

Sec. 7. Minnesota Statutes 2000, section 147.091, is amended by adding a subdivision to read:

Subd. 1b. UTILIZATION REVIEW. The board may investigate allegations and impose disciplinary action as described in section 147.141 against a physician performing utilization review for a pattern of failure to exercise that degree of care that a physician reviewer of ordinary prudence making utilization review determinations for a utilization review organization would use under the same or similar circumstances. As part of its investigative process, the board shall receive consultation or recommendation from physicians who are currently engaged in utilization review activities. The internal and external review processes under sections 62M.06 and 62Q.73 must be exhausted prior to an allegation being brought under this subdivision. Nothing in this subdivision creates, modifies, or changes existing law related to tort liability for medical negligence. Nothing in this subdivision preempts state peer review law protection in accordance with sections 145.61 to 145.67, federal peer review law, or current law pertaining to complaints or appeals.

Presented to the governor May 17, 2001

Signed by the governor May 21, 2001, 10:58 a.m.

CHAPTER 138—S.F.No. 1430

An act relating to health; eliminating commissioner's reporting requirement for alcohol and drug counselors; providing for exchange of information for investigations of alcohol and drug counselors; modifying an exception relating to school counselors; amending Minnesota Statutes 2000, sections 148C.03, subdivision 1; 148C.099; 148C.11, subdivision 1.

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

Section 1. Minnesota Statutes 2000, 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 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;

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

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;

(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; and

(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;~~

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

(7) the number of persons having each type of license issued by the commissioner as of June 30 in the year of the report;

(8) the locations and dates of the administration of examinations by the commissioner;

(9) the number of persons examined by the commissioner with the persons subdivided into groups showing age categories, sex, and states of residency;

(10) the number of persons licensed by the commissioner after taking the examinations referred to in clause (8) with the persons subdivided by age categories, sex, and states of residency;

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

(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. 2. Minnesota Statutes 2000, section 148C.099, is amended to read:

148C.099 INVESTIGATIONS; PROFESSIONAL COOPERATION; EXCHANGING INFORMATION.

Subdivision 1. COOPERATION. An alcohol and drug counselor who is the subject of an investigation, or who is questioned in connection with an investigation, by or on behalf of the commissioner, shall cooperate fully with the investigation. Cooperation includes responding fully to any question raised by or on behalf of the commissioner relating to the subject of the investigation whether tape recorded or not. Challenges to requests of the commissioner may be brought before the appropriate agency or court.

Subd. 2. EXCHANGING INFORMATION. (a) The commissioner shall establish internal operating procedures for:

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

(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 forwarding to an entity described in paragraph (a), clause (1), any information or evidence, including the results of investigations, that is relevant to matters within the regulatory jurisdiction of that entity. The data have the same classification in the possession of the agency receiving the data as they have in the possession of the agency providing the data.

(c) The commissioner shall establish procedures for exchanging information with other states regarding disciplinary action against alcohol and drug counselors.

(d) The commissioner shall forward to another governmental agency any complaints received by the commissioner that do not relate to the commissioner'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 commissioner of the disposition of the complaint. A complaint or other information received by another governmental agency relating to a statute or rule that the commissioner is empowered to enforce must be forwarded to the commissioner to be processed according to this section.

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

Sec. 3. Minnesota Statutes 2000, 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, licensed 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.

Presented to the governor May 17, 2001

Signed by the governor May 21, 2001, 10:57 a.m.

New language is indicated by underline, deletions by strikeout.