

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.

Subd. 6. Authority to contract. The commissioner shall contract with the health professionals services program as authorized by sections 214.31 to 214.37 to provide these services to practitioners under this

chapter. The health professionals services program does not affect the commissioner's authority to discipline violations of sections 148.6401 to 148.6450.

History: *2000 c 361 s 22; 2001 c 7 s 41; 2006 c 267 art 2 s 14*