

SENATE  
STATE OF MINNESOTA  
NINETIETH SESSION

S.F. No. 537

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DATE	D-PG	OFFICIAL STATUS
02/02/2017	486	Introduction and first reading
		Referred to Health and Human Services Finance and Policy
03/08/2017	1161	Comm report: To pass and re-referred to State Government Finance and Policy and Elections
03/13/2017	1284	Comm report: To pass and re-referred to Health and Human Services Finance and Policy

1.1A bill for an act

1.2relating to health occupations; creating a state Board of Occupational Therapy

1.3Practice; amending Minnesota Statutes 2016, sections 148.6402, subdivision 4;

1.4148.6405; 148.6408, subdivision 2; 148.6410, subdivision 2; 148.6412, subdivision

1.52; 148.6415; 148.6418, subdivisions 1, 2, 4, 5; 148.6420, subdivisions 1, 3, 5;

1.6148.6423; 148.6425, subdivisions 2, 3; 148.6428; 148.6443, subdivisions 5, 6, 7,

1.78; 148.6445, subdivisions 1, 10; 148.6448; 214.01, subdivision 2; proposing coding

1.8for new law in Minnesota Statutes, chapter 148; repealing Minnesota Statutes

1.92016, sections 148.6402, subdivision 2; 148.6450.

1.10BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11Section 1. Minnesota Statutes 2016, section 148.6402, subdivision 4, is amended to read:

1.12Subd. 4. ~~Commissioner Board.~~ "Commissioner Board" means the ~~commissioner of~~

1.13~~health or a designee~~ Board of Occupational Therapy Practice established in section 148.6449.

1.14Sec. 2. Minnesota Statutes 2016, section 148.6405, is amended to read:

1.15**148.6405 LICENSURE APPLICATION REQUIREMENTS: PROCEDURES AND**

1.16**QUALIFICATIONS.**

1.17(a) An applicant for licensure must comply with the application requirements in section

1.18148.6420. To qualify for licensure, an applicant must satisfy one of the requirements in

1.19paragraphs (b) to (f) and not be subject to denial of licensure under section 148.6448.

1.20(b) A person who applies for licensure as an occupational therapist and who has not

1.21been credentialed by the National Board for Certification in Occupational Therapy or another

1.22jurisdiction must meet the requirements in section 148.6408.

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

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

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

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

(g) A person who applies for licensure under paragraph (b), (c), or (f) more than two and less than four years after meeting the requirements in section 148.6408 or 148.6410 must submit the following:

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

(2) the license application fee required under section 148.6445;

(3) if applying for occupational therapist licensure, proof of having met a minimum of 24 contact hours of continuing education in the two years preceding licensure application, or if applying for occupational therapy assistant licensure, proof of having met a minimum of 18 contact hours of continuing education in the two years preceding licensure application;

(4) verified documentation of successful completion of 160 hours of supervised practice approved by the ~~commissioner~~ board under a limited license specified in section 148.6425, subdivision 3, paragraph (c); and

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

(h) A person who applied for licensure under paragraph (b), (c), or (f) four years or more after meeting the requirements in section 148.6408 or 148.6410 must meet all the requirements in paragraph (g) except clauses (3) and (4), submit documentation of having retaken and passed the credentialing examination for occupational therapist or occupational therapy assistant, or of having completed an occupational therapy refresher program that contains both a theoretical and clinical component approved by the ~~commissioner~~ board,

and verified documentation of successful completion of 480 hours of supervised practice approved by the ~~commissioner~~ board under a limited license specified in section 148.6425, subdivision 3, paragraph (c). The 480 hours of supervised practice must be completed in six months and may be completed at the applicant's place of work. Only refresher courses completed within one year prior to the date of application qualify for approval.

Sec. 3. Minnesota Statutes 2016, section 148.6408, subdivision 2, is amended to read:

Subd. 2. **Qualifying examination score required.** (a) An applicant must achieve a qualifying score on the credentialing examination for occupational therapist.

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

(c) The applicant is responsible for:

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

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

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

Sec. 4. Minnesota Statutes 2016, section 148.6410, subdivision 2, is amended to read:

Subd. 2. **Qualifying examination score required.** (a) An applicant for licensure must achieve a qualifying score on the credentialing examination for occupational therapy assistants.

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

(c) The applicant is responsible for:

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

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

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

Sec. 5. Minnesota Statutes 2016, section 148.6412, subdivision 2, is amended to read:

Subd. 2. **Persons certified by National Board for Certification in Occupational Therapy after June 17, 1996.** The ~~commissioner~~ board may license any person certified by the National Board for Certification in Occupational Therapy as an occupational therapist after June 17, 1996, if the ~~commissioner~~ board determines the requirements for certification are equivalent to or exceed the requirements for licensure as an occupational therapist under section 148.6408. The ~~commissioner~~ board may license any person certified by the National Board for Certification in Occupational Therapy as an occupational therapy assistant after June 17, 1996, if the ~~commissioner~~ board determines the requirements for certification are equivalent to or exceed the requirements for licensure as an occupational therapy assistant under section 148.6410. Nothing in this section limits the ~~commissioner's~~ board's authority to deny licensure based upon the grounds for discipline in sections 148.6401 to 148.6450.

Sec. 6. Minnesota Statutes 2016, section 148.6415, is amended to read:

**148.6415 LICENSURE BY RECIPROCITY.**

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

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

(2) the fees required by section 148.6445;

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

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

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

Sec. 7. Minnesota Statutes 2016, section 148.6418, subdivision 1, is amended to read:

Subdivision 1. **Application.** The ~~commissioner~~ board shall issue temporary licensure as an occupational therapist or occupational therapy assistant to applicants who are not the subject of a disciplinary action or past disciplinary action, nor disqualified on the basis of items listed in section 148.6448, subdivision 1.

Sec. 8. Minnesota Statutes 2016, section 148.6418, subdivision 2, is amended to read:

Subd. 2. **Procedures.** To be eligible for temporary licensure, an applicant must submit a completed application for temporary licensure on forms provided by the ~~commissioner~~ board, the fees required by section 148.6445, and one of the following:

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

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

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

Sec. 9. Minnesota Statutes 2016, section 148.6418, subdivision 4, is amended to read:

Subd. 4. **Supervision required.** An applicant who has graduated from an accredited occupational therapy program, as required by section 148.6408, subdivision 1, or 148.6410, subdivision 1, and who has not passed the examination required by section 148.6408, subdivision 2, or 148.6410, subdivision 2, must practice under the supervision of a licensed occupational therapist. The supervising therapist must, at a minimum, supervise the person

working under temporary licensure in the performance of the initial evaluation, determination of the appropriate treatment plan, and periodic review and modification of the treatment plan. The supervising therapist must observe the person working under temporary licensure in order to assure service competency in carrying out evaluation, treatment planning, and treatment implementation. The frequency of face-to-face collaboration between the person working under temporary licensure and the supervising therapist must be based on the condition of each patient or client, the complexity of treatment and evaluation procedures, and the proficiencies of the person practicing under temporary licensure. The occupational therapist or occupational therapy assistant working under temporary licensure must provide verification of supervision on the application form provided by the ~~commissioner~~ board.

Sec. 10. Minnesota Statutes 2016, section 148.6418, subdivision 5, is amended to read:

Subd. 5. **Expiration of temporary licensure.** A temporary license issued to a person pursuant to subdivision 2, clause (1), expires six months from the date of issuance for occupational therapists and occupational therapy assistants or on the date the ~~commissioner~~ board grants or denies licensure, whichever occurs first. A temporary license issued to a person pursuant to subdivision 2, clause (2) or (3), expires 90 days after it is issued. Upon application for renewal, a temporary license shall be renewed once to persons who have not met the examination requirement under section 148.6408, subdivision 2, or 148.6410, subdivision 2, within the initial temporary licensure period and who are not the subject of a disciplinary action nor disqualified on the basis of items in section 148.6448, subdivision 1. Upon application for renewal, a temporary license shall be renewed once to persons who are able to demonstrate good cause for failure to meet the requirements for licensure under section 148.6412 or 148.6415 within the initial temporary licensure period and who are not the subject of a disciplinary action nor disqualified on the basis of items in section 148.6448, subdivision 1.

Sec. 11. Minnesota Statutes 2016, section 148.6420, subdivision 1, is amended to read:

Subdivision 1. **Applications for licensure.** An applicant for licensure must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8.1 Sec. 12. Minnesota Statutes 2016, section 148.6420, subdivision 3, is amended to read:

8.2 Subd. 3. **Applicants certified by National Board for Certification in Occupational**  
8.3 **Therapy.** An applicant who is certified by the National Board for Certification in  
8.4 Occupational Therapy must provide the materials required in subdivision 1 and the following:

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

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

8.14 Sec. 13. Minnesota Statutes 2016, section 148.6420, subdivision 5, is amended to read:

8.15 Subd. 5. **Action on applications for licensure.** (a) The ~~commissioner~~ board shall  
8.16 approve, approve with conditions, or deny licensure. The ~~commissioner~~ board shall act on  
8.17 an application for licensure according to paragraphs (b) to (d).

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

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

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



9.1 reconsideration of the ~~commissioner's~~ board's determination to deny licensure or approve  
9.2 licensure with conditions.

9.3 Sec. 14. Minnesota Statutes 2016, section 148.6423, is amended to read:

9.4 **148.6423 LICENSURE RENEWAL.**

9.5 Subdivision 1. **Renewal requirements.** To be eligible for licensure renewal, a licensee  
9.6 must:

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

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

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

9.12 (4) submit additional information as requested by the ~~commissioner~~ board to clarify  
9.13 information presented in the renewal application. The information must be submitted within  
9.14 30 days after the ~~commissioner's~~ board's request.

9.15 Subd. 2. **Renewal deadline.** (a) Except as provided in paragraph (c), licenses must be  
9.16 renewed every two years. Licensees must comply with the following procedures in paragraphs  
9.17 (b) to (e):

9.18 (b) Each license must state an expiration date. An application for licensure renewal must  
9.19 be received by the ~~Department of Health~~ board or postmarked at least 30 calendar days  
9.20 before the expiration date. If the postmark is illegible, the application shall be considered  
9.21 timely if received at least 21 calendar days before the expiration date.

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

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

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

9.30 Subd. 3. **Licensure renewal notice.** At least 60 calendar days before the expiration date  
9.31 in subdivision 2, the ~~commissioner~~ board shall mail a renewal notice to the licensee's last

10.1 known address on file with the ~~commissioner~~ board. The notice must include an application  
10.2 for licensure renewal and notice of fees required for renewal. The licensee's failure to receive  
10.3 notice does not relieve the licensee of the obligation to meet the renewal deadline and other  
10.4 requirements for licensure renewal.

10.5 Sec. 15. Minnesota Statutes 2016, section 148.6425, subdivision 2, is amended to read:

10.6 Subd. 2. **Licensure renewal after licensure expiration date.** An individual whose  
10.7 application for licensure renewal is received after the licensure expiration date must submit  
10.8 the following:

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

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

10.12 (3) proof of having met the continuing education requirements in section 148.6443,  
10.13 subdivision 1; and

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

10.18 Sec. 16. Minnesota Statutes 2016, section 148.6425, subdivision 3, is amended to read:

10.19 Subd. 3. **Licensure renewal four years or more after licensure expiration date.** (a)  
10.20 An individual who requests licensure renewal four years or more after the licensure expiration  
10.21 date must submit the following:

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

10.24 (2) the renewal fee and the late fee required under section 148.6445 if renewal application  
10.25 is based on paragraph (b), clause (1), (2), or (3), or the renewal fee required under section  
10.26 148.6445 if renewal application is based on paragraph (b), clause (4);

10.27 (3) proof of having met the continuing education requirement in section 148.6443,  
10.28 subdivision 1, except the continuing education must be obtained in the two years immediately  
10.29 preceding application renewal; and

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

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

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

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

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

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

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

12.1 in a supervised practice is responsible for obtaining the supervision required under this  
12.2 paragraph and must comply with the ~~commissioner's~~ board's requirements for supervision  
12.3 during the entire 160 hours of supervised practice. The supervised practice must be completed  
12.4 in two months and may be completed at the applicant's place of work.

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

12.10 Sec. 17. Minnesota Statutes 2016, section 148.6428, is amended to read:

12.11 **148.6428 CHANGE OF NAME, ADDRESS, OR EMPLOYMENT.**

12.12 A licensee who changes a name, address, or employment must inform the ~~commissioner~~  
12.13 board, in writing, of the change of name, address, employment, business address, or business  
12.14 telephone number within 30 days. A change in name must be accompanied by a copy of a  
12.15 marriage certificate or court order. All notices or other correspondence mailed to or served  
12.16 on a licensee by the ~~commissioner~~ board at the licensee's address on file with the  
12.17 ~~commissioner~~ board shall be considered as having been received by the licensee.

12.18 Sec. 18. Minnesota Statutes 2016, section 148.6443, subdivision 5, is amended to read:

12.19 Subd. 5. **Reporting continuing education contact hours.** Within one month following  
12.20 licensure expiration, each licensee shall submit verification that the licensee has met the  
12.21 continuing education requirements of this section on the continuing education report form  
12.22 provided by the ~~commissioner~~ board. The continuing education report form may require  
12.23 the following information:

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

13.1 Sec. 19. Minnesota Statutes 2016, section 148.6443, subdivision 6, is amended to read:

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

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

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

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

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

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

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

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

13.25 (5) verification of attendance by:

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

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

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

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

14.6 Sec. 20. Minnesota Statutes 2016, section 148.6443, subdivision 7, is amended to read:

14.7 Subd. 7. **Waiver of continuing education requirements.** The ~~commissioner~~ board may  
14.8 grant a waiver of the requirements of this section in cases where the requirements would  
14.9 impose an extreme hardship on the licensee. The request for a waiver must be in writing,  
14.10 state the circumstances that constitute extreme hardship, state the period of time the licensee  
14.11 wishes to have the continuing education requirement waived, and state the alternative  
14.12 measures that will be taken if a waiver is granted. The ~~commissioner~~ board shall set forth,  
14.13 in writing, the reasons for granting or denying the waiver. Waivers granted by the  
14.14 ~~commissioner~~ board shall specify, in writing, the time limitation and required alternative  
14.15 measures to be taken by the licensee. A request for waiver shall be denied if the ~~commissioner~~  
14.16 board finds that the circumstances stated by the licensee do not support a claim of extreme  
14.17 hardship, the requested time period for waiver is unreasonable, the alternative measures  
14.18 proposed by the licensee are not equivalent to the continuing education activity being waived,  
14.19 or the request for waiver is not submitted to the ~~commissioner~~ board within 60 days after  
14.20 the expiration date.

14.21 Sec. 21. Minnesota Statutes 2016, section 148.6443, subdivision 8, is amended to read:

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

14.30 Sec. 22. Minnesota Statutes 2016, section 148.6445, subdivision 1, is amended to read:

14.31 Subdivision 1. **Initial licensure fee.** The initial licensure fee for occupational therapists  
14.32 is \$145. The initial licensure fee for occupational therapy assistants is \$80. The ~~commissioner~~

15.1 board shall prorate fees based on the number of quarters remaining in the biennial licensure  
15.2 period.

15.3 Sec. 23. Minnesota Statutes 2016, section 148.6445, subdivision 10, is amended to read:

15.4 Subd. 10. **Use of fees.** All fees are nonrefundable. The ~~commissioner~~ board shall only  
15.5 use fees collected under this section for the purposes of administering this chapter. The  
15.6 legislature must not transfer money generated by these fees from the state government  
15.7 special revenue fund to the general fund. ~~Surcharges collected by the commissioner of health~~  
15.8 ~~under section 16E.22 are not subject to this subdivision.~~

15.9 Sec. 24. Minnesota Statutes 2016, section 148.6448, is amended to read:

15.10 **148.6448 GROUNDS FOR DENIAL OF LICENSURE OR DISCIPLINE;**  
15.11 **INVESTIGATION PROCEDURES; DISCIPLINARY ACTIONS.**

15.12 Subdivision 1. **Grounds for denial of licensure or discipline.** The ~~commissioner~~ board  
15.13 may deny an application for licensure, may approve licensure with conditions, or may  
15.14 discipline a licensee using any disciplinary actions listed in subdivision 3 on proof that the  
15.15 individual has:

15.16 (1) intentionally submitted false or misleading information to the ~~commissioner~~ board  
15.17 or the advisory council;

15.18 (2) failed, within 30 days, to provide information in response to a written request by the  
15.19 ~~commissioner~~ board or advisory council;

15.20 (3) performed services of an occupational therapist or occupational therapy assistant in  
15.21 an incompetent manner or in a manner that falls below the community standard of care;

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

15.24 (5) violated sections 148.6401 to 148.6450;

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

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

15.29 (8) aided or abetted another person in violating any provision of sections 148.6401 to  
15.30 148.6450;

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

(1) refuse to grant or renew licensure;

(2) approve licensure with conditions;

(3) revoke licensure;

(4) suspend licensure;

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

(6) any action authorized by statute.

Subd. 4. **Effect of specific disciplinary action on use of title.** Upon notice from the ~~commissioner~~ board denying licensure renewal or upon notice that disciplinary actions have been imposed and the person is no longer entitled to practice occupational therapy and use the occupational therapy and licensed titles, the person shall cease to practice occupational therapy, to use titles protected by sections 148.6401 to 148.6450, and to represent to the public that the person is licensed by the ~~commissioner~~ board.

Subd. 5. **Reinstatement requirements after disciplinary action.** A person who has had licensure suspended may request and provide justification for reinstatement following the period of suspension specified by the ~~commissioner~~ board. The requirements of sections 148.6423 and 148.6425 for renewing licensure and any other conditions imposed with the suspension must be met before licensure may be reinstated.

Subd. 6. **Authority to contract.** The ~~commissioner~~ board shall contract with the health professionals services program as authorized by sections 214.31 to 214.37 to provide these services to practitioners under this chapter. The health professionals services program does not affect the ~~commissioner's~~ board's authority to discipline violations of sections 148.6401 to 148.6450.

Sec. 25. **[148.6449] BOARD OF OCCUPATIONAL THERAPY PRACTICE.**

Subdivision 1. **Creation.** The Board of Occupational Therapy Practice consists of 11 members appointed by the governor. The members are:

(1) five occupational therapists licensed under sections 148.6401 to 148.6449;

(2) three occupational therapy assistants licensed under sections 148.6401 to 148.6449;

and

(3) three public members, including two members who have received occupational therapy services or have a family member who has received occupational therapy services, and one member who is a health care professional or health care provider licensed in Minnesota.

Subd. 2. **Qualifications of board members.** (a) The occupational therapy practitioners appointed to the board must represent a variety of practice areas and settings.

(b) At least two occupational therapy practitioners must be employed outside the seven-county metropolitan area.

(c) Board members shall serve for not more than two consecutive terms.

Subd. 3. **Recommendations for appointment.** Prior to the end of the term of a member of the board, or within 60 days after a position on the board becomes vacant, the Minnesota Occupational Therapy Association and other interested persons and organizations may recommend to the governor members qualified to serve on the board. The governor may appoint members to the board from the list of persons recommended or from among other qualified candidates.

Subd. 4. **Officers.** The board shall biennially elect from its membership a chair, vice-chair, and secretary-treasurer. Each officer shall serve until a successor is elected.

Subd. 5. **Executive director.** The board shall 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.

19.1 Subd. 6. **Terms; compensation; removal of members.** Membership terms, compensation  
19.2 of members, removal of members, the filling of membership vacancies, and fiscal year and  
19.3 reporting requirements shall be as provided in chapter 214. The provision of staff,  
19.4 administrative services, and office space; the review and processing of complaints; the  
19.5 setting of board fees; and other activities relating to board operations shall be conducted  
19.6 according to chapter 214.

19.7 Subd. 7. **Duties of the Board of Occupational Therapy Practice.** (a) The board shall:

19.8 (1) adopt and enforce rules and laws necessary for licensing occupational therapy  
19.9 practitioners;

19.10 (2) adopt and enforce rules for regulating the professional conduct of the practice of  
19.11 occupational therapy;

19.12 (3) issue licenses to qualified individuals in accordance with sections 148.6401 to  
19.13 148.6449;

19.14 (4) assess and collect fees for the issuance and renewal of licenses;

19.15 (5) educate the public about the requirements for licensing occupational therapy  
19.16 practitioners, educate occupational therapy practitioners about the rules of conduct, and  
19.17 enable the public to file complaints against applicants and licensees who may have violated  
19.18 sections 148.6401 to 148.6449; and

19.19 (6) investigate individuals engaging in practices that violate sections 148.6401 to  
19.20 148.6449 and take necessary disciplinary, corrective, or other action according to section  
19.21 148.6448.

19.22 (b) The board may adopt rules necessary to define standards or carry out the provisions  
19.23 of sections 148.6401 to 148.6449. Rules shall be adopted according to chapter 14.

19.24 Sec. 26. Minnesota Statutes 2016, section 214.01, subdivision 2, is amended to read:

19.25 Subd. 2. **Health-related licensing board.** "Health-related licensing board" means the  
19.26 Board of Examiners of Nursing Home Administrators established pursuant to section  
19.27 144A.19, the Office of Unlicensed Complementary and Alternative Health Care Practice  
19.28 established pursuant to section 146A.02, the Board of Medical Practice created pursuant to  
19.29 section 147.01, the Board of Nursing created pursuant to section 148.181, the Board of  
19.30 Chiropractic Examiners established pursuant to section 148.02, the Board of Optometry  
19.31 established pursuant to section 148.52, the Board of Occupational Therapy Practice  
19.32 established pursuant to section 148.6449, 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 148E.025, the Board of Marriage and Family Therapy pursuant to section 148B.30, the Board of Behavioral Health and Therapy established by section 148B.51, 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. 27. **BOARD OF OCCUPATIONAL THERAPY PRACTICE.**

The governor shall appoint all members to the Board of Occupational Therapy Practice under Minnesota Statutes, section 148.6449, by October 1, 2017. The governor shall designate one member of the board to convene the first meeting of the board by November 1, 2017. The board shall elect officers at its first meeting.

Sec. 28. **REVISOR'S INSTRUCTION.**

In Minnesota Statutes, the revisor of statutes shall replace references to Minnesota Statutes, section 148.6450, with Minnesota Statutes, section 148.6449.

Sec. 29. **REPEALER.**

Minnesota Statutes 2016, sections 148.6402, subdivision 2; and 148.6450, are repealed.

Sec. 30. **EFFECTIVE DATE.**

Sections 1 to 26 and 28 to 29 are effective January 1, 2018. Section 27 is effective August 1, 2017.

**148.6402 DEFINITIONS.**

Subd. 2. **Advisory council.** "Advisory council" means the Occupational Therapy Practitioners Advisory Council in section 148.6450.

**148.6450 OCCUPATIONAL THERAPY PRACTITIONERS ADVISORY COUNCIL.**

Subdivision 1. **Membership.** The commissioner shall appoint seven persons to an Occupational Therapy Practitioners Advisory Council consisting of the following:

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

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

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

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

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

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

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

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

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

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