

including, to the extent possible, the factors involved in cases in which these laws could have been but were not applied; and recommendations, if any, to improve implementation of these laws.

Sec. 3. **EFFECTIVE DATE.**

Sections 1 and 2 are effective the day after final enactment.

Presented to the governor April 7, 2000

Signed by the governor April 11, 2000, 10:32 a.m.

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**CHAPTER 360—S.F.No. 2789**

*An act relating to counties; authorizing certain compensation to coroner; deputy coroner; coroner's investigator; or medical examiner; amending Minnesota Statutes 1998, section 382.18.*

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

Section 1. Minnesota Statutes 1998, section 382.18, is amended to read:

**382.18 OFFICIALS NOT TO BE INTERESTED IN CONTRACTS.**

No county official, or deputy or clerk or employee of such official; and no commissioner for tax-forfeited lands or commissioner's assistants, shall be directly or indirectly interested in any contract, work, labor, or business to which the county is a party or in which it is or may be interested or in the furnishing of any article to, or the purchase or sale of any property, real or personal, by, the county, or of which the consideration, price, or expense is payable from the county treasury. Nothing in this section shall prevent a person from receiving reimbursement from a county for providing licensed or tribally approved family foster care. This section does not prevent a coroner, deputy coroner, coroner's investigator, or medical examiner from receiving compensation for professional services from a professional corporation or medical provider under contract to provide coroner services to a county. Any violation of the provisions of this section shall be a gross misdemeanor.

Presented to the governor April 7, 2000

Signed by the governor April 11, 2000, 10:34 a.m.

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**CHAPTER 361—S.F.No. 1038**

*An act relating to health occupations; establishing licensing requirements for occupational therapists and occupational therapy assistants; proposing coding for new law in Minnesota Statutes, chapter 148; repealing Minnesota Rules, parts 4666.0010; 4666.0020; 4666.0030; 4666.0040; 4666.0050; 4666.0060; 4666.0070; 4666.0080; 4666.0090; 4666.0100; 4666.0200;*

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4666.0300; 4666.0400; 4666.0500; 4666.0600; 4666.0700; 4666.0800; 4666.0900; 4666.1000; 4666.1100; 4666.1200; 4666.1300; and 4666.1400.

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

**Section 1. [148.6401] SCOPE.**

Sections 148.6401 to 148.6450 apply to persons who are applicants for licensure, who are licensed, who use protected titles, or who represent that they are licensed as occupational therapists or occupational therapy assistants.

**Sec. 2. [148.6402] DEFINITIONS.**

Subdivision 1. SCOPE. For the purpose of sections 148.6401 to 148.6450, the following terms have the meaning given them.

Subd. 2. ADVISORY COUNCIL. "Advisory council" means the occupational therapy practitioners advisory council in section 148.6450.

Subd. 3. BIENNIAL LICENSURE PERIOD. "Biennial licensure period" means the two-year period for which licensure is effective.

Subd. 4. COMMISSIONER. "Commissioner" means the commissioner of health or a designee.

Subd. 5. CONTACT HOUR. "Contact hour" means an instructional session of 60 consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and social activities.

Subd. 6. CREDENTIAL. "Credential" means a license, permit, certification, registration, or other evidence of qualification or authorization to engage in the practice of occupational therapy issued by any authority.

Subd. 7. CREDENTIALING EXAMINATION FOR OCCUPATIONAL THERAPIST. "Credentialing examination for occupational therapist" means the examination sponsored by the National Board for Certification in Occupational Therapy for credentialing as an occupational therapist, registered.

Subd. 8. CREDENTIALING EXAMINATION FOR OCCUPATIONAL THERAPY ASSISTANT. "Credentialing examination for occupational therapy assistant" means the examination sponsored by the National Board for Certification in Occupational Therapy for credentialing as a certified occupational therapy assistant.

Subd. 9. DELEGATE. "Delegate" means to transfer to an occupational therapy assistant the authority to perform selected portions of an occupational therapy evaluation or treatment plan for a specific patient.

Subd. 10. DIRECT SUPERVISION. "Direct supervision" of an occupational therapy assistant using physical agent modalities means that the occupational therapist has evaluated the patient and determined a need for use of a particular physical agent modality in the occupational therapy treatment plan, has determined the appropriate physical agent modality application procedure, and is available for in-person intervention while treatment is provided.

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Subd. 11. ELECTRICAL STIMULATION DEVICE. “Electrical stimulation device” means any device which generates pulsed, direct, or alternating electrical current for the purposes of rehabilitation of neuromusculoskeletal dysfunction.

Subd. 12. ELECTROTHERAPY. “Electrotherapy” means the use of electrical stimulation devices for a therapeutic purpose.

Subd. 13. LICENSED HEALTH CARE PROFESSIONAL. “Licensed health care professional” means a person licensed in good standing in Minnesota to practice medicine, osteopathy, chiropractic, podiatry, or dentistry.

Subd. 14. OCCUPATIONAL THERAPIST. Except as provided in section 148.6408, subdivision 3, paragraph (b), “occupational therapist” means an individual who meets the qualifications in sections 148.6401 to 148.6450 and is licensed by the commissioner. For purposes of section 148.6408, subdivision 3, paragraph (b), occupational therapist means the employment title of a natural person before June 17, 1996.

Subd. 15. OCCUPATIONAL THERAPY. “Occupational therapy” means the use of purposeful activity to maximize the independence and the maintenance of health of an individual who is limited by a physical injury or illness, a cognitive impairment, a psychosocial dysfunction, a mental illness, a developmental or learning disability, or an adverse environmental condition. The practice encompasses evaluation, assessment, treatment, and consultation. Occupational therapy services may be provided individually, in groups, or through social systems. Occupational therapy includes those services described in section 148.6404.

Subd. 16. OCCUPATIONAL THERAPY ASSISTANT. Except as provided in section 148.6410, subdivision 3, “occupational therapy assistant” means an individual who meets the qualifications for an occupational therapy assistant in sections 148.6401 to 148.6450 and is licensed by the commissioner. For purposes of section 148.6410, subdivision 3, occupational therapy assistant means the employment title of a natural person before June 17, 1996.

Subd. 17. PHYSICAL AGENT MODALITIES. “Physical agent modalities” means modalities that use the properties of light, water, temperature, sound, or electricity to produce a response in soft tissue. The physical agent modalities referred to in sections 148.6404 and 148.6440 are superficial physical agent modalities, electrical stimulation devices, and ultrasound.

Subd. 18. PROVISIONAL LICENSURE. “Provisional licensure” means a method of licensure described in section 148.6408, subdivision 3, for occupational therapists and section 148.6410, subdivision 3, for occupational therapy assistants, in effect for a limited time, by which an individual who has not completed an accredited or approved education program but who meets the employment requirements specified in those subdivisions may qualify for licensure pending successful completion of the credentialing examination.

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Subd. 19. LICENSE OR LICENSED. "License" or "licensed" means the act or status of a natural person who meets the requirements of sections 148.6401 to 148.6450.

Subd. 20. LICENSEE. "Licensee" means a person who meets the requirements of sections 148.6401 to 148.6450.

Subd. 21. LICENSURE BY EQUIVALENCY. "Licensure by equivalency" means a method of licensure described in section 148.6412 by which an individual who possesses a credential from the National Board for Certification in Occupational Therapy may qualify for licensure.

Subd. 22. LICENSURE BY RECIPROCITY. "Licensure by reciprocity" means a method of licensure described in section 148.6415 by which an individual who possesses a credential from another jurisdiction may qualify for Minnesota licensure.

Subd. 23. SERVICE COMPETENCY. "Service competency" of an occupational therapy assistant in performing evaluation tasks means the ability of an occupational therapy assistant to obtain the same information as the supervising occupational therapist when evaluating a client's function.

Service competency of an occupational therapy assistant in performing treatment procedures means the ability of an occupational therapy assistant to perform treatment procedures in a manner such that the outcome, documentation, and follow-up are equivalent to that which would have been achieved had the supervising occupational therapist performed the treatment procedure.

Service competency of an occupational therapist means the ability of an occupational therapist to consistently perform an assessment task or intervention procedure with the level of skill recognized as satisfactory within the appropriate acceptable prevailing practice of occupational therapy.

Subd. 24. SUPERFICIAL PHYSICAL AGENT MODALITY. "Superficial physical agent modality" means a therapeutic medium which produces temperature changes in skin and underlying subcutaneous tissues within a depth of zero to three centimeters for the purposes of rehabilitation of neuromusculoskeletal dysfunction. Superficial physical agent modalities may include, but are not limited to: paraffin baths, hot packs, cold packs, fluidotherapy, contrast baths, and whirlpool baths. Superficial physical agent modalities do not include the use of electrical stimulation devices, ultrasound, or quick icing.

Subd. 25. TEMPORARY LICENSURE. "Temporary licensure" means a method of licensure described in section 148.6418, by which an individual who (1) has completed an approved or accredited education program but has not met the examination requirement; or (2) possesses a credential from another jurisdiction or the National Board for Certification in Occupational Therapy but who has not submitted the documentation required by section 148.6420, subdivisions 3 and 4, may qualify for Minnesota licensure for a limited time period.

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Subd. 26. ULTRASOUND DEVICE. "Ultrasound device" means a device intended to generate and emit high frequency acoustic vibrational energy for the purposes of rehabilitation of neuromusculoskeletal dysfunction.

**Sec. 3. [148.6403] LICENSURE; PROTECTED TITLES AND RESTRICTIONS ON USE; EXEMPT PERSONS; SANCTIONS:**

Subdivision 1. UNLICENSED PRACTICE PROHIBITED. No person shall engage in the practice of occupational therapy unless the person is licensed as an occupational therapist or an occupational therapist assistant in accordance with sections 148.6401 to 148.6450.

Subd. 2. PROTECTED TITLES AND RESTRICTIONS ON USE. Use of the phrase "occupational therapy" or "occupational therapist," or the initials "O.T." alone or in combination with any other words or initials to form an occupational title, or to indicate or imply that the person is licensed by the state as an occupational therapist or occupational therapy assistant, is prohibited unless that person is licensed under sections 148.6401 to 148.6450.

Subd. 3. USE OF "MINNESOTA LICENSED." Use of the term "Minnesota licensed" in conjunction with titles protected under this section by any person is prohibited unless that person is licensed under sections 148.6401 to 148.6450.

Subd. 4. PERSONS LICENSED OR CERTIFIED IN OTHER STATES. A person who is licensed in Minnesota and licensed or certified in another state may use the designation "licensed" or "certified" with a protected title only if the state of licensure or certification is clearly indicated.

Subd. 5. EXEMPT PERSONS. This section does not apply to:

(1) a person employed as an occupational therapist or occupational therapy assistant by the government of the United States or any agency of it. However, use of the protected titles under those circumstances is allowed only in connection with performance of official duties for the federal government;

(2) a student participating in supervised fieldwork or supervised coursework that is necessary to meet the requirements of section 148.6408, subdivision 1, or 148.6410, subdivision 1, if the person is designated by a title which clearly indicates the person's status as a student trainee. Any use of the protected titles under these circumstances is allowed only while the person is performing the duties of the supervised fieldwork or supervised coursework; or

(3) a person performing occupational therapy services in the state, if the services are performed no more than 30 days in a calendar year in association with an occupational therapist licensed under sections 148.6401 to 148.6450, and

(i) the person is credentialed under the law of another state which has credentialing requirements at least as stringent as the requirements of sections 148.6401 to 148.6450; or

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(ii) the person meets the requirements for certification as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA), established by the National Board for Certification in Occupational Therapy.

Subd. 6. **SANCTIONS.** A person who practices occupational therapy or holds out as an occupational therapist or occupational therapy assistant by or through the use of any title described in subdivision 2 without prior licensure according to sections 148.6401 to 148.6450 is subject to sanctions or action against continuing the activity according to section 148.6448, chapter 214, or other statutory authority.

Subd. 7. **EXEMPTION.** Nothing in sections 148.6401 to 148.6450 shall prohibit the practice of any profession or occupation licensed or registered by the state by any person duly licensed or registered to practice the profession or occupation or to perform any act that falls within the scope of practice of the profession or occupation.

#### Sec. 4. **[148.6404] SCOPE OF PRACTICE.**

The practice of occupational therapy by an occupational therapist or occupational therapy assistant includes, but is not limited to, intervention directed toward:

(1) assessment and evaluation, including the use of skilled observation or the administration and interpretation of standardized or nonstandardized tests and measurements, to identify areas for occupational therapy services;

(2) providing for the development of sensory integrative, neuromuscular, or motor components of performance;

(3) providing for the development of emotional, motivational, cognitive, or psychosocial components of performance;

(4) developing daily living skills;

(5) developing feeding and swallowing skills;

(6) developing play skills and leisure capacities;

(7) enhancing educational performance skills;

(8) enhancing functional performance and work readiness through exercise, range of motion, and use of ergonomic principles;

(9) designing, fabricating, or applying rehabilitative technology, such as selected orthotic and prosthetic devices, and providing training in the functional use of these devices;

(10) designing, fabricating, or adapting assistive technology and providing training in the functional use of assistive devices;

(11) adapting environments using assistive technology such as environmental controls, wheelchair modifications, and positioning;

(12) employing physical agent modalities, in preparation for or as an adjunct to purposeful activity, within the same treatment session or to meet established functional occupational therapy goals, consistent with the requirements of section 148.6440; and

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(13) promoting health and wellness.

**Sec. 5. [148.6405] LICENSURE REQUIREMENTS; PROCEDURES AND QUALIFICATIONS.**

(a) An applicant for licensure must comply with the general licensure procedures in section 148.6420. To qualify for licensure, an applicant must satisfy one of the requirements in paragraphs (b) to (f) and not be subject to denial of licensure under section 148.6448.

(b) A person who applies for licensure as an occupational therapist and who has not been credentialed by the National Board for Certification in Occupational Therapy or another jurisdiction must meet the requirements in section 148.6408.

(c) A person who applies for licensure as an occupational therapy assistant and who has not been credentialed by the National Board for Certification in Occupational Therapy or another jurisdiction must meet the requirements in section 148.6410.

(d) A person who is certified by the National Board for Certification in Occupational Therapy may apply for licensure by equivalency and must meet the requirements in section 148.6412.

(e) A person who is credentialed in another jurisdiction may apply for licensure by reciprocity and must meet the requirements in section 148.6415.

(f) A person who applies for temporary licensure must meet the requirements in section 148.6418.

**Sec. 6. [148.6408] QUALIFICATIONS FOR OCCUPATIONAL THERAPIST.**

**Subdivision 1. EDUCATION REQUIRED.** (a) An applicant who has received professional education in the United States or its possessions or territories must successfully complete all academic and fieldwork requirements of an educational program for occupational therapists approved or accredited by the Accreditation Council for Occupational Therapy Education.

(b) An applicant who has received professional education outside the United States or its possessions or territories must successfully complete all academic and fieldwork requirements of an educational program for occupational therapists approved by a member association of the World Federation of Occupational Therapists.

**Subd. 2. QUALIFYING EXAMINATION SCORE REQUIRED.** (a) An applicant must achieve a qualifying score on the credentialing examination for occupational therapist.

(b) The commissioner shall determine the qualifying score for the credentialing examination for occupational therapist. In determining the qualifying score, the commissioner shall consider the cut score recommended by the National Board for Certification in Occupational Therapy, or other national credentialing organization approved by the commissioner, using the modified Angoff method for determining cut

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score or another method for determining cut score that is recognized as appropriate and acceptable by industry standards.

(c) The applicant is responsible for:

(1) making arrangements to take the credentialing examination for occupational therapist;

(2) bearing all expenses associated with taking the examination; and

(3) having the examination scores sent directly to the commissioner from the testing service that administers the examination.

**Sec. 7. [148.6410] QUALIFICATIONS FOR OCCUPATIONAL THERAPY ASSISTANTS.**

Subdivision 1. EDUCATION REQUIRED. An applicant must successfully complete all academic and fieldwork requirements of an occupational therapy assistant program approved or accredited by the Accreditation Council for Occupational Therapy Education.

Subd. 2. QUALIFYING EXAMINATION SCORE REQUIRED. (a) An applicant for licensure must achieve a qualifying score on the credentialing examination for occupational therapy assistants.

(b) The commissioner shall determine the qualifying score for the credentialing examination for occupational therapy assistants. In determining the qualifying score, the commissioner shall consider the cut score recommended by the National Board for Certification in Occupational Therapy, or other national credentialing organization approved by the commissioner, using the modified Angoff method for determining cut score or another method for determining cut score that is recognized as appropriate and acceptable by industry standards.

(c) The applicant is responsible for:

(1) making all arrangements to take the credentialing examination for occupational therapy assistants;

(2) bearing all expense associated with taking the examination; and

(3) having the examination scores sent directly to the commissioner from the testing service that administers the examination.

**Sec. 8. [148.6412] LICENSURE BY EQUIVALENCY.**

Subdivision 1. PERSONS CERTIFIED BY NATIONAL BOARD FOR CERTIFICATION IN OCCUPATIONAL THERAPY BEFORE JUNE 17, 1996. Persons certified by the National Board for Certification in Occupational Therapy as an occupational therapist before June 17, 1996, may apply for licensure by equivalency for occupational therapist. Persons certified by the National Board for Certification in Occupational Therapy as an occupational therapy assistant before June 17, 1996, may apply for licensure by equivalency for occupational therapy assistant.

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**Subd. 2. PERSONS CERTIFIED BY NATIONAL BOARD FOR CERTIFICATION IN OCCUPATIONAL THERAPY AFTER JUNE 17, 1996.** The commissioner may license any person certified by the National Board for Certification in Occupational Therapy as an occupational therapist after June 17, 1996, if the commissioner determines the requirements for certification are equivalent to or exceed the requirements for licensure as an occupational therapist under section 148.6408. The commissioner may license any person certified by the National Board for Certification in Occupational Therapy as an occupational therapy assistant after June 17, 1996, if the commissioner determines the requirements for certification are equivalent to or exceed the requirements for licensure as an occupational therapy assistant under section 148.6410. Nothing in this section limits the commissioner's authority to deny licensure based upon the grounds for discipline in sections 148.6401 to 148.6450.

**Subd. 3. APPLICATION PROCEDURES.** Applicants for licensure by equivalence must provide:

(1) the application materials as required by section 148.6420, subdivisions 1, 3, and 4; and

(2) the fees required by section 148.6445.

**Sec. 9. [148.6415] LICENSURE BY RECIPROCITY.**

A person who holds a current credential as an occupational therapist in the District of Columbia or a state or territory of the United States whose standards for credentialing are determined by the commissioner to be equivalent to or exceed the requirements for licensure under section 148.6408 may be eligible for licensure by reciprocity as an occupational therapist. A person who holds a current credential as an occupational therapy assistant in the District of Columbia or a state or territory of the United States whose standards for credentialing are determined by the commissioner to be equivalent to or exceed the requirements for licensure under section 148.6410 may be eligible for licensure by reciprocity as an occupational therapy assistant. Nothing in this section limits the commissioner's authority to deny licensure based upon the grounds for discipline in sections 148.6401 to 148.6450. An applicant must provide:

(1) the application materials as required by section 148.6420, subdivisions 1, 3, and 4;

(2) the fees required by section 148.6445;

(3) a copy of a current and unrestricted credential for the practice of occupational therapy as either an occupational therapist or occupational therapy assistant;

(4) a letter from the jurisdiction that issued the credential describing the applicant's qualifications that entitled the applicant to receive the credential; and

(5) other information necessary to determine whether the credentialing standards of the jurisdiction that issued the credential are equivalent to or exceed the requirements for licensure under sections 148.6401 to 148.6450.

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**Sec. 10. [148.6418] TEMPORARY LICENSURE.**

Subdivision 1. APPLICATION. The commissioner shall issue temporary licensure as an occupational therapist or occupational therapy assistant to applicants who have applied for licensure under section 148.6408, subdivisions 1 and 2; 148.6410, subdivisions 1 and 2; 148.6412; or 148.6415 and who are not the subject of a disciplinary action or past disciplinary action, nor disqualified on the basis of items listed in section 148.6448, subdivision 1.

Subd. 2. PROCEDURES. To be eligible for temporary licensure, an applicant must submit the application materials required by section 148.6420, subdivision 1, the fees required by section 148.6445, and one of the following:

(1) evidence of successful completion of the requirements in section 148.6408, subdivision 1, or 148.6410, subdivision 1;

(2) a copy of a current and unrestricted credential for the practice of occupational therapy as either an occupational therapist or occupational therapy assistant in another jurisdiction; or

(3) a copy of a current and unrestricted certificate from the National Board for Certification in Occupational Therapy stating that the applicant is certified as an occupational therapist or occupational therapy assistant.

Subd. 3. ADDITIONAL DOCUMENTATION. Persons who are credentialed by the National Board for Certification in Occupational Therapy or another jurisdiction must provide an affidavit with the application for temporary licensure stating that they are not the subject of a pending investigation or disciplinary action and have not been the subject of a disciplinary action in the past.

Subd. 4. SUPERVISION REQUIRED. An applicant who has graduated from an accredited occupational therapy program, as required by section 148.6408, subdivision 1, or 148.6410, subdivision 1, and who has not passed the examination required by section 148.6408, subdivision 2, or 148.6410, subdivision 2, must practice under the supervision of a licensed occupational therapist. The supervising therapist must, at a minimum, supervise the person working under temporary licensure in the performance of the initial evaluation, determination of the appropriate treatment plan, and periodic review and modification of the treatment plan. The supervising therapist must observe the person working under temporary licensure in order to assure service competency in carrying out evaluation, treatment planning, and treatment implementation. The frequency of face-to-face collaboration between the person working under temporary licensure and the supervising therapist must be based on the condition of each patient or client, the complexity of treatment and evaluation procedures, and the proficiencies of the person practicing under temporary licensure. The occupational therapist or occupational therapy assistant working under temporary licensure must provide verification of supervision on the application form provided by the commissioner.

Subd. 5. EXPIRATION OF TEMPORARY LICENSURE. A temporary license issued to a person pursuant to subdivision 2, clause (1), expires ten weeks after the next credentialing examination for occupational therapists and occupational therapy assis-

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tants or on the date the commissioner grants or denies licensure, whichever occurs first. A temporary license issued to a person pursuant to subdivision 2, clause (2) or (3), expires 90 days after it is issued. Upon application for renewal, a temporary license shall be renewed once to persons who have not met the examination requirement under section 148.6408, subdivision 2, or 148.6410, subdivision 2, within the initial temporary licensure period and who are not the subject of a disciplinary action nor disqualified on the basis of items in section 148.6448, subdivision 1. Upon application for renewal, a temporary license shall be renewed once to persons who are able to demonstrate good cause for failure to meet the requirements for licensure under section 148.6412 or 148.6415 within the initial temporary licensure period and who are not the subject of a disciplinary action nor disqualified on the basis of items in section 148.6448, subdivision 1.

**Sec. 11. [148.6420] GENERAL LICENSURE PROCEDURES.**

Subdivision 1. APPLICATIONS FOR LICENSURE. An applicant for licensure must:

(1) submit a completed application for licensure on forms provided by the commissioner and must supply the information requested on the application, including:

(i) the applicant's name, business address and business telephone number, business setting, and daytime telephone number;

(ii) the name and location of the occupational therapy program the applicant completed;

(iii) a description of the applicant's education and training, including a list of degrees received from educational institutions;

(iv) the applicant's work history for the six years preceding the application, including the number of hours worked;

(v) a list of all credentials currently and previously held in Minnesota and other jurisdictions;

(vi) a description of any jurisdiction's refusal to credential the applicant;

(vii) a description of all professional disciplinary actions initiated against the applicant in any jurisdiction;

(viii) information on any physical or mental condition or chemical dependency that impairs the person's ability to engage in the practice of occupational therapy with reasonable judgment or safety;

(ix) a description of any misdemeanor or felony conviction that relates to honesty or to the practice of occupational therapy;

(x) a description of any state or federal court order, including a conciliation court judgment or a disciplinary order, related to the individual's occupational therapy practice; and

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(xi) a statement indicating the physical agent modalities the applicant will use and whether the applicant will use the modalities as an occupational therapist or an occupational therapy assistant under direct supervision;

(2) submit with the application all fees required by section 148.6445;

(3) sign a statement that the information in the application is true and correct to the best of the applicant's knowledge and belief;

(4) sign a waiver authorizing the commissioner to obtain access to the applicant's records in this or any other state in which the applicant holds or previously held a credential for the practice of an occupation, has completed an accredited occupational therapy education program, or engaged in the practice of occupational therapy;

(5) submit additional information as requested by the commissioner; and

(6) submit the additional information required for licensure by equivalency, licensure by reciprocity, and temporary licensure as specified in sections 148.6408 to 148.6418.

**Subd. 2. PERSONS APPLYING FOR LICENSURE UNDER SECTION 148.6408 OR 148.6410.** Persons applying for licensure under section 148.6408, subdivisions 1 and 2, or 148.6410, subdivisions 1 and 2, must submit the materials required in subdivision 1 and the following:

(1) a certificate of successful completion of the requirements in section 148.6408, subdivision 1, or 148.6410, subdivision 1; and

(2) the applicant's test results from the examining agency, as evidence that the applicant received a qualifying score on a credentialing examination meeting the requirements of section 148.6408, subdivision 2, or 148.6410, subdivision 2.

**Subd. 3. APPLICANTS WHO ARE CERTIFIED BY NATIONAL BOARD FOR CERTIFICATION IN OCCUPATIONAL THERAPY.** An applicant who is certified by the National Board for Certification in Occupational Therapy must provide the materials required in subdivision 1 and the following:

(1) verified documentation from the National Board for Certification in Occupational Therapy stating that the applicant is certified as an occupational therapist, registered or certified occupational therapy assistant, the date certification was granted, and the applicant's certification number. The document must also include a statement regarding disciplinary actions. The applicant is responsible for obtaining this documentation by sending a form provided by the commissioner to the National Board for Certification in Occupational Therapy; and

(2) a waiver authorizing the commissioner to obtain access to the applicant's records maintained by the National Board for Certification in Occupational Therapy.

**Subd. 4. APPLICANTS CREDENTIALIAED IN ANOTHER JURISDICTION.** In addition to providing the materials required in subdivision 1, an applicant credentialiaed in another jurisdiction must request that the appropriate government body in each jurisdiction in which the applicant holds or held an occupational therapy

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credential send a letter to the commissioner that verifies the applicant's credentials. Except as provided in section 148.6418, a license shall not be issued until the commissioner receives letters verifying each of the applicant's credentials. Each letter must include the applicant's name, date of birth, credential number, date of issuance, a statement regarding investigations pending and disciplinary actions taken or pending against the applicant, current status of the credential, and the terms under which the credential was issued.

Subd. 5. ACTION ON APPLICATIONS FOR LICENSURE. (a) The commissioner shall approve, approve with conditions, or deny licensure. The commissioner shall act on an application for licensure according to paragraphs (b) to (d).

(b) The commissioner shall determine if the applicant meets the requirements for licensure. The commissioner, or the advisory council at the commissioner's request, may investigate information provided by an applicant to determine whether the information is accurate and complete.

(c) The commissioner shall notify an applicant of action taken on the application and, if licensure is denied or approved with conditions, the grounds for the commissioner's determination.

(d) An applicant denied licensure or granted licensure with conditions may make a written request to the commissioner, within 30 days of the date of the commissioner's determination, for reconsideration of the commissioner's determination. Individuals requesting reconsideration may submit information which the applicant wants considered in the reconsideration. After reconsideration of the commissioner's determination to deny licensure or grant licensure with conditions, the commissioner shall determine whether the original determination should be affirmed or modified. An applicant is allowed no more than one request in any one biennial licensure period for reconsideration of the commissioner's determination to deny licensure or approve licensure with conditions.

## **Sec. 12. [148.6423] LICENSURE RENEWAL.**

Subdivision 1. RENEWAL REQUIREMENTS. To be eligible for licensure renewal, a licensee must:

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

(2) submit the renewal fee required under section 148.6445;

(3) submit proof of having met the continuing education requirement of section 148.6443 on forms provided by the commissioner; and

(4) submit additional information as 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.

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Subd. 2. RENEWAL DEADLINE. (a) Except as provided in paragraph (c), licenses must be renewed every two years. Licensees must comply with the following procedures in paragraphs (b) to (e):

(b) Each license must state an expiration date. An application for licensure renewal must be received by the department of health or postmarked at least 30 calendar days before the expiration date. If the postmark is illegible, the application shall be considered timely if received at least 21 calendar days before the expiration date.

(c) If the commissioner changes the renewal schedule and the expiration date is less than two years, the fee and the continuing education contact hours to be reported at the next renewal must be prorated.

(d) An application for licensure renewal not received within the time required under paragraph (b), but received on or before the expiration date, must be accompanied by a late fee in addition to the renewal fee specified by section 148.6445.

(e) Licensure renewals received after the expiration date shall not be accepted and persons seeking licensed status must comply with the requirements of section 148.6425.

Subd. 3. LICENSURE RENEWAL NOTICE. At least 60 calendar days before the expiration date in subdivision 2, the commissioner shall mail a renewal notice to the licensee's last known address on file with the commissioner. The notice must include an application for licensure renewal and notice of fees required for renewal. The licensee's failure to receive notice does not relieve the licensee of the obligation to meet the renewal deadline and other requirements for licensure renewal.

### **Sec. 13. [148.6425] RENEWAL OF LICENSURE; AFTER EXPIRATION DATE.**

Subdivision 1. REMOVAL OF NAME FROM LIST. The names of licensees who do not comply with the licensure renewal requirements of section 148.6423 on or before the expiration date shall be removed from the list of individuals authorized to practice occupational therapy and to use the protected titles in section 148.6403. The licensees must comply with the requirements of this section in order to regain licensed status.

Subd. 2. LICENSURE RENEWAL AFTER LICENSURE EXPIRATION DATE. Except as provided in subdivision 4, an individual whose application for licensure renewal is received after the licensure expiration date must submit the following:

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

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

(3) proof of having met the continuing education requirements since the individual's initial licensure or last licensure renewal; and

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

**Subd. 3. LICENSURE RENEWAL FOUR YEARS OR MORE AFTER LICENSURE EXPIRATION DATE.** (a) Except as provided in subdivision 4, an individual who requests licensure renewal four years or more after the licensure expiration date must submit the following:

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

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

(3) proof of having met the continuing education requirement for the most recently completed two-year continuing education cycle; and

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

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

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

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

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

(c) To participate in a supervised practice as described in paragraph (b), clause (1), the applicant shall obtain limited licensure. To apply for limited licensure, the applicant shall submit the completed limited licensure application, fees, and agreement for supervision of an occupational therapist or occupational therapy assistant practicing under limited licensure signed by the supervising therapist and the applicant. The supervising occupational therapist shall state the proposed level of supervision on the supervision agreement form provided by the commissioner. The supervising therapist shall determine the frequency and manner of supervision based on the condition of the patient or client, the complexity of the procedure, and the proficiencies of the supervised occupational therapist. At a minimum, a supervising occupational therapist shall be on the premises at all times that the person practicing under limited licensure is working; be in the room ten percent of the hours worked each week by the person practicing under provisional licensure; and provide daily face-to-face collaboration for

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the purpose of observing service competency of the occupational therapist or occupational therapy assistant, discussing treatment procedures and each client's response to treatment, and reviewing and modifying, as necessary, each treatment plan. The supervising therapist shall document the supervision provided. The occupational therapist participating in a supervised practice is responsible for obtaining the supervision required under this paragraph and must comply with the commissioner's requirements for supervision during the entire 160 hours of supervised practice. The supervised practice must be completed in two months and may be completed at the applicant's place of work.

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

**Sec. 14. [148.6428] CHANGE OF ADDRESS.**

A licensee who changes addresses must inform the commissioner, in writing, of the change of address within 30 days. All notices or other correspondence mailed to or served on a licensee by the commissioner at the licensee's address on file with the commissioner shall be considered as having been received by the licensee.

**Sec. 15. [148.6430] DELEGATION OF DUTIES; ASSIGNMENT OF TASKS.**

The occupational therapist is responsible for all duties delegated to the occupational therapy assistant or tasks assigned to direct service personnel. The occupational therapist may delegate to an occupational therapy assistant those portions of a client's evaluation, reevaluation, and treatment that, according to prevailing practice standards of the American Occupational Therapy Association, can be performed by an occupational therapy assistant. The occupational therapist may not delegate portions of an evaluation or reevaluation of a person whose condition is changing rapidly. Delegation of duties related to use of physical agent modalities to occupational therapy assistants is governed by section 148.6440, subdivision 6.

**Sec. 16. [148.6432] SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS.**

Subdivision 1. APPLICABILITY. If the professional standards identified in section 148.6430 permit an occupational therapist to delegate an evaluation, reevaluation, or treatment procedure, the occupational therapist must provide supervision consistent with this section. Supervision of occupational therapy assistants using physical agent modalities is governed by section 148.6440, subdivision 6.

Subd. 2. EVALUATIONS. The occupational therapist shall determine the frequency of evaluations and reevaluations for each client. The occupational therapy assistant shall inform the occupational therapist of the need for more frequent reevaluation if indicated by the client's condition or response to treatment. Before delegating a portion of a client's evaluation pursuant to section 148.6430, the occupational therapist shall ensure the service competency of the occupational therapy

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assistant in performing the evaluation procedure and shall provide supervision consistent with the condition of the patient or client and the complexity of the evaluation procedure.

Subd. 3. TREATMENT. (a) The occupational therapist shall determine the frequency and manner of supervision of an occupational therapy assistant performing treatment procedures delegated pursuant to section 148.6430, based on the condition of the patient or client, the complexity of the treatment procedure, and the proficiencies of the occupational therapy assistant.

(b) Face-to-face collaboration between the occupational therapist and the occupational therapy assistant shall occur, at a minimum, every two weeks, during which time the occupational therapist is responsible for:

(1) planning and documenting an initial treatment plan and discharge from treatment;

(2) reviewing treatment goals, therapy programs, and client progress;

(3) supervising changes in the treatment plan;

(4) conducting or observing treatment procedures for selected clients and documenting appropriateness of treatment procedures. Clients shall be selected based on the occupational therapy services provided to the client and the role of the occupational therapist and the occupational therapy assistant in those services; and

(5) ensuring the service competency of the occupational therapy assistant in performing delegated treatment procedures.

(c) Face-to-face collaboration must occur more frequently than every two weeks if necessary to meet the requirements of paragraph (a) or (b).

(d) The occupational therapist shall document compliance with this subdivision in the client's file or chart.

Subd. 4. EXCEPTION. The supervision requirements of this section do not apply to an occupational therapy assistant who:

(1) works in an activities program; and

(2) does not perform occupational therapy services.

The occupational therapy assistant must meet all other applicable requirements of sections 148.6401 to 148.6450.

#### Sec. 17. [148.6435] COORDINATION OF SERVICES.

An occupational therapist shall:

(1) collect information necessary to ensure that the provision of occupational therapy services are consistent with the client's physical and mental health status. The information required to make this determination may include, but is not limited to, contacting the client's licensed health care professional for health history, current health status, current medications, and precautions;

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(2) modify or terminate occupational therapy treatment of a client that is not beneficial to the client, not tolerated by the client, or refused by the client, and if treatment was terminated for a medical reason, notify the client's licensed health care professional by correspondence postmarked or delivered to the licensed health care professional within seven calendar days of the termination of treatment;

(3) refer a client to an appropriate health care, social service, or education practitioner if the client's condition requires services not within the occupational therapist's service competency or not within the practice of occupational therapy generally;

(4) participate and cooperate in the coordination of occupational therapy services with other related services, as a member of the professional community serving the client; and

(5) communicate, in writing, with the appropriate licensed health care professional an occupational therapy plan of care, postmarked or delivered to the licensed health care professional within 14 calendar days of the initiation of treatment. The occupational therapist must provide this written communication even if occupational therapy treatment is concluded in less than 14 consecutive days. The occupational therapist shall document modifications to the plan of care requested by the licensed health care professional following consultation with the licensed health care professional. Occupational therapists employed by a school system are exempt from the requirements of this clause in the performance of their duties within the school system.

#### Sec. 18. [148.6438] **RECIPIENT NOTIFICATION.**

Subdivision 1. REQUIRED NOTIFICATION. In the absence of a physician referral or prior authorization, and before providing occupational therapy services for remuneration or expectation of payment from the client, an occupational therapist must provide the following written notification in all capital letters of 12-point or larger bold-face type, to the client, parent, or guardian:

"Your health care provider, insurer, or plan may require a physician referral or prior authorization and you may be obligated for partial or full payment for occupational therapy services rendered."

Information other than this notification may be included as long as the notification remains conspicuous on the face of the document. A nonwritten disclosure format may be used to satisfy the recipient notification requirement when necessary to accommodate the physical condition of a client or client's guardian.

Subd. 2. EVIDENCE OF RECIPIENT NOTIFICATION. The occupational therapist is responsible for providing evidence of compliance with the recipient notification requirement of this section.

#### Sec. 19. [148.6440] **PHYSICAL AGENT MODALITIES.**

Subdivision 1. GENERAL CONSIDERATIONS. (a) Occupational therapists who use superficial physical agent modalities must comply with the requirements in subdivision 3. Occupational therapists who use electrotherapy must comply with the

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requirements in subdivision 4. Occupational therapists who use ultrasound devices must comply with the requirements in subdivision 5. Occupational therapy assistants who use physical agent modalities must comply with subdivision 6.

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

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

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

Subd. 2. **WRITTEN DOCUMENTATION REQUIRED.** Prior to use of physical agent modalities, an occupational therapist must provide to the commissioner documentation verifying that the occupational therapist has met the educational and clinical requirements described in subdivisions 3 to 5, depending on the modality or modalities used. Both theoretical training and clinical application objectives must be met for each modality used. Documentation must include the name and address of the individual or organization sponsoring the activity; the name and address of the facility at which the activity was presented; and a copy of the course, workshop, or seminar description, including learning objectives and standards for meeting the objectives. In the case of clinical application objectives, teaching methods must be documented, including actual supervised practice. Documentation must include a transcript or certificate showing successful completion of the coursework. Practitioners are prohibited from using physical agent modalities independently until granted approval as provided in subdivision 7.

Subd. 3. **EDUCATIONAL AND CLINICAL REQUIREMENTS FOR USE OF SUPERFICIAL PHYSICAL AGENT MODALITIES.** (a) An occupational therapist may use superficial physical agent modalities if the occupational therapist has received theoretical training and clinical application training in the use of superficial physical agent modalities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Subd. 4. EDUCATIONAL AND CLINICAL REQUIREMENTS FOR USE OF ELECTROTHERAPY.** (a) An occupational therapist may use electrotherapy if the occupational therapist has received theoretical training and clinical application training in the use of electrotherapy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Subd. 5. EDUCATIONAL AND CLINICAL REQUIREMENTS FOR USE OF ULTRASOUND.** (a) An occupational therapist may use an ultrasound device if the occupational therapist has received theoretical training and clinical application training in the use of ultrasound.

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

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

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

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

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

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

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

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

(2) evaluate biophysical effects of ultrasound;

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

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

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

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

**Subd. 6. OCCUPATIONAL THERAPY ASSISTANT USE OF PHYSICAL AGENT MODALITIES.** An occupational therapy assistant may set up and implement treatment using physical agent modalities if the assistant meets the requirements of this section, has demonstrated service competency for the particular modality used, and works under the direct supervision of an occupational therapist. An occupational therapy assistant who uses superficial physical agent modalities must meet the requirements of subdivision 3. An occupational therapy assistant who uses electrotherapy must meet the requirements of subdivision 4. An occupational therapy assistant who uses ultrasound must meet the requirements of subdivision 5. An occupational therapist may not delegate evaluation, reevaluation, treatment planning, and treatment goals for physical agent modalities to an occupational therapy assistant.

**Subd. 7. APPROVAL.** (a) The advisory council shall appoint a committee to review documentation under subdivisions 2 to 6 to determine if established educational and clinical requirements are met.

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

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

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

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

(f) An occupational therapist who received training in the use of physical agent modalities prior to July 1, 1999, but who has not been placed on the roster of approved providers may submit to the commissioner documentation of training and experience

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gained using physical agent modalities. The committee appointed under paragraph (a) shall review documentation and make a recommendation to the commissioner regarding approval.

**Sec. 20. [148.6443] CONTINUING EDUCATION REQUIREMENTS.**

**Subdivision 1. GENERAL REQUIREMENTS.** An occupational therapist applying for licensure renewal must have completed a minimum of 24 contact hours of continuing education in the two years preceding licensure renewal. An occupational therapy assistant applying for licensure renewal must have completed a minimum of 18 contact hours of continuing education in the two years preceding licensure renewal. Licensees who are issued licenses for a period of less than two years shall prorate the number of contact hours required for licensure renewal based on the number of months licensed during the biennial licensure period. Licensees shall receive contact hours for continuing education activities only for the biennial licensure period in which the continuing education activity was performed.

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

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

**Subd. 2. STANDARDS FOR DETERMINING QUALIFIED CONTINUING EDUCATION ACTIVITIES.** Except as provided in subdivision 3, paragraph (f), in order to qualify as a continuing education activity, the activity must:

- (1) constitute an organized program of learning;
- (2) reasonably be expected to advance the knowledge and skills of the occupational therapy practitioner;
- (3) pertain to subjects that directly relate to the practice of occupational therapy;
- (4) be conducted by individuals who have education, training, and experience by reason of which the individuals should be considered experts on the subject matter of the activity; and
- (5) be presented by a sponsor who has a mechanism to verify participation and maintains attendance records for three years.

**Subd. 3. ACTIVITIES QUALIFYING FOR CONTINUING EDUCATION CONTACT HOURS.** (a) The activities in this subdivision qualify for continuing education contact hours if they meet all other requirements of this section.

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

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

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

(i) one semester credit equals 14 contact hours;

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

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

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

(c) A licensee may obtain a maximum of six contact hours in any two-year continuing education period for teaching continuing education courses that meet the requirements of this section. A licensee is entitled to earn a maximum of two contact hours as preparation time for each contact hour of presentation time. Contact hours may be claimed only once for teaching the same course in any two-year continuing education period. A course schedule or brochure must be maintained for audit.

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

(1) business-related topics: marketing, time management, administration, risk management, government regulations, techniques for training professionals, computer skills, and similar topics;

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

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

(e) An occupational therapy practitioner that utilizes leisure activities, recreational activities, or hobbies as part of occupational therapy services in the practitioner's current work setting may obtain a maximum of six contact hours in any two-year continuing education period for participation in courses teaching these activities.

(f) A licensee may obtain a maximum of six contact hours in any two-year continuing education period for supervision of occupational therapist or occupational therapy assistant students. A licensee may earn one contact hour for every eight hours of student supervision. Licensees must maintain a log indicating the name of each student supervised and the hours each student was supervised. Contact hours obtained by student supervision must be obtained by supervising students from an occupational therapy education program accredited by the Accreditation Council for Occupational Therapy Education.

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**Subd. 4. ACTIVITIES NOT QUALIFYING FOR CONTINUING EDUCATION CONTACT HOURS.** No credit shall be granted for the following activities: hospital rounds, entertainment or recreational activities, employment orientation sessions, holding an office or serving as an organizational delegate, meetings for the purpose of making policy, noneducational association meetings, training related to payment systems, including covered services, coding, and billing.

**Subd. 5. REPORTING CONTINUING EDUCATION CONTACT HOURS.** At the time of licensure renewal, each licensee shall submit verification that the licensee has met the continuing education requirements of this section on the continuing education report form provided by the commissioner. The continuing education report form may require the following information:

- (1) title of continuing education activity;
- (2) brief description of the continuing education activity;
- (3) sponsor, presenter, or author;
- (4) location and attendance dates;
- (5) number of contact hours; and
- (6) licensee's notarized affirmation that the information is true and correct.

**Subd. 6. AUDITING CONTINUING EDUCATION REPORTS.** (a) The commissioner may audit a percentage of the continuing education reports based on random selection. A licensee shall maintain all documentation required by this section for two years after the last day of the biennial licensure period in which the contact hours were earned.

(b) All renewal applications that are received after the expiration date may be subject to a continuing education report audit.

(c) Any licensee against whom a complaint is filed may be subject to a continuing education report audit.

(d) The licensee shall make the following information available to the commissioner for auditing purposes:

(1) a copy of the completed continuing education report form for the continuing education reporting period that is the subject of the audit including all supporting documentation required by subdivision 5;

(2) a description of the continuing education activity prepared by the presenter or sponsor that includes the course title or subject matter, date, place, number of program contact hours, presenters, and sponsors;

(3) documentation of self-study programs by materials prepared by the presenter or sponsor that includes the course title, course description, name of sponsor or author, and the number of hours required to complete the program;

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(4) documentation of university, college, or vocational school courses by a course syllabus, listing in a course bulletin, or equivalent documentation that includes the course title, instructor's name, course dates, number of contact hours, and course content, objectives, or goals; and

(5) verification of attendance by:

(i) a signature of the presenter or a designee at the continuing education activity on the continuing education report form or a certificate of attendance with the course name, course date, and licensee's name;

(ii) a summary or outline of the educational content of an audio or video educational activity to verify the licensee's participation in the activity if a designee is not available to sign the continuing education report form;

(iii) verification of self-study programs by a certificate of completion or other documentation indicating that the individual has demonstrated knowledge and has successfully completed the program; or

(iv) verification of attendance at a university, college, or vocational course by an official transcript.

#### **Subd. 7. WAIVER OF CONTINUING EDUCATION REQUIREMENTS.**

The commissioner may grant a waiver of the requirements of this section in cases where the requirements would impose an extreme hardship on the licensee. The request for a waiver must be in writing, state the circumstances that constitute extreme hardship, state the period of time the licensee wishes to have the continuing education requirement waived, and state the alternative measures that will be taken if a waiver is granted. The commissioner shall set forth, in writing, the reasons for granting or denying the waiver. Waivers granted by the commissioner shall specify, in writing, the time limitation and required alternative measures to be taken by the licensee. A request for waiver shall be denied if the commissioner finds that the circumstances stated by the licensee do not support a claim of extreme hardship, the requested time period for waiver is unreasonable, the alternative measures proposed by the licensee are not equivalent to the continuing education activity being waived, or the request for waiver is not submitted to the commissioner within 60 days after the expiration date.

**Subd. 8. PENALTIES FOR NONCOMPLIANCE.** The commissioner shall refuse to renew or grant, or shall suspend, condition, limit, or qualify the license of any person who the commissioner determines has failed to comply with the continuing education requirements of this section. A licensee may request reconsideration of the commissioner's determination of noncompliance or the penalty imposed under this section by making a written request to the commissioner within 30 days of the date of notification to the applicant. Individuals requesting reconsideration may submit information that the licensee wants considered in the reconsideration.

#### **Sec. 21. [148.6445] FEES; SURCHARGE.**

**Subdivision 1. INITIAL LICENSURE FEE.** The initial licensure fee for occupational therapists is \$180. The initial licensure fee for occupational therapy

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assistants is \$100. The commissioner shall prorate fees based on the number of quarters remaining in the biennial licensure period.

Subd. 2. LICENSURE RENEWAL FEE. The biennial licensure renewal fee for occupational therapists is \$180. The biennial licensure renewal fee for occupational therapy assistants is \$100.

Subd. 3. LATE FEE. The fee for late submission of a renewal application is \$25.

Subd. 4. TEMPORARY LICENSURE FEE. The fee for temporary licensure is \$50.

Subd. 5. LIMITED LICENSURE FEE. The fee for limited licensure is \$96.

Subd. 6. FEE FOR COURSE APPROVAL AFTER LAPSE OF LICENSURE. The fee for course approval after lapse of licensure is \$96.

Subd. 7. CERTIFICATION TO OTHER STATES. The fee for certification of licensure to other states is \$25.

Subd. 8. VERIFICATION TO INSTITUTIONS. The fee for verification of licensure to institutions is \$10.

Subd. 9. SURCHARGE. Until June 17, 2001, all licensees must pay a surcharge fee in addition to other applicable fees. Occupational therapists must pay a biennial surcharge fee of \$62 upon application for licensure and licensure renewal. Occupational therapy assistants must pay a biennial surcharge fee of \$36 upon application for licensure and licensure renewal.

Subd. 10. NONREFUNDABLE FEES. All fees are nonrefundable.

**Sec. 22. [148.6448] GROUNDS FOR DENIAL OF LICENSURE OR DISCIPLINE; INVESTIGATION PROCEDURES; DISCIPLINARY ACTIONS.**

Subdivision 1. GROUNDS FOR DENIAL OF LICENSURE OR DISCIPLINE. The commissioner may deny an application for licensure, may approve licensure with conditions, or may discipline a licensee using any disciplinary actions listed in subdivision 3 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 an occupational therapist or occupational therapy assistant in an incompetent manner or in a manner that falls below the community standard of care;

(4) failed to satisfactorily perform occupational therapy services during a period of provisional licensure;

(5) violated sections 148.6401 to 148.6450;

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(6) failed to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;

(7) been convicted of violating any state or federal law, rule, or regulation which directly relates to the practice of occupational therapy;

(8) aided or abetted another person in violating any provision of sections 148.6401 to 148.6450;

(9) been disciplined for conduct in the practice of an occupation by the state of Minnesota, another jurisdiction, or a national professional association, if any of the grounds for discipline are the same or substantially equivalent to those in sections 148.6401 to 148.6450;

(10) not cooperated with the commissioner or advisory council in an investigation conducted according to subdivision 2;

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

(12) engaged in dishonest, unethical, or unprofessional conduct in connection with the practice of occupational therapy that is likely to deceive, defraud, or harm the public;

(13) demonstrated a willful or careless disregard for the health, welfare, or safety of a client;

(14) performed medical diagnosis or provided treatment, other than occupational therapy, without being licensed to do so under the laws of this state;

(15) paid or promised to pay a commission or part of a fee to any person who contacts the occupational therapist for consultation or sends patients to the occupational therapist for treatment;

(16) engaged in an incentive payment arrangement, other than that prohibited by clause (15), that promotes occupational therapy overutilization, whereby the referring person or person who controls the availability of occupational therapy services to a client profits unreasonably as a result of client treatment;

(17) 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;

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

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

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

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(21) engaged in conduct with a client that is sexual or may reasonably be interpreted by the client as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient;

(22) violated a federal or state court order, including a conciliation court judgment, or a disciplinary order issued by the commissioner, related to the person's occupational therapy practice; or

(23) any other just cause related to the practice of occupational therapy.

Subd. 2. INVESTIGATION OF COMPLAINTS. The commissioner, or the advisory council when authorized by the commissioner, may initiate an investigation upon receiving a complaint or other oral or written communication that alleges or implies that a person has violated sections 148.6401 to 148.6450. In the receipt, investigation, and hearing of a complaint that alleges or implies a person has violated sections 148.6401 to 148.6450, the commissioner shall follow the procedures in section 214.10.

Subd. 3. DISCIPLINARY ACTIONS. If the commissioner finds that an occupational therapist or occupational therapy assistant should be disciplined according to subdivision 1, the commissioner may take any one or more of the following actions:

(1) refuse to grant or renew licensure;

(2) approve licensure with conditions;

(3) revoke licensure;

(4) suspend licensure;

(5) any reasonable lesser action including, but not limited to, reprimand or restriction on licensure; or

(6) any action authorized by statute.

Subd. 4. EFFECT OF SPECIFIC DISCIPLINARY ACTION ON USE OF TITLE. Upon notice from the commissioner denying licensure renewal or upon notice that disciplinary actions have been imposed and the person is no longer entitled to practice occupational therapy and use the occupational therapy and licensed titles, the person shall cease to practice occupational therapy, to use titles protected by sections 148.6401 to 148.6450, and to represent to the public that the person is licensed by the commissioner.

Subd. 5. REINSTATEMENT REQUIREMENTS AFTER DISCIPLINARY ACTION. A person who has had licensure suspended may request and provide justification for reinstatement following the period of suspension specified by the commissioner. The requirements of sections 148.6423 and 148.6425 for renewing licensure and any other conditions imposed with the suspension must be met before licensure may be reinstated.

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**Sec. 23. [148.6450] OCCUPATIONAL THERAPY PRACTITIONERS ADVISORY COUNCIL.**

Subdivision 1. MEMBERSHIP. The commissioner shall appoint seven persons to an occupational therapy practitioners advisory council consisting of the following:

(1) two public members, as defined in section 214.02. The public members shall be either persons who have received occupational therapy services or family members of or caregivers to such persons;

(2) two members who are occupational therapists and two occupational therapy assistants licensed under sections 148.6401 to 148.6450, each of whom is employed in a different practice area including, but not limited to, long-term care, school therapy, early intervention, administration, gerontology, industrial rehabilitation, cardiac rehabilitation, physical disability, pediatrics, mental health, home health, and hand therapy. Three of the four occupational therapy practitioners who serve on the advisory council must be currently, and for the three years preceding the appointment, engaged in the practice of occupational therapy or employed as an administrator or an instructor of an occupational therapy program. At least one of the four occupational therapy practitioners who serves on the advisory council must be employed in a rural area; and

(3) one member who is a licensed or registered health care practitioner, or other credentialed practitioner, who works collaboratively with occupational therapy practitioners.

Subd. 2. DUTIES. At the commissioner's request, the advisory council shall:

(1) advise the commissioner regarding the occupational therapy practitioner licensure standards;

(2) advise the commissioner on enforcement of sections 148.6401 to 148.6450;

(3) provide for distribution of information regarding occupational therapy practitioners licensure standards;

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

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

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

**Sec. 24. REPEALER.**

Minnesota Rules, parts 4666.0010; 4666.0020; 4666.0030; 4666.0040; 4666.0050; 4666.0060; 4666.0070; 4666.0080; 4666.0090; 4666.0100; 4666.0200; 4666.0300; 4666.0400; 4666.0500; 4666.0600; 4666.0700; 4666.0800; 4666.0900; 4666.1000; 4666.1100; 4666.1200; 4666.1300; and 4666.1400, are repealed.

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Sec. 25. **EFFECTIVE DATE.**

Sections 1 to 24 are effective the day following final enactment.

Presented to the governor April 7, 2000

Signed by the governor April 11, 2000, 10:37 a.m.

**CHAPTER 362—S.F.No. 2723**

*An act relating to property; making certain appeal periods consistent; changing provisions of the Uniform Probate Code; amending Minnesota Statutes 1998, sections 501B.21; 524.2-513; 524.3-1203, subdivision 5; and 525.712.*

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

Section 1. Minnesota Statutes 1998, section 501B.21, is amended to read:

**501B.21 ORDER AND APPEAL.**

Upon hearing a petition filed under section 501B.16, the court shall make an order it considers appropriate. The order is final as to all matters determined by it and binding in rem upon the trust estate and upon the interests of all beneficiaries, vested or contingent, even though unascertained or not in being, ~~except that.~~ An appeal from the order may be taken by any party after service by any party of written notice of its filing under the Rules of Appellate Procedure or, if no notice is served, within six months after the filing of the order.

Sec. 2. Minnesota Statutes 1998, section 524.2-513, is amended to read:

**524.2-513 SEPARATE WRITING IDENTIFYING BEQUEST OF TANGIBLE PROPERTY.**

A will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money, ~~evidences of indebtedness, documents of title, and securities and coin collections,~~ and property used in trade or business. To be admissible under this section as evidence of the intended disposition, the writing must be referred to in the will, must be either be in the handwriting of the testator or be signed by the testator, and must describe the items and the devisees with reasonable certainty. The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation; and it may be a writing which has no significance apart from its effect upon the dispositions made by the will.

A writing may include multiple writings and if an item of tangible personal property is disposed of to different persons by different writings, the most recent writing controls the disposition of the item.

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