

A bill for an act

relating to health; changing licensing requirements for certain health professions; changing provisions for unlicensed complementary and alternative health care practitioners; amending Minnesota Statutes 2006, sections 147.03, subdivision 1; 148.512, subdivision 20; 148.5161, subdivisions 2, 3; 148.5175; 148.519, subdivision 3; 148.5194, subdivisions 7, 8; 148.5195, subdivision 3; 148.6425; 148.6428; 148.6440; 148.6443, subdivisions 1, 3; 148.6445, subdivision 11; 151.01, subdivision 27; 153A.14, subdivisions 2i, 4a, 11; 153A.175; Minnesota Statutes 2007 Supplement, sections 146A.08, subdivision 1; 146A.11, subdivision 1; 147.037, subdivision 1; 148.515, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 148B.

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

Section 1. Minnesota Statutes 2007 Supplement, section 146A.08, subdivision 1, is amended to read:

Subdivision 1. **Prohibited conduct.** The commissioner may impose disciplinary action as described in section 146A.09 against any unlicensed complementary and alternative health care practitioner. The following conduct is prohibited and is grounds for disciplinary action:

(a) Conviction of a crime, including a finding or verdict of guilt, an admission of guilt, or a no-contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to engaging in complementary and alternative health care practices. Conviction, as used in this subdivision, includes a conviction of an offense which, if committed in this state, would be deemed a felony, gross misdemeanor, or misdemeanor, without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered.

(b) Conviction of any crime against a person. For purposes of this chapter, a crime against a person means violations of the following: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.221; 609.222; 609.223; 609.224; 609.2242; 609.23; 609.231; 609.2325; 609.233; 609.2335; 609.235; 609.24; 609.245; 609.25; 609.255; 609.26, subdivision 1, clause (1) or (2); 609.265; 609.342; 609.343; 609.344; 609.345; 609.365; 609.498, subdivision 1; 609.50, subdivision 1, clause (1); 609.561; 609.562; 609.595; and 609.72, subdivision 3.

(c) Failure to comply with the self-reporting requirements of section 146A.03, subdivision 7.

(d) Engaging in sexual contact with a complementary and alternative health care client ~~or former client~~, engaging in contact that may be reasonably interpreted by a client as sexual, engaging in any verbal behavior that is seductive or sexually demeaning to the ~~patient client~~, or engaging in sexual exploitation of a client or former client. ~~For purposes of this paragraph, "former client" means a person who has obtained services from the unlicensed complementary and alternative health care practitioner within the past two years.~~

(e) Advertising that is false, fraudulent, deceptive, or misleading.

(f) Conduct likely to deceive, defraud, or harm the public or demonstrating a willful or careless disregard for the health, welfare, or safety of a complementary and alternative health care client; or any other practice that may create danger to any client's life, health, or safety, in any of which cases, proof of actual injury need not be established.

(g) Adjudication as mentally incompetent or as a person who is dangerous to self or adjudication pursuant to chapter 253B as chemically dependent, mentally ill, developmentally disabled, mentally ill and dangerous to the public, or as a sexual psychopathic personality or sexually dangerous person.

(h) Inability to engage in complementary and alternative health care practices with reasonable safety to complementary and alternative health care clients.

(i) The habitual overindulgence in the use of or the dependence on intoxicating liquors.

(j) Improper or unauthorized personal or other use of any legend drugs as defined in chapter 151, any chemicals as defined in chapter 151, or any controlled substance as defined in chapter 152.

(k) Revealing a communication from, or relating to, a complementary and alternative health care client except when otherwise required or permitted by law.

(l) Failure to comply with a complementary and alternative health care client's request made under sections 144.291 to 144.298 or to furnish a complementary and alternative health care client record or report required by law.

(m) Splitting fees or promising to pay a portion of a fee to any other professional other than for services rendered by the other professional to the complementary and alternative health care client.

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

(o) Failure to make reports as required by section 146A.03 or cooperate with an investigation of the office.

(p) Obtaining money, property, or services from a complementary and alternative health care client, other than reasonable fees for services provided to the client, through the use of undue influence, harassment, duress, deception, or fraud.

~~(q) Undertaking or continuing a professional relationship with a complementary and alternative health care client in which the objectivity of the unlicensed complementary and alternative health care practitioner would be impaired.~~

~~(r)~~ (q) Failure to provide a complementary and alternative health care client with a copy of the client bill of rights or violation of any provision of the client bill of rights.

~~(s)~~ (r) Violating any order issued by the commissioner.

~~(t)~~ (s) Failure to comply with any provision of sections 146A.01 to 146A.11 and the rules adopted under those sections.

~~(u)~~ (t) Failure to comply with any additional disciplinary grounds established by the commissioner by rule.

~~(v)~~ (u) Revocation, suspension, restriction, limitation, or other disciplinary action against any health care license, certificate, registration, or right to practice of the unlicensed complementary and alternative health care practitioner in this or another state or jurisdiction for offenses that would be subject to disciplinary action in this state or failure to report to the office that charges regarding the practitioner's license, certificate, registration, or right of practice have been brought in this or another state or jurisdiction.

~~(w)~~ (v) Use of the title "doctor," "Dr.," or "physician" alone or in combination with any other words, letters, or insignia to describe the complementary and alternative health care practices the practitioner provides.

~~(x)~~ (w) Failure to provide a complementary and alternative health care client with a recommendation that the client see a health care provider who is licensed or registered by a health-related licensing board or the commissioner of health, if there is a reasonable likelihood that the client needs to be seen by a licensed or registered health care provider.

Sec. 2. Minnesota Statutes 2007 Supplement, section 146A.11, subdivision 1, is amended to read:

Subdivision 1. **Scope.** (a) All unlicensed complementary and alternative health care practitioners shall provide to each complementary and alternative health care client prior to providing treatment a written copy of the complementary and alternative health care client bill of rights. A copy must also be posted in a prominent location in the office of the unlicensed complementary and alternative health care practitioner. Reasonable accommodations shall be made for those clients who cannot read or who have communication impairments and those who do not read or speak English. The complementary and alternative health care client bill of rights shall include the following:

(1) the name, complementary and alternative health care title, business address, and telephone number of the unlicensed complementary and alternative health care practitioner;

(2) the degrees, training, experience, or other qualifications of the practitioner regarding the complimentary and alternative health care being provided, followed by the following statement in bold print:

"THE STATE OF MINNESOTA HAS NOT ADOPTED ANY EDUCATIONAL AND TRAINING STANDARDS FOR UNLICENSED COMPLEMENTARY AND ALTERNATIVE HEALTH CARE PRACTITIONERS. THIS STATEMENT OF CREDENTIALS IS FOR INFORMATION PURPOSES ONLY.

Under Minnesota law, an unlicensed complementary and alternative health care practitioner may not provide a medical diagnosis or recommend discontinuance of medically prescribed treatments. If a client desires a diagnosis from a licensed physician, chiropractor, or acupuncture practitioner, or services from a physician, chiropractor, nurse, osteopath, physical therapist, dietitian, nutritionist, acupuncture practitioner, athletic trainer, or any other type of health care provider, the client may seek such services at any time.";

(3) the name, business address, and telephone number of the practitioner's supervisor, if any;

(4) notice that a complementary and alternative health care client has the right to file a complaint with the practitioner's supervisor, if any, and the procedure for filing complaints;

(5) the name, address, and telephone number of the office of unlicensed complementary and alternative health care practice and notice that a client may file complaints with the office;

(6) the practitioner's fees per unit of service, the practitioner's method of billing for such fees, the names of any insurance companies that have agreed to reimburse the practitioner, or health maintenance organizations with whom the practitioner contracts to provide service, whether the practitioner accepts Medicare, medical assistance, or general assistance medical care, and whether the practitioner is willing to accept partial payment, or to waive payment, and in what circumstances;

(7) a statement that the client has a right to reasonable notice of changes in services or charges;

(8) a brief summary, in plain language, of the theoretical approach used by the practitioner in providing services to clients;

(9) notice that the client has a right to complete and current information concerning the practitioner's assessment and recommended service that is to be provided, including the expected duration of the service to be provided;

(10) a statement that clients may expect courteous treatment and to be free from verbal, physical, or sexual abuse by the practitioner;

(11) a statement that client records and transactions with the practitioner are confidential, unless release of these records is authorized in writing by the client, or otherwise provided by law;

(12) a statement of the client's right to be allowed access to records and written information from records in accordance with sections 144.291 to 144.298;

(13) a statement that other services may be available in the community, including where information concerning services is available;

(14) a statement that the client has the right to choose freely among available practitioners and to change practitioners after services have begun, within the limits of health insurance, medical assistance, or other health programs;

(15) a statement that the client has a right to coordinated transfer when there will be a change in the provider of services;

(16) a statement that the client may refuse services or treatment, unless otherwise provided by law; and

(17) a statement that the client may assert the client's rights without retaliation.

(b) This section does not apply to an unlicensed complementary and alternative health care practitioner who is employed by or is a volunteer in a hospital or hospice who provides services to a client in a hospital or under an appropriate hospice plan of care. Patients receiving complementary and alternative health care services in an inpatient hospital or under an appropriate hospice plan of care shall have and be made aware of

6.1 the right to file a complaint with the hospital or hospice provider through which the
6.2 practitioner is employed or registered as a volunteer.

6.3 Sec. 3. Minnesota Statutes 2006, section 147.03, subdivision 1, is amended to read:

6.4 Subdivision 1. **Endorsement; reciprocity.** (a) The board may issue a license to
6.5 practice medicine to any person who satisfies the requirements in paragraphs (b) to (f).

6.6 (b) The applicant shall satisfy all the requirements established in section 147.02,
6.7 subdivision 1, paragraphs (a), (b), (d), (e), and (f).

6.8 (c) The applicant shall:

6.9 (1) have passed an examination prepared and graded by the Federation of State
6.10 Medical Boards, the National Board of Medical Examiners, or the United States Medical
6.11 Licensing Examination (USMLE) program in accordance with section 147.02, subdivision
6.12 1, paragraph (c), clause (2); the National Board of Osteopathic Examiners; or the Medical
6.13 Council of Canada; and

6.14 (2) have a current license from the equivalent licensing agency in another state or
6.15 Canada and, if the examination in clause (1) was passed more than ten years ago, either:

6.16 (i) pass the Special Purpose Examination of the Federation of State Medical Boards
6.17 with a score of 75 or better within three attempts; or

6.18 (ii) have a current certification by a specialty board of the American Board of
6.19 Medical Specialties, of the American Osteopathic Association Bureau of Professional
6.20 Education, the Royal College of Physicians and Surgeons of Canada, or of the College of
6.21 Family Physicians of Canada; or

6.22 (3) if the applicant fails to meet the requirement established in section 147.02,
6.23 subdivision 1, paragraph (c), clause (2), because the applicant failed to pass each of steps
6.24 one, two, and three of the USMLE within the required three attempts, the applicant may
6.25 be granted a license provided the applicant:

6.26 (i) has passed each of steps one, two, and three with passing scores as recommended
6.27 by the USMLE program within no more than four attempts for any of the three steps;

6.28 (ii) is currently licensed in another state; and

6.29 (iii) has current certification by a specialty board of the American Board of Medical
6.30 Specialties, the American Osteopathic Association Bureau of Professional Education, the
6.31 Royal College of Physicians and Surgeons of Canada, or the College of Family Physicians
6.32 of Canada.

6.33 (d) The applicant shall pay a fee established by the board by rule. The fee may
6.34 not be refunded.

(e) The applicant must not be under license suspension or revocation by the licensing board of the state or jurisdiction in which the conduct that caused the suspension or revocation occurred.

(f) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action other than as specified in paragraph (e). If an applicant does not satisfy the requirements stated in this paragraph, the board may issue a license only on the applicant's showing that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

(g) Upon the request of an applicant, the board may conduct the final interview of the applicant by teleconference.

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

Sec. 4. Minnesota Statutes 2007 Supplement, section 147.037, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** The board shall issue a license to practice medicine to any person who satisfies the requirements in paragraphs (a) to (g).

(a) The applicant shall satisfy all the requirements established in section 147.02, subdivision 1, paragraphs (a), (e), (f), (g), and (h).

(b) The applicant shall present evidence satisfactory to the board that the applicant is a graduate of a medical or osteopathic school approved by the board as equivalent to accredited United States or Canadian schools based upon its faculty, curriculum, facilities, accreditation, or other relevant data. If the applicant is a graduate of a medical or osteopathic program that is not accredited by the Liaison Committee for Medical Education or the American Osteopathic Association, the applicant may use the Federation of State Medical Boards' Federation Credentials Verification Service (FCVS) or its successor. If the applicant uses this service as allowed under this paragraph, the physician application fee may be less than \$200 but must not exceed the cost of administering this paragraph.

(c) The applicant shall present evidence satisfactory to the board that the applicant has been awarded a certificate by the Educational Council for Foreign Medical Graduates, and the applicant has a working ability in the English language sufficient to communicate with patients and physicians and to engage in the practice of medicine.

(d) The applicant shall present evidence satisfactory to the board of the completion of two years of graduate, clinical medical training in a program located in the United States, its territories, or Canada and accredited by a national accrediting organization approved by the board. This requirement does not apply:

(1) to an applicant who is admitted as a permanent immigrant to the United States on or before October 1, 1991, as a person of exceptional ability in the sciences according to Code of Federal Regulations, title 20, section 656.22(d);

(2) to an applicant holding a valid license to practice medicine in another country and issued a permanent immigrant visa after October 1, 1991, as a person of extraordinary ability in the field of science or as an outstanding professor or researcher according to Code of Federal Regulations, title 8, section 204.5(h) and (i), or a temporary nonimmigrant visa as a person of extraordinary ability in the field of science according to Code of Federal Regulations, title 8, section 214.2(o),

provided that a person under clause (1) or (2) is admitted pursuant to rules of the United States Department of Labor; or

(3) to an applicant who is licensed in another state, has practiced five years without disciplinary action in the United States, its territories, or Canada, has completed one year of the graduate, clinical medical training required by this paragraph, and has passed the Special Purpose Examination of the Federation of State Medical Boards within three attempts in the 24 months before licensing.

(e) The applicant must:

(1) have passed an examination prepared and graded by the Federation of State Medical Boards, the United States Medical Licensing Examination program in accordance with section 147.02, subdivision 1, paragraph (c), clause (2), or the Medical Council of Canada; and

(2) have a current license from the equivalent licensing agency in another state or country and, if the examination in clause (1) was passed more than ten years ago, either:

(i) pass the Special Purpose Examination of the Federation of State Medical Boards with a score of 75 or better within three attempts; or

(ii) have a current certification by a specialty board of the American Board of Medical Specialties, of the American Osteopathic Association Bureau of Professional Education, of the Royal College of Physicians and Surgeons of Canada, or of the College of Family Physicians of Canada; or

(3) if the applicant fails to meet the requirement established in section 147.02, subdivision 1, paragraph (c), clause (2), because the applicant failed to pass each of steps one, two, and three of the USMLE within the required three attempts, the applicant may be granted a license provided the applicant:

(i) has passed each of steps one, two, and three with passing scores as recommended by the USMLE program within no more than four attempts for any of the three steps;

(ii) is currently licensed in another state; and

(iii) has current certification by a specialty board of the American Board of Medical Specialties, the American Osteopathic Association Bureau of Professional Education, the Royal College of Physicians and Surgeons of Canada, or the College of Family Physicians of Canada.

(f) The applicant must not be under license suspension or revocation by the licensing board of the state or jurisdiction in which the conduct that caused the suspension or revocation occurred.

(g) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action other than as specified in paragraph (f). If an applicant does not satisfy the requirements stated in this paragraph, the board may issue a license only on the applicant's showing that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

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

Sec. 5. Minnesota Statutes 2006, section 148.512, subdivision 20, is amended to read:

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

(1) is a licensed speech-language pathologist or audiologist under section 148.515, 148.516, or 148.517; or

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

Sec. 6. Minnesota Statutes 2007 Supplement, section 148.515, subdivision 2, is amended to read:

Subd. 2. **Master's or doctoral degree required for speech-language pathology applicants.** (a) An applicant for speech-language pathology must possess a master's or doctoral degree that meets the requirements of paragraph (b). If completing a doctoral program in which a master's degree has not been conferred, an applicant must submit a transcript showing completion of course work equivalent to, or exceeding, a master's degree that meets the requirement of paragraph (b). In addition to the transcript, the commissioner may require a letter from the academic department chair or program

10.1 director documenting that the applicant has completed coursework equivalent to or
10.2 exceeding a master's degree or that the applicant is eligible for enrollment in current
10.3 doctoral externship credit.

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

10.11 Sec. 7. Minnesota Statutes 2006, section 148.5161, subdivision 2, is amended to read:

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

10.16 Sec. 8. Minnesota Statutes 2006, section 148.5161, subdivision 3, is amended to read:

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

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

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

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

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

(d) Clinical fellowship licensure or doctoral externship licensure shall not be granted until the applicant has completed the academic coursework and clinical training in section 148.515, subdivision 2 or 2a. In addition to the transcript, the commissioner may require a letter from the academic department chair or program director documenting that the applicant has completed coursework equivalent to or exceeding a master's degree or that the applicant is eligible for enrollment in current doctoral externship credit.

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

Sec. 9. Minnesota Statutes 2006, section 148.5175, is amended to read:

148.5175 TEMPORARY LICENSURE.

(a) The commissioner shall issue temporary licensure as a speech-language pathologist, an audiologist, or both, to an applicant 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~~ twice to a person who is able to demonstrate good cause for failure to meet the requirements for licensure

12.1 within the initial temporary licensure period and who is not the subject of a disciplinary
12.2 action or disqualified on the basis of section 148.5195, subdivision 3. Good cause
12.3 includes but is not limed to inability to take and complete the required practical exam for
12.4 dispensing hearing instruments.

12.5 (d) Upon application, a temporary license shall be issued to a person who meets
12.6 the requirements of section 148.515, subdivisions 2a and 4, but has not completed the
12.7 requirement in section 148.515, subdivision 6.

12.8 Sec. 10. Minnesota Statutes 2006, section 148.519, subdivision 3, is amended to read:

12.9 Subd. 3. **Change of ~~address~~ name, employment, and addresses.** A licensee who
12.10 changes addresses must inform the commissioner, in writing, of the change of name,
12.11 employment, or address within 30 days. A change in name must be accompanied by a
12.12 copy of a marriage certificate or court order. All notices or other correspondence mailed
12.13 to or served on a licensee by the commissioner at the licensee's address on file with the
12.14 commissioner shall be considered as having been received by the licensee.

12.15 Sec. 11. Minnesota Statutes 2006, section 148.5194, subdivision 7, is amended to read:

12.16 Subd. 7. **Audiologist surcharge fee.** (a) The biennial surcharge fee for audiologists
12.17 is \$235. The commissioner shall prorate the fee for clinical fellowship, doctoral
12.18 externship, temporary, and first time licensees according to the number of months that
12.19 have elapsed between the date the license is issued and the date the license expires or must
12.20 be renewed under section 148.5191, subdivision 4.

12.21 (b) ~~Effective November 1, 2005, the commissioner shall collect the \$235 audiologist~~
12.22 ~~surcharge fee prorated according to the number of months remaining until the next~~
12.23 ~~scheduled license renewal.~~ The audiologist surcharge fee is for practical examination costs
12.24 greater than audiologist exam fee receipts and complaint investigation, enforcement action
12.25 and consumer information, and assistance expenditures related to hearing instrument
12.26 dispensing.

12.27 Sec. 12. Minnesota Statutes 2006, section 148.5194, subdivision 8, is amended to read:

12.28 Subd. 8. **Penalty fees.** (a) The penalty fee for practicing speech language pathology
12.29 or audiology or using protected titles without a current license after the credential has
12.30 expired and before it is renewed is the amount of the license renewal fee for any part of
12.31 the first month, plus the license renewal fee for any part of any subsequent month up
12.32 to 36 months.

(b) The penalty fee for applicants who engage in the unauthorized practice of speech language pathology or audiology or using protected titles before being issued a license is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This paragraph does not apply to applicants not qualifying for a license who engage in the unauthorized practice of speech language pathology or audiology.

(c) The penalty fee for practicing speech language pathology or audiology and failing to submit a continuing education report by the due date with the correct number or type of hours in the correct time period is \$100 plus \$20 for each missing clock hour. Missing means not obtained between the effective and expiration dates of the certificate, the one-month period following the certificate expiration date, or the 30 days following notice of a penalty fee for failing to report all continuing education hours. The licensee must obtain the missing number of continuing education hours by the next reporting due date.

(d) Civil penalties and discipline incurred by licensees prior to August 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty fees. For conduct described in paragraph (a) or (b) occurring after August 1, 2005, and exceeding six months, payment of a penalty fee does not preclude any disciplinary action reasonably justified by the individual case.

Sec. 13. Minnesota Statutes 2006, 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 148.5198;

(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

14.1 violating any state or federal law which relates to speech-language pathology or audiology
14.2 is necessarily considered to constitute a violation, except as provided in chapter 364;

14.3 (7) aided or abetted another person in violating any provision of sections 148.511 to
14.4 148.5198;

14.5 (8) been or is being disciplined by another jurisdiction, if any of the grounds for
14.6 the discipline is the same or substantially equivalent to those under sections 148.511 to
14.7 148.5198;

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

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

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

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

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

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

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

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

14.26 (17) had the certification required by chapter 153A denied, suspended, or revoked
14.27 according to chapter 153A;

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

14.33 (19) failed to comply with the requirements of section 148.5192 regarding
14.34 supervision of speech-language pathology assistants; or

14.35 (20) if the individual is an audiologist or certified hearing ~~aid~~ instrument dispenser:

(i) prescribed or otherwise recommended to a consumer or potential consumer the use of a hearing ~~aid~~ instrument, unless the prescription from a physician or recommendation from an audiologist or certified dispenser is in writing, is based on an audiogram that is delivered to the consumer or potential consumer when the prescription or recommendation is made, and bears the following information in all capital letters of 12-point or larger boldface type: "THIS PRESCRIPTION OR RECOMMENDATION MAY BE FILLED BY, AND HEARING ~~AIDS~~ INSTRUMENTS MAY BE PURCHASED FROM, THE LICENSED AUDIOLOGIST OR CERTIFIED DISPENSER OF YOUR CHOICE";

(ii) failed to give a copy of the audiogram, upon which the prescription or recommendation is based, to the consumer when the consumer requests a copy;

(iii) failed to provide the consumer rights brochure required by section 148.5197, subdivision 3;

(iv) failed to comply with restrictions on sales of hearing ~~aids~~ instruments in sections 148.5197, subdivision 3, and 148.5198;

(v) failed to return a consumer's hearing ~~aid~~ instrument used as a trade-in or for a discount in the price of a new hearing ~~aid~~ instrument when requested by the consumer upon cancellation of the purchase agreement;

(vi) failed to follow Food and Drug Administration or Federal Trade Commission regulations relating to dispensing hearing ~~aids~~ instruments;

(vii) failed to dispense a hearing ~~aid~~ instrument in a competent manner or without appropriate training;

(viii) delegated hearing instrument dispensing authority to a person not authorized to dispense a hearing instrument under this chapter or chapter 153A;

(ix) failed to comply with the requirements of an employer or supervisor of a hearing ~~aid~~ instrument dispenser trainee; ~~or~~

(x) violated a state or federal court order or judgment, including a conciliation court judgment, relating to the activities of the individual's hearing ~~aid~~ instrument dispensing; or

(xi) failed to include on the audiogram the practitioner's printed name, credential type, credential number, signature, and date.

Sec. 14. Minnesota Statutes 2006, section 148.6425, is amended to read:

148.6425 RENEWAL OF LICENSURE; AFTER EXPIRATION DATE.

Subdivision 1. **Removal of name from list.** The names of licensees who do not comply with the licensure renewal requirements of section 148.6423 on or before the expiration date shall be removed from the list of individuals authorized to practice

16.1 occupational therapy and to use the protected titles in section 148.6403. The licensees
16.2 must comply with the requirements of this section in order to regain licensed status.

16.3 Subd. 2. **Licensure renewal after licensure expiration date.** An individual
16.4 whose application for licensure renewal is received after the licensure expiration date
16.5 must submit the following:

16.6 (1) a completed and signed application for licensure following lapse in licensed
16.7 status on forms provided by the commissioner;

16.8 (2) the renewal fee and the late fee required under section 148.6445;

16.9 (3) proof of having met the continuing education requirements ~~since the individual's~~
16.10 ~~initial licensure or last licensure renewal~~ in section 148.6443, subdivision 1; and

16.11 (4) additional information as requested by the commissioner to clarify information in
16.12 the application, including information to determine whether the individual has engaged in
16.13 conduct warranting disciplinary action as set forth in section 148.6448. The information
16.14 must be submitted within 30 days after the commissioner's request.

16.15 Subd. 3. **Licensure renewal four years or more after licensure expiration date.**

16.16 (a) An individual who requests licensure renewal four years or more after the licensure
16.17 expiration date must submit the following:

16.18 (1) a completed and signed application for licensure on forms provided by the
16.19 commissioner;

16.20 (2) the renewal fee and the late fee required under section 148.6445 if renewal
16.21 application is based on paragraph (b), clause (1), (2), or (3), or the renewal fee required
16.22 under section 148.6445 if renewal application is based on paragraph (b), clause (4);

16.23 (3) proof of having met the continuing education requirement ~~for the most recently~~
16.24 ~~completed two-year continuing education cycle~~ in section 148.6443, subdivision 1,
16.25 except the continuing education must be obtained in the two years immediately preceding
16.26 application renewal; and

16.27 (4) at the time of the next licensure renewal, proof of having met the continuing
16.28 education requirement, which shall be prorated based on the number of months licensed
16.29 during the ~~biennial~~ two-year licensure period.

16.30 (b) In addition to the requirements in paragraph (a), the applicant must submit proof
16.31 of one of the following:

16.32 (1) verified documentation of successful completion of 160 hours of supervised
16.33 practice approved by the commissioner as described in paragraph (c);

16.34 (2) verified documentation of having achieved a qualifying score on the credentialing
16.35 examination for occupational therapists or the credentialing examination for occupational
16.36 therapy assistants administered within the past year;

17.1 (3) documentation of having completed a combination of occupational therapy
17.2 courses or an occupational therapy refresher program that contains both a theoretical and
17.3 clinical component approved by the commissioner. Only courses completed within one
17.4 year preceding the date of the application or one year after the date of the application
17.5 qualify for approval; or

17.6 (4) evidence that the applicant holds a current and unrestricted credential for the
17.7 practice of occupational therapy in another jurisdiction and that the applicant's credential
17.8 from that jurisdiction has been held in good standing during the period of lapse.

17.9 (c) To participate in a supervised practice as described in paragraph (b), clause
17.10 (1), the applicant shall obtain limited licensure. To apply for limited licensure, the
17.11 applicant shall submit the completed limited licensure application, fees, and agreement
17.12 for supervision of an occupational therapist or occupational therapy assistant practicing
17.13 under limited licensure signed by the supervising therapist and the applicant. The
17.14 supervising occupational therapist shall state the proposed level of supervision on the
17.15 supervision agreement form provided by the commissioner. The supervising therapist
17.16 shall determine the frequency and manner of supervision based on the condition of the
17.17 patient or client, the complexity of the procedure, and the proficiencies of the supervised
17.18 occupational therapist. At a minimum, a supervising occupational therapist shall be on
17.19 the premises at all times that the person practicing under limited licensure is working;
17.20 be in the room ten percent of the hours worked each week by the person practicing
17.21 under limited licensure; and provide daily face-to-face collaboration for the purpose
17.22 of observing service competency of the occupational therapist or occupational therapy
17.23 assistant, discussing treatment procedures and each client's response to treatment, and
17.24 reviewing and modifying, as necessary, each treatment plan. The supervising therapist
17.25 shall document the supervision provided. The occupational therapist participating in
17.26 a supervised practice is responsible for obtaining the supervision required under this
17.27 paragraph and must comply with the commissioner's requirements for supervision during
17.28 the entire 160 hours of supervised practice. The supervised practice must be completed in
17.29 two months and may be completed at the applicant's place of work.

17.30 (d) In addition to the requirements in paragraphs (a) and (b), the applicant must
17.31 submit additional information as requested by the commissioner to clarify information in
17.32 the application, including information to determine whether the applicant has engaged in
17.33 conduct warranting disciplinary action as set forth in section 148.6448. The information
17.34 must be submitted within 30 days after the commissioner's request.

Sec. 15. Minnesota Statutes 2006, section 148.6428, is amended to read:

148.6428 CHANGE OF NAME, ADDRESS, OR EMPLOYMENT.

A licensee who changes ~~addresses~~ a name, address, or employment must inform the commissioner, in writing, of the change of name, address, employment, business address, or business telephone number within 30 days. A change in name must be accompanied by a copy of a marriage certificate or court order. 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. 16. Minnesota Statutes 2006, section 148.6440, is amended to read:

148.6440 PHYSICAL AGENT MODALITIES.

Subdivision 1. **General considerations.** (a) Occupational therapists who intend to use superficial physical agent modalities must comply with the requirements in subdivision 3. Occupational therapists who intend to use electrotherapy must comply with the requirements in subdivision 4. Occupational therapists who intend to use ultrasound devices must comply with the requirements in subdivision 5. Occupational therapy assistants who intend to use physical agent modalities must comply with subdivision 6.

(b) Use of superficial physical agent modalities, electrical stimulation devices, and ultrasound devices must be on the order of a physician.

(c) Prior to any use of any physical agent modality, a licensee must obtain approval from the commissioner. The commissioner shall maintain a roster of persons licensed under sections 148.6401 to 148.6450 who are approved to use physical agent modalities. ~~Prior to using a physical agent modality, licensees must inform the commissioner of the physical agent modality they will use. Persons who use physical agent modalities must indicate on their initial and renewal applications the physical agent modalities that they use.~~

(d) Licensees are responsible for informing the commissioner of any changes in the information required in this section within 30 days of any change.

Subd. 2. **Written documentation required.** ~~Prior to use of physical agent modalities,~~ An occupational therapist must provide to the commissioner documentation verifying that the occupational therapist has met the educational and clinical requirements described in subdivisions 3 to 5, depending on the modality or modalities to be used. Both theoretical training and clinical application objectives must be met for each modality used. Documentation must include the name and address of the individual or organization sponsoring the activity; the name and address of the facility at which the activity was presented; and a copy of the course, workshop, or seminar description, including learning

19.1 objectives and standards for meeting the objectives. In the case of clinical application
19.2 objectives, teaching methods must be documented, including actual supervised practice.
19.3 Documentation must include a transcript or certificate showing successful completion of
19.4 the coursework. An occupational therapist who is a certified hand therapist shall document
19.5 satisfaction of the requirements in subdivisions 3 to 5 by submitting to the commissioner a
19.6 copy of a certificate issued by the Hand Therapy Certification Commission. Practitioners
19.7 are prohibited from using physical agent modalities under supervision or independently
19.8 until granted approval as provided in subdivision 7.

19.9 Subd. 3. **Educational and clinical requirements for use of superficial physical**
19.10 **agent modalities.** (a) An occupational therapist may use superficial physical agent
19.11 modalities if the occupational therapist has received theoretical training and clinical
19.12 application training in the use of superficial physical agent modalities and been granted
19.13 approval as provided in subdivision 7.

19.14 (b) Theoretical training in the use of superficial physical agent modalities must:

19.15 (1) explain the rationale and clinical indications for use of superficial physical agent
19.16 modalities;

19.17 (2) explain the physical properties and principles of the superficial physical agent
19.18 modalities;

19.19 (3) describe the types of heat and cold transference;

19.20 (4) explain the factors affecting tissue response to superficial heat and cold;

19.21 (5) describe the biophysical effects of superficial physical agent modalities in
19.22 normal and abnormal tissue;

19.23 (6) describe the thermal conductivity of tissue, matter, and air;

19.24 (7) explain the advantages and disadvantages of superficial physical agent
19.25 modalities; and

19.26 (8) explain the precautions and contraindications of superficial physical agent
19.27 modalities.

19.28 (c) Clinical application training in the use of superficial physical agent modalities
19.29 must include activities requiring the practitioner to:

19.30 (1) formulate and justify a plan for the use of superficial physical agents for
19.31 treatment appropriate to its use and simulate the treatment;

19.32 (2) evaluate biophysical effects of the superficial physical agents;

19.33 (3) identify when modifications to the treatment plan for use of superficial physical
19.34 agents are needed and propose the modification plan;

19.35 (4) safely and appropriately administer superficial physical agents under the
19.36 supervision of a course instructor or clinical trainer;

(5) document parameters of treatment, patient response, and recommendations for progression of treatment for the superficial physical agents; and

(6) demonstrate the ability to work competently with superficial physical agents as determined by a course instructor or clinical trainer.

Subd. 4. Educational and clinical requirements for use of electrotherapy. (a) An occupational therapist may use electrotherapy if the occupational therapist has received theoretical training and clinical application training in the use of electrotherapy and been granted approval as provided in subdivision 7.

(b) Theoretical training in the use of electrotherapy must:

(1) explain the rationale and clinical indications of electrotherapy, including pain control, muscle dysfunction, and tissue healing;

(2) demonstrate comprehension and understanding of electrotherapeutic terminology and biophysical principles, including current, voltage, amplitude, and resistance;

(3) describe the types of current used for electrical stimulation, including the description, modulations, and clinical relevance;

(4) describe the time-dependent parameters of pulsed and alternating currents, including pulse and phase durations and intervals;

(5) describe the amplitude-dependent characteristics of pulsed and alternating currents;

(6) describe neurophysiology and the properties of excitable tissue;

(7) describe nerve and muscle response from externally applied electrical stimulation, including tissue healing;

(8) describe the electrotherapeutic effects and the response of nerve, denervated and innervated muscle, and other soft tissue; and

(9) explain the precautions and contraindications of electrotherapy, including considerations regarding pathology of nerve and muscle tissue.

(c) Clinical application training in the use of electrotherapy must include activities requiring the practitioner to:

(1) formulate and justify a plan for the use of electrical stimulation devices for treatment appropriate to its use and simulate the treatment;

(2) evaluate biophysical treatment effects of the electrical stimulation;

(3) identify when modifications to the treatment plan using electrical stimulation are needed and propose the modification plan;

(4) safely and appropriately administer electrical stimulation under supervision of a course instructor or clinical trainer;

21.1 (5) document the parameters of treatment, case example (patient) response, and
21.2 recommendations for progression of treatment for electrical stimulation; and

21.3 (6) demonstrate the ability to work competently with electrical stimulation as
21.4 determined by a course instructor or clinical trainer.

21.5 **Subd. 5. Educational and clinical requirements for use of ultrasound.** (a) An
21.6 occupational therapist may use an ultrasound device if the occupational therapist has
21.7 received theoretical training and clinical application training in the use of ultrasound and
21.8 been granted approval as provided in subdivision 7.

21.9 (b) The theoretical training in the use of ultrasound must:

21.10 (1) explain the rationale and clinical indications for the use of ultrasound, including
21.11 anticipated physiological responses of the treated area;

21.12 (2) describe the biophysical thermal and nonthermal effects of ultrasound on normal
21.13 and abnormal tissue;

21.14 (3) explain the physical principles of ultrasound, including wavelength, frequency,
21.15 attenuation, velocity, and intensity;

21.16 (4) explain the mechanism and generation of ultrasound and energy transmission
21.17 through physical matter; and

21.18 (5) explain the precautions and contraindications regarding use of ultrasound devices.

21.19 (c) The clinical application training in the use of ultrasound must include activities
21.20 requiring the practitioner to:

21.21 (1) formulate and justify a plan for the use of ultrasound for treatment appropriate to
21.22 its use and stimulate the treatment;

21.23 (2) evaluate biophysical effects of ultrasound;

21.24 (3) identify when modifications to the treatment plan for use of ultrasound are
21.25 needed and propose the modification plan;

21.26 (4) safely and appropriately administer ultrasound under supervision of a course
21.27 instructor or clinical trainer;

21.28 (5) document parameters of treatment, patient response, and recommendations for
21.29 progression of treatment for ultrasound; and

21.30 (6) demonstrate the ability to work competently with ultrasound as determined
21.31 by a course instructor or clinical trainer.

21.32 **Subd. 6. Occupational therapy assistant use of physical agent modalities.** An
21.33 occupational therapy assistant may set up and implement treatment using physical agent
21.34 modalities if the assistant meets the requirements of this section, has demonstrated service
21.35 competency for the particular modality used, and works under the direct supervision
21.36 of an occupational therapist who has been granted approval as provided in subdivision

7. An occupational therapy assistant who uses superficial physical agent modalities must meet the requirements of subdivision 3. An occupational therapy assistant who uses electrotherapy must meet the requirements of subdivision 4. An occupational therapy assistant who uses ultrasound must meet the requirements of subdivision 5. An occupational therapist may not delegate evaluation, reevaluation, treatment planning, and treatment goals for physical agent modalities to an occupational therapy assistant.

Subd. 7. **Approval.** (a) The advisory council shall appoint a committee to review documentation under subdivisions 2 to 6 to determine if established educational and clinical requirements are met. If, after review of course documentation, the committee verifies that a specific course meets the theoretical and clinical requirements in subdivisions 2 to 6, the commissioner may approve practitioner applications that include the required course documentation evidencing completion of the same course.

(b) Occupational therapists shall be advised of the status of their request for approval within 30 days. Occupational therapists must provide any additional information requested by the committee that is necessary to make a determination regarding approval or denial.

(c) A determination regarding a request for approval of training under this subdivision shall be made in writing to the occupational therapist. If denied, the reason for denial shall be provided.

(d) A licensee who was approved by the commissioner as a level two provider prior to July 1, 1999, shall remain on the roster maintained by the commissioner in accordance with subdivision 1, paragraph (c).

(e) To remain on the roster maintained by the commissioner, a licensee who was approved by the commissioner as a level one provider prior to July 1, 1999, must submit to the commissioner documentation of training and experience gained using physical agent modalities since the licensee's approval as a level one provider. The committee appointed under paragraph (a) shall review the documentation and make a recommendation to the commissioner regarding approval.

(f) An occupational therapist who received training in the use of physical agent modalities prior to July 1, 1999, but who has not been placed on the roster of approved providers may submit to the commissioner documentation of training and experience gained using physical agent modalities. The committee appointed under paragraph (a) shall review documentation and make a recommendation to the commissioner regarding approval.

Sec. 17. Minnesota Statutes 2006, section 148.6443, subdivision 1, is amended to read:

Subdivision 1. **General requirements.** ~~An A licensed occupational therapist applying for licensure renewal must have completed~~ obtain a minimum of 24 contact hours of continuing education in the ~~two years preceding~~ two-year licensure renewal period. ~~An A licensed occupational therapy assistant applying for licensure renewal must have completed~~ obtain a minimum of 18 contact hours of continuing education in the ~~two years preceding~~ two-year licensure renewal period. All continuing education coursework must be obtained between the effective and expiration dates of the license. Licensees who are issued licenses for a period of less than two years shall ~~prorate the~~ obtain a prorated number of contact hours required for licensure renewal based on the number of months licensed during the ~~biennial~~ two-year licensure period. ~~Licensees shall receive contact hours for continuing education activities only for the biennial licensure period in which the continuing education activity was performed.~~

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

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

Sec. 18. Minnesota Statutes 2006, section 148.6443, subdivision 3, is amended to read:

Subd. 3. **Activities qualifying for continuing education contact hours.** (a) The activities in this subdivision qualify for continuing education contact hours if they meet all other requirements of this section.

(b) A minimum of one-half of the required contact hours must be directly related to the occupational therapy practice. The remaining contact hours may be related to occupational therapy practice, the delivery of occupational therapy services, or to the practitioner's current professional role.

(c) A licensee may obtain an unlimited number of contact hours in any two-year continuing education period through participation in the following:

(1) attendance at educational programs of annual conferences, lectures, panel discussions, workshops, in-service training, seminars, and symposiums;

(2) successful completion of college or university courses. The licensee must obtain a grade of at least a "C" or a pass in a pass or fail course in order to receive the following continuing education credits:

(i) one semester credit equals 14 contact hours;

24.1 (ii) one trimester credit equals 12 contact hours; and

24.2 (iii) one quarter credit equals ten contact hours;

24.3 (3) successful completion of home study courses that require the participant to
24.4 demonstrate the participant's knowledge following completion of the course.

24.5 (d) A licensee may obtain a maximum of six contact hours in any two-year
24.6 continuing education period for:

24.7 (1) teaching continuing education courses that meet the requirements of this section.

24.8 A licensee is entitled to earn a maximum of two contact hours as preparation time for
24.9 each contact hour of presentation time. Contact hours may be claimed only once for
24.10 teaching the same course in any two-year continuing education period. A course schedule
24.11 or brochure must be maintained for audit;

24.12 (2) supervising occupational therapist or occupational therapy assistant students. A
24.13 licensee may earn one contact hour for every eight hours of student supervision. Licensees
24.14 must maintain a log indicating the name of each student supervised and the hours each
24.15 student was supervised. Contact hours obtained by student supervision must be obtained
24.16 by supervising students from an occupational therapy education program accredited by the
24.17 Accreditation Council for Occupational Therapy Education;

24.18 (3) teaching or participating in courses related to leisure activities, recreational
24.19 activities, or hobbies if the practitioner uses these interventions within the practitioner's
24.20 current practice or employment; and

24.21 (4) engaging in research activities or outcome studies that are associated with grants,
24.22 postgraduate studies, or publications in professional journals or books.

24.23 (e) A licensee may obtain a maximum of two contact hours in any two-year
24.24 continuing education period for continuing education activities in the following areas:

24.25 (1) ~~business-related topics: marketing, time management, administration, risk~~
24.26 ~~management, government regulations, techniques for training professionals, computer~~
24.27 ~~skills, payment systems, including covered services, coding, documentation, billing,~~
24.28 ~~and similar topics;~~

24.29 ~~(2)~~ personal skill topics: career burnout, communication skills, human relations, and
24.30 similar topics; and

24.31 ~~(3)~~ (2) training that is obtained in conjunction with a licensee's employment, occurs
24.32 during a licensee's normal workday, and does not include subject matter specific to the
24.33 fundamentals of occupational therapy.

24.34 Sec. 19. Minnesota Statutes 2006, section 148.6445, subdivision 11, is amended to
24.35 read:

Subd. 11. **Penalty fees.** (a) The penalty fee for practicing occupational therapy or using protected titles without a current license after the credential has expired and before it is renewed is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months.

(b) The penalty fee for applicants who engage in the unauthorized practice of occupational therapy or use protected titles before being issued a license is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This paragraph does not apply to applicants not qualifying for a license who engage in the unauthorized practice of occupational therapy.

(c) The penalty fee for practicing occupational therapy and failing to submit a continuing education report by the due date with the correct number or type of hours in the correct time period is \$100 plus \$20 for each missing clock hour. Missing means not obtained between the effective and expiration dates of the license, the one-month period following the license expiration date, or the 30 days following notice of a penalty fee for failing to report all continuing education hours. The licensee must obtain the missing number of continuing education hours by the next reporting due date.

(d) Civil penalties and discipline incurred by licensees prior to August 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty fees. For conduct described in paragraph (a) or (b) occurring after August 1, 2005, and exceeding six months, payment of a penalty fee does not preclude any disciplinary action reasonably justified by the individual case.

Sec. 20. [148B.195] DUTY TO WARN.

A licensee must comply with the duty to warn established in section 148.975.

Sec. 21. Minnesota Statutes 2006, section 151.01, subdivision 27, is amended to read:

Subd. 27. **Practice of pharmacy.** "Practice of pharmacy" means:

(1) interpretation and evaluation of prescription drug orders;

(2) compounding, labeling, and dispensing drugs and devices (except labeling by a manufacturer or packager of nonprescription drugs or commercially packaged legend drugs and devices);

(3) participation in clinical interpretations and monitoring of drug therapy for assurance of safe and effective use of drugs;

(4) participation in drug and therapeutic device selection; drug administration for first dosage and medical emergencies; drug regimen reviews; and drug or drug-related research;

(5) participation in administration of influenza ~~and pneumococcal vaccine~~ vaccines to all eligible individuals over 18 ten years of age and all other vaccines to patients 18 years of age and older under standing orders from a physician licensed under chapter 147 or by written protocol with a physician provided that:

(i) the pharmacist is trained in a program approved by the American Council of Pharmaceutical Education for the administration of immunizations or graduated from a college of pharmacy in 2001 or thereafter; and

(ii) the pharmacist reports the administration of the immunization to the patient's primary physician or clinic;

(6) participation in the practice of managing drug therapy and modifying drug therapy, according to section 151.21, subdivision 1, ~~on a case-by-case basis~~ according to a written protocol between the specific pharmacist and the individual dentist, optometrist, physician, podiatrist, or veterinarian who is responsible for the patient's care and authorized to independently prescribe drugs. Any significant changes in drug therapy must be reported by the pharmacist to the patient's medical record;

(7) participation in the storage of drugs and the maintenance of records;

(8) responsibility for participation in patient counseling on therapeutic values, content, hazards, and uses of drugs and devices; and

(9) offering or performing those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of a pharmacy.

Sec. 22. Minnesota Statutes 2006, section 153A.14, subdivision 2i, is amended to read:

Subd. 2i. **Continuing education requirement.** On forms provided by the commissioner, each certified dispenser must submit with the application for renewal of certification evidence of completion of ten course hours of continuing education earned within the 12-month period of ~~July~~ November 1 to June 30 immediately preceding renewal October 31, between the effective and expiration dates of certification. Continuing education courses must be directly related to hearing instrument dispensing and approved by the International Hearing Society, the American Speech-Language-Hearing Association, or the American Academy of Audiology. Evidence of completion of the ten course hours of continuing education must be submitted ~~with renewal applications~~ by ~~October~~ December 1 of each year. This requirement does not apply to dispensers

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27.1 certified for less than one year. ~~The first report of evidence of completion of the continuing~~
27.2 ~~education credits shall be due October 1, 1997.~~

27.3 Sec. 23. Minnesota Statutes 2006, section 153A.14, subdivision 4a, is amended to read:

27.4 Subd. 4a. **Trainees.** (a) A person who is not certified under this section may dispense
27.5 hearing instruments as a trainee for a period not to exceed 12 months if the person:

27.6 (1) submits an application on forms provided by the commissioner;

27.7 (2) is under the supervision of a certified dispenser meeting the requirements of
27.8 this subdivision; ~~and~~

27.9 (3) meets all requirements for certification except passage of the examination
27.10 required by this section; and

27.11 (4) uses the title "dispenser trainee" in contacts with the patients, clients, or
27.12 consumers.

27.13 (b) A certified hearing instrument dispenser may not supervise more than two
27.14 trainees at the same time and may not directly supervise more than one trainee at a time.

27.15 The certified dispenser is responsible for all actions or omissions of a trainee in connection
27.16 with the dispensing of hearing instruments. A certified dispenser may not supervise a
27.17 trainee if there are any commissioner, court, or other orders, currently in effect or issued
27.18 within the last five years, that were issued with respect to an action or omission of a
27.19 certified dispenser or a trainee under the certified dispenser's supervision.

27.20 Until taking and passing the practical examination testing the techniques described
27.21 in subdivision 2h, paragraph (a), clause (2), trainees must be directly supervised in all
27.22 areas described in subdivision 4b, and the activities tested by the practical examination.

27.23 Thereafter, trainees may dispense hearing instruments under indirect supervision until
27.24 expiration of the trainee period. Under indirect supervision, the trainee must complete two
27.25 monitored activities a week. Monitored activities may be executed by correspondence,
27.26 telephone, or other telephonic devices, and include, but are not limited to, evaluation
27.27 of audiograms, written reports, and contracts. The time spent in supervision must be
27.28 recorded and the record retained by the supervisor.

27.29 Sec. 24. Minnesota Statutes 2006, section 153A.14, subdivision 11, is amended to read:

27.30 Subd. 11. **Requirement to maintain current information.** A dispenser must notify
27.31 the commissioner in writing within 30 days of the occurrence of any of the following:

27.32 (1) a change of name, address, home or business telephone number, or business
27.33 name;

27.34 (2) the occurrence of conduct prohibited by section 153A.15;

(3) a settlement, conciliation court judgment, or award based on negligence, intentional acts, or contractual violations committed in the dispensing of hearing instruments by the dispenser; and

(4) the cessation of hearing instrument dispensing activities as an individual or a business.

Sec. 25. Minnesota Statutes 2006, section 153A.175, is amended to read:

153A.175 PENALTY FEES.

(a) The penalty fee for holding oneself out as a hearing instrument dispenser without a current certificate after the credential has expired and before it is renewed is one-half the amount of the certificate renewal fee for any part of the first day, plus one-half the certificate renewal fee for any part of any subsequent days up to 30 days.

(b) The penalty fee for applicants who hold themselves out as hearing instrument dispensers after expiration of the trainee period and before being issued a certificate is one-half the amount of the certificate application fee for any part of the first day, plus one-half the certificate application fee for any part of any subsequent days up to 30 days. This paragraph does not apply to applicants not qualifying for a certificate who hold themselves out as hearing instrument dispensers.

(c) The penalty fee for practicing hearing instrument dispensing and failing to submit a continuing education report by the due date with the correct number or type of hours in the correct time period is \$200 plus \$200 for each missing clock hour. "Missing" means not obtained between the effective and expirations dates of the certificate, the one-month period following the certificate expiration date, or the 30 days following notice of a penalty fee for failing to report all continuing education hours. The certificate holder must obtain the missing number of continuing education hours by the next reporting due date.

(d) Civil penalties and discipline incurred by certificate holders prior to August 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty fees. Payment of a penalty fee does not preclude any disciplinary action reasonably justified by the individual case.

Sec. 26. EXEMPTION.

The Board of Physical Therapy shall grant a waiver of the examination requirements under Minnesota Statutes, section 148.723, to an applicant applying for licensure before July 1, 2008, who has been issued physical therapy licenses between 1980 and 1995 in at least three other states and one or more foreign countries. The licenses issued by the other states and foreign country must be in good standing or were in good standing at the time

- 29.1 the license expired. The applicant must meet all other requirements of Minnesota Statutes,
- 29.2 section 148.705. This waiver expires on September 1, 2008.
- 29.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.