required by law, written records need not be retained for more than seven years and x-rays need not be retained for more than four years.

(19) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, or appliances.

(20) Gross or repeated malpractice or the failure to practice chiropractic at a level of care, skill, and treatment which is recognized by a reasonably prudent chiropractor as being acceptable under similar conditions and circumstances.

(21) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that the person is not qualified by training, experience, or licensure to perform them.

(b) For the purposes of paragraph (a), clause (2), conduct that subverts or attempts to subvert the licensing examination process includes, but is not limited to: (1) conduct that violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination; (2) conduct that violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; or (3) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf.

(c) For the purposes of paragraph (a), clauses (4) and (5), conviction as used in these subdivisions includes a conviction of an offense that if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered.

(d) For the purposes of paragraph (a), clauses (4), (5), and (6), a copy of the judgment or proceeding under seal of the administrator of the court or of the administrative agency which entered the same shall be admissible into evidence without further authentication and shall constitute prima facie evidence of its contents.

(e) For the purposes of paragraph (a), clause (11), unprofessional conduct means any unethical, deceptive or deleterious conduct or practice harmful to the public, any departure from or the failure to conform to the minimal standards of acceptable chiropractic practice, or a willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a chiropractor:

- (1) gross ignorance of, or incompetence in, the practice of chiropractic;
- (2) engaging in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient;
- (3) performing unnecessary services;
- (4) charging a patient an unconscionable fee or charging for services not rendered;
- (5) directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques;
- (6) perpetrating fraud upon patients, third-party payors, or others, relating to the practice of chiropractic, including violations of the Medicare or Medicaid laws or state medical assistance laws;
- (7) advertising that the licensee will accept for services rendered assigned payments from any third-party payer as payment in full, if the effect is to give the impression of eliminating the need of payment by the patient of any required deductible or co-payment applicable in the patient's health benefit plan; or advertising

a fee or charge for a service or treatment different from the fee or charge the licensee submits to a third-party payer for that service or treatment. As used in this clause, "advertise" means solicitation by the licensee by means of handbills, posters, circulars, motion pictures, radio, newspapers, television, or in any other manner. In addition to the board's power to punish for violations of this clause, violation of this clause is also a misdemeanor;

(8) accepting for services rendered, assigned payments from any third-party payer as payment in full, if the effect is to eliminate the need of payment by the patient of any required deductible or co-payment applicable in the patient's health benefit plan, except as hereinafter provided; or collecting a fee or charge for a service or treatment different from the fee or charge the licensee submits to a third-party payer for that service or treatment, except as hereinafter provided. This clause is intended to prohibit offerings to the public of the above listed practices and those actual practices as well, except that in instances where the intent is not to collect an excessive remuneration from the third-party payer but rather to provide services at a reduced rate to a patient unable to afford the deductible or co-payment, the services may be performed for a lesser charge or fee. The burden of proof for establishing that this is the case shall be on the licensee; and

(9) any other act that the board by rule may define.

**Subd. 2. Issuance following refusal, revocation or cancellation.** The State Board of Chiropractic Examiners may, at any time within two years of the refusal or revocation or cancellation of a license under this section, by a majority vote, issue a new license or grant a license to the person affected, restoring to, or conferring upon the person, all the rights and privileges of, and pertaining to, the practice of chiropractic, as defined and regulated by sections 148.01 to 148.10. Any person to whom such have been restored shall pay a fee set by the board upon issuance of a new license.

**Subd. 3. Reprimand; penalties; probation.** In addition to the other powers granted to the board under this chapter, the board may, in connection with any person whom the board, after a hearing, adjudges unqualified or whom the board, after a hearing, finds to have performed one or more of the acts described in subdivision 1:

(1) publicly reprimand or censure the person;

(2) place the person on probation for the period and upon the terms and conditions that the board may prescribe; and

(3) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the doctor of chiropractic of any economic advantage gained by reason of the violation charged, to reimburse the board for the cost of the investigation and proceeding, or to discourage similar violations. For purposes of this section, the cost of the investigation and proceeding may include, but is not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.

**Subd. 4. Temporary suspension.** In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend a license for not more than 60 days if the board finds that a person has violated a statute or rule which the board is empowered to enforce and continued practice by the person would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the person, specifying the statute or rule violated. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act. The person shall be provided with at least 20 days' notice of any hearing held pursuant to this subdivision.

**Subd. 5. Tax clearance certificate.** (a) In addition to the grounds provided in subdivision 1, the board may not issue or renew a license to practice chiropractic if the commissioner of revenue notifies the board and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of \$500 or



more. The board may issue or renew the license only if (1) the commissioner of revenue issues a tax clearance certificate and (2) the commissioner of revenue or the licensee or applicant forwards a copy of the clearance to the board. The commissioner of revenue may issue a clearance certificate only if the licensee or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes.

(2) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) In lieu of the notice and hearing requirements of subdivisions 3 and 4, when a licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the Office of Administrative Hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing, and the allegations against the licensee or applicant. The notice may be served personally or by mail.

(d) The board shall require all licensees or applicants of a license to practice chiropractic to provide their Social Security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all licensees and applicants for a license to practice chiropractic, including the name and address, Social Security number, and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year.

**Subd. 6. Effect of appeal.** A suspension, revocation, condition, limitation, qualification, or restriction of a license shall be in effect pending determination of an appeal unless the court, upon petition and for good cause shown, shall otherwise order.

A license to practice chiropractic is automatically suspended if (1) a guardian of a licensee is appointed by order of a court under sections 524.5-101 to 524.5-502, for reasons other than the minority of the licensee; or (2) the licensee is committed by order of a court under chapter 253B. The license 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.

**History:** (5733) 1919 c 64 s 10; 1927 c 230; 1957 c 154 s 1; 1959 c 186 s 4; 1976 c 222 s 49; 1977 c 193 s 2,3; 1983 c 346 s 5-7; 1986 c 444; 1Sp1986 c 1 art 7 s 8; 1Sp1986 c 3 art 1 s 82; 1987 c 345 s 4-6; 1989 c 184 art 2 s 4; 1Sp1994 c 1 art 2 s 6; 1999 c 227 s 22; 2001 c 121 s 2,3; 2003 c 66 s 2; 2004 c 146 art 3 s 8

**148.101** [Repealed, 1987 c 345 s 14]

#### **148.102 REPORTS OF STATE OR LOCAL SOCIETIES.**

**Subdivision 1. Requirement.** If a state or local chiropractic society receives a complaint which might be grounds for discipline under section 148.10 against a member doctor of chiropractic, the society shall report the complaint or shall direct the complainant to the Board of Chiropractic Examiners.

**Subd. 2. Licensed professionals.** A licensed health professional shall report to the board personal knowledge of any conduct which the professional reasonably believes constitutes grounds for disciplinary action under section 148.10 by any doctor of chiropractic including any conduct indicating that the doctor of chiropractic may be

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incompetent, or may have engaged in unprofessional conduct, or may be physically unable to engage safely in the practice of chiropractic. No report shall be required if the information was obtained in the course of a patient relationship if the patient is a doctor of chiropractic and the treating health professional successfully counsels the doctor of chiropractic to limit or withdraw from practice to the extent required by the impairment; or (2) is a patient or former patient of the doctor of chiropractic and the treating professional is a psychologist from whom the patient is receiving psychotherapeutic services.

**Subd. 3. Insurers.** Two times each year each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to chiropractors shall submit to the board a report concerning the chiropractors against whom malpractice settlements or awards have been made to the plaintiff. The report must contain at least the following information:

- (1) the total number of malpractice settlements or awards made to the plaintiff;
- (2) the date the malpractice settlements or awards to the plaintiff were made;
- (3) the allegations contained in the claim or complaint leading to the settlements or awards made to the plaintiff;
- (4) the dollar amount of each malpractice settlement or award;
- (5) the regular address of the practice of the doctor of chiropractic against whom an award was made or with whom a settlement was made; and
- (6) the name of the doctor of chiropractic against whom an award was made or with whom a settlement was made.

The insurance company shall, in addition to the above information, report to the board any information it possesses which tends to substantiate a charge that a doctor of chiropractic may have engaged in conduct violating section 148.10 and this section.

**Subd. 4. Courts.** The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court which adjudges or includes a finding that a doctor of chiropractic is mentally ill, mentally incompetent, guilty of a felony, guilty of an abuse or fraud, appoints a guardian of the doctor of chiropractic under sections 524.5-101 to 524.5-502 or commits a doctor of chiropractic under chapter 253B.

**Subd. 5. Self-reporting.** A doctor of chiropractic shall report to the board any action concerning that doctor which would require that a report be filed with the board by any person, health care facility, business, or organization under subdivision 4.

**Subd. 6. Deadlines; forms.** Reports required by subdivisions 1 to 5 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

**Subd. 7. Subpoenas.** The board may issue subpoenas for the production of any reports required by subdivisions 1 to 5 or any related documents.

**History:** 1987 c 345 s 7; 1992 c 464 art 1 s 56; ISp1994 c 1 art 2 s 7; 2004 c 146 art 3 s 47

## 148.103 IMMUNITY FOR REPORTING OR INVESTIGATING.

**Subdivision 1. Reporting.** Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report to the board under section 148.102 or for otherwise reporting to the board violations or alleged violations of section 148.10. The reports are private.

**Subd. 2. Investigation.** Members of the board and persons employed by the board or engaged in the investigation or prosecution of violations and in the preparation and management of charges of violations of sections 148.01 to 148.105 on behalf of the board are immune from civil liability and criminal prosecution for any actions,

transactions, or publications in the execution of, or relating to, their duties under sections 148.01 to 148.105.

**History:** 1987 c 345 s 8

#### 148.104 COOPERATION DURING INVESTIGATIONS.

A doctor of chiropractic who is the subject of an investigation by or on behalf of the board shall cooperate fully with the investigation. Cooperation includes appearing at conferences, meetings, or hearings scheduled by the board and for which the board provided notice in accordance with chapter 14; responding fully and promptly to any question raised by or on behalf of the board relating to the subject of the investigation; and providing copies of patient health records, as reasonably requested by the board, to assist the board in its investigation. If the board does not have written consent from a patient allowing the board access to the patient's health records, a doctor of chiropractic shall delete any data in the record which identifies the patient before providing the records to the board.

**History:** 1987 c 345 s 9; 2001 c 121 s 4

#### 148.105 VIOLATION.

Subdivision 1. **Generally.** Any person who practices, or attempts to practice, chiropractic or who uses any of the terms or letters "Doctors of Chiropractic," "Chiropractor," "D.C.," or any other title or letters under any circumstances as to lead the public to believe that the person who so uses the terms is engaged in the practice of chiropractic, without having complied with the provisions of sections 148.01 to 148.104, is guilty of a gross misdemeanor; and, upon conviction, fined not less than \$1,000 nor more than \$10,000 or be imprisoned in the county jail for not less than 30 days nor more than six months or punished by both fine and imprisonment, in the discretion of the court. It is the duty of the county attorney of the county in which the person practices to prosecute. Nothing in sections 148.01 to 148.105 shall be considered as interfering with any person:

- (1) licensed by a health related licensing board, as defined in section 214.01, subdivision 2, including psychological practitioners with respect to the use of hypnosis;
- (2) registered by the commissioner of health under section 214.13; or
- (3) engaged in other methods of healing regulated by law in the state of Minnesota;

provided that the person confines activities within the scope of the license or other regulation and does not practice or attempt to practice chiropractic.

Subd. 2. **Exceptions.** The following persons shall not be in violation of subdivision 1:

- (1) a student practicing under the direct supervision of a preceptor while the student is enrolled in and regularly attending a recognized chiropractic college or chiropractic program;

- (2) a student who is in continuing training and performing the duties of an intern or resident or engaged in postgraduate work considered by the board to be the equivalent of an internship or residency in any institution approved for training by the board;

- (3) a doctor of chiropractic licensed in another state or jurisdiction who is in actual consultation in Minnesota;

- (4) a doctor of chiropractic licensed in another state or jurisdiction who is in this state for the sole purpose of providing chiropractic services at a competitive athletic event. The doctor of chiropractic may practice chiropractic only on participants in the athletic event;

- (5) a doctor of chiropractic licensed in another state or jurisdiction whose duties are entirely of a research, public health, or educational character and while directly engaged in such duties, and who is employed in a scientific, sanitary, or teaching

capacity by: (i) an accredited institution; (ii) a public or private school, college, or other bona fide educational institution; (iii) a nonprofit organization which has tax-exempt status in accordance with the Internal Revenue Code, section 501(c)(3), and is organized and operated primarily for the purpose of conducting scientific research; or (iv) the state Department of Health;

(6) a doctor of chiropractic licensed in another state or jurisdiction who treats the doctor of chiropractic's home state patients or other participating patients while the doctor of chiropractic and those patients are participating together in outdoor recreation in this state as defined by section 86A.03, subdivision 3; and

(7) a person licensed in another state or jurisdiction who is a commissioned officer of, a member of, or employed by the armed forces of the United States, the United States Public Health Service, the Veterans Administration, any federal institution, or any federal agency while engaged in the performance of official duties within this state.

**History:** 1987 c 345 s 10; 1991 c 255 s 19; 2001 c 121 s 5

#### 148.106 PEER REVIEW OF SERVICES AND FEES.

Subdivision 1. [Repealed, 2001 c 121 s 7]

Subd. 2. [Repealed, 2001 c 121 s 7]

Subd. 3. [Repealed, 2001 c 121 s 7]

Subd. 4. [Repealed, 2001 c 121 s 7]

Subd. 5. [Repealed, 2001 c 121 s 7]

Subd. 6. [Repealed, 2001 c 121 s 7]

Subd. 7. [Repealed, 2001 c 121 s 7]

Subd. 8. [Repealed, 2001 c 121 s 7]

Subd. 9. [Repealed, 2001 c 121 s 7]

Subd. 10. **Confidentiality of peer review records.** All data and information acquired by the board or the peer review committee before August 1, 2001, in the exercise of its duties and functions in conducting peer reviews before August 1, 2001, shall be subject to the same disclosure and confidentiality protections as provided for data and information of other review organizations under section 145.64. The data, information, and records are classified as private data on individuals for purposes of chapter 13. The patient records obtained by the board pursuant to this section must be used solely for the purposes of the board relating to peer review or the disciplinary process.

**History:** 1987 c 345 s 11; 2001 c 121 s 6

148.11 [Repealed, 1963 c 45 s 12]

148.12 [Repealed, 1963 c 45 s 12]

148.13 [Repealed, 1963 c 45 s 12]

148.14 [Repealed, 1963 c 45 s 12]

148.15 [Repealed, 1963 c 45 s 12]

148.16 [Repealed, 1963 c 45 s 12]

148.17 [Repealed, 1945 c 242 s 14]

### NURSES

#### 148.171 DEFINITIONS; TITLE.

Subdivision 1. **Title.** Sections 148.171 to 148.285 shall be referred to as the Minnesota Nurse Practice Act.

Subd. 2. **Scope.** As used in sections 148.171 to 148.285, the definitions in this section have the meanings given.

Subd. 3. **Advanced practice registered nurse.** "Advanced practice registered nurse," abbreviated APRN, means an individual licensed as a registered nurse by the board and certified by a national nurse certification organization acceptable to the board to practice as a clinical nurse specialist, nurse anesthetist, nurse-midwife, or nurse practitioner.

Subd. 4. **Board.** "Board" means the Minnesota Board of Nursing.

Subd. 5. **Clinical nurse specialist practice.** "Clinical nurse specialist practice" means the provision of patient care in a particular specialty or subspecialty of advanced practice registered nursing within the context of collaborative management, and includes: (1) diagnosing illness and disease; (2) providing nonpharmacologic treatment, including psychotherapy; (3) promoting wellness; and (4) preventing illness and disease. The certified clinical nurse specialist is certified for advanced practice registered nursing in a specific field of clinical nurse specialist practice.

Subd. 6. **Collaborative management.** "Collaborative management" is a mutually agreed upon plan between an advanced practice registered nurse and one or more physicians or surgeons licensed under chapter 147 that designates the scope of collaboration necessary to manage the care of patients. The advanced practice registered nurse and the one or more physicians must have experience in providing care to patients with the same or similar medical problems, except that certified registered nurse anesthetists may continue to provide anesthesia in collaboration with physicians, including surgeons, podiatrists licensed under chapter 153, and dentists licensed under chapter 150A. Certified registered nurse anesthetists must provide anesthesia services at the same hospital, clinic, or health care setting as the physician, surgeon, podiatrist, or dentist.

Subd. 7. **Consultation.** "Consultation" means the process in which an advanced practice registered nurse who maintains primary management responsibility for a patient's care seeks advice or opinion of a physician or another member of the health care team.

Subd. 8. **Licensed practical nurse.** "Licensed practical nurse," abbreviated L.P.N., means an individual licensed by the board to practice practical nursing.

Subd. 9. **Nurse.** "Nurse" means registered nurse, advanced practice registered nurse, and licensed practical nurse unless the context clearly refers to only one category.

Subd. 10. **Nurse-midwife practice.** "Nurse-midwife practice" means the management of women's primary health care, focusing on pregnancy, childbirth, the postpartum period, care of the newborn, and the family planning and gynecological needs of women and includes diagnosing and providing nonpharmacologic treatment within a system that provides for consultation, collaborative management, and referral as indicated by the health status of patients.

Subd. 11. **Nurse practitioner practice.** "Nurse practitioner practice" means, within the context of collaborative management: (1) diagnosing, directly managing, and preventing acute and chronic illness and disease; and (2) promoting wellness, including providing nonpharmacologic treatment. The certified nurse practitioner is certified for advanced registered nurse practice in a specific field of nurse practitioner practice.

Subd. 12. **Nursing assistant.** "Nursing assistant" means an individual providing nursing or nursing-related services that do not require the specialized knowledge and skill of a nurse, at the direction of a nurse, but does not include a licensed health professional or an individual who volunteers to provide such services without monetary compensation.

Subd. 13. **Practice of advanced practice registered nursing.** The "practice of advanced practice registered nursing" means the performance of clinical nurse specialist practice, nurse-midwife practice, nurse practitioner practice, or registered nurse anesthetist practice as defined in subdivisions 5, 10, 11, and 21. The practice includes functioning as a direct care provider, case manager, consultant, educator, and researcher. The practice of advanced practice registered nursing also includes accepting referrals from, consulting with, cooperating with, or referring to all other types of

health care providers, including but not limited to physicians, chiropractors, podiatrists, and dentists, provided that the advanced practice registered nurse and the other provider are practicing within their scopes of practice as defined in state law. The advanced practice registered nurse must practice within a health care system that provides for consultation, collaborative management, and referral as indicated by the health status of the patient.

**Subd. 14. Practice of practical nursing.** The "practice of practical nursing" means the performance for compensation or personal profit of any of those services in observing and caring for the ill, injured, or infirm, in applying counsel and procedure to safeguard life and health, in administering medication and treatment prescribed by a licensed health professional, which are commonly performed by licensed practical nurses and which require specialized knowledge and skill such as are taught or acquired in an approved school of practical nursing, but which do not require the specialized education, knowledge, and skill of a registered nurse.

**Subd. 15. Practice of professional nursing.** The "practice of professional nursing" means the performance for compensation or personal profit of the professional interpersonal service of: (1) providing a nursing assessment of the actual or potential health needs of individuals, families, or communities; (2) providing nursing care supportive to or restorative of life by functions such as skilled ministrations of nursing care, supervising and teaching nursing personnel, health teaching and counseling, case finding, and referral to other health resources; and (3) evaluating these actions. The practice of professional nursing includes both independent nursing functions and delegated medical functions which may be performed in collaboration with other health team members, or may be delegated by the professional nurse to other nursing personnel. Independent nursing function may also be performed autonomously. The practice of professional nursing requires that level of special education, knowledge, and skill ordinarily expected of an individual who has completed an approved professional nursing education program as described in section 148.211, subdivision 1.

**Subd. 16. Prescribing.** "Prescribing" means the act of generating a prescription for the preparation of, use of, or manner of using a drug or therapeutic device in accordance with the provisions of section 148.235. Prescribing does not include recommending the use of a drug or therapeutic device which is not required by the federal Food and Drug Administration to meet the labeling requirements for prescription drugs and devices. Prescribing also does not include recommending or administering a drug or therapeutic device perioperatively by a certified registered nurse anesthetist.

**Subd. 17. Prescription.** "Prescription" means a written direction or an oral direction reduced to writing provided to or for an individual patient for the preparation or use of a drug or therapeutic device.

**Subd. 18. Public health nurse.** "Public health nurse" means a registered nurse who meets the voluntary registration requirements established by the board by rule.

**Subd. 19. Referral.** "Referral" means the process in which an advanced practice registered nurse directs a patient to a physician or another health care professional for management of a particular problem or aspect of the patient's care.

**Subd. 20. Registered nurse.** "Registered nurse," abbreviated R.N., means an individual licensed by the board to practice professional nursing.

**Subd. 21. Registered nurse anesthetist practice.** "Registered nurse anesthetist practice" means the provision of anesthesia care and related services within the context of collaborative management, including selecting, obtaining, and administering drugs and therapeutic devices to facilitate diagnostic, therapeutic, and surgical procedures upon request, assignment, or referral by a patient's physician, dentist, or podiatrist.

**Subd. 22. Registered nurse, certified.** "Registered nurse, certified," abbreviated RN,C, means a registered nurse who has received certification from a national nursing organization or national nurse certification organization for practice according to subdivision 15 in a specialized field of professional nursing. A registered nurse,

certified, shall not practice advanced practice registered nursing as described in subdivision 5, 10, 11, 13, or 21.

**History:** 1945 c 242 s 1; 1955 c 34 s 1; 1959 c 140 s 1; 1974 c 554 s 1; 1988 c 440 s 1; 1989 c 194 s 3; 1990 c 483 s 1; 1999 c 172 s 2, 18

**148.18** [Repealed, 1945 c.242 s 14]

#### **148.181 BOARD OF NURSING MEMBERSHIP, VACANCIES, DISCLOSURE.**

Subdivision 1. **Membership.** The Board of Nursing consists of 16 members appointed by the governor, each of whom must be a resident of this state. Eight members must be registered nurses, each of whom must have graduated from an approved school of nursing, must be licensed and currently registered as a registered nurse in this state, and must have had at least five years experience in nursing practice, nursing administration, or nursing education immediately preceding appointment. One of the eight must have had at least two years executive or teaching experience in a baccalaureate degree nursing program approved by the board under section 148.251 during the five years immediately preceding appointment, one of the eight must have had at least two years executive or teaching experience in an associate degree nursing program approved by the board under section 148.251 during the five years immediately preceding appointment, one of the eight must be practicing professional nursing in a nursing home at the time of appointment, one of the eight must have had at least two years executive or teaching experience in a practical nursing program approved by the board under section 148.251 during the five years immediately preceding appointment, and one of the eight must have national certification as a registered nurse anesthetist, nurse practitioner, nurse midwife, or clinical nurse specialist. Four of the eight must have had at least five years of experience in nursing practice or nursing administration immediately preceding appointment. Four members must be licensed practical nurses, each of whom must have graduated from an approved school of nursing, must be licensed and currently registered as a licensed practical nurse in this state, and must have had at least five years experience in nursing practice immediately preceding appointment. The remaining four members must be public members as defined by section 214.02.

A member may be reappointed but may not serve more than two full terms consecutively. The governor shall attempt to make appointments to the board that reflect the geography of the state. The board members who are nurses should as a whole reflect the broad mix of practice types and sites of nurses practicing in Minnesota.

Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements are as provided in sections 214.07 to 214.09. Any nurse on the board who during incumbency permanently ceases to be actively engaged in the practice of nursing or otherwise becomes disqualified for board membership is automatically removed, and the governor shall fill the vacancy. The provision of staff, administrative services, and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations are as provided in sections 148.171 to 148.285 and chapter 214. Each member of the board shall file with the secretary of state the constitutional oath of office before beginning the term of office.

Subd. 2. **Vacancies.** On expiration of the term of a member who is a registered nurse, the governor may appoint a registered nurse from a list of members submitted by professional nursing groups. Likewise on expiration of the term of a member who is a licensed practical nurse, the governor may appoint a licensed practical nurse from a list of members submitted by licensed practical nursing groups. These lists should contain names of persons in number at least twice the number of places to be filled. Vacancies occurring on the board, when the member is a registered nurse or a licensed practical nurse, may be filled for the unexpired terms by appointments to be made by the governor from nominations submitted by nursing groups in the manner aforesaid or

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from other recommendations. Members shall hold office until a successor is appointed and qualified.

Subd. 3. MS 1974 [Repealed, 1975 c 136 s 77]

Subd. 3. **Disclosure.** A disciplinary hearing must be closed to the public.

Upon application of a party in a proceeding before the board under section 148.261, the board shall produce and permit the inspection and copying, by or on behalf of the moving party, of any designated documents or papers relevant to the proceedings, in accordance with rule 34 of the Minnesota Rules of Civil Procedure.

**History:** 1945 c 242 s 2; 1955 c 34 s 2; 1971 c 418 s 1; 1973 c 638 s 14; 1975 c 136 s 10; 1975 c 360 s 1,2; 1976 c 222 s 50; 1976 c 239 s 55; 1981 c 94 s 1; 1986 c 444; 1989 c 194 s 4; 1993 c 88 s 1,2; 1993 c 105 s 1; 1993 c 366 s 1

148.19 [Repealed, 1945 c 242 s 14]

## 148.191 OFFICERS; STAFF; POWERS.

Subdivision 1. **Officers; staff.** The board shall elect from its members a president, a vice-president, and a secretary-treasurer who shall each serve for one year or until a successor is elected and qualifies. The board shall appoint and employ an executive director subject to the terms described in section 214.04, subdivision 2a, and may employ such persons as may be necessary to carry on its work. A majority of the board, including one officer, shall constitute a quorum at any meeting.

Subd. 2. **Powers.** (a) The board is authorized to adopt and, from time to time, revise rules not inconsistent with the law, as may be necessary to enable it to carry into effect the provisions of sections 148.171 to 148.285. The board shall prescribe by rule curricula and standards for schools and courses preparing persons for licensure under sections 148.171 to 148.285. It shall conduct or provide for surveys of such schools and courses at such times as it may deem necessary. It shall approve such schools and courses as meet the requirements of sections 148.171 to 148.285 and board rules. It shall examine, license, and renew the license of duly qualified applicants. It shall hold examinations at least once in each year at such time and place as it may determine. It shall by rule adopt, evaluate, and periodically revise, as necessary, requirements for licensure and for registration and renewal of registration as defined in section 148.231. It shall maintain a record of all persons licensed by the board to practice professional or practical nursing and all registered nurses who hold Minnesota licensure and registration and are certified as advanced practice registered nurses. It shall cause the prosecution of all persons violating sections 148.171 to 148.285 and have power to incur such necessary expense therefor. It shall register public health nurses who meet educational and other requirements established by the board by rule, including payment of a fee. Prior to the adoption of rules, the board shall use the same procedures used by the Department of Health to certify public health nurses. It shall have power to issue subpoenas, and to compel the attendance of witnesses and the production of all necessary documents and other evidentiary material. Any board member may administer oaths to witnesses, or take their affirmation. It shall keep a record of all its proceedings.

(b) The board shall have access to hospital, nursing home, and other medical records of a patient cared for by a nurse under review. If the board does not have a written consent from a patient permitting access to the patient's records, the nurse or facility shall delete any data in the record that identifies the patient before providing it to the board. The board shall have access to such other records as reasonably requested by the board to assist the board in its investigation. Nothing herein may be construed to allow access to any records protected by section 145.64. The board shall maintain any records obtained pursuant to this paragraph as investigative data under chapter 13.

Subd. 3. [Repealed, 1989 c 194 s 22]

**History:** 1945 c 242 s 3; 1955 c 847 s 13; 1975 c 136 s 12; 1975 c 240 s 1; 1975 c 360 s 3; 1976 c 222 s 51; 1983 c 260 s 36; 1986 c 444; 1989 c 194 s 5; 1999 c 172 s 3; 2004 c 279 art 11 s 3



148.20 [Repealed, 1945 c 242 s 14]

148.201 [Repealed, 1975 c 136 s 77]

148.21 [Repealed, 1945 c 242 s 14]

#### 148.211 LICENSING.

Subdivision 1. **Licensure by examination.** (a) An applicant for a license to practice as a registered nurse or licensed practical nurse shall apply to the board for a license by examination on forms prescribed by the board and pay a fee in an amount determined by statute. An applicant applying for reexamination shall pay a fee in an amount determined by law. In no case may fees be refunded.

(b) The applicant must satisfy the following requirements for licensure by examination:

(1) present evidence the applicant has not engaged in conduct warranting disciplinary action under section 148.261;

(2) present evidence of completion of a nursing education program approved by the board, another United States nursing board, or a Canadian province, which prepared the applicant for the type of license for which the application has been submitted; and

(3) pass a national nurse licensure written examination. "Written examination" includes paper and pencil examinations and examinations administered with a computer and related technology and may include supplemental oral or practical examinations approved by the board.

(c) An applicant who graduated from an approved nursing education program in Canada and was licensed in Canada or another United States jurisdiction, without passing the national nurse licensure examination, must also submit a verification of licensure from the original Canadian licensure authority and from the United States jurisdiction.

(d) An applicant who graduated from a nursing program in a country other than the United States or Canada must also satisfy the following requirements:

(1) present verification of graduation from a nursing education program which prepared the applicant for the type of license for which the application has been submitted and is determined to be equivalent to the education required in the same type of nursing education programs in the United States as evaluated by a credentials evaluation service acceptable to the board. The credentials evaluation service must submit the evaluation and verification directly to the board;

(2) demonstrate successful completion of coursework to resolve identified nursing education deficiencies; and

(3) pass examinations acceptable to the board that test written and spoken English, unless the applicant graduated from a nursing education program conducted in English and located in an English-speaking country. The results of the examinations must be submitted directly to the board from the testing service.

(e) An applicant failing to pass the examination may apply for reexamination.

(f) When the applicant has met all requirements stated in this subdivision, the board shall issue a license to the applicant. The board may issue a license with conditions and limitations if it considers it necessary to protect the public.

Subd. 2. **Licensure by endorsement.** The board shall issue a license to practice professional nursing or practical nursing without examination to an applicant who has been duly licensed or registered as a nurse under the laws of another state, territory, or country, if in the opinion of the board the applicant has the qualifications equivalent to the qualifications required in this state as stated in subdivision 1, all other laws not inconsistent with this section, and rules promulgated by the board.

Subd. 2a. **License recognition for nurses from border states; reciprocity.** (a) A license to practice professional or practical nursing issued by Iowa, North Dakota,

South Dakota, or Wisconsin (border state) to a resident in that state must be recognized by the board as authorizing a licensure privilege to practice professional or practical nursing in Minnesota, if:

(1) the licensure standards in the state licensed are substantially the same as Minnesota licensure standards;

(2) the border state has not taken adverse action against the nurse license;

(3) the nurse is not participating in an alternative or diversion program; or

(4) the nurse has not been refused a license to practice nursing in Minnesota.

(b) Within ten days of employment by a hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state, a nurse who practices professional or practical nursing in Minnesota under the authority of a licensure privilege as provided in this subdivision shall report the employment to the board on a form provided by the board. The board shall maintain a list of the nurses practicing in Minnesota under this subdivision.

(c) A nurse who practices professional or practical nursing in Minnesota under the authority of a licensure privilege as provided in this subdivision has the same obligations as if the nurse was licensed in Minnesota and is subject to the laws and rules of Minnesota and the regulatory authority of the board, including taking all forms of disciplinary action provided for in section 148.262, subdivision 1, and corrective action provided for in section 214.103, subdivision 6, against an individual's licensure privilege based on the grounds listed in section 148.261, subdivision 1, any other statute authorizing or requiring the board to take corrective or disciplinary action, and issuing a cease and desist order to limit or revoke a nurse's authority to practice in Minnesota. The board is authorized to recover from a nurse practicing professional or practical nursing in Minnesota under this subdivision the cost of proceedings as provided in section 148.262, subdivision 4. The board shall promptly report any such actions to the border state licensing board.

(d) The board shall seek reciprocity of nurse licensure with Iowa, North Dakota, South Dakota, and Wisconsin. Lack of reciprocity does not limit the board's recognition of nurse licenses from border states.

Subd. 3. [Repealed, 1976 c 222 s 209]

Subd. 4. **Education waived.** A person who has been licensed as a licensed practical nurse in another state, who has passed a licensing examination acceptable to the board, and who has had 24 months of experience as a licensed practical nurse in the five years prior to applying for a license is not required to meet any additional educational requirements.

Subd. 5. **Denial of license.** Refusal of an applicant to supply information necessary to determine the applicant's qualifications, failure to demonstrate qualifications, or failure to satisfy the requirements for a license contained in this section or rules of the board may result in denial of a license. The burden of proof is upon the applicant to demonstrate the qualifications and satisfaction of the requirements.

**History:** 1945 c 242 s 5; 1955 c 34 s 4; 1961 c 56 s 1; 1967 c 68 s 1; 1969 c 53 s 1; 1975 c 360 s 4,5; 1976 c 222 s 52,53; 1981 c 94 s 2; 1986 c 444; 1989 c 194 s 6; 1993 c 88 s 3; 2002 c 272 s 1; 2004 c 279 art 4 s 1

#### 148.212 TEMPORARY PERMIT.

Subdivision 1. **Issuance.** Upon receipt of the applicable licensure or reregistration fee and permit fee, and in accordance with rules of the board, the board may issue a nonrenewable temporary permit to practice professional or practical nursing to an applicant for licensure or reregistration who is not the subject of a pending investigation or disciplinary action, nor disqualified for any other reason, under the following circumstances:

(a) The applicant for licensure by examination under section 148.211, subdivision 1, has graduated from an approved nursing program within the 60 days preceding board receipt of an affidavit of graduation or transcript and has been authorized by the

board to write the licensure examination for the first time in the United States. The permit holder must practice professional or practical nursing under the direct supervision of a registered nurse. The permit is valid from the date of issue until the date the board takes action on the application or for 60 days whichever occurs first.

(b) The applicant for licensure by endorsement under section 148.211, subdivision 2, is currently licensed to practice professional or practical nursing in another state, territory, or Canadian province. The permit is valid from submission of a proper request until the date of board action on the application.

(c) The applicant for licensure by endorsement under section 148.211, subdivision 2, or for reregistration under section 148.231, subdivision 5, is currently registered in a formal, structured refresher course or its equivalent for nurses that includes clinical practice.

(d) The applicant for licensure by examination under section 148.211, subdivision 1, who graduated from a nursing program in a country other than the United States or Canada has completed all requirements for licensure except registering for and taking the nurse licensure examination for the first time in the United States. The permit holder must practice professional nursing under the direct supervision of a registered nurse. The permit is valid from the date of issue until the date the board takes action on the application or for 60 days, whichever occurs first.

**Subd. 2. Revocation.** The board may revoke a temporary permit that has been issued to an applicant for licensure under section 148.211, subdivisions 1 and 2, if the applicant is the subject of an investigation or disciplinary action, or is disqualified for any other reason.

**Subd. 3. Release of information.** Notwithstanding section 13.41, subdivision 2, the board may release information regarding action taken by the board pursuant to subdivisions 1 and 2.

**History:** 1989 c 194 s 7; 1993 c 88 s 4; 1Sp2001 c 9 art 13 s 2; 2002 c 379 art 1 s 113; 2003 c 87 s 4; 2004 c 279 art 4 s 2

**148.22** [Repealed, 1945 c 242 s 14]

**148.221** [Repealed, 1989 c 194 s 22]

**148.23** [Repealed, 1945 c 242 s 14]

**148.231 REGISTRATION; FAILURE TO REGISTER; REREGISTRATION; VERIFICATION.**

**Subdivision 1. Registration.** Every person licensed to practice professional or practical nursing must maintain with the board a current registration for practice as a registered nurse or licensed practical nurse which must be renewed at regular intervals established by the board by rule. No certificate of registration shall be issued by the board to a nurse until the nurse has submitted satisfactory evidence of compliance with the procedures and minimum requirements established by the board.

The fee for periodic registration for practice as a nurse shall be determined by the board by rule. A penalty fee shall be added for any application received after the required date as specified by the board by rule. Upon receipt of the application and the required fees, the board shall verify the application and the evidence of completion of continuing education requirements in effect, and thereupon issue to the nurse a certificate of registration for the next renewal period.

Subd. 2. [Repealed, 1981 c 94 s 12]

Subd. 3. [Repealed, 1976 c 222 s 209]

**Subd. 4. Failure to register.** Any person licensed under the provisions of sections 148.171 to 148.285 who fails to register within the required period shall not be entitled to practice nursing in this state as a registered nurse or licensed practical nurse.

**Subd. 5. Reregistration.** A person whose registration has lapsed desiring to resume practice shall make application for reregistration, submit satisfactory evidence of

compliance with the procedures and requirements established by the board, and pay the registration fee for the current period to the board. A penalty fee shall be required from a person who practiced nursing without current registration. Thereupon, the registration certificate shall be issued to the person who shall immediately be placed on the practicing list as a registered nurse or licensed practical nurse.

Subd. 6. **Verification.** A person licensed under the provisions of sections 148.171 to 148.285 who requests the board to verify a Minnesota license to another state, territory, or country or to an agency, facility, school, or institution shall pay a fee to the board for each verification.

**History:** 1945 c 242 s 7; 1947 c 286 s 1; 1955 c 34 s 5; 1961 c 8 s 2; 1967 c 68 s 2; 1969 c 53 s 2,3; 1971 c 131 s 1; 1975 c 240 s 2; 1975 c 360 s 6,7; 1976 c 149 s 30; 1981 c 94 s 3-6; 1986 c 444; 1989 c 194 s 8; 1996 c 318 s 1

#### 148.232 REGISTRATION OF PUBLIC HEALTH NURSES.

A public health nurse certified for public health duties by the commissioner of health under section 145A.06, subdivision 3, or previous authority must be deemed to be registered as a public health nurse under the provisions of sections 148.171 to 148.285.

**History:** 1989 c 194 s 9

#### 148.233 IDENTIFICATION OF CERTIFIED REGISTERED NURSES.

Subdivision 1. **Registered nurse.** A registered nurse certified in a specialized field of professional nursing as described in section 148.171, subdivision 22, shall use the designation RN,C for personal identification and in documentation of services provided. Identification of educational degrees and specialty fields may be added.

Subd. 2. **Advanced practice registered nurse.** An advanced practice registered nurse certified as a certified clinical nurse specialist, certified nurse-midwife, certified nurse practitioner, or certified registered nurse anesthetist shall use the appropriate designation: RN,CNS; RN,CNM; RN,CNP; or RN,CRNA for personal identification and in documentation of services provided. Identification of educational degrees and specialty fields may be added.

**History:** 1999 c 172 s 4,18

#### 148.234 STATE BOUNDARIES CONSIDERATION.

A nurse may perform medical care procedures and techniques at the direction of a physician, podiatrist, or dentist licensed in another state, United States territory, or Canadian province if the physician, podiatrist, or dentist gave the direction after examining the patient and issued the direction in that state, United States territory, or Canadian province.

Nothing in this section allows a nurse to perform a medical procedure or technique at the direction of a physician, podiatrist, or dentist that is illegal in this state.

**History:** 1996 c 318 s 2

#### 148.235 PRESCRIBING DRUGS AND THERAPEUTIC DEVICES.

Subdivision 1. **Certified nurse-midwives.** A certified nurse-midwife may prescribe and administer drugs and therapeutic devices within practice as a certified nurse-midwife.

Subd. 2. **Certified nurse practitioners.** A certified nurse practitioner who has a written agreement with a physician based on standards established by the Minnesota Nurses Association and the Minnesota Medical Association that defines the delegated responsibilities related to the prescription of drugs and therapeutic devices, may prescribe and administer drugs and therapeutic devices within the scope of the written agreement and within practice as a certified nurse practitioner. The written agreement required under this subdivision shall be based on standards established by the Minneso-

ta Nurses Association and the Minnesota Medical Association as of January 1, 1996, unless both associations agree to revisions.

Subd. 2a. **Certified registered nurse anesthetists.** A certified registered nurse anesthetist who has a written agreement with a physician based on standards established by the Minnesota Nurses Association and the Minnesota Medical Association that defines the delegated responsibilities related to the prescription of drugs and therapeutic devices, may prescribe and administer drugs and therapeutic devices within the scope of the written agreement and within practice as a certified registered nurse anesthetist.

Subd. 3. [Repealed by amendment, 1999 c 172 s.5]

Subd. 4. **Certified clinical nurse specialists in psychiatric and mental health nursing.** A certified clinical nurse specialist who (1) has successfully completed no less than 30 hours of formal study in the prescribing of psychotropic medications and medications to treat their side effects which included instruction in health assessment, psychotropic classifications, psychopharmacology, indications, dosages, contraindications, side effects, and evidence of application; and (2) has a written agreement with a psychiatrist or other physician based on standards established by the Minnesota Nurses Association and the Minnesota Psychiatric Association that specifies and defines the delegated responsibilities related to the prescription of drugs in relationship to the diagnosis, may prescribe and administer drugs used to treat psychiatric and behavioral disorders and the side effects of those drugs within the scope of the written agreement and within practice as a certified clinical nurse specialist in psychiatric and mental health nursing. The written agreement required under this subdivision shall be based on standards established by the Minnesota Nurses Association and the Minnesota Psychiatric Association as of January 1, 1996, unless both associations agree to revisions.

Nothing in this subdivision removes or limits the legal professional liability of the treating psychiatrist, certified clinical nurse specialist, mental health clinic or hospital for the prescription and administration of drugs by a certified clinical nurse specialist in accordance with this subdivision.

Subd. 4a. **Other certified clinical nurse specialists.** A certified clinical nurse specialist who: (1) has successfully completed no less than 30 hours of formal study from a college, university, or university health care institution, which included the following: instruction in health assessment, medication classifications, indications, dosages, contraindications, and side effects; supervised practice; and competence evaluation, including evidence of the application of knowledge pertaining to prescribing for and therapeutic management of the clinical type of patients in the certified clinical nurse specialist's practice; and (2) has a written agreement with a physician based on standards established by the Minnesota Nurses Association and the Minnesota Medical Association that defines the delegated responsibilities related to the prescription of drugs and therapeutic devices, may prescribe and administer drugs and therapeutic devices within the scope of the written agreement and within practice as a certified clinical nurse specialist.

Subd. 4b. **Dispensing authority.** An advanced practice registered nurse who is authorized under this section to prescribe drugs is authorized to dispense drugs subject to the same requirements established for the prescribing of drugs. This authority to dispense extends only to those drugs described in the written agreement entered into under this section. The authority to dispense includes, but is not limited to, the authority to receive and dispense sample drugs.

Subd. 5. [Repealed by amendment, 1999 c.172 c 5]

Subd. 6. **Standards for written agreements; review and filing.** Written agreements required under this section shall be maintained at the primary practice site of the advanced practice registered nurse and of the collaborating physician. The written agreement does not need to be filed with the Board of Nursing or the Board of Medical Practice.

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Subd. 7. **Federal registration.** Any advanced practice registered nurse who applies to the federal Drug Enforcement Administration for a registration number shall submit to the board:

- (1) proof that requirements of this section are met; and
- (2) a processing fee of \$50.

Subd. 8. **Prescription by protocol.** A registered nurse may implement a protocol that does not reference a specific patient and results in a prescription of a legend drug that has been predetermined and delegated by a licensed practitioner as defined under section 151.01, subdivision 23, when caring for a patient whose condition falls within the protocol and when the protocol specifies the circumstances under which the drug is to be prescribed or administered.

Subd. 9. **Vaccine by protocol.** A nurse may implement a protocol that does not reference a specific patient and results in the administration of a vaccine that has been predetermined and delegated by a licensed practitioner as defined in section 151.01, subdivision 23, when caring for a patient whose characteristics fall within the protocol and when the protocol specifies the contraindications for implementation, including patients or populations of patients for whom the vaccine must not be administered and the conditions under which the vaccine must not be administered.

Subd. 10. **Administration of medications by unlicensed personnel in nursing facilities.** Notwithstanding the provisions of Minnesota Rules, part 4658.1360, subpart 2, a graduate of a foreign nursing school who has successfully completed an approved competency evaluation under the provisions of section 144A.61 is eligible to administer medications in a nursing facility upon completion of a medication training program for unlicensed personnel offered through a postsecondary educational institution, which meets the requirements specified in Minnesota Rules, part 4658.1360, subpart 2, item B.

**History:** 1990 c 483 s 2; 1993 c 337 s 10; 1994 c 389 s 2; 1994 c 470 s 1-3; 1996 c 446 art 1 s 67,68; 1996 c 451 art 6 s 1; 1997 c 7 art 1 s 77; 1999 c 172 s 5; 2002 c 362 s 1,2; 2003 c 87 s 5

**148.236** [Repealed, 1995 c 212 art 3 s 60; 1995 c 234 art 8 s 57]

**148.24** [Repealed, 1945 c 242 s 14]

## **148.241 EXPENSES.**

Subdivision 1. **Appropriation.** The expenses of administering sections 148.171 to 148.285 shall be paid from the appropriation made to the Minnesota Board of Nursing.

Subd. 2. **Expenditure.** All amounts appropriated to the board shall be held subject to the order of the board to be used only for the purpose of meeting necessary expenses incurred in the performance of the purposes of sections 148.171 to 148.285, and the duties imposed thereby as well as the promotion of nursing education and standards of nursing care in this state.

**History:** 1945 c 242 s 8; 1955 c 34 s 3; 1973 c 638 s 16; 1976 c 222 s 54; 1989 c 194 s 10

**148.25** [Repealed, 1945 c 242 s 14]

## **148.251 NURSING PROGRAM.**

Subdivision 1. **Initial approval.** An institution desiring to conduct a nursing program shall apply to the board and submit evidence that:

(1) It is prepared to provide a program of theory and practice in professional or practical nursing that meets the program approval standards adopted by the board. Instruction and required experience may be obtained in one or more institutions or agencies outside the applying institution as long as the nursing program retains accountability for all clinical and nonclinical teaching.

(2) It is prepared to meet other standards established by law and by the board.

Subd. 2. [Repealed, 1989 c 194 s 22]

Subd. 3. **Continuing approval.** From time to time as deemed necessary by the board, it shall be the duty of the board, through its representatives, to survey all nursing programs in the state. If the results of the survey show that a nursing program meets all board rules, the board shall continue approval of the nursing program.

Subd. 4. **Loss of approval.** If the board determines that an approved nursing program is not maintaining the standards required by the statutes and board rules, notice thereof in writing specifying the defect shall be given to the program. If a program fails to correct these conditions to the satisfaction of the board within a reasonable time, approval of the program shall be revoked and the program shall be removed from the list of approved nursing programs.

Subd. 5. **Reinstatement of approval.** The board shall reinstate approval of a nursing program upon submission of satisfactory evidence that its program of theory and practice meets the standards required by statutes and board rules.

Subd. 6. **Advanced standing.** Associate degree nursing programs approved or seeking to be approved by the board shall provide for advanced standing for licensed practical nurses in recognition of their nursing education and experience.

**History:** 1945 c 242 s 9; 1961 c 56 s 2; 1975 c 360 s 8; 1981 c 94 s 7; 1989 c 194 s 11

**148.26** [Repealed, 1945 c 242 s 14]

#### **148.261 GROUNDS FOR DISCIPLINARY ACTION.**

Subdivision 1. **Grounds listed.** The board may deny, revoke, suspend, limit, or condition the license and registration of any person to practice professional, advanced practice registered, or practical nursing under sections 148.171 to 148.285, or to otherwise discipline a licensee or applicant as described in section 148.262. The following are grounds for disciplinary action:

(1) Failure to demonstrate the qualifications or satisfy the requirements for a license contained in sections 148.171 to 148.285 or rules of the board. In the case of a person applying for a license, the burden of proof is upon the applicant to demonstrate the qualifications or satisfaction of the requirements.

(2) Employing fraud or deceit in procuring or attempting to procure a permit, license, or registration certificate to practice professional or practical nursing or attempting to subvert the licensing examination process. Conduct that subverts or attempts to subvert the licensing examination process includes, but is not limited to:

(i) conduct that violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination;

(ii) conduct that violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; or

(iii) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf.

(3) Conviction during the previous five years of a felony or gross misdemeanor reasonably related to the practice of professional, advanced practice registered, or practical nursing. Conviction as used in this subdivision includes a conviction of an offense that if committed in this state would be considered a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered.

(4) Revocation, suspension, limitation, conditioning, or other disciplinary action against the person's professional or practical nursing license or advanced practice registered nursing credential, in another state, territory, or country; failure to report to

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the board that charges regarding the person's nursing license or other credential are pending in another state, territory, or country; or having been refused a license or other credential by another state, territory, or country.

(5) Failure to or inability to perform professional or practical nursing as defined in section 148.171, subdivision 14 or 15, with reasonable skill and safety, including failure of a registered nurse to supervise or a licensed practical nurse to monitor adequately the performance of acts by any person working at the nurse's direction.

(6) Engaging in unprofessional conduct, including, but not limited to, a departure from or failure to conform to board rules of professional or practical nursing practice that interpret the statutory definition of professional or practical nursing as well as provide criteria for violations of the statutes, or, if no rule exists, to the minimal standards of acceptable and prevailing professional or practical nursing practice, or any nursing practice that may create unnecessary danger to a patient's life, health, or safety. Actual injury to a patient need not be established under this clause.

(7) Failure of an advanced practice registered nurse to practice with reasonable skill and safety or departure from or failure to conform to standards of acceptable and prevailing advanced practice registered nursing.

(8) Delegating or accepting the delegation of a nursing function or a prescribed health care function when the delegation or acceptance could reasonably be expected to result in unsafe or ineffective patient care.

(9) Actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of any mental or physical condition.

(10) Adjudication as mentally incompetent, mentally ill, a chemically dependent person, or a person dangerous to the public by a court of competent jurisdiction, within or without this state.

(11) Engaging in any unethical conduct, including, but not limited to, conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient. Actual injury need not be established under this clause.

(12) Engaging in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient, or engaging in sexual exploitation of a patient or former patient.

(13) Obtaining money, property, or services from a patient, other than reasonable fees for services provided to the patient, through the use of undue influence, harassment, duress, deception, or fraud.

(14) Revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law.

(15) Engaging in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws or state medical assistance laws.

(16) Improper management of patient records, including failure to maintain adequate patient records, to comply with a patient's request made pursuant to section 144.335, or to furnish a patient record or report required by law.

(17) Knowingly aiding, assisting, advising, or allowing an unlicensed person to engage in the unlawful practice of professional, advanced practice registered, or practical nursing.

(18) Violating a rule adopted by the board, an order of the board, or a state or federal law relating to the practice of professional, advanced practice registered, or practical nursing, or a state or federal narcotics or controlled substance law.

(19) Knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo.

(20) Aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:



(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

(21) Practicing outside the scope of practice authorized by section 148.171, subdivision 5, 10, 11, 13, 14, 15, or 21.

(22) Practicing outside the specific field of nursing practice for which an advanced practice registered nurse is certified unless the practice is authorized under section 148.284.

(23) Making a false statement or knowingly providing false information to the board, failing to make reports as required by section 148.263, or failing to cooperate with an investigation of the board as required by section 148.265.

(24) Engaging in false, fraudulent, deceptive, or misleading advertising.

(25) Failure to inform the board of the person's certification status as a nurse anesthetist, nurse-midwife, nurse practitioner, or clinical nurse specialist.

(26) Engaging in clinical nurse specialist practice, nurse-midwife practice, nurse practitioner practice, or registered nurse anesthetist practice without current certification by a national nurse certification organization acceptable to the board, except during the period between completion of an advanced practice registered nurse course of study and certification, not to exceed six months or as authorized by the board.

(27) Engaging in conduct that is prohibited under section 145.412.

(28) Failing to report employment to the board as required by section 148.211, subdivision 2a, or knowingly aiding, assisting, advising, or allowing a person to fail to report as required by section 148.211, subdivision 2a.

Subd. 2. [Repealed, 1976 c 222 s 209]

Subd. 3. [Repealed, 1989 c 194 s 22]

Subd. 4. **Evidence.** In disciplinary actions alleging a violation of subdivision 1, clause (3) or (4), a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency that entered the same shall be admissible into evidence without further authentication and shall constitute prima facie evidence of the violation concerned.

Subd. 5. **Examination; access to medical data.** The board may take the following actions if it has probable cause to believe that grounds for disciplinary action exist under subdivision 1, clause (9) or (10):

(a) It may direct the applicant or nurse to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this subdivision, when a nurse licensed under sections 148.171 to 148.285 is directed in writing by the board to submit to a mental or physical examination or chemical dependency evaluation, that person is considered to have consented and to have waived all objections to admissibility on the grounds of privilege. Failure of the applicant or nurse to submit to an examination when directed constitutes an admission of the allegations against the applicant or nurse, unless the failure was due to circumstances beyond the person's control, and the board may enter a default and final order without taking testimony or allowing evidence to be presented. A nurse affected under this paragraph shall, at reasonable intervals, be given an opportunity to demonstrate that the competent practice of professional, advanced practice registered, or practical nursing can be resumed with reasonable skill and safety to patients. Neither the record of proceedings nor the orders entered by the board in a proceeding under this paragraph, may be used against a nurse in any other proceeding.

(b) It may, notwithstanding sections 13.384, 144.651, 595.02, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a registered nurse, advanced practice registered nurse, licensed practical nurse, or applicant for a license without that person's consent. The medical data may be requested from a provider, as defined in section 144.335, subdivision 1, paragraph (b), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, 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 pursuant to a written request under this subdivision unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is classified as private data on individuals as defined in section 13.02.

**History:** 1945 c 242 s 10; 1975 c 360 s 9; 1976 c 222 s 55; 1986 c 444; 1989 c 194 s 12; 1992 c 464 art 1 s 56; 1992 c 559 art 1 s 4; 1992 c 577 s 3; 1993 c 88 s 5; 1999 c 172 s 6,7,18; 1999 c 227 s 22; 2002 c 272 s 2

#### **148.262 FORMS OF DISCIPLINARY ACTION; AUTOMATIC SUSPENSION; TEMPORARY SUSPENSION; REISSUANCE.**

Subdivision 1. **Forms of disciplinary action.** When the board finds that grounds for disciplinary action exist under section 148.261, subdivision 1, it may take one or more of the following actions:

- (1) deny the license, registration, or registration renewal;
- (2) revoke the license;
- (3) suspend the license;
- (4) impose limitations on the nurse's practice of professional, advanced practice registered, or practical nursing including, but not limited to, limitation of scope of practice or the requirement of practice under supervision;
- (5) impose conditions on the retention of the license including, but not limited to, the imposition of retraining or rehabilitation requirements or the conditioning of continued practice on demonstration of knowledge or skills by appropriate examination, monitoring, or other review;
- (6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed as to deprive the nurse of any economic advantage gained by reason of the violation charged, to reimburse the board for the cost of counsel, investigation, and proceeding, and to discourage repeated violations;
- (7) order the nurse to provide unremunerated service;
- (8) censure or reprimand the nurse; or
- (9) any other action justified by the facts in the case.

Subd. 2. **Automatic suspension.** Unless the board orders otherwise, a license to practice professional or practical nursing is automatically suspended if:

- (1) a guardian of a nurse is appointed by order of a court under sections 524.5-101 to 524.5-502;
- (2) the nurse is committed by order of a court under chapter 253B; or
- (3) the nurse is determined to be mentally incompetent, mentally ill, chemically dependent, or a person dangerous to the public by a court of competent jurisdiction within or without this state.

The license remains suspended until the nurse is restored to capacity by a court and, upon petition by the nurse, the suspension is terminated by the board after a hearing or upon agreement between the board and the nurse.

Subd. 3. **Temporary suspension of license.** In addition to any other remedy provided by law, the board may, through its designated board member under section 214.10, subdivision 2, temporarily suspend the license of a nurse without a hearing if the board finds that there is probable cause to believe the nurse has violated a statute

or rule the board is empowered to enforce and continued practice by the nurse would create a serious risk of harm to others. The suspension shall take effect upon written notice to the nurse, served by first-class mail, specifying the statute or rule violated. The suspension shall remain in effect until the board issues a temporary stay of suspension or a final order in the matter after a hearing or upon agreement between the board and the nurse. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held under the Administrative Procedure Act. The nurse shall be provided with at least 20 days' notice of any hearing held under this subdivision. The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.

Subd. 4. **Reissuance.** The board may reinstate and reissue a license or registration certificate to practice professional or practical nursing, but as a condition may impose any disciplinary or corrective measure that it might originally have imposed. Any person whose license or registration has been revoked, suspended, or limited may have the license reinstated and a new registration issued when, in the discretion of the board, the action is warranted, provided that the person shall be required by the board to pay the costs of the proceedings resulting in the revocation, suspension, or limitation of the license or registration certificate and reinstatement of the license or registration certificate, and to pay the fee for the current registration period. The cost of proceedings shall include, but not be limited to, the cost paid by the board to the Office of Administrative Hearings and the Office of the Attorney General for legal and investigative services, the costs of a court reporter and witnesses, reproduction of records, board staff time, travel, and expenses, and board members' per diem reimbursements, travel costs, and expenses.

**History:** 1989 c 194 s 13; 1Sp1994 c 1 art 2 s 8; 1999 c 172 s 8; 2004 c 146 art 3 s 47

#### 148.263 REPORTING OBLIGATIONS.

Subdivision 1. **Permission to report.** A person who has knowledge of any conduct constituting grounds for discipline under sections 148.171 to 148.285 may report the alleged violation to the board.

Subd. 2. **Institutions.** The chief nursing executive or chief administrative officer of any hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the board any action taken by the institution or organization or any of its administrators or committees to revoke, suspend, limit, or condition a nurse's privilege to practice in the institution, or as part of the organization, any denial of privileges, any dismissal from employment, or any other disciplinary action. The institution or organization shall also report the resignation of any nurse before the conclusion of any disciplinary proceeding, or before commencement of formal charges, but after the nurse had knowledge that formal charges were contemplated or in preparation. The reporting described by this subdivision is required only if the action pertains to grounds for disciplinary action under section 148.261.

Subd. 3. **Licensed professionals.** A person licensed by a health-related licensing board as defined in section 214.01, subdivision 2, shall report to the board personal knowledge of any conduct the person reasonably believes constitutes grounds for disciplinary action under sections 148.171 to 148.285 by any nurse including conduct indicating that the nurse may be incompetent, may have engaged in unprofessional or unethical conduct, or may be mentally or physically unable to engage safely in the practice of professional, advanced practice registered, or practical nursing.

Subd. 4. **Insurers.** Four times each year, by the first day of February, May, August, and November, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to registered nurses, advanced practice registered nurses, or licensed practical nurses shall submit to the board a report concerning any nurse against whom a malpractice award has been made or who has been a party to a settlement. The report must contain at least the following information:

- (1) the total number of settlements or awards;

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- (2) the date settlement or award was made;
- (3) the allegations contained in the claim or complaint leading to the settlement or award;
- (4) the dollar amount of each malpractice settlement or award and whether that amount was paid as a result of a settlement or of an award; and
- (5) the name and address of the practice of the nurse against whom an award was made or with whom a settlement was made.

An insurer shall also report to the board any information it possesses that tends to substantiate a charge that a nurse may have engaged in conduct violating sections 148.171 to 148.285.

**Subd. 5. Courts.** The court administrator of district court or another court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a nurse is a person who is mentally ill, mentally incompetent, chemically dependent, dangerous to the public, guilty of a felony or gross misdemeanor, guilty of a violation of federal or state narcotics laws or controlled substances act, guilty of operating a motor vehicle while under the influence of alcohol or a controlled substance, or guilty of an abuse or fraud under Medicare or Medicaid, appoints a guardian of the nurse under sections 524.5-101 to 524.5-502, or commits a nurse under chapter 253B.

**Subd. 6. Deadlines; forms.** Reports required by subdivisions 2 to 5 must be submitted no later than 30 days after the occurrence of the reportable event or transaction. The board may provide forms for the submission of reports required by this section, may require that the reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting. The board shall review all reports, including those submitted after the deadline.

**History:** 1989 c 194 s 14; 1Sp1994 c 1 art 2 s 9; 1999 c 172 s 9,10; 2002 c 221 s 2; 2004 c 146 art 3 s 47

## 148.264 IMMUNITY.

**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 to the board under section 148.263 or for otherwise reporting in good faith to the board violations or alleged violations of sections 148.171 to 148.285. All such reports are investigative data as defined in chapter 13.

**Subd. 2. Investigation.** (a) Members of the board and persons employed by the board or engaged in the investigation of violations and in the preparation and management of charges of violations of sections 148.171 to 148.285 on behalf of the board or persons participating in the investigation or testifying regarding charges of violations are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under sections 148.171 to 148.285.

(b) Members of the board and persons employed by the board or engaged in maintaining records and making reports regarding adverse health care events are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of or relating to their duties under section 148.267.

**History:** 1989 c 194 s 15; 2004 c 186 s 7

## 148.265 NURSE COOPERATION.

A nurse who is the subject of an investigation by or on behalf of the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the board relating to the subject of the investigation and providing copies of patient or other records in the nurse's possession, as reasonably requested by the board, to assist the board in its investigation and to appear at conferences and hearings scheduled by the board. The board shall pay for copies requested. If the board does not have a written consent from a patient

permitting access to the patient's records, the nurse shall delete any data in the record that identify the patient before providing it to the board. The board shall maintain any records obtained pursuant to this section as investigative data under chapter 13. The nurse shall not be excused from giving testimony or producing any documents, books, records, or correspondence on the grounds of self-incrimination, but the testimony or evidence may not be used against the nurse in any criminal case.

**History:** 1989 c 194 s 16

#### 148.266 DISCIPLINARY RECORD ON JUDICIAL REVIEW.

Upon judicial review of any board disciplinary action taken under sections 148.171 to 148.285, the reviewing court shall seal the administrative record, except for the board's final decision, and shall not make the administrative record available to the public.

**History:** 1989 c 194 s 17

#### 148.267 REPORTS TO THE COMMISSIONER OF HEALTH.

(a) The board shall maintain a record of an event that comes to the board's attention that, in the judgment of the board or a committee of the board, qualifies as an adverse health care event under section 144.7065.

(b) Within 30 days of making a determination under paragraph (a) that an event qualifies as an adverse health care event, the board shall forward to the commissioner of health a report of the event, including the facility involved, the date of the event, and information known to the board regarding the event. The report shall not include any identifying information for any of the health care professionals, facility employees, or patients involved.

**History:** 2004 c 186 s 8

148.27 [Repealed, 1945 c 242 s 14]

#### 148.271 EXEMPTIONS.

The provisions of sections 148.171 to 148.285 shall not prohibit:

- (1) The furnishing of nursing assistance in an emergency.
- (2) The practice of professional or practical nursing by any legally qualified registered or licensed practical nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of official duties.
- (3) The practice of any profession or occupation licensed by the state, other than professional or practical nursing, by any person duly licensed to practice the profession or occupation, or the performance by a person of any acts properly coming within the scope of the profession, occupation, or license.
- (4) The provision of a nursing or nursing-related service by a nursing assistant who has been delegated the specific function and is supervised by a registered nurse or monitored by a licensed practical nurse.
- (5) The care of the sick with or without compensation when done in a nursing home covered by the provisions of section 144A.09, subdivision 1.
- (6) Professional nursing practice or advanced practice registered nursing practice by a registered nurse or practical nursing practice by a licensed practical nurse licensed in another state or territory who is in Minnesota as a student enrolled in a formal, structured course of study, such as a course leading to a higher degree, certification in a nursing specialty, or to enhance skills in a clinical field, while the student is practicing in the course.
- (7) Professional or practical nursing practice by a student practicing under the supervision of an instructor while the student is enrolled in a nursing program approved by the board under section 148.251.

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(8) Advanced practice registered nursing as defined in section 148.171, subdivisions 5, 10, 11, 13, and 21, by a registered nurse who is licensed and currently registered in Minnesota or another United States jurisdiction and who is enrolled as a student in a formal education program leading to eligibility for certification as an advanced practice registered nurse; or by a registered nurse licensed and currently registered in Minnesota who has completed an advanced practice registered nurse course of study and is awaiting certification, the period not to exceed six months.

**History:** 1945 c 242 s 11; 1959 c 140 s 2; 1975 c 360 s 10; 1977 c 256 s 1; 1981 c 94 s 8; 1986 c 444; 1989 c 194 s 18; 1999 c 172 s 11,18

**148.272** [Repealed, 1989 c 194 s 22]

**148.28** [Repealed, 1945 c 242 s 14]

## **148.281 VIOLATIONS; PENALTY.**

Subdivision 1. **Violations described.** It shall be unlawful for any person, corporation, firm, or association, to:

(1) sell or fraudulently obtain or furnish any nursing diploma, license or record, or aid or abet therein;

(2) practice professional or practical nursing, practice as a public health nurse, or practice as a certified clinical nurse specialist, certified nurse-midwife, certified nurse practitioner, or certified registered nurse anesthetist under cover of any diploma, permit, license, registration certificate, advanced practice credential, or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(3) practice professional or practical nursing unless the person has been issued a temporary permit under the provisions of section 148.212 or is duly licensed and currently registered to do so under the provisions of sections 148.171 to 148.285;

(4) use the professional title nurse unless duly licensed to practice professional or practical nursing under the provisions of sections 148.171 to 148.285, except as authorized by the board by rule;

(5) use any abbreviation or other designation tending to imply licensure as a registered nurse or licensed practical nurse unless duly licensed and currently registered so to practice professional or practical nursing under the provisions of sections 148.171 to 148.285 except as authorized by the board by rule;

(6) use any title, abbreviation, or other designation tending to imply certification as a certified registered nurse as defined in section 148.171, subdivision 22, unless duly certified by a national nurse certification organization;

(7) use any abbreviation or other designation tending to imply registration as a public health nurse unless duly registered by the board;

(8) practice professional, advanced practice registered, or practical nursing in a manner prohibited by the board in any limitation of a license or registration issued under the provisions of sections 148.171 to 148.285;

(9) practice professional, advanced practice registered, or practical nursing during the time a license or current registration issued under the provisions of sections 148.171 to 148.285 shall be suspended or revoked;

(10) conduct a nursing program for the education of persons to become registered nurses or licensed practical nurses unless the program has been approved by the board;

(11) knowingly employ persons in the practice of professional or practical nursing who have not been issued a current permit, license, or registration certificate to practice as a nurse in this state; and

(12) knowingly employ a person in advanced practice registered nursing unless the person meets the standards and practices of sections 148.171 to 148.285.

Subd. 1a. [Repealed, 1989 c 194 s 22]

Subd. 2. **Penalty.** Any person, corporation, or association violating any provisions of subdivision 1 shall be guilty of a gross misdemeanor, and shall be punished according to law.

**History:** 1945 c 242 s 12,13; 1959 c 140 s 4; 1975 c 360 s 11; 1977 c 256 s 2; 1986 c 444; 1989 c 194 s 19; 1999 c 172 s 12,18; 2003 c 87 s 6

**148.282** [Repealed, 1975 c 360 s 25]

#### **148.283 UNAUTHORIZED PRACTICE OF PROFESSIONAL, ADVANCED PRACTICE REGISTERED, AND PRACTICAL NURSING.**

The practice of professional, advanced practice registered, or practical nursing by any person who has not been licensed to practice professional or practical nursing under the provisions of sections 148.171 to 148.285, or whose license has been suspended or revoked, or whose registration or national credential has expired, is hereby declared to be inimical to the public health and welfare and to constitute a public nuisance. Upon complaint being made thereof by the board, or any prosecuting officer, and upon a proper showing of the facts, the district court of the county where such practice occurred may enjoin such acts and practice. Such injunction proceeding shall be in addition to, and not in lieu of, all other penalties and remedies provided by law.

**History:** 1959 c 140 s 6; 1989 c 194 s 20; 1999 c 172 s 13

#### **148.284 CERTIFICATION OF ADVANCED PRACTICE REGISTERED NURSES.**

(a) No person shall practice advanced practice registered nursing or use any title, abbreviation, or other designation tending to imply that the person is an advanced practice registered nurse, clinical nurse specialist, nurse anesthetist, nurse-midwife, or nurse practitioner unless the person is certified for such advanced practice registered nursing by a national nurse certification organization.

(b) Paragraphs (a) and (e) do not apply to an advanced practice registered nurse who is within six months after completion of an advanced practice registered nurse course of study and is awaiting certification, provided that the person has not previously failed the certification examination.

(c) An advanced practice registered nurse who has completed a formal course of study as an advanced practice registered nurse and has been certified by a national nurse certification organization prior to January 1, 1999, may continue to practice in the field of nursing in which the advanced practice registered nurse is practicing as of July 1, 1999, regardless of the type of certification held if the advanced practice registered nurse is not eligible for the proper certification.

(d) Prior to July 1, 2007, a clinical nurse specialist may petition the board for waiver from the certification requirement in paragraph (a) if the clinical nurse specialist is academically prepared as a clinical nurse specialist in a specialty area for which there is no certification within the clinical nurse specialist role and specialty or a related specialty. The board may determine that an available certification as a clinical nurse specialist in a related specialty must be obtained in lieu of the specific specialty or subspecialty. The petitioner must be academically prepared as a clinical nurse specialist in a specific field of clinical nurse specialist practice with a master's degree in nursing that included clinical experience in the clinical specialty and must have 1,000 hours of supervised clinical experience in the clinical specialty for which the individual was academically prepared with a minimum of 500 hours of supervised clinical practice after graduation. The board may grant a nonrenewable permit for no longer than 12 months for the supervised postgraduate clinical experience. The board may renew the waiver for three-year periods provided the clinical nurse specialist continues to be ineligible for certification as a clinical nurse specialist by an organization acceptable to the board.

(e) An advanced practice registered nurse who practices advanced practice registered nursing without current certification or current waiver of certification as a clinical

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nurse specialist, nurse midwife, nurse practitioner, or registered nurse anesthetist, or practices with current certification but fails to notify the board of current certification, shall pay a penalty fee of \$200 for the first month or part of a month and an additional \$100 for each subsequent month or parts of months of practice. The amount of the penalty fee shall be calculated from the first day the advanced practice registered nurse practiced without current advanced practice registered nurse certification or current waiver of certification to the date of last practice or from the first day the advanced practice registered nurse practiced without the current status on file with the board until the day the current certification is filed with the board.

**History:** 1999 c 172 s 14; 1Sp2001 c 9 art 13 s 3; 2002 c 362 s 3; 2002 c 379 art 1 s 113; 2004 c 279 art 4 s 3

## 148.285 TRANSFER OF ASSETS.

All monies, property, and property rights belonging to and under the control of the board of examiners, are hereby transferred and appropriated to the control and use of the board hereunder and the purpose provided herein.

**History:** 1945 c 242 s 14

148.286 [Repealed, 1989 c 194 s 22]

148.29 [Repealed, 1989 c 194 s 22]

148.291 [Repealed, 1989 c 194 s 22]

148.292 [Repealed, 1989 c 194 s 22]

148.293 [Repealed, 1989 c 194 s 22]

148.294 [Repealed, 1989 c 194 s 22]

148.295 MS 1953 [Renumbered 120.44]

148.295 MS 1988 [Repealed, 1989 c 194 s 22]

148.296 [Repealed, 1989 c 194 s 22]

148.297 [Repealed, 1989 c 194 s 22]

148.298 [Repealed, 1989 c 194 s 22]

148.299 [Repealed, 1989 c 194 s 22]

148.30 [Repealed, 1999 c 162 s 16]

148.31 [Repealed, 1999 c 162 s 16]

148.32 [Repealed, 1999 c 162 s 16]

148.33 [Repealed, 1974 c 62 s 4]

148.34 [Repealed, 1974 c 62 s 4]

148.35 [Repealed, 1974 c 62 s 4]

148.36 [Repealed, 1974 c 62 s 4]

148.37 [Repealed, 1974 c 62 s 4]

148.38 [Repealed, 1967 c 845 s 14]

148.39 [Repealed, 1967 c 845 s 14]



- 148.40 [Repealed, 1967 c 845 s 14]  
 148.41 [Repealed, 1974 c 62 s 4]  
 148.42 [Repealed, 1967 c 845 s 14]  
 148.43 [Repealed, 1974 c 62 s 4]  
 148.44 [Repealed, 1967 c 845 s 14]  
 148.45 [Repealed, 1974 c 62 s 4]  
 148.46 [Repealed, 1974 c 62 s 4]  
 148.47 [Repealed, 1974 c 62 s 4; 1974 c 224 s 6]  
 148.48 [Repealed, 1974 c 62 s 4]  
 148.51 [Repealed, 1974 c 62 s 4]

### SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

148.511 MS 1971 [Repealed, 1974 c 62 s 4]

#### 148.511 SCOPE.

Sections 148.511 to 148.5196 apply to persons who are applicants for licensure, who use protected titles, who represent that they are licensed, or who engage in the practice of speech-language pathology or audiology. Sections 148.511 to 148.5196 do not apply to school personnel licensed by the Board of Teaching and practicing within the scope of their school license under Minnesota Rules, part 8710.6000, or the paraprofessionals who assist these individuals.

*History: 1996 c 363 s 1; 2001 c 7 s 34; 2003 c 87 s 7; 2004 c 279 art 1 s 1*

#### 148.512 DEFINITIONS.

Subdivision 1. **Scope.** For the purpose of sections 148.511 to 148.5196, the following terms have the meanings given to them.

Subd. 2. **Accredited educational institution.** "Accredited educational institution" means a university or college that offers speech-language pathology or audiology graduate degrees and that is accredited by the Council on Academic Accreditation in Audiology and Speech-Language Pathology, a body recognized by the United States Department of Education, or an equivalent as determined by the commissioner.

Subd. 3. **Advisory council.** "Advisory council" means the Minnesota Speech-Language Pathologist and Audiologist Advisory Council established under section 214.13, subdivision 4.

Subd. 4. **Applicant.** "Applicant" means a person who applies to the commissioner for licensure or licensure renewal.

Subd. 5. **Approved continuing education sponsor.** "Continuing education sponsor" means an organization that offers a learning experience designed to promote continuing competency in the procedures and techniques of the practice of speech-language pathology or audiology and whose activities meet the criteria in section 148.5193, subdivision 2.

Subd. 6. **Audiologist.** "Audiologist" means a natural person who engages in the practice of audiology, meets the qualifications required by sections 148.511 to 148.5196, and is licensed by the commissioner. Audiologist also means a natural person using any descriptive word with the title audiologist.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of health or a designee.

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Subd. 8. **Contact hour.** "Contact hour" means an instructional session of 60 consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and social activities.

Subd. 9. **Continuing education.** "Continuing education" is a planned learning experience in speech-language pathology or audiology not including the basic educational program leading to a degree if the education is used by the licensee for credit to achieve a baccalaureate or master's degree in speech-language pathology or audiology.

Subd. 10. **Credential.** "Credential" means a license, permit, certification, registration, or other evidence of qualification or authorization to engage in the practice of speech-language pathology or audiology issued by any authority.

Subd. 11. [Repealed, 2003 c 87 s 53]

Subd. 12. **Practice of audiology.** The "practice of audiology" means:

(1) identification, assessment, and interpretation, diagnosis, rehabilitation, and prevention of hearing disorders;

(2) conservation of the auditory system function; development and implementation of hearing conservation programs;

(3) measurement, assessment, and interpretation of auditory and vestibular function;

(4) selecting, fitting, and dispensing of assistive listening devices, alerting and amplification devices, and systems for personal and public use, including hearing aids and devices, and providing training in their use;

(5) aural habilitation and rehabilitation and related counseling for hearing impaired individuals and their families;

(6) screening of speech, language, voice, or fluency for the purposes of audiologic evaluation or identification of possible communication disorders; or

(7) supervision of the functions in clauses (1) to (6).

The practice of audiology does not include the practice of medicine and surgery, or osteopathic medicine and surgery, or medical diagnosis that is commonly performed by a physician.

Subd. 13. **Practice of speech-language pathology.** The "practice of speech-language pathology" means:

(1) identification, assessment, and interpretation, diagnosis, habilitation, rehabilitation, treatment and prevention of disorders of speech, articulation, fluency, voice, and language;

(2) identification, assessment, and interpretation, diagnosis, habilitation, and rehabilitation of disorders of oral-pharyngeal function and related disorders;

(3) identification, assessment, and interpretation, diagnosis, habilitation, and rehabilitation of communication disorders associated with cognition;

(4) assessing, selecting, and developing augmentative and alternative communication systems and providing training in their use;

(5) aural habilitation and rehabilitation and related counseling for hearing impaired individuals and their families;

(6) enhancing speech-language proficiency and communication effectiveness;

(7) audiometric screening for the purposes of speech-language evaluation or for the identification of possible hearing disorders; or

(8) supervision of the functions in clauses (1) to (7).

The practice of speech-language pathology does not include the practice of medicine and surgery, or osteopathic medicine and surgery, or medical diagnosis that is commonly performed by a physician.

Subd. 14. **License or licensed.** "License" or "licensed" means the act or status of a person who meets the requirements of sections 148.511 to 148.5196.

Subd. 15. **Licensee.** "Licensee" means an individual who meets the requirements of sections 148.511 to 148.5196.

Subd. 16. **Licensure.** "Licensure" is the system of regulation defined in section 214.001, subdivision 3, paragraph (c), and is the process specified in sections 148.511 to 148.5196.

Subd. 17. **Speech-language pathologist.** "Speech-language pathologist" means a person who practices speech-language pathology, meets the qualifications under sections 148.511 to 148.5196, and is licensed by the commissioner. Speech-language pathologist also means a natural person using, as an occupational title, a term identified in section 148.513.

Subd. 17a. **Speech-language pathology assistant.** "Speech-language pathology assistant" means a person who provides speech-language pathology services under the supervision of a licensed speech-language pathologist in accordance with section 148.5192.

Subd. 18. **Supervisee.** "Supervisee" means a person who, under the direction or evaluation of a supervisor, is:

- (1) engaging in the supervised practice of speech-language pathology or audiology;
- (2) performing a function of supervised clinical training as a student of speech-language pathology or audiology; or
- (3) performing a function of supervised postgraduate or doctoral clinical experience in speech-language pathology or audiology.

Subd. 19. **Supervision.** "Supervision" means the direct or indirect evaluation or direction of:

- (1) a practitioner of speech-language pathology or audiology;
- (2) a person performing a function of supervised clinical training as a student of speech-language pathology or audiology;
- (3) a person performing a function of supervised postgraduate clinical experience in speech-language pathology or audiology; or
- (4) a speech-language pathology assistant in accordance with section 148.5192.

Subd. 20. **Supervisor.** "Supervisor" means a person who has the authority to direct or evaluate a supervisee and who:

- (1) is a licensed speech-language pathologist or audiologist; or
- (2) when the commissioner determines that supervision by a licensed speech-language pathologist or audiologist as required in clause (1) is unobtainable, and in other situations considered appropriate by the commissioner, is a person practicing speech-language pathology or audiology who holds a current certificate of clinical competence from the American Speech-Language-Hearing Association or board certification in audiology by the American Board of Audiology.

**History:** 1996 c 363 s 2; 2000 c 460 s 22; 2003 c 87 s 8-20; 2004 c 279 art 1 s 2-6

#### **148.513 LICENSURE; PROTECTED TITLES AND RESTRICTIONS ON USE; EXEMPTIONS.**

Subdivision 1. **Unlicensed practice prohibited.** A person must not engage in the practice of speech-language pathology or audiology unless the person is licensed as a speech-language pathologist or an audiologist under sections 148.511 to 148.5196 or is practicing as a speech-language pathology assistant in accordance with section 148.5192. For purposes of this subdivision, a speech-language pathology assistant's duties are limited to the duties described in accordance with section 148.5192, subdivision 2.

Subd. 2. **Protected titles and restrictions on use.** (a) Notwithstanding paragraph (b), the use of the following terms or initials which represent the following terms, alone or in combination with any word or words, by any person to form an occupational title is prohibited unless that person is licensed under sections 148.511 to 148.5196:

- (1) speech-language;
- (2) speech-language pathologist, S, SP, or SLP;

- (3) speech pathologist;
- (4) language pathologist;
- (5) audiologist, A, or AUD;
- (6) speech therapist;
- (7) speech clinician;
- (8) speech correctionist;
- (9) language therapist;
- (10) voice therapist;
- (11) voice pathologist;
- (12) logopedist;
- (13) communicologist;
- (14) aphasiologist;
- (15) phoniatriest;
- (16) audiometrist;
- (17) audioprosthologist;
- (18) hearing therapist;
- (19) hearing clinician; or
- (20) hearing aid audiologist.

Use of the term "Minnesota licensed" in conjunction with the titles protected under this paragraph by any person is prohibited unless that person is licensed under sections 148.511 to 148.5196.

(b) A speech-language pathology assistant practicing under section 148.5192 must not represent, indicate, or imply to the public that the assistant is a licensed speech-language pathologist and shall only utilize one of the following titles: "speech-language pathology assistant," "SLP assistant," or "SLP asst."

Subd. 3. **Exemption.** (a) Nothing in sections 148.511 to 148.5196 prohibits the practice of any profession or occupation licensed, certified, or registered by the state by any person duly licensed, certified, or registered to practice the profession or occupation or to perform any act that falls within the scope of practice of the profession or occupation.

(b) Subdivision 1 does not apply to a student participating in supervised field work or supervised course work that is necessary to meet the requirements of section 148.515, subdivision 2 or 3, if the person is designated by a title which clearly indicates the person's status as a student trainee.

(c) Subdivisions 1 and 2 do not apply to a person visiting and then leaving the state and using titles restricted under this section while in the state, if the titles are used no more than 30 days in a calendar year as part of a professional activity that is limited in scope and duration and is in association with an audiologist or speech-language pathologist licensed under sections 148.511 to 148.5196.

**History:** 1996 c 363 s 3; 2003 c 87 s 21; 2004 c 279 art 1 s 7,8

#### 148.514 GENERAL LICENSURE REQUIREMENTS; PROCEDURES AND QUALIFICATIONS.

Subdivision 1. **General licensure procedures.** An applicant for licensure must:

- (1) submit an application as required under section 148.519, subdivision 1; and
- (2) submit all fees required under section 148.5194.

Subd. 2. **General licensure qualifications.** An applicant for licensure must possess the qualifications required in one of the following clauses:

- (1) a person who applies for licensure and does not meet the requirements in clause (2) or (3), must meet the requirements in section 148.515;
- (2) a person who applies for licensure and who has a current certificate of clinical competence issued by the American Speech-Language-Hearing Association, or board

certification by the American Board of Audiology, must meet the requirements of section 148.516; or

(3) a person who applies for licensure by reciprocity must meet the requirements under section 148.517.

**History:** 1996 c 363 s 4; 2003 c 87 s 22

#### 148.515 QUALIFICATIONS FOR LICENSURE.

Subdivision 1. **Applicability.** Except as provided in section 148.516 or 148.517, an applicant must meet the requirements in this section.

Subd. 2. **Master's or doctoral degree required.** (a) An applicant must possess a master's or doctoral degree that meets the requirements of paragraph (b). If completing a doctoral program in which a master's degree has not been conferred, an applicant must submit a transcript showing completion of course work equivalent to, or exceeding, a master's degree that meets the requirement of paragraph (b).

(b) All of the applicant's graduate coursework and clinical practicum required in the professional area for which licensure is sought must have been initiated and completed at an institution whose program was accredited by the Educational Standards Board of the Council on Academic Accreditation in Audiology and Speech-Language Pathology, a body recognized by the United States Department of Education, or an equivalent as determined by the commissioner, in the area for which licensure is sought.

Subd. 3. [Repealed, 2003 c 87 s 53]

Subd. 4. **Supervised graduate or doctoral clinical experience required.** An applicant must complete the graduate or doctoral clinical experience required by the American Speech-Language-Hearing Association, the American Board of Audiology, or an equivalent, as determined by the commissioner, and must achieve a qualifying examination score on the National Examination in Speech-Language Pathology or Audiology.

Subd. 5. [Repealed, 2003 c 87 s 53]

**History:** 1996 c 363 s 5; 1998 c 317 s 2; 2000 c 460 s 23; 2003 c 87 s 23,24

#### 148.516 LICENSURE BY EQUIVALENCY.

An applicant who applies for licensure by equivalency must show evidence of possessing a current certificate of clinical competence issued by the American Speech-Language-Hearing Association or board certification by the American Board of Audiology and must meet the requirements of section 148.514.

**History:** 1996 c 363 s 6; 2003 c 87 s 25

#### 148.5161 CLINICAL FELLOWSHIP LICENSURE OR DOCTORAL EXTERNSHIP LICENSURE.

Subdivision 1. **Application.** Clinical fellowship and doctoral externship candidates must be licensed with a clinical fellowship or doctoral externship license. The commissioner shall issue clinical fellowship licensure or doctoral externship licensure as a speech-language pathologist or audiologist to an applicant who has applied for licensure under section 148.515, who is not the subject of a disciplinary action or past disciplinary action, and who has not violated a provision of section 148.5195, subdivision 3.

Subd. 2. **Procedures.** To be eligible for clinical fellowship licensure or doctoral externship licensure, an applicant must submit an application form provided by the commissioner, the fees required by section 148.5194, and evidence of successful completion of the requirements in section 148.515, subdivision 2.

Subd. 3. **Supervision required.** (a) A clinical fellowship licensee or doctoral externship licensee must practice under the supervision of an individual who meets the requirements of section 148.512, subdivision 20. Supervision must conform to the requirements in paragraphs (b) to (e).

(b) Supervision must include both on-site observation and other monitoring activities. On-site observation must involve the supervisor, the clinical fellowship licensee or doctoral externship licensee, and the client receiving speech-language pathology or audiology services and must include direct observation by the supervisor of treatment given by the clinical fellowship licensee or doctoral externship licensee. Other monitoring activities must involve direct or indirect evaluative contact by the supervisor of the clinical fellowship licensee or doctoral externship licensee, may be executed by correspondence, and may include, but are not limited to, conferences with the clinical fellowship licensee or doctoral externship licensee, evaluation of written reports, and evaluations by professional colleagues. Other monitoring activities do not include the client receiving speech-language pathology or audiology services.

(c) The clinical fellowship licensee or doctoral externship licensee must be supervised by an individual who meets the definition of section 148.512, subdivision 20, and:

(1) when the clinical fellowship licensee or doctoral externship licensee is a speech-language pathologist, is a licensed speech-language pathologist, or holds a current certificate of clinical competence in speech-language pathology from the American Speech-Language-Hearing Association; or

(2) when the clinical fellowship licensee or doctoral externship licensee is an audiologist, is a licensed audiologist, or holds a current certificate of clinical competence in audiology from the American Speech-Language-Hearing Association or board certification in audiology by the American Board of Audiology.

(d) Clinical fellowship licensure or doctoral externship licensure shall not be granted until the applicant has completed the academic coursework and clinical training in section 148.515, subdivision 2.

(e) The clinical fellowship licensee or doctoral externship licensee must provide verification of supervision on the application form provided by the commissioner.

**Subd. 4. Doctoral externship licensure.** Doctoral candidates in audiology completing their final externship as part of their training program are eligible to receive a doctoral externship license in audiology and are not required to complete the postgraduate clinical fellowship year.

**Subd. 5. Expiration of clinical fellowship or doctoral externship licensure.** A clinical fellowship license or doctoral externship license issued to a person pursuant to subdivision 2 expires 18 months after issuance or on the date the commissioner grants or denies licensure, whichever occurs first. Upon application, a clinical fellowship license or doctoral externship license shall be renewed once to persons who have not met the supervised postgraduate clinical experience requirement under section 148.515, subdivision 4, within the initial clinical fellowship license or doctoral externship license period and meet the requirements of subdivision 1.

**Subd. 6. Title used.** A licensee with a clinical fellowship or doctoral externship shall be identified by one of the protected titles and a designation indicating clinical fellowship status or doctoral externship status.

*History:* 1998 c 317 s 3; 2003 c 87 s 26; 2004 c 279 art 1 s 9-11

#### 148.517 LICENSURE BY RECIPROCITY.

**Subdivision 1. Applicability.** An applicant who applies for licensure as a speech-language pathologist or audiologist by reciprocity must meet the requirements of subdivisions 2 and 3.

**Subd. 2. Current credentials required.** An applicant applying for licensure by reciprocity must provide evidence to the commissioner that the applicant holds a current and unrestricted credential for the practice of speech-language pathology or audiology in another jurisdiction that has requirements equivalent to or higher than those in effect for determining whether an applicant in this state is qualified to be licensed as a speech-language pathologist or audiologist. An applicant who provides

sufficient evidence need not meet the requirements of section 148.515, provided that the applicant otherwise meets all other requirements of section 148.514.

Subd. 3. **Verification of credentials required.** An applicant for licensure by reciprocity under subdivision 2, must have maintained the appropriate and unrestricted credentials in each jurisdiction during the last five years as demonstrated by submitting letters of verification to the commissioner. Each letter must state the applicant's name, date of birth, credential number, date of issuance, a statement regarding disciplinary actions, if any, taken against the applicant, and the terms under which the credential was issued.

Subd. 4. [Renumbered 148.5175]

**History:** 1996 c 363 s 7; 2000 c 460 s 24; 2003 c 87 s 27,52

#### 148.5175 TEMPORARY LICENSURE.

(a) The commissioner shall issue temporary licensure as a speech-language pathologist, an audiologist, or both, to an applicant who has applied for licensure under section 148.515, 148.516, 148.517, or 148.518 and who:

(1) submits a signed and dated affidavit stating that the applicant is not the subject of a disciplinary action or past disciplinary action in this or another jurisdiction and is not disqualified on the basis of section 148.5195, subdivision 3; and

(2) either:

(i) provides a copy of a current credential as a speech-language pathologist, an audiologist, or both, held in the District of Columbia or a state or territory of the United States; or

(ii) provides a copy of a current certificate of clinical competence issued by the American Speech-Language-Hearing Association or board certification in audiology by the American Board of Audiology.

(b) A temporary license issued to a person under this subdivision expires 90 days after it is issued or on the date the commissioner grants or denies licensure, whichever occurs first.

(c) Upon application, a temporary license shall be renewed once to a person who is able to demonstrate good cause for failure to meet the requirements for licensure within the initial temporary licensure period and who is not the subject of a disciplinary action or disqualified on the basis of section 148.5195, subdivision 3.

**History:** 1996 c 363 s 7; 2000 c 460 s 24; 2003 c 87 s 27,52; 2004 c 279 art 1 s 12

#### 148.518 LICENSURE FOLLOWING LAPSE OF LICENSURE STATUS.

For an applicant whose licensure status has lapsed, the applicant must:

(1) apply for licensure renewal according to section 148.5191 and document compliance with the continuing education requirements of section 148.5193 since the applicant's license lapsed;

(2) fulfill the requirements of section 148.517;

(3) apply for renewal according to section 148.5191, provide evidence to the commissioner that the applicant holds a current and unrestricted credential for the practice of speech-language pathology from the Minnesota Board of Teaching or for the practice of speech-language pathology or audiology in another jurisdiction that has requirements equivalent to or higher than those in effect for Minnesota, and provide evidence of compliance with Minnesota Board of Teaching or that jurisdiction's continuing education requirements; or

(4) apply for renewal according to section 148.5191 and submit verified documentation of successful completion of 160 hours of supervised practice approved by the commissioner. To participate in a supervised practice, the applicant shall first apply and obtain temporary licensing according to section 148.5161.

**History:** 1996 c 363 s 8; 1998 c 317 s 4; 2000 c 460 s 25; 2002 c 227 s 1; 2003 c 87 s 28; 2004 c 279 art 1 s 13

**148.519 LICENSURE PROCEDURES.**

Subdivision 1. **Applications for licensure.** (a) An applicant for licensure must:

(1) submit a completed application for licensure on forms provided by the commissioner. The application must include the applicant's name, certification number under chapter 153A, if applicable, business address and telephone number, or home address and telephone number if the applicant practices speech-language pathology or audiology out of the home, and a description of the applicant's education, training, and experience, including previous work history for the five years immediately preceding the date of application. The commissioner may ask the applicant to provide additional information necessary to clarify information submitted in the application; and

(2) submit documentation of the certificate of clinical competence issued by the American Speech-Language-Hearing Association, board certification by the American Board of Audiology, or satisfy the following requirements:

(i) submit a transcript showing the completion of a master's or doctoral degree or its equivalent meeting the requirements of section 148.515, subdivision 2;

(ii) submit documentation of the required hours of supervised clinical training;

(iii) submit documentation of the postgraduate clinical or doctoral clinical experience meeting the requirements of section 148.515, subdivision 4; and

(iv) submit documentation of receiving a qualifying score on an examination meeting the requirements of section 148.515, subdivision 5.

(b) In addition, an applicant must:

(1) sign a statement that the information in the application is true and correct to the best of the applicant's knowledge and belief;

(2) submit with the application all fees required by section 148.5194; and

(3) sign a waiver authorizing the commissioner to obtain access to the applicant's records in this or any other state in which the applicant has engaged in the practice of speech-language pathology or audiology.

Subd. 2. **Action on applications for licensure.** (a) The commissioner shall act on an application for licensure according to paragraphs (b) to (d).

(b) The commissioner shall determine if the applicant meets the requirements for licensure. The commissioner or advisory council may investigate information provided by an applicant to determine whether the information is accurate and complete.

(c) The commissioner shall notify an applicant, via certified mail, of action taken on the application and of the grounds for denying licensure if licensure is denied.

(d) An applicant denied licensure may make a written request to the commissioner, within 30 days of the date of notification to the applicant, for reconsideration of the denial. Individuals requesting reconsideration may submit information that the applicant wants considered in the reconsideration. After reconsideration of the commissioner's determination to deny licensure, the commissioner shall determine whether the original determination should be affirmed or modified. An applicant may make only one request in any one biennial license period for reconsideration of the commissioner's determination to deny licensure.

Subd. 3. **Change of address.** A licensee who changes addresses must inform the commissioner, in writing, of the change of address within 30 days. All notices or other correspondence mailed to or served on a licensee by the commissioner at the licensee's address on file with the commissioner shall be considered as having been received by the licensee.

*History: 1996 c 363 s 9; 2003 c 87 s 29*

**148.5191 LICENSURE RENEWAL.**

Subdivision 1. **Renewal requirements.** To renew licensure, an applicant must:

(1) biennially complete a renewal application on a form provided by the commissioner and submit the biennial renewal fee;



(2) meet the continuing education requirements of section 148.5193 and submit evidence of attending continuing education courses, as required in section 148.5193, subdivision 6; and

(3) submit additional information if requested by the commissioner to clarify information presented in the renewal application. The information must be submitted within 30 days after the commissioner's request.

Subd. 2. **Late fee.** An application submitted after the renewal deadline date must be accompanied by a late fee as provided in section 148.5194, subdivision 4.

Subd. 3. **Licensure renewal notice.** Licensure renewal is on a biennial basis. At least 60 days before the licensure expiration date, the commissioner shall send out a renewal notice to the licensee's last known address. The notice shall include a renewal application and notice of fees required for renewal. If the licensee does not receive the renewal notice, the licensee is still required to meet the deadline for renewal to qualify for continuous licensure status.

Subd. 4. **Renewal deadline.** Each license, including a temporary license provided under section 148.5161, must state an expiration date. An application for licensure renewal must be received by the Department of Health or postmarked at least 30 days before the expiration date. If the postmark is illegible, the application shall be considered timely if received at least 21 days before the expiration date.

When the commissioner establishes the renewal schedule for an applicant, licensee, or temporary licensee, if the period before the expiration date is less than two years, the fee shall be prorated.

**History:** 1996 c 363 s 10; 1998 c 317 s 5-7; 2003 c 87 s 30

#### 148.5192 SPEECH-LANGUAGE PATHOLOGY ASSISTANTS.

Subdivision 1. **Delegation requirements.** A licensed speech-language pathologist may delegate duties to a speech-language pathology assistant in accordance with this section. Duties may only be delegated to an individual who has documented with a transcript from an educational institution satisfactory completion of either:

(1) an associate degree from a speech-language pathology assistant program that is accredited by the Higher Learning Commission of the North Central Association of Colleges or its equivalent as approved by the commissioner; or

(2) a bachelor's degree in the discipline of communication sciences or disorders with additional transcript credit in the area of instruction in assistant-level service delivery practices and completion of at least 100 hours of supervised field work experience as a speech-language pathology assistant student.

Subd. 2. **Delegated duties; prohibitions.** (a) A speech-language pathology assistant may perform only those duties delegated by a licensed speech-language pathologist and must be limited to duties within the training and experience of the speech-language pathology assistant.

(b) Duties may include the following as delegated by the supervising speech-language pathologist:

(1) assist with speech language and hearing screenings;

(2) implement documented treatment plans or protocols developed by the supervising speech-language pathologist;

(3) document client performance;

(4) assist with assessments of clients;

(5) assist with preparing materials and scheduling activities as directed;

(6) perform checks and maintenance of equipment;

(7) support the supervising speech-language pathologist in research projects, in-service training, and public relations programs; and

(8) collect data for quality improvement.

(c) A speech-language pathology assistant may not:

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(1) perform standardized or nonstandardized diagnostic tests, perform formal or informal evaluations, or interpret test results;

(2) screen or diagnose clients for feeding or swallowing disorders, including using a checklist or tabulating results of feeding or swallowing evaluations, or demonstrate swallowing strategies or precautions to clients or the clients' families;

(3) participate in parent conferences; case conferences, or any interdisciplinary team without the presence of the supervising speech-language pathologist or other licensed speech-language pathologist as authorized by the supervising speech-language pathologist;

(4) provide client or family counseling or consult with the client or the family regarding the client status or service;

(5) write, develop, or modify a client's individualized treatment plan or individualized education program;

(6) select clients for service;

(7) discharge clients from service;

(8) disclose clinical or confidential information either orally or in writing to anyone other than the supervising speech-language pathologist; or

(9) make referrals for additional services.

(d) A speech-language pathology assistant must not sign any formal documents, including treatment plans, education plans, reimbursement forms, or reports. The speech-language pathology assistant must sign or initial all treatment notes written by the assistant.

Subd. 3. **Supervision requirements.** (a) A supervising speech-language pathologist shall authorize and accept full responsibility for the performance, practice, and activity of a speech-language pathology assistant.

(b) A supervising speech-language pathologist must:

(1) be licensed under sections 148.511 to 148.5196;

(2) hold a certificate of clinical competence from the American Speech-Language-Hearing Association or its equivalent as approved by the commissioner; and

(3) have completed at least one continuing education unit in supervision.

(c) The supervision of a speech-language pathology assistant shall be maintained on the following schedule:

(1) for the first 90 work days, within a 40-hour work week, 30 percent of the work performed by the speech-language pathology assistant must be supervised and at least 20 percent of the work performed must be under direct supervision; and

(2) for the work period after the initial 90-day period, within a 40-hour work week, 20 percent of the work performed must be supervised and at least ten percent of the work performed must be under direct supervision.

(d) For purposes of this section, "direct supervision" means on-site, in-view observation and guidance by the supervising speech-language pathologist during the performance of a delegated duty. The supervision requirements described in this section are minimum requirements. Additional supervision requirements may be imposed at the discretion of the supervising speech-language pathologist.

(e) A supervising speech-language pathologist must be available to communicate with a speech-language pathology assistant at any time the assistant is in direct contact with a client.

(f) A supervising speech-language pathologist must document activities performed by the assistant that are directly supervised by the supervising speech-language pathologist. At a minimum, the documentation must include:

(1) information regarding the quality of the speech-language pathology assistant's performance of the delegated duties; and

(2) verification that any delegated clinical activity was limited to duties authorized to be performed by the speech-language pathology assistant under this section.

(g) A supervising speech-language pathologist must review and cosign all informal treatment notes signed or initialed by the speech-language pathology assistant.

(h) A full-time, speech-language pathologist may supervise no more than one full-time, speech-language pathology assistant or the equivalent of one full-time assistant.

Subd. 4. **Notification.** Any agency or clinic that intends to utilize the services of a speech-language pathology assistant must provide written notification to the client or, if the client is younger than 18 years old, to the client's parent or guardian before a speech-language pathology assistant may perform any of the duties described in this section.

**History:** 2004 c. 279 art 1 s 14

#### 148.5193 CONTINUING EDUCATION REQUIREMENTS.

Subdivision 1. **Number of contact hours required.** (a) An applicant for licensure renewal must meet the requirements for continuing education stipulated by the American Speech-Language-Hearing Association or the American Board of Audiology, or satisfy the requirements described in paragraphs (b) to (c).

(b) Within one month following expiration of a license, an applicant for licensure renewal as either a speech-language pathologist or an audiologist must provide evidence to the commissioner of a minimum of 30 contact hours of continuing education obtained within the two years immediately preceding licensure expiration. A minimum of 20 contact hours of continuing education must be directly related to the licensee's area of licensure. Ten contact hours of continuing education may be in areas generally related to the licensee's area of licensure. Licensees who are issued licenses for a period of less than two years shall prorate the number of contact hours required for licensure renewal based on the number of months licensed during the biennial licensure period. Licensees shall receive contact hours for continuing education activities only for the biennial licensure period in which the continuing education activity was performed.

(c) An applicant for licensure renewal as both a speech-language pathologist and an audiologist must attest to and document completion of a minimum of 36 contact hours of continuing education offered by a continuing education sponsor within the two years immediately preceding licensure renewal. A minimum of 15 contact hours must be received in the area of speech-language pathology and a minimum of 15 contact hours must be received in the area of audiology. Six contact hours of continuing education may be in areas generally related to the licensee's areas of licensure. Licensees who are issued licenses for a period of less than two years shall prorate the number of contact hours required for licensure renewal based on the number of months licensed during the biennial licensure period. Licensees shall receive contact hours for continuing education activities only for the biennial licensure period in which the continuing education activity was performed.

(d) If the licensee is licensed by the Board of Teaching:

(1) activities that are approved in the categories of Minnesota Rules, part 8700.1000, subpart 3, items A and B, and that relate to speech-language pathology, shall be considered:

(i) offered by a sponsor of continuing education; and

(ii) directly related to speech-language pathology;

(2) activities that are approved in the categories of Minnesota Rules, part 8700.1000, subpart 3, shall be considered:

(i) offered by a sponsor of continuing education; and

(ii) generally related to speech-language pathology; and

(3) one clock hour as defined in Minnesota Rules, part 8700.1000, subpart 1, is equivalent to 1.0 contact hours of continuing education.

(c) Contact hours may not be accumulated in advance and transferred to a future continuing education period.

Subd. 2. **Continuing education provided by sponsors.** The commissioner will accept continuing education provided by sponsors if the continuing education activity meets the following standards:

- (1) constitutes an organized program of learning;
- (2) reasonably expects to advance the knowledge and skills of the speech-language pathologist or audiologist;
- (3) pertains to subjects that relate to the practice of speech-language pathology or audiology;
- (4) is conducted by individuals who have education, training, and experience by reason of which said individuals should be considered experts concerning the subject matter of the activity; and
- (5) is presented by a sponsor who has a mechanism to verify participation and maintains attendance records for four years.

Subd. 3. [Repealed, 2000 c 460 s 66]

Subd. 4. **Earning continuing education contact hours through contact hour equivalents.** (a) A licensee who teaches continuing education courses or presents or publishes for educational purposes may obtain contact hour equivalents according to paragraphs (b) to (d).

(b) The sponsor of the course must meet the requirements of subdivision 2.

(c) A licensee may not obtain more than six contact hours in any two-year continuing education period by teaching continuing education courses.

(d) A licensee may obtain two contact hours for each hour spent teaching a course. Contact hours may be claimed only once for teaching the same course in any two-year continuing education period.

Subd. 5. [Repealed, 2000 c 460 s 66]

Subd. 6. **Records of attendance.** (a) A licensee must maintain for four years records of attending the continuing education contact hours required for licensure renewal.

(b) An applicant for licensure renewal must submit documentation demonstrating compliance with continuing education requirements of the American Speech-Language-Hearing Association or the American Board of Audiology or an equivalent, or the following information on a form provided by the commissioner: the sponsoring organization, the dates of the course, the course name, the number of contact hours completed, and the name and signature of the licensee. The form must be submitted with the renewal application under section 148.5191, subdivision 1.

Subd. 6a. **Verification of attendance.** An applicant for licensure renewal must submit verification of attendance as follows:

(1) a certificate of attendance from the sponsor with the continuing education course name, course date, and licensee's name. If a certificate of attendance is not available, the commissioner may accept other evidence of attendance such as a confirmation or statement of registration for regional or national annual conferences or conventions of professional associations, a copy of the continuing education courses indicating those attended, and an affidavit of attendance;

(2) a copy of a record of attendance from the sponsor of the continuing education course;

(3) a signature of the presenter or a designee at the continuing education activity on the continuing education report form;

(4) a summary or outline of the educational content of an audio or video educational activity if a designee is not available to sign the continuing education report form;

(5) for self-study programs, a certificate of completion or other documentation indicating that the individual has demonstrated knowledge and has successfully completed the program; or

(6) for attendance at a university, college, or vocational course, an official transcript.

Subd. 7. **Verification of continuing education reports.** The commissioner may request a licensee or continuing education sponsor to verify the continuing education to which the licensee attested. Documentation may come directly from the licensee, the continuing education sponsor, or from a national accrediting or certifying organization which maintains the records.

Subd. 8. **Waiver of continuing education requirements.** The commissioner may grant a waiver of the requirements of this section in cases where the requirements would impose an undue burden on the licensee. A licensee must request in writing a waiver of the requirements of this section. The request for a waiver must cite this section, the reasons for requesting the waiver, the period of time the licensee wishes to have the continuing education requirement waived, and the alternative measures that will be taken if a waiver is granted. The commissioner shall set forth, in writing, the reasons for granting or denying the waiver. Waivers granted by the commissioner shall specify in writing the time limitation and required alternative measures to be taken by the licensee.

**History:** 1996 c 363 s 11; 2000 c 460 s 26-30; 2003 c 87 s 31-36; 2004 c 279 art 1 s 15,16

#### 148.5194 FEES.

Subdivision 1. **Fee proration.** The commissioner shall prorate the licensure fee for clinical fellowship, doctoral externship, temporary, and first time licensees according to the number of months that have elapsed between the date the license is issued and the date the license expires or must be renewed under section 148.5191, subdivision 4.

Subd. 2. **Biennial licensure fee.** The fee for initial licensure and biennial licensure, clinical fellowship licensure, temporary licensure, or renewal is \$200.

Subd. 3. **Biennial licensure fee for dual licensure as a speech-language pathologist and audiologist.** The fee for initial licensure and biennial licensure, clinical fellowship licensure, doctoral externship, temporary license, or renewal is \$200.

Subd. 3a. [Repealed, 1Sp2003 c 14 art 7 s 89]

Subd. 4. **Penalty fee for late renewals.** The penalty fee for late submission of a renewal application is \$45.

Subd. 5. **Nonrefundable fees.** All fees are nonrefundable.

Subd. 6. **Verification of credential.** The fee for written verification of credentialed status is \$25.

**History:** 1996 c 363 s 12; 1998 c 317 s 8; 1999 c 245 art 2 s 34-37; 2003 c 87 s 37-39; 1Sp2003 c 14 art 7 s 48-51

**NOTE:** Subdivision 3a was also amended by Laws 2003, chapter 87, section 40, to read as follows:

"Subd. 3a. **Surcharge fee.** Notwithstanding section 16A.1285, subdivision 2, for a period of four years following July 1, 1999, an applicant for licensure or licensure renewal must pay a surcharge fee of \$25 in addition to any other fees due upon licensure or licensure renewal. This subdivision expires June 30, 2003."

#### 148.5195 INVESTIGATION PROCESS AND GROUNDS FOR DISCIPLINARY ACTION.

Subdivision 1. **Investigations of complaints.** The commissioner or advisory council may initiate an investigation upon receiving a signed complaint or other signed written communication that alleges or implies that an individual has violated sections 148.511 to 148.5196. According to section 214.13, subdivision 6, in the receipt, investigation, and hearing of a complaint that alleges or implies an individual has violated sections 148.511 to 148.5196, the commissioner shall follow the procedures in section 214.10.

Subd. 2. **Rights of applicants and licensees.** The rights of an applicant denied licensure are stated in section 148.519, subdivision 2, paragraph (d). A licensee shall not be subjected to disciplinary action under this section without first having an opportunity for a contested case hearing under chapter 14.

Subd. 3. **Grounds for disciplinary action by commissioner.** The commissioner may take any of the disciplinary actions listed in subdivision 4 on proof that the individual has:

(1) intentionally submitted false or misleading information to the commissioner or the advisory council;

(2) failed, within 30 days, to provide information in response to a written request, via certified mail, by the commissioner or advisory council;

(3) performed services of a speech-language pathologist or audiologist in an incompetent or negligent manner;

(4) violated sections 148.511 to 148.5196;

(5) failed to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;

(6) violated any state or federal law, rule, or regulation, and the violation is a felony or misdemeanor, an essential element of which is dishonesty, or which relates directly or indirectly to the practice of speech-language pathology or audiology. Conviction for violating any state or federal law which relates to speech-language pathology or audiology is necessarily considered to constitute a violation, except as provided in chapter 364;

(7) aided or abetted another person in violating any provision of sections 148.511 to 148.5196;

(8) been or is being disciplined by another jurisdiction, if any of the grounds for the discipline is the same or substantially equivalent to those under sections 148.511 to 148.5196;

(9) not cooperated with the commissioner or advisory council in an investigation conducted according to subdivision 1;

(10) advertised in a manner that is false or misleading;

(11) engaged in conduct likely to deceive, defraud, or harm the public; or demonstrated a willful or careless disregard for the health, welfare, or safety of a client;

(12) failed to disclose to the consumer any fee splitting or any promise to pay a portion of a fee to any other professional other than a fee for services rendered by the other professional to the client;

(13) engaged in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws, Food and Drug Administration regulations, or state medical assistance laws;

(14) obtained money, property, or services from a consumer through the use of undue influence, high pressure sales tactics, harassment, duress, deception, or fraud;

(15) performed services for a client who had no possibility of benefiting from the services;

(16) failed to refer a client for medical evaluation or to other health care professionals when appropriate or when a client indicated symptoms associated with diseases that could be medically or surgically treated;

(17) if the individual is a dispenser of hearing instruments as defined by section 153A.13, subdivision 5, had the certification required by chapter 153A, denied, suspended, or revoked according to chapter 153A;

(18) used the term doctor of audiology, doctor of speech-language pathology, AuD, or SLPD without having obtained the degree from an institution accredited by the North Central Association of Colleges and Secondary Schools, the Council on Academic Accreditation in Audiology and Speech-Language Pathology, the United States Department of Education, or an equivalent; or

(19) failed to comply with the requirements of section 148.5192 regarding supervision of speech-language pathology assistants.

Subd. 4. **Disciplinary actions.** If the commissioner finds that an individual should be disciplined according to subdivision 3, the commissioner may take any one or more of the following actions:

- (1) refuse to grant or renew licensure;
- (2) suspend licensure for a period not exceeding one year;
- (3) revoke licensure;
- (4) take any reasonable lesser action against an individual upon proof that the individual has violated sections 148.511 to 148.5196; or

(5) impose, for each violation, a civil penalty not exceeding \$10,000 that deprives the licensee of any economic advantage gained by the violation and that reimburses the Department of Health for costs of the investigation and proceedings resulting in disciplinary action, including the amount paid for services of the administrative hearings, the amount paid for services of the Office of the Attorney General, attorney fees, court reporters, witnesses, reproduction of records, advisory council members' per diem compensation, department staff time, and expenses incurred by advisory council members and department staff.

**Subd. 5. Consequences of disciplinary actions.** Upon the suspension or revocation of licensure, the speech-language pathologist or audiologist shall cease to practice speech-language pathology or audiology, to use titles protected under sections 148.511 to 148.5196, and to represent to the public that the speech-language pathologist or audiologist is licensed by the commissioner.

**Subd. 6. Reinstatement requirements after disciplinary action.** A speech-language pathologist or audiologist who has had licensure suspended may petition on forms provided by the commissioner for reinstatement following the period of suspension specified by the commissioner. The requirements of section 148.5191 for renewing licensure must be met before licensure may be reinstated.

**History:** 1996 c 363 s 13; 1998 c 317 s 9; 2003 c 87 s 41-45; 2004 c 279 art 1 s 17

#### 148.5196 SPEECH-LANGUAGE PATHOLOGIST AND AUDIOLOGIST ADVISORY COUNCIL.

**Subdivision 1. Membership.** The commissioner shall appoint eight persons to a Speech-Language Pathologist and Audiologist Advisory Council. The eight persons must include:

(1) two public members, as defined in section 214.02. The public members shall be either persons receiving services of a speech-language pathologist or audiologist, or family members of or caregivers to such persons;

(2) two speech-language pathologists licensed under sections 148.511 to 148.5196, one of whom is currently and has been, for the five years immediately preceding the appointment, engaged in the practice of speech-language pathology in Minnesota and each of whom is employed in a different employment setting including, but not limited to, private practice, hospitals, rehabilitation settings, educational settings, and government agencies;

(3) one speech-language pathologist licensed under sections 148.511 to 148.5196, who is currently and has been, for the five years immediately preceding the appointment, employed by a Minnesota public school district or a Minnesota public school district consortium that is authorized by Minnesota Statutes and who is licensed in speech-language pathology by the Minnesota Board of Teaching;

(4) two audiologists licensed under sections 148.511 to 148.5196, one of whom is currently and has been, for the five years immediately preceding the appointment, engaged in the practice of audiology in Minnesota and each of whom is employed in a different employment setting including, but not limited to, private practice, hospitals, rehabilitation settings, educational settings, industry, and government agencies; and

(5) one physician licensed under chapter 147 and certified by the American Board of Otolaryngology, Head and Neck Surgery.

**Subd. 2. Organization.** The advisory council shall be organized and administered under section 15.059.

**Subd. 3. Duties.** The advisory council shall:

(1) advise the commissioner regarding speech-language pathologist and audiologist licensure standards;

(2) advise the commissioner regarding the delegation of duties to and the training required for speech-language pathology assistants;

(3) advise the commissioner on enforcement of sections 148.511 to 148.5196;

(4) provide for distribution of information regarding speech-language pathologist and audiologist licensure standards;

(5) review applications and make recommendations to the commissioner on granting or denying licensure or licensure renewal;

(6) review reports of investigations relating to individuals and make recommendations to the commissioner as to whether licensure should be denied or disciplinary action taken against the individual;

(7) advise the commissioner regarding approval of continuing education activities provided by sponsors using the criteria in section 148.5193, subdivision 2; and

(8) perform other duties authorized for advisory councils under chapter 214, or as directed by the commissioner.

**History:** 1996 c 363 s 14; 2000 c 460 s 31; 2003 c 87 s 46; 2004 c 279 art 1 s 18

## OPTOMETRISTS

### 148.52 BOARD OF OPTOMETRY.

The Board of Optometry shall consist of two public members as defined by section 214.02 and five qualified optometrists appointed by the governor. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09.

The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214.

**History:** (5785) 1915 c 127 s 1; 1925 c 239 s 1; 1929 c 420 s 1; 1973 c 62 s 1; 1973 c 638 s 20; 1975 c 136 s 16; 1976 c 222 s 61; 1976 c 239 s 56; 1991 c 199 art 1 s 42

### 148.53 POWERS OF BOARD.

The state Board of Optometry shall have the power to make any rules and to do any and all things not inconsistent with law which it may deem necessary or expedient for the effective enforcement of sections 148.52 to 148.62 or for the full and efficient performance of its duties thereunder.

**History:** (5786) 1915 c 127 s 2; 1925 c 239 s 2; 1929 c 420 s 2; 1985 c 248 s 70

### 148.54 BOARD; SEAL.

The Board of Optometry shall elect from among its members a president and may adopt a seal.

**History:** (5787) 1915 c 127 s 3; 1925 c 239 s 3; 1949 c 267 s 1; 1975 c 136 s 17; 1976 c 222 s 62

### 148.55 [Repealed, 1976 c 222 s 209]

### 148.56 OPTOMETRISTS.

Subdivision 1. **Optometry defined.** Any person shall be deemed to be practicing optometry within the meaning of sections 148.52 to 148.62 who shall display a sign, such as an eye, a pair of eyes, a pair of glasses or spectacles, or who shall in any way advertise as an optometrist, or who shall employ any means for the measurement of the powers of vision or the adaptation of lenses or prisms for the aid thereof, or possess testing appliances for the purpose of the measurement of the powers of vision, or



diagnose any optical deficiency or deformity; visual or muscular anomaly of the human eye, or prescribe lenses, prisms, or ocular exercises for the correction or the relief of same, or who holds oneself out as being able to do so.

Subd. 2. **Unlawful practices.** It shall be unlawful for any person who is not licensed as an optometrist in this state to fit, sell, or dispose of, or to take, receive, or solicit any order for the fitting, sale, or disposition of, any spectacles, eye glasses, or lenses for the correction of vision in any place within the state other than an established place of business wherein such spectacles, eye glasses, or lenses are commonly sold and dealt in; and it shall be unlawful for any person, not licensed as an optometrist thereunder, to sell or dispose of, at retail, any spectacles, eye glasses, or lenses for the correction of vision in any established place of business or elsewhere in this state except under the supervision, direction, and authority of a duly licensed optometrist holding a certificate under sections 148.52 to 148.62, who shall be in charge of and in personal attendance at the booth, counter, or place where such articles are sold or disposed of.

Subd. 3. **Unregulated sales.** Nothing in sections 148.52 to 148.62 shall be construed to apply to the sale of toy glasses, goggles consisting of plano-white or plano-colored lenses or ordinary colored glasses or to the replacement of duplications of broken lenses, nor to sales upon prescription from persons legally authorized by the laws of this state to examine eyes and prescribe glasses therefor, nor shall it apply to regularly licensed physicians and surgeons. Sections 148.52 to 148.62 also do not apply to the sale of spectacles, used for reading and containing only simple lenses having a plus power of up to and including 3.25, if no attempt is made to test the eyes. The term "simple lenses" does not include bifocals. The seller shall prominently display a sign on the counter or rack or other display device where the spectacles are offered for sale that reads as follows: "If you have experienced a vision loss, the selection of these glasses should not take the place of an eye exam."

Subd. 4. **License required.** It shall be unlawful for any person to engage in the practice of optometry without first procuring and filing for record a certificate of registration as a licensed optometrist pursuant to this section.

**History:** (5789) 1915 c 127 s 5; 1925 c 239 s 5; 1929 c 420 s 3; 1983 c 301 s 146; 1986 c 444; 1987 c 125 s 1

#### 148.57 LICENSE.

Subdivision 1. **Examination.** (a) A person not authorized to practice optometry in the state and desiring to do so shall apply to the director of the state Board of Optometry and pay to the board a fee in an amount set by the board. The candidate desiring to apply to the board shall complete a form furnished by the board. With the submission of the application form, the candidate shall prove that the candidate:

(1) is of good moral character;

(2) has obtained a clinical doctorate from an optometry school requiring at least two academic years of preprofessional training for admittance to the school and which has been approved by the board, or is currently enrolled in the final year of study at such a school; and

(3) passed all parts of an examination.

(b) The examination shall include both a written portion and a clinical practical portion and shall thoroughly test the fitness of the candidate to practice in this state. In regard to the written and clinical practical examinations, the board may:

(1) prepare, administer, and grade the examination itself;

(2) recognize and approve in whole or in part an examination prepared, administered and graded by a national board of examiners in optometry; or

(3) administer a recognized and approved examination prepared and graded by or under the direction of a national board of examiners in optometry.

(c) The board shall issue a license to each applicant who satisfactorily passes the examinations and fulfills the other requirements stated in this section. The applicant shall pay to the board a fee as set by the board upon issuance of the license. In the

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event the candidate fails to pass a part of the examination, upon the payment of an additional fee as set by the board, the candidate may reapply to the Board of Optometry. The fees mentioned in this section are for the use of the board and in no case shall be refunded.

**Subd. 2. Reciprocity.** A person who holds a certificate of registration, or license, from another state, and who has practiced not less than three years in that state, may apply for licensure in Minnesota by filling out and swearing to an application for license by reciprocity form furnished by the board and by filing that form with the board secretary along with a fee as set by the board at least two weeks prior to the regular meeting at which the board is considering such applications. The application fee as set by the board shall be for the use of the board and in no case shall be refunded. To verify that the applicant possesses the knowledge and ability essential to the practice of optometry in this state, the board may for good cause request the applicant to perform a practical demonstration to its satisfaction. The applicant may then be issued a license if the requirements for registration or licensure in the other state are deemed by the board to be equivalent to those of sections 148.52 to 148.62; provided, that the other state accords like privileges to holders of certificates from the Minnesota board.

**Subd. 3. Revocation, suspension.** The board may revoke the license or suspend or restrict the right to practice of any person who has been convicted of any violation of sections 148.52 to 148.62 or of any other criminal offense, or who violates any provision of sections 148.571 to 148.576 or who is found by the board to be incompetent or guilty of unprofessional conduct. "Unprofessional conduct" means any conduct of a character likely to deceive or defraud the public, including, among other things, free examination advertising, the loaning of a license by any licensed optometrist to any person; the employment of "cappers" or "steerers" to obtain business; splitting or dividing a fee with any person; the obtaining of any fee or compensation by fraud or misrepresentation; employing directly or indirectly any suspended or unlicensed optometrist to perform any work covered by sections 148.52 to 148.62; the advertising by any means of optometric practice or treatment or advice in which untruthful, improbable, misleading, or impossible statements are made. After one year, upon application and proof that the disqualification has ceased, the board may reinstate such person.

**Subd. 4. Peddling or canvassing forbidden.** Every licensed optometrist who shall temporarily practice optometry outside or away from the regular registered place of business shall display the license and deliver to each customer or person there fitted or supplied with glasses a receipt or record which shall contain the signature, permanent registered place of business or post office address, and number of license of the optometrist, together with the amount charged therefor, but nothing contained in this section shall be construed as to permit peddling or canvassing by licensed optometrists.

**History:** (5790) 1915 c 127 s 6; 1925 c 239 s 6; 1929 c 420 s 4; 1949 c 267 s 3; 1967 c 381 s 2; 1973 c 62 s 2-4; 1976 c 222 s 63; 1978 c 516 s 1; 1982 c 388 s 5; 1985 c 247 s 25; 1986 c 444; 1992 c 419 s 1; 1993 c 121 s 3; 2000 c 413 s 1

## 148.571 USE OF TOPICAL OCULAR DRUGS.

**Subdivision 1. Authority.** Subject to the provisions of sections 148.57, subdivision 3, and 148.571 to 148.574, licensed optometrists may administer topical ocular drugs to the anterior segment of the human eye during an eye examination in the course of practice in their normal practice setting, solely for the purposes of determining the refractive, muscular, or functional origin of sources of visual discomfort or difficulty, and detecting abnormalities which may be evidence of disease.

**Subd. 2. Drugs specified.** For purposes of sections 148.57, subdivision 3, and 148.571 to 148.574, "topical ocular drugs" means:

(1) commercially prepared topical anesthetics as follows: proparacaine HCl 0.5 percent, tetracaine HCl 0.5 percent, and benoxinate HCl 0.4 percent;

(2) commercially prepared mydriatics as follows: phenylephrine HCl in strength not greater than 2.5 percent and hydroxyamphetamine HBr in strength not greater than 1 percent; and

(3) commercially prepared cycloplegics/mydriatics as follows: tropicamide in strength not greater than 1 percent and cyclopentolate in strength not greater than 1 percent.

**History:** 1982 c 388 s 1; 1986 c 444

#### 148.572 ADVICE TO SEEK DIAGNOSIS AND TREATMENT.

Whether or not topical ocular drugs have been used, if any licensed optometrist is informed by a patient or determines from examining a patient, using judgment and that degree of skill, care, knowledge and attention ordinarily possessed and exercised by optometrists in good standing under like circumstances, that there are present in that patient signs or symptoms which may be evidence of disease that requires treatment that is beyond the practice of optometry permitted by law, then the licensed optometrist shall (1) promptly advise that patient to seek evaluation by an appropriate licensed physician for diagnosis and possible treatment and (2) not attempt to treat such condition by the use of drugs or any other means.

**History:** 1982 c 388 s 2; 1993 c 121 s 4

#### 148.573 PREREQUISITES TO DRUG USE.

Subdivision 1. **Certificate required.** A licensed optometrist shall not purchase, possess or administer any topical ocular drugs unless, after August 1, 1982, the optometrist has obtained a certificate from the Board of Optometry certifying that the optometrist has complied with the following requirements:

(a) Successful completion of 60 classroom hours of study in general and clinical pharmacology as it relates to the practice of optometry, with particular emphasis on the use of topical ocular drugs for examination purposes. At least 30 of the 60 classroom hours shall be in ocular pharmacology and shall emphasize the systemic effects of and reactions to topical ocular drugs, including the emergency management and referral of any adverse reactions that may occur. The course of study shall be approved by the Board of Optometry, and shall be offered by an institution which is accredited by a regional or professional accreditation organization recognized or approved by the Council on Postsecondary Education or the United States Department of Education or their successors. The course shall be completed prior to entering the examination required by this section;

(b) Successful completion of an examination approved by the Board of Optometry on the subject of general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular drugs, including emergency management and referral of any adverse reactions that may occur;

(c) Successful completion, after August 1, 1982, of a course in cardiopulmonary resuscitation offered or approved by the Red Cross, American Heart Association, an accredited hospital, or a comparable organization or institution; and

(d) Establishment, after August 1, 1982, of an emergency plan for the management and referral to appropriate medical services of patients who may experience adverse drug reactions resulting from the application of topical ocular drugs. The plan must be approved by the Board of Optometry and shall, at least, require the optometrist to:

(1) Refer patients who notify the optometrist of an adverse drug reaction to appropriate medical specialists or facilities;

(2) Routinely advise the patient to immediately contact the optometrist if the patient experiences an adverse reaction;

(3) Place in the patient's permanent record information describing any adverse drug reaction experienced by the patient, and the date and time that any referral was made; and

(4) Include in the plan the names of at least three physicians, physician clinics, or hospitals to whom the optometrist will refer patients who experience an adverse drug reaction. At least one of these physicians shall be skilled in the diagnosis and treatment of diseases of the eye.

Subd. 2. **Exception.** The course and examination required by clauses (a) and (b) of subdivision 1 shall be completed after August 1, 1982 except that the Board of Optometry may certify applicants who have graduated from an accredited school of optometry within two years prior to August 1, 1982 if the school's curriculum includes a course and examination meeting the requirements of clauses (a) and (b) of subdivision 1.

Subd. 3. **Consultation required.** Approvals of the course, examination and emergency plan required by clauses (a), (b) and (d) of subdivision 1 shall be given by the Board of Optometry only after consultation with the Board of Medical Practice and Board of Pharmacy, provided that the recommendations of the Board of Medical Practice and Board of Pharmacy are made within 120 days after they are requested by the Board of Optometry.

*History: 1982 c 388 s 3; 1991 c 106 s 6*

#### **148.574 PROHIBITIONS RELATING TO LEGEND DRUGS; AUTHORIZING SALES BY PHARMACISTS UNDER CERTAIN CONDITIONS.**

An optometrist shall not purchase, possess, administer, prescribe or give any legend drug as defined in section 151.01 or 152.02 to any person except as is expressly authorized by sections 148.571 to 148.577. Nothing in chapter 151 shall prevent a pharmacist from selling topical ocular drugs to an optometrist authorized to use such drugs according to sections 148.571 to 148.577. Notwithstanding sections 151.37 and 152.12, an optometrist is prohibited from dispensing legend drugs at retail.

*History: 1982 c 388 s 4; 1993 c 121 s 5; 2003 c 62 s 2*

#### **148.575 CERTIFICATE REQUIRED FOR USE OF TOPICAL LEGEND DRUGS.**

Subdivision 1. **Certificate required for use of legend drugs.** A licensed optometrist must be board certified to use legend drugs for therapy under section 148.576.

Subd. 2. **Board certified defined.** "Board certified" means that a licensed optometrist has been issued a certificate by the Board of Optometry certifying that the optometrist has complied with the following requirements for the use of legend drugs described in section 148.576:

(1) successful completion of at least 60 hours of study in general and ocular pharmacology emphasizing drugs used for examination or treatment purposes, their systemic effects and management or referral of adverse reactions;

(2) successful completion of at least 100 hours of study in the examination, diagnosis, and treatment of conditions of the human eye with legend drugs;

(3) successful completion of two years of supervised clinical experience in differential diagnosis of eye disease or disorders as part of optometric training or one year of that experience and ten years of actual clinical experience as a licensed optometrist; and

(4) successful completion of a nationally standardized examination approved by the board on the subject of treatment and management of ocular disease prepared, administered, and graded by the International Association of Boards of Examiners in Optometry or an equivalent national board examination.

Subd. 3. **Display of certificate required.** A certificate issued to a licensed optometrist by the Board of Optometry must be displayed in a prominent place in the licensed optometrist's office.

Subd. 4. **Accreditation of courses.** The Board of Optometry may approve courses of study in general or ocular pharmacology and examination, diagnosis, and treatment of conditions of the human eye only if they are taught by an institution that meets the following criteria:

(1) the institution has facilities for both didactic and clinical instruction in pharmacology and ocular disease treatment;

(2) the institution certifies to the Board of Optometry that the course of instruction is comparable in content to courses of instruction required by other health-related licensing boards whose license holders or registrants are permitted to administer pharmaceutical agents in their professional practice for either diagnostic or therapeutic purposes or both; and

(3) the institution is accredited by a regional or professional accrediting organization recognized by the Council on Postsecondary Accreditation or the United States Department of Education, or their successors.

Subd. 5. **Notice to Board of Pharmacy.** The Board of Optometry shall notify the Board of Pharmacy of each licensed optometrist who meets the certification requirements in this section.

**History:** 1993 c 121 s 6; 2003 c 62 s 3,4.

#### 148.576 USE OF LEGEND DRUGS; LIMITATIONS; REPORTS.

Subdivision 1. **Authority to prescribe or administer.** A licensed optometrist who is board certified under section 148.575 may prescribe or administer legend drugs to aid in the diagnosis, cure, mitigation, prevention, treatment, or management of disease, deficiency, deformity, or abnormality of the human eye and adnexa included in the curricula of accredited schools or colleges of optometry. Nothing in this section shall allow (1) legend drugs to be administered intravenously, intramuscularly, or by injection except for treatment of anaphylaxis, (2) invasive surgery including, but not limited to, surgery using lasers, (3) schedule II and III oral legend drugs and oral steroids to be administered or prescribed, (4) oral antivirals to be prescribed or administered for more than ten days, or (5) oral carbonic anhydrase inhibitors to be prescribed or administered for more than seven days.

Subd. 2. **Adverse reaction reports.** An optometrist certified to prescribe legend drugs shall file with the Board of Optometry within ten working days of its occurrence a report on any adverse reaction resulting from the optometrist's administration of a drug. The report must include the optometrist's name, address, and license number; the patient's name, address, and age; the patient's presenting problem; the diagnosis; the agent administered and the method of administration; the reaction; and the subsequent action taken.

**History:** 1993 c 121 s 7; 2003 c 62 s 5

#### 148.577 STANDARD OF CARE.

A licensed optometrist who is board certified under section 148.575 is held to the same standard of care in the use of those legend drugs as physicians licensed by the state of Minnesota.

**History:** 1993 c 121 s 8; 2003 c 62 s 6

#### 148.578 [Repealed, 1997 c 7 art 2 s 67]

#### 148.58 [Repealed, 1976 c 222 s 209]

#### 148.59 LICENSE RENEWAL; FEE.

A licensed optometrist shall pay to the state Board of Optometry a fee as set by the board in order to renew a license as provided by board rule.

**History:** (5792) 1915 c 127 s 8; 1925 c 239 s 8; 1949 c 267 s 4; 1959 c 378 s 1; 1967 c 381 s 4; 1973 c 62 s 6; 1976 c 222 s 64; 1986 c 444

#### 148.60 EXPENSES.

The expenses of administering sections 148.52 to 148.62 shall be paid from appropriations made to the Board of Optometry.

**History:** (5793) 1915 c 127 s 9; 1925 c 239 s 9; 1955 c 847 s 14; 1973 c 638 s 21; 1975 c 136 s 19; 1976 c 222 s 65

**148.603 FORMS OF DISCIPLINARY ACTIONS.**

When grounds exist under section 148.57, subdivision 3, or other statute or rule which the board is authorized to enforce, the board may take one or more of the following disciplinary actions, provided that disciplinary or corrective action may not be imposed by the board on any regulated person except after a contested case hearing conducted pursuant to chapter 14 or by consent of the parties:

- (1) deny an application for a credential;
- (2) revoke the regulated person's credential;
- (3) suspend the regulated person's credential;
- (4) impose limitations on the regulated person's credential;
- (5) impose conditions on the regulated person's credential;
- (6) censure or reprimand the regulated person;
- (7) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the person of any economic advantage gained by reason of the violation or to discourage similar violations or to reimburse the board for the cost of the investigation and proceeding. For purposes of this section, the cost of the investigation and proceeding may include, but is not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members; or
- (8) when grounds exist under section 148.57, subdivision 3, or a board rule, enter into an agreement with the regulated person for corrective action which may include requiring the regulated person:
  - (i) to complete an educational course or activity;
  - (ii) to submit to the executive director or designated board member a written protocol or reports designed to prevent future violations of the same kind;
  - (iii) to meet with a board member or board designee to discuss prevention of future violations of the same kind; or
  - (iv) to perform other action justified by the facts.

Listing the measures in clause (8) does not preclude the board from including them in an order for disciplinary action.

**History:** 2000 c 413 s 2; 2003 c 66 s 3

**148.61 PENALTY.**

Subdivision 1. [Repealed, 1945 c 242 s 14]

Subd. 2. [Renumbered 148.511, subdivision 1]

Subd. 3. [Renumbered 148.101]

Subd. 4. [Renumbered 148.511, subd 2]

Subd. 5. **Gross misdemeanor.** Every person not licensed by the board pursuant to section 148.57 who practices optometry in this state shall be guilty of a gross misdemeanor.

**History:** (5794) 1915 c 127 s 10; 1925 c 239 s 10; 2000 c 413 s 3

**148.62 APPLICATION.**

Sections 148.52 to 148.62 shall not be construed as forbidding any person licensed to practice any profession in this state from engaging in such profession as it may now be defined by law.

**History:** (5796-1) 1925 c 239 s 13

## DIETITIANS AND NUTRITIONISTS

**148.621 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to sections 148.621 to 148.633.

Subd. 2. **Accredited college or university.** "Accredited college or university" means a college or university accredited by the regional accrediting agencies recognized by the Council on Postsecondary Accreditation, and the United States Department of Education at the time the degree was conferred.

Subd. 3. **Association.** "Association" means the American Dietetic Association.

Subd. 4. **Board.** "Board" means the Board of Dietetics and Nutrition Practice.

Subd. 5. **Commission.** "Commission" means the Commission on Dietetic Registration that is a member of the National Commission on Health Certifying Agencies, which national commission establishes national standards of competence for individuals participating in the health care delivery system.

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 7. **Dietitian.** "Dietitian" means an individual who engages in dietetics or nutrition practice and uses the title dietitian.

Subd. 8. **Nutritionist.** "Nutritionist" means an individual who engages in dietetics or nutrition practice and uses the title nutritionist.

Subd. 9. **Dietetics or nutrition practice.** "Dietetics or nutrition practice" means the integration and application of scientific principles of food, nutrition, biochemistry, physiology, food management, and behavioral and social sciences to achieve and maintain human health through the provision of nutrition care services.

Subd. 10. **Nutrition care services.** "Nutrition care services" means:

- (1) assessment of the nutritional needs of individuals or groups;
- (2) establishment of priorities, goals, and objectives to meet nutritional needs;
- (3) provision of nutrition counseling for both normal and therapeutic needs;
- (4) development, implementation, and management of nutrition care services; or
- (5) evaluation, adjustment, and maintenance of appropriate standards of quality in nutrition care.

Subd. 11. **Nutritional assessment.** "Nutritional assessment" means the evaluation of the nutritional needs of individuals or groups based on appropriate biochemical, anthropometric, physical, and dietary data to determine nutrient needs and recommend appropriate nutritional intake.

Subd. 12. **Nutrition counseling.** "Nutrition counseling" means advising and assisting individuals or groups on appropriate nutritional intake by integrating information from the nutritional assessment with information on food and other sources of nutrients and meal preparation consistent with cultural background and socioeconomic status.

Subd. 13. **Person.** "Person" means an individual, corporation, partnership, or other legal entity.

**History:** 1994 c 613 s 2

**148.622 BOARD OF DIETETICS AND NUTRITION PRACTICE.**

Subdivision 1. **Creation.** The Board of Dietetics and Nutrition Practice consists of seven members appointed by the governor.

Subd. 2. **Membership.** Members of the board must have been residents of the state of Minnesota for two years immediately preceding appointment and must represent various geographic areas of the state and various employment settings, as required by this section. Two members must be dietitians registered with the commission with at least three years of dietetics practice in Minnesota. Two members must be nutritionists with at least three years of nutrition practice in Minnesota. The professional members

first appointed need not be licensed under this chapter for appointment to their first terms on the board, but must possess the qualifications necessary for licensure under this chapter. Three other members must be public members as defined under section 214.02. Two of the public members must be consumers of nutrition care services or caregivers of those utilizing such services.

Subd. 3. **Membership terms; officers; quorum; expenses.** (a) Members must be appointed for staggered terms of four years, with terms beginning August 1 of each year. The terms of the initial board members must be determined by lot as follows: one member must be appointed for a term that expires August 1, 2000; two members must be appointed for terms that expire August 1, 1998; two members must be appointed for terms that expire August 1, 1997; and two members must be appointed for terms that expire August 1, 1995. Members of the board serve until the expiration of the term to which they have been appointed or until their successors have qualified. A person may not be appointed to serve more than two consecutive terms.

(b) The board shall organize annually and select a chair and vice-chair.

(c) Four members of the board, including two professional members and two public members, constitute a quorum to do business.

(d) The board shall hold at least two regular meetings each year. Additional meetings may be held at the call of the chair or at the written request of any three members of the board. At least 14 days' written advance notice of the board meeting is required.

(e) Board members receive compensation for their services in accordance with section 15.0575.

**History:** 1994 c 613 s 3; 1997 c 192 s 26

#### 148.623 DUTIES OF THE BOARD.

The board shall:

- (1) adopt rules necessary to administer and enforce sections 148.621 to 148.633;
- (2) administer, coordinate, and enforce sections 148.621 to 148.633;
- (3) evaluate the qualifications of applicants;
- (4) issue subpoenas, examine witnesses, and administer oaths;
- (5) conduct hearings and keep records and minutes necessary to the orderly administration of sections 148.621 to 148.633;
- (6) investigate persons engaging in practices that violate sections 148.621 to 148.633; and
- (7) adopt rules under chapter 14 prescribing a code of ethics for licensees.

**History:** 1994 c 613 s 4

#### 148.624 LICENSURE; RENEWAL.

Subdivision 1. **Dietetics.** The board shall issue a license as a dietitian to a person who files a completed application, pays all required fees, and certifies and furnishes evidence satisfactory to the board that the applicant:

- (1) meets the following qualifications:
  - (i) has received a baccalaureate or postgraduate degree from a United States regionally accredited college or university with a major in dietetics, human nutrition, nutrition education, food and nutrition, or food services management;
  - (ii) has completed a documented supervised preprofessional practice experience component in dietetic practice of not less than 900 hours under the supervision of a registered dietitian, a state licensed nutrition professional, or an individual with a doctoral degree conferred by a United States regionally accredited college or university with a major course of study in human nutrition, nutrition education, food and nutrition, dietetics, or food systems management. Supervised practice experience must be completed in the United States or its territories. Supervisors who obtain their doctoral degree outside the United States and its territories must have their degrees



approved by the board as equivalent to the doctoral degree conferred by a United States regionally accredited college or university; and

(iii) has successfully completed the registration examination for dietitians administered by the commission; or

(2) has a valid current registration with the commission which gives the applicant the right to use the term "registered dietitian" or "R.D."

Subd. 2. **Nutrition.** The board shall issue a license as a nutritionist to a person who files a completed application, pays all required fees, and certifies and furnishes evidence satisfactory to the board that the applicant:

(1) meets the following qualifications:

(i) has received a master's or doctoral degree from an accredited or approved college or university with a major in human nutrition, public health nutrition, clinical nutrition, nutrition education, community nutrition, or food and nutrition; and

(ii) has completed a documented supervised preprofessional practice experience component in dietetic practice of not less than 900 hours under the supervision of a registered dietitian, a state licensed nutrition professional, or an individual with a doctoral degree conferred by a United States regionally accredited college or university with a major course of study in human nutrition, nutrition education, food and nutrition, dietetics, or food systems management. Supervised practice experience must be completed in the United States or its territories. Supervisors who obtain their doctoral degree outside the United States and its territories must have their degrees validated as equivalent to the doctoral degree conferred by a United States regionally accredited college or university; or

(2) has qualified as a diplomate of the American Board of Nutrition, Springfield, Virginia.

Subd. 3. **Petition.** (a) The board may issue a license as a nutritionist to a person who submits to the board a petition for individual review, provided the person has received a master's or doctoral degree from an accredited college or university with a major course of study that includes an emphasis in human nutrition and has completed a supervised preprofessional experience component in nutrition practice of not less than 900 hours under the supervision of a registered dietitian, a state licensed health care practitioner, or an individual with a doctoral degree conferred by a United States regionally accredited college or university with a major course of study in human nutrition, nutrition education, food and nutrition, dietetics, or food system management. Supervised practice experience must be completed in the United States or its territories. Supervisors who obtain their degree outside the United States and its territories must have their degrees approved by the board as equivalent to a comparable degree conferred by a United States regionally accredited college or university.

(b) The board may issue a license as a dietitian or nutritionist to an applicant who has completed a course of study at a foreign college or university, if the applicant:

(1) submits a petition for individual review;

(2) successfully completes a course of study approved by the board as equivalent to a baccalaureate or master's degree conferred by a United States regionally accredited college or university; and

(3) meets the applicable experiential requirements set by the board.

Subd. 4. **Renewal.** Licensees shall renew licenses at the time and in the manner established by the rules of the board.

**History:** 1994 c 613 s 5

#### 148.625 APPLICATION.

A person desiring a license under sections 148.621 to 148.633 shall apply to the board on a form and in the manner the board prescribes. The application must be accompanied by an application fee in an amount determined by the board.

**History:** 1994 c 613 s 6

**148.626 CONTINUING EDUCATION REQUIRED.**

Within three years of the effective date of sections 148.621 to 148.633, renewal of a license is contingent on the applicant meeting uniform continuing education requirements established by the board. Notice of initial or amended continuing education requirements must be sent to all persons licensed under sections 148.621 to 148.633 at least 12 months before a person's license renewal is dependent on satisfaction of those requirements. Continuing education requirements must be sent to new applicants with the forms on which they are to apply for licensure.

*History: 1994 c 613 s 7*

**148.627 TRANSITION PERIOD.**

Subdivision 1. **Dietitians.** For one year after the effective date of rules adopted by the board under section 148.623, the board shall issue a license as a dietitian to an applicant who is a qualified dietitian as defined by the Division of Health Resources of the Department of Health and has practiced nutrition or dietetics in good standing for the equivalent of one year full time during the last five years.

Subd. 2. **Nutritionists.** For one year after the effective date of rules adopted by the board under section 148.623, the board shall issue a license as a nutritionist to an applicant who has received a qualifying master's or doctoral degree and has practiced nutrition or dietetics in good standing for the equivalent of one year during the last five years.

Subd. 3. **Clinical nutritionists.** For one year after the effective date of rules adopted by the board under section 148.623, the board shall issue a license as a nutritionist to an applicant who is a certified clinical nutritionist, certified by the International and American Association of Clinical Nutritionists who meets the standards for certification and recertification established by the Clinical Nutrition Certification Board and works in cooperation with a medical doctor.

Subd. 4. **Nutrition specialists.** For one year after the effective date of rules adopted by the board under section 148.623, the board shall issue a license as a nutritionist to an applicant who is a certified nutrition specialist, certified by the Board for Nutrition Specialists.

Subd. 5. **Notice.** Within 30 days of the effective date of the rules adopted by the board under section 148.623, the board shall:

- (1) notify dietitians and nutritionists of the existence of the rules by issuing notifications in dietitian and nutritionist trade publications;
- (2) notify all Minnesota educational institutions which grant degrees in majors which prepare individuals for dietetics or nutrition practice of the existence of the rules; and
- (3) provide copies of the rules upon request to interested individuals.

*History: 1994 c 613 s 8*

**148.628 RECIPROcity.**

The board may issue a license to an applicant who is licensed as a dietitian or nutritionist in another state or the District of Columbia, provided that in the judgment of the board the standards for licensure in that state are not less stringent than the requirements set forth in sections 148.621 to 148.633.

*History: 1994 c 613 s 9*

**148.629 DENIAL, SUSPENSION, OR REVOCATION.**

Subdivision 1. **Grounds.** The board may refuse to renew or grant a license to, or may suspend, revoke, or restrict the license of an individual whom the board, after a hearing under the contested case provisions of chapter 14, determines:

(1) is incompetent to engage in dietetic or nutrition practice, or is found to be engaged in dietetic or nutrition practice in a manner harmful or dangerous to a client or to the public;

(2) has violated the rules of the board or the statutes the board is empowered to enforce;

(3) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

(4) has knowingly made a false statement on a form required by the board for licensing or license renewal; or

(5) has sold any dietary supplement product if the sale of that product resulted in financial benefit to the individual.

Subd. 2. **Restoring license.** For reasons it finds sufficient, the board may grant a license previously refused, restore a license that has been revoked, or reduce a period of suspension or restriction of a license.

Subd. 3. **Review.** Suspension, revocation, or restriction of a license must be reviewed by the board at the request of the licensee against whom the disciplinary action was taken.

**History:** 1994 c 613 s 10

#### 148.630 LICENSE REQUIRED.

(a) No person may engage in dietetics or nutrition practice unless the person is licensed as a dietitian or nutritionist by the board. No person may use the title "dietitian," "licensed dietitian," "nutritionist," "licensed nutritionist," or any occupational title using the word "dietitian" or "nutritionist" unless so licensed by the board, nor shall any person hold out as a dietitian or nutritionist unless so licensed.

(b) Notwithstanding any other provision of sections 148.621 to 148.633, a dietitian registered by the commission shall have the right to use the title "registered dietitian" and the designation "R.D." Notwithstanding any other provision of sections 148.621 to 148.633, a dietetic technician registered by the Commission on Dietetic Registration shall have the right to use the title "dietetic technician registered" and the designation "D.T.R."

**History:** 1994 c 613 s 11

#### 148.631 PENALTY.

A person who violates sections 148.621 to 148.633 is guilty of a misdemeanor. If a person other than a licensed dietitian or nutritionist engages in an act or practice constituting an offense under sections 148.621 to 148.633, a district court on application of the board may issue an injunction or other appropriate order restraining the act or practice.

If the board finds that a licensed dietitian or nutritionist has violated a provision of sections 148.621 to 148.633 or rules adopted under them, it may impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the dietitian or nutritionist of any economic advantage gained by reason of the violation charged, to discourage similar violations, or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigational services provided by the Office of the Attorney General, services of court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expenses incurred by board members and staff.

**History:** 1994 c 613 s 12; 2003 c 66 s 4

#### 148.632 EXEMPTIONS; VOLUNTARY LICENSING.

Subdivision 1. **Persons excepted from the licensing requirement.** Nothing in sections 148.621 to 148.633 prevents or restricts the activities of:

(1) any person pursuing a degree in dietetics or nutrition at an accredited college or university who is practicing under the supervision of a licensed dietitian or licensed nutritionist and in accordance with accepted scientific knowledge and standards of practice, provided that the person is designated by a title which clearly indicates the person's status as a student or trainee;

(2) any person in the process of fulfilling the professional experience requirements in dietetics or nutrition necessary for licensure who is practicing under the supervision of a licensed dietitian or licensed nutritionist and in accordance with accepted scientific knowledge and standards of practice, provided that the person is designated by a title which clearly indicates the person's status as a trainee;

(3) any person licensed to practice medicine, nursing, optometry, psychology, pharmacy, dentistry, or chiropractic, when nutrition practice is incidental to the practice of the person's profession and the person does not hold out as a dietitian or nutritionist unless so licensed;

(4) any person, including a registered dietetic technician, dietetic technician, or other paraprofessional working in a program supervised by a licensed dietitian or nutritionist, if the person's activities are within the scope of the person's education and training and in accordance with accepted scientific knowledge and standards of practice in nutrition or dietetics and the person does not hold out as a dietitian or nutritionist unless so licensed;

(5) any person who provides weight control services, provided the nutrition program has been reviewed by, consultation is available from, and no program change can be initiated without prior approval by an individual licensed under sections 148.621 to 148.633, a dietitian licensed in another state that has licensure requirements considered by the board to be at least as stringent as the requirements for licensure under sections 148.621 to 148.633, or a registered dietitian, and provided that the person does not hold out as a dietitian or nutritionist unless so licensed;

(6) any home economist with a baccalaureate or graduate degree from an accredited college or university, if the person's activities are within the scope of the person's education and training and in accordance with accepted scientific knowledge and standards of practice and the person does not hold out as a dietitian or nutritionist;

(7) any person employed by a federal, state, county, or municipal agency, elementary or secondary school, regionally accredited institution of higher education, or nonprofit agency, if the person's activities are within the scope of the person's employment and the person does not hold out as a dietitian or nutritionist unless so licensed;

(8) any person who furnishes nutrition information on food, food materials, or dietary supplements or engages in the explanation to customers about foods or food products in connection with the marketing and distribution of those products provided that the person does not hold out as a dietitian or nutritionist unless so licensed;

(9) any person who is recognized in the community as a provider of nutritional advice, including a curandero or medicine man or woman, and who advises people according to or based on traditional practices provided the person does not hold out as a dietitian or nutritionist unless so licensed;

(10) any animal nutritionist who does not meet the requirements of sections 148.621 to 148.633, provided that the person's activities are limited to the nutritional care of animals. Animal nutritionists may continue to use the title nutritionist so long as they provide nutrition services only to animals;

(11) any person who provides nutrition services without remuneration to family members; or

(12) any person involved in dietary or nutritional counseling pursuant to a research study supervised by a Minnesota institution of higher learning or state agency which has been approved by an institutional review board to ensure the informed consent and safety of study participants.

Subd. 2. **Voluntary licensing.** The licensing of persons employed by facilities licensed under chapters 144 and 144A is voluntary. Nothing in sections 148.621 to 148.633 prevents or restricts the activities of persons employed by these institutions.

**History:** 1994 c 613 s 13

#### 148.633 DISPOSITION OF FUNDS.

Money received by the board under sections 148.621 to 148.633 must be credited to the health occupations licensing account within the special revenue fund.

**History:** 1994 c 613 s 14

### OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

#### 148.6401 SCOPE.

Sections 148.6401 to 148.6450 apply to persons who are applicants for licensure, who are licensed, who use protected titles, or who represent that they are licensed as occupational therapists or occupational therapy assistants.

**History:** 2000 c 361 s 1

#### 148.6402 DEFINITIONS.

Subdivision 1. **Scope.** For the purpose of sections 148.6401 to 148.6450, the following terms have the meanings given them.

Subd. 2. **Advisory council.** "Advisory council" means the Occupational Therapy Practitioners Advisory Council in section 148.6450.

Subd. 3. **Biennial licensure period.** "Biennial licensure period" means the two-year period for which licensure is effective.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of health or a designee.

Subd. 5. **Contact hour.** "Contact hour" means an instructional session of 60 consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and social activities.

Subd. 6. **Credential.** "Credential" means a license, permit, certification, registration, or other evidence of qualification or authorization to engage in the practice of occupational therapy issued by any authority.

Subd. 7. **Credentialing examination for occupational therapist.** "Credentialing examination for occupational therapist" means the examination sponsored by the National Board for Certification in Occupational Therapy for credentialing as an occupational therapist, registered.

Subd. 8. **Credentialing examination for occupational therapy assistant.** "Credentialing examination for occupational therapy assistant" means the examination sponsored by the National Board for Certification in Occupational Therapy for credentialing as a certified occupational therapy assistant.

Subd. 9. **Delegate.** "Delegate" means to transfer to an occupational therapy assistant the authority to perform selected portions of an occupational therapy evaluation or treatment plan for a specific patient.

Subd. 10. **Direct supervision.** "Direct supervision" of an occupational therapy assistant using physical agent modalities means that the occupational therapist has evaluated the patient and determined a need for use of a particular physical agent modality in the occupational therapy treatment plan, has determined the appropriate physical agent modality application procedure, and is available for in-person intervention while treatment is provided.

Subd. 11. **Electrical stimulation device.** "Electrical stimulation device" means any device which generates pulsed, direct, or alternating electrical current for the purposes of rehabilitation of neuromusculoskeletal dysfunction.

Subd. 12. **Electrotherapy.** "Electrotherapy" means the use of electrical stimulation devices for a therapeutic purpose.

Subd. 13. **Licensed health care professional.** "Licensed health care professional" means a person licensed in good standing in Minnesota to practice medicine, osteopathy, chiropractic, podiatry, or dentistry.

Subd. 14. **Occupational therapist.** "Occupational therapist" means an individual who meets the qualifications in sections 148.6401 to 148.6450 and is licensed by the commissioner.

Subd. 15. **Occupational therapy.** "Occupational therapy" means the use of purposeful activity to maximize the independence and the maintenance of health of an individual who is limited by a physical injury or illness, a cognitive impairment, a psychosocial dysfunction, a mental illness, a developmental or learning disability, or an adverse environmental condition. The practice encompasses evaluation, assessment, treatment, and consultation. Occupational therapy services may be provided individually, in groups, or through social systems. Occupational therapy includes those services described in section 148.6404.

Subd. 16. **Occupational therapy assistant.** "Occupational therapy assistant" means an individual who meets the qualifications for an occupational therapy assistant in sections 148.6401 to 148.6450 and is licensed by the commissioner.

Subd. 17. **Physical agent modalities.** "Physical agent modalities" mean modalities that use the properties of light, water, temperature, sound, or electricity to produce a response in soft tissue. The physical agent modalities referred to in sections 148.6404 and 148.6440 are superficial physical agent modalities, electrical stimulation devices, and ultrasound.

Subd. 18. [Repealed, 2001 c 7 s 91]

Subd. 19. **License or licensed.** "License" or "licensed" means the act or status of a natural person who meets the requirements of sections 148.6401 to 148.6450.

Subd. 20. **Licensee.** "Licensee" means a person who meets the requirements of sections 148.6401 to 148.6450.

Subd. 21. **Licensure by equivalency.** "Licensure by equivalency" means a method of licensure described in section 148.6412 by which an individual who possesses a credential from the National Board for Certification in Occupational Therapy may qualify for licensure.

Subd. 22. **Licensure by reciprocity.** "Licensure by reciprocity" means a method of licensure described in section 148.6415 by which an individual who possesses a credential from another jurisdiction may qualify for Minnesota licensure.

Subd. 22a. **Limited license.** "Limited license" means a license issued according to section 148.6425, subdivision 3, paragraph (c), to persons who have allowed their license to lapse for four years or more and who choose a supervised practice as the method for renewing their license status.

Subd. 23. **Service competency.** "Service competency" of an occupational therapy assistant in performing evaluation tasks means the ability of an occupational therapy assistant to obtain the same information as the supervising occupational therapist when evaluating a client's function.

Service competency of an occupational therapy assistant in performing treatment procedures means the ability of an occupational therapy assistant to perform treatment procedures in a manner such that the outcome, documentation, and follow-up are equivalent to that which would have been achieved had the supervising occupational therapist performed the treatment procedure.

Service competency of an occupational therapist means the ability of an occupational therapist to consistently perform an assessment task or intervention procedure with the level of skill recognized as satisfactory within the appropriate acceptable prevailing practice of occupational therapy.

Subd. 24. **Superficial physical agent modality.** "Superficial physical agent modality" means a therapeutic medium which produces temperature changes in skin and

underlying subcutaneous tissues within a depth of zero to three centimeters for the purposes of rehabilitation of neuromusculoskeletal dysfunction. Superficial physical agent modalities may include, but are not limited to: paraffin baths, hot packs, cold packs, fluidotherapy, contrast baths, and whirlpool baths. Superficial physical agent modalities do not include the use of electrical stimulation devices, ultrasound, or quick icing.

Subd. 25. **Temporary licensure.** "Temporary licensure" means a method of licensure described in section 148.6418, by which an individual who (1) has completed an approved or accredited education program but has not met the examination requirement; or (2) possesses a credential from another jurisdiction or the National Board for Certification in Occupational Therapy but who has not submitted the documentation required by section 148.6420, subdivisions 3 and 4, may qualify for Minnesota licensure for a limited time period.

Subd. 26. **Ultrasound device.** "Ultrasound device" means a device intended to generate and emit high frequency acoustic vibrational energy for the purposes of rehabilitation of neuromusculoskeletal dysfunction.

**History:** 2000 c 361 s 2; 2001 c 7 s 35,36; 2004 c 279 art 1 s 19

#### **148.6403 LICENSURE; PROTECTED TITLES AND RESTRICTIONS ON USE; EX-EMPT PERSONS; SANCTIONS.**

Subdivision 1. **Unlicensed practice prohibited.** No person shall engage in the practice of occupational therapy unless the person is licensed as an occupational therapist or an occupational therapist assistant in accordance with sections 148.6401 to 148.6450.

Subd. 2. **Protected titles and restrictions on use.** Use of the phrase "occupational therapy" or "occupational therapist," or the initials "O.T." alone or in combination with any other words or initials to form an occupational title, or to indicate or imply that the person is licensed by the state as an occupational therapist or occupational therapy assistant, is prohibited unless that person is licensed under sections 148.6401 to 148.6450.

Subd. 3. **Use of "Minnesota licensed."** Use of the term "Minnesota licensed" in conjunction with titles protected under this section by any person is prohibited unless that person is licensed under sections 148.6401 to 148.6450.

Subd. 4. **Persons licensed or certified in other states.** A person who is licensed in Minnesota and licensed or certified in another state may use the designation "licensed" or "certified" with a protected title only if the state of licensure or certification is clearly indicated.

Subd. 5. **Exempt persons.** This section does not apply to:

(1) a person employed as an occupational therapist or occupational therapy assistant by the government of the United States or any agency of it. However, use of the protected titles under those circumstances is allowed only in connection with performance of official duties for the federal government;

(2) a student participating in supervised fieldwork or supervised coursework that is necessary to meet the requirements of section 148.6403, subdivision 1, or 148.6410, subdivision 1, if the person is designated by a title which clearly indicates the person's status as a student trainee. Any use of the protected titles under these circumstances is allowed only while the person is performing the duties of the supervised fieldwork or supervised coursework; or

(3) a person visiting and then leaving the state and performing occupational therapy services while in the state, if the services are performed no more than 30 days in a calendar year as part of a professional activity that is limited in scope and duration and is in association with an occupational therapist licensed under sections 148.6401 to 148.6450, and

(i) the person is credentialed under the law of another state which has credentialing requirements at least as stringent as the requirements of sections 148.6401 to 148.6450; or

(ii) the person meets the requirements for certification as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA), established by the National Board for Certification in Occupational Therapy.

Subd. 6. **Sanctions.** A person who practices occupational therapy or holds out as an occupational therapist or occupational therapy assistant by or through the use of any title described in subdivision 2 without prior licensure according to sections 148.6401 to 148.6450 is subject to sanctions or action against continuing the activity according to section 148.6448, chapter 214, or other statutory authority.

Subd. 7. **Exemption.** Nothing in sections 148.6401 to 148.6450 shall prohibit the practice of any profession or occupation licensed or registered by the state by any person duly licensed or registered to practice the profession or occupation or to perform any act that falls within the scope of practice of the profession or occupation.

**History:** 2000 c 361 s 3; 2004 c 279 art 1 s 20

#### 148.6404 SCOPE OF PRACTICE.

The practice of occupational therapy by an occupational therapist or occupational therapy assistant includes, but is not limited to, intervention directed toward:

(1) assessment and evaluation, including the use of skilled observation or the administration and interpretation of standardized or nonstandardized tests and measurements, to identify areas for occupational therapy services;

(2) providing for the development of sensory integrative, neuromuscular, or motor components of performance;

(3) providing for the development of emotional, motivational, cognitive, or psychosocial components of performance;

(4) developing daily living skills;

(5) developing feeding and swallowing skills;

(6) developing play skills and leisure capacities;

(7) enhancing educational performance skills;

(8) enhancing functional performance and work readiness through exercise, range of motion, and use of ergonomic principles;

(9) designing, fabricating, or applying rehabilitative technology, such as selected orthotic and prosthetic devices, and providing training in the functional use of these devices;

(10) designing, fabricating, or adapting assistive technology and providing training in the functional use of assistive devices;

(11) adapting environments using assistive technology such as environmental controls, wheelchair modifications, and positioning;

(12) employing physical agent modalities, in preparation for or as an adjunct to purposeful activity, within the same treatment session or to meet established functional occupational therapy goals, consistent with the requirements of section 148.6440; and

(13) promoting health and wellness.

**History:** 2000 c 361 s 4

#### 148.6405 LICENSURE APPLICATION REQUIREMENTS: PROCEDURES AND QUALIFICATIONS.

(a) An applicant for licensure must comply with the application requirements in section 148.6420. To qualify for licensure, an applicant must satisfy one of the requirements in paragraphs (b) to (f) and not be subject to denial of licensure under section 148.6448.



(b) A person who applies for licensure as an occupational therapist and who has not been credentialed by the National Board for Certification in Occupational Therapy or another jurisdiction must meet the requirements in section 148.6408.

(c) A person who applies for licensure as an occupational therapy assistant and who has not been credentialed by the National Board for Certification in Occupational Therapy or another jurisdiction must meet the requirements in section 148.6410.

(d) A person who is certified by the National Board for Certification in Occupational Therapy may apply for licensure by equivalency and must meet the requirements in section 148.6412.

(e) A person who is credentialed in another jurisdiction may apply for licensure by reciprocity and must meet the requirements in section 148.6415.

(f) A person who applies for temporary licensure must meet the requirements in section 148.6418.

**History:** 2000 c 361 s 5; 2004 c 279 art 1 s 21

#### 148.6408 QUALIFICATIONS FOR OCCUPATIONAL THERAPIST.

**Subdivision 1. Education required.** (a) An applicant who has received professional education in the United States or its possessions or territories must successfully complete all academic and fieldwork requirements of an educational program for occupational therapists approved or accredited by the Accreditation Council for Occupational Therapy Education.

(b) An applicant who has received professional education outside the United States or its possessions or territories must successfully complete all academic and fieldwork requirements of an educational program for occupational therapists approved by a member association of the World Federation of Occupational Therapists.

**Subd. 2. Qualifying examination score required.** (a) An applicant must achieve a qualifying score on the credentialing examination for occupational therapist.

(b) The commissioner shall determine the qualifying score for the credentialing examination for occupational therapist. In determining the qualifying score, the commissioner shall consider the cut score recommended by the National Board for Certification in Occupational Therapy, or other national credentialing organization approved by the commissioner, using the modified Angoff method for determining cut score or another method for determining cut score that is recognized as appropriate and acceptable by industry standards.

(c) The applicant is responsible for:

(1) making arrangements to take the credentialing examination for occupational therapist;

(2) bearing all expenses associated with taking the examination; and

(3) having the examination scores sent directly to the commissioner from the testing service that administers the examination.

**History:** 2000 c 361 s 6

#### 148.6410 QUALIFICATIONS FOR OCCUPATIONAL THERAPY ASSISTANTS.

**Subdivision 1. Education required.** An applicant must successfully complete all academic and fieldwork requirements of an occupational therapy assistant program approved or accredited by the Accreditation Council for Occupational Therapy Education.

**Subd. 2. Qualifying examination score required.** (a) An applicant for licensure must achieve a qualifying score on the credentialing examination for occupational therapy assistants.

(b) The commissioner shall determine the qualifying score for the credentialing examination for occupational therapy assistants. In determining the qualifying score, the commissioner shall consider the cut score recommended by the National Board for Certification in Occupational Therapy, or other national credentialing organization

approved by the commissioner, using the modified Angoff method for determining cut score or another method for determining cut score that is recognized as appropriate and acceptable by industry standards.

(c) The applicant is responsible for:

- (1) making all arrangements to take the credentialing examination for occupational therapy assistants;
- (2) bearing all expense associated with taking the examination; and
- (3) having the examination scores sent directly to the commissioner from the testing service that administers the examination.

**History:** 2000 c 361 s 7

#### 148.6412 LICENSURE BY EQUIVALENCY.

**Subdivision 1. Persons certified by National Board for Certification in Occupational Therapy before June 17, 1996.** Persons certified by the National Board for Certification in Occupational Therapy as an occupational therapist before June 17, 1996, may apply for licensure by equivalency for occupational therapist. Persons certified by the National Board for Certification in Occupational Therapy as an occupational therapy assistant before June 17, 1996, may apply for licensure by equivalency for occupational therapy assistant.

**Subd. 2. Persons certified by National Board for Certification in Occupational Therapy after June 17, 1996.** The commissioner may license any person certified by the National Board for Certification in Occupational Therapy as an occupational therapist after June 17, 1996, if the commissioner determines the requirements for certification are equivalent to or exceed the requirements for licensure as an occupational therapist under section 148.6408. The commissioner may license any person certified by the National Board for Certification in Occupational Therapy as an occupational therapy assistant after June 17, 1996, if the commissioner determines the requirements for certification are equivalent to or exceed the requirements for licensure as an occupational therapy assistant under section 148.6410. Nothing in this section limits the commissioner's authority to deny licensure based upon the grounds for discipline in sections 148.6401 to 148.6450.

**Subd. 3. Application procedures.** Applicants for licensure by equivalency must provide:

- (1) the application materials as required by section 148.6420, subdivisions 1, 3, and 4; and
- (2) the fees required by section 148.6445.

**History:** 2000 c 361 s 8

#### 148.6415 LICENSURE BY RECIPROCITY.

A person who holds a current credential as an occupational therapist in the District of Columbia or a state or territory of the United States whose standards for credentialing are determined by the commissioner to be equivalent to or exceed the requirements for licensure under section 148.6408 may be eligible for licensure by reciprocity as an occupational therapist. A person who holds a current credential as an occupational therapy assistant in the District of Columbia or a state or territory of the United States whose standards for credentialing are determined by the commissioner to be equivalent to or exceed the requirements for licensure under section 148.6410 may be eligible for licensure by reciprocity as an occupational therapy assistant. Nothing in this section limits the commissioner's authority to deny licensure based upon the grounds for discipline in sections 148.6401 to 148.6450. An applicant must provide:

- (1) the application materials as required by section 148.6420, subdivisions 1, 3, and 4;
- (2) the fees required by section 148.6445;
- (3) a copy of a current and unrestricted credential for the practice of occupational therapy as either an occupational therapist or occupational therapy assistant;

(4) a letter from the jurisdiction that issued the credential describing the applicant's qualifications that entitled the applicant to receive the credential; and

(5) other information necessary to determine whether the credentialing standards of the jurisdiction that issued the credential are equivalent to or exceed the requirements for licensure under sections 148.6401 to 148.6450.

**History:** 2000 c 361 s 9

#### 148.6418 TEMPORARY LICENSURE.

**Subdivision 1. Application.** The commissioner shall issue temporary licensure as an occupational therapist or occupational therapy assistant to applicants who have applied for licensure under section 148.6408, subdivisions 1 and 2; 148.6410, subdivisions 1 and 2; 148.6412; or 148.6415 and who are not the subject of a disciplinary action or past disciplinary action, nor disqualified on the basis of items listed in section 148.6448, subdivision 1.

**Subd. 2. Procedures.** To be eligible for temporary licensure, an applicant must submit the application materials required by section 148.6420, subdivision 1, the fees required by section 148.6445, and one of the following:

(1) evidence of successful completion of the requirements in section 148.6408, subdivision 1, or 148.6410, subdivision 1;

(2) a copy of a current and unrestricted credential for the practice of occupational therapy as either an occupational therapist or occupational therapy assistant in another jurisdiction; or

(3) a copy of a current and unrestricted certificate from the National Board for Certification in Occupational Therapy stating that the applicant is certified as an occupational therapist or occupational therapy assistant.

**Subd. 3. Additional documentation.** Persons who are credentialed by the National Board for Certification in Occupational Therapy or another jurisdiction must provide an affidavit with the application for temporary licensure stating that they are not the subject of a pending investigation or disciplinary action and have not been the subject of a disciplinary action in the past.

**Subd. 4. Supervision required.** An applicant who has graduated from an accredited occupational therapy program, as required by section 148.6408, subdivision 1, or 148.6410, subdivision 1, and who has not passed the examination required by section 148.6408, subdivision 2, or 148.6410, subdivision 2, must practice under the supervision of a licensed occupational therapist. The supervising therapist must, at a minimum, supervise the person working under temporary licensure in the performance of the initial evaluation; determination of the appropriate treatment plan, and periodic review and modification of the treatment plan. The supervising therapist must observe the person working under temporary licensure in order to assure service competency in carrying out evaluation, treatment planning, and treatment implementation. The frequency of face-to-face collaboration between the person working under temporary licensure and the supervising therapist must be based on the condition of each patient or client, the complexity of treatment and evaluation procedures, and the proficiencies of the person practicing under temporary licensure. The occupational therapist or occupational therapy assistant working under temporary licensure must provide verification of supervision on the application form provided by the commissioner.

**Subd. 5. Expiration of temporary licensure.** A temporary license issued to a person pursuant to subdivision 2, clause (1), expires six months from the date of issuance for occupational therapists and occupational therapy assistants or on the date the commissioner grants or denies licensure, whichever occurs first. A temporary license issued to a person pursuant to subdivision 2, clause (2) or (3), expires 90 days after it is issued. Upon application for renewal, a temporary license shall be renewed once to persons who have not met the examination requirement under section 148.6408, subdivision 2, or 148.6410, subdivision 2, within the initial temporary licensure period and who are not the subject of a disciplinary action nor disqualified on the basis of items in section 148.6448, subdivision 1. Upon application for renewal, a temporary license shall be

renewed once to persons who are able to demonstrate good cause for failure to meet the requirements for licensure under section 148.6412 or 148.6415 within the initial temporary licensure period and who are not the subject of a disciplinary action nor disqualified on the basis of items in section 148.6448, subdivision 1.

**History:** 2000 c 361 s 10; 2002 c 228 s 1

#### 148.6420 APPLICATION REQUIREMENTS.

Subdivision 1. **Applications for licensure.** An applicant for licensure must:

(1) submit a completed application for licensure on forms provided by the commissioner and must supply the information requested on the application, including:

(i) the applicant's name, business address and business telephone number, business setting, and daytime telephone number;

(ii) the name and location of the occupational therapy program the applicant completed;

(iii) a description of the applicant's education and training, including a list of degrees received from educational institutions;

(iv) the applicant's work history for the six years preceding the application, including the number of hours worked;

(v) a list of all credentials currently and previously held in Minnesota and other jurisdictions;

(vi) a description of any jurisdiction's refusal to credential the applicant;

(vii) a description of all professional disciplinary actions initiated against the applicant in any jurisdiction;

(viii) information on any physical or mental condition or chemical dependency that impairs the person's ability to engage in the practice of occupational therapy with reasonable judgment or safety;

(ix) a description of any misdemeanor or felony conviction that relates to honesty or to the practice of occupational therapy;

(x) a description of any state or federal court order, including a conciliation court judgment or a disciplinary order, related to the individual's occupational therapy practice; and

(xi) a statement indicating the physical agent modalities the applicant will use and whether the applicant will use the modalities as an occupational therapist or an occupational therapy assistant under direct supervision;

(2) submit with the application all fees required by section 148.6445;

(3) sign a statement that the information in the application is true and correct to the best of the applicant's knowledge and belief;

(4) sign a waiver authorizing the commissioner to obtain access to the applicant's records in this or any other state in which the applicant holds or previously held a credential for the practice of an occupation, has completed an accredited occupational therapy education program, or engaged in the practice of occupational therapy;

(5) submit additional information as requested by the commissioner; and

(6) submit the additional information required for licensure by equivalency, licensure by reciprocity, and temporary licensure as specified in sections 148.6408 to 148.6418.

Subd. 2. **Persons applying for licensure under section 148.6408 or 148.6410.** Persons applying for licensure under section 148.6408 or 148.6410 must submit the materials required in subdivision 1 and the following:

(1) a certificate of successful completion of the requirements in section 148.6408, subdivision 1, or 148.6410, subdivision 1; and

(2) the applicant's test results from the examining agency, as evidence that the applicant received a qualifying score on a credentialing examination meeting the requirements of section 148.6408, subdivision 2, or 148.6410, subdivision 2.

Subd. 3. **Applicants who are certified by National Board for Certification in Occupational Therapy.** An applicant who is certified by the National Board for Certification in Occupational Therapy must provide the materials required in subdivision 1 and the following:

(1) verified documentation from the National Board for Certification in Occupational Therapy stating that the applicant is certified as an occupational therapist, registered or certified occupational therapy assistant, the date certification was granted, and the applicant's certification number. The document must also include a statement regarding disciplinary actions. The applicant is responsible for obtaining this documentation by sending a form provided by the commissioner to the National Board for Certification in Occupational Therapy; and

(2) a waiver authorizing the commissioner to obtain access to the applicant's records maintained by the National Board for Certification in Occupational Therapy.

Subd. 4. **Applicants credentialed in another jurisdiction.** In addition to providing the materials required in subdivision 1, an applicant credentialed in another jurisdiction must request that the appropriate government body in each jurisdiction in which the applicant holds or held an occupational therapy credential send a letter to the commissioner that verifies the applicant's credentials. Except as provided in section 148.6418, a license shall not be issued until the commissioner receives letters verifying each of the applicant's credentials. Each letter must include the applicant's name and date of birth, credential number and date of issuance, a statement regarding investigations pending and disciplinary actions taken or pending against the applicant, current status of the credential, and the terms under which the credential was issued.

Subd. 5. **Action on applications for licensure.** (a) The commissioner shall approve, approve with conditions, or deny licensure. The commissioner shall act on an application for licensure according to paragraphs (b) to (d).

(b) The commissioner shall determine if the applicant meets the requirements for licensure. The commissioner, or the advisory council at the commissioner's request, may investigate information provided by an applicant to determine whether the information is accurate and complete.

(c) The commissioner shall notify an applicant of action taken on the application and, if licensure is denied or approved with conditions, the grounds for the commissioner's determination.

(d) An applicant denied licensure or granted licensure with conditions may make a written request to the commissioner, within 30 days of the date of the commissioner's determination, for reconsideration of the commissioner's determination. Individuals requesting reconsideration may submit information which the applicant wants considered in the reconsideration. After reconsideration of the commissioner's determination to deny licensure or grant licensure with conditions, the commissioner shall determine whether the original determination should be affirmed or modified. An applicant is allowed no more than one request in any one biennial licensure period for reconsideration of the commissioner's determination to deny licensure or approve licensure with conditions.

*History: 2000 c 361 s 11; 2001 c 7 s 37,38*

#### **148.6423 LICENSURE RENEWAL.**

Subdivision 1. **Renewal requirements.** To be eligible for licensure renewal, a licensee must:

(1) submit a completed and signed application for licensure renewal on forms provided by the commissioner;

(2) submit the renewal fee required under section 148.6445;

(3) submit proof of having met the continuing education requirement of section 148.6443 on forms provided by the commissioner; and

(4) submit additional information as requested by the commissioner to clarify information presented in the renewal application. The information must be submitted within 30 days after the commissioner's request.

**Subd. 2. Renewal deadline.** (a) Except as provided in paragraph (c), licenses must be renewed every two years. Licensees must comply with the following procedures in paragraphs (b) to (e):

(b) Each license must state an expiration date. An application for licensure renewal must be received by the Department of Health or postmarked at least 30 calendar days before the expiration date. If the postmark is illegible, the application shall be considered timely if received at least 21 calendar days before the expiration date.

(c) If the commissioner changes the renewal schedule and the expiration date is less than two years, the fee and the continuing education contact hours to be reported at the next renewal must be prorated.

(d) An application for licensure renewal not received within the time required under paragraph (b), but received on or before the expiration date, must be accompanied by a late fee in addition to the renewal fee specified by section 148.6445.

(e) Licensure renewals received after the expiration date shall not be accepted and persons seeking licensed status must comply with the requirements of section 148.6425.

**Subd. 3. Licensure renewal notice.** At least 60 calendar days before the expiration date in subdivision 2, the commissioner shall mail a renewal notice to the licensee's last known address on file with the commissioner. The notice must include an application for licensure renewal and notice of fees required for renewal. The licensee's failure to receive notice does not relieve the licensee of the obligation to meet the renewal deadline and other requirements for licensure renewal.

**History:** 2000 c 361 s 12

#### **148.6425 RENEWAL OF LICENSURE; AFTER EXPIRATION DATE.**

**Subdivision 1. Removal of name from list.** The names of licensees who do not comply with the licensure renewal requirements of section 148.6423 on or before the expiration date shall be removed from the list of individuals authorized to practice occupational therapy and to use the protected titles in section 148.6403. The licensees must comply with the requirements of this section in order to regain licensed status.

**Subd. 2. Licensure renewal after licensure expiration date.** An individual whose application for licensure renewal is received after the licensure expiration date must submit the following:

(1) a completed and signed application for licensure following lapse in licensed status on forms provided by the commissioner;

(2) the renewal fee and the late fee required under section 148.6445;

(3) proof of having met the continuing education requirements since the individual's initial licensure or last licensure renewal; and

(4) additional information as requested by the commissioner to clarify information in the application, including information to determine whether the individual has engaged in conduct warranting disciplinary action as set forth in section 148.6448. The information must be submitted within 30 days after the commissioner's request.

**Subd. 3. Licensure renewal four years or more after licensure expiration date.** (a) An individual who requests licensure renewal four years or more after the licensure expiration date must submit the following:

(1) a completed and signed application for licensure on forms provided by the commissioner;

(2) the renewal fee and the late fee required under section 148.6445 if renewal application is based on paragraph (b), clause (1), (2), or (3), or the renewal fee required under section 148.6445 if renewal application is based on paragraph (b), clause (4);

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(3) proof of having met the continuing education requirement for the most recently completed two-year continuing education cycle; and

(4) at the time of the next licensure renewal, proof of having met the continuing education requirement, which shall be prorated based on the number of months licensed during the biennial licensure period.

(b) In addition to the requirements in paragraph (a), the applicant must submit proof of one of the following:

(1) verified documentation of successful completion of 160 hours of supervised practice approved by the commissioner as described in paragraph (c);

(2) verified documentation of having achieved a qualifying score on the credentialing examination for occupational therapists or the credentialing examination for occupational therapy assistants administered within the past year;

(3) documentation of having completed a combination of occupational therapy courses or an occupational therapy refresher program that contains both a theoretical and clinical component approved by the commissioner. Only courses completed within one year preceding the date of the application or one year after the date of the application qualify for approval; or

(4) evidence that the applicant holds a current and unrestricted credential for the practice of occupational therapy in another jurisdiction and that the applicant's credential from that jurisdiction has been held in good standing during the period of lapse.

(c) To participate in a supervised practice as described in paragraph (b), clause (1), the applicant shall obtain limited licensure. To apply for limited licensure, the applicant shall submit the completed limited licensure application, fees, and agreement for supervision of an occupational therapist or occupational therapy assistant practicing under limited licensure signed by the supervising therapist and the applicant. The supervising occupational therapist shall state the proposed level of supervision on the supervision agreement form provided by the commissioner. The supervising therapist shall determine the frequency and manner of supervision based on the condition of the patient or client, the complexity of the procedure, and the proficiencies of the supervised occupational therapist. At a minimum, a supervising occupational therapist shall be on the premises at all times that the person practicing under limited licensure is working; be in the room ten percent of the hours worked each week by the person practicing under limited licensure; and provide daily face-to-face collaboration for the purpose of observing service competency of the occupational therapist or occupational therapy assistant, discussing treatment procedures and each client's response to treatment, and reviewing and modifying, as necessary, each treatment plan. The supervising therapist shall document the supervision provided. The occupational therapist participating in a supervised practice is responsible for obtaining the supervision required under this paragraph and must comply with the commissioner's requirements for supervision during the entire 160 hours of supervised practice. The supervised practice must be completed in two months and may be completed at the applicant's place of work.

(d) In addition to the requirements in paragraphs (a) and (b), the applicant must submit additional information as requested by the commissioner to clarify information in the application, including information to determine whether the applicant has engaged in conduct warranting disciplinary action as set forth in section 148.6448. The information must be submitted within 30 days after the commissioner's request.

**History:** 2000 c 361 s 13; 2001 c 7 s 39,40; 2003 c 118 s 2

## 148.6428 CHANGE OF ADDRESS OR EMPLOYMENT.

A licensee who changes addresses or employment must inform the commissioner, in writing, of the change of address, employment, business address, or business telephone number within 30 days. All notices or other correspondence mailed to or

served on a licensee by the commissioner at the licensee's address on file with the commissioner shall be considered as having been received by the licensee.

**History:** 2000 c 361 s 14; 2004 c 279 art 1 s 22

#### 148.6430 DELEGATION OF DUTIES; ASSIGNMENT OF TASKS.

The occupational therapist is responsible for all duties delegated to the occupational therapy assistant or tasks assigned to direct service personnel. The occupational therapist may delegate to an occupational therapy assistant those portions of a client's evaluation, reevaluation, and treatment that, according to prevailing practice standards of the American Occupational Therapy Association, can be performed by an occupational therapy assistant. The occupational therapist may not delegate portions of an evaluation or reevaluation of a person whose condition is changing rapidly. Delegation of duties related to use of physical agent modalities to occupational therapy assistants is governed by section 148.6440, subdivision 6.

**History:** 2000 c 361 s 15

#### 148.6432 SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS.

Subdivision 1. **Applicability.** If the professional standards identified in section 148.6430 permit an occupational therapist to delegate an evaluation, reevaluation, or treatment procedure, the occupational therapist must provide supervision consistent with this section. Supervision of occupational therapy assistants using physical agent modalities is governed by section 148.6440, subdivision 6.

Subd. 2. **Evaluations.** The occupational therapist shall determine the frequency of evaluations and reevaluations for each client. The occupational therapy assistant shall inform the occupational therapist of the need for more frequent reevaluation if indicated by the client's condition or response to treatment. Before delegating a portion of a client's evaluation pursuant to section 148.6430, the occupational therapist shall ensure the service competency of the occupational therapy assistant in performing the evaluation procedure and shall provide supervision consistent with the condition of the patient or client and the complexity of the evaluation procedure.

Subd. 3. **Treatment.** (a) The occupational therapist shall determine the frequency and manner of supervision of an occupational therapy assistant performing treatment procedures delegated pursuant to section 148.6430, based on the condition of the patient or client, the complexity of the treatment procedure, and the proficiencies of the occupational therapy assistant.

(b) Face-to-face collaboration between the occupational therapist and the occupational therapy assistant shall occur, at a minimum, every two weeks, during which time the occupational therapist is responsible for:

(1) planning and documenting an initial treatment plan and discharge from treatment;

(2) reviewing treatment goals, therapy programs, and client progress;

(3) supervising changes in the treatment plan;

(4) conducting or observing treatment procedures for selected clients and documenting appropriateness of treatment procedures. Clients shall be selected based on the occupational therapy services provided to the client and the role of the occupational therapist and the occupational therapy assistant in those services; and

(5) ensuring the service competency of the occupational therapy assistant in performing delegated treatment procedures.

(c) Face-to-face collaboration must occur more frequently than every two weeks if necessary to meet the requirements of paragraph (a) or (b).

(d) The occupational therapist shall document compliance with this subdivision in the client's file or chart.

Subd. 4. **Exception.** The supervision requirements of this section do not apply to an occupational therapy assistant who:



- (1) works in an activities program; and
- (2) does not perform occupational therapy services.

The occupational therapy assistant must meet all other applicable requirements of sections 148.6401 to 148.6450.

**History:** 2000 c 361 s 16

#### 148.6435 COORDINATION OF SERVICES.

An occupational therapist shall:

(1) collect information necessary to ensure that the provision of occupational therapy services are consistent with the client's physical and mental health status. The information required to make this determination may include, but is not limited to, contacting the client's licensed health care professional for health history, current health status, current medications, and precautions;

(2) modify or terminate occupational therapy treatment of a client that is not beneficial to the client, not tolerated by the client, or refused by the client, and if treatment was terminated for a medical reason, notify the client's licensed health care professional by correspondence postmarked or delivered to the licensed health care professional within seven calendar days of the termination of treatment;

(3) refer a client to an appropriate health care, social service, or education practitioner if the client's condition requires services not within the occupational therapist's service competency or not within the practice of occupational therapy generally;

(4) participate and cooperate in the coordination of occupational therapy services with other related services, as a member of the professional community serving the client; and

(5) communicate, in writing, with the appropriate licensed health care professional an occupational therapy plan of care, postmarked or delivered to the licensed health care professional within 14 calendar days of the initiation of treatment. The occupational therapist must provide this written communication even if occupational therapy treatment is concluded in less than 14 consecutive days. The occupational therapist shall document modifications to the plan of care requested by the licensed health care professional following consultation with the licensed health care professional. Occupational therapists employed by a school system are exempt from the requirements of this clause in the performance of their duties within the school system.

**History:** 2000 c 361 s 17

#### 148.6438 RECIPIENT NOTIFICATION.

Subdivision 1. **Required notification.** In the absence of a physician referral or prior authorization, and before providing occupational therapy services for remuneration or expectation of payment from the client, an occupational therapist must provide the following written notification in all capital letters of 12-point or larger boldface type, to the client, parent, or guardian:

"Your health care provider, insurer, or plan may require a physician referral or prior authorization and you may be obligated for partial or full payment for occupational therapy services rendered."

Information other than this notification may be included as long as the notification remains conspicuous on the face of the document. A nonwritten disclosure format may be used to satisfy the recipient notification requirement when necessary to accommodate the physical condition of a client or client's guardian.

Subd. 2. **Evidence of recipient notification.** The occupational therapist is responsible for providing evidence of compliance with the recipient notification requirement of this section.

**History:** 2000 c 361 s 18

**148.6440 PHYSICAL AGENT MODALITIES.**

Subdivision 1. **General considerations.** (a) Occupational therapists who use superficial physical agent modalities must comply with the requirements in subdivision 3. Occupational therapists who use electrotherapy must comply with the requirements in subdivision 4. Occupational therapists who use ultrasound devices must comply with the requirements in subdivision 5. Occupational therapy assistants who use physical agent modalities must comply with subdivision 6.

(b) Use of superficial physical agent modalities, electrical stimulation devices, and ultrasound devices must be on the order of a physician.

(c) The commissioner shall maintain a roster of persons licensed under sections 148.6401 to 148.6450 who use physical agent modalities. Prior to using a physical agent modality, licensees must inform the commissioner of the physical agent modality they will use. Persons who use physical agent modalities must indicate on their initial and renewal applications the physical agent modalities that they use.

(d) Licensees are responsible for informing the commissioner of any changes in the information required in this section within 30 days of any change.

Subd. 2. **Written documentation required.** Prior to use of physical agent modalities, an occupational therapist must provide to the commissioner documentation verifying that the occupational therapist has met the educational and clinical requirements described in subdivisions 3 to 5, depending on the modality or modalities used. Both theoretical training and clinical application objectives must be met for each modality used. Documentation must include the name and address of the individual or organization sponsoring the activity; the name and address of the facility at which the activity was presented; and a copy of the course, workshop, or seminar description, including learning objectives and standards for meeting the objectives. In the case of clinical application objectives, teaching methods must be documented, including actual supervised practice. Documentation must include a transcript or certificate showing successful completion of the coursework. Practitioners are prohibited from using physical agent modalities independently until granted approval as provided in subdivision 7.

Subd. 3. **Educational and clinical requirements for use of superficial physical agent modalities.** (a) An occupational therapist may use superficial physical agent modalities if the occupational therapist has received theoretical training and clinical application training in the use of superficial physical agent modalities.

(b) Theoretical training in the use of superficial physical agent modalities must:

(1) explain the rationale and clinical indications for use of superficial physical agent modalities;

(2) explain the physical properties and principles of the superficial physical agent modalities;

(3) describe the types of heat and cold transference;

(4) explain the factors affecting tissue response to superficial heat and cold;

(5) describe the biophysical effects of superficial physical agent modalities in normal and abnormal tissue;

(6) describe the thermal conductivity of tissue, matter, and air;

(7) explain the advantages and disadvantages of superficial physical agent modalities; and

(8) explain the precautions and contraindications of superficial physical agent modalities.

(c) Clinical application training in the use of superficial physical agent modalities must include activities requiring the practitioner to:

(1) formulate and justify a plan for the use of superficial physical agents for treatment appropriate to its use and simulate the treatment;

(2) evaluate biophysical effects of the superficial physical agents;

(3) identify when modifications to the treatment plan for use of superficial physical agents are needed and propose the modification plan;

(4) safely and appropriately administer superficial physical agents under the supervision of a course instructor or clinical trainer;

(5) document parameters of treatment, patient response, and recommendations for progression of treatment for the superficial physical agents; and

(6) demonstrate the ability to work competently with superficial physical agents as determined by a course instructor or clinical trainer.

**Subd. 4. Educational and clinical requirements for use of electrotherapy.** (a) An occupational therapist may use electrotherapy if the occupational therapist has received theoretical training and clinical application training in the use of electrotherapy.

(b) Theoretical training in the use of electrotherapy must:

(1) explain the rationale and clinical indications of electrotherapy, including pain control, muscle dysfunction, and tissue healing;

(2) demonstrate comprehension and understanding of electrotherapeutic terminology and biophysical principles, including current, voltage, amplitude, and resistance;

(3) describe the types of current used for electrical stimulation, including the description, modulations, and clinical relevance;

(4) describe the time-dependent parameters of pulsed and alternating currents, including pulse and phase durations and intervals;

(5) describe the amplitude-dependent characteristics of pulsed and alternating currents;

(6) describe neurophysiology and the properties of excitable tissue;

(7) describe nerve and muscle response from externally applied electrical stimulation, including tissue healing;

(8) describe the electrotherapeutic effects and the response of nerve, denervated and innervated muscle, and other soft tissue; and

(9) explain the precautions and contraindications of electrotherapy, including considerations regarding pathology of nerve and muscle tissue.

(c) Clinical application training in the use of electrotherapy must include activities requiring the practitioner to:

(1) formulate and justify a plan for the use of electrical stimulation devices for treatment appropriate to its use and simulate the treatment;

(2) evaluate biophysical treatment effects of the electrical stimulation;

(3) identify when modifications to the treatment plan using electrical stimulation are needed and propose the modification plan;

(4) safely and appropriately administer electrical stimulation under supervision of a course instructor or clinical trainer;

(5) document the parameters of treatment, case example (patient) response, and recommendations for progression of treatment for electrical stimulation; and

(6) demonstrate the ability to work competently with electrical stimulation as determined by a course instructor or clinical trainer.

**Subd. 5. Educational and clinical requirements for use of ultrasound.** (a) An occupational therapist may use an ultrasound device if the occupational therapist has received theoretical training and clinical application training in the use of ultrasound.

(b) The theoretical training in the use of ultrasound must:

(1) explain the rationale and clinical indications for the use of ultrasound, including anticipated physiological responses of the treated area;

(2) describe the biophysical thermal and nonthermal effects of ultrasound on normal and abnormal tissue;

(3) explain the physical principles of ultrasound, including wavelength, frequency, attenuation, velocity, and intensity;

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(4) explain the mechanism and generation of ultrasound and energy transmission through physical matter; and

(5) explain the precautions and contraindications regarding use of ultrasound devices.

(c) The clinical application training in the use of ultrasound must include activities requiring the practitioner to:

(1) formulate and justify a plan for the use of ultrasound for treatment appropriate to its use and stimulate the treatment;

(2) evaluate biophysical effects of ultrasound;

(3) identify when modifications to the treatment plan for use of ultrasound are needed and propose the modification plan;

(4) safely and appropriately administer ultrasound under supervision of a course instructor or clinical trainer;

(5) document parameters of treatment, patient response, and recommendations for progression of treatment for ultrasound; and

(6) demonstrate the ability to work competently with ultrasound as determined by a course instructor or clinical trainer.

**Subd. 6. Occupational therapy assistant use of physical agent modalities.** An occupational therapy assistant may set up and implement treatment using physical agent modalities if the assistant meets the requirements of this section, has demonstrated service competency for the particular modality used, and works under the direct supervision of an occupational therapist. An occupational therapy assistant who uses superficial physical agent modalities must meet the requirements of subdivision 3. An occupational therapy assistant who uses electrotherapy must meet the requirements of subdivision 4. An occupational therapy assistant who uses ultrasound must meet the requirements of subdivision 5. An occupational therapist may not delegate evaluation, reevaluation, treatment planning, and treatment goals for physical agent modalities to an occupational therapy assistant.

**Subd. 7. Approval.** (a) The advisory council shall appoint a committee to review documentation under subdivisions 2 to 6 to determine if established educational and clinical requirements are met.

(b) Occupational therapists shall be advised of the status of their request for approval within 30 days. Occupational therapists must provide any additional information requested by the committee that is necessary to make a determination regarding approval or denial.

(c) A determination regarding a request for approval of training under this subdivision shall be made in writing to the occupational therapist. If denied, the reason for denial shall be provided.

(d) A licensee who was approved by the commissioner as a level two provider prior to July 1, 1999, shall remain on the roster maintained by the commissioner in accordance with subdivision 1, paragraph (c).

(e) To remain on the roster maintained by the commissioner, a licensee who was approved by the commissioner as a level one provider prior to July 1, 1999, must submit to the commissioner documentation of training and experience gained using physical agent modalities since the licensee's approval as a level one provider. The committee appointed under paragraph (a) shall review the documentation and make a recommendation to the commissioner regarding approval.

(f) An occupational therapist who received training in the use of physical agent modalities prior to July 1, 1999, but who has not been placed on the roster of approved providers may submit to the commissioner documentation of training and experience gained using physical agent modalities. The committee appointed under paragraph (a) shall review documentation and make a recommendation to the commissioner regarding approval.

**History:** 2000 c 361 s 19

**148.6443 CONTINUING EDUCATION REQUIREMENTS.**

Subdivision 1. **General requirements.** An occupational therapist applying for licensure renewal must have completed a minimum of 24 contact hours of continuing education in the two years preceding licensure renewal. An occupational therapy assistant applying for licensure renewal must have completed a minimum of 18 contact hours of continuing education in the two years preceding licensure renewal. Licensees who are issued licenses for a period of less than two years shall prorate the number of contact hours required for licensure renewal based on the number of months licensed during the biennial licensure period. Licensees shall receive contact hours for continuing education activities only for the biennial licensure period in which the continuing education activity was performed.

To qualify as a continuing education activity, the activity must be a minimum of one contact hour. Contact hours must be earned and reported in increments of one contact hour or one-half contact hour after the first contact hour of each continuing education activity. One-half contact hour means an instructional session of 30 consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and social activities.

Each licensee is responsible for financing the cost of the licensee's continuing education activities.

Subd. 2. **Standards for determining qualified continuing education activities.** Except as provided in subdivision 3, paragraph (f), in order to qualify as a continuing education activity, the activity must:

- (1) constitute an organized program of learning;
- (2) reasonably be expected to advance the knowledge and skills of the occupational therapy practitioner;
- (3) pertain to subjects that directly relate to the practice of occupational therapy;
- (4) be conducted by individuals who have education, training, and experience by reason of which the individuals should be considered experts on the subject matter of the activity; and
- (5) be presented by a sponsor who has a mechanism to verify participation and maintains attendance records for three years.

Subd. 3. **Activities qualifying for continuing education contact hours.** (a) The activities in this subdivision qualify for continuing education contact hours if they meet all other requirements of this section.

(b) A licensee may obtain an unlimited number of contact hours in any two-year continuing education period through participation in the following:

- (1) attendance at educational programs of annual conferences, lectures, panel discussions, workshops, in-service training, seminars, and symposiums;
- (2) successful completion of college or university courses. The licensee must obtain a grade of at least a "C" or a pass or fail course in order to receive the following continuing education credits:

- (i) one semester credit equals 14 contact hours;
- (ii) one trimester credit equals 12 contact hours; and
- (iii) one quarter credit equals ten contact hours; and
- (3) successful completion of home study courses that require the participant to demonstrate the participant's knowledge following completion of the course.

(c) A licensee may obtain a maximum of six contact hours in any two-year continuing education period for teaching continuing education courses that meet the requirements of this section. A licensee is entitled to earn a maximum of two contact hours as preparation time for each contact hour of presentation time. Contact hours may be claimed only once for teaching the same course in any two-year continuing education period. A course schedule or brochure must be maintained for audit.

(d) A licensee may obtain a maximum of two contact hours in any two-year continuing education period for continuing education activities in the following areas:

(1) business-related topics: marketing, time management, administration, risk management, government regulations, techniques for training professionals, computer skills, and similar topics;

(2) personal skill topics: career burnout, communication skills, human relations, and similar topics; and

(3) training that is obtained in conjunction with a licensee's employment, occurs during a licensee's normal workday, and does not include subject matter specific to the fundamentals of occupational therapy.

(e) An occupational therapy practitioner that utilizes leisure activities, recreational activities, or hobbies as part of occupational therapy services in the practitioner's current work setting may obtain a maximum of six contact hours in any two-year continuing education period for participation in courses teaching these activities.

(f) A licensee may obtain a maximum of six contact hours in any two-year continuing education period for supervision of occupational therapist or occupational therapy assistant students. A licensee may earn one contact hour for every eight hours of student supervision. Licensees must maintain a log indicating the name of each student supervised and the hours each student was supervised. Contact hours obtained by student supervision must be obtained by supervising students from an occupational therapy education program accredited by the Accreditation Council for Occupational Therapy Education.

**Subd. 4. Activities not qualifying for continuing education contact hours.** No credit shall be granted for the following activities: hospital rounds, entertainment or recreational activities, employment orientation sessions, holding an office or serving as an organizational delegate, meetings for the purpose of making policy, noneducational association meetings, training related to payment systems, including covered services, coding, and billing.

**Subd. 5. Reporting continuing education contact hours.** Within one month following licensure expiration, each licensee shall submit verification that the licensee has met the continuing education requirements of this section on the continuing education report form provided by the commissioner. The continuing education report form may require the following information:

- (1) title of continuing education activity;
- (2) brief description of the continuing education activity;
- (3) sponsor, presenter, or author;
- (4) location and attendance dates;
- (5) number of contact hours; and
- (6) licensee's notarized affirmation that the information is true and correct.

**Subd. 6. Auditing continuing education reports.** (a) The commissioner may audit a percentage of the continuing education reports based on random selection. A licensee shall maintain all documentation required by this section for two years after the last day of the biennial licensure period in which the contact hours were earned.

(b) All renewal applications that are received after the expiration date may be subject to a continuing education report audit.

(c) Any licensee against whom a complaint is filed may be subject to a continuing education report audit.

(d) The licensee shall make the following information available to the commissioner for auditing purposes:

(1) a copy of the completed continuing education report form for the continuing education reporting period that is the subject of the audit including all supporting documentation required by subdivision 5;

(2) a description of the continuing education activity prepared by the presenter or sponsor that includes the course title or subject matter, date, place, number of program contact hours, presenters, and sponsors;

(3) documentation of self-study programs by materials prepared by the presenter or sponsor that includes the course title, course description, name of sponsor or author, and the number of hours required to complete the program;

(4) documentation of university, college, or vocational school courses by a course syllabus, listing in a course bulletin, or equivalent documentation that includes the course title, instructor's name, course dates, number of contact hours, and course content, objectives, or goals; and

(5) verification of attendance by:

(i) a signature of the presenter or a designee at the continuing education activity on the continuing education report form or a certificate of attendance with the course name, course date, and licensee's name;

(ii) a summary or outline of the educational content of an audio or video educational activity to verify the licensee's participation in the activity if a designee is not available to sign the continuing education report form;

(iii) verification of self-study programs by a certificate of completion or other documentation indicating that the individual has demonstrated knowledge and has successfully completed the program; or

(iv) verification of attendance at a university, college, or vocational course by an official transcript.

**Subd. 7. Waiver of continuing education requirements.** The commissioner may grant a waiver of the requirements of this section in cases where the requirements would impose an extreme hardship on the licensee. The request for a waiver must be in writing, state the circumstances that constitute extreme hardship, state the period of time the licensee wishes to have the continuing education requirement waived, and state the alternative measures that will be taken if a waiver is granted. The commissioner shall set forth, in writing, the reasons for granting or denying the waiver. Waivers granted by the commissioner shall specify, in writing, the time limitation and required alternative measures to be taken by the licensee. A request for waiver shall be denied if the commissioner finds that the circumstances stated by the licensee do not support a claim of extreme hardship, the requested time period for waiver is unreasonable, the alternative measures proposed by the licensee are not equivalent to the continuing education activity being waived, or the request for waiver is not submitted to the commissioner within 60 days after the expiration date.

**Subd. 8. Penalties for noncompliance.** The commissioner shall refuse to renew or grant, or shall suspend, condition, limit, or qualify the license of any person who the commissioner determines has failed to comply with the continuing education requirements of this section. A licensee may request reconsideration of the commissioner's determination of noncompliance or the penalty imposed under this section by making a written request to the commissioner within 30 days of the date of notification to the applicant. Individuals requesting reconsideration may submit information that the licensee wants considered in the reconsideration.

**History:** 2000 c 361 s 20; 2004 c 279 art 1 s 23,24

#### **148.6445 FEES.**

**Subdivision 1. Initial licensure fee.** The initial licensure fee for occupational therapists is \$180. The initial licensure fee for occupational therapy assistants is \$100. The commissioner shall prorate fees based on the number of quarters remaining in the biennial licensure period.

**Subd. 2. Licensure renewal fee.** The biennial licensure renewal fee for occupational therapists is \$180. The biennial licensure renewal fee for occupational therapy assistants is \$100.

**Subd. 3. Late fee.** The fee for late submission of a renewal application is \$25.

**Subd. 4. Temporary licensure fee.** The fee for temporary licensure is \$50.

**Subd. 5. Limited licensure fee.** The fee for limited licensure is \$96.

Subd. 6. **Fee for course approval after lapse of licensure.** The fee for course approval after lapse of licensure is \$96.

Subd. 7. **Verification to other states.** The fee for verification of licensure to other states is \$25.

Subd. 8. **Verification to institutions.** The fee for verification of licensure to institutions is \$10.

Subd. 9. [Repealed, 1Sp2003 c 14 art 7 s 89]

Subd. 10. **Nonrefundable fees.** All fees are nonrefundable.

**History:** 2000 c 361 s 21; 1Sp2003 c 14 art 7 s 52

#### **148.6448 GROUNDS FOR DENIAL OF LICENSURE OR DISCIPLINE; INVESTIGATION PROCEDURES; DISCIPLINARY ACTIONS.**

Subdivision 1. **Grounds for denial of licensure or discipline.** The commissioner may deny an application for licensure, may approve licensure with conditions, or may discipline a licensee using any disciplinary actions listed in subdivision 3 on proof that the individual has:

(1) intentionally submitted false or misleading information to the commissioner or the advisory council;

(2) failed, within 30 days, to provide information in response to a written request by the commissioner or advisory council;

(3) performed services of an occupational therapist or occupational therapy assistant in an incompetent manner or in a manner that falls below the community standard of care;

(4) failed to satisfactorily perform occupational therapy services during a period of temporary licensure;

(5) violated sections 148.6401 to 148.6450;

(6) failed to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;

(7) been convicted of violating any state or federal law, rule, or regulation which directly relates to the practice of occupational therapy;

(8) aided or abetted another person in violating any provision of sections 148.6401 to 148.6450;

(9) been disciplined for conduct in the practice of an occupation by the state of Minnesota, another jurisdiction, or a national professional association, if any of the grounds for discipline are the same or substantially equivalent to those in sections 148.6401 to 148.6450;

(10) not cooperated with the commissioner or advisory council in an investigation conducted according to subdivision 2;

(11) advertised in a manner that is false or misleading;

(12) engaged in dishonest, unethical, or unprofessional conduct in connection with the practice of occupational therapy that is likely to deceive, defraud, or harm the public;

(13) demonstrated a willful or careless disregard for the health, welfare, or safety of a client;

(14) performed medical diagnosis or provided treatment, other than occupational therapy, without being licensed to do so under the laws of this state;

(15) paid or promised to pay a commission or part of a fee to any person who contacts the occupational therapist for consultation or sends patients to the occupational therapist for treatment;

(16) engaged in an incentive payment arrangement, other than that prohibited by clause (15), that promotes occupational therapy overutilization, whereby the referring person or person who controls the availability of occupational therapy services to a client profits unreasonably as a result of client treatment;



(17) engaged in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws, Food and Drug Administration regulations, or state medical assistance laws;

(18) obtained money, property, or services from a consumer through the use of undue influence, high pressure sales tactics, harassment, duress, deception, or fraud;

(19) performed services for a client who had no possibility of benefiting from the services;

(20) failed to refer a client for medical evaluation when appropriate or when a client indicated symptoms associated with diseases that could be medically or surgically treated;

(21) engaged in conduct with a client that is sexual or may reasonably be interpreted by the client as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient;

(22) violated a federal or state court order, including a conciliation court judgment, or a disciplinary order issued by the commissioner, related to the person's occupational therapy practice; or

(23) any other just cause related to the practice of occupational therapy.

**Subd. 2. Investigation of complaints.** The commissioner, or the advisory council when authorized by the commissioner, may initiate an investigation upon receiving a complaint or other oral or written communication that alleges or implies that a person has violated sections 148.6401 to 148.6450. In the receipt, investigation, and hearing of a complaint that alleges or implies a person has violated sections 148.6401 to 148.6450, the commissioner shall follow the procedures in section 214.10.

**Subd. 3. Disciplinary actions.** If the commissioner finds that an occupational therapist or occupational therapy assistant should be disciplined according to subdivision 1, the commissioner may take any one or more of the following actions:

(1) refuse to grant or renew licensure;

(2) approve licensure with conditions;

(3) revoke licensure;

(4) suspend licensure;

(5) any reasonable lesser action including, but not limited to, reprimand or restriction on licensure; or

(6) any action authorized by statute.

**Subd. 4. Effect of specific disciplinary action on use of title.** Upon notice from the commissioner denying licensure renewal or upon notice that disciplinary actions have been imposed and the person is no longer entitled to practice occupational therapy and use the occupational therapy and licensed titles, the person shall cease to practice occupational therapy, to use titles protected by sections 148.6401 to 148.6450, and to represent to the public that the person is licensed by the commissioner.

**Subd. 5. Reinstatement requirements after disciplinary action.** A person who has had licensure suspended may request and provide justification for reinstatement following the period of suspension specified by the commissioner. The requirements of sections 148.6423 and 148.6425 for renewing licensure and any other conditions imposed with the suspension must be met before licensure may be reinstated.

**History:** 2000 c 361 s 22; 2001 c 7 s 41

#### 148.6450 OCCUPATIONAL THERAPY PRACTITIONERS ADVISORY COUNCIL.

**Subdivision 1. Membership.** The commissioner shall appoint seven persons to an Occupational Therapy Practitioners Advisory Council consisting of the following:

(1) two public members, as defined in section 214.02. The public members shall be either persons who have received occupational therapy services or family members of or caregivers to such persons;

(2) two members who are occupational therapists and two occupational therapy assistants licensed under sections 148.6401 to 148.6450, each of whom is employed in a

different practice area including, but not limited to, long-term care, school therapy, early intervention, administration, gerontology, industrial rehabilitation, cardiac rehabilitation, physical disability, pediatrics, mental health, home health, and hand therapy. Three of the four occupational therapy practitioners who serve on the advisory council must be currently, and for the three years preceding the appointment, engaged in the practice of occupational therapy or employed as an administrator or an instructor of an occupational therapy program. At least one of the four occupational therapy practitioners who serves on the advisory council must be employed in a rural area; and

(3) one member who is a licensed or registered health care practitioner, or other credentialed practitioner, who works collaboratively with occupational therapy practitioners.

Subd. 2. **Duties.** At the commissioner's request, the advisory council shall:

(1) advise the commissioner regarding the occupational therapy practitioner licensure standards;

(2) advise the commissioner on enforcement of sections 148.6401 to 148.6450;

(3) provide for distribution of information regarding occupational therapy practitioners licensure standards;

(4) review applications and make recommendations to the commissioner on granting or denying licensure or licensure renewal;

(5) review reports of investigations relating to individuals and make recommendations to the commissioner as to whether licensure should be denied or disciplinary action taken against the person; and

(6) perform other duties authorized for advisory councils by chapter 214, as directed by the commissioner.

**History:** 2000 c 361 s 23

## PHYSICAL THERAPISTS

### 148.65 DEFINITIONS.

Subdivision 1. **Physical therapy.** As used in sections 148.65 to 148.78 the term "physical therapy" means the evaluation or treatment or both of any person by the employment of physical measures and the use of therapeutic exercises and rehabilitative procedures, with or without assistive devices, for the purpose of preventing, correcting, or alleviating a physical or mental disability. Physical measures shall include but shall not be limited to heat or cold, air, light, water, electricity and sound. Physical therapy includes evaluation other than medical diagnosis, treatment planning, treatment, documentation, performance of appropriate tests and measurement, interpretation of orders or referrals, instruction, consultative services, and supervision of supportive personnel. "Physical therapy" does not include the practice of medicine as defined in section 147.081, or the practice of chiropractic as defined in section 148.01.

Subd. 2. **Physical therapist.** "Physical therapist" means a person who practices physical therapy as defined in sections 148.65 to 148.78.

**History:** 1951 c 479 s 1; 1980 c 412 s 1; 1985 c 182 s 1; 1987 c 384 art 2 s 1

### 148.66 STATE BOARD OF PHYSICAL THERAPY, DUTIES.

The state Board of Physical Therapy established under section 148.67 shall administer sections 148.65 to 148.78. As used in sections 148.65 to 148.78, "board" means the state Board of Physical Therapy.

The board shall:

(1) adopt rules necessary to administer and enforce sections 148.65 to 148.78;

(2) administer, coordinate, and enforce sections 148.65 to 148.78;

(3) evaluate the qualifications of applicants;

(4) issue subpoenas, examine witnesses, and administer oaths;

(5) conduct hearings and keep records and minutes necessary to the orderly administration of sections 148.65 to 148.78;

(6) investigate persons engaging in practices that violate sections 148.65 to 148.78; and

(7) adopt rules under chapter 14 prescribing a code of ethics for licensees.

**History:** 1951 c 479 s 2; 1991 c 106 s 6; 1999 c 245 art 9 s 48

#### **148.67 STATE BOARD OF PHYSICAL THERAPY; MEMBERSHIP APPOINTMENTS, VACANCIES, REMOVALS.**

**Subdivision 1. Board of Physical Therapy appointed.** The governor shall appoint a state Board of Physical Therapy to administer sections 148.65 to 148.78, regarding the qualifications and examination of physical therapists. The board shall consist of nine members, citizens and residents of the state of Minnesota, composed of four physical therapists, one licensed and registered doctor of medicine, one physical therapy assistant and three public members. The four physical therapist members must be licensed physical therapists in this state. Each of the four physical therapist members must have at least five years' experience in physical therapy practice, physical therapy administration, or physical therapy education. The five years' experience must immediately precede appointment. Membership terms, compensation of members, removal of members, filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services, and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214. Each member of the board shall file with the secretary of state the constitutional oath of office before beginning the term of office.

**Subd. 2. Recommendations for appointment.** Prior to the end of the term of a member of the board, or within 60 days after a position on the board becomes vacant, the Minnesota Chapter of the American Physical Therapy Association and other interested persons and organizations may recommend to the governor members qualified to serve on the board. The governor may appoint members to the board from the list of persons recommended or from among other qualified candidates.

**History:** 1951 c 479 s 3; 1975 c 136 s 20; 1976 c 222 s 66; 1976 c 239 s 71; 1980 c 412 s 2; 1991 c 106 s 6; 1999 c 245 art 9 s 49

**148.68** [Repealed, 1975 c 136 s 77]

**148.69** [Repealed, 1975 c 136 s 77]

#### **148.691 OFFICERS; EXECUTIVE DIRECTOR.**

**Subdivision 1. Officers of the board.** The board shall elect from its members a president, a vice-president, and a secretary-treasurer. Each shall serve for one year or until a successor is elected and qualifies. The board shall appoint and employ an executive secretary. A majority of the board, including one officer, constitutes a quorum at a meeting.

**Subd. 2. Board authority to hire.** The board may employ persons needed to carry out its work.

**Subd. 3. Disclosure.** Subject to the exceptions listed in this subdivision, all communications or information received by or disclosed to the board relating to any person or matter subject to its regulatory jurisdiction are confidential and privileged and any disciplinary hearing shall be closed to the public.

(a) Upon application of a party in a proceeding before the board, the board shall produce and permit the inspection and copying, by or on behalf of the moving party, of any designated documents or papers relevant to the proceedings, in accordance with the provisions of rule 34, Minnesota Rules of Civil Procedure.

(b) If the board imposes disciplinary measures of any kind, whether by contested case or by settlement agreement, the name and business address of the licensee, the

nature of the misconduct, and the action taken by the board are public data. If disciplinary action is taken by settlement agreement, the entire agreement is public data. The board shall decide disciplinary matters, whether by settlement or by contested case, by roll call vote. The votes are public data.

(c) The board shall exchange information with other licensing boards, agencies, or departments within the state, as required under section 214.10, subdivision 8, paragraph (c).

(d) The board shall upon request furnish to a person who made a complaint, a description of the activities and actions of the board relating to that complaint, a summary of the results of an investigation of that complaint, and the reasons for actions taken by the board.

**History:** 1999 c 245 art 9 s 50; 2000 c 284 s 3

#### 148.70 APPLICANTS, QUALIFICATIONS.

The board of physical therapy must:

(1) establish the qualifications of applicants for licensing and continuing education requirements for relicensing;

(2) provide for and conduct all examinations following satisfactory completion of all didactic requirements;

(3) determine the applicants who successfully pass the examination; and

(4) duly license an applicant after the applicant has presented evidence satisfactory to the board that the applicant has completed an accredited physical therapy educational program of education or continuing education approved by the board.

The passing score for examinations taken after July 1, 1995, shall be based on objective, numerical standards, as established by a nationally recognized board approved testing service.

**History:** 1951 c 479 s 6; 1973 c 725 s 17; 1975 c 136 s 21; 1980 c 412 s 3; 1986 c 444; 1988 c 549 s 1; 1991 c 106 s 6; 1995 c 18 s 10; 1999 c 245 art 9 s 51

#### 148.705 APPLICATION.

An applicant for licensing as a physical therapist shall file a written application on forms provided by the board together with a fee in the amount set by the board. No portion of the fee is refundable.

An approved program for physical therapists shall include the following:

(1) a minimum of 60 academic semester credits or its equivalent from an accredited college, including courses in the biological and physical sciences; and

(2) an accredited course in physical therapy education which has provided adequate instruction in the basic sciences, clinical sciences, and physical therapy theory and procedures, as determined by the board. In determining whether or not a course in physical therapy is approved, the board may take into consideration the accreditation of such schools by the appropriate council of the American Medical Association, the American Physical Therapy Association, or the Canadian Medical Association.

**History:** 1980 c 412 s 4; 1999 c 245 art 9 s 52

#### 148.706 SUPERVISION OF ASSISTANTS AND AIDES.

Every physical therapist who uses the services of an assistant or aide for the purpose of assisting in the practice of physical therapy is responsible for functions performed by the assistant or aide while engaged in such assistance. The physical therapist shall permit the assistant or aide to perform only those functions which the therapist is authorized by rule to delegate to a physical therapist assistant or assign to a physical therapy aide and shall provide supervision as specified.

**History:** 1980 c 412 s 11; 1986 c 444

**148.71 LICENSING.**

Subdivision 1. **Qualified applicant.** The state Board of Physical Therapy shall license as a physical therapist and shall furnish a license to an applicant who successfully passes an examination provided for in sections 148.65 to 148.78 for licensing as a physical therapist and who is otherwise qualified as required in sections 148.65 to 148.78.

Subd. 2. **Temporary permit.** (a) The board may, upon payment of a fee set by the board, issue a temporary permit to practice physical therapy under supervision to a physical therapist who is a graduate of an approved school of physical therapy and qualified for admission to examination for licensing as a physical therapist. A temporary permit to practice physical therapy under supervision may be issued only once and cannot be renewed. It expires 90 days after the next examination for licensing given by the board or on the date on which the board, after examination of the applicant, grants or denies the applicant a license to practice, whichever occurs first. A temporary permit expires on the first day the board begins its next examination for license after the permit is issued if the holder does not submit to examination on that date. The holder of a temporary permit to practice physical therapy under supervision may practice physical therapy as defined in section 148.65 if the entire practice is under the supervision of a person holding a valid license to practice physical therapy in this state. The supervision shall be direct, immediate, and on premises.

(b) A physical therapist from another state who is licensed or otherwise registered in good standing as a physical therapist by that state and meets the requirements for licensing under section 148.72 does not require supervision to practice physical therapy while holding a temporary permit in this state. The temporary permit remains valid only until the meeting of the board at which the application for licensing is considered.

Subd. 3. **Foreign-trained physical therapists; temporary permits.** (a) The Board of Physical Therapy may issue a temporary permit to a foreign-trained physical therapist who:

(1) is enrolled in a supervised physical therapy traineeship that meets the requirements under paragraph (b);

(2) has completed a physical therapy education program equivalent to that under section 148.705 and Minnesota Rules, part 5601.0800, subpart 2;

(3) has achieved a score of at least 550 on the test of English as a foreign language or a score of at least 85 on the Minnesota battery test; and

(4) has paid a nonrefundable fee set by the board.

A foreign-trained physical therapist must have the temporary permit before beginning a traineeship.

(b) A supervised physical therapy traineeship must:

(1) be at least six months;

(2) be at a board-approved facility;

(3) provide a broad base of clinical experience to the foreign-trained physical therapist including a variety of physical agents, therapeutic exercises, evaluation procedures, and patient diagnoses;

(4) be supervised by a physical therapist who has at least three years of clinical experience and is licensed under subdivision 1; and

(5) be approved by the board before the foreign-trained physical therapist begins the traineeship.

(c) A temporary permit is effective on the first day of a traineeship and expires 90 days after the next examination for licensing given by the board following successful completion of the traineeship or on the date on which the board, after examination of the applicant, grants or denies the applicant a license to practice, whichever occurs first.

(d) A foreign-trained physical therapist must successfully complete a traineeship to be licensed as a physical therapist under subdivision 1. The traineeship may be waived

for a foreign-trained physical therapist who is licensed or otherwise registered in good standing in another state and has successfully practiced physical therapy in that state under the supervision of a licensed or registered physical therapist for at least six months at a facility that meets the requirements under paragraph (b), clauses (2) and (3).

(c) A temporary permit will not be issued to a foreign-trained applicant who has been issued a temporary permit for longer than six months in any other state.

**History:** 1951 c 479 s 7; 1980 c 412 s 5; 1988 c 557 s 4; 1991 c 106 s 6; 1993 c 21 s 11,12; 1999 c 245 art 9 s 53; 2002 c 379 art 1 s 51

#### 148.72 EXAMINATIONS.

Subdivision 1. **Issuance of license without examination.** On payment to the board of a fee in the amount set by the board and on submission of a written application on forms provided by the board, the board shall issue a license without examination to a person who is licensed or otherwise registered as a physical therapist by another state of the United States of America, its possessions, or the District of Columbia, if the board determines that the requirements for licensing or registration in the state, possession, or District are equal to, or greater than, the requirements in sections 148.65 to 148.78.

Subd. 2. **License.** The board may issue a license without examination to an applicant who presents evidence satisfactory to the board of having passed an examination recognized by the board, if the board determines the standards of the other state or foreign country are equal to those of this state. Upon application, the applicant shall pay to the board a fee in the amount set by the board. No portion of the fee is refundable.

Subd. 3. **Examinations.** The board shall give an examination to applicants who comply with section 148.70. The examination shall include a written examination which shall test the applicant's knowledge of the basic and clinical sciences as they relate to physical therapy, physical therapy theory and procedures, and such other subjects as the board may deem useful to test the applicant's qualifications to act as a physical therapist.

Subd. 4. **Issuance of license after examination.** The board shall issue a license to an applicant who passes the examination according to standards established by the board and who is not disqualified to receive a license under section 148.75.

**History:** 1951 c 479 s 8; 1980 c 412 s 6; 1986 c 444; 1995 c 18 s 11; 1999 c 245 art 9 s 54-56

#### 148.73 RENEWALS.

Every licensed physical therapist shall, during each January, apply to the board for an extension of a license and pay a fee in the amount set by the board. The extension of the license is contingent upon demonstration that the continuing education requirements set by the board under section 148.70 have been satisfied.

**History:** 1951 c 479 s 9; 1959 c 282 s 1; 1961 c 323 s 1; 1980 c 412 s 7; 1986 c 444; 1988 c 549 s 2; 1999 c 245 art 9 s 57

#### 148.74 RULES.

The board may adopt rules needed to carry out sections 148.65 to 148.78. The secretary-treasurer of the board shall keep a record of proceedings under these sections and a register of all persons licensed under it. The register shall show the name, address, date and number of the license, and the renewal of the license. Any other interested person in the state may obtain a copy of the list on request to the board upon paying an amount fixed by the board. The amount shall not exceed the cost of the list furnished. The board shall provide blanks, books, certificates, and stationery and assistance necessary to transact business of the board. All money received by the board under sections 148.65 to 148.78 shall be paid into the state treasury as provided for by law. The board shall set by rule the amounts of the application fee and the annual

licensing fee. The fees collected by the board must be sufficient to cover the costs of administering sections 148.65 to 148.78.

**History:** 1951 c 479 s 10; 1977 c 305 s 45; 1980 c 412 s 8; 1985 c 248 s 70; 1988 c 549 s 3; 1999 c 245 art 9 s 58

#### 148.745 MALPRACTICE HISTORY.

Subdivision 1. **Submission.** A person desiring to practice physical therapy in this state who has previously practiced in another state shall submit the following additional information with the license application for the five-year period of active practice preceding the date of filing such application:

(a) The name and address of the person's professional liability insurer in the other state.

(b) The number, date, and disposition of any malpractice settlement or award made to the plaintiff relating to the quality of services provided.

Subd. 2. **Board action.** The board shall give due consideration to the information submitted pursuant to section 148.72 and this section. An applicant who willfully submits incorrect information shall be subject to disciplinary action pursuant to section 148.75.

**History:** 1999 c 245 art 9 s 59

#### 148.75 LICENSES; DENIAL, SUSPENSION, REVOCATION.

(a) The state Board of Physical Therapy may refuse to grant a license to any physical therapist, or may suspend or revoke the license of any physical therapist for any of the following grounds:

(1) using drugs or intoxicating liquors to an extent which affects professional competence;

(2) conviction of a felony;

(3) conviction for violating any state or federal narcotic law;

(4) obtaining a license or attempting to obtain a license by fraud or deception;

(5) conduct unbecoming a person licensed as a physical therapist or conduct detrimental to the best interests of the public;

(6) gross negligence in the practice of physical therapy as a physical therapist;

(7) treating human ailments by physical therapy after an initial 30-day period of patient admittance to treatment has lapsed, except by the order or referral of a person licensed in this state in the practice of medicine as defined in section 147.081, the practice of chiropractic as defined in section 148.01, the practice of podiatry as defined in section 153.01, or the practice of dentistry as defined in section 150A.05 and whose license is in good standing; or when a previous diagnosis exists indicating an ongoing condition warranting physical therapy treatment, subject to periodic review defined by board of physical therapy rule;

(8) treating human ailments, without referral, by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;

(9) failing to consult with the patient's health care provider who prescribed the physical therapy treatment if the treatment is altered by the physical therapist from the original written order. The provision does not include written orders to "evaluate and treat";

(10) treating human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state;

(11) inappropriate delegation to a physical therapist assistant or inappropriate task assignment to an aide or inadequate supervision of either level of supportive personnel;

(12) practicing as a physical therapist performing medical diagnosis, the practice of medicine as defined in section 147.081, or the practice of chiropractic as defined in section 148.01;

(13) failing to comply with a reasonable request to obtain appropriate clearance for mental or physical conditions that would interfere with the ability to practice physical therapy, and that may be potentially harmful to patients;

(14) dividing fees with, or paying or promising to pay a commission or part of the fee to, any person who contacts the physical therapist for consultation or sends patients to the physical therapist for treatment;

(15) engaging in an incentive payment arrangement, other than that prohibited by clause (14), that tends to promote physical therapy overuse, that allows the referring person or person who controls the availability of physical therapy services to a client to profit unreasonably as a result of patient treatment;

(16) practicing physical therapy and failing to refer to a licensed health care professional a patient whose medical condition at the time of evaluation has been determined by the physical therapist to be beyond the scope of practice of a physical therapist; and

(17) failing to report to the board other licensed physical therapists who violate this section.

(b) A license to practice as a physical therapist is suspended if (1) a guardian of the physical therapist is appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other than the minority of the physical therapist; or (2) the physical therapist is committed by order of a court pursuant to chapter 253B. The license remains suspended until the physical therapist is restored to capacity by a court and, upon petition by the physical therapist, the suspension is terminated by the Board of Physical Therapy after a hearing.

**History:** 1951 c 479 s 11; 1967 c 119 s 1; 1969 c 6 s 27; 1969 c 927 s 7; 1974 c 61 s 1; 1974 c 406 s 23; 1980 c 412 s 9; 1982 c 581 s 24; 1985 c 182 s 2; 1986 c 444; 1987 c 384 art 2 s 1; 1988 c 549 s 4; 1991 c 106 s 6; 1991 c 199 art 2 s 1; 1Sp1994 c 1 art 2 s 11; 1999 c 245 art 9 s 60; 2004 c 146 art 3 s 9

#### 148.76 PROHIBITED CONDUCT.

Subdivision 1. **Licensure required.** No person shall:

(1) provide physical therapy unless the person is licensed as a physical therapist under sections 148.65 to 148.78;

(2) use the title of physical therapist without a license as a physical therapist issued under sections 148.65 to 148.78;

(3) in any manner hold out as a physical therapist, or use in connection with the person's name the words or letters Physical Therapist, Physiotherapist, Physical Therapy Technician, Registered Physical Therapist, Licensed Physical Therapist, P.T., P.T.T., R.P.T., L.P.T., or any letters, words, abbreviations or insignia indicating or implying that the person is a physical therapist, without a license as a physical therapist issued under sections 148.65 to 148.78. To do so is a gross misdemeanor;

(4) employ fraud or deception in applying for or securing a license as a physical therapist.

Nothing in sections 148.65 to 148.78 prohibits a person licensed or registered in this state under another law from carrying out the therapy or practice for which the person is duly licensed or registered.

Subd. 2. **Prohibitions.** No physical therapist may:

(1) treat human ailments by physical therapy after an initial 30-day period of patient admittance to treatment has lapsed, except by the order or referral of a person licensed in this state to practice medicine as defined in section 147.081, the practice of chiropractic as defined in section 148.01, the practice of podiatry as defined in section 153.01, the practice of dentistry as defined in section 150A.05, or the practice of advanced practice nursing as defined in section 62A.15, subdivision 3a, when orders or referrals are made in collaboration with a physician, chiropractor, podiatrist, or dentist, and whose license is in good standing; or when a previous diagnosis exists indicating an



ongoing condition warranting physical therapy treatment, subject to periodic review defined by Board of Physical Therapy rule;

(2) treat human ailments by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;

(3) use any chiropractic manipulative technique whose end is the chiropractic adjustment of an abnormal articulation of the body; and

(4) treat human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state.

**History:** 1951 c 479 s 12; 1980 c 412 s 10; 1985 c 182 s 3; 1986 c 444; 1988 c 549 s 5; 1991 c 106 s 6; 1991 c 199 art 2 s 1; 1998 c 317 s 10; 1999 c 245 art 9 s 61

#### 148.77 VIOLATIONS.

Any person violating the provisions of section 148.76 is guilty of a gross misdemeanor.

**History:** 1951 c 479 s 13; 1980 c 412 s 12

#### 148.775 FORMS OF DISCIPLINARY ACTION.

If the board finds that a licensed physical therapist has violated a provision or provisions of section 148.75 or 148.76, it may do one or more of the following:

(1) deny the application for the license;

(2) deny the renewal of the license;

(3) revoke the license;

(4) suspend the license;

(5) impose limitations or conditions on the physical therapist's practice of physical therapy, including the limitation of scope of practice to designated field specialties; the imposition of retraining or rehabilitation requirements; the requirement of practice under supervision; or the conditioning of continued practice on demonstration of knowledge or skills by appropriate examination, monitoring, or other review of skill and competence;

(6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the physical therapist of any economic advantage gained by reason of the violation charged, to discourage similar violations or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members;

(7) order the physical therapist to provide unremunerated service;

(8) censure or reprimand the licensed physical therapist; or

(9) any other action as allowed by law and justified by the facts of the case.

**History:** 2003 c 66 s 5

#### 148.78 PROSECUTION, ALLEGATIONS.

In the prosecution of any person for violation of sections 148.65 to 148.78 as specified in section 148.76, it shall not be necessary to allege or prove want of a valid license as a physical therapist, but shall be a matter of defense to be established by the accused.

**History:** 1951 c 749 s 14; 1980 c 412 s 13; 1999 c 245 art 9 s 62

## ATHLETIC TRAINERS

**148.7801 CITATION.**

Sections 148.7801 to 148.7815 may be cited as the "Minnesota Athletic Trainers Act."

**History:** 1993 c 232 s 2

**148.7802 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 2. **Approved continuing education program.** "Approved continuing education program" means a continuing education program that meets the continuing education requirements in section 148.7812 and is approved by the board.

Subd. 3. **Approved education program.** "Approved education program" means a university, college, or other postsecondary education program of athletic training that, at the time the student completes the program, is approved or accredited by the National Athletic Trainers Association Professional Education Committee, the National Athletic Trainers Association Board of Certification, or the Joint Review Committee on Educational Programs in Athletic Training in collaboration with the American Academy of Family Physicians, the American Academy of Pediatrics, the American Medical Association, and the National Athletic Trainers Association.

Subd. 4. **Athlete.** "Athlete" means a person participating in exercises, sports, games, or recreation requiring physical strength, agility, flexibility, range of motion, speed, or stamina.

Subd. 5. **Athletic injury.** "Athletic injury" means an injury sustained by a person as a result of the person's participation in exercises, sports, games, or recreation requiring physical strength, agility, flexibility, range of motion, speed, or stamina.

Subd. 6. **Athletic trainer.** "Athletic trainer" means a person who engages in athletic training under section 148.7806 and is registered under section 148.7808.

Subd. 7. **Board.** "Board" means the Board of Medical Practice.

Subd. 8. **Credential.** "Credential" means a license, permit, certification, registration, or other evidence of qualification or authorization to practice as an athletic trainer in this state or any other state.

Subd. 9. **Credentialing examination.** "Credentialing examination" means an examination administered by the National Athletic Trainers Association Board of Certification for credentialing as an athletic trainer, or an examination for credentialing offered by a national testing service that is approved by the board.

Subd. 10. **Primary employment site.** "Primary employment site" means the institution, organization, corporation, or sports team where the athletic trainer is employed for the practice of athletic training.

Subd. 11. **Primary physician.** "Primary physician" means a licensed medical physician who serves as a medical consultant to an athletic trainer.

**History:** 1993 c 232 s 3

**148.7803 DESIGNATION OF ATHLETIC TRAINER.**

Subdivision 1. **Designation.** A person shall not use in connection with the person's name the words or letters registered athletic trainer; licensed athletic trainer; Minnesota registered athletic trainer; athletic trainer; A.T.R.; or any words, letters, abbreviations, or insignia indicating or implying that the person is an athletic trainer, without a certificate of registration as an athletic trainer issued under sections 148.7808 to 148.7810. A student attending a college or university athletic training program must be identified as a "student athletic trainer."

Subd. 2. **Penalty.** A person who violates this section is guilty of a misdemeanor and subject to section 214.11.

**History:** 1993 c 232 s 4

**148.7804 POWERS OF THE BOARD.**

The board, acting under the advice of the Athletic Trainers' Advisory Council, shall issue all registrations and shall exercise the following powers and duties:

- (1) adopt rules necessary to implement sections 148.7801 to 148.7815;
- (2) prescribe registration application forms, certificate of registration forms, protocol forms, and other necessary forms;
- (3) approve a registration examination;
- (4) keep a complete record of registered athletic trainers, prepare a current official listing of the names and addresses of registered athletic trainers, and make a copy of the list available to any person requesting it upon payment of a copying fee established by the board;
- (5) keep a permanent record of all its proceedings; and
- (6) establish the duties of, and employ, clerical personnel.

**History:** 1993 c 232 s 5

**148.7805 ATHLETIC TRAINERS' ADVISORY COUNCIL.**

Subdivision 1. **Creation; membership.** The Athletic Trainers' Advisory Council is created and is composed of eight members appointed by the board. The advisory council consists of:

- (1) two public members as defined in section 214.02;
- (2) three members who, except for initial appointees, are registered athletic trainers, one being both a licensed physical therapist and registered athletic trainer as submitted by the Minnesota American Physical Therapy Association;
- (3) two members who are medical physicians licensed by the state and have experience with athletic training and sports medicine; and
- (4) one member who is a doctor of chiropractic licensed by the state and has experience with athletic training and sports injuries.

Subd. 2. **Administration.** The advisory council is established and administered under section 15.059. Notwithstanding section 15.059, subdivision 5, the council shall not expire.

Subd. 3. **Duties.** The advisory council shall:

- (1) advise the board regarding standards for athletic trainers;
- (2) distribute information regarding athletic trainer standards;
- (3) advise the board on enforcement of sections 148.7801 to 148.7815;
- (4) review registration and registration renewal applications and make recommendations to the board;
- (5) review complaints in accordance with sections 214.10 and 214.13, subdivision 6;
- (6) review investigation reports of complaints and recommend to the board whether disciplinary action should be taken;
- (7) advise the board regarding evaluation and treatment protocols;
- (8) advise the board regarding approval of continuing education programs; and
- (9) perform other duties authorized for advisory councils under chapter 214, as directed by the board.

**History:** 1993 c 232 s 6; 2000 c 260 s 25

**148.7806 ATHLETIC TRAINING.**

Athletic training by a registered athletic trainer under section 148.7808 includes the activities described in paragraphs (a) to (e).

- (a) An athletic trainer shall:
  - (1) prevent, recognize, and evaluate athletic injuries;
  - (2) give emergency care and first aid;
  - (3) manage and treat athletic injuries; and

(4) rehabilitate and physically recondition athletic injuries.

The athletic trainer may use modalities such as cold, heat, light, sound, electricity, exercise, and mechanical devices for treatment and rehabilitation of athletic injuries to athletes in the primary employment site.

(b) The primary physician shall establish evaluation and treatment protocols to be used by the athletic trainer. The primary physician shall record the protocols on a form prescribed by the board. The protocol form must be updated yearly at the athletic trainer's registration renewal time and kept on file by the athletic trainer.

(c) At the primary employment site, except in a corporate setting, an athletic trainer may evaluate and treat an athlete for an athletic injury not previously diagnosed for not more than 30 days, or a period of time as designated by the primary physician on the protocol form, from the date of the initial evaluation and treatment. Preventative care after resolution of the injury is not considered treatment. This paragraph does not apply to a person who is referred for treatment by a person licensed in this state to practice medicine as defined in section 147.081, to practice chiropractic as defined in section 148.01, to practice podiatry as defined in section 153.01, or to practice dentistry as defined in section 150A.05 and whose license is in good standing.

(d) An athletic trainer may:

(1) organize and administer an athletic training program including, but not limited to, educating and counseling athletes;

(2) monitor the signs, symptoms, general behavior, and general physical response of an athlete to treatment and rehabilitation including, but not limited to, whether the signs, symptoms, reactions, behavior, or general response show abnormal characteristics; and

(3) make suggestions to the primary physician or other treating provider for a modification in the treatment and rehabilitation of an injured athlete based on the indicators in clause (2).

(e) In a clinical, corporate, and physical therapy setting, when the service provided is, or is represented as being, physical therapy, an athletic trainer may work only under the direct supervision of a physical therapist as defined in section 148.65.

**History:** 1993 c 232 s 7

#### 148.7807 LIMITATIONS ON PRACTICE.

If an athletic trainer determines that a patient's medical condition is beyond the scope of practice of that athletic trainer, the athletic trainer must refer the patient to a person licensed in this state to practice medicine as defined in section 147.081, to practice chiropractic as defined in section 148.01, to practice podiatry as defined in section 153.01, or to practice dentistry as defined in section 150A.05 and whose license is in good standing and in accordance with established evaluation and treatment protocols. An athletic trainer shall modify or terminate treatment of a patient that is not beneficial to the patient, or that is not tolerated by the patient.

**History:** 1993 c 232 s 8

#### 148.7808 REGISTRATION; REQUIREMENTS.

Subdivision 1. **Registration.** The board may issue a certificate of registration as an athletic trainer to applicants who meet the requirements under this section. An applicant for registration as an athletic trainer shall pay a fee under section 148.7815 and file a written application on a form, provided by the board, that includes:

(1) the applicant's name, Social Security number, home address and telephone number, business address and telephone number, and business setting;

(2) evidence satisfactory to the board of the successful completion of an education program approved by the board;

(3) educational background;

(4) proof of a baccalaureate degree from an accredited college or university;

- (5) credentials held in other jurisdictions;
- (6) a description of any other jurisdiction's refusal to credential the applicant;
- (7) a description of all professional disciplinary actions initiated against the applicant in any other jurisdiction;
- (8) any history of drug or alcohol abuse, and any misdemeanor or felony conviction;
- (9) evidence satisfactory to the board of a qualifying score on a credentialing examination within one year of the application for registration;
- (10) additional information as requested by the board;
- (11) the applicant's signature on a statement that the information in the application is true and correct to the best of the applicant's knowledge and belief; and
- (12) the applicant's signature on a waiver authorizing the board to obtain access to the applicant's records in this state or any other state in which the applicant has completed an education program approved by the board or engaged in the practice of athletic training.

**Subd. 2. Registration by equivalency.** The board may register by equivalency an applicant who:

- (1) submits the application materials and fees required under subdivision 1, clauses (1) to (8), and (10) to (12); and
- (2) provides evidence satisfactory to the board of current certification by the National Athletic Trainers Association Board of Certification.

Applicants who were certified by the National Athletic Trainers Association through the "grandfather" process prior to 1971 are exempt from completing subdivision 1, clauses (2) and (9).

**Subd. 3. Registration by reciprocity.** (a) The board may register by reciprocity an applicant who:

- (1) submits the application materials and fees required under subdivision 1, clauses (1) to (8) and (10) to (12);
- (2) provides a verified copy of a current and unrestricted credential for the practice of athletic training in another jurisdiction that has credentialing requirements equivalent to or more stringent than the requirements under subdivision 1; and
- (3) provides letters of verification from the credentialing body in each jurisdiction in which the applicant holds a credential. Each letter must include the applicant's name, date of birth, credential number, date of issuance of the credential, a statement regarding disciplinary actions taken against the applicant, and the terms under which the credential was issued.

(b) An applicant for registration by reciprocity who has applied for registration under subdivision 1 and meets the requirements of paragraph (a), clause (1), may apply to the board for temporary registration under subdivision 4.

**Subd. 4. Temporary registration.** (a) The board may issue a temporary registration as an athletic trainer to qualified applicants. A temporary registration is issued for one year. An athletic trainer with a temporary registration may qualify for full registration after submission of verified documentation that the athletic trainer has achieved a qualifying score on a credentialing examination within one year after the date of the temporary registration. Temporary registration may not be renewed.

(b) Except as provided in subdivision 3, paragraph (a), clause (1), an applicant for temporary registration must submit the application materials and fees for registration required under subdivision 1, clauses (1) to (8) and (10) to (12).

(c) An athletic trainer with a temporary registration shall work only under the direct supervision of an athletic trainer registered under this section. No more than four athletic trainers with temporary registrations shall work under the direction of a registered athletic trainer.

**Subd. 5. Temporary permit.** The board may issue a temporary permit to practice as an athletic trainer to an applicant eligible for registration under this section if the

application for registration is complete, all applicable requirements in this section have been met, and a nonrefundable fee set by the board has been paid. The permit remains valid only until the meeting of the board at which a decision is made on the athletic trainer's application for registration.

*History: 1993 c 232 s 9; 1999 c 33 s 7,8*

#### 148.7809 REGISTRATION RENEWAL.

Subdivision 1. **Requirements for registration renewal.** A registered athletic trainer shall apply to the board for a one-year extension of registration by paying a fee under section 148.7815 and filing an application on a form provided by the board that includes:

(1) the athletic trainer's name, Minnesota athletic trainer registration number, home address and telephone number, business address and telephone number, and business setting;

(2) work history for the past year, including the average number of hours worked per week;

(3) a report of any change in status since initial registration or previous registration renewal;

(4) evidence satisfactory to the board of having met the continuing education requirements of section 148.7812;

(5) the athletic trainer's signature on a statement that a current copy of the protocol form is on file at the athletic trainer's primary employment site; and

(6) additional information as requested by the board.

Subd. 2. **Registration renewal notice.** Before June 1 of each year, the board shall send out a renewal notice to an athletic trainer's last known address on file with the board. The notice shall include an application for registration renewal and notice of the fees required for renewal. An athletic trainer who does not receive a renewal notice must still meet the requirements for registration renewal under this section.

Subd. 3. **Renewal deadline.** (a) An application for renewal of registration must be postmarked on or before July 1 of each year. If the postmark is illegible, the application is considered timely if received in the board office by the third working day after July 1.

(b) An application for renewal of registration submitted after the deadline date must include a late fee under section 148.7815.

Subd. 4. **Lapse of registration status.** (a) Except as provided in paragraph (b), an athletic trainer whose registration has lapsed must:

(1) apply for registration renewal under this section; and

(2) submit evidence satisfactory to the board from a licensed medical physician verifying employment in athletic training for eight weeks every three years during the time of the lapse in registration.

(b) The board shall not renew, reissue, reinstate, or restore a registration that has lapsed after June 30, 1999, and has not been renewed within two annual renewal cycles starting July 1, 2001. An athletic trainer whose registration is canceled for nonrenewal must obtain a new registration by applying for registration and fulfilling all requirements then in existence for an initial registration.

*History: 1993 c 232 s 10; 2001 c 31 s 2*

#### 148.7810 BOARD ACTION ON APPLICATIONS.

Subdivision 1. **Verification of application information.** The board or advisory council, with the approval of the board, may verify information provided by an applicant for registration under section 148.7808 and registration renewal under section 148.7809 to determine whether the information is accurate and complete.

Subd. 2. **Notification of board action.** Within 120 days of receipt of the application, the board shall notify each applicant in writing of the action taken on the application.

Subd. 3. **Request for hearing by applicant denied registration.** An applicant denied registration shall be notified of the determination, and the grounds for it, and may request a hearing on the determination under Minnesota Rules, part 5615.0300, by filing a written statement of issues with the board within 20 days after receipt of the notice from the board. After the hearing, the board shall notify the applicant in writing of its decision.

*History:* 1993 c 232 s 11

#### 148.7811 CHANGE OF ADDRESS.

A registered athletic trainer must notify the board, in writing, within 30 days of a change of address.

*History:* 1993 c 232 s 12

#### 148.7812 CONTINUING EDUCATION REQUIREMENTS.

Subdivision 1. **Number of contact hours required.** An athletic trainer shall complete during every three-year period at least the equivalent of 60 contact hours of continuing professional postdegree education in programs approved by the board.

Subd. 2. **Approved programs.** The board shall approve a continuing education program that has been approved for continuing education credit by the National Athletic Trainers Association Board of Certification.

Subd. 3. **Approval of continuing education programs.** A continuing education program that has not been approved under subdivision 2 shall be approved by the board if:

(1) the program content directly relates to the practice of athletic training or sports medicine;

(2) each member of the program faculty shows expertise in the subject matter by holding a degree from an accredited education program, having verifiable experience in the field of athletic training or sports medicine, having special training in the subject area, or having experience teaching in the subject area;

(3) the program lasts at least one contact hour;

(4) there are specific written objectives describing the goals of the program for the participants; and

(5) the program sponsor maintains attendance records for four years.

Subd. 4. **Verification of continuing education credits.** The board shall periodically select a random sample of athletic trainers and require the athletic trainers to show evidence to the board of having completed the continuing education requirements attested to by the athletic trainer. Either the athletic trainer or state or national organizations that maintain continuing education records may provide to the board documentation of attendance at a continuing education program.

Subd. 5. **Restriction on continuing education topics.** To meet the continuing education requirement in subdivision 1, an athletic trainer may have no more than ten hours of continuing education in the areas of management, risk management, personal growth, and educational techniques in a three-year reporting period.

*History:* 1993 c 232 s 13

#### 148.7813 DISCIPLINARY PROCESS.

Subdivision 1. **Investigation of complaints.** Upon receipt of a complaint or other communication pursuant to section 214.13, subdivision 6, that alleges or implies a violation of sections 148.7801 to 148.7815 by an applicant or registered athletic trainer, the board shall follow the procedures in section 214.10.

Subd. 2. **Grounds for disciplinary action.** The board may impose disciplinary action as described in subdivision 3 against an athletic trainer whom the board, after a hearing under the contested case provisions of chapter 14, determines:

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- (1) has knowingly made a false statement on a form required by the board for registration or registration renewal;
- (2) has provided athletic training services in a manner that falls below the standard of care of the profession;
- (3) has violated sections 148.7801 to 148.7815 or the rules adopted under these sections;
- (4) is or has been afflicted with any physical, mental, emotional, or other disability, or addiction that, in the opinion of the board, adversely affects the person's ability to practice athletic training;
- (5) has failed to cooperate with an investigation by the board;
- (6) has been convicted or has pled guilty or nolo contendere to an offense that in the opinion of the board reasonably relates to the practice of athletic training or that bears on the athletic trainer's ability to practice athletic training;
- (7) has aided and abetted in any manner a person in violating sections 148.7801 to 148.7815;
- (8) has been disciplined by an agency or board of another state while in the practice of athletic training;
- (9) has shown dishonest, unethical, or unprofessional conduct while in the practice of athletic training that is likely to deceive, defraud, or harm the public;
- (10) has violated a state or federal law, rule, or regulation that in the opinion of the board reasonably relates to the practice of athletic training;
- (11) has behaved in a sexual manner or what may reasonably be interpreted by a patient as sexual, or was verbally seductive or sexually demeaning to a patient;
- (12) has misused alcohol, drugs, or controlled substances; or
- (13) has violated an order issued by the board.

Subd. 3. **Disciplinary actions.** When grounds for disciplinary action exist under subdivision 2, the board may take one or more of the following actions:

- (1) deny the right to practice;
- (2) revoke the right to practice;
- (3) suspend the right to practice;
- (4) impose limitations on the practice of the athletic trainer;
- (5) impose conditions on the practice of the athletic trainer;
- (6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the athletic trainer of any economic advantage gained by reason of the violation charged, or to discourage repeated violations;
- (7) censure or reprimand the athletic trainer; or
- (8) take any other action justified by the facts of the case.

Subd. 4. **Reinstatement.** An athletic trainer who has had registration revoked cannot apply for reinstatement. A suspended athletic trainer shall be reinstated upon evidence satisfactory to the board of fulfillment of the terms of suspension. All requirements of section 148.7809 to renew registration, if applicable, must also be met before reinstatement.

**History:** 1993 c 232 s 14

## 148.7814 APPLICABILITY.

Sections 148.7801 to 148.7815 do not apply to persons who are certified as athletic trainers by the National Athletic Trainers Association Board of Certification and come into Minnesota for a specific athletic event or series of athletic events with an individual or group.

**History:** 1993 c 232 s 15



**148.7815 FEES.**

Subdivision 1. **Fees.** The board shall establish fees as follows:

- (1) application fee, \$50;
- (2) annual registration fee, \$100;
- (3) temporary registration, \$100; and
- (4) temporary permit, \$50.

Subd. 2. **Proration of fees.** The board may prorate the initial annual fee for registration under section 148.7808. Athletic trainers registered under section 148.7808 are required to pay the full fee upon registration renewal.

Subd. 3. **Penalty for a late application for registration renewal.** The penalty for late submission of a registration renewal application under section 148.7809 is \$15.

Subd. 4. **Nonrefundable fees.** The fees in this section are nonrefundable.

**History:** 1993 c 232 s 16; 1999 c 33 s 9,10

**PSYCHOLOGISTS**

**148.79** [Repealed, 1973 c 685 s 14; 1976 c 2 s 67]

**148.80** [Repealed, 1973 c 685 s 14]

**148.81** [Repealed, 1973 c 685 s 14; 1974 c 406 s 91]

**148.82** [Repealed, 1973 c 685 s 14]

**148.83** [Repealed, 1973 c 685 s 14]

**148.84** [Repealed, 1973 c 685 s 14]

**148.85** [Repealed, 1973 c 685 s 14; 1976 c 2 s 67]

**148.86** [Repealed, 1973 c 685 s 14]

**148.87** [Repealed, 1976 c 2 s 66]

**148.88 CITATION.**

Sections 148.88 to 148.98 and the rules adopted under them, shall be cited as the Minnesota Psychology Practice Act.

**History:** 1973 c 685 s 1; 1Sp1981 c 4 art 1 s 81; 1991 c 255 s 3; 1996 c 424 s 2

**148.881 DECLARATION OF POLICY.**

The practice of psychology in Minnesota affects the public health, safety, and welfare. The regulations in sections 148.88 to 148.98 protect the public from the practice of psychology by unqualified persons and from unethical or unprofessional conduct by persons licensed to practice psychology.

**History:** 1991 c 255 s 4; 1996 c 424 s 3

**148.89 DEFINITIONS.**

Subdivision 1. **Applicability.** For the purposes of sections 148.88 to 148.98, the following terms have the meanings given them.

Subd. 2. **Board of Psychology or board.** "Board of Psychology" or "board" means the board established under section 148.90.

Subd. 2a. **Client.** "Client" means each individual or legal, religious, academic, organizational, business, governmental, or other entity that receives, received, or should have received, or arranged for another individual or entity to receive services from an individual regulated under sections 148.88 to 148.98. Client also means an individual's legally authorized representative, such as a parent or guardian. For the purposes of

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sections 148.88 to 148.98, "client" may include patient, resident, counslee, evaluatee, and, as limited in the rules of conduct, student, supervisee, or research subject. In the case of dual clients, the licensee or applicant for licensure must be aware of the responsibilities to each client, and of the potential for divergent interests of each client.

**Subd. 2b. Credentialed.** "Credentialed" means having a license, certificate, charter, registration, or similar authority to practice in an occupation regulated by a governmental board or agency.

**Subd. 2c. Designated supervisor.** "Designated supervisor" means a qualified individual who is designated by the primary supervisor to provide additional supervision and training to a licensed psychological practitioner or to an individual who is obtaining required predegree supervised professional experience or postdegree supervised employment.

**Subd. 3. Independent practice.** "Independent practice" means the practice of psychology without supervision.

**Subd. 4. Licensee.** "Licensee" means a person who is licensed by the board as a licensed psychologist or as a licensed psychological practitioner.

**Subd. 4a. Provider.** "Provider" or "provider of services" means any individual who is regulated by the board, and includes a licensed psychologist, a licensed psychological practitioner, a licensee, or an applicant.

**Subd. 4b. Primary supervisor.** "Primary supervisor" means a psychologist licensed in Minnesota or other qualified individual who provides the principal supervision to a licensed psychological practitioner or to an individual who is obtaining required predegree supervised professional experience or postdegree supervised employment.

**Subd. 5. Practice of psychology.** "Practice of psychology" means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures, to prevent, eliminate, or manage symptomatic, maladaptive, or undesired behavior and to enhance interpersonal relationships, work, life and developmental adjustment, personal and organizational effectiveness, behavioral health, and mental health. The practice of psychology includes, but is not limited to, the following services, regardless of whether the provider receives payment for the services:

- (1) psychological research and teaching of psychology;
- (2) assessment, including psychological testing and other means of evaluating personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning;
- (3) a psychological report, whether written or oral, including testimony of a provider as an expert witness, concerning the characteristics of an individual or entity;
- (4) psychotherapy, including but not limited to, categories such as behavioral, cognitive, emotive, systems, psychophysiological, or insight-oriented therapies; counseling; hypnosis; and diagnosis and treatment of:
  - (i) mental and emotional disorder or disability;
  - (ii) alcohol and substance dependence or abuse;
  - (iii) disorders of habit or conduct;
  - (iv) the psychological aspects of physical illness or condition, accident, injury, or disability;
  - (v) life adjustment issues, including work-related and bereavement issues; and
  - (vi) child, family, or relationship issues;
- (5) psychoeducational services and treatment; and
- (6) consultation and supervision.

Subd. 6. [Repealed, 1996 c 424 s 24]

Subd. 7. [Repealed, 1996 c 424 s 24]

Subd. 8. [Repealed, 1996 c 424 s 24]

**History:** 1973 c 685 s 2; 1991 c 255 s 5; 1993 c 206 s 13; 1996 c 424 s 4,5; 1999 c 109 s 1-4; 2000 c 363 s 1-3; 2003 c 122 s 2.

#### 148.90 BOARD OF PSYCHOLOGY.

Subdivision 1. **Board of Psychology.** (a) The Board of Psychology is created with the powers and duties described in this section. The board has 11 members who consist of:

(1) three persons licensed as licensed psychologists who have a doctoral degree in psychology;

(2) two persons licensed as licensed psychologists who have a master's degree in psychology;

(3) two psychologists, not necessarily licensed, one with a doctoral degree in psychology who represents a doctoral training program in psychology, and one who represents a master's degree training program in psychology;

(4) one person licensed or qualified to be licensed as a psychological practitioner; and

(5) three public members.

(b) After the date on which fewer than 30 percent of the persons licensed by the board as licensed psychologists qualify for licensure under section 148.907, subdivision 3, paragraph (b), the first vacancy filled under paragraph (a), clause (2), shall be filled by a person licensed or qualified to be licensed as a licensed psychological practitioner. From this date on, this position when vacant shall be filled by a person licensed or qualified to be licensed as a licensed psychological practitioner.

(c) After the date on which fewer than 15 percent of the persons licensed by the board as licensed psychologists qualify for licensure under section 148.907, subdivision 3, paragraph (b), the first vacancy under paragraph (a), clause (2), for a licensed psychologist with a master's degree in psychology shall be filled by a licensed psychologist. From this date on, this position when vacant shall be filled by a person licensed as a licensed psychologist.

Subd. 2. **Members.** (a) The members of the board shall:

(1) be appointed by the governor;

(2) be residents of the state;

(3) serve for not more than two consecutive terms;

(4) designate the officers of the board; and

(5) administer oaths pertaining to the business of the board.

(b) A public member of the board shall represent the public interest and shall not:

(1) be a psychologist, psychological practitioner, or have engaged in the practice of psychology;

(2) be an applicant or former applicant for licensure;

(3) be a member of another health profession;

(4) be a member of a household that includes a psychologist or psychological practitioner; or

(5) have conflicts of interest or the appearance of conflicts with duties as a board member.

Subd. 3. **Terms; compensation; removal of members.** Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in chapter 214. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other activities relating to board operations shall be conducted according to chapter 214.

Subd. 4. [Repealed, 1975 c 136 s 77]

Subd. 5. [Repealed, 1975 c 136 s 77]

**History:** 1973 c 685 s 3; 1975 c 136 s 22,23; 1975 c 271 s 6; 1976 c 222 s 67; 1982 c 424 s 130; 1991 c 199 art 1 s 43; 1991 c 255 s 6; 1996 c 424 s 6,7

#### 148.905 DUTIES OF THE BOARD.

Subdivision 1. **General.** The board shall:

- (1) adopt and enforce rules for licensing psychologists and psychological practitioners and for regulating their professional conduct;
- (2) adopt and enforce rules of conduct governing the practice of psychology;
- (3) adopt and implement rules for examinations which shall be held at least once a year to assess applicants' knowledge and skills. The examinations may be written or oral or both, and may be administered by the board or by institutions or individuals designated by the board;
- (4) issue licenses to individuals qualified under sections 148.907 and 148.908, according to the procedures for licensing in Minnesota Rules;
- (5) issue copies of the rules for licensing to all applicants;
- (6) establish and maintain annually a register of current licenses;
- (7) establish and collect fees for the issuance and renewal of licenses and other services by the board. Fees shall be set to defray the cost of administering the provisions of sections 148.88 to 148.98 including costs for applications, examinations, enforcement, materials, and the operations of the board;
- (8) educate the public about the requirements for licensing of psychologists and of psychological practitioners and about the rules of conduct, to enable the public to file complaints against applicants or licensees who may have violated the Psychology Practice Act; and
- (9) adopt and implement requirements for continuing education and establish or approve programs that qualify for professional psychology continuing educational credit. The board may hire consultants, agencies, or professional psychological associations to establish and approve continuing education courses.

Subd. 2. **Additional powers.** The board may adopt rules necessary to define standards or to carry out the provisions of sections 148.88 to 148.98. Rules shall be adopted according to chapter 14.

**History:** 1991 c 255 s 7; 1993 c 206 s 14; 1996 c 424 s 8

#### 148.906 LEVELS OF PRACTICE.

The board may grant licenses for levels of psychological practice to be known as (1) licensed psychologist and (2) licensed psychological practitioner.

**History:** 1996 c 424 s 9

#### 148.907 LICENSED PSYCHOLOGIST.

Subdivision 1. **Effective date.** After August 1, 1991, no person shall engage in the independent practice of psychology unless that person is licensed as a licensed psychologist.

Subd. 2. **Requirements for licensure as a licensed psychologist.** To become licensed by the board as a licensed psychologist, an applicant shall comply with the following requirements:

- (1) pass an examination in psychology;
- (2) pass a professional responsibility examination on the practice of psychology;
- (3) pass any other examinations as required by board rules;
- (4) pay nonrefundable fees to the board for applications, processing, testing, renewals, and materials;

(5) have attained the age of majority, be of good moral character, and have no unresolved disciplinary action or complaints pending in the state of Minnesota or any other jurisdiction;

(6) have earned a doctoral degree with a major in psychology from a regionally accredited educational institution meeting the standards the board has established by rule; and

(7) have completed at least one full year or the equivalent in part time of postdoctoral supervised psychological employment.

**Subd. 3. Master's level licensure as a licensed psychologist after August 1, 1991.**

(a) A person licensed in this state as a licensed consulting psychologist or a licensed psychologist before August 1, 1991, qualifies for licensure as a licensed psychologist, as described in subdivision 2, at the time of license renewal.

(b) Providing all other licensure requirements have been satisfactorily met, the board shall grant licensure as a licensed psychologist to a person who:

(1) before November 1, 1991, entered a graduate program at a regionally accredited educational institution granting a master's or doctoral degree with a major in psychology which meets the standards the board has established by rule;

(2) before December 31, 1997, earned a master's degree or a master's equivalent in a doctoral program at a regionally accredited educational institution and complied with requirements of subdivision 2, clauses (1) to (5), except that the nonrefundable fees for licensure are payable at the time an application for licensure is submitted; and

(3) before December 31, 1998, completed at least one full year or the equivalent in part time of post-master's supervised psychological employment.

(c) Notwithstanding paragraph (b), the board shall not grant licensure as a licensed psychologist under this subdivision unless the applicant demonstrates that the applicant was a resident of Minnesota on October 31, 1992, and meets all the requirements for licensure under this subdivision.

**Subd. 4. Converting from master's to doctoral level licensure.** To convert from licensure as a licensed psychologist at the master's or master's equivalent level to licensure at the doctoral level, a licensed psychologist shall have:

(1) completed an application provided by the board;

(2) had an official transcript documenting the conferral of the doctoral degree sent directly from the educational institution to the board;

(3) paid a nonrefundable fee;

(4) successfully completed one full year or the equivalent in part time of supervised psychological employment, which shall not include a predoctoral internship, after earning a master's degree or a master's equivalent in a doctoral program;

(5) successfully completed a predoctoral internship meeting the standards the board has established by rule; and

(6) earned a doctoral degree with a major in psychology from a regionally accredited educational institution meeting the standards the board has established by rule.

**History:** 1996 c 424 s 10; 1997 c 102 s 1-3; 1997 c 134 s 1,2

**148.908 LICENSED PSYCHOLOGICAL PRACTITIONER.**

**Subdivision 1. Scope of practice.** A licensed psychological practitioner shall practice only under supervision that satisfies the requirements of section 148.925 and while employed by either a licensed psychologist or a health care or social service agency which employs or contracts with a supervising licensed psychologist who shares clinical responsibility for the care provided by the licensed psychological practitioner.

**Subd. 2. Requirements for licensure as a licensed psychological practitioner.** To become licensed by the board as a licensed psychological practitioner, an applicant shall comply with the following requirements:

(1) pass an examination in psychology;

- (2) pass a professional responsibility examination on the practice of psychology;
- (3) pass any other examinations as required by board rules;
- (4) pay nonrefundable fees to the board for applications, processing, testing, renewals, and materials;
- (5) have attained the age of majority, be of good moral character, and have no unresolved disciplinary action or complaints pending in the state of Minnesota or any other jurisdiction; and
- (6) have earned a doctoral or master's degree or the equivalent of a master's degree in a doctoral program with a major in psychology from a regionally accredited educational institution meeting the standards the board has established by rule.

**History:** 1996 c 424 s 11; 1997 c 134 s 3

#### 148.909 LICENSURE FOR VOLUNTEER PRACTICE.

The board, at its discretion, may grant licensure for volunteer practice to an applicant who:

- (1) is a former licensee who is completely retired from the practice of psychology;
- (2) has no unresolved disciplinary action or complaints pending in the state of Minnesota or any other jurisdiction; and
- (3) has held a license, certificate, or registration to practice psychology in any jurisdiction for at least 15 years.

**History:** 1997 c 102 s 4

148.91 [Repealed, 1996 c 424 s 24]

#### 148.9105 EMERITUS REGISTRATION.

Subdivision 1. **Application.** Retired providers who are licensed or were formerly licensed to practice psychology in the state according to the Minnesota Psychology Practice Act may apply to the board for psychologist emeritus registration or psychological practitioner emeritus registration if they declare that they are retired from the practice of psychology in Minnesota, have not been the subject of disciplinary action in any jurisdiction, and have no unresolved complaints in any jurisdiction. Retired providers shall complete the necessary forms provided by the board and pay a onetime, nonrefundable fee of \$150 at the time of application.

Subd. 2. **Status of registrant.** Emeritus registration is not a license to provide psychological services as defined in the Minnesota Psychology Practice Act. The registrant shall not engage in the practice of psychology.

Subd. 3. **Change to active status.** Emeritus registrants who request a change to active licensure status shall meet the requirements for relicensure following termination in the Minnesota Psychology Practice Act. Master's level emeritus registrants who request licensure at the doctoral level shall comply with current licensure requirements.

Subd. 4. **Documentation of status.** A provider granted emeritus registration shall receive a document certifying that emeritus status has been granted by the board and that the registrant has completed the registrant's active career as a psychologist or psychological practitioner licensed in good standing with the board.

Subd. 5. **Representation to public.** In addition to the descriptions allowed in section 148.96, subdivision 3, paragraph (e), former licensees who have been granted emeritus registration may represent themselves as "psychologist emeritus" or "psychological practitioner emeritus," but shall not represent themselves or allow themselves to be represented to the public as "licensed" or otherwise as current licensees of the board.

Subd. 6. **Continuing education requirements.** The continuing education requirements of the Minnesota Psychology Practice Act do not apply to emeritus registrants.

Subd. 7. **Renewal or special fees.** An emeritus registrant is not subject to license renewal or special fees.

**History:** 2003 c 122 s 3

#### 148.911 CONTINUING EDUCATION.

Upon application for license renewal, a licensee shall provide the board with satisfactory evidence that the licensee has completed continuing education requirements established by the board. Continuing education programs shall be approved under section 148.905, subdivision 1, clause (9). The board shall establish by rule the number of continuing education training hours required each year and may specify subject or skills areas that the licensee shall address.

**History:** 1991 c 255 s 9; 1996 c 424 s 12

#### 148.915 RECIPROCITY.

The board may grant a license to a diplomate of the American Board of Professional Psychology or to any person who at the time of application is licensed, certified, or registered to practice psychology by a board of another state and who meets the licensure requirements under section 148.907, subdivision 2. The board, at its discretion, may elect not to require the examination in psychology under section 148.907, subdivision 2, clause (1), if the person was licensed in another state before the examination was required for licensure in that state. An applicant seeking licensure under this section shall pass a professional responsibility examination on the practice of psychology and any other examinations as required by the board.

**History:** 1996 c 424 s 13; 1999 c 109 s 5

#### 148.916 GUEST LICENSURE.

Subdivision 1. **Generally.** If a nonresident of the state of Minnesota, who is not seeking licensure in this state, and who has been issued a license, certificate, or registration by another jurisdiction to practice psychology at the doctoral level, wishes to practice in Minnesota for more than seven calendar days, the person shall apply to the board for guest licensure, provided that the psychologist's practice in Minnesota is limited to no more than 30 days per calendar year. Application under this section shall be made no less than 30 days prior to the expected date of practice in Minnesota and shall be subject to approval by the board or its designee. The board shall charge a nonrefundable fee for guest licensure. The board shall adopt rules to implement this section.

Subd. 2. **Psychological consultations.** Notwithstanding subdivision 1, a nonresident of the state of Minnesota, who is not seeking licensure in this state, may serve as an expert witness, presenter, or educator without obtaining guest licensure, provided the person is appropriately trained, educated, or has been issued a license, certificate, or registration by another jurisdiction.

Subd. 3. **Disaster or emergency relief workers.** The requirements of subdivision 1 do not apply to psychologists sent to this state for the sole purpose of responding to a disaster or emergency relief effort of this state government, the federal government, the American Red Cross, or other disaster or emergency relief organization as long as the psychologist is not practicing in Minnesota for longer than 30 days and the American Red Cross, disaster or emergency relief organization, or government can certify the psychologist's assignment in this state. The board or its designee, at its discretion, may grant an extension to the 30-day time limitation of this subdivision.

Subd. 4. **Prohibitions and sanctions.** A person's privilege to practice under this section is subject to the prohibitions and sanctions for unprofessional or unethical conduct contained in Minnesota laws and rules.

**History:** 1996 c 424 s 14

148.92 [Repealed, 1991 c 255 s 20]

148.921 [Repealed, 1996 c 424 s.24]

### 148.925 SUPERVISION.

Subdivision 1. **Supervision.** For the purpose of meeting the requirements of this section, supervision means documented in-person consultation, which may include interactive, visual electronic communication, between either: (1) a primary supervisor and a licensed psychological practitioner; or (2) a primary or designated supervisor and an applicant for licensure as a licensed psychologist. The supervision shall be adequate to assure the quality and competence of the activities supervised. Supervisory consultation shall include discussions on the nature and content of the practice of the supervisee, including, but not limited to, a review of a representative sample of psychological services in the supervisee's practice.

Subd. 2. **Postdegree supervised employment.** Postdegree supervised employment means required paid or volunteer work experience and postdegree training of an individual seeking to be licensed as a licensed psychologist that involves the professional oversight by a primary supervisor and satisfies the supervision requirements in subdivisions 3 and 5.

Subd. 3. **Individuals qualified to provide supervision.** (a) Supervision of a master's level applicant for licensure as a licensed psychologist shall be provided by an individual:

(1) who is a psychologist licensed in Minnesota with competence both in supervision in the practice of psychology and in the activities being supervised;

(2) who has a doctoral degree with a major in psychology, who is employed by a regionally accredited educational institution or employed by a federal, state, county, or local government institution, agency, or research facility, and who has competence both in supervision in the practice of psychology and in the activities being supervised, provided the supervision is being provided and the activities being supervised occur within that regionally accredited educational institution or federal, state, county, or local government institution, agency, or research facility;

(3) who is licensed or certified as a psychologist in another jurisdiction and who has competence both in supervision in the practice of psychology and in the activities being supervised; or

(4) who, in the case of a designated supervisor, is a master's or doctorally prepared mental health professional.

(b) Supervision of a doctoral level applicant for licensure as a licensed psychologist shall be provided by an individual:

(1) who is a psychologist licensed in Minnesota with a doctoral degree and competence both in supervision in the practice of psychology and in the activities being supervised;

(2) who has a doctoral degree with a major in psychology, who is employed by a regionally accredited educational institution or is employed by a federal, state, county, or local government institution, agency, or research facility, and who has competence both in supervision in the practice of psychology and in the activities being supervised, provided the supervision is being provided and the activities being supervised occur within that regionally accredited educational institution or federal, state, county, or local government institution, agency, or research facility;

(3) who is licensed or certified as a psychologist in another jurisdiction and who has competence both in supervision in the practice of psychology and in the activities being supervised;

(4) who is a psychologist licensed in Minnesota who was licensed before August 1, 1991, with competence both in supervision in the practice of psychology and in the activities being supervised; or

(5) who, in the case of a designated supervisor, is a master's or doctorally prepared mental health professional.



Subd. 4. **Supervisory consultation for a licensed psychological practitioner.** Supervisory consultation between a supervising licensed psychologist and a supervised licensed psychological practitioner shall be at least one hour in duration and shall occur on an individual, in-person basis. A minimum of one hour of supervision per month is required for the initial 20 or fewer hours of psychological services delivered per month. For each additional 20 hours of psychological services delivered per month, an additional hour of supervision per month is required. When more than 20 hours of psychological services are provided in a week, no more than one hour of supervision is required per week.

Subd. 5. **Supervisory consultation for an applicant for licensure as a licensed psychologist.** Supervision of an applicant for licensure as a licensed psychologist shall include at least two hours of regularly scheduled in-person consultations per week for full-time employment, one hour of which shall be with the supervisor on an individual basis. The remaining hour may be with a designated supervisor. The board may approve an exception to the weekly supervision requirement for a week when the supervisor was ill or otherwise unable to provide supervision. The board may prorate the two hours per week of supervision for individuals preparing for licensure on a part-time basis. Supervised psychological employment does not qualify for licensure when the supervisory consultation is not adequate as described in subdivision 1, or in the board rules.

Subd. 6. **Supervisee duties.** Individuals preparing for licensure as a licensed psychologist during their postdegree supervised employment may perform as part of their training any functions specified in section 148.89, but only under qualified supervision.

Subd. 7. **Variance from supervision requirements.** (a) An applicant for licensure as a licensed psychologist who entered supervised employment before August 1, 1991, may request a variance from the board from the supervision requirements in this section in order to continue supervision under the board rules in effect before August 1, 1991.

(b) After a licensed psychological practitioner has completed two full years, or the equivalent, of supervised post-master's degree employment meeting the requirements of subdivision 5 as it relates to preparation for licensure as a licensed psychologist, the board shall grant a variance from the supervision requirements of subdivision 4 or 5 if the licensed psychological practitioner presents evidence of:

(1) endorsement for specific areas of competency by the licensed psychologist who provided the two years of supervision;

(2) employment by a hospital or by a community mental health center or nonprofit mental health clinic or social service agency providing services as a part of the mental health service plan required by the Comprehensive Mental Health Act;

(3) the employer's acceptance of clinical responsibility for the care provided by the licensed psychological practitioner; and

(4) a plan for supervision that includes at least one hour of regularly scheduled individual in-person consultations per week for full-time employment. The board may approve an exception to the weekly supervision requirement for a week when the supervisor was ill or otherwise unable to provide supervision.

(c) Following the granting of a variance under paragraph (b), and completion of two additional full years or the equivalent of supervision and post-master's degree employment meeting the requirements of paragraph (b), the board shall grant a variance to a licensed psychological practitioner who presents evidence of:

(1) endorsement for specific areas of competency by the licensed psychologist who provided the two years of supervision under paragraph (b);

(2) employment by a hospital or by a community mental health center or nonprofit mental health clinic or social service agency providing services as a part of the mental health service plan required by the Comprehensive Mental Health Act;

(3) the employer's acceptance of clinical responsibility for the care provided by the licensed psychological practitioner; and

(4) a plan for supervision which includes at least one hour of regularly scheduled individual in-person supervision per month.

(d) The variance allowed under this section must be deemed to have been granted to an individual who previously received a variance under paragraph (b) or (c) and is seeking a new variance because of a change of employment to a different employer or employment setting. The deemed variance continues until the board either grants or denies the variance. An individual who has been denied a variance under this section is entitled to seek reconsideration by the board.

**History:** 1991 c 255 s 11; 1992 c 513 art 6 s 31-33; 1993 c 206 s 17; 1996 c 424 s 15; 1997 c 134 s 4; 1999 c 109 s 6; 2000 c 363 s 4-8; 2003 c 122 s 4

**148.93** [Repealed, 1996 c 424 s 24]

**148.94** [Repealed, 1976 c 222 s 209]

**148.941 DISCIPLINARY ACTION; INVESTIGATION; PENALTY FOR VIOLATION.**

Subdivision 1. **Generally.** Except as otherwise described in this section, all hearings shall be conducted under chapter 14.

Subd. 2. **Grounds for disciplinary action; forms of disciplinary action.** (a) The board may impose disciplinary action as described in paragraph (b) against an applicant or licensee whom the board, by a preponderance of the evidence, determines:

(1) has violated a statute, rule, or order that the board issued or is empowered to enforce;

(2) has engaged in fraudulent, deceptive, or dishonest conduct, whether or not the conduct relates to the practice of psychology, that adversely affects the person's ability or fitness to practice psychology;

(3) has engaged in unprofessional conduct or any other conduct which has the potential for causing harm to the public, including any departure from or failure to conform to the minimum standards of acceptable and prevailing practice without actual injury having to be established;

(4) has been convicted of or has pled guilty or nolo contendere to a felony or other crime, an element of which is dishonesty or fraud, or has been shown to have engaged in acts or practices tending to show that the applicant or licensee is incompetent or has engaged in conduct reflecting adversely on the applicant's or licensee's ability or fitness to engage in the practice of psychology;

(5) has employed fraud or deception in obtaining or renewing a license, in requesting approval of continuing education activities, or in passing an examination;

(6) has had a license, certificate, charter, registration, privilege to take an examination, or other similar authority denied, revoked, suspended, canceled, limited, reprimanded, or otherwise disciplined, or not renewed for cause in any jurisdiction; or has surrendered or voluntarily terminated a license or certificate during a board investigation of a complaint, as part of a disciplinary order, or while under a disciplinary order;

(7) has been subject to a corrective action or similar action in another jurisdiction or by another regulatory authority;

(8) has failed to meet any requirement for the issuance or renewal of the person's license. The burden of proof is on the applicant or licensee to demonstrate the qualifications or satisfy the requirements for a license under the Psychology Practice Act;

(9) has failed to cooperate with an investigation of the board as required under subdivision 4;

(10) has demonstrated an inability to practice psychology with reasonable skill and safety to clients due to any mental or physical illness or condition; or

(11) has engaged in fee splitting. This clause does not apply to the distribution of revenues from a partnership, group practice, nonprofit corporation, or professional

corporation to its partners, shareholders, members, or employees if the revenues consist only of fees for services performed by the licensee or under a licensee's administrative authority. This clause also does not apply to the charging of a general membership fee by a licensee or applicant to health care providers, as defined in section 144.335, for participation in a referral service, provided that the licensee or applicant discloses in advance to each referred client the financial nature of the referral arrangement. Fee splitting includes, but is not limited to:

(i) paying, offering to pay, receiving, or agreeing to receive a commission, rebate, or remuneration, directly or indirectly, primarily for the referral of clients;

(ii) dividing client fees with another individual or entity, unless the division is in proportion to the services provided and the responsibility assumed by each party;

(iii) referring an individual or entity to any health care provider, as defined in section 144.335, or for other professional or technical services in which the referring licensee or applicant has a significant financial interest unless the licensee has disclosed the financial interest in advance to the client; and

(iv) dispensing for profit or recommending any instrument, test, procedure, or device that for commercial purposes the licensee or applicant has developed or distributed, unless the licensee or applicant has disclosed any profit interest in advance to the client.

(b) If grounds for disciplinary action exist under paragraph (a), the board may take one or more of the following actions:

(1) refuse to grant or renew a license;

(2) revoke a license;

(3) suspend a license;

(4) impose limitations or conditions on a licensee's practice of psychology, including, but not limited to, limiting the scope of practice to designated competencies, imposing retraining or rehabilitation requirements, requiring the licensee to practice under supervision, or conditioning continued practice on the demonstration of knowledge or skill by appropriate examination or other review of skill and competence;

(5) censure or reprimand the licensee;

(6) refuse to permit an applicant to take the licensure examination or refuse to release an applicant's examination grade if the board finds that it is in the public interest; or

(7) impose a civil penalty not exceeding \$7,500 for each separate violation. The amount of the penalty shall be fixed so as to deprive the applicant or licensee of any economic advantage gained by reason of the violation charged, to discourage repeated violations, or to recover the board's costs that occur in bringing about a disciplinary order. For purposes of this clause, costs are limited to legal, paralegal, and investigative charges billed to the board by the Attorney General's Office, witness costs, consultant and expert witness fees, and charges attendant to the use of an administrative law judge.

(c) In lieu of or in addition to paragraph (b), the board may require, as a condition of continued licensure, termination of suspension, reinstatement of license, examination, or release of examination grades, that the applicant or licensee:

(1) submit to a quality review, as specified by the board, of the applicant's or licensee's ability, skills, or quality of work;

(2) complete to the satisfaction of the board educational courses specified by the board; and

(3) reimburse to the board all costs incurred by the board that are the result of a provider failing, neglecting, or refusing to fully comply, or not complying in a timely manner, with any part of the remedy section of a stipulation and consent order or the corrective action section of an agreement for corrective action. For purposes of this clause, costs are limited to legal, paralegal, and investigative charges billed to the board by the Attorney General's Office, witness costs, consultant and expert witness fees, and charges attendant to the use of an administrative law judge.

(d) Service of the order is effective if the order is served on the applicant, licensee, or counsel of record personally or by mail to the most recent address provided to the board for the licensee, applicant, or counsel of record. The order shall state the reasons for the entry of the order.

Subd. 3. **Temporary suspension of license.** (a) In addition to any other remedy provided by law, the board may temporarily suspend the credentials of a licensee after conducting a preliminary inquiry to determine if the board reasonably believes that the licensee has violated a statute or rule that the board is empowered to enforce and continued practice by the licensee would create an imminent risk of harm to others.

(b) The order may prohibit the licensee from engaging in the practice of psychology in whole or in part and may condition the end of a suspension on the licensee's compliance with a statute, rule, or order that the board has issued or is empowered to enforce.

(c) The order shall give notice of the right to a hearing pursuant to this subdivision and shall state the reasons for the entry of the order.

(d) Service of the order is effective when the order is served on the licensee personally or by certified mail which is complete upon receipt, refusal, or return for nondelivery to the most recent address provided to the board for the licensee.

(e) At the time the board issues a temporary suspension order, the board shall schedule a hearing to be held before its own members which shall begin no later than 60 days after issuance of the temporary suspension order or within 15 working days of the date of the board's receipt of a request for hearing by a licensee on the sole issue of whether there is a reasonable basis to continue, modify, or lift the temporary suspension. This hearing is not subject to chapter 14. Evidence presented by the board or the licensee shall be in affidavit form only. The licensee or counsel of record may appear for oral argument.

(f) Within five working days of the hearing, the board shall issue its order and, if the suspension is continued, schedule a contested case hearing within 30 days of the issuance of the order. Notwithstanding chapter 14, the administrative law judge shall issue a report within 30 days after closing the contested case hearing record. The board shall issue a final order within 30 days of receipt of the administrative law judge's report.

Subd. 4. **Cooperation of applicants or licensees with investigations.** (a) An applicant or licensee of the board who is the subject of an investigation or who is questioned in connection with an investigation by or on behalf of the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the board relating to the subject of the investigation, executing all releases requested by the board, providing copies of client records, as reasonably requested by the board to assist it in its investigation, and appearing at conferences or hearings scheduled by the board or its staff.

(b) If the board does not have a written consent from a client permitting access to the client's records, the licensee may delete any data in the record which identify the client before providing it to the board. The board shall maintain any records obtained pursuant to this section as investigative data pursuant to chapter 13.

Subd. 5. **Evidence of past sexual conduct.** In a proceeding for the suspension or revocation of a license or other disciplinary action for unethical or unprofessional conduct involving sexual contact with a client or former client, the board or administrative law judge shall not consider evidence of the client's previous sexual conduct nor shall any reference to this conduct be made during the proceedings or in the findings, except by motion of the client, unless the evidence would be admissible under applicable provisions of section 609.347, subdivision 3.

Subd. 6. **Violation.** Persons who engage in the unlicensed practice of psychology or who misrepresent themselves as psychologists or psychological practitioners are guilty of a gross misdemeanor.

Subd. 7. **Limitation period.** (a) For complaints against providers received by the board after July 31, 2001, a board proceeding against a provider must not be instituted

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unless it is begun within seven years from the date of some portion of the alleged misconduct that is complained of.

(b) The following are exceptions to the limitation period in paragraph (a):

(1) complaints alleging a violation of subdivision 2, paragraph (a), clauses (2), (4), (5), and (6);

(2) complaints alleging sexual intercourse or other physical intimacies with a client, or any verbal or physical behavior that is sexually seductive or sexually demeaning to the client; or complaints alleging sexual intercourse or other physical intimacies with a former client, or any verbal or physical behavior that is sexually demeaning to the former client, for a period of two years following the date of the last professional contact with the former client, whether or not the provider has formally terminated the professional relationship. Physical intimacies include handling of the breasts, genital areas, buttocks, or thighs of either sex by either the provider or the client.

(c) If a complaint is received by the board less than 12 months from the expiration of the limitation period in paragraph (a), the limitation period is extended for a period of 12 months from the date the complaint is received by the board.

(d) If alleged misconduct is complained of that involves a client who is a minor, the limitation period in paragraph (a) does not begin until the minor reaches the age of 18.

(e) For purposes of this subdivision only, "proceeding" means the service of a notice of conference, or in cases in which a notice of conference was not served, a notice of hearing.

**Subd. 8. Mental, physical, or chemical dependency examination or evaluation.** (a) If the board has probable cause to believe that an individual who is regulated by the board has demonstrated an inability to practice psychology with reasonable skill and safety to clients due to any mental or physical illness or condition, the board may direct the individual to submit to an independent mental, physical, or chemical dependency examination or evaluation. For the purpose of this subdivision, an individual regulated by the board is deemed to have consented to submit to the examination or evaluation when directed to do so by written notice 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 same constitutes a privileged communication. Failure to submit to an examination or evaluation without just cause, as determined by the board, shall authorize the board to consider the allegations as true for the purposes of further action by the board. Such action may include an application being denied, a license being suspended, or a default and final order being entered without the taking of testimony or presentation of evidence, other than evidence that may be submitted by affidavit that explains why the individual did not submit to the examination or evaluation.

(b) An individual regulated by the board who is affected under this subdivision shall, at reasonable intervals, be given an opportunity to demonstrate that the individual is fit to resume the competent practice of psychology with reasonable skill and safety to the public.

(c) In a proceeding under this subdivision, neither the record of the proceedings nor the orders entered by the board is admissible, is subject to subpoena, or may be used against the individual regulated by the board in any proceeding not commenced by the board.

(d) Information obtained under this subdivision is classified as private under section 13.02, subdivision 12.

**History:** 1993 c 206 s 18; 1996 c 424 s 16-19; 1997 c 134 s 5; 1999 c 109 s 7,8; 2000 c 363 s 9; 2001 c 66 s 1,2; 2003 c 122 s 5

**148.95** [Repealed, 1993 c 206 s 25]

**148.951** [Repealed, 1996 c 424 s 24]

**148.952 IMMUNITY.**

(a) Any person, health care facility, business, or organization is immune from civil liability and criminal prosecution for reporting in good faith to the board violations or alleged violations of the Psychology Practice Act.

(b) Any person, health care facility, business, or organization is immune from civil liability and criminal prosecution for cooperating with the board in good faith in the investigation of violations or alleged violations of the Psychology Practice Act.

(c) Consultants, advisors, and experts retained by the board for the investigation of alleged violations and for the preparation, presentation, and provision of testimony pertaining to allegations, charges, or violations of the Psychology Practice Act are immune from civil liability and criminal prosecution for any actions, transactions, or publications made in good faith in the execution of, or relating to, their duties on behalf of the board.

(d) Paragraphs (a) and (b) do not apply to a person whose report pertains to the person's own conduct.

*History: 1999 c 109 s 9*

**148.96 PRESENTATION TO PUBLIC.**

Subdivision 1. **Requirements for professional identification.** All licensees, when representing themselves in activities relating to the practice of psychology, including in written materials or advertising, shall identify the academic degree upon which their licensure is based, as well as their level of licensure. Individuals licensed on the basis of the equivalent of a master's degree in a doctoral program shall similarly use the designation "M. Eq." to identify the educational status on which their licensure is based, as well as their level of licensure.

Subd. 2. **Disclosure of education.** At the initial meeting, a licensee shall display or make available to each new client accurate information about the qualifications and competencies of the licensee, in accordance with regulations of the board.

Subd. 3. **Requirements for representations to public.** (a) Unless licensed under sections 148.88 to 148.98, except as provided in paragraphs (b) through (e), persons shall not represent themselves or permit themselves to be represented to the public by:

(1) using any title or description of services incorporating the words "psychology," "psychological," "psychological practitioner," or "psychologist"; or

(2) representing that the person has expert qualifications in an area of psychology.

(b) Psychologically trained individuals who are employed by an educational institution recognized by a regional accrediting organization, by a federal, state, county, or local government institution, by agencies, or by research facilities, may represent themselves by the title designated by that organization provided that the title does not indicate that the individual is credentialed by the board.

(c) A psychologically trained individual from an institution described in paragraph (b) may offer lecture services and is exempt from the provisions of this section.

(d) A person who is preparing for the practice of psychology under supervision in accordance with board statutes and rules may be designated as a "psychological intern," "psychological trainee," or by other terms clearly describing the person's training status.

(e) Former licensees who are completely retired from the practice of psychology may represent themselves using the descriptions in paragraph (a), clauses (1) and (2), but shall not represent themselves or allow themselves to be represented as current licensees of the board.

(f) Nothing in this section shall be construed to prohibit the practice of school psychology by a person licensed in accordance with chapters 122A and 129.

Subd. 4. **Persons or techniques not regulated by this board.** (a) Nothing in sections 148.88 to 148.98 shall be construed to limit the occupational pursuits consistent with their training and codes of ethics of professionals such as teachers in recognized public and private schools, members of the clergy, physicians, social workers, school psycholo-

gists, alcohol or drug counselors, optometrists, or attorneys. However, in such performance any title used shall be in accordance with section 148.96.

(b) Use of psychological techniques by business and industrial organizations for their own personnel purposes or by employment agencies or state vocational rehabilitation agencies for the evaluation of their own clients prior to recommendation for employment is also specifically allowed. However, no representative of an industrial or business firm or corporation may sell, offer, or provide any psychological services as specified in section 148.89 unless such services are performed or supervised by individuals licensed under sections 148.88 to 148.98.

Subd. 5. **Other professions not authorized.** Nothing in sections 148.88 to 148.98 shall be construed to authorize a person licensed under sections 148.88 to 148.98 to engage in the practice of any profession regulated under Minnesota law unless the person is duly licensed or registered in that profession.

**History:** 1973 c 685 s 9; 1986 c 444; 1991 c 255 s 14; 1996 c 424 s 20; 1997 c 102 s 5,6; 1998 c 397 art 11 s 3; 1999 c 109 s 10; 2000 c 260 s 26

#### 148.965 TEST SECURITY.

Notwithstanding section 144.335, subdivision 2, paragraphs (a) and (b), a provider shall not be required to provide copies of psychological tests, test materials, or scoring keys to any individual who has completed a test, or to an individual not qualified to administer, score, and interpret the test, if the provider reasonably determines that access would compromise the objectivity, fairness, or integrity of the testing process for the individual or others. If the provider makes this determination, the provider shall, at the discretion of the individual who has completed the test, release the information either to another provider who is qualified to administer, score, and interpret the test or instead furnish a summary of the test results to the individual or to a third party designated by the individual.

**History:** 1999 c 58 s 1

148.97 [Repealed, 1996 c 424 s 24]

#### 148.975 DUTY TO WARN; LIMITATION ON LIABILITY; VIOLENT BEHAVIOR OF PATIENT.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Other person" means an immediate family member or someone who personally knows the client and has reason to believe the client is capable of and will carry out the serious, specific threat of harm to a specific, clearly identified or identifiable victim.

(c) "Reasonable efforts" means communicating the serious, specific threat to the potential victim and if unable to make contact with the potential victim, communicating the serious, specific threat to the law enforcement agency closest to the potential victim or the client.

Subd. 2. **Duty to warn.** The duty to predict, warn of, or take reasonable precautions to provide protection from, violent behavior arises only when a client or other person has communicated to the licensee a specific, serious threat of physical violence against a specific, clearly identified or identifiable potential victim. If a duty to warn arises, the duty is discharged by the licensee if reasonable efforts, as defined in subdivision 1, paragraph (c), are made to communicate the threat.

Subd. 3. [Renumbered subd 2]

Subd. 3. **Liability standard.** If no duty to warn exists under subdivision 2, then no monetary liability and no cause of action may arise against a licensee for failure to predict, warn of, or take reasonable precautions to provide protection from, a client's violent behavior.

Subd. 4. **Disclosure of confidences.** Good faith compliance with the duty to warn shall not constitute a breach of confidence and shall not result in monetary liability or a cause of action against the licensee.

Subd. 5. **Continuity of care.** Nothing in subdivision 2 shall be construed to authorize a licensee to terminate treatment of a client as a direct result of a client's violent behavior or threat of physical violence unless the client is referred to another practitioner or appropriate health care facility.

Subd. 6. **Exception.** This section does not apply to a threat to commit suicide or other threats by a client to harm the client, or to a threat by a client who is adjudicated mentally ill and dangerous under chapter 253B.

Subd. 7. **Optional disclosure.** Nothing in section 148.975 shall be construed to prohibit a licensee from disclosing confidences to third parties in a good-faith effort to warn against or take precautions against a client's violent behavior or threat to commit suicide for which a duty to warn does not arise.

Subd. 8. **Limitation on liability.** No monetary liability and no cause of action, or disciplinary action by the board may arise against a licensee for disclosure of confidences to third parties, for failure to disclose confidences to third parties, or for erroneous disclosure of confidences to third parties in a good-faith effort to warn against or take precautions against a client's violent behavior or threat of suicide for which a duty to warn does not arise.

**History:** 1986 c 380 s 1; 1996 c 424 s 21

148.976 [Repealed, 1998 c 254 art 1 s 48]

#### 148.98 RULES OF CONDUCT.

The board shall adopt rules of conduct to govern an applicant's or licensee's practices or behavior. The board shall publish the rules in the State Register and file the rules with the secretary of state at least 30 days prior to the effective date of the rules. The rules of conduct shall include, but are not limited to, the principles in paragraphs (a) through (c).

(a) Applicants or licensees shall recognize the boundaries of their competence and the limitations of their techniques and shall not offer services or use techniques that fail to meet usual and customary professional standards.

(b) An applicant or licensee who engages in practice shall assist clients in obtaining professional help for all important aspects of the client's problems that fall outside the boundaries of the applicant's or licensee's competence.

(c) Applicants or licensees shall not claim either directly or by implication professional qualifications that differ from their actual qualifications, nor shall they misrepresent their affiliations with any institution, organization, or individual, nor lead others to assume affiliations that do not exist.

**History:** 1973 c 685 s 11; 1976 c 222 s 72; 1986 c 444; 1991 c 255 s 16; 1993 c 206 s 19; 1996 c 424 s 22

148.99 Subdivision 1. [Repealed, 1976 c 222 s 209]

Subd. 2. [Expired]