

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

Presented to the governor May 12, 1993

Signed by the governor May 14, 1993, 10:03 p.m.

CHAPTER 206—S.F.No. 1201

An act relating to health occupations and professions; board of psychology; extending deadline by which previously qualified persons may file a declaration of intent to seek licensure as a licensed psychologist without further examination; requiring the board to issue notices of extension; modifying reciprocity licensing requirement; providing for disciplinary actions; consolidating and modifying enforcement remedies; providing penalties; amending Minnesota Statutes 1992, sections 103I.345, subdivision 1; 116.75; 116.76, subdivision 1; 116.77; 116.82, subdivision 3; 144.71, subdivision 1; 145A.07, subdivision 1; 148.89, by adding a subdivision; 148.905, subdivision 1; 148.921, subdivisions 2 and 3; 148.925, subdivision 1; 148.98; 326.37, subdivision 1; 327.16, subdivision 6; and 327.20, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 144; and 148; repealing Minnesota Statutes 1992, sections 103I.701; 103I.705; 116.83; 144.1211; 144.386, subdivision 4; 144.73, subdivisions 2, 3, and 4; 144.76; 148.95; 157.081; 326.43; 326.53, subdivision 2; 326.63; 326.78, subdivisions 4, 6, 7, and 8; 326.79; 326.80; 327.18; and 327.24, subdivisions 1 and 2.

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

Section 1. Minnesota Statutes 1992, section 103I.345, subdivision 1, is amended to read:

Subdivision 1. **REVENUE SOURCES.** Revenue from the following sources must be deposited in the state treasury and credited to a special account:

- (1) all money recovered by the commissioner under section 103I.341;
- (2) all money paid under section ~~103I.705~~ 144.99 or under any agreement, stipulation, or settlement resolving an enforcement action brought by the commissioner;
- (3) all interest attributable to investment of money credited to the account; and
- (4) all money received in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for the purposes of the account.

Sec. 2. Minnesota Statutes 1992, section 116.75, is amended to read:

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

116.75 CITATION.

Sections 116.76 to ~~116.83~~ 116.82 may be cited as the "infectious waste control act."

Sec. 3. Minnesota Statutes 1992, section 116.76, subdivision 1, is amended to read:

Subdivision 1. **APPLICABILITY.** The definitions in this section apply to sections 116.76 to ~~116.83~~ 116.82.

Sec. 4. Minnesota Statutes 1992, section 116.77, is amended to read:

116.77 COVERAGE.

Sections 116.75 to ~~116.83~~ 116.82 and 609.671, subdivision 10, cover any person, including a veterinarian, who generates, treats, stores, transports, or disposes of infectious or pathological waste but not including infectious or pathological waste generated by households, farm operations, or agricultural businesses. Except as specifically provided, sections 116.75 to 116.83 do not limit or alter treatment or disposal methods for infectious or pathological waste.

Sec. 5. Minnesota Statutes 1992, section 116.82, subdivision 3, is amended to read:

Subd. 3. **LOCAL ENFORCEMENT.** Sections 116.76 to 116.81 may be enforced by a county by delegation of enforcement authority granted to the commissioner of health and the agency in section ~~116.83~~ 144.99. Separate enforcement actions may not be brought by a state agency and a county for the same violations. The state or county may not bring an action that is being enforced by the federal Office of Safety and Health Administration.

Sec. 6. Minnesota Statutes 1992, section 144.71, subdivision 1, is amended to read:

Subdivision 1. **HEALTH AND SAFETY.** The purpose of sections 144.71 to ~~144.76~~ 144.74 is to protect the health and safety of children in attendance at children's camps.

Sec. 7. ~~[144.989]~~ **TITLE; CITATION.**

Sections 144.989 to 144.993 may be cited as the "health enforcement consolidation act of 1993."

Sec. 8. ~~[144.99]~~ **ENFORCEMENT.**

Subdivision 1. REMEDIES AVAILABLE. The provisions of chapters 1031 and 157 and sections 115.71 to 115.82; 116.76 to 116.81; 144.12, subdivision 1, paragraphs (1), (2), (5), (6), (10), (12), (13), (14), and (15); 144.121; 144.35; 144.381 to 144.385; 144.411 to 144.417; 144.491; 144.495; 144.71 to 144.76; 144.871 to 144.878; 144.992; 326.37 to 326.45; 326.57 to 326.785; 327.10 to

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

327.131; and 327.14 to 327.28 and all rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, certificates, and permits adopted or issued by the department or under any other law now in force or later enacted for the preservation of public health may, in addition to provisions in other statutes, be enforced under this section.

Subd. 2. ACCESS TO INFORMATION AND PROPERTY. The commissioner or an employee or agent authorized by the commissioner, upon presentation of credentials, may:

(a) examine and copy any books, papers, records, memoranda, or data of any person subject to regulation under the statutes listed in subdivision 1; and

(b) enter upon any property, public or private, for the purpose of taking any action authorized under statutes, rules, or other actions listed in subdivision 1 including obtaining information from a person who has a duty to provide information under the statutes listed in subdivision 1, taking steps to remedy violations, or conducting surveys or investigations.

Subd. 3. CORRECTION ORDERS. (a) The commissioner may issue correction orders that require a person to correct a violation of the statutes, rules, and other actions listed in subdivision 1. The correction order must state the deficiencies that constitute the violation; the specific statute, rule, or other action; and the time by which the violation must be corrected.

(b) If the person believes that the information contained in the commissioner's correction order is in error, the person may ask the commissioner to reconsider the parts of the order that are alleged to be in error. The request must be in writing, delivered to the commissioner by certified mail within seven calendar days after receipt of the order, and:

(1) specify which parts of the order for corrective action are alleged to be in error;

(2) explain why they are in error; and

(3) provide documentation to support the allegation of error.

The commissioner must respond to requests made under this paragraph within 15 calendar days after receiving a request. A request for reconsideration does not stay the correction order; however, after reviewing the request for reconsideration, the commissioner may provide additional time to comply with the order if necessary. The commissioner's disposition of a request for reconsideration is final.

Subd. 4. ADMINISTRATIVE PENALTY ORDERS. The commissioner may issue an order requiring violations to be corrected and administratively assessing monetary penalties for violations of the statutes, rules, and other actions listed in subdivision 1. The procedures in section 144.991 must be followed when issuing administrative penalty orders. Except in the case of repeated or serious violations, the penalty assessed in the order must be forgiven if the

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

person who is subject to the order demonstrates in writing to the commissioner before the 31st day after receiving the order that the person has corrected the violation or has developed a corrective plan acceptable to the commissioner. The maximum amount of administrative penalty orders is \$10,000 for all violations identified in an inspection or review of compliance.

Subd. 5. INJUNCTIVE RELIEF. In addition to any other remedy provided by law, the commissioner may bring an action for injunctive relief in the district court in Ramsey county or, at the commissioner's discretion, in the district court in the county in which a violation of the statutes, rules, or other actions listed in subdivision 1 has occurred to enjoin the violation.

Subd. 6. CEASE AND DESIST. The commissioner, or an employee of the department designated by the commissioner, may issue an order to cease an activity covered by subdivision 1 if continuation of the activity would result in an immediate risk to public health. An order issued under this paragraph is effective for a maximum of 72 hours. The commissioner must seek an injunction or take other administrative action authorized by law to restrain activities for a period beyond 72 hours. The issuance of a cease and desist order does not preclude the commissioner from pursuing any other enforcement action available to the commissioner.

Subd. 7. PLAN FOR USE OF ADMINISTRATIVE PENALTIES AND CEASE AND DESIST AUTHORITY. The commissioner of health shall prepare a plan for using the administrative penalty and cease and desist authority in this section. The commissioner shall provide a 30-day period for public comment on the plan. The plan must be finalized by December 1, 1993.

Subd. 8. DENIAL OR REFUSAL TO REISSUE PERMITS, LICENSES, REGISTRATIONS, OR CERTIFICATES. (a) The commissioner may deny or refuse to renew an application for a permit, license, registration, or certificate required under the statutes or rules cited in subdivision 1, if the applicant has any unresolved violations related to the activity for which the permit, license, registration, or certificate was issued.

(b) The commissioner may also deny or refuse to renew a permit, license, registration, or certificate required under the statutes or rules cited in subdivision 1 if the applicant has a persistent pattern of violations related to the permit, license, registration, or certificate, or if the applicant submitted false material information to the department in connection with the application.

(c) The commissioner may condition the grant or renewal of a permit, license, registration, or certificate on a demonstration by the applicant that actions needed to ensure compliance with the requirements of the statutes listed in subdivision 1 have been taken, or may place conditions on or issue a limited permit, license, registration, or certificate as a result of previous violations by the applicant.

Subd. 9. SUSPENSION OR REVOCATION OF PERMITS, LICENSES, REGISTRATIONS, OR CERTIFICATES. The commissioner may suspend,

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

place conditions on, or revoke a permit, license, registration, or certificate issued under the statutes or rules cited in subdivision 1 for serious or repeated violations of the requirements in the statutes, rules, or other actions listed in subdivision 1 that apply to the permit, license, registration, or certificate, or if the applicant submitted false material information to the department in connection with the permit, license, registration, or certificate.

Subd. 10. HEARINGS RELATED TO DENIAL, REFUSAL TO RENEW, SUSPENSION, OR REVOCATION OF A PERMIT, LICENSE, REGISTRATION, OR CERTIFICATE. If the commissioner proposes to deny, refuses to renew, suspends, or revokes a permit, license, registration, or certificate under subdivision 8 or 9, the commissioner must first notify the person against whom the action is proposed to be taken and provide the person an opportunity to request a hearing under the contested case provisions of chapter 14. If the person does not request a hearing by notifying the commissioner within 20 days after receipt of the notice of proposed action, the commissioner may proceed with the action without a hearing.

Subd. 11. MISDEMEANOR PENALTIES. A person convicted of violating a statute or rule listed in subdivision 1 is guilty of a misdemeanor.

Sec. 9. [144.991] ADMINISTRATIVE PENALTY ORDER PROCEDURE.

Subdivision 1. AMOUNT OF PENALTY; CONSIDERATIONS. (a) In determining the amount of a penalty under section 144.99, subdivision 4, the commissioner may consider:

- (1) the willfulness of the violation;
- (2) the gravity of the violation, including damage to humans, animals, air, water, land, or other natural resources of the state;
- (3) the history of past violations;
- (4) the number of violations;
- (5) the economic benefit gained by the person by allowing or committing the violation; and
- (6) other factors as justice may require, if the commissioner specifically identifies the additional factors in the commissioner's order.

(b) For a violation after an initial violation, the commissioner shall, in determining the amount of a penalty, consider the factors in paragraph (a) and the:

- (1) similarity of the most recent previous violation and the violation to be penalized;

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

- (2) time elapsed since the last violation;
- (3) number of previous violations; and
- (4) response of the person to the most recent previous violation identified.

Subd. 2. CONTENTS OF ORDER. An order assessing an administrative penalty under section 144.99, subdivision 4, must include:

- (1) a concise statement of the facts alleged to constitute a violation;
- (2) a reference to the section of the statute, rule, variance, order, stipulation agreement, or term or condition of a permit that has been violated;
- (3) a statement of the amount of the administrative penalty to be imposed and the factors upon which the penalty is based; and
- (4) a statement of the person's right to review of the order.

Subd. 3. CORRECTIVE ORDER. (a) The commissioner may issue an order assessing a penalty and requiring the violations cited in the order to be corrected within 30 calendar days from the date the order is received.

(b) The person to whom the order was issued shall provide information to the commissioner before the 31st day after the order was received demonstrating that the violation has been corrected or developed a corrective plan acceptable to the commissioner. The commissioner shall determine whether the violation has been corrected and notify the person subject to the order of the commissioner's determination.

Subd. 4. PENALTY. (a) Except as provided in paragraph (b), if the commissioner determines that the violation has been corrected or developed a corrective plan acceptable to the commissioner, the penalty must be forgiven. Unless the person requests review of the order under subdivision 5 before the penalty is due, the penalty in the order is due and payable:

(1) on the 31st day after the order was received, if the person subject to the order fails to provide information to the commissioner showing that the violation has been corrected or that appropriate steps have been taken toward correcting the violation; or

(2) on the 20th day after the person receives the commissioner's determination under paragraph (b), if the person subject to the order has provided information to the commissioner that the commissioner determines is not sufficient to show the violation has been corrected or that appropriate steps have been taken toward correcting the violation.

(b) For repeated or serious violations, the commissioner may issue an order with a penalty that will not be forgiven after the corrective action is taken. The penalty is due by 31 days after the order was received unless review of the order under subdivision 5 has been sought.

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

(c) Interest at the rate established in section 549.09 begins to accrue on penalties under this subdivision on the 31st day after the order with the penalty was received.

Subd. 5. EXPEDITED ADMINISTRATIVE HEARING. (a) Within 30 days after receiving an order or within 20 days after receiving notice that the commissioner has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may request an expedited hearing, utilizing the procedures of Minnesota Rules, parts 1400.8510 to 1400.8612, to review the commissioner's action. The hearing request must specifically state the reasons for seeking review of the order. The person to whom the order is directed and the commissioner are the parties to the expedited hearing. The commissioner must notify the person to whom the order is directed of the time and place of the hearing at least 20 days before the hearing. The expedited hearing must be held within 30 days after a request for hearing has been filed with the commissioner unless the parties agree to a later date.

(b) All written arguments must be submitted within ten days following the close of the hearing. The hearing shall be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by this subdivision. The office of administrative hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this section.

(c) The administrative law judge shall issue a report making recommendations about the commissioner's action to the commissioner within 30 days following the close of the record. The administrative law judge may not recommend a change in the amount of the proposed penalty unless the administrative law judge determines that, based on the factors in subdivision 2, the amount of the penalty is unreasonable.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the commissioner may add to the amount of the penalty the costs charged to the agency by the office of administrative hearings for the hearing.

(e) If a hearing has been held, the commissioner may not issue a final order until at least five days after receipt of the report of the administrative law judge. The person to whom an order is issued may, within those five days, comment to the commissioner on the recommendations and the commissioner will consider the comments. The final order may be appealed in the manner provided in sections 14.63 to 14.69.

(f) If a hearing has been held and a final order issued by the commissioner, the penalty shall be paid by 30 days after the date the final order is received unless review of the final order is requested under sections 14.63 to 14.69. If review is not requested or the order is reviewed and upheld, the amount due is the penalty, together with interest accruing from 31 days after the original order was received at the rate established in section 549.09.

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

Subd. 6. MEDIATION. In addition to review under subdivision 5, the commissioner is authorized to enter into mediation concerning an order issued under this section if the commissioner and the person to whom the order is issued both agree to mediation.

Subd. 7. ENFORCEMENT. (a) The attorney general may proceed on behalf of the state to enforce penalties that are due and payable under this section in any manner provided by law for the collection of debts.

(b) The attorney general may petition the district court to file the administrative order as an order of the court. At any court hearing, the only issues parties may contest are procedural and notice issues. Once entered, the administrative order may be enforced in the same manner as a final judgment of the district court.

(c) If a person fails to pay the penalty, the attorney general may bring a civil action in district court seeking payment of the penalties, injunctive, or other appropriate relief including monetary damages, attorney fees, costs, and interest.

Subd. 8. REVOCATION AND SUSPENSION OF PERMIT, LICENSE, REGISTRATION, OR CERTIFICATE. If a person fails to pay a penalty owed under this section, the agency has grounds to revoke or refuse to reissue or renew a permit, license, registration, or certificate issued by the department.

Subd. 9. CUMULATIVE REMEDY. The authority of the agency to issue a corrective order assessing penalties is in addition to other remedies available under statutory or common law, except that the state may not seek civil penalties under any other provision of law for the violations covered by the administrative penalty order. The payment of a penalty does not preclude the use of other enforcement provisions, under which penalties are not assessed, in connection with the violation for which the penalty was assessed.

Sec. 10. [144.992] FALSE INFORMATION.

A person subject to any of the requirements listed in section 144.99, subdivision 1, may not make a false material statement, representation, or certification in; omit material information from; or alter, conceal, or fail to file or maintain a notice, application, record, report, plan, or other document required under the statutes, rules, or other actions listed in section 144.99, subdivision 1.

Sec. 11. [144.993] RECOVERY OF LITIGATION COSTS AND EXPENSES.

In any judicial action brought by the attorney general for civil penalties, injunctive relief, or an action to compel performance pursuant to the authority cited in section 144.99, subdivision 1, if the state finally prevails, and if the proven violation was willful, the state, in addition to other penalties provided by law, may be allowed an amount determined by the court to be the reasonable value of all or part of the litigation expenses incurred by the state. In determin-

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

ing the amount of the litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

Sec. 12. Minnesota Statutes 1992, section 145A.07, subdivision 1, is amended to read:

Subdivision 1. **AGREEMENTS TO PERFORM DUTIES OF COMMISSIONER.** (a) The commissioner of health may enter into an agreement with any board of health to delegate all or part of the licensing, inspection, reporting, and enforcement duties authorized under sections 144.12; 144.381 to 144.387; 144.411 to 144.417; 144.71 to ~~144.76~~ 144.74; 145A.04, subdivision 6; provisions of chapter 156A pertaining to construction, repair, and abandonment of water wells; chapter 157; and sections 327.14 to 327.28.

(b) Agreements are subject to subdivision 3.

(c) This subdivision does not affect agreements entered into under Minnesota Statutes 1986, section 145.031, 145.55, or 145.918, subdivision 2.

Sec. 13. Minnesota Statutes 1992, section 148.89, is amended by adding a subdivision to read:

Subd. 2a. CLIENT. "Client" means a person or entity that receives, received, or should have received services from a person regulated under sections 148.88 to 148.98. For the purposes of sections 148.88 to 148.98, "client" includes patient and resident.

Sec. 14. Minnesota Statutes 1992, section 148.905, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** The board shall:

(1) adopt and enforce rules for licensing psychologists and for regulating their professional conduct. The rules must include, but are not limited to, standards for training, supervision, the practice of psychology, and any other areas covered by sections 148.88 to 148.98;

(2) adopt rules that provide for examinations and establish a code of professional ethics and requirements for continuing education;

(3) hold examinations at least once a year to assess applicants' knowledge and skills. The examinations may be written or oral or both, and may be administered by the board or by institutions or individuals designated by the board;

(4) issue licenses to individuals qualified under section 148.91, according to the procedures for licensing in Minnesota Rules;

(5) issue copies of the rules for licensing to all applicants;

(6) establish and maintain annually a register of current licenses;

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

(7) establish reasonable fees for the issuance and renewal of licenses and other services by the board. Fees must be set to defray the cost of administering the provisions of sections 148.88 to 148.98 including applications, examinations, enforcement, and the cost of maintaining the operations of the board;

(8) educate the public about the requirements for licensing of psychologists and about the code of professional ethics, to allow consumers to file complaints against licensees who may have violated licensing requirements or professional ethics; and

(9) establish or approve programs that qualify for professional psychology continuing educational credit. The board may hire consultants, agencies, or professional psychological associations to establish and approve continuing education courses; and.

~~(10) establish and implement, by January 1, 1992, a process for certifying psychologists' competencies in specialty areas, including but not limited to the area of supervision. The process shall include steps to verify that a psychologist has had adequate education and experience in a specialty area to be considered competent to practice in that area. Recertification of competencies declared prior to August 1, 1991, shall not be required.~~

Sec. 15. Minnesota Statutes 1992, section 148.921, subdivision 2, is amended to read:

Subd. 2. **PERSONS PREVIOUSLY QUALIFIED.** (a) The board shall grant a license for a licensed psychologist ~~without further examination~~ to a person who:

(1) before November 1, 1991, entered a graduate program granting a master's degree with a major in psychology at an educational institution meeting the standards the board has established by rule and earned a master's degree or a master's equivalent in a doctoral program;

(2) before ~~November 1~~ December 31, 1992 ~~1993~~, filed with the board a written declaration of intent to seek licensure under this subdivision;

(3) complied with all requirements of section 148.91, subdivisions 2 to 4, before December 31, 1997; and

(4) completed at least two full years or their equivalent of post-master's supervised psychological employment before December 31, 1998.

(b) Notwithstanding paragraph (a), the board shall not grant a license for a licensed psychologist under this subdivision to a person who files a written declaration of licensure after October 31, 1992, unless the applicant demonstrates that the applicant was a resident of Minnesota on October 31, 1992, and meets all other requirements for licensure under this subdivision.

Sec. 16. Minnesota Statutes 1992, section 148.921, subdivision 3, is amended to read:

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

Subd. 3. **RECIPROCITY.** The board may grant a license without an examination to a diplomate of the American Board of Professional Psychology or to any person who at the time of application is licensed or certified by a similar board of another state ~~whose standards, in the judgment of the board, are not lower than those required by~~ and who meets the licensure requirements under section 148.91. The board, at its discretion, may not require the skills assessment and the examination in psychology under section 148.91, subdivision 2, if the person was licensed in another state before the examination was required for licensure in that state. An applicant for reciprocity shall pass a written, objective examination on the rules of the board of psychology and sections 148.88 to 148.98.

Sec. 17. Minnesota Statutes 1992, section 148.925, subdivision 1, is amended to read:

Subdivision 1. **PERSONS QUALIFIED TO PROVIDE SUPERVISION.**

(a) Only the following persons are qualified to provide supervision for master's degree level applicants for licensure as a licensed psychologist:

(1) a licensed psychologist with a competency in supervision in professional psychology and in the area of practice being supervised; and

(2) a person who either is eligible for licensure as a licensed psychologist under section 148.91 or is eligible for licensure by reciprocity, and who, in the judgment of the board, is competent or experienced in supervising professional psychology and in the area of practice being supervised.

(b) Professional supervision of a doctoral level applicant for licensure as a licensed psychologist must be provided by a person:

(1) who meets the requirements of paragraph (a), clause (1) or (2), and

(2)(i) who has a doctorate degree with a major in psychology, or

(ii) who was licensed by the board as a psychologist before August 1, 1991, and is certified by the board as competent in supervision of applicants for licensure ~~in accord with section 148.905, subdivision 1, clause (10), by August 1, 1993.~~

Sec. 18. **[148.941] DENIAL, REVOCATION, AND SUSPENSION OF LICENSES; DISCIPLINARY ACTION.**

Subdivision 1. GENERALLY. Except as otherwise described in this section, all hearings shall be conducted under chapter 14.

Subd. 2. GROUNDS FOR DISCIPLINARY ACTION; FORMS OF DISCIPLINARY ACTION. (a) The board may impose disciplinary action as described in paragraph (b) against an applicant or licensee whom the board, by a preponderance of the evidence, determines:

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

(1) has violated a statute, rule, or order that the board issued or is empowered to enforce;

(2) has engaged in fraudulent, deceptive, or dishonest conduct, whether or not the conduct relates to the practice of psychology, that adversely affects the person's ability or fitness to practice psychology;

(3) has engaged in unprofessional conduct or any other conduct which has the potential for causing harm to the public, including any departure from or failure to conform to the minimum standards of acceptable and prevailing practice without actual injury having to be established;

(4) has been convicted of or has pled guilty or nolo contendere to a felony or 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 engaged in conduct reflecting adversely on the applicant's or licensee's ability or fitness to engage in the practice of psychology;

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

(6) has had a psychology license, certificate, right to examine, or other similar authority revoked, suspended, canceled, limited, or not renewed for cause in any state, commonwealth, or territory of the United States, the District of Columbia, or any foreign country;

(7) has failed to meet any requirement for the issuance or renewal of the person's license;

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

(9) has violated the code of ethics adopted by the board.

For the purposes of clause (7), the burden of proof is on the applicant to demonstrate the qualifications or satisfy the requirements for a license under sections 148.88 to 148.98.

(b) If grounds for disciplinary action exist under paragraph (a), the board may take one or more of the following actions:

(1) refuse to grant or renew a license;

(2) revoke a license;

(3) suspend a license;

(4) impose limitations or conditions on a licensee's practice of psychology, including 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

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

knowledge or skill by appropriate examination or other review of skill and competence;

(5) censure or reprimand the licensee; or

(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.

(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.

(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.

Subd. 3. TEMPORARY SUSPENSION OF LICENSE. (a) In addition to any other remedy provided by law, the board may temporarily suspend the credentials of a licensee after conducting a preliminary inquiry to determine if the board reasonably believes that the licensee has violated a statute or rule that the board is empowered to enforce and continued practice by the licensee would create an imminent risk of harm to others.

(b) The order may prohibit the licensee from engaging in the practice of psychology in whole or in part and may condition the end of a suspension on the licensee's compliance with a statute, rule, or order that the board has issued or is empowered to enforce.

(c) The order shall give notice of the right to a hearing pursuant to this subdivision and shall state the reasons for the entry of the order.

(d) Service of the order is effective when the order is served on the licensee personally or by certified mail which is complete upon receipt, refusal, or return for nondelivery to the most recent address provided to the board for the licensee.

(e) At the time the board issues a temporary suspension order, the board shall schedule a hearing to be held before its own members which shall begin no later than 60 days after issuance of the temporary suspension order or within 15 working days of the date of the board's receipt of a request for hearing by a licensee on the sole issue of whether there is a reasonable basis to continue.

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

modify, or lift the temporary suspension. This hearing is not subject to chapter 14. Evidence presented by the board or the licensee shall be in affidavit form only. The licensee or counsel of record may appear for oral argument.

(f) Within five working days of the hearing, the board shall issue its order and, if the suspension is continued, schedule a contested case hearing within 30 days of the issuance of the order. Notwithstanding chapter 14, the administrative law judge shall issue a report within 30 days after closing the contested case hearing record. The board shall issue a final order within 30 days of receipt of the administrative law judge's report.

Subd. 4. COOPERATION OF APPLICANT OR LICENSEE FOR INVESTIGATIONS. (a) An applicant or licensee of the board 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 records, as reasonably requested by the board to assist it in its investigation, and appearing at conferences or hearings scheduled by the board or its staff. The board shall pay reasonable costs for copies requested.

(b) If the board does not have a written consent from a client permitting access to the client's records, the licensee may delete any data in the record which identifies the client before providing it to the board. The board shall maintain any records obtained pursuant to this section as investigative data pursuant to chapter 13.

Sec. 19. Minnesota Statutes 1992, section 148.98, is amended to read:

148.98 CODE OF ETHICS.

The board shall adopt a code of ethics to govern ~~appropriate an applicant's or licensee's~~ practices or behavior, ~~as referred to in section 148.89.~~ The board shall publish the code in the State Register and file the code with the secretary of state at least 30 days prior to the effective date of the code. The code of ethics shall include, but is not limited to, the principles in paragraphs (a) to (c).

(a) The psychologist shall recognize the boundaries of the psychologist's competence and the limitation of the psychologist's techniques and shall not offer services or use techniques that fail to meet usual and customary professional standards.

(b) The psychologist who engages in practice shall assist clients in obtaining professional help for all important aspects of their problems that fall outside the boundaries of the psychologist's competence.

(c) A psychologist shall not claim either directly or by implication professional qualifications that differ from the psychologist's actual qualifications, nor

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

shall the psychologist misrepresent the psychologist's affiliation with any institution, organization, or individual, nor lead others to assume an affiliation that does not exist.

Sec. 20. Minnesota Statutes 1992, section 326.37, subdivision 1, is amended to read:

Subdivision 1. **RULES.** The state commissioner of health may, by rule, prescribe minimum standards which shall be uniform, and which standards shall thereafter be effective for all new plumbing installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building, or any other place of business regardless of location or the population of the city or town in which located. ~~Violation of the rules shall be a misdemeanor.~~

The commissioner shall administer the provisions of sections 326.37 to 326.45 and for such purposes may employ plumbing inspectors and other assistants.

Sec. 21. Minnesota Statutes 1992, section 327.16, subdivision 6, is amended to read:

Subd. 6. **DENIAL OF CONSTRUCTION.** If the application to construct or make alterations upon a manufactured home park or recreational camping area and the appurtenances thereto or a primary license to operate and maintain the same is denied by the state commissioner of health, the commissioner shall so state in writing giving the reason or reasons for denying the application. If the objections can be corrected the applicant may amend the application and resubmit it for approval, and if denied the applicant may appeal from the decision of the state commissioner of health as provided in section ~~327.18~~ 144.99, subdivision 10.

Sec. 22. Minnesota Statutes 1992, section 327.20, subdivision 2, is amended to read:

Subd. 2. **HEALTH AND SAFETY.** The state department of health may prescribe such rules for the operation and maintenance of manufactured home parks or recreational camping areas and for safeguarding the health and safety of persons occupying licensed manufactured home parks and recreational camping areas as the department shall deem to be necessary and expedient. Such rules pertaining to health and safety shall have the force and effect of law; ~~and any violation thereof shall constitute a misdemeanor; and upon conviction therefor the offender may be punished as otherwise provided by law.~~

Sec. 23. **MODEL ORDINANCE.**

The department of health, in consultation with the attorney general, must by August 1, 1994, develop and make available to local governments who man-

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

age delegated environmental health programs a model ordinance for an administrative penalty order process similar to the process established in Minnesota Statutes, sections 144.99 and 144.991.

Sec. 24. NOTICE.

Before September 1, 1993, the board shall notify all Minnesota educational institutions which grant a master's degree with a major in psychology, and all individuals it knows to have missed the November 1, 1992, deadline under Minnesota Statutes, section 148.921, subdivision 2, that the deadline for filing the declaration of intent to seek licensure is extended to December 31, 1993.

Sec. 25. REPEALER.

Minnesota Statutes 1992, sections 103L.701; 103L.705; 116.83; 144.1211; 144.386, subdivision 4; 144.73, subdivisions 2, 3, and 4; 144.76; 148.95; 157.081; 326.43; 326.53, subdivision 2; 326.63; 326.78, subdivisions 4, 6, 7, and 8; 326.79; 326.80; 327.18; and 327.24, subdivisions 1 and 2, are repealed.

Sec. 26. EFFECTIVE DATE.

Sections 15 and 24 are effective the day following final enactment.

Presented to the governor May 12, 1993

Signed by the governor May 14, 1993, 3:44 p.m.

CHAPTER 207—H.F.No. 1161

An act relating to retirement; public employees retirement association; permitting payment in lieu of salary deductions to obtain service credit notwithstanding a one-year time limitation.

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

Section 1. RAMSEY COUNTY EMPLOYEE; PERA CONTRIBUTIONS.

Subdivision 1. ELECTION AUTHORIZATION. Notwithstanding the one-year time limitation for payments for a period of an authorized leave of absence without pay under Minnesota Statutes, section 353.01, subdivision 16, paragraph (c), an employee of Ramsey county who was born on October 13, 1941, may elect to make a payment in lieu of salary deductions for periods of authorized leave of absence without pay occurring from September 10, 1990, to October 29, 1990, and from February 12, 1991, to June 2, 1991.

Subd. 2. AMOUNT OF PAYMENT. If the employee elects to make payment under subdivision 1, a single lump sum payment, as provided under Minnesota Statutes, section 353.01, subdivision 16, paragraph (c), must be paid to

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