

CHAPTER 148

PUBLIC HEALTH OCCUPATIONS

148.10	LICENSES REVOKED; NEW LICENSES.	148.724	EXAMINATION FOR LICENSED
148.235	PRESCRIBING DRUGS AND THERAPEUTIC DEVICES.	148.725	PHYSICAL THERAPIST ASSISTANT. REQUIREMENTS FOR FOREIGN-EDUCATED APPLICANTS.
148.261	FOUNDATIONS FOR DISCIPLINARY ACTION.	148.73	RENEWALS.
148.515	QUALIFICATIONS FOR LICENSURE.	148.735	CANCELLATION OF LICENSE IN GOOD STANDING.
148.6445	FEES.	148.736	CANCELLATION OF CREDENTIALS UNDER DISCIPLINARY ORDER.
148.65	DEFINITIONS.	148.74	RULES.
148.67	STATE BOARD OF PHYSICAL THERAPY; MEMBERSHIP APPOINTMENTS, VACANCIES, REMOVALS.	148.75	DISCIPLINARY ACTION.
148.691	OFFICERS; EXECUTIVE DIRECTOR.	148.754	EXAMINATION; ACCESS TO MEDICAL DATA.
148.70	APPLICANTS. QUALIFICATIONS.	148.755	TEMPORARY SUSPENSION OF LICENSE.
148.705	APPLICATION.	148.76	PROHIBITED CONDUCT.
148.706	PHYSICAL THERAPIST ASSISTANTS, AIDES, AND STUDENTS.	148.78	PROSECUTION, ALLEGATIONS.
148.71	TEMPORARY PERMITS.	148.941	DISCIPLINARY ACTION; INVESTIGATION; PENALTY FOR VIOLATION.
148.715	FEES.	148.965	TEST SECURITY.
148.721	EDUCATIONAL REQUIREMENTS FOR LICENSED PHYSICAL THERAPIST.	148.995	DEFINITIONS.
148.722	EDUCATIONAL REQUIREMENTS FOR LICENSED PHYSICAL THERAPIST ASSISTANT.	148.996	REGISTRY.
148.723	EXAMINATION FOR LICENSED PHYSICAL THERAPIST.	148.997	FEES.

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 licensee; 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 144.291, subdivision 2, paragraph (h), 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 sections 144.291 to 144.298 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. 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; and

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

[For text of subs 2 to 6, see M.S.2006]

History: 2007 c 123 s 11; 2007 c 147 art 10 s 15

148.235 PRESCRIBING DRUGS AND THERAPEUTIC DEVICES.

[For text of subs 1 to 10, see M.S.2006]

Subd. 11. Dispensing by protocol. Subject to the requirements of this subdivision, a registered nurse in a family planning agency as defined in Minnesota Rules, part 9505.0280, subpart 3, may dispense oral contraceptives prescribed by a licensed practitioner as defined in section 151.01, subdivision 23, pursuant to a dispensing protocol established by the agency's medical director or under the direction of a physician. The dispensing protocol must address the requirements of sections 151.01, subdivision 30, and 151.212, subdivision 1. In addition, the registered nurse may not dispense oral contraceptives if the patient is under 12 years of age.

Subd. 12. Dispensing by protocol. A registered nurse in a family planning agency as defined in Minnesota Rules, part 9505.0280, subpart 3, may dispense oral contraceptives prescribed by a licensed practitioner as defined in section 151.01, subdivision 23, pursuant to a dispensing protocol established by the agency's medical director or under the direction of a physician. The dispensing protocol must address the requirements of sections 151.01, subdivision 30, and 151.212, subdivision 1.

History: 2007 c 139 s 2; 2007 c 147 art 11 s 3

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 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 sections 144.291 to 144.298, 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.

[For text of subd 4, see M.S.2006]

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 144.291, subdivision 2, paragraph (h), 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: 2007 c 147 art 10 s 15

148.515 QUALIFICATIONS FOR LICENSURE.

[For text of subd 1, see M.S.2006]

Subd. 2. Master's or doctoral degree required for speech–language pathology applicants. (a) An applicant for speech–language pathology 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 speech–language pathology 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 meets the current requirements and 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. 2a. Master's or doctoral degree required for audiology applicants. (a) An applicant for audiology must possess a master's degree or doctoral degree that meets the following requirements:

(1) if graduate training is completed prior to August 30, 2007, an audiology applicant must possess a master's or doctoral degree in audiology from an accredited educational institution; or

(2) if graduate training is completed after August 30, 2007, an audiology applicant must possess a doctoral degree with an emphasis in audiology, or its equivalent as determined by the commissioner, from an accredited educational institution.

(b) All of the audiology 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 meets the current requirements and 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.

[For text of subs 4 and 6, see M.S.2006]

History: 2007 c 123 s 12,13

148.6445 FEES.

Subdivision 1. Initial licensure fee. The initial licensure fee for occupational therapists is \$145. The initial licensure fee for occupational therapy assistants is \$80. 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 \$145. The biennial licensure renewal fee for occupational therapy assistants is \$80.

[For text of subs 3 to 11, see M.S.2006]

History: 2007 c 147 art 9 s 24,25

148.65 DEFINITIONS.

[For text of subd 1, see M.S.2006]

Subd. 2. **Physical therapist.** “Physical therapist” means a person licensed by the board who practices physical therapy as defined in sections 148.65 to 148.78.

Subd. 3. **Physical therapist assistant.** “Physical therapist assistant” means a person licensed by the board who provides physical therapy under the direction and supervision of a physical therapist, and who performs physical therapy interventions and assists with coordination, communication, documentation, and patient–client–related instruction.

[For text of subds 4 to 7, see M.S.2006]

Subd. 8. **Licensee.** “Licensee” means a person licensed as a physical therapist or a physical therapist assistant.

History: 2007 c 123 s 14–16

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 and physical therapist assistants. The board shall consist of nine members, citizens and residents of the state of Minnesota, composed of five physical therapists, one licensed and registered doctor of medicine, two physical therapist assistants, and three public members. The physical therapist members and the physical therapist assistant members must be licensed in this state and 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.

[For text of subd 2, see M.S.2006]

History: 2007 c 123 s 17

148.691 OFFICERS; EXECUTIVE DIRECTOR.

[For text of subds 1 and 2, see M.S.2006]

Subd. 3. [Repealed, 2007 c 123 s 137]

148.70 APPLICANTS, QUALIFICATIONS.

The Board of Physical Therapy must:

(1) establish the qualifications of applicants for licensing and continuing education requirements for renewal of licensure;

(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 met all requirements for licensure as a physical therapist or physical therapist assistant.

History: 2007 c 123 s 18

148.705 APPLICATION.

Subdivision 1. **Form; fee.** An applicant for licensure as a physical therapist or physical therapist assistant shall submit a written application on forms provided by the board together with the appropriate fee in the amount set by the board. No portion of the fee is refundable. No applicant will be approved to sit for the national examination until the application is complete, as determined by the board.

Subd. 2. **Contents of application.** (a) The application must include the following information:

(1) evidence satisfactory to the board that the applicant has met the educational requirements of section 148.721 or 148.722 as demonstrated by a certified copy of a transcript;

(2) recommendations by two physical therapists registered or licensed to practice physical therapy in the United States or Canada attesting to the applicant's ethical and moral character;

(3) a recent full-face photograph of the applicant attached to the application with the affidavit on the form completed and notarized;

(4) a record of the applicant's high school, college, and board-approved physical therapy school education listing the names, locations, dates of attendance, and diplomas, degrees, or certificates awarded;

(5) a record of the applicant's postgraduate work and military service;

(6) a listing of the United States jurisdictions, and countries in which the applicant is currently licensed or registered, or has been in the past, including the applicant's license or registration certificate number, the date the license or registration was obtained, and the method by which the license or registration was received;

(7) a record of the applicant's current and previous physical therapy practice experience;

(8) a record of disciplinary action taken on past complaints, refusal of licensure or registration, or denial of examination eligibility by another state board or physical therapy society against the applicant;

(9) a record of the applicant's personal use or administration of any controlled substances and any treatment for alcohol or drug abuse;

(10) a record by the applicant of any disease, illness, or injury that impairs the applicant's ability to practice physical therapy;

(11) a record of any convictions for crimes related to the practice of physical therapy, felonies, gross misdemeanors, and crimes involving moral turpitude;

(12) a listing of any memberships in a physical therapy professional association;

(13) the applicant's name and address;

(14) the applicant's Social Security number, alien registration card number, or tax identification number, whichever is applicable;

(15) completed copies of credentials verification forms provided by the board; and

(16) any information deemed necessary by the board to evaluate the applicant.

(b) A person who has previously practiced in another state shall submit the following information for the five-year period of active practice preceding the date of filing application in this state:

(1) the name and address of the person's professional liability insurer in the other state; and

(2) the number, date, and disposition of any malpractice settlement or award made to a plaintiff relating to the quality of services provided.

History: 2007 c 123 s 19

148.706 PHYSICAL THERAPIST ASSISTANTS, AIDES, AND STUDENTS.

Subdivision 1. **Supervision.** Every physical therapist who uses the services of a physical therapist assistant or physical therapy 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 delegate duties to the physical therapist assistant and assign tasks to the physical therapy aide in accordance with subdivision 2. Physical therapists who instruct student physical therapists and student physical therapist assistants are responsible for the functions performed by the students and shall supervise the students as provided under section 148.65, subdivisions 5 and 6. A licensed physical therapist may supervise no more than two physical therapist assistants at any time.

Subd. 2. Delegation of duties. The physical therapist may delegate patient treatment procedures only to a physical therapist assistant who has sufficient didactic and clinical preparation. The physical therapist may not delegate the following activities to the physical therapist assistant or to other supportive personnel: patient evaluation, treatment planning, initial treatment, change of treatment, and initial or final documentation.

Subd. 3. Observation of physical therapist assistants. When components of a patient's treatment are delegated to a physical therapist assistant, a physical therapist must provide on-site observation of the treatment and documentation of its appropriateness at least every six treatment sessions. The physical therapist is not required to be on-site, but must be easily available by telecommunications.

Subd. 4. Observation of physical therapy aides. The physical therapist must observe the patient's status before and after the treatment administered by a physical therapy aide. The physical therapy aide may perform tasks related to preparation of patient and equipment for treatment, housekeeping, transportation, clerical duties, departmental maintenance, and selected treatment procedures. The tasks must be performed under the direct supervision of a physical therapist who is readily available for advice, instruction, or immediate assistance.

History: 2007 c 123 s 20

148.71 TEMPORARY PERMITS.

Subdivision 1. [Repealed, 2007 c 123 s 137]

Subd. 2. Issuance. (a) The board may, upon completion of the application prescribed by the board and payment of a fee set by the board, issue a temporary permit to practice physical therapy under supervision to an applicant for licensure as a physical therapist or physical therapist assistant who meets the educational requirements of section 148.721 or 148.722 and qualified for admission to examination for licensing as a physical therapist or physical therapist assistant. A temporary permit 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 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) An applicant 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-educated physical therapists; temporary permits. (a) The Board of Physical Therapy may issue a temporary permit to a foreign-educated 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 148.721, and has provided to the board a Foreign Credentialing Commission on Physical

Therapy (FCCPT) comprehensive credentials evaluation (Type I certificate) or FCCPT educational credentials review demonstrating completion of the program;

(3) has achieved a passing score according to section 148.725, subdivision 3, on the test of English as a foreign language or an alternate equivalent examination, as determined by the board; and

(4) has paid a nonrefundable fee set by the board.

A foreign-educated 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-educated 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-educated 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-educated 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-educated 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).

(e) A temporary permit will not be issued to a foreign-educated applicant who has been issued a temporary permit for longer than six months in any other state.

History: 2007 c 123 s 21

148.715 FEES.

The fees charged by the board are fixed at the following rates:

(1) application fee for physical therapists and physical therapist assistants, \$100;

(2) annual licensure for physical therapists and physical therapist assistants, \$60;

(3) licensure renewal late fee, \$20;

(4) temporary permit, \$25;

(5) duplicate license or registration, \$20;

(6) certification letter, \$25;

(7) education or training program approval, \$100;

(8) report creation and generation, \$60 per hour billed in quarter-hour increments with a quarter-hour minimum; and

(9) examination administration:

(i) half day, \$50; and

(ii) full day, \$80.

History: 2007 c 123 s 36; 2007 c 147 art 9 s 26

148.72 [Repealed, 2007 c 123 s 137]

148.721 EDUCATIONAL REQUIREMENTS FOR LICENSED PHYSICAL THERAPIST.

Subdivision 1. **Accredited program.** All applicants for licensure as a physical therapist must complete a course in physical therapy education accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) or which meets the accreditation requirements of CAPTE, as determined by the board.

Subd. 2. **General education.** In addition to completion of the accredited program required in subdivision 1, applicants must complete an additional 60 academic semester credits or its quarter equivalent from an institution of higher education that is accredited by a regional accrediting organization. Coursework used to satisfy this requirement may not have been earned as part of the accredited program requirement of subdivision 1.

History: 2007 c 123 s 22

148.722 EDUCATIONAL REQUIREMENTS FOR LICENSED PHYSICAL THERAPIST ASSISTANT.

All applicants for licensure as a physical therapist assistant must graduate from a physical therapist assistant educational program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) or meet its standards, as determined by the board.

History: 2007 c 123 s 23

148.723 EXAMINATION FOR LICENSED PHYSICAL THERAPIST.

Subdivision 1. **National test.** All applicants for licensure as a physical therapist must take and pass the National Physical Therapy Examination (NPTE) administered by the Federation of State Boards of Physical Therapy (FSBPT) or an alternate national examination determined by the board to be equivalent. For purposes of this section, passing scores are defined in subdivisions 2 and 3.

Subd. 2. **Examinations taken on or before July 1, 1995.** The passing score for qualifying examinations taken prior to July 1, 1995, is one standard deviation below the mean of all persons taking the examination.

Subd. 3. **Examinations taken after July 1, 1995.** The passing score for qualifying examinations taken after July 1, 1995, shall be based on objective, numerical standards established by the administering testing agency.

History: 2007 c 123 s 24

148.724 EXAMINATION FOR LICENSED PHYSICAL THERAPIST ASSISTANT.

Subdivision 1. **National test.** All applicants for licensure as a physical therapist assistant must take and pass the National Physical Therapy Examination (NPTE) for physical therapist assistants administered by the Federation of State Boards of Physical Therapy (FSBPT) or an alternate national examination determined by the board to be equivalent. For purposes of this section, passing scores are defined in subdivisions 2 to 4.

Subd. 2. **Examinations taken on or before July 1, 1995.** The passing score for qualifying examinations taken prior to July 1, 1995, is one standard deviation below the mean of all persons taking the examination.

Subd. 3. **Examinations taken after July 1, 1995.** The passing score for qualifying examinations taken after July 1, 1995, shall be based on objective, numerical standards established by the administering testing agency.

Subd. 4. **Grandparenting provision.** Applicants for licensure as a physical therapist assistant who meet the educational requirements of section 148.722 prior to September 1, 2007, are not required to take and pass the examination required by this section. This provision expires on July 1, 2008.

History: 2007 c 123 s 25

148.725 REQUIREMENTS FOR FOREIGN-EDUCATED APPLICANTS.

Subdivision 1. **Scope and documentation.** An applicant for licensure who is a foreign-educated physical therapist must fulfill the requirements in subdivisions 2 to 5, providing certified English translations of board-required relevant documentation.

Subd. 2. **Education evaluation.** The applicant must present evidence of completion of physical therapy schooling equivalent to that required in section 148.721 by having a Type I comprehensive credentials evaluation or educational credentials review performed by the Foreign Credentialing Commission on Physical Therapy (FCCPT). The evaluation must be sent directly to the board from the FCCPT. The applicant shall be responsible for the expenses incurred as a result of the evaluation.

Subd. 3. **English test.** If not completed as part of the FCCPT Type I comprehensive credentials evaluation, the applicant must demonstrate English language proficiency by taking the test of English as a foreign language examination (TOEFL) and achieving a passing score as established by the board, or a passing score on a comparable nationally recognized examination approved by the board. For purposes of this subdivision, the passing score adopted by the board shall be applied prospectively.

Subd. 4. **Experience.** The applicant must have practiced satisfactorily for at least six months under the supervision of a licensed physical therapist at a board-approved facility. A facility that offers such practice must provide a broad base of experience including a variety of physical agents, therapeutic exercises, evaluation procedures, and patient diagnoses. Supervision must be provided by a licensed physical therapist with at least three years of clinical experience. A proposed outline of clinical experiences must be approved by the board before the facility begins offering the experience.

Subd. 5. **Examination.** The applicant must satisfactorily complete the board-approved examination as stated in section 148.72 or 148.73.

History: 2007 c 123 s 26

148.73 RENEWALS.

Every licensed physical therapist and physical therapist assistant shall, before January 1 each year, 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. For purposes of this section, the continuing education requirements for physical therapist assistants are the same as those for physical therapists.

History: 2007 c 123 s 27

148.735 CANCELLATION OF LICENSE IN GOOD STANDING.

Subdivision 1. **Board approval; reporting.** A physical therapist or physical therapist assistant holding an active license to practice physical therapy in the state may, upon approval of the board, be granted license cancellation if the board is not investigating the person as a result of a complaint or information received or if the board has not begun disciplinary proceedings against the person. Such action by the board shall be reported as a cancellation of a license in good standing.

Subd. 2. **Fees nonrefundable.** A physical therapist or physical therapist assistant who receives board approval for license cancellation is not entitled to a refund of any license fees paid for the licensure year in which cancellation of the license occurred.

Subd. 3. **New license after cancellation.** If a physical therapist or physical therapist assistant who has been granted board approval for license cancellation desires to resume the practice of physical therapy in Minnesota, that physical therapist or physical therapist assistant must obtain a new license by applying for licensure and fulfilling the requirements then in existence for obtaining an initial license to practice physical therapy in Minnesota.

History: 2007 c 123 s 28

148.736 CANCELLATION OF CREDENTIALS UNDER DISCIPLINARY ORDER.

Subdivision 1. **Board approval; reporting.** A physical therapist or physical therapist assistant whose right to practice is under suspension, condition, limitation, qualification, or restriction by the board may be granted cancellation of credentials by approval of the board. Such action by the board shall be reported as cancellation while under discipline. Credentials, for purposes of this section, means board authorized documentation of the privilege to practice physical therapy.

[For text of subs 2 and 3, see M.S.2006]

History: 2007 c 123 s 29

148.74 RULES.

The board may adopt rules needed to carry out sections 148.65 to 148.78.

History: 2007 c 123 s 30

148.745 [Repealed, 2007 c 123 s 137]**148.75 DISCIPLINARY ACTION.**

(a) The board may impose disciplinary action specified in paragraph (b) against an applicant or licensee whom the board, by a preponderance of the evidence, determines:

(1) has violated a statute, rule, order, or agreement for corrective action that the board issued or is otherwise authorized or empowered to enforce;

(2) is unable to practice physical therapy with reasonable skill and safety by reason of any mental or physical illness or condition, including deterioration through the aging process or loss of motor skills, or use of alcohol, drugs, narcotics, chemicals, or any other type of material;

(3) 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 physical therapy;

(4) has been convicted of violating any state or federal narcotic law;

(5) has obtained or attempted to obtain a license or approval of continuing education activities, or passed an examination, by fraud or deception;

(6) 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;

(7) has engaged in gross negligence in the practice of physical therapy as a physical therapist;

(8) has treated 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;

(9) has treated 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;

(10) has failed 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";

(11) has inappropriately delegated to a physical therapist assistant or inappropriately assigned tasks to an aide, or inadequately supervised a student physical therapist, physical therapist assistant, student physical therapist assistant, or a physical therapy aide;

(12) has practiced 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) has failed 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) has divided 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) has engaged 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) has failed 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;

(17) has failed to report to the board other licensees who violate this section;

(18) has engaged in the practice of physical therapy under lapsed or nonrenewed credentials;

(19) 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;

(20) has been subject to a corrective action or similar action in another jurisdiction or by another regulatory authority; or

(21) has failed to cooperate with an investigation of the board, including 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 patient 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 grounds for disciplinary action exist under paragraph (a), the board may take one or more of the following actions:

(1) deny the application for licensure;

(2) deny the renewal of the license;

(3) revoke the license;

(4) suspend the license;

(5) impose limitations or conditions on the licensee's practice of physical therapy, including the: (i) limitation of scope of practice to designated field specialties; (ii) imposition of retraining or rehabilitation requirements; (iii) requirement of practice under supervision; or (iv) 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 to exceed \$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 licensee to provide unremunerated service;
- (8) censure or reprimand the licensee; or
- (9) any other action as allowed by law and justified by the facts of the case.

(c) A license to practice as a physical therapist or physical therapist assistant is automatically suspended if: (1) a guardian of the licensee 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 licensee; or (2) the licensee is committed by order of a court pursuant to 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 of Physical Therapy after a hearing.

History: 2007 c 123 s 31

148.754 EXAMINATION; ACCESS TO MEDICAL DATA.

(a) If the board has probable cause to believe that a licensee comes under section 148.75, paragraph (a), clause (2), it may direct the licensee to submit to a mental or physical examination. For the purpose of this paragraph, every licensee is deemed to have consented 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 they constitute a privileged communication. Failure of the licensee to submit to an examination when directed constitutes an admission of the allegations against the person, 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 licensee affected under this paragraph shall, at reasonable intervals, be given an opportunity to demonstrate that the person can resume the competent practice of physical therapy with reasonable skill and safety to the public.

(b) In any proceeding under paragraph (a), neither the record of proceedings nor the orders entered by the board shall be used against a licensee in any other proceeding.

(c) 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 medical or other health data, obtain medical data and health records relating to a licensee or applicant without the person's or applicant's consent if the board has probable cause to believe that the person comes under paragraph (a). The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), 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 paragraph 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 paragraph, 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 paragraph is classified as private under sections 13.01 to 13.87.

History: 2007 c 123 s 32; 2007 c 147 art 10 s 15

148.755 TEMPORARY SUSPENSION OF LICENSE.

In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend the license of a licensee if the board finds that the licensee has violated a statute or rule which the board is empowered to enforce and continued practice by the licensee would create a serious risk of harm to the public. The suspension shall take effect upon written notice to the licensee, specifying the statute or rule violated. The suspension shall remain in effect until the board issues a final order in the matter after a hearing. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act, chapter 14. The licensee shall be provided with at least 20 days' notice of any hearing held pursuant to this section. The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.

History: 2007 c 123 s 33

148.76 PROHIBITED CONDUCT.

Subdivision 1. **Licensure required.** No person shall:

(1) provide physical therapy unless the person is licensed as a physical therapist or physical therapist assistant under sections 148.65 to 148.78;

(2) use the title of physical therapist without a license as a physical therapist or use the title physical therapist assistant without a license as a physical therapist assistant 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, PT, PTT, RPT, LPT, 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) in any manner hold out as a physical therapist assistant, or use in connection with the person's name the words or letters Physical Therapist Assistant, P.T.A., or any letters, words, abbreviations, or insignia indicating or implying that the person is a physical therapist assistant, without a license as a physical therapist assistant under sections 148.65 to 148.78. To do so is a gross misdemeanor; or

(5) employ fraud or deception in applying for or securing a license as a physical therapist or physical therapist assistant.

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.

[For text of subd 2, see M.S.2006]

History: 2007 c 123 s 34

148.775 [Repealed, 2007 c 123 s 137]

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 or physical therapist assistant, but shall be a matter of defense to be established by the accused.

History: 2007 c 123 s 35

148.941 DISCIPLINARY ACTION; INVESTIGATION; PENALTY FOR VIOLATION.

[For text of subd 1, see M.S.2006]

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 sections 144.291 to 144.298, 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 sections 144.291 to 144.298, 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 advan-

tage 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 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.

[For text of subds 3 to 8, see M.S.2006]

History: 2007 c 147 art 10 s 15

148.965 TEST SECURITY.

Notwithstanding section 144.292, subdivisions 2 and 5, 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: 2007 c 147 art 10 s 15

148.995 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 148.995 to 148.997.

Subd. 2. **Certified doula.** "Certified doula" means an individual who has received a certification to perform doula services from the International Childbirth Education Association, the Doulas of North America (DONA), the Association of Labor Assistants and Childbirth Educators (ALACE), Birthworks, Childbirth and Postpartum Professional Association (CAPP), or Childbirth International.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 4. **Doula services.** "Doula services" means emotional and physical support during pregnancy, labor, birth, and postpartum.

History: 2007 c 147 art 9 s 27

148.996 REGISTRY.

Subdivision 1. **Establishment.** The commissioner of health shall maintain a registry of certified doulas who have met the requirements listed in subdivision 2.

Subd. 2. **Qualifications.** The commissioner shall include on the registry any individual who:

(1) submits an application on a form provided by the commissioner. The form must include the applicant's name, address, and contact information;

(2) maintains a current certification from one of the organizations listed in section 146B.01, subdivision 2; and

(3) pays the fees required under section 148.997.

Subd. 3. **Criminal background check.** The commissioner shall conduct a criminal background check by reviewing the Bureau of Criminal Apprehension's Web site. If the review indicates that an applicant has been engaged in criminal behavior, the commissioner shall indicate this on the registry and provide a link to the Bureau of Criminal Apprehension's Web site.

Subd. 4. **Renewal.** Inclusion on the registry maintained by the commissioner is valid for three years. At the end of the three-year period, the certified doula may submit a new application to remain on the doula registry by meeting the requirements described in subdivision 2.

Subd. 5. **Public access.** The commissioner shall provide a link to the registry on the Department of Health's Web site.

History: 2007 c 147 art 9 s 28

148.997 FEES.

Subdivision 1. **Fees.** (a) The application fee is \$130.

(b) The criminal background check fee is \$6.

Subd. 2. **Nonrefundable fees.** The fees in this section are nonrefundable.

Subd. 3. **Deposit.** Fees received under sections 148.995 to 148.997 shall be deposited in the state government special revenue fund.

History: 2007 c 147 art 9 s 29