

Subd. 3. "Displaced person" means any person who moves from real property, or moves personal property from real property, as a result of acquisition undertaken by an acquiring authority or as a result of voluntary rehabilitation carried out by a person pursuant to acquisition or as a consequence thereof, notwithstanding the lack of federal financial participation, meets the definition of a displaced person under United States Code, title 42, sections 4601 to 4655, and regulations adopted under those sections.

Presented to the governor May 23, 2003

Signed by the governor May 27, 2003, 3:55 p.m.

### CHAPTER 118—H.F.No. 692

*An act relating to health occupations; modifying the scope of practice for occupational therapists, licensed professional counselors, alcohol and drug counselors, unlicensed mental health practitioners, and pharmacists; appropriating money; amending Minnesota Statutes 2002, sections 116J.70, subdivision 2a; 148.6425, subdivision 3; 148A.01, subdivision 5; 148B.60, subdivision 3; 148C.01, by adding a subdivision; 151.01, subdivision 27; 214.01, subdivision 2; 214.04, subdivision 3; 214.10, subdivision 9; 609.341, subdivision 17; proposing coding for new law in Minnesota Statutes, chapter 148B; repealing Minnesota Statutes 2002, sections 148B.60; 148B.61; 148B.63; 148B.64; 148B.65; 148B.66; 148B.67; 148B.68; 148B.69; 148B.70; 148B.71; 148C.01, subdivision 6.*

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

Section 1. Minnesota Statutes 2002, section 116J.70, subdivision 2a, is amended to read:

Subd. 2a. **LICENSE; EXCEPTIONS.** "Business license" or "license" does not include the following:

(1) any occupational license or registration issued by a licensing board listed in section 214.01 or any occupational registration issued by the commissioner of health pursuant to section 214.13;

(2) any license issued by a county, home rule charter city, statutory city, township, or other political subdivision;

(3) any license required to practice the following occupation regulated by the following sections:

- (i) abstracters regulated pursuant to chapter 386;
- (ii) accountants regulated pursuant to chapter 326A;
- (iii) adjusters regulated pursuant to chapter 72B;
- (iv) architects regulated pursuant to chapter 326;

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- (v) assessors regulated pursuant to chapter 270;
- (vi) athletic trainers regulated pursuant to chapter 148;
- (vii) attorneys regulated pursuant to chapter 481;
- (viii) auctioneers regulated pursuant to chapter 330;
- (ix) barbers regulated pursuant to chapter 154;
- (x) beauticians regulated pursuant to chapter 155A;
- (xi) boiler operators regulated pursuant to chapter 183;
- (xii) chiropractors regulated pursuant to chapter 148;
- (xiii) collection agencies regulated pursuant to chapter 332;
- (xiv) cosmetologists regulated pursuant to chapter 155A;
- (xv) dentists, registered dental assistants, and dental hygienists regulated pursuant to chapter 150A;
- (xvi) detectives regulated pursuant to chapter 326;
- (xvii) electricians regulated pursuant to chapter 326;
- (xviii) mortuary science practitioners regulated pursuant to chapter 149A;
- (xix) engineers regulated pursuant to chapter 326;
- (xx) insurance brokers and salespersons regulated pursuant to chapter 60A;
- (xxi) certified interior designers regulated pursuant to chapter 326;
- (xxii) midwives regulated pursuant to chapter 147D;
- (xxiii) nursing home administrators regulated pursuant to chapter 144A;
- (xxiv) optometrists regulated pursuant to chapter 148;
- (xxv) osteopathic physicians regulated pursuant to chapter 147;
- (xxvi) pharmacists regulated pursuant to chapter 151;
- (xxvii) physical therapists regulated pursuant to chapter 148;
- (xxviii) physician assistants regulated pursuant to chapter 147A;
- (xxix) physicians and surgeons regulated pursuant to chapter 147;
- (xxx) plumbers regulated pursuant to chapter 326;
- (xxxi) podiatrists regulated pursuant to chapter 153;
- (xxxii) practical nurses regulated pursuant to chapter 148;
- (xxxiii) professional fund raisers regulated pursuant to chapter 309;
- (xxxiv) psychologists regulated pursuant to chapter 148;

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(xxxv) real estate brokers, salespersons, and others regulated pursuant to chapters 82 and 83;

(xxxvi) registered nurses regulated pursuant to chapter 148;

(xxxvii) securities brokers, dealers, agents, and investment advisers regulated pursuant to chapter 80A;

(xxxviii) steamfitters regulated pursuant to chapter 326;

(xxxix) teachers and supervisory and support personnel regulated pursuant to chapter 125;

(xl) veterinarians regulated pursuant to chapter 156;

(xli) water conditioning contractors and installers regulated pursuant to chapter 326;

(xlii) water well contractors regulated pursuant to chapter 103I;

(xliii) water and waste treatment operators regulated pursuant to chapter 115;

(xliv) motor carriers regulated pursuant to chapter 221;

(xlv) professional firms regulated under chapter 319B;

(xlvi) real estate appraisers regulated pursuant to chapter 82B;

(xlvii) residential building contractors, residential remodelers, residential roofers, manufactured home installers, and specialty contractors regulated pursuant to chapter 326;

(xlviii) licensed professional counselors regulated pursuant to chapter 148B;

(4) any driver's license required pursuant to chapter 171;

(5) any aircraft license required pursuant to chapter 360;

(6) any watercraft license required pursuant to chapter 86B;

(7) any license, permit, registration, certification, or other approval pertaining to a regulatory or management program related to the protection, conservation, or use of or interference with the resources of land, air, or water, which is required to be obtained from a state agency or instrumentality; and

(8) any pollution control rule or standard established by the pollution control agency or any health rule or standard established by the commissioner of health or any licensing rule or standard established by the commissioner of human services.

Sec. 2. Minnesota Statutes 2002, section 148.6425, subdivision 3, is amended to read:

Subd. 3. **LICENSURE RENEWAL FOUR YEARS OR MORE AFTER LICENSURE EXPIRATION DATE.** (a) An individual who requests licensure renewal four years or more after the licensure expiration date must submit the following:

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

(2) the renewal fee and the late fee required under section 148.6445 if renewal application is based on paragraph (b), clause (1), (2), or (3), or the renewal fee required under section 148.6445 if renewal application is based on paragraph (b), clause (4);

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

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

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

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

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

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

(4) evidence that the applicant holds a current and unrestricted credential for the practice of occupational therapy in another jurisdiction and that the applicant's credential from that jurisdiction has been held in good standing during the period of lapse.

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

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

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

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2002, section 148A.01, subdivision 5, is amended to read:

Subd. 5. **PSYCHOTHERAPIST.** "Psychotherapist" means a physician, psychologist, nurse, chemical dependency counselor, social worker, member of the clergy, marriage and family therapist, mental health service provider, licensed professional counselor, or other person, whether or not licensed by the state, who performs or purports to perform psychotherapy.

#### LICENSED PROFESSIONAL COUNSELING

##### Sec. 4. [148B.50] DEFINITIONS.

Subdivision 1. **APPLICABILITY.** For the purposes of sections 148B.50 to 148B.593, the following terms have the meanings given.

Subd. 2. **APPROVED SUPERVISOR.** "Approved supervisor" means a licensed professional counselor, licensed psychologist, or other qualified supervisor as determined by the board, who has four years of professional counseling experience and documents to the board the completion of a training in counseling supervision that included content and experiences relevant to the supervision of professional counselors.

Subd. 3. **BOARD.** "Board" means the board of behavioral health and therapy established by section 148B.51.

Subd. 4. **LICENSED PROFESSIONAL COUNSELING.** "Licensed professional counseling" means the application of counseling, human development, and mental health research, principles, and procedures to maintain and enhance the mental health, development, personal and interpersonal effectiveness, and adjustment to work and life of individuals and families.

Subd. 5. **SCOPE OF PRACTICE.** (a) The scope of practice of a licensed professional counselor includes, but is not limited to:

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(1) the implementation of professional counseling treatment interventions including evaluation, treatment planning, assessment, and referral;

(2) direct counseling services to individuals, groups, and families;

(3) counseling strategies that effectively respond to multicultural populations;

(4) knowledge of relevant laws and ethics impacting practice;

(5) crisis intervention;

(6) consultation; and

(7) program evaluation and applied research.

(b) For the purposes of paragraph (a), clause (1), "professional counseling treatment interventions" means the application of cognitive, affective, behavioral, systemic, and community counseling strategies which include principles of human development, wellness, and pathology. Counselors provide mental health services for clients whose symptoms significantly interfere with daily functioning and would most likely not improve in a reasonable time period without intervention.

(c) Licensed professional counseling does not include activities or services undertaken by persons listed in section 148B.592, or the performance of any act that licensed professional counselors are not educated and trained to perform.

(d) In order to evaluate and treat mental illness, a licensed professional counselor must complete the postgraduate training specified in section 245.462, subdivision 18, clause (6), or 245.4871, subdivision 27, clause (6).

#### **Sec. 5. [148B.51] BOARD OF BEHAVIORAL HEALTH AND THERAPY.**

The board of behavioral health and therapy consists of 13 members appointed by the governor. Five of the members shall be professional counselors licensed or eligible for licensure under sections 148B.50 to 148B.593. Five of the members shall be alcohol and drug counselors licensed under chapter 148C. Three of the members shall be public members as defined in section 214.02. The board shall annually elect from its membership a chair and vice-chair. The board shall appoint and employ an executive director who is not a member of the board. Chapter 214 applies to the board of behavioral health and therapy unless superseded by sections 148B.50 to 148B.593.

#### **Sec. 6. [148B.52] DUTIES OF THE BOARD.**

(a) The board of behavioral health and therapy shall:

(1) establish by rule appropriate techniques, including examinations and other methods, for determining whether applicants and licensees are qualified under sections 148B.50 to 148B.593;

(2) establish by rule standards for professional conduct, including adoption of a code of professional ethics and requirements for continuing education and supervision;

(3) issue licenses to individuals qualified under sections 148B.50 to 148B.593;

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(4) establish by rule standards for initial education including coursework for licensure and content of professional education;

(5) establish by rule procedures, including a standard disciplinary process, to assess whether individuals licensed as licensed professional counselors comply with the board's rules;

(6) establish, maintain, and publish annually a register of current licensees and approved supervisors;

(7) establish initial and renewal application and examination fees sufficient to cover operating expenses of the board and its agents;

(8) educate the public about the existence and content of the laws and rules for licensed professional counselors to enable consumers to file complaints against licensees who may have violated the rules;

(9) establish rules and regulations pertaining to treatment for impaired practitioners; and

(10) periodically evaluate its rules in order to refine the standards for licensing professional counselors and to improve the methods used to enforce the board's standards.

(b) The board may appoint a professional discipline committee for each occupational licensure regulated by the board, and may appoint a board member as chair. The professional discipline committee shall consist of five members representative of the licensed occupation and shall provide recommendations to the board with regard to rule techniques, standards, procedures, and related issues specific to the licensed occupation.

#### **Sec. 7. [148B.53] REQUIREMENTS FOR LICENSURE.**

Subdivision 1. GENERAL REQUIREMENTS. (a) To be licensed as a licensed professional counselor (LPC), an applicant must provide evidence satisfactory to the board that the applicant:

(1) is at least 18 years of age;

(2) is of good moral character;

(3) has completed a master's degree program in counseling that includes a minimum of 48 semester hours and a supervised field experience of not fewer than 700 hours that is counseling in nature;

(4) has submitted to the board a plan for supervision during the first 2,000 hours of professional practice;

(5) has demonstrated competence in professional counseling by passing the National Counseling Exam (NCE) administered by the National Board for Certified Counselors, Inc. (NBCC) including obtaining a passing score on the examination accepted by the board based on the determinations made by the NBCC and oral and situational examinations if prescribed by the board;

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(6) will conduct all professional activities as a licensed professional counselor in accordance with standards for professional conduct established by the rules of the board; and

(7) has declared to the board and agrees to continue to declare areas of professional competencies through a statement of professional disclosure, describing the intended use of the license and the population to be served.

(b) The degree described in paragraph (a), clause (3), must be from a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or from an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA). Specific academic course content and training must meet standards established by the CACREP, including course work in the following subject areas:

- (1) the helping relationship, including counseling theory and practice;
- (2) human growth and development;
- (3) lifestyle and career development;
- (4) group dynamics, processes, counseling, and consulting;
- (5) assessment and appraisal;
- (6) social and cultural foundations, including multicultural issues;
- (7) principles of etiology, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;
- (8) family counseling and therapy;
- (9) research and evaluation; and
- (10) professional counseling orientation and ethics.

(c) To be licensed as a professional counselor, a psychological practitioner licensed under section 148.908 need only show evidence of licensure under that section and is not required to comply with paragraph (a) or (b).

Subd. 2. MINIMUM HOUR EFFECTIVE DATE. The minimum semester hour requirement imposed by subdivision 1, paragraph (a), clause (3), is not effective until July 1, 2004. This subdivision expires July 1, 2005.

Subd. 3. FEE. Each applicant shall pay a nonrefundable fee set by the board.

**Sec. 8. [148B.54] LICENSE RENEWAL REQUIREMENTS.**

Subdivision 1. RENEWAL. Licensees shall renew licenses at the time and in the manner established by the rules of the board.

Subd. 2. CONTINUING EDUCATION. At the completion of the first two years of licensure, a licensee must provide evidence satisfactory to the board of completion of 12 additional postgraduate semester credit hours in counseling as determined by the

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board. Thereafter, at the time of renewal, each licensee shall provide evidence satisfactory to the board that the licensee has completed during each two-year period at least the equivalent of 40 clock hours of professional postdegree continuing education in programs approved by the board and continues to be qualified to practice under sections 148B.50 to 148B.593.

**Sec. 9. [148B.55] LICENSES; TRANSITION PERIOD.**

For two years beginning July 1, 2003, the board shall issue a license without examination to an applicant if the board determines that the applicant satisfies the requirements in section 148B.53, subdivision 1, if the applicant is a licensed psychological practitioner, a licensed marriage and family therapist, or a licensed alcohol and drug counselor, or is in the process of being so licensed. An applicant licensed under this section must also agree to conduct all professional activities as a licensed professional counselor in accordance with standards for professional conduct established by the board by rule. This section expires July 1, 2005.

**Sec. 10. [148B.56] RECIPROCITY.**

The board may issue a license to an individual who holds a current license or other credential from another jurisdiction if the board finds that the requirements for that credential are substantially similar to the requirements in sections 148B.50 to 148B.593.

**Sec. 11. [148B.58] NONTRANSFERABILITY OF LICENSES.**

A professional counseling license is not transferable.

**Sec. 12. [148B.59] GROUNDS FOR DISCIPLINARY ACTION; FORMS OF DISCIPLINARY ACTION; RESTORATION OF LICENSE.**

(a) The board may impose disciplinary action as described in paragraph (b) against an applicant or licensee whom the board, by a preponderance of the evidence, determines:

(1) has violated a statute, rule, or order that the board issued or is empowered to enforce;

(2) has engaged in fraudulent, deceptive, or dishonest conduct, whether or not the conduct relates to the practice of licensed professional counseling, that adversely affects the person's ability or fitness to practice professional counseling;

(3) has engaged in unprofessional conduct or any other conduct which has the potential for causing harm to the public, including any departure from or failure to conform to the minimum standards of acceptable and prevailing practice without actual injury having to be established;

(4) has been convicted of or has pled guilty or nolo contendere to a felony or other crime, an element of which is dishonesty or fraud, or has been shown to have engaged in acts or practices tending to show that the applicant or licensee is incompetent or has engaged in conduct reflecting adversely on the applicant's or licensee's ability or fitness to engage in the practice of professional counseling;

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(5) has employed fraud or deception in obtaining or renewing a license, or in passing an examination;

(6) has had any counseling license, certificate, registration, privilege to take an examination, or other similar authority denied, revoked, suspended, canceled, limited, or not renewed for cause in any jurisdiction;

(7) has failed to meet any requirement for the issuance or renewal of the person's license. The burden of proof is on the applicant or licensee to demonstrate the qualifications or satisfy the requirements for a license under the licensed professional counseling act;

(8) has failed to cooperate with an investigation of the board;

(9) has demonstrated an inability to practice professional counseling with reasonable skill and safety to clients due to any mental or physical illness or condition;  
or

(10) has engaged in fee splitting. This clause does not apply to the distribution of revenues from a partnership, group practice, nonprofit corporation, or professional corporation to its partners, shareholders, members, or employees if the revenues consist only of fees for services performed by the licensee or under a licensee's administrative authority. Fee splitting includes, but is not limited to:

(i) dividing fees with another person or a professional corporation, unless the division is in proportion to the services provided and the responsibility assumed by each professional; and

(ii) referring a client to any health care provider as defined in section 144.335 in which the referring licensee has a significant financial interest, unless the licensee has disclosed in advance to the client the licensee's own financial interest.

(b) If grounds for disciplinary action exist under paragraph (a), the board may take one or more of the following actions:

(1) refuse to grant or renew a license;

(2) revoke a license;

(3) suspend a license;

(4) impose limitations or conditions on a licensee's practice of professional counseling, including, but not limited to, limiting the scope of practice to designated competencies, imposing retraining or rehabilitation requirements, requiring the licensee to practice under supervision, or conditioning continued practice on the demonstration of knowledge or skill by appropriate examination or other review of skill and competence;

(5) censure or reprimand the licensee;

(6) refuse to permit an applicant to take the licensure examination or refuse to release an applicant's examination grade if the board finds that it is in the public interest; or

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(7) 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 physical therapist of any economic advantage gained by reason of the violation charged, to discourage similar violations or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the office of administrative hearings, legal and investigative services provided by the office of the attorney general, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.

(c) In lieu of or in addition to paragraph (b), the board may require, as a condition of continued licensure, termination of suspension, reinstatement of license, examination, or release of examination grades, that the applicant or licensee:

(1) submit to a quality review, as specified by the board, of the applicant's or licensee's ability, skills, or quality of work; and

(2) complete to the satisfaction of the board educational courses specified by the board.

(d) Service of the order is effective if the order is served on the applicant, licensee, or counsel of record personally or by mail to the most recent address provided to the board for the licensee, applicant, or counsel of record. The order shall state the reasons for the entry of the order.

**Sec. 13. [148B.591] PROHIBITION AGAINST UNLICENSED PRACTICE OR USE OF TITLES.**

Subdivision 1. PRACTICE. After the effective date of rules adopted by the board, no individual may engage in the practice of licensed professional counseling unless that individual holds a valid license or is exempt from licensure under section 148B.592.

Subd. 2. USE OF TITLES. After the board adopts rules, no individual may be presented to the public by any title or practice incorporating the words "licensed professional counselor" or "LPC" unless that individual holds a valid license issued under sections 148B.50 to 148B.593.

**Sec. 14. [148B.592] EXCEPTIONS TO LICENSE REQUIREMENT.**

Subdivision 1. OTHER PROFESSIONALS. Nothing in sections 148B.50 to 148B.593 prevents 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 psychologists, probation officers, attorneys, social workers, marriage and family therapists, qualified rehabilitation consultants, natural family planning practitioners certified by the American Academy of Natural Family Planning, and registered occupational therapists or certified occupational therapist assistants. These persons must not, however, use a title incorporating the words "licensed professional counselor" or otherwise hold themselves out to the public by any title or description

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stating or implying that they are licensed to engage in the practice of professional counseling unless they are licensed under sections 148B.50 to 148B.593.

Subd. 2. **STUDENTS.** Nothing in sections 148B.50 to 148B.593 prevents a student, intern, or trainee enrolled in an accredited program of professional counseling from engaging in professional counseling as part of the supervised course of study if the person is identified as a "counselor intern."

Subd. 3. **GOVERNMENT AGENCIES; EDUCATIONAL INSTITUTIONS.** Nothing in sections 148B.50 to 148B.593 limits the activities and services of, or use of, an official title by a person employed as a counselor by a federal, state, county, or municipal agency, or public or private educational institution if the person is performing the activities within the scope of the person's employment.

Subd. 4. **UNLICENSED PRACTITIONERS.** (a) Nothing in sections 148B.50 to 148B.593 prohibits the provision of mental health services by an unlicensed mental health practitioner as defined in section 148B.60, subdivision 3. This paragraph expires July 1, 2004.

(b) Nothing in this section limits the authority of unlicensed complementary and alternative health care practitioners to perform services under chapter 146A.

Subd. 5. **NONRESIDENTS.** A nonresident may engage in the practice of professional counseling within the state without a license for up to 30 days during any calendar year if the nonresident is authorized to provide the services under the law of the state or country of residence and the nonresident has provided proof of credentials to the board, been found qualified to render services in the state, and been granted permission by the board to practice.

Subd. 6. **CLERGY.** Nothing in sections 148B.50 to 148B.593 limits the activities and services of a rabbi, priest, minister, or clergyperson of any religious denomination or sect, provided such activities and services are within the scope of the performance of regular or specialized ministerial duties.

Subd. 7. **NONPROFIT ORGANIZATIONS AND CHARITIES.** Nothing in sections 148B.50 to 148B.593 limits the activities, services, and descriptions of persons offering volunteer or professional services for public or private nonprofit organizations or charities.

#### Sec. 15. **[148B.593] DISCLOSURE OF INFORMATION.**

(a) A person licensed under sections 148B.50 to 148B.593 may not disclose without written consent of the client any communication made by the client to the licensee in the course of the practice of professional counseling, nor may any employee of the licensee reveal the information without the consent of the employer or client except as provided under section 626.556 or 626.557.

(b) For purposes of sections 148B.50 to 148B.593, the confidential relations and communications between the licensee and a client are placed upon the same basis as those that exist between a licensed psychologist and client. Nothing in sections

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148B.50 to 148B.593 may be construed to require any communications to be disclosed except by court order.

Sec. 16. Minnesota Statutes 2002, 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; the board of behavioral health and therapy under sections 148B.50 to 148B.593; or another licensing board if the person is practicing within the scope of the license; 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:

(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. 17. Minnesota Statutes 2002, section 148C.01, is amended by adding a subdivision to read:

Subd. 2e. BOARD. "Board" means the board of behavioral health and therapy established by section 148B.51.

**EFFECTIVE DATE.** This section is effective July 1, 2005.

Sec. 18. Minnesota Statutes 2002, section 151.01, subdivision 27, is amended to read:

Subd. 27. **PRACTICE OF PHARMACY.** "Practice of pharmacy" means:

(1) interpretation and evaluation of prescription drug orders;

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(2) compounding, labeling, and dispensing drugs and devices (except labeling by a manufacturer or packager of nonprescription drugs or commercially packaged legend drugs and devices);

(3) participation in clinical interpretations and monitoring of drug therapy for assurance of safe and effective use of drugs;

(4) participation in drug and therapeutic device selection; drug administration for first dosage and medical emergencies; drug regimen reviews; and drug or drug-related research;

(5) participation in administration of influenza and pneumococcal vaccine to individuals over 18 years of age under standing orders from a physician licensed under chapter 147 or by written protocol with a physician provided that:

(i) the pharmacist is trained in a program approved by the American Council of Pharmaceutical Education for the administration of immunizations or graduated from a college of pharmacy in 2001 or thereafter; and

(ii) the pharmacist reports the administration of the immunization to the patient's primary physician or clinic;

(6) participation in the practice of managing drug therapy and modifying drug therapy, according to section 151.21, subdivision 1, on a case-by-case basis according to a written protocol between the specific pharmacist and the individual dentist, optometrist, physician, podiatrist, or veterinarian who is responsible for the patient's care and authorized to independently prescribe drugs. Any significant changes in drug therapy must be reported by the pharmacist to the patient's medical record;

~~(6)~~ (7) participation in the storage of drugs and the maintenance of records;

~~(7)~~ (8) responsibility for participation in patient counseling on therapeutic values, content, hazards, and uses of drugs and devices; and

(8) (9) offering or performing those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of a pharmacy.

Sec. 19. Minnesota Statutes 2002, 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 board of

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behavioral health and therapy established by section 148B.51, 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. 20. Minnesota Statutes 2002, section 214.04, subdivision 3, is amended to read:

Subd. 3. **OFFICERS; STAFF.** The executive director of each health-related board and the executive secretary of each non-health-related board shall be the chief administrative officer for the board but shall not be a member of the board. The executive director or executive secretary shall maintain the records of the board, account for all fees received by it, supervise and direct employees servicing the board, and perform other services as directed by the board. The executive directors, executive secretaries, and other employees of the following boards shall be hired by the board, and the executive directors or executive secretaries shall be in the unclassified civil service, except as provided in this subdivision:

- (1) dentistry;
- (2) medical practice;
- (3) nursing;
- (4) pharmacy;
- (5) accountancy;
- (6) architecture, engineering, land surveying, landscape architecture, geoscience, and interior design;
- (7) barber examiners;
- (8) cosmetology;
- (9) electricity;
- (10) teaching;
- (11) peace officer standards and training;
- (12) social work;
- (13) marriage and family therapy; and
- (14) dietetics and nutrition practice; and
- (15) licensed professional counseling.

The executive directors or executive secretaries serving the boards are hired by those boards and are in the unclassified civil service, except for part-time executive directors or executive secretaries, who are not required to be in the unclassified service.

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Boards not requiring full-time executive directors or executive secretaries may employ them on a part-time basis. To the extent practicable, the sharing of part-time executive directors or executive secretaries by boards being serviced by the same department is encouraged. Persons providing services to those boards not listed in this subdivision, except executive directors or executive secretaries of the boards and employees of the attorney general, are classified civil service employees of the department servicing the board. To the extent practicable, the commissioner shall ensure that staff services are shared by the boards being serviced by the department. If necessary, a board may hire part-time, temporary employees to administer and grade examinations.

Sec. 21. Minnesota Statutes 2002, section 214.10, subdivision 9, is amended to read:

Subd. 9. **ACTS AGAINST MINORS.** (a) As used in this subdivision, the following terms have the meanings given them.

(1) "Licensed person" means a person who is licensed under this chapter by the board of nursing, the board of psychology, the social work licensing board, the board of marriage and family therapy, the board of unlicensed mental health service providers, the board of behavioral health and therapy, or the board of teaching.

(2) "Crime against a minor" means conduct that constitutes a violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.21, 609.215, 609.221, 609.222, 609.223, 609.342, 609.343, 609.345, or a felony violation of section 609.377.

(b) In any license revocation proceeding, there is a rebuttable presumption that a licensed person who is convicted in a court of competent jurisdiction of committing a crime against a minor is unfit to practice the profession or occupation for which that person is licensed.

Sec. 22. Minnesota Statutes 2002, section 609.341, subdivision 17, is amended to read:

Subd. 17. "Psychotherapist" means a person who is or purports to be a physician, psychologist, nurse, chemical dependency counselor, social worker, marriage and family therapist, licensed professional counselor, or other mental health service provider; or any other person, whether or not licensed by the state, who performs or purports to perform psychotherapy.

#### Sec. 23. **INITIAL BOARD.**

Notwithstanding Minnesota Statutes, section 148B.51, members of the first board appointed under that section need not be licensed, but must meet all qualifications, other than payment of fees, to be eligible for licensure under Minnesota Statutes, sections 148B.50 to 148B.593.

#### Sec. 24. **INTERAGENCY AGREEMENT.**

The board of behavioral health and therapy and the board of psychology may enter into an interagency agreement for shared administrative services.

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**Sec. 25. RECOMMENDATIONS FOR MERGING THERAPY-RELATED BOARDS.**

The boards of behavioral health and therapy and marriage and family therapy shall develop recommendations on merging the two boards into one inclusive board that would encompass the regulatory authority for all behavioral therapy licensed occupations. The recommendations shall include a timeline for accomplishing the merger, the possibility of including other occupational-related boards, and all necessary legislative changes. These recommendations shall be submitted to the legislature by January 15, 2004.

**Sec. 26. TRANSFER OF POWERS AND DUTIES.**

Effective July 1, 2005, the powers and duties of the commissioner of health under Minnesota Statutes, chapter 148C, are transferred to the board of behavioral health and therapy created under Minnesota Statutes, section 148B.51, pursuant to Minnesota Statutes, section 15.039.

**Sec. 27. APPROPRIATION.**

\$175,000 in fiscal year 2004 and \$145,000 in fiscal year 2005 are appropriated from the state government special revenue fund to the board of behavioral health and therapy for the purposes of Minnesota Statutes, sections 148B.50 to 148B.593, to be available until July 1, 2005.

**Sec. 28. REVISOR INSTRUCTION.**

(a) The revisor of statutes shall insert the "board of behavioral health and therapy" or "board" wherever "commissioner of health" or "commissioner" appears in Minnesota Statutes, chapter 148C, and Minnesota Rules, chapter 4747.

**EFFECTIVE DATE.** This paragraph is effective July 1, 2005.

(b) The revisor of statutes shall strike the terms "unlicensed mental health practitioner" and "the office of unlicensed mental health practitioner" from Minnesota Statutes and Minnesota Rules.

**EFFECTIVE DATE.** This paragraph is effective July 1, 2004.

**Sec. 29. REPEALER.**

(a) Minnesota Statutes 2002, sections 148B.60; 148B.61; 148B.63; 148B.64; 148B.65; 148B.66; 148B.67; 148B.68; 148B.69; 148B.70; and 148B.71, are repealed.

**EFFECTIVE DATE.** This paragraph is effective July 1, 2004.

(b) Minnesota Statutes 2002, section 148C.01, subdivision 6, is repealed.

**EFFECTIVE DATE.** This paragraph is effective July 1, 2005.

**Sec. 30. EFFECTIVE DATE.**

This act is effective July 1, 2003.

Presented to the governor May 23, 2003

Signed by the governor May 27, 2003, 6:03 p.m.

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