

or conservatee may, if acting with sufficient capacity to form an intelligent preference, nominate a conservator or guardian or give instructions to the conservator or guardian.

(b) The written instrument ~~shall~~ must either

(1) be executed and attested in the same manner as a will; or

(2) be signed by the proposed ward or conservatee, or in the proposed ward's or conservatee's name by some other individual in the presence of and at the direction of the proposed ward or conservatee, and acknowledged by the proposed ward or conservatee before a notary public who is not the nominated conservator or guardian.

(c) The court shall appoint the person so nominated as conservator or guardian and shall charge the person with the instructions, unless the court finds that the appointment of the nominee or the instructions are not in the best interests of the proposed ward or conservatee.

Sec. 5. INSTRUCTION TO REVISOR.

The revisor of statutes is directed to remove the words "executor" and "administrator" or similar terms each place that the words appear in chapter 48 of Minnesota Statutes and replace those words with "personal representative" or similar terms; provided that any reference to the "administrator of veterans affairs" shall not be changed. The revisor of statutes is directed to add the word "conservator" or similar term to each section of chapter 48 of Minnesota Statutes where there appears the word "guardian," except where the word "guardian" is followed by the words "of a minor".

Presented to the governor May 13, 1999

Signed by the governor May 17, 1999, 4:38 p.m.

CHAPTER 172—H.F.No. 718

An act relating to professions; regulating advanced practice registered nursing; amending Minnesota Statutes 1998, sections 62A.15, subdivision 3a; 148.171; 148.191, subdivision 2; 148.235; 148.261, subdivisions 1 and 5; 148.262, subdivision 1; 148.263, subdivisions 3 and 4; 148.271; 148.281, subdivision 1; 148.283; 245.462, subdivision 18; and 245.4871, subdivision 27; proposing coding for new law in Minnesota Statutes, chapter 148; repealing Minnesota Rules, chapter 6340.

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

Section 1. Minnesota Statutes 1998, section 62A.15, subdivision 3a, is amended to read:

Subd. 3a. **NURSING SERVICES.** All benefits provided by a policy or contract referred to in subdivision 1, relating to expenses incurred for medical treatment or services of a duly licensed physician must include services provided by a registered nurse who is licensed pursuant to section 148.171 and who is certified by the profession to engage in as an advanced nursing practice registered nurse. "~~Advanced nursing practice registered nurse~~" means the performance of health services by professional nurses who have gained

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additional knowledge and skills through an organized program of study and clinical experience preparing nurses for advanced practice roles as nurse anesthetists, nurse midwives, nurse practitioners, or clinical specialists in psychiatric or mental health nursing. The program of study must be beyond the education required for registered nurse licensure and must meet criteria established by the professional nursing organization having authority to certify the registered nurse in advanced nursing practice. For the purposes of this subdivision, the board of nursing shall, by rule, adopt a list of professional nursing organizations which have the authority to certify nurses in advanced nursing practice has the meaning given in section 148.171, subdivision 2, paragraph (4). The advanced practice registered nurse must meet the requirements of sections 148.171 to 148.285.

This subdivision is intended to provide payment of benefits for treatment and services by a licensed registered nurse certified in advanced nursing practice an advanced practice registered nurse as defined in this subdivision and is not intended to add to the benefits provided for in these policies or contracts.

Sec. 2. Minnesota Statutes 1998, section 148.171, is amended to read:

148.171 **DEFINITIONS; TITLE.**

Subdivision 1. TITLE. Sections 148.171 to 148.285 shall be referred to as the Minnesota Nurse Practice Act.

Subd. 2. SCOPE. As used in sections 148.171 to 148.285, the definitions in this section have the meanings given.

(1) "Board" means the Minnesota board of nursing.

(2) "Registered nurse," abbreviated R.N., means an individual licensed by the board to practice professional nursing.

(3) The "practice of professional nursing" means the performance for compensation or personal profit of the professional interpersonal service of: (a) providing a nursing assessment of the actual or potential health needs of individuals, families, or communities; (b) providing nursing care supportive to or restorative of life by functions such as skilled ministrations of nursing care, supervising and teaching nursing personnel, health teaching and counseling, case finding, and referral to other health resources; and (c) evaluating these actions. The practice of professional nursing includes both independent nursing functions and delegated medical functions which may be performed in collaboration with other health team members, or may be delegated by the professional nurse to other nursing personnel. Independent nursing function may also be performed autonomously. The practice of professional nursing requires that level of special education, knowledge, and skill ordinarily expected of an individual who has completed an approved professional nursing education program as described in section 148.211, subdivision 1.

(4) "Advanced practice registered nurse," abbreviated APRN, means an individual licensed as a registered nurse by the board and certified by a national nurse certification organization acceptable to the board to practice as a clinical nurse specialist, nurse anesthetist, nurse-midwife, or nurse practitioner.

(5) The "practice of advanced practice registered nursing" means the performance of clinical nurse specialist practice, nurse-midwife practice, nurse practitioner practice, or registered nurse anesthetist practice as defined in paragraphs (6), (9), (10), and (12).

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The practice includes functioning as a direct care provider, case manager, consultant, educator, and researcher. The practice of advanced practice registered nursing also includes accepting referrals from, consulting with, cooperating with, or referring to all other types of health care providers, including but not limited to physicians, chiropractors, podiatrists, and dentists, provided that the advanced practice registered nurse and the other provider are practicing within their scopes of practice as defined in state law. The advanced practice registered nurse must practice within a health care system that provides for consultation, collaborative management, and referral as indicated by the health status of the patient.

(6) "Clinical nurse specialist practice" means the provision of patient care in a particular specialty or subspecialty of advanced practice registered nursing within the context of collaborative management, and includes: (i) diagnosing illness and disease; (ii) providing nonpharmacologic treatment, including psychotherapy; (iii) promoting wellness; and (iv) preventing illness and disease. The certified clinical nurse specialist is certified for advanced practice registered nursing in a specific field of clinical nurse specialist practice.

(7) "Collaborative management" is a mutually agreed upon plan between an advanced practice registered nurse and one or more physicians or surgeons licensed under chapter 147 that designates the scope of collaboration necessary to manage the care of patients. The advanced practice registered nurse and the one or more physicians must have experience in providing care to patients with the same or similar medical problems, except that certified registered nurse anesthetists may continue to provide anesthesia in collaboration with physicians, including surgeons, podiatrists licensed under chapter 153, and dentists licensed under chapter 150A. Certified registered nurse anesthetists must provide anesthesia services at the same hospital, clinic, or health care setting as the physician, surgeon, podiatrist, or dentist.

(8) "Consultation" means the process in which an advanced practice registered nurse who maintains primary management responsibility for a patient's care seeks advice or opinion of a physician or another member of the health care team.

(9) "Nurse-midwife practice" means the management of women's primary health care, focusing on pregnancy, childbirth, the postpartum period, care of the newborn, and the family planning and gynecological needs of women and includes diagnosing and providing nonpharmacologic treatment within a system that provides for consultation, collaborative management, and referral as indicated by the health status of patients.

(10) "Nurse practitioner practice" means, within the context of collaborative management: (i) diagnosing, directly managing, and preventing acute and chronic illness and disease; and (ii) promoting wellness, including providing nonpharmacologic treatment. The certified nurse practitioner is certified for advanced registered nurse practice in a specific field of nurse practitioner practice.

(11) "Referral" means the process in which an advanced practice registered nurse directs a patient to a physician or another health care professional for management of a particular problem or aspect of the patient's care.

(12) "Registered nurse anesthetist practice" means the provision of anesthesia care and related services within the context of collaborative management, including selecting, obtaining, and administering drugs and therapeutic devices to facilitate diagnostic, thera-

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peutic, and surgical procedures upon request, assignment, or referral by a patient's physician, dentist, or podiatrist.

(13) "Registered nurse, certified," abbreviated RN,C, means a registered nurse who has received certification from a national nursing organization or national nurse certification organization for practice according to paragraph (3) in a specialized field of professional nursing. A registered nurse, certified, shall not practice advanced practice registered nursing as described in paragraph (5), (6), (9), (10), or (12).

(4) (14) "Licensed practical nurse," abbreviated L.P.N., means an individual licensed by the board to practice practical nursing.

(5) (15) The "practice of practical nursing" means the performance for compensation or personal profit of any of those services in observing and caring for the ill, injured, or infirm, in applying counsel and procedure to safeguard life and health, in administering medication and treatment prescribed by a licensed health professional, which are commonly performed by licensed practical nurses and which require specialized knowledge and skill such as are taught or acquired in an approved school of practical nursing, but which do not require the specialized education, knowledge, and skill of a registered nurse.

(6) (16) "Nurse" means registered nurse, advanced practice registered nurse, and licensed practical nurse unless the context clearly refers to only one category.

(7) (17) "Nursing assistant" means an individual providing nursing or nursing-related services that do not require the specialized knowledge and skill of a nurse, at the direction of a nurse, but does not include a licensed health professional or an individual who volunteers to provide such services without monetary compensation.

(8) (18) "Public health nurse" means a registered nurse who meets the voluntary registration requirements established by the board by rule.

(19) "Prescribing" means the act of generating a prescription for the preparation of, use of, or manner of using a drug or therapeutic device in accordance with the provisions of section 148.235. Prescribing does not include recommending the use of a drug or therapeutic device which is not required by the federal Food and Drug Administration to meet the labeling requirements for prescription drugs and devices. Prescribing also does not include recommending or administering a drug or therapeutic device perioperatively by a certified registered nurse anesthetist.

(20) "Prescription" means a written direction or an oral direction reduced to writing provided to or for an individual patient for the preparation or use of a drug or therapeutic device.

Sec. 3. Minnesota Statutes 1998, section 148.191, subdivision 2, is amended to read:

Subd. 2. **POWERS.** (a) The board is authorized to adopt and, from time to time, revise rules not inconsistent with the law, as may be necessary to enable it to carry into effect the provisions of sections 148.171 to 148.285. The board shall prescribe by rule curricula and standards for schools and courses preparing persons for licensure under sections 148.171 to 148.285. It shall conduct or provide for surveys of such schools and courses at such times as it may deem necessary. It shall approve such schools and courses as meet the requirements of sections 148.171 to 148.285 and board rules. It shall ex-

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amine, license, and renew the license of duly qualified applicants. It shall hold examinations at least once in each year at such time and place as it may determine. It shall by rule adopt, evaluate, and periodically revise, as necessary, requirements for licensure and for registration and renewal of registration as defined in section 148.231. It shall maintain a record of all persons licensed by the board to practice professional or practical nursing and all registered nurses who hold Minnesota licensure and registration and are certified as advanced practice registered nurses. It shall cause the prosecution of all persons violating sections 148.171 to 148.285 and have power to incur such necessary expense therefor. It shall register public health nurses who meet educational and other requirements established by the board by rule, including payment of a fee. Prior to the adoption of rules, the board shall use the same procedures used by the department of health to certify public health nurses. It shall have power to issue subpoenas, and to compel the attendance of witnesses and the production of all necessary documents and other evidentiary material. Any board member may administer oaths to witnesses, or take their affirmation. It shall keep a record of all its proceedings.

(b) The board shall have access to hospital, nursing home, and other medical records of a patient cared for by a nurse under review. If the board does not have a written consent from a patient permitting access to the patient's records, the nurse or facility shall delete any data in the record that identifies the patient before providing it to the board. The board shall have access to such other records as reasonably requested by the board to assist the board in its investigation. Nothing herein may be construed to allow access to any records protected by section 145.64. The board shall maintain any records obtained pursuant to this paragraph as investigative data under chapter 13.

Sec. 4. [148.233] IDENTIFICATION OF CERTIFIED REGISTERED NURSES.

Subdivision 1. REGISTERED NURSE. A registered nurse certified in a specialized field of professional nursing as described in section 148.171, subdivision 2, paragraph (13), shall use the designation RN,C for personal identification and in documentation of services provided. Identification of educational degrees and specialty fields may be added.

Subd. 2. ADVANCED PRACTICE REGISTERED NURSE. An advanced practice registered nurse certified as a certified clinical nurse specialist, certified nurse-midwife, certified nurse practitioner, or certified registered nurse anesthetist shall use the appropriate designation: RN,CNS; RN,CNM; RN,CNP; or RN,CRNA for personal identification and in documentation of services provided. Identification of educational degrees and specialty fields may be added.

Sec. 5. Minnesota Statutes 1998, section 148.235, is amended to read:

148.235 PRESCRIBING DRUGS AND THERAPEUTIC DEVICES.

Subdivision 1. CERTIFIED NURSE-MIDWIVES. A registered nurse who has graduated from a program of study designed to prepare registered nurses for advanced practice as nurse-midwives and who is certified through the national professional nursing organization for nurse-midwives certified nurse-midwife may prescribe and administer drugs and therapeutic devices within practice as a certified nurse-midwife.

Subd. 2. CERTIFIED NURSE PRACTITIONERS. A registered certified nurse practitioner who (1) has graduated from a program of study designed to prepare regis-

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tered nurses for advanced practice as nurse practitioners, (2) is certified through a national professional nursing organization which certifies nurse practitioners and is included in the list of professional nursing organizations adopted by the board under section 62A.15, subdivision 3a, and (3) has a written agreement with a physician based on standards established by the Minnesota Nurses Association and the Minnesota Medical Association that defines the delegated responsibilities related to the prescription of drugs and therapeutic devices, may prescribe and administer drugs and therapeutic devices within the scope of the written agreement and within practice as a certified nurse practitioner. The written agreement required under this subdivision shall be based on standards established by the Minnesota Nurses Association and the Minnesota Medical Association as of January 1, 1996, unless both associations agree to revisions. The written agreement shall be maintained at the certified nurse practitioner's place of employment and does not need to be filed with the board of nursing.

Subd. 2a. CERTIFIED REGISTERED NURSE ANESTHETISTS. A certified registered nurse anesthetist who has a written agreement with a physician based on standards established by the Minnesota Nurses Association and the Minnesota Medical Association that defines the delegated responsibilities related to the prescription of drugs and therapeutic devices, may prescribe and administer drugs and therapeutic devices within the scope of the written agreement and within practice as a certified registered nurse anesthetist.

Subd. 3. DISPENSING AUTHORITY. An advanced practice nurse who is authorized under this section to prescribe drugs is authorized to dispense drugs subject to the same requirements established for the prescribing of drugs. This authority to dispense extends only to those drugs described in the written agreement entered into under this section. The authority to dispense includes, but is not limited to, the authority to receive and dispense sample drugs.

Subd. 4. CERTIFIED CLINICAL NURSE SPECIALISTS IN PSYCHIATRIC AND MENTAL HEALTH NURSING. A registered nurse certified clinical nurse specialist who (1) has a masters degree, (2) is certified through a national professional nursing organization which certifies clinical specialists in psychiatric and mental health nursing and is included in the list of professional nursing organizations adopted by the board under section 62A.15, subdivision 3a, (3) has successfully completed no less than 30 hours of formal study in the prescribing of psychotropic medications and medications to treat their side effects which included instruction in health assessment, psychotropic classifications, psychopharmacology, indications, dosages, contraindications, side effects, and evidence of application; and (4) (2) has a written agreement with a psychiatrist or other physician based on standards established by the Minnesota Nurses Association and the Minnesota Psychiatric Association that specifies and defines the delegated responsibilities related to the prescription of drugs in relationship to the diagnosis, may prescribe and administer drugs used to treat psychiatric and behavioral disorders and the side effects of those drugs within the scope of the written agreement and within practice as a certified clinical nurse specialist in psychiatric and mental health nursing. The written agreement required under this subdivision shall be based on standards established by the Minnesota Nurses Association and the Minnesota Psychiatric Association as of January 1, 1996, unless both associations agree to revisions. ~~The written agreement shall be main-~~

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tained at the certified clinical nurse specialist's place of employment and does not need to be filed with the board of nursing.

Nothing in this subdivision removes or limits the legal professional liability of the treating psychiatrist, certified clinical nurse specialist, mental health clinic or hospital for the prescription and administration of drugs by a certified clinical nurse specialist in accordance with this subdivision.

Subd. 4a. **OTHER CERTIFIED CLINICAL NURSE SPECIALISTS.** A certified clinical nurse specialist who: (1) has successfully completed no less than 30 hours of formal study from a college, university, or university health care institution, which included the following: instruction in health assessment, medication classifications, indications, dosages, contraindications, and side effects; supervised practice; and competence evaluation, including evidence of the application of knowledge pertaining to prescribing for and therapeutic management of the clinical type of patients in the certified clinical nurse specialist's practice; and (2) has a written agreement with a physician based on standards established by the Minnesota Nurses Association and the Minnesota Medical Association that defines the delegated responsibilities related to the prescription of drugs and therapeutic devices, may prescribe and administer drugs and therapeutic devices within the scope of the written agreement and within practice as a certified clinical nurse specialist.

Subd. 4b. **DISPENSING AUTHORITY.** An advanced practice registered nurse who is authorized under this section to prescribe drugs is authorized to dispense drugs subject to the same requirements established for the prescribing of drugs. This authority to dispense extends only to those drugs described in the written agreement entered into under this section. The authority to dispense includes, but is not limited to, the authority to receive and dispense sample drugs.

Subd. 5. **RULES.** (a) The board shall promulgate rules to provide for the following:

(1) a system of identifying advanced practice nurses eligible to prescribe drugs as authorized under this section;

(2) a system of transmitting to pharmacists the identity of advanced practice nurses eligible to prescribe drugs; and

(3) a fee to nurse practitioners and certified clinical specialists in psychiatric and mental health nursing who seek prescribing authority.

(b) ~~The repeal of subdivision 2, paragraph (b), does not automatically repeal rules adopted under that paragraph.~~

Subd. 6. **STANDARDS FOR WRITTEN AGREEMENTS; REVIEW AND FILING.** Written agreements required by subdivisions 2 and 4 under this section shall be maintained at the primary practice site of the nurse practitioner, clinical specialist in psychiatric and mental health nursing, advanced practice registered nurse and of the collaborating physician. The written agreement does not need to be filed with the board of nursing, provided that the information required to be filed with the board, either on initial application for prescribing privileges or on renewal of privileges, has been submitted or the board of medical practice.

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Subd. 7. FEDERAL REGISTRATION. Any advanced practice registered nurse who applies to the federal Drug Enforcement Administration for a registration number shall submit to the board:

- (1) proof that requirements of this section are met; and
- (2) a processing fee of \$50.

Sec. 6. Minnesota Statutes 1998, section 148.261, subdivision 1, is amended to read:

Subdivision 1. **GROUND S LISTED.** The board may deny, revoke, suspend, limit, or condition the license and registration of any person to practice professional, advanced practice registered, or practical nursing under sections 148.171 to 148.285, or to otherwise discipline a licensee or applicant as described in section 148.262. The following are grounds for disciplinary action:

(1) Failure to demonstrate the qualifications or satisfy the requirements for a license contained in sections 148.171 to 148.285 or rules of the board. In the case of a person applying for a license, the burden of proof is upon the applicant to demonstrate the qualifications or satisfaction of the requirements.

(2) Employing fraud or deceit in procuring or attempting to procure a permit, license, or registration certificate to practice professional or practical nursing or attempting to subvert the licensing examination process. Conduct that subverts or attempts to subvert the licensing examination process includes, but is not limited to:

(i) conduct that violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination;

(ii) conduct that violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; or

(iii) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf.

(3) Conviction during the previous five years of a felony or gross misdemeanor reasonably related to the practice of professional, advanced practice registered, or practical nursing. Conviction as used in this subdivision includes a conviction of an offense that if committed in this state would be considered a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered.

(4) Revocation, suspension, limitation, conditioning, or other disciplinary action against the person's professional or practical nursing license or advanced practice registered nursing credential, in another state, territory, or country; failure to report to the board that charges regarding the person's nursing license or other credential are pending in another state, territory, or country; or having been refused a license or other credential by another state, territory, or country.

(5) Failure to or inability to perform professional or practical nursing as defined in section 148.171, subdivision 2, paragraph (3) or ~~(5)~~ (15), with reasonable skill and safety,

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including failure of a registered nurse to supervise or a licensed practical nurse to monitor adequately the performance of acts by any person working at the nurse's direction.

(6) Engaging in unprofessional conduct, including, but not limited to, a departure from or failure to conform to board rules of professional or practical nursing practice that interpret the statutory definition of professional or practical nursing as well as provide criteria for violations of the statutes, or, if no rule exists, to the minimal standards of acceptable and prevailing professional or practical nursing practice, or any nursing practice that may create unnecessary danger to a patient's life, health, or safety. Actual injury to a patient need not be established under this clause.

(7) Failure of an advanced practice registered nurse to practice with reasonable skill and safety or departure from or failure to conform to standards of acceptable and prevailing advanced practice registered nursing.

(8) Delegating or accepting the delegation of a nursing function or a prescribed health care function when the delegation or acceptance could reasonably be expected to result in unsafe or ineffective patient care.

(9) Actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of any mental or physical condition.

(10) Adjudication as mentally incompetent, mentally ill, a chemically dependent person, or a person dangerous to the public by a court of competent jurisdiction, within or without this state.

(11) Engaging in any unethical conduct, including, but not limited to, conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient. Actual injury need not be established under this clause.

(12) Engaging in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient, or engaging in sexual exploitation of a patient or former patient.

(13) Obtaining money, property, or services from a patient, other than reasonable fees for services provided to the patient, through the use of undue influence, harassment, duress, deception, or fraud.

(14) Revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law.

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

(16) Improper management of patient records, including failure to maintain adequate patient records, to comply with a patient's request made pursuant to section 144.335, or to furnish a patient record or report required by law.

(17) Knowingly aiding, assisting, advising, or allowing an unlicensed person to engage in the unlawful practice of professional, advanced practice registered, or practical nursing.

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~~(17)~~ (18) Violating a rule adopted by the board, an order of the board, or a state or federal law relating to the practice of professional, advanced practice registered, or practical nursing, or a state or federal narcotics or controlled substance law.

(18) (19) Knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo.

(19) (20) Aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

~~(20)~~ (21) Practicing outside the scope of practice authorized by section 148.171, subdivision 2, paragraph (3) ~~or~~, (5), (6), (9), (10), (12), or (15).

(22) Practicing outside the specific field of nursing practice for which an advanced practice registered nurse is certified unless the practice is authorized under section 148.284.

~~(21)~~ (23) Making a false statement or knowingly providing false information to the board, failing to make reports as required by section 148.263, or failing to cooperate with an investigation of the board as required by section 148.265.

~~(22)~~ (24) Engaging in false, fraudulent, deceptive, or misleading advertising.

(25) Failure to inform the board of the person's certification status as a nurse anesthetist, nurse-midwife, nurse practitioner, or clinical nurse specialist.

(26) Engaging in clinical nurse specialist practice, nurse-midwife practice, nurse practitioner practice, or registered nurse anesthetist practice without current certification by a national nurse certification organization acceptable to the board, except during the period between completion of an advanced practice registered nurse course of study and certification, not to exceed six months or as authorized by the board.

(27) Engaging in conduct that is prohibited under section 145.412.

Sec. 7. Minnesota Statutes 1998, section 148.261, subdivision 5, is amended to read:

Subd. 5. **EXAMINATION; ACCESS TO MEDICAL DATA.** The board may take the following actions if it has probable cause to believe that grounds for disciplinary action exist under subdivision 1, clause ~~(8)~~ (9) or ~~(9)~~ (10):

(a) It may direct the applicant or nurse to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this subdivision, when a nurse

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licensed under sections 148.171 to 148.285 is directed in writing by the board to submit to a mental or physical examination or chemical dependency evaluation, that person is considered to have consented and to have waived all objections to admissibility on the grounds of privilege. Failure of the applicant or nurse to submit to an examination when directed constitutes an admission of the allegations against the applicant or nurse, unless the failure was due to circumstances beyond the person's control, and the board may enter a default and final order without taking testimony or allowing evidence to be presented. A nurse affected under this paragraph shall, at reasonable intervals, be given an opportunity to demonstrate that the competent practice of professional, advanced practice registered, or practical nursing can be resumed with reasonable skill and safety to patients. Neither the record of proceedings nor the orders entered by the board in a proceeding under this paragraph, may be used against a nurse in any other proceeding.

(b) It may, notwithstanding sections 13.42, 144.651, 595.02, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a registered nurse, advanced practice registered nurse, licensed practical nurse, or applicant for a license without that person's consent. The medical data may be requested from a provider, as defined in section 144.335, subdivision 1, paragraph (b), an insurance company, or a government agency, including the department of human services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is classified as private data on individuals as defined in section 13.02.

Sec. 8. Minnesota Statutes 1998, section 148.262, subdivision 1, is amended to read:

Subdivision 1. **FORMS OF DISCIPLINARY ACTION.** When the board finds that grounds for disciplinary action exist under section 148.261, subdivision 1, it may take one or more of the following actions:

- (1) deny the license, registration, or registration renewal;
- (2) revoke the license;
- (3) suspend the license;
- (4) impose limitations on the nurse's practice of professional, advanced practice registered, or practical nursing including, but not limited to, limitation of scope of practice or the requirement of practice under supervision;
- (5) impose conditions on the retention of the license including, but not limited to, the imposition of retraining or rehabilitation requirements or the conditioning of continued practice on demonstration of knowledge or skills by appropriate examination, monitoring, or other review;
- (6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed as to deprive the nurse of any economic advantage gained by reason of the violation charged, to reimburse the board for the cost of counsel, investigation, and proceeding, and to discourage repeated violations;
- (7) order the nurse to provide unremunerated service;

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- (8) censure or reprimand the nurse; or
- (9) any other action justified by the facts in the case.

Sec. 9. Minnesota Statutes 1998, section 148.263, subdivision 3, is amended to read:

Subd. 3. **LICENSED PROFESSIONALS.** A person licensed by a health-related licensing board as defined in section 214.01, subdivision 2, shall report to the board personal knowledge of any conduct the person reasonably believes constitutes grounds for disciplinary action under sections 148.171 to 148.285 by any nurse including conduct indicating that the nurse may be incompetent, may have engaged in unprofessional or unethical conduct, or may be mentally or physically unable to engage safely in the practice of professional, advanced practice registered, or practical nursing.

Sec. 10. Minnesota Statutes 1998, section 148.263, subdivision 4, is amended to read:

Subd. 4. **INSURERS.** Four times each year, by the first day of February, May, August, and November, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to registered nurses, advanced practice registered nurses, or licensed practical nurses shall submit to the board a report concerning any nurse against whom a malpractice award has been made or who has been a party to a settlement. The report must contain at least the following information:

- (1) the total number of settlements or awards;
- (2) the date settlement or award was made;
- (3) the allegations contained in the claim or complaint leading to the settlement or award;
- (4) the dollar amount of each malpractice settlement or award and whether that amount was paid as a result of a settlement or of an award; and
- (5) the name and address of the practice of the nurse against whom an award was made or with whom a settlement was made.

An insurer shall also report to the board any information it possesses that tends to substantiate a charge that a nurse may have engaged in conduct violating sections 148.171 to 148.285.

Sec. 11. Minnesota Statutes 1998, section 148.271, is amended to read:

148.271 **EXEMPTIONS.**

The provisions of sections 148.171 to 148.285 shall not prohibit:

- (1) The furnishing of nursing assistance in an emergency.
- (2) The practice of professional or practical nursing by any legally qualified registered or licensed practical nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of official duties.
- (3) The practice of any profession or occupation licensed by the state, other than professional or practical nursing, by any person duly licensed to practice the profession

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or occupation, or the performance by a person of any acts properly coming within the scope of the profession, occupation, or license.

(4) The provision of a nursing or nursing-related service by a nursing assistant who has been delegated the specific function and is supervised by a registered nurse or monitored by a licensed practical nurse.

(5) The care of the sick with or without compensation when done in a nursing home covered by the provisions of section 144A.09, subdivision 1.

(6) Professional nursing practice or advanced practice registered nursing practice by a registered nurse or practical nursing practice by a licensed practical nurse licensed in another state or territory who is in Minnesota as a student enrolled in a formal, structured course of study, such as a course leading to a higher degree, certification in a nursing specialty, or to enhance skills in a clinical field, while the student is practicing in the course.

(7) Professional or practical nursing practice by a student practicing under the supervision of an instructor while the student is enrolled in a nursing program approved by the board under section 148.251.

(8) Advanced practice registered nursing as defined in section 148.171, subdivision 2, paragraphs (5), (6), (9), (10), and (12), by a registered nurse who is licensed and currently registered in Minnesota or another United States jurisdiction and who is enrolled as a student in a formal education program leading to eligibility for certification as an advanced practice registered nurse; or by a registered nurse licensed and currently registered in Minnesota who has completed an advanced practice registered nurse course of study and is awaiting certification, the period not to exceed six months.

Sec. 12. Minnesota Statutes 1998, section 148.281, subdivision 1, is amended to read:

Subdivision 1. **VIOLATIONS DESCRIBED.** It shall be unlawful for any person, corporation, firm, or association, to:

(1) sell or fraudulently obtain or furnish any nursing diploma, license or record, or aid or abet therein;

(2) practice professional or practical nursing ~~or~~ practice as a public health nurse, or practice as a certified clinical nurse specialist, certified nurse-midwife, certified nurse practitioner, or certified registered nurse anesthetist under cover of any diploma, permit, license, registration certificate, advanced practice credential, or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(3) practice professional or practical nursing unless the person has been issued a temporary permit under the provisions of section 148.212 or is duly licensed and currently registered to do so under the provisions of sections 148.171 to 148.285;

(4) use any abbreviation or other designation tending to imply licensure as a registered nurse or licensed practical nurse unless duly licensed and currently registered so to practice professional or practical nursing under the provisions of sections 148.171 to 148.285 except as authorized by the board by rule;

(5) use any title, abbreviation, or other designation tending to imply certification as a certified registered nurse as defined in section 148.171, subdivision 2, paragraph (13), unless duly certified by a national nurse certification organization;

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(6) use any abbreviation or other designation tending to imply registration as a public health nurse unless duly registered by the board;

~~(6)~~ (7) practice professional, advanced practice registered, or practical nursing in a manner prohibited by the board in any limitation of a license or registration issued under the provisions of sections 148.171 to 148.285;

~~(7)~~ (8) practice professional, advanced practice registered, or practical nursing during the time a license or current registration issued under the provisions of sections 148.171 to 148.285 shall be suspended or revoked;

~~(8)~~ (9) conduct a nursing program for the education of persons to become registered nurses or licensed practical nurses unless the program has been approved by the board; and

~~(9)~~ (10) knowingly employ persons in the practice of professional or practical nursing who have not been issued a current permit, license, or registration certificate to practice as a nurse in this state; and

~~(11) knowingly employ a person in advanced practice registered nursing unless the person meets the standards and practices of sections 148.171 to 148.285.~~

Sec. 13. Minnesota Statutes 1998, section 148.283, is amended to read:

148.283 UNAUTHORIZED PRACTICE OF PROFESSIONAL, ADVANCED PRACTICE REGISTERED, AND PRACTICAL NURSING.

The practice of professional, advanced practice registered, or practical nursing by any person who has not been licensed to practice professional or practical nursing under the provisions of sections 148.171 to 148.285, or whose license has been suspended or revoked, or whose registration or national credential has expired, is hereby declared to be inimical to the public health and welfare and to constitute a public nuisance. Upon complaint being made thereof by the board, or any prosecuting officer, and upon a proper showing of the facts, the district court of the county where such practice occurred may enjoin such acts and practice. Such injunction proceeding shall be in addition to, and not in lieu of, all other penalties and remedies provided by law.

Sec. 14. [148.284] CERTIFICATION OF ADVANCED PRACTICE REGISTERED NURSES.

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

(b) Paragraph (a) does not apply to an advanced practice registered nurse who is within six months after completion of an advanced practice registered nurse course of study and is awaiting certification.

(c) An advanced practice registered nurse who has completed a formal course of study as an advanced practice registered nurse and has been certified by a national nurse certification organization prior to January 1, 1999, may continue to practice in the field of nursing in which the advanced practice registered nurse is practicing as of July 1, 1999,

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regardless of the type of certification held if the advanced practice registered nurse is not eligible for the proper certification.

Sec. 15. Minnesota Statutes 1998, section 245.462, subdivision 18, is amended to read:

Subd. 18. **MENTAL HEALTH PROFESSIONAL.** "Mental health professional" means a person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:

(1) in psychiatric nursing: a registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in adult psychiatric and mental health nursing by ~~the American nurses association~~ a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) in clinical social work: a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in psychology: a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental illness;

(4) in psychiatry: a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry;

(5) in marriage and family therapy: the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39 with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness; or

(6) in allied fields: a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Sec. 16. Minnesota Statutes 1998, section 245.4871, subdivision 27, is amended to read:

Subd. 27. **MENTAL HEALTH PROFESSIONAL.** "Mental health professional" means a person providing clinical services in the diagnosis and treatment of children's emotional disorders. A mental health professional must have training and experience in working with children consistent with the age group to which the mental health professional is assigned. A mental health professional must be qualified in at least one of the following ways:

(1) in psychiatric nursing, the mental health professional must be a registered nurse who is licensed under sections 148.171 to 148.285 and who is certified as a clinical specialist in child and adolescent psychiatric or mental health nursing by ~~the American~~

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

nurses association a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) in clinical social work, the mental health professional must be a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders;

(3) in psychology, the mental health professional must be a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental disorders;

(4) in psychiatry, the mental health professional must be a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry;

(5) in marriage and family therapy, the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39 with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders or emotional disturbances; or

(6) in allied fields, the mental health professional must be a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of emotional disturbances.

Sec. 17. **TRANSITION.**

The board of nursing may, for the purpose of obtaining the proper certification, grant an extension of not more than three years to a registered nurse who on July 1, 1999, has completed a formal course of study as an advanced practice registered nurse and is practicing as an advanced practice registered nurse, but who is either practicing in a field of nursing in which a national nurse certification does not yet exist or is eligible for the proper certification but has not yet obtained it.

Sec. 18. **REVISOR INSTRUCTION.**

The revisor shall alphabetize and place into subdivisions the definitions in Minnesota Statutes, section 148.171, subdivision 2.

Sec. 19. **REPEALER.**

Minnesota Rules, chapter 6340, is repealed.

Sec. 20. **EFFECTIVE DATE.**

Sections 1 to 17 are effective July 1, 1999.

Presented to the governor May 13, 1999

Signed by the governor May 17, 1999, 4:39 p.m.

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