

## CHAPTER 108—S.F.No. 436

*An act relating to municipal tort liability; limiting liability for 911 dispatchers providing prearrival medical instruction; amending Minnesota Statutes 1998, section 466.03, by adding a subdivision.*

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

Section 1. Minnesota Statutes 1998, section 466.03, is amended by adding a subdivision to read:

Subd. 19. EMERGENCY MEDICAL DISPATCH. Any claim based upon the acts or omissions of a 911 telecommunicator or dispatcher, who is certified in emergency medical dispatch by a program incorporating nationally recognized standards, acting in good faith in providing prearrival medical instruction based upon the emergency medical dispatch protocols adopted by the dispatching agency.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment and applies to causes of action arising on or after that date.

Presented to the governor April 26, 1999

Signed by the governor April 27, 1999, 11:27 a.m.

## CHAPTER 109—S.F.No. 983

*An act relating to professions; modifying provisions relating to psychologists' licensing; amending Minnesota Statutes 1998, sections 148.89, subdivisions 2a, 4, 5, and by adding a subdivision; 148.915; 148.925, subdivision 7; 148.941, subdivisions 2 and 6; and 148.96, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 148.*

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

Section 1. Minnesota Statutes 1998, section 148.89, subdivision 2a, is amended to read:

Subd. 2a. **CLIENT.** "Client" means each person 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 a person 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 sections 148.88 to 148.98, "client" may include patient, resident, counselee, evaluatee, and, as limited in the rules of conduct, student, supervisee, or research subject. In the case of dual clients, the psychologist licensee or applicant for licensure must be aware of the responsibilities to each client, and of the potential for divergent interests of each client.

Sec. 2. Minnesota Statutes 1998, section 148.89, subdivision 4, is amended to read:

Subd. 4. **LICENSEE.** "Licensee" means a person who is licensed by the board as a licensed psychologist or as a licensed psychological practitioner.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 3. Minnesota Statutes 1998, section 148.89, is amended by adding a subdivision to read:

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.

Sec. 4. Minnesota Statutes 1998, section 148.89, subdivision 5, is amended to read:

Subd. 5. **PRACTICE OF PSYCHOLOGY.** “Practice of psychology” means the observation, description, evaluation, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures, to prevent or eliminate symptomatic, maladaptive, or undesired behavior and to enhance interpersonal relationships, work and life 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, psychological testing, teaching of psychology, and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning;

(2) counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and diagnosis and treatment of:

(i) mental and emotional disorder or disability;

(ii) alcoholism and substance abuse;

(iii) disorders of habit or conduct;

(iv) the psychological aspects of physical illness or condition, accident, injury, or disability;

(v) bereavement issues;

(vi) family or relationship issues; and

(vii) work-related issues; and

(3) psychoeducational evaluation, therapy, remediation, and consultation, and supervision.

Sec. 5. Minnesota Statutes 1998, section 148.915, is amended to read:

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. ~~The board, at its discretion, may grant a license as a licensed psychologist to a person who at the time of application is licensed, certified, or registered at the doctoral level for at least 15 years to practice psychology in another jurisdiction,~~

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and has had no disciplinary action taken against the license, certificate, or registration during the person's entire period of licensure, certification, or registration, but who has completed fewer than two years of postdegree supervised employment. 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.

Sec. 6. Minnesota Statutes 1998, section 148.925, subdivision 7, is amended to read:

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 to a or 5 if the licensed psychological practitioner who presents evidence of:

~~(1) completion of 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;~~

~~(2) (1) endorsement for specific areas of competency by the licensed psychologist who provided the two years of supervision;~~

~~(3) (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;~~

~~(4) (3) the employer's acceptance of clinical responsibility for the care provided by the licensed psychological practitioner; and~~

~~(5) (4) a plan which is satisfactory to the board for supervising the work of the licensed psychological practitioner, 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

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(4) a plan for supervision which includes at least one hour of regularly scheduled individual in-person supervision per month.

~~(e) (d) After December 31, 1993, 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 appeal the decision using a contested case hearing. The individual must request a hearing within 30 days after service by regular mail that the request for a variance has been denied. A deemed variance under this paragraph continues until the contested case proceeding has been resolved seek reconsideration by the board.~~

Sec. 7. Minnesota Statutes 1998, section 148.941, subdivision 2, is amended to read:

Subd. 2. **GROUND 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, or in passing an examination;

(6) has had a psychology license, certificate, registration, privilege to take an examination, or other similar authority denied, revoked, suspended, canceled, limited, or not renewed for cause in any jurisdiction;

(7) 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;

(8) has failed to cooperate with an investigation of the board as required under subdivision 4;

(9) has demonstrated an inability to practice psychology with reasonable skill and safety to clients due to any mental or physical illness or condition; or

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(10) 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 person or a professional corporation individual or entity, unless the division is in proportion to the services provided and the responsibility assumed by each professional party;~~

(iii) ~~referring a client 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 the licensee's own financial interest; 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 the licensee's own profit interest.~~

(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 \$5,000 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, or to discourage repeated violations.

(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:

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(1) submit to a quality review, as specified by the board, of the applicant's or licensee's ability, skills, or quality of work; and

(2) complete to the satisfaction of the board educational courses specified by the board.

(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.

Sec. 8. Minnesota Statutes 1998, section 148.941, subdivision 6, is amended to read:

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.

Sec. 9. **[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.

Sec. 10. Minnesota Statutes 1998, section 148.96, subdivision 3, is amended to read:

Subd. 3. **REQUIREMENTS FOR REPRESENTATIONS TO THE 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, 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.

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(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.

Presented to the governor April 26, 1999

Signed by the governor April 27, 1999, 11:20 a.m.

### CHAPTER 110—S.F.No. 1041

*An act relating to agriculture; changing and clarifying provisions of the warehouse law; amending Minnesota Statutes 1998, sections 231.01; 231.04; 231.08; 231.09; 231.11; 231.12; 231.13; 231.14; 231.15; 231.16; 231.17; 231.18, subdivisions 1 and 6; 231.24; 231.28; 231.34; 231.36; 231.37; 231.38; and 231.39; proposing coding for new law in Minnesota Statutes, chapter 231; repealing Minnesota Statutes 1998, sections 231.02; 231.03; 231.05; 231.06; 231.07; 231.10; 231.15; and 231.35.*

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

Section 1. Minnesota Statutes 1998, section 231.01, is amended to read:

#### 231.01 DEFINITIONS.

Subdivision 1. **DEPARTMENT SCOPE.** The word "department," as used in this chapter, means the Minnesota state department of agriculture. The definitions in this section apply to this chapter.

Subd. 2. **COMMISSIONER.** The term "Commissioner," as used in this chapter, means the commissioner of agriculture.

Subd. 3. **PERSON COMPENSATION.** The term "person," as used in this chapter, includes any individual, firm, or copartnership. "Compensation" means any remuneration, recompense, indemnification, requital, or satisfaction assessed, collected, or received for the storage or warehousing of goods, wares, or merchandise of another by a warehouse operator.

Subd. 4. **CORPORATION.** The term "Corporation," as used in this chapter, includes any corporation, company, association, joint stock company, or association.

Subd. 5. **WAREHOUSE OPERATOR DEPARTMENT.** The term "warehouse operator," as used in this chapter, means and includes every corporation, company, association, joint stock company or association, firm, partnership, or individual, their trustees, assignees, or receivers appointed by any court, controlling, operating, or manag-

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