

organization, foundation, or affiliate has provided to the contributing organization within one year of the contribution any money, grants, property, or other thing of value;

(5) a contribution by a licensed organization to another licensed organization unless the board has specifically authorized the contribution. The board must authorize such a contribution when requested to do so by the contributing organization unless it makes an affirmative finding that the contribution will not be used by the recipient organization for one or more of the purposes in paragraph (a); or

(6) a contribution to a statutory or home rule charter city, county, or town by a licensed organization with the knowledge that the governmental unit intends to use the contribution for a pension or retirement fund.

#### Sec. 51. CONFORMING CHANGES; RULES.

The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to amend rules to conform to sections 44 and 46. Minnesota Statutes, section 14.386, does not apply to the rulemaking under this section except to the extent provided under Minnesota Statutes, section 14.388.

#### Sec. 52. REPEALER.

(a) Minnesota Statutes 2004, sections 88.27; 97B.005, subdivision 4; 97B.935; 97C.015; 97C.403; and 97C.825, subdivisions 6, 7, 8, and 9, are repealed.

(b) Minnesota Rules, parts 6234.2300, subparts 2 and 3; 6236.1100; and 6236.1300, are repealed.

Presented to the governor May 31, 2005

Signed by the governor June 3, 2005, 8:45 a.m.

### CHAPTER 147—S.F.No. 1204

*An act relating to health; recodifying statutes and rules relating to social work; authorizing rulemaking; providing penalties; modifying provisions relating to physical therapists; providing penalties; modifying the Psychology Practice Act; phasing out licensure as a licensed psychological practitioner; modifying dental licensure provisions; establishing fees; modifying provisions for licensed professional counselors; authorizing certain rulemaking; modifying physician review; modifying information contained on prescriptions; providing recognition for the practice of respiratory therapy in emergency situations; providing that audiologists need not obtain hearing instrument dispenser certification; providing penalties; transferring oversight authority for the Office of Mental Health Practice; requiring a report; establishing penalty fees for certain credentialed health occupations; modifying certain health care provider disclosure and payments; providing criminal penalties; appropriating money; amending Minnesota Statutes 2004, sections 13.383, subdivision 10; 13.411, subdivision 5; 45.0135, by adding a subdivision; 144.335, subdivision 1; 144A.46, subdivision 2; 144E.001, subdivisions 8, 15, by adding a subdivision; 144E.27, subdivision 2; 144E.28, subdivisions 1, 3, 7, 8; 147.09; 147A.18, subdivisions 1, 3;*

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147C.05; 148.512, subdivision 6, by adding subdivisions; 148.513, by adding a subdivision; 148.515, by adding a subdivision; 148.5194, by adding subdivisions; 148.5195, subdivision 3; 148.5196, subdivision 1; 148.6445, by adding a subdivision; 148.65, by adding subdivisions; 148.706; 148.75; 148.89, subdivision 5; 148.90, subdivision 1; 148.907, by adding a subdivision; 148.908, subdivision 2, by adding a subdivision; 148.909; 148.916, subdivision 2; 148.925, subdivision 6; 148.941, subdivision 2; 148.96, subdivision 3; 148B.53, subdivisions 1, 3; 148B.54, subdivision 2; 148B.59; 148B.60; 148B.61; 148C.03, subdivision 1; 148C.04, subdivisions 3, 4, 6; 148C.091, subdivision 1; 148C.10, subdivision 2; 148C.11, subdivisions 1, 4, 5, 6; 148C.12, subdivision 3, by adding a subdivision; 150A.01, subdivision 6a; 150A.06, subdivision 1a; 150A.10, subdivision 1a; 153A.13, subdivision 5; 153A.14, subdivisions 2h, 2i, 4, 4c, 9; 153A.15, subdivision 1; 153A.20, subdivision 1; 214.01, subdivision 2; 214.06, subdivision 1, by adding a subdivision; 214.103, subdivision 1; 245.462, subdivision 18; 245.4871, subdivision 27; 256B.0625, subdivision 38; 256J.08, subdivision 73a; 319B.02, subdivision 19; 319B.40; Laws 2003, chapter 118, section 29, as amended; proposing coding for new law in Minnesota Statutes, chapters 62J; 62Q; 144E; 148; 148B; 148C; 150A; 153A; 214; proposing coding for new law as Minnesota Statutes, chapter 148D; repealing Minnesota Statutes 2004, sections 148B.18; 148B.185; 148B.19; 148B.20; 148B.21; 148B.215; 148B.22; 148B.224; 148B.225; 148B.226; 148B.24; 148B.25; 148B.26; 148B.27; 148B.28; 148B.281; 148B.282; 148B.283; 148B.284; 148B.285; 148B.286; 148B.287; 148B.288; 148B.289; 148C.02; 148C.12, subdivision 4; 153A.14, subdivisions 2a, 8, 10; 153A.19; Minnesota Rules, parts 4747.0030, subparts 11, 16; 4747.1200; 4747.1300; 5601.0100, subparts 3, 4; 8740.0100; 8740.0110; 8740.0120; 8740.0122; 8740.0130; 8740.0155; 8740.0185; 8740.0187; 8740.0200; 8740.0240; 8740.0260; 8740.0285; 8740.0300; 8740.0310; 8740.0315; 8740.0320; 8740.0325; 8740.0330; 8740.0335; 8740.0340; 8740.0345.

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

## ARTICLE 1

### BOARD OF SOCIAL WORK

Section 1. Minnesota Statutes 2004, section 13.383, subdivision 10, is amended to read:

Subd. 10. **SOCIAL WORKERS.** (a) **DISCIPLINARY DATA GENERALLY.** Data held by the Board of Social Work in connection with disciplinary matters are classified under sections ~~148B.281~~, subdivisions 2 and 5, and ~~148B.285~~ 148D.255 to 148D.270.

(b) **REPORTS OF VIOLATIONS.** Certain reports of violations submitted to the Board of Social Work are classified under section ~~148B.284~~ sections 148D.240 to 148D.250.

(c) **CLIENT RECORDS.** Client records of a patient cared for by a social worker who is under review by the Board of Social Work are classified under sections ~~148B.282~~ and ~~148B.286~~, subdivision 3 section 148D.230.

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Sec. 2. Minnesota Statutes 2004, section 13.411, subdivision 5, is amended to read:

Subd. 5. **SOCIAL WORKERS.** Residence addresses and telephone numbers of social worker licensees are classified under section ~~148B.285~~, subdivision 5 chapter 148D.

Sec. 3. Minnesota Statutes 2004, section 144.335, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purposes of this section, the following terms have the meanings given them:

(a) "Patient" means a natural person who has received health care services from a provider for treatment or examination of a medical, psychiatric, or mental condition, the surviving spouse and parents of a deceased patient, or a person the patient appoints in writing as a representative, including a health care agent acting pursuant to chapter 145C, unless the authority of the agent has been limited by the principal in the principal's health care directive. Except for minors who have received health care services pursuant to sections 144.341 to 144.347, in the case of a minor, patient includes a parent or guardian, or a person acting as a parent or guardian in the absence of a parent or guardian.

(b) "Provider" means (1) any person who furnishes health care services and is regulated to furnish the services pursuant to chapter 147, 147A, 147B, 147C, 147D, 148, 148B, 148C, 148D, 150A, 151, 153, or 153A, or Minnesota Rules, chapter 4666; (2) a home care provider licensed under section 144A.46; (3) a health care facility licensed pursuant to this chapter or chapter 144A; (4) a physician assistant registered under chapter 147A; and (5) an unlicensed mental health practitioner regulated pursuant to sections 148B.60 to 148B.71.

(c) "Individually identifiable form" means a form in which the patient is or can be identified as the subject of the health records.

Sec. 4. Minnesota Statutes 2004, section 144A.46, subdivision 2, is amended to read:

Subd. 2. **EXEMPTIONS.** The following individuals or organizations are exempt from the requirement to obtain a home care provider license:

(1) a person who is licensed as a registered nurse under sections 148.171 to 148.285 and who independently provides nursing services in the home without any contractual or employment relationship to a home care provider or other organization;

(2) a personal care assistant who provides services to only one individual under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, and 256B.04, subdivision 16;

(3) a person or organization that exclusively offers, provides, or arranges for personal care assistant services to only one individual under the medical assistance

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program as authorized under sections 256B.0625, subdivision 19a, and 256B.04, subdivision 16;

(4) a person who is licensed under sections 148.65 to 148.78 and who independently provides physical therapy services in the home without any contractual or employment relationship to a home care provider or other organization;

(5) a provider that is licensed by the commissioner of human services to provide semi-independent living services under Minnesota Rules, parts 9525.0500 to 9525.0660 when providing home care services to a person with a developmental disability;

(6) a provider that is licensed by the commissioner of human services to provide home and community-based services under Minnesota Rules, parts 9525.2000 to 9525.2140 when providing home care services to a person with a developmental disability;

(7) a person or organization that provides only home management services, if the person or organization is registered under section 144A.461; or

(8) a person who is licensed as a social worker under sections ~~148B.18 to 148B.289~~ chapter 148D and who provides social work services in the home independently and not through any contractual or employment relationship with a home care provider or other organization.

An exemption under this subdivision does not excuse the individual from complying with applicable provisions of the home care bill of rights.

Sec. 5. Minnesota Statutes 2004, 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.

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(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 Education, a 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.

(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~~ chapter 148D 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

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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. 6. [148D.001] CITATION.**

This chapter may be cited as the "Minnesota Board of Social Work Practice Act."

**Sec. 7. [148D.010] DEFINITIONS.**

Subdivision 1. SCOPE. For the purpose of this chapter, the terms in this section have the meanings given.

Subd. 2. APPLICANT. "Applicant" means a person who submits an application to the board for a new license, a license renewal, a change in license, an inactive license, reactivation of a license, or a voluntary termination.

Subd. 3. APPLICATION. "Application" means an application to the board for a new license, a license renewal, a change in license, an inactive license, reactivation of a license, or voluntary termination.

Subd. 4. BOARD. "Board" means the Board of Social Work created under section 148D.025.

Subd. 5. CLIENT. "Client" means an individual, couple, family, group, community, or organization that receives or has received social work services as described in subdivision 9.

Subd. 6. CLINICAL PRACTICE. "Clinical practice" means applying professional social work knowledge, skills, and values in the differential diagnosis and treatment of psychosocial function, disability, or impairment, including addictions and emotional, mental, and behavioral disorders. Treatment includes a plan based on a differential diagnosis. Treatment may include, but is not limited to, the provision of psychotherapy to individuals, couples, families, and groups. Clinical social workers may also provide the services described in subdivision 9.

Subd. 7. INTERN. "Intern" means a student in field placement working under the supervision or direction of a social worker.

Subd. 8. PERSON-IN-ENVIRONMENT PERSPECTIVE. "Person-in-environment perspective" means viewing human behavior, development, and function in the context of one or more of the following: the environment, social functioning, mental health, and physical health.

Subd. 9. PRACTICE OF SOCIAL WORK. "Practice of social work" means working to maintain, restore, or improve behavioral, cognitive, emotional, mental, or social functioning of clients, in a manner that applies accepted professional social work knowledge, skills, and values, including the person-in-environment perspective, by providing in person or through telephone, video conferencing, or electronic means one or more of the social work services described in clauses (1) to (3). Social work services

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may address conditions that impair or limit behavioral, cognitive, emotional, mental, or social functioning. Such conditions include, but are not limited to, the following: abuse and neglect of children or vulnerable adults, addictions, developmental disorders, disabilities, discrimination, illness, injuries, poverty, and trauma. Social work services include:

(1) providing assessment and intervention through direct contact with clients, developing a plan based on information from an assessment, and providing services which include, but are not limited to, assessment, case management, client-centered advocacy, client education, consultation, counseling, crisis intervention, and referral;

(2) providing for the direct or indirect benefit of clients through administrative, educational, policy, or research services including, but not limited to:

(i) advocating for policies, programs, or services to improve the well-being of clients;

(ii) conducting research related to social work services;

(iii) developing and administering programs which provide social work services;

(iv) engaging in community organization to address social problems through planned collective action;

(v) supervising individuals who provide social work services to clients;

(vi) supervising social workers in order to comply with the supervised practice requirements specified in sections 148D.100 to 148D.125; and

(vii) teaching professional social work knowledge, skills, and values to students;  
and

(3) engaging in clinical practice.

**Subd. 10. PROFESSIONAL NAME.** “Professional name” means the name a licensed social worker uses in making representations of the social worker’s professional status to the public and which has been designated to the board in writing pursuant to section 148D.090.

**Subd. 11. PROFESSIONAL SOCIAL WORK KNOWLEDGE, SKILLS, AND VALUES.** “Professional social work knowledge, skills, and values” means the knowledge, skills, and values taught in programs accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accreditation body designated by the board. Professional social work knowledge, skills, and values include, but are not limited to, principles of person-in-environment and the values, principles, and standards described in the Code of Ethics of the National Association of Social Workers.

**Subd. 12. SEXUAL CONDUCT.** “Sexual conduct” means any physical contact or conduct that may be reasonably interpreted as sexual, or any oral, written, electronic, or other communication that suggests engaging in physical contact or conduct that may be reasonably interpreted as sexual.

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Subd. 13. SOCIAL WORKER. "Social worker" means an individual who:

(1) is licensed as a social worker; or

(2) has obtained a social work degree from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accreditation body designated by the board and engages in the practice of social work.

Subd. 14. STUDENT. "Student" means an individual who is taught professional social work knowledge, skills, and values in a program that has been accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accreditation body designated by the board.

Subd. 15. SUPERVISEE. "Supervisee" means an individual provided evaluation and supervision or direction by a social worker.

Subd. 16. SUPERVISION. "Supervision" means a professional relationship between a supervisor and a social worker in which the supervisor provides evaluation and direction of the services provided by the social worker to promote competent and ethical services to clients through the continuing development of the social worker's knowledge and application of accepted professional social work knowledge, skills, and values.

#### **Sec. 8. [148D.015] SCOPE.**

This chapter applies to all applicants and licensees, all persons who use the title social worker, and all persons in or out of this state who provide social work services to clients who reside in this state unless there are specific applicable exemptions provided by law.

#### **Sec. 9. [148D.020] CHAPTER 214.**

Chapter 214 applies to the Board of Social Work unless superseded by this chapter.

#### **Sec. 10. [148D.025] BOARD OF SOCIAL WORK.**

Subdivision 1. CREATION. The Board of Social Work consists of 15 members appointed by the governor. The members are:

(1) ten social workers licensed pursuant to section 148D.055; and

(2) five public members as defined in section 214.02.

Subd. 2. QUALIFICATIONS OF BOARD MEMBERS. (a) All social worker members must have engaged in the practice of social work in Minnesota for at least one year during the ten years preceding their appointments.

(b) Five social worker members must be licensed social workers. The other five members must be a licensed graduate social worker, a licensed independent social worker, or a licensed independent clinical social worker.

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(c) Eight social worker members must be engaged at the time of their appointment in the practice of social work in Minnesota in the following settings:

(1) one member must be engaged in the practice of social work in a county agency;

(2) one member must be engaged in the practice of social work in a state agency;

(3) one member must be engaged in the practice of social work in an elementary, middle, or secondary school;

(4) one member must be employed in a hospital or nursing home licensed under chapter 144 or 144A;

(5) two members must be engaged in the practice of social work in a private agency;

(6) one member must be engaged in the practice of social work in a clinical social work setting; and

(7) one member must be an educator engaged in regular teaching duties at a program of social work accredited by the Council on Social Work Education or a similar accreditation body designated by the board.

(d) At the time of their appointments, at least six members must reside outside of the seven-county metropolitan area.

(e) At the time of their appointments, at least five members must be persons with expertise in communities of color.

Subd. 3. OFFICERS. The board must annually elect from its membership a chair, vice-chair, and secretary-treasurer.

Subd. 4. BYLAWS. The board must adopt bylaws to govern its proceedings.

Subd. 5. EXECUTIVE DIRECTOR. The board must appoint and employ an executive director who is not a member of the board. The employment of the executive director shall be subject to the terms described in section 214.04, subdivision 2a.

#### **Sec. 11. [148D.030] DUTIES OF THE BOARD.**

Subdivision 1. DUTIES. The board must perform the duties necessary to promote and protect the public health, safety, and welfare through the licensure and regulation of persons who practice social work in this state. These duties include, but are not limited to:

(1) establishing the qualifications and procedures for individuals to be licensed as social workers;

(2) establishing standards of practice for social workers;

(3) holding examinations or contracting with the Association of Social Work Boards or a similar examination body designated by the board to hold examinations to assess applicants' qualifications;

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(4) issuing licenses to qualified individuals pursuant to sections 148D.055 and 148D.060;

(5) taking disciplinary, adversarial, corrective, or other action pursuant to sections 148D.255 to 148D.270 when an individual violates the requirements of this chapter;

(6) assessing fees pursuant to sections 148D.175 and 148D.180; and

(7) educating social workers and the public on the requirements of the board.

Subd. 2. RULES. The board may adopt and enforce rules to carry out the duties specified in subdivision 1.

**Sec. 12. [148D.035] VARIANCES.**

If the effect of a requirement pursuant to this chapter is unreasonable, impossible to execute, absurd, or would impose an extreme hardship on a licensee, the board may grant a variance if the variance is consistent with promoting and protecting the public health, safety, and welfare. A variance must not be granted for core licensing standards such as substantive educational and examination requirements.

**Sec. 13. [148D.040] IMMUNITY.**

Board members, board employees, and persons engaged on behalf of the board are immune from civil liability for any actions, transactions, or publications in the lawful execution of or relating to their duties under this chapter.

**Sec. 14. [148D.045] CONTESTED CASE HEARING.**

An applicant or a licensee who is the subject of a disciplinary or adversarial action by the board pursuant to this chapter may request a contested case hearing under sections 14.57 to 14.62. An applicant or a licensee who desires to request a contested case hearing must submit a written request to the board within 90 days after the date on which the board mailed the notification of the adverse action, except as otherwise provided in this chapter.

**Sec. 15. [148D.050] LICENSING; SCOPE OF PRACTICE.**

Subdivision 1. REQUIREMENTS. The practice of social work must comply with the requirements of subdivision 2, 3, 4, or 5.

Subd. 2. LICENSED SOCIAL WORKER. A licensed social worker may engage in social work practice except that a licensed social worker must not engage in clinical practice.

Subd. 3. LICENSED GRADUATE SOCIAL WORKER. A licensed graduate social worker may engage in social work practice except that a licensed graduate social worker must not engage in clinical practice except under the supervision of a licensed independent clinical social worker or an alternate supervisor pursuant to section 148D.120.

Subd. 4. LICENSED INDEPENDENT SOCIAL WORKER. A licensed independent social worker may engage in social work practice except that a licensed

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independent social worker must not engage in clinical practice except under the supervision of a licensed independent clinical social worker or an alternate supervisor pursuant to section 148D.120.

Subd. 5. LICENSED INDEPENDENT CLINICAL SOCIAL WORKER. A licensed independent clinical social worker may engage in social work practice, including clinical practice.

**Sec. 16. [148D.055] LICENSE REQUIREMENTS.**

Subdivision 1. LICENSE REQUIRED. (a) In order to practice social work, an individual must have a social work license under this section or section 148D.060, except when the individual is exempt from licensure pursuant to section 148D.065.

(b) Individuals who teach professional social work knowledge, skills, and values to students and who have a social work degree from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accreditation body designated by the board must have a social work license under this section or section 148D.060, except when the individual is exempt from licensure pursuant to section 148D.065.

Subd. 2. QUALIFICATIONS FOR LICENSURE BY EXAMINATION AS A LICENSED SOCIAL WORKER. (a) Except as provided in paragraph (i), to be licensed as a licensed social worker, an applicant for licensure by examination must provide evidence satisfactory to the board that the applicant:

(1) has received a baccalaureate degree in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accreditation body designated by the board;

(2) has passed the bachelors or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board. Unless an applicant applies for licensure by endorsement pursuant to subdivision 7, an examination is not valid if it was taken and passed eight or more years prior to submitting a completed, signed application form provided by the board. The examination may be taken prior to completing degree requirements;

(3) has submitted a completed, signed application form provided by the board, including the applicable application fee specified in section 148D.180. For applications submitted electronically, a "signed application" means providing an attestation as specified by the board;

(4) has submitted the criminal background check fee and a form provided by the board authorizing a criminal background check pursuant to subdivision 8;

(5) has paid the applicable license fee specified in section 148D.180; and

(6) has not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action pursuant to sections 148D.255 to 148D.270.

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(b) An application that is not completed and signed, or that is not accompanied by the correct fee, must be returned to the applicant, along with any fee submitted, and is void.

(c) A licensee granted a license by the board pursuant to paragraph (a) must meet the supervised practice requirements specified in sections 148D.100 to 148D.125. If a licensee does not meet the supervised practice requirements, the board may take action pursuant to sections 148D.255 to 148D.270.

(d) By submitting an application for licensure, an applicant authorizes the board to investigate any information provided or requested in the application. The board may request that the applicant provide additional information, verification, or documentation.

(e) Within one year of the time the board receives an application for licensure, the applicant must meet all the requirements specified in paragraph (a) and must provide all of the information requested by the board pursuant to paragraph (d). If within one year the applicant does not meet all the requirements, or does not provide all of the information requested, the applicant is considered ineligible and the application for licensure must be closed.

(f) Except as provided in paragraph (g), an applicant may not take more than three times the bachelors or equivalent examination administered by the Association of Social Work Boards, or a similar examination body designated by the board. An applicant must receive a passing score on the bachelors or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board in no more than 18 months after the date the applicant first failed the examination.

(g) Notwithstanding paragraph (f), the board may allow an applicant to take, for a fourth or subsequent time, the bachelors or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board if the applicant:

(1) meets all requirements specified in paragraphs (a) to (e) other than passing the bachelors or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board;

(2) provides to the board a description of the efforts the applicant has made to improve the applicant's score and demonstrates to the board's satisfaction that the efforts are likely to improve the score; and

(3) provides to the board letters of recommendation from two licensed social workers attesting to the applicant's ability to practice social work competently and ethically in accordance with professional social work knowledge, skills, and values.

(h) An individual must not practice social work until the individual passes the examination and receives a social work license under this section or section 148D.060. If the board has reason to believe that an applicant may be practicing social work without a license, and the applicant has failed the bachelors or equivalent examination

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administered by the Association of Social Work Boards or a similar examination body designated by the board, the board may notify the applicant's employer that the applicant is not licensed as a social worker.

(i) An applicant who was born in a foreign country, who has taken and failed to pass the examination specified in paragraph (a), clause (2), at least once since January 1, 2000, and for whom English is a second language, is eligible for licensure as a social worker if the applicant:

(1) provides evidence to the board of compliance with the requirements in paragraph (a), clauses (1) and (3) to (6), and in paragraphs (b) to (e) and (h); and

(2) provides to the board letters of recommendation and experience ratings from two licensed social workers and one professor from the applicant's social work program who can attest to the applicant's competence.

This paragraph expires August 1, 2007.

**Subd. 3. QUALIFICATIONS FOR LICENSURE BY EXAMINATION AS A LICENSED GRADUATE SOCIAL WORKER.** (a) Except as provided in paragraph (i), to be licensed as a licensed graduate social worker, an applicant for licensure by examination must provide evidence satisfactory to the board that the applicant:

(1) has received a graduate degree in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accreditation body designated by the board;

(2) has passed the masters or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board. Unless an applicant applies for licensure by endorsement pursuant to section 148D.055, subdivision 7, an examination is not valid if it was taken and passed eight or more years prior to submitting a completed, signed application form provided by the board. The examination may be taken prior to completing degree requirements;

(3) has submitted a completed, signed application form provided by the board, including the applicable application fee specified in section 148D.180. For applications submitted electronically, a "signed application" means providing an attestation as specified by the board;

(4) has submitted the criminal background check fee and a form provided by the board authorizing a criminal background check pursuant to subdivision 8;

(5) has paid the applicable license fee specified in section 148D.180; and

(6) has not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action pursuant to sections 148D.255 to 148D.270.

(b) An application which is not completed and signed, or which is not accompanied by the correct fee, must be returned to the applicant, along with any fee submitted, and is void.

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

(c) A licensee granted a license by the board pursuant to paragraph (a) must meet the supervised practice requirements specified in sections 148D.100 to 148D.125. If a licensee does not meet the supervised practice requirements, the board may take action pursuant to sections 148D.255 to 148D.270.

(d) By submitting an application for licensure, an applicant authorizes the board to investigate any information provided or requested in the application. The board may request that the applicant provide additional information, verification, or documentation.

(e) Within one year of the time the board receives an application for licensure, the applicant must meet all the requirements specified in paragraph (a) and must provide all of the information requested by the board pursuant to paragraph (d). If within one year the applicant does not meet all the requirements, or does not provide all of the information requested, the applicant is considered ineligible and the application for licensure must be closed.

(f) Except as provided in paragraph (g), an applicant may not take more than three times the masters or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board. An applicant must receive a passing score on the masters or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board in no more than 18 months after the date the applicant first failed the examination.

(g) Notwithstanding paragraph (f), the board may allow an applicant to take, for a fourth or subsequent time, the masters or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board if the applicant:

(1) meets all requirements specified in paragraphs (a) to (e) other than passing the masters or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board;

(2) provides to the board a description of the efforts the applicant has made to improve the applicant's score and demonstrates to the board's satisfaction that the efforts are likely to improve the score; and

(3) provides to the board letters of recommendation from two licensed social workers attesting to the applicant's ability to practice social work competently and ethically in accordance with professional social work knowledge, skills, and values.

(h) An individual must not practice social work until the individual passes the examination and receives a social work license under this section or section 148D.060. If the board has reason to believe that an applicant may be practicing social work without a license, and the applicant has failed the masters or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board, the board may notify the applicant's employer that the applicant is not licensed as a social worker.

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(i) An applicant who was born in a foreign country, who has taken and failed to pass the examination specified in paragraph (a), clause (2), at least once since January 1, 2000, and for whom English is a second language, is eligible for licensure as a social worker if the applicant:

(1) provides evidence to the board of compliance with the requirements in paragraph (a), clauses (1) and (3) to (6), and in paragraphs (b) to (e) and (h); and

(2) provides to the board letters of recommendation and experience ratings from two licensed social workers and one professor from the applicant's social work program who can attest to the applicant's competence.

This paragraph expires August 1, 2007.

**Subd. 4. QUALIFICATIONS FOR LICENSURE BY EXAMINATION AS A LICENSED INDEPENDENT SOCIAL WORKER.** (a) Except as provided in paragraph (i), to be licensed as a licensed independent social worker, an applicant for licensure by examination must provide evidence satisfactory to the board that the applicant:

(1) has received a graduate degree in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accreditation body designated by the board;

(2) has practiced social work as defined in section 148D.010, and has met the supervised practice requirements specified in sections 148D.100 to 148D.125;

(3) has passed the advanced generalist or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board. Unless an applicant applies for licensure by endorsement pursuant to subdivision 7, an examination is not valid if it was taken and passed eight or more years prior to submitting a completed, signed application form provided by the board;

(4) has submitted a completed, signed application form provided by the board, including the applicable application fee specified in section 148D.180. For applications submitted electronically, a "signed application" means providing an attestation as specified by the board;

(5) has submitted the criminal background check fee and a form provided by the board authorizing a criminal background check pursuant to subdivision 8;

(6) has paid the applicable license fee specified in section 148D.180; and

(7) has not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action pursuant to sections 148D.255 to 148D.270.

(b) An application which is not completed and signed, or which is not accompanied by the correct fee, must be returned to the applicant, along with any fee submitted, and is void.

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

(c) A licensed independent social worker who practices clinical social work must meet the supervised practice requirements specified in sections 148D.100 to 148D.125. If a licensee does not meet the supervised practice requirements, the board may take action pursuant to sections 148D.255 to 148D.270.

(d) By submitting an application for licensure, an applicant authorizes the board to investigate any information provided or requested in the application. The board may request that the applicant provide additional information, verification, or documentation.

(e) Within one year of the time the board receives an application for licensure, the applicant must meet all the requirements specified in paragraph (a) and must provide all of the information requested by the board pursuant to paragraph (d). If within one year the applicant does not meet all the requirements, or does not provide all of the information requested, the applicant is considered ineligible and the application for licensure must be closed.

(f) Except as provided in paragraph (g), an applicant may not take more than three times the advanced generalist or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board. An applicant must receive a passing score on the masters or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board in no more than 18 months after the first time the applicant failed the examination.

(g) Notwithstanding paragraph (f), the board may allow an applicant to take, for a fourth or subsequent time, the advanced generalist or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board if the applicant:

(1) meets all requirements specified in paragraphs (a) to (e) other than passing the advanced generalist or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board;

(2) provides to the board a description of the efforts the applicant has made to improve the applicant's score and demonstrates to the board's satisfaction that the efforts are likely to improve the score; and

(3) provides to the board letters of recommendation from two licensed social workers attesting to the applicant's ability to practice social work competently and ethically in accordance with professional social work knowledge, skills, and values.

(h) An individual must not practice social work until the individual passes the examination and receives a social work license under this section or section 148D.060. If the board has reason to believe that an applicant may be practicing social work without a license, except as provided in section 148D.065, and the applicant has failed the advanced generalist or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board, the board may notify the applicant's employer that the applicant is not licensed as a social worker.

New language is indicated by underline, deletions by strikeout.



(i) An applicant who was born in a foreign country, who has taken and failed to pass the examination specified in paragraph (a), clause (3), at least once since January 1, 2000, and for whom English is a second language, is eligible for licensure as a social worker if the applicant:

(1) provides evidence to the board of compliance with the requirements in paragraph (a), clauses (1), (2), and (4) to (7), and in paragraphs (b) to (e) and (h); and

(2) provides to the board letters of recommendation and experience ratings from two licensed social workers and one professor from the applicant's social work program who can attest to the applicant's competence.

This paragraph expires August 1, 2007.

**Subd. 5. QUALIFICATIONS FOR LICENSURE BY EXAMINATION AS A LICENSED INDEPENDENT CLINICAL SOCIAL WORKER.** (a) Except as provided in paragraph (h), to be licensed as a licensed independent clinical social worker, an applicant for licensure by examination must provide evidence satisfactory to the board that the applicant:

(1) has received a graduate degree in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accreditation body designated by the board;

(2) has practiced clinical social work as defined in section 148D.010, including both diagnosis and treatment, and has met the supervised practice requirements specified in sections 148D.100 to 148D.125;

(3) has passed the clinical or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board. Unless an applicant applies for licensure by endorsement pursuant to subdivision 7, an examination is not valid if it was taken and passed eight or more years prior to submitting a completed, signed application form provided by the board;

(4) has submitted a completed, signed application form provided by the board, including the applicable application fee specified in section 148D.180. For applications submitted electronically, a "signed application" means providing an attestation as specified by the board;

(5) has submitted the criminal background check fee and a form provided by the board authorizing a criminal background check pursuant to subdivision 8;

(6) has paid the license fee specified in section 148D.180; and

(7) has not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action pursuant to sections 148D.255 to 148D.270.

(b) An application which is not completed and signed, or which is not accompanied by the correct fee, must be returned to the applicant, along with any fee submitted, and is void.

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

(c) By submitting an application for licensure, an applicant authorizes the board to investigate any information provided or requested in the application. The board may request that the applicant provide additional information, verification, or documentation.

(d) Within one year of the time the board receives an application for licensure, the applicant must meet all the requirements specified in paragraph (a) and must provide all of the information requested by the board pursuant to paragraph (c). If within one year the applicant does not meet all the requirements, or does not provide all of the information requested, the applicant is considered ineligible and the application for licensure must be closed.

(e) Except as provided in paragraph (f), an applicant may not take more than three times the clinical or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board. An applicant must receive a passing score on the clinical or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board no later than 18 months after the first time the applicant failed the examination.

(f) Notwithstanding paragraph (e), the board may allow an applicant to take, for a fourth or subsequent time, the clinical or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board if the applicant:

(1) meets all requirements specified in paragraphs (a) to (d) other than passing the clinical or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board;

(2) provides to the board a description of the efforts the applicant has made to improve the applicant's score and demonstrates to the board's satisfaction that the efforts are likely to improve the score; and

(3) provides to the board letters of recommendation from two licensed social workers attesting to the applicant's ability to practice social work competently and ethically in accordance with professional social work knowledge, skills, and values.

(g) An individual must not practice social work until the individual passes the examination and receives a social work license under this section or section 148D.060. If the board has reason to believe that an applicant may be practicing social work without a license, and the applicant has failed the clinical or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board, the board may notify the applicant's employer that the applicant is not licensed as a social worker.

(h) An applicant who was born in a foreign country, who has taken and failed to pass the examination specified in paragraph (a), clause (3), at least once since January 1, 2000, and for whom English is a second language, is eligible for licensure as a social worker if the applicant:

(1) provides evidence to the board of compliance with the requirements in paragraph (a), clauses (1), (2), and (4) to (7), and paragraphs (b) to (d) and (g); and

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(2) provides to the board letters of recommendation and experience ratings from two licensed social workers and one professor from the applicant's social work program who can attest to the applicant's competence.

This paragraph expires August 1, 2007.

**Subd. 6. DEGREES FROM OUTSIDE THE UNITED STATES OR CANADA.** If an applicant receives a degree from a program outside the United States or Canada that is not accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar examination body designated by the board, the degree does not fulfill the requirements specified in subdivision 2, paragraph (a), clause (1); 3, paragraph (a), clause (1); 4, paragraph (a), clause (1); or 5, paragraph (a), clause (1), unless the Council on Social Work Education or a similar accreditation body designated by the board has determined through the council's international equivalency determination service that the degree earned is equivalent to the degree required.

**Subd. 7. LICENSURE BY ENDORSEMENT.** (a) An applicant for licensure by endorsement must hold a current license or credential to practice social work in another jurisdiction.

(b) An applicant for licensure by endorsement who meets the qualifications of paragraph (a) and who demonstrates to the satisfaction of the board that the applicant passed the examination administered by the Association of Social Work Boards or a similar examination body designated by the board for the applicable license in Minnesota is not required to retake the licensing examination.

(c) An application for licensure by endorsement must meet the applicable license requirements specified in subdivisions 1 to 6 and submit the licensure by endorsement application fee specified in section 148D.180.

**Subd. 8. CRIMINAL BACKGROUND CHECKS.** (a) Except as provided in paragraph (b), an initial license application must be accompanied by:

(1) a form provided by the board authorizing the board to complete a criminal background check; and

(2) the criminal background check fee specified by the Bureau of Criminal Apprehension.

Criminal background check fees collected by the board must be used to reimburse the Bureau of Criminal Apprehension for the criminal background checks.

(b) An applicant who has previously submitted a license application authorizing the board to complete a criminal background check is exempt from the requirement specified in paragraph (a).

(c) If a criminal background check indicates that an applicant has engaged in criminal behavior, the board may take action pursuant to sections 148D.255 to 148D.270.

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Subd. 9. **EFFECTIVE DATE.** The effective date of an initial license is the day on which the board receives the applicable license fee from an applicant approved for licensure.

Subd. 10. **EXPIRATION DATE.** The expiration date of an initial license is the last day of the licensee's birth month in the second calendar year following the effective date of the initial license.

Subd. 11. **CHANGE IN LICENSE.** (a) A licensee who changes from a licensed social worker to a licensed graduate social worker, or from a licensed graduate social worker to a licensed independent social worker, or from a licensed graduate social worker or licensed independent social worker to a licensed independent clinical social worker, must pay the prorated share of the fee for the new license.

(b) The effective date of the new license is the day on which the board receives the applicable license fee from an applicant approved for the new license.

(c) The expiration date of the new license is the same date as the expiration date of the license held by the licensee prior to the change in the license.

#### **Sec. 17. [148D.060] TEMPORARY LICENSES.**

**Subdivision 1. STUDENTS AND OTHER PERSONS NOT CURRENTLY LICENSED IN ANOTHER JURISDICTION.** The board may issue a temporary license to practice social work to an applicant who is not licensed or credentialed to practice social work in any jurisdiction but has:

- (1) applied for a license under section 148D.055;
- (2) applied for a temporary license on a form provided by the board;
- (3) submitted a form provided by the board authorizing the board to complete a criminal background check;
- (4) passed the applicable licensure examination provided for in section 148D.055;
- (5) attested on a form provided by the board that the applicant has completed the requirements for a baccalaureate or graduate degree in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accreditation body designated by the board; and
- (6) not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action pursuant to sections 148D.255 to 148D.270.

**Subd. 2. **EMERGENCY SITUATIONS AND PERSONS CURRENTLY LICENSED IN ANOTHER JURISDICTION.**** The board may issue a temporary license to practice social work to an applicant who is licensed or credentialed to practice social work in another jurisdiction, may or may not have applied for a license under section 148D.055, and has:

- (1) applied for a temporary license on a form provided by the board;

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(2) submitted a form provided by the board authorizing the board to complete a criminal background check;

(3) submitted evidence satisfactory to the board that the applicant is currently licensed or credentialed to practice social work in another jurisdiction;

(4) attested on a form provided by the board that the applicant has completed the requirements for a baccalaureate or graduate degree in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accreditation body designated by the board; and

(5) not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action pursuant to sections 148D.255 to 148D.270.

Subd. 3. TEACHERS. The board may issue a temporary license to practice social work to an applicant whose permanent residence is outside the United States, who is teaching social work at an academic institution in Minnesota for a period not to exceed 12 months, who may or may not have applied for a license under section 148D.055, and who has:

(1) applied for a temporary license on a form provided by the board;

(2) submitted a form provided by the board authorizing the board to complete a criminal background check;

(3) attested on a form provided by the board that the applicant has completed the requirements for a baccalaureate or graduate degree in social work; and

(4) has not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action pursuant to sections 148D.255 to 148D.270.

Subd. 4. TEMPORARY LICENSE APPLICATION FEE. An applicant for a temporary license must pay the application fee described in section 148D.180 plus the required fee for the cost of the criminal background check. Only one fee for the cost of the criminal background check must be submitted when the applicant is applying for both a temporary license and a license under section 148D.055.

Subd. 5. TEMPORARY LICENSE TERM. (a) A temporary license is valid until expiration, or until the board issues or denies the license pursuant to section 148D.055, or until the board revokes the temporary license, whichever comes first. A temporary license is nonrenewable.

(b) A temporary license issued pursuant to subdivision 1 or 2 expires after six months.

(c) A temporary license issued pursuant to subdivision 3 expires after 12 months.

Subd. 6. LICENSEE WITH A TEMPORARY LICENSE WHO HAS COMPLETED REQUIREMENTS FOR A BACCALAUREATE DEGREE. A licensee

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with a temporary license who has provided evidence to the board that the licensee has completed the requirements for a baccalaureate degree in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accreditation body designated by the board may temporarily engage in social work practice except that a licensee with a temporary license may not engage in clinical social work practice.

**Subd. 7. LICENSEE WITH A TEMPORARY LICENSE WHO HAS COMPLETED REQUIREMENTS FOR A GRADUATE DEGREE.** A licensee with a temporary license who has provided evidence to the board that the licensee has completed the requirements for a graduate degree in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accreditation body designated by the board may temporarily engage in social work practice, including clinical practice.

**Subd. 8. SUPERVISION REQUIREMENTS.** (a) Except as provided in paragraph (b), an applicant who is not currently licensed or credentialed to practice social work in another jurisdiction and who obtains a temporary license may practice social work only under the supervision of an individual licensed as a social worker who is eligible to provide supervision under sections 148D.100 to 148D.125. Before the applicant is approved for licensure, the applicant's supervisor must attest to the board's satisfaction that the applicant has practiced social work under supervision. This supervision applies toward the supervision required after licensure.

(b) If an applicant is currently licensed or credentialed to practice social work in another jurisdiction, and receives a temporary license pursuant to subdivision 3, the requirements specified in paragraph (a) do not apply. However, if an applicant with a temporary license chooses to practice social work under supervision, the supervision applies to the requirements specified in sections 148D.100 to 148D.125.

**Subd. 9. PROHIBITION ON PRACTICE.** An applicant for a temporary license must not practice social work in Minnesota, except as provided in section 148D.065, until the applicant has been granted a temporary license.

**Subd. 10. REPRESENTATION OF PROFESSIONAL STATUS.** In making representations of professional status to the public, a licensee with a temporary license must state that the licensee has a temporary license.

**Subd. 11. STANDARDS OF PRACTICE.** A licensee with a temporary license must conduct all professional activities as a social worker in accordance with the requirements of sections 148D.195 to 148D.240.

**Subd. 12. INELIGIBILITY.** An applicant who is currently practicing social work in Minnesota in a setting that is not exempt under section 148D.065 at the time of application is ineligible for a temporary license.

**Subd. 13. REVOCATION OF TEMPORARY LICENSE.** The board may immediately revoke the temporary license of any licensee who violates any requirements of this section. The revocation must be made for cause, without notice or opportunity to be heard. A licensee whose temporary license is revoked must immediately return the temporary license to the board.

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

**Subd. 2. MAILING LICENSE RENEWAL NOTICES.** The board must mail a notice for license renewal to a licensee at least 45 days before the expiration date of the license. Mailing the notice by United States mail to the licensee's last known mailing address constitutes valid mailing. Failure to receive the renewal notice does not relieve a licensee of the obligation to renew a license and to pay the renewal fee.

**Subd. 3. SUBMITTING LICENSE RENEWAL APPLICATIONS.** (a) In order to renew a license, a licensee must submit:

- (1) a completed, signed application for license renewal; and
- (2) the applicable renewal fee specified in section 148D.180.

The completed, signed application and renewal fee must be received by the board prior to midnight of the day of the license expiration date. For renewals submitted electronically, a "signed application" means providing an attestation as specified by the board.

(b) An application which is not completed and signed, or which is not accompanied by the correct fee, must be returned to the applicant, along with any fee submitted, and is void.

(c) The completed, signed application must include documentation that the licensee has met the continuing education requirements specified in sections 148D.130 to 148D.170 and, if applicable, the supervised practice requirements specified in sections 148D.100 to 148D.125.

(d) By submitting a renewal application, an applicant authorizes the board to:

(1) investigate any information provided or requested in the application. The board may request that the applicant provide additional information, verification, or documentation;

(2) conduct an audit to determine if the applicant has met the continuing education requirements specified in sections 148D.130 to 148D.170; and

(3) if applicable, conduct an audit to determine whether the applicant has met the supervision requirements specified in sections 148D.100 to 148D.125.

(e) If a licensee's application for license renewal meets the requirements specified in paragraph (a), the licensee may continue to practice after the license expiration date until the board approves or denies the application.

**Subd. 4. RENEWAL LATE FEE.** An application that is received after the license expiration date must be accompanied by the renewal late fee specified in section 148D.180 in addition to the applicable renewal fee. The application, renewal fee, and renewal late fee must be received by the board within 60 days of the license expiration date, or the license automatically expires.

**Subd. 5. EXPIRED LICENSE.** (a) If an application does not meet the requirements specified in subdivisions 3 and 4, the license automatically expires. A licensee whose license has expired may reactivate a license by meeting the require-

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## Sec. 18. [148D.065] EXEMPTIONS.

Subdivision 1. **OTHER PROFESSIONALS.** Nothing in this chapter may be construed to 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 psychologists, psychological practitioners, probation officers, members of the clergy and Christian Science practitioners, attorneys, marriage and family therapists, alcohol and drug counselors, professional counselors, school counselors, and registered occupational therapists or certified occupational therapist assistants. These persons must not, however, hold themselves out to the public by any title or description stating or implying that they are engaged in the practice of social work, or that they are licensed to engage in the practice of social work. Persons engaged in the practice of social work are not exempt from the board's jurisdiction solely by the use of one of the titles in this subdivision.

Subd. 2. **STUDENTS.** An internship, externship, or any other social work experience that is required for the completion of an accredited program of social work does not constitute the practice of social work under this chapter.

Subd. 3. **GEOGRAPHIC WAIVER.** A geographic waiver may be granted by the board on a case-by-case basis to agencies with special regional hiring problems. The waiver is for the purpose of permitting agencies to hire individuals who do not meet the qualifications of section 148D.055 or 148D.060 to practice social work.

Subd. 4. **CITY, COUNTY, AND STATE AGENCY SOCIAL WORKERS.** The licensure of city, county, and state agency social workers is voluntary. City, county, and state agencies employing social workers are not required to employ licensed social workers.

Subd. 5. **FEDERALLY RECOGNIZED TRIBES AND PRIVATE NON-PROFIT AGENCIES WITH A MINORITY FOCUS.** The licensure of social workers who are employed by federally recognized tribes, or by private nonprofit agencies whose primary service focus addresses ethnic minority populations, and who are themselves members of ethnic minority populations within those agencies, is voluntary.

## Sec. 19. [148D.070] LICENSE RENEWALS.

Subdivision 1. **LICENSE RENEWAL TERM.** (a) If a license is renewed, the license must be renewed for a two-year renewal term. The renewal term is the period from the effective date of an initial or renewed license to the expiration date of the license.

(b) The effective date of a renewed license is the day following the expiration date of the expired license.

(c) The expiration date of a renewed license is the last day of the licensee's birth month in the second calendar year following the effective date of the renewed license.



ments in section 148D.080 or be relicensed by meeting the requirements specified in section 148D.055.

(b) The board may take action pursuant to sections 148D.255 to 148D.270 based on a licensee's conduct before the expiration of the license.

(c) An expired license may be reactivated within one year of the expiration date specified in section 148D.080. After one year of the expiration date, an individual may apply for a new license pursuant to section 148D.055.

**Sec. 20. [148D.075] INACTIVE LICENSES.**

Subdivision 1. INACTIVE STATUS. (a) A licensee qualifies for inactive status under either of the circumstances described in paragraph (b) or (c).

(b) A licensee qualifies for inactive status when the licensee is granted temporary leave from active practice. A licensee qualifies for temporary leave from active practice if the licensee demonstrates to the satisfaction of the board that the licensee is not engaged in the practice of social work in any setting, including settings in which social workers are exempt from licensure pursuant to section 148D.065. A licensee who is granted temporary leave from active practice may reactivate the license pursuant to section 148D.080.

(c) A licensee qualifies for inactive status when a licensee is granted an emeritus license. A licensee qualifies for an emeritus license if the licensee demonstrates to the satisfaction of the board that:

(i) the licensee is retired from social work practice; and

(ii) the licensee is not engaged in the practice of social work in any setting, including settings in which social workers are exempt from licensure pursuant to section 148D.065.

A licensee who possesses an emeritus license may reactivate the license pursuant to section 148D.080.

Subd. 2. APPLICATION. A licensee may apply for inactive status:

(1) at any time by submitting an application for a temporary leave from active practice or for an emeritus license; or

(2) as an alternative to applying for the renewal of a license by so recording on the application for license renewal and submitting the completed, signed application to the board.

An application that is not completed or signed, or that is not accompanied by the correct fee, must be returned to the applicant, along with any fee submitted, and is void. For applications submitted electronically, a "signed application" means providing an attestation as specified by the board.

Subd. 3. FEE. (a) Regardless of when the application for inactive status is submitted, the temporary leave or emeritus license fee specified in section 148D.180, whichever is applicable, must accompany the application. A licensee who is approved

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

for inactive status before the license expiration date is not entitled to receive a refund for any portion of the license or renewal fee.

(b) If an application for temporary leave is received after the license expiration date, the licensee must pay a renewal late fee as specified in section 148D.180 in addition to the temporary leave fee.

**Subd. 4. TIME LIMITS FOR TEMPORARY LEAVES.** A licensee may maintain an inactive license on temporary leave for no more than five consecutive years. If a licensee does not apply for reactivation within 60 days following the end of the consecutive five-year period, the license automatically expires.

**Subd. 5. TIME LIMITS FOR AN EMERITUS LICENSE.** A licensee with an emeritus license may not apply for reactivation pursuant to section 148D.080 after five years following the granting of the emeritus license. However, after five years following the granting of the emeritus license, an individual may apply for new licensure pursuant to section 148D.055.

**Subd. 6. PROHIBITION ON PRACTICE.** (a) Except as provided in paragraph (b), a licensee whose license is inactive must not practice, attempt to practice, offer to practice, or advertise or hold out as authorized to practice social work.

(b) The board may grant a variance to the requirements of paragraph (a) if a licensee on inactive status provides emergency social work services. A variance is granted only if the board provides the variance in writing to the licensee. The board may impose conditions or restrictions on the variance.

**Subd. 7. REPRESENTATIONS OF PROFESSIONAL STATUS.** In making representations of professional status to the public, a licensee whose license is inactive must state that the license is inactive and that the licensee cannot practice social work.

**Subd. 8. DISCIPLINARY OR OTHER ACTION.** The board may resolve any pending complaints against a licensee before approving an application for inactive status. The board may take action pursuant to sections 148D.255 to 148D.270 against a licensee whose license is inactive based on conduct occurring before the license is inactive or conduct occurring while the license is inactive.

## **Sec. 21. [148D.080] REACTIVATIONS.**

**Subdivision 1. MAILING NOTICES TO LICENSEES ON TEMPORARY LEAVE.** The board must mail a notice for reactivation to a licensee on temporary leave at least 45 days before the expiration date of the license pursuant to section 148D.075, subdivision 4. Mailing the notice by United States mail to the licensee's last known mailing address constitutes valid mailing. Failure to receive the reactivation notice does not relieve a licensee of the obligation to comply with the provisions of this section to reactivate a license.

**Subd. 2. REACTIVATION FROM A TEMPORARY LEAVE OR EMERITUS STATUS.** To reactivate a license from a temporary leave or emeritus status, a licensee must do the following within the time period specified in section 148D.075, subdivisions 4 and 5:

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- (1) complete an application form specified by the board;
  - (2) document compliance with the continuing education requirements specified in subdivision 4;
  - (3) submit a supervision plan, if required;
  - (4) pay the reactivation of an inactive licensee fee specified in section 148D.180;
- and
- (5) pay the wall certificate fee in accordance with section 148D.095, subdivision 1, paragraph (b) or (c), if the licensee needs a duplicate license.

**Subd. 3. REACTIVATION OF AN EXPIRED LICENSE.** To reactivate an expired license, a licensee must do the following within one year of the expiration date:

- (1) complete an application form specified by the board;
- (2) document compliance with the continuing education requirements that were in effect at the time the license expired;
- (3) document compliance with the supervision requirements, if applicable, that were in effect at the time the license expired; and
- (4) pay the reactivation of an expired license fee specified in section 148D.180.

**Subd. 4. CONTINUING EDUCATION REQUIREMENTS.** (a) A licensee who is on temporary leave or who has an emeritus license must obtain the continuing education hours that would be required if the license was active. At the time of reactivation, the licensee must document compliance with the continuing education requirements specified in sections 148D.130 to 148D.170.

(b) A licensee applying for reactivation pursuant to subdivision 2 or 3 may apply for a variance to the continuing education requirements pursuant to sections 148D.130 to 148D.170.

**Subd. 5. REACTIVATION OF A VOLUNTARILY TERMINATED LICENSE.** To reactivate a voluntarily terminated license, a licensee must do the following within one year of the date the voluntary termination takes effect:

- (1) complete an application form specified by the board;
- (2) document compliance with the continued education requirements that were in effect at the time the license was voluntarily terminated;
- (3) document compliance with the supervision requirements, if applicable, that were in effect at the time the license was voluntarily terminated; and
- (4) pay the reactivation of an expired or voluntarily terminated license fee specified in section 148D.180.

**Sec. 22. [148D.085] VOLUNTARY TERMINATIONS.**

**Subdivision 1. REQUESTS FOR VOLUNTARY TERMINATION.** (a) A licensee may request voluntary termination of a license if the licensee demonstrates to

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the satisfaction of the board that the licensee is not engaged in the practice of social work in any setting except settings in which social workers are exempt from licensure pursuant to section 148D.065.

(b) A licensee may apply for voluntary termination:

(1) at any time by submitting an application; or

(2) as an alternative to applying for the renewal of a license by so recording on the application for license renewal and submitting the completed, signed application to the board.

For applications submitted electronically, a "signed application" means providing an attestation as specified by the board. An application that is not completed and signed must be returned to the applicant and is void.

(c) The board may resolve any pending complaints against a licensee before approving a request for voluntary termination.

Subd. 2. APPLICATION FOR NEW LICENSURE. A licensee who has voluntarily terminated a license may not reactivate the license after one year following the date the voluntary termination takes effect. However, a licensee who has voluntarily terminated a license may apply for a new license pursuant to section 148D.055.

Subd. 3. PROHIBITION ON PRACTICE. A licensee who has voluntarily terminated a license must not practice, attempt to practice, offer to practice, or advertise or hold out as authorized to practice social work, except when the individual is exempt from licensure pursuant to section 148D.065.

Subd. 4. DISCIPLINARY OR OTHER ACTION. The board may take action pursuant to sections 148D.255 to 148D.270 against a licensee whose license has been terminated based on conduct occurring before the license is terminated or for practicing social work without a license.

#### **Sec. 23. [148D.090] NAME; CHANGE OF NAME OR ADDRESS.**

Subdivision 1. NAME. A licensee must use the licensee's legal name or a professional name. If the licensee uses a professional name, the licensee must inform the board in writing of both the licensee's professional name and legal name and must comply with the requirements of this section.

Subd. 2. LEGAL NAME CHANGE. Within 30 days after changing the licensee's legal name, a licensee must:

(1) request a new license wall certificate;

(2) provide legal verification of the name change; and

(3) pay the license wall certificate fee specified in section 148D.180.

Subd. 3. PROFESSIONAL NAME CHANGE. Within 30 days after changing the licensee's professional name, a licensee must:

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- (1) request a new license wall certificate;
- (2) provide a notarized statement attesting to the name change; and
- (3) pay the license wall certificate fee specified in section 148D.180.

**Subd. 4. ADDRESS OR TELEPHONE CHANGE.** When a licensee changes a mailing address, home address, work address, e-mail address, or daytime public telephone number, the licensee must notify the board of the change electronically or in writing no more than 30 days after the date of the change.

**Sec. 24. [148D.095] LICENSE CERTIFICATE OR CARD.**

**Subdivision 1. LICENSE WALL CERTIFICATE.** (a) The board must issue a new license wall certificate when the board issues a new license. No fee in addition to the applicable license fee specified in section 148D.180 is required.

(b) The board must replace a license wall certificate when:

(1) a licensee submits an affidavit to the board that the original license wall certificate was lost, stolen, or destroyed; and

(2) the licensee submits the license wall certificate fee specified in section 148D.180.

(c) The board must issue a revised license wall certificate when:

(1) a licensee requests a revised license wall certificate pursuant to section 148D.095; and

(2) submits the license wall certificate fee specified in section 148D.180.

(d) The board must issue an additional license wall certificate when:

(1) a licensee submits a written request for a new certificate because the licensee practices in more than one location; and

(2) the licensee submits the license wall certificate fee specified in section 148D.180.

**Subd. 2. LICENSE CARD.** (a) The board must issue a new license card when the board issues a new license. No fee in addition to the applicable license fee specified in section 148D.180 is required.

(b) The board must replace a license card when a licensee submits:

(1) an affidavit to the board that the original license card was lost, stolen, or destroyed; and

(2) the license card fee specified in section 148D.180.

(c) The board must issue a revised license card when the licensee submits a written request for a new license wall certificate because of a new professional or legal name pursuant to section 148D.090, subdivision 2 or 3. No fee in addition to the one specified in subdivision 1, paragraph (b), is required.

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**Sec. 25. [148D.100] LICENSED SOCIAL WORKERS; SUPERVISED PRACTICE.**

Subdivision 1. SUPERVISION REQUIRED AFTER LICENSURE. After receiving a license from the board as a licensed social worker, the licensed social worker must obtain at least 75 hours of supervision in accordance with the requirements of this section.

Subd. 2. PRACTICE REQUIREMENTS. The supervision required by subdivision 1 must be obtained during the first 4,000 hours of postbaccalaureate social work practice authorized by law. At least three hours of supervision must be obtained during every 160 hours of practice.

Subd. 3. TYPES OF SUPERVISION. (a) Thirty-seven and one-half hours of the supervision required by subdivision 1 must consist of one-on-one in-person supervision.

(b) Thirty-seven and one-half hours must consist of one or more of the following types of supervision, subject to the limitation in clause (3):

(1) one-on-one in-person supervision;

(2) in-person group supervision; or

(3) electronic supervision such as by telephone or video conferencing, provided that electronic supervision must not exceed 25 hours.

(c) To qualify as in-person group supervision, the group must not exceed seven members including the supervisor.

Subd. 4. SUPERVISOR REQUIREMENTS. The supervision required by subdivision 1 must be provided by a supervisor who:

(1) is a licensed social worker who has completed the supervised practice requirements;

(2) is a licensed graduate social worker, licensed independent social worker, or licensed independent clinical social worker; or

(3) meets the requirements specified in section 148D.120, subdivision 2.

Subd. 5. SUPERVISEE REQUIREMENTS. The supervisee must:

(1) to the satisfaction of the supervisor, practice competently and ethically in accordance with professional social work knowledge, skills, and values;

(2) receive supervision in the following content areas:

(i) development of professional values and responsibilities;

(ii) practice skills;

(iii) authorized scope of practice;

(iv) ensuring continuing competence; and

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(v) ethical standards of practice;

(3) submit a supervision plan in accordance with section 148D.125, subdivision 1; and

(4) if the board audits the supervisee's supervised practice, submit verification of supervised practice in accordance with section 148D.125, subdivision 3.

**Subd. 6. AFTER COMPLETION OF SUPERVISION REQUIREMENTS.** A licensed social worker who fulfills the supervision requirements specified in subdivisions 1 to 5 is not required to be supervised after completion of the supervision requirements.

**Subd. 7. ATTESTATION.** The social worker and the social worker's supervisor must attest that the supervisee has met or has made progress on meeting the applicable supervision requirements in accordance with section 148D.125, subdivision 2.

**Sec. 26. [148D.105] LICENSED GRADUATE SOCIAL WORKERS; SUPERVISED PRACTICE.**

**Subdivision 1. SUPERVISION REQUIRED AFTER LICENSURE.** After receiving a license from the board as a licensed graduate social worker, a licensed graduate social worker must obtain at least 75 hours of supervision in accordance with the requirements of this section.

**Subd. 2. PRACTICE REQUIREMENTS.** The supervision required by subdivision 1 must be obtained during the first 4,000 hours of postgraduate social work practice authorized by law. At least three hours of supervision must be obtained during every 160 hours of practice.

**Subd. 3. TYPES OF SUPERVISION.** (a) Thirty-seven and one-half hours of the supervision required by subdivision 1 must consist of one-on-one in-person supervision.

(b) Thirty-seven and one-half hours must consist of one or more of the following types of supervision, subject to the limitation in clause (3):

(1) one-on-one in-person supervision;

(2) in-person group supervision; or

(3) electronic supervision such as by telephone or video conferencing, provided that electronic supervision must not exceed 25 hours.

(c) To qualify as in-person group supervision, the group must not exceed seven members including the supervisor.

**Subd. 4. SUPERVISOR REQUIREMENTS.** The supervision required by subdivision 1 must be provided by a supervisor who meets the requirements specified in section 148D.120. The supervision must be provided:

(1) if the supervisee is not engaged in clinical practice, by a (i) licensed independent social worker, (ii) licensed graduate social worker who has completed the

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supervised practice requirements, or (iii) licensed independent clinical social worker;

(2) if the supervisee is engaged in clinical practice, by a licensed independent clinical social worker; or

(3) by a supervisor who meets the requirements specified in section 148D.120, subdivision 2.

**Subd. 5. SUPERVISEE REQUIREMENTS.** The supervisee must:

(1) to the satisfaction of the supervisor, practice competently and ethically in accordance with professional social work knowledge, skills, and values;

(2) receive supervision in the following content areas:

(i) development of professional values and responsibilities;

(ii) practice skills;

(iii) authorized scope of practice;

(iv) ensuring continuing competence; and

(v) ethical standards of practice;

(3) submit a supervision plan in accordance with section 148D.125, subdivision 1; and

(4) verify supervised practice in accordance with section 148D.125, subdivision 3, if:

(i) the board audits the supervisee's supervised practice; or

(ii) a licensed graduate social worker applies for a licensed independent social worker or licensed independent clinical social worker license.

**Subd. 6. LICENSED GRADUATE SOCIAL WORKERS WHO PRACTICE CLINICAL SOCIAL WORK.** (a) A licensed graduate social worker must not engage in clinical social work practice except under supervision by a licensed independent clinical social worker or an alternate supervisor designated pursuant to section 148D.120, subdivision 2.

(b) Except as provided in paragraph (c), a licensed graduate social worker must not engage in clinical social work practice under supervision for more than 8,000 hours. In order to practice clinical social work for more than 8,000 hours, a licensed graduate social worker must obtain a licensed independent clinical social worker license.

(c) Notwithstanding the requirements of paragraph (b), the board may grant a licensed graduate social worker permission to engage in clinical social work practice for more than 8,000 hours if the licensed graduate social worker petitions the board and demonstrates to the board's satisfaction that for reasons of personal hardship the licensed graduate social worker should be granted an extension to continue practicing clinical social work under supervision for up to an additional 2,000 hours.

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(d) Upon completion of 4,000 hours of clinical social work practice and 75 hours of supervision in accordance with the requirements of this section, a licensed graduate social worker is eligible to apply for a licensed independent clinical social worker license pursuant to section 148D.115, subdivision 1.

**Subd. 7. LICENSED GRADUATE SOCIAL WORKERS WHO DO NOT PRACTICE CLINICAL SOCIAL WORK.** A licensed graduate social worker who fulfills the supervision requirements specified in subdivisions 1 to 5, and who does not practice clinical social work, is not required to be supervised after completion of the supervision requirements.

**Subd. 8. ATTESTATION.** A social worker and the social worker's supervisor must attest that the supervisee has met or has made progress on meeting the applicable supervision requirements in accordance with section 148D.125, subdivision 2.

**Sec. 27. [148D.110] LICENSED INDEPENDENT SOCIAL WORKERS; SUPERVISED PRACTICE.**

**Subdivision 1. SUPERVISION REQUIRED BEFORE LICENSURE.** Before becoming licensed as a licensed independent social worker, a person must have obtained at least 75 hours of supervision during 4,000 hours of postgraduate social work practice authorized by law in accordance with the requirements of section 148D.105, subdivisions 3, 4, and 5. At least three hours of supervision must be obtained during every 160 hours of practice.

**Subd. 2. LICENSED INDEPENDENT SOCIAL WORKERS WHO PRACTICE CLINICAL SOCIAL WORK AFTER LICENSURE.** (a) After licensure, a licensed independent social worker must not engage in clinical social work practice except under supervision by a licensed independent clinical social worker or an alternate supervisor designated pursuant to section 148D.120, subdivision 2.

(b) Except as provided in paragraph (c), a licensed independent social worker must not engage in clinical social work practice under supervision for more than 8,000 hours. In order to practice clinical social work for more than 8,000 hours, a licensed independent social worker must obtain a licensed independent clinical social worker license.

(c) Notwithstanding the requirements of paragraph (b), the board may grant a licensed independent social worker permission to engage in clinical social work practice for more than 8,000 hours if the licensed independent social worker petitions the board and demonstrates to the board's satisfaction that for reasons of personal hardship the licensed independent social worker should be granted an extension to continue practicing clinical social work under supervision for up to an additional 2,000 hours.

**Subd. 3. LICENSED INDEPENDENT SOCIAL WORKERS WHO DO NOT PRACTICE CLINICAL SOCIAL WORK AFTER LICENSURE.** After licensure, a licensed independent social worker is not required to be supervised if the licensed independent social worker does not practice clinical social work.

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**Sec. 28. [148D.115] LICENSED INDEPENDENT CLINICAL SOCIAL WORKERS; SUPERVISED PRACTICE.**

Subdivision 1. SUPERVISION REQUIRED BEFORE LICENSURE. Before becoming licensed as a licensed independent clinical social worker, a person must have obtained at least 75 hours of supervision during 4,000 hours of postgraduate clinical practice authorized by law in accordance with the requirements of section 148D.105, subdivisions 3, 4, and 5. At least three hours of supervision must be obtained during every 160 hours of practice.

Subd. 2. NO SUPERVISION REQUIRED AFTER LICENSURE. After licensure, a licensed independent clinical social worker is not required to be supervised.

**Sec. 29. [148D.120] REQUIREMENTS OF SUPERVISORS.**

Subdivision 1. SUPERVISORS LICENSED AS SOCIAL WORKERS. (a) Except as provided in paragraph (b), to be eligible to provide supervision under this section, a social worker must attest, on a form provided by the board, that he or she has met the applicable licensure requirements specified in sections 148D.100 to 148D.115.

(b) If the board determines that supervision is not obtainable from an individual meeting the requirements specified in paragraph (a), the board may approve an alternate supervisor pursuant to subdivision 2.

Subd. 2. ALTERNATE SUPERVISORS. (a) The board may approve an alternate supervisor if:

(1) the board determines that supervision is not obtainable pursuant to paragraph (b);

(2) the licensee requests in the supervision plan submitted pursuant to section 148D.125, subdivision 1, that an alternate supervisor conduct the supervision;

(3) the licensee describes the proposed supervision and the name and qualifications of the proposed alternate supervisor; and

(4) the requirements of paragraph (d) are met.

(b) The board may determine that supervision is not obtainable if:

(1) the licensee provides documentation as an attachment to the supervision plan submitted pursuant to section 148D.125, subdivision 1, that the licensee has conducted a thorough search for a supervisor meeting the applicable licensure requirements specified in sections 148D.100 to 148D.115;

(2) the licensee demonstrates to the board's satisfaction that the search was unsuccessful; and

(3) the licensee describes the extent of the search and the names and locations of the persons and organizations contacted.

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(c) The following are not grounds for a determination that supervision is unobtainable:

(1) obtaining a supervisor who meets the requirements of subdivision 1 would present the licensee with a financial hardship;

(2) the licensee is unable to obtain a supervisor who meets the requirements of subdivision 1 within the licensee's agency or organization and the agency or organization will not allow outside supervision; or

(3) the specialized nature of the licensee's practice requires supervision from a practitioner other than an individual licensed as a social worker.

(d) An alternate supervisor must:

(1) be an unlicensed social worker who is employed in, and provides the supervision in, a setting exempt from licensure by section 148D.065, and who has qualifications equivalent to the applicable requirements specified in sections 148D.100 to 148D.115; or

(2) be a licensed marriage and family therapist or a mental health professional as established by section 245.462, subdivision 18, or 245.4871, subdivision 27, or an equivalent mental health professional, as determined by the board, who is licensed or credentialed by a state, territorial, provincial, or foreign licensing agency.

In order to qualify to provide clinical supervision of a licensed graduate social worker or licensed independent social worker engaged in clinical practice, the alternate supervisor must be a mental health professional as established by section 245.462, subdivision 18, or 245.4871, subdivision 27, or an equivalent mental health professional, as determined by the board, who is licensed or credentialed by a state, territorial, provincial, or foreign licensing agency.

### **Sec. 30. [148D.125] DOCUMENTATION OF SUPERVISION.**

Subdivision 1. SUPERVISION PLAN. (a) A social worker must submit, on a form provided by the board, a supervision plan for meeting the supervision requirements specified in sections 148D.100 to 148D.120.

(b) The supervision plan must be submitted no later than 90 days after the licensee begins a social work practice position after becoming licensed.

(c) For failure to submit the supervision plan within 90 days after beginning a social work practice position, a licensee must pay the supervision plan late fee specified in section 148D.180 when the licensee applies for license renewal.

(d) A license renewal application submitted pursuant to paragraph (a) must not be approved unless the board has received a supervision plan.

(e) The supervision plan must include the following:

(1) the name of the supervisee, the name of the agency in which the supervisee is being supervised, and the supervisee's position title;

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(2) the name and qualifications of the person providing the supervision;  
(3) the number of hours of one-on-one in-person supervision and the number and type of additional hours of supervision to be completed by the supervisee;

(4) the supervisee's position description;

(5) a brief description of the supervision the supervisee will receive in the following content areas:

(i) clinical practice, if applicable;

(ii) development of professional social work knowledge, skills, and values;

(iii) practice methods;

(iv) authorized scope of practice;

(v) ensuring continuing competence; and

(vi) ethical standards of practice; and

(6) if applicable, a detailed description of the supervisee's clinical social work practice, addressing:

(i) the client population, the range of presenting issues, and the diagnoses;

(ii) the clinical modalities that were utilized; and

(iii) the process utilized for determining clinical diagnoses, including the diagnostic instruments used and the role of the supervisee in the diagnostic process.

(f) The board must receive a revised supervision plan within 90 days of any of the following changes:

(1) the supervisee has a new supervisor;

(2) the supervisee begins a new social work position;

(3) the scope or content of the supervisee's social work practice changes substantially;

(4) the number of practice or supervision hours changes substantially; or

(5) the type of supervision changes as supervision is described in section 148D.100, subdivision 3, or 148D.105, subdivision 3, or as required in section 148D.115, subdivision 4.

(g) For failure to submit a revised supervised plan as required in paragraph (f), a supervisee must pay the supervision plan late fee specified in section 148D.180, when the supervisee applies for license renewal.

(h) The board must approve the supervisor and the supervision plan.

Subd. 2. ATTESTATION. (a) When a supervisee submits renewal application materials to the board, the supervisee and supervisor must submit an attestation providing the following information on a form provided by the board:

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(1) the name of the supervisee, the name of the agency in which the supervisee is being supervised, and the supervisee's position title;

(2) the name and qualifications of the supervisor;

(3) the number of hours and dates of each type of supervision completed;

(4) the supervisee's position description;

(5) a declaration that the supervisee has not engaged in conduct in violation of the standards of practice specified in sections 148D.195 to 148D.240;

(6) a declaration that the supervisee has practiced competently and ethically in accordance with professional social work knowledge, skills, and values; and

(7) a list of the content areas in which the supervisee has received supervision, including the following:

(i) clinical practice, if applicable;

(ii) development of professional social work knowledge, skills, and values;

(iii) practice methods;

(iv) authorized scope of practice;

(v) ensuring continuing competence; and

(vi) ethical standards of practice.

(b) The information provided on the attestation form must demonstrate to the board's satisfaction that the supervisee has met or has made progress on meeting the applicable supervised practice requirements.

**Subd. 3. VERIFICATION OF SUPERVISED PRACTICE.** (a) In addition to receiving the attestation required pursuant to subdivision 2, the board must receive verification of supervised practice if:

(1) the board audits the supervision of a supervisee pursuant to section 148D.070, subdivision 3; or

(2) an applicant applies for a license as a licensed independent social worker or as a licensed independent clinical social worker.

(b) When verification of supervised practice is required pursuant to paragraph (a), the board must receive from the supervisor the following information on a form provided by the board:

(1) the name of the supervisee, the name of the agency in which the supervisee is being supervised, and the supervisee's position title;

(2) the name and qualifications of the supervisor;

(3) the number of hours and dates of each type of supervision completed;

(4) the supervisee's position description;

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(5) a declaration that the supervisee has not engaged in conduct in violation of the standards of practice specified in sections 148D.195 to 148D.240;

(6) a declaration that the supervisee has practiced ethically and competently in accordance with professional social work knowledge, skills, and values;

(7) a list of the content areas in which the supervisee has received supervision, including the following:

(i) clinical practice, if applicable;

(ii) development of professional social work knowledge, skills, and values;

(iii) practice methods;

(iv) authorized scope of practice;

(v) ensuring continuing competence; and

(vi) ethical standards of practice; and

(8) if applicable, a detailed description of the supervisee's clinical social work practice, addressing:

(i) the client population, the range of presenting issues, and the diagnoses;

(ii) the clinical modalities that were utilized; and

(iii) the process utilized for determining clinical diagnoses, including the diagnostic instruments used and the role of the supervisee in the diagnostic process.

(c) The information provided on the verification form must demonstrate to the board's satisfaction that the supervisee has met the applicable supervised practice requirements.

Subd. 4. ALTERNATIVE VERIFICATION OF SUPERVISED PRACTICE. Notwithstanding the requirements of subdivision 3, the board may accept alternative verification of supervised practice if a supervisee demonstrates to the satisfaction of the board that the supervisee is unable to locate a former supervisor to provide the required information.

**Sec. 31. [148D.130] CLOCK HOURS REQUIRED.**

Subdivision 1. TOTAL CLOCK HOURS REQUIRED. At the time of license renewal, a licensee must provide evidence satisfactory to the board that the licensee has, during the renewal term, completed at least 30 clock hours of continuing education.

Subd. 2. ETHICS REQUIREMENT. At least two of the clock hours required under subdivision 1 must be in social work ethics.

Subd. 3. INDEPENDENT STUDY. Independent study must not consist of more than ten clock hours of continuing education per renewal term. Independent study must be for publication, public presentation, or professional development. Independent study includes, but is not limited to, electronic study.

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Subd. 4. COURSEWORK. One credit of coursework in a semester-based academic institution is the equivalent of 15 clock hours.

Subd. 5. PRORATED RENEWAL TERM. If the licensee's renewal term is prorated to be less or more than 24 months, the required number of continuing education clock hours is prorated proportionately.

**Sec. 32. [148D.135] APPROVAL OF CLOCK HOURS.**

Subdivision 1. WAYS OF APPROVING CLOCK HOURS. The clock hours required under section 148D.130 must be approved in one or more of the following ways:

(1) the hours must be offered by a continuing education provider approved by the board;

(2) the hours must be offered by a continuing education provider approved by the Association of Social Work Boards or a similar examination body designated by the board;

(3) the hours must be earned through a continuing education program approved by the National Association of Social Workers; or

(4) the hours must be earned through a continuing education program approved by the board.

Subd. 2. PREAPPROVAL NOT REQUIRED. Providers and programs are not required to be preapproved but must meet the requirements specified in this section.

**Sec. 33. [148D.140] VARIANCES.**

The board may grant a variance to the continuing education requirements specified in section 148D.130, when a licensee demonstrates to the satisfaction of the board that the licensee is unable to complete the required number of clock hours during the renewal term. The board may allow a licensee to complete the required number of clock hours within a time frame specified by the board. The board must not allow a licensee to complete less than the required number of clock hours.

**Sec. 34. [148D.145] CONTINUING EDUCATION PROVIDERS APPROVED BY THE BOARD.**

Subdivision 1. BOARD APPROVAL. (a) The board must approve a continuing education provider who:

(1) submits a completed application to the board which provides the information required by subdivision 2 and which meets the criteria specified in subdivision 3; and

(2) pays the provider fee specified in section 148D.180.

(b) An approval is valid for programs offered no later than one year from the date the application is approved by the board.

Subd. 2. INFORMATION REQUIRED. The information that must be provided to the board includes, but is not limited to, the following:

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- (1) the name of the continuing education provider;
- (2) the address, telephone number, and e-mail address of a contact person for the provider;
- (3) a signed statement that indicates the provider understands and agrees to abide by the criteria specified in subdivision 3; and
- (4) a signed statement that indicates the provider agrees to furnish a certificate of attendance to each participant in a program offered by the provider.

Subd. 3. **CRITERIA FOR PROGRAMS OFFERED BY CONTINUING EDUCATION PROVIDERS.** (a) A continuing education provider must employ the following criteria in determining whether to offer a continuing education program:

- (1) whether the material to be presented will promote the standards of practice described in sections 148D.195 to 148D.240;
- (2) whether the material to be presented will contribute to the practice of social work as defined in section 148D.010;
- (3) whether the material to be presented is intended for the benefit of practicing social workers; and
- (4) whether the persons presenting the program are qualified in the subject matter being presented.

(b) The material presented must not be primarily procedural or primarily oriented towards business practices or self-development.

Subd. 4. **AUDITS.** (a) The board may audit programs offered by a continuing education provider approved by the board to determine compliance with the requirements of this section.

(b) A continuing education provider audited by the board must provide the documentation specified in subdivision 5.

Subd. 5. **INFORMATION REQUIRED TO BE MAINTAINED BY CONTINUING EDUCATION PROVIDERS.** For three years following the end of each program offered by a continuing education provider, the provider must maintain the following information:

- (1) the title of the program;
- (2) a description of the content and objectives of the program;
- (3) the date of the program;
- (4) the number of clock hours credited for participation in the program;
- (5) the program location;
- (6) the names and qualifications of the primary presenters;
- (7) a description of the primary audience the program was designed for; and
- (8) a list of the participants in the program.

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**Sec. 35. [148D.150] CONTINUING EDUCATION PROVIDERS APPROVED BY THE ASSOCIATION OF SOCIAL WORK BOARDS.**

In order to receive credit for a program offered by a continuing education provider approved by the Association of Social Work Boards or a similar examination body designated by the board, the provider must be listed on the Association of Social Work Boards Web site as a provider currently approved by the Association of Social Work Boards or a similar examination body designated by the board.

**Sec. 36. [148D.155] CONTINUING EDUCATION PROGRAMS APPROVED BY THE NATIONAL ASSOCIATION OF SOCIAL WORKERS.**

In order to receive credit for a program approved by the National Association of Social Workers, the program must be listed on the National Association of Social Workers Web site as a program currently approved by the National Association of Social Workers.

**Sec. 37. [148D.160] CONTINUING EDUCATION PROGRAMS APPROVED BY THE BOARD.**

Subdivision 1. REQUIRED PROGRAM CONTENT. In order to be approved by the board, a continuing education program must:

- (1) promote the standards of practice described in sections 148D.195 to 148D.240;
- (2) contribute to the practice of social work as defined in section 148D.010; and
- (3) not be primarily procedural or be primarily oriented towards business practices or self-development.

Subd. 2. TYPES OF CONTINUING EDUCATION PROGRAMS. In order to be approved by the board, a continuing education program must be one of the following: academic coursework offered by an institution of higher learning; educational workshops, seminars, or conferences offered by an organization or individual; staff training offered by a public or private employer; or independent study.

**Sec. 38. [148D.165] CONTINUING EDUCATION REQUIREMENTS OF LICENSEES.**

Subdivision 1. INFORMATION REQUIRED TO BE MAINTAINED BY LICENSEES. For one year following the expiration date of a license, the licensee must maintain documentation of clock hours earned during the previous renewal term. The documentation must include the following:

- (1) for educational workshops or seminars offered by an organization or at a conference, a copy of the certificate of attendance issued by the presenter or sponsor giving the following information:
  - (i) the name of the sponsor or presenter of the program;

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(ii) the title of the workshop or seminar;

(iii) the dates the licensee participated in the program; and

(iv) the number of clock hours completed;

(2) for academic coursework offered by an institution of higher learning, a copy of a transcript giving the following information:

(i) the name of the institution offering the course;

(ii) the title of the course;

(iii) the dates the licensee participated in the course; and

(iv) the number of credits completed;

(3) for staff training offered by public or private employers, a copy of the certificate of attendance issued by the employer giving the following information:

(i) the name of the employer;

(ii) the title of the staff training;

(iii) the dates the licensee participated in the program; and

(iv) the number of clock hours completed; and

(4) for independent study, including electronic study, a written summary of the study conducted, including the following information:

(i) the topics studied;

(ii) a description of the applicability of the study to the licensee's authorized scope of practice;

(iii) the titles and authors of books and articles consulted or the name of the organization offering the study;

(iv) the dates the licensee conducted the study; and

(v) the number of clock hours the licensee conducted the study.

Subd. 2. AUDITS. The board may audit license renewal and reactivation applications to determine compliance with the requirements of sections 148D.130 to 148D.170. A licensee audited by the board must provide the documentation specified in subdivision 1 regardless of whether the provider or program has been approved by the board, the Association of Social Work Boards, or a similar examination body designated by the board, or the National Association of Social Workers.

#### **Sec. 39. [148D.170] REVOCATION OF CONTINUING EDUCATION APPROVALS.**

The board may revoke approval of a provider or of a program offered by a provider, or of an individual program approved by the board, if the board determines subsequent to the approval that the provider or program failed to meet the requirements of sections 148D.130 to 148D.170.

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Sec. 40. [148D.175] FEES.

The fees specified in section 148D.180 are nonrefundable and must be deposited in the state government special revenue fund.

Sec. 41. [148D.180] FEE AMOUNTS.

Subdivision 1. APPLICATION FEES. Application fees for licensure are as follows:

- (1) for a licensed social worker, \$45;
- (2) for a licensed graduate social worker, \$45;
- (3) for a licensed independent social worker, \$90;
- (4) for a licensed independent clinical social worker, \$90;
- (5) for a temporary license, \$50; and
- (6) for a licensure by endorsement, \$150.

The fee for criminal background checks is the fee charged by the Bureau of Criminal Apprehension. The criminal background check fee must be included with the application fee as required pursuant to section 148D.055.

Subd. 2. LICENSE FEES. License fees are as follows:

- (1) for a licensed social worker, \$115.20;
- (2) for a licensed graduate social worker, \$201.60;
- (3) for a licensed independent social worker, \$302.40;
- (4) for a licensed independent clinical social worker, \$331.20;
- (5) for an emeritus license, \$43.20; and
- (6) for a temporary leave fee, the same as the renewal fee specified in subdivision

3.

If the licensee's initial license term is less or more than 24 months, the required license fees must be prorated proportionately.

Subd. 3. RENEWAL FEES. Renewal fees for licensure are as follows:

- (1) for a licensed social worker, \$115.20;
- (2) for a licensed graduate social worker, \$201.60;
- (3) for a licensed independent social worker, \$302.40; and
- (4) for a licensed independent clinical social worker, \$331.20.

Subd. 4. CONTINUING EDUCATION PROVIDER FEES. Continuing education provider fees are as follows:

- (1) for a provider who offers programs totaling one to eight clock hours in a one-year period pursuant to section 148D.145, \$50;

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(2) for a provider who offers programs totaling nine to 16 clock hours in a one-year period pursuant to section 148D.145, \$100;

(3) for a provider who offers programs totaling 17 to 32 clock hours in a one-year period pursuant to section 148D.145, \$200;

(4) for a provider who offers programs totaling 33 to 48 clock hours in a one-year period pursuant to section 148D.145, \$400; and

(5) for a provider who offers programs totaling 49 or more clock hours in a one-year period pursuant to section 148D.145, \$600.

Subd. 5. LATE FEES. Late fees are as follows:

(1) renewal late fee, one-half of the renewal fee specified in subdivision 3; and

(2) supervision plan late fee, \$40.

Subd. 6. LICENSE CARDS AND WALL CERTIFICATES. (a) The fee for a license card as specified in section 148D.095 is \$10.

(b) The fee for a license wall certificate as specified in section 148D.095 is \$30.

Subd. 7. REACTIVATION FEES. Reactivation fees are as follows:

(1) reactivation from a temporary leave or emeritus status, the prorated share of the renewal fee specified in subdivision 3; and

(2) reactivation of an expired license, 1-1/2 times the renewal fees specified in subdivision 3.

Subd. 8. TEMPORARY FEE REDUCTION. For fiscal years 2006, 2007, 2008, and 2009, the following fee changes are effective:

(1) in subdivision 1, the application fee for a licensed independent social worker is reduced to \$45;

(2) in subdivision 1, the application fee for a licensed independent clinical social worker is reduced to \$45;

(3) in subdivision 1, the application fee for a licensure by endorsement is reduced to \$85;

(4) in subdivision 2, the license fee for a licensed social worker is reduced to \$90;

(5) in subdivision 2, the license fee for a licensed graduate social worker is reduced to \$160;

(6) in subdivision 2, the license fee for a licensed independent social worker is reduced to \$240;

(7) in subdivision 2, the license fee for a licensed independent clinical social worker is reduced to \$265;

(8) in subdivision 3, the renewal fee for a licensed social worker is reduced to \$90;

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(9) in subdivision 3, the renewal fee for a licensed graduate social worker is reduced to \$160;

(10) in subdivision 3, the renewal fee for a licensed independent social worker is reduced to \$240;

(11) in subdivision 3, the renewal fee for a licensed independent clinical social worker is reduced to \$265; and

(12) in subdivision 5, the renewal late fee is reduced to one-third of the renewal fee specified in subdivision 3.

This subdivision expires on June 30, 2009.

#### **Sec. 42. [148D.185] PURPOSE OF COMPLIANCE LAWS.**

The purpose of sections 148D.185 to 148D.290 is to protect the public by ensuring that all persons licensed as social workers meet minimum standards of practice. The board shall promptly and fairly investigate and resolve all complaints alleging violations of statutes and rules that the board is empowered to enforce and (1) take appropriate disciplinary action, adversarial action, or other action justified by the facts, or (2) enter into corrective action agreements or stipulations to cease practice, when doing so is consistent with the board's obligation to protect the public.

#### **Sec. 43. [148D.190] GROUNDS FOR ACTION.**

Subdivision 1. SCOPE. The grounds for action in subdivisions 2 to 4 and the standards of practice requirements in sections 148D.195 to 148D.240 apply to all licensees and applicants.

Subd. 2. VIOLATIONS. The board has grounds to take action pursuant to sections 148D.255 to 148D.270 when a social worker violates:

(1) a statute or rule enforced by the board, including this section and sections 148D.195 to 148D.240;

(2) a federal or state law or rule related to the practice of social work; or

(3) an order, stipulation, or agreement agreed to or issued by the board.

Subd. 3. CONDUCT BEFORE LICENSURE. A violation of the requirements specified in this section and sections 148D.195 to 148D.240 is grounds for the board to take action under sections 148D.255 to 148D.270. The board's jurisdiction to exercise the powers provided in this section extends to an applicant or licensee's conduct that occurred before licensure if:

(1) the conduct did not meet the minimum accepted and prevailing standards of professional social work practice at the time the conduct occurred; or

(2) the conduct adversely affects the applicant or licensee's present ability to practice social work in conformity with the requirements of sections 148D.195 to 148D.240.

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Subd. 4. **UNAUTHORIZED PRACTICE.** The board has grounds to take action pursuant to sections 148D.255 to 148D.270 when a social worker:

- (1) practices outside the scope of practice authorized by section 148D.050;
- (2) engages in the practice of social work without a social work license under section 148D.055 or 148D.060, except when the social worker is exempt from licensure pursuant to section 148D.065;
- (3) provides social work services to a client who receives social work services in this state, and is not licensed pursuant to section 148D.055 or 148D.060, except when the social worker is exempt from licensure pursuant to section 148D.065.

Sec. 44. **[148D.195] REPRESENTATIONS TO CLIENTS AND PUBLIC.**

Subdivision 1. **REQUIRED DISPLAYS AND INFORMATION FOR CLIENTS.** (a) A social worker must conspicuously display at the social worker's places of practice, or make available as a handout for all clients, information that the client has the right to the following:

- (1) to be informed of the social worker's license status, education, training, and experience;
- (2) to examine public data on the social worker maintained by the board;
- (3) to report a complaint about the social worker's practice to the board; and
- (4) to be informed of the board's mailing address, e-mail address, Web site address, and telephone number.

(b) A social worker must conspicuously display the social worker's wall certificate at the social worker's places of practice and office locations. Additional wall certificates may be requested pursuant to section 148D.095.

Subd. 2. **REPRESENTATIONS.** (a) No applicant or other individual may be represented to the public by any title incorporating the words "social work" or "social worker" unless the individual holds a license pursuant to sections 148D.055 and 148D.060 or practices in a setting exempt from licensure pursuant to section 148D.065.

(b) In all professional use of a social worker's name, the social worker must use the license designation "LSW" or "licensed social worker" for a licensed social worker, "LGSW" or "licensed graduate social worker" for a licensed graduate social worker, "LISW" or "licensed independent social worker" for a licensed independent social worker, or "LICSW" or "licensed independent clinical social worker" for a licensed independent clinical social worker.

(c) Public statements or advertisements must not be untruthful, misleading, false, fraudulent, deceptive, or potentially exploitative of clients, former clients, interns, students, supervisees, or the public.

(d) A social worker must not:

- (1) use licensure status as a claim, promise, or guarantee of successful service;

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(2) obtain a license by cheating or employing fraud or deception;

(3) make false statements or misrepresentations to the board or in materials submitted to the board; or

(4) engage in conduct that has the potential to deceive or defraud a social work client, intern, student, supervisee, or the public.

**Subd. 3. INFORMATION ON CREDENTIALS.** (a) A social worker must provide accurate and factual information concerning the social worker's credentials, education, training, and experience when the information is requested by clients, potential clients, or other persons or organizations.

(b) A social worker must not misrepresent directly or by implication the social worker's license, degree, professional certifications, affiliations, or other professional qualifications in any oral or written communications to clients, potential clients, or other persons or organizations. A social worker must take reasonable steps to prevent such misrepresentations by other social workers.

(c) A social worker must not hold out as a person licensed as a social worker without having a social work license pursuant to sections 148D.055 and 148D.060.

(d) A social worker must not misrepresent directly or by implication (1) affiliations with institutions or organizations, or (2) purposes or characteristics of institutions or organizations with which the social worker is or has been affiliated.

#### Sec. 45. [148D.200] COMPETENCE.

**Subdivision 1. COMPETENCE.** (a) A social worker must provide services and hold out as competent only to the extent the social worker's education, training, license, consultation received, supervision experience, or other relevant professional experience demonstrate competence in the services provided. A social worker must make a referral to a competent professional when the services required are beyond the social worker's competence or authorized scope of practice.

(b) When generally recognized standards do not exist with respect to an emerging area of practice, including but not limited to providing social work services through electronic means, a social worker must take the steps necessary, such as consultation or supervision, to ensure the competence of the social worker's work and to protect clients from harm.

**Subd. 2. SUPERVISION OR CONSULTATION.** Notwithstanding the completion of supervision requirements as specified in sections 148D.100 to 148D.125, a social worker must obtain supervision or engage in consultation when appropriate or necessary for competent and ethical practice.

**Subd. 3. DELEGATION OF SOCIAL WORK RESPONSIBILITIES.** (a) A social worker must not delegate a social work responsibility to another individual when the social worker knows or reasonably should know that the individual is not licensed when required to be licensed pursuant to sections 148D.055 and 148D.060.

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(b) A social worker must not delegate a social work responsibility to another individual when the social worker knows or reasonably should know that the individual is not competent to assume the responsibility or perform the task.

**Sec. 46. [148D.205] IMPAIRMENT.**

Subdivision 1. **GROUNDS FOR ACTION.** The board has grounds to take action under sections 148D.255 to 148D.270 when a social worker is unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition.

Subd. 2. **SELF-REPORTING.** A social worker regulated by the board who is unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition, must report to the board or the health professionals services program.

**Sec. 47. [148D.210] PROFESSIONAL AND ETHICAL CONDUCT.**

The board has grounds to take action under sections 148D.255 to 148D.270 when a social worker:

(1) engages in unprofessional or unethical conduct, including any departure from or failure to conform to the minimum accepted ethical and other prevailing standards of professional social work practice, without actual injury to a social work client, intern, student, supervisee or the public needing to be established;

(2) engages in conduct that has the potential to cause harm to a client, intern, student, supervisee, or the public;

(3) demonstrates a willful or careless disregard for the health, welfare, or safety of a client, intern, student, or supervisee; or

(4) engages in acts or conduct adversely affecting the applicant or licensee's current ability or fitness to engage in social work practice, whether or not the acts or conduct occurred while engaged in the practice of social work.

**Sec. 48. [148D.215] RESPONSIBILITIES TO CLIENTS.**

Subdivision 1. **RESPONSIBILITY TO CLIENTS.** A social worker's primary professional responsibility is to the client. A social worker must respect the client's interests, including the interest in self-determination, except when required to do otherwise by law.

Subd. 2. **NONDISCRIMINATION.** A social worker must not discriminate against a client, intern, student, or supervisee or in providing services to a client, intern, or supervisee on the basis of age, gender, sexual orientation, race, color, national origin, religion, illness, disability, political affiliation, or social or economic status.

Subd. 3. **RESEARCH.** When undertaking research activities, a social worker must use accepted protocols for the protection of human subjects, including (1)

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establishing appropriate safeguards to protect the subject's vulnerability, and (2) obtaining the subjects' informed consent.

**Sec. 49. [148D.220] RELATIONSHIPS WITH CLIENTS, FORMER CLIENTS, AND OTHER INDIVIDUALS.**

**Subdivision 1. SOCIAL WORKER RESPONSIBILITY.** (a) A social worker is responsible for acting professionally in relationships with clients or former clients. A client or a former client's initiation of, or attempt to engage in, or request to engage in, a personal, sexual, or business relationship is not a defense to a violation of this section.

(b) When a relationship is permitted by this section, social workers who engage in such a relationship assume the full burden of demonstrating that the relationship will not be detrimental to the client or the professional relationship.

**Subd. 2. PROFESSIONAL BOUNDARIES.** A social worker must maintain appropriate professional boundaries with a client. A social worker must not engage in practices with clients that create an unacceptable risk of client harm or of impairing a social worker's objectivity or professional judgment. A social worker must not act or fail to act in a way that, as judged by a reasonable and prudent social worker, inappropriately encourages the client to relate to the social worker outside of the boundaries of the professional relationship, or in a way that interferes with the client's ability to benefit from social work services from the social worker.

**Subd. 3. MISUSE OF PROFESSIONAL RELATIONSHIP.** A social worker must not use the professional relationship with a client, student, supervisee, or intern to further the social worker's personal, emotional, financial, sexual, religious, political, or business benefit or interests.

**Subd. 4. IMPROPER TERMINATION.** A social worker must not terminate a professional relationship for the purpose of beginning a personal, sexual, or business relationship with a client.

**Subd. 5. PERSONAL RELATIONSHIP WITH A CLIENT.** (a) Except as provided in paragraph (b), a social worker must not engage in a personal relationship with a client that creates a risk of client harm or of impairing a social worker's objectivity or professional judgment.

(b) Notwithstanding paragraph (a), if a social worker is unable to avoid a personal relationship with a client, the social worker must take appropriate precautions, such as consultation or supervision, to address the potential for risk of client harm or of impairing a social worker's objectivity or professional judgment.

**Subd. 6. PERSONAL RELATIONSHIP WITH A FORMER CLIENT.** A social worker may engage in a personal relationship with a former client after appropriate termination of the professional relationship, except:

- (1) as prohibited by subdivision 8; or
- (2) if a reasonable and prudent social worker would conclude after appropriate assessment that (i) the former client is emotionally dependent on the social worker or

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continues to relate to the social worker as a client, or (ii) the social worker is emotionally dependent on the client or continues to relate to the former client as a social worker.

Subd. 7. SEXUAL CONDUCT WITH A CLIENT. A social worker must not engage in or suggest sexual conduct with a client.

Subd. 8. SEXUAL CONDUCT WITH A FORMER CLIENT. (a) A social worker who has engaged in diagnosing, counseling, or treating a client with mental, emotional, or behavioral disorders must not engage in or suggest sexual conduct with the former client under any circumstances unless:

(1) the social worker did not intentionally or unintentionally coerce, exploit, deceive, or manipulate the former client at any time;

(2) the social worker did not represent to the former client that sexual conduct with the social worker is consistent with or part of the client's treatment;

(3) the social worker's sexual conduct was not detrimental to the former client at any time;

(4) the former client is not emotionally dependent on the social worker and does not continue to relate to the social worker as a client; and

(5) the social worker is not emotionally dependent on the client and does not continue to relate to the former client as a social worker.

(b) If there is an alleged violation of paragraph (a), the social worker assumes the full burden of demonstrating to the board that the social worker did not intentionally or unintentionally coerce, exploit, deceive, or manipulate the client, and the social worker's sexual conduct was not detrimental to the client at any time. Upon request, a social worker must provide information to the board addressing:

(1) the amount of time that has passed since termination of services;

(2) the duration, intensity, and nature of services;

(3) the circumstances of termination of services;

(4) the former client's emotional, mental, and behavioral history;

(5) the former client's current emotional, mental, and behavioral status;

(6) the likelihood of adverse impact on the former client; and

(7) the existence of actions, conduct, or statements made by the social worker during the course of services suggesting or inviting the possibility of a sexual relationship with the client following termination of services.

(c) A social worker who has provided social work services other than those described in paragraph (a) to a client must not engage in or suggest sexual conduct with the former client if a reasonable and prudent social worker would conclude after appropriate assessment that engaging in such behavior with the former client would create an unacceptable risk of harm to the former client.

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**Subd. 9. SEXUAL CONDUCT WITH A STUDENT, SUPERVISEE, OR INTERN.** (a) A social worker must not engage in or suggest sexual conduct with a student while the social worker has authority over any part of the student's academic program.

(b) A social worker supervising an intern must not engage in or suggest sexual conduct with the intern during the course of the internship.

(c) A social worker practicing social work as a supervisor must not engage in or suggest sexual conduct with a supervisee during the period of supervision.

**Subd. 10. SEXUAL HARASSMENT.** A social worker must not engage in any physical, oral, written, or electronic behavior that a client, former client, student, supervisee, or intern may reasonably interpret as sexually harassing or sexually demeaning.

**Subd. 11. BUSINESS RELATIONSHIP WITH A CLIENT.** A social worker must not purchase goods or services from a client or otherwise engage in a business relationship with a client except when:

(1) a social worker purchases goods or services from the client and a reasonable and prudent social worker would determine that it is not practical or reasonable to obtain the goods or services from another provider; and

(2) engaging in the business relationship will not be detrimental to the client or the professional relationship.

**Subd. 12. BUSINESS RELATIONSHIP WITH A FORMER CLIENT.** A social worker may purchase goods or services from a former client or otherwise engage in a business relationship with a former client after appropriate termination of the professional relationship unless a reasonable and prudent social worker would conclude after appropriate assessment that:

(1) the former client is emotionally dependent on the social worker and purchasing goods or services from the former client or otherwise engaging in a business relationship with the former client would be detrimental to the former client; or

(2) the social worker is emotionally dependent on the former client and purchasing goods or services from the former client or otherwise engaging in a business relationship with the former client would be detrimental to the former client.

**Subd. 13. PREVIOUS SEXUAL, PERSONAL, OR BUSINESS RELATIONSHIP.** (a) A social worker must not engage in a social worker/client relationship with an individual with whom the social worker had a previous sexual relationship.

(b) A social worker must not engage in a social worker/client relationship with an individual with whom the social worker had a previous personal or business relationship if a reasonable and prudent social worker would conclude after appropriate assessment that the social worker/client relationship would create an unacceptable risk

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of client harm or that the social worker's objectivity or professional judgment may be impaired.

**Subd. 14. GIVING ALCOHOL OR OTHER DRUGS TO A CLIENT.** (a) Unless authorized by law, a social worker must not offer medication or controlled substances to a client.

(b) A social worker must not accept medication or controlled substances from a client except that if authorized by law, a social worker may accept medication or controlled substances from a client for purposes of disposal or to monitor use.

(c) A social worker must not offer alcoholic beverages to a client except when such an offer is authorized or prescribed by a physician or is in accordance with a client's care plan.

(d) A social worker must not accept alcoholic beverages from a client.

**Subd. 15. RELATIONSHIP WITH A CLIENT'S FAMILY OR HOUSEHOLD MEMBER.** Subdivisions 1 to 14 apply to a social worker's relationship with a client's family or household member when a reasonable and prudent social worker would conclude after appropriate assessment that a relationship with a family or household member would create an unacceptable risk of harm to the client.

#### Sec. 50. [148D.225] TREATMENT AND INTERVENTION SERVICES.

**Subdivision 1. ASSESSMENT OR DIAGNOSIS.** A social worker must base treatment and intervention services on an assessment or diagnosis. A social worker must evaluate, on an ongoing basis, the appropriateness of the assessment or diagnosis.

**Subd. 2. ASSESSMENT OR DIAGNOSTIC INSTRUMENTS.** A social worker must not use an assessment or diagnostic instrument without adequate training. A social worker must follow standards and accepted procedures for using an assessment or diagnostic instrument. A social worker must inform a client of the purpose before administering the instrument and must make the results available to the client.

**Subd. 3. PLAN FOR SERVICES.** A social worker must develop a plan for services that includes goals based on the assessment or diagnosis. A social worker must evaluate, on an ongoing basis, the appropriateness of the plan and the client's progress toward the goals.

**Subd. 4. RECORDS.** (a) A social worker must make and maintain current and accurate records, appropriate to the circumstances, of all services provided to a client. At a minimum, the records must contain documentation of:

- (1) the assessment or diagnosis;
- (2) the content of the service plan;
- (3) progress with the plan and any revisions of assessment, diagnosis, or plan;
- (4) any fees charged and payments made;

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- (5) copies of all client-written authorizations for release of information; and
- (6) other information necessary to provide appropriate services.

(b) These records must be maintained by the social worker for at least seven years after the last date of service to the client. Social workers who are employed by an agency or other entity are not required to:

- (1) maintain personal or separate records; or
- (2) personally retain records at the conclusion of their employment.

**Subd. 5. TERMINATION OF SERVICES.** A social worker must terminate a professional relationship with a client when the social worker reasonably determines that the client is not likely to benefit from continued services or the services are no longer needed, unless the social worker is required by law to provide services. A social worker who anticipates terminating services must give reasonable notice to the client in a manner that is appropriate to the needs of the client. The social worker must provide appropriate referrals as needed or upon request of the client.

#### **Sec. 51. [148D.230] CONFIDENTIALITY AND RECORDS.**

**Subdivision 1. INFORMED CONSENT.** (a) A social worker must obtain valid, informed consent, appropriate to the circumstances, before providing services to clients. When obtaining informed consent, the social worker must determine whether the client has the capacity to provide informed consent. If the client does not have the capacity to provide consent, the social worker must obtain consent for the services from the client's legal representative. The social worker must not provide services, unless authorized or required by law, if the client or the client's legal representative does not consent to the services.

(b) If a social worker determines that a client does not have the capacity to provide consent, and the client does not have a legal representative, the social worker:

(1) must, except as provided in clause (2), secure a legal representative for a client before providing services; or

(2) may, notwithstanding clause (1), provide services, except when prohibited by other applicable law, that are necessary to ensure the client's safety or to preserve the client's property or financial resources.

(c) A social worker must use clear and understandable language, including using an interpreter proficient in the client's primary language as necessary, to inform clients of the plan of services, risks related to the plan, limits to services, relevant costs, terms of payment, reasonable alternatives, the client's right to refuse or withdraw consent, and the time frame covered by the consent.

**Subd. 2. MANDATORY REPORTING AND DISCLOSURE OF CLIENT INFORMATION.** At the beginning of a professional relationship and during the professional relationship as necessary and appropriate, a social worker must inform the client of those circumstances under which the social worker may be required to

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disclose client information specified in subdivision 3, paragraph (a), without the client's consent.

Subd. 3. CONFIDENTIALITY OF CLIENT INFORMATION. (a) A social worker must ensure the confidentiality of all client information obtained in the course of the social worker/client relationship and all client information otherwise obtained by the social worker that is relevant to the social worker/client relationship. Except as provided in this section, client information may be disclosed or released only with the client's or the client's legal representative's valid informed consent, appropriate to the circumstances, except when otherwise required by law. A social worker must seek consent to disclose or release client information only when such disclosure or release is necessary to provide social work services.

(b) A social worker must continue to maintain confidentiality of the client information specified in paragraph (a) upon termination of the professional relationship including upon the death of the client, except as provided under this section or other applicable law.

(c) A social worker must limit access to the client information specified in paragraph (a) in a social worker's agency to appropriate agency staff whose duties require access.

**Subd. 4. RELEASE OF CLIENT INFORMATION WITH WRITTEN INFORMED CONSENT.** (a) Except as provided in subdivision 5, client information specified in subdivision 3, paragraph (a), may be released only with the client's or the client's legal representative's written informed consent. The written informed consent must:

- (1) explain to whom the client's records may be released;
- (2) explain the purpose for the release; and
- (3) state an expiration date for the authorized release of the records.

(b) A social worker may provide client information specified in subdivision 3, paragraph (a), to a third party for the purpose of payment for services rendered only with the client's written informed consent.

(c) Except as provided in subdivision 5, a social worker may disclose client information specified in subdivision 3, paragraph (a), only with the client's or the client's legal representative's written informed consent. When it is not practical to obtain written informed consent before providing necessary services, a social worker may disclose or release client information with the client's or the client's legal representative's oral informed consent.

(d) Unless otherwise authorized by law, a social worker must obtain a client's written informed consent before taking a photograph of the client or making an audio or video recording of the client, or allowing a third party to do the same. The written informed consent must explain:

- (1) the purpose of the photograph or the recording and how the photograph or recording will be used, how it will be stored, and when it will be destroyed; and

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(2) how the client may have access to the photograph or recording.

**Subd. 5. RELEASE OF CLIENT INFORMATION WITHOUT WRITTEN INFORMED CONSENT.** (a) A social worker may disclose client information specified in subdivision 3, paragraph (a), without the written consent of the client or the client's legal representative only under the following circumstances or under the circumstances described in paragraph (b):

(1) when mandated or authorized by federal or state law, including the mandatory reporting requirements under the duty to warn, maltreatment of minors, and vulnerable adult laws specified in section 148D.240, subdivisions 6 to 8;

(2) when the board issues a subpoena to the social worker; or

(3) when a court of competent jurisdiction orders release of the client records or information.

(b) When providing services authorized or required by law to a client who does not have the capacity to provide consent and who does not have a legal representative, a social worker must disclose or release client records or information as necessary to provide services to ensure the client's safety or to preserve the client's property or financial resources.

**Subd. 6. RELEASE OF CLIENT RECORDS OR INFORMATION.** When releasing client records or information under this section, a social worker must release current, accurate, and complete records or information.

#### **Sec. 52. [148D.235] FEES AND BILLING PRACTICES.**

**Subdivision 1. FEES AND PAYMENTS.** (a) A social worker must ensure that a client or a client's legal representative is informed of all fees at the initial session or meeting with the client, and that payment for services is arranged with the client or the client's legal representative at the beginning of the professional relationship. Upon request from a client or a client's legal representative, a social worker must provide in a timely manner a written payment plan or a written explanation of the charges for any services rendered.

(b) When providing services authorized or required by law to a client who does not have the capacity to provide consent and who does not have a legal representative, a social worker may submit reasonable bills to an appropriate payer for services provided.

**Subd. 2. BILLING FOR SERVICES NOT PROVIDED.** A social worker must not bill for services that have not been provided except that, with prior notice to the client, a social worker may bill for failed appointments or for cancellations without sufficient notice. A social worker may bill only for provided services which are necessary and appropriate. Financial responsibility for failed appointment billings resides solely with the client and such costs may not be billed to public or private payers.

**Subd. 3. NO PAYMENT FOR REFERRALS.** A social worker must not accept or give a commission, rebate, or other form of remuneration solely or primarily to profit from the referral of a client.

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Subd. 4. FEES AND BILLING PRACTICES. A social worker must not engage in improper or fraudulent billing practices, including, but not limited to, violations of the federal Medicare and Medicaid laws or state medical assistance laws.

**Sec. 53. [148D.240] REPORTING REQUIREMENTS.**

Subdivision 1. FAILURE TO SELF-REPORT ADVERSE ACTIONS. The board has grounds to take action under sections 148D.255 to 148D.270 when a social worker fails to report to the board within 90 days:

(1) having been disciplined, sanctioned, or found to have violated a state, territorial, provincial, or foreign licensing agency's laws or rules;

(2) having been convicted of committing a felony, gross misdemeanor, or misdemeanor reasonably related to the practice of social work;

(3) having had a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered, of committing a felony, gross misdemeanor, or misdemeanor reasonably related to the practice of social work;

(4) having admitted to committing, or entering a no contest plea to committing, a felony, gross misdemeanor, or misdemeanor reasonably related to the practice of social work; or

(5) having been denied licensure by a state, territorial, provincial, or foreign licensing agency.

Subd. 2. FAILURE TO SUBMIT APPLICATION INFORMATION. The board has grounds to take action under sections 148D.255 to 148D.270 when an applicant or licensee fails to submit with an application the following information:

(1) the dates and dispositions of any malpractice settlements or awards made relating to the social work services provided by the applicant or licensee; or

(2) the dates and dispositions of any civil litigations or arbitrations relating to the social work services provided by the applicant or licensee.

Subd. 3. REPORTING OTHER LICENSED HEALTH PROFESSIONALS. An applicant or licensee must report to the appropriate health-related licensing board conduct by a licensed health professional which would constitute grounds for disciplinary action under the statutes and rules enforced by that board.

Subd. 4. REPORTING UNLICENSED PRACTICE. An applicant or licensee must report to the board conduct by an unlicensed person which constitutes the practice of social work, as defined in section 148D.010, except when the unlicensed person is exempt from licensure pursuant to section 148D.065.

Subd. 5. FAILURE TO REPORT OTHER APPLICANTS OR LICENSEES AND UNLICENSED PRACTICE. The board has grounds to take action under sections 148D.255 to 148.270 when an applicant or licensee fails to report to the board conduct:

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(1) by another licensee or applicant which the applicant or licensee has reason to believe may reasonably constitute grounds for disciplinary action under this section; or

(2) by an unlicensed person that constitutes the practice of social work when a license is required to practice social work.

Subd. 6. DUTY TO WARN. A licensee must comply with the duty to warn established by section 148.975.

Subd. 7. REPORTING MALTREATMENT OF MINORS. An applicant or licensee must comply with the reporting of maltreatment of minors established by section 626.556.

Subd. 8. REPORTING MALTREATMENT OF VULNERABLE ADULTS. An applicant or licensee must comply with the reporting of maltreatment of vulnerable adults established by section 626.557.

Subd. 9. SUBPOENAS. The board may issue subpoenas pursuant to section 148D.245 and chapter 214 for the production of any reports required by this section or any related documents.

#### **Sec. 54. [148D.245] INVESTIGATIVE POWERS AND PROCEDURES.**

Subdivision 1. SUBPOENAS. (a) The board may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material as part of its investigation of an applicant or licensee under this section or chapter 214.

(b) If any person fails or refuses to appear or testify regarding any matter about which the person may be lawfully questioned, or fails or refuses 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 board or by a subpoena of the board to do so, the board may institute a proceeding in any district court to enforce the board's order or subpoena.

(c) The board or a designated member of the board acting on behalf of the board may issue subpoenas or administer oaths to witnesses or take affirmations. Depositions may be taken within or out of the state in the manner provided by law for the taking of depositions in civil actions.

(d) A subpoena or other process or paper may be served upon any person named therein, by mail or by any officer authorized to serve subpoenas or other process or paper in civil actions, with the same fees and mileage and in the same manner as prescribed by law for service of process issued out of the district court of this state.

(e) Fees, mileage, and other costs must be paid as the board directs.

Subd. 2. CLASSIFICATION OF DATA. (a) Any records obtained as part of an investigation must be treated as investigative data under section 13.41 and be classified as confidential data.

(b) Notwithstanding paragraph (a), client records must be treated as private data under chapter 13. Client records must be protected as private data in the records of the

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board and in administrative or judicial proceedings unless the client authorizes the board in writing to make public the identity of the client or a portion or all of the client's records.

**Subd. 3. MENTAL OR PHYSICAL EXAMINATION; CHEMICAL DEPENDENCY EVALUATION.** (a) If the board has (1) probable cause to believe that an applicant or licensee has violated a statute or rule enforced by the board, or an order issued by the board and (2) the board believes the applicant may have a health-related condition relevant to the violation, the board may issue an order directing the applicant or licensee to submit to one or more of the following: a mental examination, a physical examination, or a chemical dependency evaluation.

(b) An examination or evaluation order issued by the board must include:

(1) factual specifications on which the order is based;

(2) the purpose of the examination or evaluation;

(3) the name of the person or entity that will conduct the examination or evaluation; and

(4) the means by which the examination or evaluation will be paid for.

(c) Every applicant or licensee must submit to a mental examination, a physical examination, or a chemical dependency evaluation when ordered to do so in writing by the board.

(d) By submitting to a mental examination, a physical examination, or a chemical dependency evaluation, an applicant or licensee waives all objections to the admissibility of the examiner or evaluator's testimony or reports on the grounds that the testimony or reports constitute a privileged communication.

**Subd. 4. FAILURE TO SUBMIT TO AN EXAMINATION.** (a) If an applicant or licensee fails to submit to an examination or evaluation ordered by the board pursuant to subdivision 3, unless the failure was due to circumstances beyond the control of the applicant or licensee, the failure is an admission that the applicant or licensee violated a statute or rule enforced by the board as specified in the examination or evaluation order issued by the board. The failure may result in an application being denied or other adversarial, corrective, or disciplinary action being taken by the board without a contested case hearing.

(b) If an applicant or licensee requests a contested case hearing after the board denies an application or takes other disciplinary or adversarial action, the only issues which may be determined at the hearing are:

(1) whether the board had probable cause to issue the examination or evaluation order; and

(2) whether the failure to submit to the examination or evaluation was due to circumstances beyond the control of the applicant or licensee.

(c) Neither the record of a proceeding under this subdivision nor an order issued by the board may be admissible, subject to subpoena, or be used against the applicant

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or licensee in a proceeding in which the board is not a party or decision maker.

(d) Information obtained under this subdivision must be treated as private data under chapter 13. An order issued by the board as the result of an applicant's or licensee's failure to submit to an examination or evaluation must be treated as public data under chapter 13.

**Subd. 5. ACCESS TO DATA AND RECORDS.** (a) In addition to ordering a physical or mental examination or chemical dependency evaluation, and notwithstanding section 13.384, 144.651, 595.02, or any other statute limiting access to health records, the board or a designated member of the board acting on behalf of the board may subpoena physical, mental, and chemical dependency health records relating to an applicant or licensee without the applicant's or licensee's consent if:

(1) the board has probable cause to believe that the applicant or licensee has violated chapter 214, a statute or rule enforced by the board, or an order issued by the board; and

(2) the board has reason to believe that the records are relevant and necessary to the investigation.

(b) An applicant, licensee, insurance company, government agency, health care facility, or provider as defined in section 144.335, subdivision 1, paragraph (b), must comply with any subpoena of the board under this subdivision and is not liable in any action for damages for releasing information subpoenaed by the board under this subdivision unless the information provided is false and the person or entity providing the information knew or had reason to know that the information was false.

(c) Information on individuals obtained under this subdivision must be treated as investigative data under section 13.41 and be classified as confidential data.

(d) If an applicant, licensee, person, or entity does not comply with any subpoena of the board under this subdivision, the board may institute a proceeding in any district court to enforce the board's subpoena.

**Subd. 6. EVIDENCE OF PAST SEXUAL CONDUCT.** If, in a proceeding for taking action against an applicant or licensee under this section, the charges involve sexual contact with a client or former client, the board or administrative law judge must not consider evidence of the client's or former client's previous sexual conduct. Reference to the client's or former client's previous sexual conduct must not be made during the proceedings or in the findings, except by motion of the complainant, unless the evidence would be admissible under the applicable provisions of section 609.347, subdivision 3.

**Subd. 7. INVESTIGATIONS INVOLVING VULNERABLE ADULTS OR CHILDREN IN NEED OF PROTECTION.** (a) Except as provided in paragraph (b), if the board receives a complaint about a social worker regarding the social worker's involvement in a case of vulnerable adults or children in need of protection, the county or other appropriate public authority may request that the board suspend its investi-

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gation, and the board must comply until such time as the court issues its findings on the case.

(b) Notwithstanding paragraph (a), the board may continue with an investigation if the board determines that doing so is in the best interests of the vulnerable adult or child and is consistent with the board's obligation to protect the public. If the board chooses to continue an investigation, the board must notify the county or other appropriate public authority in writing and state its reasons for doing so.

**Subd. 8. NOTIFICATION OF COMPLAINANT.** (a) In no more than 14 calendar days after receiving a complaint regarding a licensee, the board must notify the complainant that the board has received the complaint.

(b) The board must periodically notify the complainant of the status of the complaint.

**Subd. 9. NOTIFICATION OF LICENSEE.** (a) Except as provided in paragraph (b), in no more than 60 calendar days after receiving a complaint regarding a licensee, the board must notify the licensee that the board has received the complaint and inform the licensee of:

(1) the substance of the complaint;

(2) the sections of the law that allegedly have been violated; and

(3) whether an investigation is being conducted.

(b) Paragraph (a) does not apply if:

(1) the board determines that such notice would compromise the board's investigation pursuant to section 214.10; or

(2) the board determines that such notice cannot reasonably be accomplished within this time.

(c) The board must periodically notify the licensee of the status of the complaint.

**Subd. 10. RESOLUTION OF COMPLAINTS.** In no more than one year after receiving a complaint regarding a licensee, the board must resolve or dismiss the complaint unless the board determines that resolving or dismissing the complaint cannot reasonably be accomplished within this time.

#### **Sec. 55. [148D.250] OBLIGATION TO COOPERATE.**

**Subdivision 1. OBLIGATION TO COOPERATE.** An applicant or licensee who is the subject of an investigation, or who is questioned by or on behalf of the board in connection with an investigation, must cooperate fully with the investigation. Cooperation includes, but is not limited to:

(1) responding fully and promptly to any question relating to the investigation;

(2) as reasonably requested by the board, providing copies of client and other records in the applicant's or licensee's possession relating to the investigation;

(3) executing release of records as reasonably requested by the board; and

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(4) appearing at conferences, hearings, or meetings scheduled by the board, as required in sections 148D.255 to 148D.270 and chapter 214.

Subd. 2. INVESTIGATION. A social worker must not knowingly withhold relevant information, give false or misleading information, or do anything to obstruct an investigation of the social worker or another social worker by the board or by another state or federal regulatory or law enforcement authority.

Subd. 3. PAYMENT FOR COPIES. The board must pay for copies requested by the board.

Subd. 4. ACCESS TO CLIENT RECORDS. Notwithstanding any law to the contrary, an applicant or licensee must allow the board access to any records of a client provided services by the applicant or licensee under investigation. If the client has not signed a consent permitting access to the client's records, the applicant or licensee must delete any data in the records that identifies the client before providing the records to the board.

Subd. 5. CLASSIFICATION OF DATA. Any records obtained pursuant to this subdivision must be treated as investigative data pursuant to section 13.41 and be classified as confidential data.

#### **Sec. 56. [148D.255] TYPES OF ACTIONS.**

Subdivision 1. ACTIONS. The board may take disciplinary action pursuant to section 148D.260, adversarial but nondisciplinary action pursuant to section 148D.265, or voluntary action pursuant to section 148D.270. Any action taken under sections 148D.260 to 148D.270 is public data.

Subd. 2. DISCIPLINARY ACTION. For purposes of section 148D.260, "disciplinary action" means an action taken by the board against an applicant or licensee that addresses a complaint alleging a violation of a statute or rule the board is empowered to enforce.

Subd. 3. ADVERSARIAL BUT NONDISCIPLINARY ACTION. For purposes of section 148D.265, "adversarial but nondisciplinary action" means a nondisciplinary action taken by the board that addresses a complaint alleging a violation of a statute or rule the board is empowered to enforce.

Subd. 4. VOLUNTARY ACTION. For purposes of section 148D.270, "voluntary action" means a nondisciplinary action agreed to by the board or a designated board member and an applicant or licensee that, through educational or other corrective means, addresses a complaint alleging a violation of a statute or rule that the board is empowered to enforce.

#### **Sec. 57. [148D.260] DISCIPLINARY ACTIONS.**

Subdivision 1. GENERAL DISCIPLINARY ACTIONS. (a) When the board has grounds for disciplinary actions under this chapter, the board may take one or more of the following disciplinary actions:

- (1) deny an application;

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- (2) permanently revoke a license to practice social work;
- (3) indefinitely or temporarily suspend a license to practice social work;
- (4) impose restrictions on a licensee's scope of practice;
- (5) impose conditions required for the licensee to maintain licensure, including, but not limited to, additional education, supervision, and requiring the passing of an examination provided for in section 148D.055;
- (6) reprimand a licensee;
- (7) impose a civil penalty of up to \$10,000 for each violation in order to discourage future violations or to deprive the licensee of any economic advantage gained by reason of the violation; or
- (8) impose a fee to reimburse the board for all or part of the cost of the proceedings resulting in disciplinary action, including, but not limited to, the amount paid by the board for services received from or expenses incurred by the Office of Administrative Hearings, the Office of the Attorney General, court reporters, witnesses, board members, board staff, or the amount paid by the board for reproducing records.

(b) Disciplinary action taken by the board under this subdivision is in effect pending determination of an appeal unless the court, upon petition and for good cause shown, decides otherwise.

**Subd. 2. REPRIMANDS.** (a) In addition to the board's authority to issue a reprimand pursuant to subdivision 1, a designated board member reviewing a complaint as provided for in chapter 214 may issue a reprimand to a licensee. The designated board member must notify the licensee that the reprimand will become final disciplinary action unless the licensee requests a hearing by the board within 14 calendar days.

(b) If the licensee requests a hearing within 14 calendar days, the board must schedule a hearing unless the designated board member withdraws the reprimand.

(c) The hearing must be scheduled within 14 working days of the time the licensee submits a request for the hearing.

(d) The designated board member who issued the reprimand may participate in the hearing but must not deliberate or vote on the decision by the board.

(e) The only evidence permitted at the hearing is affidavits or other documents except for testimony by the licensee or other witnesses whose testimony the board chair has authorized for good cause.

(f) If testimony is authorized, the testimony is subject to cross-examination.

(g) After the hearing, the board must affirm or dismiss the reprimand.

**Subd. 3. TEMPORARY SUSPENSIONS.** (a) In addition to any other remedy provided by statute, the board or a designated board member may, without a hearing,

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temporarily suspend a license to practice social work if the board or the designated board member finds that:

(1) the licensee has violated a statute or rule enforced by the board, any other federal or state law or rule related to the practice of social work, or an order, stipulation, or agreement agreed to or issued by the board; and

(2) continued practice by the licensee would create a serious risk of harm to others.

(b) The suspension is in effect upon service of a written order on the licensee specifying the statute, rule, order, stipulation, or agreement violated. Service of the order is effective if the order is served on the licensee or the licensee's attorney personally or by first class mail to the most recent address provided to the board for the licensee or the licensee's attorney.

(c) The temporary suspension remains in effect until after the board issues an order pursuant to paragraph (e), or if there is a contested case hearing, after the board issues a written final order pursuant to paragraph (g).

(d) If the licensee requests in writing within five calendar days of service of the order that the board hold a hearing, the board must hold a hearing on the sole issue of whether to continue, modify, or lift the suspension. The board must hold the hearing within ten working days of receipt of the licensee's written request. Evidence presented by the board or licensee must be in affidavit form only, except that the licensee or the licensee's attorney may present oral argument.

(e) Within five working days after the hearing, the board must issue its order. If the licensee contests the order, the board must schedule a contested case hearing under chapter 14. The contested case hearing must be scheduled to occur within 45 calendar days after issuance of the order.

(f) The administrative law judge must issue a report within 30 calendar days after the contested case hearing is concluded.

(g) The board must issue a final order within 30 calendar days after the board receives the administrative law judge's report.

#### **Sec. 58. [148D.265] ADVERSARIAL BUT NONDISCIPLINARY ACTIONS.**

**Subdivision 1. AUTOMATIC SUSPENSIONS.** (a) A license to practice social work is automatically suspended if:

(1) a guardian of a licensee is appointed by order of a court pursuant to sections 524.5-101 and 524.5.102; or

(2) the licensee is committed by order of a court pursuant to chapter 253B.

(b) A license remains suspended until:

(1) the licensee is restored to capacity by a court; and

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(2) upon petition by the licensee and after a hearing or an agreement with the licensee, the board terminates the suspension.

(c) If the board terminates the suspension, it may do so with or without conditions or restrictions, including, but not limited to, participation in the health professional services program.

**Subd. 2. CEASE AND DESIST ORDERS.** (a) The board or a designated board member may issue a cease and desist order to stop a person from engaging in unauthorized practice or from violating or threatening to violate a statute or rule enforced by the board or an order, stipulation, or agreement agreed to or issued by the board.

(b) 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 the person fails to request a hearing in writing postmarked within 15 calendar days after service of the cease and desist order, the order is the final order of the board and is not reviewable by a court or agency.

(c) If the board receives a written request for a hearing postmarked within 15 calendar days after service of the cease and desist order, the board must schedule a hearing within 30 calendar days of receiving the request.

(d) The administrative law judge must issue a report within 30 calendar days after the contested case hearing is concluded.

(e) Within 30 calendar days after the board receives the administrative law judge's report, the board must issue a final order modifying, vacating, or making permanent the cease and desist order. The final order remains in effect until modified or vacated by the board.

(f) If a person does not comply with a cease and desist order, the board may institute a proceeding in any district court to obtain injunctive relief or other appropriate relief, including but not limited to, a civil penalty payable to the board of up to \$10,000 for each violation.

(g) A cease and desist order issued pursuant to this subdivision does not relieve a person from criminal prosecution by a competent authority or from disciplinary action by the board.

**Subd. 3. INJUNCTIVE RELIEF.** (a) In addition to any other remedy provided by law, the board may bring an action in district court for injunctive relief to restrain any unauthorized practice or violation or threatened violation of any statute or rule, stipulation, or agreement agreed to or enforced by the board or an order issued by the board.

(b) A temporary restraining order may be granted in the proceeding if continued activity by a person would create an imminent risk of harm to others.

(c) Injunctive relief granted pursuant to this subdivision does not relieve a person from criminal prosecution by a competent authority or from disciplinary action by the board.

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(d) In bringing an action for injunctive relief, the board need not show irreparable harm.

**Sec. 59. [148D.270] VOLUNTARY ACTIONS.**

**Subdivision 1. AGREEMENTS FOR CORRECTIVE ACTION.** (a) The board or a designated board member may enter into an agreement for corrective action with an applicant or licensee when the board or a designated board member determines that a complaint alleging a violation of a statute or rule enforced by the board or an order issued by the board may best be resolved through an agreement for corrective action when disciplinary action is not required to protect the public.

(b) An agreement for corrective action must:

(1) be in writing;

(2) specify the facts upon which the agreement is based;

(3) clearly indicate the corrective action agreed upon; and

(4) provide that the complaint that resulted in the agreement must be dismissed by the board or the designated board member upon successful completion of the corrective action.

(c) The board or designated board member may determine successful completion when the applicant or licensee submits a request for dismissal that documents the applicant's or licensee's successful completion of the corrective action. The burden of proof is on the applicant or licensee to prove successful completion.

(d) An agreement for corrective action is not disciplinary action but must be treated as public data under chapter 13.

(e) The board may impose a fee to reimburse the board for all or part of the costs of the proceedings resulting in a corrective action, including, but not limited to, the amount paid by the board for services received from or expenses incurred by the Office of the Attorney General, board members, board staff, or the amount paid by the board for reproducing records.

(f) The board or designated board member must not enter into an agreement for corrective action when the complaint alleged sexual conduct with a client unless there is insufficient evidence to justify disciplinary action but there is a basis for corrective action.

**Subd. 2. STIPULATIONS TO CEASE PRACTICING SOCIAL WORK.** (a) The board or a designated board member may enter into a stipulation to cease practicing social work with a licensee if the board or designated board member determines that the licensee is unable to practice social work competently or safely or that the social worker's continued practice creates an unacceptable risk of safety to clients, potential clients, or the public.

(b) A stipulation to cease practicing social work must:

(1) be in writing;

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- (2) specify the facts upon which the stipulation is based;
  - (3) clearly indicate that the licensee must not practice social work and must not hold out to the public that the social worker is licensed; and
  - (4) specify the term of the stipulation or when and under what circumstances the licensee may petition the board for termination of the stipulation.
- (c) A stipulation to cease practicing social work is not disciplinary action but must be treated as public data under chapter 13.
- (d) Nothing in this subdivision prevents the board or designated board member from taking any other disciplinary or adversarial action authorized by sections 148D.255 to 148D.265 in lieu of or in addition to entering into a stipulation to cease practicing social work.

**Sec. 60. [148D.275] UNAUTHORIZED PRACTICE.**

No individual may:

- (1) engage in the practice of social work without a social work license under sections 148D.055 and 148D.060, except when the individual is exempt from licensure pursuant to section 148D.065;
- (2) provide social work services to a client who resides in this state when the individual providing the services is not licensed as a social worker pursuant to sections 148D.055 to 148D.060, except when the individual is exempt from licensure pursuant to section 148D.065.

**Sec. 61. [148D.280] USE OF TITLES.**

No individual may be presented to the public by any title incorporating the words "social work" or "social worker" or in the titles in section 148D.195, unless that individual holds a license pursuant to sections 148D.055 and 148D.060, or practices in a setting exempt from licensure pursuant to section 148D.065.

**Sec. 62. [148D.285] REPORTING REQUIREMENTS.**

Subdivision 1. 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 must report to the board:

- (1) any adversarial action, disciplinary action, or other sanction for conduct that might constitute grounds for action under section 148D.190;
- (2) the resignation of any applicant or licensee prior to the conclusion of any proceeding for adversarial action, disciplinary action, or other sanction for conduct that might constitute grounds for action under section 148D.190; or
- (3) the resignation of any applicant or licensee prior to the commencement of a proceeding for adversarial action, disciplinary action, or other sanction for conduct that might constitute grounds for action under section 148D.190, but after the applicant or licensee had knowledge that a proceeding was contemplated or in preparation.

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**Subd. 2. PROFESSIONAL SOCIETIES AND ASSOCIATIONS.** A state or local professional society or association whose members consist primarily of licensed social workers must report to the board any adversarial action, disciplinary action, or other sanction taken against a member.

**Subd. 3. IMMUNITY.** An individual, professional society or association, state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, other health care institution or organization or other entity is immune from civil liability or criminal prosecution for submitting in good faith a report under subdivision 1 or 2 or for otherwise reporting, providing information, or testifying about violations or alleged violations of this chapter.

**Sec. 63. [148D.290] PENALTIES.**

An individual or other entity that violates section 148D.275, 148D.280, or 148D.285 is guilty of a misdemeanor.

Sec. 64. Minnesota Statutes 2004, 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~~ 148D.025, 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 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. 65. Minnesota Statutes 2004, section 245.462, subdivision 18, is amended to read:

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

(1) in psychiatric nursing: a registered nurse who is licensed under sections 148.171 to 148.285; and:

(i) who is certified as a clinical specialist or as a nurse practitioner in adult or family psychiatric and mental health nursing by a national nurse certification organization; or

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

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

(3) in psychology: an individual licensed by the Board of Psychology under sections 148.88 to 148.98 who has stated to the Board of Psychology competencies in the diagnosis and treatment of mental illness;

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

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

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

Sec. 66. Minnesota Statutes 2004, section 245.4871, subdivision 27, is amended to read:

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

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

(2) in clinical social work, the mental health professional must be a person licensed as an independent clinical social worker under ~~section 148B.21, subdivision 6~~ chapter 148D, or a person with a master's degree in social work from an accredited

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college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders;

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

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

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

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

Sec. 67. Minnesota Statutes 2004, section 256B.0625, subdivision 38, is amended to read:

**Subd. 38. PAYMENTS FOR MENTAL HEALTH SERVICES.** Payments for mental health services covered under the medical assistance program that are provided by masters-prepared mental health professionals shall be 80 percent of the rate paid to doctoral-prepared professionals. Payments for mental health services covered under the medical assistance program that are provided by masters-prepared mental health professionals employed by community mental health centers shall be 100 percent of the rate paid to doctoral-prepared professionals. For purposes of reimbursement of mental health professionals under the medical assistance program, all social workers who:

(1) have received a master's degree in social work from a program accredited by the Council on Social Work Education;

(2) are licensed at the level of graduate social worker or independent social worker; and

(3) are practicing clinical social work under appropriate supervision, as defined by ~~section 148B.18~~ chapter 148D; meet all requirements under Minnesota Rules, part 9505.0323, subpart 24, and shall be paid accordingly.

Sec. 68. Minnesota Statutes 2004, section 256J.08, subdivision 73a, is amended to read:

**Subd. 73a. QUALIFIED PROFESSIONAL.** (a) For physical illness, injury, or incapacity, a "qualified professional" means a licensed physician, a physician's assistant, a nurse practitioner, or a licensed chiropractor.

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(b) For mental retardation and intelligence testing, a “qualified professional” means an individual qualified by training and experience to administer the tests necessary to make determinations, such as tests of intellectual functioning, assessments of adaptive behavior, adaptive skills, and developmental functioning. These professionals include licensed psychologists, certified school psychologists, or certified psychometrists working under the supervision of a licensed psychologist.

(c) For learning disabilities, a “qualified professional” means a licensed psychologist or school psychologist with experience determining learning disabilities.

(d) For mental health, a “qualified professional” means a licensed physician or a qualified mental health professional. A “qualified mental health professional” means:

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

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

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

(4) in psychology, an individual licensed by the Board of Psychology under sections 148.88 to 148.98, who has stated to the Board of Psychology competencies in the diagnosis and treatment of mental illness;

(5) in psychiatry, a physician licensed under chapter 147 and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry; and

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

Sec. 69. Minnesota Statutes 2004, section 319B.02, subdivision 19, is amended to read:

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Subd. 19. **PROFESSIONAL SERVICES.** "Professional services" means services of the type required or permitted to be furnished by a professional under a license, registration, or certificate issued by the state of Minnesota to practice medicine and surgery under sections 147.01 to 147.22, as a physician assistant pursuant to sections 147A.01 to 147A.27, chiropractic under sections 148.01 to 148.105, registered nursing under sections 148.171 to 148.285, optometry under sections 148.52 to 148.62, psychology under sections 148.88 to 148.98, social work under sections ~~148B.18 to 148B.289~~ chapter 148D, dentistry and dental hygiene under sections 150A.01 to 150A.12, pharmacy under sections 151.01 to 151.40, podiatric medicine under sections 153.01 to 153.25, veterinary medicine under sections 156.001 to 156.14, architecture, engineering, surveying, landscape architecture, geoscience, and certified interior design under sections 326.02 to 326.15, accountancy under chapter 326A, or law under sections 481.01 to 481.17, or under a license or certificate issued by another state under similar laws. Professional services includes services of the type required to be furnished by a professional pursuant to a license or other authority to practice law under the laws of a foreign nation.

Sec. 70. Minnesota Statutes 2004, section 319B.40, is amended to read:

**319B.40 PROFESSIONAL HEALTH SERVICES.**

(a) Individuals who furnish professional services pursuant to a license, registration, or certificate issued by the state of Minnesota to practice medicine pursuant to sections 147.01 to 147.22, as a physician assistant pursuant to sections 147A.01 to 147A.27, chiropractic pursuant to sections 148.01 to 148.106, registered nursing pursuant to sections 148.171 to 148.285, optometry pursuant to sections 148.52 to 148.62, psychology pursuant to sections 148.88 to 148.98, social work pursuant to sections ~~148B.18 to 148B.289~~ chapter 148D, dentistry pursuant to sections 150A.01 to 150A.12, pharmacy pursuant to sections 151.01 to 151.40, or podiatric medicine pursuant to sections 153.01 to 153.26 are specifically authorized to practice any of these categories of services in combination if the individuals are organized under this chapter.

(b) This authorization does not authorize an individual to practice any profession, or furnish a professional service, for which the individual is not licensed, registered, or certified, but otherwise applies regardless of any contrary provision of a licensing statute or rules adopted pursuant to that statute, related to practicing and organizing in combination with other health services professionals.

**Sec. 71. REPEALER.**

Subdivision 1. REPEAL OF STATUTES. Minnesota Statutes 2004, sections 148B.18; 148B.185; 148B.19; 148B.20; 148B.21; 148B.215; 148B.22; 148B.224; 148B.225; 148B.226; 148B.24; 148B.25; 148B.26; 148B.27; 148B.28; 148B.281; 148B.282; 148B.283; 148B.284; 148B.285; 148B.286; 148B.287; 148B.288; and 148B.289, are repealed.

Subd. 2. REPEAL OF RULES. Minnesota Rules, parts 8740.0100; 8740.0110; 8740.0120; 8740.0122; 8740.0130; 8740.0155; 8740.0185; 8740.0187; 8740.0200;

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8740.0240; 8740.0260; 8740.0285; 8740.0300; 8740.0310; 8740.0315; 8740.0320; 8740.0325; 8740.0330; 8740.0335; 8740.0340; and 8740.0345, are repealed.

**Sec. 72. EFFECTIVE DATE.**

This article is effective January 1, 2006.

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**ARTICLE 2**

**BOARD OF PHYSICAL THERAPY**

Section 1. Minnesota Statutes 2004, section 148.65, is amended by adding a subdivision to read:

**Subd. 3. PHYSICAL THERAPIST ASSISTANT.** “Physical therapist assistant” means a graduate of a physical therapist assistant educational program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) or a recognized comparable national accrediting agency approved by the board. The physical therapist assistant, under the direction and supervision of the physical therapist, performs physical therapy interventions and assists with coordination, communication, and documentation; and patient-client-related instruction. The physical therapist is not required to be on-site except as required under Minnesota Rules, part 5601.1500, but must be easily available by telecommunications.

Sec. 2. Minnesota Statutes 2004, section 148.65, is amended by adding a subdivision to read:

**Subd. 4. PHYSICAL THERAPY AIDE.** “Physical therapy aide” means a person, working under the direct supervision of a physical therapist, who is not a physical therapist assistant as defined in subdivision 3, who performs tasks as provided under Minnesota Rules, part 5601.1400.

Sec. 3. Minnesota Statutes 2004, section 148.65, is amended by adding a subdivision to read:

**Subd. 5. STUDENT PHYSICAL THERAPIST.** “Student physical therapist” means a person in a professional educational program, approved by the board under section 148.705, who is satisfying supervised clinical education requirements by performing physical therapy under the on-site supervision of a licensed physical therapist. “On-site supervision” means the physical therapist is easily available for instruction to the student physical therapist. The physical therapist shall have direct contact with the patient during at least every second treatment session by the student physical therapist. Telecommunications, except within the facility, does not meet the requirement of on-site supervision.

Sec. 4. Minnesota Statutes 2004, section 148.65, is amended by adding a subdivision to read:

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**Subd. 6. STUDENT PHYSICAL THERAPIST ASSISTANT.** “Student physical therapist assistant” means a person in a physical therapist assistant educational program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) or a recognized comparable national accrediting agency approved by the board. The student physical therapist assistant, under the direct supervision of the physical therapist, or the direct supervision of the physical therapist and physical therapist assistant, performs physical therapy interventions and assists with coordination, communication, documentation, and patient-client-related instruction. “Direct supervision” means the physical therapist is physically present and immediately available to provide instruction to the student physical therapist assistant.

Sec. 5. Minnesota Statutes 2004, section 148.65, is amended by adding a subdivision to read:

**Subd. 7. SUPPORTIVE PERSONNEL.** “Supportive personnel” means a physical therapist assistant and a physical therapy aide.

Sec. 6. Minnesota Statutes 2004, section 148.706, is amended to read:

**148.706 SUPERVISION OF ASSISTANTS AND, AIDES, AND STUDENTS.**

Every physical therapist who uses the services of an a physical therapist assistant or physical therapy aide for the purpose of assisting in the practice of physical therapy is responsible for functions performed by the assistant or aide while engaged in such assistance. The physical therapist shall permit the assistant or aide to perform only those functions which the therapist is authorized by rule to delegate to a physical therapist assistant or assign to a physical therapy aide and shall provide supervision as specified delegate duties to the physical therapist assistant and assign tasks to the physical therapy aide in accordance with Minnesota Rules, part 5601.1400. Physical therapists who instruct student physical therapists and student physical therapist assistants are responsible for the functions performed by the students and shall supervise the students as provided under section 148.65, subdivisions 5 and 6.

**Sec. 7. [148.735] CANCELLATION OF LICENSE IN GOOD STANDING.**

**Subdivision 1. BOARD APPROVAL; REPORTING.** A physical therapist holding an active license to practice physical therapy in the state may, upon approval of the board, be granted license cancellation if the board is not investigating the person as a result of a complaint or information received or if the board has not begun disciplinary proceedings against the person. Such action by the board shall be reported as a cancellation of a license in good standing.

**Subd. 2. FEES NONREFUNDABLE.** A physical therapist who receives board approval for license cancellation is not entitled to a refund of any license fees paid for the licensure year in which cancellation of the license occurred.

**Subd. 3. NEW LICENSE AFTER CANCELLATION.** If a physical therapist who has been granted board approval for license cancellation desires to resume the practice of physical therapy in Minnesota, that physical therapist must obtain a new license by applying for licensure and fulfilling the requirements then in existence for obtaining an initial license to practice physical therapy in Minnesota.

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**Sec. 8. [148.736] CANCELLATION OF CREDENTIALS UNDER DISCIPLINARY ORDER.**

Subdivision 1. BOARD APPROVAL; REPORTING. A physical therapist, whose right to practice is under suspension, condition, limitation, qualification, or restriction by the board may be granted cancellation of credentials by approval of the board. Such action by the board shall be reported as cancellation while under discipline. Credentials, for purposes of this section, means board authorized documentation of the privilege to practice physical therapy.

Subd. 2. FEES NONREFUNDABLE. A physical therapist who receives board approval for credential cancellation is not entitled to a refund of any fees paid for the credentialing year in which cancellation of the credential occurred.

Subd. 3. NEW CREDENTIAL AFTER CANCELLATION. If a physical therapist who has been granted board approval for credential cancellation desires to resume the practice of physical therapy in Minnesota, that physical therapist must obtain a new credential by applying to the board and fulfilling the requirements then in existence for obtaining an initial credential to practice physical therapy in Minnesota.

**Sec. 9. [148.737] CANCELLATION OF LICENSE FOR NONRENEWAL.**

The Board of Physical Therapy shall not renew, reissue, reinstate, or restore a license that has lapsed on or after January 1, 2006, and has not been renewed within two annual license renewal cycles starting January 1, 2008. A licensee whose license is canceled for nonrenewal must obtain a new license by applying for licensure and fulfilling all requirements then in existence for an initial license to practice physical therapy in Minnesota.

Sec. 10. Minnesota Statutes 2004, section 148.75, is amended to read:

**148.75 LICENSES; DENIAL, SUSPENSION, REVOCATION.**

(a) The state Board of Physical Therapy may refuse to grant a license to any physical therapist, or may suspend or revoke the license of any physical therapist for any of the following grounds:

- (1) using drugs or intoxicating liquors to an extent which affects professional competence;
- (2) conviction of a felony;
- (3) conviction for violating any state or federal narcotic law;
- (4) obtaining a license or attempting to obtain a license by fraud or deception;
- (5) conduct unbecoming a person licensed as a physical therapist or conduct detrimental to the best interests of the public;
- (6) gross negligence in the practice of physical therapy as a physical therapist;

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(7) treating human ailments by physical therapy after an initial 30-day period of patient admittance to treatment has lapsed, except by the order or referral of a person licensed in this state in the practice of medicine as defined in section 147.081, the practice of chiropractic as defined in section 148.01, the practice of podiatry as defined in section 153.01, or the practice of dentistry as defined in section 150A.05 and whose license is in good standing; or when a previous diagnosis exists indicating an ongoing condition warranting physical therapy treatment, subject to periodic review defined by board of physical therapy rule;

(8) treating human ailments, without referral, by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;

(9) failing to consult with the patient's health care provider who prescribed the physical therapy treatment if the treatment is altered by the physical therapist from the original written order. The provision does not include written orders to "evaluate and treat";

(10) treating human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state;

(11) inappropriate delegation to a physical therapist assistant or inappropriate task assignment to an aide or inadequate supervision of either level of supportive personnel a student physical therapist, physical therapist assistant, student physical therapist assistant, or a physical therapy aide;

(12) practicing as a physical therapist performing medical diagnosis, the practice of medicine as defined in section 147.081, or the practice of chiropractic as defined in section 148.01;

(13) failing to comply with a reasonable request to obtain appropriate clearance for mental or physical conditions that would interfere with the ability to practice physical therapy, and that may be potentially harmful to patients;

(14) dividing fees with, or paying or promising to pay a commission or part of the fee to, any person who contacts the physical therapist for consultation or sends patients to the physical therapist for treatment;

(15) engaging in an incentive payment arrangement, other than that prohibited by clause (14), that tends to promote physical therapy overuse, that allows the referring person or person who controls the availability of physical therapy services to a client to profit unreasonably as a result of patient treatment;

(16) practicing physical therapy and failing to refer to a licensed health care professional a patient whose medical condition at the time of evaluation has been determined by the physical therapist to be beyond the scope of practice of a physical therapist; and

(17) failing to report to the board other licensed physical therapists who violate this section; and

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(18) practice of physical therapy under lapsed or nonrenewed credentials.

(b) A license to practice as a physical therapist is suspended if (1) a guardian of the physical therapist is appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other than the minority of the physical therapist; or (2) the physical therapist is committed by order of a court pursuant to chapter 253B. The license remains suspended until the physical therapist is restored to capacity by a court and, upon petition by the physical therapist, the suspension is terminated by the Board of Physical Therapy after a hearing.

**Sec. 11. [148.754] EXAMINATION; ACCESS TO MEDICAL DATA.**

(a) If the board has probable cause to believe that a physical therapist comes under section 148.75, paragraph (a), it may direct the physical therapist to submit to a mental or physical examination. For the purpose of this paragraph, every physical therapist is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that they constitute a privileged communication. Failure of the physical therapist to submit to an examination when directed constitutes an admission of the allegations against the person, unless the failure was due to circumstances beyond the person's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. A physical therapist affected under this paragraph shall, at reasonable intervals, be given an opportunity to demonstrate that the person can resume the competent practice of physical therapy with reasonable skill and safety to the public.

(b) In any proceeding under paragraph (a), neither the record of proceedings nor the orders entered by the board shall be used against a physical therapist in any other proceeding.

(c) In addition to ordering a physical or mental examination, the board may, notwithstanding section 13.384, 144.651, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a physical therapist or applicant without the person's or applicant's consent if the board has probable cause to believe that a physical therapist comes under paragraph (a). The medical data may be requested from a provider, as defined in section 144.335, subdivision 1, paragraph (b), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this paragraph and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this paragraph, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this paragraph is classified as private under sections 13.01 to 13.87.

**Sec. 12. [148.755] TEMPORARY SUSPENSION OF LICENSE.**

In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend the license of a physical therapist if the board finds that

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the physical therapist has violated a statute or rule which the board is empowered to enforce and continued practice by the physical therapist would create a serious risk of harm to the public. The suspension shall take effect upon written notice to the physical therapist, specifying the statute or rule violated. The suspension shall remain in effect until the board issues a final order in the matter after a hearing. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act, chapter 14. The physical therapist shall be provided with at least 20 days' notice of any hearing held pursuant to this section. The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.

Sec. 13. **REPEALER.**

Minnesota Rules, part 5601.0100, subparts 3 and 4, are repealed.

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**ARTICLE 3**

**BOARD OF PSYCHOLOGY**

Section 1. Minnesota Statutes 2004, section 148.89, subdivision 5, is amended to read:

Subd. 5. **PRACTICE OF PSYCHOLOGY.** "Practice of psychology" means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures for any reason, including to prevent, eliminate, or manage symptomatic, maladaptive, or undesired behavior and to enhance interpersonal relationships, work, life and developmental adjustment, personal and organizational effectiveness, behavioral health, and mental health. The practice of psychology includes, but is not limited to, the following services, regardless of whether the provider receives payment for the services:

- (1) psychological research and teaching of psychology;
- (2) assessment, including psychological testing and other means of evaluating personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning;
- (3) a psychological report, whether written or oral, including testimony of a provider as an expert witness, concerning the characteristics of an individual or entity;
- (4) psychotherapy, including but not limited to, categories such as behavioral, cognitive, emotive, systems, psychophysiological, or insight-oriented therapies; counseling; hypnosis; and diagnosis and treatment of:
  - (i) mental and emotional disorder or disability;
  - (ii) alcohol and substance dependence or abuse;

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(iii) disorders of habit or conduct;

(iv) the psychological aspects of physical illness or condition, accident, injury, or disability;

(v) life adjustment issues, including work-related and bereavement issues; and

(vi) child, family, or relationship issues;

(5) psychoeducational services and treatment; and

(6) consultation and supervision.

Sec. 2. Minnesota Statutes 2004, section 148.90, subdivision 1, is amended to read:

Subdivision 1. **BOARD OF PSYCHOLOGY.** (a) The Board of Psychology is created with the powers and duties described in this section. The board has 11 members who consist of:

(1) ~~three persons~~ individuals licensed as licensed psychologists who have a doctoral degree ~~degrees~~ in psychology;

(2) ~~two persons~~ individuals licensed as licensed psychologists who have a master's degree ~~degrees~~ in psychology;

(3) two psychologists, not necessarily licensed, one with a doctoral degree in psychology who represents a doctoral training program in psychology, and one who represents a master's degree training program in psychology;

(4) ~~one person~~ individual licensed or qualified to be licensed as: (i) through December 31, 2010, a licensed psychological practitioner; and (ii) after December 31, 2010, a licensed psychologist; and

(5) three public members.

(b) After the date on which fewer than 30 percent of the ~~persons~~ individuals licensed by the board as licensed psychologists qualify for licensure under section 148.907, subdivision 3, paragraph (b), ~~the first vacancy vacancies filled under paragraph (a), clause (2), shall be filled by a person an individual with either a master's or doctoral degree in psychology licensed or qualified to be licensed as a licensed psychological practitioner. From this date on, this position when vacant shall be filled by a person licensed or qualified to be licensed as a licensed psychological practitioner psychologist.~~

(c) After the date on which fewer than 15 percent of the ~~persons~~ individuals licensed by the board as licensed psychologists qualify for licensure under section 148.907, subdivision 3, paragraph (b), ~~the first vacancy vacancies under paragraph (a), clause (2), for a licensed psychologist shall be filled by an individual with either a master's or doctoral degree in psychology shall be filled by a licensed or qualified to be licensed as a licensed psychologist. From this date on, this position when vacant shall be filled by a person licensed as a licensed psychologist.~~

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Sec. 3. Minnesota Statutes 2004, section 148.907, is amended by adding a subdivision to read:

**Subd. 5. CONVERTING FROM A LICENSED PSYCHOLOGICAL PRACTITIONER TO A LICENSED PSYCHOLOGIST.** Notwithstanding subdivision 3, to convert from licensure as a licensed psychological practitioner to licensure as a licensed psychologist, a licensed psychological practitioner shall have:

(1) completed an application provided by the board for conversion from licensure as a licensed psychological practitioner to licensure as a licensed psychologist;

(2) paid a nonrefundable fee of \$500;

(3) documented successful completion of two full years, or the equivalent, of supervised postlicensure employment meeting the requirements of section 148.925, subdivision 5, as it relates to preparation for licensure as a licensed psychologist as follows:

(i) for individuals licensed as licensed psychological practitioners on or before December 31, 2006, the supervised practice must be completed by December 31, 2010; and

(ii) for individuals licensed as licensed psychological practitioners after December 31, 2006, the supervised practice must be completed within four years from the date of licensure; and

(4) no unresolved disciplinary action or complaints pending, or incomplete disciplinary orders or corrective action agreements in Minnesota or any other jurisdiction.

Sec. 4. Minnesota Statutes 2004, section 148.908, subdivision 2, is amended to read:

**Subd. 2. REQUIREMENTS FOR LICENSURE AS A LICENSED PSYCHOLOGICAL PRACTITIONER.** To become licensed by the board as a licensed psychological practitioner, an applicant shall comply with the following requirements:

(1) pass an examination in psychology;

(2) pass a professional responsibility examination on the practice of psychology;

(3) pass any other examinations as required by board rules;

(4) pay nonrefundable fees to the board for applications, processing, testing, renewals, and materials;

(5) have attained the age of majority, be of good moral character, and have no unresolved disciplinary action or complaints pending in the state of Minnesota or any other jurisdiction; and

(6) have earned a doctoral or master's degree or the equivalent of a master's degree in a doctoral program with a major in psychology from a regionally accredited educational institution meeting the standards the board has established by rule. The

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degree requirements must be completed by December 31, 2005;

(2) complete an application for admission to the examination for professional practice in psychology and pay the nonrefundable application fee by December 31, 2005;

(3) complete an application for admission to the professional responsibility examination and pay the nonrefundable application fee by December 31, 2005;

(4) pass the examination for professional practice in psychology by December 31, 2006;

(5) pass the professional responsibility examination by December 31, 2006;

(6) complete an application for licensure as a licensed psychological practitioner and pay the nonrefundable application fee by March 1, 2007; and

(7) have attained the age of majority, be of good moral character, and have no unresolved disciplinary action or complaints pending in the state of Minnesota or any other jurisdiction.

Sec. 5. Minnesota Statutes 2004, section 148.908, is amended by adding a subdivision to read:

Subd. 3. **TERMINATION OF LICENSURE.** Effective December 31, 2011, the licensure of all licensed psychological practitioners shall be terminated without further notice and licensure as a licensed psychological practitioner in Minnesota shall be eliminated.

Sec. 6. Minnesota Statutes 2004, section 148.909, is amended to read:

**148.909 LICENSURE FOR VOLUNTEER PRACTICE.**

The board, at its discretion, may grant licensure for volunteer practice to an applicant who:

(1) is a former licensee who is completely retired from the practice of psychology;

(2) has no unresolved disciplinary action or complaints pending in the state of Minnesota or any other jurisdiction; and

(3) has held a license, certificate, or registration to practice psychology in any jurisdiction for at least 15 years.

Sec. 7. Minnesota Statutes 2004, section 148.916, subdivision 2, is amended to read:

**Subd. 2. PSYCHOLOGICAL CONSULTATIONS.** Notwithstanding subdivision 1, a nonresident of the state of Minnesota, who is not seeking licensure in this state, may serve as an expert witness, organizational consultant, presenter, or educator without obtaining guest licensure, provided the person is appropriately trained, educated, or has been issued a license, certificate, or registration by another jurisdiction.

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Sec. 8. Minnesota Statutes 2004, section 148.925, subdivision 6, is amended to read:

Subd. 6. **SUPERVISEE DUTIES.** Individuals preparing for licensure as a licensed psychologist during their postdegree supervised employment may perform as part of their training any functions specified in section 148.89, subdivision 5, but only under qualified supervision.

Sec. 9. Minnesota Statutes 2004, section 148.941, subdivision 2, is amended to read:

Subd. 2. **GROUNDS FOR DISCIPLINARY ACTION; FORMS OF DISCIPLINARY ACTION.** (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 psychology, that adversely affects the person's ability or fitness to practice psychology;

(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 psychology;

(5) has employed fraud or deception in obtaining or renewing a license, in requesting approval of continuing education activities, or in passing an examination;

(6) has had a license, certificate, charter, registration, privilege to take an examination, or other similar authority denied, revoked, suspended, canceled, limited, reprimanded, or otherwise disciplined, or not renewed for cause in any jurisdiction; or has surrendered or voluntarily terminated a license or certificate during a board investigation of a complaint, as part of a disciplinary order, or while under a disciplinary order;

(7) has been subject to a corrective action or similar action in another jurisdiction or by another regulatory authority;

(8) 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 Psychology Practice Act;

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(9) has failed to cooperate with an investigation of the board as required under subdivision 4;

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

(11) 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. This clause also does not apply to the charging of a general membership fee by a licensee or applicant to health care providers, as defined in section 144.335, for participation in a referral service, provided that the licensee or applicant discloses in advance to each referred client the financial nature of the referral arrangement. Fee splitting includes, but is not limited to:

(i) paying, offering to pay, receiving, or agreeing to receive a commission, rebate, or remuneration, directly or indirectly, primarily for the referral of clients;

(ii) dividing client fees with another individual or entity, unless the division is in proportion to the services provided and the responsibility assumed by each party;

(iii) referring an individual or entity to any health care provider, as defined in section 144.335, or for other professional or technical services in which the referring licensee or applicant has a significant financial interest unless the licensee has disclosed the financial interest in advance to the client; and

(iv) dispensing for profit or recommending any instrument, test, procedure, or device that for commercial purposes the licensee or applicant has developed or distributed, unless the licensee or applicant has disclosed any profit interest in advance to the client.

(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 psychology, 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 \$7,500 for each separate violation. The amount of the penalty shall be fixed so as to deprive the applicant or licensee of any economic advantage gained by reason of the violation charged, to discourage repeated violations, or to recover the board's costs that occur in bringing about a disciplinary order. For purposes of this clause, costs are limited to legal, paralegal, and investigative charges billed to the board by the Attorney General's Office, witness costs, consultant and expert witness fees, and charges attendant to the use of an administrative law judge.

(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;

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

(3) reimburse to the board all costs incurred by the board that are the result of a provider failing, neglecting, or refusing to fully comply, or not complying in a timely manner, with any part of the remedy section of a stipulation and consent order or the corrective action section of an agreement for corrective action. For purposes of this clause, costs are limited to legal, paralegal, and investigative charges billed to the board by the Attorney General's Office, witness costs, consultant and expert witness fees, and charges attendant to the use of an administrative law judge.

(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. 10. Minnesota Statutes 2004, section 148.96, subdivision 3, is amended to read:

Subd. 3. **REQUIREMENTS FOR REPRESENTATIONS TO PUBLIC.** (a) Unless licensed under sections 148.88 to 148.98, except as provided in paragraphs (b) through (e), persons shall not represent themselves or permit themselves to be represented to the public by:

(1) using any title or description of services incorporating the words "psychology," "psychological," "psychological practitioner," or "psychologist"; or

(2) representing that the person has expert qualifications in an area of psychology.

(b) Psychologically trained individuals who are employed by an educational institution recognized by a regional accrediting organization, by a federal, state, county, or local government institution, ~~by agencies~~ agency, or ~~by research facilities~~ facility, may represent themselves by the title designated by that organization provided that the title does not indicate that the individual is credentialed by the board.

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(c) A psychologically trained individual from an institution described in paragraph (b) may offer lecture services and is exempt from the provisions of this section.

(d) A person who is preparing for the practice of psychology under supervision in accordance with board statutes and rules may be designated as a "psychological intern," "psychological trainee," or by other terms clearly describing the person's training status.

(e) Former licensees who are completely retired from the practice of psychology may represent themselves using the descriptions in paragraph (a), clauses (1) and (2), but shall not represent themselves or allow themselves to be represented as current licensees of the board.

(f) Nothing in this section shall be construed to prohibit the practice of school psychology by a person licensed in accordance with chapters 122A and 129.

Section 11. **EFFECTIVE DATE.**

Sections 1 to 10 are effective the day following final enactment.

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**ARTICLE 4**

**BOARD OF DENTAL PRACTICE**

Section 1. Minnesota Statutes 2004, section 150A.01, subdivision 6a, is amended to read:

Subd. 6a. **FACULTY DENTIST.** "Faculty dentist" means a person who is licensed to practice dentistry as a faculty member of a school of dentistry, pursuant to section 150A.06, subdivision 1a.

Sec. 2. Minnesota Statutes 2004, section 150A.06, subdivision 1a, is amended to read:

Subd. 1a. **FACULTY DENTISTS.** (a) Faculty members of a school of dentistry must be licensed in order to practice dentistry as defined in section 150A.05. The board may issue to members of the faculty of a school of dentistry a license designated as either a "limited faculty license" or a "full faculty license" entitling the holder to practice dentistry within the terms described in paragraph (b) or (c). The dean of a school of dentistry and program directors of a Minnesota dental hygiene or dental assisting school accredited by the Commission on Dental Accreditation of the American Dental Association shall certify to the board those members of the school's faculty who practice dentistry but are not licensed to practice dentistry in Minnesota. A faculty member who practices dentistry as defined in section 150A.05, before beginning duties in a school of dentistry or a dental hygiene or dental assisting school, shall apply to the board for a limited or full faculty license. ~~The license expires the next July 1 and may, at the discretion of the board, be renewed on a yearly basis.~~ Pursuant

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to Minnesota Rules, chapter 3100, and at the discretion of the board, a limited faculty license must be renewed annually and a full faculty license must be renewed biennially. The faculty applicant shall pay a nonrefundable fee set by the board for issuing and renewing the faculty license. The faculty license is valid during the time the holder remains a member of the faculty of a school of dentistry or a dental hygiene or dental assisting school and subjects the holder to this chapter.

(b) The board may issue to dentist members of the faculty of a Minnesota school of dentistry, dental hygiene, or dental assisting accredited by the Commission on Dental Accreditation of the American Dental Association, a license designated as a limited faculty license entitling the holder to practice dentistry within the school and its affiliated teaching facilities, but only for the purposes of teaching or conducting research. The practice of dentistry at a school facility for purposes other than teaching or research is not allowed unless the dentist was a faculty member on August 1, 1993.

(c) The board may issue to dentist members of the faculty of a Minnesota school of dentistry, dental hygiene, or dental assisting accredited by the Commission on Dental Accreditation of the American Dental Association a license designated as a full faculty license entitling the holder to practice dentistry within the school and its affiliated teaching facilities and elsewhere if the holder of the license is employed 50 percent time or more by the school in the practice of teaching or research, and upon successful review by the board of the applicant's qualifications as described in subdivisions 1, 1c, and 4 and board rule. The board, at its discretion, may waive specific licensing prerequisites.

### Sec. 3. [150A.091] FEES.

Subdivision 1. FEE REFUNDS. No fee may be refunded for any reason.

Subd. 2. APPLICATION FEES. Each applicant for licensure or registration shall submit with a license or registration application a nonrefundable fee in the following amounts in order to administratively process an application:

- (1) dentist, \$140;
- (2) limited faculty dentist, \$140;
- (3) resident dentist, \$55;
- (4) dental hygienist, \$55;
- (5) registered dental assistant, \$35; and
- (6) dental assistant with a limited registration, \$15.

Subd. 3. INITIAL LICENSE OR REGISTRATION FEES. Along with the application fee, each of the following licensees or registrants shall submit a separate prorated initial license or registration fee. The prorated initial fee shall be established by the board based on the number of months of the licensee's or registrant's initial term as described in Minnesota Rules, part 3100.1700, subpart 1a, not to exceed the following monthly fee amounts:

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- (1) dentist, \$14 times the number of months of the initial term;
- (2) dental hygienist, \$5 times the number of months of the initial term;
- (3) registered dental assistant, \$3 times the number of months of initial term; and
- (4) dental assistant with a limited registration, \$1 times the number of months of the initial term.

Subd. 4. ANNUAL LICENSE FEES. Each limited faculty or resident dentist shall submit with an annual license renewal application a fee established by the board not to exceed the following amounts:

- (1) limited faculty dentist, \$168; and
- (2) resident dentist, \$59.

Subd. 5. BIENNIAL LICENSE OR REGISTRATION FEES. Each of the following licensees or registrants shall submit with a biennial license or registration renewal application a fee as established by the board, not to exceed the following amounts:

- (1) dentist, \$336;
- (2) dental hygienist, \$118;
- (3) registered dental assistant, \$80; and
- (4) dental assistant with a limited registration, \$24.

Subd. 6. ANNUAL LICENSE LATE FEE. Applications for renewal of any license received after the time specified in Minnesota Rules, part 3100.1750, must be assessed a late fee equal to 50 percent of the annual renewal fee.

Subd. 7. BIENNIAL LICENSE OR REGISTRATION LATE FEE. Applications for renewal of any license or registration received after the time specified in Minnesota Rules, part 3100.1700, must be assessed a late fee equal to 25 percent of the biennial renewal fee.

Subd. 8. DUPLICATE LICENSE OR REGISTRATION FEE. Each licensee or registrant shall submit, with a request for issuance of a duplicate of the original license or registration, or of an annual or biennial renewal of it, a fee in the following amounts:

- (1) original dentist or dental hygiene license, \$35; and
- (2) initial and renewal registration certificates and license renewal certificates, \$10.

Subd. 9. LICENSURE AND REGISTRATION BY CREDENTIALS. Each applicant for licensure as a dentist or dental hygienist or for registration as a registered dental assistant by credentials pursuant to section 150A.06, subdivisions 4 and 8, and Minnesota Rules, part 3100.1400, shall submit with the license or registration application a fee in the following amounts:

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- (1) dentist, \$725;
- (2) dental hygienist, \$175; and
- (3) registered dental assistant, \$35.

Subd. 10. REINSTATEMENT FEE. No dentist, dental hygienist, or registered dental assistant whose license or registration has been suspended or revoked may have the license or registration reinstated or a new license or registration issued until a fee has been submitted to the board in the following amounts:

- (1) dentist, \$140;
- (2) dental hygienist, \$55; and
- (3) registered dental assistant, \$35.

Subd. 11. CERTIFICATE APPLICATION FEE FOR ANESTHESIA/SEDATION. Each dentist shall submit with a general anesthesia or conscious sedation application a fee as established by the board not to exceed the following amounts:

- (1) for both a general anesthesia and conscious sedation application, \$50;
- (2) for a general anesthesia application only, \$50; and
- (3) for a conscious sedation application only, \$50.

Subd. 12. DUPLICATE CERTIFICATE FEE FOR ANESTHESIA/SEDATION. Each dentist shall submit with a request for issuance of a duplicate of the original general anesthesia or conscious sedation certificate a fee in the amount of \$10.

Subd. 13. ON-SITE INSPECTION FEE. An on-site inspection fee must be paid to the individual, organization, or agency conducting the inspection and be limited to a maximum fee as determined by the board. Travel, lodging, and other expenses are not part of the on-site inspection fee.

Subd. 14. AFFIDAVIT OF LICENSURE. Each licensee or registrant shall submit with a request for an affidavit of licensure a fee in the amount of \$10.

Subd. 15. VERIFICATION OF LICENSURE. Each institution or corporation shall submit with a request for verification of a license or registration a fee in the amount of \$5 for each license or registration to be verified.

EFFECTIVE DATE. Subdivisions 11 and 12 are effective August 1, 2005.

Sec. 4. Minnesota Statutes 2004, section 150A.10, subdivision 1a, is amended to read:

**Subd. 1a. LIMITED AUTHORIZATION FOR DENTAL HYGIENISTS.** (a) Notwithstanding subdivision 1, a dental hygienist licensed under this chapter may be employed or retained by a health care facility, program, or nonprofit organization to perform dental hygiene services described under paragraph (b) without the patient first being examined by a licensed dentist if the dental hygienist:

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(1) has been engaged in the active practice of clinical dental hygiene for not less than 2,400 hours in the past 18 months or a career total of 3,000 hours, including a minimum of 200 hours of clinical practice in two of the past three years;

(2) has entered into a collaborative agreement with a licensed dentist that designates authorization for the services provided by the dental hygienist;

(3) has documented participation in courses in infection control and medical emergencies within each continuing education cycle; and

(4) maintains current certification in advanced or basic cardiac life support as recognized by the American Heart Association, the American Red Cross, or another agency that is equivalent to the American Heart Association or the American Red Cross.

(b) The dental hygiene services authorized to be performed by a dental hygienist under this subdivision are limited to:

(1) oral health promotion and disease prevention education;

(2) removal of deposits and stains from the surfaces of the teeth;

(3) application of topical preventive or prophylactic agents, including fluoride varnishes and pit and fissure sealants;

(4) polishing and smoothing restorations;

(5) removal of marginal overhangs;

(6) performance of preliminary charting;

(7) taking of radiographs; and

(8) performance of scaling and root planing.

The dental hygienist ~~shall not perform~~ may administer injections of local anesthetic agents or the administration of nitrous oxide ~~unless under the indirect supervision of inhalation analgesia as specifically delegated in the collaborative agreement with a licensed dentist.~~ The dentist need not first examine the patient or be present. If the patient is considered medically compromised, the collaborative dentist shall review the patient record, including the medical history, prior to the provision of these services. Collaborating dental hygienists may work with unregistered and registered dental assistants who may only perform duties for which registration is not required. The performance of dental hygiene services in a health care facility, program, or nonprofit organization as authorized under this subdivision is limited to patients, students, and residents of the facility, program, or organization.

(c) A collaborating dentist must be licensed under this chapter and may enter into a collaborative agreement with no more than four dental hygienists unless otherwise authorized by the board. The board shall develop parameters and a process for obtaining authorization to collaborate with more than four dental hygienists. The collaborative agreement must include:

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(1) consideration for medically compromised patients and medical conditions for which a dental evaluation and treatment plan must occur prior to the provision of dental hygiene services;

(2) age- and procedure-specific standard collaborative practice protocols, including recommended intervals for the performance of dental hygiene services and a period of time in which an examination by a dentist should occur;

(3) copies of consent to treatment form provided to the patient by the dental hygienist;

(4) specific protocols for the placement of pit and fissure sealants and requirements for follow-up care to assure the efficacy of the sealants after application; and

(5) a procedure for creating and maintaining dental records for the patients that are treated by the dental hygienist. This procedure must specify where these records are to be located.

The collaborative agreement must be signed and maintained by the dentist, the dental hygienist, and the facility, program, or organization; must be reviewed annually by the collaborating dentist and dental hygienist; and must be made available to the board upon request.

(d) Before performing any services authorized under this subdivision, a dental hygienist must provide the patient with a consent to treatment form which must include a statement advising the patient that the dental hygiene services provided are not a substitute for a dental examination by a licensed dentist. If the dental hygienist makes any referrals to the patient for further dental procedures, the dental hygienist must fill out a referral form and provide a copy of the form to the collaborating dentist.

(e) For the purposes of this subdivision, a "health care facility, program, or nonprofit organization" is limited to a hospital; nursing home; home health agency; group home serving the elderly, disabled, or juveniles; state-operated facility licensed by the commissioner of human services or the commissioner of corrections; and federal, state, or local public health facility, community clinic, tribal clinic, school authority, Head Start program, or nonprofit organization that serves individuals who are uninsured or who are Minnesota health care public program recipients.

(f) For purposes of this subdivision, a "collaborative agreement" means a written agreement with a licensed dentist who authorizes and accepts responsibility for the services performed by the dental hygienist. The services authorized under this subdivision and the collaborative agreement may be performed without the presence of a licensed dentist and may be performed at a location other than the usual place of practice of the dentist or dental hygienist and without a dentist's diagnosis and treatment plan, unless specified in the collaborative agreement.

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## ARTICLE 5

## BOARD OF BEHAVIORAL THERAPY AND HEALTH

## (LICENSED PROFESSIONAL COUNSELORS AND

## ALCOHOL AND DRUG COUNSELORS)

Section 1. Minnesota Statutes 2004, section 148B.53, subdivision 1, is amended to read:

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 or doctoral degree program in counseling or a related field, as determined by the board based on the criteria in paragraph (b), that includes a minimum of 48 semester hours or 72 quarter 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 or has submitted proof of supervised professional practice that is acceptable to the board; and

(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 or an equivalent national examination as determined by the board, and ethical, oral, and situational examinations if prescribed by the board.~~

(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). Except as provided in paragraph (e), specific academic course content and training must meet standards established by the CACREP, including include course work in each of 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;

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- (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), clauses (1) to (3) and (5), or paragraph (b).

(d) To be licensed as a professional counselor, a Minnesota licensed psychologist need only show evidence of licensure from the Minnesota Board of Psychology and is not required to comply with paragraph (a) or (b).

(e) If the degree described in paragraph (a), clause (3), is from a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP), the applicant is deemed to have met the specific course work requirements of paragraph (b).

Sec. 2. Minnesota Statutes 2004, section 148B.53, subdivision 3, is amended to read:

Subd. 3. **FEE.** Each applicant shall pay a Nonrefundable fee fees are as follows:

- (1) initial license application fee for licensed professional counseling (LPC) - \$250;
- (2) annual active license renewal fee for LPC - \$200 or equivalent;
- (3) annual inactive license renewal fee for LPC - \$100;
- (4) license renewal late fee - \$100 per month or portion thereof;
- (5) copy of board order or stipulation - \$10;
- (6) certificate of good standing or license verification - \$10;
- (7) duplicate certificate fee - \$10;
- (8) professional firm renewal fee - \$25;
- (9) initial registration fee - \$50; and
- (10) annual registration renewal fee - \$25.

**Sec. 3. [148B.531] POSTDEGREE COMPLETION OF DEGREE REQUIREMENTS FOR LICENSURE.**

An individual whose degree upon which licensure is to be based included less than 48 semester hours or 72 quarter hours, who did not complete 700 hours of supervised professional practice as part of the degree program, or who did not

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complete course work in all of the content areas required by section 148B.53, subdivision 1, paragraph (b), may complete these requirements postdegree in order to obtain licensure, if:

(1) all course work and field experiences are completed through an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA) or through a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP);

(2) all course work and field experiences are taken and passed for credit; and

(3) no more than 20 semester credits or 30 quarter credits are completed postdegree for purposes of licensure unless the credits are earned as part of an organized sequence of study.

Sec. 4. Minnesota Statutes 2004, section 148B.54, subdivision 2, is amended to read:

Subd. 2. **CONTINUING EDUCATION.** At the completion of the first two four years of licensure, a licensee must provide evidence satisfactory to the board of completion of 12 additional postgraduate semester credit hours or its equivalent in counseling as determined by the board, except that no licensee shall be required to show evidence of greater than 60 semester hours or its equivalent. 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. 5. **[148B.555] EXPERIENCED COUNSELOR TRANSITION.**

(a) An applicant for licensure who, prior to December 31, 2003, completed a master's or doctoral degree program in counseling or a related field, as determined by the board, and whose degree was 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), need not comply with the requirements of section 148B.53, subdivision 1, paragraph (a), clause (3), or (b), so long as the applicant can document five years of full-time postdegree work experience within the practice of professional counseling as defined under section 148B.50, subdivisions 4 and 5.

(b) This section expires July 1, 2007.

#### Sec. 6. **[148B.561] RETALIATORY PROVISIONS.**

If by the laws of any state or the rulings or decisions of the appropriate officers or boards thereof, any burden, obligation, requirement, disqualification, or disability is put upon licensed professional counselors licensed and in good standing in this state, affecting the right of these licensed professional counselors to be registered or licensed in that state, then the same or like burden, obligation, requirement, disqualification, or

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disability may be put upon the licensure in this state of licensed professional counselors registered in that state.

Sec. 7. Minnesota Statutes 2004, section 148B.59, is amended to read:

**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;

(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 or has surrendered or voluntarily terminated a license or certificate during a board investigation of a complaint, as part of a disciplinary order, or while under a disciplinary order;

(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;

(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

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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; ~~or~~ and

(iii) paying, offering to pay, receiving, or agreeing to receive a commission, rebate, or remuneration, directly or indirectly, primarily for the referral of clients;

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

(12) has been subject to a corrective action or similar action in another jurisdiction or by another regulatory authority; or

(13) has been adjudicated as mentally incompetent, mentally ill, or mentally retarded or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction within this state or an equivalent adjudication from another state. Adjudication automatically suspends a license for the duration thereof unless the board orders otherwise.

(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

(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 applicant or licensee of any economic advantage gained by reason of the violation charged, to discourage similar

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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.

The board may also refer a licensee, if appropriate, to the health professionals services program described in sections 214.31 to 214.37.

(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. 8. [148B.5901] TEMPORARY SUSPENSION OF LICENSE.

(a) In addition to any other remedy provided by law, the board may issue an order to temporarily suspend the credentials of a licensee after conducting a preliminary inquiry to determine if the board reasonably believes that the licensee has violated a statute or rule that the board is empowered to enforce and whether continued practice by the licensee would create an imminent risk of harm to others.

(b) The order may prohibit the licensee from engaging in the practice of licensed professional counseling in whole or in part and may condition the end of a suspension on the licensee's compliance with a statute, rule, or order that the board has issued or is empowered to enforce.

(c) The order shall give notice of the right to a hearing according to this subdivision and shall state the reasons for the entry of the order.

(d) Service of the order is effective when the order is served on the licensee personally or by certified mail, which is complete upon receipt, refusal, or return for nondelivery to the most recent address provided to the board for the licensee.

(e) At the time the board issues a temporary suspension order, the board shall schedule a hearing to be held before its own members. The hearing shall begin no later than 60 days after issuance of the temporary suspension order or within 15 working days of the date of the board's receipt of a request for hearing by a licensee, on the sole issue of whether there is a reasonable basis to continue, modify, or lift the temporary suspension. The hearing is not subject to chapter 14. Evidence presented by the board

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or the licensee shall be in affidavit form only. The licensee or counsel of record may appear for oral argument.

(f) Within five working days of the hearing, the board shall issue its order and, if the suspension is continued, schedule a contested case hearing within 30 days of the issuance of the order. Notwithstanding chapter 14, the administrative law judge shall issue a report within 30 days after closing the contested case hearing record. The board shall issue a final order within 30 days of receipt of the administrative law judge's report.

**Sec. 9. [148B.5905] MENTAL, PHYSICAL, OR CHEMICAL DEPENDENCY EXAMINATION OR EVALUATION; ACCESS TO MEDICAL DATA.**

(a) If the board has probable cause to believe section 148B.59, paragraph (a), clause (9), applies to a licensee or applicant, the board may direct the person to submit to a mental, physical, or chemical dependency examination or evaluation. For the purpose of this section, every licensee and applicant is deemed to have consented to submit to a mental, physical, or chemical dependency examination or evaluation when directed in writing by the board and to have waived all objections to the admissibility of the examining professionals' testimony or examination reports on the grounds that the testimony or examination reports constitute a privileged communication. Failure of a licensee or applicant to submit to an examination when directed by the board constitutes an admission of the allegations against the person, unless the failure was due to circumstances beyond the person's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. A licensee or applicant affected under this paragraph shall at reasonable intervals be given an opportunity to demonstrate that the person can resume the competent practice of licensed professional counseling with reasonable skill and safety to the public. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a licensee or applicant in any other proceeding.

(b) In addition to ordering a physical or mental examination, the board may, notwithstanding section 13.384, 144.651, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a licensee or applicant without the licensee's or applicant's consent if the board has probable cause to believe that section 148B.59, paragraph (a), clause (9), applies to the licensee or applicant. The medical data may be requested from a provider, as defined in section 144.335, subdivision 1, paragraph (b); an insurance company; or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is classified as private under sections 13.01 to 13.87.

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Sec. 10. **[148B.5925] ASSESSMENT TOOL SECURITY.**

Notwithstanding section 144.335, subdivision 2, paragraphs (a) and (b), a provider shall not be required to provide copies of assessment tools, assessment tool materials, or scoring keys to any individual who has completed an assessment tool or to an individual not qualified to administer, score, and interpret the assessment tool, if the provider reasonably determines that access would compromise the objectivity, fairness, or integrity of the testing process for the individual or others. If the provider makes this determination, the provider shall, at the discretion of the individual who has completed the assessment tool, release the information either to another provider who is qualified to administer, score, and interpret the assessment tool or furnish a summary of the assessment tool results to the individual or to a third party designated by the individual.

Sec. 11. Minnesota Statutes 2004, 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; 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) ~~collect license fees for alcohol and drug counselors.~~

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

Sec. 12. Minnesota Statutes 2004, section 148C.04, subdivision 3, is amended to read:

Subd. 3. **REQUIREMENTS FOR LICENSURE BEFORE JULY 1, 2008.** An applicant for a license 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 18 semester credits or 270 clock hours of academic course work in accordance with subdivision 5a, paragraph (a), from an accredited school or educational program and 880 clock hours of supervised alcohol and drug counseling practicum;

(2) completed one of the following:

(i) a written case presentation and satisfactorily passed an oral examination ~~established by the commissioner~~ that demonstrates competence in the core functions as determined by the board; or

(ii) satisfactorily completed 2,000 hours of supervised postdegree equivalent professional practice in accordance with section 148C.044; and

(3) satisfactorily passed a written examination as established by the commissioner examinations for licensure as determined by the board.

Sec. 13. Minnesota Statutes 2004, section 148C.04, subdivision 4, is amended to read:

Subd. 4. **REQUIREMENTS FOR LICENSURE AFTER JULY 1, 2008.** An applicant for a license must submit evidence to the commissioner that the applicant has met one of the following requirements:

(1) the applicant must have:

(i) received a bachelor's degree from an accredited school or educational program, including 18 semester credits or 270 clock hours of academic course work in accordance with subdivision 5a, paragraph (a), from an accredited school or educational program and 880 clock hours of supervised alcohol and drug counseling practicum;

(ii) completed a written case presentation and satisfactorily passed an oral examination ~~established by the commissioner~~ that demonstrates competence in the core functions as determined by the board; or submitted to the board a plan for supervision during the first 2,000 hours of professional practice, or submitted proof of supervised professional practice that is acceptable to the board; and

(iii) satisfactorily passed a written examination as examinations as determined by the board established by the commissioner board; or

(2) the applicant must meet the requirements of section 148C.07.

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Sec. 14. Minnesota Statutes 2004, section 148C.04, subdivision 6, is amended to read:

Subd. 6. **TEMPORARY PERMIT REQUIREMENTS.** (a) The commissioner shall issue a temporary permit to practice alcohol and drug counseling prior to being licensed under this chapter if the person:

(1) either:

(i) submits verification of a current and unrestricted credential for the practice of alcohol and drug counseling from a national certification body or a certification or licensing body from another state, United States territory, or federally recognized tribal authority;

(ii) submits verification of the completion of at least 64 semester credits, including 270 clock hours or 18 semester credits of formal classroom education in alcohol and drug counseling and at least 880 clock hours of alcohol and drug counseling practicum from an accredited school or educational program;

(iii) applies to renew a lapsed license according to the requirements of section 148C.055, subdivision 3, clauses (1) and (2), or section 148C.055, subdivision 4, clauses (1) and (2); or

(iv) meets the requirements of section 148C.11, subdivision 1, paragraph (c), or 6, clauses (1), (2), and (5);

(2) applies, in writing, on an application form provided by the commissioner, which includes the nonrefundable temporary permit fee as specified in section 148C.12 and an affirmation by the person's supervisor, as defined in paragraph (c), clause (1), which is signed and dated by the person and the person's supervisor; and

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

(b) The commissioner must notify the person in writing within 90 days from the date the completed application and all required information is received by the commissioner whether the person is qualified to practice under this subdivision.

(c) A person practicing under this subdivision:

(1) may practice under tribal jurisdiction or under the direct supervision of a person who is licensed under this chapter;

(2) is subject to the Rules of Professional Conduct set by rule; and

(3) is not subject to the continuing education requirements of section 148C.075.

(d) A person practicing under this subdivision must use the title or description stating or implying that the person is a trainee engaged in the practice of alcohol and drug counseling.

(e) A person practicing under this subdivision must annually submit a renewal application on forms provided by the commissioner with the renewal fee required in

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section 148C.12, subdivision 3, and the commissioner may renew the temporary permit if the trainee meets the requirements of this subdivision. A trainee may renew a practice permit no more than five times.

(f) A temporary permit expires if not renewed, upon a change of employment of the trainee or upon a change in supervision, or upon the granting or denial by the commissioner of a license.

**Sec. 15. [148C.044] SUPERVISED POSTDEGREE PROFESSIONAL PRACTICE.**

Subdivision 1. SUPERVISION. For the purpose of this section, "supervision" means documented interactive consultation, which, subject to the limitations in subdivision 4, paragraph (a), clause (2), may be conducted in person, by telephone, or by audio or audiovisual electronic device, with a supervisor as defined in subdivision 2. The supervision must be adequate to ensure the quality and competence of the activities supervised. Supervisory consultation must include discussions on the nature and content of the practice of the supervisee, including, but not limited to, a review of a representative sample of counseling services in the supervisee's practice.

Subd. 2. POSTDEGREE PROFESSIONAL PRACTICE. "Postdegree professional practice" means required postdegree paid or volunteer work experience and training that involves the professional oversight by a supervisor approved by the board and that satisfies the supervision requirements in subdivision 4.

Subd. 3. SUPERVISOR REQUIREMENTS. For purposes of this section, a supervisor shall:

- (1) be a licensed alcohol and drug counselor or other qualified professional as determined by the board;
- (2) have four years of experience in providing alcohol and drug counseling; and
- (3) have received a minimum of 12 hours of training in clinical and ethical supervision, which may include graduate course work, continuing education courses, workshops, or a combination thereof.

Subd. 4. SUPERVISED PRACTICE REQUIREMENTS FOR LICENSURE.

(a) The content of supervision must include:

- (1) knowledge, skills, values, and ethics with specific application to the practice issues faced by the supervisee, including the core functions as described in section 148C.01, subdivision 9;
- (2) the standards of practice and ethical conduct, with particular emphasis given to the counselor's role and appropriate responsibilities, professional boundaries, and power dynamics; and
- (3) the supervisee's permissible scope of practice, as defined by section 148C.01, subdivision 10.

(b) The supervision must be obtained at the rate of one hour of supervision per 40 hours of professional practice, for a total of 50 hours of supervision. The supervision

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must be evenly distributed over the course of the supervised professional practice. At least 75 percent of the required supervision hours must be received in person. The remaining 25 percent of the required hours may be received by telephone or by audio or audiovisual electronic device. At least 50 percent of the required hours of supervision must be received on an individual basis. The remaining 50 percent may be received in a group setting.

(c) The supervision must be completed in no fewer than 12 consecutive months and no more than 36 consecutive months.

(d) The applicant shall include with an application for licensure verification of completion of the 2,000 hours of supervised professional practice. Verification must be on a form specified by the board. The supervisor shall verify that the supervisee has completed the required hours of supervision in accordance with this section. The supervised practice required under this section is unacceptable if the supervisor attests that the supervisee's performance, competence, or adherence to the standards of practice and ethical conduct has been unsatisfactory.

Sec. 16. Minnesota Statutes 2004, section 148C.091, subdivision 1, is amended to read:

Subdivision 1. **FORMS OF DISCIPLINARY ACTION.** When the commissioner finds that an applicant or a licensed alcohol and drug counselor has violated a provision or provisions of sections 148C.01 to 148C.11, or rules promulgated under this chapter, the commissioner may take one or more of the following actions:

- (1) refuse to grant a license;
- (2) revoke the license;
- (3) suspend the license;
- (4) impose limitations or conditions;
- (5) 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 counselor of any economic advantage gained by reason of the violation charged or to reimburse the commissioner for all costs of the investigation and proceeding; including, but not limited to, the amount paid by the commissioner for services from the Office of Administrative Hearings, attorney fees, court reports, witnesses, reproduction of records, ~~advisory council members' per diem compensation, staff time, and expense incurred by advisory council members and staff of the department;~~
- (6) order the counselor to provide uncompensated professional service under supervision at a designated public hospital, clinic, or other health care institution;
- (7) censure or reprimand the counselor; or
- (8) any other action justified by the case.

Sec. 17. Minnesota Statutes 2004, section 148C.10, subdivision 2, is amended to read:

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Subd. 2. **USE OF TITLES.** No person shall present themselves or any other individual to the public by any title incorporating the words "licensed alcohol and drug counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are licensed or otherwise qualified to practice alcohol and drug counseling unless that individual holds a valid license. Persons issued a temporary permit must use titles consistent with section 148C.04, subdivision 6, paragraph (e) (d).

Sec. 18. Minnesota Statutes 2004, section 148C.11, subdivision 1, is amended to read:

Subdivision 1. **OTHER PROFESSIONALS.** (a) Nothing in this chapter 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 psychological practitioners; members of the clergy; American Indian medicine men and women; licensed attorneys; probation officers; licensed marriage and family therapists; licensed social workers; social workers employed by city, county, or state agencies; licensed professional counselors; licensed school counselors; registered occupational therapists or occupational therapy assistants; city, county, or state employees when providing assessments or case management under Minnesota Rules, chapter 9530; and until July 1, 2005, individuals providing integrated dual-diagnosis treatment in adult mental health rehabilitative programs certified by the Department of Human Services under section 256B.0622 or 256B.0623.

(b) Nothing in this chapter prohibits technicians and resident managers in programs licensed by the Department of Human Services from discharging their duties as provided in Minnesota Rules, chapter 9530.

(c) Any person who is exempt under this section subdivision but who elects to obtain a license under this chapter is subject to this chapter to the same extent as other licensees. The board shall issue a license without examination to an applicant who is licensed or registered in a profession identified in paragraph (a) if the applicant:

(1) shows evidence of current licensure or registration; and

(2) has submitted to the board a plan for supervision during the first 2,000 hours of professional practice or has submitted proof of supervised professional practice that is acceptable to the board.

(d) These persons Any person who is exempt from licensure under this section 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 unless that person is also licensed as an alcohol and drug counselor. 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. 19. Minnesota Statutes 2004, section 148C.11, subdivision 4, is amended to read:

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

Subd. 4. **HOSPITAL ALCOHOL AND DRUG COUNSELORS.** Effective January 1, ~~2006~~ 2007, hospitals employing alcohol and drug counselors shall be required to employ licensed alcohol and drug counselors. An alcohol or drug counselor employed by a hospital must be licensed as an alcohol and drug counselor in accordance with this chapter.

Sec. 20. Minnesota Statutes 2004, section 148C.11, subdivision 5, is amended to read:

Subd. 5. **CITY, COUNTY, AND STATE AGENCY ALCOHOL AND DRUG COUNSELORS.** Effective January 1, ~~2006~~ 2007, city, county, and state agencies employing alcohol and drug counselors shall be required to employ licensed alcohol and drug counselors. An alcohol and drug counselor employed by a city, county, or state agency must be licensed as an alcohol and drug counselor in accordance with this chapter.

Sec. 21. Minnesota Statutes 2004, section 148C.11, subdivision 6, is amended to read:

Subd. 6. **TRANSITION PERIOD FOR HOSPITAL AND CITY, COUNTY, AND STATE AGENCY ALCOHOL AND DRUG COUNSELORS.** For the period between July 1, 2003, and January 1, ~~2006~~ 2007, the commissioner shall grant a license to an individual who is employed as an alcohol and drug counselor at a Minnesota school district or hospital, or a city, county, or state agency in Minnesota, if the individual meets the requirements in section 148C.0351 and:

(1) was employed as an alcohol and drug counselor at a school district, a hospital, or a city, county, or state agency before August 1, 2002; (2) has 8,000 hours of alcohol and drug counselor work experience; (3) has satisfactorily completed 2,000 hours of supervised postdegree equivalent professional practice according to section 148C.04, subdivision 4; or has completed a written case presentation and satisfactorily passed an oral examination established by the commissioner; (4) and has satisfactorily passed a written examination as established by the commissioner; and (5) meets the requirements in section 148C.0351 or

(2) is credentialed as a board certified counselor (BCC) or board certified counselor reciprocal (BCCR) by the Minnesota Certification Board; or

(3) has 14,000 hours of supervised alcohol and drug counselor work experience as documented by the employer.

Sec. 22. Minnesota Statutes 2004, section 148C.12, subdivision 3, is amended to read:

Subd. 3. **TEMPORARY PERMIT FEE.** The initial fee for applicants under section 148C.04, subdivision 6, paragraph (a), is \$100. The fee for annual renewal of a temporary permit is \$100 \$150, but when the first expiration date occurs in less or more than one year, the fee must be prorated.

Sec. 23. Minnesota Statutes 2004, section 214.01, subdivision 2, is amended to read:

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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 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. 24. Minnesota Statutes 2004, section 214.103, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION.** For purposes of this section, "board" means "health-related licensing board" and does not include ~~the Alcohol and Drug Counselors Licensing Advisory Council established pursuant to section 148C.02,~~ or the non-health-related licensing boards. Nothing in this section supersedes section 214.10, subdivisions 2a, 3, 8, and 9, as they apply to the health-related licensing boards.

**Sec. 25. AUTHORIZATION FOR EXPEDITED RULEMAKING AUTHORITY.**

The Board of Behavioral Health and Therapy may use the expedited rulemaking process under Minnesota Statutes, section 14.389, for adopting and amending rules to conform with sections 1 to 10.

**Sec. 26. REPEALER.**

(a) Minnesota Statutes 2004, sections 148C.02 and 148C.12, subdivision 4, are repealed.

(b) Minnesota Rules, parts 4747.0030, subparts 11 and 16; 4747.1200; and 4747.1300, are repealed.

**Sec. 27. EFFECTIVE DATE.**

This article is effective July 1, 2005.

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## ARTICLE 6

## BOARD OF MEDICAL PRACTICE

## (PHYSICIAN ASSISTANTS AND RESPIRATORY CARE PRACTITIONERS)

Section 1. Minnesota Statutes 2004, section 147A.18, subdivision 1, is amended to read:

Subdivision 1. **DELEGATION.** (a) A supervising physician may delegate to a physician assistant who is registered with the board, certified by the National Commission on Certification of Physician Assistants or successor agency approved by the board, and who is under the supervising physician's supervision, the authority to prescribe, dispense, and administer legend drugs, medical devices, and controlled substances subject to the requirements in this section. The authority to dispense includes, but is not limited to, the authority to request, receive, and dispense sample drugs. This authority to dispense extends only to those drugs described in the written agreement developed under paragraph (b).

(b) The agreement between the physician assistant and supervising physician and any alternate supervising physicians must include a statement by the supervising physician regarding delegation or nondelegation of the functions of prescribing, dispensing, and administering of legend drugs and medical devices to the physician assistant. The statement must include a protocol indicating categories of drugs for which the supervising physician delegates prescriptive and dispensing authority. The delegation must be appropriate to the physician assistant's practice and within the scope of the physician assistant's training. Physician assistants who have been delegated the authority to prescribe, dispense, and administer legend drugs and medical devices shall provide evidence of current certification by the National Commission on Certification of Physician Assistants or its successor agency when registering or reregistering as physician assistants. Physician assistants who have been delegated the authority to prescribe controlled substances must present evidence of the certification and hold a valid DEA certificate. Supervising physicians shall retrospectively review the prescribing, dispensing, and administering of legend and controlled drugs and medical devices by physician assistants, when this authority has been delegated to the physician assistant as part of the delegation agreement between the physician and the physician assistant. This review must take place at least weekly as outlined in the internal protocol. The process and schedule for the review must be outlined in the delegation agreement.

(c) The board may establish by rule:

(1) a system of identifying physician assistants eligible to prescribe, administer, and dispense legend drugs and medical devices;

(2) a system of identifying physician assistants eligible to prescribe, administer, and dispense controlled substances;

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(3) a method of determining the categories of legend and controlled drugs and medical devices that each physician assistant is allowed to prescribe, administer, and dispense; and

(4) a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe legend and controlled drugs and medical devices.

Sec. 2. Minnesota Statutes 2004, section 147A.18, subdivision 3, is amended to read:

Subd. 3. **OTHER REQUIREMENTS AND RESTRICTIONS.** (a) The supervising physician and the physician assistant must complete, sign, and date an internal protocol which lists each category of drug or medical device, or controlled substance the physician assistant may prescribe, dispense, and administer. The supervising physician and physician assistant shall submit the internal protocol to the board upon request. The supervising physician may amend the internal protocol as necessary, within the limits of the completed delegation form in subdivision 5. The supervising physician and physician assistant must sign and date any amendments to the internal protocol. Any amendments resulting in a change to an addition or deletion to categories delegated in the delegation form in subdivision 5 must be submitted to the board according to this chapter, along with the fee required.

(b) The supervising physician and physician assistant shall review delegation of prescribing, dispensing, and administering authority on an annual basis at the time of reregistration. The internal protocol must be signed and dated by the supervising physician and physician assistant after review. Any amendments to the internal protocol resulting in changes to the delegation form in subdivision 5 must be submitted to the board according to this chapter, along with the fee required.

(c) Each prescription initiated by a physician assistant shall indicate the following:

- (1) the date of issue;
- (2) the name and address of the patient;
- (3) the name and quantity of the drug prescribed;
- (4) directions for use; and

(5) the name, and address, and telephone number of the prescribing physician assistant and of the physician serving as supervisor.

(d) In prescribing, dispensing, and administering legend drugs and medical devices, including controlled substances as defined in section 152.01, subdivision 4, a physician assistant must conform with the agreement, chapter 151, and this chapter.

Sec. 3. Minnesota Statutes 2004, section 147C.05, is amended to read:

**147C.05 SCOPE OF PRACTICE.**

(a) The practice of respiratory care by a registered respiratory care practitioner includes, but is not limited to, the following services:

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(1) providing and monitoring therapeutic administration of medical gases, aerosols, humidification, and pharmacological agents related to respiratory care procedures, but not including administration of general anesthesia;

(2) carrying out therapeutic application and monitoring of mechanical ventilatory support;

(3) providing cardiopulmonary resuscitation and maintenance of natural airways and insertion and maintenance of artificial airways;

(4) assessing and monitoring signs, symptoms, and general behavior relating to, and general physical response to, respiratory care treatment or evaluation for treatment and diagnostic testing, including determination of whether the signs, symptoms, reactions, behavior, or general response exhibit abnormal characteristics;

(5) obtaining physiological specimens and interpreting physiological data including:

(i) analyzing arterial and venous blood gases;

(ii) assessing respiratory secretions;

(iii) measuring ventilatory volumes, pressures, and flows;

(iv) testing pulmonary function;

(v) testing and studying the cardiopulmonary system; and

(vi) diagnostic testing of breathing patterns related to sleep disorders;

(6) assisting hemodynamic monitoring and support of the cardiopulmonary system;

(7) assessing and making suggestions for modifications in the treatment regimen based on abnormalities, protocols, or changes in patient response to respiratory care treatment;

(8) providing cardiopulmonary rehabilitation including respiratory-care related educational components, postural drainage, chest physiotherapy, breathing exercises, aerosolized administration of medications, and equipment use and maintenance;

(9) instructing patients and their families in techniques for the prevention, alleviation, and rehabilitation of deficiencies, abnormalities, and diseases of the cardiopulmonary system; and

(10) transcribing and implementing physician orders for respiratory care services.

(b) Patient service by a practitioner must be limited to:

(1) services within the training and experience of the practitioner; and

(2) services within the parameters of the laws, rules, and standards of the facilities in which the respiratory care practitioner practices.

(c) Respiratory care services provided by a registered respiratory care practitioner, whether delivered in a health care facility or the patient's residence, must not be

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provided except upon referral from a physician.

(d) This section does not prohibit an individual licensed or registered as a respiratory therapist in another state or country from providing respiratory care in an emergency in this state, providing respiratory care as a member of an organ harvesting team, or from providing respiratory care on board an ambulance as part of an ambulance treatment team.

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## ARTICLE 7

### COMMISSIONER OF HEALTH - AUDIOLOGISTS

Section 1. Minnesota Statutes 2004, section 148.512, subdivision 6, is amended to read:

Subd. 6. **AUDIOLOGIST.** "Audiologist" means a natural person who engages in the practice of audiology, meets the qualifications required by sections 148.511 to 148.5196 148.5198, and is licensed by the commissioner under a general, clinical fellowship, doctoral externship, or temporary license. Audiologist also means a natural person using any descriptive word with the title audiologist.

Sec. 2. Minnesota Statutes 2004, section 148.512, is amended by adding a subdivision to read:

Subd. 10a. **HEARING AID.** "Hearing aid" means an instrument, or any of its parts, worn in the ear canal and designed to or represented as being able to aid or enhance human hearing. "Hearing aid" includes the aid's parts, attachments, or accessories, including, but not limited to, ear molds and behind the ear (BTE) devices with or without an ear mold. Batteries and cords are not parts, attachments, or accessories of a hearing aid. Surgically implanted hearing aids, and assistive listening devices not worn within the ear canal, are not hearing aids.

Sec. 3. Minnesota Statutes 2004, section 148.512, is amended by adding a subdivision to read:

Subd. 10b. **HEARING AID DISPENSING.** "Hearing aid dispensing" means making ear mold impressions, prescribing, or recommending a hearing aid, assisting the consumer in aid selection, selling hearing aids at retail, or testing human hearing in connection with these activities regardless of whether the person conducting these activities has a monetary interest in the dispensing of hearing aids to the consumer.

Sec. 4. Minnesota Statutes 2004, section 148.513, is amended by adding a subdivision to read:

Subd. 2a. **HEARING AID DISPENSERS.** An audiologist must not hold out as a licensed hearing aid dispenser.

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Sec. 5. Minnesota Statutes 2004, section 148.515, is amended by adding a subdivision to read:

**Subd. 6. DISPENSING AUDIOLOGIST EXAMINATION REQUIREMENTS.** (a) Audiologists are exempt from the written examination requirement in section 153A.14, subdivision 2h, paragraph (a), clause (1).

(b) After July 31, 2005, all applicants for audiologist licensure under sections 148.512 to 148.5198 must achieve a passing score on the practical tests of proficiency described in section 153A.14, subdivision 2h, paragraph (a), clause (2), within the time period described in section 153A.14, subdivision 2h, paragraph (c).

(c) In order to dispense hearing aids as a sole proprietor, member of a partnership, or for a limited liability company, corporation, or any other entity organized for profit, a licensee who obtained audiologist licensure under sections 148.512 to 148.5198, before August 1, 2005, and who is not certified to dispense hearing aids under chapter 153A, must achieve a passing score on the practical tests of proficiency described in section 153A.14, subdivision 2h, paragraph (a), clause (2), within the time period described in section 153A.14, subdivision 2h, paragraph (c). All other audiologist licensees who obtained licensure before August 1, 2005, are exempt from the practical tests.

Sec. 6. Minnesota Statutes 2004, section 148.5194, is amended by adding a subdivision to read:

**Subd. 7. AUDIOLOGIST SURCHARGE FEE.** (a) The biennial surcharge fee for audiologists is \$235. The commissioner shall prorate the fee for clinical fellowship, doctoral externship, temporary, and first time licensees according to the number of months that have elapsed between the date the license is issued and the date the license expires or must be renewed under section 148.5191, subdivision 4.

(b) Effective November 1, 2005, the commissioner shall collect the \$235 audiologist surcharge fee prorated according to the number of months remaining until the next scheduled license renewal.

Sec. 7. Minnesota Statutes 2004, section 148.5195, subdivision 3, is amended to read:

**Subd. 3. GROUNDS FOR DISCIPLINARY ACTION BY COMMISSIONER.** The commissioner may take any of the disciplinary actions listed in subdivision 4 on proof that the individual has:

(1) intentionally submitted false or misleading information to the commissioner or the advisory council;

(2) failed, within 30 days, to provide information in response to a written request, via certified mail, by the commissioner or advisory council;

(3) performed services of a speech-language pathologist or audiologist in an incompetent or negligent manner;

(4) violated sections 148.511 to ~~148.5196~~ 148.5198;

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

(6) violated any state or federal law, rule, or regulation, and the violation is a felony or misdemeanor, an essential element of which is dishonesty, or which relates directly or indirectly to the practice of speech-language pathology or audiology. Conviction for violating any state or federal law which relates to speech-language pathology or audiology is necessarily considered to constitute a violation, except as provided in chapter 364;

(7) aided or abetted another person in violating any provision of sections 148.511 to ~~148.5196~~ 148.5198;

(8) been or is being disciplined by another jurisdiction, if any of the grounds for the discipline is the same or substantially equivalent to those under sections 148.511 to 148.5196;

(9) not cooperated with the commissioner or advisory council in an investigation conducted according to subdivision 1;

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

(11) engaged in conduct likely to deceive, defraud, or harm the public; or demonstrated a willful or careless disregard for the health, welfare, or safety of a client;

(12) failed to disclose to the consumer any fee splitting or any promise 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;

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

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

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

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

(17) if the individual is a dispenser of hearing instruments as defined by section ~~153A.13, subdivision 5~~, had the certification required by chapter 153A, denied, suspended, or revoked according to chapter 153A;

(18) used the term doctor of audiology, doctor of speech-language pathology, AuD, or SLPD without having obtained the degree from an institution accredited by the North Central Association of Colleges and Secondary Schools, the Council on Academic Accreditation in Audiology and Speech-Language Pathology, the United States Department of Education, or an equivalent; or

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(19) failed to comply with the requirements of section 148.5192 regarding supervision of speech-language pathology assistants; or

(20) if the individual is an audiologist or certified hearing aid dispenser:

(i) prescribed or otherwise recommended to a consumer or potential consumer the use of a hearing aid, unless the prescription from a physician or recommendation from an audiologist or certified dispenser 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 AIDS MAY BE PURCHASED FROM, THE LICENSED AUDIOLOGIST OR CERTIFIED DISPENSER OF YOUR CHOICE";

(ii) failed to give a copy of the audiogram, upon which the prescription or recommendation is based, to the consumer when the consumer requests a copy;

(iii) failed to provide the consumer rights brochure required by section 148.5197, subdivision 3;

(iv) failed to comply with restrictions on sales of hearing aids in sections 148.5197, subdivision 3, and 148.5198;

(v) failed to return a consumer's hearing aid used as a trade-in or for a discount in the price of a new hearing aid when requested by the consumer upon cancellation of the purchase agreement;

(vi) failed to follow Food and Drug Administration or Federal Trade Commission regulations relating to dispensing hearing aids;

(vii) failed to dispense a hearing aid in a competent manner or without appropriate training;

(viii) delegated hearing instrument dispensing authority to a person not authorized to dispense a hearing instrument under this chapter or chapter 153A;

(ix) failed to comply with the requirements of an employer or supervisor of a hearing aid dispenser trainee; or

(x) violated a state or federal court order or judgment, including a conciliation court judgment, relating to the activities of the individual's hearing aid dispensing.

Sec. 8. Minnesota Statutes 2004, section 148.5196, subdivision 1, is amended to read:

Subdivision 1. **MEMBERSHIP.** The commissioner shall appoint ~~eight~~ 12 persons to a Speech-Language Pathologist and Audiologist Advisory Council. The ~~eight~~ 12 persons must include:

(1) ~~two~~ three public members, as defined in section 214.02. Two of the public members shall be either persons receiving services of a speech-language pathologist or audiologist, or family members of or caregivers to such persons, and at least one of the public members shall be either a hearing instrument user or an advocate of one;

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(2) ~~two~~ three speech-language pathologists licensed under sections 148.511 to 148.5196, one of whom is currently and has been, for the five years immediately preceding the appointment, engaged in the practice of speech-language pathology in Minnesota and each of whom is employed in a different employment setting including, but not limited to, private practice, hospitals, rehabilitation settings, educational settings, and government agencies;

(3) one speech-language pathologist licensed under sections 148.511 to 148.5196, who is currently and has been, for the five years immediately preceding the appointment, employed by a Minnesota public school district or a Minnesota public school district consortium that is authorized by Minnesota Statutes and who is licensed in speech-language pathology by the Minnesota Board of Teaching;

(4) ~~two~~ three audiologists licensed under sections 148.511 to 148.5196, ~~one~~ two of whom is are currently and has have been, for the five years immediately preceding the appointment, engaged in the practice of audiology and the dispensing of hearing instruments in Minnesota and each of whom is employed in a different employment setting including, but not limited to, private practice, hospitals, rehabilitation settings, educational settings, industry, and government agencies; ~~and~~

(5) one nonaudiologist hearing instrument dispenser recommended by a professional association representing hearing instrument dispensers; and

(6) one physician licensed under chapter 147 and certified by the American Board of Otolaryngology, Head and Neck Surgery.

#### Sec. 9. [148.5197] HEARING AID DISPENSING.

Subdivision 1. **CONTENT OF CONTRACTS.** Oral statements made by an audiologist or certified dispenser regarding the provision of warranties, refunds, and service on the hearing aid or aids dispensed must be written on, and become part of, the contract of sale, specify the item or items covered, and indicate the person or business entity obligated to provide the warranty, refund, or service.

Subd. 2. **REQUIRED USE OF LICENSE NUMBER.** The audiologist's license number or certified dispenser's certificate number must appear on all contracts, bills of sale, and receipts used in the sale of hearing aids.

Subd. 3. **CONSUMER RIGHTS INFORMATION.** An audiologist or certified dispenser shall, at the time of the recommendation or prescription, give a consumer rights brochure, prepared by the commissioner and containing information about legal requirements pertaining to dispensing of hearing aids, to each potential consumer of a hearing aid. The brochure must contain information about the consumer information center described in section 153A.18. A contract for a hearing aid must note the receipt of the brochure by the consumer, along with the consumer's signature or initials.

Subd. 4. **LIABILITY FOR CONTRACTS.** Owners of entities in the business of dispensing hearing aids, employers of audiologists or persons who dispense hearing aids, supervisors of trainees or audiology students, and hearing aid dispensers conducting the transaction at issue are liable for satisfying all terms of contracts,

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written or oral, made by their agents, employees, assignees, affiliates, or trainees, including terms relating to products, repairs, warranties, service, and refunds. The commissioner may enforce the terms of hearing aid contracts against the principal, employer, supervisor, or dispenser who conducted the transaction and may impose any remedy provided for in this chapter.

**Sec. 10. [148.5198] RESTRICTION ON SALE OF HEARING AIDS.**

**Subdivision 1. 45-CALENDAR-DAY GUARANTEE AND BUYER RIGHT TO CANCEL.** (a) An audiologist or certified dispenser dispensing a hearing aid in this state must comply with paragraphs (b) and (c).

(b) The audiologist or certified dispenser must provide the buyer with a 45-calendar-day written money-back guarantee. The guarantee must permit the buyer to cancel the purchase for any reason within 45 calendar days after receiving the hearing aid by giving or mailing written notice of cancellation to the audiologist or certified dispenser. If the buyer mails the notice of cancellation, the 45-calendar-day period is counted using the postmark date, to the date of receipt by the audiologist or certified dispenser. If the hearing aid must be repaired, remade, or adjusted during the 45-calendar-day money-back guarantee period, the running of the 45-calendar-day period is suspended one day for each 24-hour period that the hearing aid is not in the buyer's possession. A repaired, remade, or adjusted hearing aid must be claimed by the buyer within three business days after notification of availability, after which time the running of the 45-calendar-day period resumes. The guarantee must entitle the buyer, upon cancellation, to receive a refund of payment within 30 days of return of the hearing aid to the audiologist or certified dispenser. The audiologist or certified dispenser may retain as a cancellation fee no more than \$250 of the buyer's total purchase price of the hearing aid.

(c) The audiologist or certified dispenser shall provide the buyer with a contract written in plain English, that contains uniform language and provisions that meet the requirements under the Plain Language Contract Act, sections 325G.29 to 325G.36. The contract must include, but is not limited to, the following: in immediate proximity to the space reserved for the signature of the buyer, or on the first page if there is no space reserved for the signature of the buyer, a clear and conspicuous disclosure of the following specific statement in all capital letters of no less than 12-point boldface type: "MINNESOTA STATE LAW GIVES THE BUYER THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO MIDNIGHT OF THE 45TH CALENDAR DAY AFTER RECEIPT OF THE HEARING AID(S). THIS CANCELLATION MUST BE IN WRITING AND MUST BE GIVEN OR MAILED TO THE AUDIOLOGIST OR CERTIFIED DISPENSER. IF THE BUYER DECIDES TO RETURN THE HEARING AID(S) WITHIN THIS 45-CALENDAR-DAY PERIOD, THE BUYER WILL RECEIVE A REFUND OF THE TOTAL PURCHASE PRICE OF THE AID(S) FROM WHICH THE AUDIOLOGIST OR CERTIFIED DISPENSER MAY RETAIN AS A CANCELLATION FEE NO MORE THAN \$250."

**Subd. 2. ITEMIZED REPAIR BILL.** Any audiologist, certified dispenser, or company who agrees to repair a hearing aid must provide the owner of the hearing aid,

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or the owner's representative, with a bill that describes the repair and services rendered. The bill must also include the repairing audiologist's, certified dispenser's, or company's name, address, and telephone number.

This subdivision does not apply to an audiologist, certified dispenser, or company that repairs a hearing aid pursuant to an express warranty covering the entire hearing aid and the warranty covers the entire cost, both parts and labor, of the repair.

Subd. 3. REPAIR WARRANTY. Any guarantee of hearing aid repairs must be in writing and delivered to the owner of the hearing aid, or the owner's representative, stating the repairing audiologist's, certified dispenser's, or company's name, address, telephone number, length of guarantee, model, and serial number of the hearing aid and all other terms and conditions of the guarantee.

Subd. 4. MISDEMEANOR. A person found to have violated this section is guilty of a misdemeanor.

Subd. 5. ADDITIONAL. In addition to the penalty provided in subdivision 4, a person found to have violated this section is subject to the penalties and remedies provided in section 325F.69, subdivision 1.

Subd. 6. ESTIMATES. Upon the request of the owner of a hearing aid or the owner's representative for a written estimate and prior to the commencement of repairs, a repairing audiologist, certified dispenser, or company shall provide the customer with a written estimate of the price of repairs. If a repairing audiologist, certified dispenser, or company provides a written estimate of the price of repairs, it must not charge more than the total price stated in the estimate for the repairs. If the repairing audiologist, certified dispenser, or company after commencing repairs determines that additional work is necessary to accomplish repairs that are the subject of a written estimate and if the repairing audiologist, certified dispenser, or company did not unreasonably fail to disclose the possible need for the additional work when the estimate was made, the repairing audiologist, certified dispenser, or company may charge more than the estimate for the repairs if the repairing audiologist, certified dispenser, or company immediately provides the owner or owner's representative a revised written estimate pursuant to this section and receives authorization to continue with the repairs. If continuation of the repairs is not authorized, the repairing audiologist, certified dispenser, or company shall return the hearing aid as close as possible to its former condition and shall release the hearing aid to the owner or owner's representative upon payment of charges for repairs actually performed and not in excess of the original estimate.

Sec. 11. Minnesota Statutes 2004, section 153A.13, subdivision 5, is amended to read:

**Subd. 5. DISPENSER OF HEARING INSTRUMENTS.** "Dispenser of hearing instruments" means a natural person who engages in hearing instrument dispensing whether or not certified by the commissioner of health or licensed by an existing health-related board, except that a person described as follows is not a dispenser of hearing instruments:

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(1) a student participating in supervised field work that is necessary to meet requirements of an accredited educational program if the student is designated by a title which clearly indicates the student's status as a student trainee; or

(2) a person who helps a dispenser of hearing instruments in an administrative or clerical manner and does not engage in hearing instrument dispensing.

A person who offers to dispense a hearing instrument, or a person who advertises, holds out to the public, or otherwise represents that the person is authorized to dispense hearing instruments must be certified by the commissioner except when the person is an audiologist as defined in section 148.512.

Sec. 12. Minnesota Statutes 2004, 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; and
- (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; and

(vii) state and federal laws, rules, and regulations.

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(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. 13. Minnesota Statutes 2004, section 153A.14, subdivision 2i, is amended to read:

Subd. 2i. **CONTINUING EDUCATION REQUIREMENT.** On forms provided by the commissioner, each certified dispenser must submit with the application for renewal of certification evidence of completion of ten course hours of continuing education earned within the 12-month period of July 1 to June 30 immediately preceding renewal. Continuing education courses must be directly related to hearing instrument dispensing and approved by the International Hearing Society ~~or qualify for continuing education approved for Minnesota licensed audiologists.~~ Evidence of completion of the ten course hours of continuing education must be submitted with renewal applications by October 1 of each year. This requirement does not apply to dispensers certified for less than one year. The first report of evidence of completion of the continuing education credits shall be due October 1, 1997.

Sec. 14. Minnesota Statutes 2004, section 153A.14, subdivision 4, is amended to read:

Subd. 4. **DISPENSING OF HEARING INSTRUMENTS WITHOUT CERTIFICATE.** Except as provided in subdivisions 4a and 4c, and in sections 148.512 to 148.5198, 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. 15. Minnesota Statutes 2004, section 153A.14, subdivision 4c, is amended 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

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(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.

Sec. 16. Minnesota Statutes 2004, section 153A.14, subdivision 9, is amended to read:

Subd. 9. **CONSUMER RIGHTS INFORMATION.** A hearing instrument dispenser shall, at the time of the recommendation or prescription, give a consumer rights brochure, prepared by the commissioner and containing information about legal requirements pertaining to sales of hearing instruments, to each potential buyer of a hearing instrument. A sales contract for a hearing instrument must note the receipt of the brochure by the buyer, along with the buyer's signature or initials comply with the requirements of sections 148.5195, subdivision 3, clause (20); 148.5197; and 148.5198.

Sec. 17. Minnesota Statutes 2004, 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;

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

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- (6) (3) presenting advertising that is false or misleading;
- (7) (4) providing the commissioner with false or misleading statements of credentials, training, or experience;
- (8) (5) 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;
- (9) (6) 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;
- (10) (7) 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;
- (11) (8) obtaining money, property, or services from a consumer through the use of undue influence, high pressure sales tactics, harassment, duress, deception, or fraud;
- (12) ~~failing to comply with restrictions on sales of hearing aids in sections 153A.14, subdivision 9, and 153A.19;~~
- (13) (9) performing the services of a certified hearing instrument dispenser in an incompetent or negligent manner;
- (14) (10) failing to comply with the requirements of this chapter as an employer, supervisor, or trainee;
- (15) (11) failing to provide information in a timely manner in response to a request by the commissioner, commissioner's designee, or the advisory council;
- (16) (12) 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;
- (17) (13) failing to cooperate with the commissioner, the commissioner's designee, or the advisory council in any investigation;
- (18) (14) 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;
- (19) (15) failing to fully disclose actions taken against the applicant or the applicant's legal authorization to dispense hearing instruments in this or another state;
- (20) (16) 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;
- (21) (17) 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

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the discipline are the same or substantially equivalent to those in sections 153A.13 to 153A.19;

~~(22)~~ (18) 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;

~~(23)~~ (19) violating any of the provisions of sections 148.5195, subdivision 3, clause (20); 148.5197; 148.5198; and 153A.13 to 153A.19 153A.18; and

~~(24)~~ (20) aiding or abetting another person in violating any of the provisions of sections 148.5195, subdivision 3, clause (20); 148.5197; 148.5198; and 153A.13 to 153A.19 153A.18.

Sec. 18. Minnesota Statutes 2004, section 153A.20, subdivision 1, is amended to read:

Subdivision 1. **MEMBERSHIP.** The commissioner shall appoint ~~nine~~ seven persons to a Hearing Instrument Dispenser Advisory Council.

(a) The ~~nine~~ seven persons must include:

(1) three public members, as defined in section 214.02. At least one of the public members shall be a hearing instrument user and one of the public members shall be either a hearing instrument user or an advocate of one; and

(2) three hearing instrument dispensers certified under sections 153A.14 to 153A.20, each of whom is currently, and has been for the five years immediately preceding their appointment, engaged in hearing instrument dispensing in Minnesota and who represent the occupation of hearing instrument dispensing and who are not audiologists; and

~~(3) three audiologists who are certified hearing instrument dispensers or are one audiologist licensed as audiologists an audiologist under chapter 148 who dispenses hearing instruments, recommended by a professional association representing audiologists and speech-language pathologists.~~

(b) The factors the commissioner may consider when appointing advisory council members include, but are not limited to, professional affiliation, geographical location, and type of practice.

(c) No two members of the advisory council shall be employees of, or have binding contracts requiring sales exclusively for, the same hearing instrument manufacturer or the same employer.

Sec. 19. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall change references from "sections 148.511 to 148.5196" to "sections 148.511 to 148.5198" wherever they appear in Minnesota

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Statutes and Minnesota Rules, and change "153A.19" to "148.5197" in Minnesota Statutes, section 325G.203.

**Sec. 20. REPEALER.**

Minnesota Statutes 2004, sections 153A.14, subdivisions 2a, 8, and 10; and 153A.19, are repealed.

**Sec. 21. EFFECTIVE DATE.**

Sections 1 to 18 and 20 are effective August 1, 2005.

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**ARTICLE 8**

**OFFICE OF MENTAL HEALTH PRACTICES COMMITTEE**

Section 1. Minnesota Statutes 2004, section 148B.60, is amended to read:

**148B.60 DEFINITIONS.**

Subdivision 1. **TERMS.** As used in sections 148B.60 to 148B.71, the following terms have the meanings given them in this section.

Subd. 2. **OFFICE OF MENTAL HEALTH PRACTICE OR OFFICE.** "Office of Mental Health Practice" or "office" means the Office of Mental Health Practice established authorized in section 148B.61.

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 and chapter 148C; 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~~ licensed occupational therapists; or licensed 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;

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(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.

Subd. 4. **MENTAL HEALTH SERVICES.** “Mental health services” means psychotherapy, behavioral health care, spiritual counseling, hypnosis when not for entertainment, and the professional assessment, treatment, or counseling of another person for a cognitive, behavioral, emotional, social, or mental condition, symptom, or dysfunction, including intrapersonal or interpersonal dysfunctions. The term does not include pastoral services provided by members of the clergy to members of a religious congregation in the context of performing and fulfilling the salaried duties and obligations required of a member of the clergy by that religious congregation or services provided by Christian Scientist practitioners.

Subd. 5. **MENTAL HEALTH CLIENT OR CLIENT.** “Mental health client” or “client” means a person who receives or pays for the services of a mental health practitioner.

Subd. 5a. **MENTAL-HEALTH-RELATED LICENSING BOARDS.** “Mental-health-related licensing boards” means the Boards of Medical Practice, Nursing, Psychology, Social Work, Marriage and Family Therapy, and Behavioral Health and Therapy.

Subd. 7. **COMMISSIONER.** “Commissioner” means the commissioner of health or the commissioner’s designee.

Subd. 7a. **COMMITTEE.** “Committee” means the Office of Mental Health Practices Committee, consisting of one person appointed by each of the following licensing boards: the Board of Medical Practice; the Board of Nursing; the Board of Psychology; the Board of Social Work; the Board of Marriage and Family Therapy; and the Board of Behavioral Health and Therapy.

Subd. 8. **DISCIPLINARY ACTION.** “Disciplinary action” means an adverse action taken by the commissioner against an unlicensed mental health practitioner relating to the person’s right to provide mental health services.

Sec. 2. Minnesota Statutes 2004, section 148B.61, is amended to read:

**148B.61 OFFICE OF MENTAL HEALTH PRACTICE.**

Subdivision 1. **CREATION AUTHORITY.** (a) The Office of Mental Health Practice is created in the Department of Health transferred to the mental-health-related licensing boards. The mental-health-related licensing boards shall convene an Office of Mental Health Practices Committee to investigate complaints and take and enforce disciplinary actions against all unlicensed mental health practitioners for violations of prohibited conduct, as defined in section 148B.68.

(b) The office committee shall publish a complaint telephone number, provide an informational Web site, and also serve as a referral point and clearinghouse on

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complaints against mental health services and both licensed and unlicensed mental health professionals, through the dissemination of practitioners. The committee shall disseminate objective information to consumers and through the development and performance of public education activities, including outreach, regarding the provision of mental health services and both licensed and unlicensed mental health professionals who provide these services.

**Subd. 2. RULEMAKING.** ~~The commissioner of health shall adopt rules necessary to implement, administer, or enforce provisions of sections 148B.60 to 148B.71 pursuant to chapter 14. The commissioner may not adopt rules that restrict or prohibit persons from providing mental health services on the basis of education, training, experience, or supervision.~~

**Subd. 4. MANAGEMENT, REPORT, AND SUNSET OF THE OFFICE.** (a) The committee shall:

- (1) designate one board to provide administrative management of the committee;
- (2) set the program budget; and
- (3) ensure that the committee's direction is in accord with its authority.

(b) If the participating boards change which board is designated to provide administrative management of the committee, any appropriation remaining for the committee shall transfer to the newly designated board on the effective date of the change. The participating boards must inform the appropriate legislative committees and the commissioner of finance of any change in the designated board and the amount of any appropriation transferred under this provision.

(c) The designated board shall hire the office employees and pay expenses of the committee from funds appropriated for that purpose.

(d) After July 1, 2008, the committee shall prepare and submit a report to the legislature by January 15, 2009, evaluating the activity of the office and making recommendations concerning the regulation of unlicensed mental health practitioners. In the absence of legislative action to continue the committee, the committee expires on June 30, 2009.

Sec. 3. Laws 2003, chapter 118, section 29, as amended by Laws 2004, chapter 279, article 5, section 10, is amended to read:

**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, 2005 ~~2009~~.

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

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

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**Sec. 4. REVISOR INSTRUCTION.**

The revisor of statutes shall insert “committee” or “committee’s” wherever “commissioner of health” or “commissioner’s” appears in Minnesota Statutes, sections 148B.60 to 148B.71.

**Sec. 5. EFFECTIVE DATE.**

This article is effective July 1, 2005.

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**ARTICLE 9****MISCELLANEOUS**

Section 1. Minnesota Statutes 2004, section 148.5194, is amended by adding a subdivision to read:

**Subd. 8. PENALTY FEES.** (a) The penalty fee for practicing speech language pathology or audiology without a current license after the credential has expired and before it is renewed is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months.

(b) The penalty fee for applicants who engage in the unauthorized practice of speech language pathology or audiology before being issued a license is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This paragraph does not apply to applicants not qualifying for a license who engage in the unauthorized practice of speech language pathology or audiology.

(c) The penalty fee for failing to submit a continuing education report by the due date with the correct number or type of hours in the correct time period is \$100 plus \$20 for each missing clock hour. The licensee must obtain the missing number of continuing education hours by the next reporting due date.

(d) Civil penalties and discipline incurred by licensees prior to August 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty fees. For conduct described in paragraph (a) or (b) occurring after August 1, 2005, and exceeding six months, payment of a penalty fee does not preclude any disciplinary action reasonably justified by the individual case.

Sec. 2. Minnesota Statutes 2004, section 148.6445, is amended by adding a subdivision to read:

**Subd. 11. PENALTY FEES.** (a) The penalty fee for practicing occupational therapy without a current license after the credential has expired and before it is renewed is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months.

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(b) The penalty fee for applicants who engage in the unauthorized practice of occupational therapy before being issued a license is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This paragraph does not apply to applicants not qualifying for a license who engage in the unauthorized practice of occupational therapy.

(c) The penalty fee for failing to submit a continuing education report by the due date with the correct number or type of hours in the correct time period is \$100 plus \$20 for each missing clock hour. The licensee must obtain the missing number of continuing education hours by the next reporting due date.

(d) Civil penalties and discipline incurred by licensees prior to August 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty fees. For conduct described in paragraph (a) or (b) occurring after August 1, 2005, and exceeding six months, payment of a penalty fee does not preclude any disciplinary action reasonably justified by the individual case.

Sec. 3. Minnesota Statutes 2004, section 148C.12, is amended by adding a subdivision to read:

Subd. 11. PENALTY FEES. (a) The penalty fee for practicing alcohol and drug counseling without a current license after the credential has expired and before it is renewed is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months.

(b) The penalty fee for applicants who engage in the unauthorized practice of alcohol and drug counseling before being issued a license is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This paragraph does not apply to applicants not qualifying for a license who engage in the unauthorized practice of alcohol and drug counseling.

(c) The penalty fee for failing to submit a continuing education report by the due date with the correct number or type of hours in the correct time period is \$100 plus \$20 for each missing clock hour. The licensee must obtain the correct number of continuing education hours by the next reporting due date.

(d) Civil penalties and discipline incurred by licensees prior to August 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty fees. For conduct described in paragraph (a) or (b) occurring after August 1, 2005, and exceeding 12 months, payment of a penalty fee does not preclude any disciplinary action reasonably justified by the individual case.

#### Sec. 4. [153A.175] PENALTY FEES.

(a) The penalty fee for holding oneself out as a hearing instrument dispenser without a current certificate after the credential has expired and before it is renewed is one-half the amount of the certificate renewal fee for any part of the first day, plus one-half the certificate renewal fee for any part of any subsequent days up to 30 days.

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(b) The penalty fee for applicants who hold themselves out as hearing instrument dispensers after expiration of the trainee period and before being issued a certificate is one-half the amount of the certificate application fee for any part of the first day, plus one-half the certificate application fee for any part of any subsequent days up to 30 days. This paragraph does not apply to applicants not qualifying for a certificate who hold themselves out as hearing instrument dispensers.

(c) The penalty fee for failing to submit a continuing education report by the due date with the correct number or type of hours in the correct time period is \$200 plus \$200 for each missing clock hour. The certificate holder must obtain the missing number of continuing education hours by the next reporting due date.

(d) Civil penalties and discipline incurred by certificate holders prior to August 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty fees. Payment of a penalty fee does not preclude any disciplinary action reasonably justified by the individual case.

Sec. 5. Minnesota Statutes 2004, section 214.06, subdivision 1, is amended to read:

Subdivision 1. **FEE ADJUSTMENT.** Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust, as needed, any fee which the commissioner of health or the board is empowered to assess. As provided in section 16A.1285, the adjustment shall be an amount sufficient so that the total fees collected by each board will as closely as possible equal be based on anticipated expenditures during the fiscal biennium, including expenditures for the programs authorized by sections ~~214.17 to 214.25 and 214.31 to 214.37~~ 214.10, 214.103, 214.11, 214.17 to 214.24, 214.28 to 214.37, and 214.40, except that a health-related licensing board may have anticipated expenditures in excess of anticipated revenues in a biennium by using accumulated surplus revenues from fees collected by that board in previous bienniums. A health-related licensing board shall not spend more money than the amount appropriated by the legislature for a biennium. For members of an occupation registered after July 1, 1984, by the commissioner of health under the provisions of section 214.13, the fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules providing for registration of members of the occupation. All fees received shall be deposited in the state treasury. Fees received by the commissioner of health or health-related licensing boards must be credited to the health occupations licensing account in the state government special revenue fund.

Sec. 6. Minnesota Statutes 2004, section 214.06, is amended by adding a subdivision to read:

Subd. 1a. **HEALTH OCCUPATIONS LICENSING ACCOUNT.** Fees received by the commissioner of health or health-related licensing boards must be credited to the health occupations licensing account in the state government special revenue fund. The commissioner of finance shall ensure that the revenues and expenditures of each

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health-related licensing board are tracked separately in the health occupations licensing account.

**Sec. 7. APPROPRIATION.**

\$50,000 is appropriated for fiscal year 2006 from the state government special revenue fund to the administrative services unit of the Board of Nursing Home Administrators to pay for medical professional liability insurance coverage under Minnesota Statutes, section 214.40, subdivision 7. The Board of Medical Practice, the Board of Nursing, and the Board of Dentistry shall be assessed an apportioned amount that is equal to the amount expended on coverage purchased for the providers regulated by the respective board. This appropriation is available until expended.

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**ARTICLE 10**

**EMERGENCY MEDICAL SERVICES REGULATORY BOARD**

Section 1. Minnesota Statutes 2004, section 144E.001, subdivision 8, is amended to read:

Subd. 8. **LICENSEE.** "Licensee" means a natural person, partnership, association, corporation, Indian tribe, or unit of government which possesses an ambulance service license.

Sec. 2. Minnesota Statutes 2004, section 144E.001, is amended by adding a subdivision to read:

Subd. 14a. **TRIBE.** "Tribe" means a federally recognized Indian tribe, as defined in United States Code, title 25, section 450b, paragraph (e), located within the state of Minnesota.

Sec. 3. Minnesota Statutes 2004, section 144E.001, subdivision 15, is amended to read:

Subd. 15. **VOLUNTEER AMBULANCE ATTENDANT.** "Volunteer ambulance attendant" means a person who provides emergency medical services for a Minnesota licensed ambulance service without the expectation of remuneration and who does not depend in any way upon the provision of these services for the person's livelihood. An individual may be considered a volunteer ambulance attendant even though the individual receives an hourly stipend for each hour of actual service provided, except for hours on standby alert, or other nominal fee, and even though the hourly stipend or other nominal fee is regarded as taxable income for purposes of state or federal law, provided that the hourly stipend and other nominal fees do not exceed \$3,000 within one year of the final certification examination \$6,000 annually.

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**Sec. 4. [144E.266] EMERGENCY SUSPENSION OF AMBULANCE SERVICE REQUIREMENT.**

(a) The requirements of sections 144E.10; 144E.101, subdivisions 1, 2, 3, 6, 7, 8, 9, 10, 11, and 13; 144E.103; 144E.12; 144E.121; 144E.123; 144E.127; and 144E.15, are suspended:

(1) throughout the state during a national security emergency declared under section 12.31;

(2) in the geographic areas of the state affected during a peacetime emergency declared under section 12.31; and

(3) in the geographic areas of the state affected during a local emergency declared under section 12.29.

(b) For purposes of this section, the geographic areas of the state affected shall include geographic areas where one or more ambulance services are providing requested mutual aid to the site of the emergency.

Sec. 5. Minnesota Statutes 2004, section 144E.27, subdivision 2, is amended to read:

Subd. 2. **REGISTRATION.** To be eligible for registration with the board as a first responder, an individual shall complete a board-approved application form and:

(1) successfully complete a board-approved initial first responder training program. Registration under this clause is valid for two years and expires at the end of the month in which the registration was issued; or

(2) be credentialed as a first responder by the National Registry of Emergency Medical Technicians. Registration under this clause expires the same day as the National Registry credential.

Sec. 6. Minnesota Statutes 2004, section 144E.28, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS.** To be eligible for certification by the board as an EMT, EMT-I, or EMT-P, an individual shall:

(1) successfully complete the United States Department of Transportation course, or its equivalent as approved by the board, specific to the EMT, EMT-I, or EMT-P classification; and

(2) pass the written and practical examinations approved by the board and administered by the board or its designee, specific to the EMT, EMT-I, or EMT-P classification; and

(3) complete a board-approved application form.

Sec. 7. Minnesota Statutes 2004, section 144E.28, subdivision 3, is amended to read:

Subd. 3. **RECIPROCITY.** The board may certify an individual who possesses a current National Registry of Emergency Medical Technicians registration from another jurisdiction if the individual submits a board-approved application form. The board

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certification classification shall be the same as the National Registry's classification. Certification shall be for the duration of the applicant's registration period in another jurisdiction, not to exceed two years.

Sec. 8. Minnesota Statutes 2004, section 144E.28, subdivision 7, is amended to read:

Subd. 7. **RENEWAL.** (a) Before the expiration date of certification, an applicant for renewal of certification as an EMT shall:

(1) successfully complete a course in cardiopulmonary resuscitation that is approved by the board or the licensee's medical director; and

(2) take the United States Department of Transportation EMT refresher course and successfully pass the practical skills test portion of the course, or successfully complete 48 hours of continuing education in EMT programs that are consistent with the United States Department of Transportation National Standard Curriculum or its equivalent as approved by the board or as approved by the licensee's medical director and pass a practical skills test approved by the board and administered by a training program approved by the board. The cardiopulmonary resuscitation course and practical skills test may be included as part of the refresher course or continuing education renewal requirements. Twenty-four of the 48 hours must include at least four hours of instruction in each of the following six categories:

(i) airway management and resuscitation procedures;

(ii) circulation, bleeding control, and shock;

(iii) human anatomy and physiology, patient assessment, and medical emergencies;

(iv) injuries involving musculoskeletal, nervous, digestive, and genito-urinary systems;

(v) environmental emergencies and rescue techniques; and

(vi) emergency childbirth and other special situations; and

(3) complete a board-approved application form.

(b) Before the expiration date of certification, an applicant for renewal of certification as an EMT-I or EMT-P shall:

(1) for an EMT-I, successfully complete a course in cardiopulmonary resuscitation that is approved by the board or the licensee's medical director and for an EMT-P, successfully complete a course in advanced cardiac life support that is approved by the board or the licensee's medical director; and

(2) successfully complete 48 hours of continuing education in emergency medical training programs, appropriate to the level of the applicant's EMT-I or EMT-P certification, that are consistent with the United States Department of Transportation National Standard Curriculum or its equivalent as approved by the board or as approved by the licensee's medical director. An applicant may take the United States

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Department of Transportation Emergency Medical Technician refresher course or its equivalent without the written or practical test as approved by the board, and as appropriate to the applicant's level of certification, as part of the 48 hours of continuing education. Each hour of the refresher course, the cardiopulmonary resuscitation course, and the advanced cardiac life support course counts toward the 48-hour continuing education requirement; and

(3) complete a board-approved application form.

(c) Certification shall be renewed every two years.

(d) If the applicant does not meet the renewal requirements under this subdivision, the applicant's certification expires.

Sec. 9. Minnesota Statutes 2004, section 144E.28, subdivision 8, is amended to read:

Subd. 8. **REINSTATEMENT.** (a) Within four years of a certification expiration date, a person whose certification has expired under subdivision 7, paragraph (d), may have the certification reinstated upon submission of:

(1) evidence to the board of training equivalent to the continuing education requirements of subdivision 7; and

(2) a board-approved application form.

(b) If more than four years have passed since a certificate expiration date, an applicant must complete the initial certification process required under subdivision 1.

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## ARTICLE 11

### GENERAL HEALTH CARE PROVIDER PROVISIONS

Section 1. Minnesota Statutes 2004, section 45.0135, is amended by adding a subdivision to read:

Subd. 8. **INVESTIGATIONS; HEALTH-RELATED BOARDS.** (a) The Division of Insurance Fraud Prevention may consult with the appropriate health-related board when a licensee, licensed under chapter 144E, 147, 148, 148B, or 150A, is suspected of insurance fraud.

(b) The division shall, for any conviction involving or related to insurance, send copies of all public data in its possession to the appropriate health-related licensing board.

Sec. 2. **[62J.052] PROVIDER COST DISCLOSURE.**

(a) Each health care provider, as defined by section 62J.03, subdivision 8, except hospitals and outpatient surgical centers, shall provide the following information:

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(1) the average allowable payment from private third-party payers for the 20 services or procedures most commonly performed;

(2) the average payment rates for those services and procedures for medical assistance;

(3) the average charge for those services and procedures for individuals who have no applicable private or public coverage; and

(4) the average charge for those services and procedures, including all patients.

(b) This information shall be updated annually and be readily available at no cost to the public on site.

### Sec. 3. **[62Q.251] DISCOUNTED PAYMENTS.**

(a) Notwithstanding any other provision of law, a health care provider may provide care to a patient at a discounted payment amount, provided that the discount does not reduce the payment below the Medicare-approved payment level.

(b) A health plan company or other insurer must not consider, in determining a provider's usual and customary payment, standard payment, or allowable payment used as a basis for determining the provider's payment by the health plan company or other insurer, the following discounted payment situations:

(1) care provided to relatives of the provider; and

(2) care for which a discount is given in exchange for cash payment.

(c) This section does not disallow charity care for hardship situations in which the care is provided for free.

(d) A provider may not charge an uninsured person more than the provider charges a health plan company or other insurer.

### Sec. 4. **[214.071] HEALTH BOARDS; DIRECTORY OF LICENSEES.**

Each health board under chapters 147, 148, 148B, and 150A, shall establish a directory of licensees that includes biographical data for each licensee.

### Sec. 5. **[214.106] HEALTH-RELATED BOARDS; RESPONSE TO INSURANCE FRAUD.**

A health-related board may revoke, suspend, condition, limit, restrict, or qualify a license to practice when clear and convincing evidence indicates the licensee has committed insurance fraud or subsequent to a conviction relating to fraud.

Presented to the governor May 31, 2005

Signed by the governor June 3, 2005, 4:50 p.m.

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