

CHAPTER 148

PUBLIC HEALTH OCCUPATIONS, LICENSING

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148.06 APPLICATION; EXAMINATION; LICENSE; FEE.

Subdivision 1 License required; qualifications. No person shall practice chiropractic in this state without first being licensed by the state board of chiropractic examiners. The applicant shall have earned at least one-half of all academic credits required for awarding of a baccalaureate degree from the University of Minnesota, or other university, college, or community college of equal standing, in subject matter determined by the board, and taken a four-year resident course of at least eight months each in a school or college of chiropractic that is fully accredited by the council on chiropractic education or fully accredited by an agency approved by the United States Office of Education or their successors as of January 1, 1988. The board may issue licenses to practice chiropractic without compliance with prechiropractic or academic requirements listed above if in the opinion of the board the applicant has the qualifications equivalent to those required of other applicants, the applicant satisfactorily passes written and practical examinations as required by the board of chiropractic examiners, and the applicant is a graduate of a college of chiropractic with a reciprocal recognition agreement with the council on chiropractic education as of January 1, 1988. The board may recommend a two-year prechiropractic course of instruction to any university, college, or community college which in its judgment would satisfy the academic prerequisite for licensure as established by this section.

An examination for a license shall be in writing and shall include testing in

(a) The basic sciences including but not limited to anatomy, physiology, bacteriology, pathology, hygiene, and chemistry as related to the human body or mind,

(b) The clinical sciences including but not limited to the science and art of chiropractic, chiropractic physiotherapy, diagnosis, roentgenology, and nutrition, and

(c) Professional ethics and any other subjects that the board may deem advisable

The board may consider a valid certificate of examination from the National Board of Chiropractic Examiners as evidence of compliance with the written examination requirements of this subdivision. The applicant shall be required to give practical demonstration in vertebral palpation, neurology, adjusting and any other subject that the board may deem advisable. A license, countersigned by the members of the board and authenticated by the seal thereof, shall be granted to each applicant who correctly answers 75 percent of the questions propounded in each of the subjects required by this subdivision and meets the standards of

practical demonstration established by the board. Each application shall be accompanied by a fee set by the board. The fee shall not be returned but the applicant may, within one year, apply for examination without the payment of an additional fee. The board may grant a license to an applicant who holds a valid license to practice chiropractic issued by the appropriate licensing board of another state, provided the applicant meets the other requirements of this section and satisfactorily passes a practical examination approved by the board. The burden of proof is on the applicant to demonstrate these qualifications or satisfaction of these requirements.

History: 1999 c 55 s 1

148.171 DEFINITIONS; TITLE.

Subdivision 1 **Title.** Sections 148.171 to 148.285 shall be referred to as the Minnesota Nurse Practice Act.

Subd. 2 **Scope.** As used in sections 148.171 to 148.285, the definitions in this section have the meanings given.

Subd. 3 **Advanced practice registered nurse.** "Advanced practice registered nurse," abbreviated APRN, means an individual licensed as a registered nurse by the board and certified by a national nurse certification organization acceptable to the board to practice as a clinical nurse specialist, nurse anesthetist, nurse-midwife, or nurse practitioner.

Subd. 4 **Board.** "Board" means the Minnesota board of nursing.

Subd. 5 **Clinical nurse specialist practice.** "Clinical nurse specialist practice" means the provision of patient care in a particular specialty or subspecialty of advanced practice registered nursing within the context of collaborative management, and includes (1) diagnosing illness and disease, (2) providing nonpharmacologic treatment, including psychotherapy, (3) promoting wellness, and (4) preventing illness and disease. The certified clinical nurse specialist is certified for advanced practice registered nursing in a specific field of clinical nurse specialist practice.

Subd. 6 **Collaborative management.** "Collaborative management" is a mutually agreed upon plan between an advanced practice registered nurse and one or more physicians or surgeons licensed under chapter 147 that designates the scope of collaboration necessary to manage the care of patients. The advanced practice registered nurse and the one or more physicians must have experience in providing care to patients with the same or similar medical problems, except that certified registered nurse anesthetists may continue to provide anesthesia in collaboration with physicians, including surgeons, podiatrists licensed under chapter 153, and dentists licensed under chapter 150A. Certified registered nurse anesthetists must provide anesthesia services at the same hospital, clinic, or health care setting as the physician, surgeon, podiatrist, or dentist.

Subd. 7 **Consultation.** "Consultation" means the process in which an advanced practice registered nurse who maintains primary management responsibility for a patient's care seeks advice or opinion of a physician or another member of the health care team.

Subd. 8 **Licensed practical nurse.** "Licensed practical nurse," abbreviated LPN, means an individual licensed by the board to practice practical nursing.

Subd. 9 **Nurse.** "Nurse" means registered nurse, advanced practice registered nurse, and licensed practical nurse unless the context clearly refers to only one category.

Subd. 10 **Nurse-midwife practice.** "Nurse-midwife practice" means the management of women's primary health care, focusing on pregnancy, childbirth, the postpartum period, care of the newborn, and the family planning and gynecological needs of women and includes diagnosing and providing nonpharmacologic treatment within a system that provides for consultation, collaborative management, and referral as indicated by the health status of patients.

Subd. 11 **Nurse practitioner practice.** "Nurse practitioner practice" means, within the context of collaborative management (1) diagnosing, directly managing, and preventing acute and chronic illness and disease, and (2) promoting wellness, including providing nonpharmacologic treatment. The certified nurse practitioner is certified for advanced registered nurse practice in a specific field of nurse practitioner practice.

Subd 12 Nursing assistant. “Nursing assistant” means an individual providing nursing or nursing-related services that do not require the specialized knowledge and skill of a nurse, at the direction of a nurse, but does not include a licensed health professional or an individual who volunteers to provide such services without monetary compensation

Subd 13 Practice of advanced practice registered nursing. The “practice of advanced practice registered nursing” means the performance of clinical nurse specialist practice, nurse-midwife practice, nurse practitioner practice, or registered nurse anesthetist practice as defined in subdivisions 5, 10, 11, and 21. The practice includes functioning as a direct care provider, case manager, consultant, educator, and researcher. The practice of advanced practice registered nursing also includes accepting referrals from, consulting with, cooperating with, or referring to all other types of health care providers, including but not limited to physicians, chiropractors, podiatrists, and dentists, provided that the advanced practice registered nurse and the other provider are practicing within their scopes of practice as defined in state law. The advanced practice registered nurse must practice within a health care system that provides for consultation, collaborative management, and referral as indicated by the health status of the patient

Subd 14 Practice of practical nursing. The “practice of practical nursing” means the performance for compensation or personal profit of any of those services in observing and caring for the ill, injured, or infirm, in applying counsel and procedure to safeguard life and health, in administering medication and treatment prescribed by a licensed health professional, which are commonly performed by licensed practical nurses and which require specialized knowledge and skill such as are taught or acquired in an approved school of practical nursing, but which do not require the specialized education, knowledge, and skill of a registered nurse

Subd 15 Practice of professional nursing. The “practice of professional nursing” means the performance for compensation or personal profit of the professional interpersonal service of (1) providing a nursing assessment of the actual or potential health needs of individuals, families, or communities, (2) providing nursing care supportive to or restorative of life by functions such as skilled ministrations of nursing care, supervising and teaching nursing personnel, health teaching and counseling, case finding, and referral to other health resources, and (3) evaluating these actions. The practice of professional nursing includes both independent nursing functions and delegated medical functions which may be performed in collaboration with other health team members, or may be delegated by the professional nurse to other nursing personnel. Independent nursing function may also be performed autonomously. The practice of professional nursing requires that level of special education, knowledge, and skill ordinarily expected of an individual who has completed an approved professional nursing education program as described in section 148.211, subdivision 1

Subd 16 Prescribing. “Prescribing” means the act of generating a prescription for the preparation of, use of, or manner of using a drug or therapeutic device in accordance with the provisions of section 148.235. Prescribing does not include recommending the use of a drug or therapeutic device which is not required by the federal Food and Drug Administration to meet the labeling requirements for prescription drugs and devices. Prescribing also does not include recommending or administering a drug or therapeutic device perioperatively by a certified registered nurse anesthetist

Subd 17 Prescription. “Prescription” means a written direction or an oral direction reduced to writing provided to or for an individual patient for the preparation or use of a drug or therapeutic device

Subd 18 Public health nurse. “Public health nurse” means a registered nurse who meets the voluntary registration requirements established by the board by rule

Subd 19 Referral. “Referral” means the process in which an advanced practice registered nurse directs a patient to a physician or another health care professional for management of a particular problem or aspect of the patient’s care

Subd 20 Registered nurse. “Registered nurse,” abbreviated R N, means an individual licensed by the board to practice professional nursing

Subd 21 Registered nurse anesthetist practice. “Registered nurse anesthetist practice” means the provision of anesthesia care and related services within the context of collabor-

orative management, including selecting, obtaining, and administering drugs and therapeutic devices to facilitate diagnostic, therapeutic, and surgical procedures upon request, assignment, or referral by a patient's physician, dentist, or podiatrist

Subd 22 **Registered nurse, certified.** "Registered nurse, certified," abbreviated RN,C, means a registered nurse who has received certification from a national nursing organization or national nurse certification organization for practice according to subdivision 15 in a specialized field of professional nursing. A registered nurse, certified, shall not practice advanced practice registered nursing as described in subdivision 5, 10, 11, 13, or 21

History: 1999 c 172 s 2,18

148.191 OFFICERS; STAFF; POWERS.

[For text of subd 1, see M S 1998]

Subd 2 **Powers.** (a) The board is authorized to adopt and, from time to time, revise rules not inconsistent with the law, as may be necessary to enable it to carry into effect the provisions of sections 148 171 to 148 285. The board shall prescribe by rule curricula and standards for schools and courses preparing persons for licensure under sections 148 171 to 148 285. It shall conduct or provide for surveys of such schools and courses at such times as it may deem necessary. It shall approve such schools and courses as meet the requirements of sections 148 171 to 148 285 and board rules. It shall examine, license, and renew the license of duly qualified applicants. It shall hold examinations at least once in each year at such time and place as it may determine. It shall by rule adopt, evaluate, and periodically revise, as necessary, requirements for licensure and for registration and renewal of registration as defined in section 148 231. It shall maintain a record of all persons licensed by the board to practice professional or practical nursing and all registered nurses who hold Minnesota licensure and registration and are certified as advanced practice registered nurses. It shall cause the prosecution of all persons violating sections 148 171 to 148 285 and have power to incur such necessary expense therefor. It shall register public health nurses who meet educational and other requirements established by the board by rule, including payment of a fee. Prior to the adoption of rules, the board shall use the same procedures used by the department of health to certify public health nurses. It shall have power to issue subpoenas, and to compel the attendance of witnesses and the production of all necessary documents and other evidentiary material. Any board member may administer oaths to witnesses, or take their affirmation. It shall keep a record of all its proceedings.

(b) The board shall have access to hospital, nursing home, and other medical records of a patient cared for by a nurse under review. If the board does not have a written consent from a patient permitting access to the patient's records, the nurse or facility shall delete any data in the record that identifies the patient before providing it to the board. The board shall have access to such other records as reasonably requested by the board to assist the board in its investigation. Nothing herein may be construed to allow access to any records protected by section 145 64. The board shall maintain any records obtained pursuant to this paragraph as investigative data under chapter 13.

History: 1999 c 172 s 3

148 233 IDENTIFICATION OF CERTIFIED REGISTERED NURSES.

Subdivision 1 **Registered nurse.** A registered nurse certified in a specialized field of professional nursing as described in section 148 171, subdivision 22, shall use the designation RN,C for personal identification and in documentation of services provided. Identification of educational degrees and specialty fields may be added.

Subd 2 **Advanced practice registered nurse.** An advanced practice registered nurse certified as a certified clinical nurse specialist, certified nurse-midwife, certified nurse practitioner, or certified registered nurse anesthetist shall use the appropriate designation RN,CNS, RN,CNM, RN,CNP, or RN,CRNA for personal identification and in documentation of services provided. Identification of educational degrees and specialty fields may be added.

History: 1999 c 172 s 4,18

148.235 PRESCRIBING DRUGS AND THERAPEUTIC DEVICES.

Subdivision 1 **Certified nurse–midwives.** A certified nurse–midwife may prescribe and administer drugs and therapeutic devices within practice as a certified nurse–midwife

Subd 2 **Certified nurse practitioners.** A certified nurse practitioner who has a written agreement with a physician based on standards established by the Minnesota Nurses Association and the Minnesota Medical Association that defines the delegated responsibilities related to the prescription of drugs and therapeutic devices, may prescribe and administer drugs and therapeutic devices within the scope of the written agreement and within practice as a certified nurse practitioner. The written agreement required under this subdivision shall be based on standards established by the Minnesota Nurses Association and the Minnesota Medical Association as of January 1, 1996, unless both associations agree to revisions

Subd 2a **Certified registered nurse anesthetists.** A certified registered nurse anesthetist who has a written agreement with a physician based on standards established by the Minnesota Nurses Association and the Minnesota Medical Association that defines the delegated responsibilities related to the prescription of drugs and therapeutic devices, may prescribe and administer drugs and therapeutic devices within the scope of the written agreement and within practice as a certified registered nurse anesthetist

Subd 3 [Repealed by amendment, 1999 c 172 s 5]

Subd 4 **Certified clinical nurse specialists in psychiatric and mental health nursing.** A certified clinical nurse specialist who (1) has successfully completed no less than 30 hours of formal study in the prescribing of psychotropic medications and medications to treat their side effects which included instruction in health assessment, psychotropic classifications, psychopharmacology, indications, dosages, contraindications, side effects, and evidence of application, and (2) has a written agreement with a psychiatrist or other physician based on standards established by the Minnesota Nurses Association and the Minnesota Psychiatric Association that specifies and defines the delegated responsibilities related to the prescription of drugs in relationship to the diagnosis, may prescribe and administer drugs used to treat psychiatric and behavioral disorders and the side effects of those drugs within the scope of the written agreement and within practice as a certified clinical nurse specialist in psychiatric and mental health nursing. The written agreement required under this subdivision shall be based on standards established by the Minnesota Nurses Association and the Minnesota Psychiatric Association as of January 1, 1996, unless both associations agree to revisions

Nothing in this subdivision removes or limits the legal professional liability of the treating psychiatrist, certified clinical nurse specialist, mental health clinic or hospital for the prescription and administration of drugs by a certified clinical nurse specialist in accordance with this subdivision

Subd 4a **Other certified clinical nurse specialists.** A certified clinical nurse specialist who (1) has successfully completed no less than 30 hours of formal study from a college, university, or university health care institution, which included the following instruction in health assessment, medication classifications, indications, dosages, contraindications, and side effects, supervised practice, and competence evaluation, including evidence of the application of knowledge pertaining to prescribing for and therapeutic management of the clinical type of patients in the certified clinical nurse specialist's practice, and (2) has a written agreement with a physician based on standards established by the Minnesota Nurses Association and the Minnesota Medical Association that defines the delegated responsibilities related to the prescription of drugs and therapeutic devices, may prescribe and administer drugs and therapeutic devices within the scope of the written agreement and within practice as a certified clinical nurse specialist

Subd 4b **Dispensing authority.** An advanced practice registered nurse who is authorized under this section to prescribe drugs is authorized to dispense drugs subject to the same requirements established for the prescribing of drugs. This authority to dispense extends only to those drugs described in the written agreement entered into under this section. The authority to dispense includes, but is not limited to, the authority to receive and dispense sample drugs

Subd 5 [Repealed by amendment, 1999 c 172 c 5]

Subd 6 **Standards for written agreements; review and filing.** Written agreements required under this section shall be maintained at the primary practice site of the advanced practice registered nurse and of the collaborating physician. The written agreement does not need to be filed with the board of nursing or the board of medical practice.

Subd 7 **Federal registration.** Any advanced practice registered nurse who applies to the federal Drug Enforcement Administration for a registration number shall submit to the board

- (1) proof that requirements of this section are met, and
- (2) a processing fee of \$50

History: 1999 c 172 s 5

148.261 GROUND FOR DISCIPLINARY ACTION.

Subdivision 1 **Grounds listed.** The board may deny, revoke, suspend, limit, or condition the license and registration of any person to practice professional, advanced practice registered, or practical nursing under sections 148 171 to 148 285, or to otherwise discipline a licensee or applicant as described in section 148 262. The following are grounds for disciplinary action:

(1) Failure to demonstrate the qualifications or satisfy the requirements for a license contained in sections 148 171 to 148 285 or rules of the board. In the case of a person applying for a license, the burden of proof is upon the applicant to demonstrate the qualifications or satisfaction of the requirements.

(2) Employing fraud or deceit in procuring or attempting to procure a permit, license, or registration certificate to practice professional or practical nursing or attempting to subvert the licensing examination process. Conduct that subverts or attempts to subvert the licensing examination process includes, but is not limited to:

(i) conduct that violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination,

(ii) conduct that violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials, or

(iii) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf.

(3) Conviction during the previous five years of a felony or gross misdemeanor reasonably related to the practice of professional, advanced practice registered, or practical nursing. Conviction as used in this subdivision includes a conviction of an offense that if committed in this state would be considered a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered.

(4) Revocation, suspension, limitation, conditioning, or other disciplinary action against the person's professional or practical nursing license or advanced practice registered nursing credential, in another state, territory, or country, failure to report to the board that charges regarding the person's nursing license or other credential are pending in another state, territory, or country, or having been refused a license or other credential by another state, territory, or country.

(5) Failure to or inability to perform professional or practical nursing as defined in section 148 171, subdivision 14 or 15, with reasonable skill and safety, including failure of a registered nurse to supervise or a licensed practical nurse to monitor adequately the performance of acts by any person working at the nurse's direction.

(6) Engaging in unprofessional conduct, including, but not limited to, a departure from or failure to conform to board rules of professional or practical nursing practice that interpret the statutory definition of professional or practical nursing as well as provide criteria for violations of the statutes, or, if no rule exists, to the minimal standards of acceptable and prevailing professional or practical nursing practice, or any nursing practice that may create un-

necessary danger to a patient's life, health, or safety. Actual injury to a patient need not be established under this clause.

(7) Failure of an advanced practice registered nurse to practice with reasonable skill and safety or departure from or failure to conform to standards of acceptable and prevailing advanced practice registered nursing.

(8) Delegating or accepting the delegation of a nursing function or a prescribed health care function when the delegation or acceptance could reasonably be expected to result in unsafe or ineffective patient care.

(9) Actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of any mental or physical condition.

(10) Adjudication as mentally incompetent, mentally ill, a chemically dependent person, or a person dangerous to the public by a court of competent jurisdiction, within or without this state.

(11) Engaging in any unethical conduct, including, but not limited to, conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient. Actual injury need not be established under this clause.

(12) Engaging in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient, or engaging in sexual exploitation of a patient or former patient.

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

(14) Revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law.

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

(16) Improper management of patient records, including failure to maintain adequate patient records, to comply with a patient's request made pursuant to section 144 335, or to furnish a patient record or report required by law.

(17) Knowingly aiding, assisting, advising, or allowing an unlicensed person to engage in the unlawful practice of professional, advanced practice registered, or practical nursing.

(18) Violating a rule adopted by the board, an order of the board, or a state or federal law relating to the practice of professional, advanced practice registered, or practical nursing, or a state or federal narcotics or controlled substance law.

(19) Knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo.

(20) Aiding suicide or aiding attempted suicide in violation of section 609 215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609 215, subdivision 1 or 2,

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609 215, subdivision 4,

(iii) a copy of the record of a judgment assessing damages under section 609 215, subdivision 5, or

(iv) a finding by the board that the person violated section 609 215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609 215, subdivision 1 or 2.

(21) Practicing outside the scope of practice authorized by section 148 171, subdivision 5, 10, 11, 13, 14, 15, or 21.

(22) Practicing outside the specific field of nursing practice for which an advanced practice registered nurse is certified unless the practice is authorized under section 148 284.

(23) Making a false statement or knowingly providing false information to the board, failing to make reports as required by section 148 263, or failing to cooperate with an investigation of the board as required by section 148 265

(24) Engaging in false, fraudulent, deceptive, or misleading advertising

(25) Failure to inform the board of the person's certification status as a nurse anesthetist, nurse-midwife, nurse practitioner, or clinical nurse specialist

(26) Engaging in clinical nurse specialist practice, nurse-midwife practice, nurse practitioner practice, or registered nurse anesthetist practice without current certification by a national nurse certification organization acceptable to the board, except during the period between completion of an advanced practice registered nurse course of study and certification, not to exceed six months or as authorized by the board

(27) Engaging in conduct that is prohibited under section 145 412

[For text of subd 4, see M S 1998]

Subd 5 Examination; access to medical data. The board may take the following actions if it has probable cause to believe that grounds for disciplinary action exist under subdivision 1, clause (9) or (10)

(a) It may direct the applicant or nurse to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this subdivision, when a nurse licensed under sections 148 171 to 148 285 is directed in writing by the board to submit to a mental or physical examination or chemical dependency evaluation, that person is considered to have consented and to have waived all objections to admissibility on the grounds of privilege. Failure of the applicant or nurse to submit to an examination when directed constitutes an admission of the allegations against the applicant or nurse, unless the failure was due to circumstances beyond the person's control, and the board may enter a default and final order without taking testimony or allowing evidence to be presented. A nurse affected under this paragraph shall, at reasonable intervals, be given an opportunity to demonstrate that the competent practice of professional, advanced practice registered, or practical nursing can be resumed with reasonable skill and safety to patients. Neither the record of proceedings nor the orders entered by the board in a proceeding under this paragraph, may be used against a nurse in any other proceeding.

(b) It may, notwithstanding sections 13 42, 144 651, 595 02, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a registered nurse, advanced practice registered nurse, licensed practical nurse, or applicant for a license without that person's consent. 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 data on individuals as defined in section 13 02.

History: 1999 c 172 s 6,7,18

148.262 FORMS OF DISCIPLINARY ACTION; AUTOMATIC SUSPENSION; TEMPORARY SUSPENSION; REISSUANCE.

Subdivision 1 Forms of disciplinary action. When the board finds that grounds for disciplinary action exist under section 148 261, subdivision 1, it may take one or more of the following actions:

(1) deny the license, registration, or registration renewal,

(2) revoke the license,

(3) suspend the license,

(4) impose limitations on the nurse's practice of professional, advanced practice registered, or practical nursing including, but not limited to, limitation of scope of practice or the requirement of practice under supervision,

(5) impose conditions on the retention of the license, including, but not limited to, the imposition of retraining or rehabilitation requirements or the conditioning of continued practice on demonstration of knowledge or skills by appropriate examination, monitoring, or other review,

(6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed as to deprive the nurse of any economic advantage gained by reason of the violation charged, to reimburse the board for the cost of counsel, investigation, and proceeding, and to discourage repeated violations,

(7) order the nurse to provide unremunerated service,

(8) censure or reprimand the nurse, or

(9) any other action justified by the facts in the case

[For text of subds 2 to 4, see M S 1998]

History: 1999 c 172 s 8

148.263 REPORTING OBLIGATIONS.

[For text of subds 1 and 2, see M S 1998]

Subd 3 **Licensed professionals.** A person licensed by a health-related licensing board as defined in section 214 01, subdivision 2, shall report to the board personal knowledge of any conduct the person reasonably believes constitutes grounds for disciplinary action under sections 148 171 to 148 285 by any nurse including conduct indicating that the nurse may be incompetent, may have engaged in unprofessional or unethical conduct, or may be mentally or physically unable to engage safely in the practice of professional advanced practice registered, or practical nursing

Subd 4 **Insurers.** Four times each year, by the first day of February, May, August, and November, each insurer authorized to sell insurance described in section 60A 06, subdivision 1, clause (13), and providing professional liability insurance to registered nurses, advanced practice registered nurses, or licensed practical nurses shall submit to the board a report concerning any nurse against whom a malpractice award has been made or who has been a party to a settlement. The report must contain at least the following information

(1) the total number of settlements or awards,

(2) the date settlement or award was made,

(3) the allegations contained in the claim or complaint leading to the settlement or award,

(4) the dollar amount of each malpractice settlement or award and whether that amount was paid as a result of a settlement or of an award, and

(5) the name and address of the practice of the nurse against whom an award was made or with whom a settlement was made

An insurer shall also report to the board any information it possesses that tends to substantiate a charge that a nurse may have engaged in conduct violating sections 148 171 to 148 285

[For text of subds 5 and 6, see M S 1998]

History: 1999 c 172 s 9, 10

148.271 EXEMPTIONS.

The provisions of sections 148 171 to 148 285 shall not prohibit

(1) The furnishing of nursing assistance in an emergency

(2) The practice of professional or practical nursing by any legally qualified registered or licensed practical nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of official duties

(3) The practice of any profession or occupation licensed by the state, other than professional or practical nursing, by any person duly licensed to practice the profession or occupa-

tion, or the performance by a person of any acts properly coming within the scope of the profession, occupation, or license

(4) The provision of a nursing or nursing-related service by a nursing assistant who has been delegated the specific function and is supervised by a registered nurse or monitored by a licensed practical nurse

(5) The care of the sick with or without compensation when done in a nursing home covered by the provisions of section 144A 09, subdivision 1

(6) Professional nursing practice or advanced practice registered nursing practice by a registered nurse or practical nursing practice by a licensed practical nurse licensed in another state or territory who is in Minnesota as a student enrolled in a formal, structured course of study, such as a course leading to a higher degree, certification in a nursing specialty, or to enhance skills in a clinical field, while the student is practicing in the course

(7) Professional or practical nursing practice by a student practicing under the supervision of an instructor while the student is enrolled in a nursing program approved by the board under section 148 251

(8) Advanced practice registered nursing as defined in section 148 171, subdivisions 5, 10, 11, 13, and 21, by a registered nurse who is licensed and currently registered in Minnesota or another United States jurisdiction and who is enrolled as a student in a formal education program leading to eligibility for certification as an advanced practice registered nurse, or by a registered nurse licensed and currently registered in Minnesota who has completed an advanced practice registered nurse course of study and is awaiting certification, the period not to exceed six months

History: 1999 c 172 s 11, 18

148.281 VIOLATIONS; PENALTY.

Subdivision 1 **Violations described.** It shall be unlawful for any person, corporation, firm, or association, to

(1) sell or fraudulently obtain or furnish any nursing diploma, license or record, or aid or abet therein,

(2) practice professional or practical nursing, practice as a public health nurse, or practice as a certified clinical nurse specialist, certified nurse-midwife, certified nurse practitioner, or certified registered nurse anesthetist under cover of any diploma, permit, license, registration certificate, advanced practice credential, or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation,

(3) practice professional or practical nursing unless the person has been issued a temporary permit under the provisions of section 148 212 or is duly licensed and currently registered to do so under the provisions of sections 148 171 to 148 285,

(4) use any abbreviation or other designation tending to imply licensure as a registered nurse or licensed practical nurse unless duly licensed and currently registered so to practice professional or practical nursing under the provisions of sections 148 171 to 148 285 except as authorized by the board by rule,

(5) use any title, abbreviation, or other designation tending to imply certification as a certified registered nurse as defined in section 148 171, subdivision 22, unless duly certified by a national nurse certification organization,

(6) use any abbreviation or other designation tending to imply registration as a public health nurse unless duly registered by the board,

(7) practice professional, advanced practice registered, or practical nursing in a manner prohibited by the board in any limitation of a license or registration issued under the provisions of sections 148 171 to 148 285,

(8) practice professional, advanced practice registered, or practical nursing during the time a license or current registration issued under the provisions of sections 148 171 to 148 285 shall be suspended or revoked,

(9) conduct a nursing program for the education of persons to become registered nurses or licensed practical nurses unless the program has been approved by the board,

(10) knowingly employ persons in the practice of professional or practical nursing who have not been issued a current permit, license, or registration certificate to practice as a nurse in this state, and

(11) knowingly employ a person in advanced practice registered nursing unless the person meets the standards and practices of sections 148 171 to 148 285

[For text of subd 2, see M S 1998]

History: 1999 c 172 s 12,18

148.283 UNAUTHORIZED PRACTICE OF PROFESSIONAL, ADVANCED PRACTICE REGISTERED, AND PRACTICAL NURSING.

The practice of professional, advanced practice registered, or practical nursing by any person who has not been licensed to practice professional or practical nursing under the provisions of sections 148 171 to 148 285, or whose license has been suspended or revoked, or whose registration or national credential has expired, is hereby declared to be inimical to the public health and welfare and to constitute a public nuisance. Upon complaint being made thereof by the board, or any prosecuting officer, and upon a proper showing of the facts, the district court of the county where such practice occurred may enjoin such acts and practice. Such injunction proceeding shall be in addition to, and not in lieu of, all other penalties and remedies provided by law.

History: 1999 c 172 s 13

148.284 CERTIFICATION OF ADVANCED PRACTICE REGISTERED NURSES.

(a) No person shall practice advanced practice registered nursing or use any title, abbreviation, or other designation tending to imply that the person is an advanced practice registered nurse, clinical nurse specialist, nurse anesthetist, nurse-midwife, or nurse practitioner unless the person is certified for such advanced practice registered nursing by a national nurse certification organization.

(b) Paragraph (a) does not apply to an advanced practice registered nurse who is within six months after completion of an advanced practice registered nurse course of study and is awaiting certification.

(c) An advanced practice registered nurse who has completed a formal course of study as an advanced practice registered nurse and has been certified by a national nurse certification organization prior to January 1, 1999, may continue to practice in the field of nursing in which the advanced practice registered nurse is practicing as of July 1, 1999, regardless of the type of certification held if the advanced practice registered nurse is not eligible for the proper certification.

History: 1999 c 172 s 14

148.30 [Repealed, 1999 c 162 s 16]

148.31 [Repealed, 1999 c 162 s 16]

148.32 [Repealed, 1999 c 162 s 16]

148.5194 FEES.

[For text of subd 1, see M S 1998]

Subd 2 Biennial registration fee. The fee for initial registration and biennial registration, temporary registration, or renewal is \$200.

Subd 3 Biennial registration fee for dual registration as a speech-language pathologist and audiologist. The fee for initial registration and biennial registration, temporary registration, or renewal is \$200.

Subd 3a Surcharge fee. Notwithstanding section 16A 1285, subdivision 2, for a period of four years following July 1, 1999, an applicant for registration or registration renewal must pay a surcharge fee of \$25 in addition to any other fees due upon registration or registration renewal. This subdivision expires June 30, 2003.

Subd 4 **Penalty fee for late renewals.** The penalty fee for late submission of a renewal application is \$45

[For text of subd 5, see M S 1998]

History: 1999 c 245 art 2 s 34–37

148.66 STATE BOARD OF PHYSICAL THERAPY, DUTIES.

The state board of physical therapy established under section 148 67 shall administer sections 148 65 to 148 78. As used in sections 148 65 to 148 78, “board” means the state board of physical therapy

The board shall

- (1) adopt rules necessary to administer and enforce sections 148 65 to 148 78,
- (2) administer, coordinate, and enforce sections 148 65 to 148 78,
- (3) evaluate the qualifications of applicants,
- (4) issue subpoenas, examine witnesses, and administer oaths,
- (5) conduct hearings and keep records and minutes necessary to the orderly administration of sections 148 65 to 148 78,
- (6) investigate persons engaging in practices that violate sections 148 65 to 148 78, and
- (7) adopt rules under chapter 14 prescribing a code of ethics for licensees

History: 1999 c 245 art 9 s 48

148.67 STATE BOARD OF PHYSICAL THERAPY; MEMBERSHIP APPOINTMENTS, VACANCIES, REMOVALS.

Subdivision 1 **Board of physical therapy appointed.** The governor shall appoint a state board of physical therapy to administer sections 148 65 to 148 78, regarding the qualifications and examination of physical therapists. The board shall consist of nine members, citizens and residents of the state of Minnesota, composed of four physical therapists, one licensed and registered doctor of medicine, one physical therapy assistant and three public members. The four physical therapist members must be licensed physical therapists in this state. Each of the four physical therapist members must have at least five years’ experience in physical therapy practice, physical therapy administration, or physical therapy education. The five years’ experience must immediately precede appointment. Membership terms, compensation of members, removal of members, filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214 07 to 214 09. The provision of staff, administrative services, and office space, the review and processing of complaints, the setting of board fees, and other provisions relating to board operations shall be as provided in chapter 214. Each member of the board shall file with the secretary of state the constitutional oath of office before beginning the term of office.

Subd 2 **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 Chapter of the American Physical 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.

History: 1999 c 245 art 9 s 49

148.691 OFFICERS; EXECUTIVE DIRECTOR.

Subdivision 1 **Officers of the board.** The board shall elect from its members a president, a vice-president, and a secretary-treasurer. Each shall serve for one year or until a successor is elected and qualifies. The board shall appoint and employ an executive secretary. A majority of the board, including one officer, constitutes a quorum at a meeting.

Subd 2 **Board authority to hire.** The board may employ persons needed to carry out its work.

Subd 3 **Disclosure.** Subject to the exceptions listed in this subdivision, all communications or information received by or disclosed to the board relating to any person or matter

subject to its regulatory jurisdiction are confidential and privileged and any disciplinary hearing shall be closed to the public

(a) Upon application of a party in a proceeding before the board, the board shall produce and permit the inspection and copying, by or on behalf of the moving party, of any designated documents or papers relevant to the proceedings, in accordance with the provisions of rule 34, Minnesota Rules of Civil Procedure

(b) If the board imposes disciplinary measures of any kind, whether by contested case or by settlement agreement, the name and business address of the licensee, the nature of the misconduct, and the action taken by the board are public data. If disciplinary action is taken by settlement agreement, the entire agreement is public data. The board shall decide disciplinary matters, whether by settlement or by contested case, by roll call vote. The votes are public data.

(c) The board shall exchange information with other licensing boards, agencies, or departments within the state, as required under section 214.10, subdivision 8, paragraph (d), and may release information in the reports required under section 214.10, subdivision 8, paragraph (b).

(d) The board shall upon request furnish to a person who made a complaint, a description of the activities and actions of the board relating to that complaint, a summary of the results of an investigation of that complaint, and the reasons for actions taken by the board.

History: 1999 c 245 art 9 s 50

148.70 APPLICANTS, QUALIFICATIONS.

The board of physical therapy must

(1) establish the qualifications of applicants for licensing and continuing education requirements for relicensing,

(2) provide for and conduct all examinations following satisfactory completion of all didactic requirements,

(3) determine the applicants who successfully pass the examination, and

(4) duly license an applicant after the applicant has presented evidence satisfactory to the board that the applicant has completed an accredited physical therapy educational program of education or continuing education approved by the board.

The passing score for examinations taken after July 1, 1995, shall be based on objective, numerical standards, as established by a nationally recognized board approved testing service.

History: 1999 c 245 art 9 s 51

148.705 APPLICATION.

An applicant for licensing as a physical therapist shall file a written application on forms provided by the board together with a fee in the amount set by the board. No portion of the fee is refundable.

An approved program for physical therapists shall include the following:

(1) a minimum of 60 academic semester credits or its equivalent from an accredited college, including courses in the biological and physical sciences, and

(2) an accredited course in physical therapy education which has provided adequate instruction in the basic sciences, clinical sciences, and physical therapy theory and procedures, as determined by the board. In determining whether or not a course in physical therapy is approved, the board may take into consideration the accreditation of such schools by the appropriate council of the American Medical Association, the American Physical Therapy Association, or the Canadian Medical Association.

History: 1999 c 245 art 9 s 52

148.71 LICENSING:

Subdivision 1 **Qualified applicant.** The state board of physical therapy shall license as a physical therapist and shall furnish a license to an applicant who successfully passes an ex-

amination provided for in sections 148 65 to 148 78 for licensing as a physical therapist and who is otherwise qualified as required in sections 148 65 to 148 78

Subd 2 Temporary permit. (a) The board may, upon payment of a fee set by the board, issue a temporary permit to practice physical therapy under supervision to a physical therapist who is a graduate of an approved school of physical therapy and qualified for admission to examination for licensing as a physical therapist. A temporary permit to practice physical therapy under supervision may be issued only once and cannot be renewed. It expires 90 days after the next examination for licensing given by the board or on the date on which the board, after examination of the applicant, grants or denies the applicant a license to practice, whichever occurs first. A temporary permit expires on the first day the board begins its next examination for license after the permit is issued if the holder does not submit to examination on that date. The holder of a temporary permit to practice physical therapy under supervision may practice physical therapy as defined in section 148 65 if the entire practice is under the supervision of a person holding a valid license to practice physical therapy in this state. The supervision shall be direct, immediate, and on premises.

(b) A physical therapist from another state who is licensed or otherwise registered in good standing as a physical therapist by that state and meets the requirements for licensing under section 148 72 does not require supervision to practice physical therapy while holding a temporary permit in this state. The temporary permit remains valid only until the meeting of the board at which the application for licensing is considered.

Subd 3 Foreign-trained physical therapists; temporary permits. (a) The board of medical practice may issue a temporary permit to a foreign-trained physical therapist who

(1) is enrolled in a supervised physical therapy traineeship that meets the requirements under paragraph (b),

(2) has completed a physical therapy education program equivalent to that under section 148 705 and Minnesota Rules, part 5601 0800, subpart 2,

(3) has achieved a score of at least 550 on the test of English as a foreign language or a score of at least 85 on the Minnesota battery test, and

(4) has paid a nonrefundable fee set by the board.

A foreign-trained physical therapist must have the temporary permit before beginning a traineeship.

(b) A supervised physical therapy traineeship must

(1) be at least six months,

(2) be at a board-approved facility,

(3) provide a broad base of clinical experience to the foreign-trained physical therapist including a variety of physical agents, therapeutic exercises, evaluation procedures, and patient diagnoses,

(4) be supervised by a physical therapist who has at least three years of clinical experience and is licensed under subdivision 1, and

(5) be approved by the board before the foreign-trained physical therapist begins the traineeship.

(c) A temporary permit is effective on the first day of a traineeship and expires 90 days after the next examination for licensing given by the board following successful completion of the traineeship or on the date on which the board, after examination of the applicant, grants or denies the applicant a license to practice, whichever occurs first.

(d) A foreign-trained physical therapist must successfully complete a traineeship to be licensed as a physical therapist under subdivision 1. The traineeship may be waived for a foreign-trained physical therapist who is licensed or otherwise registered in good standing in another state and has successfully practiced physical therapy in that state under the supervision of a licensed or registered physical therapist for at least six months at a facility that meets the requirements under paragraph (b), clauses (2) and (3).

(e) A temporary permit will not be issued to a foreign-trained applicant who has been issued a temporary permit for longer than six months in any other state.

History: 1999 c 245 art 9 s 53

148.72 EXAMINATIONS.

Subdivision 1 **Issuance of license without examination.** On payment to the board of a fee in the amount set by the board and on submission of a written application on forms provided by the board, the board shall issue a license without examination to a person who is licensed or otherwise registered as a physical therapist by another state of the United States of America, its possessions, or the District of Columbia, if the board determines that the requirements for licensing or registration in the state, possession, or District are equal to, or greater than, the requirements in sections 148 65 to 148 78

Subd 2 **License.** The board may issue a license without examination to an applicant who presents evidence satisfactory to the board of having passed an examination recognized by the board, if the board determines the standards of the other state or foreign country are equal to those of this state. Upon application, the applicant shall pay to the board a fee in the amount set by the board. No portion of the fee is refundable.

[For text of subd 3, see M S 1998]

Subd 4 **Issuance of license after examination.** The board shall issue a license to an applicant who passes the examination according to standards established by the board and who is not disqualified to receive a license under section 148 75

History: 1999 c 245 art 9 s 54-56

148.73 RENEWALS.

Every licensed physical therapist shall, during each January, apply to the board for an extension of a license and pay a fee in the amount set by the board. The extension of the license is contingent upon demonstration that the continuing education requirements set by the board under section 148 70 have been satisfied.

History: 1999 c 245 art 9 s 57

148.74 RULES.

The board may adopt rules needed to carry out sections 148 65 to 148 78. The secretary-treasurer of the board shall keep a record of proceedings under these sections and a register of all persons licensed under it. The register shall show the name, address, date and number of the license, and the renewal of the license. Any other interested person in the state may obtain a copy of the list on request to the board upon paying an amount fixed by the board. The amount shall not exceed the cost of the list furnished. The board shall provide blanks, books, certificates, and stationery and assistance necessary to transact business of the board. All money received by the board under sections 148 65 to 148 78 shall be paid into the state treasury as provided for by law. The board shall set by rule the amounts of the application fee and the annual licensing fee. The fees collected by the board must be sufficient to cover the costs of administering sections 148 65 to 148 78.

History: 1999 c 245 art 9 s 58

148.745 MALPRACTICE HISTORY.

Subdivision 1 **Submission.** A person desiring to practice physical therapy in this state who has previously practiced in another state shall submit the following additional information with the license application for the five-year period of active practice preceding the date of filing such application:

- (a) The name and address of the person's professional liability insurer in the other state
- (b) The number, date, and disposition of any malpractice settlement or award made to the plaintiff relating to the quality of services provided

Subd 2 **Board action.** The board shall give due consideration to the information submitted pursuant to section 148 72 and this section. An applicant who willfully submits incorrect information shall be subject to disciplinary action pursuant to section 148 75.

History: 1999 c 245 art 9 s 59

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,

(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,

(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

(b) A license to practice as a physical therapist is suspended if (1) a guardian of the person of the physical therapist is appointed by order of a court pursuant to sections 525 54 to 525 61, 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

History: 1999 c 245 art 9 s 60

148.76 PROHIBITED CONDUCT.

Subdivision 1 No person shall

(1) provide physical therapy unless the person is licensed as a physical therapist under sections 148 65 to 148 78,

(2) use the title of physical therapist without a license as a physical therapist issued under sections 148 65 to 148 78,

(3) in any manner hold out as a physical therapist, or use in connection with the person's name the words or letters Physical Therapist, Physiotherapist, Physical Therapy Technician, Registered Physical Therapist, Licensed Physical Therapist, PT, PTT, RPT, LPT, or any letters, words, abbreviations or insignia indicating or implying that the person is a physical therapist, without a license as a physical therapist issued under sections 148 65 to 148 78 To do so is a gross misdemeanor,

(4) employ fraud or deception in applying for or securing a license as a physical therapist

Nothing in sections 148 65 to 148 78 prohibits a person licensed or registered in this state under another law from carrying out the therapy or practice for which the person is duly licensed or registered

Subd 2 No physical therapist may

(1) treat 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 to practice 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, the practice of dentistry as defined in section 150A 05, or the practice of advanced practice nursing as defined in section 62A 15, subdivision 3a, when orders or referrals are made in collaboration with a physician, chiropractor, podiatrist, or dentist, 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,

(2) treat human ailments by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records,

(3) use any chiropractic manipulative technique whose end is the chiropractic adjustment of an abnormal articulation of the body, and

(4) treat human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state

History: 1999 c 245 art 9 s 61

148.78 PROSECUTION, ALLEGATIONS.

In the prosecution of any person for violation of sections 148 65 to 148 78 as specified in section 148 76, it shall not be necessary to allege or prove want of a valid license as a physical therapist, but shall be a matter of defense to be established by the accused

History: 1999 c 245 art 9 s 62

148.7808 REGISTRATION; REQUIREMENTS.

[For text of subs 1 to 3, see M S 1998]

Subd 4 **Temporary registration.** (a) The board may issue a temporary registration as an athletic trainer to qualified applicants. A temporary registration is issued for one year. An athletic trainer with a temporary registration may qualify for full registration after submission of verified documentation that the athletic trainer has achieved a qualifying score on a credentialing examination within one year after the date of the temporary registration. Temporary registration may not be renewed.

(b) Except as provided in subdivision 3, paragraph (a), clause (1), an applicant for temporary registration must submit the application materials and fees for registration required under subdivision 1, clauses (1) to (8) and (10) to (12).

(c) An athletic trainer with a temporary registration shall work only under the direct supervision of an athletic trainer registered under this section. No more than four athletic trainers with temporary registrations shall work under the direction of a registered athletic trainer.

Subd 5 Temporary permit. The board may issue a temporary permit to practice as an athletic trainer to an applicant eligible for registration under this section if the application for registration is complete, all applicable requirements in this section have been met, and a non-refundable fee set by the board has been paid. The permit remains valid only until the meeting of the board at which a decision is made on the athletic trainer's application for registration.

History: 1999 c 33 s 7,8

148.7815 FEES.

Subdivision 1 Fees. The board shall establish fees as follows:

- (1) application fee, \$50,
- (2) annual registration fee, \$100,
- (3) temporary registration, \$100, and
- (4) temporary permit, \$50.

Subd 2 Proration of fees. The board may prorate the initial annual fee for registration under section 148 7808. Athletic trainers registered under section 148 7808 are required to pay the full fee upon registration renewal.

[For text of subs 3 and 4, see M S 1998]

History: 1999 c 33 s 9,10

148.89 DEFINITIONS.

[For text of subs 1 and 2, see M S 1998]

Subd 2a Client. "Client" means each individual or legal, religious, academic, organizational, business, governmental, or other entity that receives, received, or should have received, or arranged for another individual or entity to receive services from an individual regulated under sections 148 88 to 148 98. Client also means an individual's legally authorized representative, such as a parent or guardian. For the purposes of sections 148 88 to 148 98, "client" may include patient, resident, counselee, evaluatee, and, as limited in the rules of conduct, student, supervisee, or research subject. In the case of dual clients, the licensee or applicant for licensure must be aware of the responsibilities to each client, and of the potential for divergent interests of each client.

[For text of subd 3, see M S 1998]

Subd 4 Licensee. "Licensee" means a person who is licensed by the board as a licensed psychologist or as a licensed psychological practitioner.

Subd 4a Provider. "Provider" or "provider of services" means any individual who is regulated by the board, and includes a licensed psychologist, a licensed psychological practitioner, a licensee, or an applicant.

Subd 5 Practice of psychology. "Practice of psychology" means the observation, description, evaluation, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures, to prevent or eliminate symptomatic, maladaptive, or undesired behavior and to enhance interpersonal relationships, work and life 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, psychological testing, teaching of psychology, and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning,
- (2) counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and diagnosis and treatment of
 - (i) mental and emotional disorder or disability,

- (ii) alcoholism and substance abuse,
- (iii) disorders of habit or conduct,
- (iv) the psychological aspects of physical illness or condition, accident, injury, or disability,
- (v) bereavement issues,
- (vi) family or relationship issues, and
- (vii) work-related issues, and
- (3) psychoeducational evaluation, therapy, remediation, consultation, and supervision

History: 1999 c 109 s 1-4

148.915 RECIPROCITY.

The board may grant a license to a diplomate of the American Board of Professional Psychology or to any person who at the time of application is licensed, certified, or registered to practice psychology by a board of another state and who meets the licensure requirements under section 148 907, subdivision 2. The board, at its discretion, may elect not to require the examination in psychology under section 148 907, subdivision 2, clause (1), if the person was licensed in another state before the examination was required for licensure in that state. An applicant seeking licensure under this section shall pass a professional responsibility examination on the practice of psychology and any other examinations as required by the board.

History: 1999 c 109 s 5

148.925 SUPERVISION.

[For text of subds 1 to 6, see M S 1998]

Subd 7 Variance from supervision requirements. (a) An applicant for licensure as a licensed psychologist who entered supervised employment before August 1, 1991, may request a variance from the board from the supervision requirements in this section in order to continue supervision under the board rules in effect before August 1, 1991.

(b) After a licensed psychological practitioner has completed two full years, or the equivalent, of supervised post-master's degree employment meeting the requirements of subdivision 5 as it relates to preparation for licensure as a licensed psychologist, the board shall grant a variance from the supervision requirements of subdivision 4 or 5 if the licensed psychological practitioner presents evidence of

(1) endorsement for specific areas of competency by the licensed psychologist who provided the two years of supervision,

(2) employment by a hospital or by a community mental health center or nonprofit mental health clinic or social service agency providing services as a part of the mental health service plan required by the Comprehensive Mental Health Act,

(3) the employer's acceptance of clinical responsibility for the care provided by the licensed psychological practitioner, and

(4) a plan for supervision that includes at least one hour of regularly scheduled individual in-person consultations per week for full-time employment. The board may approve an exception to the weekly supervision requirement for a week when the supervisor was ill or otherwise unable to provide supervision.

(c) Following the granting of a variance under paragraph (b), and completion of two additional full years or the equivalent of supervision and post-master's degree employment meeting the requirements of paragraph (b), the board shall grant a variance to a licensed psychological practitioner who presents evidence of

(1) endorsement for specific areas of competency by the licensed psychologist who provided the two years of supervision under paragraph (b),

(2) employment by a hospital or by a community mental health center or nonprofit mental health clinic or social service agency providing services as a part of the mental health service plan required by the Comprehensive Mental Health Act,

(3) the employer's acceptance of clinical responsibility for the care provided by the licensed psychological practitioner, and

(4) a plan for supervision which includes at least one hour of regularly scheduled individual m-person supervision per month

(d) The variance allowed under this section must be deemed to have been granted to an individual who previously received a variance under paragraph (b) or (c) and is seeking a new variance because of a change of employment to a different employer or employment setting. The deemed variance continues until the board either grants or denies the variance. An individual who has been denied a variance under this section is entitled to seek reconsideration by the board.

History: 1999 c 109 s 6

148.941 DISCIPLINARY ACTION; INVESTIGATION; PENALTY FOR VIOLATION.

[For text of subd 1, see M S 1998]

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, or in passing an examination,

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

(7) has failed to meet any requirement for the issuance or renewal of the person's license. The burden of proof is on the applicant or licensee to demonstrate the qualifications or satisfy the requirements for a license under the Psychology Practice Act,

(8) has failed to cooperate with an investigation of the board as required under subdivision 4,

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

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

(n) 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 re-training 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 \$5,000 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, or to discourage repeated violations

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

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

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

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

[For text of subs 3 to 5, see M S 1998]

Subd 6 Violation. Persons who engage in the unlicensed practice of psychology or who misrepresent themselves as psychologists or psychological practitioners are guilty of a gross misdemeanor

History. 1999 c 109 s 7,8

148.952 IMMUNITY.

(a) Any person, health care facility, business, or organization is immune from civil liability and criminal prosecution for reporting in good faith to the board violations or alleged violations of the Psychology Practice Act

(b) Any person, health care facility, business, or organization is immune from civil liability and criminal prosecution for cooperating with the board in good faith in the investigation of violations or alleged violations of the Psychology Practice Act

(c) Consultants, advisors, and experts retained by the board for the investigation of alleged violations and for the preparation, presentation, and provision of testimony pertaining to allegations, charges, or violations of the Psychology Practice Act are immune from civil liability and criminal prosecution for any actions, transactions, or publications made in good faith in the execution of, or relating to, their duties on behalf of the board

(d) Paragraphs (a) and (b) do not apply to a person whose report pertains to the person's own conduct

History: 1999 c 109 s 9

148.96 PRESENTATION TO PUBLIC.

[For text of subds 1 and 2, see M S 1998]

Subd 3 Requirements for representations to the 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, agencies, or by research facilities, 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

(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

[For text of subds 4 and 5, see M S 1998]

History: 1999 c 109 s 10

148.965 TEST SECURITY.

Notwithstanding section 144.335, subdivision 2, paragraphs (a) and (b), a provider shall not be required to provide copies of psychological tests, test materials, or scoring keys to any individual who has completed a test, or to an individual not qualified to administer, score, and interpret the test, 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 test, release the information either to another provider who is qualified to administer, score, and interpret the test or instead furnish a summary of the test results to the individual or to a third party designated by the individual.

History: 1999 c 58 s 1