

section, a municipality may contract to sell supplies, materials, and equipment which is surplus, obsolete, or unused using an electronic selling process in which purchasers compete to purchase the surplus supplies, materials, or equipment at the highest purchase price in an open and interactive environment.

Sec. 14. Minnesota Statutes 2002, section 471.345, is amended by adding a subdivision to read:

Subd. 18. ELECTRONIC BIDDING. Notwithstanding any other procedural requirements of this section, vendors may submit bids, quotations, and proposals electronically in a form and manner required by the municipality. A municipality may allow bid, performance, or payment bonds, or other security, to be furnished electronically.

Sec. 15. **EFFECTIVE DATE.**

Sections 4 to 14 are effective the day following final enactment.

Presented to the governor May 18, 2004

Signed by the governor May 29, 2004, 8:25 a.m.

CHAPTER 279—H.F.No. 2175

An act relating to health; modifying requirements for various public health occupations; prescribing authority of speech-language pathology assistants; providing for renewal of certain licenses by members of the military; modifying requirements for physician assistants, acupuncture practitioners, nurses, licensed professional counselors, alcohol and drug counselors, dentists, dental hygienists, dental assistants, and podiatrists; modifying provisions for designating essential community providers; modifying certain immunization provisions; providing for performance reviews of certain executive directors; requiring a study; extending the Minnesota Emergency Health Powers Act; appropriating money; amending Minnesota Statutes 2002, sections 144E.01, subdivision 5; 147.01, subdivision 5; 147A.02; 147A.20; 147B.01, by adding a subdivision; 147B.06, subdivision 4; 148.191, subdivision 1; 148.211, subdivision 1; 148.284; 148.512, subdivisions 9, 19, by adding a subdivision; 148.6402, by adding a subdivision; 148.6403, subdivision 5; 148.6405; 148.6428; 148.6443, subdivisions 1, 5; 148B.19, subdivision 4; 150A.06, as amended; 150A.08, subdivision 1; 150A.09, subdivision 4; 153.01, subdivision 2; 153.16, subdivisions 1, 2; 153.19, subdivision 1; 153.24, subdivision 4; 153.25, subdivision 1; 192.502; 214.04, by adding a subdivision; Minnesota Statutes 2003 Supplement, sections 62Q.19, subdivision 2; 121A.15, subdivisions 3a, 12; 147A.09, subdivision 2; 148.212, subdivision 1; 148.511; 148.512, subdivisions 12, 13; 148.513, subdivisions 1, 2; 148.5161, subdivisions 1, 4, 6; 148.5175; 148.518; 148.5193, subdivisions 1, 6a; 148.5195, subdivision 3; 148.5196, subdivision 3; 148B.51; 148B.52; 148B.53, subdivisions 1, 3; 148B.54; 148B.55; 148B.59; 148C.04, subdivision 6; 148C.075, subdivision 2, by adding a subdivision; 148C.11, subdivisions 1, 6; 148C.12, subdivisions 2, 3; Laws 2002, chapter 402, section 21; Laws 2003, chapter 118, sections 28, 29; proposing coding for new law in Minnesota Statutes, chapters 148; 148B; 197; repealing Minnesota Statutes 2002, section 147B.02, subdivision 5; Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, 10; 6900.0400.

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

ARTICLE 1

SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY,
AND OCCUPATIONAL THERAPY

Section 1. Minnesota Statutes 2003 Supplement, section 148.511, is amended to read:

148.511 SCOPE.

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

Sec. 2. Minnesota Statutes 2002, section 148.512, subdivision 9, is amended to read:

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

Sec. 3. Minnesota Statutes 2003 Supplement, section 148.512, subdivision 12, is amended to read:

Subd. 12. **PRACTICE OF AUDIOLOGY.** The "practice of audiology" means:

- (1) identification, assessment, and interpretation, diagnosis, rehabilitation, and prevention of hearing disorders;
- (2) conservation of the auditory system function; development and implementation of hearing conservation programs;
- (3) measurement, assessment, and interpretation of auditory and vestibular function;
- (4) selecting, fitting, and dispensing of assistive listening devices, alerting and amplification devices, and systems for personal and public use, including hearing aids and devices, and providing training in their use;
- (5) aural habilitation and rehabilitation and related counseling for hearing impaired individuals and their families;

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

(7) ~~teaching of, consultation or research about, or~~ supervision of the functions in clauses (1) to (6).

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

Sec. 4. Minnesota Statutes 2003 Supplement, section 148.512, subdivision 13, is amended to read:

Subd. 13. **PRACTICE OF SPEECH-LANGUAGE PATHOLOGY.** The "practice of speech-language pathology" means:

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

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

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

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

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

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

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

(8) ~~teaching of, consultation or research about, or~~ supervision of the functions in clauses (1) to (7).

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

Sec. 5. Minnesota Statutes 2002, section 148.512, is amended by adding a subdivision to read:

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

Sec. 6. Minnesota Statutes 2002, section 148.512, subdivision 19, is amended to read:

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

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

Sec. 7. Minnesota Statutes 2003 Supplement, section 148.513, subdivision 1, is amended to read:

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

Sec. 8. Minnesota Statutes 2003 Supplement, section 148.513, subdivision 2, is amended to read:

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

- (1) speech-language;
- (2) speech-language pathologist, S, SP, or SLP;
- (3) speech pathologist;
- (4) language pathologist;
- (5) audiologist, A, or AUD;
- (6) speech therapist;
- (7) speech clinician;
- (8) speech correctionist;
- (9) language therapist;
- (10) voice therapist;
- (11) voice pathologist;
- (12) logopedist;

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- (13) communicologist;
- (14) aphasiologist;
- (15) phoniatriest;
- (16) audiometrist;
- (17) audioprosthologist;
- (18) hearing therapist;
- (19) hearing clinician; or
- (20) hearing aid audiologist.

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

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

Sec. 9. Minnesota Statutes 2003 Supplement, section 148.5161, subdivision 1, is amended to read:

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

Sec. 10. Minnesota Statutes 2003 Supplement, section 148.5161, subdivision 4, is amended to read:

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

Sec. 11. Minnesota Statutes 2003 Supplement, section 148.5161, subdivision 6, is amended to read:

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

Sec. 12. Minnesota Statutes 2003 Supplement, section 148.5175, is amended to read:

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148.5175 TEMPORARY LICENSURE.

(a) The commissioner shall issue temporary licensure as a speech-language pathologist, an audiologist, or both, to an applicant who has applied for licensure under section 148.515, 148.516, 148.517, or 148.518, subdivisions 1 and 2, and who:

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

(2) either:

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

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

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

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

Sec. 13. Minnesota Statutes 2003 Supplement, section 148.518, is amended to read:

148.518 LICENSURE FOLLOWING LAPSE OF LICENSURE STATUS.

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

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

(2) fulfill the requirements of section 148.517; or

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

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

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Sec. 14. [148.5192] SPEECH-LANGUAGE PATHOLOGY ASSISTANTS.

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

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

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

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

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

(1) assist with speech language and hearing screenings;

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

(3) document client performance;

(4) assist with assessments of clients;

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

(6) perform checks and maintenance of equipment;

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

(8) collect data for quality improvement.

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

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

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

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

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

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

(6) select clients for service;

(7) discharge clients from service;

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

(9) make referrals for additional services.

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

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

(b) A supervising speech-language pathologist must:

(1) be licensed under sections 148.511 to 148.5196;

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 15. Minnesota Statutes 2003 Supplement, section 148.5193, subdivision 1, is amended to read:

Subdivision 1. **NUMBER OF CONTACT HOURS REQUIRED.** (a) An applicant for licensure renewal must meet the requirements for continuing education stipulated by the American Speech-Language-Hearing Association or the American Board of Audiology, or satisfy the requirements described in paragraphs (b) to (e).

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

(c) An applicant for licensure renewal as both a speech-language pathologist and an audiologist must attest to and document completion of a minimum of 36 contact hours of continuing education offered by a continuing education sponsor within the two years immediately preceding licensure renewal. A minimum of 15 contact hours

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must be received in the area of speech-language pathology and a minimum of 15 contact hours must be received in the area of audiology. Six contact hours of continuing education may be in areas generally related to the licensee's areas of licensure. Licensees who are issued licenses for a period of less than two years shall prorate the number of contact hours required for licensure renewal based on the number of months licensed during the biennial licensure period. Licensees shall receive contact hours for continuing education activities only for the biennial licensure period in which the continuing education activity was performed.

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

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

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

(ii) directly related to speech-language pathology;

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

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

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

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

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

Sec. 16. Minnesota Statutes 2003 Supplement, section 148.5193, subdivision 6a, is amended to read:

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

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

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

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

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

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

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

Sec. 17. Minnesota Statutes 2003 Supplement, section 148.5195, subdivision 3, is amended to read:

Subd. 3. **GROUNDS FOR DISCIPLINARY ACTION BY COMMISSIONER.** The commissioner may take any of the disciplinary actions listed in subdivision 4 on proof that the individual has:

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

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

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

(4) violated sections 148.511 to 148.5196;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 18. Minnesota Statutes 2003 Supplement, section 148.5196, subdivision 3, is amended to read:

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

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

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

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

~~(3)~~ (4) provide for distribution of information regarding speech-language pathologist and audiologist licensure standards;

~~(4)~~ (5) review applications and make recommendations to the commissioner on granting or denying licensure or licensure renewal;

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

~~(6)~~ (7) advise the commissioner regarding approval of continuing education activities provided by sponsors using the criteria in section 148.5193, subdivision 2; and

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

Sec. 19. Minnesota Statutes 2002, section 148.6402, is amended by adding a subdivision to read:

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

Sec. 20. Minnesota Statutes 2002, section 148.6403, subdivision 5, is amended to read:

Subd. 5. **EXEMPT PERSONS.** This section does not apply to:

(1) a person employed as an occupational therapist or occupational therapy assistant by the government of the United States or any agency of it. However, use of the protected titles under those circumstances is allowed only in connection with performance of official duties for the federal government;

(2) a student participating in supervised fieldwork or supervised coursework that is necessary to meet the requirements of section 148.6408, subdivision 1, or 148.6410, subdivision 1, if the person is designated by a title which clearly indicates the person's status as a student trainee. Any use of the protected titles under these circumstances is allowed only while the person is performing the duties of the supervised fieldwork or supervised coursework; or

(3) a person visiting and then leaving the state and performing occupational therapy services while in the state, if the services are performed no more than 30 days in a calendar year as part of a professional activity that is limited in scope and duration and is in association with an occupational therapist licensed under sections 148.6401 to 148.6450, and

(i) the person is credentialed under the law of another state which has credentialing requirements at least as stringent as the requirements of sections 148.6401 to 148.6450; or

(ii) the person meets the requirements for certification as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA), established by the National Board for Certification in Occupational Therapy.

Sec. 21. Minnesota Statutes 2002, section 148.6405, is amended to read:

148.6405 LICENSURE APPLICATION REQUIREMENTS; PROCEDURES AND QUALIFICATIONS.

(a) An applicant for licensure must comply with the general licensure procedures application requirements in section 148.6420. To qualify for licensure, an applicant must satisfy one of the requirements in paragraphs (b) to (f) and not be subject to denial of licensure under section 148.6448.

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(b) A person who applies for licensure as an occupational therapist and who has not been credentialed by the National Board for Certification in Occupational Therapy or another jurisdiction must meet the requirements in section 148.6408.

(c) A person who applies for licensure as an occupational therapy assistant and who has not been credentialed by the National Board for Certification in Occupational Therapy or another jurisdiction must meet the requirements in section 148.6410.

(d) A person who is certified by the National Board for Certification in Occupational Therapy may apply for licensure by equivalency and must meet the requirements in section 148.6412.

(e) A person who is credentialed in another jurisdiction may apply for licensure by reciprocity and must meet the requirements in section 148.6415.

(f) A person who applies for temporary licensure must meet the requirements in section 148.6418.

Sec. 22. Minnesota Statutes 2002, section 148.6428, is amended to read:

148.6428 **CHANGE OF ADDRESS OR EMPLOYMENT.**

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

Sec. 23. Minnesota Statutes 2002, section 148.6443, subdivision 1, is amended to read:

Subdivision 1. **GENERAL REQUIREMENTS.** An occupational therapist applying for licensure renewal must have completed a minimum of 24 contact hours of continuing education in the two years preceding licensure renewal. An occupational therapy assistant applying for licensure renewal must have completed a minimum of 18 contact hours of continuing education in the two years preceding licensure renewal. Licensees who are issued licenses for a period of less than two years shall prorate the number of contact hours required for licensure renewal based on the number of months licensed during the biennial licensure period. Licensees shall receive contact hours for continuing education activities only for the biennial licensure period in which the continuing education activity was performed.

To qualify as a continuing education activity, the activity must be a minimum of one contact hour. Contact hours must be earned and reported in increments of one contact hour or one-half contact hour ~~for~~ after the first contact hour of each continuing education activity. One-half contact hour means an instructional session of 30 consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and social activities.

Each licensee is responsible for financing the cost of the licensee's continuing education activities.

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Sec. 24. Minnesota Statutes 2002, section 148.6443, subdivision 5, is amended to read:

Subd. 5. REPORTING CONTINUING EDUCATION CONTACT HOURS.

~~At the time of~~ Within one month following licensure renewal expiration, each licensee shall submit verification that the licensee has met the continuing education requirements of this section on the continuing education report form provided by the commissioner. The continuing education report form may require the following information:

- (1) title of continuing education activity;
- (2) brief description of the continuing education activity;
- (3) sponsor, presenter, or author;
- (4) location and attendance dates;
- (5) number of contact hours; and
- (6) licensee's notarized affirmation that the information is true and correct.

Sec. 25. Minnesota Statutes 2002, section 192.502, is amended to read:

192.502 PROTECTIONS.

Subdivision 1. POSTSECONDARY STUDENTS. (a) A member of the Minnesota National Guard or any other military reserve component who is a student at a postsecondary education institution and who is called or ordered to state active service in the Minnesota National Guard, as defined in section 190.05, subdivision 5, or who is called or ordered to federal active military service has the following rights:

- (1) with regard to courses in which the person is enrolled, the person may:

(i) withdraw from one or more courses for which tuition and fees have been paid that are attributable to the courses. The tuition and fees must be credited to the person's account at the postsecondary institution. Any refunds are subject to the requirements of the state or federal financial aid programs of origination. In such a case, the student must not receive credit for the courses and must not receive a failing grade, an incomplete, or other negative annotation on the student's record, and the student's grade point average must not be altered or affected in any manner because of action under this item;

(ii) be given a grade of incomplete and be allowed to complete the course upon release from active duty under the postsecondary institution's standard practice for completion of incompletes; or

(iii) continue and complete the course for full credit. Class sessions the student misses due to performance of state or federal active military service must be counted as excused absences and must not be used in any way to adversely impact the student's grade or standing in the class. Any student who selects this option is not, however, automatically excused from completing assignments due during the period the student is performing state or federal active military service. A letter grade or a grade of pass

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must only be awarded if, in the opinion of the faculty member teaching the course, the student has completed sufficient work and has demonstrated sufficient progress toward meeting course requirements to justify the grade;

(2) to receive a refund of amounts paid for room, board, and fees attributable to the time period during which the student was serving in state or federal active military service and did not use the facilities or services for which the amounts were paid. Any refund of room, board, and fees is subject to the requirements of the state or federal financial aid programs of origination; and

(3) if the student chooses to withdraw, the student has the right to be readmitted and reenrolled as a student at the postsecondary education institution, without penalty or redetermination of admission eligibility, within one year following release from the state or federal active military service.

(b) The protections in this section may be invoked as follows:

(1) the person, or an appropriate officer from the military organization in which the person will be serving, must give advance verbal or written notice that the person is being called or ordered to qualifying service;

(2) advance notice is not required if the giving of notice is precluded by military necessity or, under all the relevant circumstances, the giving of notice is impossible or unreasonable; and

(3) upon written request from the postsecondary institution, the person must provide written verification of service.

(c) This section provides minimum protections for students. Nothing in this section prevents postsecondary institutions from providing additional options or protections to students who are called or ordered to state or federal active military service.

Subd. 2. RENEWAL OF PROFESSIONAL LICENSES OR CERTIFICATIONS. The renewal of a license or certificate of registration for a member of the Minnesota National Guard or other military reserves who has been ordered to active military service and who is required by law to be licensed or registered in order to carry on or practice a health or other trade, employment, occupation, or profession in the state is governed under sections 326.55 and 326.56.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 26. [197.65] RENEWAL OF PROFESSIONAL LICENSES OR CERTIFICATIONS.

The renewal of a license or certificate of registration for a person who is serving in or has recently been discharged from active military service and who is required by law to be licensed or registered in order to carry on or practice a health or other trade, employment, occupation, or profession in the state is governed under sections 326.55 and 326.56.

EFFECTIVE DATE. This section is effective the day following final enactment.

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ARTICLE 2

PHYSICIAN ASSISTANTS

Section 1. Minnesota Statutes 2002, section 147A.02, is amended to read:

147A.02 QUALIFICATIONS FOR REGISTRATION.

Except as otherwise provided in this chapter, an individual shall be registered by the board before the individual may practice as a physician assistant.

The board may grant registration as a physician assistant to an applicant who:

- (1) submits an application on forms approved by the board;
- (2) pays the appropriate fee as determined by the board;
- (3) has current certification from the National Commission on Certification of Physician Assistants, or its successor agency as approved by the board;
- (4) certifies that the applicant is mentally and physically able to engage safely in practice as a physician assistant;
- (5) has no licensure, certification, or registration as a physician assistant under current discipline, revocation, suspension, or probation for cause resulting from the applicant's practice as a physician assistant, unless the board considers the condition and agrees to licensure;
- (6) has a physician-physician assistant agreement, and internal protocol and prescribing delegation form, if the physician assistant has been delegated prescribing authority, as described in section 147A.18 in place at the address of record;
- (7) submits to the board a practice setting description and any other information the board deems necessary to evaluate the applicant's qualifications; and
- (8) (7) has been approved by the board.

All persons registered as physician assistants as of June 30, 1995, are eligible for continuing registration renewal. All persons applying for registration after that date shall be registered according to this chapter.

Sec. 2. Minnesota Statutes 2003 Supplement, section 147A.09, subdivision 2, is amended to read:

Subd. 2. **DELEGATION.** Patient services may include, but are not limited to, the following, as delegated by the supervising physician and authorized in the agreement:

- (1) taking patient histories and developing medical status reports;
- (2) performing physical examinations;
- (3) interpreting and evaluating patient data;
- (4) ordering or performing diagnostic procedures, including radiography;

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(5) ordering or performing therapeutic procedures;

(6) providing instructions regarding patient care, disease prevention, and health promotion;

(7) assisting the supervising physician in patient care in the home and in health care facilities;

(8) creating and maintaining appropriate patient records;

(9) transmitting or executing specific orders at the direction of the supervising physician;

(10) prescribing, administering, and dispensing legend drugs and medical devices if this function has been delegated by the supervising physician pursuant to and subject to the limitations of section 147.34 147A.18 and chapter 151. Physician assistants who have been delegated the authority to prescribe controlled substances shall maintain a separate addendum to the delegation form which lists all schedules and categories of controlled substances which the physician assistant has the authority to prescribe. This addendum shall be maintained with the physician-physician assistant agreement, and the delegation form at the address of record;

(11) for physician assistants not delegated prescribing authority, administering legend drugs and medical devices following prospective review for each patient by and upon direction of the supervising physician;

(12) functioning as an emergency medical technician with permission of the ambulance service and in compliance with section 144E.127, and ambulance service rules adopted by the commissioner of health;

(13) initiating evaluation and treatment procedures essential to providing an appropriate response to emergency situations; and

(14) certifying a physical disability under section 169.345, subdivision 2a.

Orders of physician assistants shall be considered the orders of their supervising physicians in all practice-related activities, including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services.

Sec. 3. Minnesota Statutes 2002, section 147A.20, is amended to read:

147A.20 PHYSICIAN AND PHYSICIAN ASSISTANT AGREEMENT.

(a) A physician assistant and supervising physician must sign an agreement which specifies scope of practice and amount and manner of supervision as required by the board. The agreement must contain:

(1) a description of the practice setting;

(2) a statement of practice type/specialty;

(3) a listing of categories of delegated duties;

(4) a description of supervision type, amount, and frequency; and

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(5) a description of the process and schedule for review of prescribing, dispensing, and administering legend and controlled drugs and medical devices by the physician assistant authorized to prescribe.

(b) The agreement must be maintained by the supervising physician and physician assistant and made available to the board upon request. If there is a delegation of prescribing, administering, and dispensing of legend drugs, controlled substances, and medical devices, the agreement shall include an internal protocol and delegation form. Physician assistants shall have a separate agreement for each place of employment. Agreements must be reviewed and updated on an annual basis. The supervising physician and physician assistant must maintain the agreement, delegation form, and internal protocol at the address of record. Copies shall be provided to the board upon request.

(c) Physician assistants must provide written notification to the board within 30 days of the following:

- (1) name change;
- (2) address of record change;
- (3) telephone number of record change; and

(4) addition or deletion of alternate supervising physician provided that the information submitted includes, for an additional alternate physician, an affidavit of consent to act as an alternate supervising physician signed by the alternate supervising physician.

(d) Modifications requiring submission prior to the effective date are changes to the practice setting description which include:

- (1) supervising physician change, excluding alternate supervising physicians; or
- (2) delegation of prescribing, administering, or dispensing of legend drugs, controlled substances, or medical devices.

(e) The agreement must be completed and the practice setting description submitted to the board before providing medical care as a physician assistant.

Sec. 4. EXCEPTION TO REGISTRATION REQUIREMENTS.

Notwithstanding the requirements of Minnesota Statutes, section 147A.02, the Board of Medical Practice shall register an individual as a physician assistant if the individual:

(1) is ineligible for the certification examination by the National Commission on the Certification of Physician Assistants because the individual's education took place in a nonaccredited institution, or the individual was informally trained on the job;

(2) trained and served in the United States military as a medic or hospital corpsman on active duty and has continuously practiced as a physician or surgeon's assistant in Minnesota since 1976, including a practice which combined in-office surgical practice with the individual's supervised autonomous schedule and with

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assisting in a hospital operating room on cases warranting a first assistant;

(3) meets the requirements for registration described under Minnesota Statutes, section 147A.02, clauses (1), (2), (4), (5), (6), and (7);

(4) submits satisfactory recommendations from a supervising physician; and

(5) achieves a satisfactory result on any criminal background or health check required by the board.

The board must accept applications under this section only until January 1, 2005.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. **PROVISIONAL REGISTRATION.**

An individual registered under section 4 is deemed to hold a provisional registration for two years from the date of registration. If there have been no substantiated complaints against an individual during the provisional period, the board shall extend full registration to the individual upon completion of the provisional period.

EFFECTIVE DATE. This section is effective the day following final enactment.

ARTICLE 3

ACUPUNCTURISTS

Section 1. Minnesota Statutes 2002, section 147B.01, is amended by adding a subdivision to read:

Subd. 16a. **NCCAOM CERTIFICATION.** "NCCAOM certification" means a certification granted by the NCCAOM to a person who has met the standards of competence established for either NCCAOM certification in acupuncture or NCCAOM certification in Oriental medicine.

Sec. 2. Minnesota Statutes 2002, section 147B.06, subdivision 4; is amended to read:

Subd. 4. **SCOPE OF PRACTICE.** The scope of practice of acupuncture includes, but is not limited to, the following:

- (1) using Oriental medical theory to assess and diagnose a patient;
- (2) using Oriental medical theory to develop a plan to treat a patient. The treatment techniques that may be chosen include:
 - (i) insertion of sterile acupuncture needles through the skin;

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- (ii) acupuncture stimulation including, but not limited to, electrical stimulation or the application of heat;
- (iii) cupping;
- (iv) dermal friction;
- (v) acupressure;
- (vi) herbal therapies;
- (vii) dietary counseling based on traditional Chinese medical principles;
- (viii) breathing techniques; or
- (ix) exercise according to Oriental medical principles; or
- (x) Oriental massage.

Sec. 3. REPEALER.

Minnesota Statutes 2002, section 147B.02, subdivision 5, is repealed.

ARTICLE 4

BOARD OF NURSING

Section 1. Minnesota Statutes 2002, section 148.211, subdivision 1, is amended to read:

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

Before being scheduled for examination, the applicant shall provide written evidence verified by oath that the applicant (1) has not engaged in conduct warranting disciplinary action as set forth in section 148.261; (2) meets secondary education requirements as determined by the board and other preliminary qualification requirements the board may prescribe by rule; and (3) has completed a course of study in a nursing program approved by the board, another United States nursing board, or a Canadian province. An applicant who graduates from a nursing program in another country, except Canada, must also successfully complete the Commission on Graduates of Foreign Nursing Schools Qualifying Examination. The nursing program must be approved for the preparation of applicants for the type of license for which the application has been submitted.

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The applicant must pass a written examination in the subjects the board may determine. Written examination includes both paper and pencil examinations and examinations administered with a computer and related technology. Each written examination may be supplemented by an oral or practical examination. (b) The applicant must satisfy the following requirements for licensure by examination:

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

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

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

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

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

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

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

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

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

Upon submission by the applicant of an affidavit of graduation or transcript from an approved nursing program as well as proof that the applicant has passed the examination, paid the required fees, and (f) When the applicant has met all other requirements stated in this subdivision, the board shall issue a license to the applicant. The board may issue a license with conditions and limitations if it considers it necessary to protect the public.

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Sec. 2. Minnesota Statutes 2003 Supplement, section 148.212, subdivision 1, is amended to read:

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

(a) The applicant for licensure by examination under section 148.211, subdivision 1, has graduated from an approved nursing program within the 60 days preceding board receipt of an affidavit of graduation or transcript and has been authorized by the board to write the licensure examination for the first time in the United States. The permit holder must practice professional or practical nursing under the direct supervision of a registered nurse. The permit is valid from the date of issue until the date the board takes action on the application or for 60 days whichever occurs first.

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

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

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

Sec. 3. Minnesota Statutes 2002, section 148.284, is amended to read:

148.284 CERTIFICATION OF ADVANCED PRACTICE REGISTERED NURSES.

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

(b) ~~Paragraph~~ Paragraphs (a) does and (e) do not apply to an advanced practice registered nurse who is within six months after completion of an advanced practice

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registered nurse course of study and is awaiting certification, provided that the person has not previously failed the certification examination.

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

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

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

Sec. 4. APPROPRIATION.

\$24,000 is appropriated in fiscal year 2005 from the state government special revenue fund to the Board of Nursing for the purpose of administering this article. The base for this appropriation in fiscal year 2006 and after is \$4,000. These amounts are added to appropriations in Laws 2003, First Special Session chapter 14, article 13C, section 5.

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ARTICLE 5

BOARD OF BEHAVIORAL HEALTH AND THERAPY

Section 1. Minnesota Statutes 2003 Supplement, section 148B.52, is amended to read:

148B.52 DUTIES OF THE BOARD.

(a) The Board of Behavioral Health and Therapy shall:

(1) establish by rule appropriate techniques, including examinations and other methods, for determining whether applicants and licensees are qualified under sections 148B.50 to 148B.593;

(2) establish by rule standards for professional conduct, including adoption of a Code of Professional Ethics and requirements for continuing education and supervision;

(3) issue licenses to individuals qualified under sections 148B.50 to 148B.593;

(4) establish by rule standards for initial education including coursework for licensure and content of professional education;

(5) ~~establish by rule procedures, including a standard disciplinary process, to assess whether individuals licensed as licensed professional counselors comply with the board's rules;~~

(6) establish, maintain, and publish annually a register of current licensees and approved supervisors;

(7) (6) establish initial and renewal application and examination fees sufficient to cover operating expenses of the board and its agents;

(8) (7) educate the public about the existence and content of the laws and rules for licensed professional counselors to enable consumers to file complaints against licensees who may have violated the rules;

(9) ~~establish rules and regulations pertaining to treatment for impaired practitioners; and~~

(10) (8) periodically evaluate its rules in order to refine the standards for licensing professional counselors and to improve the methods used to enforce the board's standards.

(b) The board may appoint a professional discipline committee for each occupational licensure regulated by the board, and may appoint a board member as chair. The professional discipline committee shall consist of five members representative of the licensed occupation and shall provide recommendations to the board with regard to rule techniques, standards, procedures, and related issues specific to the licensed occupation.

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Sec. 2. Minnesota Statutes 2003 Supplement, section 148B.53, subdivision 1, is amended to read:

Subdivision 1. **GENERAL REQUIREMENTS.** (a) To be licensed as a licensed professional counselor (LPC), an applicant must provide evidence satisfactory to the board that the applicant:

(1) is at least 18 years of age;

(2) is of good moral character;

(3) has completed a master's degree program in counseling that includes a minimum of 48 semester hours and a supervised field experience of not fewer than 700 hours that is counseling in nature;

(4) has submitted to the board a plan for supervision during the first 2,000 hours of professional practice or has submitted proof of supervised professional practice that is acceptable to the board; and

(5) has demonstrated competence in professional counseling by passing the National Counseling Exam (NCE) administered by the National Board for Certified Counselors, Inc. (NBCC) including obtaining a passing score on the examination accepted by the board based on the determinations made by the NBCC and oral and situational examinations if prescribed by the board;

(6) will conduct all professional activities as a licensed professional counselor in accordance with standards for professional conduct established by the rules of the board; and

(7) has declared to the board and agrees to continue to declare areas of professional competencies through a statement of professional disclosure, describing the intended use of the license and the population to be served.

(b) The degree described in paragraph (a), clause (3), must be from a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or from an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA). Specific academic course content and training must meet standards established by the CACREP, including course work in the following subject areas:

(1) the helping relationship, including counseling theory and practice;

(2) human growth and development;

(3) lifestyle and career development;

(4) group dynamics, processes, counseling, and consulting;

(5) assessment and appraisal;

(6) social and cultural foundations, including multicultural issues;

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(7) principles of etiology, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;

(8) family counseling and therapy;

(9) research and evaluation; and

(10) professional counseling orientation and ethics.

(c) To be licensed as a professional counselor, a psychological practitioner licensed under section 148.908 need only show evidence of licensure under that section and is not required to comply with paragraph (a) or (b).

Sec. 3. Minnesota Statutes 2003 Supplement, section 148B.53, subdivision 3, is amended to read:

Subd. 3. **FEE.** Each applicant shall pay a nonrefundable fee set by the board as follows:

(1) initial license application fee for licensed professional counseling (LPC) - \$250;

(2) annual active license renewal fee for LPC - \$200 or equivalent;

(3) annual inactive license renewal fee for LPC - \$100;

(4) license renewal late fee - \$100 per month or portion thereof;

(5) copy of board order or stipulation - \$10;

(6) certificate of good standing or license verification - \$10;

(7) duplicate certificate fee - \$10;

(8) professional firm renewal fee - \$25;

(9) initial registration fee - \$50; and

(10) annual registration renewal fee - \$25.

Sec. 4. Minnesota Statutes 2003 Supplement, section 148B.54, is amended to read:

148B.54 LICENSE RENEWAL REQUIREMENTS.

Subdivision 1. **RENEWAL.** Licensees shall renew licenses at the time and in the manner established by the rules of the board.

Subd. 2. **CONTINUING EDUCATION.** At the completion of the first two years of licensure, a licensee must provide evidence satisfactory to the board of completion of 12 additional postgraduate semester credit hours or its equivalent in counseling as determined by the board, except that no licensee shall be required to show evidence of greater than 60 semester hours or its equivalent. Thereafter, at the time of renewal, each licensee shall provide evidence satisfactory to the board that the licensee has completed during each two-year period at least the equivalent of 40 clock hours of professional postdegree continuing education in programs approved by the board and continues to be qualified to practice under sections 148B.50 to 148B.593.

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Sec. 5. Minnesota Statutes 2003 Supplement, section 148B.55, is amended to read:

148B.55 LICENSES; TRANSITION PERIOD.

For two years beginning July 1, 2003, the board shall issue a license without examination to an applicant if the board determines that the applicant otherwise satisfies the requirements in section 148B.53, subdivision 1, if the applicant is a licensed psychological practitioner, a licensed marriage and family therapist, or a licensed alcohol and drug counselor, or is in the process of being so licensed. An applicant licensed under this section must also agree to conduct all professional activities as a licensed professional counselor in accordance with standards for professional conduct established by the board by rule. This section expires July 1, 2005.

Sec. 6. Minnesota Statutes 2003 Supplement, section 148B.59, is amended to read:

148B.59 GROUNDS FOR DISCIPLINARY ACTION; FORMS OF DISCIPLINARY ACTION; RESTORATION OF LICENSE.

(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 licensed professional counseling, that adversely affects the person's ability or fitness to practice professional counseling;

(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 professional counseling;

(5) has employed fraud or deception in obtaining or renewing a license, or in passing an examination;

(6) has had any counseling 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;

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(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 licensed professional counseling act;

(8) has failed to cooperate with an investigation of the board;

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

(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. Fee splitting includes, but is not limited to:

(i) dividing fees with another person or a professional corporation, unless the division is in proportion to the services provided and the responsibility assumed by each professional; and

(ii) referring a client to any health care provider as defined in section 144.335 in which the referring licensee has a significant financial interest, unless the licensee has disclosed in advance to the client the licensee's own financial interest; or

(11) has engaged 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.

(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 professional counseling, 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 \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the physical therapist applicant

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or licensee 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..

(c) In lieu of or in addition to paragraph (b), the board may require, as a condition of continued licensure, termination of suspension, reinstatement of license, examination, or release of examination grades, that the applicant or licensee:

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

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

The board may also refer a licensee, if appropriate, to the health professionals services program described in sections 214.31 to 214.37.

(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. 7. **[148B.5915] PROFESSIONAL COOPERATION; APPLICANT OR LICENSEE.**

An applicant or a licensee who is the subject of an investigation or who is questioned in connection with an investigation by or on behalf of the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the board relating to the subject of the investigation, executing all releases requested by the board, providing copies of client and other records in the applicant's or licensee's possession relating to the matter under investigation and executing releases for records, as reasonably requested by the board, and appearing at conferences or hearings scheduled by the board. The board shall pay for copies requested. The board shall be allowed access to any records of a client provided services by the applicant or licensee under review. If the client has not signed a consent permitting access to the client's records, the applicant or licensee shall delete any data in the record that identifies the client before providing them to the board. The board shall maintain any records obtained under this section as investigative data pursuant to chapter 13.

Sec. 8. **[148B.5916] IMMUNITY.**

Subdivision 1. **REPORTING:** A person, health care facility, business, or organization is immune from civil liability or criminal prosecution for reporting to the board violations or alleged violations of sections 148B.50 to 148B.593. All such reports are classified under section 13.41.

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

Subd. 2. INVESTIGATION. Members of the board, persons employed by the board, and consultants retained by the board for the purpose of investigation of violations or the preparation and management of charges of violations of this chapter on behalf of the board are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under sections 148B.50 to 148B.593.

Sec. 9. Laws 2003, chapter 118, section 28, is amended to read:

Sec. 28. REVISOR INSTRUCTION.

(a) The revisor of statutes shall insert the “board of behavioral health and therapy” or “board” wherever “commissioner of health” or “commissioner” appears in Minnesota Statutes, chapter 148C, and Minnesota Rules, chapter 4747.

EFFECTIVE DATE. This paragraph is effective July 1, 2005.

(b) The revisor of statutes shall strike the terms “unlicensed mental health practitioner” and “the office of unlicensed mental health practitioner practice” from Minnesota Statutes and Minnesota Rules.

EFFECTIVE DATE. This paragraph is effective July 1, 2004 2005.

Sec. 10. Laws 2003, chapter 118, section 29, is amended to read:

Sec. 29. REPEALER.

(a) Minnesota Statutes 2002, sections 148B.60; 148B.61; 148B.63; 148B.64; 148B.65; 148B.66; 148B.67; 148B.68; 148B.69; 148B.70; and 148B.71, are repealed.

EFFECTIVE DATE. This paragraph is effective July 1, 2004 2005.

(b) Minnesota Statutes 2002, section 148C.01, subdivision 6, is repealed.

EFFECTIVE DATE. This paragraph is effective July 1, 2005.

Sec. 11. TRANSITION PLAN.

The commissioner of health, in consultation with the executive directors of the health-related licensing boards, must develop a transition plan to transfer the authority for licensed alcohol and drug counselors from the commissioner of health to the Board of Behavioral Health and Therapy and for the regulation of individuals after July 1, 2005, who are not regulated by a health-related licensing board or the commissioner of health and who are providing mental health services for remuneration. The transition plan must include any necessary legislative language to transfer authority and corresponding funding to the board, identify critical licensing activities, and specify a schedule for transferring all duties and activities.

Sec. 12. EFFECTIVE DATE.

Sections 1 to 11 are effective the day following final enactment.

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ARTICLE 6

ALCOHOL AND DRUG COUNSELORS

Section 1. Minnesota Statutes 2003 Supplement, section 148C.04, subdivision 6, is amended to read:

Subd. 6. **TEMPORARY PERMIT REQUIREMENTS.** (a) The commissioner shall issue a temporary permit to practice alcohol and drug counseling prior to being licensed under this chapter if the person:

(1) either:

(i) submits verification of a current and unrestricted credential for the practice of alcohol and drug counseling from a national certification body or a certification or licensing body from another state, United States territory, or federally recognized tribal authority;

(ii) submits verification of the completion of at least 64 semester credits, including 270 clock hours or 18 semester credits of formal classroom education in alcohol and drug counseling and at least 880 clock hours of alcohol and drug counseling practicum from an accredited school or educational program; or

(iii) applies to renew a lapsed license according to the requirements of section 148C.055, subdivision 3, clauses (1) and (2), or section 148C.055, subdivision 4, clauses (1) and (2); or

(iv) meets the requirements of section 148C.11, subdivision 6, clauses (1), (2), and (5);

(2) applies, in writing, on an application form provided by the commissioner, which includes the nonrefundable temporary permit fee as specified in section 148C.12 and an affirmation by the person's supervisor, as defined in paragraph (c), clause (1), which is signed and dated by the person and the person's supervisor; and

(3) has not been disqualified to practice temporarily on the basis of a background investigation under section 148C.09, subdivision 1a.

(b) The commissioner must notify the person in writing within 90 days from the date the completed application and all required information is received by the commissioner whether the person is qualified to practice under this subdivision.

(c) A person practicing under this subdivision:

(1) may practice under tribal jurisdiction or under the direct supervision of a person who is licensed under this chapter;

(2) is subject to the Rules of Professional Conduct set by rule; and

(3) is not subject to the continuing education requirements of section 148C.075.

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(d) A person practicing under this subdivision must use the title or description stating or implying that the person is a trainee engaged in the practice of alcohol and drug counseling.

(e) A person practicing under this subdivision must annually submit a renewal application on forms provided by the commissioner with the renewal fee required in section 148C.12, subdivision 3, and the commissioner may renew the temporary permit if the trainee meets the requirements of this subdivision. A trainee may renew a practice permit no more than five times.

(f) A temporary permit expires if not renewed, upon a change of employment of the trainee or upon a change in supervision, or upon the granting or denial by the commissioner of a license.

Sec. 2. Minnesota Statutes 2003 Supplement, section 148C.075, subdivision 2, is amended to read:

Subd. 2. CONTINUING EDUCATION REQUIREMENTS FOR LICENSEE'S FIRST FOUR YEARS. A licensee must, as part of meeting the clock hour requirement of this section, obtain and document 18 hours of cultural diversity training within the first four years after the licensee's initial license effective date according to the commissioner's reporting schedule. Cultural diversity training includes gaining knowledge in areas described in Minnesota Rules, part 4747.1100, subpart 2, and in identified population groups defined in Minnesota Rules, part 4747.0030, subpart 20.

Sec. 3. Minnesota Statutes 2003 Supplement, section 148C.075, is amended by adding a subdivision to read:

Subd. 5. COURSE WORK. A licensee may obtain a maximum of six clock hours in any two-year continuing education period for teaching course work in an accredited school or educational program that meets the requirements of section 148C.04, subdivision 5a. A licensee may earn a maximum of two clock hours as preparation time for each clock hour of presentation time. Clock hours may be claimed only once per course in any two-year continuing education period. The licensee shall maintain a course schedule or brochure for audit.

Sec. 4. Minnesota Statutes 2003 Supplement, section 148C.11, subdivision 1, is amended to read:

Subdivision 1. OTHER PROFESSIONALS. (a) Nothing in this chapter prevents members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes, but is not limited to, licensed physicians, registered nurses, licensed practical nurses, licensed psychological practitioners, members of the clergy, American Indian medicine men and women, licensed attorneys, probation officers, licensed marriage and family therapists, licensed social workers, licensed professional counselors, licensed school counselors, and registered occupational therapists or occupational therapy assistants, and until July 1, 2005, individuals providing integrated dual-diagnosis treatment in adult mental health rehabilitative programs certified by the Department of Human Services under section 256B.0622 or 256B.0623.

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(b) Nothing in this chapter prohibits technicians and resident managers in programs licensed by the Department of Human Services from discharging their duties as provided in Minnesota Rules, chapter 9530.

(c) Any person who is exempt under this section but who elects to obtain a license under this chapter is subject to this chapter to the same extent as other licensees.

(d) These persons must not, however, use a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are engaged in the practice of alcohol and drug counseling, or that they are licensed to engage in the practice of alcohol and drug counseling. Persons engaged in the practice of alcohol and drug counseling are not exempt from the commissioner's jurisdiction solely by the use of one of the above titles.

Sec. 5. Minnesota Statutes 2003 Supplement, section 148C.11, subdivision 6, is amended to read:

Subd. 6. **TRANSITION PERIOD FOR HOSPITAL AND CITY, COUNTY, AND STATE AGENCY ALCOHOL AND DRUG COUNSELORS.** For the period between July 1, 2003, and January 1, 2006, the commissioner shall grant a license to an individual who is employed as an alcohol and drug counselor at a Minnesota school district or hospital, or a city, county, or state agency in Minnesota, if the individual:

(1) was employed as an alcohol and drug counselor at a school district, a hospital, or a city, county, or state agency before August 1, 2002;

(2) has 8,000 hours of alcohol and drug counselor work experience;

(3) has completed a written case presentation and satisfactorily passed an oral examination established by the commissioner;

(4) has satisfactorily passed a written examination as established by the commissioner; and

(5) meets the requirements in section 148C.0351.

Sec. 6. Minnesota Statutes 2003 Supplement, section 148C.12, subdivision 2, is amended to read:

Subd. 2. **BIENNIAL RENEWAL FEE.** The license renewal fee is \$295. If the commissioner ~~changes~~ establishes the renewal schedule and the expiration date is less than two years, the fee must be prorated.

Sec. 7. Minnesota Statutes 2003 Supplement, section 148C.12, subdivision 3, is amended to read:

Subd. 3. **TEMPORARY PERMIT FEE.** The initial fee for applicants under section 148C.04, subdivision 6, paragraph (a), is \$100. The fee for annual renewal of a temporary permit is \$100, but when the first expiration date occurs in less or more than one year, the fee must be prorated.

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ARTICLE 7**BOARD OF DENTISTRY**

Section 1. Minnesota Statutes 2002, section 150A.06, as amended by Laws 2003, First Special Session chapter 5, sections 1, 2, and 3, is amended to read:

150A.06 LICENSURE.

Subdivision 1. **DENTISTS.** A person of good moral character ~~not already a licensed dentist of the state who has graduated from a dental program accredited by the Commission on Dental Accreditation of the American Dental Association, having submitted an application and fee as prescribed by the board and the diploma or equivalent awarded to the person by a dental college approved by the board,~~ may be examined by the board or by an agency pursuant to section 150A.03, subdivision 1, in a manner to test the applicant's fitness to practice dentistry. A graduate of a dental college in another country must not be disqualified from examination solely because of the applicant's foreign training if the board determines that the training is equivalent to or higher than that provided by a dental college ~~approved~~ accredited by the Commission on Dental Accreditation of the American Dental Association ~~or a successor organization.~~ In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants ~~may~~ shall take the examination prior to applying to the board for licensure. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the clinical examination required by the board after failing it twice until further education and training are obtained as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all other requirements of the board shall be licensed to practice dentistry and ~~supplied with~~ granted a general dentist license by the board.

Subd. 1a. **FACULTY DENTISTS.** (a) Faculty members of a school of dentistry must be licensed ~~or registered~~ in order to practice dentistry as defined in section 150A.05. The board may issue to members of the faculty of a school of dentistry a license designated as either a "limited faculty license" or a "full faculty license" entitling the holder to practice dentistry within the terms described in paragraph (b) or (c). The dean of ~~the~~ a school of dentistry and program directors of ~~accredited a Minnesota dental hygiene or dental assisting schools~~ school accredited by the Commission on Dental Accreditation of the American Dental Association shall certify to the board those members of the school's faculty who practice dentistry but are not licensed to practice dentistry in Minnesota. A faculty member who practices dentistry as defined in section 150A.05, before beginning duties in ~~the~~ a school of dentistry or a dental hygiene or dental assisting school, shall apply to the board for a limited or full faculty license. The license expires the next July 1 and may, at the discretion of the board, be renewed on a yearly basis. The faculty applicant shall pay a nonrefundable fee set by the board for issuing and renewing the faculty license. The faculty license

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is valid during the time the holder remains a member of the faculty of a school of dentistry or a dental hygiene or dental assisting school and subjects the holder to this chapter.

(b) The board may issue to dentist members of the faculty of an accredited a Minnesota school of dentistry, dental hygiene, or dental assisting accredited by the Commission on Dental Accreditation of the American Dental Association, a license designated as a limited faculty license entitling the holder to practice dentistry within the school and its affiliated teaching facilities, but only for the purposes of instructing teaching or conducting research. The practice of dentistry at a school facility for purposes other than instruction teaching or research is not allowed unless the faculty member is licensed under subdivision 1 or is dentist was a faculty member on August 1, 1993.

(c) The board may issue to dentist members of the faculty of an accredited a Minnesota school of dentistry, dental hygiene, or dental assisting accredited by the Commission on Dental Accreditation of the American Dental Association a license designated as a full faculty license entitling the holder to practice dentistry within the school and its affiliated teaching facilities and elsewhere if the holder of the license is employed 50 percent time or more by the school in the practice of teaching or research, and upon successful review by the board of the applicant's qualifications as described in subdivisions 1, 1c, and 4 and board rule. The board, at its discretion, may waive specific licensing prerequisites.

Subd. 1b. **RESIDENT DENTISTS.** A person who is a graduate of a dental school and is an enrolled graduate student or student of an accredited advanced dental education program and who is not licensed to practice dentistry in the state shall obtain from the board a license to practice dentistry as a resident dentist. The license must be designated "resident dentist license" and authorizes the licensee to practice dentistry only under the supervision of a licensed dentist. A resident dentist license must be renewed annually pursuant to the board's rules. An applicant for a resident dentist license shall pay a nonrefundable fee set by the board for issuing and renewing the license. The requirements of sections 150A.01 to 150A.21 apply to resident dentists except as specified in rules adopted by the board. A resident dentist license does not qualify a person for licensure under subdivision 1. ~~This subdivision takes effect on September 1 following the date that the rules adopted under this subdivision become effective.~~

Subd. 1c. **SPECIALTY DENTISTS.** (a) The board may grant a specialty license in the following specialty areas of dentistry:

- (1) endodontics;
- (2) oral and maxillofacial surgery;
- (3) oral pathology;
- (4) orthodontics;
- (5) pediatric dentistry;

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- (6) periodontics;
- (7) prosthodontics; and
- (8) public health that are recognized by the American Dental Association.

(b) Notwithstanding section 147.081, subdivision 3, a person practicing in the specialty area of oral and maxillofacial surgery must either be licensed by the board under subdivision 1, or have a specialty license in the oral and maxillofacial surgery specialty area. Notwithstanding paragraph (c), an oral and maxillofacial surgery specialty license may be issued to a person not licensed under subdivision 1. An applicant for a specialty license shall:

(1) have successfully completed a postdoctoral specialty education program accredited by the Commission on Dental Accreditation of the American Dental Association, or have announced a limitation of practice before 1967;

(2) have been certified by a specialty examining board approved by the Minnesota Board of Dentistry, or provide evidence of having passed a clinical examination for licensure required for practice in any state or Canadian province, or in the case of oral and maxillofacial surgeons only, have a Minnesota medical license in good standing;

(3) have been in active practice or a postdoctoral specialty education program or United States government service at least 2,000 hours in the 36 months prior to applying for a specialty license;

(4) if requested by the board, be interviewed by a committee of the board, which may include the assistance of specialists in the evaluation process, and satisfactorily respond to questions designed to determine the applicant's knowledge of dental subjects and ability to practice;

(5) if requested by the board, present complete records on a sample of patients treated by the applicant. The sample must be drawn from patients treated by the applicant during the 36 months preceding the date of application. The number of records shall be established by the board. The records shall be reasonably representative of the treatment typically provided by the applicant;

(6) at board discretion, pass a board-approved English proficiency test if English is not the applicant's primary language;

(7) pass all components of the National Dental Board examinations;

(8) pass the Minnesota Board of Dentistry jurisprudence examination;

(9) abide by professional ethical conduct requirements; and

(10) meet all other requirements prescribed by the Board of Dentistry.

(c) An applicant for a specialty license shall The application must include:

(1) have successfully completed an advanced education program approved by the Commission on Accreditation in one of the specialty areas;

(2) have announced a limitation of practice before 1967; or

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(3) have been certified by a specialty examining board approved by the board.

The board shall also require the applicant to be licensed under subdivision 1 or have an equivalent license in another state as determined by the board, meet all other requirements prescribed by the board, and pay a nonrefundable fee set by the board.

(1) a completed application furnished by the board;

(2) at least two character references from two different dentists, one of whom must be a dentist practicing in the same specialty area, and the other the director of the specialty program attended;

(3) a licensed physician's statement attesting to the applicant's physical and mental condition;

(4) a statement from a licensed ophthalmologist or optometrist attesting to the applicant's visual acuity;

(5) a nonrefundable fee; and

(6) a notarized, unmounted passport-type photograph, three inches by three inches, taken not more than six months before the date of application.

(d) A dentist with an equivalent license in another state and a specialty license in Minnesota is limited in Minnesota to practicing only in the specialty license area as defined by the board. A specialty dentist holding a specialty license is limited to practicing in the dentist's designated specialty area. The scope of practice must be defined by each national specialty board recognized by the American Dental Association.

(e) A specialty dentist holding a general dentist license is limited to practicing in the dentist's designated specialty area if the dentist has announced a limitation of practice. The scope of practice must be defined by each national specialty board recognized by the American Dental Association.

(f) All specialty dentists who have fulfilled the specialty dentist requirements and who intend to limit their practice to a particular specialty area may apply for a specialty license.

Subd. 2. **DENTAL HYGIENISTS.** A person of good moral character not already a licensed dental hygienist of this state, who has graduated from a dental hygiene program established in an institution that is accredited by an accrediting agency recognized by the United States Department of Education to offer college-level programs accredited by the Commission on Dental Accreditation of the American Dental Association and established in an institution accredited by an agency recognized by the United States Department of Education to offer college-level programs, may apply for licensure. The dental hygiene program must provide a minimum of two academic years of dental hygiene curriculum and be accredited by the American Dental Association Commission on Dental Accreditation education. The applicant must submit an application and fee as prescribed by the board and a diploma or certificate of dental hygiene. Prior to being licensed, the applicant must pass the National Board

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of Dental Hygiene examination and a board approved examination designed to determine the applicant's clinical competency. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants may shall take the examination before applying to the board for licensure. The applicant must also pass an examination testing the applicant's knowledge of the laws of Minnesota relating to the practice of dentistry and of the rules of the board. An applicant is ineligible to retake the clinical examination required by the board after failing it twice until further education and training are obtained as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be licensed as a dental hygienist and supplied with a license by the board.

Subd. 2a. **REGISTERED DENTAL ASSISTANT.** A person of good moral character, who has submitted graduated from a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association, may apply for registration. The applicant must submit an application and fee as prescribed by the board and the diploma or equivalent awarded to the person by a training school for certificate of dental assistants or its equivalent approved by the board, may be examined by the board or by an agency pursuant to section 150A.03, subdivision 1, in a manner to test the applicant's fitness to perform as a registered dental assistant assisting. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants may shall take the examination before applying to the board for registration. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the clinical registration examination required by the board after failing it twice until further education and training are obtained as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be registered as a dental assistant. The examination fee set by the board in rule is the application fee until the board amends, repeals, or otherwise changes the rules pursuant to chapter 14.

Subd. 2b. **EXAMINATION.** When the Board ~~members~~ administer of Dentistry administers the examination for licensure or registration, only those board members or board-appointed deputy examiners qualified for the particular examination may administer it. An examination which the board requires as a condition of licensure or registration must have been taken within the five years before the board receives the application for licensure or registration.

Subd. 2c. **GUEST LICENSE OR REGISTRATION.** (a) The board shall grant a guest license to practice as a dentist or dental hygienist or a guest registration to practice as a dental assistant if the following conditions are met:

(1) the dentist, dental hygienist, or dental assistant is currently licensed or registered in good standing in North Dakota, South Dakota, Iowa, or Wisconsin;

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(2) the dentist, dental hygienist, or dental assistant is currently engaged in the practice of that person's respective profession in North Dakota, South Dakota, Iowa, or Wisconsin;

(3) the dentist, dental hygienist, or dental assistant ~~is seeking to~~ will limit that person's practice in to a public health setting in Minnesota that (i) is approved by the board; (ii) was established by a nonprofit organization that is tax exempt under chapter 501(c)(3) of the Internal Revenue Code of 1986; and (iii) provides dental care to patients who have difficulty accessing dental care;

(4) the dentist, dental hygienist, or dental assistant agrees to treat indigent patients who meet the eligibility criteria established by the clinic; and

(5) the dentist, dental hygienist, or dental assistant has applied to the board for a guest license or registration; ~~providing evidence of being currently licensed or registered in good standing in North Dakota, South Dakota, Iowa, or Wisconsin,~~ and has paid a nonrefundable license fee to the board of \$50 not to exceed \$75.

(b) ~~A dentist, dental hygienist, or dental assistant practicing under a guest license or registration may only practice at a single, specific location in Minnesota. A guest license or registration must be renewed annually with the board and an annual renewal fee of \$50 must be paid to the board. If the clinic in Minnesota at which a dentist, dental hygienist, or dental assistant seeks to practice permanently ceases operation, the guest license or registration issued under this subdivision is automatically revoked not to exceed \$75 must be paid to the board.~~

(c) A dentist, dental hygienist, or dental assistant practicing under a guest license or registration under this subdivision shall have the same obligations as a dentist, dental hygienist, or dental assistant who is licensed in Minnesota and shall be subject to the laws and rules of Minnesota and the regulatory authority of the board. If the board suspends or revokes the guest license or registration of, or otherwise disciplines, a dentist, dental hygienist, or dental assistant practicing under this subdivision, the board shall promptly report such disciplinary action to the dentist's, dental hygienist's, or dental assistant's regulatory board in the border state.

Subd. 2d. VOLUNTEER AND RETIRED DENTISTS, DENTAL HYGIENISTS, AND REGISTERED DENTAL ASSISTANTS CONTINUING EDUCATION AND PROFESSIONAL DEVELOPMENT WAIVER. (a) The board shall grant a waiver to the continuing education requirements under this chapter for a licensed dentist, licensed dental hygienist, or registered dental assistant who documents to the satisfaction of the board that the dentist, dental hygienist, or registered dental assistant has retired from active practice in the state and limits the provision of dental care services to those offered without compensation in a public health, community, or tribal clinic or a nonprofit organization that provides services to the indigent or to recipients of medical assistance, general assistance medical care, or MinnesotaCare programs.

(b) The board may require written documentation from the volunteer and retired dentist, dental hygienist, or registered dental assistant prior to granting this waiver.

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(c) The board shall require the volunteer and retired dentist, dental hygienist, or registered dental assistant to meet the following requirements:

(1) a licensee or registrant seeking a waiver under this subdivision must complete and document at least five hours of approved courses in infection control, medical emergencies, and medical management for the continuing education cycle; and

(2) provide documentation of certification in advanced or basic cardiac life support recognized by the American Heart Association, the American Red Cross, or an equivalent entity.

Subd. 3. **WAIVER OF EXAMINATION.** (a) All or any part of the examination for dentists or dental hygienists, except that pertaining to the law of Minnesota relating to dentistry and the rules of the board, may, at the discretion of the board, be waived for an applicant who presents a certificate of qualification from the National Board of Dental Examiners or evidence of having maintained an adequate scholastic standing as determined by the board, in dental school as to dentists, or dental hygiene school as to dental hygienists.

(b) ~~Effective January 1, 2004,~~ The board shall waive the clinical examination required for licensure for any dentist applicant who is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or an equivalent organization as determined by the board, who has successfully completed parts I and II all components of the National boards Dental Board examination, and who has satisfactorily completed a Minnesota-based postdoctoral general dentistry residency program (GPR) or an advanced education in general dentistry (AEGD) program after January 1, 2004. The postdoctoral program must be accredited by the Commission on Dental Accreditation of the American Dental Association if the program is, be of at least one year's duration, and includes include an outcome assessment evaluation assessing the resident's competence to practice dentistry. The board may require the applicant to submit any information deemed necessary by the board to determine whether the waiver is applicable. The board may waive the clinical examination for an applicant who meets the requirements of this paragraph and has satisfactorily completed an accredited postdoctoral general dentistry residency program located outside of Minnesota.

Subd. 4. **LICENSURE BY CREDENTIALS.** (a) Any person who is lawfully practicing dentistry or dental hygiene in another state or Canadian province having and maintaining a standard of examination for licensure and of laws regulating the practice within that state or Canadian province, substantially equivalent to Minnesota's, as determined by the board, who is a reputable dentist or dental hygienist of good moral character, and who deposits, in person, with the Board of Dentistry a certificate from the board of dentistry of the state or Canadian province in which the applicant is licensed, certifying to the fact of licensure and that the applicant is of good moral character and professional attainments, shall, upon payment of the fee established by the board, be interviewed by the board. The interview shall consist of assessing the applicant's knowledge of dental subjects. If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivisions 1 and

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2, the application shall be denied. When denying a license, the board may notify the applicant of any specific course that the applicant could take which, if passed, would qualify the applicant for licensure. The denial shall not prohibit the applicant from applying for licensure under subdivisions 1 and 2. If the applicant demonstrates the minimum knowledge in dental subjects required for licensure under subdivisions 1 and 2 and meets the other requirements of this subdivision, a license shall be granted to practice in this state, if the applicant passes an examination on the laws of Minnesota relating to dentistry and the rules of the Board of Dentistry. dentist or dental hygienist may, upon application and payment of a fee established by the board, apply for licensure based on the applicant's performance record in lieu of passing an examination approved by the board according to section 150A.03, subdivision 1, and be interviewed by the board to determine if the applicant:

(1) has been in active practice at least 2,000 hours within 36 months of the application date, or passed a board-approved re-entry program within 36 months of the application date;

(2) currently has a license in another state or Canadian province and is not subject to any pending or final disciplinary action, or if not currently licensed, previously had a license in another state or Canadian province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;

(3) is of good moral character and abides by professional ethical conduct requirements;

(4) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and

(5) meets other credentialing requirements specified in board rule.

(b) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for licensure under subdivision 1 or 2 must be licensed to practice the applicant's profession.

(c) If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivision 1 or 2, the application must be denied. When denying a license, the board may notify the applicant of any specific remedy that the applicant could take which, when passed, would qualify the applicant for licensure. A denial does not prohibit the applicant from applying for licensure under subdivision 1 or 2.

(d) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Subd. 4a. **APPEAL OF DENIAL OF APPLICATION.** A person whose application for licensure or registration by credentials has been denied may appeal the decision to the board. The board shall establish an appeals process and inform a denied candidate of the right to appeal and the process for filing the appeal.

Subd. 5. **FRAUD IN SECURING LICENSES OR REGISTRATIONS.** Every person implicated in employing fraud or deception in applying for or securing a license

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or registration to practice dentistry or, dental hygiene, or in applying for or securing a registration to practice dental assisting or in annually registering renewing a license or registration under sections 150A.01 to 150A.12 is guilty of a gross misdemeanor.

Subd. 6. **DISPLAY OF NAME AND CERTIFICATES.** The name, initial license and subsequent renewal, or current registration certificate, and annual registration certificate of every licensed dentist, dental hygienist, or registered dental assistant shall be conspicuously displayed in every office in which that person practices, in plain sight of patients. If there is more than one dentist, dental hygienist, or registered dental assistant practicing or employed in any office, the manager or proprietor of the office shall display in plain sight the name, license certificate and annual registration certificate of each dentist, dental hygienist, or registered dental assistant practicing or employed there. Near or on the entrance door to every office where dentistry is practiced, the name of each dentist practicing there, as inscribed on the current license certificate and annual registration certificate of each dentist, shall be displayed in plain sight.

Subd. 7. **ADDITIONAL REMEDIES FOR LICENSURE AND REGISTRATION.** On a case-by-case basis, for initial or renewal of licensure or registration, the board may add additional remedies for deficiencies found based on the applicant's performance, character, and education.

Subd. 8. **REGISTRATION BY CREDENTIALS.** (a) Any dental assistant may, upon application and payment of a fee established by the board, apply for registration based on an evaluation of the applicant's education, experience, and performance record in lieu of completing a board-approved dental assisting program for expanded functions as defined in rule, and may be interviewed by the board to determine if the applicant:

(1) has graduated from an accredited dental assisting program accredited by the Commission of Dental Accreditation of the American Dental Association, or is currently certified by the Dental Assisting National Board;

(2) is not subject to any pending or final disciplinary action in another state or Canadian province, or if not currently certified or registered, previously had a certification or registration in another state or Canadian province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;

(3) is of good moral character and abides by professional ethical conduct requirements;

(4) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and

(5) has met all expanded functions curriculum equivalency requirements of a Minnesota board-approved dental assisting program.

(b) The board, at its discretion, may waive specific registration requirements in paragraph (a).

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(c) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for registration under subdivision 2a must be registered to practice the applicant's profession.

(d) If the applicant does not demonstrate the minimum knowledge in dental subjects required for registration under subdivision 2a, the application must be denied. If registration is denied, the board may notify the applicant of any specific remedy that the applicant could take which, when passed, would qualify the applicant for registration. A denial does not prohibit the applicant from applying for registration under subdivision 2a.

(e) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Sec. 2. Minnesota Statutes 2002, section 150A.08, subdivision 1, is amended to read:

Subdivision 1. **GROUND**S. The board may refuse or by order suspend or revoke, limit or modify by imposing conditions it deems necessary, any license to practice dentistry or dental hygiene or the registration of any dental assistant upon any of the following grounds:

(1) fraud or deception in connection with the practice of dentistry or the securing of a license or annual registration certificate;

(2) conviction, including a finding or verdict of guilt, an admission of guilt, or a no-contest plea, in any court of a felony or gross misdemeanor reasonably related to the practice of dentistry as evidenced by a certified copy of the conviction;

(3) conviction, including a finding or verdict of guilt, an admission of guilt, or a no-contest plea, in any court of an offense involving moral turpitude as evidenced by a certified copy of the conviction;

(4) habitual overindulgence in the use of intoxicating liquors;

(5) improper or unauthorized prescription, dispensing, administering, or personal or other use of any legend drug as defined in chapter 151, of any chemical as defined in chapter 151, or of any controlled substance as defined in chapter 152;

(6) conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant, or conduct contrary to the best interest of the public, as such conduct is defined by the rules of the board;

(7) gross immorality;

(8) any physical, mental, emotional, or other disability which adversely affects a dentist's, dental hygienist's, or registered dental assistant's ability to perform the service for which the person is licensed or registered;

(9) revocation or suspension of a license, registration, or equivalent authority to practice, or other disciplinary action or denial of a license or registration application taken by a licensing, registering, or credentialing authority of another state, territory,

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or country as evidenced by a certified copy of the licensing authority's order, if the disciplinary action or application denial was based on facts that would provide a basis for disciplinary action under this chapter and if the action was taken only after affording the credentialed person or applicant notice and opportunity to refute the allegations or pursuant to stipulation or other agreement;

(10) failure to maintain adequate safety and sanitary conditions for a dental office in accordance with the standards established by the rules of the board;

(11) employing, assisting, or enabling in any manner an unlicensed person to practice dentistry;

(12) failure or refusal to attend, testify, and produce records as directed by the board under subdivision 7;

(13) violation of, or failure to comply with, any other provisions of sections 150A.01 to 150A.12, the rules of the Board of Dentistry, or any disciplinary order issued by the board, section 144.335 or 595.02, subdivision 1, paragraph (d), or for any other just cause related to the practice of dentistry. Suspension, revocation, modification or limitation of any license shall not be based upon any judgment as to therapeutic or monetary value of any individual drug prescribed or any individual treatment rendered, but only upon a repeated pattern of conduct;

(14) 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; or

(15) 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.

Sec. 3. Minnesota Statutes 2002, section 150A.09, subdivision 4, is amended to read:

Subd. 4. **DUPLICATE CERTIFICATES.** Duplicate licenses or duplicate annual certificates of license renewal may be issued by the board upon satisfactory proof of the need for the duplicates and upon payment of the fee established by the board.

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Sec. 4. REGULATION OF DENTAL ASSISTANTS.

The Board of Dentistry, in consultation with the Minnesota Dental Association, the Minnesota Dental Assistants Association, and the Minnesota Dental Hygienists' Association, shall establish a regulatory system for dental assistants that recognizes the different degrees of practice within the profession, including the expanded duties authorized under Minnesota Statutes, section 150A.10, subdivision 4. The system must establish:

- (1) the appropriate level of education and training;
- (2) the authorized scope of practice for each level of practice; and
- (3) the appropriate credentialing necessary to ensure public safety and professional standing.

The board shall submit the proposed regulatory system to the legislature by January 15, 2005.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. MALPRACTICE INSURANCE.

The Board of Dentistry shall make recommendations to the legislature by January 15, 2005, on requiring proof of malpractice insurance related to the practice of dentistry or self-insurance alternative as a condition of licensure to practice dentistry under Minnesota Statutes, chapter 150A. The recommendations shall consider a minimum amount of insurance to be required if the board recommends this requirement as a condition of licensure.

ARTICLE 8

PODIATRIC MEDICINE

Section 1. Minnesota Statutes 2002, section 153.01, subdivision 2, is amended to read:

Subd. 2. **PODIATRIC MEDICINE.** "Podiatric medicine" means the diagnosis or medical, mechanical, or surgical treatment of the ailments of the human hand, foot, ankle, and the soft tissue of the lower leg distal to the tibial tuberosity, including. Medical or surgical treatment includes partial foot amputation of the toe, but not including and excludes amputation of the feet, hand, or fingers, or the. Use of local anesthetics is within the scope of medical and surgical management in patient care. Use of anesthetics, other than local anesthetics, is excluded, except as provided in section 153.26. Podiatric medicine includes the prescribing or recommending of appliances, devices, or shoes for the correction or relief of foot ailments. Podiatric medicine includes the prescribing or administering of any drugs or medications necessary or helpful to the practice of podiatry podiatric medicine as defined by this subdivision, provided, however, that licensed podiatrists shall be restricted in their prescribing or

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administering of any drugs or medications by the limitations imposed on the scope of practice of podiatric medicine as defined in this chapter. For a podiatrist who has completed a residency, podiatric medicine includes the performance of all or part of the medical history and physical examination for the purpose of hospital admission for podiatric management or preoperative podiatric surgery.

Sec. 2. Minnesota Statutes 2002, section 153.16, subdivision 1, is amended to read:

Subdivision 1. **LICENSE REQUIREMENTS.** The board shall issue a license to practice podiatric medicine to a person who meets the following requirements:

(a) The applicant for a license shall file a written notarized application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a podiatric medical school approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant factors.

(c) The applicant must have passed an examination received a passing score on each part of the national board examinations, parts one and two, prepared and graded by the National Board of Podiatric Medical Examiners and also pass a state clinical examination prepared and graded by the state Board of Podiatric Medicine or a national clinical examination prepared and graded by the National Board of Podiatric Medical Examiners. The board shall by rule determine what score constitutes a passing score in each examination. The passing score for each part of the national board examinations, parts one and two, is as defined by the National Board of Podiatric Medical Examiners.

(d) Applicants graduating after 1986 from a podiatric medical school shall present evidence satisfactory to the board of the completion of (1) one year of graduate, clinical residency or preceptorship in a program accredited by a national accrediting organization approved by the board or (2) other graduate training that meets standards equivalent to those of an approved national accrediting organization or school of podiatric medicine.

(e) The applicant shall appear in person before the board or its designated representative to show that the applicant satisfies the requirements of this section, including knowledge of laws, rules, and ethics pertaining to the practice of podiatric medicine. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.

(f) The applicant shall pay a fee established by the board by rule. The fee shall not be refunded.

(g) The applicant must not have engaged in conduct warranting disciplinary action against a licensee. If the applicant does not satisfy the requirements of this paragraph, the board may refuse to issue a license unless it determines that the public will be

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protected through issuance of a license with conditions and limitations the board considers appropriate.

(h) Upon payment of a fee as the board may require, an applicant who fails to pass an examination and is refused a license is entitled to reexamination within one year of the board's refusal to issue the license. No more than two reexaminations are allowed without a new application for a license.

Sec. 3. Minnesota Statutes 2002, section 153.16, subdivision 2, is amended to read:

Subd. 2. **APPLICANTS LICENSED IN ANOTHER STATE.** The board shall issue a license to practice podiatric medicine to any person currently or formerly licensed to practice podiatric medicine in another state who satisfies the requirements of this section:

(a) The applicant shall satisfy the requirements established in subdivision 1.

(b) The applicant shall present evidence satisfactory to the board indicating the current status of a license to practice podiatric medicine issued by the ~~proper agency in another state or country~~ first state of licensure and all other states and countries in which the individual has held a license.

(c) ~~If the applicant must not have~~ has had a license revoked, engaged in conduct warranting disciplinary action against a licensee ~~the applicant's license~~, or been subjected to disciplinary action, in another state. ~~If an applicant does not satisfy the requirements of this paragraph~~, the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

(d) The applicant shall submit with the license application the following additional information for the five-year period preceding the date of filing of the application: (1) the name and address of the applicant's professional liability insurer in the other state; and (2) the number, date, and disposition of any podiatric medical malpractice settlement or award made to the plaintiff relating to the quality of podiatric medical treatment.

(e) If the license is active, the applicant shall submit with the license application evidence of compliance with the continuing education requirements in the current state of licensure.

(f) If the license is inactive, the applicant shall submit with the license application evidence of participation in one-half the number of hours of acceptable continuing education required for biennial renewal, as specified under Minnesota Rules, up to five years. If the license has been inactive for more than two years, the amount of acceptable continuing education required must be obtained during the two years immediately before application or the applicant must provide other evidence as the board may reasonably require.

Sec. 4. Minnesota Statutes 2002, section 153.19, subdivision 1, is amended to read:

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Subdivision 1. **GROUNDNS LISTED.** The board may refuse to grant a license or may impose disciplinary action as described in this section against any doctor of podiatric medicine. The following conduct is prohibited and is grounds for disciplinary action:

(1) failure to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or rules of the board; the burden of proof shall be upon the applicant to demonstrate the qualifications or satisfaction of the requirements;

(2) obtaining a license by fraud or cheating or attempting to subvert the licensing examination process;

(3) conviction, during the previous five years, of a felony reasonably related to the practice of podiatric medicine;

(4) revocation, suspension, restriction, limitation, or other disciplinary action against the person's podiatric medical license in another state or jurisdiction, failure to report to the board that charges regarding the person's license have been brought in another state or jurisdiction, or having been refused a license by any other state or jurisdiction;

(5) advertising that is false or misleading;

(6) violating a rule adopted by the board or an order of the board, a state, or federal law that relates to the practice of podiatric medicine, or in part regulates the practice of podiatric medicine, or a state or federal narcotics or controlled substance law;

(7) engaging in any unethical conduct; 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; or podiatric medical practice that is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established;

(8) failure to supervise a preceptor or resident, or other graduate trainee or undergraduate student;

(9) aiding or abetting an unlicensed person in the practice of podiatric medicine, except that it is not a violation of this clause for a podiatrist 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 that person's license or registration or delegated authority;

(10) adjudication as mentally incompetent, or a person who is mentally ill, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction, within or without this state;

(11) engaging in unprofessional conduct that includes any departure from or the failure to conform to the minimal standards of acceptable and prevailing podiatric medical practice, but actual injury to a patient need not be established;

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(12) inability to practice podiatric medicine with reasonable skill and safety to patients by reason of illness or chemical dependency or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;

(13) revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law;

(14) improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made under section 144.335 or to furnish a medical record or report required by law;

(15) accepting, paying, or promising to pay a part of a fee in exchange for patient referrals;

(16) engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(17) becoming addicted or habituated to a drug or intoxicant;

(18) prescribing a drug for other than medically accepted therapeutic or experimental or investigative purposes authorized by a state or federal agency;

(19) engaging in sexual conduct with a patient or conduct that may reasonably be interpreted by the patient as sexual, or in verbal behavior which is seductive or sexually demeaning to a patient;

(20) failure to make reports as required by section 153.24 or to cooperate with an investigation of the board as required by section 153.20;

(21) 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.

Sec. 5. Minnesota Statutes 2002, section 153.24, subdivision 4, is amended to read:

Subd. 4. **INSURERS.** Four times a year ~~as prescribed by the board, by the first day of the months of February, May, August, and November of each year, each insurer~~ authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to podiatrists shall submit to the board a report concerning the podiatrists against whom podiatric medical malpractice settlements or awards have been made to the plaintiff. The report must contain at least the following information:

(1) the total number of podiatric malpractice settlements or awards made to the plaintiff;

(2) the date the podiatric malpractice settlements or awards to the plaintiff were made;

(3) the allegations contained in the claim or complaint leading to the settlements or awards made to the plaintiff;

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- (4) the dollar amount of each podiatric malpractice settlement or award;
- (5) the regular address of the practice of the podiatrist against whom an award was made or with whom a settlement was made; and
- (6) the name of the podiatrist against whom an award was made or with whom a settlement was made.

The insurance company shall, in addition to the foregoing information, report to the board any information it has that tends to substantiate a charge that a podiatrist may have engaged in conduct violating the law as specified in this chapter.

Sec. 6. Minnesota Statutes 2002, section 153.25, subdivision 1, is amended to read:

Subdivision 1. **REPORTING.** Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report to the board under section 153.24 or for otherwise reporting to the board violations or alleged violations of section 153.19. Reports are confidential data on individuals under section 13.02, subdivision 3, and are privileged communications.

Sec. 7. **REPEALER.**

Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, and 10; and 6900.0400, are repealed.

ARTICLE 9

APPLICATION FOR DESIGNATION OF AN ESSENTIAL COMMUNITY PROVIDER

Section 1. Minnesota Statutes 2003 Supplement, section 62Q.19, subdivision 2, is amended to read:

Subd. 2. **APPLICATION.** (a) Any provider may apply to the commissioner for designation as an essential community provider by submitting an application form developed by the commissioner. Except as provided in paragraphs (d) and (e), applications must be accepted within two years after the effective date of the rules adopted by the commissioner to implement this section.

(b) Each application submitted must be accompanied by an application fee in an amount determined by the commissioner. The fee shall be no more than what is needed to cover the administrative costs of processing the application.

(c) The name, address, contact person, and the date by which the commissioner's decision is expected to be made shall be classified as public data under section 13.41. All other information contained in the application form shall be classified as private data under section 13.41 until the application has been approved, approved as modified, or denied by the commissioner. Once the decision has been made, all information shall be classified as public data unless the applicant designates and the commissioner determines that the information contains trade secret information.

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(d) The commissioner shall accept an application for designation as an essential community provider until June 30, ~~2001~~ 2004, from:

(1) one applicant that is a nonprofit community health care facility, services agency certified as a medical assistance provider effective April 1, 1998, that provides culturally competent health care to an underserved Southeast Asian immigrant and refugee population residing in the immediate neighborhood of the facility;

(2) one applicant that is a nonprofit home health care provider, certified as a Medicare and a medical assistance provider that provides culturally diverse home health care services to a low-income culturally diverse population;

(3) up to five applicants that are nonprofit community mental health centers certified as medical assistance providers that provide mental health services to children with serious emotional disturbance and their families or to adults with serious and persistent mental illness; and

(4) one applicant that is a nonprofit provider certified as a medical assistance provider that provides mental health, child development, and family services to children with physical and mental health disorders and their families.

(e) The commissioner shall accept an application for designation as an essential community provider until June 30, ~~2003~~, from one applicant that is a nonprofit community clinic located in Hennepin County that provides health care to an underserved American Indian population and that is collaborating with other neighboring organizations on a community diabetes project and an immunization project. mental health, behavioral health, chemical dependency, employment, and health wellness services to the underserved Spanish-speaking Latino families and individuals with locations in Minneapolis and St. Paul.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

ARTICLE 10

EDUCATION AND PRECAUTIONS REGARDING VACCINES

Section 1. Minnesota Statutes 2003 Supplement, section 121A.15, subdivision 3a, is amended to read:

Subd. 3a. **DISCLOSURES REQUIRED.** (a) This paragraph applies to any written information about immunization requirements for enrollment in a school or child care facility that:

(1) is provided to a person to be immunized or enrolling or enrolled in a school or child care facility, or to the person's parent or guardian if the person is under 18 years of age and not emancipated; and

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(2) is provided by the Department of Health; the Department of Education; the Department of Human Services; an immunization provider; or a school or child care facility.

Such written information must describe the exemptions from immunizations permitted under subdivision 3, paragraphs (c) and (d). The information on exemptions from immunizations provided according to this paragraph must be in a font size at least equal to the font size of the immunization requirements, in the same font style as the immunization requirements, and on the same page of the written document as the immunization requirements.

(b) Before immunizing a person, an immunization provider must provide the person, or the person's parent or guardian if the person is under 18 years of age and not emancipated, with the following information in writing:

(1) a list of the immunizations required for enrollment in a school or child care facility;

(2) a description of the exemptions from immunizations permitted under subdivision 3, paragraphs (c) and (d);

(3) a list of additional immunizations currently recommended by the commissioner; and

(4) in accordance with federal law, a copy of the vaccine information sheet from the federal Department of Health and Human Services that lists possible adverse reactions to the immunization to be provided.

(c) The commissioner will continue the educational campaign to providers and hospitals on vaccine safety including, but not limited to, information on the vaccine adverse events reporting system (VAERS), the federal vaccine information statements (VIS), and medical precautions and contraindications to immunizations.

(d) The commissioner will encourage providers to provide the vaccine information statements at multiple visits and in anticipation of subsequent immunizations.

(e) The commissioner will encourage providers to use existing screening for immunization precautions and contraindication materials and make proper use of the vaccine adverse events reporting system (VAERS).

(f) In consultation with groups and people identified in subdivision 12, paragraph (a), clause (1), the commissioner will continue to develop and make available patient education materials on immunizations including, but not limited to, contraindications and precautions regarding vaccines.

(g) The commissioner will encourage health care providers to use thimerosal-free vaccines when available.

Sec. 2. Minnesota Statutes 2003 Supplement, section 121A.15, subdivision 12, is amended to read:

Subd. 12. **MODIFICATIONS TO SCHEDULE.** (a) The commissioner of health may adopt modifications to the immunization requirements of this section. A proposed

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modification made under this subdivision must be part of the current immunization recommendations of each of the following organizations: the United States Public Health Service's Advisory Committee on Immunization Practices, the American Academy of Family Physicians, and the American Academy of Pediatrics. In proposing a modification to the immunization schedule, the commissioner must:

(1) consult with (i) the commissioner of education; the commissioner of human services; the chancellor of the Minnesota State Colleges and Universities; and the president of the University of Minnesota; and (ii) the Minnesota Natural Health Coalition, Vaccine Awareness Minnesota, Biological Education for Autism Treatment (BEAT), the Minnesota Academy of Family Physicians, the American Academy of Pediatrics-Minnesota Chapter, and the Minnesota Nurses Association; and

(2) consider the following criteria: the epidemiology of the disease, the morbidity and mortality rates for the disease, the safety and efficacy of the vaccine, the cost of a vaccination program, the cost of enforcing vaccination requirements, and a cost-benefit analysis of the vaccination.

(b) Before a proposed modification may be adopted, the commissioner must notify the chairs of the house and senate committees with jurisdiction over health policy issues. If the chairs of the relevant standing committees determine a public hearing regarding the proposed modifications is in order, the hearing must be scheduled within 60 days of receiving notice from the commissioner. If a hearing is scheduled, the commissioner may not adopt any proposed modifications until after the hearing is held.

(c) The commissioner shall comply with the requirements of chapter 14 regarding the adoption of any proposed modifications to the immunization schedule.

(d) In addition to the publication requirements of chapter 14, the commissioner of health must inform all immunization providers of any adopted modifications to the immunization schedule in a timely manner.

ARTICLE 11

MISCELLANEOUS

Section 1. Minnesota Statutes 2002, section 144E.01, subdivision 5, is amended to read:

Subd. 5. **STAFF.** The board shall appoint an executive director who shall serve in the unclassified service and may appoint other staff. The service of the executive director shall be subject to the terms described in section 214.04, subdivision 2a.

Sec. 2. Minnesota Statutes 2002, section 147.01, subdivision 5, is amended to read:

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Subd. 5. **EXPENSES; STAFF.** The Board of Medical Practice shall provide blanks, books, certificates, and such stationery and assistance as is necessary for the transaction of the business pertaining to the duties of such board. The expenses of administering this chapter shall be paid from the appropriations made to the Board of Medical Practice. The board shall employ an executive director subject to the terms described in section 214.04, subdivision 2a.

Sec. 3. Minnesota Statutes 2002, section 148.191, subdivision 1, is amended to read:

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

Sec. 4. Minnesota Statutes 2002, section 148B.19, subdivision 4, is amended to read:

Subd. 4. **OFFICERS AND EXECUTIVE DIRECTOR.** The board shall annually elect from its membership a chair, vice-chair, and secretary-treasurer, and shall adopt rules to govern its proceedings. The board shall appoint and employ an executive director who is not a member of the board. The employment of the executive director shall be subject to the terms described in section 214.04, subdivision 2a.

Sec. 5. Minnesota Statutes 2003 Supplement, section 148B.51, is amended to read:

148B.51 BOARD OF BEHAVIORAL HEALTH AND THERAPY.

The Board of Behavioral Health and Therapy consists of 13 members appointed by the governor. Five of the members shall be professional counselors licensed or eligible for licensure under sections 148B.50 to 148B.593. Five of the members shall be alcohol and drug counselors licensed under chapter 148C. Three of the members shall be public members as defined in section 214.02. The board shall annually elect from its membership a chair and vice-chair. The board shall appoint and employ an executive director who is not a member of the board. The employment of the executive director shall be subject to the terms described in section 214.04, subdivision 2a. Chapter 214 applies to the Board of Behavioral Health and Therapy unless superseded by sections 148B.50 to 148B.593.

Sec. 6. Minnesota Statutes 2002, section 214.04, is amended by adding a subdivision to read:

Subd. 2a. **PERFORMANCE OF EXECUTIVE DIRECTORS.** The governor may request that a health-related licensing board or the Emergency Medical Services Regulatory Board review the performance of the board's executive director. Upon receipt of the request, the board must respond by establishing a performance improvement plan or taking disciplinary or other corrective action, including dismissal.

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The board shall include the governor's representative as a voting member of the board in the board's discussions and decisions regarding the governor's request. The board shall report to the governor on action taken by the board, including an explanation if no action is deemed necessary.

Sec. 7. Laws 2002, chapter 402, section 21, is amended to read:

Sec. 21. **SUNSET.**

Sections 1 to 19 expire August 1, 2004 2005.

Sec. 8. **HEALTH STUDY.**

(a) The commissioner of health must prepare a plan for the development and implementation of a statewide public health data management system in cooperation and consultation with representatives of local public health departments. The plan must provide state and local public health departments with a cost-effective, reliable means for collecting, utilizing, and disseminating public health data. The plan must include cost estimates for the planning and development of a statewide system. Nothing in this section requires the commissioner to collect additional health data.

(b) The plan must be completed and presented to the legislature by January 15, 2005. The plan must comply with Minnesota Statutes, sections 3.195 and 3.197.

Sec. 9. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

Presented to the governor May 18, 2004

Signed by the governor May 29, 2004, 12:05 p.m.

CHAPTER 280—H.F.No. 2207

An act relating to health; clarifying that individuals may participate in pharmaceutical manufacturer's rebate programs; amending Minnesota Statutes 2002, section 62J.23, subdivision 2.

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

Section 1. Minnesota Statutes 2002, section 62J.23, subdivision 2, is amended to read:

Subd. 2. **INTERIM RESTRICTIONS.** (a) From July 1, 1992, until rules are adopted by the commissioner under this section, the restrictions in the federal Medicare antikickback statutes in section 1128B(b) of the Social Security Act, United States Code, title 42, section 1320a-7b(b), and rules adopted under the federal statutes, apply to all persons in the state, regardless of whether the person participates in any state health care program. The commissioner shall approve a transition plan submitted to the

Signed by the governor May 29, 2004, 10:05 a.m.

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