

the difference between the hospital's actual medical assistance inpatient utilization rate and the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service; and

(2) for a hospital with a medical assistance inpatient utilization rate above one standard deviation above the mean, the adjustment must be determined by multiplying the adjustment under clause (1) for that hospital by 1.1. Any payment under this clause must be reduced by the amount of any payment received under subdivision 9a. For purposes of this subdivision, medical assistance does not include general assistance medical care.

#### Sec. 6. HEALTH MAINTENANCE ORGANIZATION REIMBURSEMENT.

Effective January 1, 1993, the commissioner of human services shall adjust rates paid to a health maintenance organization under contract with the commissioner to reflect rate increases provided in section 5. The adjustment must be made on a nondiscounted hospital-specific basis.

#### Sec. 7. EFFECTIVE DATE.

Sections 1 to 6 are effective retroactive to January 1, 1993.

Presented to the governor March 30, 1993

Signed by the governor March 31, 1993, 3:36 p.m.

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### CHAPTER 21—H.F.No. 203

*An act relating to occupations and professions; board of medical practice; modifying requirements for licensing United States, Canadian, and foreign medical school graduates; providing for temporary permits; providing for residency permits; adding a requirement for students exempt from penalties for practicing without a license; adding to licensed professionals subject to reporting obligations; indemnifying board members, consultants, and persons employed by the board; adding registration requirements for physical therapists from other states and foreign-trained physical therapists; amending Minnesota Statutes 1992, sections 62A.46, subdivision 7; 147.02, subdivision 1, and by adding a subdivision; 147.03; 147.037, subdivision 1, and by adding a subdivision; 147.09; 147.111, subdivision 4; 147.121, subdivision 2; and 148.71, subdivision 2, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 147.*

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

Section 1. Minnesota Statutes 1992, section 62A.46, subdivision 7, is amended to read:

Subd. 7. **PHYSICIAN.** "Physician" means a medical practitioner licensed

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or holding a temporary permit under sections 147.02, 147.03, 147.031, ~~and 147.037~~, or holding a residency permit under section 147.0391.

Sec. 2. Minnesota Statutes 1992, section 147.02, subdivision 1, is amended to read:

Subdivision 1. **UNITED STATES OR CANADIAN MEDICAL SCHOOL GRADUATES.** The board shall, ~~with the consent of six of its members,~~ issue a license to practice medicine to a person who meets the ~~following~~ requirements: in paragraphs (a) to (h).

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

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a medical or osteopathic school located in the United States, its territories or Canada, and approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant data, or is currently enrolled in the final year of study at the school.

(c) The applicant must have passed an examination as described in paragraph (1) or (2).

(1) The applicant must have passed a comprehensive examination for initial licensure prepared and graded by the National Board of Medical Examiners or the Federation of State Medical Boards. The board shall by rule determine what constitutes a passing score in the examination.

(2) The applicant taking the United States Medical Licensing Examination (USMLE) must have passed steps one, two, and three within a seven-year period. This seven-year period begins when the applicant first passes either step one or two, as applicable. The applicant must pass each of steps one, two, and three with passing scores as recommended by the USMLE program within three attempts. The applicant taking combinations of Federation of State Medical Boards, National Board of Medical Examiners, and USMLE may be accepted only if the combination is approved by the board as comparable to existing comparable examination sequences and all examinations are completed prior to the year 2000.

(d) The applicant shall present evidence satisfactory to the board of the completion of one year of graduate, clinical medical training in a program accredited by a national accrediting organization approved by the board or other graduate training approved in advance by the board as meeting standards similar to those of a national accrediting organization.

(e) The applicant shall make arrangements with the executive director to appear in person before the board or its designated representative to show that

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the applicant satisfies the requirements of this section. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.

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

(g) 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.

(h) 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 (g). If the applicant does not satisfy the requirements of stated in this paragraph, the board may ~~refuse to~~ issue a license unless it determines only on the applicant's showing that the public will be protected through issuance of a license with conditions and limitations the board considers appropriate.

Sec. 3. Minnesota Statutes 1992, section 147.02, is amended by adding a subdivision to read:

Subd. 2a. TEMPORARY PERMIT. The board may issue a temporary permit to practice medicine to a physician eligible for licensure under this section only if the application for licensure is complete, all requirements in subdivision 1 have been met, and a nonrefundable fee set by the board has been paid. The permit remains valid only until the meeting of the board at which a decision is made on the physician's application for licensure.

Sec. 4. Minnesota Statutes 1992, section 147.03, is amended to read:

**147.03 LICENSURE BY ENDORSEMENT; RECIPROCITY; TEMPORARY PERMIT.**

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

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

(c) The applicant shall:

(1) within ten years prior to application have passed an examination prepared and graded by the Federation of State Medical Boards, the National Board of Medical Examiners, the United States Medical Licensing Examination program, the National Board of Osteopathic Examiners, or the Medical Council of Canada; or

(2) have a current license from the equivalent licensing agency in another state or Canada and either:

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(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, or of the Royal College of Physicians and Surgeons of Canada.

(d) The applicant shall pay a fee established by the board by rule. The fee may 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 ~~in another state~~ 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.

Subd. 2. **TEMPORARY PERMIT.** The board may issue a temporary permit to practice medicine to a physician eligible for licensure under this section ~~upon payment of~~ only if the application for licensure is complete, all requirements in subdivision 1 have been met, and a nonrefundable fee set by the board has been paid. The permit remains valid only until the ~~next~~ meeting of the board at which a decision is made on the physician's application for licensure.

Subd. 3. **EXCEPTION.** Notwithstanding subdivision 2, the board may issue a temporary permit to practice medicine to an applicant who has not satisfied the requirements of subdivision 1, paragraph (c), clause 2, item (i) or (ii), but has satisfied all other requirements for licensure under this section, and has paid a nonrefundable fee set by the board. The permit remains valid for six months.

Sec. 5. Minnesota Statutes 1992, section 147.037, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS.** The board shall, ~~with the consent of six of its members,~~ issue a license to practice medicine to any person who satisfies the following 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), ~~and (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.

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(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 or other graduate training approved in advance by the board as meeting standards similar to those of a national accrediting organization. This requirement ~~shall~~ does not apply (1) to an applicant who is admitted as a permanent immigrant to the United States as a person of exceptional ability in the sciences or (2) to an applicant issued a permanent immigrant visa after October 1, 1991, as a person of extraordinary ability or as an outstanding professor or researcher provided that a person under clause (1) or (2) is admitted pursuant to rules of the United States Department of Labor and who has completed one year of the graduate, clinical medical training required by this paragraph.

(e) The applicant must:

(1) within ten years prior to application have passed an examination prepared and graded by the Federation of State Medical Boards, the United States Medical Licensing Examination program, or the Medical Council of Canada; or

(2) have a current license from the equivalent licensing agency in another state or Canada; and

(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, or of the Royal College of Physicians and Surgeons 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.

Sec. 6. Minnesota Statutes 1992, section 147.037, is amended by adding a subdivision to read:

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Subd. 1a. TEMPORARY PERMIT. The board may issue a temporary permit to practice medicine to a physician eligible for licensure under this section only if the application for licensure is complete, all requirements in subdivision 1 have been met, and a nonrefundable fee set by the board has been paid. The permit remains valid only until the meeting of the board at which a decision is made on the physician's application for licensure.

**Sec. 7. [147.0391] RESIDENCY PERMIT.**

Subdivision 1. PERMIT REQUIRED. A person must have a residency permit to participate in a residency program unless licensed by the board. Upon issuance of a license by the board, the board will terminate a residency permit. A person must have a license to practice medicine to practice outside of a residency program, except as set forth in section 147.09. An applicant for a residency permit must pay a \$20 nonrefundable fee upon initial application and upon a change in residency program a lesser nonrefundable fee set by the board in such amount that is necessary to cover administrative costs incurred by the board. The applicant must also have been accepted into either:

(1) a graduate medical education program accredited by a national accrediting organization approved by the board; or

(2) other nonaccredited graduate training approved by the board as meeting standards comparable to those of a national accrediting organization.

The approvals required by clauses (1) and (2) must have been granted by the board before the applicant enrolls in the training.

Subd. 2. TERMINATING PARTICIPATION IN RESIDENCY PROGRAM. Upon a change in residency programs, a person holding a residency permit must notify the board in writing no later than 30 days after termination of participation in the residency program being terminated. A separate residency permit is required for each residency program until licensure is obtained.

Subd. 3. REPORTING OBLIGATION. A person holding a residency permit and faculty of residency programs are subject to the reporting obligations of section 147.111. The intent of this subdivision is not to replace routine academic corrective action undertaken by a residency training program.

Sec. 8. Minnesota Statutes 1992, section 147.09, is amended to read:

**147.09 EXEMPTIONS.**

Section 147.081 does not apply to, control, prevent or restrict the practice, service, or activities of:

(1) A person who is a commissioned medical officer of, a member of, or employed by, the armed forces of the United States, the United States Public Health Service, the Veterans Administration, any federal institution or any federal agency while engaged in the performance of official duties within this state, if the person is licensed elsewhere.

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(2) A licensed physician from a state or country who is in actual consultation here.

(3) A licensed or registered physician who treats the physician's home state patients or other participating patients while the physicians and those patients are participating together in outdoor recreation in this state as defined by section 86A.03, subdivision 3. A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to promulgate the contents of that form by rule. No fee shall be charged for this registration.

(4) A student practicing under the direct supervision of a preceptor while the student is enrolled in and regularly attending a recognized medical school.

(5) A student who is in continuing training and performing the duties of an intern or resident or engaged in postgraduate work considered by the board to be the equivalent of an internship or residency in any hospital or institution approved for training by the board, provided the student has a residency permit issued by the board under section 147.0391.

(6) A person employed in a scientific, sanitary, or teaching capacity by the state university, the state department of education, or by any public or private school, college, or other bona fide educational institution, or the state department of health, whose duties are entirely of a public health or educational character, while engaged in such duties.

(7) Physician's assistants registered in this state.

(8) A doctor of osteopathy duly licensed by the state board of osteopathy under Minnesota Statutes 1961, sections 148.11 to 148.16, prior to May 1, 1963, who has not been granted a license to practice medicine in accordance with this chapter provided that the doctor confines activities within the scope of the license.

(9) Any person licensed by a health related licensing board, as defined in section 214.01, subdivision 2, or registered by the commissioner of health pursuant to section 214.13, including psychological practitioners with respect to the use of hypnosis; provided that the person confines activities within the scope of the license.

(10) A person who practices ritual circumcision pursuant to the requirements or tenets of any established religion.

(11) A Christian Scientist or other person who endeavors to prevent or cure disease or suffering exclusively by mental or spiritual means or by prayer.

(12) A physician licensed to practice medicine in another state who is in this state for the sole purpose of providing medical services at a competitive athletic event. The physician may practice medicine only on participants in the athletic event. A physician shall first register with the board on a form developed by the

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board for that purpose. The board shall not be required to adopt the contents of the form by rule. The physician shall provide evidence satisfactory to the board of a current unrestricted license in another state. The board shall charge a fee of \$50 for the registration.

Sec. 9. Minnesota Statutes 1992, section 147.111, subdivision 4, is amended to read:

Subd. 4. **LICENSED PROFESSIONALS.** A licensed health professional and persons holding a residency permit under section 147.0391, shall report to the board personal knowledge of any conduct which the ~~professional person~~ reasonably believes constitutes grounds for disciplinary action under sections 147.01 to 147.22 by any physician or person holding a residency permit under section 147.0391, including any conduct indicating that the ~~physician person~~ may be medically incompetent, or may have engaged in unprofessional conduct or may be medically or physically unable to engage safely in the practice of medicine. No report shall be required if the information was obtained in the course of a physician-patient relationship if the patient is ~~another a physician or person holding a residency permit under section 147.0391~~, and the treating physician successfully counsels the ~~other physician person~~ to limit or withdraw from practice to the extent required by the impairment.

Sec. 10. Minnesota Statutes 1992, section 147.121, subdivision 2, is amended to read:

Subd. 2. **INVESTIGATION; INDEMNIFICATION.** (a) Members of the board ~~and~~ persons employed by the board ~~or engaged in the~~, and consultants retained by the board for the purpose of investigation of violations and in or the preparation and management of charges of violations of sections 147.01 to 147.22 on behalf of the board are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under sections 147.01 to 147.22.

(b) For purposes of this section, a member of the board or a consultant described in paragraph (a) is considered a state employee under section 3.736, subdivision 9.

Sec. 11. Minnesota Statutes 1992, section 148.71, subdivision 2, is amended to read:

Subd. 2. **TEMPORARY PERMIT.** (a) The board may, upon payment of a fee set by the board, issue a temporary permit to practice physical therapy under supervision to a physical therapist who is a graduate of an approved school of physical therapy and qualified for admission to examination for registration as a physical therapist. A temporary permit to practice physical therapy under supervision may be issued only once and cannot be renewed. It expires 90 days after the next examination for registration given by the board or on the date on which the board, after examination of the applicant, grants or denies the applicant a registration to practice, whichever occurs first. A temporary permit expires on

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the first day the board begins its next examination for registration after the permit is issued if the holder does not submit to examination on that date. The holder of a temporary permit to practice physical therapy under supervision may practice physical therapy as defined in section 148.65 if the entire practice is under the supervision of a person holding a valid registration to practice physical therapy in this state. The supervision shall be direct, immediate, and on premises.

(b) A physical therapist from another state who is licensed or otherwise registered in good standing as a physical therapist by that state and meets the requirements for registration under section 148.72 does not require supervision to practice physical therapy while holding a temporary permit in this state. The temporary permit remains valid only until the meeting of the board at which the application for registration is considered.

Sec. 12. Minnesota Statutes 1992, section 148.71, is amended by adding a subdivision to read:

**Subd. 3. FOREIGN-TRAINED PHYSICAL THERAPISTS; TEMPORARY PERMITS.** (a) The board of medical practice may issue a temporary permit to a foreign-trained physical therapist who:

(1) is enrolled in a supervised physical therapy traineeship that meets the requirements under paragraph (b);

(2) has completed a physical therapy education program equivalent to that under section 148.705 and Minnesota Rules, part 5601.0800, subpart 2;

(3) has achieved a score of at least 550 on the test of English as a foreign language or a score of at least 85 on the Minnesota battery test; and

(4) has paid a nonrefundable fee set by the board.

A foreign-trained physical therapist must have the temporary permit before beginning a traineeship.

(b) A supervised physical therapy traineeship must:

(1) be at least six months;

(2) be at a board-approved facility;

(3) provide a broad base of clinical experience to the foreign-trained physical therapist including a variety of physical agents, therapeutic exercises, evaluation procedures, and patient diagnoses;

(4) be supervised by a physical therapist who has at least three years of clinical experience and is registered under subdivision 1; and

(5) be approved by the board before the foreign-trained physical therapist begins the traineeship.

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(c) A temporary permit is effective on the first day of a traineeship and expires 90 days after the next examination for registration given by the board following successful completion of the traineeship or on the date on which the board, after examination of the applicant, grants or denies the applicant a registration to practice, whichever occurs first.

(d) A foreign-trained physical therapist must successfully complete a traineeship to be registered as a physical therapist under subdivision 1. The traineeship may be waived for a foreign-trained physical therapist who is licensed or otherwise registered in good standing in another state and has successfully practiced physical therapy in that state under the supervision of a licensed or registered physical therapist for at least six months at a facility that meets the requirements under paragraph (b), clauses (2) and (3).

(e) A temporary permit will not be issued to a foreign-trained applicant who has been issued a temporary permit for longer than six months in any other state.

Sec. 13. REVISOR'S INSTRUCTION.

The revisor shall add “; TEMPORARY PERMIT” to the headnote to section 147.037.

Presented to the governor April 8, 1993

Signed by the governor April 12, 1993, 10:27 a.m.

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CHAPTER 22—H.F.No. 585

*An act relating to human rights; prohibiting unfair discriminatory practices on the basis of sexual orientation; amending Minnesota Statutes 1992, sections 363.01, subdivision 23, and by adding a subdivision; 363.02, subdivisions 1, 2, 4, and by adding a subdivision; 363.03, subdivisions 1, 2, 3, 4, 5, 7, 8, and 8a; 363.05, subdivision 1; 363.11; 363.115; and 363.12, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 363.*

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

Section 1. Minnesota Statutes 1992, section 363.01, subdivision 23, is amended to read:

Subd. 23. **LOCAL COMMISSION.** “Local commission” means an agency of a city, county, or group of counties created pursuant to law, resolution of a county board, city charter, or municipal ordinance for the purpose of dealing with discrimination on the basis of race, color, creed, religion, national origin, sex, age, disability, marital status, status with regard to public assistance, sexual orientation, or familial status.

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