

the commission shall stipulate the conditions and maximum time for compliance under which the defaulting state may resume its regular status. Unless such default shall be remedied under the stipulations and within the time period set forth by the commission, this compact may be terminated with respect to such defaulting state by affirmative vote of a majority of the other commission members. Any such defaulting state may be reinstated, upon vote of the commission, by performing all acts and obligations as stipulated by the commission.

## ARTICLE X

### CONSTRUCTION AND SEVERABILITY

The provisions of this compact entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any compacting state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected hereby. If this compact entered into hereunder shall be held contrary to the constitution of any compacting state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

Presented to the governor May 9, 2000

Signed by the governor May 11, 2000, 5:35 p.m.

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### **CHAPTER 460—H.F.No. 3839**

*An act relating to health; modifying the Health Care Administrative Simplification Act; providing for regulation of unlicensed complementary and alternative health care practitioners; modifying provisions for speech-language pathologists, audiologists, unlicensed mental health practitioners, alcohol and drug counselors, and hearing instrument dispensers; providing civil penalties; requiring reports; amending Minnesota Statutes 1998, sections 62J.51, by adding subdivisions; 62J.52, subdivisions 1, 2, and 5; 62J.60, subdivision 1; 148.512, subdivision 5; 148.515, subdivision 3; 148.517, by adding a subdivision; 148.518, subdivision 2; 148.5193, subdivisions 1, 2, 4, 6, and by adding a subdivision; 148.5196, subdivision 3; 148B.60, subdivision 3; 148B.68, subdivision 1; 148B.69, by adding a subdivision; 148B.71, subdivision 1; 148C.01, subdivisions 2, 7, 9, 10, and by adding a subdivision; 148C.03, subdivision 1; 148C.04, subdivision 3, and by adding subdivisions; 148C.06, subdivisions 1 and 2; 148C.09, subdivisions 1 and 1a; 148C.10, by adding a subdivision; 148C.11, subdivision 1; 153A.13, subdivision 9, and by adding subdivisions; 153A.14, subdivisions 1, 2a, 2h, 4, 4a, and by adding subdivisions; and 153A.15, subdivision 1; Minnesota Statutes 1999 Supplement, sections 13.99, by adding a subdivision; 147.09; and 214.01, subdivision 2; Laws 1999, chapter 223, article 2, section 81, as amended; proposing coding for new law in Minnesota Statutes, chapter 62J; proposing coding for*

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*new law as Minnesota Statutes, chapter 146A; repealing Minnesota Statutes 1998, sections 148.5193, subdivisions 3 and 5; and 148C.04, subdivision 5.*

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

Section 1. Minnesota Statutes 1999 Supplement, section 13.99, is amended by adding a subdivision to read:

Subd. 42c. **UNLICENSED COMPLEMENTARY AND ALTERNATIVE HEALTH CARE PRACTITIONERS AND CLIENTS.** Data obtained by the commissioner of health on unlicensed complementary and alternative health care practitioners and clients are classified under sections 146A.06 and 146A.08.

Sec. 2. Minnesota Statutes 1998, section 62J.51, is amended by adding a subdivision to read:

Subd. 19a. **UNIFORM EXPLANATION OF BENEFITS DOCUMENT.** “Uniform explanation of benefits document” means the document associated with and explaining the details of a group purchaser’s claim adjudication for services rendered, which is sent to a patient.

Sec. 3. Minnesota Statutes 1998, section 62J.51, is amended by adding a subdivision to read:

Subd. 19b. **UNIFORM REMITTANCE ADVICE REPORT.** “Uniform remittance advice report” means the document associated with and explaining the details of a group purchaser’s claim adjudication for services rendered, which is sent to a provider.

Sec. 4. Minnesota Statutes 1998, section 62J.52, subdivision 1, is amended to read:

Subdivision 1. **UNIFORM BILLING FORM HCFA 1450.** (a) On and after January 1, 1996, all institutional inpatient hospital services, ancillary services, and institutionally owned or operated outpatient services rendered by providers in Minnesota, and institutional or noninstitutional home health services that are not being billed using an equivalent electronic billing format, must be billed using the uniform billing form HCFA 1450, except as provided in subdivision 5.

(b) The instructions and definitions for the use of the uniform billing form HCFA 1450 shall be in accordance with the uniform billing form manual specified by the commissioner. In promulgating these instructions, the commissioner may utilize the manual developed by the National Uniform Billing Committee, as adopted and finalized by the Minnesota uniform billing committee.

(c) Services to be billed using the uniform billing form HCFA 1450 include: institutional inpatient hospital services and distinct units in the hospital such as psychiatric unit services, physical therapy unit services, swing bed (SNF) services, inpatient state psychiatric hospital services, inpatient skilled nursing facility services, home health services (Medicare part A), and hospice services; ancillary services, where benefits are exhausted or patient has no Medicare part A, from hospitals, state

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psychiatric hospitals, skilled nursing facilities, and home health (Medicare part B); and institutional owned or operated outpatient services such as waivered services, hospital outpatient services, including ambulatory surgical center services, hospital referred laboratory services, hospital-based ambulance services, and other hospital outpatient services, skilled nursing facilities, home health, including infusion therapy, freestanding renal dialysis centers, comprehensive outpatient rehabilitation facilities (CORF), outpatient rehabilitation facilities (ORF), rural health clinics, and community mental health centers; home health services such as home health intravenous therapy providers, waivered services, personal care attendants, and hospice; and any other health care provider certified by the Medicare program to use this form.

(d) On and after January 1, 1996, a mother and newborn child must be billed separately, and must not be combined on one claim form.

Sec. 5. Minnesota Statutes 1998, section 62J.52, subdivision 2, is amended to read:

Subd. 2. **UNIFORM BILLING FORM HCFA 1500.** (a) On and after January 1, 1996, all noninstitutional health care services rendered by providers in Minnesota except dental or pharmacy providers, that are not currently being billed using an equivalent electronic billing format, must be billed using the health insurance claim form HCFA 1500, except as provided in subdivision 5.

(b) The instructions and definitions for the use of the uniform billing form HCFA 1500 shall be in accordance with the manual developed by the administrative uniformity committee entitled standards for the use of the HCFA 1500 form, dated February 1994, as further defined by the commissioner.

(c) Services to be billed using the uniform billing form HCFA 1500 include physician services and supplies, durable medical equipment, noninstitutional ambulance services, independent ancillary services including occupational therapy, physical therapy, speech therapy and audiology, podiatry services, optometry services, mental health licensed professional services, substance abuse licensed professional services, nursing practitioner professional services, certified registered nurse anesthetists, chiropractors, physician assistants, laboratories, medical suppliers, and other health care providers such as home health intravenous therapy providers, personal care attendants, day activity centers, waivered services, hospice, and other home health services, and freestanding ambulatory surgical centers.

Sec. 6. Minnesota Statutes 1998, section 62J.52, subdivision 5, is amended to read:

Subd. 5. **STATE AND FEDERAL HEALTH CARE PROGRAMS.** (a) Skilled nursing facilities and ICF/MR services billed to state and federal health care programs administered by the department of human services shall use the form designated by the department of human services.

(b) On and after July 1, 1996, state and federal health care programs administered by the department of human services shall accept the HCFA 1450 for community

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mental health center services and shall accept the HCFA 1500 for freestanding ambulatory surgical center services.

(c) State and federal health care programs administered by the department of human services shall be authorized to use the forms designated by the department of human services for pharmacy services and for child and teen checkup services.

(d) State and federal health care programs administered by the department of human services shall accept the form designated by the department of human services, and the HCFA 1500 for supplies, medical supplies, or durable medical equipment. Health care providers may choose which form to submit.

(e) Personal care attendant and waived services billed on a fee-for-service basis directly to state and federal health care programs administered by the department of human services shall use either the HCFA 1450 or the HCFA 1500 form, as designated by the department of human services.

**Sec. 7. [62J.581] STANDARDS FOR MINNESOTA UNIFORM HEALTH CARE REIMBURSEMENT DOCUMENTS.**

**Subdivision 1. MINNESOTA UNIFORM REMITTANCE ADVICE REPORT.** All group purchasers and payers shall provide a uniform remittance advice report to health care providers when a claim is adjudicated. The uniform remittance advice report shall comply with the standards prescribed in this section.

**Subd. 2. MINNESOTA UNIFORM EXPLANATION OF BENEFITS DOCUMENT.** All group purchasers and payers shall provide a uniform explanation of benefits document to health care patients when a claim is adjudicated. The uniform explanation of benefits document shall comply with the standards prescribed in this section.

**Subd. 3. SCOPE.** For purposes of sections 62J.50 to 62J.61, the uniform remittance advice report and the uniform explanation of benefits document format specified in subdivision 4 shall apply to all health care services delivered by a health care provider or health care provider organization in Minnesota, regardless of the location of the payer. Health care services not paid on an individual claims basis, such as capitated payments, are not included in this section. A health plan company is excluded from the requirements in subdivisions 1 and 2 if they comply with section 62A.01, subdivisions 2 and 3.

**Subd. 4. SPECIFICATIONS.** The uniform remittance advice report and the uniform explanation of benefits document shall be provided by use of a paper document conforming to the specifications in this section or by use of the ANSI X12N 835 standard electronic format as established under United States Code, title 42, sections 1320d to 1320d-8, and as amended from time to time for the remittance advice. The commissioner, after consulting with the administrative uniformity committee, shall specify the data elements and definitions for the uniform remittance advice report and the uniform explanation of benefits document. The commissioner and the administrative uniformity committee must consult with the Minnesota Dental Association and Delta Dental Plan of Minnesota before requiring under this section the

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use of a paper document for the uniform explanation of benefits document or the uniform remittance advice report for dental care services.

Subd. 5. EFFECTIVE DATE. The requirements in subdivisions 1 and 2 are effective 12 months after the date of required compliance with the standards for the electronic remittance advice transaction under United States Code, title 42, sections 1320d to 1320d-8, and as amended from time to time. The requirements in subdivisions 1 and 2 apply regardless of when the health care service was provided to the patient.

Sec. 8. Minnesota Statutes 1998, section 62J.60, subdivision 1, is amended to read:

Subdivision 1. **MINNESOTA HEALTH CARE IDENTIFICATION CARD.** All individuals with health care coverage shall be issued health care identification cards by group purchasers as of January 1, 1998, unless the requirements of section 62A.01, subdivisions 2 and 3, are met. The health care identification cards shall comply with the standards prescribed in this section.

Sec. 9. **[146A.01] DEFINITIONS.**

Subdivision 1. **TERMS.** As used in this chapter, the following terms have the meanings given them.

Subd. 2. **COMMISSIONER.** "Commissioner" means the commissioner of health or the commissioner's designee.

Subd. 3. **COMPLEMENTARY AND ALTERNATIVE HEALTH CARE CLIENT.** "Complementary and alternative health care client" means an individual who receives services from an unlicensed complementary and alternative health care practitioner.

Subd. 4. **COMPLEMENTARY AND ALTERNATIVE HEALTH CARE PRACTICES.** (a) "Complementary and alternative health care practices" means the broad domain of complementary and alternative healing methods and treatments, including but not limited to: (1) acupressure; (2) anthroposophy; (3) aroma therapy; (4) ayurveda; (5) cranial sacral therapy; (6) culturally traditional healing practices; (7) detoxification practices and therapies; (8) energetic healing; (9) polarity therapy; (10) folk practices; (11) healing practices utilizing food, food supplements, nutrients, and the physical forces of heat, cold, water, touch, and light; (12) Gerson therapy and colostrum therapy; (13) healing touch; (14) herbology or herbalism; (15) homeopathy; (16) nondiagnostic iridology; (17) body work, massage, and massage therapy; (18) meditation; (19) mind-body healing practices; (20) naturopathy; (21) noninvasive instrumentalities; and (22) traditional Oriental practices, such as Qi Gong energy healing.

(b) Complementary and alternative health care practices do not include surgery, x-ray radiation, administering or dispensing legend drugs and controlled substances, practices that invade the human body by puncture of the skin, setting fractures, the use of medical devices as defined in section 147A.01, any practice included in the practice of dentistry as defined in section 150A.05, subdivision 1, or the manipulation or

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adjustment of articulations of joints or the spine as described in section 146.23 or 148.01.

(c) Complementary and alternative health care practices do not include practices that are permitted under section 147.09, clause (11), or 148.271, clause (5).

(d) This chapter does not apply to, control, prevent, or restrict the practice, service, or activity of lawfully marketing or distributing food products, including dietary supplements as defined in the federal Dietary Supplement Health and Education Act, educating customers about such products, or explaining the uses of such products. Under Minnesota law, an unlicensed complementary and alternative health care practitioner may not provide a medical diagnosis or recommend discontinuance of medically prescribed treatments.

**Subd. 5. OFFICE OF UNLICENSED COMPLEMENTARY AND ALTERNATIVE HEALTH CARE PRACTICE OR OFFICE.** “Office of unlicensed complementary and alternative health care practice” or “office” means the office of unlicensed complementary and alternative health care practice established in section 146A.02.

**Subd. 6. UNLICENSED COMPLEMENTARY AND ALTERNATIVE HEALTH CARE PRACTITIONER.** (a) “Unlicensed complementary and alternative health care practitioner” means a person who:

(1) either:

(i) is not licensed or registered by a health-related licensing board or the commissioner of health; or

(ii) is licensed or registered by the commissioner of health or a health-related licensing board other than the board of medical practice, the board of dentistry, the board of chiropractic examiners, or the board of podiatric medicine, but does not hold oneself out to the public as being licensed or registered by the commissioner or a health-related licensing board when engaging in complementary and alternative health care;

(2) has not had a license or registration issued by a health-related licensing board or the commissioner of health revoked or has not been disciplined in any manner at any time in the past, unless the right to engage in complementary and alternative health care practices has been established by order of the commissioner of health;

(3) is engaging in complementary and alternative health care practices; and

(4) is providing complementary and alternative health care services for remuneration or is holding oneself out to the public as a practitioner of complementary and alternative health care practices.

(b) A health care practitioner licensed or registered by the commissioner or a health-related licensing board, who engages in complementary and alternative health care while practicing under the practitioner’s license or registration, shall be regulated by and be under the jurisdiction of the applicable health-related licensing board with

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regard to the complementary and alternative health care practices.

**Sec. 10. [146A.02] OFFICE OF UNLICENSED COMPLEMENTARY AND ALTERNATIVE HEALTH CARE PRACTICE.**

Subdivision 1. CREATION. The office of unlicensed complementary and alternative health care practice is created in the department of health to investigate complaints and take and enforce disciplinary actions against all unlicensed complementary and alternative health care practitioners for violations of prohibited conduct, as defined in section 146A.08. The office shall also serve as a clearinghouse on complementary and alternative health care practices and unlicensed complementary and alternative health care practitioners through the dissemination of objective information to consumers and through the development and performance of public education activities, including outreach, regarding the provision of complementary and alternative health care practices and unlicensed complementary and alternative health care practitioners who provide these services.

Subd. 2. RULEMAKING. The commissioner shall adopt rules necessary to implement, administer, or enforce provisions of this chapter pursuant to chapter 14.

**Sec. 11. [146A.025] MALTREATMENT OF MINORS.**

Nothing in this chapter shall restrict the ability of a local welfare agency, local law enforcement agency, the commissioner of human services, or the state to take action regarding the maltreatment of minors under section 609.378 or 626.556. A parent who obtains complementary and alternative health care for the parent's minor child is not relieved of the duty to seek necessary medical care consistent with the requirements of sections 609.378 and 626.556. A complementary or alternative health care practitioner who is providing services to a child who is not receiving necessary medical care must make a report under section 626.556. A complementary or alternative health care provider is a mandated reporter under section 626.556, subdivision 3.

**Sec. 12. [146A.03] REPORTING OBLIGATIONS.**

Subdivision 1. PERMISSION TO REPORT. A person who has knowledge of any conduct constituting grounds for disciplinary action relating to complementary and alternative health care practices under this chapter may report the violation to the office.

Subd. 2. INSTITUTIONS. A state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the office any action taken by the agency, institution, or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition an unlicensed complementary and alternative health care practitioner's privilege to practice or treat complementary and alternative health care clients in the institution or, as part of the organization, any denial of privileges or any other disciplinary action for conduct that might constitute grounds for disciplinary action by the office under this chapter. The institution, organization, or governmental entity shall also report the resignation of any unlicensed complementary and alternative health care practitioners prior to the

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conclusion of any disciplinary action proceeding for conduct that might constitute grounds for disciplinary action under this chapter or prior to the commencement of formal charges but after the practitioner had knowledge that formal charges were contemplated or were being prepared.

**Subd. 3. PROFESSIONAL SOCIETIES.** A state or local professional society for unlicensed complementary and alternative health care practitioners shall report to the office any termination, revocation, or suspension of membership or any other disciplinary action taken against an unlicensed complementary and alternative health care practitioner. If the society has received a complaint that might be grounds for discipline under this chapter against a member on which it has not taken any disciplinary action, the society shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the office.

**Subd. 4. LICENSED PROFESSIONALS.** A licensed health professional shall report to the office personal knowledge of any conduct that the licensed health professional reasonably believes constitutes grounds for disciplinary action under this chapter by any unlicensed complementary and alternative health care practitioner, including conduct indicating that the individual may be incompetent or may be mentally or physically unable to engage safely in the provision of services. If the information was obtained in the course of a client relationship, the client is an unlicensed complementary and alternative health care practitioner, and the treating individual successfully counsels the other practitioner to limit or withdraw from practice to the extent required by the impairment, the office may deem this limitation of or withdrawal from practice to be sufficient disciplinary action.

**Subd. 5. INSURERS.** Four times each year as prescribed by the commissioner, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to unlicensed complementary and alternative health care practitioners or the medical joint underwriting association under chapter 62F shall submit to the office a report concerning the unlicensed complementary and alternative health care practitioners against whom malpractice settlements or awards have been made. The response must contain at least the following information:

- (1) the total number of malpractice settlements or awards made;
- (2) the date the malpractice settlements or awards were made;
- (3) the allegations contained in the claim or complaint leading to the settlements or awards made;
- (4) the dollar amount of each malpractice settlement or award;
- (5) the regular address of the practice of the unlicensed complementary and alternative health care practitioner against whom an award was made or with whom a settlement was made; and
- (6) the name of the unlicensed complementary and alternative health care practitioner against whom an award was made or with whom a settlement was made.

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The insurance company shall, in addition to the above information, submit to the office any information, records, and files, including clients' charts and records, it possesses that tend to substantiate a charge that an unlicensed complementary and alternative health care practitioner may have engaged in conduct violating this chapter.

Subd. 6. COURTS. The court administrator of district court or any other court of competent jurisdiction shall report to the office any judgment or other determination of the court that adjudges or includes a finding that an unlicensed complementary and alternative health care practitioner is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the unlicensed complementary and alternative health care practitioner under sections 525.54 to 525.61 or commits an unlicensed complementary and alternative health care practitioner under chapter 253B.

Subd. 7. SELF-REPORTING. An unlicensed complementary and alternative health care practitioner shall report to the office any personal action that would require that a report be filed with the office by any person, health care facility, business, or organization pursuant to subdivisions 2 to 5. The practitioner shall also report the revocation, suspension, restriction, limitation, or other disciplinary action against the practitioner's license, certificate, registration, or right of practice in another state or jurisdiction for offenses that would be subject to disciplinary action in this state and also report the filing of charges regarding the practitioner's license, certificate, registration, or right of practice in another state or jurisdiction.

Subd. 8. DEADLINES; FORMS. Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the reporter learns of the occurrence of the reportable event or transaction. The office may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to ensure prompt and accurate reporting.

### Sec. 13. [146A.04] IMMUNITY.

Subdivision 1. REPORTING. Any person, other than the unlicensed complementary and alternative health care practitioner who committed the violation, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report to the office, for otherwise reporting to the office violations or alleged violations of this chapter, or for cooperating with an investigation of a report, except as provided in this subdivision. Any person who knowingly or recklessly makes a false report is liable in a civil suit for any damages suffered by the person or persons so reported and for any punitive damages set by the court or jury. An action requires clear and convincing evidence that the defendant made the statement with knowledge of falsity or with reckless disregard for its truth or falsity. The report or statement or any statement made in cooperation with an investigation or as part of a disciplinary proceeding is privileged except in an action brought under this subdivision.

Subd. 2. INVESTIGATION. The commissioner and employees of the department of health and other persons engaged in the investigation of violations and in the

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preparation, presentation, and management of and testimony pertaining to charges of violations of this chapter are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.

**Sec. 14. [146A.05] DISCIPLINARY RECORD ON JUDICIAL REVIEW.**

Upon judicial review of any disciplinary action taken by the commissioner under this chapter, the reviewing court shall seal the portions of the administrative record that contain data on a complementary and alternative health care client or a complainant under section 146A.03, and shall not make those portions of the administrative record available to the public.

**Sec. 15. [146A.06] PROFESSIONAL COOPERATION; UNLICENSED PRACTITIONER.**

Subdivision 1. COOPERATION. An unlicensed complementary and alternative health care practitioner who is the subject of an investigation, or who is questioned in connection with an investigation, by or on behalf of the office, shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the office relating to the subject of the investigation, whether tape recorded or not; providing copies of client records, as reasonably requested by the office, to assist the office in its investigation; and appearing at conferences or hearings scheduled by the commissioner. If the office does not have a written consent from a client permitting access to the client's records, the unlicensed complementary and alternative health care practitioner shall delete in the record any data that identifies the client before providing it to the office. If an unlicensed complementary and alternative health care practitioner refuses to give testimony or produce any documents, books, records, or correspondence on the basis of the fifth amendment to the Constitution of the United States, the commissioner may compel the unlicensed complementary and alternative health care practitioner to provide the testimony or information; however, the testimony or evidence may not be used against the practitioner in any criminal proceeding. Challenges to requests of the office may be brought before the appropriate agency or court.

Subd. 2. DATA. (a) Data relating to investigations of complaints and disciplinary actions involving unlicensed complementary and alternative health care practitioners are governed by this subdivision and section 13.41 does not apply. Except as provided in section 13.39, subdivision 2, and paragraph (b), data relating to investigations of complaints and disciplinary actions involving unlicensed complementary and alternative health care practitioners are public data, regardless of the outcome of any investigation, action, or proceeding.

(b) The following data are private data on individuals, as defined in section 13.02:

- (1) data on a complementary and alternative health care client;
- (2) data on a complainant under section 146A.03; and

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(3) data on the nature or content of unsubstantiated complaints when the information is not maintained in anticipation of legal action.

Subd. 3. **EXCHANGING INFORMATION.** (a) The office shall establish internal operating procedures for:

(1) exchanging information with state boards; agencies, including the office of ombudsman for mental health and mental retardation; health-related and law enforcement facilities; departments responsible for licensing health-related occupations, facilities, and programs; and law enforcement personnel in this and other states; and

(2) coordinating investigations involving matters within the jurisdiction of more than one regulatory agency.

(b) The procedures for exchanging information must provide for the forwarding to the entities described in paragraph (a), clause (1), of information and evidence, including the results of investigations, that are relevant to matters within the regulatory jurisdiction of the organizations in paragraph (a). The data have the same classification in the hands of the agency receiving the data as they have in the hands of the agency providing the data.

(c) The office shall establish procedures for exchanging information with other states regarding disciplinary action against unlicensed complementary and alternative health care practitioners.

(d) The office shall forward to another governmental agency any complaints received by the office that do not relate to the office's jurisdiction but that relate to matters within the jurisdiction of the other governmental agency. The agency to which a complaint is forwarded shall advise the office of the disposition of the complaint. A complaint or other information received by another governmental agency relating to a statute or rule that the office is empowered to enforce must be forwarded to the office to be processed in accordance with this section.

(e) The office shall furnish to a person who made a complaint a description of the actions of the office relating to the complaint.

#### Sec. 16. **[146A.07] PROFESSIONAL ACCOUNTABILITY.**

The office shall maintain and keep current a file containing the reports and complaints filed against unlicensed complementary and alternative health care practitioners within the commissioner's jurisdiction. Each complaint filed with the office must be investigated. If the files maintained by the office show that a malpractice settlement or award has been made against an unlicensed complementary and alternative health care practitioner, as reported by insurers under section 146A.03, subdivision 5, the commissioner may authorize a review of the practitioner's practice by the staff of the office.

#### Sec. 17. **[146A.08] PROHIBITED CONDUCT.**

Subdivision 1. **PROHIBITED CONDUCT.** The commissioner may impose disciplinary action as described in section 146A.09 against any unlicensed comple-

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mentary and alternative health care practitioner. The following conduct is prohibited and is grounds for disciplinary action:

(a) Conviction of a crime, including a finding or verdict of guilt, an admission of guilt, or a no-contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to engaging in complementary and alternative health care practices. Conviction, as used in this subdivision, includes a conviction of an offense which, if committed in this state, would be deemed a felony, gross misdemeanor, or misdemeanor, without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered.

(b) Conviction of any crime against a person. For purposes of this chapter, a crime against a person means violations of the following: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.221; 609.222; 609.223; 609.224; 609.2242; 609.23; 609.231; 609.2325; 609.233; 609.2335; 609.235; 609.24; 609.245; 609.25; 609.255; 609.26, subdivision 1, clause (1) or (2); 609.265; 609.342; 609.343; 609.344; 609.345; 609.365; 609.498, subdivision 1; 609.50, subdivision 1, clause (1); 609.561; 609.562; 609.595; and 609.72, subdivision 3.

(c) Failure to comply with the self-reporting requirements of section 146A.03, subdivision 7.

(d) Engaging in sexual contact with a complementary and alternative health care client or former client, engaging in contact that may be reasonably interpreted by a client as sexual, engaging in any verbal behavior that is seductive or sexually demeaning to the patient, or engaging in sexual exploitation of a client or former client. For purposes of this clause, "former client" means a person who has obtained services from the unlicensed complementary and alternative health care practitioner within the past two years.

(e) Advertising that is false, fraudulent, deceptive, or misleading.

(f) Conduct likely to deceive, defraud, or harm the public or demonstrating a willful or careless disregard for the health, welfare, or safety of a complementary and alternative health care client; or any other practice that may create danger to any client's life, health, or safety, in any of which cases, proof of actual injury need not be established.

(g) Adjudication as mentally incompetent or as a person who is dangerous to self or adjudication pursuant to chapter 253B as chemically dependent, mentally ill, mentally retarded, mentally ill and dangerous to the public, or as a sexual psychopathic personality or sexually dangerous person.

(h) Inability to engage in complementary and alternative health care practices with reasonable safety to complementary and alternative health care clients.

(i) The habitual overindulgence in the use of or the dependence on intoxicating liquors.

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(j) Improper or unauthorized personal or other use of any legend drugs as defined in chapter 151, any chemicals as defined in chapter 151, or any controlled substance as defined in chapter 152.

(k) Revealing a communication from, or relating to, a complementary and alternative health care client except when otherwise required or permitted by law.

(l) Failure to comply with a complementary and alternative health care client's request made under section 144.335 or to furnish a complementary and alternative health care client record or report required by law.

(m) Splitting fees or promising to pay a portion of a fee to any other professional other than for services rendered by the other professional to the complementary and alternative health care client.

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

(o) Failure to make reports as required by section 146A.03 or cooperate with an investigation of the office.

(p) Obtaining money, property, or services from a complementary and alternative health care client, other than reasonable fees for services provided to the client, through the use of undue influence, harassment, duress, deception, or fraud.

(q) Undertaking or continuing a professional relationship with a complementary and alternative health care client in which the objectivity of the unlicensed complementary and alternative health care practitioner would be impaired.

(r) Failure to provide a complementary and alternative health care client with a copy of the client bill of rights or violation of any provision of the client bill of rights.

(s) Violating any order issued by the commissioner.

(t) Failure to comply with any provision of sections 146A.01 to 146A.11 and the rules adopted under those sections.

(u) Failure to comply with any additional disciplinary grounds established by the commissioner by rule.

(v) Revocation, suspension, restriction, limitation, or other disciplinary action against any health care license, certificate, registration, or right to practice of the unlicensed complementary and alternative health care practitioner in this or another state or jurisdiction for offenses that would be subject to disciplinary action in this state or failure to report to the office that charges regarding the practitioner's license, certificate, registration, or right of practice have been brought in this or another state or jurisdiction.

(w) Use of the title "doctor," "Dr.," or "physician" alone or in combination with any other words, letters, or insignia to describe the complementary and alternative health care practices the practitioner provides.

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(x) Failure to provide a complementary and alternative health care client with a recommendation that the client see a health care provider who is licensed or registered by a health-related licensing board or the commissioner of health, if there is a reasonable likelihood that the client needs to be seen by a licensed or registered health care provider.

Subd. 2. LESS CUSTOMARY APPROACH. The fact that a complementary and alternative health care practice may be a less customary approach to health care shall not constitute the basis of a disciplinary action per se.

Subd. 3. EVIDENCE. In disciplinary actions alleging a violation of subdivision 1, paragraph (a), (b), (c), or (g), a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency that entered the same is admissible into evidence without further authentication and constitutes prima facie evidence of its contents.

Subd. 4. EXAMINATION; ACCESS TO MEDICAL DATA. (a) If the commissioner has probable cause to believe that an unlicensed complementary and alternative health care practitioner has engaged in conduct prohibited by subdivision 1, paragraph (g), (h), (i), or (j), the commissioner may issue an order directing the practitioner to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this subdivision, every unlicensed complementary and alternative health care practitioner is deemed to have consented to submit to a mental or physical examination or chemical dependency evaluation when ordered to do so in writing by the commissioner and further to have waived all objections to the admissibility of the testimony or examination reports of the health care provider performing the examination or evaluation on the grounds that the same constitute a privileged communication. Failure of an unlicensed complementary and alternative health care practitioner to submit to an examination or evaluation when ordered, unless the failure was due to circumstances beyond the practitioner's control, constitutes an admission that the unlicensed complementary and alternative health care practitioner violated subdivision 1, paragraph (g), (h), (i), or (j), based on the factual specifications in the examination or evaluation order and may result in a default and final disciplinary order being entered after a contested case hearing. An unlicensed complementary and alternative health care practitioner affected under this paragraph shall at reasonable intervals be given an opportunity to demonstrate that the practitioner can resume the provision of complementary and alternative health care practices with reasonable safety to clients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the commissioner shall be used against an unlicensed complementary and alternative health care practitioner in any other proceeding.

(b) In addition to ordering a physical or mental examination or chemical dependency evaluation, the commissioner may, notwithstanding section 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 an unlicensed complementary and alternative health care practitioner without the practitioner's consent if the commis-

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sioner has probable cause to believe that a practitioner has engaged in conduct prohibited by subdivision 1, paragraph (g), (h), (i), or (j). 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 commissioner under this subdivision and is not liable in any action for damages for releasing the data requested by the commissioner if the data are released pursuant to a written request under this subdivision, unless the information is false and the person or organization giving the information knew or had reason to believe the information was false. Information obtained under this subdivision is private data under section 13.41.

Sec. 18. [146A.09] **DISCIPLINARY ACTIONS.**

Subdivision 1. **FORMS OF DISCIPLINARY ACTION.** When the commissioner finds that an unlicensed complementary and alternative health care practitioner has violated any provision of this chapter, the commissioner may take one or more of the following actions, only against the individual practitioner:

- (1) revoke the right to practice;
- (2) suspend the right to practice;
- (3) impose limitations or conditions on the practitioner's provision of complementary and alternative health care practices, impose rehabilitation requirements, or require practice under supervision;
- (4) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the practitioner of any economic advantage gained by reason of the violation charged or to reimburse the office for all costs of the investigation and proceeding;
- (5) censure or reprimand the practitioner;
- (6) impose a fee on the practitioner to reimburse the office for all or part of the cost of the proceedings resulting in disciplinary action including, but not limited to, the amount paid by the office for services from the office of administrative hearings, attorney fees, court reports, witnesses, reproduction of records, staff time, and expense incurred by the staff of the office of unlicensed complementary and alternative health care practice; or
- (7) any other action justified by the case.

Subd. 2. **DISCOVERY; SUBPOENAS.** In all matters relating to the lawful activities of the office, the commissioner may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear or testify regarding any matter about which the person may be lawfully questioned or failing to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by order of the commissioner or by a subpoena of the commissioner to do so may, upon application

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to the district court in any district, be ordered to comply with the order or subpoena. The commissioner may administer oaths to witnesses or take their affirmation. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process may be served upon a person it names anywhere within the state by any officer authorized to serve subpoenas or other process in civil actions in the same manner as prescribed by law for service of process issued out of the district court of this state.

**Subd. 3. HEARINGS.** If the commissioner proposes to take action against the practitioner as described in subdivision 1, the commissioner must first notify the practitioner against whom the action is proposed to be taken and provide the practitioner with an opportunity to request a hearing under the contested case provisions of chapter 14. If the practitioner does not request a hearing by notifying the commissioner within 30 days after service of the notice of the proposed action, the commissioner may proceed with the action without a hearing.

**Subd. 4. REINSTATEMENT.** The commissioner may at the commissioner's discretion reinstate the right to practice and may impose any disciplinary measure listed under subdivision 1.

**Subd. 5. TEMPORARY SUSPENSION.** In addition to any other remedy provided by law, the commissioner may, acting through a person to whom the commissioner has delegated this authority and without a hearing, temporarily suspend the right of an unlicensed complementary and alternative health care practitioner to practice if the commissioner's delegate finds that the practitioner has violated a statute or rule that the commissioner is empowered to enforce and continued practice by the practitioner would create a serious risk of harm to others. The suspension is in effect upon service of a written order on the practitioner specifying the statute or rule violated. The order remains in effect until the commissioner issues a final order in the matter after a hearing or upon agreement between the commissioner and the practitioner. Service of the order is effective if the order is served on the practitioner or counsel of record personally or by first class mail. Within ten days of service of the order, the commissioner shall hold a hearing on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the office or practitioner shall be in affidavit form only. The practitioner or the counsel of record may appear for oral argument. Within five working days after the hearing, the commissioner shall issue the commissioner's order and, if the suspension is continued, schedule a contested case hearing within 45 days after issuance of the order. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record. The commissioner shall issue a final order within 30 days after receipt of that report.

**Subd. 6. AUTOMATIC SUSPENSION.** The right of an unlicensed complementary and alternative health care practitioner to practice is automatically suspended if (1) a guardian of an unlicensed complementary and alternative health care practitioner is appointed by order of a court under sections 525.54 to 525.61, or (2) the practitioner is committed by order of a court pursuant to chapter 253B. The right to practice

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remains suspended until the practitioner is restored to capacity by a court and, upon petition by the practitioner, the suspension is terminated by the commissioner after a hearing or upon agreement between the commissioner and the practitioner.

Subd. 7. LICENSED OR REGULATED PRACTITIONERS. If a practitioner investigated under this section is licensed or registered by the commissioner of health or a health-related licensing board, is subject to the jurisdiction of the commissioner under section 146A.01, subdivision 6, paragraph (a), clause (1), item (ii), and the commissioner determines that the practitioner has violated any provision of this chapter, the commissioner, in addition to taking disciplinary action under this section:

(1) may, if the practitioner is licensed or regulated in another capacity by the commissioner, take further disciplinary action against the practitioner in that capacity; or

(2) shall, if the practitioner is licensed or registered in another capacity by a health-related licensing board, report the commissioner's findings under this section, and may make a nonbinding recommendation that the board take further action against the practitioner in that capacity.

#### **Sec. 19. [146A.10] ADDITIONAL REMEDIES.**

Subdivision 1. CEASE AND DESIST. (a) The commissioner may issue a cease and desist order to stop a person from violating or threatening to violate a statute, rule, or order which the office has issued or is empowered to enforce. The cease and desist order must state the reason for its issuance and give notice of the person's right to request a hearing under sections 14.57 to 14.62. If, within 15 days of service of the order, the subject of the order fails to request a hearing in writing, the order is the final order of the commissioner and is not reviewable by a court or agency.

(b) A hearing must be initiated by the office not later than 30 days from the date of the office's receipt of a written hearing request. Within 30 days of receipt of the administrative law judge's report, the commissioner shall issue a final order modifying, vacating, or making permanent the cease and desist order as the facts require. The final order remains in effect until modified or vacated by the commissioner.

(c) When a request for a stay accompanies a timely hearing request, the commissioner may, in the commissioner's discretion, grant the stay. If the commissioner does not grant a requested stay, the commissioner shall refer the request to the office of administrative hearings within three working days of receipt of the request. Within ten days after receiving the request from the commissioner, an administrative law judge shall issue a recommendation to grant or deny the stay. The commissioner shall grant or deny the stay within five days of receiving the administrative law judge's recommendation.

(d) In the event of noncompliance with a cease and desist order, the commissioner may institute a proceeding in Hennepin county district court to obtain injunctive relief or other appropriate relief, including a civil penalty payable to the office not exceeding \$10,000 for each separate violation.

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Subd. 2. INJUNCTIVE RELIEF. In addition to any other remedy provided by law, including the issuance of a cease and desist order under subdivision 1, the commissioner may in the commissioner's own name bring an action in Hennepin county district court for injunctive relief to restrain an unlicensed complementary and alternative health care practitioner from a violation or threatened violation of any statute, rule, or order which the commissioner is empowered to regulate, enforce, or issue. A temporary restraining order must be granted in the proceeding if continued activity by a practitioner would create a serious risk of harm to others. The commissioner need not show irreparable harm.

Subd. 3. ADDITIONAL POWERS. The issuance of a cease and desist order or injunctive relief granted under this section does not relieve a practitioner from criminal prosecution by a competent authority or from disciplinary action by the commissioner.

**Sec. 20. [146A.11] COMPLEMENTARY AND ALTERNATIVE HEALTH CARE CLIENT BILL OF RIGHTS.**

Subdivision 1. SCOPE. All unlicensed complementary and alternative health care practitioners shall provide to each complementary and alternative health care client prior to providing treatment a written copy of the complementary and alternative health care client bill of rights. A copy must also be posted in a prominent location in the office of the unlicensed complementary and alternative health care practitioner. Reasonable accommodations shall be made for those clients who cannot read or who have communication impairments and those who do not read or speak English. The complementary and alternative health care client bill of rights shall include the following:

(1) the name, complementary and alternative health care title, business address, and telephone number of the unlicensed complementary and alternative health care practitioner;

(2) the degrees, training, experience, or other qualifications of the practitioner regarding the complimentary and alternative health care being provided, followed by the following statement in bold print:

**"THE STATE OF MINNESOTA HAS NOT ADOPTED ANY EDUCATIONAL AND TRAINING STANDARDS FOR UNLICENSED COMPLEMENTARY AND ALTERNATIVE HEALTH CARE PRACTITIONERS. THIS STATEMENT OF CREDENTIALS IS FOR INFORMATION PURPOSES ONLY.**

Under Minnesota law, an unlicensed complementary and alternative health care practitioner may not provide a medical diagnosis or recommend discontinuance of medically prescribed treatments. If a client desires a diagnosis from a licensed physician, chiropractor, or acupuncture practitioner, or services from a physician, chiropractor, nurse, osteopath, physical therapist, dietitian, nutritionist, acupuncture practitioner, athletic trainer, or any other type of health care provider, the client may seek such services at any time."

(3) the name, business address, and telephone number of the practitioner's supervisor, if any;

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(4) notice that a complementary and alternative health care client has the right to file a complaint with the practitioner's supervisor, if any, and the procedure for filing complaints;

(5) the name, address, and telephone number of the office of unlicensed complementary and alternative health care practice and notice that a client may file complaints with the office;

(6) the practitioner's fees per unit of service, the practitioner's method of billing for such fees, the names of any insurance companies that have agreed to reimburse the practitioner, or health maintenance organizations with whom the practitioner contracts to provide service, whether the practitioner accepts Medicare, medical assistance, or general assistance medical care, and whether the practitioner is willing to accept partial payment, or to waive payment, and in what circumstances;

(7) a statement that the client has a right to reasonable notice of changes in services or charges;

(8) a brief summary, in plain language, of the theoretical approach used by the practitioner in providing services to clients;

(9) notice that the client has a right to complete and current information concerning the practitioner's assessment and recommended service that is to be provided, including the expected duration of the service to be provided;

(10) a statement that clients may expect courteous treatment and to be free from verbal, physical, or sexual abuse by the practitioner;

(11) a statement that client records and transactions with the practitioner are confidential, unless release of these records is authorized in writing by the client, or otherwise provided by law;

(12) a statement of the client's right to be allowed access to records and written information from records in accordance with section 144.335;

(13) a statement that other services may be available in the community, including where information concerning services is available;

(14) a statement that the client has the right to choose freely among available practitioners and to change practitioners after services have begun, within the limits of health insurance, medical assistance, or other health programs;

(15) a statement that the client has a right to coordinated transfer when there will be a change in the provider of services;

(16) a statement that the client may refuse services or treatment, unless otherwise provided by law; and

(17) a statement that the client may assert the client's rights without retaliation.

**Subd. 2. ACKNOWLEDGMENT BY CLIENT.** Prior to the provision of any service, a complementary and alternative health care client must sign a written

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statement attesting that the client has received the complementary and alternative health care client bill of rights.

Sec. 21. Minnesota Statutes 1999 Supplement, section 147.09, is amended to read:

**147.09 EXEMPTIONS.**

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

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

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

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

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

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

(6) A person employed in a scientific, sanitary, or teaching capacity by the state university, the department of children, families, and learning, or by any public or private school, college, or other bona fide educational institution, a nonprofit organization, which has tax-exempt status in accordance with the Internal Revenue Code, section 501(c)(3), and is organized and operated primarily for the purpose of conducting scientific research directed towards discovering the causes of and cures for human diseases, or the state department of health, whose duties are entirely of a research, public health, or educational character, while engaged in such duties; provided that if the research includes the study of humans, such research shall be conducted under the supervision of one or more physicians licensed under this chapter.

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

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

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

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

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

(12) A physician licensed to practice medicine in another state who is in this state for the sole purpose of providing medical services at a competitive athletic event. The physician may practice medicine only on participants in the athletic event. A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to adopt the contents of the form by rule. The physician shall provide evidence satisfactory to the board of a current unrestricted license in another state. The board shall charge a fee of \$50 for the registration.

(13) A psychologist licensed under section 148.907 or a social worker licensed under section 148B.21 who uses or supervises the use of a penile or vaginal plethysmograph in assessing and treating individuals suspected of engaging in aberrant sexual behavior and sex offenders.

(14) Any person issued a training course certificate or credentialed by the emergency medical services regulatory board established in chapter 144E, provided the person confines activities within the scope of training at the certified or credentialed level.

(15) An unlicensed complementary and alternative health care practitioner practicing according to chapter 146A.

Sec. 22. Minnesota Statutes 1998, section 148.512, subdivision 5, is amended to read:

Subd. 5. **APPROVED CONTINUING EDUCATION SPONSOR.** "Approved Continuing education sponsor" means an organization that offers a learning experience designed to promote continuing competency in the procedures and techniques of the practice of speech-language pathology or audiology and that meets whose activities meet the criteria in section 148.5193, subdivision 3, or is a preapproved sponsor listed in section 148.5193, subdivision 2.

Sec. 23. Minnesota Statutes 1998, section 148.515, subdivision 3, is amended to read:

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

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

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

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

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

(1) obtain 250 of the 350 supervised hours in speech-language pathology;  
 (2) complete a minimum of 20 hours of the 250 hours in each of the following eight categories:

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

(3) complete a minimum of ~~35~~ 35 hours in audiology including:

(i) ~~15~~ 15 hours in the evaluation or screening of individuals with hearing disorders; and

(ii) ~~15~~ 20 hours in habilitation or rehabilitation of individuals with hearing impairment ~~20~~ 20 of the 350 hours in audiology; and

(4) obtain no more than 20 hours in the major professional area that are in related disorders.

(f) An applicant seeking registration as an audiologist must:

(1) obtain 250 of the 350 hours in audiology;

(2) complete a minimum of 40 hours in each of the following four categories of the 250 hours in each of the first two of the following categories, complete at least 80 hours in categories (iii) and (iv), with at least ten hours in each of categories (i) to (iv), and complete at least 20 hours in category (v):

- (i) evaluation: hearing in children;
- (ii) evaluation: hearing in adults;

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(iii) selection and use: amplification and assistive devices for children; ~~and~~

(iv) selection and use: amplification and assistive devices for adults; ~~and~~

(v) treatment: hearing disorders in children and adults;

~~(3) complete a minimum of 20 hours in the category of the treatment of hearing disorders in children and adults;~~

~~(4) complete a minimum of 35 hours 20 of the 350 hours in speech-language pathology unrelated to hearing impairment as follows:~~

~~(i) 15 hours in evaluation or screening; and~~

~~(ii) 15 hours in treatment; and~~

~~(5) (4) obtain no more than 20 hours in the major professional area that are in related disorders.~~

Sec. 24. Minnesota Statutes 1998, section 148.517, is amended by adding a subdivision to read:

Subd. 4. TEMPORARY REGISTRATION. (a) The commissioner shall issue temporary registration as a speech-language pathologist, an audiologist, or both, to an applicant who has applied for registration under this section and who:

(1) submits a signed and dated affidavit stating that the applicant is not the subject of a disciplinary action or past disciplinary action in this or another jurisdiction and is not disqualified on the basis of section 148.5195, subdivision 3; and

(2) either:

(i) provides a copy of a current credential as a speech-language pathologist, an audiologist, or both, held in the District of Columbia or a state or territory of the United States; or

(ii) provides a copy of a current certificate of clinical competence issued by the American Speech-Language-Hearing Association or its equivalent.

(b) A temporary registration issued to a person under this subdivision expires 90 days after it is issued or on the date the commissioner grants or denies registration, whichever occurs first.

(c) Upon application, a temporary registration shall be renewed once to a person who is able to demonstrate good cause for failure to meet the requirements for registration within the initial temporary registration period and who is not the subject of a disciplinary action or disqualified on the basis of section 148.5195, subdivision 3.

Sec. 25. Minnesota Statutes 1998, section 148.518, subdivision 2, is amended to read:

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

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(1) apply for registration renewal according to section 148.5191 and obtain a qualifying score on the examination described in section 148.515, subdivision 5, within one year of the application date for registration renewal; or

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

(3) apply for renewal according to section 148.5191 and submit documentation of having completed a combination of speech-language pathology or audiology courses or a speech-language pathology or audiology refresher program that contains both a theoretical and clinical component preapproved or 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 will qualify for approval; or

(4) apply for renewal according to section 148.5191 and submit proof of successful completion and verified documentation of 160 hours of supervised practice approved by the commissioner. To participate in a supervised practice, the applicant shall first apply and obtain temporary registration according to section 148.5161.

Sec. 26. Minnesota Statutes 1998, section 148.5193, subdivision 1, is amended to read:

Subdivision 1. **NUMBER OF CONTACT HOURS REQUIRED.** (a) An applicant for registration renewal must meet the requirements for continuing education according to paragraphs (b) to (e).

(b) An applicant for registration renewal as either a speech-language pathologist or an audiologist must provide evidence to the commissioner of a minimum of 30 contact hours of continuing education offered by an ~~approved~~ continuing education sponsor within the two years immediately preceding registration renewal. A minimum of 20 contact hours of continuing education must be directly related to the registrant's area of registration. Ten contact hours of continuing education may be in areas generally related to the registrant's area of registration.

(c) An applicant for registration renewal as both a speech-language pathologist and an audiologist must attest to and document completion of a minimum of 36 contact hours of continuing education offered by an ~~approved~~ continuing education sponsor within the two years immediately preceding registration renewal. A minimum of 15 contact hours must be received in the area of speech-language pathology and a minimum of 15 contact hours must be received in the area of audiology. Six contact hours of continuing education may be in areas generally related to the registrant's areas of registration.

(d) If the registrant is licensed by the board of teaching:

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(1) activities that are approved in the categories of Minnesota Rules, part 8700.1000, subpart 3, items A and B, and that relate to speech-language pathology, shall be considered:

- (i) offered by an approved a sponsor of continuing education; and
- (ii) directly related to speech-language pathology;

(2) activities that are approved in the categories of Minnesota Rules, part 8700.1000, subpart 3, shall be considered:

- (i) offered by an approved a sponsor of continuing education; and
- (ii) generally related to speech-language pathology; and

(3) one clock hour as defined in Minnesota Rules, part 8700.1000, subpart 1, is equivalent to 1.2 contact hours of continuing education.

(e) Contact hours cannot be accumulated in advance and transferred to a future continuing education period.

Sec. 27. Minnesota Statutes 1998, section 148.5193, subdivision 2, is amended to read:

Subd. 2. **PREAPPROVED CONTINUING EDUCATION PROVIDED BY SPONSORS.** The commissioner will accept continuing education approved or sponsored by the Minnesota department of health, the Minnesota Speech-Language-Hearing Association, the American Speech-Language-Hearing Association, the American Academy of Audiology, the Minnesota Academy of Audiology, the Academy of Rehabilitative Audiologists, the Acoustical Society of America, Twin Cities Clinical Speech-Language Pathologists, Minnesota Foundation for Acoustical Education and Research, or universities accredited by the American Speech-Language-Hearing Association. provided by sponsors if the continuing education activity meets the following standards:

- (1) constitutes an organized program of learning;
- (2) reasonably expects to advance the knowledge and skills of the speech-language pathologist or audiologist;
- (3) pertains to subjects that relate to the practice of speech-language pathology or audiology;
- (4) is conducted by individuals who have education, training, and experience by reason of which said individuals should be considered experts concerning the subject matter of the activity; and
- (5) is presented by a sponsor who has a mechanism to verify participation and maintains attendance records for four years.

Sec. 28. Minnesota Statutes 1998, section 148.5193, subdivision 4, is amended to read:

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Subd. 4. **EARNING CONTINUING EDUCATION CONTACT HOURS THROUGH CONTACT HOUR EQUIVALENTS.** (a) A registrant who teaches continuing education courses may obtain contact hour equivalents according to paragraphs (b) to (d).

(b) The sponsor of the course must be approved by the commissioner meet the requirements of subdivision 2.

(c) A registrant may not obtain more than six contact hours in any two-year continuing education period by teaching continuing education courses.

(d) A registrant may obtain two contact hours for each hour spent teaching a course if the course is sponsored by an approved continuing education sponsor. Contact hours may be claimed only once for teaching the same course in any two-year continuing education period.

Sec. 29. Minnesota Statutes 1998, section 148.5193, subdivision 6, is amended to read:

Subd. 6. **EVIDENCE RECORDS OF ATTENDANCE.** (a) A registrant must maintain for four years records of attending the continuing education contact hours required for registration renewal.

(b) An applicant for registration renewal must submit the following information on a form provided by the commissioner: the sponsoring organization, the dates of the course, the course name, the number of contact hours completed, and the name and signature of the registrant. The form must be submitted with the renewal application under section 148.5191, subdivision 1.

Sec. 30. Minnesota Statutes 1998, section 148.5193, is amended by adding a subdivision to read:

Subd. 6a. **VERIFICATION OF ATTENDANCE.** An applicant for registration renewal must submit verification of attendance as follows:

(1) a certificate of attendance from the sponsor with the continuing education course name, course date, and registrant's name;

(2) a copy of a record of attendance from the sponsor of the continuing education course;

(3) a signature of the presenter or a designee at the continuing education activity on the continuing education report form;

(4) a summary or outline of the educational content of an audio or video educational activity if a designee is not available to sign the continuing education report form;

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

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(6) for attendance at a university, college, or vocational course, an official transcript.

Sec. 31. Minnesota Statutes 1998, section 148.5196, subdivision 3, is amended to read:

Subd. 3. **DUTIES.** The advisory council shall:

(1) advise the commissioner regarding speech-language pathologist and audiologist registration standards;

(2) advise the commissioner on enforcement of sections 148.511 to 148.5196;

(3) provide for distribution of information regarding speech-language pathologist and audiologist registration standards;

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

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

(6) advise the commissioner regarding approval of continuing education activities provided by sponsors using the criteria in section 148.5193, subdivision 3 2; and

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

Sec. 32. Minnesota Statutes 1998, section 148B.60, subdivision 3, is amended to read:

Subd. 3. **UNLICENSED MENTAL HEALTH PRACTITIONER OR PRACTITIONER.** "Unlicensed mental health practitioner" or "practitioner" means a person who provides or purports to provide, for remuneration, mental health services as defined in subdivision 4. It does not include persons licensed by the board of medical practice under chapter 147 or registered by the board of medical practice under chapter 147A; the board of nursing under sections 148.171 to 148.285; the board of psychology under sections 148.88 to 148.98; the board of social work under sections 148B.18 to 148B.289; the board of marriage and family therapy under sections 148B.29 to 148B.39; or another licensing board if the person is practicing within the scope of the license; ~~or members of the clergy who are providing pastoral services in the context of performing and fulfilling the salaried duties and obligations required of a member of the clergy by a religious congregation; American Indian medicine men and women; licensed attorneys; probation officers; school counselors employed by a school district while acting within the scope of employment as school counselors; registered occupational therapists; or occupational therapy assistants.~~ For the purposes of complaint investigation or disciplinary action relating to an individual practitioner, the term includes:

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(1) persons employed by a program licensed by the commissioner of human services who are acting as mental health practitioners within the scope of their employment;

(2) persons employed by a program licensed by the commissioner of human services who are providing chemical dependency counseling services; persons who are providing chemical dependency counseling services in private practice; and

(3) clergy who are providing mental health services that are equivalent to those defined in subdivision 4.

Sec. 33. Minnesota Statutes 1998, section 148B.68, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED CONDUCT.** The commissioner may impose disciplinary action as described in section 148B.69 against any unlicensed mental health practitioner. The following conduct is prohibited and is grounds for disciplinary action:

(a) Conviction of a crime, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to the provision of mental health services. Conviction, as used in this subdivision, includes a conviction of an offense which, if committed in this state, would be deemed a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered.

(b) Conviction of crimes against persons. For purposes of this chapter, a crime against a person means violations of the following: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.221; 609.222; 609.223; 609.224; 609.2242; 609.23; 609.231; 609.2325; 609.233; 609.2335; 609.235; 609.24; 609.245; 609.25; 609.255; 609.26, subdivision 1, clause (1) or (2); 609.265; 609.342; 609.343; 609.344; 609.345; 609.365; 609.498, subdivision 1; 609.50, clause (1); 609.561; 609.562; 609.595; and 609.72, subdivision 3.

(c) Failure to comply with the self-reporting requirements of section 148B.63, subdivision 7.

(d) Engaging in sexual contact with a client or former client as defined in section 148A.01, or engaging in contact that may be reasonably interpreted by a client as sexual, or engaging in any verbal behavior that is seductive or sexually demeaning to the patient, or engaging in sexual exploitation of a client or former client.

(e) Advertising that is false, fraudulent, deceptive, or misleading.

(f) Conduct likely to deceive, defraud, or harm the public; or demonstrating a willful or careless disregard for the health, welfare, or safety of a client; or any other practice that may create unnecessary danger to any client's life, health, or safety, in any of which cases, proof of actual injury need not be established.

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(g) Adjudication as mentally incompetent, or as a person who is dangerous to self, or adjudication pursuant to chapter 253B, as chemically dependent, mentally ill, mentally retarded, mentally ill and dangerous to the public, or as a sexual psychopathic personality or sexually dangerous person.

(h) Inability to provide mental health services with reasonable safety to clients.

(i) The habitual overindulgence in the use of or the dependence on intoxicating liquors.

(j) Improper or unauthorized personal or other use of any legend drugs as defined in chapter 151, any chemicals as defined in chapter 151, or any controlled substance as defined in chapter 152.

(k) Revealing a communication from, or relating to, a client except when otherwise required or permitted by law.

(l) Failure to comply with a client's request made under section 144.335, or to furnish a client record or report required by law.

(m) Splitting fees or promising to pay a portion of a fee to any other professional other than for services rendered by the other professional to the client.

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

(o) Failure to make reports as required by section 148B.63, or cooperate with an investigation of the office.

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

(q) Undertaking or continuing a professional relationship with a client in which the objectivity of the professional would be impaired.

(r) Failure to provide the client with a copy of the client bill of rights or violation of any provision of the client bill of rights.

(s) Violating any order issued by the commissioner.

(t) Failure to comply with sections 148B.60 to 148B.71, and the rules adopted under those sections.

(u) Failure to comply with any additional disciplinary grounds established by the commissioner by rule.

(v) Revocation, suspension, restriction, limitation, or other disciplinary action against the mental health practitioner's license, certificate, registration, or right of practice in this or another state or jurisdiction, for offenses that would be subject to disciplinary action in this state, or failure to report to the office of mental health practice that charges regarding the practitioner's license, certificate, registration, or right of practice have been brought in this or another state or jurisdiction.

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

(w) Bartering for services with a client.

Sec. 34. Minnesota Statutes 1998, section 148B.69, is amended by adding a subdivision to read:

**Subd. 7. RELEASE TO OBTAIN NONPUBLIC DATA.** An unlicensed mental health practitioner who is the subject of an investigation must sign a release authorizing the commissioner to obtain criminal conviction data, reports about abuse or neglect of clients, and other information pertaining to investigations of violations of statutes or rules from the bureau of criminal apprehension, the Federal Bureau of Investigation, the department of human services, the office of health facilities complaints, private certification organizations, county social service agencies, the division of driver and vehicle services in the department of public safety, adult protection services, child protection services, and other agencies that regulate provision of health care services. After the commissioner gives written notice to an individual who is the subject of an investigation, the agencies shall assist the commissioner with the investigation by giving the commissioner the requested data.

Sec. 35. Minnesota Statutes 1998, section 148B.71, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** All unlicensed mental health practitioners, other than those providing services in a facility ~~regulated under section 144.651 or a government agency or program licensed by the commissioner of health or the commissioner of human services,~~ shall provide to each client prior to providing treatment a written copy of the mental health client bill of rights. A copy must also be posted in a prominent location in the office of the mental health practitioner. Reasonable accommodations shall be made for those clients who cannot read or who have communication impairments and those who do not read or speak English. The mental health client bill of rights shall include the following:

- (a) the name, title, business address, and telephone number of the practitioner;
- (b) the degrees, training, experience, or other qualifications of the practitioner, followed by the following statement in bold print:

**“THE STATE OF MINNESOTA HAS NOT ADOPTED UNIFORM EDUCATIONAL AND TRAINING STANDARDS FOR ALL MENTAL HEALTH PRACTITIONERS. THIS STATEMENT OF CREDENTIALS IS FOR INFORMATION PURPOSES ONLY.”**

- (c) the name, business address, and telephone number of the practitioner’s supervisor, if any;
- (d) notice that a client has the right to file a complaint with the practitioner’s supervisor, if any, and the procedure for filing complaints;
- (e) the name, address, and telephone number of the office of mental health practice and notice that a client may file complaints with the office;

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

(f) the practitioner's fees per unit of service, the practitioner's method of billing for such fees, the names of any insurance companies that have agreed to reimburse the practitioner, or health maintenance organizations with whom the practitioner contracts to provide service, whether the practitioner accepts Medicare, medical assistance, or general assistance medical care, and whether the practitioner is willing to accept partial payment, or to waive payment, and in what circumstances;

(g) a statement that the client has a right to reasonable notice of changes in services or charges;

(h) a brief summary, in plain language, of the theoretical approach used by the practitioner in treating patients;

(i) notice that the client has a right to complete and current information concerning the practitioner's assessment and recommended course of treatment, including the expected duration of treatment;

(j) a statement that clients may expect courteous treatment and to be free from verbal, physical, or sexual abuse by the practitioner;

(k) a statement that client records and transactions with the practitioner are confidential, unless release of these records is authorized in writing by the client, or otherwise provided by law;

(l) a statement of the client's right to be allowed access to records and written information from records in accordance with section 144.335;

(m) a statement that other services may be available in the community, including where information concerning services is available;

(n) a statement that the client has the right to choose freely among available practitioners, and to change practitioners after services have begun, within the limits of health insurance, medical assistance, or other health programs;

(o) a statement that the client has a right to coordinated transfer when there will be a change in the provider of services;

(p) a statement that the client may refuse services or treatment, unless otherwise provided by law; and

(q) a statement that the client may assert the client's rights without retaliation.

Sec. 36. Minnesota Statutes 1998, section 148C.01, subdivision 2, is amended to read:

Subd. 2. **ALCOHOL AND DRUG COUNSELOR.** "Alcohol and drug counselor" or "counselor" means a person who:

(1) uses, as a representation to the public, any title, initials, or description of services incorporating the words "alcohol and drug counselor";

(2) offers to render professional alcohol and drug counseling services relative to the abuse of or the dependency on alcohol or other drugs to the general public or

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groups, organizations, corporations, institutions, or government agencies for compensation, implying that the person is licensed and trained, experienced or expert in alcohol and drug counseling;

(3) holds a valid license issued under sections 148C.01 to 148C.11 to engage in the practice of alcohol and drug counseling; or

(4) is an applicant for an alcohol and drug counseling license.

Sec. 37. Minnesota Statutes 1998, section 148C.01, subdivision 7, is amended to read:

Subd. 7. **ACCREDITED SCHOOL OR EDUCATIONAL PROGRAM.** "Accredited school or educational program" means a school of alcohol and drug counseling, university, college, or other post-secondary education program that offers no less than the required number of education and practicum hours as described in section 148C.04, subdivision 3, and the core functions as defined in subdivision 9, and that, at the time the student completes the program, is accredited by a regional accrediting association whose standards are substantially equivalent to those of the North Central Association of Colleges and Post-Secondary Education Institutions or an accrediting association that evaluates schools of alcohol and drug counseling for inclusion of the education, practicum, and core function standards in this chapter.

Sec. 38. Minnesota Statutes 1998, section 148C.01, subdivision 9, is amended to read:

Subd. 9. **CORE FUNCTIONS.** "Core functions" means the following services provided in alcohol and drug ~~dependency~~ treatment:

(1) "Screening" means the process by which a client is determined appropriate and eligible for admission to a particular program.

(2) "Intake" means the administrative and initial assessment procedures for admission to a program.

(3) "Orientation" means describing to the client the general nature and goals of the program; rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program; in a nonresidential program, the hours during which services are available; treatment costs to be borne by the client, if any; and client's rights.

(4) "Assessment" means those procedures by which a counselor identifies and evaluates an individual's strengths, weaknesses, problems, and needs ~~for the development of the~~ to develop a treatment plan or make recommendations for level of care placement.

(5) "Treatment planning" means the process by which the counselor and the client identify and rank problems needing resolution; establish agreed upon immediate and long-term goals; and decide on a treatment process and the sources to be utilized.

(6) "Counseling" means the utilization of special skills to assist individuals, families, or groups in achieving objectives through exploration of a problem and its

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ramifications; examination of attitudes and feelings; consideration of alternative solutions; and decision making.

(7) "Case management" means activities which bring services, agencies, resources, or people together within a planned framework of action toward the achievement of established goals.

(8) "Crisis intervention" means those services which respond to an alcohol or other drug user's needs during acute emotional or physical distress.

(9) "Client education" means the provision of information to clients who are receiving or seeking counseling concerning alcohol and other drug abuse and the available services and resources.

(10) "Referral" means identifying the needs of the client which cannot be met by the counselor or agency and assisting the client to utilize the support systems and available community resources.

(11) "Reports and recordkeeping" means charting the results of the assessment and treatment plan, writing reports, progress notes, discharge summaries, and other client-related data.

(12) "Consultation with other professionals regarding client treatment and services" means communicating with other professionals in regard to client treatment and services to assure comprehensive, quality care for the client.

Sec. 39. Minnesota Statutes 1998, section 148C.01, subdivision 10, is amended to read:

Subd. 10. **PRACTICE OF ALCOHOL AND DRUG COUNSELING.** "Practice of alcohol and drug counseling" means the observation, description, evaluation, interpretation, and modification of human behavior as it relates to the harmful or pathological use or abuse of alcohol or other drugs by the application of the core functions. The practice of alcohol and drug counseling includes, but is not limited to, the following activities, regardless of whether the counselor receives compensation for the activities:

(1) assisting clients who use alcohol or drugs, evaluating that use, and recognizing dependency if it exists;

(2) assisting clients with alcohol or other drug problems to gain insight and motivation aimed at resolving those problems;

(3) providing experienced professional guidance, assistance, and support for the client's efforts to develop and maintain a responsible functional lifestyle;

(4) recognizing problems outside the scope of the counselor's training, skill, or competence and referring the client to other appropriate professional services;

(5) assessing the level of alcohol or other drug use involvement;

(6) individual planning to prevent a return to harmful alcohol or chemical use;

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(7) alcohol and other drug abuse education for clients;

(8) consultation with other professionals; and

(9) gaining cultural competence through ongoing training and education according to standards established by rule; and

(10) providing the above services, as needed, to family members or others who are directly affected by someone using alcohol or other drugs.

Sec. 40. Minnesota Statutes 1998, section 148C.01, is amended by adding a subdivision to read:

Subd. 18. PSYCHOMETRICALLY VALID AND RELIABLE. "Psychometrically valid and reliable" means developed on the basis of role delineation, validation, reliability, passing point, and sensitivity review factors, according to generally accepted standards.

Sec. 41. Minnesota Statutes 1998, section 148C.03, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** The commissioner shall, after consultation with the advisory council or a committee established by rule:

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

(b) develop and, at least twice a year, administer an examination to assess applicants' knowledge and skills. The commissioner may contract for the administration of an examination approved by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC/AODA) with an entity designated by the commissioner. The examinations must be psychometrically valid and reliable; must be written and oral, with the oral examination based on a written case presentation; must minimize cultural bias; and must be balanced in various theories relative to the practice of alcohol and drug counseling;

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

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

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

(f) carry out disciplinary actions against licensees;

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

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

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

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

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

- (1) a general statement of the activities;
- (2) the number of staff hours spent on the activities;
- (3) the receipts and disbursements of funds;
- (4) the names of advisory council members and their addresses, occupations, and dates of appointment and reappointment;
- (5) the names and job classifications of employees;
- (6) a brief summary of rules proposed or adopted during the reporting period with appropriate citations to the State Register and published rules;
- (7) the number of persons having each type of license issued by the commissioner as of June 30 in the year of the report;
- (8) the locations and dates of the administration of examinations by the commissioner;
- (9) the number of persons examined by the commissioner with the persons subdivided into groups showing age categories, sex, and states of residency;
- (10) the number of persons licensed by the commissioner after taking the examinations referred to in clause (8) with the persons subdivided by age categories, sex, and states of residency;

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(11) the number of persons not licensed by the commissioner after taking the examinations referred to in clause (8) with the persons subdivided by age categories, sex, and states of residency;

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

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

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

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

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

Sec. 42. Minnesota Statutes 1998, section 148C.04, subdivision 3, is amended to read:

**Subd. 3. LICENSING REQUIREMENTS FOR THE FIRST FIVE YEARS.**

For five years after the effective date of the rules authorized in section 148C.03, the applicant, unless qualified under section 148C.06 during the ~~two-year~~ 25-month period authorized therein, under section 148C.07, or under subdivision 4, must furnish evidence satisfactory to the commissioner that the applicant has met all the requirements in clauses (1) to (3). The applicant must have:

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

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

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

Sec. 43. Minnesota Statutes 1998, section 148C.04, is amended by adding a subdivision to read:

**Subd. 6. TEMPORARY PRACTICE REQUIREMENTS.** (a) A person may temporarily practice alcohol and drug counseling prior to being licensed under this chapter if the person:

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

(1) either:

(i) meets the associate degree education and practicum requirements of subdivision 3, clause (1); or

(ii) meets the bachelor's degree education and practicum requirements of subdivision 4, clause (1), item (i);

(2) within 60 days of meeting the requirements of subdivision 3, clause (1), or subdivision 4, clause (1), item (i), requests, in writing, temporary practice status with the commissioner on an application form according to section 148C.0351, which includes the nonrefundable license fee and an affirmation by the person's supervisor, as defined in paragraph (b), clause (1), and which is signed and dated by the person and the person's supervisor;

(3) has not been disqualified to practice temporarily on the basis of a background investigation under section 148C.09, subdivision 1a; and

(4) has been notified in writing by the commissioner that the person is qualified to practice under this subdivision.

(b) A person practicing under this subdivision:

(1) may practice only in a program licensed by the department of human services and under the direct, on-site supervision of a person who is licensed under this chapter and employed in that licensed program;

(2) is subject to the rules of professional conduct set by rule;

(3) is not subject to the continuing education requirements of section 148C.05; and

(4) must be licensed according to this chapter within 12 months of meeting the requirements of subdivision 3, clause (1), or subdivision 4, clause (1), item (i).

(c) Upon written request, the commissioner may extend a person's temporary status if the person practices in a program described in section 148C.11, subdivision 3, paragraph (b), clause (2).

(d) A person practicing under this subdivision may not hold himself or herself out to the public by any title or description stating or implying that the person is licensed to engage in the practice of alcohol and drug counseling.

Sec. 44. Minnesota Statutes 1998, section 148C.04, is amended by adding a subdivision to read:

**Subd. 7. EFFECT AND SUSPENSION OF TEMPORARY PRACTICE.**  
Approval of a person's application for temporary practice creates no rights to or expectation of approval from the commissioner for licensure as an alcohol and drug counselor. The commissioner may suspend or restrict a person's temporary practice status according to section 148C.09.

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

Sec. 45. Minnesota Statutes 1998, section 148C.06, subdivision 1, is amended to read:

Subdivision 1. **QUALIFICATIONS.** For two years ~~25~~ months from the effective date of the rules authorized in section 148C.03, subdivision 1, the commissioner shall issue a license to an applicant if the applicant meets one of the following qualifications:

(a) is credentialed as a certified chemical dependency counselor (CCDC) or certified chemical dependency counselor reciprocal (CCDCR) by the Institute for Chemical Dependency Professionals of Minnesota, Inc.; graduates from an accredited school or education program with a certificate of completion in alcohol and drug counselor studies that includes a minimum of 270 clock hours of formal classroom education and 880 clock hours of alcohol and drug counselor internship and passes both the written and oral examinations according to this chapter; or has 2,080 hours of supervised alcohol and drug counselor experience, 270 clock hours of alcohol and drug counselor training with a minimum of 60 hours of the training occurring within the past five years, and 300 hours of alcohol and drug counselor internship and successfully completes the examination requirements in section 148C.04, subdivision 3, clauses (2) and (3);

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

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

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

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

Sec. 46. Minnesota Statutes 1998, section 148C.06, subdivision 2, is amended to read:

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

(b) A licensure applicant under subdivision 1, paragraphs (b) and (c), must be deemed eligible for licensure within the transition period, provided the applicant:

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

(1) made the application to the administrator of the exam or exams required by the commissioner before January 28, 2000;

(2) passed the required examinations before January 28, 2001; and

(3) meets all other requirements for licensure under this section.

Sec. 47. Minnesota Statutes 1998, section 148C.09, subdivision 1, is amended to read:

Subdivision 1. **GROUND.** The commissioner may refuse to grant a license to, or may suspend, revoke, or restrict the license of an individual if the commissioner determines that a licensee or applicant:

(1) is incompetent to engage in alcohol and drug counseling practice or is found to be engaged in alcohol and drug counseling practice in a manner harmful or dangerous to a client or the public;

(2) has violated the rules of the commissioner or the statutes the commissioner is empowered to enforce; or any law, rule order, stipulation and consent order, agreement, or settlement;

(3) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent misrepresentation;

(4) has knowingly made a false statement on the form required to be submitted to the commissioner for licensing or license renewal;

(5) has failed to obtain continuing education credits required by the commissioner;

(6) has failed to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or rules of the commissioner. The burden of proof shall be upon the applicant to demonstrate qualifications or satisfaction of requirements;

(7) has been convicted of a crime, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to the provision of alcohol and drug counseling services. Conviction, as used in this subdivision, includes conviction of an offense which, if committed in this state, would be deemed a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered;

(8) has been convicted of a crime against another person. For purposes of this chapter, a crime against another person means an offense listed in section 148B.68, subdivision 1, paragraph (b);

(9) has failed to comply with the self-reporting requirements of section 148C.095, subdivision 7;

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

(10) has engaged in sexual contact with a client, or a former client, as defined in section 148A.01, or has engaged in conduct that may be reasonably interpreted by a client as sexual, or has engaged in any verbal behavior that is seductive or sexually demeaning to the client, or has engaged in sexual exploitation of a client or former client;

(11) has engaged in false, fraudulent, deceptive, or misleading advertising;

(12) has engaged in conduct likely to deceive, defraud, or harm the public; or has demonstrated a willful or careless disregard for the health, welfare, or safety of a client; or any other practice that may create unnecessary danger to any client's life, health, or safety, in any of which cases, proof of actual injury need not be established;

(13) has been adjudicated as mentally incompetent, or as a person who has a psychopathic personality, or who is dangerous to self, or has been adjudicated as chemically dependent, mentally ill, mentally retarded, or mentally ill and dangerous to the public pursuant to chapter 253B;

(14) is unable to provide alcohol and drug counseling services with reasonable safety to clients;

(15) ~~is~~ has habitually ~~overindulgent~~ overindulged in the use of or the dependence on alcohol within the past two years;

(16) has engaged in the improper or unauthorized personal or other use of any legend drugs as defined in section 151.01, any chemicals as defined in section 151.01, or any controlled substance as defined in section 152.01 within the past two years;

(17) reveals a communication from, or relating to, a client except when required or permitted by law;

(18) fails to comply with a client's request for health records made under section 144.335, or to furnish a client record or report required by law;

(19) has engaged in fee splitting or promises to pay a portion of a fee to any other professional other than for services rendered by the other professional to the client;

(20) has engaged in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(21) fails to make reports as required by section 148C.095, or cooperate with an investigation of the commissioner;

(22) obtains money, property, or services from a client, other than reasonable fees for services provided to the client, through the use of undue influence, harassment, duress, deception, or fraud;

(23) undertakes or continues a professional relationship with a client in which the objectivity of the alcohol and drug counselor may be impaired;

(24) engages in conduct that constitutes grounds for discipline as established by the commissioner in rule; or

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

(25) engages in bartering for services with a client.

Sec. 48. Minnesota Statutes 1998, section 148C.09, subdivision 1a, is amended to read:

Subd. 1a. **BACKGROUND INVESTIGATION.** The applicant must sign a release authorizing the commissioner to obtain information from the bureau of criminal apprehension, the Federal Bureau of Investigation, the office of mental health practice, the department of human services, the office of health facilities complaints, and other agencies specified in the rules. After the commissioner has given written notice to an individual who is the subject of a background investigation, the agencies shall assist the commissioner with the investigation by giving the commissioner criminal conviction data, reports about ~~abuse or neglect of clients~~ substantiated maltreatment of minors and vulnerable adults, and other information specified in the rules. The commissioner may contract with the commissioner of human services to obtain criminal history data from the bureau of criminal apprehension.

Sec. 49. Minnesota Statutes 1998, section 148C.10, is amended by adding a subdivision to read:

Subd. 1a. **PRACTICE ALLOWED; CERTAIN INDIVIDUALS.** (a) Notwithstanding subdivision 1, individuals may engage in alcohol and drug counseling practice only until the commissioner issues a license or denies the license application, whichever occurs sooner, provided the individual:

(1) was employed as an alcohol and drug counselor before January 28, 2000;

(2) is under the supervision of an alcohol and drug counselor who is licensed under this chapter or employed in a program licensed by the department of human services;

(3) has not applied and been rejected or denied a license by the commissioner on any grounds under this chapter, other than failure to satisfy examination requirements, or on the basis of an investigation under chapter 148B; and

(4) either:

(i) made application to the commissioner for a license as an alcohol and drug counselor before January 28, 2000; or

(ii) made application to the administrator of the exam or exams required by the commissioner before January 28, 2000, passes the examinations before January 28, 2001, and within 60 calendar days of passing the examinations makes application to the commissioner for a license under this chapter.

(b) As used in this subdivision, supervision means monitoring activities of and accepting legal liability for the individual practicing without a license.

(c) Practice allowed under this subdivision creates no rights or expectations of approval from the commissioner for licensing as an alcohol and drug counselor. The commissioner may suspend or restrict practice under this subdivision as authorized under section 148C.09.

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

Sec. 50. Minnesota Statutes 1998, section 148C.11, subdivision 1, is amended to read:

Subdivision 1. **OTHER PROFESSIONALS.** Nothing in sections 148C.01 to 148C.10 shall prevent members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes, but is not limited to, licensed physicians, registered nurses, licensed practical nurses, licensed psychological practitioners, members of the clergy, American Indian medicine men and women, licensed attorneys, probation officers, licensed marriage and family therapists, licensed social workers, licensed professional counselors, school counselors employed by a school district while acting within the scope of employment as school counselors, and registered occupational therapists or occupational therapy assistants. These persons must not, however, use a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are engaged in the practice of alcohol and drug counseling, or that they are licensed to engage in the practice of alcohol and drug counseling. Persons engaged in the practice of alcohol and drug counseling are not exempt from the commissioner's jurisdiction solely by the use of one of the above titles.

Sec. 51. Minnesota Statutes 1998, section 153A.13, subdivision 9, is amended to read:

Subd. 9. **SUPERVISION.** "Supervision" means ~~on-site observing and monitoring~~ activities of, and accepting responsibility for, the hearing instrument dispensing activities of a trainee.

Sec. 52. Minnesota Statutes 1998, section 153A.13, is amended by adding a subdivision to read:

Subd. 10. **DIRECT SUPERVISION OR DIRECTLY SUPERVISED.** "Direct supervision" or "directly supervised" means the on-site and contemporaneous location of a supervisor and trainee, when the supervisor observes the trainee engaging in hearing instrument dispensing with a consumer.

Sec. 53. Minnesota Statutes 1998, section 153A.13, is amended by adding a subdivision to read:

Subd. 11. **INDIRECT SUPERVISION OR INDIRECTLY SUPERVISED.** "Indirect supervision" or "indirectly supervised" means the remote and independent performance of hearing instrument dispensing by a trainee when authorized under section 153A.14, subdivision 4a, paragraph (b).

Sec. 54. Minnesota Statutes 1998, section 153A.14, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION FOR CERTIFICATE.** An applicant must:

- (1) be ~~18~~ 21 years of age or older;

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(2) apply to the commissioner for a certificate to dispense hearing instruments on application forms provided by the commissioner;

(3) at a minimum, provide the applicant's name, social security number, business address and phone number, employer, and information about the applicant's education, training, and experience in testing human hearing and fitting hearing instruments;

(4) include with the application a statement that the statements in the application are true and correct to the best of the applicant's knowledge and belief;

(5) include with the application a written and signed authorization that authorizes the commissioner to make inquiries to appropriate regulatory agencies in this or any other state where the applicant has sold hearing instruments;

(6) submit certification to the commissioner that the applicant's audiometric equipment has been calibrated to meet current ANSI standards within 12 months of the date of the application;

(7) submit evidence of continuing education credits, if required; and

(8) submit all fees as required under section 153A.17.

Sec. 55. Minnesota Statutes 1998, section 153A.14, subdivision 2a, is amended to read:

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

Sec. 56. Minnesota Statutes 1998, section 153A.14, subdivision 2h, is amended to read:

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

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

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

(i) basic physics of sound;

(ii) the anatomy and physiology of the ear;

(iii) the function of hearing instruments;

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- (iv) the principles of hearing instrument selection; and
- (v) state and federal laws, rules, and regulations.

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

(i) pure tone audiometry, including air conduction testing and bone conduction testing;

(ii) live voice or recorded voice speech audiometry including speech recognition (discrimination) testing, most comfortable loudness level, and uncomfortable loudness measurements of tolerance thresholds;

(iii) masking when indicated;

(iv) recording and evaluation of audiograms and speech audiometry to determine proper selection and fitting of a hearing instrument;

(v) taking ear mold impressions; and

(vi) using an otoscope for the visual observation of the entire ear canal.

(b) The examination shall be administered by the commissioner at least twice a year.

(c) An applicant must achieve a passing score on all portions of the examination within a two-year period. An applicant who does not achieve a passing score on all portions of the examination within a two-year period must retake the entire examination and achieve a passing score on each portion of the examination. An applicant who does not apply for certification within one year of successful completion of the examination must retake the examination and achieve a passing score on each portion of the examination. An applicant may not take any part of the examination more than three times in a two-year period.

Sec. 57. Minnesota Statutes 1998, section 153A.14, subdivision 4, is amended to read:

Subd. 4. **DISPENSING OF HEARING INSTRUMENTS WITHOUT CERTIFICATE.** Except as provided in ~~subdivision~~ subdivisions 4a and 4c, it is unlawful for any person not holding a valid certificate to dispense a hearing instrument as defined in section 153A.13, subdivision 3. A person who dispenses a hearing instrument without the certificate required by this section is guilty of a gross misdemeanor.

Sec. 58. Minnesota Statutes 1998, section 153A.14, subdivision 4a, is amended to read:

Subd. 4a. **TRAINEES.** (a) A person who is not certified under this section may dispense hearing instruments as a trainee for a period not to exceed 12 months if the person:

- (1) submits an application on forms provided by the commissioner;

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(2) is under the supervision of a certified dispenser meeting the requirements of this subdivision; and

(3) meets all requirements for certification except passage of the examination required by this section.

(b) A certified hearing instrument dispenser may not supervise more than two trainees at the same time and may not directly supervise more than one trainee at a time. The certified dispenser is responsible for all actions or omissions of a trainee in connection with the dispensing of hearing instruments. A certified dispenser may not supervise a trainee if there are any commissioner, court, or other orders, currently in effect or issued within the last five years, that were issued with respect to an action or omission of a certified dispenser or a trainee under the certified dispenser's supervision.

Trainees Until taking and passing the practical examination testing the techniques described in subdivision 2h, paragraph (a), clause (2), trainees must be directly supervised in all areas described in subdivision 4b, and the activities tested by the practical examination. Two hundred hours of on-site observations must be completed within the trainee period with a minimum of 100 hours involving the supervisor, trainee, and a consumer. In addition Thereafter, trainees may dispense hearing instruments under indirect supervision until expiration of the trainee period. Under indirect supervision, the trainee must complete two monitored activities a week. Monitored activities may be executed by correspondence, telephone, or other telephonic devices, and include, but are not limited to, evaluation of audiograms, written reports, and contracts. The time spent in supervision must be recorded and the record retained by the supervisor.

Sec. 59. Minnesota Statutes 1998, section 153A.14, is amended by adding a subdivision to read:

Subd. 4c. **RECIPROcity.** (a) A person applying for certification as a hearing instrument dispenser under subdivision 1 who has dispensed hearing instruments in another jurisdiction may dispense hearing instruments as a trainee under indirect supervision if the person:

(1) satisfies the provisions of subdivision 4a, paragraph (a);

(2) submits a signed and dated affidavit stating that the applicant is not the subject of a disciplinary action or past disciplinary action in this or another jurisdiction and is not disqualified on the basis of section 153A.15, subdivision 1; and

(3) provides a copy of a current credential as a hearing instrument dispenser, an audiologist, or both, held in the District of Columbia or a state or territory of the United States.

(b) A person becoming a trainee under this subdivision who fails to take and pass the practical examination described in subdivision 2h, paragraph (a), clause (2), when next offered must cease dispensing hearing instruments unless under direct supervision.

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Sec. 60. Minnesota Statutes 1998, section 153A.14, is amended by adding a subdivision to read:

Subd. 4d. EXPIRATION OF TRAINEE PERIOD. The trainee period automatically expires two months following notice of passing all examination requirements of subdivision 2h.

Sec. 61. Minnesota Statutes 1998, section 153A.15, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED ACTS.** The commissioner may take enforcement action as provided under subdivision 2 against a dispenser of hearing instruments for the following acts and conduct:

(1) prescribing or otherwise recommending to a consumer or potential consumer the use of a hearing instrument, unless the prescription from a physician or recommendation from a hearing instrument dispenser or audiologist is in writing, is based on an audiogram that is delivered to the consumer or potential consumer when the prescription or recommendation is made, and bears the following information in all capital letters of 12-point or larger boldface type: "THIS PRESCRIPTION OR RECOMMENDATION MAY BE FILLED BY, AND HEARING INSTRUMENTS MAY BE PURCHASED FROM, THE CERTIFIED DISPENSER OF YOUR CHOICE";

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

(3) dispensing a hearing instrument to a minor person 18 years or younger unless evaluated by an audiologist for hearing evaluation and hearing aid evaluation;

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

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

(5) (6) presenting advertising that is false or misleading;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 62. Minnesota Statutes 1999 Supplement, section 214.01, subdivision 2, is amended to read:

Subd. 2. **HEALTH-RELATED LICENSING BOARD.** "Health-related licensing board" means the board of examiners of nursing home administrators established pursuant to section 144A.19, the office of unlicensed complementary and alternative health care practice established pursuant to section 146A.02, the board of medical practice created pursuant to section 147.01, the board of nursing created pursuant to section 148.181, the board of chiropractic examiners established pursuant to section 148.02, the board of optometry established pursuant to section 148.52, the board of physical therapy established pursuant to section 148.67, the board of psychology established pursuant to section 148.90, the board of social work pursuant to section 148B.19, the board of marriage and family therapy pursuant to section 148B.30, the office of mental health practice established pursuant to section 148B.61, the alcohol and drug counselors licensing advisory council established pursuant to section 148C.02, the board of dietetics and nutrition practice established under section 148.622, the board of dentistry established pursuant to section 150A.02, the board of pharmacy established pursuant to section 151.02, the board of podiatric medicine established pursuant to section 153.02, and the board of veterinary medicine, established pursuant to section 156.01.

Sec. 63. Laws 1999, chapter 223, article 2, section 81, as amended by Laws 1999, chapter 249, section 12, is amended to read:

**Sec. 81. EFFECTIVE DATES.**

Section 48 is effective March 1, 2000.

Sections 59, 61, 62, 64, 65, and 79 are effective the day following final enactment.

Section 67 is effective June 30, 1999.

Section 80, paragraph (a), is effective July 1, 1999.

Section 80, paragraphs paragraph (b) and (e), are is effective July 1, 2000.

Section 80, paragraph (c), is effective July 1, 2001.

**Sec. 64. EMPLOYEE HEALTH INSURANCE.**

The commissioner of health shall examine issues related to rising health insurance costs and shall develop recommendations for providing employer-subsidized affordable health insurance to employees of programs and facilities that serve the elderly and disabled. In conducting this study, the commissioner may also examine the affordability and availability of health insurance coverage for lower-income Minnesotans generally. In developing these recommendations, the commissioner shall consult with affected employers, consumers, and providers and may require facilities to provide information on health insurance offered to their employees, including information on eligibility, enrollment, cost and level of benefits. The commissioner shall provide

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recommendations by January 15, 2002, to the chairs of the house health and human services policy and finance committees and the senate health and family security committee and health and family security budget division.

**Sec. 65. REPORT TO THE LEGISLATURE.**

The commissioner of health shall report to the legislature by January 1, 2003, on the number and types of complaints received against unlicensed complementary and alternative health care practitioners pursuant to Minnesota Statutes, chapter 146A, the types of practitioners against whom complaints were filed, and the locations of the practitioners, the number of investigations conducted, and the number and types of enforcement actions completed. The report must be filed in accordance with Minnesota Statutes, sections 3.195 and 3.197.

**Sec. 66. REPEALER.**

Minnesota Statutes 1998, sections 148.5193, subdivisions 3 and 5; and 148C.04, subdivision 5, are repealed.

**Sec. 67. EFFECTIVE DATE.**

Sections 1, 9 to 21, 62, and 65 are effective July 1, 2001. Sections 2 to 8, 22 to 61, 63, 64, and 66 are effective the day following final enactment.

Presented to the governor May 9, 2000

Signed by the governor May 11, 2000, 5:39 p.m.

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**CHAPTER 461—S.F.No. 2796**

*An act relating to retirement; pension plan actuarial reporting; various public retirement plans; volunteer firefighter relief associations; Minneapolis firefighters relief association; modifying actuarial cost allocation by the legislative commission on pensions and retirement; changing the actuarial value of assets, actuarial assumptions and funding surplus recognition method; revising reemployed annuitant earnings limitations; adding certain prior correctional positions to correctional plan coverage; clarifying various former police and fire consolidation account merger provisions; authorizing certain optional annuity form elections by former consolidation account members; revising local correctional retirement plan membership eligibility; increasing local correctional retirement plan member and employer contribution rates; authorizing the purchase of nonprofit community-based corporation teaching service; expanding investment options for employer matching contribution tax sheltered annuities; modifying various volunteer firefighter relief association benefit and administration provisions; modifying judicial pension provision; modifying the marriage duration requirement for certain Minneapolis firefighter relief association survivor benefits; creating additional Minneapolis police and firefighter relief association post retirement adjustment mechanisms; resolving various individual and small group pension problems; amending Minnesota Statutes 1998, sections 16A.055, subdivision 5; 69.773, subdivision 1; 122A.46, subdivision 1, and by adding a subdivision; 136F.43, subdivisions 1, 2, and 6; 136F.45, subdivision 1a; 352.115, subdivision 10; 352.15, subdivision 1a; 352.91, subdivisions 3c, 3d, and by adding subdivisions; 352B.01, subdivision 3,*

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