

**Subd. 2b. RESTRICTION ON RELEASE OF FEDERAL REGISTRATION NUMBER.** No person or entity may offer for sale, sell, lease, or otherwise release a federal drug enforcement administration registration number for any reason, except for drug enforcement purposes authorized by this chapter and the federal controlled substances registration system. For purposes of this section, an entity includes a state governmental agency or regulatory board, a health plan company as defined under section 62Q.01, subdivision 4, a managed care organization as defined under section 62Q.01, subdivision 5, or any other entity that maintains prescription data.

Sec. 3. Minnesota Statutes 1996, section 152.11, is amended by adding a subdivision to read:

**Subd. 2c. RESTRICTION ON USE OF FEDERAL REGISTRATION NUMBER.** No entity may use a federal drug enforcement administration registration number to identify or monitor the prescribing practices of a prescriber to whom that number has been assigned, except for drug enforcement purposes authorized by this chapter and the federal controlled substances registration system. For purposes of this section, an entity includes a health plan company as defined under section 62Q.01, subdivision 4, a managed care organization as defined under section 62Q.01, subdivision 5, or any other entity that maintains prescription data.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective 24 months after the date on which a unique health identifier is adopted or established under United States Code, title 42, sections 1320d to 1320d-8 (1996 and subsequent amendments).

Presented to the governor March 19, 1998

Signed by the governor March 23, 1998, 10:53 a.m.

#### CHAPTER 317—S.F.No. 2447

*An act relating to health professions; modifying provisions relating to speech-language pathologists, unlicensed mental health practitioners, alcohol and drug counselors, physical therapists, and hearing instrument dispensers; authorizing exempt rulemaking; amending Minnesota Statutes 1996, sections 144.335, subdivision 1; 148.515, subdivision 3; 148.518, subdivision 2; 148.5191, subdivisions 1, 3, and 4; 148.5194; 148.5195, subdivision 3; 148.76, subdivision 2; 148B.69, by adding a subdivision; 148C.04, subdivision 3; 148C.05, subdivision 2; 148C.06; 153A.13, subdivision 5; 153A.14, subdivisions 2a, 2b, 2d, 2f, 2h, 9, and 10; 153A.15, subdivision 1, and by adding a subdivision; and 153A.20, subdivision 3; Minnesota Statutes 1997 Supplement, sections 148C.03, subdivision 1; and 148C.11, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 148; repealing Minnesota Statutes 1996, section 153A.14, subdivision 7.*

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

Section 1. Minnesota Statutes 1996, section 144.335, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purposes of this section, the following terms have the meanings given them:

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(a) "Patient" means a natural person who has received health care services from a provider for treatment or examination of a medical, psychiatric, or mental condition, the surviving spouse and parents of a deceased patient, or a person the patient designates in writing as a representative. Except for minors who have received health care services pursuant to sections 144.341 to 144.347, in the case of a minor, patient includes a parent or guardian, or a person acting as a parent or guardian in the absence of a parent or guardian.

(b) "Provider" means (1) any person who furnishes health care services and is licensed regulated to furnish the services pursuant to chapter 147, 147A, 147B, 147C, 148, 148B, 148C, 150A, 151, or 153, or 153A, or Minnesota Rules, chapter 4666; (2) a home care provider licensed under section 144A.46; (3) a health care facility licensed pursuant to this chapter or chapter 144A; (4) a physician assistant registered under chapter 147A; and (5) an unlicensed mental health practitioner regulated pursuant to sections 148B.60 to 148B.71.

(c) "Individually identifiable form" means a form in which the patient is or can be identified as the subject of the health records.

Sec. 2. Minnesota Statutes 1996, section 148.515, subdivision 3, is amended to read:

Subd. 3. **SUPERVISED CLINICAL TRAINING REQUIRED.** (a) An applicant must complete at least 375 hours of supervised clinical training as a student that meets the requirements of paragraphs (b) to (f).

(b) The supervised clinical training must be provided by the educational institution or by one of its cooperating programs.

(c) The first 25 hours of the supervised clinical training must be spent in clinical observation. Those 25 hours must concern the evaluation and treatment of children and adults with disorders of speech, language, or hearing.

(d) All applicants must complete at least 350 hours of supervised clinical training that concern the evaluation and treatment of children and adults with disorders of speech, language, and hearing. At least 250 of the 350 hours must be at the graduate level in the area in which registration is sought. At least 50 hours must be spent in each of three types of clinical settings including, but not limited to, university clinics, hospitals, private clinics, and schools, including secondary and elementary.

(e) An applicant seeking registration as a speech-language pathologist must:

(1) obtain 250 of the 350 supervised hours in speech-language pathology;

(2) complete a minimum of 20 hours of the 250 hours in each of the following eight categories:

- (i) evaluation: speech disorders in children;
- (ii) evaluation: speech disorders in adults;
- (iii) evaluation: language disorders in children;
- (iv) evaluation: language disorders in adults;
- (v) treatment: speech disorders in children;

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- (vi) treatment: speech disorders in adults;
- (vii) treatment: language disorders in children; and
- (viii) treatment: language disorders in adults;
- (3) complete a minimum of 35 hours in audiology including:
  - (i) 15 hours in the evaluation or screening of individuals with hearing disorders; and
  - (ii) 15 hours in habilitation or rehabilitation of individuals with hearing impairment;
 and
  - (4) obtain no more than 20 hours in the major professional area that are in related disorders.
    - (f) An applicant seeking registration as an audiologist must:
      - (1) obtain 250 of the 350 hours in audiology;
      - (2) complete a minimum of 40 hours in each of the following four categories:
        - (i) evaluation: hearing in children;
        - (ii) evaluation: hearing in adults;
        - (iii) selection and use: amplification and assistive devices for children; and
        - (iv) selection and use: amplification and assistive devices for adults;
      - (3) complete a minimum of 20 hours in the category of the treatment of hearing disorders in children and adults;
      - (4) complete a minimum of 35 hours of the 350 hours in speech-language pathology unrelated to hearing impairment as follows:
        - (i) 15 hours in evaluation or screening; and
        - (ii) 15 hours in treatment; and
      - (5) obtain no more than 20 hours in the major professional area that are in related disorders.

### Sec. 3. [148.5161] TEMPORARY REGISTRATION.

Subdivision 1. APPLICATION. The commissioner shall issue temporary registration as a speech-language pathologist or audiologist to an applicant who has applied for registration under section 148.515, who is not the subject of a disciplinary action or past disciplinary action, and who has not violated a provision of section 148.5195, subdivision 3.

Subd. 2. PROCEDURES. To be eligible for temporary registration, an applicant must submit an application form provided by the commissioner, the fees required by section 148.5194, and evidence of successful completion of the requirements in section 148.515, subdivisions 2 and 3.

Subd. 3. SUPERVISION REQUIRED. (a) A temporary registrant must practice under the supervision of an individual who meets the requirements of section 148.512, subdivision 20. Supervision must conform to the requirements in paragraphs (b) to (g).

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(b) Supervision must include both on-site observation and other monitoring activities. On-site observation must involve the supervisor, the supervisee, and the client receiving speech-language pathology or audiology services and must include direct observation by the supervisor of treatment given by the supervisee. Other monitoring activities must involve direct or indirect evaluative contact by the supervisor of the supervisee, may be executed by correspondence, and may include, but are not limited to, conferences with the supervisee, evaluation of written reports, and evaluations by professional colleagues. Other monitoring activities do not include the client receiving speech-language pathology or audiology services.

(c) The temporary registrant must be supervised by an individual who meets the definition of section 148.512, subdivision 20, and:

(1) when the temporary registrant is a speech-language pathologist, is a registered speech-language pathologist, or holds a current certificate of clinical competence in speech-language pathology from the American Speech-Language-Hearing Association; and

(2) when the temporary registrant is an audiologist, is a registered audiologist, or holds a current certificate of clinical competence in audiology from the American Speech-Language-Hearing Association.

(d) Temporary registration shall not be granted until the applicant has completed the academic coursework and clinical training in section 148.515, subdivisions 2 and 3.

(e) The temporary registrant must be supervised in no less than 36 activities, including 18 one-hour on-site observations. A maximum of six hours may be accrued in one day. A minimum of six one-hour on-site observations must be accrued during each one-third of the experience.

(f) The temporary registrant must complete 18 other monitored activities and complete at least one monitored activity each month.

(g) The temporary registrant must provide verification of supervision on the application form provided by the commissioner.

**Subd. 4. EXPIRATION OF TEMPORARY REGISTRATION.** A temporary registration issued to a person pursuant to subdivision 2 expires 18 months after issuance or on the date the commissioner grants or denies registration, whichever occurs first. Upon application, a temporary registration shall be renewed once to persons who have not met the supervised postgraduate clinical experience requirement under section 148.515, subdivision 4, within the initial temporary registration period and meet the requirements of subdivision 1.

**Subd. 5. TITLE USED.** A temporary registrant shall be identified by one of the protected titles and a designation indicating clinical fellowship status.

Sec. 4. Minnesota Statutes 1996, section 148.518, subdivision 2, is amended to read:

**Subd. 2. LAPSE OF MORE THAN THREE YEARS.** For an applicant whose registered status has lapsed for more than three years, the applicant must:

(1) apply for registration renewal according to section 148.5191 and fulfill the requirements for registration under section 148.515, subdivisions 4 and 5. obtain a qualify-

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ing score on the examination described in section 148.515, subdivision 5, must be obtained within one year of the application date for registration renewal; or

(2) fulfill the requirements of section 148.517, apply for renewal according to section 148.5191, provide evidence to the commissioner that the applicant holds a current and unrestricted credential for the practice of speech-language pathology or audiology in another jurisdiction that has requirements equivalent to or higher than those in effect for Minnesota and provide evidence of compliance with that jurisdiction's continuing education requirements.

Sec. 5. Minnesota Statutes 1996, section 148.5191, subdivision 1, is amended to read:

Subdivision 1. **RENEWAL REQUIREMENTS.** To renew registration, an applicant must:

(1) annually biennially complete a renewal application on a form provided by the commissioner and submit the annual biennial renewal fee;

(2) meet the continuing education requirements of section 148.5193 and submit evidence of attending continuing education courses, as required in section 148.5193, subdivision 6; and

(3) submit additional information if requested by the commissioner to clarify information presented in the renewal application. The information must be submitted within 30 days after the commissioner's request.

Sec. 6. Minnesota Statutes 1996, section 148.5191, subdivision 3, is amended to read:

Subd. 3. **REGISTRATION RENEWAL NOTICE.** Registration renewal is on an annual a biennial basis. At least 30 60 days before the registration renewal expiration date in subdivision 4, the commissioner shall send out a renewal notice to the registrant's last known address. The notice shall include a renewal application and notice of fees required for renewal. If the registrant does not receive the renewal notice, the registrant is still required to meet the deadline for renewal to qualify for continuous registered status.

Sec. 7. Minnesota Statutes 1996, section 148.5191, subdivision 4, is amended to read:

Subd. 4. **RENEWAL DEADLINE.** ~~The renewal application and fee must be post-marked on or before the date registration must be renewed according to clauses (1) to (5). Registration must be renewed according to the following schedule:~~

~~(1) for registrants whose last name begins with the letters A to E, February 1;~~

~~(2) for registrants whose last name begins with the letters F to L, April 1;~~

~~(3) for registrants whose last name begins with the letters M to P, June 1;~~

~~(4) for registrants whose last name begins with the letters Q to U, August 1; and~~

~~(5) for registrants whose last name begins with the letters V to Z, October 1. Each registration certificate, including a temporary registration certificate provided under section 148.5161, must state an expiration date. An application for registration renewal must~~

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be received by the department of health or postmarked at least 30 days before the expiration date. If the postmark is illegible, the application shall be considered timely if received at least 21 days before the expiration date.

When the commissioner establishes the renewal schedule for an applicant, registrant, or temporary registrant, if the period before the expiration date is less than two years, the fee shall be prorated.

Sec. 8. Minnesota Statutes 1996, section 148.5194, is amended to read:

**148.5194 FEES.**

Subdivision 1. **FIRST TIME REGISTRANTS AND APPLICANTS FOR REGISTRATION RENEWAL FEE PRORATION.** The commissioner shall prorate the registration fee for first time registrants and applicants for registration renewal according to the number of months that have elapsed between the date registration is issued and the date registration must be renewed under section 148.5191, subdivision 4.

Subd. 2. **ANNUAL BIENNIAL REGISTRATION FEE.** The fee for initial registration and annual biennial registration, temporary registration, or renewal is \$80 \$160.

Subd. 3. **ANNUAL BIENNIAL REGISTRATION FEE FOR DUAL REGISTRATION AS A SPEECH-LANGUAGE PATHOLOGIST AND AUDIOLOGIST.** The fee for initial registration and annual biennial registration, temporary registration, or renewal is \$80 \$160.

Subd. 4. **PENALTY FEE FOR LATE RENEWALS.** The penalty fee for late submission of a renewal application is \$15.

Subd. 5. **NONREFUNDABLE FEES.** All fees are nonrefundable.

Sec. 9. Minnesota Statutes 1996, section 148.5195, subdivision 3, is amended to read:

Subd. 3. **GROUND 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 by the commissioner or advisory council;
- (3) performed services of a speech-language pathologist or audiologist in an incompetent or negligent manner;
- (4) violated sections 148.511 to 148.5196;
- (5) failed to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;
- (6) violated any state or federal law, rule, or regulation, and the violation is a felony or misdemeanor, an essential element of which is dishonesty, or which relates directly or indirectly to the practice of speech-language pathology or audiology. Conviction for violating any state or federal law which relates to speech-language pathology or audiology is necessarily considered to constitute a violation, except as provided in chapter 364;

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

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

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

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

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

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

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

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

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

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

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

(18) used the term doctor of audiology, doctor of speech-language pathology, AuD, or SLPD without having obtained the degree from an institution accredited by the North Central Association of Colleges and Secondary Schools or the American Speech-Language-Hearing Association.

Sec. 10. Minnesota Statutes 1996, section 148.76, subdivision 2, is amended to read:

Subd. 2. No physical therapist shall may:

(a) treat human ailments by physical therapy after an initial 30-day period of patient admittance to treatment has lapsed, except by the order or referral of a person licensed in this state to practice medicine as defined in section 147.081, the practice of chiropractic as defined in section 148.01, the practice of podiatry as defined in section 153.01, ~~or~~ the practice of dentistry as defined in section 150A.05, or the practice of advanced practice nursing as defined in section 62A.15, subdivision 3a, when orders or referrals are made in collaboration with a physician, chiropractor, podiatrist, or dentist, and whose license is in good standing; or when a previous diagnosis exists indicating an ongoing condition warranting physical therapy treatment, subject to periodic review defined by board of medical practice rule;

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(b) treat human ailments by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;

(c) utilize any chiropractic manipulative technique whose end is the chiropractic adjustment of an abnormal articulation of the body; and

(d) treat human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state.

Sec. 11. Minnesota Statutes 1996, section 148B.69, is amended by adding a subdivision to read:

Subd. 2a. **HEARINGS.** If the commissioner proposes to take action against the practitioner as described in subdivision 1, the commissioner must first notify the person against whom the action is proposed to be taken and provide the person with 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 30 days after service of the notice of the proposed action, the commissioner may proceed with the action without a hearing.

Sec. 12. Minnesota Statutes 1997 Supplement, section 148C.03, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** The commissioner shall, after consultation with the advisory council or a subcommittee ~~or the special licensing criteria committee established under section 148C.11, subdivision 3, paragraph (b) by rule:~~

(a) adopt and enforce rules for licensure of alcohol and drug counselors, including establishing standards and methods of determining whether applicants and licensees are qualified under section 148C.04. The rules must provide for examinations and establish standards for the regulation of professional conduct. The rules must be designed to protect the public;

(b) ~~hold or contract for the administration of examinations develop and, at least twice a year, administer an examination to assess applicants' knowledge and skills. The commissioner may contract for the administration of an examination approved by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC/AODA). The examinations must be written and oral and may be administered by the commissioner or by a private organization under contract with the commissioner to administer the licensing examinations. Examinations, must minimize cultural bias, and must be balanced in various theories relative to the practice of alcohol and drug counseling;~~

(c) issue licenses to individuals qualified under sections 148C.01 to 148C.11;

(d) issue copies of the rules for licensure to all applicants;

(e) adopt rules to establish and implement procedures, including a standard disciplinary process and rules of professional conduct;

(f) carry out disciplinary actions against licensees;

(g) establish, with the advice and recommendations of the advisory council, written internal operating procedures for receiving and investigating complaints and for taking disciplinary actions as appropriate;

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(h) educate the public about the existence and content of the rules for alcohol and drug counselor licensing to enable consumers to file complaints against licensees who may have violated the rules;

(i) evaluate the rules in order to refine and improve the methods used to enforce the commissioner's standards;

(j) set, collect, and adjust license fees for alcohol and drug counselors so that the total fees collected will as closely as possible equal anticipated expenditures during the biennium, as provided in section 16A.1285; fees for initial and renewal application and examinations; late fees for counselors who submit license renewal applications after the renewal deadline; and a surcharge fee. The surcharge fee must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for the adoption of the rules providing for the licensure of alcohol and drug counselors. All fees received shall be deposited in the state treasury and credited to the special revenue fund; and

(k) prepare reports on activities related to the licensure of alcohol and drug counselors according to this subdivision by October 1 of each even-numbered year. Copies of the reports shall be delivered to the legislature in accordance with section 3.195 and to the governor. The reports shall contain the following information on the commissioner's activities relating to the licensure of alcohol and drug counselors, for the two-year period ending the previous June 30:

- (1) a general statement of the activities;
- (2) the number of staff hours spent on the activities;
- (3) the receipts and disbursements of funds;
- (4) the names of advisory council members and their addresses, occupations, and dates of appointment and reappointment;
- (5) the names and job classifications of employees;
- (6) a brief summary of rules proposed or adopted during the reporting period with appropriate citations to the State Register and published rules;
- (7) the number of persons having each type of license issued by the commissioner as of June 30 in the year of the report;
- (8) the locations and dates of the administration of examinations by the commissioner;
- (9) the number of persons examined by the commissioner with the persons subdivided into groups showing age categories, sex, and states of residency;
- (10) the number of persons licensed by the commissioner after taking the examinations referred to in clause (8) with the persons subdivided by age categories, sex, and states of residency;
- (11) the number of persons not licensed by the commissioner after taking the examinations referred to in clause (8) with the persons subdivided by age categories, sex, and states of residency;

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(12) the number of persons not taking the examinations referred to in clause (8) who were licensed by the commissioner or who were denied licensing, the reasons for the licensing or denial, and the persons subdivided by age categories, sex, and states of residency;

(13) the number of persons previously licensed by the commissioner whose licenses were revoked, suspended, or otherwise altered in status with brief statements of the reasons for the revocation, suspension, or alteration;

(14) the number of written and oral complaints and other communications received by the commissioner which allege or imply a violation of a statute or rule which the commissioner is empowered to enforce;

(15) a summary, by specific category, of the substance of the complaints and communications referred to in clause (14) and, for each specific category, the responses or dispositions; and

(16) any other objective information which the commissioner believes will be useful in reviewing the commissioner's activities.

Sec. 13. Minnesota Statutes 1996, section 148C.04, subdivision 3, is amended to read:

Subd. 3. **LICENSING REQUIREMENTS FOR THE FIRST FIVE YEARS.** For five years after the effective date of the rules authorized in section 148C.03, the applicant, unless qualified under section 148C.06 during the two-year period authorized therein, under section 148C.07, or under subdivision 4, must furnish evidence satisfactory to the commissioner that the applicant has met all the requirements in clauses (1) to (3). The applicant must have:

(1) received an associate degree, or an equivalent number of credit hours, and a certificate in alcohol and drug counseling including 270 clock hours of alcohol and drug counseling classroom education from an accredited school or educational program and 880 clock hours of alcohol and drug counseling practicum;

(2) completed a written case presentation and satisfactorily passed an oral examination that demonstrates competence in the core functions; and

(3) satisfactorily passed a written examination as established by the commissioner.

Sec. 14. Minnesota Statutes 1996, section 148C.05, subdivision 2, is amended to read:

Subd. 2. **CONTINUING EDUCATION.** At the time of renewal, if required, each licensee shall furnish evidence satisfactory to the commissioner that the licensee has completed at least the equivalent of 40 clock hours of continuing professional ~~postdegree~~ education during the past two years, in programs approved by the commissioner, ~~after consultation with the education committee, and that the licensee continues to be qualified to practice under sections 148C.01 to 148C.11 which meet the requirements in the rules authorized by this chapter. The commissioner shall seek advice from the advisory council and the committees established by the rules in determining whether a continuing education program meets the requirements.~~

Sec. 15. Minnesota Statutes 1996, section 148C.06, is amended to read:

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**148C.06 TRANSITION PERIOD.**

**Subdivision 1. QUALIFICATIONS.** For two years from the effective date of the rules authorized in section 148C.03, subdivision 1, the commissioner shall issue a license to an applicant if the applicant meets one of the following qualifications:

(a) is credentialed as a certified chemical dependency counselor (CCDC) or certified chemical dependency counselor reciprocal (CCDCR) by the Institute for Chemical Dependency Professionals of Minnesota, Inc.;

(b) has 6,000 hours of supervised alcohol and drug counselor experience as defined by the core functions, 270 clock hours of alcohol and drug counselor training with a minimum of 60 hours of this training occurring within the past five years, 300 hours of alcohol and drug counselor internship, and has successfully completed the examination requirements in section 148C.04, subdivision 3, paragraph (a), clauses (2) and (3);

(c) has 10,000 hours of supervised alcohol and drug counselor experience as defined by the core functions, 270 clock hours of alcohol and drug training with a minimum of 60 hours of this training occurring within the past five years, and has successfully completed the requirements in section 148C.04, subdivision 3, paragraph (a), clause (2) or (3), or is credentialed as a certified chemical dependency practitioner (CCDP) by the Institute for Chemical Dependency Professionals of Minnesota, Inc.;

(d) has 14,000 hours of supervised alcohol and drug counselor experience as defined by the core functions and 270 clock hours of alcohol and drug training with a minimum of 60 hours of this training occurring within the past five years; or

(e) has met the special licensing criteria established pursuant to section 148C.11.

**Subd. 2. DOCUMENTATION OF STATUS; CERTAIN APPLICANTS.** Licenture applications under subdivision 1, paragraphs (a) and (c), may document certified status by submitting to the commissioner an original and current certificate issued by an international certification and reciprocity consortium board in this or another jurisdiction.

Sec. 16. Minnesota Statutes 1997 Supplement, section 148C.11, subdivision 3, is amended to read:

**Subd. 3. FEDERALLY RECOGNIZED TRIBES; ETHNIC MINORITIES.** (a) Alcohol and drug counselors licensed to practice alcohol and drug counseling according to standards established by federally recognized tribes, while practicing under tribal jurisdiction, are exempt from the requirements of this chapter. In practicing alcohol and drug counseling under tribal jurisdiction, individuals licensed under that authority shall be afforded the same rights, responsibilities, and recognition as persons licensed pursuant to this chapter.

(b) The commissioner shall develop special licensing criteria for issuance of a license to alcohol and drug counselors who: (1) are members of ethnic minority groups practice alcohol and drug counseling with a member of an ethnic minority population or with a person with a disability as defined by rule; or (2) are employed by private, nonprofit agencies, including agencies operated by private, nonprofit hospitals, whose primary agency service focus addresses ethnic minority populations or persons with a disability as defined by rule. These licensing criteria may differ from the licensing criteria specified

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in section 148C.04. To develop, implement, and evaluate the effect of these criteria, the commissioner shall establish a committee comprised of, but not limited to, representatives from the council on hearing impaired, Minnesota commission serving deaf and hard-of-hearing people, the council on affairs of Chicano/Latino people, the council on Asian-Pacific Minnesotans, the council on Black Minnesotans, the council on disability, and the Indian affairs council.

Sec. 17. Minnesota Statutes 1996, section 153A.13, subdivision 5, is amended to read:

Subd. 5. **DISPENSER OF HEARING INSTRUMENTS.** "Dispenser of hearing instruments" means a natural person who engages in hearing instrument dispensing whether or not certified by the commissioner of health or licensed by an existing health-related board, except that any a person described as follows is not a dispenser of hearing instruments:

(1) a student participating in supervised field work that is necessary to meet requirements of an accredited educational program if the student is designated by a title which clearly indicates the student's status as a student trainee; or

(2) a person who helps a dispenser of hearing instruments in an administrative or clerical manner and does not engage in hearing instrument dispensing is not a dispenser of hearing instruments.

A person who offers to dispense a hearing instrument, or a person who advertises, holds out to the public, or otherwise represents that the person is authorized to dispense hearing instruments must be certified by the commissioner.

Sec. 18. Minnesota Statutes 1996, section 153A.14, subdivision 2a, is amended to read:

Subd. 2a. **EXEMPTION FROM EXAMINATION REQUIREMENT.** Persons completing the audiology registration requirements of Minnesota Rules, part 4750.0060, section 148.515 after January 1, 1996, are exempt from the examination requirements of subdivision 2 2h. Minnesota registration or American Speech-Language-Hearing Association certification as an audiologist are is not required but may be submitted as evidence qualifying for exemption from the examination if the requirements are completed after January 1, 1996. Persons qualifying for examination exemption must fulfill the other credentialing requirements under subdivisions 1 and 2 before a certificate may be issued by the commissioner.

Sec. 19. Minnesota Statutes 1996, section 153A.14, subdivision 2b, is amended to read:

Subd. 2b. **ACTION ON APPLICATIONS FOR CERTIFICATION.** The commissioner shall act on an application applications for certification, and applications for renewal of certification, according to paragraphs (a) to (c).

(a) The commissioner shall determine if the applicant meets the requirements for certification. The commissioner or advisory council may investigate information provided by an applicant to determine whether the information is accurate and complete.

(b) The commissioner shall notify each applicant of action taken on the application and of the grounds for denying certification if certification is denied.

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(c) Applicants denied certification for failure to meet the requirements may make a written request to the commissioner within 30 days of the commissioner's determination to appear before the advisory council and for the advisory council to review the commissioner's decision to deny the applicant's certification. After reviewing the denial, the advisory council shall make a recommendation to the commissioner as to whether the denial should be affirmed. The commissioner shall comply with contested case procedures in chapter 14 when suspending, revoking, or refusing to issue or renew a certificate under this section.

Sec. 20. Minnesota Statutes 1996, section 153A.14, subdivision 2d, is amended to read:

Subd. 2d. **CERTIFICATION RENEWAL NOTICE.** Certification must be renewed annually. At least 30 days before the deadline for application to renew certification, The commissioner shall mail a renewal notice to the dispenser's last known address by September 1 of each year. The notice must include a renewal application and notice of fees required for renewal. A dispenser is not relieved from meeting the applicable deadline for renewal deadline on the basis that the dispenser did not receive the renewal notice. In renewing a certificate, a dispenser shall follow the procedures for applying for a certificate specified in subdivision 1.

Sec. 21. Minnesota Statutes 1996, section 153A.14, subdivision 2f, is amended to read:

Subd. 2f. **LATE RENEWALS.** The deadline for application to renew certification is October 1 of each year. An application submitted after October 1 and before November 1 for certification renewal must be received by the department of health or postmarked by October 1. An application not received or postmarked by October 1 shall be a late renewal and must be accompanied by a late fee as required in section 153A.17. If the postmark is illegible, the application shall be considered timely if received by October 7.

Sec. 22. Minnesota Statutes 1996, section 153A.14, subdivision 2h, is amended to read:

Subd. 2h. **CERTIFICATION BY EXAMINATION.** An applicant must achieve a passing score, as determined by the commissioner, on an examination according to paragraphs (a) and (b) to (c).

(a) The examination must include, but is not limited to:

(1) A written examination approved by the commissioner covering the following areas as they pertain to hearing instrument selling:

- (i) basic physics of sound;
- (ii) the anatomy and physiology of the ear;
- (iii) the function of hearing instruments;
- (iv) the principles of hearing instrument selection; and
- (v) state and federal laws, rules, and regulations.

(2) Practical tests of proficiency in the following techniques as they pertain to hearing instrument selling:

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- (i) pure tone audiometry, including air conduction testing and bone conduction testing;
  - (ii) live voice or recorded voice speech audiometry including speech recognition (discrimination) testing, most comfortable loudness level, and uncomfortable loudness measurements of tolerance thresholds;
  - (iii) masking when indicated;
  - (iv) recording and evaluation of audiograms and speech audiometry to determine proper selection and fitting of a hearing instrument;
  - (v) taking ear mold impressions; and
  - (vi) using an otoscope for the visual observation of the entire ear canal.
- (b) The examination shall be administered by the commissioner at least twice a year.

(c) An applicant must achieve a passing score on all portions of the examination within a two-year period. An applicant who does not achieve a passing score on all portions of the examination within a two-year period must retake the entire examination and achieve a passing score on each portion of the examination. An applicant who does not apply for certification within one year of successful completion of the examination, must retake the examination and achieve a passing score on each portion of the examination.

Sec. 23. Minnesota Statutes 1996, section 153A.14, subdivision 9, is amended to read:

Subd. 9. **CONSUMER RIGHTS INFORMATION.** A hearing instrument dispenser shall, at the time of the recommendation or prescription, give a consumer rights brochure, prepared by the commissioner and containing information about legal requirements pertaining to sales of hearing instruments, to each potential buyer of a hearing instrument. A sales contract for a hearing instrument must note the receipt of the brochure by the buyer, along with the buyer's signature or initials.

Sec. 24. Minnesota Statutes 1996, section 153A.14, subdivision 10, is amended to read:

Subd. 10. **LIABILITY FOR CONTRACTS.** Owners of entities in the business of dispensing hearing instruments, employers of persons who dispense hearing instruments, and supervisors of trainees, and hearing instrument dispensers conducting the sales transaction at issue are liable for satisfying all terms of contracts, written or oral, made by their agents, employees, assignees, affiliates, or trainees, including terms relating to products, repairs, warranties, service, and refunds. The commissioner may enforce the terms of hearing instrument sales contracts against the principal, employer, or supervisor of an agent, employee, or trainee, or dispenser who conducted the sale and may impose any remedy provided for in this chapter.

Sec. 25. Minnesota Statutes 1996, section 153A.15, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED ACTS.** ~~The commissioner may reject an application for a certificate or may act under subdivision 2 against a dispenser of hearing instruments for failure to comply with this chapter. Failure to apply to the commissioner for a~~

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certificate, or supplying false or misleading information on the application for a certificate, is a ground for action under subdivision 2. The following acts and conduct are also grounds for action under subdivision 2: The commissioner may take enforcement action as provided under subdivision 2 against a dispenser of hearing instruments for the following acts and conduct:

(1) prescribing or otherwise recommending to a consumer or potential consumer the use of a hearing instrument, unless the prescription from a physician or recommendation from a hearing instrument dispenser or audiologist 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 INSTRUMENTS MAY BE PURCHASED FROM, THE CERTIFIED DISPENSER OF YOUR CHOICE";

(2) failing to give a copy of the audiogram, upon which the prescription or recommendation is based, to the consumer when there has been a charge for the audiogram and the consumer requests a copy;

(3) failing to provide the consumer rights brochure required by section 153A.14, subdivision 9;

(4) being disciplined through a revocation, suspension, restriction, or limitation by another state for conduct subject to action under this chapter;

(5) presenting advertising that is false or misleading;

(6) providing the commissioner with false or misleading statements of credentials, training, or experience;

(7) engaging in conduct likely to deceive, defraud, or harm the public; or demonstrating a willful or careless disregard for the health, welfare, or safety of a consumer;

(8) splitting fees or promising to pay a portion of a fee to any other professional other than a fee for services rendered by the other professional to the client;

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

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

(11) failing to comply with restrictions on sales of hearing aids in sections 153A.14, subdivision 9, and 153A.19;

(12) performing the services of a certified hearing instrument dispenser in an incompetent or negligent manner;

(13) failing to comply with the requirements of this chapter as an employer, supervisor, or trainee;

(14) failing to provide information in a timely manner in response to a request by the commissioner, commissioner's designee, or the advisory council;

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(15) being convicted within the past five years of violating any laws of the United States, or any state or territory of the United States, and the violation is a felony, gross misdemeanor, or misdemeanor, an essential element of which relates to hearing instrument dispensing, except as provided in chapter 364;

(16) failing to cooperate in good faith with the commissioner, the commissioner's designee, or the advisory council in any investigation;

(17) failing to perform hearing instrument dispensing with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;

(18) failing to fully disclose actions taken against the applicant or the applicant's legal authorization to dispense hearing instruments in this or another state;

(19) violating a state or federal court order or judgment, including a conciliation court judgment, relating to the activities of the applicant in hearing instrument dispensing;

(20) having been or being disciplined by the commissioner of the department of health, or other authority, in this or another jurisdiction, if any of the grounds for the discipline are the same or substantially equivalent to those in sections 153A.13 to 153A.19;

(21) misrepresenting the purpose of hearing tests, or in any way communicating that the hearing test or hearing test protocol required by section 153A.14, subdivision 4b, is a medical evaluation, a diagnostic hearing evaluation conducted by an audiologist, or is other than a test to select a hearing instrument, except that the hearing instrument dispenser can determine the need for or recommend the consumer obtain a medical evaluation consistent with requirements of the United States Food and Drug Administration;

(22) violating any of the provisions of sections 153A.13 to 153A.19; and

(23) aiding or abetting another person in violating any of the provisions of sections 153A.13 to 153A.19.

Sec. 26. Minnesota Statutes 1996, section 153A.15, is amended by adding a subdivision to read:

Subd. 2a. HEARINGS. If the commissioner proposes to take action against the dispenser as described in subdivision 2, the commissioner must first notify the person against whom the action is proposed to be taken and provide the person with 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 30 days after service of the notice of the proposed action, the commissioner may proceed with the action without a hearing.

Sec. 27. Minnesota Statutes 1996, section 153A.20, subdivision 3, is amended to read:

Subd. 3. **DUTIES.** At the commissioner's request, the advisory council shall:

(1) advise the commissioner regarding hearing instrument dispenser certification standards;

(2) advise the commissioner on enforcement of sections 153A.13 to 153A.20;

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(3) provide for distribution of information regarding hearing instrument dispenser certification standards;

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

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

(3) review investigation summaries of competency violations and make recommendations to the commissioner as to whether the allegations of incompetency are substantiated; and

(6) (4) perform other duties authorized for advisory councils by chapter 214, or as directed by the commissioner.

#### Sec. 28. CERTAIN HEALTH DEPARTMENT RULES.

The commissioner of health may repeal or amend Minnesota Rules, parts 4666.0010 to 4666.1400, and may adopt new rules to replace them. Rules repealed, amended, or adopted under this section are not subject to Minnesota Statutes, sections 14.05 to 14.28, but are governed by section 14.386. The commissioner's authority to act under this section expires December 31, 1998.

#### Sec. 29. REPEALER.

Minnesota Statutes 1996, section 153A.14, subdivision 7, is repealed.

#### Sec. 30. EFFECTIVE DATE.

Sections 5 to 8 are effective November 1, 1998. All other sections are effective the day following final enactment.

Presented to the governor March 19, 1998

Signed by the governor March 23, 1998, 10:55 a.m.

### CHAPTER 318—H.F.No. 2489

*An act relating to natural resources; modifying the description of a state trail in Ramsey and Washington counties; amending Minnesota Statutes 1996, section 85.015, subdivision 14.*

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

Section 1. Minnesota Statutes 1996, section 85.015, subdivision 14, is amended to read:

Subd. 14. **STATE TRAIL, CHISAGO, RAMSEY, AND WASHINGTON COUNTIES.** (a) The trail shall originate at milepost 446.19 on the Soo Line Railroad right-of-way in the Southeast Quarter of Section 19, Township 29 North, Range 22 West, Ramsey county, and shall extend in an easterly and northeasterly direction along the Soo

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