

1 Senator Cohen from the Committee on Finance, to which was
2 re-referred

3 S.F. No. 540: A bill for an act relating to human
4 services; authorizing a long-term care partnership program;
5 modifying medical assistance eligibility requirements under
6 certain circumstances; defining approved long-term care
7 insurance policies; limiting medical assistance estate recovery
8 under certain circumstances; proposing coding for new law in
9 Minnesota Statutes, chapter 256B.

10 Reports the same back with the recommendation that the bill
11 be amended as follows:

12 Pages 2 and 3, delete subdivision 10 and insert:

13 "Subd. 10. [APPROVED POLICIES.] (a) A partnership policy
14 must meet all of the requirements in paragraphs (b) to (e).

15 (b) A partnership policy must satisfy the requirements of
16 chapter 62S.

17 (c) Minimum daily benefits shall be \$130 for nursing home
18 care or \$65 for home care. These minimum daily benefit amounts
19 shall be adjusted by the commissioner on October 1 of each year
20 by a percentage equal to the inflation protection feature
21 described in section 62S.23, subdivision 1, clause (1).

22 Adjusted minimum daily benefit amounts shall be rounded to the
23 nearest whole dollar.

24 (d) A partnership policy must offer an elimination period
25 of not more than 100 days for an adjusted premium.

26 (e) A partnership policy must satisfy the requirements
27 established by the commissioner of human services under
28 subdivision 12."

29 Page 3, after line 34, insert:

30 "Subd. 12. [IMPLEMENTATION.] (a) If federal law is amended
31 or a federal waiver is granted to permit implementation of this
32 section, the commissioner, in consultation with the commissioner
33 of commerce, may alter the requirements of subdivision 10,

34 paragraphs (c) and (d), and may establish additional
35 requirements for approved policies in order to conform with
36 federal law or waiver authority. In establishing these
37 requirements, the commissioner shall seek to maximize purchase
38 of qualifying policies by Minnesota residents while controlling
39 medical assistance costs.

40 (b) The commissioner is authorized to suspend

1 implementation of this section until the next session of the
2 legislature if the commissioner, in consultation with the
3 commissioner of commerce, determines that the federal
4 legislation or federal waiver authorizing a partnership program
5 in Minnesota is likely to impose substantial unforeseen costs on
6 the state budget.

7 (c) The commissioner must take action under paragraph (a)
8 or (b) within 45 days of final federal action authorizing a
9 partnership policy in Minnesota.

10 (d) The commissioner must notify the appropriate
11 legislative committees of action taken under this subdivision
12 within 50 days of final federal action authorizing a partnership
13 policy in Minnesota.

14 (e) The commissioner must publish a notice in the State
15 Register of implementation decisions made under this subdivision
16 as soon as practicable."

17 Amend the title as follows:

18 Page 1, line 7, after the semicolon, insert "providing
19 implementation options;"

20 And when so amended the bill do pass and be placed on the
21 Consent Calendar. Amendments adopted. Report adopted.

22
23 (Committee Chair)

24
25 May 3, 2005
26 (Date of Committee recommendation)

1 A bill for an act

2 relating to human services; authorizing a long-term
3 care partnership program; modifying medical assistance
4 eligibility requirements under certain circumstances;
5 defining approved long-term care insurance policies;
6 limiting medical assistance estate recovery under
7 certain circumstances; proposing coding for new law in
8 Minnesota Statutes, chapter 256B.

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

10 Section 1. [256B.0571] [LONG-TERM CARE PARTNERSHIP.]

11 Subdivision 1. [DEFINITIONS.] For purposes of this
12 section, the following terms have the meanings given them.

13 Subd. 2. [HOME CARE SERVICE.] "Home care service" means
14 care described in section 144A.43.

15 Subd. 3. [LONG-TERM CARE INSURANCE.] "Long-term care
16 insurance" means a policy described in section 62S.01.

17 Subd. 4. [MEDICAL ASSISTANCE.] "Medical assistance" means
18 the program of medical assistance established under section
19 256B.01.

20 Subd. 5. [NURSING HOME.] "Nursing home" means a nursing
21 home as described in section 144A.01.

22 Subd. 6. [PARTNERSHIP POLICY.] "Partnership policy" means
23 a long-term care insurance policy that meets the requirements
24 under subdivision 10, regardless of when the policy was first
25 issued.

26 Subd. 7. [PARTNERSHIP PROGRAM.] "Partnership program"
27 means the Minnesota partnership for long-term care program

1 established under this section.

2 Subd. 8. [PROGRAM ESTABLISHED.] (a) The commissioner, in
3 cooperation with the commissioner of commerce, shall establish
4 the Minnesota partnership for long-term care program to provide
5 for the financing of long-term care through a combination of
6 private insurance and medical assistance.

7 (b) An individual who meets the requirements in this
8 paragraph is eligible to participate in the partnership
9 program. The individual must:

10 (1) be a Minnesota resident;

11 (2) purchase a partnership policy that is delivered, issued
12 for delivery, or renewed on or after the effective date of this
13 section, and maintain the partnership policy in effect
14 throughout the period of participation in the partnership
15 program; and

16 (3) exhaust the minimum benefits under the partnership
17 policy as described in this section. Benefits received under a
18 long-term care insurance policy before the effective date of
19 this section do not count toward the exhaustion of benefits
20 required in this subdivision.

21 Subd. 9. [MEDICAL ASSISTANCE ELIGIBILITY.] (a) Upon
22 application of an individual who meets the requirements
23 described in subdivision 8, the commissioner shall determine the
24 individual's eligibility for medical assistance according to
25 paragraphs (b) and (c).

26 (b) After disregarding financial assets exempted under
27 medical assistance eligibility requirements, the commissioner
28 shall disregard an additional amount of financial assets equal
29 to the dollar amount of coverage utilized under the partnership
30 policy.

31 (c) The commissioner shall consider the individual's income
32 according to medical assistance eligibility requirements.

33 Subd. 10. [APPROVED POLICIES.] (a) A partnership policy
34 must meet all of the requirements in paragraphs (b) to (f).

35 (b) Minimum coverage shall be for a period of not less than
36 one year and for a dollar amount equal to 12 months of nursing

1 home care at the minimum daily benefit rate determined and
2 adjusted under paragraph (c). The policy shall provide for home
3 health care benefits to be substituted for nursing home care
4 benefits with one home health care day benefit worth at least 50
5 percent of one nursing home care day.

6 (c) Minimum daily benefits shall be \$130 for nursing home
7 care or \$65 for home care. These minimum daily benefit amounts
8 shall be adjusted by the commissioner on October 1 of each year
9 by a percentage equal to the inflation protection feature
10 described in section 62S.23, subdivision 1, clause (1).
11 Adjusted minimum daily benefit amounts shall be rounded to the
12 nearest whole dollar.

13 (d) A third party designated by the insured shall be
14 entitled to receive notice if the policy is about to lapse for
15 nonpayment of premium, and an additional 30-day grace period for
16 payment of premium shall be granted following notification to
17 that person.

18 (e) The policy must cover all of the following services:

- 19 (1) nursing home stay;
20 (2) home care service; and
21 (3) care management.

22 (f) A partnership policy must offer the following options
23 for an adjusted premium:

- 24 (1) an elimination period of not more than 100 days; and
25 (2) nonforfeiture benefits for applicants between the ages
26 of 18 and 75.

27 Subd. 11. [LIMITATIONS ON ESTATE RECOVERY.] For an
28 individual determined eligible for medical assistance under
29 subdivision 9, the state shall limit recovery under the
30 provisions of section 256B.15 against the estate of the
31 individual or individual's spouse for medical assistance
32 benefits received by that individual to an amount that exceeds
33 the dollar amount of coverage utilized under the partnership
34 policy.

35 [EFFECTIVE DATE.] (a) If any provision of this section is
36 prohibited by federal law, no provision shall become effective

1 until federal law is changed to permit its full implementation.
2 The commissioner of human services shall notify the revisor of
3 statutes when federal law is enacted or other federal approval
4 is received and publish a notice in the State Register. The
5 commissioner must include the notice in the first State Register
6 published after the effective date of the federal changes.

7 (b) If federal law is changed to permit a waiver of any
8 provisions prohibited by federal law, the commissioner of human
9 services shall apply to the federal government for a waiver of
10 those prohibitions or other federal authority, and that
11 provision shall become effective upon receipt of a federal
12 waiver or other federal approval, notification to the revisor of
13 statutes, and publication of a notice in the State Register to
14 that effect.

1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Berglin,

4 Chair of the Health and Human Services Budget Division, to
5 which was referred

6 S.F. No. 540: A bill for an act relating to human
7 services; authorizing a long-term care partnership program;
8 modifying medical assistance eligibility requirements under
9 certain circumstances; defining approved long-term care
10 insurance policies; limiting medical assistance estate recovery
11 under certain circumstances; proposing coding for new law in
12 Minnesota Statutes, chapter 256B.

13 Reports the same back with the recommendation that the bill
14 be amended as follows:

15 Pages 2 and 3, delete subdivision 10 and insert:

16 "Subd. 10. [APPROVED POLICIES.] (a) A partnership policy
17 must meet all of the requirements in paragraphs (b) to (e).

18 (b) A partnership policy must satisfy the requirements of
19 chapter 62S.

20 (c) Minimum daily benefits shall be \$130 for nursing home
21 care or \$65 for home care. These minimum daily benefit amounts
22 shall be adjusted by the commissioner on October 1 of each year
23 by a percentage equal to the inflation protection feature
24 described in section 62S.23, subdivision 1, clause (1).

25 Adjusted minimum daily benefit amounts shall be rounded to the
26 nearest whole dollar.

27 (d) A partnership policy must offer an elimination period
28 of not more than 100 days for an adjusted premium.

29 (e) A partnership policy must satisfy the requirements
30 established by the commissioner of human services under
31 subdivision 12."

32 Page 3, after line 34, insert:

33 "Subd. 12. [IMPLEMENTATION.] (a) If federal law is amended
34 or a federal waiver is granted to permit implementation of this
35 section, the commissioner, in consultation with the commissioner
36 of commerce, may alter the requirements of subdivision 10,
37 paragraphs (c) and (d), and may establish additional
38 requirements for approved policies in order to conform with
39 federal law or waiver authority. In establishing these
40 requirements, the commissioner shall seek to maximize purchase

1 of qualifying policies by Minnesota residents while controlling
2 medical assistance costs.

3 (b) The commissioner is authorized to suspend
4 implementation of this section until the next session of the
5 legislature if the commissioner, in consultation with the
6 commissioner of commerce, determines that the federal
7 legislation or federal waiver authorizing a partnership program
8 in Minnesota is likely to impose substantial unforeseen costs on
9 the state budget.

10 (c) The commissioner must take action under paragraph (a)
11 or (b) within 45 days of final federal action authorizing a
12 partnership policy in Minnesota.

13 (d) The commissioner must notify the appropriate
14 legislative committees of action taken under this subdivision
15 within 50 days of final federal action authorizing a partnership
16 policy in Minnesota.

17 (e) The commissioner must publish a notice in the State
18 Register of implementation decisions made under this subdivision
19 as soon as practicable."

20 Amend the title as follows:

21 Page 1, line 7, after the semicolon, insert "providing
22 implementation options;"

23 And when so amended that the bill be recommended to pass
24 and be referred to the full committee.

25
26 *Jinida Berglin*
27 (Division Chair)

28 April 5, 2005
29 (Date of Division action)

Fiscal Note – 2005-06 Session

Bill #: S0540-2A **Complete Date:** 04/04/05

Chief Author: BERGLIN, LINDA

Title: LONG TERM CARE PARTNERSHIP PROGRAM

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Human Services Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

NARRATIVE: SF 540-2A

Bill Description

Section 1. Subd. 1-7 are definitions.

Subd. 8. [Program Establishment.] This section requires the Commissioners of Human Services and Commerce to work together to establish a long-term care partnership program to provide for the financing of long-term care through a combination of private insurance and medical assistance (MA).

To participate in the program, an individual must:

- Be a Minnesota resident;
- Purchase a partnership policy that is delivered, issued for delivery, or renewed on or after the effective date of this section, and maintain the partnership policy in effect throughout the period of participation in the partnership program; and
- Exhaust the minimum benefits under the partnership policy as described in this section. Benefits received under a Long-Term Care Insurance (LTCI) policy before the effective date of this section do not count toward the exhaustion of benefits required in this section.

Subd. 9. [Medical Assistance Eligibility.] This section outlines the MA eligibility components. Upon application of an individual who meets the requirements described in Subd. 8, the individual's MA eligibility is determined as follows:

- After disregarding financial assets exempted under MA eligibility requirements, disregard an additional amount of financial assets equal to the dollar amount of coverage utilized under the partnership policy.
- Income eligibility shall be considered according to MA eligibility requirements.

Subd. 10. [Approved Policies.] This section describes the requirements that must be met in order for a LTCI policy to qualify as a partnership policy. The establishment of these requirements would be coordinated by Commerce.

Subd. 11. [Limitations On Estate Recovery]

The state shall limit recovery against the estate of an individual or the individual's spouse who is determined eligible for MA under the partnership program rules to an amount that exceeds the dollar amount of coverage utilized under the partnership plan.

Subd. 12 [Implementation]

If federal law is amended or a federal waiver granted to permit implementation of this section the commissioner, in consultation with the commissioner of commerce, may alter the requirements of Subd. 10, paragraphs (c) and (d) and may establish additional requirements for approved policies.

The commissioner is authorized to suspend implementation of this section until the next session of the legislature if, in consultation with the commissioner of commerce, determines that the federal legislation or waiver is likely to impose substantial unforeseen costs on the state budget.

The commissioner must take action within 45 days of final federal approval authorizing a partnership program in Minnesota.

The commissioner must notify the appropriate legislative committee of action take within 50 days of final federal approval.

The commissioner must publish a notice in the state register of implementation decisions made under this subdivision as soon as practicable.

Effective Date: If any provision of this section is prohibited by federal law, no provision shall become effective until federal law is changed to permit its full implementation. DHS is directed to seek a waiver if federal law is changed to permit a waiver of these prohibitions.

Assumptions

There are no program or administrative fiscal impacts associated with the asset limit and estate recovery exemption provisions of the bill because they cannot take effect until such time as there is a change to federal law. There are no other administrative fiscal impacts associated with this bill.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

Agency Contact Name: Lisa Knazan 297-5628
FN Coord Signature: STEVE BARTA
Date: 04/04/05 Phone: 296-5685

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
Date: 04/04/05 Phone: 286-5618

1 Senator Cohen from the Committee on Finance, to which was
2 referred

3 H.F. No. 1951: A bill for an act relating to human
4 services; changing long-term care provisions; amending Minnesota
5 Statutes 2004, sections 144A.071, subdivision 1a; 256B.0913,
6 subdivision 8; 256B.0915, subdivisions 1a, 6, 9.

7 Reports the same back with the recommendation that the bill
8 do pass. Report adopted.

9



10

11
12 (Committee Chair)

13
14 May 3, 2005.....
15 (Date of Committee recommendation)

1 (e) "Completion date" means the date on which a certificate
2 of occupancy is issued for a construction project, or if a
3 certificate of occupancy is not required, the date on which the
4 construction project is available for facility use.

5 (f) "Construction" means any erection, building,
6 alteration, reconstruction, modernization, or improvement
7 necessary to comply with the nursing home licensure rules.

8 (g) "Construction project" means:

9 (1) a capital asset addition to, or replacement of a
10 nursing home or certified boarding care home that results in new
11 space or the remodeling of or renovations to existing facility
12 space; and

13 (2) the remodeling or renovation of existing facility space
14 the use of which is modified as a result of the project
15 described in clause (1). This existing space and the project
16 described in clause (1) must be used for the functions as
17 designated on the construction plans on completion of the
18 project described in clause (1) for a period of not less than 24
19 months; ~~or~~

20 ~~{3} capital asset additions or replacements that are~~
21 ~~completed within 12 months before or after the completion date~~
22 ~~of the project described in clause {1}.~~

23 (h) "Depreciation guidelines" means the most recent
24 publication of "The Estimated Useful Lives of Depreciable
25 Hospital Assets," issued by the American Hospital Association,
26 840 North Lake Shore Drive, Chicago, Illinois, 60611.

27 (i) "New licensed" or "new certified beds" means:

28 (1) newly constructed beds in a facility or the
29 construction of a new facility that would increase the total
30 number of licensed nursing home beds or certified boarding care
31 or nursing home beds in the state; or

32 (2) newly licensed nursing home beds or newly certified
33 boarding care or nursing home beds that result from remodeling
34 of the facility that involves relocation of beds but does not
35 result in an increase in the total number of beds, except when
36 the project involves the upgrade of boarding care beds to

1 nursing home beds, as defined in section 144A.073, subdivision
2 1. "Remodeling" includes any of the type of conversion,
renovation, replacement, or upgrading projects as defined in
4 section 144A.073, subdivision 1.

5 ~~(i)~~ (j) "Project construction costs" means the cost of the
6 following items that have a completion date within 12 months
7 before or after the completion date of the project described in
8 item (g), clause (1):

9 (1) facility capital asset additions;

10 (2) replacements;

11 (3) renovations;

12 (4) remodeling projects;

13 (5) construction site preparation costs;

14 (6) related soft costs. ~~Project construction costs include~~
15 ~~the cost of any remodeling or renovation of existing facility~~
16 ~~space which is modified as a result of the construction~~
17 ~~project. Project construction costs also includes the cost of~~
18 ~~new technology implemented as part of the construction project.~~
19 ~~Project construction costs also include; and~~

20 (7) the cost of new technology implemented as part of the
21 construction project and depreciable equipment directly
22 identified to the project, if the construction costs for clauses
23 (1) to (6) exceed the threshold for additions and replacements
24 stated in section 256B.431, subdivision 16. Any new Technology
25 and depreciable equipment shall be included in the project
26 construction costs shall, at the unless a written election of is
27 made by the facility, be included to not include it in the
28 facility's appraised value for purposes of Minnesota Rules, part
29 9549.0020, subpart 5, and. Debt incurred for its purchase of
30 technology and depreciable equipment shall be included as
31 allowable debt for purposes of Minnesota Rules, part 9549.0060,
32 subpart 5, items A and C, unless the written election is to not
33 include it. Any new technology and depreciable equipment
34 included in the project construction costs that the facility
35 elects not to include in its appraised value and allowable debt
36 shall be treated as provided in section 256B.431, subdivision

1 17, paragraph (b). Written election under this paragraph must
2 be included in the facility's request for the rate change
3 related to the project, and this election may not be changed.

4 ~~(j)~~ (k) "Technology" means information systems or devices
5 that make documentation, charting, and staff time more efficient
6 or encourage and allow for care through alternative settings
7 including, but not limited to, touch screens, monitors,
8 hand-helds, swipe cards, motion detectors, pagers, telemedicine,
9 medication dispensers, and equipment to monitor vital signs and
10 self-injections, and to observe skin and other conditions.

11 ARTICLE 2

12 CONTINUING CARE FOR THE ELDERLY

13 Section 1. Minnesota Statutes 2004, section 256B.0913,
14 subdivision 8, is amended to read:

15 Subd. 8. [REQUIREMENTS FOR INDIVIDUAL CARE PLAN.] (a) The
16 case manager shall implement the plan of care for each
17 alternative care client and ensure that a client's service needs
18 and eligibility are reassessed at least every 12 months. The
19 plan shall include any services prescribed by the individual's
20 attending physician as necessary to allow the individual to
21 remain in a community setting. In developing the individual's
22 care plan, the case manager should include the use of volunteers
23 from families and neighbors, religious organizations, social
24 clubs, and civic and service organizations to support the formal
25 home care services. The county shall be held harmless for
26 damages or injuries sustained through the use of volunteers
27 under this subdivision including workers' compensation
28 liability. The ~~lead-agency~~ county of service shall provide
29 documentation in each individual's plan of care and, if
30 requested, to the commissioner that the most cost-effective
31 alternatives available have been offered to the individual and
32 that the individual was free to choose among available qualified
33 providers, both public and private, including qualified case
34 management or service coordination providers other than those
35 employed by ~~the-lead-agency-when-the-lead-agency~~ any county;
36 however, the county or tribe maintains responsibility for prior

1 authorizing services in accordance with statutory and
2 administrative requirements. The case manager must give the
3 individual a ten-day written notice of any denial, termination,
4 or reduction of alternative care services.

5 (b) ~~If The county administering-alternative-care-services~~
6 ~~is-different-than-the-county-of-financial-responsibility,-the~~
7 ~~care-plan-may-be-implemented-without-the-approval~~ of service
8 must provide access to and arrange for case management services,
9 including assuring implementation of the plan. The county of
10 service must notify the county of financial responsibility of
11 the approved care plan and the amount of encumbered funds.

12 Sec. 2. Minnesota Statutes 2004, section 256B.0915,
13 subdivision 1a, is amended to read:

14 Subd. 1a. [ELDERLY WAIVER CASE MANAGEMENT SERVICES.] (a)
15 Elderly case management services under the home and
16 community-based services waiver for elderly individuals are
17 available from providers meeting qualification requirements and
18 the standards specified in subdivision 1b. Eligible recipients
19 may choose any qualified provider of elderly case management
20 services.

21 (b) The county of service or tribe must provide access to
22 and arrange for case management services.

23 Sec. 3. Minnesota Statutes 2004, section 256B.0915,
24 subdivision 6, is amended to read:

25 Subd. 6. [IMPLEMENTATION OF CARE PLAN.] Each elderly
26 waiver client shall be provided a copy of a written care plan
27 that meets the requirements outlined in section 256B.0913,
28 subdivision 8. ~~If The~~ care plan must be implemented by the
29 county administering waived services when it is different than
30 the county of financial responsibility,-the-care-plan-may-be
31 implemented-without-the-approval-of. The county administering
32 waivered services must notify the county of financial
33 responsibility of the approved care plan.

34 Sec. 4. Minnesota Statutes 2004, section 256B.0915,
35 subdivision 9, is amended to read:

36 Subd. 9. [TRIBAL MANAGEMENT OF ELDERLY WAIVER.]

1 Notwithstanding contrary provisions of this section, or those in
2 other state laws or rules, the commissioner ~~and-White-Earth~~
3 ~~reservation~~ may develop a model for tribal management of the
4 elderly waiver program and implement this model through a
5 contract between the state and ~~White-Earth-Reservation~~ any of
6 the state's federally recognized tribal governments. The model
7 shall include the provision of tribal waiver case management,
8 assessment for personal care assistance, and administrative
9 requirements otherwise carried out by counties but shall not
10 include tribal financial eligibility determination for medical
11 assistance.

Article 1 LONG-TERM CARE FACILITIES..... page 1

Article 2 CONTINUING CARE FOR THE ELDERLY..... page 4

Senators Berglin, Foley, Koering, Lourey and Rosen introduced--
S.F. No. 1569: Referred to the Committee on Finance.

1 A bill for an act
2 relating to human services; changing long-term care
3 provisions; amending Minnesota Statutes 2004, sections
4 144A.071, subdivision 1a; 256B.0913, subdivision 8;
5 256B.0915, subdivisions 1a, 6, 9.

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

7 ARTICLE 1

8 LONG-TERM CARE FACILITIES

9 Section 1. Minnesota Statutes 2004, section 144A.071,
10 subdivision 1a, is amended to read:

11 Subd. 1a. [DEFINITIONS.] For purposes of sections 144A.071
12 to 144A.073, the following terms have the meanings given them:

13 (a) "Attached fixtures" has the meaning given in Minnesota
14 Rules, part 9549.0020, subpart 6.

15 (b) "Buildings" has the meaning given in Minnesota Rules,
16 part 9549.0020, subpart 7.

17 (c) "Capital assets" has the meaning given in section
18 256B.421, subdivision 16.

19 (d) "Commenced construction" means that all of the
20 following conditions were met: the final working drawings and
21 specifications were approved by the commissioner of health; the
22 construction contracts were let; a timely construction schedule
23 was developed, stipulating dates for beginning, achieving
24 various stages, and completing construction; and all zoning and
25 building permits were applied for.

1 (e) "Completion date" means the date on which a certificate
2 of occupancy is issued for a construction project, or if a
3 certificate of occupancy is not required, the date on which the
4 construction project is available for facility use.

5 (f) "Construction" means any erection, building,
6 alteration, reconstruction, modernization, or improvement
7 necessary to comply with the nursing home licensure rules.

8 (g) "Construction project" means:

9 (1) a capital asset addition to, or replacement of a
10 nursing home or certified boarding care home that results in new
11 space or the remodeling of or renovations to existing facility
12 space; and

13 (2) the remodeling or renovation of existing facility space
14 the use of which is modified as a result of the project
15 described in clause (1). This existing space and the project
16 described in clause (1) must be used for the functions as
17 designated on the construction plans on completion of the
18 project described in clause (1) for a period of not less than 24
19 months; ~~or~~

20 ~~{3} capital asset additions or replacements that are~~
21 ~~completed within 12 months before or after the completion date~~
22 ~~of the project described in clause {1}.~~

23 (h) "Depreciation guidelines" means the most recent
24 publication of "The Estimated Useful Lives of Depreciable
25 Hospital Assets," issued by the American Hospital Association,
26 840 North Lake Shore Drive, Chicago, Illinois, 60611.

27 (i) "New licensed" or "new certified beds" means:

28 (1) newly constructed beds in a facility or the
29 construction of a new facility that would increase the total
30 number of licensed nursing home beds or certified boarding care
31 or nursing home beds in the state; or

32 (2) newly licensed nursing home beds or newly certified
33 boarding care or nursing home beds that result from remodeling
34 of the facility that involves relocation of beds but does not
35 result in an increase in the total number of beds, except when
36 the project involves the upgrade of boarding care beds to

1 nursing home beds, as defined in section 144A.073, subdivision
 2 1. "Remodeling" includes any of the type of conversion,
 3 renovation, replacement, or upgrading projects as defined in
 4 section 144A.073, subdivision 1.

5 ~~(i)~~ (j) "Project construction costs" means the cost of the
 6 following items that have a completion date within 12 months
 7 before or after the completion date of the project described in
 8 item (g), clause (1):

9 (1) facility capital asset additions;

10 (2) replacements;

11 (3) renovations;~~or;~~

12 (4) remodeling projects;

13 (5) construction site preparation costs;~~and;~~

14 (6) related soft costs;~~---Project-construction-costs-include~~
 15 ~~the-cost-of-any-remodeling-or-renovation-of-existing-facility~~
 16 ~~space-which-is-modified-as-a-result-of-the-construction~~
 17 ~~project.---Project-construction-costs-also-includes-the-cost-of~~
 18 ~~new-technology-implemented-as-part-of-the-construction-project.~~
 19 ~~Project-construction-costs-also-include;~~ and

20 (7) the cost of new technology implemented as part of the
 21 construction project and depreciable equipment directly
 22 identified to the project, if the construction costs for clauses
 23 (1) to (6) exceed the threshold for additions and replacements
 24 stated in section 256B.431, subdivision 16. Any-new Technology
 25 and depreciable equipment shall be included in the project
 26 construction costs shall;~~at-the~~ unless a written election of is
 27 made by the facility, be-included to not include it in the
 28 facility's appraised value for purposes of Minnesota Rules, part
 29 9549.0020, subpart 5;~~and.~~ Debt incurred for its purchase of
 30 technology and depreciable equipment shall be included as
 31 allowable debt for purposes of Minnesota Rules, part 9549.0060,
 32 subpart 5, items A and C, unless the written election is to not
 33 include it. Any new technology and depreciable equipment
 34 included in the project construction costs that the facility
 35 elects not to include in its appraised value and allowable debt
 36 shall be treated as provided in section 256B.431, subdivision

1 17, paragraph (b). Written election under this paragraph must
2 be included in the facility's request for the rate change
3 related to the project, and this election may not be changed.

4 ~~{j}~~ (k) "Technology" means information systems or devices
5 that make documentation, charting, and staff time more efficient
6 or encourage and allow for care through alternative settings
7 including, but not limited to, touch screens, monitors,
8 hand-helds, swipe cards, motion detectors, pagers, telemedicine,
9 medication dispensers, and equipment to monitor vital signs and
10 self-injections, and to observe skin and other conditions.

11 ARTICLE 2

12 CONTINUING CARE FOR THE ELDERLY

13 Section 1. Minnesota Statutes 2004, section 256B.0913,
14 subdivision 8, is amended to read:

15 Subd. 8. [REQUIREMENTS FOR INDIVIDUAL CARE PLAN.] (a) The
16 case manager shall implement the plan of care for each
17 alternative care client and ensure that a client's service needs
18 and eligibility are reassessed at least every 12 months. The
19 plan shall include any services prescribed by the individual's
20 attending physician as necessary to allow the individual to
21 remain in a community setting. In developing the individual's
22 care plan, the case manager should include the use of volunteers
23 from families and neighbors, religious organizations, social
24 clubs, and civic and service organizations to support the formal
25 home care services. The county shall be held harmless for
26 damages or injuries sustained through the use of volunteers
27 under this subdivision including workers' compensation
28 liability. The ~~lead-agency~~ county of service shall provide
29 documentation in each individual's plan of care and, if
30 requested, to the commissioner that the most cost-effective
31 alternatives available have been offered to the individual and
32 that the individual was free to choose among available qualified
33 providers, both public and private, including qualified case
34 management or service coordination providers other than those
35 employed by ~~the-lead-agency-when-the-lead-agency~~ any county;
36 however, the county or tribe maintains responsibility for prior

1 authorizing services in accordance with statutory and
2 administrative requirements. The case manager must give the
3 individual a ten-day written notice of any denial, termination,
4 or reduction of alternative care services.

5 (b) ~~If The county administering-alternative-care-services~~
6 ~~is-different-than-the-county-of-financial-responsibility,-the~~
7 ~~care-plan-may-be-implemented-without-the-approval of service~~
8 must provide access to and arrange for case management services,
9 including assuring implementation of the plan. The county of
10 service must notify the county of financial responsibility of
11 the approved care plan and the amount of encumbered funds.

12 Sec. 2. Minnesota Statutes 2004, section 256B.0915,
13 subdivision 1a, is amended to read:

14 Subd. 1a. [ELDERLY WAIVER CASE MANAGEMENT SERVICES.] (a)
15 Elderly case management services under the home and
16 community-based services waiver for elderly individuals are
17 available from providers meeting qualification requirements and
18 the standards specified in subdivision 1b. Eligible recipients
19 may choose any qualified provider of elderly case management
20 services.

21 (b) The county of service or tribe must provide access to
22 or arrange for case management services.

23 Sec. 3. Minnesota Statutes 2004, section 256B.0915,
24 subdivision 6, is amended to read:

25 Subd. 6. [IMPLEMENTATION OF CARE PLAN.] Each elderly
26 waiver client shall be provided a copy of a written care plan
27 that meets the requirements outlined in section 256B.0913,
28 subdivision 8. ~~If The care plan must be implemented by the~~
29 county administering waived services when it is different than
30 the county of financial responsibility,-the-care-plan-may-be
31 implemented-without-the-approval-of. The county administering
32 waivered services must notify the county of financial
33 responsibility of the approved care plan.

34 Sec. 4. Minnesota Statutes 2004, section 256B.0915,
35 subdivision 9, is amended to read:

36 Subd. 9. [TRIBAL MANAGEMENT OF ELDERLY WAIVER.]

1 Notwithstanding contrary provisions of this section, or those in
2 other state laws or rules, the commissioner ~~and-White-Earth~~
3 ~~reservation~~ may develop a model for tribal management of the
4 elderly waiver program and implement this model through a
5 contract between the state and ~~White-Earth-Reservation~~ any of
6 the state's federally recognized tribal governments. The model
7 shall include the provision of tribal waiver case management,
8 assessment for personal care assistance, and administrative
9 requirements otherwise carried out by counties but shall not
10 include tribal financial eligibility determination for medical
11 assistance.

Article 1 LONG-TERM CARE FACILITIES..... page 1

Article 2 CONTINUING CARE FOR THE ELDERLY..... page 4

1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Berglin,

4 Chair of the Health and Human Services Budget Division, to
5 which was referred

6 S.F. No. 1569: A bill for an act relating to human
7 services; changing long-term care provisions; amending Minnesota
8 Statutes 2004, sections 144A.071, subdivision 1a; 256B.0913,
9 subdivision 8; 256B.0915, subdivisions 1a, 6, 9.

10 Reports the same back with the recommendation that the bill
11 be amended as follows:

12 Page 5, line 22, delete "or" and insert "and"

13 And when so amended that the bill be recommended to pass
14 and be referred to the full committee.

15 *Jinda Berglin*
16 (Division Chair)

17
18 March 30, 2005.....
19 (Date of Division action)

Fiscal Note – 2005-06 Session

Bill #: S1569-0 Complete Date: 03/28/05

Chief Author: BERGLIN, LINDA

Title: MODIFY LONG TERM CARE PROVISIONS

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Human Services Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

NARRATIVE: SF 1569/HF 1951

Bill Description

Article 1

Section 1 - clarifies if a facility does not provide the department with a written election of their intention, the department will include the depreciable equipment and technology costs in their building construction project. The language also clarifies that facilities conducting small projects already receive an equipment allowance that covers their equipment and technology costs.

Article 2

Section 1, 2, and 3 - seeks to restore in law the county of service as the responsible agency for arranging case management services to reflect the current practice and policy in the Alternative Care and Elderly Waiver programs.

Section 4 - allows any Minnesota Tribe to manage Elderly Waiver or Personal Care Attendant services for their members. It provides eligible persons with a choice in management of their services between the county or tribe. This provision does not increase costs because it does not expand eligibility. The number of persons anticipated to be served by the tribes is expected to be small.

Assumptions

None.

Expenditure and/or Revenue Formula

This is a Department policy bill and has no fiscal impact.

Long-Term Fiscal Considerations

None.

Local Government Costs

None.

References/Sources

Continuing Care Research and Analysis

Agency Contact Name: Amy Dellwo 296-1368

FN Coord Signature: STEVE BARTA

Date: 03/23/05 Phone: 296-5685

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN

Date: 03/28/05 Phone: 286-5618

1 Senator Cohen from the Committee on Finance, to which was
2 re-referred

3 S.F. No. 538: A bill for an act relating to health;
4 providing for education of parents, primary caregivers, and
5 child care providers on the dangers associated with shaking
6 infants and young children; proposing coding for new law in
7 Minnesota Statutes, chapters 144; 245A.

8 Reports the same back with the recommendation that the bill
9 be amended as follows:

10 Page 1, line 17, after "hospital" insert "and any
11 interested individuals"

12 Page 2, line 20, delete "ongoing" and insert "annual"

13 Page 2, line 23, after "providers" insert "and any
14 interested individuals"

15 Page 2, after line 26, insert:

16 "Sec. 3. [APPROPRIATION.]

17 \$13,000 is appropriated from the state government special
18 revenue fund to the commissioner of health for purposes of
19 sections 1 and 2 for the biennium beginning July 1, 2005. The
20 commissioner of health shall assess a fee to hospitals to cover
21 the cost of the approved shaken baby video and royalties to be
22 deposited in the state government special revenue fund."

23 Amend the title as follows:

24 Page 1, line 5, after the semicolon, insert "appropriating
25 money;"

26 And when so amended the bill do pass. Amendments adopted.
27 Report adopted.

28
29 (Committee Chair)

30
31 May 3, 2005.....
32 (Date of Committee recommendation)

1 A bill for an act
2 relating to health; providing for education of
3 parents, primary caregivers, and child care providers
4 on the dangers associated with shaking infants and
5 young children; proposing coding for new law in
6 Minnesota Statutes, chapters 144; 245A.

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

8 Section 1. [144.574] [EDUCATION ABOUT THE DANGERS OF
9 SHAKING INFANTS AND YOUNG CHILDREN.]

10 Subdivision 1. [EDUCATION BY HOSPITALS.] (a) A hospital
11 licensed under sections 144.50 to 144.56 shall make available
12 for viewing by the parents of each newborn baby delivered in the
13 hospital a video presentation on the dangers associated with
14 shaking infants and young children.

15 (b) A hospital shall use a video obtained from the
16 commissioner or approved by the commissioner. The commissioner
17 shall provide to a hospital at cost copies of an approved
18 video. The commissioner shall review other video presentations
19 for possible approval upon the request of a hospital. The
20 commissioner shall not require a hospital to use videos that
21 would require the hospital to pay royalties for use of the
22 video, restrict viewing in order to comply with public viewing
23 or other restrictions, or be subject to other costs or
24 restrictions associated with copyrights.

25 (c) A hospital shall, whenever possible, request both
26 parents to view the video. The patient's chart shall indicate

1 whether the parents are offered an opportunity to view the video.

2 (d) The showing or distribution of the video shall not
3 subject any person or facility to any action for damages or
4 other relief provided the person or facility acted in good faith.

5 Subd. 2. [EDUCATION BY HEALTH CARE PROVIDERS.] The
6 commissioner shall establish a protocol for health care
7 providers to educate parents and primary caregivers about the
8 dangers associated with shaking infants and young children. The
9 commissioner shall request family practice physicians,
10 pediatricians, and other pediatric health care providers to
11 review these dangers with the parents and primary caregivers of
12 infants and young children up to the age of three at each
13 well-baby visit.

14 Sec. 2. [245A.034] [CHILD CARE PROVIDER TRAINING; DANGERS
15 OF SHAKING INFANTS AND YOUNG CHILDREN.]

16 The commissioner shall make available for viewing by all
17 licensed and legal nonlicensed child care providers a video
18 presentation on the dangers associated with shaking infants and
19 young children. The video presentation shall be part of the
20 initial and ongoing training of licensed child care providers.
21 Legal nonlicensed child care providers may participate at their
22 option in a video presentation session offered under this
23 section. The commissioner shall provide to child care providers
24 at cost copies of a video approved by the commissioner of health
25 under section 144.574 on the dangers associated with shaking
26 infants and young children.

1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Berglin,

4 Chair of the Health and Human Services Budget Division, to
5 which was referred

6 S.F. No. 538: A bill for an act relating to health;
7 providing for education of parents, primary caregivers, and
8 child care providers on the dangers associated with shaking
9 infants and young children; proposing coding for new law in
10 Minnesota Statutes, chapters 144; 245A.

11 Reports the same back with the recommendation that the bill
12 be amended as follows:

13 Page 1, line 17, after "hospital" insert "and any
14 interested individuals"

15 Page 2, line 20, delete "ongoing" and insert "annual"

16 Page 2, line 23, after "providers" insert "and any
17 interested individuals"

18 Page 2, after line 26, insert:

19 "Sec. 3. [APPROPRIATION.]

20 \$13,000 is appropriated from the state government special
21 revenue fund to the commissioner of health for purposes of
22 sections 1 and 2 for the biennium beginning February 1, 2005.
23 The commissioner of health shall assess a fee to hospitals to
24 cover the cost of the approved shaken baby video and royalties
25 to be deposited in the state government special revenue fund."

26 Amend the title as follows:

27 Page 1, line 5, after the semicolon, insert "appropriating
28 money;"

29 And when so amended that the bill be recommended to pass
30 and be referred to the full committee.

31 *Linda Berglin*
32 (Division Chair)

33
34 March 30, 2005.....
35 (Date of Division action)

Consolidated Fiscal Note – 2005-06 Session

Bill #: S0538-2A Complete Date: 05/03/05

Chief Author: JOHNSON, DEAN E.

Title: SHAKING INFANTS DANGER EDUCATION

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings	X	
Tax Revenue		X

Agencies: Health Dept (05/03/05)

Human Services Dept (04/06/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
General Fund	0	0	0	0	0
Human Services Dept	0	0	0	0	0
State Govt Special Revenue Fund	13				
Health Dept	13				
Revenues					
State Govt Special Revenue Fund	13				
Health Dept	13				
Net Cost <Savings>					
General Fund	0	0	0	0	0
Human Services Dept	0	0	0	0	0
State Govt Special Revenue Fund	0				
Health Dept	0				
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: CRAIG WIEBER

Date: 05/03/05 Phone: 282-5065

Fiscal Note – 2005-06 Session

Bill #: S0538-2A **Complete Date:** 05/03/05

Chief Author: JOHNSON, DEAN E.

Title: SHAKING INFANTS DANGER EDUCATION

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings	X	
Tax Revenue		X

Agency Name: Health Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
State Govt Special Revenue Fund	13				
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
State Govt Special Revenue Fund	13				
Revenues					
State Govt Special Revenue Fund	13				
Net Cost <Savings>					
State Govt Special Revenue Fund	0				
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

This bill requires hospitals to offer parents of newborns a video presentation on the dangers associated with shaking infants and young children. Hospitals must use a video obtained from or approved by the Department. The Department must provide copies of an approved video at cost, and must review other videos for possible approval if requested by a hospital. The Department may not require hospitals to use a video that requires restrictions or additional costs associated with copyrights.

The bill also requires the Department to establish a protocol for health care providers to educate parents and primary care givers about the dangers associated with shaking infants and young children, and to request pediatric health care providers to review these dangers at well-baby visits.

The bill appropriates \$13,000 from the state government special revenue fund to the department in the current biennium, and directs the department to assess a fee to hospitals to recover the costs of the video and associated royalties.

Assumptions

- After conversations with committee staff, the department is removing the assumption that the department would work with hospitals, health care providers, and childcare providers to implement and maintain an education program for parents and primary care givers.
- Assumes a protocol for health care providers to educate parents and primary caregivers about the dangers associated with shaking infants and young children would be developed and disseminated at minimal cost, which the department would absorb.
- There are 110 birthing hospitals in Minnesota; it is estimated that each hospital would need the video in an average of 3 languages, so the department would need to make 330 videos available.
- The video currently in use in Minnesota is available for bulk purchase at \$15 per copy.
- The owner of the copyright to the video has indicated that a license agreement to allow hospitals to use the video without restrictions would cost the department \$7,000.

Expenditure and/or Revenue Formula

EXPENDITURES	Sfy05
Purchase of videos	\$5,000
Purchase of license agreement	7,000
Distribution costs	1,000
TOTAL EXPENSES	\$13,000
Fee revenue (\$118 times 110 hospitals)	(\$12,980)

Long-Term Fiscal Considerations

None.

Local Government Costs

None.

References/Sources

Department staff.

Technical Note

In order to accurately reflect the Health & Human Services Budget Division discussion about the amendment, the amendment should be corrected to strike "and 2" on the second line. The committee intended to provide funds to the Department of Health to purchase videos under section 1; section 2 pertains to the Department of Human Services.

Agency Contact Name: Pati Maier (651-281-9882)
FN Coord Signature: MARGARET KELLY
Date: 04/06/05 Phone: 281-9998

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: CRAIG WIEBER
Date: 05/03/05 Phone: 282-5065

Fiscal Note – 2005-06 Session

Bill #: S0538-2A **Complete Date:** 04/06/05

Chief Author: JOHNSON, DEAN E.

Title: SHAKING INFANTS DANGER EDUCATION

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Human Services Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund	0	3	0	0	0
Less Agency Can Absorb					
General Fund	0	3	0	0	0
Net Expenditures					
General Fund	0	0	0	0	0
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund	0	0	0	0	0
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

NARRATIVE: SF 538-2A

Bill Description

This bill would require the commissioner of the department of human services to make available for viewing by all licensed child care providers a video presentation on the dangers associated with shaking infants and young children. It also requires the video presentation be part of the initial and ongoing training of licensed child care providers. Legal non-licensed providers may participate in these video presentations at their option. It requires the commissioner to provide to child care providers at cost copies of the video that is approved by the commissioner of health.

This bill as amended, appropriates \$13,000 to the commissioner of Health from the special revenue fund to cover the cost of sections 1 and 2.

Assumptions

The statewide infrastructure of regionally based Child Care Resource & Referral (CCR&R) agencies is the central resource for child care provider training, including training required for licensure and training for legal non-licensed providers registered by counties for payment under the child care assistance program.

Training related to the dangers associated with shaking infants and young children would be made available through the existing CCR&R training system for licensed providers by incorporating it into the initial licensure training. The training would be made available on an ongoing basis to meet the training interval required for renewing CPR and First Aid (repeated every three years).

There is no training requirement under current law for legal nonlicensed providers. We assume that the CCR&Rs will make the video available to legal nonlicensed providers who want to participate in viewing the video. The training videos would be made available through the CCR&R sites for purchase at cost, check-out or on-site viewing/training for both licensed and nonlicensed providers.

The Department of Health currently has identified a video called "Portrait of Promise - Preventing Shaken Baby Syndrome" which is available at the cost of \$15 (bulk rate) through the Midwest Children's Resource Center. The video is currently available in English, Spanish, Hmong, and Somali.

We assume two copies of this video in each language would be provided to the 19 CCR&R sites. The total cost for the 190 copies at \$15 each (bulk rate) would be \$2,850. Under this amendment, these costs could be covered either by part of the \$13,000 appropriated to the commissioner of health or the agency would absorb these costs.

Upon request, a copy of the video would be given to providers at cost.

Expenditure and/or Revenue Formula

Providers will be asked to pay the cost of the video copy, so there is no fiscal impact to the agency.

Long-term Fiscal Considerations

Local Government Costs

References/Sources

Barb Yates, Department of Human Services
Partnerships for Child Development
(651) 282-3804

Agency Contact Name: Jenny Ehrnst 282-2595
FN Coord Signature: STEVE BARTA
Date: 04/06/05 Phone: 296-5685

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KATIE BURNS

Date: 04/06/05 Phone: 296-7289

**Senate Counsel, Research,
and Fiscal Analysis**

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JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 538 - Hospital and Health and Child Care Providers Videos or Education on Dangers of Shaking Infants and Young Children (Division Report)

Author: Senator Dean Johnson

Prepared by: Joan White, Senate Counsel (651/296-3814)

Date: May 3, 2005



S.F. No. 538 educates new parents, health care professionals, and child care providers on the dangers associated with shaking infants and young children.

Section 1, subdivision 1, requires a hospital to make available for viewing by parents of newborns a video presentation on the dangers associated with shaking infants and young children. The hospital is required to use a video obtained from the commissioner or approved by the commissioner, and the commissioner is required to provide the video to hospitals and any interested individuals at cost. The commissioner shall review other video presentations for possible approval upon the request of a hospital. The commissioner is prohibited from requiring hospitals to use videos that would require royalty payments, force hospitals to restrict viewing to comply with public viewing restrictions, or make hospitals subject to issues associated with copyrights.

Subdivision 2 requires the Commissioner of Health to establish a protocol for health care providers to educate parents and primary caregivers about the dangers associated with shaking infants and small children. The commissioner shall request family practice physicians, pediatricians, and other pediatric health care providers to review these dangers with parents and primary caregivers of infants and young children up to age three at each well-baby visit.

Section 2 requires the Commissioner of Human Services to make available for viewing by child care providers a video presentation on the dangers associated with shaking infants and young children. The video shall become part of the initial and annual training of licensed child care providers, and

legal nonlicensed providers may participate at their option in a video presentation session offered under this section. The commissioner is required to provide the video approved by the Commissioner of Health to child care providers and any interested individuals at cost.

Section 3 appropriates \$13,000 from the state government special revenue fund to the Commissioner of Health for purposes of sections 1 and 2. The Commissioner of Health shall access a fee to hospitals to cover the cost of the video and royalties to be deposited in the state government special revenue fund.

JW:rdr

- 1 Senator moves to amend the Report of the Committee on
- 2 Finance (SS0538DIV) to S.F. No. 538 as follows:
- 3 Page 1, line 22, delete "February 1" and insert "July 1"

1 Senator Cohen from the Committee on Finance, to which was
2 re-referred

3 S.F. No. 917: A bill for an act relating to health;
4 providing for grants related to positive abortion alternatives;
5 appropriating money; proposing coding for new law in Minnesota
6 Statutes, chapter 145.

7 Reports the same back with the recommendation that the bill
8 be amended as follows:

9 Delete everything after the enacting clause and insert:

10 "Section 1. [127A.145] [POSITIVE ABORTION ALTERNATIVES.]

11 Subdivision 1. [DEFINITIONS.] For purposes of this

12 section, "abortion" means the use of any means to terminate the

13 pregnancy of a woman known to be pregnant with knowledge that

14 the termination with those means will, with reasonable

15 likelihood, cause the death of the unborn child. For purposes

16 of this section, abortion does not include an abortion necessary

17 to prevent the death of the mother.

18 Subd. 2. [ELIGIBILITY FOR GRANTS.] (a) The commissioner of

19 education shall award grants to eligible applicants under

20 paragraph (c) for the reasonable expenses of alternatives to

21 abortion programs to support, encourage, and assist women in

22 carrying their pregnancies to term and caring for their babies

23 after birth by providing information on, referral to, and

24 assistance with securing necessary services that enable women to

25 carry their pregnancies to term and care for their babies after

26 birth. Necessary services must include, but are not limited to:

27 (1) medical care;

28 (2) nutritional services;

29 (3) housing assistance;

30 (4) adoption services;

31 (5) education and employment assistance, including services

32 that support the continuation and completion of high school;

33 (6) child care assistance; and

34 (7) parenting education and support services.

35 An applicant may not provide or assist a woman to obtain

36 adoption services from a provider of adoption services that is

37 not licensed.

38 (b) In addition to providing information and referral under

1 paragraph (a), an eligible program may provide one or more of
2 the necessary services under paragraph (a) that assists women in
3 carrying their pregnancies to term. To avoid duplication of
4 efforts, grantees may refer to other public or private programs,
5 rather than provide the care directly, if a woman meets
6 eligibility criteria for the other programs.

7 (c) To be eligible for a grant, an agency or organization
8 must:

9 (1) be a private, nonprofit organization;

10 (2) demonstrate that the program is conducted under
11 appropriate supervision;

12 (3) not charge women for services provided under the
13 program;

14 (4) provide each pregnant woman counseled with accurate
15 information on the developmental characteristics of babies and
16 of unborn children, including offering the printed information
17 described in section 145.4243;

18 (5) ensure that its alternatives-to-abortion program's
19 purpose is to assist and encourage women in carrying their
20 pregnancies to term and to maximize their potentials thereafter;
21 and

22 (6) ensure that none of the money provided is used to
23 encourage a woman to have an abortion not necessary to prevent
24 her death or to provide her an abortion.

25 (d) The provisions, words, phrases, and clauses of
26 paragraph (c) are inseverable from this subdivision, and if any
27 provision, word, phrase, or clause of paragraph (c) or its
28 application to any person or circumstance is held invalid, the
29 invalidity applies to all of this subdivision.

30 (e) An organization that provides abortions, promotes
31 abortions, or encourages or arranges for abortions is ineligible
32 to receive a grant under this program. An affiliate of an
33 organization that provides abortions, promotes abortions, or
34 encourages or arranges for abortions is ineligible to receive a
35 grant under this section unless the organizations are separately
36 incorporated and independent from each other. To be

1 independent, the organizations may not share any of the
2 following:

3 (1) the same or a similar name;

4 (2) medical facilities or nonmedical facilities, including
5 but not limited to, business offices, treatment rooms,
6 consultation rooms, examination rooms, and waiting rooms;

7 (3) expenses;

8 (4) employee wages or salaries; or

9 (5) equipment or supplies, including but not limited to,
10 computers, telephone systems, telecommunications equipment, and
11 office supplies.

12 (f) An organization that receives a grant under this
13 section and that is affiliated with an organization that
14 provides abortion services must maintain financial records that
15 demonstrate strict compliance with this subdivision and that
16 demonstrate that its independent affiliate that provides
17 abortion services receives no direct or indirect economic or
18 marketing benefit from the grant under this section.

19 (g) If an organization or agency receiving a grant under
20 this section provides information on abortion, the information
21 provided must be objective, nonjudgmental, and designed to
22 convey only accurate scientific information. The commissioner
23 of education, in consultation with the commissioner of health,
24 shall approve any information provided by a grantee on the
25 health risks associated with abortions to ensure that the
26 information meets this requirement.

27 Subd. 3. [PRIVACY PROTECTION.] (a) Any program receiving a
28 grant under this section must have a privacy policy and
29 procedures in place to ensure that the name, address, telephone
30 number, or any other information that might identify any woman
31 seeking the services of the program is not made public or shared
32 with any other agency or organization without the written
33 consent of the woman. All communications between the program
34 and the woman must remain confidential. For purposes of any
35 medical care provided by the program, including, but not limited
36 to, pregnancy tests or ultrasonic scanning, the program must

1 adhere to the requirements in section 144.335 that apply to
2 providers before releasing any information relating to the
3 medical care provided.

4 (b) Notwithstanding paragraph (a), the commissioner of
5 education has access to any information necessary to monitor and
6 review a grantee's program as required under subdivision 4.

7 Subd. 4. [DUTIES OF COMMISSIONER.] The commissioner of
8 education shall make grants under subdivision 2 beginning no
9 later than July 1, 2006. In awarding grants, the commissioner
10 shall consider the program's demonstrated capacity in providing
11 services to assist a pregnant woman in carrying her pregnancy to
12 term. The commissioner shall monitor and review the programs of
13 each grantee to ensure that the grantee carefully adheres to the
14 purposes and requirements of subdivision 2 and shall cease
15 funding a grantee that fails to do so.

16 Subd. 5. [SEVERABILITY.] Except as provided in subdivision
17 2, paragraph (d), if any provision, word, phrase, or clause of
18 this section or its application to any person or circumstance is
19 held invalid, the invalidity does not affect the provisions,
20 words, phrases, clauses, or applications of this section that
21 can be given effect without the invalid provision, word, phrase,
22 clause, or application and to this end, the provisions, words,
23 phrases, and clauses of this section are severable.

24 Sec. 2. [APPROPRIATIONS; COMMUNITY HEALTH AND FAMILY
25 PROMOTION.]

26 \$2,500,000 is appropriated from the general fund to the
27 commissioner of education for positive abortion alternatives
28 under new Minnesota Statutes, section 127A.145. Of this amount,
29 \$50,000 is available for the fiscal year ending June 30, 2006,
30 and \$100,000 is available for the fiscal year ending June 30,
31 2007, for administrative costs of implementing the grant
32 program. The balance of the appropriation is available for the
33 fiscal year ending June 30, 2007."

34 Delete the title and insert:

35 "A bill for an act relating to health; providing for grants
36 related to positive abortion alternatives; appropriating money;
37 proposing coding for new law in Minnesota Statutes, chapter

1 127A."

2 And when so amended the bill do pass. Amendments adopted.
3 Report adopted.

4
5 (Committee Chair)

6
7 May 3, 2005.....
8 (Date of Committee recommendation)

1 A bill for an act

2 relating to health; providing for grants related to
3 positive abortion alternatives; appropriating money;
4 proposing coding for new law in Minnesota Statutes,
5 chapter 145.

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

7 Section 1. [145.4231] [POSITIVE ABORTION ALTERNATIVES.]

8 Subdivision 1. [DEFINITIONS.] For purposes of this
9 section, the following terms have the meaning given:

10 (1) "abortion" means the use of any means to terminate the
11 pregnancy of a woman known to be pregnant with knowledge that
12 the termination with those means will, with reasonable
13 likelihood, cause the death of the unborn child. For purposes
14 of this section, abortion does not include an abortion necessary
15 to prevent the death of the mother; and

16 (2) "unborn child" means an individual organism of the
17 species Homo sapiens from fertilization until birth.

18 Subd. 2. [ELIGIBILITY FOR GRANTS.] (a) The commissioner of
19 health shall award grants to eligible applicants under paragraph
20 (c) for the reasonable expenses of alternatives to abortion
21 programs to support, encourage, and assist women in carrying
22 their pregnancies to term by providing information on, referral
23 to, and assistance with securing necessary services that enable
24 women to carry their pregnancies to term. Necessary services
25 include, but are not limited to:

1 (1) medical care;

2 (2) nutritional services;

3 (3) housing assistance;

4 (4) adoption services;

5 (5) education and employment assistance;

6 (6) child care assistance; and

7 (7) parenting education and support services, including
8 services that support the continuation and completion of high
9 school.

10 An applicant may not provide or assist a woman to obtain
11 adoption services from a provider of adoption services that is
12 not accredited.

13 (b) In addition to providing information and referral under
14 paragraph (a), an eligible program may provide one or more of
15 the necessary services under paragraph (a) that assists women in
16 carrying their pregnancies to term. To avoid duplication of
17 efforts, grantees may refer to other public or private programs,
18 rather than provide the care directly, if a woman meets
19 eligibility criteria for the other programs.

20 (c) To be eligible for a grant, an agency or organization
21 must:

22 (1) be a private, nonprofit organization;

23 (2) demonstrate that the program is conducted under
24 appropriate supervision;

25 (3) not charge women for services provided under the
26 program;

27 (4) provide each pregnant woman counseled with accurate
28 information on the developmental characteristics of unborn
29 children, including offering the printed information described
30 in section 145.4243;

31 (5) ensure that its alternatives to abortion program's
32 purpose is to assist and encourage women in carrying their
33 pregnancies to term and to maximize their potentials thereafter;
34 and

35 (6) ensure that none of the funds provided is used to
36 encourage a woman to have an abortion not necessary to prevent

1 her death or to provide her an abortion.

2 (d) The provisions, words, phrases, and clauses of
3 paragraph (c) are inseverable from this subdivision, and if any
4 provision, word, phrase, or clause of paragraph (c) or the
5 application thereof to any person or circumstance is held
6 invalid, such invalidity shall apply to all of this subdivision.

7 (e) An organization that provides abortions, promotes
8 abortions, or encourages or arranges for abortions is ineligible
9 to receive a grant under this program. An affiliate of an
10 organization that provides abortions, promotes abortions, or
11 encourages or arranges for abortions is ineligible to receive a
12 grant under this section unless the organizations are separately
13 incorporated and independent from each other. To be
14 independent, the organizations may not share any of the
15 following:

16 (1) the same or a similar name;

17 (2) medical facilities or nonmedical facilities, including
18 but not limited to, business offices, treatment rooms,
19 consultation rooms, examination rooms, and waiting rooms;

20 (3) expenses;

21 (4) employee wages or salaries; or

22 (5) equipment or supplies, including but not limited to,
23 computers, telephone systems, telecommunications equipment, and
24 office supplies.

25 (f) An organization that receives a grant under this
26 section and that is affiliated with an organization that
27 provides abortion services must maintain financial records that
28 demonstrate strict compliance with this subdivision and that
29 demonstrate that its independent affiliate that provides
30 abortion services receives no direct or indirect economic or
31 marketing benefit from the grant under this section.

32 Subd. 3. [PRIVACY PROTECTION.] Any program receiving a
33 grant under this section must have a privacy policy and
34 procedures in place that ensure that the name, address,
35 telephone number, or any other information that might identify
36 any woman seeking the services of the program shall not be made

1 public or shared with any other agency or organization without
2 the written consent of the woman and all communications between
3 the program and the woman must remain confidential. For
4 purposes of any medical care provided by the program, including,
5 but not limited to, pregnancy tests or ultrasonic scanning, the
6 program must adhere to the requirements in section 144.335 that
7 apply to providers before releasing any information relating to
8 the medical care provided.

9 Subd. 4. [DUTIES OF COMMISSIONER.] The commissioner of
10 health shall make grants under subdivision 2 beginning no later
11 than July 1, 2006. In awarding grants, the commissioner shall
12 consider the program's demonstrated capacity in providing
13 services to assist a pregnant woman in carrying her pregnancy to
14 term. The commissioner shall monitor and review the programs of
15 each grantee to ensure that the grantee carefully adheres to the
16 purposes and requirements of subdivision 2 and shall cease
17 funding a grantee that fails to do so.

18 Subd. 5. [SEVERABILITY.] Except as provided in subdivision
19 2, paragraph (d), if any provision, word, phrase, or clause of
20 this section or the application thereof to any person or
21 circumstance is held invalid, such invalidity shall not affect
22 the provisions, words, phrases, clauses, or applications of this
23 section that can be given effect without the invalid provision,
24 word, phrase, clause, or application and to this end, the
25 provisions, words, phrases, and clauses of this section are
26 declared to be severable.

27 Sec. 2. [APPROPRIATIONS; COMMUNITY HEALTH AND FAMILY
28 PROMOTION.]

29 Of the general fund appropriation in fiscal year 2007,
30 \$2,500,000 is for positive abortion alternatives under Minnesota
31 Statutes, section 145.4231. Of this amount, \$100,000 may be
32 used for administrative costs of implementing the grant
33 program. An additional \$50,000 is appropriated from the general
34 fund to the commissioner of health in fiscal year 2006 for
35 administrative costs of program implementation.

1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Berglin,

4 Chair of the Health and Human Services Budget Division, to
5 which was referred

6 S.F. No. 917: A bill for an act relating to health;
7 providing for grants related to positive abortion alternatives;
8 appropriating money; proposing coding for new law in Minnesota
9 Statutes, chapter 145.

10 Reports the same back with the recommendation that the bill
11 be amended as follows:

12 Delete everything after the enacting clause and insert:

13 "Section 1. [127A.145] [POSITIVE ABORTION ALTERNATIVES.]

14 Subdivision 1. [DEFINITIONS.] For purposes of this

15 section, "abortion" means the use of any means to terminate the
16 pregnancy of a woman known to be pregnant with knowledge that
17 the termination with those means will, with reasonable
18 likelihood, cause the death of the unborn child. For purposes
19 of this section, abortion does not include an abortion necessary
20 to prevent the death of the mother.

21 Subd. 2. [ELIGIBILITY FOR GRANTS.] (a) The commissioner of
22 education shall award grants to eligible applicants under
23 paragraph (c) for the reasonable expenses of alternatives to
24 abortion programs to support, encourage, and assist women in
25 carrying their pregnancies to term by providing information on,
26 referral to, and assistance with securing necessary services
27 that enable women to carry their pregnancies to term. Necessary
28 services include, but are not limited to:

29 (1) medical care;

30 (2) nutritional services;

31 (3) housing assistance;

32 (4) adoption services;

33 (5) education and employment assistance;

34 (6) child care assistance; and

35 (7) parenting education and support services, including
36 services that support the continuation and completion of high
37 school.

38 An applicant may not provide or assist a woman to obtain

1 adoption services from a provider of adoption services that is
2 not accredited.

3 (b) In addition to providing information and referral under
4 paragraph (a), an eligible program may provide one or more of
5 the necessary services under paragraph (a) that assists women in
6 carrying their pregnancies to term. To avoid duplication of
7 efforts, grantees may refer to other public or private programs,
8 rather than provide the care directly, if a woman meets
9 eligibility criteria for the other programs.

10 (c) To be eligible for a grant, an agency or organization
11 must:

12 (1) be a private, nonprofit organization;

13 (2) demonstrate that the program is conducted under
14 appropriate supervision;

15 (3) not charge women for services provided under the
16 program;

17 (4) provide each pregnant woman counseled with accurate
18 information on the developmental characteristics of unborn
19 children, including offering the printed information described
20 in section 145.4243;

21 (5) ensure that its alternatives to abortion program's
22 purpose is to assist and encourage women in carrying their
23 pregnancies to term and to maximize their potentials thereafter;
24 and

25 (6) ensure that none of the funds provided is used to
26 encourage a woman to have an abortion not necessary to prevent
27 her death or to provide her an abortion.

28 (d) The provisions, words, phrases, and clauses of
29 paragraph (c) are inseverable from this subdivision, and if any
30 provision, word, phrase, or clause of paragraph (c) or the
31 application thereof to any person or circumstance is held
32 invalid, such invalidity shall apply to all of this subdivision.

33 (e) An organization that provides abortions, promotes
34 abortions, or encourages or arranges for abortions is ineligible
35 to receive a grant under this program. An affiliate of an
36 organization that provides abortions, promotes abortions, or

1 encourages or arranges for abortions is ineligible to receive a
2 grant under this section unless the organizations are separately
3 incorporated and independent from each other. To be
4 independent, the organizations may not share any of the
5 following:

6 (1) the same or a similar name;

7 (2) medical facilities or nonmedical facilities, including
8 but not limited to, business offices, treatment rooms,
9 consultation rooms, examination rooms, and waiting rooms;

10 (3) expenses;

11 (4) employee wages or salaries; or

12 (5) equipment or supplies, including but not limited to,
13 computers, telephone systems, telecommunications equipment, and
14 office supplies.

15 (f) An organization that receives a grant under this
16 section and that is affiliated with an organization that
17 provides abortion services must maintain financial records that
18 demonstrate strict compliance with this subdivision and that
19 demonstrate that its independent affiliate that provides
20 abortion services receives no direct or indirect economic or
21 marketing benefit from the grant under this section.

22 (g) If an organization or agency receiving a grant under
23 this section provides information on abortion, the information
24 provided must be objective, nonjudgmental, and designed to
25 convey only accurate scientific information. The commissioner
26 of education, in consultation with the commissioner of health,
27 shall approve any information provided by a grantee on the
28 health risks associated with abortions to ensure that the
29 information meets this requirement.

30 Subd. 3. [PRIVACY PROTECTION.] (a) Any program receiving a
31 grant under this section must have a privacy policy and
32 procedures in place that ensure that the name, address,
33 telephone number, or any other information that might identify
34 any woman seeking the services of the program shall not be made
5 public or shared with any other agency or organization without
36 the written consent of the woman and all communications between

1 the program and the woman must remain confidential. For
2 purposes of any medical care provided by the program, including,
3 but not limited to, pregnancy tests or ultrasonic scanning, the
4 program must adhere to the requirements in section 144.335 that
5 apply to providers before releasing any information relating to
6 the medical care provided.

7 (b) Notwithstanding paragraph (a), the commissioner of
8 education shall have access to any information necessary to
9 monitor and review a grantee's program as required under
10 subdivision 4.

11 Subd. 4. [DUTIES OF COMMISSIONER.] The commissioner of
12 education shall make grants under subdivision 2 beginning no
13 later than July 1, 2006. In awarding grants, the commissioner
14 shall consider the program's demonstrated capacity in providing
15 services to assist a pregnant woman in carrying her pregnancy to
16 term. The commissioner shall monitor and review the programs of
17 each grantee to ensure that the grantee carefully adheres to the
18 purposes and requirements of subdivision 2 and shall cease
19 funding a grantee that fails to do so.

20 Subd. 5. [SEVERABILITY.] Except as provided in subdivision
21 2, paragraph (d), if any provision, word, phrase, or clause of
22 this section or the application thereof to any person or
23 circumstance is held invalid, such invalidity shall not affect
24 the provisions, words, phrases, clauses, or applications of this
25 section that can be given effect without the invalid provision,
26 word, phrase, clause, or application and to this end, the
27 provisions, words, phrases, and clauses of this section are
28 declared to be severable.

29 Sec. 2. [APPROPRIATIONS; COMMUNITY HEALTH AND FAMILY
30 PROMOTION.]

31 Of the general fund appropriation in fiscal year 2007,
32 \$2,500,000 is for positive abortion alternatives under Minnesota
33 Statutes, section 127A.145. Of this amount, \$100,000 may be
34 used for administrative costs of implementing the grant
35 program. An additional \$50,000 is appropriated from the general
36 fund to the commissioner of education in fiscal year 2006 for

1 administrative costs of program implementation."

2 Delete the title and insert:

3 "A bill for an act relating to health; providing for grants
4 related to positive abortion alternatives; appropriating money;
5 proposing coding for new law in Minnesota Statutes, chapter
6 127A."

7 And when so amended that the bill be recommended to pass
8 and be referred to the full committee.

9 *Jinda Berglin*
10 (Division Chair)

11
12 April 18, 2005.....
13 (Date of Division action)

1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Stumpf,

4 Chair of the K-12 Education Budget Division, to which was
5 referred

6 S.F. No. 917: A bill for an act relating to health;
7 providing for grants related to positive abortion alternatives;
8 appropriating money; proposing coding for new law in Minnesota
9 Statutes, chapter 145.

10 Reports the same back with the recommendation that the bill
11 be amended as follows:

12 Delete everything after the enacting clause and insert:

13 "Section 1. [127A.145] [POSITIVE ABORTION ALTERNATIVES.]

14 Subdivision 1. [DEFINITIONS.] For purposes of this

15 section, "abortion" means the use of any means to terminate the

16 pregnancy of a woman known to be pregnant with knowledge that

17 the termination with those means will, with reasonable

18 likelihood, cause the death of the unborn child. For purposes

19 of this section, abortion does not include an abortion necessary

20 to prevent the death of the mother.

21 Subd. 2. [ELIGIBILITY FOR GRANTS.] (a) The commissioner of

22 education shall award grants to eligible applicants under

23 paragraph (c) for the reasonable expenses of alternatives to

24 abortion programs to support, encourage, and assist women in

25 carrying their pregnancies to term and caring for their babies

26 after birth by providing information on, referral to, and

27 assistance with securing necessary services that enable women to

28 carry their pregnancies to term and care for their babies after

29 birth. Necessary services must include, but are not limited to:

30 (1) medical care;

31 (2) nutritional services;

32 (3) housing assistance;

33 (4) adoption services;

34 (5) education and employment assistance;

35 (6) child care assistance; and

36 (7) parenting education and support services, including

37 services that support the continuation and completion of high

38 school.

1 An applicant may not provide or assist a woman to obtain
2 adoption services from a provider of adoption services that is
3 not accredited.

4 (b) In addition to providing information and referral under
5 paragraph (a), an eligible program may provide one or more of
6 the necessary services under paragraph (a) that assists women in
7 carrying their pregnancies to term. To avoid duplication of
8 efforts, grantees may refer to other public or private programs,
9 rather than provide the care directly, if a woman meets
10 eligibility criteria for the other programs.

11 (c) To be eligible for a grant, an agency or organization
12 must:

13 (1) be a private, nonprofit organization;

14 (2) demonstrate that the program is conducted under
15 appropriate supervision;

16 (3) not charge women for services provided under the
17 program;

18 (4) provide each pregnant woman counseled with accurate
19 information on the developmental characteristics of babies and
20 of unborn children, including offering the printed information
21 described in section 145.4243;

22 (5) ensure that its alternatives to abortion program's
23 purpose is to assist and encourage women in carrying their
24 pregnancies to term and to maximize their potentials thereafter;
25 and

26 (6) ensure that none of the funds provided is used to
27 encourage a woman to have an abortion not necessary to prevent
28 her death or to provide her an abortion.

29 (d) The provisions, words, phrases, and clauses of
30 paragraph (c) are inseverable from this subdivision, and if any
31 provision, word, phrase, or clause of paragraph (c) or the
32 application thereof to any person or circumstance is held
33 invalid, such invalidity shall apply to all of this subdivision.

34 (e) An organization that provides abortions, promotes
35 abortions, or encourages or arranges for abortions is ineligible
36 to receive a grant under this program. An affiliate of an

1 organization that provides abortions, promotes abortions, or
2 encourages or arranges for abortions is ineligible to receive a
3 grant under this section unless the organizations are separately
4 incorporated and independent from each other. To be
5 independent, the organizations may not share any of the
6 following:

7 (1) the same or a similar name;

8 (2) medical facilities or nonmedical facilities, including
9 but not limited to, business offices, treatment rooms,
10 consultation rooms, examination rooms, and waiting rooms;

11 (3) expenses;

12 (4) employee wages or salaries; or

13 (5) equipment or supplies, including but not limited to,
14 computers, telephone systems, telecommunications equipment, and
15 office supplies.

16 (f) An organization that receives a grant under this
17 section and that is affiliated with an organization that
18 provides abortion services must maintain financial records that
19 demonstrate strict compliance with this subdivision and that
20 demonstrate that its independent affiliate that provides
21 abortion services receives no direct or indirect economic or
22 marketing benefit from the grant under this section.

23 (g) If an organization or agency receiving a grant under
24 this section provides information on abortion, the information
25 provided must be objective, nonjudgmental, and designed to
26 convey only accurate scientific information. The commissioner
27 of education, in consultation with the commissioner of health,
28 shall approve any information provided by a grantee on the
29 health risks associated with abortions to ensure that the
30 information meets this requirement.

31 Subd. 3. [PRIVACY PROTECTION.] (a) Any program receiving a
32 grant under this section must have a privacy policy and
33 procedures in place that ensure that the name, address,
34 telephone number, or any other information that might identify
35 any woman seeking the services of the program shall not be made
36 public or shared with any other agency or organization without

1 the written consent of the woman and all communications between
2 the program and the woman must remain confidential. For
3 purposes of any medical care provided by the program, including,
4 but not limited to, pregnancy tests or ultrasonic scanning, the
5 program must adhere to the requirements in section 144.335 that
6 apply to providers before releasing any information relating to
7 the medical care provided.

8 (b) Notwithstanding paragraph (a), the commissioner of
9 education shall have access to any information necessary to
10 monitor and review a grantee's program as required under
11 subdivision 4.

12 Subd. 4. [DUTIES OF COMMISSIONER.] The commissioner of
13 education shall make grants under subdivision 2 beginning no
14 later than July 1, 2006. In awarding grants, the commissioner
15 shall consider the program's demonstrated capacity in providing
16 services to assist a pregnant woman in carrying her pregnancy to
17 term. The commissioner shall monitor and review the programs of
18 each grantee to ensure that the grantee carefully adheres to the
19 purposes and requirements of subdivision 2 and shall cease
20 funding a grantee that fails to do so.

21 Subd. 5. [SEVERABILITY.] Except as provided in subdivision
22 2, paragraph (d), if any provision, word, phrase, or clause of
23 this section or the application thereof to any person or
24 circumstance is held invalid, such invalidity shall not affect
25 the provisions, words, phrases, clauses, or applications of this
26 section that can be given effect without the invalid provision,
27 word, phrase, clause, or application and to this end, the
28 provisions, words, phrases, and clauses of this section are
29 declared to be severable.

30 Sec. 2. [APPROPRIATIONS; COMMUNITY HEALTH AND FAMILY
31 PROMOTION.]

32 Of the general fund appropriation in fiscal year 2007,
33 \$2,500,000 is for positive abortion alternatives under Minnesota
34 Statutes, section 127A.145. Of this amount, \$100,000 may be
35 used for administrative costs of implementing the grant
36 program. An additional \$50,000 is appropriated from the general

1 fund to the commissioner of education in fiscal year 2006 for
2 administrative costs of program implementation."

3 Delete the title and insert:

4 "A bill for an act relating to health; providing for grants
5 related to positive abortion alternatives; appropriating money;
6 proposing coding for new law in Minnesota Statutes, chapter
7 127A."

8 And when so amended that the bill be recommended to pass
9 and be referred to the full committee.

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14

.....
(Division Chair)

April 20, 2005.....
(Date of Division action)

1 M..... moves to amend the division report
2 (SS0917DI1) on S.F. No. 917 as follows:

3 Page 2, line 22, delete "alternatives to abortion" and
4 insert "alternatives-to-abortion"

5 Page 2, line 26, delete "funds" and insert "money"

6 Page 2, lines 31 and 32, delete "the application thereof"
7 and insert "its application"

8 Page 2, line 33, delete "such invalidity shall apply" and
9 insert "the invalidity applies"

10 Page 3, line 33, delete the first "that" and insert "to"

11 Page 3, line 35, delete "shall not be" and insert "is not"

12 Page 4, line 1, delete "and" and insert a period

13 Page 4, line 9, delete "shall have" and insert "has"

14 Page 4, line 23, delete "the application thereof" and
15 insert "its application"

16 Page 4, line 24, delete "such invalidity shall" and insert "
17 the invalidity does"

18 Page 4, line 29, delete "declared to be"

1 Senator moves to amend the division report
2 (SS0917DI1) on S.F. No. 917 as follows:

3 Page 1, line 34, before the semicolon, insert ", including
4 services that support the continuation and completion of high
5 school"

6 Page 1, line 36, delete ", including"

7 Page 1, delete line 37

8 Page 1, line 38, delete "school"

9 Page 2, line 3, delete "accredited" and insert "licensed"

10 Pages 4 and 5, delete section 2 and insert:

11 "Sec. 2. [APPROPRIATIONS; COMMUNITY HEALTH AND FAMILY
12 PROMOTION.]

13 \$2,500,000 is appropriated from the general fund to the
14 commissioner of education for positive abortion alternatives
15 under new Minnesota Statutes, section 127A.145. Of this amount,
16 \$50,000 is available for the fiscal year ending June 30, 2006,
17 and \$100,000 is available for the fiscal year ending June 30,
18 2007, for administrative costs of implementing the grant
19 program. The balance of the appropriation is available for the
20 fiscal year ending June 30, 2007."

1 Senator Cohen from the Committee on Finance, to which was
2 referred

3 S.F. No. 1378: A bill for an act relating to health;
4 modifying medical education funding provisions; amending
5 Minnesota Statutes 2004, section 62J.692, subdivisions 3, 4, 7.

6 Reports the same back with the recommendation that the bill
7 do pass. Report adopted.

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.....
(Committee Chair)

May 3, 2005.....
(Date of Committee recommendation)

Senator Kiscaden introduced--

S.F. No. 1378: Referred to the Committee on Finance.

1 A bill for an act
2 relating to health; modifying medical education
3 funding provisions; amending Minnesota Statutes 2004,
4 section 62J.692, subdivisions 3, 4, 7.

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

6 Section 1. Minnesota Statutes 2004, section 62J.692,
7 subdivision 3, is amended to read:

8 Subd. 3. [APPLICATION PROCESS.] (a) A clinical medical
9 education program conducted in Minnesota by a teaching
10 institution to train physicians, doctor of pharmacy
11 practitioners, dentists, chiropractors, or physician assistants
12 is eligible for funds under subdivision 4 if the program:

- 13 (1) is funded, in part, by patient care revenues;
- 14 (2) occurs in patient care settings that face increased
15 financial pressure as a result of competition with nonteaching
16 patient care entities; and

17 (3) emphasizes primary care or specialties that are in
18 undersupply in Minnesota.

19 (b) A clinical medical education program for advanced
20 practice nursing is eligible for funds under subdivision 4 if
21 the program meets the eligibility requirements in paragraph (a),
22 clauses (1) to (3), and is sponsored by the University of
23 Minnesota Academic Health Center, the Mayo Foundation, or
24 institutions that are part of the Minnesota State Colleges and
25 Universities system or members of the Minnesota Private College

1 Council.

2 (c) Applications must be submitted to the commissioner by a
3 sponsoring institution on behalf of an eligible clinical medical
4 education program and must be received by October 31 of each
5 year for distribution in the following year. An application for
6 funds must contain the following information:

7 (1) the official name and address of the sponsoring
8 institution and the official name and site address of the
9 clinical medical education programs on whose behalf the
10 sponsoring institution is applying;

11 (2) the name, title, and business address of those persons
12 responsible for administering the funds;

13 (3) for each clinical medical education program for which
14 funds are being sought; the type and specialty orientation of
15 trainees in the program; the name, site address, and medical
16 assistance provider number of each training site used in the
17 program; the total number of trainees at each training site; and
18 the total number of eligible trainee FTEs at each site. ~~Only~~
19 ~~those training sites that host 0.5 FTE or more eligible trainees~~
20 ~~for a program may be included in the program's application;~~ and

21 (4) other supporting information the commissioner deems
22 necessary to determine program eligibility based on the criteria
23 in paragraphs (a) and (b) and to ensure the equitable
24 distribution of funds.

25 (d) An application must include the information specified
26 in clauses (1) to (3) for each clinical medical education
27 program on an annual basis for three consecutive years. After
28 that time, an application must include the information specified
29 in clauses (1) to (3) ~~in the first year of each biennium~~ when
30 requested, at the discretion of the commissioner:

31 (1) audited clinical training costs per trainee for each
32 clinical medical education program when available or estimates
33 of clinical training costs based on audited financial data;

34 (2) a description of current sources of funding for
35 clinical medical education costs, including a description and
36 dollar amount of all state and federal financial support,

1 including Medicare direct and indirect payments; and

2 (3) other revenue received for the purposes of clinical
3 training.

4 (e) An applicant that does not provide information
5 requested by the commissioner shall not be eligible for funds
6 for the current funding cycle.

7 Sec. 2. Minnesota Statutes 2004, section 62J.692,
8 subdivision 4, is amended to read:

9 Subd. 4. [DISTRIBUTION OF FUNDS.] (a) The commissioner
10 shall annually distribute 90 percent of available medical
11 education funds to all qualifying applicants based on a
12 distribution formula that reflects a summation of two factors:

13 (1) an education factor, which is determined by the total
14 number of eligible trainee FTEs and the total statewide average
15 costs per trainee, by type of trainee, in each clinical medical
16 education program; and

17 (2) a public program volume factor, which is determined by
18 the total volume of public program revenue received by each
19 training site as a percentage of all public program revenue
20 received by all training sites in the fund pool.

21 In this formula, the education factor is weighted at 67
22 percent and the public program volume factor is weighted at 33
23 percent.

24 Public program revenue for the distribution formula
25 includes revenue from medical assistance, prepaid medical
26 assistance, general assistance medical care, and prepaid general
27 assistance medical care. Training sites that receive no public
28 program revenue are ineligible for funds available under this
29 paragraph. Total statewide average costs per trainee for
30 medical residents is based on audited clinical training costs
31 per trainee in primary care clinical medical education programs
32 for medical residents. Total statewide average costs per
33 trainee for dental residents is based on audited clinical
34 training costs per trainee in clinical medical education
35 programs for dental students. Total statewide average costs per
36 trainee for pharmacy residents is based on audited clinical

1 training costs per trainee in clinical medical education
2 programs for pharmacy students.

3 (b) The commissioner shall annually distribute ten percent
4 of total available medical education funds to all qualifying
5 applicants based on the percentage received by each applicant
6 under paragraph (a). These funds are to be used to offset
7 clinical education costs at eligible clinical training sites
8 based on criteria developed by the clinical medical education
9 program. Applicants may choose to distribute funds allocated
10 under this paragraph based on the distribution formula described
11 in paragraph (a). ~~Applicants may also choose to distribute~~
12 ~~funds to clinical training sites with a valid Minnesota medical~~
13 ~~assistance identification number that host fewer than 0.5~~
14 ~~eligible trainee FTEs for a clinical medical education program.~~

15 (c) Funds distributed shall not be used to displace current
16 funding appropriations from federal or state sources.

17 (d) Funds shall be distributed to the sponsoring
18 institutions indicating the amount to be distributed to each of
19 the sponsor's clinical medical education programs based on the
20 criteria in this subdivision and in accordance with the
21 commissioner's approval letter. Each clinical medical education
22 program must distribute funds allocated under paragraph (a) to
23 the training sites as specified in the commissioner's approval
24 letter. Sponsoring institutions, which are accredited through
25 an organization recognized by the Department of Education or the
26 Centers for Medicare and Medicaid Services, may contract
27 directly with training sites to provide clinical training. To
28 ensure the quality of clinical training, those accredited
29 sponsoring institutions must:

30 (1) develop contracts specifying the terms, expectations,
31 and outcomes of the clinical training conducted at sites; and

32 (2) take necessary action if the contract requirements are
33 not met. Action may include the withholding of payments under
34 this section or the removal of students from the site.

35 (e) Any funds not distributed in accordance with the
36 commissioner's approval letter must be returned to the medical

1 education and research fund within 30 days of receiving notice
2 from the commissioner. The commissioner shall distribute
3 returned funds to the appropriate training sites in accordance
4 with the commissioner's approval letter.

5 (f) The commissioner shall distribute by June 30 of each
6 year an amount equal to the funds transferred under subdivision
7 10, plus five percent interest to the University of Minnesota
8 Board of Regents for the instructional costs of health
9 professional programs at the Academic Health Center and for
10 interdisciplinary academic initiatives within the Academic
11 Health Center.

12 (g) A maximum of \$150,000 of the funds dedicated to the
13 commissioner under section 297F.10, subdivision 1, paragraph
14 (b), clause (2), may be used by the commissioner for
15 administrative expenses associated with implementing this
16 section.

17 Sec. 3. Minnesota Statutes 2004, section 62J.692,
18 subdivision 7, is amended to read:

19 Subd. 7. [TRANSFERS FROM THE COMMISSIONER OF HUMAN
20 SERVICES.] (a) The amount transferred according to section
21 256B.69, subdivision 5c, paragraph (a), clause (1), shall be
22 distributed by the commissioner annually to clinical medical
23 education programs that meet the qualifications of subdivision 3
24 based on the formula in subdivision 4, paragraph (a).

25 (b) Fifty percent of the amount transferred according to
26 section 256B.69, subdivision 5c, paragraph (a), clause (2),
27 shall be distributed by the commissioner to the University of
28 Minnesota Board of Regents for the purposes described in
29 sections 137.38 to 137.40. Of the remaining amount transferred
30 according to section 256B.69, subdivision 5c, paragraph (a),
31 clause (2), 24 percent of the amount shall be distributed by the
32 commissioner to the Hennepin County Medical Center for clinical
33 medical education. The remaining 26 percent of the amount
34 transferred shall be distributed by the commissioner in
35 accordance with subdivision 7a. If the federal approval is not
36 obtained for the matching funds under section 256B.69,

1 subdivision 5c, paragraph (a), clause (2), 100 percent of the
2 amount transferred under this paragraph shall be distributed by
3 the commissioner to the University of Minnesota Board of Regents
4 for the purposes described in sections 137.38 to 137.40.

5 (c) The amount transferred according to section 256B.69,
6 subdivision 5c, paragraph (a), clause clauses (3) and (4), shall
7 be distributed by the commissioner upon receipt to the
8 University of Minnesota Board of Regents for the purposes of
9 clinical graduate medical education.

1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Berglin,

4 Chair of the Health and Human Services Budget Division, to
5 which was referred

6 S.F. No. 1378: A bill for an act relating to health;
7 modifying medical education funding provisions; amending
8 Minnesota Statutes 2004, section 62J.692, subdivisions 3, 4, 7.

9 Reports the same back with the recommendation that the bill
10 do pass and be referred to the full committee.

11

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Linda Berglin
.....
(Division Chair)

March 16, 2005.....
(Date of Division action)

Consolidated Fiscal Note – 2005-06 Session

Bill #: S1378-0 **Complete Date:** 03/15/05

Chief Author: KISCADEN, SHEILA

Title: MEDICAL EDUCATION FUNDING PROVISIONS

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agencies: Health Dept (03/15/05)

Human Services Dept (03/15/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
– No Impact –					
Revenues					
– No Impact –					
Net Cost <Savings>					
– No Impact –					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
– No Impact –					
Total FTE					

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: CRAIG WIEBER

Date: 03/15/05 Phone: 282-5065

Fiscal Note – 2005-06 Session

Bill #: S1378-0 Complete Date: 03/15/05

Chief Author: KISCADEN, SHEILA

Title: MEDICAL EDUCATION FUNDING PROVISIONS

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Health Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
– No Impact –					
Less Agency Can Absorb					
– No Impact –					
Net Expenditures					
-- No Impact --					
Revenues					
– No Impact –					
Net Cost <Savings>					
– No Impact –					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
– No Impact –					
Total FTE					

Bill Description

Sec. 1 – Changes to MERC application

Strikes language limiting eligibility for MERC to training sites hosting at least 0.5 FTE clinical trainees from an applicant program. Changes collection of cost data through the MERC application from the first year of each biennium to 'upon request,' at a frequency that is at the discretion of the Commissioner.

Sec. 2 – Distribution of MERC funds

Removes language specifying that sponsoring institutions may use funds from the 10% discretionary pool to reimburse sites that host fewer than 0.5 FTE clinical trainees from an applicant program; with the elimination of the 0.5 FTE cutoff under section 1, this clause is no longer necessary.

Sec. 3 – Transfers from DHS

Makes a technical change to language describing transfers that occur between DHS and MDH, to include funds transferred under MN Statute 256B.69, subdivision 5c, paragraph (a), clause (4).

Assumptions

There is no fiscal impact from these changes. MERC staff will continue to collect data through MERC applications and distribute funds annually per the statute, with no staffing or administrative changes required. Change under section 3 does not increase or decrease the amount of funding available for MERC.

Expenditure and/or Revenue Formula

None

Long-Term Fiscal Considerations

None

Agency Contact Name: Scott Leitz (651-282-6361)

FN Coord Signature: MARGARET KELLY

Date: 03/07/05 Phone: 281-9998

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: CRAIG WIEBER

Date: 03/15/05 Phone: 282-5065

Fiscal Note – 2005-06 Session

Bill #: S1378-0 Complete Date: 03/15/05

Chief Author: KISCADEN, SHEILA

Title: MEDICAL EDUCATION FUNDING PROVISIONS

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Human Services Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
– No Impact –					
Less Agency Can Absorb					
– No Impact –					
Net Expenditures					
– No Impact –					
Revenues					
– No Impact –					
Net Cost <Savings>					
– No Impact –					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
– No Impact –					
Total FTE					

NARRATIVE: SF 1378

Bill Description

This bill modifies the criteria that the health department follows for the distribution of medical education funds. It also updates statutory references to current law.

This bill does not affect the medical education payments by the department of human services to the health department and therefore has no fiscal impact on the department of human services.

Assumptions

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

Agency Contact Name: Paul Olson 296-5620
FN Coord Signature: STEVE BARTA
Date: 03/07/05 Phone: 296-5685

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KATIE BURNS
Date: 03/15/05 Phone: 296-7289

1 Senator Cohen from the Committee on Finance, to which was
2 re-referred

3 S.F. No. 1204: A bill for an act relating to health;
4 recodifying statutes and rules relating to social work;
5 authorizing rulemaking; providing penalties; modifying
6 provisions relating to physical therapists; providing penalties;
7 modifying the Psychology Practice Act; phasing out licensure as
8 a licensed psychological practitioner; modifying dental
9 licensure provisions; establishing fees; modifying provisions
10 for licensed professional counselors; authorizing certain
11 rulemaking; modifying physician review; modifying information
12 contained on prescriptions; providing recognition for the
13 practice of respiratory therapy in emergency situations;
14 providing that audiologists need not obtain hearing instrument
15 dispenser certification; providing penalties; transferring
16 oversight authority for the Office of Mental Health Practice;
17 requiring a report; establishing penalty fees for certain
18 credentialed health occupations; providing criminal penalties;
19 appropriating money; amending Minnesota Statutes 2004, sections
20 13.383, subdivision 10; 13.411, subdivision 5; 144.335,
21 subdivision 1; 144A.46, subdivision 2; 147.09; 147A.18,
22 subdivisions 1, 3; 147C.05; 148.512, subdivision 6, by adding
23 subdivisions; 148.515, by adding a subdivision; 148.5194, by
24 adding subdivisions; 148.5195, subdivision 3; 148.6445, by
25 adding a subdivision; 148.65, by adding subdivisions; 148.706;
26 148.75; 148.89, subdivision 5; 148.90, subdivision 1; 148.907,
27 by adding a subdivision; 148.908, subdivision 2, by adding a
28 subdivision; 148.909; 148.916, subdivision 2; 148.925,
29 subdivision 6; 148.941, subdivision 2; 148.96, subdivision 3;
30 148B.53, subdivisions 1, 3; 148B.54, subdivision 2; 148B.59;
31 148B.60; 148B.61; 148C.03, subdivision 1; 148C.04, subdivisions
32 3, 4, 6; 148C.091, subdivision 1; 148C.10, subdivision 2;
33 148C.11, subdivisions 1, 4, 5, 6; 148C.12, subdivision 3, by
34 adding a subdivision; 150A.01, subdivision 6a; 150A.06,
35 subdivision 1a; 150A.10, subdivision 1a; 153A.13, subdivision 5;
36 153A.14, subdivisions 2i, 4, 4c; 153A.15, subdivision 1;
37 153A.20, subdivision 1; 214.01, subdivision 2; 214.103,
38 subdivision 1; 245.462, subdivision 18; 245.4871, subdivision
39 27; 256B.0625, subdivision 38; 256J.08, subdivision 73a;
40 319B.02, subdivision 19; 319B.40; Laws 2003, chapter 118,
41 section 29, as amended; proposing coding for new law in
42 Minnesota Statutes, chapters 148; 148B; 148C; 150A; 153A;
43 providing coding for new law as Minnesota Statutes, chapter
44 148D; repealing Minnesota Statutes 2004, sections 148B.18;
45 148B.185; 148B.19; 148B.20; 148B.21; 148B.215; 148B.22;
46 148B.224; 148B.225; 148B.226; 148B.24; 148B.25; 148B.26;
47 148B.27; 148B.28; 148B.281; 148B.282; 148B.283; 148B.284;
48 148B.285; 148B.286; 148B.287; 148B.288; 148B.289; 148C.02;
49 148C.12, subdivision 4; 153A.14, subdivision 2a; Minnesota
50 Rules, parts 4747.0030, subparts 11, 16; 4747.1200; 4747.1300;
51 5601.0100, subparts 3, 4; 8740.0100; 8740.0110; 8740.0120;
52 8740.0122; 8740.0130; 8740.0155; 8740.0185; 8740.0187;
53 8740.0200; 8740.0240; 8740.0260; 8740.0285; 8740.0300;
54 8740.0310; 8740.0315; 8740.0320; 8740.0325; 8740.0330;
55 8740.0335; 8740.0340; 8740.0345.

56 Reports the same back with the recommendation that the bill
57 be amended as follows:

58 Page 11, line 33, after the period, insert "The employment
59 of the executive director shall be subject to the terms
60 described in section 214.04, subdivision 2a."

61 Page 12, lines 32 and 33, delete "and criminal prosecution"

62 Page 59, after line 19, insert:

63 "Subd. 8. [TEMPORARY FEE REDUCTION.] For fiscal years

1 2006, 2007, 2008, and 2009, the following fee changes are
2 effective:

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

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

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

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

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

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

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

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

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

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

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

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

27 This subdivision expires on June 30, 2009."

28 Page 74, line 25, after the period, insert "Financial
29 responsibility for failed appointment billings resides solely
30 with the client and such costs may not be billed to public or
31 private payers."

32 Page 105, delete section 13

33 Page 120, delete lines 18 to 21 and insert:

34 "The dental hygienist shall-not-perform may administer
35 injections of local anesthetic agents or the-administration-of
36 nitrous oxide unless-under-the-indirect-supervision

1 of inhalation analgesia as specifically delegated in the
2 collaborative agreement with a licensed dentist. The dentist
3 need not first examine the patient or be present. If the
4 patient is considered medically compromised, the collaborative
5 dentist shall review the patient record, including the medical
6 history, prior to the provision of these services.

7 Collaborating dental hygienists may work with"

8 Pages 147 to 160, delete article 7 and insert:

9 "ARTICLE 7

10 COMMISSIONER OF HEALTH - AUDIOLOGISTS

11 Section 1. Minnesota Statutes 2004, section 148.512,
12 subdivision 6, is amended to read:

13 Subd. 6. [AUDIOLOGIST.] "Audiologist" means a natural
14 person who engages in the practice of audiology, meets the
15 qualifications required by sections 148.511 to ~~148.5196~~
16 148.5198, and is licensed by the commissioner under a general,
17 clinical fellowship, doctoral externship, or temporary license.
18 Audiologist also means a natural person using any descriptive
19 word with the title audiologist.

20 Sec. 2. Minnesota Statutes 2004, section 148.512, is
21 amended by adding a subdivision to read:

22 Subd. 10a. [HEARING AID.] "Hearing aid" means an
23 instrument, or any of its parts, worn in the ear canal and
24 designed to or represented as being able to aid or enhance human
25 hearing. "Hearing aid" includes the aid's parts, attachments,
26 or accessories, including, but not limited to, ear molds and
27 behind the ear (BTE) devices with or without an ear mold.
28 Batteries and cords are not parts, attachments, or accessories
29 of a hearing aid. Surgically implanted hearing aids, and
30 assistive listening devices not worn within the ear canal, are
31 not hearing aids.

32 Sec. 3. Minnesota Statutes 2004, section 148.512, is
33 amended by adding a subdivision to read:

34 Subd. 10b. [HEARING AID DISPENSING.] "Hearing aid
35 dispensing" means making ear mold impressions, prescribing, or
36 recommending a hearing aid, assisting the consumer in aid

1 selection, selling hearing aids at retail, or testing human
2 hearing in connection with these activities regardless of
3 whether the person conducting these activities has a monetary
4 interest in the dispensing of hearing aids to the consumer.

5 Sec. 4. Minnesota Statutes 2004, section 148.513, is
6 amended by adding a subdivision to read:

7 Subd. 2a. [HEARING AID DISPENSERS.] An audiologist must
8 not hold out as a licensed hearing aid dispenser.

9 Sec. 5. Minnesota Statutes 2004, section 148.515, is
10 amended by adding a subdivision to read:

11 Subd. 6. [DISPENSING AUDIOLOGIST EXAMINATION
12 REQUIREMENTS.] (a) Audiologists are exempt from the written
13 examination requirement in section 153A.14, subdivision 2h,
14 paragraph (a), clause (1).

15 (b) After July 31, 2005, all applicants for audiologist
16 licensure under sections 148.512 to 148.5198 must achieve a
17 passing score on the practical tests of proficiency described in
18 section 153A.14, subdivision 2h, paragraph (a), clause (2),
19 within the time period described in section 153A.14, subdivision
20 2h, paragraph (c).

21 (c) In order to dispense hearing aids as a sole proprietor,
22 member of a partnership, or for a limited liability company,
23 corporation, or any other entity organized for profit, a
24 licensee who obtained audiologist licensure under sections
25 148.512 to 148.5198, before August 1, 2005, and who is not
26 certified to dispense hearing aids under chapter 153A, must
27 achieve a passing score on the practical tests of proficiency
28 described in section 153A.14, subdivision 2h, paragraph (a),
29 clause (2), within the time period described in section 153A.14,
30 subdivision 2h, paragraph (c). All other audiologist licensees
31 who obtained licensure before August 1, 2005, are exempt from
32 the practical tests.

33 Sec. 6. Minnesota Statutes 2004, section 148.5194, is
34 amended by adding a subdivision to read:

35 Subd. 7. [AUDIOLOGIST SURCHARGE FEE.] (a) The biennial
36 surcharge fee for audiologists is \$235. The commissioner shall

1 prorate the fee for clinical fellowship, doctoral externship,
2 temporary, and first time licensees according to the number of
3 months that have elapsed between the date the license is issued
4 and the date the license expires or must be renewed under
5 section 148.5191, subdivision 4.

6 (b) Effective November 1, 2005, the commissioner shall
7 collect the \$235 audiologist surcharge fee prorated according to
8 the number of months remaining until the next scheduled license
9 renewal.

10 Sec. 7. Minnesota Statutes 2004, section 148.5195,
11 subdivision 3, is amended to read:

12 Subd. 3. [GROUNDS FOR DISCIPLINARY ACTION BY
13 COMMISSIONER.] The commissioner may take any of the disciplinary
14 actions listed in subdivision 4 on proof that the individual has:

15 (1) intentionally submitted false or misleading information
16 to the commissioner or the advisory council;

17 (2) failed, within 30 days, to provide information in
18 response to a written request, via certified mail, by the
19 commissioner or advisory council;

20 (3) performed services of a speech-language pathologist or
21 audiologist in an incompetent or negligent manner;

22 (4) violated sections 148.511 to ~~148.5196~~ 148.5198;

23 (5) failed to perform services with reasonable judgment,
24 skill, or safety due to the use of alcohol or drugs, or other
25 physical or mental impairment;

26 (6) violated any state or federal law, rule, or regulation,
27 and the violation is a felony or misdemeanor, an essential
28 element of which is dishonesty, or which relates directly or
29 indirectly to the practice of speech-language pathology or
30 audiology. Conviction for violating any state or federal law
31 which relates to speech-language pathology or audiology is
32 necessarily considered to constitute a violation, except as
33 provided in chapter 364;

34 (7) aided or abetted another person in violating any
35 provision of sections 148.511 to ~~148.5196~~ 148.5198;

36 (8) been or is being disciplined by another jurisdiction,

1 if any of the grounds for the discipline is the same or
2 substantially equivalent to those under sections 148.511 to
3 148.5196;

4 (9) not cooperated with the commissioner or advisory
5 council in an investigation conducted according to subdivision
6 1;

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

8 (11) engaged in conduct likely to deceive, defraud, or harm
9 the public; or demonstrated a willful or careless disregard for
10 the health, welfare, or safety of a client;

11 (12) failed to disclose to the consumer any fee splitting
12 or any promise to pay a portion of a fee to any other
13 professional other than a fee for services rendered by the other
14 professional to the client;

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

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

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

24 (16) failed to refer a client for medical evaluation or to
25 other health care professionals when appropriate or when a
26 client indicated symptoms associated with diseases that could be
27 medically or surgically treated;

28 ~~(17) if-the-individual-is-a-dispenser-of-hearing~~
29 ~~instruments-as-defined-by-section-153A-137,-subdivision-5,~~ had
30 the certification required by chapter 153A, denied, suspended,
31 or revoked according to chapter 153A;

32 (18) used the term doctor of audiology, doctor of
33 speech-language pathology, AuD, or SLPD without having obtained
34 the degree from an institution accredited by the North Central
35 Association of Colleges and Secondary Schools, the Council on
36 Academic Accreditation in Audiology and Speech-Language

1 Pathology, the United States Department of Education, or an
2 equivalent; ~~or~~

3 (19) failed to comply with the requirements of section
4 148.5192 regarding supervision of speech-language pathology
5 assistants; or

6 (20) if the individual is an audiologist or certified
7 hearing aid dispenser:

8 (i) prescribed or otherwise recommended to a consumer or
9 potential consumer the use of a hearing aid, unless the
10 prescription from a physician or recommendation from an
11 audiologist or certified dispenser is in writing, is based on an
12 audiogram that is delivered to the consumer or potential
13 consumer when the prescription or recommendation is made, and
14 bears the following information in all capital letters of
15 12-point or larger boldface type: "THIS PRESCRIPTION OR
16 RECOMMENDATION MAY BE FILLED BY, AND HEARING AIDS MAY BE
17 PURCHASED FROM, THE LICENSED AUDIOLOGIST OR CERTIFIED DISPENSER
18 OF YOUR CHOICE";

19 (ii) failed to give a copy of the audiogram, upon which the
20 prescription or recommendation is based, to the consumer when
21 the consumer requests a copy;

22 (iii) failed to provide the consumer rights brochure
23 required by section 148.5197, subdivision 3;

24 (iv) failed to comply with restrictions on sales of hearing
25 aids in sections 148.5197, subdivision 3, and 148.5198;

26 (v) failed to return a consumer's hearing aid used as a
27 trade-in or for a discount in the price of a new hearing aid
28 when requested by the consumer upon cancellation of the purchase
29 agreement;

30 (vi) failed to follow Food and Drug Administration or
31 Federal Trade Commission regulations relating to dispensing
32 hearing aids;

33 (vii) failed to dispense a hearing aid in a competent
34 manner or without appropriate training;

35 (viii) delegated hearing instrument dispensing authority to
36 a person not authorized to dispense a hearing instrument under

1 this chapter or chapter 153A;

2 (ix) failed to comply with the requirements of an employer
3 or supervisor of a hearing aid dispenser trainee; or

4 (x) violated a state or federal court order or judgment,
5 including a conciliation court judgment, relating to the
6 activities of the individual's hearing aid dispensing.

7 Sec. 8. Minnesota Statutes 2004, section 148.5196,
8 subdivision 1, is amended to read:

9 Subdivision 1. [MEMBERSHIP.] The commissioner shall
10 appoint ~~eight~~ 12 persons to a Speech-Language Pathologist and
11 Audiologist Advisory Council. The ~~eight~~ 12 persons must include:

12 (1) ~~two~~ three public members, as defined in section 214.02.

13 Two of the public members shall be either persons receiving
14 services of a speech-language pathologist or audiologist, or
15 family members of or caregivers to such persons, and at least
16 one of the public members shall be either a hearing instrument
17 user or an advocate of one;

18 (2) ~~two~~ three speech-language pathologists licensed under
19 sections 148.511 to 148.5196, one of whom is currently and has
20 been, for the five years immediately preceding the appointment,
21 engaged in the practice of speech-language pathology in
22 Minnesota and each of whom is employed in a different employment
23 setting including, but not limited to, private practice,
24 hospitals, rehabilitation settings, educational settings, and
25 government agencies;

26 (3) one speech-language pathologist licensed under sections
27 148.511 to 148.5196, who is currently and has been, for the five
28 years immediately preceding the appointment, employed by a
29 Minnesota public school district or a Minnesota public school
30 district consortium that is authorized by Minnesota Statutes and
31 who is licensed in speech-language pathology by the Minnesota
32 Board of Teaching;

33 (4) ~~two~~ three audiologists licensed under sections 148.511
34 to 148.5196, ~~one~~ two of whom ~~is~~ are currently and ~~has~~ have
35 been, for the five years immediately preceding the appointment,
36 engaged in the practice of audiology and the dispensing of

1 hearing instruments in Minnesota and each of whom is employed in
2 a different employment setting including, but not limited to,
3 private practice, hospitals, rehabilitation settings,
4 educational settings, industry, and government agencies; and

5 (5) one nonaudiologist hearing instrument dispenser
6 recommended by a professional association representing hearing
7 instrument dispensers; and

8 (6) one physician licensed under chapter 147 and certified
9 by the American Board of Otolaryngology, Head and Neck Surgery.

10 Sec. 9. [148.5197] [HEARING AID DISPENSING.]

11 Subdivision 1. [CONTENT OF CONTRACTS.] Oral statements
12 made by an audiologist or certified dispenser regarding the
13 provision of warranties, refunds, and service on the hearing aid
14 or aids dispensed must be written on, and become part of, the
15 contract of sale, specify the item or items covered, and
16 indicate the person or business entity obligated to provide the
17 warranty, refund, or service.

18 Subd. 2. [REQUIRED USE OF LICENSE NUMBER.] The
19 audiologist's license number or certified dispenser's
20 certificate number must appear on all contracts, bills of sale,
21 and receipts used in the sale of hearing aids.

22 Subd. 3. [CONSUMER RIGHTS INFORMATION.] An audiologist or
23 certified dispenser shall, at the time of the recommendation or
24 prescription, give a consumer rights brochure, prepared by the
25 commissioner and containing information about legal requirements
26 pertaining to dispensing of hearing aids, to each potential
27 consumer of a hearing aid. The brochure must contain
28 information about the consumer information center described in
29 section 153A.18. A contract for a hearing aid must note the
30 receipt of the brochure by the consumer, along with the
31 consumer's signature or initials.

32 Subd. 4. [LIABILITY FOR CONTRACTS.] Owners of entities in
33 the business of dispensing hearing aids, employers of
34 audiologists or persons who dispense hearing aids, supervisors
35 of trainees or audiology students, and hearing aid dispensers
36 conducting the transaction at issue are liable for satisfying

1 all terms of contracts, written or oral, made by their agents,
2 employees, assignees, affiliates, or trainees, including terms
3 relating to products, repairs, warranties, service, and
4 refunds. The commissioner may enforce the terms of hearing aid
5 contracts against the principal, employer, supervisor, or
6 dispenser who conducted the transaction and may impose any
7 remedy provided for in this chapter.

8 Sec. 10. [148.5198] [RESTRICTION ON SALE OF HEARING AIDS.]

9 Subdivision 1. [45-CALENDAR-DAY GUARANTEE AND BUYER RIGHT
10 TO CANCEL.] (a) An audiologist or certified dispenser dispensing
11 a hearing aid in this state must comply with paragraphs (b) and
12 (c).

13 (b) The audiologist or certified dispenser must provide the
14 buyer with a 45-calendar-day written money-back guarantee. The
15 guarantee must permit the buyer to cancel the purchase for any
16 reason within 45 calendar days after receiving the hearing aid
17 by giving or mailing written notice of cancellation to the
18 audiologist or certified dispenser. If the buyer mails the
19 notice of cancellation, the 45-calendar-day period is counted
20 using the postmark date, to the date of receipt by the
21 audiologist or certified dispenser. If the hearing aid must be
22 repaired, remade, or adjusted during the 45-calendar-day
23 money-back guarantee period, the running of the 45-calendar-day
24 period is suspended one day for each 24-hour period that the
25 hearing aid is not in the buyer's possession. A repaired,
26 remade, or adjusted hearing aid must be claimed by the buyer
27 within three business days after notification of availability,
28 after which time the running of the 45-calendar-day period
29 resumes. The guarantee must entitle the buyer, upon
30 cancellation, to receive a refund of payment within 30 days of
31 return of the hearing aid to the audiologist or certified
32 dispenser. The audiologist or certified dispenser may retain as
33 a cancellation fee no more than \$250 of the buyer's total
34 purchase price of the hearing aid.

35 (c) The audiologist or certified dispenser shall provide
36 the buyer with a contract written in plain English, that

1 contains uniform language and provisions that meet the
2 requirements under the Plain Language Contract Act, sections
3 325G.29 to 325G.36. The contract must include, but is not
4 limited to, the following: in immediate proximity to the space
5 reserved for the signature of the buyer, or on the first page if
6 there is no space reserved for the signature of the buyer, a
7 clear and conspicuous disclosure of the following specific
8 statement in all capital letters of no less than 12-point
9 boldface type: "MINNESOTA STATE LAW GIVES THE BUYER THE RIGHT
10 TO CANCEL THIS PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO
11 MIDNIGHT OF THE 45TH CALENDAR DAY AFTER RECEIPT OF THE HEARING
12 AID(S). THIS CANCELLATION MUST BE IN WRITING AND MUST BE GIVEN
13 OR MAILED TO THE AUDIOLOGIST OR CERTIFIED DISPENSER. IF THE
14 BUYER DECIDES TO RETURN THE HEARING AID(S) WITHIN THIS
15 45-CALENDAR-DAY PERIOD, THE BUYER WILL RECEIVE A REFUND OF THE
16 TOTAL PURCHASE PRICE OF THE AID(S) FROM WHICH THE AUDIOLOGIST OR
17 CERTIFIED DISPENSER MAY RETAIN AS A CANCELLATION FEE NO MORE
18 THAN \$250."

19 Subd. 2. [ITEMIZED REPAIR BILL.] Any audiologist,
20 certified dispenser, or company who agrees to repair a hearing
21 aid must provide the owner of the hearing aid, or the owner's
22 representative, with a bill that describes the repair and
23 services rendered. The bill must also include the repairing
24 audiologist's, certified dispenser's, or company's name,
25 address, and telephone number.

26 This subdivision does not apply to an audiologist,
27 certified dispenser, or company that repairs a hearing aid
28 pursuant to an express warranty covering the entire hearing aid
29 and the warranty covers the entire cost, both parts and labor,
30 of the repair.

31 Subd. 3. [REPAIR WARRANTY.] Any guarantee of hearing aid
32 repairs must be in writing and delivered to the owner of the
33 hearing aid, or the owner's representative, stating the
34 repairing audiologist's, certified dispenser's, or company's
35 name, address, telephone number, length of guarantee, model, and
36 serial number of the hearing aid and all other terms and

1 conditions of the guarantee.

2 Subd. 4. [MISDEMEANOR.] A person found to have violated
3 this section is guilty of a misdemeanor.

4 Subd. 5. [ADDITIONAL.] In addition to the penalty provided
5 in subdivision 4, a person found to have violated this section
6 is subject to the penalties and remedies provided in section
7 325F.69, subdivision 1.

8 Subd. 6. [ESTIMATES.] Upon the request of the owner of a
9 hearing aid or the owner's representative for a written estimate
10 and prior to the commencement of repairs, a repairing
11 audiologist, certified dispenser, or company shall provide the
12 customer with a written estimate of the price of repairs. If a
13 repairing audiologist, certified dispenser, or company provides
14 a written estimate of the price of repairs, it must not charge
15 more than the total price stated in the estimate for the
16 repairs. If the repairing audiologist, certified dispenser, or
17 company after commencing repairs determines that additional work
18 is necessary to accomplish repairs that are the subject of a
19 written estimate and if the repairing audiologist, certified
20 dispenser, or company did not unreasonably fail to disclose the
21 possible need for the additional work when the estimate was
22 made, the repairing audiologist, certified dispenser, or company
23 may charge more than the estimate for the repairs if the
24 repairing audiologist, certified dispenser, or company
25 immediately provides the owner or owner's representative a
26 revised written estimate pursuant to this section and receives
27 authorization to continue with the repairs. If continuation of
28 the repairs is not authorized, the repairing audiologist,
29 certified dispenser, or company shall return the hearing aid as
30 close as possible to its former condition and shall release the
31 hearing aid to the owner or owner's representative upon payment
32 of charges for repairs actually performed and not in excess of
33 the original estimate.

34 Sec. 11. Minnesota Statutes 2004, section 153A.13,
35 subdivision 5, is amended to read:

36 Subd. 5. [DISPENSER OF HEARING INSTRUMENTS.] "Dispenser of

1 hearing instruments" means a natural person who engages in
2 hearing instrument dispensing whether or not certified by the
3 commissioner of health or licensed by an existing health-related
4 board, except that a person described as follows is not a
5 dispenser of hearing instruments:

6 (1) a student participating in supervised field work that
7 is necessary to meet requirements of an accredited educational
8 program if the student is designated by a title which clearly
9 indicates the student's status as a student trainee; or

10 (2) a person who helps a dispenser of hearing instruments
11 in an administrative or clerical manner and does not engage in
12 hearing instrument dispensing.

13 A person who offers to dispense a hearing instrument, or a
14 person who advertises, holds out to the public, or otherwise
15 represents that the person is authorized to dispense hearing
16 instruments must be certified by the commissioner except when
17 the person is an audiologist as defined in section 148.512.

18 Sec. 12. Minnesota Statutes 2004, section 153A.14,
19 subdivision 2h, is amended to read:

20 Subd. 2h. [CERTIFICATION BY EXAMINATION.] An applicant
21 must achieve a passing score, as determined by the commissioner,
22 on an examination according to paragraphs (a) to (c).

23 (a) The examination must include, but is not limited to:

24 (1) A written examination approved by the commissioner
25 covering the following areas as they pertain to hearing
26 instrument selling:

27 (i) basic physics of sound;

28 (ii) the anatomy and physiology of the ear;

29 (iii) the function of hearing instruments; and

30 (iv) the principles of hearing instrument selection; ~~and~~
31 ~~{v} state and federal laws, rules, and regulations.~~

32 (2) Practical tests of proficiency in the following
33 techniques as they pertain to hearing instrument selling:

34 (i) pure tone audiometry, including air conduction testing
35 and bone conduction testing;

36 (ii) live voice or recorded voice speech audiometry

1 including speech recognition (discrimination) testing, most
 2 comfortable loudness level, and uncomfortable loudness
 3 measurements of tolerance thresholds;

4 (iii) masking when indicated;

5 (iv) recording and evaluation of audiograms and speech
 6 audiometry to determine proper selection and fitting of a
 7 hearing instrument;

8 (v) taking ear mold impressions; and

9 (vi) using an otoscope for the visual observation of the
 10 entire ear canal; and

11 (vii) state and federal laws, rules, and regulations.

12 (b) The examination shall be administered by the
 13 commissioner at least twice a year.

14 (c) An applicant must achieve a passing score on all
 15 portions of the examination within a two-year period. An
 16 applicant who does not achieve a passing score on all portions
 17 of the examination within a two-year period must retake the
 18 entire examination and achieve a passing score on each portion
 19 of the examination. An applicant who does not apply for
 20 certification within one year of successful completion of the
 21 examination must retake the examination and achieve a passing
 22 score on each portion of the examination. An applicant may not
 23 take any part of the examination more than three times in a
 24 two-year period.

25 Sec. 13. Minnesota Statutes 2004, section 153A.14,
 26 subdivision 2i, is amended to read:

27 Subd. 2i. [CONTINUING EDUCATION REQUIREMENT.] On forms
 28 provided by the commissioner, each certified dispenser must
 29 submit with the application for renewal of certification
 30 evidence of completion of ten course hours of continuing
 31 education earned within the 12-month period of July 1 to June 30
 32 immediately preceding renewal. Continuing education courses
 33 must be directly related to hearing instrument dispensing and
 34 approved by the International Hearing Society ~~or-qualify-for~~
 35 ~~continuing-education-approved-for-Minnesota-licensed~~
 36 ~~audiologists~~. Evidence of completion of the ten course hours of

1 continuing education must be submitted with renewal applications
2 by October 1 of each year. This requirement does not apply to
3 dispensers certified for less than one year. The first report
4 of evidence of completion of the continuing education credits
5 shall be due October 1, 1997.

6 Sec. 14. Minnesota Statutes 2004, section 153A.14,
7 subdivision 4, is amended to read:

8 Subd. 4. [DISPENSING OF HEARING INSTRUMENTS WITHOUT
9 CERTIFICATE.] Except as provided in subdivisions 4a and 4c, and
10 in sections 148.512 to 148.5198, it is unlawful for any person
11 not holding a valid certificate to dispense a hearing instrument
12 as defined in section 153A.13, subdivision 3. A person who
13 dispenses a hearing instrument without the certificate required
14 by this section is guilty of a gross misdemeanor.

15 Sec. 15. Minnesota Statutes 2004, section 153A.14,
16 subdivision 4c, is amended to read:

17 Subd. 4c. [RECIPROCITY.] (a) A person applying for
18 certification as a hearing instrument dispenser under
19 subdivision 1 who has dispensed hearing instruments in another
20 jurisdiction may dispense hearing instruments as a trainee under
21 indirect supervision if the person:

22 (1) satisfies the provisions of subdivision 4a, paragraph
23 (a);

24 (2) submits a signed and dated affidavit stating that the
25 applicant is not the subject of a disciplinary action or past
26 disciplinary action in this or another jurisdiction and is not
27 disqualified on the basis of section 153A.15, subdivision 1; and

28 (3) provides a copy of a current credential as a hearing
29 instrument dispenser, ~~an audiologist, or both,~~ held in the
30 District of Columbia or a state or territory of the United
31 States.

32 (b) A person becoming a trainee under this subdivision who
33 fails to take and pass the practical examination described in
34 subdivision 2h, paragraph (a), clause (2), when next offered
35 must cease dispensing hearing instruments unless under direct
36 supervision.

1 Sec. 16. Minnesota Statutes 2004, section 153A.14,
2 subdivision 9, is amended to read:

3 Subd. 9. [CONSUMER RIGHTS INFORMATION.] A hearing
4 instrument dispenser shall~~7-at-the-time-of-the-recommendation-or~~
5 ~~prescription7-give-a-consumer-rights-brochure7-prepared-by-the~~
6 ~~commissioner-and-containing-information-about-legal-requirements~~
7 ~~pertaining-to-sales-of-hearing-instruments7-to-each-potential~~
8 ~~buyer-of-a-hearing-instrument.--A-sales-contract-for-a-hearing~~
9 ~~instrument-must-note-the-receipt-of-the-brochure-by-the-buyer7~~
10 ~~along-with-the-buyer's-signature-or-initials~~ comply with the
11 requirements of sections 148.5195, subdivision 3, clause (20);
12 148.5197; and 148.5198.

13 Sec. 17. Minnesota Statutes 2004, section 153A.15,
14 subdivision 1, is amended to read:

15 Subdivision 1. [PROHIBITED ACTS.] The commissioner may
16 take enforcement action as provided under subdivision 2 against
17 a dispenser of hearing instruments for the following acts and
18 conduct:

19 (1) ~~prescribing-or-otherwise-recommending-to-a-consumer-or~~
20 ~~potential-consumer-the-use-of-a-hearing-instrument7-unless-the~~
21 ~~prescription-from-a-physician-or-recommendation-from-a-hearing~~
22 ~~instrument-dispenser-or-audiologist-is-in-writing7-is-based-on~~
23 ~~an-audiogram-that-is-delivered-to-the-consumer-or-potential~~
24 ~~consumer-when-the-prescription-or-recommendation-is-made7-and~~
25 ~~bears-the-following-information-in-all-capital-letters-of~~
26 ~~12-point-or-larger-boldface-type:--"THIS-PRESCRIPTION-OR~~
27 ~~RECOMMENDATION-MAY-BE-FILLED-BY7-AND-HEARING-INSTRUMENTS-MAY-BE~~
28 ~~PURCHASED-FROM7-THE-CERTIFIED-DISPENSER-OR-LICENSED-AUDIOLOGIST~~
29 ~~OF-YOUR-CHOICE"7~~

30 (2) ~~failing-to-give-a-copy-of-the-audiogram7-upon-which-the~~
31 ~~prescription-or-recommendation-is-based7-to-the-consumer-when~~
32 ~~there-has-been-a-charge-for-the-audiogram-and-the-consumer~~
33 ~~requests-a-copy7~~

34 (3) dispensing a hearing instrument to a minor person 18
35 years or younger unless evaluated by an audiologist for hearing
36 evaluation and hearing aid evaluation;

1 ~~(4)-failing-to-provide-the-consumer-rights-brochure~~
2 ~~required-by-section-153A-14,-subdivision-9,~~

3 ~~(5)~~ (2) being disciplined through a revocation, suspension,
4 restriction, or limitation by another state for conduct subject
5 to action under this chapter;

6 ~~(6)~~ (3) presenting advertising that is false or misleading;

7 ~~(7)~~ (4) providing the commissioner with false or misleading
8 statements of credentials, training, or experience;

9 ~~(8)~~ (5) engaging in conduct likely to deceive, defraud, or
10 harm the public; or demonstrating a willful or careless
11 disregard for the health, welfare, or safety of a consumer;

12 ~~(9)~~ (6) splitting fees or promising to pay a portion of a
13 fee to any other professional other than a fee for services
14 rendered by the other professional to the client;

15 ~~(10)~~ (7) engaging in abusive or fraudulent billing
16 practices, including violations of federal Medicare and Medicaid
17 laws, Food and Drug Administration regulations, or state medical
18 assistance laws;

19 ~~(11)~~ (8) obtaining money, property, or services from a
20 consumer through the use of undue influence, high pressure sales
21 tactics, harassment, duress, deception, or fraud;

22 ~~(12)-failing-to-comply-with-restrictions-on-sales-of~~
23 ~~hearing-aids-in-sections-153A-14,-subdivision-9,-and-153A-19,~~

24 ~~(13)~~ (9) performing the services of a certified hearing
25 instrument dispenser in an incompetent or negligent manner;

26 ~~(14)~~ (10) failing to comply with the requirements of this
27 chapter as an employer, supervisor, or trainee;

28 ~~(15)~~ (11) failing to provide information in a timely manner
29 in response to a request by the commissioner, commissioner's
30 designee, or the advisory council;

31 ~~(16)~~ (12) being convicted within the past five years of
32 violating any laws of the United States, or any state or
33 territory of the United States, and the violation is a felony,
34 gross misdemeanor, or misdemeanor, an essential element of which
35 relates to hearing instrument dispensing, except as provided in
36 chapter 364;

1 ~~(17)~~ (13) failing to cooperate with the commissioner, the
2 commissioner's designee, or the advisory council in any
3 investigation;

4 ~~(18)~~ (14) failing to perform hearing instrument dispensing
5 with reasonable judgment, skill, or safety due to the use of
6 alcohol or drugs, or other physical or mental impairment;

7 ~~(19)~~ (15) failing to fully disclose actions taken against
8 the applicant or the applicant's legal authorization to dispense
9 hearing instruments in this or another state;

10 ~~(20)~~ (16) violating a state or federal court order or
11 judgment, including a conciliation court judgment, relating to
12 the activities of the applicant in hearing instrument
13 dispensing;

14 ~~(21)~~ (17) having been or being disciplined by the
15 commissioner of the Department of Health, or other authority, in
16 this or another jurisdiction, if any of the grounds for the
17 discipline are the same or substantially equivalent to those in
18 sections 153A.13 to 153A.19;

19 ~~(22)~~ (18) misrepresenting the purpose of hearing tests, or
20 in any way communicating that the hearing test or hearing test
21 protocol required by section 153A.14, subdivision 4b, is a
22 medical evaluation, a diagnostic hearing evaluation conducted by
23 an audiologist, or is other than a test to select a hearing
24 instrument, except that the hearing instrument dispenser can
25 determine the need for or recommend the consumer obtain a
26 medical evaluation consistent with requirements of the United
27 States Food and Drug Administration;

28 ~~(23)~~ (19) violating any of the provisions of sections
29 148.5195, subdivision 3, clause (20); 148.5197; 148.5198; and
30 153A.13 to ~~153A.19~~ 153A.18; and

31 ~~(24)~~ (20) aiding or abetting another person in violating
32 any of the provisions of sections 148.5195, subdivision 3,
33 clause (20); 148.5197; 148.5198; and 153A.13 to ~~153A.19~~ 153A.18.

34 Sec. 18. Minnesota Statutes 2004, section 153A.20,
35 subdivision 1, is amended to read:

36 Subdivision 1. [MEMBERSHIP.] The commissioner shall

1 appoint ~~nine~~ seven persons to a Hearing Instrument Dispenser
2 Advisory Council.

3 (a) The ~~nine~~ seven persons must include:

4 (1) three public members, as defined in section 214.02. At
5 least one of the public members shall be a hearing instrument
6 user and one of the public members shall be either a hearing
7 instrument user or an advocate of one; and

8 (2) three hearing instrument dispensers certified under
9 sections 153A.14 to 153A.20, each of whom is currently, and has
10 been for the five years immediately preceding their appointment,
11 engaged in hearing instrument dispensing in Minnesota and who
12 represent the occupation of hearing instrument dispensing and
13 who are not audiologists; and

14 (3) ~~three-audiologists-who-are-certified-hearing-instrument~~
15 ~~dispensers-or-are~~ one audiologist licensed as ~~audiologists~~ an
16 audiologist under chapter 148 who dispenses hearing instruments,
17 recommended by a professional association representing
18 audiologists and speech-language pathologists.

19 (b) The factors the commissioner may consider when
20 appointing advisory council members include, but are not limited
21 to, professional affiliation, geographical location, and type of
22 practice.

23 (c) No two members of the advisory council shall be
24 employees of, or have binding contracts requiring sales
25 exclusively for, the same hearing instrument manufacturer or the
26 same employer.

27 Sec. 19. [REVISOR'S INSTRUCTION.]

28 The revisor of statutes shall change references from
29 "sections 148.511 to 148.5196" to "sections 148.511 to 148.5198"
30 wherever they appear in Minnesota Statutes and Minnesota Rules,
31 and change "153A.19" to "148.5197" in Minnesota Statutes,
32 section 325G.203.

33 Sec. 20. [REPEALER.]

34 Minnesota Statutes 2004, sections 153A.14, subdivisions 2a,
35 8, and 10; and 153A.19, are repealed.

36 Sec. 21. [EFFECTIVE DATE.]

1 Sections 1 to 18 and 20 are effective August 1, 2005."

2 Page 161, line 4, delete "licensed"

3 Page 161, line 29, before the period, insert "or services
4 provided by Christian Scientist practitioners"

5 Pages 162 and 163, delete section 2 and insert:

6 "Sec. 2. Minnesota Statutes 2004, section 148B.61, is
7 amended to read:

8 148B.61 [OFFICE OF MENTAL HEALTH PRACTICE.]

9 Subdivision 1. [~~CREATION~~ AUTHORITY.] (a) The Office of
10 Mental Health Practice is ~~created-in-the-Department-of-Health~~
11 transferred to the mental-health-related licensing boards. The
12 mental-health-related licensing boards shall convene an Office
13 of Mental Health Practices Committee to investigate complaints
14 and take and enforce disciplinary actions against all unlicensed
15 mental health practitioners for violations of prohibited
16 conduct, as defined in section 148B.68.

17 (b) The office committee shall publish a complaint
18 telephone number, provide an informational Web site, and also
19 serve as a referral point and clearinghouse on complaints
20 against mental health services-and-both-licensed-and-unlicensed
21 mental-health-professionals,-through-the-dissemination
22 of practitioners. The committee shall disseminate objective
23 information to consumers and through the development and
24 performance of public education activities, including outreach,
25 regarding the provision of mental health services and both
26 licensed and unlicensed mental health professionals who provide
27 these services.

28 ~~Subd. 2.--[RULEMAKING.]The-commissioner-of-health-shall~~
29 ~~adopt-rules-necessary-to-implement,-administer,-or-enforce~~
30 ~~provisions-of-sections-148B.60-to-148B.71-pursuant-to-chapter~~
31 ~~14.--The-commissioner-may-not-adopt-rules-that-restrict-or~~
32 ~~prohibit-persons-from-providing-mental-health-services-on-the~~
33 ~~basis-of-education,-training,-experience,-or-supervision-~~

34 Subd. 4. [MANAGEMENT, REPORT, AND SUNSET OF THE
35 OFFICE.] (a) The committee shall:

36 (1) designate one board to provide administrative

1 management of the committee;

2 (2) set the program budget; and

3 (3) ensure that the committee's direction is in accord with
4 its authority.

5 (b) If the participating boards change which board is
6 designated to provide administrative management of the
7 committee, any appropriation remaining for the committee shall
8 transfer to the newly designated board on the effective date of
9 the change. The participating boards must inform the
10 appropriate legislative committees and the commissioner of
11 finance of any change in the designated board and the amount of
12 any appropriation transferred under this provision.

13 (c) The designated board shall hire the office employees
14 and pay expenses of the committee from funds appropriated for
15 that purpose.

16 (d) After July 1, 2008, the committee shall prepare and
17 submit a report to the legislature by January 15, 2009,
18 evaluating the activity of the office and making recommendations
19 concerning the regulation of unlicensed mental health
20 practitioners. In the absence of legislative action to continue
21 the committee, the committee expires on June 30, 2009."

22 Page 164, delete section 4

23 Page 164, line 13, delete "act" and insert "article"

24 Page 167, after line 17, insert:

25 "Sec. 5. Minnesota Statutes 2004, section 214.06,
26 subdivision 1, is amended to read:

27 Subdivision 1. [FEE ADJUSTMENT.] Notwithstanding any law
28 to the contrary, the commissioner of health as authorized by
29 section 214.13, all health-related licensing boards and all
30 non-health-related licensing boards shall by rule, with the
31 approval of the commissioner of finance, adjust, as needed, any
32 fee which the commissioner of health or the board is empowered
33 to assess. As provided in section 16A.1285, the adjustment
34 shall be an amount sufficient so that the total fees collected
35 by each board will ~~as-closely-as-possible-equal~~ be based on
36 ~~anticipated expenditures during-the-fiscal-biennium~~, including

1 expenditures for the programs authorized by sections ~~214.17 to~~
 2 ~~214.25 and 214.31 to 214.37~~ 214.10, 214.103, 214.11, 214.17 to
 3 214.24, 214.28 to 214.37, and 214.40, except that a
 4 health-related licensing board may have anticipated expenditures
 5 in excess of anticipated revenues in a biennium by using
 6 accumulated surplus revenues from fees collected by that board
 7 in previous bienniums. A health-related licensing board shall
 8 not spend more money than the amount appropriated by the
 9 legislature for a biennium. For members of an occupation
 10 registered after July 1, 1984, by the commissioner of health
 11 under the provisions of section 214.13, the fee established must
 12 include an amount necessary to recover, over a five-year period,
 13 the commissioner's direct expenditures for adoption of the rules
 14 providing for registration of members of the occupation. All
 15 fees received shall be deposited in the state treasury. Fees
 16 ~~received by the commissioner of health or health-related~~
 17 ~~licensing boards must be credited to the health occupations~~
 18 ~~licensing account in the state government special revenue fund.~~

19 Sec. 6. Minnesota Statutes 2004, section 214.06, is
 20 amended by adding a subdivision to read:

21 Subd. 1a. [HEALTH OCCUPATIONS LICENSING ACCOUNT.] Fees
 22 received by the commissioner of health or health-related
 23 licensing boards must be credited to the health occupations
 24 licensing account in the state government special revenue fund.
 25 The commissioner of finance shall ensure that the revenues and
 26 expenditures of each health-related licensing board are tracked
 27 separately in the health occupations licensing account.

28 ARTICLE 10

29 EMERGENCY MEDICAL SERVICES REGULATORY BOARD

30 Section 1. Minnesota Statutes 2004, section 144E.001,
 31 subdivision 8, is amended to read:

32 Subd. 8. [LICENSEE.] "Licensee" means a natural person,
 33 partnership, association, corporation, Indian tribe, or unit of
 34 government which possesses an ambulance service license.

35 Sec. 2. Minnesota Statutes 2004, section 144E.001, is
 36 amended by adding a subdivision to read:

1 Subd. 14a. [TRIBE.] "Tribe" means a federally recognized
2 Indian tribe, as defined in United States Code, title 25,
3 section 450b, paragraph (e), located within the state of
4 Minnesota.

5 Sec. 3. Minnesota Statutes 2004, section 144E.001,
6 subdivision 15, is amended to read:

7 Subd. 15. [VOLUNTEER AMBULANCE ATTENDANT.] "Volunteer
8 ambulance attendant" means a person who provides emergency
9 medical services for a Minnesota licensed ambulance service
10 without the expectation of remuneration and who does not depend
11 in any way upon the provision of these services for the person's
12 livelihood. An individual may be considered a volunteer
13 ambulance attendant even though the individual receives an
14 hourly stipend for each hour of actual service provided, except
15 for hours on standby alert, or other nominal fee, and even
16 though the hourly stipend or other nominal fee is regarded as
17 taxable income for purposes of state or federal law, provided
18 that the hourly stipend and other nominal fees do not exceed
19 ~~\$3,000-within-one-year-of-the-final-certification~~
20 examination \$6,000 annually.

21 Sec. 4. [144E.266] [EMERGENCY SUSPENSION OF AMBULANCE
22 SERVICE REQUIREMENT.]

23 (a) The requirements of sections 144E.10; 144E.101,
24 subdivisions 1, 2, 3, 6, 7, 8, 9, 10, 11, and 13; 144E.103;
25 144E.12; 144E.121; 144E.123; 144E.127; and 144E.15, are
26 suspended:

27 (1) throughout the state during a national security
28 emergency declared under section 12.31;

29 (2) in the geographic areas of the state affected during a
30 peacetime emergency declared under section 12.31; and

31 (3) in the geographic areas of the state affected during a
32 local emergency declared under section 12.29.

33 (b) For purposes of this section, the geographic areas of
34 the state affected shall include geographic areas where one or
35 more ambulance services are providing requested mutual aid to
36 the site of the emergency.

1 Sec. 5. Minnesota Statutes 2004, section 144E.27,
2 subdivision 2, is amended to read:

3 Subd. 2. [REGISTRATION.] To be eligible for registration
4 with the board as a first responder, an individual
5 shall complete a board-approved application form and:

6 (1) successfully complete a board-approved initial first
7 responder training program. Registration under this clause is
8 valid for two years and expires at the end of the month in which
9 the registration was issued; or

10 (2) be credentialed as a first responder by the National
11 Registry of Emergency Medical Technicians. Registration under
12 this clause expires the same day as the National Registry
13 credential.

14 Sec. 6. Minnesota Statutes 2004, section 144E.28,
15 subdivision 1, is amended to read:

16 Subdivision 1. [REQUIREMENTS.] To be eligible for
17 certification by the board as an EMT, EMT-I, or EMT-P, an
18 individual shall:

19 (1) successfully complete the United States Department of
20 Transportation course, or its equivalent as approved by the
21 board, specific to the EMT, EMT-I, or EMT-P classification; and

22 (2) pass the written and practical examinations approved by
23 the board and administered by the board or its designee,
24 specific to the EMT, EMT-I, or EMT-P classification; and

25 (3) complete a board-approved application form.

26 Sec. 7. Minnesota Statutes 2004, section 144E.28,
27 subdivision 3, is amended to read:

28 Subd. 3. [RECIPROCITY.] The board may certify an
29 individual who possesses a current National Registry of
30 Emergency Medical Technicians registration from another
31 jurisdiction if the individual submits a board-approved
32 application form. The board certification classification shall
33 be the same as the National Registry's classification.
34 Certification shall be for the duration of the applicant's
35 registration period in another jurisdiction, not to exceed two
36 years.

1 Sec. 8. Minnesota Statutes 2004, section 144E.28,
2 subdivision 7, is amended to read:

3 Subd. 7. [RENEWAL.] (a) Before the expiration date of
4 certification, an applicant for renewal of certification as an
5 EMT shall:

6 (1) successfully complete a course in cardiopulmonary
7 resuscitation that is approved by the board or the licensee's
8 medical director; ~~and~~

9 (2) take the United States Department of Transportation EMT
10 refresher course and successfully pass the practical skills test
11 portion of the course, or successfully complete 48 hours of
12 continuing education in EMT programs that are consistent with
13 the United States Department of Transportation National Standard
14 Curriculum or its equivalent as approved by the board or as
15 approved by the licensee's medical director and pass a practical
16 skills test approved by the board and administered by a training
17 program approved by the board. The cardiopulmonary
18 resuscitation course and practical skills test may be included
19 as part of the refresher course or continuing education renewal
20 requirements. Twenty-four of the 48 hours must include at least
21 four hours of instruction in each of the following six
22 categories:

23 (i) airway management and resuscitation procedures;

24 (ii) circulation, bleeding control, and shock;

25 (iii) human anatomy and physiology, patient assessment, and
26 medical emergencies;

27 (iv) injuries involving musculoskeletal, nervous,
28 digestive, and genito-urinary systems;

29 (v) environmental emergencies and rescue techniques; and

30 (vi) emergency childbirth and other special situations; and

31 (3) complete a board-approved application form.

32 (b) Before the expiration date of certification, an
33 applicant for renewal of certification as an EMT-I or EMT-P
34 shall:

35 (1) for an EMT-I, successfully complete a course in
36 cardiopulmonary resuscitation that is approved by the board or

1 the licensee's medical director and for an EMT-P, successfully
 2 complete a course in advanced cardiac life support that is
 3 approved by the board or the licensee's medical director; and
 4 (2) successfully complete 48 hours of continuing education
 5 in emergency medical training programs, appropriate to the level
 6 of the applicant's EMT-I or EMT-P certification, that are
 7 consistent with the United States Department of Transportation
 8 National Standard Curriculum or its equivalent as approved by
 9 the board or as approved by the licensee's medical director. An
 10 applicant may take the United States Department of
 11 Transportation Emergency Medical Technician refresher course or
 12 its equivalent without the written or practical test as approved
 13 by the board, and as appropriate to the applicant's level of
 14 certification, as part of the 48 hours of continuing education.
 15 Each hour of the refresher course, the cardiopulmonary
 16 resuscitation course, and the advanced cardiac life support
 17 course counts toward the 48-hour continuing education
 18 requirement; and

19 (3) complete a board-approved application form.

20 (c) Certification shall be renewed every two years.

21 (d) If the applicant does not meet the renewal requirements
 22 under this subdivision, the applicant's certification expires.

23 Sec. 9. Minnesota Statutes 2004, section 144E.28,
 24 subdivision 8, is amended to read:

25 Subd. 8. [REINSTATEMENT.] (a) Within four years of a
 26 certification expiration date, a person whose certification has
 27 expired under subdivision 7, paragraph (d), may have the
 28 certification reinstated upon submission of:

29 (1) evidence to the board of training equivalent to the
 30 continuing education requirements of subdivision 7; and

31 (2) a board-approved application form.

32 (b) If more than four years have passed since a certificate
 33 expiration date, an applicant must complete the initial
 34 certification process required under subdivision 1."

35 Renumber the sections in sequence

36 Amend the title as follows:

1 Page 1, line 22, after "2;" insert "144E.001, subdivisions
2 8, 15, by adding a subdivision; 144E.27, subdivision 2; 144E.28,
3 subdivisions 1, 3, 7, 8;"

4 Page 1, line 24, after the semicolon, insert "148.513, by
5 adding a subdivision;"

6 Page 1, line 26, after "3;" insert "148.5196, subdivision
7 1;"

8 Page 1, line 40, after "subdivisions" insert "2h," and
9 after "4c" insert ", 9"

10 Page 1, line 41, after "2;" insert "214.06, subdivision 1,
11 by adding a subdivision;"

12 Page 2, line 1, after "chapters" insert "144E;"

13 Page 2, line 9, delete the second "subdivision" and insert
14 "subdivisions" and after "2a" insert ", 8, 10; 153A.19"

15 And when so amended the bill do pass. Amendments adopted.
16 Report adopted.

17
18 (Committee Chair)

19
20 May 3, 2005.....
21 (Date of Committee recommendation)

1

A bill for an act

2 relating to health; recodifying statutes and rules
3 relating to social work; authorizing rulemaking;
4 providing penalties; modifying provisions relating to
5 physical therapists; providing penalties; modifying
6 the Psychology Practice Act; phasing out licensure as
7 a licensed psychological practitioner; modifying
8 dental licensure provisions; establishing fees;
9 modifying provisions for licensed professional
10 counselors; authorizing certain rulemaking; modifying
11 physician review; modifying information contained on
12 prescriptions; providing recognition for the practice
13 of respiratory therapy in emergency situations;
14 providing that audiologists need not obtain hearing
15 instrument dispenser certification; providing
16 penalties; transferring oversight authority for the
17 Office of Mental Health Practice; requiring a report;
18 establishing penalty fees for certain credentialed
19 health occupations; providing criminal penalties;
20 appropriating money; amending Minnesota Statutes 2004,
21 sections 13.383, subdivision 10; 13.411, subdivision
22 5; 144.335, subdivision 1; 144A.46, subdivision 2;
23 147.09; 147A.18, subdivisions 1, 3; 147C.05; 148.512,
24 subdivision 6, by adding subdivisions; 148.515, by
25 adding a subdivision; 148.5194, by adding
26 subdivisions; 148.5195, subdivision 3; 148.6445, by
27 adding a subdivision; 148.65, by adding subdivisions;
28 148.706; 148.75; 148.89, subdivision 5; 148.90,
29 subdivision 1; 148.907, by adding a subdivision;
30 148.908, subdivision 2, by adding a subdivision;
31 148.909; 148.916, subdivision 2; 148.925, subdivision
32 6; 148.941, subdivision 2; 148.96, subdivision 3;
33 148B.53, subdivisions 1, 3; 148B.54, subdivision 2;
34 148B.59; 148B.60; 148B.61; 148C.03, subdivision 1;
35 148C.04, subdivisions 3, 4, 6; 148C.091, subdivision
36 1; 148C.10, subdivision 2; 148C.11, subdivisions 1, 4,
37 5, 6; 148C.12, subdivision 3, by adding a subdivision;
38 150A.01, subdivision 6a; 150A.06, subdivision 1a;
39 150A.10, subdivision 1a; 153A.13, subdivision 5;
40 153A.14, subdivisions 2i, 4, 4c; 153A.15, subdivision
41 1; 153A.20, subdivision 1; 214.01, subdivision 2;
42 214.103, subdivision 1; 245.462, subdivision 18;
43 245.4871, subdivision 27; 256B.0625, subdivision 38;
44 256J.08, subdivision 73a; 319B.02, subdivision 19;
45 319B.40; Laws 2003, chapter 118, section 29, as
46 amended; proposing coding for new law in Minnesota

1 Statutes, chapters 148; 148B; 148C; 150A; 153A;
2 providing coding for new law as Minnesota Statutes,
3 chapter 148D; repealing Minnesota Statutes 2004,
4 sections 148B.18; 148B.185; 148B.19; 148B.20; 148B.21;
5 148B.215; 148B.22; 148B.224; 148B.225; 148B.226;
6 148B.24; 148B.25; 148B.26; 148B.27; 148B.28; 148B.281;
7 148B.282; 148B.283; 148B.284; 148B.285; 148B.286;
8 148B.287; 148B.288; 148B.289; 148C.02; 148C.12,
9 subdivision 4; 153A.14, subdivision 2a; Minnesota
10 Rules, parts 4747.0030, subparts 11, 16; 4747.1200;
11 4747.1300; 5601.0100, subparts 3, 4; 8740.0100;
12 8740.0110; 8740.0120; 8740.0122; 8740.0130; 8740.0155;
13 8740.0185; 8740.0187; 8740.0200; 8740.0240; 8740.0260;
14 8740.0285; 8740.0300; 8740.0310; 8740.0315; 8740.0320;
15 8740.0325; 8740.0330; 8740.0335; 8740.0340; 8740.0345.

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

17 ARTICLE 1

18 BOARD OF SOCIAL WORK

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

21 Subd. 10. [SOCIAL WORKERS.] (a) [DISCIPLINARY DATA
22 GENERALLY.] Data held by the Board of Social Work in connection
23 with disciplinary matters are classified under
24 sections ~~148B.2817-subdivisions-2-and-57-and-148B.285~~ 148D.255
25 to 148D.270.

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

29 (c) [CLIENT RECORDS.] Client records of a patient cared
30 for by a social worker who is under review by the Board of
31 Social Work are classified under ~~sections-148B.282-and-148B.2867~~
32 ~~subdivision-3~~ section 148D.230.

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

35 Subd. 5. [SOCIAL WORKERS.] Residence addresses and
36 telephone numbers of social worker licensees are classified
37 under ~~section-148B.2857-subdivision-5~~ chapter 148D.

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

40 Subdivision 1. [DEFINITIONS.] For the purposes of this
41 section, the following terms have the meanings given them:

42 (a) "Patient" means a natural person who has received
43 health care services from a provider for treatment or

1 examination of a medical, psychiatric, or mental condition, the
2 surviving spouse and parents of a deceased patient, or a person
3 the patient appoints in writing as a representative, including a
4 health care agent acting pursuant to chapter 145C, unless the
5 authority of the agent has been limited by the principal in the
6 principal's health care directive. Except for minors who have
7 received health care services pursuant to sections 144.341 to
8 144.347, in the case of a minor, patient includes a parent or
9 guardian, or a person acting as a parent or guardian in the
10 absence of a parent or guardian.

11 (b) "Provider" means (1) any person who furnishes health
12 care services and is regulated to furnish the services pursuant
13 to chapter 147, 147A, 147B, 147C, 147D, 148, 148B, 148C, 148D,
14 150A, 151, 153, or 153A, or Minnesota Rules, chapter 4666; (2) a
15 home care provider licensed under section 144A.46; (3) a health
16 care facility licensed pursuant to this chapter or chapter 144A;
17 (4) a physician assistant registered under chapter 147A; and (5)
18 an unlicensed mental health practitioner regulated pursuant to
19 sections 148B.60 to 148B.71.

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

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

25 Subd. 2. [EXEMPTIONS.] The following individuals or
26 organizations are exempt from the requirement to obtain a home
27 care provider license:

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

33 (2) a personal care assistant who provides services to only
34 one individual under the medical assistance program as
35 authorized under sections 256B.0625, subdivision 19a, and
36 256B.04, subdivision 16;

1 (3) a person or organization that exclusively offers,
2 provides, or arranges for personal care assistant services to
3 only one individual under the medical assistance program as
4 authorized under sections 256B.0625, subdivision 19a, and
5 256B.04, subdivision 16;

6 (4) a person who is licensed under sections 148.65 to
7 148.78 and who independently provides physical therapy services
8 in the home without any contractual or employment relationship
9 to a home care provider or other organization;

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

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

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

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

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

30 Sec. 5. Minnesota Statutes 2004, section 147.09, is
31 amended to read:

32 147.09 [EXEMPTIONS.]

33 Section 147.081 does not apply to, control, prevent or
34 restrict the practice, service, or activities of:

35 (1) A person who is a commissioned medical officer of, a
36 member of, or employed by, the armed forces of the United

1 States, the United States Public Health Service, the Veterans
2 Administration, any federal institution or any federal agency
3 while engaged in the performance of official duties within this
4 state, if the person is licensed elsewhere.

5 (2) A licensed physician from a state or country who is in
6 actual consultation here.

7 (3) A licensed or registered physician who treats the
8 physician's home state patients or other participating patients
9 while the physicians and those patients are participating
10 together in outdoor recreation in this state as defined by
11 section 86A.03, subdivision 3. A physician shall first register
12 with the board on a form developed by the board for that
13 purpose. The board shall not be required to promulgate the
14 contents of that form by rule. No fee shall be charged for this
15 registration.

16 (4) A student practicing under the direct supervision of a
17 preceptor while the student is enrolled in and regularly
18 attending a recognized medical school.

19 (5) A student who is in continuing training and performing
20 the duties of an intern or resident or engaged in postgraduate
21 work considered by the board to be the equivalent of an
22 internship or residency in any hospital or institution approved
23 for training by the board, provided the student has a residency
24 permit issued by the board under section 147.0391.

25 (6) A person employed in a scientific, sanitary, or
26 teaching capacity by the state university, the Department of
27 Education, a public or private school, college, or other bona
28 fide educational institution, a nonprofit organization, which
29 has tax-exempt status in accordance with the Internal Revenue
30 Code, section 501(c)(3), and is organized and operated primarily
31 for the purpose of conducting scientific research directed
32 towards discovering the causes of and cures for human diseases,
33 or the state Department of Health, whose duties are entirely of
34 a research, public health, or educational character, while
35 engaged in such duties; provided that if the research includes
36 the study of humans, such research shall be conducted under the

1 supervision of one or more physicians licensed under this
2 chapter.

3 (7) Physician's assistants registered in this state.

4 (8) A doctor of osteopathy duly licensed by the state Board
5 of Osteopathy under Minnesota Statutes 1961, sections 148.11 to
6 148.16, prior to May 1, 1963, who has not been granted a license
7 to practice medicine in accordance with this chapter provided
8 that the doctor confines activities within the scope of the
9 license.

10 (9) Any person licensed by a health related licensing
11 board, as defined in section 214.01, subdivision 2, or
12 registered by the commissioner of health pursuant to section
13 214.13, including psychological practitioners with respect to
14 the use of hypnosis; provided that the person confines
15 activities within the scope of the license.

16 (10) A person who practices ritual circumcision pursuant to
17 the requirements or tenets of any established religion.

18 (11) A Christian Scientist or other person who endeavors to
19 prevent or cure disease or suffering exclusively by mental or
20 spiritual means or by prayer.

21 (12) A physician licensed to practice medicine in another
22 state who is in this state for the sole purpose of providing
23 medical services at a competitive athletic event. The physician
24 may practice medicine only on participants in the athletic
25 event. A physician shall first register with the board on a
26 form developed by the board for that purpose. The board shall
27 not be required to adopt the contents of the form by rule. The
28 physician shall provide evidence satisfactory to the board of a
29 current unrestricted license in another state. The board shall
30 charge a fee of \$50 for the registration.

31 (13) A psychologist licensed under section 148.907 or a
32 social worker licensed under ~~section 148B-21~~ chapter 148D who
33 uses or supervises the use of a penile or vaginal plethysmograph
34 in assessing and treating individuals suspected of engaging in
35 aberrant sexual behavior and sex offenders.

36 (14) Any person issued a training course certificate or

1 credentialed by the Emergency Medical Services Regulatory Board
2 established in chapter 144E, provided the person confines
3 activities within the scope of training at the certified or
4 credentialed level.

5 (15) An unlicensed complementary and alternative health
6 care practitioner practicing according to chapter 146A.

7 Sec. 6. [148D.001] [CITATION.]

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

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

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

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

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

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

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

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

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

1 worker.

2 Subd. 8. [PERSON-IN-ENVIRONMENT PERSPECTIVE.]

3 "Person-in-environment perspective" means viewing human
4 behavior, development, and function in the context of one or
5 more of the following: the environment, social functioning,
6 mental health, and physical health.

7 Subd. 9. [PRACTICE OF SOCIAL WORK.] "Practice of social
8 work" means working to maintain, restore, or improve behavioral,
9 cognitive, emotional, mental, or social functioning of clients,
10 in a manner that applies accepted professional social work
11 knowledge, skills, and values, including the
12 person-in-environment perspective, by providing in person or
13 through telephone, video conferencing, or electronic means one
14 or more of the social work services described in clauses (1) to
15 (3). Social work services may address conditions that impair or
16 limit behavioral, cognitive, emotional, mental, or social
17 functioning. Such conditions include, but are not limited to,
18 the following: abuse and neglect of children or vulnerable
19 adults, addictions, developmental disorders, disabilities,
20 discrimination, illness, injuries, poverty, and trauma. Social
21 work services include:

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

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

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

33 (ii) conducting research related to social work services;

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

36 (iv) engaging in community organization to address social

1 problems through planned collective action;

2 (v) supervising individuals who provide social work

3 services to clients;

4 (vi) supervising social workers in order to comply with the

5 supervised practice requirements specified in sections 148D.100

6 to 148D.125; and

7 (vii) teaching professional social work knowledge, skills,

8 and values to students; and

9 (3) engaging in clinical practice.

10 Subd. 10. [PROFESSIONAL NAME.] "Professional name" means

11 the name a licensed social worker uses in making representations

12 of the social worker's professional status to the public and

13 which has been designated to the board in writing pursuant to

14 section 148D.090.

15 Subd. 11. [PROFESSIONAL SOCIAL WORK KNOWLEDGE, SKILLS, AND

16 VALUES.] "Professional social work knowledge, skills, and values"

17 means the knowledge, skills, and values taught in programs

18 accredited by the Council on Social Work Education, the Canadian

19 Association of Schools of Social Work, or a similar

20 accreditation body designated by the board. Professional social

21 work knowledge, skills, and values include, but are not limited

22 to, principles of person-in-environment and the values,

23 principles, and standards described in the Code of Ethics of the

24 National Association of Social Workers.

25 Subd. 12. [SEXUAL CONDUCT.] "Sexual conduct" means any

26 physical contact or conduct that may be reasonably interpreted

27 as sexual, or any oral, written, electronic, or other

28 communication that suggests engaging in physical contact or

29 conduct that may be reasonably interpreted as sexual.

30 Subd. 13. [SOCIAL WORKER.] "Social worker" means an

31 individual who:

32 (1) is licensed as a social worker; or

33 (2) has obtained a social work degree from a program

34 accredited by the Council on Social Work Education, the Canadian

35 Association of Schools of Social Work, or a similar

36 accreditation body designated by the board and engages in the

1 practice of social work.

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

7 Subd. 15. [SUPERVISEE.] "Supervisee" means an individual
8 provided evaluation and supervision or direction by a social
9 worker.

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

17 Sec. 8. [148D.015] [SCOPE.]

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

23 Sec. 9. [148D.020] [CHAPTER 214.]

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

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

27 Subdivision 1. [CREATION.] The Board of Social Work
28 consists of 15 members appointed by the governor. The members
29 are:

30 (1) ten social workers licensed pursuant to section
31 148D.055; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 Subd. 4. [BYLAWS.] The board must adopt bylaws to govern
31 its proceedings.

32 Subd. 5. [EXECUTIVE DIRECTOR.] The board must appoint and
33 employ an executive director who is not a member of the board.

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

35 Subdivision 1. [DUTIES.] The board must perform the duties
36 necessary to promote and protect the public health, safety, and

1 welfare through the licensure and regulation of persons who
2 practice social work in this state. These duties include, but
3 are not limited to:

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

6 (2) establishing standards of practice for social workers;

7 (3) holding examinations or contracting with the

8 Association of Social Work Boards or a similar examination body

9 designated by the board to hold examinations to assess

10 applicants' qualifications;

11 (4) issuing licenses to qualified individuals pursuant to

12 sections 148D.055 and 148D.060;

13 (5) taking disciplinary, adversarial, corrective, or other

14 action pursuant to sections 148D.255 to 148D.270 when an

15 individual violates the requirements of this chapter;

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

17 148D.180; and

18 (7) educating social workers and the public on the

19 requirements of the board.

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

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

23 If the effect of a requirement pursuant to this chapter is

24 unreasonable, impossible to execute, absurd, or would impose an

25 extreme hardship on a licensee, the board may grant a variance

26 if the variance is consistent with promoting and protecting the

27 public health, safety, and welfare. A variance must not be

28 granted for core licensing standards such as substantive

29 educational and examination requirements.

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

31 Board members, board employees, and persons engaged on

32 behalf of the board are immune from civil liability and criminal

33 prosecution for any actions, transactions, or publications in

34 the lawful execution of or relating to their duties under this

35 chapter.

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

1 An applicant or a licensee who is the subject of a
2 disciplinary or adversarial action by the board pursuant to this
3 chapter may request a contested case hearing under sections
4 14.57 to 14.62. An applicant or a licensee who desires to
5 request a contested case hearing must submit a written request
6 to the board within 90 days after the date on which the board
7 mailed the notification of the adverse action, except as
8 otherwise provided in this chapter.

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

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

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

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

21 Subd. 4. [LICENSED INDEPENDENT SOCIAL WORKER.] A licensed
22 independent social worker may engage in social work practice
23 except that a licensed independent social worker must not engage
24 in clinical practice except under the supervision of a licensed
25 independent clinical social worker or an alternate supervisor
26 pursuant to section 148D.120.

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

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

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

35 (b) Individuals who teach professional social work
36 knowledge, skills, and values to students and who have a social

1 work degree from a program accredited by the Council on Social
2 Work Education, the Canadian Association of Schools of Social
3 Work, or a similar accreditation body designated by the board
4 must have a social work license under this section or section
5 148D.060, except when the individual is exempt from licensure
6 pursuant to section 148D.065.

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

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

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

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

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

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

34 (6) has not engaged in conduct that was or would be in
35 violation of the standards of practice specified in sections
36 148D.195 to 148D.240. If the applicant has engaged in conduct

1 that was or would be in violation of the standards of practice,
2 the board may take action pursuant to sections 148D.255 to
3 148D.270.

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

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

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

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

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

34 (g) Notwithstanding paragraph (f), the board may allow an
35 applicant to take, for a fourth or subsequent time, the
36 bachelors or equivalent examination administered by the

1 Association of Social Work Boards or a similar examination body
2 designated by the board if the applicant:

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

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

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

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

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

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

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

36 This paragraph expires August 1, 2007.

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

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

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

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

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

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

29 (6) has not engaged in conduct that was or would be in
30 violation of the standards of practice specified in sections
31 148D.195 to 148D.240. If the applicant has engaged in conduct
32 that was or would be in violation of the standards of practice,
33 the board may take action pursuant to sections 148D.255 to
34 148D.270.

35 (b) An application which is not completed and signed, or
36 which is not accompanied by the correct fee, must be returned to

1 the applicant, along with any fee submitted, and is void.

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

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

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

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

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

34 (1) meets all requirements specified in paragraphs (a) to
35 (e) other than passing the masters or equivalent examination
36 administered by the Association of Social Work boards or a

1 similar examination body designated by the board;

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

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

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

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

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

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

31 This paragraph expires August 1, 2007.

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

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

5 (2) has practiced social work as defined in section
6 148D.010, and has met the supervised practice requirements
7 specified in sections 148D.100 to 148D.125;

8 (3) has passed the advanced generalist or equivalent
9 examination administered by the Association of Social Work
10 Boards or a similar examination body designated by the board.

11 Unless an applicant applies for licensure by endorsement
12 pursuant to subdivision 7, an examination is not valid if it was
13 taken and passed eight or more years prior to submitting a
14 completed, signed application form provided by the board;

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

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

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

25 (7) has not engaged in conduct that was or would be in
26 violation of the standards of practice specified in sections
27 148D.195 to 148D.240. If the applicant has engaged in conduct
28 that was or would be in violation of the standards of practice,
29 the board may take action pursuant to sections 148D.255 to
30 148D.270.

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

34 (c) A licensed independent social worker who practices
35 clinical social work must meet the supervised practice
36 requirements specified in sections 148D.100 to 148D.125. If a

1 licensee does not meet the supervised practice requirements, the
2 board may take action pursuant to sections 148D.255 to 148D.270.

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

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

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

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

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

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

1 likely to improve the score; and

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

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

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

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

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

28 This paragraph expires August 1, 2007.

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

35 (1) has received a graduate degree in social work from a
36 program accredited by the Council on Social Work Education, the

1 Canadian Association of Schools of Social Work, or a similar
2 accreditation body designated by the board;

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

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

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

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

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

24 (7) has not engaged in conduct that was or would be in
25 violation of the standards of practice specified in sections
26 148D.195 to 148D.240. If the applicant has engaged in conduct
27 that was or would be in violation of the standards of practice,
28 the board may take action pursuant to sections 148D.255 to
29 148D.270.

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

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

1 or documentation.

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

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

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

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

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

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

36 (g) An individual must not practice social work until the

1 individual passes the examination and receives a social work
2 license under this section or section 148D.060. If the board
3 has reason to believe that an applicant may be practicing social
4 work without a license, and the applicant has failed the
5 clinical or equivalent examination administered by the
6 Association of Social Work Boards or a similar examination body
7 designated by the board, the board may notify the applicant's
8 employer that the applicant is not licensed as a social worker.

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

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

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

21 This paragraph expires August 1, 2007.

22 Subd. 6. [DEGREES FROM OUTSIDE THE UNITED STATES OR
23 CANADA.] If an applicant receives a degree from a program
24 outside the United States or Canada that is not accredited by
25 the Council on Social Work Education, the Canadian Association
26 of Schools of Social Work, or a similar examination body
27 designated by the board, the degree does not fulfill the
28 requirements specified in subdivision 2, paragraph (a), clause
29 (1); 3, paragraph (a), clause (1); 4, paragraph (a), clause (1);
30 or 5, paragraph (a), clause (1), unless the Council on Social
31 Work Education or a similar accreditation body designated by the
32 board has determined through the council's international
33 equivalency determination service that the degree earned is
34 equivalent to the degree required.

35 Subd. 7. [LICENSURE BY ENDORSEMENT.] (a) An applicant for
36 licensure by endorsement must hold a current license or

1 credential to practice social work in another jurisdiction.

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

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

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

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

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

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

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

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

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

33 Subd. 10. [EXPIRATION DATE.] The expiration date of an
34 initial license is the last day of the licensee's birth month in
35 the second calendar year following the effective date of the
36 initial license.

1 Subd. 11. [CHANGE IN LICENSE.] (a) A licensee who changes
2 from a licensed social worker to a licensed graduate social
3 worker, or from a licensed graduate social worker to a licensed
4 independent social worker, or from a licensed graduate social
5 worker or licensed independent social worker to a licensed
6 independent clinical social worker, must pay the prorated share
7 of the fee for the new license.

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

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

14 Sec. 17. [148D.060] [TEMPORARY LICENSES.]

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

20 (1) applied for a license under section 148D.055;

21 (2) applied for a temporary license on a form provided by
22 the board;

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

25 (4) passed the applicable licensure examination provided
26 for in section 148D.055;

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

33 (6) not engaged in conduct that was or would be in
34 violation of the standards of practice specified in sections
35 148D.195 to 148D.240. If the applicant has engaged in conduct
36 that was or would be in violation of the standards of practice,

1 the board may take action pursuant to sections 148D.255 to
2 148D.270.

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

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

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

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

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

22 (5) not engaged in conduct that was or would be in
23 violation of the standards of practice specified in sections
24 148D.195 to 148D.240. If the applicant has engaged in conduct
25 that was or would be in violation of the standards of practice,
26 the board may take action pursuant to sections 148D.255 to
27 148D.270.

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

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

36 (2) submitted a form provided by the board authorizing the

1 board to complete a criminal background check;

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

5 (4) has not engaged in conduct that was or would be in
6 violation of the standards of practice specified in sections
7 148D.195 to 148D.240. If the applicant has engaged in conduct
8 that was or would be in violation of the standards of practice,
9 the board may take action pursuant to sections 148D.255 to
10 148D.270.

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

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

23 (b) A temporary license issued pursuant to subdivision 1 or
24 2 expires after six months.

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

27 Subd. 6. [LICENSEE WITH A TEMPORARY LICENSE WHO HAS
28 COMPLETED REQUIREMENTS FOR A BACCALAUREATE DEGREE.] A licensee
29 with a temporary license who has provided evidence to the board
30 that the licensee has completed the requirements for a
31 baccalaureate degree in social work from a program accredited by
32 the Council on Social Work Education, the Canadian Association
33 of Schools of Social Work, or a similar accreditation body
34 designated by the board may temporarily engage in social work
35 practice except that a licensee with a temporary license may not
36 engage in clinical social work practice.

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

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

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

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

32 Subd. 10. [REPRESENTATION OF PROFESSIONAL STATUS.] In
33 making representations of professional status to the public, a
34 licensee with a temporary license must state that the licensee
35 has a temporary license.

36 Subd. 11. [STANDARDS OF PRACTICE.] A licensee with a

1 temporary license must conduct all professional activities as a
2 social worker in accordance with the requirements of sections
3 148D.195 to 148D.240.

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

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

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

15 Subdivision 1. [OTHER PROFESSIONALS.] Nothing in this
16 chapter may be construed to prevent members of other professions
17 or occupations from performing functions for which they are
18 qualified or licensed. This exception includes but is not
19 limited to: licensed physicians, registered nurses, licensed
20 practical nurses, licensed psychologists, psychological
21 practitioners, probation officers, members of the clergy and
22 Christian Science practitioners, attorneys, marriage and family
23 therapists, alcohol and drug counselors, professional
24 counselors, school counselors, and registered occupational
25 therapists or certified occupational therapist assistants.
26 These persons must not, however, hold themselves out to the
27 public by any title or description stating or implying that they
28 are engaged in the practice of social work, or that they are
29 licensed to engage in the practice of social work. Persons
30 engaged in the practice of social work are not exempt from the
31 board's jurisdiction solely by the use of one of the titles in
32 this subdivision.

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

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

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

12 Subd. 5. [FEDERALLY RECOGNIZED TRIBES AND PRIVATE
13 NONPROFIT AGENCIES WITH A MINORITY FOCUS.] The licensure of
14 social workers who are employed by federally recognized tribes,
15 or by private nonprofit agencies whose primary service focus
16 addresses ethnic minority populations, and who are themselves
17 members of ethnic minority populations within those agencies, is
18 voluntary.

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

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

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

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

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

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

3 (1) a completed, signed application for license renewal;
4 and

5 (2) the applicable renewal fee specified in section
6 148D.180.

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

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

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

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

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

25 (2) conduct an audit to determine if the applicant has met
26 the continuing education requirements specified in sections
27 148D.130 to 148D.170; and

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

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

35 Subd. 4. [RENEWAL LATE FEE.] An application that is
36 received after the license expiration date must be accompanied

1 by the renewal late fee specified in section 148D.180 in
2 addition to the applicable renewal fee. The application,
3 renewal fee, and renewal late fee must be received by the board
4 within 60 days of the license expiration date, or the license
5 automatically expires.

6 Subd. 5. [EXPIRED LICENSE.] (a) If an application does not
7 meet the requirements specified in subdivisions 3 and 4, the
8 license automatically expires. A licensee whose license has
9 expired may reactivate a license by meeting the requirements in
10 section 148D.080 or be relicensed by meeting the requirements
11 specified in section 148D.055.

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

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

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

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

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

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

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

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

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

6 Subd. 2. [APPLICATION.] A licensee may apply for inactive
7 status:

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

10 or

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

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

19 Subd. 3. [FEE.] (a) Regardless of when the application for
20 inactive status is submitted, the temporary leave or emeritus
21 license fee specified in section 148D.180, whichever is
22 applicable, must accompany the application. A licensee who is
23 approved for inactive status before the license expiration date
24 is not entitled to receive a refund for any portion of the
25 license or renewal fee.

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

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

35 Subd. 5. [TIME LIMITS FOR AN EMERITUS LICENSE.] A licensee
36 with an emeritus license may not apply for reactivation pursuant

1 to section 148D.080 after five years following the granting of
2 the emeritus license. However, after five years following the
3 granting of the emeritus license, an individual may apply for
4 new licensure pursuant to section 148D.055.

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

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

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

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

25 Sec. 21. [148D.080] [REACTIVATIONS.]

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

35 Subd. 2. [REACTIVATION FROM A TEMPORARY LEAVE OR EMERITUS
36 STATUS.] To reactivate a license from a temporary leave or

1 emeritus status, a licensee must do the following within the
2 time period specified in section 148D.075, subdivisions 4 and 5:

3 (1) complete an application form specified by the board;

4 (2) document compliance with the continuing education
5 requirements specified in subdivision 4;

6 (3) submit a supervision plan, if required;

7 (4) pay the reactivation of an inactive licensee fee
8 specified in section 148D.180; and

9 (5) pay the wall certificate fee in accordance with section
10 148D.095, subdivision 1, paragraph (b) or (c), if the licensee
11 needs a duplicate license.

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

15 (1) complete an application form specified by the board;

16 (2) document compliance with the continuing education
17 requirements that were in effect at the time the license
18 expired;

19 (3) document compliance with the supervision requirements,
20 if applicable, that were in effect at the time the license
21 expired; and

22 (4) pay the reactivation of an expired license fee
23 specified in section 148D.180.

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

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

34 Subd. 5. [REACTIVATION OF A VOLUNTARILY TERMINATED
35 LICENSE.] To reactivate a voluntarily terminated license, a
36 licensee must do the following within one year of the date the

1 voluntary termination takes effect:

2 (1) complete an application form specified by the board;

3 (2) document compliance with the continued education
4 requirements that were in effect at the time the license was
5 voluntarily terminated;

6 (3) document compliance with the supervision requirements,
7 if applicable, that were in effect at the time the license was
8 voluntarily terminated; and

9 (4) pay the reactivation of an expired or voluntarily
10 terminated license fee specified in section 148D.180.

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

12 Subdivision 1. [REQUESTS FOR VOLUNTARY TERMINATION.] (a) A
13 licensee may request voluntary termination of a license if the
14 licensee demonstrates to the satisfaction of the board that the
15 licensee is not engaged in the practice of social work in any
16 setting except settings in which social workers are exempt from
17 licensure pursuant to section 148D.065.

18 (b) A licensee may apply for voluntary termination:

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

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

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

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

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

35 Subd. 3. [PROHIBITION ON PRACTICE.] A licensee who has
36 voluntarily terminated a license must not practice, attempt to

1 practice, offer to practice, or advertise or hold out as
2 authorized to practice social work, except when the individual
3 is exempt from licensure pursuant to section 148D.065.

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

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

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

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

- 17 (1) request a new license wall certificate;
18 (2) provide legal verification of the name change; and
19 (3) pay the license wall certificate fee specified in
20 section 148D.180.

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

- 23 (1) request a new license wall certificate;
24 (2) provide a notarized statement attesting to the name
25 change; and

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

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

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

34 Subdivision 1. [LICENSE WALL CERTIFICATE.] (a) The board
35 must issue a new license wall certificate when the board issues
36 a new license. No fee in addition to the applicable license fee

1 specified in section 148D.180 is required.

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

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

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

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

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

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

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

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

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

21 Subd. 2. [LICENSE CARD.] (a) The board must issue a new
22 license card when the board issues a new license. No fee in
23 addition to the applicable license fee specified in section
24 148D.180 is required.

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

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

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

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

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

1 Subdivision 1. [SUPERVISION REQUIRED AFTER LICENSURE.]

2 After receiving a license from the board as a licensed social
3 worker, the licensed social worker must obtain at least 75 hours
4 of supervision in accordance with the requirements of this
5 section.

6 Subd. 2. [PRACTICE REQUIREMENTS.] The supervision required
7 by subdivision 1 must be obtained during the first 4,000 hours
8 of postbaccalaureate social work practice authorized by law. At
9 least three hours of supervision must be obtained during every
10 160 hours of practice.

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

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

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

18 (2) in-person group supervision; or

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

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

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

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

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

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

33 Subd. 5. [SUPERVISEE REQUIREMENTS.] The supervisee must:

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

1 (2) receive supervision in the following content areas:

2 (i) development of professional values and

3 responsibilities;

4 (ii) practice skills;

5 (iii) authorized scope of practice;

6 (iv) ensuring continuing competence; and

7 (v) ethical standards of practice;

8 (3) submit a supervision plan in accordance with section
9 148D.125, subdivision 1; and

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

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

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

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

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

28 Subd. 2. [PRACTICE REQUIREMENTS.] The supervision required
29 by subdivision 1 must be obtained during the first 4,000 hours
30 of postgraduate social work practice authorized by law. At
31 least three hours of supervision must be obtained during every
32 160 hours of practice.

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

36 (b) Thirty-seven and one-half hours must consist of one or

1 more of the following types of supervision, subject to the
2 limitation in clause (3):

- 3 (1) one-on-one in-person supervision;
4 (2) in-person group supervision; or
5 (3) electronic supervision such as by telephone or video
6 conferencing, provided that electronic supervision must not
7 exceed 25 hours.

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

10 Subd. 4. [SUPERVISOR REQUIREMENTS.] The supervision
11 required by subdivision 1 must be provided by a supervisor who
12 meets the requirements specified in section 148D.120. The
13 supervision must be provided:

14 (1) if the supervisee is not engaged in clinical practice,
15 by a (i) licensed independent social worker, (ii) licensed
16 graduate social worker who has completed the supervised practice
17 requirements, or (iii) licensed independent clinical social
18 worker;

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

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

23 Subd. 5. [SUPERVISEE REQUIREMENTS.] The supervisee must:

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

27 (2) receive supervision in the following content areas:

28 (i) development of professional values and
29 responsibilities;

30 (ii) practice skills;

31 (iii) authorized scope of practice;

32 (iv) ensuring continuing competence; and

33 (v) ethical standards of practice;

34 (3) submit a supervision plan in accordance with section
35 148D.125, subdivision 1; and

36 (4) verify supervised practice in accordance with section

1 148D.125, subdivision 3, if:

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

3 or

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

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

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

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

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

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

1 supervision requirements.

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

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

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

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

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

28 (c) Notwithstanding the requirements of paragraph (b), the
29 board may grant a licensed independent social worker permission
30 to engage in clinical social work practice for more than 8,000
31 hours if the licensed independent social worker petitions the
32 board and demonstrates to the board's satisfaction that for
33 reasons of personal hardship the licensed independent social
34 worker should be granted an extension to continue practicing
35 clinical social work under supervision for up to an additional
36 2,000 hours.

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

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

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

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

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

20 Subdivision 1. [SUPERVISORS LICENSED AS SOCIAL WORKERS.]
21 (a) Except as provided in paragraph (b), to be eligible to
22 provide supervision under this section, a social worker must
23 attest, on a form provided by the board, that he or she has met
24 the applicable licensure requirements specified in sections
25 148D.100 to 148D.115.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (d) An alternate supervisor must:

29 (1) be an unlicensed social worker who is employed in, and
30 provides the supervision in, a setting exempt from licensure by
31 section 148D.065, and who has qualifications equivalent to the
32 applicable requirements specified in sections 148D.100 to
33 148D.115; or

34 (2) be a licensed marriage and family therapist or a mental
35 health professional as established by section 245.462,
36 subdivision 18, or 245.4871, subdivision 27, or an equivalent

1 mental health professional, as determined by the board, who is
2 licensed or credentialed by a state, territorial, provincial, or
3 foreign licensing agency.

4 In order to qualify to provide clinical supervision of a
5 licensed graduate social worker or licensed independent social
6 worker engaged in clinical practice, the alternate supervisor
7 must be a mental health professional as established by section
8 245.462, subdivision 18, or 245.4871, subdivision 27, or an
9 equivalent mental health professional, as determined by the
10 board, who is licensed or credentialed by a state, territorial,
11 provincial, or foreign licensing agency.

12 Sec. 30. [148D.125] [DOCUMENTATION OF SUPERVISION.]

13 Subdivision 1. [SUPERVISION PLAN.] (a) A social worker
14 must submit, on a form provided by the board, a supervision plan
15 for meeting the supervision requirements specified in sections
16 148D.100 to 148D.120.

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

20 (c) For failure to submit the supervision plan within 90
21 days after beginning a social work practice position, a licensee
22 must pay the supervision plan late fee specified in section
23 148D.180 when the licensee applies for license renewal.

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

27 (e) The supervision plan must include the following:

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

31 (2) the name and qualifications of the person providing the
32 supervision;

33 (3) the number of hours of one-on-one in-person supervision
34 and the number and type of additional hours of supervision to be
35 completed by the supervisee;

36 (4) the supervisee's position description;

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

3 (i) clinical practice, if applicable;

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

6 (iii) practice methods;

7 (iv) authorized scope of practice;

8 (v) ensuring continuing competence; and

9 (vi) ethical standards of practice; and

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

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

14 (ii) the clinical modalities that were utilized; and

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

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

20 (1) the supervisee has a new supervisor;

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

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

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

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

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

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

35 Subd. 2. [ATTESTATION.] (a) When a supervisee submits
36 renewal application materials to the board, the supervisee and

1 supervisor must submit an attestation providing the following
2 information on a form provided by the board:

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

6 (2) the name and qualifications of the supervisor;

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

9 (4) the supervisee's position description;

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

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

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

18 (i) clinical practice, if applicable;

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

21 (iii) practice methods;

22 (iv) authorized scope of practice;

23 (v) ensuring continuing competence; and

24 (vi) ethical standards of practice.

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

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

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

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

1 social worker.

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

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

9 (2) the name and qualifications of the supervisor;

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

12 (4) the supervisee's position description;

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

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

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

21 (i) clinical practice, if applicable;

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

24 (iii) practice methods;

25 (iv) authorized scope of practice;

26 (v) ensuring continuing competence; and

27 (vi) ethical standards of practice; and

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

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

32 (ii) the clinical modalities that were utilized; and

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

36 (c) The information provided on the verification form must

1 demonstrate to the board's satisfaction that the supervisee has
2 met the applicable supervised practice requirements.

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

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

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

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

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

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

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

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

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

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

35 (2) the hours must be offered by a continuing education
36 provider approved by the Association of Social Work Boards or a

1 similar examination body designated by the board;

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

4 or

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

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

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

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

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

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

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

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

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

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

32 (1) the name of the continuing education provider;

33 (2) the address, telephone number, and e-mail address of a
34 contact person for the provider;

35 (3) a signed statement that indicates the provider
36 understands and agrees to abide by the criteria specified in

1 subdivision 3; and

2 (4) a signed statement that indicates the provider agrees
3 to furnish a certificate of attendance to each participant in a
4 program offered by the provider.

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

9 (1) whether the material to be presented will promote the
10 standards of practice described in sections 148D.195 to
11 148D.240;

12 (2) whether the material to be presented will contribute to
13 the practice of social work as defined in section 148D.010;

14 (3) whether the material to be presented is intended for
15 the benefit of practicing social workers; and

16 (4) whether the persons presenting the program are
17 qualified in the subject matter being presented.

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

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

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

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

30 (1) the title of the program;

31 (2) a description of the content and objectives of the
32 program;

33 (3) the date of the program;

34 (4) the number of clock hours credited for participation in
35 the program;

36 (5) the program location;

1 (6) the names and qualifications of the primary presenters;

2 (7) a description of the primary audience the program was
3 designed for; and

4 (8) a list of the participants in the program.

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

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

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

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

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

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

25 (1) promote the standards of practice described in sections
26 148D.195 to 148D.240;

27 (2) contribute to the practice of social work as defined in
28 section 148D.010; and

29 (3) not be primarily procedural or be primarily oriented
30 towards business practices or self-development.

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

1 employer; or independent study.

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

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

9 (1) for educational workshops or seminars offered by an
10 organization or at a conference, a copy of the certificate of
11 attendance issued by the presenter or sponsor giving the
12 following information:

13 (i) the name of the sponsor or presenter of the program;
14 (ii) the title of the workshop or seminar;
15 (iii) the dates the licensee participated in the program;

16 and

17 (iv) the number of clock hours completed;

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

21 (i) the name of the institution offering the course;
22 (ii) the title of the course;
23 (iii) the dates the licensee participated in the course;

24 and

25 (iv) the number of credits completed;

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

29 (i) the name of the employer;
30 (ii) the title of the staff training;
31 (iii) the dates the licensee participated in the program;

32 and

33 (iv) the number of clock hours completed; and

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

- 1 (i) the topics studied;
2 (ii) a description of the applicability of the study to the
3 licensee's authorized scope of practice;
4 (iii) the titles and authors of books and articles
5 consulted or the name of the organization offering the study;
6 (iv) the dates the licensee conducted the study; and
7 (v) the number of clock hours the licensee conducted the
8 study.

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

17 Sec. 39. [148D.170] [REVOCATION OF CONTINUING EDUCATION
18 APPROVALS.]

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

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

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

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

29 Subdivision 1. [APPLICATION FEES.] Application fees for
30 licensure are as follows:

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

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

5 Subd. 2. [LICENSE FEES.] License fees are as follows:

6 (1) for a licensed social worker, \$115.20;

7 (2) for a licensed graduate social worker, \$201.60;

8 (3) for a licensed independent social worker, \$302.40;

9 (4) for a licensed independent clinical social worker,

10 \$331.20;

11 (5) for an emeritus license, \$43.20; and

12 (6) for a temporary leave fee, the same as the renewal fee
13 specified in subdivision 3.

14 If the licensee's initial license term is less or more than
15 24 months, the required license fees must be prorated
16 proportionately.

17 Subd. 3. [RENEWAL FEES.] Renewal fees for licensure are as
18 follows:

19 (1) for a licensed social worker, \$115.20;

20 (2) for a licensed graduate social worker, \$201.60;

21 (3) for a licensed independent social worker, \$302.40; and

22 (4) for a licensed independent clinical social worker,

23 \$331.20.

24 Subd. 4. [CONTINUING EDUCATION PROVIDER FEES.] Continuing
25 education provider fees are as follows:

26 (1) for a provider who offers programs totaling one to
27 eight clock hours in a one-year period pursuant to section
28 148D.145, \$50;

29 (2) for a provider who offers programs totaling nine to 16
30 clock hours in a one-year period pursuant to section 148D.145,
31 \$100;

32 (3) for a provider who offers programs totaling 17 to 32
33 clock hours in a one-year period pursuant to section 148D.145,
34 \$200;

35 (4) for a provider who offers programs totaling 33 to 48
36 clock hours in a one-year period pursuant to section 148D.145,

1 \$400; and

2 (5) for a provider who offers programs totaling 49 or more
3 clock hours in a one-year period pursuant to section 148D.145,
4 \$600.

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

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

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

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

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

13 Subd. 7. [REACTIVATION FEES.] Reactivation fees are as
14 follows:

15 (1) reactivation from a temporary leave or emeritus status,
16 the prorated share of the renewal fee specified in subdivision
17 3; and

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

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

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

31 Sec. 43. [148D.190] [GROUNDS FOR ACTION.]

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

36 Subd. 2. [VIOLATIONS.] The board has grounds to take

1 action pursuant to sections 148D.255 to 148D.270 when a social
2 worker violates:

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

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

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

9 Subd. 3. [CONDUCT BEFORE LICENSURE.] A violation of the
10 requirements specified in this section and sections 148D.195 to
11 148D.240 is grounds for the board to take action under sections
12 148D.255 to 148D.270. The board's jurisdiction to exercise the
13 powers provided in this section extends to an applicant or
14 licensee's conduct that occurred before licensure if:

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

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

21 Subd. 4. [UNAUTHORIZED PRACTICE.] The board has grounds to
22 take action pursuant to sections 148D.255 to 148D.270 when a
23 social worker:

24 (1) practices outside the scope of practice authorized by
25 section 148D.050;

26 (2) engages in the practice of social work without a social
27 work license under section 148D.055 or 148D.060, except when the
28 social worker is exempt from licensure pursuant to section
29 148D.065;

30 (3) provides social work services to a client who receives
31 social work services in this state, and is not licensed pursuant
32 to section 148D.055 or 148D.060, except when the social worker
33 is exempt from licensure pursuant to section 148D.065.

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

36 Subdivision 1. [REQUIRED DISPLAYS AND INFORMATION FOR

1 CLIENTS.] (a) A social worker must conspicuously display at the
2 social worker's places of practice, or make available as a
3 handout for all clients, information that the client has the
4 right to the following:

5 (1) to be informed of the social worker's license status,
6 education, training, and experience;

7 (2) to examine public data on the social worker maintained
8 by the board;

9 (3) to report a complaint about the social worker's
10 practice to the board; and

11 (4) to be informed of the board's mailing address, e-mail
12 address, Web site address, and telephone number.

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

17 Subd. 2. [REPRESENTATIONS.] (a) No applicant or other
18 individual may be represented to the public by any title
19 incorporating the words "social work" or "social worker" unless
20 the individual holds a license pursuant to sections 148D.055 and
21 148D.060 or practices in a setting exempt from licensure
22 pursuant to section 148D.065.

23 (b) In all professional use of a social worker's name, the
24 social worker must use the license designation "LSW" or
25 "licensed social worker" for a licensed social worker, "LGSW" or
26 "licensed graduate social worker" for a licensed graduate social
27 worker, "LISW" or "licensed independent social worker" for a
28 licensed independent social worker, or "LICSW" or "licensed
29 independent clinical social worker" for a licensed independent
30 clinical social worker.

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

35 (d) A social worker must not:

36 (1) use licensure status as a claim, promise, or guarantee

1 of successful service;

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

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

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

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

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

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

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

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

30 Subdivision 1. [COMPETENCE.] (a) A social worker must
31 provide services and hold out as competent only to the extent
32 the social worker's education, training, license, consultation
33 received, supervision experience, or other relevant professional
34 experience demonstrate competence in the services provided. A
35 social worker must make a referral to a competent professional
36 when the services required are beyond the social worker's

1 competence or authorized scope of practice.

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

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

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

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

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

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

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

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

36 The board has grounds to take action under sections

1 148D.255 to 148D.270 when a social worker:

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

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

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

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

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

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

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

29 Subd. 3. [RESEARCH.] When undertaking research activities,
30 a social worker must use accepted protocols for the protection
31 of human subjects, including (1) establishing appropriate
32 safeguards to protect the subject's vulnerability, and (2)
33 obtaining the subjects' informed consent.

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

36 Subdivision 1. [SOCIAL WORKER RESPONSIBILITY.] (a) A

1 social worker is responsible for acting professionally in
2 relationships with clients or former clients. A client or a
3 former client's initiation of, or attempt to engage in, or
4 request to engage in, a personal, sexual, or business
5 relationship is not a defense to a violation of this section.

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

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

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

26 Subd. 4. [IMPROPER TERMINATION.] A social worker must not
27 terminate a professional relationship for the purpose of
28 beginning a personal, sexual, or business relationship with a
29 client.

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

35 (b) Notwithstanding paragraph (a), if a social worker is
36 unable to avoid a personal relationship with a client, the

1 social worker must take appropriate precautions, such as
2 consultation or supervision, to address the potential for risk
3 of client harm or of impairing a social worker's objectivity or
4 professional judgment.

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

9 (1) as prohibited by subdivision 8; or

10 (2) if a reasonable and prudent social worker would
11 conclude after appropriate assessment that (i) the former client
12 is emotionally dependent on the social worker or continues to
13 relate to the social worker as a client, or (ii) the social
14 worker is emotionally dependent on the client or continues to
15 relate to the former client as a social worker.

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

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

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

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

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

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

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

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

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

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

11 (3) the circumstances of termination of services;

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

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

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

17 and

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

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

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

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

36 (c) A social worker practicing social work as a supervisor

1 must not engage in or suggest sexual conduct with a supervisee
2 during the period of supervision.

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

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

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

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

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

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

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

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

35 (b) A social worker must not engage in a social
36 worker/client relationship with an individual with whom the

1 social worker had a previous personal or business relationship
2 if a reasonable and prudent social worker would conclude after
3 appropriate assessment that the social worker/client
4 relationship would create an unacceptable risk of client harm or
5 that the social worker's objectivity or professional judgment
6 may be impaired.

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

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

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

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

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

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

28 Subdivision 1. [ASSESSMENT OR DIAGNOSIS.] A social worker
29 must base treatment and intervention services on an assessment
30 or diagnosis. A social worker must evaluate, on an ongoing
31 basis, the appropriateness of the assessment or diagnosis.

32 Subd. 2. [ASSESSMENT OR DIAGNOSTIC INSTRUMENTS.] A social
33 worker must not use an assessment or diagnostic instrument
34 without adequate training. A social worker must follow
35 standards and accepted procedures for using an assessment or
36 diagnostic instrument. A social worker must inform a client of

1 the purpose before administering the instrument and must make
2 the results available to the client.

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

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

12 (1) the assessment or diagnosis;

13 (2) the content of the service plan;

14 (3) progress with the plan and any revisions of assessment,
15 diagnosis, or plan;

16 (4) any fees charged and payments made;

17 (5) copies of all client-written authorizations for release
18 of information; and

19 (6) other information necessary to provide appropriate
20 services.

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

25 (1) maintain personal or separate records; or

26 (2) personally retain records at the conclusion of their
27 employment.

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

1 request of the client.

2 Sec. 51. [148D.230] [CONFIDENTIALITY AND RECORDS.]

3 Subdivision 1. [INFORMED CONSENT.] (a) A social worker
4 must obtain valid, informed consent, appropriate to the
5 circumstances, before providing services to clients. When
6 obtaining informed consent, the social worker must determine
7 whether the client has the capacity to provide informed
8 consent. If the client does not have the capacity to provide
9 consent, the social worker must obtain consent for the services
10 from the client's legal representative. The social worker must
11 not provide services, unless authorized or required by law, if
12 the client or the client's legal representative does not consent
13 to the services.

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

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

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

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

30 Subd. 2. [MANDATORY REPORTING AND DISCLOSURE OF CLIENT
31 INFORMATION.] At the beginning of a professional relationship
32 and during the professional relationship as necessary and
33 appropriate, a social worker must inform the client of those
34 circumstances under which the social worker may be required to
35 disclose client information specified in subdivision 3,
36 paragraph (a), without the client's consent.

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

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

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

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

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

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

35 (c) Except as provided in subdivision 5, a social worker
36 may disclose client information specified in subdivision 3,

1 paragraph (a), only with the client's or the client's legal
2 representative's written informed consent. When it is not
3 practical to obtain written informed consent before providing
4 necessary services, a social worker may disclose or release
5 client information with the client's or the client's legal
6 representative's oral informed consent.

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

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

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

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

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

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

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

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

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

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

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

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

20 Subd. 2. [BILLING FOR SERVICES NOT PROVIDED.] A social
21 worker must not bill for services that have not been provided
22 except that, with prior notice to the client, a social worker
23 may bill for failed appointments or for cancellations without
24 sufficient notice. A social worker may bill only for provided
25 services which are necessary and appropriate.

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

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

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

35 Subdivision 1. [FAILURE TO SELF-REPORT ADVERSE
36 ACTIONS.] The board has grounds to take action under sections

1 148D.255 to 148D.270 when a social worker fails to report to the
2 board within 90 days:

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

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

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

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

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

18 Subd. 2. [FAILURE TO SUBMIT APPLICATION INFORMATION.] The
19 board has grounds to take action under sections 148D.255 to
20 148D.270 when an applicant or licensee fails to submit with an
21 application the following information:

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

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

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

34 Subd. 4. [REPORTING UNLICENSED PRACTICE.] An applicant or
35 licensee must report to the board conduct by an unlicensed
36 person which constitutes the practice of social work, as defined

1 in section 148D.010, except when the unlicensed person is exempt
2 from licensure pursuant to section 148D.065.

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

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

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

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

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

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

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

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

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

30 (b) If any person fails or refuses to appear or testify
31 regarding any matter about which the person may be lawfully
32 questioned, or fails or refuses to produce any papers, books,
33 records, documents, or other evidentiary materials in the matter
34 to be heard, after having been required by order of the board or
35 by a subpoena of the board to do so, the board may institute a
36 proceeding in any district court to enforce the board's order or

1 subpoena.

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

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

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

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

19 (b) Notwithstanding paragraph (a), client records must be
20 treated as private data under chapter 13. Client records must
21 be protected as private data in the records of the board and in
22 administrative or judicial proceedings unless the client
23 authorizes the board in writing to make public the identity of
24 the client or a portion or all of the client's records.

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

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

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

1 (2) the purpose of the examination or evaluation;

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

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

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

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

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

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

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

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

33 (c) Neither the record of a proceeding under this
34 subdivision nor an order issued by the board may be admissible,
35 subject to subpoena, or be used against the applicant or
36 licensee in a proceeding in which the board is not a party or

1 decision maker.

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

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

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

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

20 (b) An applicant, licensee, insurance company, government
21 agency, health care facility, or provider as defined in section
22 144.335, subdivision 1, paragraph (b), must comply with any
23 subpoena of the board under this subdivision and is not liable
24 in any action for damages for releasing information subpoenaed
25 by the board under this subdivision unless the information
26 provided is false and the person or entity providing the
27 information knew or had reason to know that the information was
28 false.

29 (c) Information on individuals obtained under this
30 subdivision must be treated as investigative data under section
31 13.41 and be classified as confidential data.

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

36 Subd. 6. [EVIDENCE OF PAST SEXUAL CONDUCT.] If, in a

1 proceeding for taking action against an applicant or licensee
2 under this section, the charges involve sexual contact with a
3 client or former client, the board or administrative law judge
4 must not consider evidence of the client's or former client's
5 previous sexual conduct. Reference to the client's or former
6 client's previous sexual conduct must not be made during the
7 proceedings or in the findings, except by motion of the
8 complainant, unless the evidence would be admissible under the
9 applicable provisions of section 609.347, subdivision 3.

10 Subd. 7. [INVESTIGATIONS INVOLVING VULNERABLE ADULTS OR
11 CHILDREN IN NEED OF PROTECTION.] (a) Except as provided in
12 paragraph (b), if the board receives a complaint about a social
13 worker regarding the social worker's involvement in a case of
14 vulnerable adults or children in need of protection, the county
15 or other appropriate public authority may request that the board
16 suspend its investigation, and the board must comply until such
17 time as the court issues its findings on the case.

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

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

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

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

36 (1) the substance of the complaint;

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

3 (3) whether an investigation is being conducted.

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

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

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

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

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

16 Sec. 55. [148D.250] [OBLIGATION TO COOPERATE.]

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

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

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

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

29 (4) appearing at conferences, hearings, or meetings
30 scheduled by the board, as required in sections 148D.255 to
31 148D.270 and chapter 214.

32 Subd. 2. [INVESTIGATION.] A social worker must not
33 knowingly withhold relevant information, give false or
34 misleading information, or do anything to obstruct an
35 investigation of the social worker or another social worker by
36 the board or by another state or federal regulatory or law

1 enforcement authority.

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

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

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

16 Sec. 56. [148D.255] [TYPES OF ACTIONS.]

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

22 Subd. 2. [DISCIPLINARY ACTION.] For purposes of section
23 148D.260, "disciplinary action" means an action taken by the
24 board against an applicant or licensee that addresses a
25 complaint alleging a violation of a statute or rule the board is
26 empowered to enforce.

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

32 Subd. 4. [VOLUNTARY ACTION.] For purposes of section
33 148D.270, "voluntary action" means a nondisciplinary action
34 agreed to by the board or a designated board member and an
35 applicant or licensee that, through educational or other
36 corrective means, addresses a complaint alleging a violation of

1 a statute or rule that the board is empowered to enforce.

2 Sec. 57. [148D.260] [DISCIPLINARY ACTIONS.]

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

7 (1) deny an application;

8 (2) permanently revoke a license to practice social work;

9 (3) indefinitely or temporarily suspend a license to
10 practice social work;

11 (4) impose restrictions on a licensee's scope of practice;

12 (5) impose conditions required for the licensee to maintain
13 licensure, including, but not limited to, additional education,
14 supervision, and requiring the passing of an examination
15 provided for in section 148D.055;

16 (6) reprimand a licensee;

17 (7) impose a civil penalty of up to \$10,000 for each
18 violation in order to discourage future violations or to deprive
19 the licensee of any economic advantage gained by reason of the
20 violation; or

21 (8) impose a fee to reimburse the board for all or part of
22 the cost of the proceedings resulting in disciplinary action,
23 including, but not limited to, the amount paid by the board for
24 services received from or expenses incurred by the Office of
25 Administrative Hearings, the Office of the Attorney General,
26 court reporters, witnesses, board members, board staff, or the
27 amount paid by the board for reproducing records.

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

32 Subd. 2. [REPRIMANDS.] (a) In addition to the board's
33 authority to issue a reprimand pursuant to subdivision 1, a
34 designated board member reviewing a complaint as provided for in
35 chapter 214 may issue a reprimand to a licensee. The designated
36 board member must notify the licensee that the reprimand will

1 become final disciplinary action unless the licensee requests a
2 hearing by the board within 14 calendar days.

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

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

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

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

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

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

19 Subd. 3. [TEMPORARY SUSPENSIONS.] (a) In addition to any
20 other remedy provided by statute, the board or a designated
21 board member may, without a hearing, temporarily suspend a
22 license to practice social work if the board or the designated
23 board member finds that:

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

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

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

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

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

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

18 (f) The administrative law judge must issue a report within
19 30 calendar days after the contested case hearing is concluded.

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

23 Sec. 58. [148D.265] [ADVERSARIAL BUT NONDISCIPLINARY
24 ACTIONS.]

25 Subdivision 1. [AUTOMATIC SUSPENSIONS.] (a) A license to
26 practice social work is automatically suspended if:

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

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

31 (b) A license remains suspended until:

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

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

35 (c) If the board terminates the suspension, it may do so
36 with or without conditions or restrictions, including, but not

1 limited to, participation in the health professional services
2 program.

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

9 (b) The cease and desist order must state the reason for
10 its issuance and give notice of the person's right to request a
11 hearing under sections 14.57 to 14.62. If the person fails to
12 request a hearing in writing postmarked within 15 calendar days
13 after service of the cease and desist order, the order is the
14 final order of the board and is not reviewable by a court or
15 agency.

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

20 (d) The administrative law judge must issue a report within
21 30 calendar days after the contested case hearing is concluded.

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

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

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

36 Subd. 3. [INJUNCTIVE RELIEF.] (a) In addition to any other

1 remedy provided by law, the board may bring an action in
2 district court for injunctive relief to restrain any
3 unauthorized practice or violation or threatened violation of
4 any statute or rule, stipulation, or agreement agreed to or
5 enforced by the board or an order issued by the board.

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

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

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

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

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

23 (b) An agreement for corrective action must:

24 (1) be in writing;

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

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

27 (4) provide that the complaint that resulted in the

28 agreement must be dismissed by the board or the designated board
29 member upon successful completion of the corrective action.

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

36 (d) An agreement for corrective action is not disciplinary

1 action but must be treated as public data under chapter 13.

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

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

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

22 (b) A stipulation to cease practicing social work must:
23 (1) be in writing;
24 (2) specify the facts upon which the stipulation is based;
25 (3) clearly indicate that the licensee must not practice
26 social work and must not hold out to the public that the social
27 worker is licensed; and

28 (4) specify the term of the stipulation or when and under
29 what circumstances the licensee may petition the board for
30 termination of the stipulation.

31 (c) A stipulation to cease practicing social work is not
32 disciplinary action but must be treated as public data under
33 chapter 13.

34 (d) Nothing in this subdivision prevents the board or
35 designated board member from taking any other disciplinary or
36 adversarial action authorized by sections 148D.255 to 148D.265

1 in lieu of or in addition to entering into a stipulation to
2 cease practicing social work.

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

4 No individual may:

5 (1) engage in the practice of social work without a social
6 work license under sections 148D.055 and 148D.060, except when
7 the individual is exempt from licensure pursuant to section
8 148D.065;

9 (2) provide social work services to a client who resides in
10 this state when the individual providing the services is not
11 licensed as a social worker pursuant to sections 148D.055 to
12 148D.060, except when the individual is exempt from licensure
13 pursuant to section 148D.065.

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

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

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

21 Subdivision 1. [INSTITUTIONS.] A state agency, political
22 subdivision, agency of a local unit of government, private
23 agency, hospital, clinic, prepaid medical plan, or other health
24 care institution or organization must report to the board:

25 (1) any adversarial action, disciplinary action, or other
26 sanction for conduct that might constitute grounds for action
27 under section 148D.190;

28 (2) the resignation of any applicant or licensee prior to
29 the conclusion of any proceeding for adversarial action,
30 disciplinary action, or other sanction for conduct that might
31 constitute grounds for action under section 148D.190; or

32 (3) the resignation of any applicant or licensee prior to
33 the commencement of a proceeding for adversarial action,
34 disciplinary action, or other sanction for conduct that might
35 constitute grounds for action under section 148D.190, but after
36 the applicant or licensee had knowledge that a proceeding was

1 contemplated or in preparation.

2 Subd. 2. [PROFESSIONAL SOCIETIES AND ASSOCIATIONS.] A
3 state or local professional society or association whose members
4 consist primarily of licensed social workers must report to the
5 board any adversarial action, disciplinary action, or other
6 sanction taken against a member.

7 Subd. 3. [IMMUNITY.] An individual, professional society
8 or association, state agency, political subdivision, agency of a
9 local unit of government, private agency, hospital, clinic,
10 prepaid medical plan, other health care institution or
11 organization or other entity is immune from civil liability or
12 criminal prosecution for submitting in good faith a report under
13 subdivision 1 or 2 or for otherwise reporting, providing
14 information, or testifying about violations or alleged
15 violations of this chapter.

16 Sec. 63. [148D.290] [PENALTIES.]

17 An individual or other entity that violates section
18 148D.275, 148D.280, or 148D.285 is guilty of a misdemeanor.

19 Sec. 64. Minnesota Statutes 2004, section 214.01,
20 subdivision 2, is amended to read:

21 Subd. 2. [HEALTH-RELATED LICENSING BOARD.] "Health-related
22 licensing board" means the Board of Examiners of Nursing Home
23 Administrators established pursuant to section 144A.19, the
24 Office of Unlicensed Complementary and Alternative Health Care
25 Practice established pursuant to section 146A.02, the Board of
26 Medical Practice created pursuant to section 147.01, the Board
27 of Nursing created pursuant to section 148.181, the Board of
28 Chiropractic Examiners established pursuant to section 148.02,
29 the Board of Optometry established pursuant to section 148.52,
30 the Board of Physical Therapy established pursuant to section
31 148.67, the Board of Psychology established pursuant to section
32 148.90, the Board of Social Work pursuant to section ~~148B.19~~
33 148D.025, the Board of Marriage and Family Therapy pursuant to
34 section 148B.30, the Office of Mental Health Practice
35 established pursuant to section 148B.61, the Board of Behavioral
36 Health and Therapy established by section 148B.51, the Alcohol

1 and Drug Counselors Licensing Advisory Council established
2 pursuant to section 148C.02, the Board of Dietetics and
3 Nutrition Practice established under section 148.622, the Board
4 of Dentistry established pursuant to section 150A.02, the Board
5 of Pharmacy established pursuant to section 151.02, the Board of
6 Podiatric Medicine established pursuant to section 153.02, and
7 the Board of Veterinary Medicine, established pursuant to
8 section 156.01.

9 Sec. 65. Minnesota Statutes 2004, section 245.462,
10 subdivision 18, is amended to read:

11 Subd. 18. [MENTAL HEALTH PROFESSIONAL.] "Mental health
12 professional" means a person providing clinical services in the
13 treatment of mental illness who is qualified in at least one of
14 the following ways:

15 (1) in psychiatric nursing: a registered nurse who is
16 licensed under sections 148.171 to 148.285; and:

17 (i) who is certified as a clinical specialist or as a nurse
18 practitioner in adult or family psychiatric and mental health
19 nursing by a national nurse certification organization; or

20 (ii) who has a master's degree in nursing or one of the
21 behavioral sciences or related fields from an accredited college
22 or university or its equivalent, with at least 4,000 hours of
23 post-master's supervised experience in the delivery of clinical
24 services in the treatment of mental illness;

25 (2) in clinical social work: a person licensed as an
26 independent clinical social worker under ~~section 148B.217~~
27 ~~subdivision 6~~ chapter 148D, or a person with a master's degree
28 in social work from an accredited college or university, with at
29 least 4,000 hours of post-master's supervised experience in the
30 delivery of clinical services in the treatment of mental
31 illness;

32 (3) in psychology: an individual licensed by the Board of
33 Psychology under sections 148.88 to 148.98 who has stated to the
34 Board of Psychology competencies in the diagnosis and treatment
35 of mental illness;

36 (4) in psychiatry: a physician licensed under chapter 147

1 and certified by the American Board of Psychiatry and Neurology
2 or eligible for board certification in psychiatry;

3 (5) in marriage and family therapy: the mental health
4 professional must be a marriage and family therapist licensed
5 under sections 148B.29 to 148B.39 with at least two years of
6 post-master's supervised experience in the delivery of clinical
7 services in the treatment of mental illness; or

8 (6) in allied fields: a person with a master's degree from
9 an accredited college or university in one of the behavioral
10 sciences or related fields, with at least 4,000 hours of
11 post-master's supervised experience in the delivery of clinical
12 services in the treatment of mental illness.

13 Sec. 66. Minnesota Statutes 2004, section 245.4871,
14 subdivision 27, is amended to read:

15 Subd. 27. [MENTAL HEALTH PROFESSIONAL.] "Mental health
16 professional" means a person providing clinical services in the
17 diagnosis and treatment of children's emotional disorders. A
18 mental health professional must have training and experience in
19 working with children consistent with the age group to which the
20 mental health professional is assigned. A mental health
21 professional must be qualified in at least one of the following
22 ways:

23 (1) in psychiatric nursing, the mental health professional
24 must be a registered nurse who is licensed under sections
25 148.171 to 148.285 and who is certified as a clinical specialist
26 in child and adolescent psychiatric or mental health nursing by
27 a national nurse certification organization or who has a
28 master's degree in nursing or one of the behavioral sciences or
29 related fields from an accredited college or university or its
30 equivalent, with at least 4,000 hours of post-master's
31 supervised experience in the delivery of clinical services in
32 the treatment of mental illness;

33 (2) in clinical social work, the mental health professional
34 must be a person licensed as an independent clinical social
35 worker under ~~section 148B.217, subdivision 6~~ chapter 148D, or a
36 person with a master's degree in social work from an accredited

1 college or university, with at least 4,000 hours of
2 post-master's supervised experience in the delivery of clinical
3 services in the treatment of mental disorders;

4 (3) in psychology, the mental health professional must be
5 an individual licensed by the board of psychology under sections
6 148.88 to 148.98 who has stated to the board of psychology
7 competencies in the diagnosis and treatment of mental disorders;

8 (4) in psychiatry, the mental health professional must be a
9 physician licensed under chapter 147 and certified by the
10 American board of psychiatry and neurology or eligible for board
11 certification in psychiatry;

12 (5) in marriage and family therapy, the mental health
13 professional must be a marriage and family therapist licensed
14 under sections 148B.29 to 148B.39 with at least two years of
15 post-master's supervised experience in the delivery of clinical
16 services in the treatment of mental disorders or emotional
17 disturbances; or

18 (6) in allied fields, the mental health professional must
19 be a person with a master's degree from an accredited college or
20 university in one of the behavioral sciences or related fields,
21 with at least 4,000 hours of post-master's supervised experience
22 in the delivery of clinical services in the treatment of
23 emotional disturbances.

24 Sec. 67. Minnesota Statutes 2004, section 256B.0625,
25 subdivision 38, is amended to read:

26 Subd. 38. [PAYMENTS FOR MENTAL HEALTH SERVICES.] Payments
27 for mental health services covered under the medical assistance
28 program that are provided by masters-prepared mental health
29 professionals shall be 80 percent of the rate paid to
30 doctoral-prepared professionals. Payments for mental health
31 services covered under the medical assistance program that are
32 provided by masters-prepared mental health professionals
33 employed by community mental health centers shall be 100 percent
34 of the rate paid to doctoral-prepared professionals. For
35 purposes of reimbursement of mental health professionals under
36 the medical assistance program, all social workers who:

1 (1) have received a master's degree in social work from a
2 program accredited by the Council on Social Work Education;

3 (2) are licensed at the level of graduate social worker or
4 independent social worker; and

5 (3) are practicing clinical social work under appropriate
6 supervision, as defined by ~~section 148B.18~~ chapter 148D; meet
7 all requirements under Minnesota Rules, part 9505.0323, subpart
8 24, and shall be paid accordingly.

9 Sec. 68. Minnesota Statutes 2004, section 256J.08,
10 subdivision 73a, is amended to read:

11 Subd. 73a. [QUALIFIED PROFESSIONAL.] (a) For physical
12 illness, injury, or incapacity, a "qualified professional" means
13 a licensed physician, a physician's assistant, a nurse
14 practitioner, or a licensed chiropractor.

15 (b) For mental retardation and intelligence testing, a
16 "qualified professional" means an individual qualified by
17 training and experience to administer the tests necessary to
18 make determinations, such as tests of intellectual functioning,
19 assessments of adaptive behavior, adaptive skills, and
20 developmental functioning. These professionals include licensed
21 psychologists, certified school psychologists, or certified
22 psychometrists working under the supervision of a licensed
23 psychologist.

24 (c) For learning disabilities, a "qualified professional"
25 means a licensed psychologist or school psychologist with
26 experience determining learning disabilities.

27 (d) For mental health, a "qualified professional" means a
28 licensed physician or a qualified mental health professional. A
29 "qualified mental health professional" means:

30 (1) for children, in psychiatric nursing, a registered
31 nurse who is licensed under sections 148.171 to 148.285, and who
32 is certified as a clinical specialist in child and adolescent
33 psychiatric or mental health nursing by a national nurse
34 certification organization or who has a master's degree in
35 nursing or one of the behavioral sciences or related fields from
36 an accredited college or university or its equivalent, with at

1 least 4,000 hours of post-master's supervised experience in the
2 delivery of clinical services in the treatment of mental
3 illness;

4 (2) for adults, in psychiatric nursing, a registered nurse
5 who is licensed under sections 148.171 to 148.285, and who is
6 certified as a clinical specialist in adult psychiatric and
7 mental health nursing by a national nurse certification
8 organization or who has a master's degree in nursing or one of
9 the behavioral sciences or related fields from an accredited
10 college or university or its equivalent, with at least 4,000
11 hours of post-master's supervised experience in the delivery of
12 clinical services in the treatment of mental illness;

13 (3) in clinical social work, a person licensed as an
14 independent clinical social worker under ~~section 148B.21,~~
15 ~~subdivision 6~~ chapter 148D, or a person with a master's degree
16 in social work from an accredited college or university, with at
17 least 4,000 hours of post-master's supervised experience in the
18 delivery of clinical services in the treatment of mental
19 illness;

20 (4) in psychology, an individual licensed by the Board of
21 Psychology under sections 148.88 to 148.98, who has stated to
22 the Board of Psychology competencies in the diagnosis and
23 treatment of mental illness;

24 (5) in psychiatry, a physician licensed under chapter 147
25 and certified by the American Board of Psychiatry and Neurology
26 or eligible for board certification in psychiatry; and

27 (6) in marriage and family therapy, the mental health
28 professional must be a marriage and family therapist licensed
29 under sections 148B.29 to 148B.39, with at least two years of
30 post-master's supervised experience in the delivery of clinical
31 services in the treatment of mental illness.

32 Sec. 69. Minnesota Statutes 2004, section 319B.02,
33 subdivision 19, is amended to read:

34 Subd. 19. [PROFESSIONAL SERVICES.] "Professional services"
35 means services of the type required or permitted to be furnished
36 by a professional under a license, registration, or certificate

1 issued by the state of Minnesota to practice medicine and
2 surgery under sections 147.01 to 147.22, as a physician
3 assistant pursuant to sections 147A.01 to 147A.27, chiropractic
4 under sections 148.01 to 148.105, registered nursing under
5 sections 148.171 to 148.285, optometry under sections 148.52 to
6 148.62, psychology under sections 148.88 to 148.98, social work
7 under ~~sections 148B.18 to 148B.289~~ chapter 148D, dentistry and
8 dental hygiene under sections 150A.01 to 150A.12, pharmacy under
9 sections 151.01 to 151.40, podiatric medicine under sections
10 153.01 to 153.25, veterinary medicine under sections 156.001 to
11 156.14, architecture, engineering, surveying, landscape
12 architecture, geoscience, and certified interior design under
13 sections 326.02 to 326.15, accountancy under chapter 326A, or
14 law under sections 481.01 to 481.17, or under a license or
15 certificate issued by another state under similar laws.

16 Professional services includes services of the type required to
17 be furnished by a professional pursuant to a license or other
18 authority to practice law under the laws of a foreign nation.

19 Sec. 70. Minnesota Statutes 2004, section 319B.40, is
20 amended to read:

21 319B.40 [PROFESSIONAL HEALTH SERVICES.]

22 (a) Individuals who furnish professional services pursuant
23 to a license, registration, or certificate issued by the state
24 of Minnesota to practice medicine pursuant to sections 147.01 to
25 147.22, as a physician assistant pursuant to sections 147A.01 to
26 147A.27, chiropractic pursuant to sections 148.01 to 148.106,
27 registered nursing pursuant to sections 148.171 to 148.285,
28 optometry pursuant to sections 148.52 to 148.62, psychology
29 pursuant to sections 148.88 to 148.98, social work pursuant to
30 ~~sections 148B.18 to 148B.289~~ chapter 148D, dentistry pursuant to
31 sections 150A.01 to 150A.12, pharmacy pursuant to sections
32 151.01 to 151.40, or podiatric medicine pursuant to sections
33 153.01 to 153.26 are specifically authorized to practice any of
34 these categories of services in combination if the individuals
35 are organized under this chapter.

36 (b) This authorization does not authorize an individual to

1 practice any profession, or furnish a professional service, for
2 which the individual is not licensed, registered, or certified,
3 but otherwise applies regardless of any contrary provision of a
4 licensing statute or rules adopted pursuant to that statute,
5 related to practicing and organizing in combination with other
6 health services professionals.

7 Sec. 71. [REPEALER.]

8 Subdivision 1. [REPEAL OF STATUTES.] Minnesota Statutes
9 2004, sections 148B.18; 148B.185; 148B.19; 148B.20; 148B.21;
10 148B.215; 148B.22; 148B.224; 148B.225; 148B.226; 148B.24;
11 148B.25; 148B.26; 148B.27; 148B.28; 148B.281; 148B.282;
12 148B.283; 148B.284; 148B.285; 148B.286; 148B.287; 148B.288; and
13 148B.289, are repealed.

14 Subd. 2. [REPEAL OF RULES.] Minnesota Rules, parts
15 8740.0100; 8740.0110; 8740.0120; 8740.0122; 8740.0130;
16 8740.0155; 8740.0185; 8740.0187; 8740.0200; 8740.0240;
17 8740.0260; 8740.0285; 8740.0300; 8740.0310; 8740.0315;
18 8740.0320; 8740.0325; 8740.0330; 8740.0335; 8740.0340; and
19 8740.0345, are repealed.

20 Sec. 72. [EFFECTIVE DATE.]

21 This article is effective January 1, 2006.

22 ARTICLE 2

23 BOARD OF PHYSICAL THERAPY

24 Section 1. Minnesota Statutes 2004, section 148.65, is
25 amended by adding a subdivision to read:

26 Subd. 3. [PHYSICAL THERAPIST ASSISTANT.] "Physical
27 therapist assistant" means a graduate of a physical therapist
28 assistant educational program accredited by the Commission on
29 Accreditation in Physical Therapy Education (CAPTE) or a
30 recognized comparable national accrediting agency approved by
31 the board. The physical therapist assistant, under the
32 direction and supervision of the physical therapist, performs
33 physical therapy interventions and assists with coordination,
34 communication, and documentation; and patient-client-related
35 instruction. The physical therapist is not required to be
36 on-site except as required under Minnesota Rules, part

1 5601.1500, but must be easily available by telecommunications.

2 Sec. 2. Minnesota Statutes 2004, section 148.65, is
3 amended by adding a subdivision to read:

4 Subd. 4. [PHYSICAL THERAPY AIDE.] "Physical therapy aide"
5 means a person, working under the direct supervision of a
6 physical therapist, who is not a physical therapist assistant as
7 defined in subdivision 3, who performs tasks as provided under
8 Minnesota Rules, part 5601.1400.

9 Sec. 3. Minnesota Statutes 2004, section 148.65, is
10 amended by adding a subdivision to read:

11 Subd. 5. [STUDENT PHYSICAL THERAPIST.] "Student physical
12 therapist" means a person in a professional educational program,
13 approved by the board under section 148.705, who is satisfying
14 supervised clinical education requirements by performing
15 physical therapy under the on-site supervision of a licensed
16 physical therapist. "On-site supervision" means the physical
17 therapist is easily available for instruction to the student
18 physical therapist. The physical therapist shall have direct
19 contact with the patient during at least every second treatment
20 session by the student physical therapist. Telecommunications,
21 except within the facility, does not meet the requirement of
22 on-site supervision.

23 Sec. 4. Minnesota Statutes 2004, section 148.65, is
24 amended by adding a subdivision to read:

25 Subd. 6. [STUDENT PHYSICAL THERAPIST ASSISTANT.] "Student
26 physical therapist assistant" means a person in a physical
27 therapist assistant educational program accredited by the
28 Commission on Accreditation in Physical Therapy Education
29 (CAPTE) or a recognized comparable national accrediting agency
30 approved by the board. The student physical therapist
31 assistant, under the direct supervision of the physical
32 therapist, or the direct supervision of the physical therapist
33 and physical therapist assistant, performs physical therapy
34 interventions and assists with coordination, communication,
35 documentation, and patient-client-related instruction. "Direct
36 supervision" means the physical therapist is physically present

1 and immediately available to provide instruction to the student
2 physical therapist assistant.

3 Sec. 5. Minnesota Statutes 2004, section 148.65, is
4 amended by adding a subdivision to read:

5 Subd. 7. [SUPPORTIVE PERSONNEL.] "Supportive personnel"
6 means a physical therapist assistant and a physical therapy aide.

7 Sec. 6. Minnesota Statutes 2004, section 148.706, is
8 amended to read:

9 148.706 [SUPERVISION OF ASSISTANTS AND, AIDES, AND
10 STUDENTS.]

11 Every physical therapist who uses the services of an a
12 physical therapist assistant or physical therapy aide for the
13 purpose of assisting in the practice of physical therapy is
14 responsible for functions performed by the assistant or aide
15 while engaged in such assistance. The physical therapist shall
16 ~~permit-the-assistant-or-aide-to-perform-only-those-functions~~
17 ~~which-the-therapist-is-authorized-by-rule-to-delegate-to-a~~
18 ~~physical-therapist-assistant-or-assign-to-a-physical-therapy~~
19 ~~aide-and-shall-provide-supervision-as-specified~~ delegate duties
20 to the physical therapist assistant and assign tasks to the
21 physical therapy aide in accordance with Minnesota Rules, part
22 5601.1400. Physical therapists who instruct student physical
23 therapists and student physical therapist assistants are
24 responsible for the functions performed by the students and
25 shall supervise the students as provided under section 148.65,
26 subdivisions 5 and 6.

27 Sec. 7. [148.735] [CANCELLATION OF LICENSE IN GOOD
28 STANDING.]

29 Subdivision 1. [BOARD APPROVAL; REPORTING.] A physical
30 therapist holding an active license to practice physical therapy
31 in the state may, upon approval of the board, be granted license
32 cancellation if the board is not investigating the person as a
33 result of a complaint or information received or if the board
34 has not begun disciplinary proceedings against the person. Such
35 action by the board shall be reported as a cancellation of a
36 license in good standing.

1 Subd. 2. [FEES NONREFUNDABLE.] A physical therapist who
2 receives board approval for license cancellation is not entitled
3 to a refund of any license fees paid for the licensure year in
4 which cancellation of the license occurred.

5 Subd. 3. [NEW LICENSE AFTER CANCELLATION.] If a physical
6 therapist who has been granted board approval for license
7 cancellation desires to resume the practice of physical therapy
8 in Minnesota, that physical therapist must obtain a new license
9 by applying for licensure and fulfilling the requirements then
10 in existence for obtaining an initial license to practice
11 physical therapy in Minnesota.

12 Sec. 8. [148.736] [CANCELLATION OF CREDENTIALS UNDER
13 DISCIPLINARY ORDER.]

14 Subdivision 1. [BOARD APPROVAL; REPORTING.] A physical
15 therapist, whose right to practice is under suspension,
16 condition, limitation, qualification, or restriction by the
17 board may be granted cancellation of credentials by approval of
18 the board. Such action by the board shall be reported as
19 cancellation while under discipline. Credentials, for purposes
20 of this section, means board authorized documentation of the
21 privilege to practice physical therapy.

22 Subd. 2. [FEES NONREFUNDABLE.] A physical therapist who
23 receives board approval for credential cancellation is not
24 entitled to a refund of any fees paid for the credentialing year
25 in which cancellation of the credential occurred.

26 Subd. 3. [NEW CREDENTIAL AFTER CANCELLATION.] If a
27 physical therapist who has been granted board approval for
28 credential cancellation desires to resume the practice of
29 physical therapy in Minnesota, that physical therapist must
30 obtain a new credential by applying to the board and fulfilling
31 the requirements then in existence for obtaining an initial
32 credential to practice physical therapy in Minnesota.

33 Sec. 9. [148.737] [CANCELLATION OF LICENSE FOR
34 NONRENEWAL.]

35 The Board of Physical Therapy shall not renew, reissue,
36 reinstate, or restore a license that has lapsed on or after

1 January 1, 2006, and has not been renewed within two annual
2 license renewal cycles starting January 1, 2008. A licensee
3 whose license is canceled for nonrenewal must obtain a new
4 license by applying for licensure and fulfilling all
5 requirements then in existence for an initial license to
6 practice physical therapy in Minnesota.

7 Sec. 10. Minnesota Statutes 2004, section 148.75, is
8 amended to read:

9 148.75 [LICENSES; DENIAL, SUSPENSION, REVOCATION.]

10 (a) The state Board of Physical Therapy may refuse to grant
11 a license to any physical therapist, or may suspend or revoke
12 the license of any physical therapist for any of the following
13 grounds:

14 (1) using drugs or intoxicating liquors to an extent which
15 affects professional competence;

16 (2) conviction of a felony;

17 (3) conviction for violating any state or federal narcotic
18 law;

19 (4) obtaining a license or attempting to obtain a license
20 by fraud or deception;

21 (5) conduct unbecoming a person licensed as a physical
22 therapist or conduct detrimental to the best interests of the
23 public;

24 (6) gross negligence in the practice of physical therapy as
25 a physical therapist;

26 (7) treating human ailments by physical therapy after an
27 initial 30-day period of patient admittance to treatment has
28 lapsed, except by the order or referral of a person licensed in
29 this state in the practice of medicine as defined in section
30 147.081, the practice of chiropractic as defined in section
31 148.01, the practice of podiatry as defined in section 153.01,
32 or the practice of dentistry as defined in section 150A.05 and
33 whose license is in good standing; or when a previous diagnosis
34 exists indicating an ongoing condition warranting physical
35 therapy treatment, subject to periodic review defined by board
36 of physical therapy rule;

1 (8) treating human ailments, without referral, by physical
2 therapy treatment without first having practiced one year under
3 a physician's orders as verified by the board's records;

4 (9) failing to consult with the patient's health care
5 provider who prescribed the physical therapy treatment if the
6 treatment is altered by the physical therapist from the original
7 written order. The provision does not include written orders to
8 "evaluate and treat";

9 (10) treating human ailments other than by physical therapy
10 unless duly licensed or registered to do so under the laws of
11 this state;

12 (11) inappropriate delegation to a physical therapist
13 assistant or inappropriate task assignment to an aide or
14 inadequate supervision of ~~either-level-of-supportive-personnel~~ a
15 student physical therapist, physical therapist assistant,
16 student physical therapist assistant, or a physical therapy
17 aide;

18 (12) practicing as a physical therapist performing medical
19 diagnosis, the practice of medicine as defined in section
20 147.081, or the practice of chiropractic as defined in section
21 148.01;

22 (13) failing to comply with a reasonable request to obtain
23 appropriate clearance for mental or physical conditions that
24 would interfere with the ability to practice physical therapy,
25 and that may be potentially harmful to patients;

26 (14) dividing fees with, or paying or promising to pay a
27 commission or part of the fee to, any person who contacts the
28 physical therapist for consultation or sends patients to the
29 physical therapist for treatment;

30 (15) engaging in an incentive payment arrangement, other
31 than that prohibited by clause (14), that tends to promote
32 physical therapy overuse, that allows the referring person or
33 person who controls the availability of physical therapy
34 services to a client to profit unreasonably as a result of
35 patient treatment;

36 (16) practicing physical therapy and failing to refer to a

1 licensed health care professional a patient whose medical
2 condition at the time of evaluation has been determined by the
3 physical therapist to be beyond the scope of practice of a
4 physical therapist; and

5 (17) failing to report to the board other licensed physical
6 therapists who violate this section; and

7 (18) practice of physical therapy under lapsed or
8 nonrenewed credentials.

9 (b) A license to practice as a physical therapist is
10 suspended if (1) a guardian of the physical therapist is
11 appointed by order of a court pursuant to sections 524.5-101 to
12 524.5-502, for reasons other than the minority of the physical
13 therapist; or (2) the physical therapist is committed by order
14 of a court pursuant to chapter 253B. The license remains
15 suspended until the physical therapist is restored to capacity
16 by a court and, upon petition by the physical therapist, the
17 suspension is terminated by the Board of Physical Therapy after
18 a hearing.

19 Sec. 11. [148.754] [EXAMINATION; ACCESS TO MEDICAL DATA.]

20 (a) If the board has probable cause to believe that a
21 physical therapist comes under section 148.75, paragraph (a), it
22 may direct the physical therapist to submit to a mental or
23 physical examination. For the purpose of this paragraph, every
24 physical therapist is deemed to have consented to submit to a
25 mental or physical examination when directed in writing by the
26 board and further to have waived all objections to the
27 admissibility of the examining physicians' testimony or
28 examination reports on the ground that they constitute a
29 privileged communication. Failure of the physical therapist to
30 submit to an examination when directed constitutes an admission
31 of the allegations against the person, unless the failure was
32 due to circumstances beyond the person's control, in which case
33 a default and final order may be entered without the taking of
34 testimony or presentation of evidence. A physical therapist
35 affected under this paragraph shall, at reasonable intervals, be
36 given an opportunity to demonstrate that the person can resume

1 the competent practice of physical therapy with reasonable skill
2 and safety to the public.

3 (b) In any proceeding under paragraph (a), neither the
4 record of proceedings nor the orders entered by the board shall
5 be used against a physical therapist in any other proceeding.

6 (c) In addition to ordering a physical or mental
7 examination, the board may, notwithstanding section 13.384,
8 144.651, or any other law limiting access to medical or other
9 health data, obtain medical data and health records relating to
10 a physical therapist or applicant without the person's or
11 applicant's consent if the board has probable cause to believe
12 that a physical therapist comes under paragraph (a). The
13 medical data may be requested from a provider, as defined in
14 section 144.335, subdivision 1, paragraph (b), an insurance
15 company, or a government agency, including the Department of
16 Human Services. A provider, insurance company, or government
17 agency shall comply with any written request of the board under
18 this paragraph and is not liable in any action for damages for
19 releasing the data requested by the board if the data are
20 released pursuant to a written request under this paragraph,
21 unless the information is false and the provider giving the
22 information knew, or had reason to believe, the information was
23 false. Information obtained under this paragraph is classified
24 as private under sections 13.01 to 13.87.

25 Sec. 12. [148.755] [TEMPORARY SUSPENSION OF LICENSE.]

26 In addition to any other remedy provided by law, the board
27 may, without a hearing, temporarily suspend the license of a
28 physical therapist if the board finds that the physical
29 therapist has violated a statute or rule which the board is
30 empowered to enforce and continued practice by the physical
31 therapist would create a serious risk of harm to the public.
32 The suspension shall take effect upon written notice to the
33 physical therapist, specifying the statute or rule violated.
34 The suspension shall remain in effect until the board issues a
35 final order in the matter after a hearing. At the time it
36 issues the suspension notice, the board shall schedule a

1 disciplinary hearing to be held pursuant to the Administrative
2 Procedure Act, chapter 14. The physical therapist shall be
3 provided with at least 20 days' notice of any hearing held
4 pursuant to this section. The hearing shall be scheduled to
5 begin no later than 30 days after the issuance of the suspension
6 order.

7 Sec. 13. [LICENSE ISSUANCE.]

8 Notwithstanding Minnesota Statutes, sections 148.65 to
9 148.78, the Board of Physical Therapy shall grant a physical
10 therapist license to an individual who has been issued physical
11 therapy licenses between 1980 and 1995 in at least three other
12 states and at least one foreign country and who applies before
13 August 1, 2005.

14 Sec. 14. [REPEALER.]

15 Minnesota Rules, part 5601.0100, subparts 3 and 4, are
16 repealed.

17 ARTICLE 3

18 BOARD OF PSYCHOLOGY

19 Section 1. Minnesota Statutes 2004, section 148.89,
20 subdivision 5, is amended to read:

21 Subd. 5. [PRACTICE OF PSYCHOLOGY.] "Practice of
22 psychology" means the observation, description, evaluation,
23 interpretation, or modification of human behavior by the
24 application of psychological principles, methods, or
25 procedures for any reason, including to prevent, eliminate, or
26 manage symptomatic, maladaptive, or undesired behavior and to
27 enhance interpersonal relationships, work, life and
28 developmental adjustment, personal and organizational
29 effectiveness, behavioral health, and mental health. The
30 practice of psychology includes, but is not limited to, the
31 following services, regardless of whether the provider receives
32 payment for the services:

33 (1) psychological research and teaching of psychology;

34 (2) assessment, including psychological testing and other
35 means of evaluating personal characteristics such as

36 intelligence, personality, abilities, interests, aptitudes, and

1 neuropsychological functioning;

2 (3) a psychological report, whether written or oral,
3 including testimony of a provider as an expert witness,
4 concerning the characteristics of an individual or entity;

5 (4) psychotherapy, including but not limited to, categories
6 such as behavioral, cognitive, emotive, systems,
7 psychophysiological, or insight-oriented therapies; counseling;
8 hypnosis; and diagnosis and treatment of:

9 (i) mental and emotional disorder or disability;

10 (ii) alcohol and substance dependence or abuse;

11 (iii) disorders of habit or conduct;

12 (iv) the psychological aspects of physical illness or
13 condition, accident, injury, or disability;

14 (v) life adjustment issues, including work-related and
15 bereavement issues; and

16 (vi) child, family, or relationship issues;

17 (5) psychoeducational services and treatment; and

18 (6) consultation and supervision.

19 Sec. 2. Minnesota Statutes 2004, section 148.90,
20 subdivision 1, is amended to read:

21 Subdivision 1. [BOARD OF PSYCHOLOGY.] (a) The Board of
22 Psychology is created with the powers and duties described in
23 this section. The board has 11 members who consist of:

24 (1) three ~~persons~~ individuals licensed as licensed
25 psychologists who have a doctoral ~~degree~~ degrees in psychology;

26 (2) two ~~persons~~ individuals licensed as licensed
27 psychologists who have a master's ~~degree~~ degrees in psychology;

28 (3) two psychologists, not necessarily licensed, one with a
29 doctoral degree in psychology who represents a doctoral training
30 program in psychology, and one who represents a master's degree
31 training program in psychology;

32 (4) one ~~person~~ individual licensed or qualified to be

33 licensed as: (i) through December 31, 2010, a licensed
34 psychological practitioner; and (ii) after December 31, 2010, a
35 licensed psychologist; and

36 (5) three public members.

1 (b) After the date on which fewer than 30 percent of the
2 persons individuals licensed by the board as licensed
3 psychologists qualify for licensure under section 148.907,
4 subdivision 3, paragraph (b), ~~the-first-vacancy~~ vacancies filled
5 under paragraph (a), clause (2), shall be filled by ~~a-person~~ an
6 individual with either a master's or doctoral degree in
7 psychology licensed or qualified to be licensed as a
8 ~~licensed psychological-practitioner.---From-this-date-on,~~
9 ~~this~~
10 ~~position-when-vacant-shall-be-filled-by-a-person-licensed-or~~
11 ~~qualified-to-be-licensed-as-a-licensed-psychological~~
12 ~~practitioner~~ psychologist.

12 (c) After the date on which fewer than 15 percent of the
13 persons individuals licensed by the board as licensed
14 psychologists qualify for licensure under section 148.907,
15 subdivision 3, paragraph (b), ~~the-first-vacancy~~ vacancies under
16 paragraph (a), clause (2), ~~for-a-licensed-psychologist~~ shall be
17 filled by an individual with either a master's or doctoral
18 degree in psychology shall-be-filled-by-a licensed or qualified
19 to be licensed as a licensed psychologist. ~~From-this-date-on,~~
20 ~~this-position-when-vacant-shall-be-filled-by-a-person-licensed~~
21 ~~as-a-licensed-psychologist.~~

22 Sec. 3. Minnesota Statutes 2004, section 148.907, is
23 amended by adding a subdivision to read:

24 Subd. 5. [CONVERTING FROM A LICENSED PSYCHOLOGICAL
25 PRACTITIONER TO A LICENSED PSYCHOLOGIST.] Notwithstanding
26 subdivision 3, to convert from licensure as a licensed
27 psychological practitioner to licensure as a licensed
28 psychologist, a licensed psychological practitioner shall have:
29 (1) completed an application provided by the board for
30 conversion from licensure as a licensed psychological
31 practitioner to licensure as a licensed psychologist;
32 (2) paid a nonrefundable fee of \$500;
33 (3) documented successful completion of two full years, or
34 the equivalent, of supervised postlicensure employment meeting
35 the requirements of section 148.925, subdivision 5, as it
36 relates to preparation for licensure as a licensed psychologist

1 as follows:

2 (i) for individuals licensed as licensed psychological
 3 practitioners on or before December 31, 2006, the supervised
 4 practice must be completed by December 31, 2010; and

5 (ii) for individuals licensed as licensed psychological
 6 practitioners after December 31, 2006, the supervised practice
 7 must be completed within four years from the date of licensure;
 8 and

9 (4) no unresolved disciplinary action or complaints
 10 pending, or incomplete disciplinary orders or corrective action
 11 agreements in Minnesota or any other jurisdiction.

12 Sec. 4. Minnesota Statutes 2004, section 148.908,
 13 subdivision 2, is amended to read:

14 Subd. 2. [REQUIREMENTS FOR LICENSURE AS A LICENSED
 15 PSYCHOLOGICAL PRACTITIONER.] To become licensed by the board as
 16 a licensed psychological practitioner, an applicant shall comply
 17 with the following requirements:

18 (1) ~~pass-an-examination-in-psychology;~~

19 ~~(2)-pass-a-professional-responsibility-examination-on-the~~
 20 ~~practice-of-psychology;~~

21 ~~(3)-pass-any-other-examinations-as-required-by-board-rules;~~

22 ~~(4)-pay-nonrefundable-fees-to-the-board-for-applications,~~
 23 ~~processing,-testing,-renewals,-and-materials;~~

24 ~~(5)-have-attained-the-age-of-majority,-be-of-good-moral~~
 25 ~~character,-and-have-no-unresolved-disciplinary-action-or~~
 26 ~~complaints-pending-in-the-state-of-Minnesota-or-any-other~~
 27 ~~jurisdiction;-and~~

28 (6) have earned a doctoral or master's degree or the
 29 equivalent of a master's degree in a doctoral program with a
 30 major in psychology from a regionally accredited educational
 31 institution meeting the standards the board has established by
 32 rule. The degree requirements must be completed by December 31,
 33 2005;

34 (2) complete an application for admission to the
 35 examination for professional practice in psychology and pay the
 36 nonrefundable application fee by December 31, 2005;

1 (3) complete an application for admission to the
2 professional responsibility examination and pay the
3 nonrefundable application fee by December 31, 2005;

4 (4) pass the examination for professional practice in
5 psychology by December 31, 2006;

6 (5) pass the professional responsibility examination by
7 December 31, 2006;

8 (6) complete an application for licensure as a licensed
9 psychological practitioner and pay the nonrefundable application
10 fee by March 1, 2007; and

11 (7) have attained the age of majority, be of good moral
12 character, and have no unresolved disciplinary action or
13 complaints pending in the state of Minnesota or any other
14 jurisdiction.

15 Sec. 5. Minnesota Statutes 2004, section 148.908, is
16 amended by adding a subdivision to read:

17 Subd. 3. [TERMINATION OF LICENSURE.] Effective December
18 31, 2011, the licensure of all licensed psychological
19 practitioners shall be terminated without further notice and
20 licensure as a licensed psychological practitioner in Minnesota
21 shall be eliminated.

22 Sec. 6. Minnesota Statutes 2004, section 148.909, is
23 amended to read:

24 148.909 [LICENSURE FOR VOLUNTEER PRACTICE.]

25 The board, at its discretion, may grant licensure for
26 volunteer practice to an applicant who:

27 (1) ~~is-a-former-licensee-who~~ is completely retired from the
28 practice of psychology;

29 (2) has no unresolved disciplinary action or complaints
30 pending in the state of Minnesota or any other jurisdiction; and

31 (3) has held a license, certificate, or registration to
32 practice psychology in any jurisdiction ~~for-at-least-15-years.~~

33 Sec. 7. Minnesota Statutes 2004, section 148.916,
34 subdivision 2, is amended to read:

35 Subd. 2. [PSYCHOLOGICAL CONSULTATIONS.] Notwithstanding
36 subdivision 1, a nonresident of the state of Minnesota, who is

1 not seeking licensure in this state, may serve as an expert
2 witness, organizational consultant, presenter, or educator
3 without obtaining guest licensure, provided the person is
4 appropriately trained, educated, or has been issued a license,
5 certificate, or registration by another jurisdiction.

6 Sec. 8. Minnesota Statutes 2004, section 148.925,
7 subdivision 6, is amended to read:

8 Subd. 6. [SUPERVISEE DUTIES.] Individuals preparing for
9 licensure as a licensed psychologist during their postdegree
10 supervised employment may perform as part of their training any
11 functions specified in section 148.89, subdivision 5, but only
12 under qualified supervision.

13 Sec. 9. Minnesota Statutes 2004, section 148.941,
14 subdivision 2, is amended to read:

15 Subd. 2. [GROUNDS FOR DISCIPLINARY ACTION; FORMS OF
16 DISCIPLINARY ACTION.] (a) The board may impose disciplinary
17 action as described in paragraph (b) against an applicant or
18 licensee whom the board, by a preponderance of the evidence,
19 determines:

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

22 (2) has engaged in fraudulent, deceptive, or dishonest
23 conduct, whether or not the conduct relates to the practice of
24 psychology, that adversely affects the person's ability or
25 fitness to practice psychology;

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

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

1 the practice of psychology;

2 (5) has employed fraud or deception in obtaining or
3 renewing a license, in requesting approval of continuing
4 education activities, or in passing an examination;

5 (6) has had a license, certificate, charter, registration,
6 privilege to take an examination, or other similar authority
7 denied, revoked, suspended, canceled, limited, reprimanded, or
8 otherwise disciplined, or not renewed for cause in any
9 jurisdiction; or has surrendered or voluntarily terminated a
10 license or certificate during a board investigation of a
11 complaint, as part of a disciplinary order, or while under a
12 disciplinary order;

13 (7) has been subject to a corrective action or similar
14 action in another jurisdiction or by another regulatory
15 authority;

16 (8) has failed to meet any requirement for the issuance or
17 renewal of the person's license. The burden of proof is on the
18 applicant or licensee to demonstrate the qualifications or
19 satisfy the requirements for a license under the Psychology
20 Practice Act;

21 (9) has failed to cooperate with an investigation of the
22 board as required under subdivision 4;

23 (10) has demonstrated an inability to practice psychology
24 with reasonable skill and safety to clients due to any mental or
25 physical illness or condition; or

26 (11) has engaged in fee splitting. This clause does not
27 apply to the distribution of revenues from a partnership, group
28 practice, nonprofit corporation, or professional corporation to
29 its partners, shareholders, members, or employees if the
30 revenues consist only of fees for services performed by the
31 licensee or under a licensee's administrative authority. This
32 clause also does not apply to the charging of a general
33 membership fee by a licensee or applicant to health care
34 providers, as defined in section 144.335, for participation in a
35 referral service, provided that the licensee or applicant
36 discloses in advance to each referred client the financial

1 nature of the referral arrangement. Fee splitting includes, but
2 is not limited to:

3 (i) paying, offering to pay, receiving, or agreeing to
4 receive a commission, rebate, or remuneration, directly or
5 indirectly, primarily for the referral of clients;

6 (ii) dividing client fees with another individual or
7 entity, unless the division is in proportion to the services
8 provided and the responsibility assumed by each party;

9 (iii) referring an individual or entity to any health care
10 provider, as defined in section 144.335, or for other
11 professional or technical services in which the referring
12 licensee or applicant has a significant financial interest
13 unless the licensee has disclosed the financial interest in
14 advance to the client; and

15 (iv) dispensing for profit or recommending any instrument,
16 test, procedure, or device that for commercial purposes the
17 licensee or applicant has developed or distributed, unless the
18 licensee or applicant has disclosed any profit interest in
19 advance to the client.

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

23 (1) refuse to grant or renew a license;

24 (2) revoke a license;

25 (3) suspend a license;

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

33 (5) censure or reprimand the licensee;

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

1 (7) impose a civil penalty not exceeding \$7,500 for each
2 separate violation. The amount of the penalty shall be fixed so
3 as to deprive the applicant or licensee of any economic
4 advantage gained by reason of the violation charged, to
5 discourage repeated violations, or to recover the board's costs
6 that occur in bringing about a disciplinary order. For purposes
7 of this clause, costs are limited to legal, paralegal, and
8 investigative charges billed to the board by the Attorney
9 General's Office, witness costs, consultant and expert witness
10 fees, and charges attendant to the use of an administrative law
11 judge.

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

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

19 (2) complete to the satisfaction of the board educational
20 courses specified by the board; and

21 (3) reimburse to the board all costs incurred by the board
22 that are the result of a provider failing, neglecting, or
23 refusing to fully comply, or not complying in a timely manner,
24 with any part of the remedy section of a stipulation and consent
25 order or the corrective action section of an agreement for
26 corrective action. For purposes of this clause, costs are
27 limited to legal, paralegal, and investigative charges billed to
28 the board by the Attorney General's Office, witness costs,
29 consultant and expert witness fees, and charges attendant to the
30 use of an administrative law judge.

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

36 Sec. 10. Minnesota Statutes 2004, section 148.96,

1 subdivision 3, is amended to read:

2 Subd. 3. [REQUIREMENTS FOR REPRESENTATIONS TO PUBLIC.] (a)

3 Unless licensed under sections 148.88 to 148.98, except as
4 provided in paragraphs (b) through (e), persons shall not
5 represent themselves or permit themselves to be represented to
6 the public by:

7 (1) using any title or description of services
8 incorporating the words "psychology," "psychological,"
9 "psychological practitioner," or "psychologist"; or

10 (2) representing that the person has expert qualifications
11 in an area of psychology.

12 (b) Psychologically trained individuals who are employed by
13 an educational institution recognized by a regional accrediting
14 organization, by a federal, state, county, or local government
15 institution, ~~by agencies~~ agency, or by research
16 ~~facilities~~ facility, may represent themselves by the title
17 designated by that organization provided that the title does not
18 indicate that the individual is credentialed by the board.

19 (c) A psychologically trained individual from an
20 institution described in paragraph (b) may offer lecture
21 services and is exempt from the provisions of this section.

22 (d) A person who is preparing for the practice of
23 psychology under supervision in accordance with board statutes
24 and rules may be designated as a "psychological intern,"
25 "psychological trainee," or by other terms clearly describing
26 the person's training status.

27 (e) Former licensees who are completely retired from the
28 practice of psychology may represent themselves using the
29 descriptions in paragraph (a), clauses (1) and (2), but shall
30 not represent themselves or allow themselves to be represented
31 as current licensees of the board.

32 (f) Nothing in this section shall be construed to prohibit
33 the practice of school psychology by a person licensed in
34 accordance with chapters 122A and 129.

35 Section 11. [EFFECTIVE DATE.]

36 Sections 1 to 10 are effective the day following final

1 enactment.

2 ARTICLE 4

3 BOARD OF DENTAL PRACTICE

4 Section 1. Minnesota Statutes 2004, section 150A.01,
5 subdivision 6a, is amended to read:

6 Subd. 6a. [FACULTY DENTIST.] "Faculty dentist" means a
7 person who is licensed to practice dentistry as a faculty member
8 of a school of dentistry, pursuant to section 150A.06,
9 subdivision 1a.

10 Sec. 2. Minnesota Statutes 2004, section 150A.06,
11 subdivision 1a, is amended to read:

12 Subd. 1a. [FACULTY DENTISTS.] (a) Faculty members of a
13 school of dentistry must be licensed in order to practice
14 dentistry as defined in section 150A.05. The board may issue to
15 members of the faculty of a school of dentistry a license
16 designated as either a "limited faculty license" or a "full
17 faculty license" entitling the holder to practice dentistry
18 within the terms described in paragraph (b) or (c). The dean of
19 a school of dentistry and program directors of a Minnesota
20 dental hygiene or dental assisting school accredited by the
21 Commission on Dental Accreditation of the American Dental
22 Association shall certify to the board those members of the
23 school's faculty who practice dentistry but are not licensed to
24 practice dentistry in Minnesota. A faculty member who practices
25 dentistry as defined in section 150A.05, before beginning duties
26 in a school of dentistry or a dental hygiene or dental assisting
27 school, shall apply to the board for a limited or full faculty
28 license. ~~The license expires the next July 1 and may, at the~~
29 ~~discretion of the board, be renewed on a yearly basis.~~ Pursuant
30 to Minnesota Rules, chapter 3100, and at the discretion of the
31 board, a limited faculty license must be renewed annually and a
32 full faculty license must be renewed biennially. The faculty
33 applicant shall pay a nonrefundable fee set by the board for
34 issuing and renewing the faculty license. The faculty license
35 is valid during the time the holder remains a member of the
36 faculty of a school of dentistry or a dental hygiene or dental

1 assisting school and subjects the holder to this chapter.

2 (b) The board may issue to dentist members of the faculty
3 of a Minnesota school of dentistry, dental hygiene, or dental
4 assisting accredited by the Commission on Dental Accreditation
5 of the American Dental Association, a license designated as a
6 limited faculty license entitling the holder to practice
7 dentistry within the school and its affiliated teaching
8 facilities, but only for the purposes of teaching or conducting
9 research. The practice of dentistry at a school facility for
10 purposes other than teaching or research is not allowed unless
11 the dentist was a faculty member on August 1, 1993.

12 (c) The board may issue to dentist members of the faculty
13 of a Minnesota school of dentistry, dental hygiene, or dental
14 assisting accredited by the Commission on Dental Accreditation
15 of the American Dental Association a license designated as a
16 full faculty license entitling the holder to practice dentistry
17 within the school and its affiliated teaching facilities and
18 elsewhere if the holder of the license is employed 50 percent
19 time or more by the school in the practice of teaching or
20 research, and upon successful review by the board of the
21 applicant's qualifications as described in subdivisions 1, 1c,
22 and 4 and board rule. The board, at its discretion, may waive
23 specific licensing prerequisites.

24 Sec. 3. [150A.091] [FEES.]

25 Subdivision 1. [FEE REFUNDS.] No fee may be refunded for
26 any reason.

27 Subd. 2. [APPLICATION FEES.] Each applicant for licensure
28 or registration shall submit with a license or registration
29 application a nonrefundable fee in the following amounts in
30 order to administratively process an application:

31 (1) dentist, \$140;

32 (2) limited faculty dentist, \$140;

33 (3) resident dentist, \$55;

34 (4) dental hygienist, \$55;

35 (5) registered dental assistant, \$35; and

36 (6) dental assistant with a limited registration, \$15.

1 Subd. 3. [INITIAL LICENSE OR REGISTRATION FEES.] Along
2 with the application fee, each of the following licensees or
3 registrants shall submit a separate prorated initial license or
4 registration fee. The prorated initial fee shall be established
5 by the board based on the number of months of the licensee's or
6 registrant's initial term as described in Minnesota Rules, part
7 3100.1700, subpart 1a, not to exceed the following monthly fee
8 amounts:

9 (1) dentist, \$14 times the number of months of the initial
10 term;

11 (2) dental hygienist, \$5 times the number of months of the
12 initial term;

13 (3) registered dental assistant, \$3 times the number of
14 months of initial term; and

15 (4) dental assistant with a limited registration, \$1 times
16 the number of months of the initial term.

17 Subd. 4. [ANNUAL LICENSE FEES.] Each limited faculty or
18 resident dentist shall submit with an annual license renewal
19 application a fee established by the board not to exceed the
20 following amounts:

21 (1) limited faculty dentist, \$168; and

22 (2) resident dentist, \$59.

23 Subd. 5. [BIENNIAL LICENSE OR REGISTRATION FEES.] Each of
24 the following licensees or registrants shall submit with a
25 biennial license or registration renewal application a fee as
26 established by the board, not to exceed the following amounts:

27 (1) dentist, \$336;

28 (2) dental hygienist, \$118;

29 (3) registered dental assistant, \$80; and

30 (4) dental assistant with a limited registration, \$24.

31 Subd. 6. [ANNUAL LICENSE LATE FEE.] Applications for
32 renewal of any license received after the time specified in
33 Minnesota Rules, part 3100.1750, must be assessed a late fee
34 equal to 50 percent of the annual renewal fee.

35 Subd. 7. [BIENNIAL LICENSE OR REGISTRATION LATE
36 FEE.] Applications for renewal of any license or registration

1 received after the time specified in Minnesota Rules, part
2 3100.1700, must be assessed a late fee equal to 25 percent of
3 the biennial renewal fee.

4 Subd. 8. [DUPLICATE LICENSE OR REGISTRATION FEE.] Each
5 licensee or registrant shall submit, with a request for issuance
6 of a duplicate of the original license or registration, or of an
7 annual or biennial renewal of it, a fee in the following amounts:

8 (1) original dentist or dental hygiene license, \$35; and

9 (2) initial and renewal registration certificates and
10 license renewal certificates, \$10.

11 Subd. 9. [LICENSURE AND REGISTRATION BY CREDENTIALS.] Each
12 applicant for licensure as a dentist or dental hygienist or for
13 registration as a registered dental assistant by credentials
14 pursuant to section 150A.06, subdivisions 4 and 8, and Minnesota
15 Rules, part 3100.1400, shall submit with the license or
16 registration application a fee in the following amounts:

17 (1) dentist, \$725;

18 (2) dental hygienist, \$175; and

19 (3) registered dental assistant, \$35.

20 Subd. 10. [REINSTATEMENT FEE.] No dentist, dental
21 hygienist, or registered dental assistant whose license or
22 registration has been suspended or revoked may have the license
23 or registration reinstated or a new license or registration
24 issued until a fee has been submitted to the board in the
25 following amounts:

26 (1) dentist, \$140;

27 (2) dental hygienist, \$55; and

28 (3) registered dental assistant, \$35.

29 Subd. 11. [CERTIFICATE APPLICATION FEE FOR
30 ANESTHESIA/SEDATION.] Each dentist shall submit with a general
31 anesthesia or conscious sedation application a fee as
32 established by the board not to exceed the following amounts:

33 (1) for both a general anesthesia and conscious sedation
34 application, \$50;

35 (2) for a general anesthesia application only, \$50; and

36 (3) for a conscious sedation application only, \$50.

1 Subd. 12. [DUPLICATE CERTIFICATE FEE FOR
2 ANESTHESIA/SEDATION.] Each dentist shall submit with a request
3 for issuance of a duplicate of the original general anesthesia
4 or conscious sedation certificate a fee in the amount of \$10.

5 Subd. 13. [ON-SITE INSPECTION FEE.] An on-site inspection
6 fee must be paid to the individual, organization, or agency
7 conducting the inspection and be limited to a maximum fee as
8 determined by the board. Travel, lodging, and other expenses
9 are not part of the on-site inspection fee.

10 Subd. 14. [AFFIDAVIT OF LICENSURE.] Each licensee or
11 registrant shall submit with a request for an affidavit of
12 licensure a fee in the amount of \$10.

13 Subd. 15. [VERIFICATION OF LICENSURE.] Each institution or
14 corporation shall submit with a request for verification of a
15 license or registration a fee in the amount of \$5 for each
16 license or registration to be verified.

17 Sec. 4. Minnesota Statutes 2004, section 150A.10,
18 subdivision 1a, is amended to read:

19 Subd. 1a. [LIMITED AUTHORIZATION FOR DENTAL HYGIENISTS.]
20 (a) Notwithstanding subdivision 1, a dental hygienist licensed
21 under this chapter may be employed or retained by a health care
22 facility, program, or nonprofit organization to perform dental
23 hygiene services described under paragraph (b) without the
24 patient first being examined by a licensed dentist if the dental
25 hygienist:

26 (1) has been engaged in the active practice of clinical
27 dental hygiene for not less than 2,400 hours in the past 18
28 months or a career total of 3,000 hours, including a minimum of
29 200 hours of clinical practice in two of the past three years;

30 (2) has entered into a collaborative agreement with a
31 licensed dentist that designates authorization for the services
32 provided by the dental hygienist;

33 (3) has documented participation in courses in infection
34 control and medical emergencies within each continuing education
35 cycle; and

36 (4) maintains current certification in advanced or basic

1 cardiac life support as recognized by the American Heart
2 Association, the American Red Cross, or another agency that is
3 equivalent to the American Heart Association or the American Red
4 Cross.

5 (b) The dental hygiene services authorized to be performed
6 by a dental hygienist under this subdivision are limited to:

7 (1) oral health promotion and disease prevention education;

8 (2) removal of deposits and stains from the surfaces of the
9 teeth;

10 (3) application of topical preventive or prophylactic
11 agents, including fluoride varnishes and pit and fissure
12 sealants;

13 (4) polishing and smoothing restorations;

14 (5) removal of marginal overhangs;

15 (6) performance of preliminary charting;

16 (7) taking of radiographs; and

17 (8) performance of scaling and root planing.

18 The dental hygienist shall not perform injections of anesthetic
19 agents or the administration of nitrous oxide unless
20 under either the indirect or general supervision of a licensed
21 dentist. Collaborating dental hygienists may work with
22 unregistered and registered dental assistants who may only
23 perform duties for which registration is not required. The
24 performance of dental hygiene services in a health care
25 facility, program, or nonprofit organization as authorized under
26 this subdivision is limited to patients, students, and residents
27 of the facility, program, or organization.

28 (c) A collaborating dentist must be licensed under this
29 chapter and may enter into a collaborative agreement with no
30 more than four dental hygienists unless otherwise authorized by
31 the board. The board shall develop parameters and a process for
32 obtaining authorization to collaborate with more than four
33 dental hygienists. The collaborative agreement must include:

34 (1) consideration for medically compromised patients and
35 medical conditions for which a dental evaluation and treatment
36 plan must occur prior to the provision of dental hygiene

1 services;

2 (2) age- and procedure-specific standard collaborative
3 practice protocols, including recommended intervals for the
4 performance of dental hygiene services and a period of time in
5 which an examination by a dentist should occur;

6 (3) copies of consent to treatment form provided to the
7 patient by the dental hygienist;

8 (4) specific protocols for the placement of pit and fissure
9 sealants and requirements for follow-up care to assure the
10 efficacy of the sealants after application; and

11 (5) a procedure for creating and maintaining dental records
12 for the patients that are treated by the dental hygienist. This
13 procedure must specify where these records are to be located.
14 The collaborative agreement must be signed and maintained by the
15 dentist, the dental hygienist, and the facility, program, or
16 organization; must be reviewed annually by the collaborating
17 dentist and dental hygienist; and must be made available to the
18 board upon request.

19 (d) Before performing any services authorized under this
20 subdivision, a dental hygienist must provide the patient with a
21 consent to treatment form which must include a statement
22 advising the patient that the dental hygiene services provided
23 are not a substitute for a dental examination by a licensed
24 dentist. If the dental hygienist makes any referrals to the
25 patient for further dental procedures, the dental hygienist must
26 fill out a referral form and provide a copy of the form to the
27 collaborating dentist.

28 (e) For the purposes of this subdivision, a "health care
29 facility, program, or nonprofit organization" is limited to a
30 hospital; nursing home; home health agency; group home serving
31 the elderly, disabled, or juveniles; state-operated facility
32 licensed by the commissioner of human services or the
33 commissioner of corrections; and federal, state, or local public
34 health facility, community clinic, tribal clinic, school
35 authority, Head Start program, or nonprofit organization that
36 serves individuals who are uninsured or who are Minnesota health

1 care public program recipients.

2 (f) For purposes of this subdivision, a "collaborative
3 agreement" means a written agreement with a licensed dentist who
4 authorizes and accepts responsibility for the services performed
5 by the dental hygienist. The services authorized under this
6 subdivision and the collaborative agreement may be performed
7 without the presence of a licensed dentist and may be performed
8 at a location other than the usual place of practice of the
9 dentist or dental hygienist and without a dentist's diagnosis
10 and treatment plan, unless specified in the collaborative
11 agreement.

12 ARTICLE 5

13 BOARD OF BEHAVIORAL THERAPY AND HEALTH

14 (LICENSED PROFESSIONAL COUNSELORS AND
15 ALCOHOL AND DRUG COUNSELORS)

16 Section 1. Minnesota Statutes 2004, section 148B.53,
17 subdivision 1, is amended to read:

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

21 (1) is at least 18 years of age;

22 (2) is of good moral character;

23 (3) has completed a master's or doctoral degree program in
24 counseling or a related field, as determined by the board based
25 on the criteria in paragraph (b), that includes a minimum of 48
26 semester hours or 72 quarter hours and a supervised field
27 experience of not fewer than 700 hours that is counseling in
28 nature;

29 (4) has submitted to the board a plan for supervision
30 during the first 2,000 hours of professional practice or has
31 submitted proof of supervised professional practice that is
32 acceptable to the board; and

33 (5) has demonstrated competence in professional counseling
34 by passing the National Counseling Exam (NCE) administered by
35 the National Board for Certified Counselors, Inc. (NBCC)
36 ~~including-obtaining-a-passing-score-on-the-examination-accepted~~

1 ~~by the board based on the determinations made by the NBCE~~ or an
2 equivalent national examination as determined by the board, and
3 ethical, oral, and situational examinations if prescribed by the
4 board.

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

14 (1) the helping relationship, including counseling theory
15 and practice;

16 (2) human growth and development;

17 (3) lifestyle and career development;

18 (4) group dynamics, processes, counseling, and consulting;

19 (5) assessment and appraisal;

20 (6) social and cultural foundations, including
21 multicultural issues;

22 (7) principles of etiology, treatment planning, and
23 prevention of mental and emotional disorders and dysfunctional
24 behavior;

25 (8) family counseling and therapy;

26 (9) research and evaluation; and

27 (10) professional counseling orientation and ethics.

28 (c) To be licensed as a professional counselor, a
29 psychological practitioner licensed under section 148.908 need
30 only show evidence of licensure under that section and is not
31 required to comply with paragraph (a), clauses (1) to (3) and
32 (5), or paragraph (b).

33 (d) To be licensed as a professional counselor, a Minnesota
34 licensed psychologist need only show evidence of licensure from
35 the Minnesota Board of Psychology and is not required to comply
36 with paragraph (a) or (b).

1 Sec. 2. Minnesota Statutes 2004, section 148B.53,
2 subdivision 3, is amended to read:

3 Subd. 3. ~~[FEE.] Each applicant shall pay a~~
4 Nonrefundable fee fees are as follows:

- 5 (1) initial license application fee for licensed
6 professional counseling (LPC) - \$250;
- 7 (2) annual active license renewal fee for LPC - \$200 or
8 equivalent;
- 9 (3) annual inactive license renewal fee for LPC - \$100;
- 10 (4) license renewal late fee - \$100 per month or portion
11 thereof;
- 12 (5) copy of board order or stipulation - \$10;
- 13 (6) certificate of good standing or license verification -
14 \$10;
- 15 (7) duplicate certificate fee - \$10;
- 16 (8) professional firm renewal fee - \$25;
- 17 (9) initial registration fee - \$50; and
- 18 (10) annual registration renewal fee - \$25.

19 Sec. 3. [148B.531] [POSTDEGREE COMPLETION OF DEGREE
20 REQUIREMENTS FOR LICENSURE.]

21 An individual whose degree upon which licensure is to be
22 based included less than 48 semester hours or 72 quarter hours,
23 who did not complete 700 hours of supervised professional
24 practice as part of the degree program, or who did not complete
25 course work in all of the content areas required by section
26 148B.53, subdivision 1, paragraph (b), may complete these
27 requirements postdegree in order to obtain licensure, if:

28 (1) all course work and field experiences are completed
29 through an institution of higher education that is accredited by
30 a regional accrediting organization recognized by the Council
31 for Higher Education Accreditation (CHEA) or through a
32 counseling program recognized by the Council for Accreditation
33 of Counseling and Related Education Programs (CACREP);

34 (2) all course work and field experiences are taken and
35 passed for credit; and

36 (3) no more than 20 semester credits or 30 quarter credits

1 are completed postdegree for purposes of licensure unless the
2 credits are earned as part of an organized sequence of study.

3 Sec. 4. Minnesota Statutes 2004, section 148B.54,
4 subdivision 2, is amended to read:

5 Subd. 2. [CONTINUING EDUCATION.] At the completion of the
6 first two four years of licensure, a licensee must provide
7 evidence satisfactory to the board of completion of 12
8 additional postgraduate semester credit hours or its equivalent
9 in counseling as determined by the board, except that no
10 licensee shall be required to show evidence of greater than 60
11 semester hours or its equivalent. Thereafter, at the time of
12 renewal, each licensee shall provide evidence satisfactory to
13 the board that the licensee has completed during each two-year
14 period at least the equivalent of 40 clock hours of professional
15 postdegree continuing education in programs approved by the
16 board and continues to be qualified to practice under sections
17 148B.50 to 148B.593.

18 Sec. 5. [148B.555] [EXPERIENCED COUNSELOR TRANSITION.]

19 (a) An applicant for licensure who, prior to December 31,
20 2003, completed a master's or doctoral degree program in
21 counseling or a related field, as determined by the board, and
22 whose degree was from a counseling program recognized by the
23 Council for Accreditation of Counseling and Related Education
24 Programs (CACREP) or from an institution of higher education
25 that is accredited by a regional accrediting organization
26 recognized by the Council for Higher Education Accreditation
27 (CHEA), need not comply with the requirements of section
28 148B.53, subdivision 1, paragraph (a), clause (3), or (b), so
29 long as the applicant can document five years of full-time
30 postdegree work experience within the practice of professional
31 counseling as defined under section 148B.50, subdivisions 4 and
32 5.

33 (b) This section expires July 1, 2007.

34 Sec. 6. [148B.561] [RETALIATORY PROVISIONS.]

35 If by the laws of any state or the rulings or decisions of
36 the appropriate officers or boards thereof, any burden,

1 obligation, requirement, disqualification, or disability is put
2 upon licensed professional counselors licensed and in good
3 standing in this state, affecting the right of these licensed
4 professional counselors to be registered or licensed in that
5 state, then the same or like burden, obligation, requirement,
6 disqualification, or disability may be put upon the licensure in
7 this state of licensed professional counselors registered in
8 that state.

9 Sec. 7. Minnesota Statutes 2004, section 148B.59, is
10 amended to read:

11 148B.59 [GROUNDS FOR DISCIPLINARY ACTION; FORMS OF
12 DISCIPLINARY ACTION; RESTORATION OF LICENSE.]

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

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

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

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

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

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

36 (6) has had any counseling license, certificate,

1 registration, privilege to take an examination, or other similar
2 authority denied, revoked, suspended, canceled, limited, or not
3 renewed for cause in any jurisdiction or has surrendered or
4 voluntarily terminated a license or certificate during a board
5 investigation of a complaint, as part of a disciplinary order,
6 or while under a disciplinary order;

7 (7) has failed to meet any requirement for the issuance or
8 renewal of the person's license. The burden of proof is on the
9 applicant or licensee to demonstrate the qualifications or
10 satisfy the requirements for a license under the Licensed
11 Professional Counseling Act;

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

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

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

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

28 (ii) referring a client to any health care provider as
29 defined in section 144.335 in which the referring licensee has a
30 significant financial interest, unless the licensee has
31 disclosed in advance to the client the licensee's own financial
32 interest; **or** and

33 (iii) paying, offering to pay, receiving, or agreeing to
34 receive a commission, rebate, or remuneration, directly or
35 indirectly, primarily for the referral of clients;

36 (11) has engaged in conduct with a patient client that is

1 sexual or may reasonably be interpreted by the patient client as
2 sexual, or in any verbal behavior that is seductive or sexually
3 demeaning to a patient client;

4 (12) has been subject to a corrective action or similar
5 action in another jurisdiction or by another regulatory
6 authority; or

7 (13) has been adjudicated as mentally incompetent, mentally
8 ill, or mentally retarded or as a chemically dependent person, a
9 person dangerous to the public, a sexually dangerous person, or
10 a person who has a sexual psychopathic personality by a court of
11 competent jurisdiction within this state or an equivalent
12 adjudication from another state. Adjudication automatically
13 suspends a license for the duration thereof unless the board
14 orders otherwise.

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

18 (1) refuse to grant or renew a license;

19 (2) revoke a license;

20 (3) suspend a license;

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

28 (5) censure or reprimand the licensee;

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

32 (7) impose a civil penalty not exceeding \$10,000 for each
33 separate violation, the amount of the civil penalty to be fixed
34 so as to deprive the applicant or licensee of any economic
35 advantage gained by reason of the violation charged, to
36 discourage similar violations or to reimburse the board for the

1 cost of the investigation and proceeding, including, but not
2 limited to, fees paid for services provided by the Office of
3 Administrative Hearings, legal and investigative services
4 provided by the Office of the Attorney General, court reporters,
5 witnesses, reproduction of records, board members' per diem
6 compensation, board staff time, and travel costs and expenses
7 incurred by board staff and board members.

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

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

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

17 The board may also refer a licensee, if appropriate, to the
18 health professionals services program described in sections
19 214.31 to 214.37.

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

25 Sec. 8. [148B.5901] [TEMPORARY SUSPENSION OF LICENSE.]

26 (a) In addition to any other remedy provided by law, the
27 board may issue an order to temporarily suspend the credentials
28 of a licensee after conducting a preliminary inquiry to
29 determine if the board reasonably believes that the licensee has
30 violated a statute or rule that the board is empowered to
31 enforce and whether continued practice by the licensee would
32 create an imminent risk of harm to others.

33 (b) The order may prohibit the licensee from engaging in
34 the practice of licensed professional counseling in whole or in
35 part and may condition the end of a suspension on the licensee's
36 compliance with a statute, rule, or order that the board has

1 issued or is empowered to enforce.

2 (c) The order shall give notice of the right to a hearing
3 according to this subdivision and shall state the reasons for
4 the entry of the order.

5 (d) Service of the order is effective when the order is
6 served on the licensee personally or by certified mail, which is
7 complete upon receipt, refusal, or return for nondelivery to the
8 most recent address provided to the board for the licensee.

9 (e) At the time the board issues a temporary suspension
10 order, the board shall schedule a hearing to be held before its
11 own members. The hearing shall begin no later than 60 days
12 after issuance of the temporary suspension order or within 15
13 working days of the date of the board's receipt of a request for
14 hearing by a licensee, on the sole issue of whether there is a
15 reasonable basis to continue, modify, or lift the temporary
16 suspension. The hearing is not subject to chapter 14. Evidence
17 presented by the board or the licensee shall be in affidavit
18 form only. The licensee or counsel of record may appear for
19 oral argument.

20 (f) Within five working days of the hearing, the board
21 shall issue its order and, if the suspension is continued,
22 schedule a contested case hearing within 30 days of the issuance
23 of the order. Notwithstanding chapter 14, the administrative
24 law judge shall issue a report within 30 days after closing the
25 contested case hearing record. The board shall issue a final
26 order within 30 days of receipt of the administrative law
27 judge's report.

28 Sec. 9. [148B.5905] [MENTAL, PHYSICAL, OR CHEMICAL
29 DEPENDENCY EXAMINATION OR EVALUATION; ACCESS TO MEDICAL DATA.]

30 (a) If the board has probable cause to believe section
31 148B.59, paragraph (a), clause (9), applies to a licensee or
32 applicant, the board may direct the person to submit to a
33 mental, physical, or chemical dependency examination or
34 evaluation. For the purpose of this section, every licensee and
35 applicant is deemed to have consented to submit to a mental,
36 physical, or chemical dependency examination or evaluation when

1 directed in writing by the board and to have waived all
2 objections to the admissibility of the examining professionals'
3 testimony or examination reports on the grounds that the
4 testimony or examination reports constitute a privileged
5 communication. Failure of a licensee or applicant to submit to
6 an examination when directed by the board constitutes an
7 admission of the allegations against the person, unless the
8 failure was due to circumstances beyond the person's control, in
9 which case a default and final order may be entered without the
10 taking of testimony or presentation of evidence. A licensee or
11 applicant affected under this paragraph shall at reasonable
12 intervals be given an opportunity to demonstrate that the person
13 can resume the competent practice of licensed professional
14 counseling with reasonable skill and safety to the public. In
15 any proceeding under this paragraph, neither the record of
16 proceedings nor the orders entered by the board shall be used
17 against a licensee or applicant in any other proceeding.

18 (b) In addition to ordering a physical or mental
19 examination, the board may, notwithstanding section 13.384,
20 144.651, or any other law limiting access to medical or other
21 health data, obtain medical data and health records relating to
22 a licensee or applicant without the licensee's or applicant's
23 consent if the board has probable cause to believe that section
24 148B.59, paragraph (a), clause (9), applies to the licensee or
25 applicant. The medical data may be requested from a provider,
26 as defined in section 144.335, subdivision 1, paragraph (b); an
27 insurance company; or a government agency, including the
28 Department of Human Services. A provider, insurance company, or
29 government agency shall comply with any written request of the
30 board under this subdivision and is not liable in any action for
31 damages for releasing the data requested by the board if the
32 data are released pursuant to a written request under this
33 subdivision, unless the information is false and the provider
34 giving the information knew, or had reason to believe, the
35 information was false. Information obtained under this
36 subdivision is classified as private under sections 13.01 to

1 13.87.

2 Sec. 10. [148B.5925] [ASSESSMENT TOOL SECURITY.]

3 Notwithstanding section 144.335, subdivision 2, paragraphs
4 (a) and (b), a provider shall not be required to provide copies
5 of assessment tools, assessment tool materials, or scoring keys
6 to any individual who has completed an assessment tool or to an
7 individual not qualified to administer, score, and interpret the
8 assessment tool, if the provider reasonably determines that
9 access would compromise the objectivity, fairness, or integrity
10 of the testing process for the individual or others. If the
11 provider makes this determination, the provider shall, at the
12 discretion of the individual who has completed the assessment
13 tool, release the information either to another provider who is
14 qualified to administer, score, and interpret the assessment
15 tool or furnish a summary of the assessment tool results to the
16 individual or to a third party designated by the individual.

17 Sec. 11. Minnesota Statutes 2004, section 148C.03,
18 subdivision 1, is amended to read:

19 Subdivision 1. [GENERAL.] The commissioner shall~~7-after~~
20 ~~consultation-with-the-advisory-council-or-a-committee~~
21 ~~established-by-rule:~~

22 (a) adopt and enforce rules for licensure of alcohol and
23 drug counselors, including establishing standards and methods of
24 determining whether applicants and licensees are qualified under
25 section 148C.04. The rules must provide for examinations and
26 establish standards for the regulation of professional conduct.
27 The rules must be designed to protect the public;

28 (b) ~~develop-and,7-at-least-twice-a-year,7-administer-an~~
29 ~~examination-to-assess-applicants'-knowledge-and-skills,--The~~
30 ~~commissioner-may-contract-for-the-administration-of-an~~
31 ~~examination-with-an-entity-designated-by-the-commissioner,--The~~
32 ~~examinations-must-be-psychometrically-valid-and-reliable,7-must~~
33 ~~be-written-and-oral,7-with-the-oral-examination-based-on-a~~
34 ~~written-case-presentation,7-must-minimize-cultural-bias,7-and-must~~
35 ~~be-balanced-in-various-theories-relative-to-the-practice-of~~
36 ~~alcohol-and-drug-counseling,7~~

1 ~~(e)~~ issue licenses to individuals qualified under sections
2 148C.01 to 148C.11;

3 ~~(d)~~ (c) issue copies of the rules for licensure to all
4 applicants;

5 ~~(e)~~ (d) adopt rules to establish and implement procedures,
6 including a standard disciplinary process and rules of
7 professional conduct;

8 ~~(f)~~ (e) carry out disciplinary actions against licensees;

9 ~~(g)~~ (f) ~~establish with the advice and recommendations of~~
10 ~~the advisory council,~~ written internal operating procedures for
11 receiving and investigating complaints and for taking
12 disciplinary actions as appropriate;

13 ~~(h)~~ (g) educate the public about the existence and content
14 of the rules for alcohol and drug counselor licensing to enable
15 consumers to file complaints against licensees who may have
16 violated the rules;

17 ~~(i)~~ (h) evaluate the rules in order to refine and improve
18 the methods used to enforce the commissioner's standards; and

19 ~~(j)~~ (i) collect license fees for alcohol and drug
20 counselors.

21 Sec. 12. Minnesota Statutes 2004, section 148C.04,
22 subdivision 3, is amended to read:

23 Subd. 3. [REQUIREMENTS FOR LICENSURE BEFORE JULY 1, 2008.]

24 An applicant for a license must furnish evidence satisfactory to
25 the commissioner that the applicant has met all the requirements
26 in clauses (1) to (3). The applicant must have:

27 (1) received an associate degree, or an equivalent number
28 of credit hours, and a certificate in alcohol and drug
29 counseling, including 18 semester credits or 270 clock hours of
30 academic course work in accordance with subdivision 5a,
31 paragraph (a), from an accredited school or educational program
32 and 880 clock hours of supervised alcohol and drug counseling
33 practicum;

34 (2) completed one of the following:

35 (i) a written case presentation and satisfactorily passed
36 an oral examination ~~established by the commissioner~~ that

1 demonstrates competence in the core functions as determined by
2 the board; or

3 (ii) satisfactorily completed 2,000 hours of supervised
4 postdegree equivalent professional practice in accordance with
5 section 148C.044; and

6 (3) satisfactorily passed a written examination-~~as~~
7 ~~established-by-the-commissioner~~ examinations for licensure as
8 determined by the board.

9 Sec. 13. Minnesota Statutes 2004, section 148C.04,
10 subdivision 4, is amended to read:

11 Subd. 4. [REQUIREMENTS FOR LICENSURE AFTER JULY 1, 2008.]

12 An applicant for a license must submit evidence to the
13 commissioner that the applicant has met one of the following
14 requirements:

15 (1) the applicant must have:

16 (i) received a bachelor's degree from an accredited school
17 or educational program, including 18 semester credits or 270
18 clock hours of academic course work in accordance with
19 subdivision 5a, paragraph (a), from an accredited school or
20 educational program and 880 clock hours of supervised alcohol
21 and drug counseling practicum;

22 (ii) completed a written case presentation and
23 satisfactorily passed an oral examination established by the
24 commissioner that demonstrates competence in the core functions;
25 or submitted to the board a plan for supervision during the
26 first 2,000 hours of professional practice, or submitted proof
27 of supervised professional practice that is acceptable to the
28 commissioner; and

29 (iii) satisfactorily passed a written examination as
30 established by the commissioner; or

31 (2) the applicant must meet the requirements of section
32 148C.07.

33 Sec. 14. Minnesota Statutes 2004, section 148C.04,
34 subdivision 6, is amended to read:

35 Subd. 6. [TEMPORARY PERMIT REQUIREMENTS.] (a) The
36 commissioner shall issue a temporary permit to practice alcohol

1 and drug counseling prior to being licensed under this chapter
2 if the person:

3 (1) either:

4 (i) submits verification of a current and unrestricted
5 credential for the practice of alcohol and drug counseling from
6 a national certification body or a certification or licensing
7 body from another state, United States territory, or federally
8 recognized tribal authority;

9 (ii) submits verification of the completion of at least 64
10 semester credits, including 270 clock hours or 18 semester
11 credits of formal classroom education in alcohol and drug
12 counseling and at least 880 clock hours of alcohol and drug
13 counseling practicum from an accredited school or educational
14 program;

15 (iii) applies to renew a lapsed license according to the
16 requirements of section 148C.055, subdivision 3, clauses (1) and
17 (2), or section 148C.055, subdivision 4, clauses (1) and (2); or

18 (iv) meets the requirements of section 148C.11, subdivision
19 1, paragraph (c), or 6, clauses (1), (2), and (5);

20 (2) applies, in writing, on an application form provided by
21 the commissioner, which includes the nonrefundable temporary
22 permit fee as specified in section 148C.12 and an affirmation by
23 the person's supervisor, as defined in paragraph (c), clause
24 (1), which is signed and dated by the person and the person's
25 supervisor; and

26 (3) has not been disqualified to practice temporarily on
27 the basis of a background investigation under section 148C.09,
28 subdivision 1a.

29 (b) The commissioner must notify the person in writing
30 within 90 days from the date the completed application and all
31 required information is received by the commissioner whether the
32 person is qualified to practice under this subdivision.

33 (c) A person practicing under this subdivision:

34 (1) may practice under tribal jurisdiction or under the
35 direct supervision of a person who is licensed under this
36 chapter;

1 (2) is subject to the Rules of Professional Conduct set by
2 rule; and

3 (3) is not subject to the continuing education requirements
4 of section 148C.075.

5 (d) A person practicing under this subdivision must use the
6 title or description stating or implying that the person is a
7 trainee engaged in the practice of alcohol and drug counseling.

8 (e) A person practicing under this subdivision must
9 annually submit a renewal application on forms provided by the
10 commissioner with the renewal fee required in section 148C.12,
11 subdivision 3, and the commissioner may renew the temporary
12 permit if the trainee meets the requirements of this
13 subdivision. A trainee may renew a practice permit no more than
14 five times.

15 (f) A temporary permit expires if not renewed, upon a
16 change of employment of the trainee or upon a change in
17 supervision, or upon the granting or denial by the commissioner
18 of a license.

19 Sec. 15. [148C.044] [SUPERVISED POSTDEGREE PROFESSIONAL
20 PRACTICE.]

21 Subdivision 1. [SUPERVISION.] For the purpose of this
22 section, "supervision" means documented interactive
23 consultation, which, subject to the limitations in subdivision
24 4, paragraph (a), clause (2), may be conducted in person, by
25 telephone, or by audio or audiovisual electronic device, with a
26 supervisor as defined in subdivision 2. The supervision must be
27 adequate to ensure the quality and competence of the activities
28 supervised. Supervisory consultation must include discussions
29 on the nature and content of the practice of the supervisee,
30 including, but not limited to, a review of a representative
31 sample of counseling services in the supervisee's practice.

32 Subd. 2. [POSTDEGREE PROFESSIONAL PRACTICE.] "Postdegree
33 professional practice" means required postdegree paid or
34 volunteer work experience and training that involves the
35 professional oversight by a supervisor approved by the board and
36 that satisfies the supervision requirements in subdivision 4.

1 Subd. 3. [SUPERVISOR REQUIREMENTS.] For purposes of this
2 section, a supervisor shall:

3 (1) be a licensed alcohol and drug counselor or other
4 qualified professional as determined by the board;

5 (2) have four years of experience in providing alcohol and
6 drug counseling;

7 (3) have received a minimum of 12 hours of training in
8 clinical and ethical supervision, which may include graduate
9 course work, continuing education courses, workshops, or a
10 combination thereof; and

11 (4) supervise no more than three persons in postdegree
12 professional practice.

13 Subd. 4. [SUPERVISED PRACTICE REQUIREMENTS FOR
14 LICENSURE.] (a) The content of supervision must include:

15 (1) knowledge, skills, values, and ethics with specific
16 application to the practice issues faced by the supervisee,
17 including the core functions as described in section 148C.01,
18 subdivision 9;

19 (2) the standards of practice and ethical conduct, with
20 particular emphasis given to the counselor's role and
21 appropriate responsibilities, professional boundaries, and power
22 dynamics; and

23 (3) the supervisee's permissible scope of practice, as
24 defined by section 148C.01, subdivision 10.

25 (b) The supervision must be obtained at the rate of one
26 hour of supervision per 40 hours of professional practice, for a
27 total of 50 hours of supervision. The supervision must be
28 evenly distributed over the course of the supervised
29 professional practice. At least 75 percent of the required
30 supervision hours must be received in person. The remaining 25
31 percent of the required hours may be received by telephone or by
32 audio or audiovisual electronic device. At least 50 percent of
33 the required hours of supervision must be received on an
34 individual basis. The remaining 50 percent may be received in a
35 group setting.

36 (c) The supervision must be completed in no fewer than 12

1 consecutive months and no more than 36 consecutive months.

2 (d) The applicant shall include with an application for
3 licensure verification of completion of the 2,000 hours of
4 supervised professional practice. Verification must be on a
5 form specified by the board. The supervisor shall verify that
6 the supervisee has completed the required hours of supervision
7 in accordance with this section. The supervised practice
8 required under this section is unacceptable if the supervisor
9 attests that the supervisee's performance, competence, or
10 adherence to the standards of practice and ethical conduct has
11 been unsatisfactory.

12 Sec. 16. Minnesota Statutes 2004, section 148C.091,
13 subdivision 1, is amended to read:

14 Subdivision 1. [FORMS OF DISCIPLINARY ACTION.] When the
15 commissioner finds that an applicant or a licensed alcohol and
16 drug counselor has violated a provision or provisions of
17 sections 148C.01 to 148C.11, or rules promulgated under this
18 chapter, the commissioner may take one or more of the following
19 actions:

20 (1) refuse to grant a license;

21 (2) revoke the license;

22 (3) suspend the license;

23 (4) impose limitations or conditions;

24 (5) impose a civil penalty not exceeding \$10,000 for each
25 separate violation, the amount of the civil penalty to be fixed
26 so as to deprive the counselor of any economic advantage gained
27 by reason of the violation charged or to reimburse the
28 commissioner for all costs of the investigation and proceeding;
29 including, but not limited to, the amount paid by the
30 commissioner for services from the Office of Administrative
31 Hearings, attorney fees, court reports, witnesses, reproduction
32 of records, ~~advisory-council-members-per-diem-compensation,~~
33 staff time, and expense incurred by ~~advisory-council-members-and~~
34 staff of the department;

35 (6) order the counselor to provide uncompensated
36 professional service under supervision at a designated public

1 hospital, clinic, or other health care institution;

2 (7) censure or reprimand the counselor; or

3 (8) any other action justified by the case.

4 Sec. 17. Minnesota Statutes 2004, section 148C.10,

5 subdivision 2, is amended to read:

6 Subd. 2. [USE OF TITLES.] No person shall present
7 themselves or any other individual to the public by any title
8 incorporating the words "licensed alcohol and drug counselor" or
9 otherwise hold themselves out to the public by any title or
10 description stating or implying that they are licensed or
11 otherwise qualified to practice alcohol and drug counseling
12 unless that individual holds a valid license. Persons issued a
13 temporary permit must use titles consistent with section
14 148C.04, subdivision 6, paragraph ~~(c)~~ (d).

15 Sec. 18. Minnesota Statutes 2004, section 148C.11,

16 subdivision 1, is amended to read:

17 Subdivision 1. [OTHER PROFESSIONALS.] (a) Nothing in this
18 chapter prevents members of other professions or occupations
19 from performing functions for which they are qualified or
20 licensed. This exception includes, but is not limited to: ;
21 licensed physicians; registered nurses; licensed practical
22 nurses; licensed psychological practitioners; members of the
23 clergy; American Indian medicine men and women; licensed
24 attorneys; probation officers; licensed marriage and family
25 therapists; licensed social workers; social workers employed
26 by city, county, or state agencies; licensed professional
27 counselors; licensed school counselors; registered
28 occupational therapists or occupational therapy assistants;
29 city, county, or state employees when providing assessments or
30 case management under Minnesota Rules, chapter 9530; and until
31 July 1, 2005, individuals providing integrated dual-diagnosis
32 treatment in adult mental health rehabilitative programs
33 certified by the Department of Human Services under section
34 256B.0622 or 256B.0623.

35 (b) Nothing in this chapter prohibits technicians and
36 resident managers in programs licensed by the Department of

1 Human Services from discharging their duties as provided in
2 Minnesota Rules, chapter 9530.

3 (c) Any person who is exempt under this ~~section~~ subdivision
4 but who elects to obtain a license under this chapter is subject
5 to this chapter to the same extent as other licensees. The
6 commissioner shall issue a license without examination to an
7 applicant who is licensed or registered in a profession
8 identified in paragraph (a) if the applicant:

9 (1) shows evidence of current licensure or registration;
10 and

11 (2) has submitted to the commissioner a plan for
12 supervision during the first 2,000 hours of professional
13 practice or has submitted proof of supervised professional
14 practice that is acceptable to the commissioner.

15 (d) ~~These persons~~ Any person who is exempt from licensure
16 under this section must not, ~~however,~~ use a title incorporating
17 the words "alcohol and drug counselor" or "licensed alcohol and
18 drug counselor" or otherwise hold themselves out to the public
19 by any title or description stating or implying that they are
20 engaged in the practice of alcohol and drug counseling, or that
21 they are licensed to engage in the practice of alcohol and drug
22 counseling unless that person is also licensed as an alcohol and
23 drug counselor. Persons engaged in the practice of alcohol and
24 drug counseling are not exempt from the commissioner's
25 jurisdiction solely by the use of one of the above titles.

26 Sec. 19. Minnesota Statutes 2004, section 148C.11,
27 subdivision 4, is amended to read:

28 Subd. 4. [HOSPITAL ALCOHOL AND DRUG COUNSELORS.] Effective
29 January 1, ~~2006~~ 2007, hospitals employing alcohol and drug
30 counselors shall be required to employ licensed alcohol and drug
31 counselors. An alcohol or drug counselor employed by a hospital
32 must be licensed as an alcohol and drug counselor in accordance
33 with this chapter.

34 Sec. 20. Minnesota Statutes 2004, section 148C.11,
35 subdivision 5, is amended to read:

36 Subd. 5. [CITY, COUNTY, AND STATE AGENCY ALCOHOL AND DRUG

1 COUNSELORS.] Effective January 1, ~~2006~~ 2007, city, county, and
2 state agencies employing alcohol and drug counselors shall be
3 required to employ licensed alcohol and drug counselors. An
4 alcohol and drug counselor employed by a city, county, or state
5 agency must be licensed as an alcohol and drug counselor in
6 accordance with this chapter.

7 Sec. 21. Minnesota Statutes 2004, section 148C.11,
8 subdivision 6, is amended to read:

9 Subd. 6. [TRANSITION PERIOD FOR HOSPITAL AND CITY, COUNTY,
10 AND STATE AGENCY ALCOHOL AND DRUG COUNSELORS.] For the period
11 between July 1, 2003, and January 1, ~~2006~~ 2007, the commissioner
12 shall grant a license to an individual who is employed as an
13 alcohol and drug counselor at a Minnesota school district or
14 hospital, or a city, county, or state agency in Minnesota, if
15 the individual meets the requirements in section 148C.0351 and:

16 (1) was employed as an alcohol and drug counselor at a
17 school district, a hospital, or a city, county, or state agency
18 before August 1, 2002; ~~(2)~~ has 8,000 hours of alcohol and drug
19 counselor work experience; ~~(3)~~ has completed a written case
20 presentation and satisfactorily passed an oral examination
21 established by the commissioner; ~~(4)~~ and has satisfactorily
22 passed a written examination as established by the commissioner;
23 ~~and-(5)-meets-the-requirements-in-section-148C-0351~~ or

24 (2) is credentialed as a board certified counselor (BCC) or
25 board certified counselor reciprocal (BCCR) by the Minnesota
26 Certification Board; or

27 (3) has 14,000 hours of supervised alcohol and drug
28 counselor work experience as documented by the employer.

29 Sec. 22. Minnesota Statutes 2004, section 148C.12,
30 subdivision 3, is amended to read:

31 Subd. 3. [TEMPORARY PERMIT FEE.] The initial fee for
32 applicants under section 148C.04, subdivision 6, paragraph (a),
33 is \$100. The fee for annual renewal of a temporary permit
34 is ~~\$100~~ \$150, but when the first expiration date occurs in less
35 or more than one year, the fee must be prorated.

36 Sec. 23. Minnesota Statutes 2004, section 214.01,

1 subdivision 2, is amended to read:

2 Subd. 2. [HEALTH-RELATED LICENSING BOARD.] "Health-related
3 licensing board" means the Board of Examiners of Nursing Home
4 Administrators established pursuant to section 144A.19, the
5 Office of Unlicensed Complementary and Alternative Health Care
6 Practice established pursuant to section 146A.02, the Board of
7 Medical Practice created pursuant to section 147.01, the Board
8 of Nursing created pursuant to section 148.181, the Board of
9 Chiropractic Examiners established pursuant to section 148.02,
10 the Board of Optometry established pursuant to section 148.52,
11 the Board of Physical Therapy established pursuant to section
12 148.67, the Board of Psychology established pursuant to section
13 148.90, the Board of Social Work pursuant to section 148B.19,
14 the Board of Marriage and Family Therapy pursuant to section
15 148B.30, the Office of Mental Health Practice established
16 pursuant to section 148B.61, the Board of Behavioral Health and
17 Therapy established by section 148B.51, ~~the Alcohol and Drug~~
18 ~~Counselors Licensing Advisory Council established pursuant to~~
19 ~~section 148C.02~~, the Board of Dietetics and Nutrition Practice
20 established under section 148.622, the Board of Dentistry
21 established pursuant to section 150A.02, the Board of Pharmacy
22 established pursuant to section 151.02, the Board of Podiatric
23 Medicine established pursuant to section 153.02, and the Board
24 of Veterinary Medicine, established pursuant to section 156.01.

25 Sec. 24. Minnesota Statutes 2004, section 214.103,
26 subdivision 1, is amended to read:

27 Subdivision 1. [APPLICATION.] For purposes of this
28 section, "board" means "health-related licensing board" and does
29 not include ~~the Alcohol and Drug Counselors Licensing Advisory~~
30 ~~Council established pursuant to section 148C.02~~, or the
31 non-health-related licensing boards. Nothing in this section
32 supersedes section 214.10, subdivisions 2a, 3, 8, and 9, as they
33 apply to the health-related licensing boards.

34 Sec. 25. [AUTHORIZATION FOR EXPEDITED RULEMAKING
35 AUTHORITY.]

36 The Board of Behavioral Health and Therapy may use the

1 expedited rulemaking process under Minnesota Statutes, section
2 14.389, for adopting and amending rules to conform with sections
3 1 to 10.

4 Sec. 26. [REPEALER.]

5 (a) Minnesota Statutes 2004, sections 148C.02 and 148C.12,
6 subdivision 4, are repealed.

7 (b) Minnesota Rules, parts 4747.0030, subparts 11 and 16;
8 4747.1200; and 4747.1300, are repealed.

9 Sec. 27. [EFFECTIVE DATE.]

10 This article is effective July 1, 2005.

11 ARTICLE 6

12 BOARD OF MEDICAL PRACTICE

13 (PHYSICIAN ASSISTANTS AND RESPIRATORY CARE PRACTITIONERS)

14 Section 1. Minnesota Statutes 2004, section 147A.18,
15 subdivision 1, is amended to read:

16 Subdivision 1. [DELEGATION.] (a) A supervising physician
17 may delegate to a physician assistant who is registered with the
18 board, certified by the National Commission on Certification of
19 Physician Assistants or successor agency approved by the board,
20 and who is under the supervising physician's supervision, the
21 authority to prescribe, dispense, and administer legend drugs,
22 medical devices, and controlled substances subject to the
23 requirements in this section. The authority to dispense
24 includes, but is not limited to, the authority to request,
25 receive, and dispense sample drugs. This authority to dispense
26 extends only to those drugs described in the written agreement
27 developed under paragraph (b).

28 (b) The agreement between the physician assistant and
29 supervising physician and any alternate supervising physicians
30 must include a statement by the supervising physician regarding
31 delegation or nondelegation of the functions of prescribing,
32 dispensing, and administering of legend drugs and medical
33 devices to the physician assistant. The statement must include
34 a protocol indicating categories of drugs for which the
35 supervising physician delegates prescriptive and dispensing
36 authority. The delegation must be appropriate to the physician

1 assistant's practice and within the scope of the physician
2 assistant's training. Physician assistants who have been
3 delegated the authority to prescribe, dispense, and administer
4 legend drugs and medical devices shall provide evidence of
5 current certification by the National Commission on
6 Certification of Physician Assistants or its successor agency
7 when registering or reregistering as physician assistants.
8 Physician assistants who have been delegated the authority to
9 prescribe controlled substances must present evidence of the
10 certification and hold a valid DEA certificate. Supervising
11 physicians shall retrospectively review the prescribing,
12 dispensing, and administering of legend and controlled drugs and
13 medical devices by physician assistants, when this authority has
14 been delegated to the physician assistant as part of the
15 delegation agreement between the physician and the physician
16 assistant. This review must take place at-least-weekly as
17 outlined in the internal protocol. The process and schedule for
18 the review must be outlined in the delegation agreement.

19 (c) The board may establish by rule:

20 (1) a system of identifying physician assistants eligible
21 to prescribe, administer, and dispense legend drugs and medical
22 devices;

23 (2) a system of identifying physician assistants eligible
24 to prescribe, administer, and dispense controlled substances;

25 (3) a method of determining the categories of legend and
26 controlled drugs and medical devices that each physician
27 assistant is allowed to prescribe, administer, and dispense; and

28 (4) a system of transmitting to pharmacies a listing of
29 physician assistants eligible to prescribe legend and controlled
30 drugs and medical devices.

31 Sec. 2. Minnesota Statutes 2004, section 147A.18,
32 subdivision 3, is amended to read:

33 Subd. 3. [OTHER REQUIREMENTS AND RESTRICTIONS.] (a) The
34 supervising physician and the physician assistant must complete,
35 sign, and date an internal protocol which lists each category of
36 drug or medical device, or controlled substance the physician

1 assistant may prescribe, dispense, and administer. The
2 supervising physician and physician assistant shall submit the
3 internal protocol to the board upon request. The supervising
4 physician may amend the internal protocol as necessary, within
5 the limits of the completed delegation form in subdivision 5.
6 The supervising physician and physician assistant must sign and
7 date any amendments to the internal protocol. Any amendments
8 resulting in a change to an addition or deletion to categories
9 delegated in the delegation form in subdivision 5 must be
10 submitted to the board according to this chapter, along with the
11 fee required.

12 (b) The supervising physician and physician assistant shall
13 review delegation of prescribing, dispensing, and administering
14 authority on an annual basis at the time of reregistration. The
15 internal protocol must be signed and dated by the supervising
16 physician and physician assistant after review. Any amendments
17 to the internal protocol resulting in changes to the delegation
18 form in subdivision 5 must be submitted to the board according
19 to this chapter, along with the fee required.

20 (c) Each prescription initiated by a physician assistant
21 shall indicate the following:

22 (1) the date of issue;

23 (2) the name and address of the patient;

24 (3) the name and quantity of the drug prescribed;

25 (4) directions for use; and

26 (5) the name, and address, ~~and telephone number~~ of the
27 prescribing physician assistant ~~and of the physician serving as~~
28 supervisor.

29 (d) In prescribing, dispensing, and administering legend
30 drugs and medical devices, including controlled substances as
31 defined in section 152.01, subdivision 4, a physician assistant
32 must conform with the agreement, chapter 151, and this chapter.

33 Sec. 3. Minnesota Statutes 2004, section 147C.05, is
34 amended to read:

35 147C.05 [SCOPE OF PRACTICE.]

36 (a) The practice of respiratory care by a registered

1 respiratory care practitioner includes, but is not limited to,
2 the following services:

3 (1) providing and monitoring therapeutic administration of
4 medical gases, aerosols, humidification, and pharmacological
5 agents related to respiratory care procedures, but not including
6 administration of general anesthesia;

7 (2) carrying out therapeutic application and monitoring of
8 mechanical ventilatory support;

9 (3) providing cardiopulmonary resuscitation and maintenance
10 of natural airways and insertion and maintenance of artificial
11 airways;

12 (4) assessing and monitoring signs, symptoms, and general
13 behavior relating to, and general physical response to,
14 respiratory care treatment or evaluation for treatment and
15 diagnostic testing, including determination of whether the
16 signs, symptoms, reactions, behavior, or general response
17 exhibit abnormal characteristics;

18 (5) obtaining physiological specimens and interpreting
19 physiological data including:

20 (i) analyzing arterial and venous blood gases;

21 (ii) assessing respiratory secretions;

22 (iii) measuring ventilatory volumes, pressures, and flows;

23 (iv) testing pulmonary function;

24 (v) testing and studying the cardiopulmonary system; and

25 (vi) diagnostic testing of breathing patterns related to
26 sleep disorders;

27 (6) assisting hemodynamic monitoring and support of the
28 cardiopulmonary system;

29 (7) assessing and making suggestions for modifications in
30 the treatment regimen based on abnormalities, protocols, or
31 changes in patient response to respiratory care treatment;

32 (8) providing cardiopulmonary rehabilitation including
33 respiratory-care related educational components, postural
34 drainage, chest physiotherapy, breathing exercises, aerosolized
35 administration of medications, and equipment use and
36 maintenance;

1 (9) instructing patients and their families in techniques
2 for the prevention, alleviation, and rehabilitation of
3 deficiencies, abnormalities, and diseases of the cardiopulmonary
4 system; and

5 (10) transcribing and implementing physician orders for
6 respiratory care services.

7 (b) Patient service by a practitioner must be limited to:

8 (1) services within the training and experience of the
9 practitioner; and

10 (2) services within the parameters of the laws, rules, and
11 standards of the facilities in which the respiratory care
12 practitioner practices.

13 (c) Respiratory care services provided by a registered
14 respiratory care practitioner, whether delivered in a health
15 care facility or the patient's residence, must not be provided
16 except upon referral from a physician.

17 (d) This section does not prohibit an individual licensed
18 or registered as a respiratory therapist in another state or
19 country from providing respiratory care in an emergency in this
20 state, providing respiratory care as a member of an organ
21 harvesting team, or from providing respiratory care on board an
22 ambulance as part of an ambulance treatment team.

23 ARTICLE 7

24 COMMISSIONER OF HEALTH - AUDIOLOGISTS

25 Section 1. Minnesota Statutes 2004, section 148.512,
26 subdivision 6, is amended to read:

27 Subd. 6. [AUDIOLOGIST.] "Audiologist" means a natural
28 person who engages in the practice of audiology, meets the
29 qualifications required by sections 148.511 to ~~148.5196~~
30 148.5198, and is licensed by the commissioner under a general,
31 clinical fellowship, doctoral externship, or temporary license.
32 Audiologist also means a natural person using any descriptive
33 word with the title audiologist.

34 Sec. 2. Minnesota Statutes 2004, section 148.512, is
35 amended by adding a subdivision to read:

36 Subd. 10a. [HEARING AID.] "Hearing aid" means an

1 instrument, or any of its parts, worn in the ear canal and
2 designed to or represented as being able to aid or enhance human
3 hearing. "Hearing aid" includes the aid's parts, attachments,
4 or accessories, including, but not limited to, ear molds and
5 behind the ear (BTE) devices with or without an ear mold.
6 Batteries and cords are not parts, attachments, or accessories
7 of a hearing aid. Surgically implanted hearing aids, and
8 assistive listening devices not worn within the ear canal, are
9 not hearing aids.

10 Sec. 3. Minnesota Statutes 2004, section 148.512, is
11 amended by adding a subdivision to read:

12 Subd. 10b. [HEARING AID DISPENSING.] "Hearing aid
13 dispensing" means making ear mold impressions, prescribing, or
14 recommending a hearing aid, assisting the consumer in aid
15 selection, selling hearing aids at retail, or testing human
16 hearing in connection with these activities regardless of
17 whether the person conducting these activities has a monetary
18 interest in the sale of hearing aids to the consumer.

19 Sec. 4. Minnesota Statutes 2004, section 148.515, is
20 amended by adding a subdivision to read:

21 Subd. 6. [AUDIOLOGIST EXAMINATION REQUIREMENTS.] (a) An
22 audiologist who applies for licensure on or after August 1,
23 2005, must achieve a passing score on the examination described
24 in section 153A.14, subdivision 2h, paragraph (a), clause (2),
25 within the time period described in section 153A.14, subdivision
26 2h, paragraph (b).

27 (b) Paragraph (a) does not apply to an audiologist licensed
28 by reciprocity who was licensed before August 1, 2005, in
29 another jurisdiction.

30 (c) Audiologists are exempt from the written examination
31 requirement in section 153A.14, subdivision 2h, paragraph (a),
32 clause (1).

33 Sec. 5. Minnesota Statutes 2004, section 148.5194, is
34 amended by adding a subdivision to read:

35 Subd. 7. [SURCHARGE.] A surcharge of \$..... is added to
36 the audiologist licensure fee for the period of

1 Sec. 6. Minnesota Statutes 2004, section 148.5195,
2 subdivision 3, is amended to read:

3 Subd. 3. [GROUNDS FOR DISCIPLINARY ACTION BY
4 COMMISSIONER.] The commissioner may take any of the disciplinary
5 actions listed in subdivision 4 on proof that the individual has:

6 (1) intentionally submitted false or misleading information
7 to the commissioner or the advisory council;

8 (2) failed, within 30 days, to provide information in
9 response to a written request, via certified mail, by the
10 commissioner or advisory council;

11 (3) performed services of a speech-language pathologist or
12 audiologist in an incompetent or negligent manner;

13 (4) violated sections 148.511 to ~~148.5196~~ 148.5198;

14 (5) failed to perform services with reasonable judgment,
15 skill, or safety due to the use of alcohol or drugs, or other
16 physical or mental impairment;

17 (6) violated any state or federal law, rule, or regulation,
18 and the violation is a felony or misdemeanor, an essential
19 element of which is dishonesty, or which relates directly or
20 indirectly to the practice of speech-language pathology or
21 audiology. Conviction for violating any state or federal law
22 which relates to speech-language pathology or audiology is
23 necessarily considered to constitute a violation, except as
24 provided in chapter 364;

25 (7) aided or abetted another person in violating any
26 provision of sections 148.511 to ~~148.5196~~ 148.5198;

27 (8) been or is being disciplined by another jurisdiction,
28 if any of the grounds for the discipline is the same or
29 substantially equivalent to those under sections 148.511 to
30 148.5196;

31 (9) not cooperated with the commissioner or advisory
32 council in an investigation conducted according to subdivision
33 1;

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

35 (11) engaged in conduct likely to deceive, defraud, or harm
36 the public; or demonstrated a willful or careless disregard for

1 the health, welfare, or safety of a client;

2 (12) failed to disclose to the consumer any fee splitting
3 or any promise to pay a portion of a fee to any other
4 professional other than a fee for services rendered by the other
5 professional to the client;

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

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

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

15 (16) failed to refer a client for medical evaluation or to
16 other health care professionals when appropriate or when a
17 client indicated symptoms associated with diseases that could be
18 medically or surgically treated;

19 ~~(17) if-the-individual-is-a-dispenser-of-hearing~~
20 ~~instruments-as-defined-by-section-153A-137-subdivision-57-had~~
21 ~~the-certification-required-by-chapter-153A7-denied7-suspended7~~
22 ~~or-revoked-according-to-chapter-153A7~~

23 ~~(18)~~ used the term doctor of audiology, doctor of
24 speech-language pathology, AuD, or SLPD without having obtained
25 the degree from an institution accredited by the North Central
26 Association of Colleges and Secondary Schools, the Council on
27 Academic Accreditation in Audiology and Speech-Language
28 Pathology, the United States Department of Education, or an
29 equivalent; ~~or~~

30 ~~(19)~~ (18) failed to comply with the requirements of section
31 148.5192 regarding supervision of speech-language pathology
32 assistants;

33 (19) prescribed or otherwise recommended to a consumer or
34 potential consumer the use of a hearing aid, unless the
35 prescription from a physician or recommendation from an
36 audiologist is in writing, is based on an audiogram that is

1 delivered to the consumer or potential consumer when the
2 prescription or recommendation is made, and bears the following
3 information in all capital letters of 12-point or larger
4 boldface type: "THIS PRESCRIPTION OR RECOMMENDATION MAY BE
5 FILLED BY, AND HEARING AIDS MAY BE PURCHASED FROM, THE LICENSED
6 AUDIOLOGIST OR CERTIFIED DISPENSER OF YOUR CHOICE";

7 (20) failed to give a copy of the audiogram, upon which the
8 prescription or recommendation is based, to the consumer when
9 the consumer requests a copy;

10 (21) failed to provide the consumer rights brochure
11 required by section 148.5197, subdivision 3;

12 (22) failed to comply with restrictions on sales of hearing
13 aids in sections 148.5197, subdivision 3, and 148.5198;

14 (23) failed to return a consumer's hearing aid used as a
15 trade-in or for a discount in the price of a new hearing aid
16 when requested by the consumer upon cancellation of the purchase
17 agreement;

18 (24) failed to follow Food and Drug Administration or
19 Federal Trade Commission regulations relating to dispensing
20 hearing aids; or

21 (25) failed to dispense a hearing aid in a competent manner
22 or without appropriate training.

23 Sec. 7. [148.5197] [HEARING AID DISPENSING.]

24 Subdivision 1. [CONTENT OF CONTRACTS.] Oral statements
25 made by an audiologist regarding the provision of warranties,
26 refunds, and service on the hearing aid or aids dispensed must
27 be written on, and become part of, the contract of sale, specify
28 the item or items covered, and indicate the person or business
29 entity obligated to provide the warranty, refund, or service.

30 Subd. 2. [REQUIRED USE OF LICENSE NUMBER.] The
31 audiologist's license number must appear on all contracts, bills
32 of sale, and receipts used in the sale of hearing aids.

33 Subd. 3. [CONSUMER RIGHTS INFORMATION.] An audiologist
34 shall, at the time of the recommendation or prescription, give a
35 consumer rights brochure, prepared by the commissioner and
36 containing information about legal requirements pertaining to

1 sales of hearing aids, to each potential buyer of a hearing
2 aid. The brochure must contain information about the consumer
3 information center described in section 153A.18. A sales
4 contract for a hearing aid must note the receipt of the brochure
5 by the buyer, along with the buyer's signature or initials.

6 Subd. 4. [LIABILITY FOR CONTRACTS.] Owners of entities in
7 the business of dispensing hearing aids, employers of
8 audiologists or persons who dispense hearing aids, supervisors
9 of trainees or audiology students, and hearing aid dispensers
10 conducting the sales transaction at issue are liable for
11 satisfying all terms of contracts, written or oral, made by
12 their agents, employees, assignees, affiliates, or trainees,
13 including terms relating to products, repairs, warranties,
14 service, and refunds. The commissioner may enforce the terms of
15 hearing aid sales contracts against the principal, employer,
16 supervisor, or dispenser who conducted the sale and may impose
17 any remedy provided for in this chapter.

18 Sec. 8. [148.5198] [RESTRICTION ON SALE OF HEARING AIDS.]

19 Subdivision 1. [45-CALENDAR-DAY GUARANTEE AND BUYER RIGHT
20 TO CANCEL.] (a) An audiologist dispensing a hearing aid in this
21 state must comply with paragraphs (b) and (c).

22 (b) The audiologist must provide the buyer with a
23 45-calendar-day written money-back guarantee. The guarantee
24 must permit the buyer to cancel the purchase for any reason
25 within 45 calendar days after receiving the hearing aid by
26 giving or mailing written notice of cancellation to the
27 audiologist. If the consumer mails the notice of cancellation,
28 the 45-calendar-day period is counted using the postmark date,
29 to the date of receipt by the audiologist. If the hearing aid
30 must be repaired, remade, or adjusted during the 45-calendar-day
31 money-back guarantee period, the running of the 45-calendar-day
32 period is suspended one day for each 24-hour period that the
33 hearing aid is not in the buyer's possession. A repaired,
34 remade, or adjusted hearing aid must be claimed by the buyer
35 within three business days after notification of availability,
36 after which time the running of the 45-calendar-day period

1 resumes. The guarantee must entitle the buyer, upon
2 cancellation, to receive a refund of payment within 30 days of
3 return of the hearing aid to the audiologist. The audiologist
4 may retain as a cancellation fee no more than \$250 of the
5 buyer's total purchase price of the hearing aid.

6 (c) The audiologist shall provide the buyer with a contract
7 written in plain English, that contains uniform language and
8 provisions that meet the requirements under the Plain Language
9 Contract Act, sections 325G.29 to 325G.36. The contract must
10 include, but is not limited to, the following: in immediate
11 proximity to the space reserved for the signature of the buyer,
12 or on the first page if there is no space reserved for the
13 signature of the buyer, a clear and conspicuous disclosure of
14 the following specific statement in all capital letters of no
15 less than 12-point boldface type: "MINNESOTA STATE LAW GIVES
16 THE BUYER THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON AT
17 ANY TIME PRIOR TO MIDNIGHT OF THE 45TH CALENDAR DAY AFTER
18 RECEIPT OF THE HEARING AID(S). THIS CANCELLATION MUST BE IN
19 WRITING AND MUST BE GIVEN OR MAILED TO THE AUDIOLOGIST. IF THE
20 BUYER DECIDES TO RETURN THE HEARING AID(S) WITHIN THIS
21 45-CALENDAR-DAY PERIOD, THE BUYER WILL RECEIVE A REFUND OF THE
22 TOTAL PURCHASE PRICE OF THE AID(S) FROM WHICH THE AUDIOLOGIST
23 MAY RETAIN AS A CANCELLATION FEE NO MORE THAN \$250."

24 Subd. 2. [ITEMIZED REPAIR BILL.] Any audiologist or
25 company who agrees to repair a hearing aid must provide the
26 owner of the hearing aid, or the owner's representative, with a
27 bill that describes the repair and services rendered. The bill
28 must also include the repairing audiologist's or company's name,
29 address, and telephone number.

30 This subdivision does not apply to an audiologist or
31 company that repairs a hearing aid pursuant to an express
32 warranty covering the entire hearing aid and the warranty covers
33 the entire cost, both parts and labor, of the repair.

34 Subd. 3. [REPAIR WARRANTY.] Any guarantee of hearing aid
35 repairs must be in writing and delivered to the owner of the
36 hearing aid, or the owner's representative, stating the

1 repairing audiologist's or company's name, address, telephone
2 number, length of guarantee, model, and serial number of the
3 hearing aid and all other terms and conditions of the guarantee.

4 Subd. 4. [MISDEMEANOR.] A person found to have violated
5 this section is guilty of a misdemeanor.

6 Subd. 5. [ADDITIONAL.] In addition to the penalty provided
7 in subdivision 4, a person found to have violated this section
8 is subject to the penalties and remedies provided in section
9 325F.69, subdivision 1.

10 Subd. 6. [ESTIMATES.] Upon the request of the owner of a
11 hearing aid or the owner's representative for a written estimate
12 and prior to the commencement of repairs, a repairing
13 audiologist or company shall provide the customer with a written
14 estimate of the price of repairs. If a repairing audiologist or
15 company provides a written estimate of the price of repairs, it
16 must not charge more than the total price stated in the estimate
17 for the repairs. If the repairing audiologist or company after
18 commencing repairs determines that additional work is necessary
19 to accomplish repairs that are the subject of a written estimate
20 and if the repairing audiologist or company did not unreasonably
21 fail to disclose the possible need for the additional work when
22 the estimate was made, the repairing audiologist or company may
23 charge more than the estimate for the repairs if the repairing
24 audiologist or company immediately provides the owner or owner's
25 representative a revised written estimate pursuant to this
26 section and receives authorization to continue with the
27 repairs. If continuation of the repairs is not authorized, the
28 repairing audiologist or company shall return the hearing aid as
29 close as possible to its former condition and shall release the
30 hearing aid to the owner or owner's representative upon payment
31 of charges for repairs actually performed and not in excess of
32 the original estimate.

33 Sec. 9. Minnesota Statutes 2004, section 153A.13,
34 subdivision 5, is amended to read:

35 Subd. 5. [DISPENSER OF HEARING INSTRUMENTS.] "Dispenser of
36 hearing instruments" means a natural person who engages in

1 hearing instrument dispensing whether or not certified by the
2 commissioner of health or licensed by an existing health-related
3 board, except that a person described as follows is not a
4 dispenser of hearing instruments:

5 (1) a student participating in supervised field work that
6 is necessary to meet requirements of an accredited educational
7 program if the student is designated by a title which clearly
8 indicates the student's status as a student trainee; or

9 (2) a person who helps a dispenser of hearing instruments
10 in an administrative or clerical manner and does not engage in
11 hearing instrument dispensing.

12 A person who offers to dispense a hearing instrument, or a
13 person who advertises, holds out to the public, or otherwise
14 represents that the person is authorized to dispense hearing
15 instruments must be certified by the commissioner except when
16 the person is an audiologist as defined in section 148.512.

17 Sec. 10. Minnesota Statutes 2004, section 153A.14,
18 subdivision 2i, is amended to read:

19 Subd. 2i. [CONTINUING EDUCATION REQUIREMENT.] On forms
20 provided by the commissioner, each certified dispenser must
21 submit with the application for renewal of certification
22 evidence of completion of ten course hours of continuing
23 education earned within the 12-month period of July 1 to June 30
24 immediately preceding renewal. Continuing education courses
25 must be directly related to hearing instrument dispensing and
26 approved by the International Hearing Society ~~or-qualify-for~~
27 ~~continuing-education-approved-for-Minnesota-licensed~~
28 ~~audiologists~~. Evidence of completion of the ten course hours of
29 continuing education must be submitted with renewal applications
30 by October 1 of each year. This requirement does not apply to
31 dispensers certified for less than one year. The first report
32 of evidence of completion of the continuing education credits
33 shall be due October 1, 1997.

34 Sec. 11. Minnesota Statutes 2004, section 153A.14,
35 subdivision 4, is amended to read:

36 Subd. 4. [DISPENSING OF HEARING INSTRUMENTS WITHOUT

1 CERTIFICATE.] Except as provided in subdivisions 2a, 4a, and 4c,
2 it is unlawful for any person not holding a valid certificate to
3 dispense a hearing instrument as defined in section 153A.13,
4 subdivision 3. A person who dispenses a hearing instrument
5 without the certificate required by this section is guilty of a
6 gross misdemeanor.

7 Sec. 12. Minnesota Statutes 2004, section 153A.14,
8 subdivision 4c, is amended to read:

9 Subd. 4c. [RECIPROCITY.] (a) A person applying for
10 certification as a hearing instrument dispenser under
11 subdivision 1 who has dispensed hearing instruments in another
12 jurisdiction may dispense hearing instruments as a trainee under
13 indirect supervision if the person:

14 (1) satisfies the provisions of subdivision 4a, paragraph
15 (a);

16 (2) submits a signed and dated affidavit stating that the
17 applicant is not the subject of a disciplinary action or past
18 disciplinary action in this or another jurisdiction and is not
19 disqualified on the basis of section 153A.15, subdivision 1; and

20 (3) provides a copy of a current credential as a hearing
21 instrument dispenser, ~~an audiologist, or both,~~ held in the
22 District of Columbia or a state or territory of the United
23 States.

24 (b) A person becoming a trainee under this subdivision who
25 fails to take and pass the practical examination described in
26 subdivision 2h, paragraph (a), clause (2), when next offered
27 must cease dispensing hearing instruments unless under direct
28 supervision.

29 Sec. 13. Minnesota Statutes 2004, section 153A.15,
30 subdivision 1, is amended to read:

31 Subdivision 1. [PROHIBITED ACTS.] The commissioner may
32 take enforcement action as provided under subdivision 2 against
33 a dispenser of hearing instruments for the following acts and
34 conduct:

35 (1) prescribing or otherwise recommending to a consumer or
36 potential consumer the use of a hearing instrument, unless the

1 prescription from a physician or recommendation from a hearing
2 instrument dispenser or audiologist is in writing, is based on
3 an audiogram that is delivered to the consumer or potential
4 consumer when the prescription or recommendation is made, and
5 bears the following information in all capital letters of
6 12-point or larger boldface type: "THIS PRESCRIPTION OR
7 RECOMMENDATION MAY BE FILLED BY, AND HEARING INSTRUMENTS MAY BE
8 PURCHASED FROM, THE CERTIFIED DISPENSER OR LICENSED AUDIOLOGIST
9 OF YOUR CHOICE";

10 (2) failing to give a copy of the audiogram, upon which the
11 prescription or recommendation is based, to the consumer when
12 there has been a charge for the audiogram and the consumer
13 requests a copy;

14 (3) dispensing a hearing instrument to a minor person 18
15 years or younger unless evaluated by an audiologist for hearing
16 evaluation and hearing aid evaluation;

17 (4) failing to provide the consumer rights brochure
18 required by section 153A.14, subdivision 9;

19 (5) being disciplined through a revocation, suspension,
20 restriction, or limitation by another state for conduct subject
21 to action under this chapter;

22 (6) presenting advertising that is false or misleading;

23 (7) providing the commissioner with false or misleading
24 statements of credentials, training, or experience;

25 (8) engaging in conduct likely to deceive, defraud, or harm
26 the public; or demonstrating a willful or careless disregard for
27 the health, welfare, or safety of a consumer;

28 (9) splitting fees or promising to pay a portion of a fee
29 to any other professional other than a fee for services rendered
30 by the other professional to the client;

31 (10) engaging in abusive or fraudulent billing practices,
32 including violations of federal Medicare and Medicaid laws, Food
33 and Drug Administration regulations, or state medical assistance
34 laws;

35 (11) obtaining money, property, or services from a consumer
36 through the use of undue influence, high pressure sales tactics,

1 harassment, duress, deception, or fraud;

2 (12) failing to comply with restrictions on sales of
3 hearing aids in sections 153A.14, subdivision 9, and 153A.19;

4 (13) performing the services of a certified hearing
5 instrument dispenser in an incompetent or negligent manner;

6 (14) failing to comply with the requirements of this
7 chapter as an employer, supervisor, or trainee;

8 (15) failing to provide information in a timely manner in
9 response to a request by the commissioner, commissioner's
10 designee, or the advisory council;

11 (16) being convicted within the past five years of
12 violating any laws of the United States, or any state or
13 territory of the United States, and the violation is a felony,
14 gross misdemeanor, or misdemeanor, an essential element of which
15 relates to hearing instrument dispensing, except as provided in
16 chapter 364;

17 (17) failing to cooperate with the commissioner, the
18 commissioner's designee, or the advisory council in any
19 investigation;

20 (18) failing to perform hearing instrument dispensing with
21 reasonable judgment, skill, or safety due to the use of alcohol
22 or drugs, or other physical or mental impairment;

23 (19) failing to fully disclose actions taken against the
24 applicant or the applicant's legal authorization to dispense
25 hearing instruments in this or another state;

26 (20) violating a state or federal court order or judgment,
27 including a conciliation court judgment, relating to the
28 activities of the applicant in hearing instrument dispensing;

29 (21) having been or being disciplined by the commissioner
30 of the Department of Health, or other authority, in this or
31 another jurisdiction, if any of the grounds for the discipline
32 are the same or substantially equivalent to those in sections
33 153A.13 to 153A.19;

34 (22) misrepresenting the purpose of hearing tests, or in
35 any way communicating that the hearing test or hearing test
36 protocol required by section 153A.14, subdivision 4b, is a

1 medical evaluation, a diagnostic hearing evaluation conducted by
2 an audiologist, or is other than a test to select a hearing
3 instrument, except that the hearing instrument dispenser can
4 determine the need for or recommend the consumer obtain a
5 medical evaluation consistent with requirements of the United
6 States Food and Drug Administration;

7 (23) violating any of the provisions of sections 153A.13 to
8 153A.19; and

9 (24) aiding or abetting another person in violating any of
10 the provisions of sections 153A.13 to 153A.19.

11 Sec. 14. Minnesota Statutes 2004, section 153A.20,
12 subdivision 1, is amended to read:

13 Subdivision 1. [MEMBERSHIP.] The commissioner shall
14 appoint nine persons to a Hearing Instrument Dispenser Advisory
15 Council.

16 (a) The nine persons must include:

17 (1) three public members, as defined in section 214.02. At
18 least one of the public members shall be a hearing instrument
19 user and one of the public members shall be either a hearing
20 instrument user or an advocate of one; and

21 (2) three hearing instrument dispensers certified under
22 sections 153A.14 to 153A.20, each of whom is currently, and has
23 been for the five years immediately preceding their appointment,
24 engaged in hearing instrument dispensing in Minnesota and who
25 represent the occupation of hearing instrument dispensing and
26 who are not audiologists; and

27 (3) three audiologists ~~who are certified hearing instrument~~
28 ~~dispensers or are~~ licensed as audiologists under chapter 148.

29 (b) The factors the commissioner may consider when
30 appointing advisory council members include, but are not limited
31 to, professional affiliation, geographical location, and type of
32 practice.

33 (c) No two members of the advisory council shall be
34 employees of, or have binding contracts requiring sales
35 exclusively for, the same hearing instrument manufacturer or the
36 same employer.

1 Sec. 15. [REVISOR'S INSTRUCTION.]

2 The revisor of statutes shall change references from
3 "sections 148.511 to 148.5196" to "sections 148.511 to 148.5198"
4 wherever they appear in Minnesota Statutes and Minnesota Rules.

5 Sec. 16. [REPEALER.]

6 Minnesota Statutes 2004, section 153A.14, subdivision 2a,
7 is repealed.

8 Sec. 17. [EFFECTIVE DATE.]

9 Sections 1 to 14 and 16 are effective August 1, 2005.

10 ARTICLE 8

11 OFFICE OF MENTAL HEALTH PRACTICES COMMITTEE

12 Section 1. Minnesota Statutes 2004, section 148B.60, is
13 amended to read:

14 148B.60 [DEFINITIONS.]

15 Subdivision 1. [TERMS.] As used in sections 148B.60 to
16 148B.71, the following terms have the meanings given them in
17 this section.

18 Subd. 2. [OFFICE OF MENTAL HEALTH PRACTICE OR OFFICE.]

19 "Office of Mental Health Practice" or "office" means the Office
20 of Mental Health Practice ~~established~~ authorized in section
21 148B.61.

22 Subd. 3. [UNLICENSED MENTAL HEALTH PRACTITIONER OR
23 PRACTITIONER.] "Unlicensed mental health practitioner" or
24 "practitioner" means a person who provides or purports to
25 provide, for remuneration, mental health services as defined in
26 subdivision 4. It does not include persons licensed by the
27 Board of Medical Practice under chapter 147 or registered by the
28 Board of Medical Practice under chapter 147A; the Board of
29 Nursing under sections 148.171 to 148.285; the Board of
30 Psychology under sections 148.88 to 148.98; the Board of Social
31 Work under sections 148B.18 to 148B.289; the Board of Marriage
32 and Family Therapy under sections 148B.29 to 148B.39; the Board
33 of Behavioral Health and Therapy under sections 148B.50 to
34 148B.593 and chapter 148C; or another licensing board if the
35 person is practicing within the scope of the license; members of
36 the clergy who are providing pastoral services in the context of

1 performing and fulfilling the salaried duties and obligations
2 required of a member of the clergy by a religious congregation;
3 American Indian medicine men and women; licensed attorneys;
4 probation officers; licensed school counselors employed by a
5 school district while acting within the scope of employment as
6 school counselors; registered licensed occupational therapists;
7 or licensed occupational therapy assistants. For the purposes
8 of complaint investigation or disciplinary action relating to an
9 individual practitioner, the term includes:

10 (1) persons employed by a program licensed by the
11 commissioner of human services who are acting as mental health
12 practitioners within the scope of their employment;

13 (2) persons employed by a program licensed by the
14 commissioner of human services who are providing chemical
15 dependency counseling services; persons who are providing
16 chemical dependency counseling services in private practice; and

17 (3) clergy who are providing mental health services that
18 are equivalent to those defined in subdivision 4.

19 Subd. 4. [MENTAL HEALTH SERVICES.] "Mental health
20 services" means psychotherapy, behavioral health care, spiritual
21 counseling, hypnosis when not for entertainment, and the
22 professional assessment, treatment, or counseling of another
23 person for a cognitive, behavioral, emotional, social, or mental
24 condition, symptom, or dysfunction, including intrapersonal or
25 interpersonal dysfunctions. The term does not include pastoral
26 services provided by members of the clergy to members of a
27 religious congregation in the context of performing and
28 fulfilling the salaried duties and obligations required of a
29 member of the clergy by that religious congregation.

30 Subd. 5. [MENTAL HEALTH CLIENT OR CLIENT.] "Mental health
31 client" or "client" means a person who receives or pays for the
32 services of a mental health practitioner.

33 Subd. 5a. [MENTAL-HEALTH-RELATED LICENSING
34 BOARDS.] "Mental-health-related licensing boards" means the
35 Boards of Medical Practice, Nursing, Psychology, Social Work,
36 Marriage and Family Therapy, and Behavioral Health and Therapy.

1 Subd. ~~7.~~ ~~[COMMISSIONER.]~~ "Commissioner" means the
2 commissioner of health or the commissioner's designee.

3 Subd. 7a. [COMMITTEE.] "Committee" means the Office of
4 Mental Health Practices Committee, consisting of one person
5 appointed by each of the following licensing boards: the Board
6 of Medical Practice; the Board of Nursing; the Board of
7 Psychology; the Board of Social Work; the Board of Marriage and
8 Family Therapy; and the Board of Behavioral Health and Therapy.

9 Subd. 8. [DISCIPLINARY ACTION.] "Disciplinary action"
10 means an adverse action taken by the commissioner against an
11 unlicensed mental health practitioner relating to the person's
12 right to provide mental health services.

13 Sec. 2. Minnesota Statutes 2004, section 148B.61, is
14 amended to read:

15 148B.61 [OFFICE OF MENTAL HEALTH PRACTICE.]

16 Subdivision 1. [CREATION AUTHORITY.] (a) The Office of
17 Mental Health Practice is ~~created in the Department of Health~~
18 transferred to the mental-health-related licensing boards and
19 authorized to investigate complaints and take and enforce
20 disciplinary actions against all unlicensed mental health
21 practitioners for violations of prohibited conduct, as defined
22 in section 148B.68.

23 (b) The office shall publish a complaint telephone number,
24 provide an informational Web site, and also serve as a referral
25 point and clearinghouse on complaints against mental health
26 ~~services and both licensed and unlicensed mental health~~
27 ~~professionals, through the dissemination of practitioners.~~ The
28 office shall disseminate objective information to consumers and
29 through the development and performance of public education
30 activities, including outreach, regarding the provision of
31 mental health services and both licensed and unlicensed mental
32 health professionals who provide these services.

33 Subd. ~~2.~~ ~~[RULEMAKING.]~~ The commissioner of health shall
34 ~~adopt rules necessary to implement, administer, or enforce~~
35 ~~provisions of sections 148B.60 to 148B.71 pursuant to chapter~~
36 ~~14.~~ The commissioner may not adopt rules that restrict or

1 ~~prohibit persons from providing mental health services on the~~
2 ~~basis of education, training, experience, or supervision.~~

3 Subd. 4. [MANAGEMENT, REPORT, AND SUNSET OF THE
4 OFFICE.] (a) The committee shall:

5 (1) designate one board to provide administrative
6 management of the program;

7 (2) set the program budget; and

8 (3) ensure that the program's direction is in accord with
9 its authority.

10 (b) If the participating boards change which board is
11 designated to provide administrative management of the program,
12 any appropriation remaining for the program shall transfer to
13 the newly designated board on the effective date of the change.
14 The participating boards must inform the appropriate legislative
15 committees and the commissioner of finance of any change in the
16 designated board and the amount of any appropriation transferred
17 under this provision.

18 (c) The designated board shall hire the office employees
19 and pay expenses of the program from funds appropriated for that
20 purpose.

21 (d) After July 1, 2008, the committee shall prepare and
22 submit a report to the legislature by January 15, 2009,
23 evaluating the activity of the office and making recommendations
24 concerning the regulation of unlicensed mental health
25 practitioners. In the absence of legislative action to continue
26 the office, the committee and the office expire on June 30, 2009.

27 Sec. 3. Laws 2003, chapter 118, section 29, as amended by
28 Laws 2004, chapter 279, article 5, section 10, is amended to
29 read:

30 Sec. 29. [REPEALER.]

31 (a) Minnesota Statutes 2002, sections 148B.60; 148B.61;
32 148B.63; 148B.64; 148B.65; 148B.66; 148B.67; 148B.68; 148B.69;
33 148B.70; and 148B.71, are repealed.

34 [EFFECTIVE DATE.] This paragraph is effective July 1,
35 2005 2009.

36 (b) Minnesota Statutes 2002, section 148C.01, subdivision

1 6, is repealed.

2 [EFFECTIVE DATE.] This paragraph is effective July 1, 2005.

3 Sec. 4. [APPROPRIATION.]

4 \$..... is appropriated from the state government special
5 revenue fund to the mental-health-related licensing boards as
6 nonrecovery funds.

7 Sec. 5. [REVISOR INSTRUCTION.]

8 The revisor of statutes shall insert "committee" or
9 "committee's" wherever "commissioner of health" or
10 "commissioner's" appears in Minnesota Statutes, sections 148B.60
11 to 148B.71.

12 Sec. 6. [EFFECTIVE DATE.]

13 This act is effective July 1, 2005.

14 ARTICLE 9

15 MISCELLANEOUS

16 Section 1. Minnesota Statutes 2004, section 148.5194, is
17 amended by adding a subdivision to read:

18 Subd. 7. [PENALTY FEES.] (a) The penalty fee for
19 practicing speech language pathology or audiology without a
20 current license after the credential has expired and before it
21 is renewed is the amount of the license renewal fee for any part
22 of the first month, plus the license renewal fee for any part of
23 any subsequent month up to 36 months.

24 (b) The penalty fee for applicants who engage in the
25 unauthorized practice of speech language pathology or audiology
26 before being issued a license is the amount of the license
27 application fee for any part of the first month, plus the
28 license application fee for any part of any subsequent month up
29 to 36 months. This paragraph does not apply to applicants not
30 qualifying for a license who engage in the unauthorized practice
31 of speech language pathology or audiology.

32 (c) The penalty fee for failing to submit a continuing
33 education report by the due date with the correct number or type
34 of hours in the correct time period is \$100 plus \$20 for each
35 missing clock hour. The licensee must obtain the missing number
36 of continuing education hours by the next reporting due date.

1 (d) Civil penalties and discipline incurred by licensees
2 prior to August 1, 2005, for conduct described in paragraph (a),
3 (b), or (c) shall be recorded as nondisciplinary penalty fees.
4 For conduct described in paragraph (a) or (b) occurring after
5 August 1, 2005, and exceeding six months, payment of a penalty
6 fee does not preclude any disciplinary action reasonably
7 justified by the individual case.

8 Sec. 2. Minnesota Statutes 2004, section 148.6445, is
9 amended by adding a subdivision to read:

10 Subd. 11. [PENALTY FEES.] (a) The penalty fee for
11 practicing occupational therapy without a current license after
12 the credential has expired and before it is renewed is the
13 amount of the license renewal fee for any part of the first
14 month, plus the license renewal fee for any part of any
15 subsequent month up to 36 months.

16 (b) The penalty fee for applicants who engage in the
17 unauthorized practice of occupational therapy before being
18 issued a license is the amount of the license application fee
19 for any part of the first month, plus the license application
20 fee for any part of any subsequent month up to 36 months. This
21 paragraph does not apply to applicants not qualifying for a
22 license who engage in the unauthorized practice of occupational
23 therapy.

24 (c) The penalty fee for failing to submit a continuing
25 education report by the due date with the correct number or type
26 of hours in the correct time period is \$100 plus \$20 for each
27 missing clock hour. The licensee must obtain the missing number
28 of continuing education hours by the next reporting due date.

29 (d) Civil penalties and discipline incurred by licensees
30 prior to August 1, 2005, for conduct described in paragraph (a),
31 (b), or (c) shall be recorded as nondisciplinary penalty fees.
32 For conduct described in paragraph (a) or (b) occurring after
33 August 1, 2005, and exceeding six months, payment of a penalty
34 fee does not preclude any disciplinary action reasonably
35 justified by the individual case.

36 Sec. 3. Minnesota Statutes 2004, section 148C.12, is

1 amended by adding a subdivision to read:

2 Subd. 11. [PENALTY FEES.] (a) The penalty fee for
3 practicing alcohol and drug counseling without a current license
4 after the credential has expired and before it is renewed is the
5 amount of the license renewal fee for any part of the first
6 month, plus the license renewal fee for any part of any
7 subsequent month up to 36 months.

8 (b) The penalty fee for applicants who engage in the
9 unauthorized practice of alcohol and drug counseling before
10 being issued a license is the amount of the license application
11 fee for any part of the first month, plus the license
12 application fee for any part of any subsequent month up to 36
13 months. This paragraph does not apply to applicants not
14 qualifying for a license who engage in the unauthorized practice
15 of alcohol and drug counseling.

16 (c) The penalty fee for failing to submit a continuing
17 education report by the due date with the correct number or type
18 of hours in the correct time period is \$100 plus \$20 for each
19 missing clock hour. The licensee must obtain the correct number
20 of continuing education hours by the next reporting due date.

21 (d) Civil penalties and discipline incurred by licensees
22 prior to August 1, 2005, for conduct described in paragraph (a),
23 (b), or (c) shall be recorded as nondisciplinary penalty fees.
24 For conduct described in paragraph (a) or (b) occurring after
25 August 1, 2005, and exceeding 12 months, payment of a penalty
26 fee does not preclude any disciplinary action reasonably
27 justified by the individual case.

28 Sec. 4. [153A.175] [PENALTY FEES.]

29 (a) The penalty fee for holding oneself out as a hearing
30 instrument dispenser without a current certificate after the
31 credential has expired and before it is renewed is one-half the
32 amount of the certificate renewal fee for any part of the first
33 day, plus one-half the certificate renewal fee for any part of
34 any subsequent days up to 30 days.

35 (b) The penalty fee for applicants who hold themselves out
36 as hearing instrument dispensers after expiration of the trainee

1 period and before being issued a certificate is one-half the
2 amount of the certificate application fee for any part of the
3 first day, plus one-half the certificate application fee for any
4 part of any subsequent days up to 30 days. This paragraph does
5 not apply to applicants not qualifying for a certificate who
6 hold themselves out as hearing instrument dispensers.

7 (c) The penalty fee for failing to submit a continuing
8 education report by the due date with the correct number or type
9 of hours in the correct time period is \$200 plus \$200 for each
10 missing clock hour. The certificate holder must obtain the
11 missing number of continuing education hours by the next
12 reporting due date.

13 (d) Civil penalties and discipline incurred by certificate
14 holders prior to August 1, 2005, for conduct described in
15 paragraph (a), (b), or (c) shall be recorded as nondisciplinary
16 penalty fees. Payment of a penalty fee does not preclude any
17 disciplinary action reasonably justified by the individual case.

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148B.18 DEFINITIONS.

Subdivision 1. **Applicability.** For the purposes of sections 148B.18 to 148B.289, the following terms have the meanings given them.

Subd. 2. **Accredited program of social work.**

"Accredited program of social work" means a school of social work or other educational program that has been accredited by the Council on Social Work Education.

Subd. 2a. **Applicant.** "Applicant" means a person who has submitted an application, with the appropriate fee, for licensure, temporary licensure, or reinstatement of an expired license.

Subd. 3. **Board.** "Board" means the Board of Social Work created in section 148B.19.

Subd. 3a. **Client.** "Client" means an individual, couple, family, group, organization, or community that receives, received, or should have received services from an applicant or a licensee.

Subd. 4. **County agency social worker.** "County agency social worker" means an individual who is employed by a county social service agency in Minnesota in social work practice.

Subd. 4a. **Licensee.** "Licensee" means a person licensed by the board.

Subd. 5. **State agency social worker.** "State agency social worker" means an individual who is employed by a state social service agency in Minnesota in social work practice.

Subd. 8. **Private practice.** "Private practice" means social work practice conducted by a licensee practicing within the permissible scope of a license, as defined in subdivision 11, and under appropriate supervision, as defined in subdivisions 11 and 12, who is either self-employed, or a member of a partnership or of a group practice, rather than being employed by an agency, clinic, or other similar entity.

Subd. 9. **Psychotherapy.** "Psychotherapy" in clinical social work practice means the application of social work theory, methodology, and values in the treatment of a person or persons who have cognitive, emotional, behavioral, or social dysfunctions through psychosocial, psychological, or interpersonal methods. The treatment is a planned and structured program which is based on information from a differential diagnostic assessment, and is directed toward the accomplishment of goals provided in a plan of care. The person-in-situation/environment configuration is considered and integrated into the diagnosis and treatment. Psychotherapy may be conducted by licensed independent clinical social workers and by licensed graduate or licensed independent social workers who practice under the supervision of either a licensed independent clinical social worker or, if approved by the board, by another qualified mental health professional.

Subd. 10. **Qualified mental health professional.**

"Qualified mental health professional" means a psychiatrist, board-certified or eligible for board certification, and licensed under chapter 147; a psychologist licensed under sections 148.88 to 148.98; an independent clinical social worker who has the qualifications in section 148B.21, subdivision 6; a psychiatric registered nurse with a master's degree from an accredited school of nursing, licensed under section 148.211, with at least two years of post-master's supervised experience in direct clinical practice; a marriage and family therapist who

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is licensed under sections 148B.29 to 148B.39; or an equivalent mental health professional, as determined by the board, who is licensed or certified by a board or agency in another state or territory.

Subd. 11. **Social work practice.** (a) "Social work practice" is the application of social work theory, knowledge, methods, and ethics to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities, with particular attention to the person-in-environment configuration.

(b) For all levels of licensure, social work practice includes assessment, treatment planning and evaluation, case management, information and referral, counseling, advocacy, teaching, research, supervision, consultation, community organization, and the development, implementation, and administration of policies, programs, and activities.

(c) For persons licensed at the licensed independent clinical social worker level, and for persons licensed at either the licensed graduate social worker or the licensed independent social worker level who practice social work under the supervision of a licensed independent clinical social worker, social work practice includes the diagnosis and treatment of mental and emotional disorders in individuals, families, and groups. The treatment of mental and emotional disorders includes the provision of individual, marital, and group psychotherapy.

Subd. 12. **Supervision.** "Supervision" means the direction of social work practice in face-to-face sessions. Further standards for supervision shall be determined by the Board of Social Work. Supervision shall be provided:

(1) by a social worker licensed at least at the level of the worker being supervised and qualified under section 148B.21 to practice without supervision, except that a licensed graduate social worker may supervise a licensed social worker; or

(2) by another qualified professional or qualified mental health professional when the Board of Social Work determines that supervision by a social worker as required in clause (1) is unobtainable, or in other situations considered appropriate by the Board of Social Work.

Subd. 13. **Temporary licensee.** "Temporary licensee" means a person licensed by the board under section 148B.21, subdivision 7.

148B.185 APPLICABILITY.

Sections 148B.18 to 148B.289 apply to all applicants and licensees, to all persons practicing social work with clients in this state, and to persons engaged in the unauthorized practice of social work.

148B.19 BOARD OF SOCIAL WORK.

Subdivision 1. **Creation.** The Board of Social Work is created. The board consists of 15 members appointed by the governor. The members are:

(1) ten social workers licensed under sections 148B.18 to 148B.289; and

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

Subd. 2. **Qualifications of board members.** Five of the social worker members of the board shall be licensed at the baccalaureate level of licensure and five shall be licensed at the master's level of licensure.

Eight of the social worker members shall be engaged in the

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practice of social work in Minnesota in the following settings:

- (1) one member shall be engaged in the practice of social work in a state agency;
- (2) one member shall be engaged in the practice of social work in a county agency;
- (3) two members shall be engaged in the practice of social work in a private agency;
- (4) one member shall be engaged in the practice of social work in a private clinical social work setting;
- (5) one member shall be an educator engaged in regular teaching duties at an accredited program of social work;
- (6) one member shall be engaged in the practice of social work in an elementary, middle, or secondary school; and
- (7) one member shall be employed in a hospital or nursing home licensed under chapter 144 or 144A.

In addition, at least five members shall be persons with expertise in communities of color and at least six members shall reside outside of the seven-county metropolitan area.

Subd. 4. **Officers and executive director.** The board shall annually elect from its membership a chair, vice-chair, and secretary-treasurer, and shall adopt rules to govern its proceedings. 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.

Subd. 5. **Terms and salaries.** Chapter 214 applies to the Board of Social Work unless superseded by sections 148B.18 to 148B.289.

148B.20 DUTIES OF BOARD.

Subdivision 1. **General.** The Board of Social Work shall:

(a) Adopt and enforce rules for licensure of social workers and for regulation of their professional conduct. The rules must be designed to protect the public.

(b) Adopt rules establishing standards and methods of determining whether applicants and licensees are qualified under sections 148B.21 to 148B.24. The rules must make provision for examinations and must establish standards for professional conduct, including adoption of a code of professional ethics and requirements for continuing education.

(c) Hold examinations at least twice a year to assess applicants' knowledge and skills. The examinations may be written or oral and may be administered by the board or by a body designated by the board. Examinations must test the knowledge and skills of each of the four groups of social workers qualified under section 148B.21 to practice social work. Examinations must minimize cultural bias and must be balanced in theory.

(d) Issue licenses to individuals qualified under sections 148B.18 to 148B.24.

(e) Issue copies of the rules for licensure to all applicants.

(f) Establish and implement procedures, including a standard disciplinary process, to ensure that individuals licensed as social workers will comply with the board's rules.

(g) Establish, maintain, and publish annually a register of current licensees.

(h) Educate the public about the existence and content of the rules for social work licensing to enable consumers to file

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complaints against licensees who may have violated the rules.

(i) Evaluate its rules in order to refine the standards for licensing social workers and to improve the methods used to enforce the board's standards.

Subd. 3. **Duties of board.** The board shall establish fees, including late fees, for licenses and renewals so that the total fees collected by the board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.1285. Fees must be credited to accounts in the special revenue fund.

148B.21 REQUIREMENTS FOR LICENSURE.

Subdivision 1. **Categories of licensees.** The board shall issue licenses for the following four groups of individuals qualified under this section to practice social work:

- (1) social workers;
- (2) graduate social workers;
- (3) independent social workers; and
- (4) independent clinical social workers.

Subd. 2. **Fee.** Each applicant shall pay a nonrefundable fee set by the board. Fees paid to the board shall be deposited in the state government special revenue fund.

Subd. 3. **Social worker.** (a) Except as provided in paragraph (b), to be licensed as a social worker, an applicant must provide evidence satisfactory to the board that the applicant:

- (1) has received a baccalaureate degree from an accredited program of social work;
- (2) has passed the examination provided for in section 148B.20, subdivision 1;
- (3) will engage in social work practice only under supervision as defined in section 148B.18, subdivision 12, for at least two years in full-time employment or 4,000 hours of part-time employment;

(4) will conduct all professional activities as a social worker in accordance with standards for professional conduct established by the statutes and rules of the board; and

(5) has not engaged in conduct warranting a disciplinary action against a licensee. If the applicant has engaged in conduct warranting disciplinary action against a licensee, the board may issue a license only on the applicant's showing that the public will be protected through the issuance of a license with conditions or limitations approved by the board.

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

(1) provides evidence satisfactory to the board of compliance with the requirements in paragraph (a), clauses (1), (3), (4), and (5); and

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

This paragraph expires August 1, 2005.

Subd. 4. **Graduate social worker.** (a) Except as provided in paragraph (b), to be licensed as a graduate social worker, an applicant must provide evidence satisfactory to the board that the applicant:

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(1) has received a master's degree from an accredited program of social work or doctoral degree in social work;

(2) has passed the examination provided for in section 148B.20, subdivision 1;

(3) will engage in social work practice only under supervision as defined in section 148B.18, subdivision 12;

(4) will conduct all professional activities as a graduate social worker in accordance with standards for professional conduct established by the statutes and rules of the board; and

(5) has not engaged in conduct warranting a disciplinary action against a licensee. If the applicant has engaged in conduct warranting disciplinary action against a licensee, the board may issue a license only on the applicant's showing that the public will be protected through the issuance of a license with conditions or limitations approved by the board.

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

(1) provides evidence satisfactory to the board of compliance with the requirements in paragraph (a), clauses (1), (3), (4), and (5); and

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

This paragraph expires August 1, 2005.

Subd. 5. Independent social worker. (a) Except as provided in paragraph (b), to be licensed as an independent social worker, an applicant must provide evidence satisfactory to the board that the applicant:

(1) has received a master's degree from an accredited program of social work or doctoral degree in social work;

(2) has passed the examination provided for in section 148B.20, subdivision 1;

(3) has practiced social work for at least two years in full-time employment or 4,000 hours of part-time employment under supervision as defined in section 148B.18, subdivision 12, after receiving the master's or doctoral degree in social work;

(4) will conduct all professional activities as an independent social worker in accordance with standards for professional conduct established by the statutes and rules of the board; and

(5) has not engaged in conduct warranting a disciplinary action against a licensee. If the applicant has engaged in conduct warranting disciplinary action against a licensee, the board may issue a license only on the applicant's showing that the public will be protected through the issuance of a license with conditions or limitations approved by the board.

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

(1) provides evidence satisfactory to the board of compliance with the requirements in paragraph (a), clauses (1), (3), (4), and (5); and

(2) provides to the board letters of recommendation and

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experience ratings from two licensed social workers and one professor from the applicant's social work program who can attest to the applicant's competence.

This paragraph expires August 1, 2005.

Subd. 6. **Independent clinical social worker.** (a) Except as provided in paragraph (b), to be licensed as an independent clinical social worker, an applicant must provide evidence satisfactory to the board that the applicant:

(1) has received a master's degree from an accredited program of social work, or doctoral degree in social work, that included an advanced concentration of clinically oriented course work as defined by the board and a supervised clinical field placement at the graduate level, or post-master's clinical training that is found by the board to be equivalent to that course work and field placement;

(2) has practiced clinical social work for at least two years in full-time employment or 4,000 hours of part-time employment under supervision as defined in section 148B.18, subdivision 12, after receiving the master's or doctoral degree in social work;

(3) has passed the examination provided for in section 148B.20, subdivision 1;

(4) will conduct all professional activities as an independent clinical social worker in accordance with standards for professional conduct established by the statutes and rules of the board; and

(5) has not engaged in conduct warranting a disciplinary action against a licensee. If the applicant has engaged in conduct warranting disciplinary action against a licensee, the board may issue a license only on the applicant's showing that the public will be protected through the issuance of a license with conditions or limitations approved by the board.

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

(1) provides evidence satisfactory to the board of compliance with the requirements in paragraph (a), clauses (1), (2), (4), and (5); and

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

This paragraph expires August 1, 2005.

Subd. 6a. **Background checks.** The board shall request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on all applicants for initial licensure. An application for a license under this section must be accompanied by an executed criminal history consent form and the fee for conducting the criminal history background check. The board shall deposit all fees paid by applicants for criminal history background checks under this subdivision into the miscellaneous special revenue fund. The fees collected under this subdivision are appropriated to the board for the purpose of reimbursing the Bureau of Criminal Apprehension for the cost of the background checks upon their completion.

Subd. 7. **Temporary license.** (a) The board may issue

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a temporary license to practice social work to an applicant who is either:

(1) not licensed in any jurisdiction but has:

(i) applied for a license under section 148B.24;

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

(iii) submitted a form provided by the board authorizing the board to complete a criminal background check with the Minnesota Bureau of Criminal Apprehension;

(iv) passed the applicable licensure examination provided for in section 148B.20, subdivision 1, paragraph (c); and

(v) attested on a form provided by the board that the applicant has completed the requirements for a baccalaureate or master's degree from a social work program accredited by the Council on Social Work Education or the requirements for a doctoral degree in social work; or

(2) licensed in another jurisdiction, may or may not have applied for a license under section 148B.20, and has:

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

(ii) submitted a form provided by the board authorizing the board to complete a criminal background check with the Minnesota Bureau of Criminal Apprehension;

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

(iv) attested on a form provided by the board that the applicant has completed the requirements for a baccalaureate or master's degree from a social work program accredited by the Council on Social Work Education or the requirements for a doctoral degree in social work.

(b) An applicant for a temporary license must not practice social work in Minnesota until the applicant has been granted a temporary license. An applicant who is practicing social work at the time of application is ineligible for a temporary license.

(c) An applicant for a temporary license must pay the nonrefundable application fee described in section 148B.226 plus the required fee for the cost of the criminal background check. Only one fee for the cost of the criminal background check must be submitted when the applicant is applying for both a temporary license and a license under section 148B.20.

(d) An applicant who is not licensed in another jurisdiction and who obtains a temporary license may practice social work only under the supervision of a licensed social worker who is eligible to provide supervision under section 148B.18, subdivision 12. The applicant's supervisor must provide evidence to the board, before the applicant is approved by the board for licensure, that the applicant has practiced social work under supervision. This supervision applies toward the supervision requirement required after licensure.

(e) A temporary licensee who has provided evidence to the board that the licensee has completed the requirements for a baccalaureate degree in social work from a social work program accredited by the Council on Social Work Education may temporarily engage in the social work practice described in section 148B.18, subdivision 11, paragraph (b), but may not engage in the social work practice described in section 148B.18, subdivision 11, paragraph (c).

(f) A temporary licensee who has provided evidence to the

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board that the licensee has completed the requirements for a master's degree in social work from a social work program accredited by the Council on Social Work Education, or the requirements for a doctoral degree in social work, may temporarily engage in the social work practice described in section 148B.18, subdivision 11, paragraphs (b) and (c).

(g) A temporary licensee shall conduct all professional activities as a social worker in accordance with the requirements established by the statutes and rules of the board.

(h) A temporary licensee must use the title "Social Worker - Temporary Licensee" in all professional use of the temporary licensee's name.

(i) The board may immediately revoke the temporary license of any temporary licensee who violates any requirements of this subdivision. A temporary licensee whose temporary license is revoked shall immediately return the temporary license to the board.

(j) A temporary license is valid for six months, or until the board issues or denies a license, or until the board revokes the temporary license, whichever comes first, and is nonrenewable. An individual holding a temporary license may not practice social work for more than six months without a license under section 148B.24.

Subd. 8. **Change of licensure level.** An applicant who applies under this section for licensure as a licensed independent social worker or a licensed independent clinical social worker, and who is licensed at the time of application as a licensed graduate social worker, or a licensed independent social worker, is not required to meet the educational requirement of this section. The applicant must meet all other requirements for licensure at the new level of licensure.

Subd. 9. **Supervision requirement.** If supervised social work practice is required for licensure under this section, and if the applicant has not engaged in the practice of social work during the five years preceding the applicant's application for licensure, then the board may grant a conditional license to the applicant that would require that the applicant obtain additional social work supervision or additional continuing education hours, or both, within a specified time period after licensure. The board shall establish rules to implement this section.

148B.215 CONTESTED CASE HEARING.

An applicant or a licensee who is the subject of an adverse action by the board may request a contested case hearing under chapter 14. An applicant or a licensee who desires to request a contested case hearing must submit a written request to the board within 90 days of the date on which the board mailed the notification of the adverse action.

148B.22 LICENSE RENEWAL REQUIREMENTS.

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

Subd. 1a. **Reinstatement of expired licenses.** (a) The board must reinstate an expired license under either of the following conditions:

- (1) hardship cases in which the applicant has:
 - (i) demonstrated to the board's satisfaction that the applicant was unable to comply with the board's license renewal requirements due to a mental or physical condition;

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(ii) submitted an application for reinstatement on a form provided by the board;

(iii) paid the applicable hardship reinstatement fee described in section 148B.226, subdivision 2, paragraph (j);

(iv) demonstrated to the board's satisfaction that the applicant was in compliance with the board's continuing education requirements at the time the license expired; and

(v) if applicable, demonstrated to the board's satisfaction that the licensee is in compliance with the supervised practice requirements established by the board in rule and statute; or

(2) nonhardship cases in which the applicant has:

(i) submitted an application for reinstatement on a form provided by the board within one year of the date the license expired;

(ii) paid the applicable nonhardship reinstatement fee described in section 148B.226, subdivision 2, paragraph (k);

(iii) demonstrated to the board's satisfaction that the applicant was in compliance with the board's continuing education requirements at the time the license expired; and

(iv) if applicable, demonstrated to the board's satisfaction that the licensee is in compliance with the supervised practice requirements established by the board in rule and statute.

(b) When an applicant's expired license has been reinstated under paragraph (a), clause (1) or (2), the reinstated license is effective the day following the day the license expired.

(c) A licensee whose license expired on or after August 1, 2001, may apply for reinstatement of an expired license pursuant to paragraph (a), clause (2). The application must be submitted no later than July 31, 2004.

Subd. 2. **Continuing education.** At the time of renewal, each licensee shall provide evidence satisfactory to the board that the licensee has completed during each two-year period at least the equivalent of 30 clock hours of continuing professional postdegree education in programs approved by the board and continues to be qualified to practice under sections 148B.18 to 148B.289.

Subd. 3. **Background checks.** The board shall request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on all licensees under its jurisdiction who did not complete a criminal history background check as part of an application for initial licensure. This background check is a onetime requirement. An application for a license under this section must be accompanied by an executed criminal history consent form and the fee for conducting the criminal history background check. The board shall deposit all fees paid by licensees for criminal history background checks under this subdivision into the miscellaneous special revenue fund. The fees collected under this subdivision are appropriated to the board for the purpose of reimbursing the Bureau of Criminal Apprehension for the cost of the background checks upon their completion.

148B.224 ALTERNATIVE LICENSE STATUS.

Subdivision 1. **Defined; qualifications.** A license may be placed on inactive status if a licensee is not practicing social work in Minnesota and the licensee does not wish to meet license renewal requirements every two years. A licensee qualifies for inactive status if the licensee demonstrates to the board that the licensee is not practicing social work, as

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defined by section 148B.18, in any setting in Minnesota.

Subd. 2. **Application.** (a) A licensee may apply for inactive status: (1) at any time by submitting a written application for inactive status; or (2) as an alternative to applying for the renewal of a license by so recording on the application for license renewal form and submitting the completed, signed form. The application for inactive status must be accompanied by the nonrefundable inactive status fee specified in section 148B.226, payable to the Board of Social Work. An application that is not completed or signed, or which is not accompanied by the correct inactive status fee, shall be returned to the licensee and is void. If the application for inactive status is received after the expiration date, the licensee shall pay a late fee as specified in section 148B.226, payable to the Board of Social Work, in addition to the inactive status fee, before the application for inactive status will be considered by the board.

(b) The licensee shall attest on a form provided by the board that the applicant will not use the title social worker and will not engage in social work practice in any setting in Minnesota after the date of the board's approval of the application for inactive status.

Subd. 3. **Approval.** The board shall approve an application for inactive status if the qualifications and application requirements have been met.

Subd. 4. **Practice prohibited.** Licensees on inactive status shall not practice, attempt to practice, offer to practice, or advertise or hold themselves out as authorized to practice social work in any setting in Minnesota and shall use only the title "Social Worker - Inactive Status."

Subd. 5. **Time limit on inactive status.** A licensee may maintain a license on inactive status for up to ten consecutive years. Within 30 days after the end of this ten-year period, the licensee must apply for reactivation of the license pursuant to subdivision 7 or the license expires. The board shall mail an application for reactivation to a licensee at least 45 days before the expiration date of the license. Placing the application for license reactivation in first class United States mail, addressed to the licensee at the licensee's last known mailing address with postage prepaid, constitutes valid mailing. Failure to receive the reactivation application does not release a license holder from the requirements of this section.

Subd. 6. **Continuing education requirement.** A licensee whose license is on inactive status must continue to obtain the continuing education hours required by rule that would be required if the licensee's license were on active status.

Subd. 7. **Reactivating a license.** (a) To reactivate a license, a licensee must complete an application for reactivation of a license, in a form specified by the board; document compliance with the continuing education hours required by subdivision 6 and any continuing education hours not reported by the last expiration date of the license; submit a supervision plan under rules of the board, if required; pay a prorated license renewal fee for the balance of the biennial renewal cycle; and pay the duplicate license certificate fee specified in section 148B.226, if the licensee needs a license in order to meet the requirements of Minnesota Rules, part 8740.0340,

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subpart 4.

(b) If a licensee who reactivates a license has been on inactive status for five or more consecutive years and has not practiced social work during this period, the licensee must receive at least 38 hours of supervision for the first year of full-time practice or 2,000 hours of part-time practice, in accordance with the supervised practice requirements in rules of the board, for application to the licensee's current level. A licensee must submit a supervision plan before beginning practice, in accordance with rules of the board. A licensee must have the supervisor submit verification of the supervised practice in a form specified by the board within 30 days of completing this supervised practice requirement. This supervision requirement must be waived if the licensee can document at least two years of social work practice, outside of Minnesota, within the previous five-year period.

(c) For licensed social workers, the completed hours of supervised practice required under this subdivision apply toward any remaining hours required by Minnesota Rules, part 8740.0130, subpart 3.

(d) Licensed graduate social workers and licensed independent social workers shall complete this supervised practice requirement before applying for another social work license. Supervised practice hours obtained to meet this requirement may be applied toward the supervised practice requirement for another social work license.

Subd. 8. **License or renewal fee.** A licensee who is approved for inactive status before the end of the renewal cycle may not receive a refund for any portion of the license fee or renewal fee.

Subd. 9. **Disciplinary or corrective action.** The board shall retain jurisdiction over a license on inactive status and may take disciplinary or corrective action against the license based on conduct occurring before inactive status was granted or during the inactive status period.

148B.225 EMERITUS STATUS.

Subdivision 1. **Defined; qualifications.** A licensee may apply for an emeritus license if the licensee is retired from social work practice and does not intend to practice social work in any setting in Minnesota. A licensee shall qualify for an emeritus license if the licensee demonstrates to the board that the licensee is not practicing social work, as defined in section 148B.18, and verifies that the licensee is retired from social work practice.

Subd. 2. **Application.** (a) A licensee may apply for an emeritus license: (1) at any time by submitting a written application for an emeritus license; or (2) as an alternative to applying for the renewal of a license by so recording on the application for license renewal form and submitting a completed, signed form. The application for an emeritus license must be accompanied by the onetime, nonrefundable emeritus license fee specified in section 148B.226, payable to the Board of Social Work. An application which is not completed or signed, or which is not accompanied by the correct emeritus license fee, must be returned to the licensee and is void.

(b) An applicant for an emeritus license shall attest on a form provided by the board that the licensee will not use the title "social worker" and will not engage in social work practice in any setting in Minnesota after the date of the

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board's approval of the application for an emeritus license.

Subd. 3. **Approval.** The board shall approve an application for an emeritus license if the qualifications and application requirements have been met. Upon approval of an application for an emeritus license, the board shall issue an emeritus license certificate.

Subd. 4. **Practice prohibited.** A licensee with an emeritus license shall not practice, attempt to practice, offer to practice, or advertise or hold out as authorized to practice social work in any setting in Minnesota, and shall use only the title "social worker emeritus."

Subd. 5. **Reactivating a license.** A licensee with an emeritus license may reactivate a license by meeting the requirements of section 148B.224, subdivision 7.

Subd. 6. **License or renewal fee.** A licensee who applies for and is approved for an emeritus license before the end of the renewal cycle may not receive a refund for any portion of the license fee or renewal fee.

Subd. 7. **Disciplinary action.** (a) The board may resolve any pending complaints against a licensee before approving an application for an emeritus license.

(b) The board shall retain jurisdiction and may take disciplinary action against a licensee holding an emeritus license based on conduct occurring before issuance of the emeritus license.

148B.226 FEES.

Subdivision 1. **How payable.** The fees in subdivision 2 must be paid by personal check, bank draft, cashier's check, or money order payable to the Board of Social Work. All fees are nonrefundable.

Subd. 2. **Fee amounts.** (a) Application fees for licensure are as follows:

(1) for a licensed social worker or a licensed graduate social worker, \$45;

(2) for a licensed independent social worker or a licensed independent clinical social worker, \$90;

(3) for a reciprocity application for licensure at all levels, \$150; and

(4) for a temporary license application, \$50.

(b) A criminal background check fee must be paid in the amount determined by the Bureau of Criminal Apprehension.

(c) License fees payable in addition to application fees for licensure are as follows:

(1) licensed social worker, \$115.20;

(2) licensed graduate social worker, \$201.60;

(3) licensed independent social worker, \$302.40; and

(4) licensed independent clinical social worker, \$331.20.

(d) License renewal fees are as follows:

(1) licensed social worker, \$115.20;

(2) licensed graduate social worker, \$201.60;

(3) licensed independent social worker, \$302.40; and

(4) licensed independent clinical social worker, \$331.20.

(e) An emeritus license fee is \$43.20.

(f) A duplicate license wall certificate is \$30.

(g) Inactive status fees are as follows:

(1) licensed social worker, \$115.20;

(2) licensed graduate social worker, \$201.60;

(3) licensed independent social worker, \$302.40; and

(4) licensed independent clinical social worker, \$331.20.

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- (h) A duplicate license card is \$10.
- (i) A late fee is one-half of the applicable license renewal fee or inactive status fee.
- (j) Hardship reinstatement fees are as follows:
 - (1) licensed social worker, \$172.80;
 - (2) licensed graduate social worker, \$302.40;
 - (3) licensed independent social worker, \$453.60; and
 - (4) licensed independent clinical social worker, \$496.80.
- (k) Nonhardship reinstatement fees are as follows:
 - (1) licensed social worker, \$230.40;
 - (2) licensed graduate social worker, \$403.20;
 - (3) licensed independent social worker, \$604.80; and
 - (4) licensed independent clinical social worker, \$662.40.

148B.24 RECIPROCITY.

The board shall issue an appropriate license to an individual who holds a current license or other credential from another jurisdiction if the board finds that the requirements for that credential are substantially similar to the requirements in section 148B.21.

148B.25 NONTRANSFERABILITY OF LICENSES.

A social work license is not transferable.

148B.26 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

Subdivision 1. **Grounds.** The following conduct is grounds for the board to deny the application for or the renewal of a temporary license, to take disciplinary or other action against a license as provided for in section 148B.281, or to take corrective action against a licensee as provided for in chapter 214:

- (1) engaging in any conduct which violates any statute or rule enforced by the board, or any other law that is related to the practice of social work;
- (2) violating any order issued by the board;
- (3) practicing outside the scope of practice authorized by this chapter for each level of licensure;
- (4) failing to demonstrate the qualifications or satisfy the requirements for licensure, with the burden of proof on the applicant to demonstrate the qualifications or the satisfaction of the requirements;
- (5) obtaining a temporary license or license renewal by fraud, bribery, or cheating, or attempting to subvert the examination process;
- (6) making a false statement or misrepresentation to the board;
- (7) having been the subject of revocation, suspension, or surrender of a social work or related license or of other adverse action related to a social work or related license in another jurisdiction or country;
- (8) failing to report the revocation, suspension, or surrender of a social work or related license or other adverse action related to a social work or related license in another jurisdiction or country, failing to report that a complaint or other charges regarding the person's license have been brought in this or another jurisdiction or country, or having been refused a license by any other jurisdiction or country;
- (9) engaging 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;

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(10) engaging in unethical conduct or conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a client, or engaging in a practice which is professionally incompetent with proof of actual injury not having to be established;

(11) being adjudicated by a court of competent jurisdiction, within or without this state, as incapacitated, mentally incompetent or mentally ill, chemically dependent, mentally ill and dangerous to the public, or a psychopathic personality;

(12) being unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals or any other materials, or as a result of any mental or physical condition;

(13) engaging in improper or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(14) obtaining money, property, or services from a client through the use of undue influence, harassment, duress, deception, or fraud or through the improper use of a professional position;

(15) engaging in sexual contact, as defined in section 148A.01, with a client or conduct that is or may reasonably be interpreted by the client as sexual, engaging in verbal behavior that is or may reasonably be interpreted as sexually seductive or sexually demeaning to a client, or engaging in conduct that violates section 617.23;

(16) being convicted, including a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered, an admission of guilt, or a no contest plea, of a crime against a minor;

(17) being convicted, including a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered, an admission of guilt, or a no contest plea of a felony, gross misdemeanor, or misdemeanor reasonably related to the practice of social work, as evidenced by a certified copy of the conviction;

(18) engaging in an unfair discriminatory practice prohibited by chapter 363A of an employee of the applicant, licensee, or facility in which the applicant or licensee practices;

(19) engaging in false, fraudulent, deceptive, or misleading advertising; or

(20) revealing a privileged communication from or relating to a client except when otherwise required or permitted by law.

Subd. 2. Restoring a license. For reasons it finds sufficient, the board may grant a license previously refused, restore a license that has been revoked, or reduce a period of suspension or restriction of a license.

Subd. 3. Review. Suspension, revocation, or restriction of a license shall be reviewed by the board at the request of the licensee against whom the disciplinary action was taken.

Subd. 4. Conduct before licensure. The board's jurisdiction to exercise its powers as provided for in subdivision 1 extends to an applicant's or licensee's conduct that occurred prior to licensure, if the conduct fell below minimum standards for the practice of social work at the time

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the conduct occurred or the conduct continues to affect the applicant's or licensee's present ability to practice social work in conformity with this chapter and the board's rules.
148B.27 PROHIBITION AGAINST UNLICENSED PRACTICE OR USE OF TITLES; PENALTY.

Subdivision 1. **Practice.** No individual shall engage in social work practice unless that individual holds a valid temporary license or a license as a licensed social worker, licensed graduate social worker, licensed independent social worker, or licensed independent clinical social worker.

Subd. 2. **Use of titles.** No individual shall be presented to the public by any title incorporating the words "social work" or "social worker" unless that individual holds a valid temporary license or a license issued under sections 148B.18 to 148B.289. City, county, and state agency social workers who are not licensed under sections 148B.18 to 148B.289 may use only the title city agency social worker or county agency social worker or state agency social worker.

Subd. 2a. **Jurisdiction.** Nothing in sections 148B.60 to 148B.71 shall prohibit the board from taking disciplinary or other action that the board is authorized to take against either a licensee who is found to be practicing outside the scope of the license or a person who is found to be engaging in the unauthorized practice of social work.

Subd. 2b. **Use of hospital social worker title.** Individuals employed as social workers on June 30, 1996, by a hospital licensed under chapter 144 who do not qualify for licensure under section 148B.21, may use the title "hospital social worker" for as long as they continue to be employed by a hospital licensed under chapter 144.

Subd. 3. **Penalty.** A person who violates sections 148B.21 to 148B.289 is guilty of a misdemeanor.

148B.28 EXCEPTIONS TO LICENSE REQUIREMENT.

Subdivision 1. **Other professionals.** Nothing in sections 148B.18 to 148B.289 shall be construed to prevent members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes but is not limited to licensed physicians; registered nurses; licensed practical nurses; psychological practitioners; probation officers; members of the clergy; attorneys; marriage and family therapists; chemical dependency counselors; professional counselors; school counselors; and registered occupational therapists or certified occupational therapist assistants. These persons must not, however, hold themselves out to the public by any title or description stating or implying that they are engaged in the practice of social work, or that they are licensed to engage in the practice of social work. Persons engaged in the practice of social work are not exempt from the board's jurisdiction solely by the use of one of the above titles.

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

Subd. 3. **Geographic waiver.** A geographic waiver may be granted by the board on a case-by-case basis to agencies with special regional hiring problems. The waiver will permit agencies to hire individuals, who do not meet the qualifications of section 148B.21, to practice social work.

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Subd. 4. **City, county, and state agency social workers.** The licensing of city, county, and state agency social workers shall be voluntary. City, county, and state agencies employing social workers shall not be required to employ licensed social workers.

Subd. 5. **Federally recognized tribes and private nonprofit agencies with a minority focus.** The licensure of social workers who are employed by federally recognized tribes, or by private nonprofit agencies whose primary service focus addresses ethnic minority populations, and are themselves members of ethnic minority populations within said agencies, shall be voluntary.

148B.281 COMPLAINTS; INVESTIGATION AND HEARING.

Subdivision 1. **Discovery; subpoenas.** In all matters relating to its lawful regulatory activities, the board may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear to testify regarding any matter about which the person may be lawfully questioned or failing to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by order of the board or by a subpoena of the board to do so may, upon application to the district court in any district, be ordered to comply with the subpoena or order. Any board member may administer oaths to witnesses or take their affirmation. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon a person it names anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions in the same manner as prescribed by law for service of process issued out of the district court of this state.

Subd. 2. **Classification of data.** The board shall maintain any records, other than client records, obtained as part of an investigation, as investigative data under section 13.41. Client records are classified as private under chapter 13, and must be protected as such in the records of the board and in administrative or judicial proceedings unless the client authorizes the board in writing to make public the identity of the client or a portion or all of the client's records.

Subd. 3. **Examination.** If the board has probable cause to believe that an applicant or licensee has engaged in conduct prohibited by chapter 214 or a statute or rule enforced by the board, it may issue an order directing the applicant or licensee to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this section, every applicant or licensee is considered to have consented to submit to a mental or physical examination or chemical dependency evaluation when ordered to do so in writing by the board and to have waived all objections to the admissibility of the examiner's or evaluator's testimony or reports on the grounds that the testimony or reports constitute a privileged communication.

Subd. 4. **Failure to submit to an examination.** Failure to submit to an examination or evaluation when ordered, unless the failure was due to circumstances beyond the control of the applicant or licensee, constitutes an admission that the applicant or licensee violated chapter 214 or a statute or rule

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enforced by the board, based on the factual specifications in the examination or evaluation order, and may result in an application being denied or a default and final disciplinary order being entered without the taking of testimony or other evidence. If a contested case hearing is requested, the only issues to be determined at the hearing are whether the designated board member had probable cause to issue the examination or evaluation order and whether the failure to submit was due to circumstances beyond the control of the applicant or licensee. Neither the record of a proceeding under this subdivision nor the orders entered by the board are admissible, subject to subpoena, or to be used against the applicant or licensee in a proceeding in which the board is not a party or decision maker. Information obtained under this subdivision is classified as private under chapter 13 and the orders issued by the board as the result of an applicant's or a licensee's failure to submit to an examination or evaluation are classified as public.

Subd. 5. **Access to data and records.** In addition to ordering a physical or mental examination or chemical dependency evaluation and notwithstanding section 13.384, 144.651, 595.02, or any other law limiting access to medical or other health records, the board may obtain data and health records relating to an applicant or licensee without the applicant's or licensee's consent if the board has probable cause to believe that an applicant or licensee has engaged in conduct prohibited by chapter 214 or a statute or rule enforced by the board. An applicant, licensee, insurance company, health care facility, provider as defined in section 144.335, subdivision 1, paragraph (b), 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 in accordance with a written request made under this subdivision, unless the information is false and the person or entity giving the information knew or had reason to know that the information was false. Information on individuals obtained under this section is investigative data under section 13.41.

Subd. 6. **Forms of disciplinary action.** When grounds for disciplinary action exist under chapter 214 or a statute or rule enforced by the board, it may take one or more of the following disciplinary actions:

- (1) deny the right to practice;
- (2) revoke the right to practice;
- (3) suspend the right to practice;
- (4) impose limitations on the practice of the licensee;
- (5) impose conditions on the practice of the licensee;
- (6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the licensee of any economic advantage gained by reason of the violation charged, or to discourage repeated violations;
- (7) impose a fee to reimburse the board for all or part of the cost of the proceedings resulting in disciplinary action including, but not limited to, the amount paid by the board for services from the Office of Administrative Hearings, attorney fees, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expense incurred by board members and staff;

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- (8) censure or reprimand the licensee;
- (9) require the passing of the examination provided for in section 148B.20, subdivision 1; or
- (10) take any other action justified by the facts of the case.

Subd. 7. **Censure or reprimand.** (a) In addition to the board's authority to issue a censure or a reprimand to a licensee, a designated board member reviewing a complaint as provided for in chapter 214 may issue a censure or a reprimand to a licensee. The censure or reprimand shall notify the licensee that the censure or reprimand will become final disciplinary action unless the licensee requests a hearing within 14 days.

(b) If the licensee requests a timely hearing, the committee shall either schedule a hearing or withdraw the censure or reprimand. The hearing shall be de novo before the board, provided that the designated board member who issued the censure or reprimand shall not deliberate or vote. Evidence shall be received only in form of affidavits or other documents except for testimony by the licensee or other witnesses whose testimony the board chair has authorized for good cause. If testimony is authorized, it shall be subject to cross-examination. After the hearing, the board shall affirm or dismiss the censure or reprimand, or direct the committee to initiate a contested case proceeding pursuant to chapter 14.

Subd. 8. **Temporary suspension.** In addition to any other remedy provided by law, the board may, acting through its designated board member and without a hearing, temporarily suspend the right of a licensee to practice if the board member finds that the licensee has violated a statute or rule that the board is empowered to enforce and that continued practice by the licensee would create a serious risk of harm to others. The suspension is in effect upon service of a written order on the licensee specifying the statute or rule violated. The order remains in effect until the board issues a final order in the matter after a hearing or upon agreement between the board and the licensee. Service of the order is effective if the order is served on the licensee or counsel of record personally or by first class mail to the most recent address provided to the board for the licensee or the counsel of record. Within ten days of service of the order, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the board or licensee may be in affidavit form only. The licensee or the counsel of record may appear for oral argument. Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, schedule a contested case hearing within 45 days after issuance of the order. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record. The board shall issue a final order within 30 days after receipt of that report.

Subd. 9. **Automatic suspension; restoration.** The right to practice is automatically suspended if (1) a guardian of a licensee is appointed by order of a court under sections 524.5-101 to 524.5-502, or (2) the licensee is committed by order of a court pursuant to chapter 253B. The right to practice remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated

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by the board after a hearing or upon agreement between the board and the licensee. In its discretion, the board may restore and reissue permission to provide services, but as a condition of the permission may impose a disciplinary or corrective measure that it might originally have imposed.

Subd. 10. **Additional remedies.** The board may in its own name issue a cease and desist order to stop a person from engaging in an unauthorized practice or violating or threatening to violate a statute, rule, or order which the board has issued or is empowered to enforce. The cease and desist order must state the reason for its issuance and give notice of the person's right to request a hearing under sections 14.57 to 14.62. If, within 15 days of service of the order, the subject of the order fails to request a hearing in writing, the order is the final order of the board and is not reviewable by a court or agency.

A hearing must be initiated by the board not later than 30 days from the date of the board's receipt of a written hearing request. Within 30 days of receipt of the administrative law judge's report, the board shall issue a final order modifying, vacating, or making permanent the cease and desist order as the facts require. The final order remains in effect until modified or vacated by the board.

When a request for a stay accompanies a timely hearing request, the board may, in its discretion, grant the stay. If the board does not grant a requested stay, it shall refer the request to the Office of Administrative Hearings within three working days of receipt of the request. Within ten days after receiving the request from the board, an administrative law judge shall issue a recommendation to grant or deny the stay. The board shall grant or deny the stay within five days of receiving the administrative law judge's recommendation.

In the event of noncompliance with a cease and desist order, the board may institute a proceeding in Ramsey County District Court to obtain injunctive relief or other appropriate relief, including a civil penalty payable to the board not exceeding \$10,000 for each separate violation.

Subd. 11. **Injunctive relief.** In addition to any other remedy provided by law, including the issuance of a cease and desist order under subdivision 1, the board may in its own name bring an action in Ramsey County District Court for injunctive relief to restrain any unauthorized practice or violation or threatened violation of any statute, rule, or order which the board is empowered to regulate, enforce, or issue. A temporary restraining order must be granted in the proceeding if continued activity by a licensee would create a serious risk of harm to others. The board need not show irreparable harm.

Subd. 12. **Additional powers.** The issuance of a cease and desist order or injunctive relief granted under this section does not relieve a licensee from criminal prosecution by a competent authority or from disciplinary action by the board. Nothing in this section limits the board's authority to seek injunctive relief under section 214.11.

Subd. 13. **Pending appeal.** A suspension, revocation, condition, limitation, qualification, or restriction of an individual's license or right to practice is in effect pending determination of an appeal unless the court, upon petition and for good cause shown, orders otherwise.

Subd. 14. **Duty to warn.** Section 148.975 applies to

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social work licensees and clients.

148B.282 PROFESSIONAL COOPERATION; APPLICANT OR LICENSEE.

An applicant or a licensee who is the subject of an investigation, or who is questioned in connection with an investigation, by or on behalf of the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the board relating to the subject of the investigation, providing copies of client and other records in the applicant's or licensee's possession relating to the matter under investigation and executing releases for records, as reasonably requested by the board, and appearing at conferences or hearings scheduled by the board. The board shall pay for copies requested. The board shall be allowed access to any records of a client provided services by the applicant or licensee under review. If the client has not signed a consent permitting access to the client's records, the applicant or licensee shall delete any data in the record that identifies the client before providing them to the board. The board shall maintain any records obtained pursuant to this section as investigative data pursuant to chapter 13.

148B.283 REPORTING OBLIGATIONS.

Subdivision 1. **Permission to report.** A person who has knowledge of any conduct by an applicant or a licensee which may constitute grounds for disciplinary action under this chapter or the rules of the board or of any unlicensed practice under this chapter may report the violation to the board.

Subd. 2. **Institutions.** A state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the board any action taken by the agency, institution, or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition an applicant's or a licensee's privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action for conduct that might constitute grounds for disciplinary action by the board under this chapter. The institution or organization shall also report the resignation of any applicants or licensees prior to the conclusion of any disciplinary action proceeding for conduct that might constitute grounds for disciplinary action under this chapter, or prior to the commencement of formal charges but after the applicant or licensee had knowledge that formal charges were contemplated or in preparation.

Subd. 3. **Professional societies or associations.** A state or local professional society or association for licensees shall forward to the board any complaint received concerning the ethics or conduct of the practice which the board regulates. The society or association shall forward a complaint to the board upon receipt of the complaint. The society or association shall also report to the board any disciplinary action taken against a member.

Subd. 4. **Licensed professionals.** (a) A licensed health professional shall report to the board information on the following conduct by an applicant or a licensee:

(1) sexual contact or sexual conduct with a client or a former client;

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(2) failure to make reports required by section 626.556 or 626.557;

(3) impairment in the ability to practice by reason of illness, use of alcohol, drugs, or other chemicals, or as a result of any mental or physical condition;

(4) improper or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(5) fraud in the licensure application process or any other false statements made to the board;

(6) conviction of a felony reasonably related to the practice of social work, including conviction of the psychotherapist sex crimes in chapter 609; and

(7) a violation of a board order.

(b) A licensed health professional shall also report to the board information on any other conduct by an applicant or a licensee that constitutes grounds for disciplinary action under this chapter or the rules of the board when the licensed health professional reasonably believes, after appropriate assessment, that the client's functioning has been or likely will be affected negatively by the conduct, regardless of whether the conduct has ceased.

(c) Notwithstanding paragraphs (a) and (b), a licensed health professional shall report to the board knowledge of any actions which institutions must report under subdivision 2.

Subd. 5. **Reporting other licensed professionals.** An applicant or a licensee shall report to the appropriate board conduct by a licensed health professional which would constitute grounds for disciplinary action under the chapter governing the practice of the other licensed health professional and which is required by law to be reported to the same board.

Subd. 6. **Insurers and other entities making liability payments.** (a) Four times each year as prescribed by the board, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to licensees, or the Medical Joint Underwriting Association under chapter 62F, shall submit to the board a report concerning the licensees against whom malpractice settlements or awards have been made to the plaintiff. The report must contain at least the following information:

(1) the total number of malpractice settlements or awards made;

(2) the date the malpractice settlements or awards were made;

(3) the allegations contained in the claim or complaint leading to the settlements or awards made;

(4) the dollar amount of each malpractice settlement or award;

(5) the regular address of the practice of the licensee against whom an award was made or with whom a settlement was made; and

(6) the name of the licensee against whom an award was made or with whom a settlement was made.

(b) A medical clinic, hospital, political subdivision, or other entity which makes professional liability insurance payments on behalf of applicants or licensees shall submit to the board a report concerning malpractice settlements or awards paid on behalf of applicants or licensees, and any settlements

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or awards paid by a clinic, hospital, political subdivision, or other entity on its own behalf because of care rendered by applicants or licensees. This requirement excludes forgiveness of bills. The report shall be made to the board within 30 days of payment of all or part of any settlement or award.

(c) The insurance company or other entity making professional liability insurance payments shall, in addition to the information in paragraph (b), report to the board any information it possesses that tends to substantiate a charge, including the factual data underlying a settlement, that an applicant or a licensee may have engaged in conduct violating this chapter.

Subd. 7. **Courts.** The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that an applicant or a licensee is a person who is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of an abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the applicant or licensee pursuant to sections 524.5-101 to 524.5-502 or commits an applicant or a licensee pursuant to chapter 253B.

Subd. 8. **Self-reporting.** An applicant or a licensee shall report to the board any personal action that would require that a report be filed by any person, health care facility, business, or organization pursuant to subdivisions 2 to 7.

Subd. 9. **Deadlines; forms.** Reports required by subdivisions 2 to 8 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

Subd. 10. **Subpoenas.** The board may issue subpoenas for the production of any reports required by subdivisions 2 to 8 or any related documents.

148B.284 IMMUNITY.

Subdivision 1. **Reporting.** Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting in good faith a report under section 148B.283 or for otherwise reporting, providing information, or testifying about violations or alleged violations of this chapter. The reports are classified under section 13.41.

Subd. 2. **Investigation.** Board members and employees; persons engaged on behalf of the board in the investigation of violations and in the preparation, presentation, and management of and testimony pertaining to charges of violations; and persons engaged in monitoring compliance with statutes, rules, board orders, or corrective action agreements are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.

148B.285 DISCLOSURE.

Subdivision 1. **Contested case proceedings.** (a) Upon application of a party in a board hearing or a contested case hearing before the board, the board shall produce and permit the inspection and copying, by or on behalf of the moving party, of

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any designated documents or papers relevant to the proceedings, in accordance with rule 34, Minnesota Rules of Civil Procedure.

(b) The board hearing or contested case hearing shall be open to the public, except that the board or administrative law judge shall close the hearing for testimony by clients, and testimony and argument about clients.

(c) Notwithstanding section 13.41, information which may identify a client, client records, and licensee health records are private data during the contested case hearing, as part of the hearing record, and as part of any appellate or other court record.

(d) Clients may waive the protections afforded by this subdivision.

Subd. 2. **Information on disciplinary actions.** If the board imposes disciplinary measures or takes disciplinary action of any kind, the name and business address of the licensee, the nature of the misconduct, and the action taken by the board, including all settlement agreements and other board orders, are public data.

Subd. 3. **Exchange of information.** The board shall exchange information with other boards, agencies, or departments within the state, as required under section 214.10, subdivision 8, paragraph (c).

Subd. 4. **Information to the complainant.** The board shall furnish to a person who made a complaint a statement of the result of an investigation of the complaint and a description of the activities and actions of the board relating to the complaint.

Subd. 5. **Classification of certain residence addresses and telephone numbers.** Notwithstanding section 13.41, subdivision 2 or 4, the residence address and telephone number of an applicant or licensee are private data on individuals as defined in section 13.02, subdivision 12, if the applicant or licensee so requests and provides an alternative address and telephone number.

Subd. 6. **Publication of disciplinary actions.** At least annually, each board shall publish and release to the public a description of all disciplinary measures or actions taken by the board. The publication must include, for each disciplinary measure or action taken, the name and business address of the licensee, the nature of the misconduct, and the measure or action taken by the board.

148B.286 PROFESSIONAL ACCOUNTABILITY.

Subdivision 1. **Investigation.** The board shall maintain and keep current a file containing the reports and complaints filed against applicants or licensees within the board's jurisdiction. Each complaint filed with the board pursuant to chapter 214 must be investigated according to chapter 214. If the files maintained by the board show that a malpractice settlement or award to the plaintiff has been made against an applicant or a licensee as reported by insurers under section 148B.283, the executive director of the board shall notify the board and the board may authorize a review of the provider's practice.

Subd. 2. **Attorney general investigates.** When the board initiates a review of an applicant's or a licensee's practice it shall notify the attorney general who shall investigate the matter in the same manner as provided in chapter 214. If an investigation is to be made, the attorney general

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shall notify the applicant or licensee, and, if the incident being investigated occurred there, the administrator and chief of staff at the health care facilities or clinics in which the professional serves, if applicable.

Subd. 3. **Access to records.** The board shall be allowed access to any records of a client provided services by the applicant or licensee under review. If the client has not signed a consent permitting access, the applicant, licensee, or custodian of the records shall first delete the client's name or other client identifiers before providing the records to the board.

148B.287 MALPRACTICE HISTORY.

Subdivision 1. **Submission.** Licensees or applicants for licensure who have previously practiced in another state shall submit with their application the following information:

- (1) number, date, and disposition of any malpractice settlement or award made relating to the quality of services provided by the licensee or applicant; and
- (2) number, date, and disposition of any civil litigations or arbitrations relating to the quality of services provided by the licensee or applicant in which the party complaining against the licensee or applicant prevailed or otherwise received a favorable decision or order.

Subd. 2. **Board action.** The board shall give due consideration to the information submitted under this section. A licensee or applicant for licensure who willfully submits incorrect information is subject to disciplinary action under this chapter.

148B.288 EVIDENCE OF PAST SEXUAL CONDUCT.

In a proceeding for the suspension or revocation of the right to practice or other disciplinary or adverse action involving sexual contact with a client or former client, the board or administrative law judge shall not consider evidence of the client's previous sexual conduct nor shall any reference to this conduct be made during the proceedings or in the findings, except by motion of the complainant, unless the evidence would be admissible under the applicable provisions of section 609.347, subdivision 3.

148B.289 TAX CLEARANCE CERTIFICATE.

Subdivision 1. **Certificate required.** The board may not issue or renew a license if the commissioner of revenue notifies the board and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. The board may issue or renew a license or filing only if the commissioner of revenue issues a tax clearance certificate and the commissioner of revenue or the licensee or applicant forwards a copy of the clearance to the board. The commissioner of revenue may issue a clearance certificate only if the licensee or applicant does not owe the state any uncontested delinquent taxes. For purposes of this section, "taxes" means all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes. "Delinquent taxes" do not include a tax liability if (1) an administrative or court action that contests the amount or validity of the liability has been filed or served, (2) the appeal period to contest the tax liability has not expired, or (3) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

Subd. 2. **Hearing.** In lieu of the notice and hearing

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requirements of section 148B.281, when a licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice required in subdivision 1. The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the Office of Administrative Hearings. Notwithstanding any other law, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

Subd. 3. **Information required.** The board shall require all licensees or applicants to provide their Social Security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all licensees and applicants, including the name and address, Social Security number, and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year.

148B.60 DEFINITIONS.

Subdivision 1. **Terms.** As used in sections 148B.60 to 148B.71, the following terms have the meanings given them in this section.

Subd. 2. **Office of Mental Health Practice or office.** "Office of Mental Health Practice" or "office" means the Office of Mental Health Practice established in section 148B.61.

Subd. 3. **Unlicensed mental health practitioner or practitioner.** "Unlicensed mental health practitioner" or "practitioner" means a person who provides or purports to provide, for remuneration, mental health services as defined in subdivision 4. It does not include persons licensed by the Board of Medical Practice under chapter 147 or registered by the Board of Medical Practice under chapter 147A; the Board of Nursing under sections 148.171 to 148.285; the Board of Psychology under sections 148.88 to 148.98; the Board of Social Work under sections 148B.18 to 148B.289; the Board of Marriage and Family Therapy under sections 148B.29 to 148B.39; the Board of Behavioral Health and Therapy under sections 148B.50 to 148B.593; or another licensing board if the person is practicing within the scope of the license; members of the clergy who are providing pastoral services in the context of performing and fulfilling the salaried duties and obligations required of a member of the clergy by a religious congregation; American Indian medicine men and women; licensed attorneys; probation officers; school counselors employed by a school district while acting within the scope of employment as school counselors; registered occupational therapists; or occupational therapy assistants. For the purposes of complaint investigation or disciplinary action relating to an individual practitioner, the term includes:

(1) persons employed by a program licensed by the commissioner of human services who are acting as mental health practitioners within the scope of their employment;

(2) persons employed by a program licensed by the commissioner of human services who are providing chemical dependency counseling services; persons who are providing chemical dependency counseling services in private practice; and

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(3) clergy who are providing mental health services that are equivalent to those defined in subdivision 4.

Subd. 4. **Mental health services.** "Mental health services" means psychotherapy and the professional assessment, treatment, or counseling of another person for a cognitive, behavioral, emotional, social, or mental condition, symptom, or dysfunction, including intrapersonal or interpersonal dysfunctions. The term does not include pastoral services provided by members of the clergy to members of a religious congregation in the context of performing and fulfilling the salaried duties and obligations required of a member of the clergy by that religious congregation.

Subd. 5. **Mental health client or client.** "Mental health client" or "client" means a person who receives or pays for the services of a mental health practitioner.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of health or the commissioner's designee.

Subd. 8. **Disciplinary action.** "Disciplinary action" means an adverse action taken by the commissioner against an unlicensed mental health practitioner relating to the person's right to provide mental health services.

148B.61 OFFICE OF MENTAL HEALTH PRACTICE.

Subdivision 1. **Creation.** The Office of Mental Health Practice is created in the Department of Health to investigate complaints and take and enforce disciplinary actions against all unlicensed mental health practitioners for violations of prohibited conduct, as defined in section 148B.68. The office shall also serve as a clearinghouse on mental health services and both licensed and unlicensed mental health professionals, through the dissemination of objective information to consumers and through the development and performance of public education activities, including outreach, regarding the provision of mental health services and both licensed and unlicensed mental health professionals who provide these services.

Subd. 2. **Rulemaking.** The commissioner of health shall adopt rules necessary to implement, administer, or enforce provisions of sections 148B.60 to 148B.71 pursuant to chapter 14. The commissioner may not adopt rules that restrict or prohibit persons from providing mental health services on the basis of education, training, experience, or supervision.

148B.63 REPORTING OBLIGATIONS.

Subdivision 1. **Permission to report.** A person who has knowledge of any conduct constituting grounds for disciplinary action relating to unlicensed practice under this chapter may report the violation to the Office of Mental Health Practice.

Subd. 2. **Institutions.** A state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the Office of Mental Health Practice any action taken by the agency, institution, or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition an unlicensed mental health practitioner's privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action for conduct that might constitute grounds for disciplinary action by the office under this chapter. The institution, organization,

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or governmental entity shall also report the resignation of any unlicensed mental health practitioners prior to the conclusion of any disciplinary action proceeding for conduct that might constitute grounds for disciplinary action under this chapter, or prior to the commencement of formal charges but after the practitioner had knowledge that formal charges were contemplated or were being prepared.

Subd. 3. **Professional societies.** A state or local professional society for unlicensed mental health practitioners shall report to the Office of Mental Health Practice any termination, revocation, or suspension of membership or any other disciplinary action taken against an unlicensed practitioner. If the society has received a complaint that might be grounds for discipline under this chapter against a member on which it has not taken any disciplinary action, the society shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the Office of Mental Health Practice.

Subd. 4. **Licensed professionals.** A licensed health professional shall report to the Office of Mental Health Practice personal knowledge of any conduct that the licensed health professional reasonably believes constitutes grounds for disciplinary action under this chapter by any unlicensed mental health practitioner, including conduct indicating that the individual may be medically incompetent, or may be medically or physically unable to engage safely in the provision of services. If the information was obtained in the course of a client relationship, the client is an unlicensed mental health practitioner, and the treating individual successfully counsels the other practitioner to limit or withdraw from practice to the extent required by the impairment, the office may deem this limitation of or withdrawal from practice to be sufficient disciplinary action.

Subd. 5. **Insurers.** Four times each year as prescribed by the commissioner, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to unlicensed mental health practitioners or the Medical Joint Underwriting Association under chapter 62F, shall submit to the Office of Mental Health Practice a report concerning the unlicensed mental health practitioners against whom malpractice settlements or awards have been made. The response must contain at least the following information:

(1) the total number of malpractice settlements or awards made;

(2) the date the malpractice settlements or awards were made;

(3) the allegations contained in the claim or complaint leading to the settlements or awards made;

(4) the dollar amount of each malpractice settlement or award;

(5) the regular address of the practice of the unlicensed practitioner against whom an award was made or with whom a settlement was made; and

(6) the name of the unlicensed practitioner against whom an award was made or with whom a settlement was made.

The insurance company shall, in addition to the above information, submit to the Office of Mental Health Practice any information, records, and files, including clients' charts and

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records, it possesses that tend to substantiate a charge that an unlicensed mental health practitioner may have engaged in conduct violating this chapter.

Subd. 6. **Courts.** The court administrator of district court or any other court of competent jurisdiction shall report to the Office of Mental Health Practice any judgment or other determination of the court that adjudges or includes a finding that an unlicensed mental health practitioner is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the unlicensed mental health practitioner under sections 524.5-101 to 524.5-502 or commits an unlicensed mental practitioner under chapter 253B.

Subd. 7. **Self-reporting.** An unlicensed mental health practitioner shall report to the Office of Mental Health Practice any personal action that would require that a report be filed with the office by any person, health care facility, business, or organization pursuant to subdivisions 2 to 5. The practitioner shall also report the revocation, suspension, restriction, limitation, or other disciplinary action against the mental health practitioner's license, certificate, registration, or right of practice in another state or jurisdiction, for offenses that would be subject to disciplinary action in this state and also report the filing of charges regarding the practitioner's license, certificate, registration, or right of practice in another state or jurisdiction.

Subd. 8. **Deadlines; forms.** Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the reporter learns of the occurrence of the reportable event or transaction. The Office of Mental Health Practice may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

148B.64 IMMUNITY.

Subdivision 1. **Reporting.** Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report to the Office of Mental Health Practice, for otherwise reporting to the office violations or alleged violations of this chapter, or for cooperating with an investigation of a report, except as provided in this subdivision. Any person who knowingly or recklessly makes a false report is liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury. An action requires clear and convincing evidence that the defendant made the statement with knowledge of falsity or with reckless disregard for its truth or falsity. The report or statement or any statement made in cooperation with an investigation or as part of a disciplinary proceeding is privileged except in an action brought under this subdivision.

Subd. 2. **Investigation.** The commissioner and employees of the Department of Health and other persons engaged in the investigation of violations and in the preparation, presentation, and management of and testimony pertaining to charges of violations of this chapter are absolutely immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating

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to, their duties under this chapter.

148B.65 DISCIPLINARY RECORD ON JUDICIAL REVIEW.

Upon judicial review of any disciplinary action taken by the commissioner under this chapter, the reviewing court shall seal the administrative record, except for the commissioner's final decision, and shall not make the administrative record available to the public.

148B.66 PROFESSIONAL COOPERATION; UNLICENSED PRACTITIONER.

Subdivision 1. **Cooperation.** An unlicensed mental health practitioner who is the subject of an investigation, or who is questioned in connection with an investigation, by or on behalf of the Office of Mental Health Practice shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the office relating to the subject of the investigation, whether tape recorded or not, and providing copies of client records, as reasonably requested by the office, to assist the office in its investigation, and appearing at conferences or hearings scheduled by the commissioner. If the office does not have a written consent from a client permitting access to the client's records, the unlicensed mental health practitioner shall delete any data in the record that identifies the client before providing it to the office. The office shall maintain any records obtained pursuant to this section as investigative data pursuant to section 13.41. If an unlicensed mental health practitioner refuses to give testimony or produce any documents, books, records, or correspondence on the basis of the fifth amendment to the Constitution of the United States, the commissioner may compel the unlicensed mental health practitioner to provide the testimony or information; however, the testimony or evidence may not be used against the practitioner in any criminal proceeding. Challenges to requests of the office may be brought before the appropriate agency or court.

Subd. 2. **Classification of data.** The commissioner shall maintain any records, other than client records, obtained as part of an investigation, as investigative data under section 13.41. Client records are classified as private under chapter 13 and must be protected as such in the records of the office and in any administrative or judicial proceeding unless the client authorizes the office in writing to make public the identity of the client or a portion or all of the client's records.

Subd. 3. **Exchanging information.** (a) The Office of Mental Health Practice shall establish internal operating procedures for:

(1) exchanging information with state boards; agencies, including the Office of Ombudsman for Mental Health and Mental Retardation; health related and law enforcement facilities; departments responsible for licensing health related occupations, facilities, and programs; and law enforcement personnel in this and other states; and

(2) coordinating investigations involving matters within the jurisdiction of more than one regulatory agency.

(b) The procedures for exchanging information must provide for the forwarding to the entities described in paragraph (a), clause (1), of information and evidence, including the results of investigations, that are relevant to matters within the

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regulatory jurisdiction of the organizations in paragraph (a). The data have the same classification in the hands of the agency receiving the data as they have in the hands of the agency providing the data.

(c) The Office of Mental Health Practice shall establish procedures for exchanging information with other states regarding disciplinary action against licensed and unlicensed mental health practitioners.

(d) The Office of Mental Health Practice shall forward to another governmental agency any complaints received by the office that do not relate to the office's jurisdiction but that relate to matters within the jurisdiction of the other governmental agency. The agency to which a complaint is forwarded shall advise the Office of Mental Health Practice of the disposition of the complaint. A complaint or other information received by another governmental agency relating to a statute or rule that the Office of Mental Health Practice is empowered to enforce must be forwarded to the office to be processed in accordance with this section.

(e) The Office of Mental Health Practice shall furnish to a person who made a complaint a description of the actions of the office relating to the complaint.

148B.67 PROFESSIONAL ACCOUNTABILITY.

The Office of Mental Health Practice shall maintain and keep current a file containing the reports and complaints filed against unlicensed mental health practitioners within the commissioner's jurisdiction. Each complaint filed with the office must be investigated. If the files maintained by the office show that a malpractice settlement or award has been made against an unlicensed mental health practitioner, as reported by insurers under section 148B.63, subdivision 5, the commissioner may authorize a review of the practitioner's practice by the staff of the Office of Mental Health Practice.

148B.68 PROHIBITED CONDUCT.

Subdivision 1. Prohibited conduct. The commissioner may impose disciplinary action as described in section 148B.69 against any unlicensed mental health practitioner. The following conduct is prohibited and is grounds for disciplinary action:

(a) Conviction of a crime, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to the provision of mental health services. Conviction, as used in this subdivision, includes a conviction of an offense which, if committed in this state, would be deemed a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered.

(b) Conviction of crimes against persons. For purposes of this chapter, a crime against a person means violations of the following: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.221; 609.222; 609.223; 609.224; 609.2242; 609.23; 609.231; 609.2325; 609.233; 609.2335; 609.235; 609.24; 609.245; 609.25; 609.255; 609.26, subdivision 1, clause (1) or (2); 609.265; 609.342; 609.343; 609.344; 609.345; 609.365; 609.498, subdivision 1; 609.50, clause (1); 609.561; 609.562; 609.595; and 609.72, subdivision 3.

(c) Failure to comply with the self-reporting requirements

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of section 148B.63, subdivision 7.

(d) Engaging in sexual contact with a client or former client as defined in section 148A.01, or engaging in contact that may be reasonably interpreted by a client as sexual, or engaging in any verbal behavior that is seductive or sexually demeaning to the patient, or engaging in sexual exploitation of a client or former client.

(e) Advertising that is false, fraudulent, deceptive, or misleading.

(f) Conduct likely to deceive, defraud, or harm the public; or demonstrating a willful or careless disregard for the health, welfare, or safety of a client; or any other practice that may create unnecessary danger to any client's life, health, or safety, in any of which cases, proof of actual injury need not be established.

(g) Adjudication as mentally incompetent, or as a person who is dangerous to self, or adjudication pursuant to chapter 253B, as chemically dependent, mentally ill, mentally retarded, mentally ill and dangerous to the public, or as a sexual psychopathic personality or sexually dangerous person.

(h) Inability to provide mental health services with reasonable safety to clients.

(i) The habitual overindulgence in the use of or the dependence on intoxicating liquors.

(j) Improper or unauthorized personal or other use of any legend drugs as defined in chapter 151, any chemicals as defined in chapter 151, or any controlled substance as defined in chapter 152.

(k) Revealing a communication from, or relating to, a client except when otherwise required or permitted by law.

(l) Failure to comply with a client's request made under section 144.335, or to furnish a client record or report required by law.

(m) Splitting fees or promising to pay a portion of a fee to any other professional other than for services rendered by the other professional to the client.

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

(o) Failure to make reports as required by section 148B.63, or cooperate with an investigation of the office.

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

(q) Undertaking or continuing a professional relationship with a client in which the objectivity of the professional would be impaired.

(r) Failure to provide the client with a copy of the client bill of rights or violation of any provision of the client bill of rights.

(s) Violating any order issued by the commissioner.

(t) Failure to comply with sections 148B.60 to 148B.71, and the rules adopted under those sections.

(u) Failure to comply with any additional disciplinary grounds established by the commissioner by rule.

(v) Revocation, suspension, restriction, limitation, or other disciplinary action against the mental health practitioner's license, certificate, registration, or right of

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practice in this or another state or jurisdiction, for offenses that would be subject to disciplinary action in this state, or failure to report to the Office of Mental Health Practice that charges regarding the practitioner's license, certificate, registration, or right of practice have been brought in this or another state or jurisdiction.

(w) Bartering for services with a client.

Subd. 2. Evidence. In disciplinary actions alleging a violation of subdivision 1, paragraph (a), (b), (c), or (g), a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency that entered the same is admissible into evidence without further authentication and constitutes prima facie evidence of its contents.

Subd. 3. Examination; access to medical data. (a) If the commissioner has probable cause to believe that an unlicensed mental health practitioner has engaged in conduct prohibited by subdivision 1, paragraph (g), (h), (i), or (j), the commissioner may issue an order directing the practitioner to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this subdivision, every unlicensed mental health practitioner is deemed to have consented to submit to a mental or physical examination or chemical dependency evaluation when ordered to do so in writing by the commissioner of health and further to have waived all objections to the admissibility of the testimony or examination reports of the health care provider performing the examination or evaluation on the grounds that the same constitute a privileged communication. Failure of an unlicensed mental health practitioner to submit to an examination or evaluation when ordered, unless the failure was due to circumstances beyond the practitioner's control, constitutes an admission that the unlicensed mental health practitioner violated subdivision 1, paragraph (g), (h), (i), or (j), based on the factual specifications in the examination or evaluation order and may result in a default and final disciplinary order being entered after a contested case hearing. An unlicensed mental health practitioner affected under this paragraph shall at reasonable intervals be given an opportunity to demonstrate that the practitioner can resume the provision of mental health services with reasonable safety to clients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the commissioner shall be used against a mental health practitioner in any other proceeding.

(b) In addition to ordering a physical or mental examination or chemical dependency evaluation, the commissioner may, notwithstanding section 13.384, 144.651, 595.02, or any other law limiting access to medical or other health data, obtain medical data and health records relating to an unlicensed mental health practitioner without the practitioner's consent if the commissioner has probable cause to believe that a practitioner has engaged in conduct prohibited by subdivision 1, paragraph (g), (h), (i), or (j). The medical data may be requested from a health care professional, as defined in section 144.335, subdivision 1, paragraph (b), an insurance company, or a government agency, including the Department of Human Services. A health care professional, insurance company, or government agency shall comply with any written request of the commissioner under this subdivision and is not liable in any action for damages for releasing the data requested by the

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commissioner if the data are released pursuant to a written request under this subdivision, unless the information is false and the person or organization giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is private data under section 13.41.

148B.69 DISCIPLINARY ACTIONS.

Subdivision 1. **Forms of disciplinary action.** When the commissioner finds that an unlicensed mental health practitioner has violated a provision or provisions of this chapter, the commissioner may take one or more of the following actions, only against the individual practitioner:

- (1) revoke the right to practice;
- (2) suspend the right to practice;
- (3) impose limitations or conditions on the practitioner's provision of mental health services, the imposition of rehabilitation requirements, or the requirement of practice under supervision;
- (4) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the practitioner of any economic advantage gained by reason of the violation charged or to reimburse the Office of Mental Health Practice for all costs of the investigation and proceeding;
- (5) order the practitioner to provide unremunerated professional service under supervision at a designated public hospital, clinic, or other health care institution;
- (6) censure or reprimand the practitioner;
- (7) impose a fee on the practitioner to reimburse the office for all or part of the cost of the proceedings resulting in disciplinary action including, but not limited to, the amount paid by the office for services from the Office of Administrative Hearings, attorney fees, court reports, witnesses, reproduction of records, staff time, and expense incurred by the staff of the Office of Mental Health Practice; or
- (8) any other action justified by the case.

Subd. 2. **Discovery; subpoenas.** In all matters relating to the lawful activities of the Office of Mental Health Practice, the commissioner of health may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear or testify regarding any matter about which the person may be lawfully questioned or failing to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by order of the commissioner or by a subpoena of the commissioner to do so may, upon application to the district court in any district, be ordered to comply with the order or subpoena. The commissioner of health may administer oaths to witnesses or take their affirmation. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon a person it names anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions, in the same manner as prescribed by law for service of process issued out of the district court of this state.

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Subd. 2a. **Hearings.** If the commissioner proposes to take action against the practitioner as described in subdivision 1, the commissioner must first notify the person against whom the action is proposed to be taken and provide the person with an opportunity to request a hearing under the contested case provisions of chapter 14. If the person does not request a hearing by notifying the commissioner within 30 days after service of the notice of the proposed action, the commissioner may proceed with the action without a hearing.

Subd. 3. **Reinstatement.** The commissioner may at the commissioner's discretion reinstate the right to practice and may impose any disciplinary measure listed under subdivision 1.

Subd. 4. **Temporary suspension.** In addition to any other remedy provided by law, the commissioner may, acting through a person to whom the commissioner has delegated this authority and without a hearing, temporarily suspend the right of an unlicensed mental health practitioner to practice if the commissioner's delegate finds that the practitioner has violated a statute or rule that the commissioner is empowered to enforce and continued practice by the practitioner would create a serious risk of harm to others. The suspension is in effect upon service of a written order on the practitioner specifying the statute or rule violated. The order remains in effect until the commissioner issues a final order in the matter after a hearing or upon agreement between the commissioner and the practitioner. Service of the order is effective if the order is served on the practitioner or counsel of record personally or by first class mail. Within ten days of service of the order, the commissioner shall hold a hearing on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the office or practitioner shall be in affidavit form only. The practitioner or the counsel of record may appear for oral argument. Within five working days after the hearing, the commissioner shall issue the commissioner's order and, if the suspension is continued, schedule a contested case hearing within 45 days after issuance of the order. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record. The commissioner shall issue a final order within 30 days after receipt of that report.

Subd. 5. **Automatic suspension.** The right to practice is automatically suspended if (1) a guardian of an unlicensed mental health practitioner is appointed by order of a court under sections 524.5-101 to 524.5-502, or (2) the practitioner is committed by order of a court pursuant to chapter 253B. The right to practice remains suspended until the practitioner is restored to capacity by a court and, upon petition by the practitioner, the suspension is terminated by the commissioner after a hearing or upon agreement between the commissioner and the practitioner.

Subd. 6. **Public employees.** Notwithstanding subdivision 1, the commissioner must not take disciplinary action against an employee of the state or a political subdivision of the state. If, after an investigation conducted in compliance with and with the authority granted under sections 148B.60 to 148B.71, the commissioner determines that the employee violated a provision or provisions of this chapter, the commissioner shall report to the employee's employer the commissioner's findings and the actions the commissioner

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recommends that the employer take. The commissioner's recommendations are not binding on the employer.

Subd. 7. **Release to obtain nonpublic data.** An unlicensed mental health practitioner who is the subject of an investigation must sign a release authorizing the commissioner to obtain criminal conviction data, reports about abuse or neglect of clients, and other information pertaining to investigations of violations of statutes or rules from the Bureau of Criminal Apprehension, the Federal Bureau of Investigation, the Department of Human Services, the Office of Health Facilities Complaints, private certification organizations, county social service agencies, the Division of Driver and Vehicle Services in the Department of Public Safety, adult protection services, child protection services, and other agencies that regulate provision of health care services. After the commissioner gives written notice to an individual who is the subject of an investigation, the agencies shall assist the commissioner with the investigation by giving the commissioner the requested data.

148B.70 ADDITIONAL REMEDIES.

Subdivision 1. **Cease and desist.** The commissioner of health may issue a cease and desist order to stop a person from violating or threatening to violate a statute, rule, or order which the Office of Mental Health Practice has issued or is empowered to enforce. The cease and desist order must state the reason for its issuance and give notice of the person's right to request a hearing under sections 14.57 to 14.62. If, within 15 days of service of the order, the subject of the order fails to request a hearing in writing, the order is the final order of the commissioner and is not reviewable by a court or agency.

A hearing must be initiated by the Office of Mental Health Practice not later than 30 days from the date of the office's receipt of a written hearing request. Within 30 days of receipt of the administrative law judge's report, the commissioner shall issue a final order modifying, vacating, or making permanent the cease and desist order as the facts require. The final order remains in effect until modified or vacated by the commissioner.

When a request for a stay accompanies a timely hearing request, the commissioner may, in the commissioner's discretion, grant the stay. If the commissioner does not grant a requested stay, the commissioner shall refer the request to the Office of Administrative Hearings within three working days of receipt of the request. Within ten days after receiving the request from the commissioner, an administrative law judge shall issue a recommendation to grant or deny the stay. The commissioner shall grant or deny the stay within five days of receiving the administrative law judge's recommendation.

In the event of noncompliance with a cease and desist order, the commissioner may institute a proceeding in Hennepin County District Court to obtain injunctive relief or other appropriate relief, including a civil penalty payable to the Office of Mental Health Practice not exceeding \$10,000 for each separate violation.

Subd. 2. **Injunctive relief.** In addition to any other remedy provided by law, including the issuance of a cease and desist order under subdivision 1, the commissioner may in the commissioner's own name bring an action in Hennepin County District Court for injunctive relief to restrain an unlicensed mental health practitioner from a violation or threatened

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violation of any statute, rule, or order which the commissioner is empowered to regulate, enforce, or issue. A temporary restraining order must be granted in the proceeding if continued activity by a practitioner would create a serious risk of harm to others. The commissioner need not show irreparable harm.

Subd. 3. **Additional powers.** The issuance of a cease and desist order or injunctive relief granted under this section does not relieve a practitioner from criminal prosecution by a competent authority or from disciplinary action by the commissioner.

148B.71 MENTAL HEALTH CLIENT BILL OF RIGHTS.

Subdivision 1. **Scope.** All unlicensed mental health practitioners, other than those providing services in a facility or program licensed by the commissioner of health or the commissioner of human services, shall provide to each client prior to providing treatment a written copy of the mental health client bill of rights. A copy must also be posted in a prominent location in the office of the mental health practitioner. Reasonable accommodations shall be made for those clients who cannot read or who have communication impairments and those who do not read or speak English. The mental health client bill of rights shall include the following:

(a) the name, title, business address, and telephone number of the practitioner;

(b) the degrees, training, experience, or other qualifications of the practitioner, followed by the following statement in bold print:

"THE STATE OF MINNESOTA HAS NOT ADOPTED UNIFORM EDUCATIONAL AND TRAINING STANDARDS FOR ALL MENTAL HEALTH PRACTITIONERS. THIS STATEMENT OF CREDENTIALS IS FOR INFORMATION PURPOSES ONLY."

(c) the name, business address, and telephone number of the practitioner's supervisor, if any;

(d) notice that a client has the right to file a complaint with the practitioner's supervisor, if any, and the procedure for filing complaints;

(e) the name, address, and telephone number of the Office of Mental Health Practice and notice that a client may file complaints with the office;

(f) the practitioner's fees per unit of service, the practitioner's method of billing for such fees, the names of any insurance companies that have agreed to reimburse the practitioner, or health maintenance organizations with whom the practitioner contracts to provide service, whether the practitioner accepts Medicare, medical assistance, or general assistance medical care, and whether the practitioner is willing to accept partial payment, or to waive payment, and in what circumstances;

(g) a statement that the client has a right to reasonable notice of changes in services or charges;

(h) a brief summary, in plain language, of the theoretical approach used by the practitioner in treating patients;

(i) notice that the client has a right to complete and current information concerning the practitioner's assessment and recommended course of treatment, including the expected duration of treatment;

(j) a statement that clients may expect courteous treatment and to be free from verbal, physical, or sexual abuse by the practitioner;

(k) a statement that client records and transactions with

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the practitioner are confidential, unless release of these records is authorized in writing by the client, or otherwise provided by law;

(l) a statement of the client's right to be allowed access to records and written information from records in accordance with section 144.335;

(m) a statement that other services may be available in the community, including where information concerning services is available;

(n) a statement that the client has the right to choose freely among available practitioners, and to change practitioners after services have begun, within the limits of health insurance, medical assistance, or other health programs;

(o) a statement that the client has a right to coordinated transfer when there will be a change in the provider of services;

(p) a statement that the client may refuse services or treatment, unless otherwise provided by law; and

(q) a statement that the client may assert the client's rights without retaliation.

Subd. 2. **Acknowledgment by client.** Prior to the provision of any service, the client must sign a written statement attesting that the client has received the client bill of rights.

148C.01 DEFINITIONS.

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of health, or a designee.

148C.02 ALCOHOL AND DRUG COUNSELORS LICENSING ADVISORY COUNCIL.

Subdivision 1. **Membership.** The Alcohol and Drug Counselors Licensing Advisory Council consists of 13 members. The commissioner shall appoint:

(1) except for those members initially appointed, seven members who must be licensed alcohol and drug counselors;

(2) three members who must be public members as defined by section 214.02;

(3) one member who must be a director or coordinator of an accredited alcohol and drug dependency training program; and

(4) one member who must be a former consumer of alcohol and drug dependency counseling service and who must have received the service more than three years before the person's appointment.

The American Indian Advisory Committee to the Department of Human Services Chemical Dependency Office shall appoint the remaining member.

Subd. 2. **Duties.** The advisory council shall:

(1) provide advice and recommendations to the commissioner on the development of rules for the licensure of alcohol and drug counselors;

(2) provide advice and recommendations to the commissioner on the development of standards and procedures for the competency testing, licensing, and review of alcohol and drug counselors' professional conduct;

(3) provide advice and recommendations to the commissioner in disciplinary cases in the areas of counselor competency issues, counselor practice issues, and counselor impairment issues.

Subd. 3. **Terms.** The terms, compensation, and removal of members shall be as provided in section 15.059, except that

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notwithstanding any contrary law, the advisory council shall not expire.

148C.12 FEES.

Subd. 4. **Examination fee.** The examination fee for the written examination is \$95 and for the oral examination is \$200.

153A.14 REGULATION.

Subd. 2a. **Exemption from written examination requirement.** Persons completing the audiology registration requirements of section 148.515 after January 1, 1996, are exempt from the written examination requirements of subdivision 2h, paragraph (a), clause (1). Minnesota licensure, a current certification of clinical competence issued by the American Speech-Language-Hearing Association, board certification in audiology by the American Board of Audiology, or an equivalent, as an audiologist is not required but may be submitted as evidence qualifying for exemption from the written examination if the requirements are completed after January 1, 1996. Persons qualifying for written examination exemption must fulfill the other credentialing requirements under subdivisions 1 and 2 before a certificate may be issued by the commissioner.

1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Berglin,

4 Chair of the Health and Human Services Budget Division, to
5 which was referred

6 S.F. No. 1204: A bill for an act relating to health;
7 recodifying statutes and rules relating to social work;
8 authorizing rulemaking; providing penalties; modifying
9 provisions relating to physical therapists; providing penalties;
10 modifying the Psychology Practice Act; phasing out licensure as
11 a licensed psychological practitioner; modifying dental
12 licensure provisions; establishing fees; modifying provisions
13 for licensed professional counselors; authorizing certain
14 rulemaking; modifying physician review; modifying information
15 contained on prescriptions; providing recognition for the
16 practice of respiratory therapy in emergency situations;
17 providing that audiologists need not obtain hearing instrument
18 dispenser certification; providing penalties; transferring
19 oversight authority for the Office of Mental Health Practice;
20 requiring a report; establishing penalty fees for certain
21 credentialed health occupations; providing criminal penalties;
22 appropriating money; amending Minnesota Statutes 2004, sections
23 13.383, subdivision 10; 13.411, subdivision 5; 144.335,
24 subdivision 1; 144A.46, subdivision 2; 147.09; 147A.18,
25 subdivisions 1, 3; 147C.05; 148.512, subdivision 6, by adding
26 subdivisions; 148.515, by adding a subdivision; 148.5194, by
27 adding subdivisions; 148.5195, subdivision 3; 148.6445, by
28 adding a subdivision; 148.65, by adding subdivisions; 148.706;
29 148.75; 148.89, subdivision 5; 148.90, subdivision 1; 148.907,
30 by adding a subdivision; 148.908, subdivision 2, by adding a
31 subdivision; 148.909; 148.916, subdivision 2; 148.925,
32 subdivision 6; 148.941, subdivision 2; 148.96, subdivision 3;
33 148B.53, subdivisions 1, 3; 148B.54, subdivision 2; 148B.59;
34 148B.60; 148B.61; 148C.03, subdivision 1; 148C.04, subdivisions
35 3, 4, 6; 148C.091, subdivision 1; 148C.10, subdivision 2;
36 148C.11, subdivisions 1, 4, 5, 6; 148C.12, subdivision 3, by
37 adding a subdivision; 150A.01, subdivision 6a; 150A.06,
38 subdivision 1a; 150A.10, subdivision 1a; 153A.13, subdivision 5;
39 153A.14, subdivisions 2i, 4, 4c; 153A.15, subdivision 1;
40 153A.20, subdivision 1; 214.01, subdivision 2; 214.103,
41 subdivision 1; 245.462, subdivision 18; 245.4871, subdivision
42 27; 256B.0625, subdivision 38; 256J.08, subdivision 73a;
43 319B.02, subdivision 19; 319B.40; Laws 2003, chapter 118,
44 section 29, as amended; proposing coding for new law in
45 Minnesota Statutes, chapters 148; 148B; 148C; 150A; 153A;
46 providing coding for new law as Minnesota Statutes, chapter
47 148D; repealing Minnesota Statutes 2004, sections 148B.18;
48 148B.185; 148B.19; 148B.20; 148B.21; 148B.215; 148B.22;
49 148B.224; 148B.225; 148B.226; 148B.24; 148B.25; 148B.26;
50 148B.27; 148B.28; 148B.281; 148B.282; 148B.283; 148B.284;
51 148B.285; 148B.286; 148B.287; 148B.288; 148B.289; 148C.02;
52 148C.12, subdivision 4; 153A.14, subdivision 2a; Minnesota
53 Rules, parts 4747.0030, subparts 11, 16; 4747.1200; 4747.1300;
54 5601.0100, subparts 3, 4; 8740.0100; 8740.0110; 8740.0120;
55 8740.0122; 8740.0130; 8740.0155; 8740.0185; 8740.0187;
56 8740.0200; 8740.0240; 8740.0260; 8740.0285; 8740.0300;
57 8740.0310; 8740.0315; 8740.0320; 8740.0325; 8740.0330;
58 8740.0335; 8740.0340; 8740.0345.

59 Reports the same back with the recommendation that the bill
60 be amended as follows:

61 Page 11, line 33, after the period, insert "The employment
62 of the executive director shall be subject to the terms
63 described in section 214.04, subdivision 2a."

1 Page 12, lines 32 and 33, delete "and criminal prosecution"

2 Page 74, line 25, after the period, insert "Financial
3 responsibility for failed appointment billings resides solely
4 with the client and such costs may not be billed to public or
5 private payers."

6 Page 105, delete section 13

7 Page 120, delete lines 18 to 21 and insert:

8 "The dental hygienist ~~shall not perform~~ may administer
9 injections of local anesthetic agents or ~~the administration of~~
10 nitrous oxide ~~unless under the indirect supervision~~
11 ~~of~~ inhalation analgesia as specifically delegated in the
12 collaborative agreement with a licensed dentist. The dentist
13 need not first examine the patient or be present. If the
14 patient is considered medically compromised, the collaborative
15 dentist shall review the patient record, including the medical
16 history, prior to the provision of these services.

17 Collaborating dental hygienists may work with"

18 Pages 147 to 160, delete article 7 and insert:

19 "ARTICLE 7

20 COMMISSIONER OF HEALTH - AUDIOLOGISTS

21 Section 1. Minnesota Statutes 2004, section 148.512,
22 subdivision 6, is amended to read:

23 Subd. 6. [AUDIOLOGIST.] "Audiologist" means a natural
24 person who engages in the practice of audiology, meets the
25 qualifications required by sections 148.511 to ~~148.5196~~
26 148.5198, and is licensed by the commissioner under a general,
27 clinical fellowship, doctoral externship, or temporary license.

28 Audiologist also means a natural person using any descriptive
29 word with the title audiologist.

30 Sec. 2. Minnesota Statutes 2004, section 148.512, is
31 amended by adding a subdivision to read:

32 Subd. 10a. [HEARING AID.] "Hearing aid" means an
33 instrument, or any of its parts, worn in the ear canal and
34 designed to or represented as being able to aid or enhance human
35 hearing. "Hearing aid" includes the aid's parts, attachments,
36 or accessories, including, but not limited to, ear molds and

1 behind the ear (BTE) devices with or without an ear mold.
2 Batteries and cords are not parts, attachments, or accessories
3 of a hearing aid. Surgically implanted hearing aids, and
4 assistive listening devices not worn within the ear canal, are
5 not hearing aids.

6 Sec. 3. Minnesota Statutes 2004, section 148.512, is
7 amended by adding a subdivision to read:

8 Subd. 10b. [HEARING AID DISPENSING.] "Hearing aid
9 dispensing" means making ear mold impressions, prescribing, or
10 recommending a hearing aid, assisting the consumer in aid
11 selection, selling hearing aids at retail, or testing human
12 hearing in connection with these activities regardless of
13 whether the person conducting these activities has a monetary
14 interest in the dispensing of hearing aids to the consumer.

15 Sec. 4. Minnesota Statutes 2004, section 148.513, is
16 amended by adding a subdivision to read:

17 Subd. 2a. [HEARING AID DISPENSERS.] An audiologist must
18 not hold out as a licensed hearing aid dispenser.

19 Sec. 5. Minnesota Statutes 2004, section 148.515, is
20 amended by adding a subdivision to read:

21 Subd. 6. [DISPENSING AUDIOLOGIST EXAMINATION
22 REQUIREMENTS.] (a) Audiologists are exempt from the written
23 examination requirement in section 153A.14, subdivision 2h,
24 paragraph (a), clause (1).

25 (b) After July 31, 2005, all applicants for audiologist
26 licensure under sections 148.512 to 148.5198 must achieve a
27 passing score on the practical tests of proficiency described in
28 section 153A.14, subdivision 2h, paragraph (a), clause (2),
29 within the time period described in section 153A.14, subdivision
30 2h, paragraph (c).

31 (c) In order to dispense hearing aids as a sole proprietor,
32 member of a partnership, or for a limited liability company,
33 corporation, or any other entity organized for profit, a
34 licensee who obtained audiologist licensure under sections
35 148.512 to 148.5198, before August 1, 2005, and who is not
36 certified to dispense hearing aids under chapter 153A, must

1 achieve a passing score on the practical tests of proficiency
2 described in section 153A.14, subdivision 2h, paragraph (a),
3 clause (2), within the time period described in section 153A.14,
4 subdivision 2h, paragraph (c). All other audiologist licensees
5 who obtained licensure before August 1, 2005, are exempt from
6 the practical tests.

7 Sec. 6. Minnesota Statutes 2004, section 148.5194, is
8 amended by adding a subdivision to read:

9 Subd. 7. [AUDIOLOGIST SURCHARGE FEE.] (a) The biennial
10 surcharge fee for audiologists is \$235. The commissioner shall
11 prorate the fee for clinical fellowship, doctoral externship,
12 temporary, and first time licensees according to the number of
13 months that have elapsed between the date the license is issued
14 and the date the license expires or must be renewed under
15 section 148.5191, subdivision 4.

16 (b) Effective November 1, 2005, the commissioner shall
17 collect the \$235 audiologist surcharge fee prorated according to
18 the number of months remaining until the next scheduled license
19 renewal.

20 Sec. 7. Minnesota Statutes 2004, section 148.5195,
21 subdivision 3, is amended to read:

22 Subd. 3. [GROUNDS FOR DISCIPLINARY ACTION BY
23 COMMISSIONER.] The commissioner may take any of the disciplinary
24 actions listed in subdivision 4 on proof that the individual has:

25 (1) intentionally submitted false or misleading information
26 to the commissioner or the advisory council;

27 (2) failed, within 30 days, to provide information in
28 response to a written request, via certified mail, by the
29 commissioner or advisory council;

30 (3) performed services of a speech-language pathologist or
31 audiologist in an incompetent or negligent manner;

32 (4) violated sections 148.511 to ~~148.5196~~ 148.5198;

33 (5) failed to perform services with reasonable judgment,
34 skill, or safety due to the use of alcohol or drugs, or other
35 physical or mental impairment;

36 (6) violated any state or federal law, rule, or regulation,

1 and the violation is a felony or misdemeanor, an essential
2 element of which is dishonesty, or which relates directly or
3 indirectly to the practice of speech-language pathology or
4 audiology. Conviction for violating any state or federal law
5 which relates to speech-language pathology or audiology is
6 necessarily considered to constitute a violation, except as
7 provided in chapter 364;

8 (7) aided or abetted another person in violating any
9 provision of sections 148.511 to ~~148.5196~~ 148.5198;

10 (8) been or is being disciplined by another jurisdiction,
11 if any of the grounds for the discipline is the same or
12 substantially equivalent to those under sections 148.511 to
13 148.5196;

14 (9) not cooperated with the commissioner or advisory
15 council in an investigation conducted according to subdivision
16 1;

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

18 (11) engaged in conduct likely to deceive, defraud, or harm
19 the public; or demonstrated a willful or careless disregard for
20 the health, welfare, or safety of a client;

21 (12) failed to disclose to the consumer any fee splitting
22 or any promise to pay a portion of a fee to any other
23 professional other than a fee for services rendered by the other
24 professional to the client;

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

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

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

34 (16) failed to refer a client for medical evaluation or to
35 other health care professionals when appropriate or when a
36 client indicated symptoms associated with diseases that could be

1 medically or surgically treated;

2 ~~(17) if-the-individual-is-a-dispenser-of-hearing~~
3 ~~instruments-as-defined-by-section-153A.137--subdivision-5,~~ had
4 the certification required by chapter 153A, denied, suspended,
5 or revoked according to chapter 153A;

6 (18) used the term doctor of audiology, doctor of
7 speech-language pathology, AuD, or SLPD without having obtained
8 the degree from an institution accredited by the North Central
9 Association of Colleges and Secondary Schools, the Council on
10 Academic Accreditation in Audiology and Speech-Language
11 Pathology, the United States Department of Education, or an
12 equivalent; ~~or~~

13 (19) failed to comply with the requirements of section
14 148.5192 regarding supervision of speech-language pathology
15 assistants; or

16 (20) if the individual is an audiologist or certified
17 hearing aid dispenser:

18 (i) prescribed or otherwise recommended to a consumer or
19 potential consumer the use of a hearing aid, unless the
20 prescription from a physician or recommendation from an
21 audiologist or certified dispenser is in writing, is based on an
22 audiogram that is delivered to the consumer or potential
23 consumer when the prescription or recommendation is made, and
24 bears the following information in all capital letters of
25 12-point or larger boldface type: "THIS PRESCRIPTION OR
26 RECOMMENDATION MAY BE FILLED BY, AND HEARING AIDS MAY BE
27 PURCHASED FROM, THE LICENSED AUDIOLOGIST OR CERTIFIED DISPENSER
28 OF YOUR CHOICE";

29 (ii) failed to give a copy of the audiogram, upon which the
30 prescription or recommendation is based, to the consumer when
31 the consumer requests a copy;

32 (iii) failed to provide the consumer rights brochure
33 required by section 148.5197, subdivision 3;

34 (iv) failed to comply with restrictions on sales of hearing
35 aids in sections 148.5197, subdivision 3, and 148.5198;

36 (v) failed to return a consumer's hearing aid used as a

1 trade-in or for a discount in the price of a new hearing aid
2 when requested by the consumer upon cancellation of the purchase
3 agreement;

4 (vi) failed to follow Food and Drug Administration or
5 Federal Trade Commission regulations relating to dispensing
6 hearing aids;

7 (vii) failed to dispense a hearing aid in a competent
8 manner or without appropriate training;

9 (viii) delegated hearing instrument dispensing authority to
10 a person not authorized to dispense a hearing instrument under
11 this chapter or chapter 153A;

12 (ix) failed to comply with the requirements of an employer
13 or supervisor of a hearing aid dispenser trainee; or

14 (x) violated a state or federal court order or judgment,
15 including a conciliation court judgment, relating to the
16 activities of the individual's hearing aid dispensing.

17 Sec. 8. Minnesota Statutes 2004, section 148.5196,
18 subdivision 1, is amended to read:

19 Subdivision 1. [MEMBERSHIP.] The commissioner shall
20 appoint ~~eight~~ 12 persons to a Speech-Language Pathologist and
21 Audiologist Advisory Council. The ~~eight~~ 12 persons must include:

22 (1) ~~two~~ three public members, as defined in section 214.02.
23 Two of the public members shall be either persons receiving
24 services of a speech-language pathologist or audiologist, or
25 family members of or caregivers to such persons, and at least
26 one of the public members shall be either a hearing instrument
27 user or an advocate of one;

28 (2) ~~two~~ three speech-language pathologists licensed under
29 sections 148.511 to 148.5196, one of whom is currently and has
30 been, for the five years immediately preceding the appointment,
31 engaged in the practice of speech-language pathology in
32 Minnesota and each of whom is employed in a different employment
33 setting including, but not limited to, private practice,
34 hospitals, rehabilitation settings, educational settings, and
35 government agencies;

36 (3) one speech-language pathologist licensed under sections

1 148.511 to 148.5196, who is currently and has been, for the five
2 years immediately preceding the appointment, employed by a
3 Minnesota public school district or a Minnesota public school
4 district consortium that is authorized by Minnesota Statutes and
5 who is licensed in speech-language pathology by the Minnesota
6 Board of Teaching;

7 (4) ~~two~~ three audiologists licensed under sections 148.511
8 to 148.5196, ~~one~~ two of whom ~~is~~ are currently and ~~has~~ have
9 been, for the five years immediately preceding the appointment,
10 engaged in the practice of audiology and the dispensing of
11 hearing instruments in Minnesota and each of whom is employed in
12 a different employment setting including, but not limited to,
13 private practice, hospitals, rehabilitation settings,
14 educational settings, industry, and government agencies; and

15 (5) one nonaudiologist hearing instrument dispenser
16 recommended by a professional association representing hearing
17 instrument dispensers; and

18 (6) one physician licensed under chapter 147 and certified
19 by the American Board of Otolaryngology, Head and Neck Surgery.

20 Sec. 9. [148.5197] [HEARING AID DISPENSING.]

21 Subdivision 1. [CONTENT OF CONTRACTS.] Oral statements
22 made by an audiologist or certified dispenser regarding the
23 provision of warranties, refunds, and service on the hearing aid
24 or aids dispensed must be written on, and become part of, the
25 contract of sale, specify the item or items covered, and
26 indicate the person or business entity obligated to provide the
27 warranty, refund, or service.

28 Subd. 2. [REQUIRED USE OF LICENSE NUMBER.] The
29 audiologist's license number or certified dispenser's
30 certificate number must appear on all contracts, bills of sale,
31 and receipts used in the sale of hearing aids.

32 Subd. 3. [CONSUMER RIGHTS INFORMATION.] An audiologist or
33 certified dispenser shall, at the time of the recommendation or
34 prescription, give a consumer rights brochure, prepared by the
35 commissioner and containing information about legal requirements
36 pertaining to dispensing of hearing aids, to each potential

1 consumer of a hearing aid. The brochure must contain
2 information about the consumer information center described in
3 section 153A.18. A contract for a hearing aid must note the
4 receipt of the brochure by the consumer, along with the
5 consumer's signature or initials.

6 Subd. 4. [LIABILITY FOR CONTRACTS.] Owners of entities in
7 the business of dispensing hearing aids, employers of
8 audiologists or persons who dispense hearing aids, supervisors
9 of trainees or audiology students, and hearing aid dispensers
10 conducting the transaction at issue are liable for satisfying
11 all terms of contracts, written or oral, made by their agents,
12 employees, assignees, affiliates, or trainees, including terms
13 relating to products, repairs, warranties, service, and
14 refunds. The commissioner may enforce the terms of hearing aid
15 contracts against the principal, employer, supervisor, or
16 dispenser who conducted the transaction and may impose any
17 remedy provided for in this chapter.

18 Sec. 10. [148.5198] [RESTRICTION ON SALE OF HEARING AIDS.]

19 Subdivision 1. [45-CALENDAR-DAY GUARANTEE AND BUYER RIGHT
20 TO CANCEL.] (a) An audiologist or certified dispenser dispensing
21 a hearing aid in this state must comply with paragraphs (b) and
22 (c).

23 (b) The audiologist or certified dispenser must provide the
24 buyer with a 45-calendar-day written money-back guarantee. The
25 guarantee must permit the buyer to cancel the purchase for any
26 reason within 45 calendar days after receiving the hearing aid
27 by giving or mailing written notice of cancellation to the
28 audiologist or certified dispenser. If the buyer mails the
29 notice of cancellation, the 45-calendar-day period is counted
30 using the postmark date, to the date of receipt by the
31 audiologist or certified dispenser. If the hearing aid must be
32 repaired, remade, or adjusted during the 45-calendar-day
33 money-back guarantee period, the running of the 45-calendar-day
34 period is suspended one day for each 24-hour period that the
35 hearing aid is not in the buyer's possession. A repaired,
36 remade, or adjusted hearing aid must be claimed by the buyer

1 within three business days after notification of availability,
2 after which time the running of the 45-calendar-day period
3 resumes. The guarantee must entitle the buyer, upon
4 cancellation, to receive a refund of payment within 30 days of
5 return of the hearing aid to the audiologist or certified
6 dispenser. The audiologist or certified dispenser may retain as
7 a cancellation fee no more than \$250 of the buyer's total
8 purchase price of the hearing aid.

9 (c) The audiologist or certified dispenser shall provide
10 the buyer with a contract written in plain English, that
11 contains uniform language and provisions that meet the
12 requirements under the Plain Language Contract Act, sections
13 325G.29 to 325G.36. The contract must include, but is not
14 limited to, the following: in immediate proximity to the space
15 reserved for the signature of the buyer, or on the first page if
16 there is no space reserved for the signature of the buyer, a
17 clear and conspicuous disclosure of the following specific
18 statement in all capital letters of no less than 12-point
19 boldface type: "MINNESOTA STATE LAW GIVES THE BUYER THE RIGHT
20 TO CANCEL THIS PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO
21 MIDNIGHT OF THE 45TH CALENDAR DAY AFTER RECEIPT OF THE HEARING
22 AID(S). THIS CANCELLATION MUST BE IN WRITING AND MUST BE GIVEN
23 OR MAILED TO THE AUDIOLOGIST OR CERTIFIED DISPENSER. IF THE
24 BUYER DECIDES TO RETURN THE HEARING AID(S) WITHIN THIS
25 45-CALENDAR-DAY PERIOD, THE BUYER WILL RECEIVE A REFUND OF THE
26 TOTAL PURCHASE PRICE OF THE AID(S) FROM WHICH THE AUDIOLOGIST OR
27 CERTIFIED DISPENSER MAY RETAIN AS A CANCELLATION FEE NO MORE
28 THAN \$250."

29 Subd. 2. [ITEMIZED REPAIR BILL.] Any audiologist,
30 certified dispenser, or company who agrees to repair a hearing
31 aid must provide the owner of the hearing aid, or the owner's
32 representative, with a bill that describes the repair and
33 services rendered. The bill must also include the repairing
34 audiologist's, certified dispenser's, or company's name,
35 address, and telephone number.

36 This subdivision does not apply to an audiologist,

1 certified dispenser, or company that repairs a hearing aid
2 pursuant to an express warranty covering the entire hearing aid
3 and the warranty covers the entire cost, both parts and labor,
4 of the repair.

5 Subd. 3. [REPAIR WARRANTY.] Any guarantee of hearing aid
6 repairs must be in writing and delivered to the owner of the
7 hearing aid, or the owner's representative, stating the
8 repairing audiologist's, certified dispenser's, or company's
9 name, address, telephone number, length of guarantee, model, and
10 serial number of the hearing aid and all other terms and
11 conditions of the guarantee.

12 Subd. 4. [MISDEMEANOR.] A person found to have violated
13 this section is guilty of a misdemeanor.

14 Subd. 5. [ADDITIONAL.] In addition to the penalty provided
15 in subdivision 4, a person found to have violated this section
16 is subject to the penalties and remedies provided in section
17 325F.69, subdivision 1.

18 Subd. 6. [ESTIMATES.] Upon the request of the owner of a
19 hearing aid or the owner's representative for a written estimate
20 and prior to the commencement of repairs, a repairing
21 audiologist, certified dispenser, or company shall provide the
22 customer with a written estimate of the price of repairs. If a
23 repairing audiologist, certified dispenser, or company provides
24 a written estimate of the price of repairs, it must not charge
25 more than the total price stated in the estimate for the
26 repairs. If the repairing audiologist, certified dispenser, or
27 company after commencing repairs determines that additional work
28 is necessary to accomplish repairs that are the subject of a
29 written estimate and if the repairing audiologist, certified
30 dispenser, or company did not unreasonably fail to disclose the
31 possible need for the additional work when the estimate was
32 made, the repairing audiologist, certified dispenser, or company
33 may charge more than the estimate for the repairs if the
34 repairing audiologist, certified dispenser, or company
35 immediately provides the owner or owner's representative a
36 revised written estimate pursuant to this section and receives

1 authorization to continue with the repairs. If continuation of
2 the repairs is not authorized, the repairing audiologist,
3 certified dispenser, or company shall return the hearing aid as
4 close as possible to its former condition and shall release the
5 hearing aid to the owner or owner's representative upon payment
6 of charges for repairs actually performed and not in excess of
7 the original estimate.

8 Sec. 11. Minnesota Statutes 2004, section 153A.13,
9 subdivision 5, is amended to read:

10 Subd. 5. [DISPENSER OF HEARING INSTRUMENTS.] "Dispenser of
11 hearing instruments" means a natural person who engages in
12 hearing instrument dispensing whether or not certified by the
13 commissioner of health or licensed by an existing health-related
14 board, except that a person described as follows is not a
15 dispenser of hearing instruments:

16 (1) a student participating in supervised field work that
17 is necessary to meet requirements of an accredited educational
18 program if the student is designated by a title which clearly
19 indicates the student's status as a student trainee; or

20 (2) a person who helps a dispenser of hearing instruments
21 in an administrative or clerical manner and does not engage in
22 hearing instrument dispensing.

23 A person who offers to dispense a hearing instrument, or a
24 person who advertises, holds out to the public, or otherwise
25 represents that the person is authorized to dispense hearing
26 instruments must be certified by the commissioner except when
27 the person is an audiologist as defined in section 148.512.

28 Sec. 12. Minnesota Statutes 2004, section 153A.14,
29 subdivision 2h, is amended to read:

30 Subd. 2h. [CERTIFICATION BY EXAMINATION.] An applicant
31 must achieve a passing score, as determined by the commissioner,
32 on an examination according to paragraphs (a) to (c).

33 (a) The examination must include, but is not limited to:

34 (1) A written examination approved by the commissioner
35 covering the following areas as they pertain to hearing
36 instrument selling:

1 (i) basic physics of sound;
2 (ii) the anatomy and physiology of the ear;
3 (iii) the function of hearing instruments; and
4 (iv) the principles of hearing instrument selection, ~~and~~
5 ~~(v) state and federal laws, rules, and regulations.~~
6 (2) Practical tests of proficiency in the following
7 techniques as they pertain to hearing instrument selling:
8 (i) pure tone audiometry, including air conduction testing
9 and bone conduction testing;
10 (ii) live voice or recorded voice speech audiometry
11 including speech recognition (discrimination) testing, most
12 comfortable loudness level, and uncomfortable loudness
13 measurements of tolerance thresholds;
14 (iii) masking when indicated;
15 (iv) recording and evaluation of audiograms and speech
16 audiometry to determine proper selection and fitting of a
17 hearing instrument;
18 (v) taking ear mold impressions; and
19 (vi) using an otoscope for the visual observation of the
20 entire ear canal; and
21 (vii) state and federal laws, rules, and regulations.
22 (b) The examination shall be administered by the
23 commissioner at least twice a year.
24 (c) An applicant must achieve a passing score on all
25 portions of the examination within a two-year period. An
26 applicant who does not achieve a passing score on all portions
27 of the examination within a two-year period must retake the
28 entire examination and achieve a passing score on each portion
29 of the examination. An applicant who does not apply for
30 certification within one year of successful completion of the
31 examination must retake the examination and achieve a passing
32 score on each portion of the examination. An applicant may not
33 take any part of the examination more than three times in a
34 two-year period.
35 Sec. 13. Minnesota Statutes 2004, section 153A.14,
36 subdivision 2i, is amended to read:

1 Subd. 2i. [CONTINUING EDUCATION REQUIREMENT.] On forms
2 provided by the commissioner, each certified dispenser must
3 submit with the application for renewal of certification
4 evidence of completion of ten course hours of continuing
5 education earned within the 12-month period of July 1 to June 30
6 immediately preceding renewal. Continuing education courses
7 must be directly related to hearing instrument dispensing and
8 approved by the International Hearing Society ~~or qualify for~~
9 ~~continuing-education-approved-for-Minnesota-licensed~~
10 ~~audiologists~~. Evidence of completion of the ten course hours of
11 continuing education must be submitted with renewal applications
12 by October 1 of each year. This requirement does not apply to
13 dispensers certified for less than one year. The first report
14 of evidence of completion of the continuing education credits
15 shall be due October 1, 1997.

16 Sec. 14. Minnesota Statutes 2004, section 153A.14,
17 subdivision 4, is amended to read:

18 Subd. 4. [DISPENSING OF HEARING INSTRUMENTS WITHOUT
19 CERTIFICATE.] Except as provided in subdivisions 4a and 4c, and
20 in sections 148.512 to 148.5198, it is unlawful for any person
21 not holding a valid certificate to dispense a hearing instrument
22 as defined in section 153A.13, subdivision 3. A person who
23 dispenses a hearing instrument without the certificate required
24 by this section is guilty of a gross misdemeanor.

25 Sec. 15. Minnesota Statutes 2004, section 153A.14,
26 subdivision 4c, is amended to read:

27 Subd. 4c. [RECIPROCITY.] (a) A person applying for
28 certification as a hearing instrument dispenser under
29 subdivision 1 who has dispensed hearing instruments in another
30 jurisdiction may dispense hearing instruments as a trainee under
31 indirect supervision if the person:

32 (1) satisfies the provisions of subdivision 4a, paragraph
33 (a);

34 (2) submits a signed and dated affidavit stating that the
35 applicant is not the subject of a disciplinary action or past
36 disciplinary action in this or another jurisdiction and is not

1 disqualified on the basis of section 153A.15, subdivision 1; and

2 (3) provides a copy of a current credential as a hearing
3 instrument dispenser, ~~an audiologist, or both,~~ held in the
4 District of Columbia or a state or territory of the United
5 States.

6 (b) A person becoming a trainee under this subdivision who
7 fails to take and pass the practical examination described in
8 subdivision 2h, paragraph (a), clause (2), when next offered
9 must cease dispensing hearing instruments unless under direct
10 supervision.

11 Sec. 16. Minnesota Statutes 2004, section 153A.14,
12 subdivision 9, is amended to read:

13 Subd. 9. [CONSUMER RIGHTS INFORMATION.] A hearing
14 instrument dispenser shall, ~~at the time of the recommendation or~~
15 ~~prescription, give a consumer rights brochure, prepared by the~~
16 ~~commissioner and containing information about legal requirements~~
17 ~~pertaining to sales of hearing instruments, to each potential~~
18 ~~buyer of a hearing instrument. A sales contract for a hearing~~
19 ~~instrument must note the receipt of the brochure by the buyer,~~
20 ~~along with the buyer's signature or initials~~ comply with the
21 requirements of sections 148.5195, subdivision 3, clause (20);
22 148.5197; and 148.5198.

23 Sec. 17. Minnesota Statutes 2004, section 153A.15,
24 subdivision 1, is amended to read:

25 Subdivision 1. [PROHIBITED ACTS.] The commissioner may
26 take enforcement action as provided under subdivision 2 against
27 a dispenser of hearing instruments for the following acts and
28 conduct:

29 (1) ~~prescribing or otherwise recommending to a consumer or~~
30 ~~potential consumer the use of a hearing instrument, unless the~~
31 ~~prescription from a physician or recommendation from a hearing~~
32 ~~instrument dispenser or audiologist is in writing, is based on~~
33 ~~an audiogram that is delivered to the consumer or potential~~
34 ~~consumer when the prescription or recommendation is made, and~~
35 ~~bears the following information in all capital letters of~~
36 ~~12-point or larger boldface type:--"THIS PRESCRIPTION OR~~

1 RECOMMENDATION-MAY-BE-FILLED-BY,-AND-HEARING-INSTRUMENTS-MAY-BE
2 PURCHASED-FROM,-THE-CERTIFIED-DISPENSER-OR-LICENSED-AUDIOLOGIST
3 OF-YOUR-CHOICE";

4 {2}-failing-to-give-a-copy-of-the-audiogram,-upon-which-the
5 prescription-or-recommendation-is-based,-to-the-consumer-when
6 there-has-been-a-charge-for-the-audiogram-and-the-consumer
7 requests-a-copy;

8 {3} dispensing a hearing instrument to a minor person 18
9 years or younger unless evaluated by an audiologist for hearing
10 evaluation and hearing aid evaluation;

11 {4}-failing-to-provide-the-consumer-rights-brochure
12 required-by-section-153A-14,-subdivision-9;

13 {5} (2) being disciplined through a revocation, suspension,
14 restriction, or limitation by another state for conduct subject
15 to action under this chapter;

16 {6} (3) presenting advertising that is false or misleading;

17 {7} (4) providing the commissioner with false or misleading
18 statements of credentials, training, or experience;

19 {8} (5) engaging in conduct likely to deceive, defraud, or
20 harm the public; or demonstrating a willful or careless
21 disregard for the health, welfare, or safety of a consumer;

22 {9} (6) splitting fees or promising to pay a portion of a
23 fee to any other professional other than a fee for services
24 rendered by the other professional to the client;

25 {10} (7) engaging in abusive or fraudulent billing
26 practices, including violations of federal Medicare and Medicaid
27 laws, Food and Drug Administration regulations, or state medical
28 assistance laws;

29 {11} (8) obtaining money, property, or services from a
30 consumer through the use of undue influence, high pressure sales
31 tactics, harassment, duress, deception, or fraud;

32 {12}-failing-to-comply-with-restrictions-on-sales-of
33 hearing-aids-in-sections-153A-14,-subdivision-9,-and-153A-19;

34 {13} (9) performing the services of a certified hearing
35 instrument dispenser in an incompetent or negligent manner;

36 {14} (10) failing to comply with the requirements of this

1 chapter as an employer, supervisor, or trainee;

2 ~~(15)~~ (11) failing to provide information in a timely manner
3 in response to a request by the commissioner, commissioner's
4 designee, or the advisory council;

5 ~~(16)~~ (12) being convicted within the past five years of
6 violating any laws of the United States, or any state or
7 territory of the United States, and the violation is a felony,
8 gross misdemeanor, or misdemeanor, an essential element of which
9 relates to hearing instrument dispensing, except as provided in
10 chapter 364;

11 ~~(17)~~ (13) failing to cooperate with the commissioner, the
12 commissioner's designee, or the advisory council in any
13 investigation;

14 ~~(18)~~ (14) failing to perform hearing instrument dispensing
15 with reasonable judgment, skill, or safety due to the use of
16 alcohol or drugs, or other physical or mental impairment;

17 ~~(19)~~ (15) failing to fully disclose actions taken against
18 the applicant or the applicant's legal authorization to dispense
19 hearing instruments in this or another state;

20 ~~(20)~~ (16) violating a state or federal court order or
21 judgment, including a conciliation court judgment, relating to
22 the activities of the applicant in hearing instrument
23 dispensing;

24 ~~(21)~~ (17) having been or being disciplined by the
25 commissioner of the Department of Health, or other authority, in
26 this or another jurisdiction, if any of the grounds for the
27 discipline are the same or substantially equivalent to those in
28 sections 153A.13 to 153A.19;

29 ~~(22)~~ (18) misrepresenting the purpose of hearing tests, or
30 in any way communicating that the hearing test or hearing test
31 protocol required by section 153A.14, subdivision 4b, is a
32 medical evaluation, a diagnostic hearing evaluation conducted by
33 an audiologist, or is other than a test to select a hearing
34 instrument, except that the hearing instrument dispenser can
35 determine the need for or recommend the consumer obtain a
36 medical evaluation consistent with requirements of the United

1 States Food and Drug Administration;

2 ~~(23)~~ (19) violating any of the provisions of sections
3 148.5195, subdivision 3, clause (20); 148.5197; 148.5198; and
4 153A.13 to ~~153A.19~~ 153A.18; and

5 ~~(24)~~ (20) aiding or abetting another person in violating
6 any of the provisions of sections 148.5195, subdivision 3,
7 clause (20); 148.5197; 148.5198; and 153A.13 to ~~153A.19~~ 153A.18.

8 Sec. 18. Minnesota Statutes 2004, section 153A.20,
9 subdivision 1, is amended to read:

10 Subdivision 1. [MEMBERSHIP.] The commissioner shall
11 appoint ~~nine~~ seven persons to a Hearing Instrument Dispenser
12 Advisory Council.

13 (a) The ~~nine~~ seven persons must include:

14 (1) three public members, as defined in section 214.02. At
15 least one of the public members shall be a hearing instrument
16 user and one of the public members shall be either a hearing
17 instrument user or an advocate of one; and

18 (2) three hearing instrument dispensers certified under
19 sections 153A.14 to 153A.20, each of whom is currently, and has
20 been for the five years immediately preceding their appointment,
21 engaged in hearing instrument dispensing in Minnesota and who
22 represent the occupation of hearing instrument dispensing and
23 who are not audiologists; and

24 ~~(3) three-audiologists-who-are-certified-hearing-instrument~~
25 ~~dispensers-or-are~~ one audiologist licensed as audiologists an
26 audiologist under chapter 148 who dispenses hearing instruments,
27 recommended by a professional association representing
28 audiologists and speech-language pathologists.

29 (b) The factors the commissioner may consider when
30 appointing advisory council members include, but are not limited
31 to, professional affiliation, geographical location, and type of
32 practice.

33 (c) No two members of the advisory council shall be
34 employees of, or have binding contracts requiring sales
35 exclusively for, the same hearing instrument manufacturer or the
36 same employer.

1 Sec. 19. [REVISOR'S INSTRUCTION.]

2 The revisor of statutes shall change references from
3 "sections 148.511 to 148.5196" to "sections 148.511 to 148.5198"
4 wherever they appear in Minnesota Statutes and Minnesota Rules,
5 and change "153A.19" to "148.5197" in Minnesota Statutes,
6 section 325G.203.

7 Sec. 20. [REPEALER.]

8 Minnesota Statutes 2004, sections 153A.14, subdivisions 2a,
9 8, and 10; and 153A.19, are repealed.

10 Sec. 21. [EFFECTIVE DATE.]

11 Sections 1 to 18 and 20 are effective August 1, 2005."

12 Page 161, line 4, delete "licensed"

13 Page 161, line 29, before the period, insert "or services
14 provided by Christian Scientist practitioners"

15 Pages 162 and 163, delete section 2 and insert:

16 "Sec. 2. Minnesota Statutes 2004, section 148B.61, is
17 amended to read:

18 148B.61 [OFFICE OF MENTAL HEALTH PRACTICE.]

19 Subdivision 1. [CREATION AUTHORITY.] (a) The Office of
20 Mental Health Practice is ~~created-in-the-Department-of-Health~~
21 transferred to the mental-health-related licensing boards. The
22 mental-health-related licensing boards shall convene an Office
23 of Mental Health Practices Committee to investigate complaints
24 and take and enforce disciplinary actions against all unlicensed
25 mental health practitioners for violations of prohibited
26 conduct, as defined in section 148B.68.

27 (b) The office committee shall publish a complaint
28 telephone number, provide an informational Web site, and also
29 serve as a referral point and clearinghouse on complaints
30 against mental health services-and-both-licensed-and-unlicensed
31 mental-health-professionals,-through-the-dissemination
32 of practitioners. The committee shall disseminate objective
33 information to consumers and through the development and
34 performance of public education activities, including outreach,
35 regarding the provision of mental health services and both
36 licensed and unlicensed mental health professionals who provide

1 these services.

2 ~~Subd. 2. [RULEMAKING.] The commissioner of health shall~~
 3 ~~adopt rules necessary to implement, administer, or enforce~~
 4 ~~provisions of sections 148B.60 to 148B.71 pursuant to chapter~~
 5 ~~14. The commissioner may not adopt rules that restrict or~~
 6 ~~prohibit persons from providing mental health services on the~~
 7 ~~basis of education, training, experience, or supervision.~~

8 Subd. 4. [MANAGEMENT, REPORT, AND SUNSET OF THE
 9 OFFICE.] (a) The committee shall:

10 (1) designate one board to provide administrative
 11 management of the committee;

12 (2) set the program budget; and

13 (3) ensure that the committee's direction is in accord with
 14 its authority.

15 (b) If the participating boards change which board is
 16 designated to provide administrative management of the
 17 committee, any appropriation remaining for the committee shall
 18 transfer to the newly designated board on the effective date of
 19 the change. The participating boards must inform the
 20 appropriate legislative committees and the commissioner of
 21 finance of any change in the designated board and the amount of
 22 any appropriation transferred under this provision.

23 (c) The designated board shall hire the office employees
 24 and pay expenses of the committee from funds appropriated for
 25 that purpose.

26 (d) After July 1, 2008, the committee shall prepare and
 27 submit a report to the legislature by January 15, 2009,
 28 evaluating the activity of the office and making recommendations
 29 concerning the regulation of unlicensed mental health
 30 practitioners. In the absence of legislative action to continue
 31 the committee, the committee expires on June 30, 2009."

32 Page 164, delete lines 4 to 6 and insert: *section 4*

33 "\$205,000 is appropriated from the state government special
 34 revenue fund to the board designated to provide administrative
 35 management under Minnesota Statutes, section 148B.61,
 36 subdivision 4. The following boards shall be assessed a

1 prorated amount depending on the number of licensees under the
 2 board's regulatory authority providing mental health services
 3 within their scope of practice: the Board of Medical Practice,
 4 the Board of Nursing, the Board of Psychology, the Board of
 5 Social Work, the Board of Marriage and Family Therapy, and the
 6 Board of Behavioral Health and Therapy."

7 Page 164, line 13, delete "act" and insert "article"

8 Page 167, after line 17, insert:

9 "Sec. 5. Minnesota Statutes 2004, section 214.06,
 10 subdivision 1, is amended to read:

11 Subdivision 1. [FEE ADJUSTMENT.] Notwithstanding any law
 12 to the contrary, the commissioner of health as authorized by
 13 section 214.13, all health-related licensing boards and all
 14 non-health-related licensing boards shall by rule, with the
 15 approval of the commissioner of finance, adjust, as needed, any
 16 fee which the commissioner of health or the board is empowered
 17 to assess. As provided in section 16A.1285, the adjustment
 18 shall be an amount sufficient so that the total fees collected
 19 by each board will ~~as-closely-as-possible-equal~~ be based on
 20 anticipated expenditures during-the-fiscal-biennium, including
 21 expenditures for the programs authorized by sections 214.17-to
 22 214.25-and-214.31-to-214.37 214.10, 214.103, 214.11, 214.17 to
 23 214.24, 214.28 to 214.37, and 214.40, except that a
 24 health-related licensing board may have anticipated expenditures
 25 in excess of anticipated revenues in a biennium by using
 26 accumulated surplus revenues from fees collected by that board
 27 in previous bienniums. A health-related licensing board shall
 28 not spend more money than the amount appropriated by the
 29 legislature for a biennium. For members of an occupation
 30 registered after July 1, 1984, by the commissioner of health
 31 under the provisions of section 214.13, the fee established must
 32 include an amount necessary to recover, over a five-year period,
 33 the commissioner's direct expenditures for adoption of the rules
 34 providing for registration of members of the occupation. All
 35 fees received shall be deposited in the state treasury. Fees
 36 received-by-the-commissioner-of-health-or-health-related

1 ~~licensing-boards-must-be-credited-to-the-health-occupations~~
2 ~~licensing-account-in-the-state-government-special-revenue-fund.~~

3 Sec. 6. Minnesota Statutes 2004, section 214.06, is
4 amended by adding a subdivision to read:

5 Subd. 1a. [HEALTH OCCUPATIONS LICENSING ACCOUNT.] Fees
6 received by the commissioner of health or health-related
7 licensing boards must be credited to the health occupations
8 licensing account in the state government special revenue fund.
9 The commissioner of finance shall ensure that the revenues and
10 expenditures of each health-related licensing board are tracked
11 separately in the health occupations licensing account.

12 ARTICLE 10

13 EMERGENCY MEDICAL SERVICES REGULATORY BOARD

14 Section 1. Minnesota Statutes 2004, section 144E.001,
15 subdivision 8, is amended to read:

16 Subd. 8. [LICENSEE.] "Licensee" means a natural person,
17 partnership, association, corporation, Indian tribe, or unit of
18 government which possesses an ambulance service license.

19 Sec. 2. Minnesota Statutes 2004, section 144E.001, is
20 amended by adding a subdivision to read:

21 Subd. 14a. [TRIBE.] "Tribe" means a federally recognized
22 Indian tribe, as defined in United States Code, title 25,
23 section 450b, paragraph (e), located within the state of
24 Minnesota.

25 Sec. 3. Minnesota Statutes 2004, section 144E.001,
26 subdivision 15, is amended to read:

27 Subd. 15. [VOLUNTEER AMBULANCE ATTENDANT.] "Volunteer
28 ambulance attendant" means a person who provides emergency
29 medical services for a Minnesota licensed ambulance service
30 without the expectation of remuneration and who does not depend
31 in any way upon the provision of these services for the person's
32 livelihood. An individual may be considered a volunteer
33 ambulance attendant even though the individual receives an
34 hourly stipend for each hour of actual service provided, except
35 for hours on standby alert, or other nominal fee, and even
36 though the hourly stipend or other nominal fee is regarded as

1 taxable income for purposes of state or federal law, provided
2 that the hourly stipend and other nominal fees do not exceed
3 ~~\$3,000 within one year of the final certification~~
4 examination \$6,000 annually.

5 Sec. 4. [144E.266] [EMERGENCY SUSPENSION OF AMBULANCE
6 SERVICE REQUIREMENT.]

7 (a) The requirements of sections 144E.10; 144E.101,
8 subdivisions 1, 2, 3, 6, 7, 8, 9, 10, 11, and 13; 144E.103;
9 144E.12; 144E.121; 144E.123; 144E.127; and 144E.15, are
10 suspended:

11 (1) throughout the state during a national security
12 emergency declared under section 12.31;

13 (2) in the geographic areas of the state affected during a
14 peacetime emergency declared under section 12.31; and

15 (3) in the geographic areas of the state affected during a
16 local emergency declared under section 12.29.

17 (b) For purposes of this section, the geographic areas of
18 the state affected shall include geographic areas where one or
19 more ambulance services are providing requested mutual aid to
20 the site of the emergency.

21 Sec. 5. Minnesota Statutes 2004, section 144E.27,
22 subdivision 2, is amended to read:

23 Subd. 2. [REGISTRATION.] To be eligible for registration
24 with the board as a first responder, an individual
25 shall complete a board-approved application form and:

26 (1) successfully complete a board-approved initial first
27 responder training program. Registration under this clause is
28 valid for two years and expires at the end of the month in which
29 the registration was issued; or

30 (2) be credentialed as a first responder by the National
31 Registry of Emergency Medical Technicians. Registration under
32 this clause expires the same day as the National Registry
33 credential.

34 Sec. 6. Minnesota Statutes 2004, section 144E.28,
35 subdivision 1, is amended to read:

36 Subdivision 1. [REQUIREMENTS.] To be eligible for

1 certification by the board as an EMT, EMT-I, or EMT-P, an
2 individual shall:

- 3 (1) successfully complete the United States Department of
4 Transportation course, or its equivalent as approved by the
5 board, specific to the EMT, EMT-I, or EMT-P classification; and
6 (2) pass the written and practical examinations approved by
7 the board and administered by the board or its designee,
8 specific to the EMT, EMT-I, or EMT-P classification; and
9 (3) complete a board-approved application form.

10 Sec. 7. Minnesota Statutes 2004, section 144E.28,
11 subdivision 3, is amended to read:

12 Subd. 3. [RECIPROCITY.] The board may certify an
13 individual who possesses a current National Registry of
14 Emergency Medical Technicians registration from another
15 jurisdiction if the individual submits a board-approved
16 application form. The board certification classification shall
17 be the same as the National Registry's classification.
18 Certification shall be for the duration of the applicant's
19 registration period in another jurisdiction, not to exceed two
20 years.

21 Sec. 8. Minnesota Statutes 2004, section 144E.28,
22 subdivision 7, is amended to read:

23 Subd. 7. [RENEWAL.] (a) Before the expiration date of
24 certification, an applicant for renewal of certification as an
25 EMT shall:

- 26 (1) successfully complete a course in cardiopulmonary
27 resuscitation that is approved by the board or the licensee's
28 medical director; and
29 (2) take the United States Department of Transportation EMT
30 refresher course and successfully pass the practical skills test
31 portion of the course, or successfully complete 48 hours of
32 continuing education in EMT programs that are consistent with
33 the United States Department of Transportation National Standard
34 Curriculum or its equivalent as approved by the board or as
35 approved by the licensee's medical director and pass a practical
36 skills test approved by the board and administered by a training

1 program approved by the board. The cardiopulmonary
2 resuscitation course and practical skills test may be included
3 as part of the refresher course or continuing education renewal
4 requirements. Twenty-four of the 48 hours must include at least
5 four hours of instruction in each of the following six
6 categories:

- 7 (i) airway management and resuscitation procedures;
- 8 (ii) circulation, bleeding control, and shock;
- 9 (iii) human anatomy and physiology, patient assessment, and
10 medical emergencies;
- 11 (iv) injuries involving musculoskeletal, nervous,
12 digestive, and genito-urinary systems;
- 13 (v) environmental emergencies and rescue techniques; and
- 14 (vi) emergency childbirth and other special situations; and
- 15 (3) complete a board-approved application form.

16 (b) Before the expiration date of certification, an
17 applicant for renewal of certification as an EMT-I or EMT-P
18 shall:

- 19 (1) for an EMT-I, successfully complete a course in
20 cardiopulmonary resuscitation that is approved by the board or
21 the licensee's medical director and for an EMT-P, successfully
22 complete a course in advanced cardiac life support that is
23 approved by the board or the licensee's medical director; and
- 24 (2) successfully complete 48 hours of continuing education
25 in emergency medical training programs, appropriate to the level
26 of the applicant's EMT-I or EMT-P certification, that are
27 consistent with the United States Department of Transportation
28 National Standard Curriculum or its equivalent as approved by
29 the board or as approved by the licensee's medical director. An
30 applicant may take the United States Department of
31 Transportation Emergency Medical Technician refresher course or
32 its equivalent without the written or practical test as approved
33 by the board, and as appropriate to the applicant's level of
34 certification, as part of the 48 hours of continuing education.
35 Each hour of the refresher course, the cardiopulmonary
36 resuscitation course, and the advanced cardiac life support

1 course counts toward the 48-hour continuing education
2 requirement; and

3 (3) complete a board-approved application form.

4 (c) Certification shall be renewed every two years.

5 (d) If the applicant does not meet the renewal requirements
6 under this subdivision, the applicant's certification expires.

7 Sec. 9. Minnesota Statutes 2004, section 144E.28,
8 subdivision 8, is amended to read:

9 Subd. 8. [REINSTATEMENT.] (a) Within four years of a
10 certification expiration date, a person whose certification has
11 expired under subdivision 7, paragraph (d), may have the
12 certification reinstated upon submission of:

13 (1) evidence to the board of training equivalent to the
14 continuing education requirements of subdivision 7; and

15 (2) a board-approved application form.

16 (b) If more than four years have passed since a certificate
17 expiration date, an applicant must complete the initial
18 certification process required under subdivision 1."

19 Renumber the sections in sequence

20 Amend the title as follows:

21 Page 1, line 22, after "2;" insert "144E.001, subdivisions
22 8, 15, by adding a subdivision; 144E.27, subdivision 2; 144E.28,
23 subdivisions 1, 3, 7, 8;"

24 Page 1, line 24, after the semicolon, insert "148.413, by
25 adding a subdivision;"

26 Page 1, line 26, after "3;" insert "148.5196, subdivision
27 1;"

28 Page 1, line 40, after "subdivisions" insert "2h," and
29 after "4c" insert ", 9"

30 Page 1, line 41, after "2;" insert "214.06, subdivision 1,
31 by adding a subdivision;"

32 Page 2, line 1, after "chapters" insert "144E;"

33 Page 2, line 9, delete the second "subdivision" and insert
34 "subdivisions" and after "2a" insert ", 8, 10; 153A.19"

35 And when so amended that the bill be recommended to pass
36 and be referred to the full committee.

Linda Berglin
.....
(Division Chair)

1

A bill for an act

2 relating to health; recodifying statutes and rules
3 relating to social work; authorizing rulemaking;
4 providing penalties; modifying provisions relating to
5 physical therapists; providing penalties; modifying
6 the Psychology Practice Act; phasing out licensure as
7 a licensed psychological practitioner; modifying
8 dental licensure provisions; establishing fees;
9 modifying provisions for licensed professional
10 counselors; authorizing certain rulemaking; modifying
11 physician review; modifying information contained on
12 prescriptions; providing recognition for the practice
13 of respiratory therapy in emergency situations;
14 providing that audiologists need not obtain hearing
15 instrument dispenser certification; providing
16 penalties; transferring oversight authority for the
17 Office of Mental Health Practice; requiring a report;
18 establishing penalty fees for certain credentialed
19 health occupations; providing criminal penalties;
20 appropriating money; amending Minnesota Statutes 2004,
21 sections 13.383, subdivision 10; 13.411, subdivision
22 5; 144.335, subdivision 1; 144A.46, subdivision 2;
23 144E.001, subdivisions 8, 15, by adding a subdivision;
24 144E.27, subdivision 2; 144E.28, subdivisions 1, 3, 7,
25 8; 147.09; 147A.18, subdivisions 1, 3; 147C.05;
26 148.512, subdivision 6, by adding subdivisions;
27 148.413, by adding a subdivision; 148.515, by adding a
28 subdivision; 148.5194, by adding subdivisions;
29 148.5195, subdivision 3; 148.5196, subdivision 1;
30 148.6445, by adding a subdivision; 148.65, by adding
31 subdivisions; 148.706; 148.75; 148.89, subdivision 5;
32 148.90, subdivision 1; 148.907, by adding a
33 subdivision; 148.908, subdivision 2, by adding a
34 subdivision; 148.909; 148.916, subdivision 2; 148.925,
35 subdivision 6; 148.941, subdivision 2; 148.96,
36 subdivision 3; 148B.53, subdivisions 1, 3; 148B.54,
37 subdivision 2; 148B.59; 148B.60; 148B.61; 148C.03,
38 subdivision 1; 148C.04, subdivisions 3, 4, 6;
39 148C.091, subdivision 1; 148C.10, subdivision 2;
40 148C.11, subdivisions 1, 4, 5, 6; 148C.12, subdivision
41 3, by adding a subdivision; 150A.01, subdivision 6a;
42 150A.06, subdivision 1a; 150A.10, subdivision 1a;
43 153A.13, subdivision 5; 153A.14, subdivisions 2h, 2i,
44 4, 4c, 9; 153A.15, subdivision 1; 153A.20, subdivision
45 1; 214.01, subdivision 2; 214.06, subdivision 1, by
46 adding a subdivision; 214.103, subdivision 1; 245.462,
47 subdivision 18; 245.4871, subdivision 27; 256B.0625,
48 subdivision 38; 256J.08, subdivision 73a; 319B.02,
49 subdivision 19; 319B.40; Laws 2003, chapter 118,
50 section 29, as amended; proposing coding for new law
51 in Minnesota Statutes, chapters 144E; 148; 148B; 148C;
52 150A; 153A; providing coding for new law as Minnesota
53 Statutes, chapter 148D; repealing Minnesota Statutes
54 2004, sections 148B.18; 148B.185; 148B.19; 148B.20;
55 148B.21; 148B.215; 148B.22; 148B.224; 148B.225;
56 148B.226; 148B.24; 148B.25; 148B.26; 148B.27; 148B.28;
57 148B.281; 148B.282; 148B.283; 148B.284; 148B.285;
58 148B.286; 148B.287; 148B.288; 148B.289; 148C.02;
59 148C.12, subdivision 4; 153A.14, subdivisions 2a, 8,
60 10; 153A.19; Minnesota Rules, parts 4747.0030,
61 subparts 11, 16; 4747.1200; 4747.1300; 5601.0100,
62 subparts 3, 4; 8740.0100; 8740.0110; 8740.0120;
63 8740.0122; 8740.0130; 8740.0155; 8740.0185; 8740.0187;
64 8740.0200; 8740.0240; 8740.0260; 8740.0285; 8740.0300;
65 8740.0310; 8740.0315; 8740.0320; 8740.0325; 8740.0330;
66 8740.0335; 8740.0340; 8740.0345.

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

68

ARTICLE 1

1 BOARD OF SOCIAL WORK

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

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

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

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

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

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

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

23 Subdivision 1. [DEFINITIONS.] For the purposes of this
24 section, the following terms have the meanings given them:

25 (a) "Patient" means a natural person who has received
26 health care services from a provider for treatment or
27 examination of a medical, psychiatric, or mental condition, the
28 surviving spouse and parents of a deceased patient, or a person
29 the patient appoints in writing as a representative, including a
30 health care agent acting pursuant to chapter 145C, unless the
31 authority of the agent has been limited by the principal in the
32 principal's health care directive. Except for minors who have
33 received health care services pursuant to sections 144.341 to
34 144.347, in the case of a minor, patient includes a parent or
35 guardian, or a person acting as a parent or guardian in the
36 absence of a parent or guardian.

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

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

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

15 Subd. 2. [EXEMPTIONS.] The following individuals or
16 organizations are exempt from the requirement to obtain a home
17 care provider license:

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

23 (2) a personal care assistant who provides services to only
24 one individual under the medical assistance program as
25 authorized under sections 256B.0625, subdivision 19a, and
26 256B.04, subdivision 16;

27 (3) a person or organization that exclusively offers,
28 provides, or arranges for personal care assistant services to
29 only one individual under the medical assistance program as
30 authorized under sections 256B.0625, subdivision 19a, and
31 256B.04, subdivision 16;

32 (4) a person who is licensed under sections 148.65 to
33 148.78 and who independently provides physical therapy services
34 in the home without any contractual or employment relationship
35 to a home care provider or other organization;

36 (5) a provider that is licensed by the commissioner of

1 human services to provide semi-independent living services under
2 Minnesota Rules, parts 9525.0500 to 9525.0660 when providing
3 home care services to a person with a developmental disability;

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

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

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

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

20 Sec. 5. Minnesota Statutes 2004, section 147.09, is
21 amended to read:

22 147.09 [EXEMPTIONS.]

23 Section 147.081 does not apply to, control, prevent or
24 restrict the practice, service, or activities of:

25 (1) A person who is a commissioned medical officer of, a
26 member of, or employed by, the armed forces of the United
27 States, the United States Public Health Service, the Veterans
28 Administration, any federal institution or any federal agency
29 while engaged in the performance of official duties within this
30 state, if the person is licensed elsewhere.

31 (2) A licensed physician from a state or country who is in
32 actual consultation here.

33 (3) A licensed or registered physician who treats the
34 physician's home state patients or other participating patients
35 while the physicians and those patients are participating
36 together in outdoor recreation in this state as defined by

1 section 86A.03, subdivision 3. A physician shall first register
2 with the board on a form developed by the board for that
3 purpose. The board shall not be required to promulgate the
4 contents of that form by rule. No fee shall be charged for this
5 registration.

6 (4) A student practicing under the direct supervision of a
7 preceptor while the student is enrolled in and regularly
8 attending a recognized medical school.

9 (5) A student who is in continuing training and performing
10 the duties of an intern or resident or engaged in postgraduate
11 work considered by the board to be the equivalent of an
12 internship or residency in any hospital or institution approved
13 for training by the board, provided the student has a residency
14 permit issued by the board under section 147.0391.

15 (6) A person employed in a scientific, sanitary, or
16 teaching capacity by the state university, the Department of
17 Education, a public or private school, college, or other bona
18 fide educational institution, a nonprofit organization, which
19 has tax-exempt status in accordance with the Internal Revenue
20 Code, section 501(c)(3), and is organized and operated primarily
21 for the purpose of conducting scientific research directed
22 towards discovering the causes of and cures for human diseases,
23 or the state Department of Health, whose duties are entirely of
24 a research, public health, or educational character, while
25 engaged in such duties; provided that if the research includes
26 the study of humans, such research shall be conducted under the
27 supervision of one or more physicians licensed under this
28 chapter.

29 (7) Physician's assistants registered in this state.

30 (8) A doctor of osteopathy duly licensed by the state Board
31 of Osteopathy under Minnesota Statutes 1961, sections 148.11 to
32 148.16, prior to May 1, 1963, who has not been granted a license
33 to practice medicine in accordance with this chapter provided
34 that the doctor confines activities within the scope of the
35 license.

36 (9) Any person licensed by a health related licensing

1 board, as defined in section 214.01, subdivision 2, or
2 registered by the commissioner of health pursuant to section
3 214.13, including psychological practitioners with respect to
4 the use of hypnosis; provided that the person confines
5 activities within the scope of the license.

6 (10) A person who practices ritual circumcision pursuant to
7 the requirements or tenets of any established religion.

8 (11) A Christian Scientist or other person who endeavors to
9 prevent or cure disease or suffering exclusively by mental or
10 spiritual means or by prayer.

11 (12) A physician licensed to practice medicine in another
12 state who is in this state for the sole purpose of providing
13 medical services at a competitive athletic event. The physician
14 may practice medicine only on participants in the athletic
15 event. A physician shall first register with the board on a
16 form developed by the board for that purpose. The board shall
17 not be required to adopt the contents of the form by rule. The
18 physician shall provide evidence satisfactory to the board of a
19 current unrestricted license in another state. The board shall
20 charge a fee of \$50 for the registration.

21 (13) A psychologist licensed under section 148.907 or a
22 social worker licensed under ~~section 148B.21~~ chapter 148D who
23 uses or supervises the use of a penile or vaginal plethysmograph
24 in assessing and treating individuals suspected of engaging in
25 aberrant sexual behavior and sex offenders.

26 (14) Any person issued a training course certificate or
27 credentialed by the Emergency Medical Services Regulatory Board
28 established in chapter 144E, provided the person confines
29 activities within the scope of training at the certified or
30 credentialed level.

31 (15) An unlicensed complementary and alternative health
32 care practitioner practicing according to chapter 146A.

33 Sec. 6. [148D.001] [CITATION.]

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

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

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

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

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

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

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

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

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

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

33 Subd. 9. [PRACTICE OF SOCIAL WORK.] "Practice of social
34 work" means working to maintain, restore, or improve behavioral,
35 cognitive, emotional, mental, or social functioning of clients,
36 in a manner that applies accepted professional social work

1 knowledge, skills, and values, including the
2 person-in-environment perspective, by providing in person or
3 through telephone, video conferencing, or electronic means one
4 or more of the social work services described in clauses (1) to
5 (3). Social work services may address conditions that impair or
6 limit behavioral, cognitive, emotional, mental, or social
7 functioning. Such conditions include, but are not limited to,
8 the following: abuse and neglect of children or vulnerable
9 adults, addictions, developmental disorders, disabilities,
10 discrimination, illness, injuries, poverty, and trauma. Social
11 work services include:

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

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

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

23 (ii) conducting research related to social work services;

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

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

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

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

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

35 (3) engaging in clinical practice.

36 Subd. 10. [PROFESSIONAL NAME.] "Professional name" means

1 the name a licensed social worker uses in making representations
2 of the social worker's professional status to the public and
3 which has been designated to the board in writing pursuant to
4 section 148D.090.

5 Subd. 11. [PROFESSIONAL SOCIAL WORK KNOWLEDGE, SKILLS, AND
6 VALUES.] "Professional social work knowledge, skills, and values"
7 means the knowledge, skills, and values taught in programs
8 accredited by the Council on Social Work Education, the Canadian
9 Association of Schools of Social Work, or a similar
10 accreditation body designated by the board. Professional social
11 work knowledge, skills, and values include, but are not limited
12 to, principles of person-in-environment and the values,
13 principles, and standards described in the Code of Ethics of the
14 National Association of Social Workers.

15 Subd. 12. [SEXUAL CONDUCT.] "Sexual conduct" means any
16 physical contact or conduct that may be reasonably interpreted
17 as sexual, or any oral, written, electronic, or other
18 communication that suggests engaging in physical contact or
19 conduct that may be reasonably interpreted as sexual.

20 Subd. 13. [SOCIAL WORKER.] "Social worker" means an
21 individual who:

22 (1) is licensed as a social worker; or

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

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

33 Subd. 15. [SUPERVISEE.] "Supervisee" means an individual
34 provided evaluation and supervision or direction by a social
35 worker.

36 Subd. 16. [SUPERVISION.] "Supervision" means a

1 professional relationship between a supervisor and a social
2 worker in which the supervisor provides evaluation and direction
3 of the services provided by the social worker to promote
4 competent and ethical services to clients through the continuing
5 development of the social worker's knowledge and application of
6 accepted professional social work knowledge, skills, and values.

7 Sec. 8. [148D.015] [SCOPE.]

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

13 Sec. 9. [148D.020] [CHAPTER 214.]

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

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

17 Subdivision 1. [CREATION.] The Board of Social Work
18 consists of 15 members appointed by the governor. The members
19 are:

20 (1) ten social workers licensed pursuant to section
21 148D.055; and

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

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

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

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

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

36 (2) one member must be engaged in the practice of social

1 work in a state agency;

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

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

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

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

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

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

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

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

20 Subd. 4. [BYLAWS.] The board must adopt bylaws to govern
21 its proceedings.

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

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

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

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

34 (2) establishing standards of practice for social workers;

35 (3) holding examinations or contracting with the

36 Association of Social Work Boards or a similar examination body

1 designated by the board to hold examinations to assess
2 applicants' qualifications;

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

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

8 (6) assessing fees pursuant to sections 148D.175 and
9 148D.180; and

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

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

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

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

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

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

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

28 An applicant or a licensee who is the subject of a
29 disciplinary or adversarial action by the board pursuant to this
30 chapter may request a contested case hearing under sections
31 14.57 to 14.62. An applicant or a licensee who desires to
32 request a contested case hearing must submit a written request
33 to the board within 90 days after the date on which the board
34 mailed the notification of the adverse action, except as
35 otherwise provided in this chapter.

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

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

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

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

12 Subd. 4. [LICENSED INDEPENDENT SOCIAL WORKER.] A licensed
13 independent social worker may engage in social work practice
14 except that a licensed independent social worker must not engage
15 in clinical practice except under the supervision of a licensed
16 independent clinical social worker or an alternate supervisor
17 pursuant to section 148D.120.

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

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

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

26 (b) Individuals who teach professional social work
27 knowledge, skills, and values to students and who have a social
28 work degree from a program accredited by the Council on Social
29 Work Education, the Canadian Association of Schools of Social
30 Work, or a similar accreditation body designated by the board
31 must have a social work license under this section or section
32 148D.060, except when the individual is exempt from licensure
33 pursuant to section 148D.065.

34 Subd. 2. [QUALIFICATIONS FOR LICENSURE BY EXAMINATION AS A
35 LICENSED SOCIAL WORKER.] (a) Except as provided in paragraph
36 (i), to be licensed as a licensed social worker, an applicant

1 for licensure by examination must provide evidence satisfactory
2 to the board that the applicant:

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

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

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

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

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

25 (6) has not engaged in conduct that was or would be in
26 violation of the standards of practice specified in sections
27 148D.195 to 148D.240. If the applicant has engaged in conduct
28 that was or would be in violation of the standards of practice,
29 the board may take action pursuant to sections 148D.255 to
30 148D.270.

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

34 (c) A licensee granted a license by the board pursuant to
35 paragraph (a) must meet the supervised practice requirements
36 specified in sections 148D.100 to 148D.125. If a licensee does

1 not meet the supervised practice requirements, the board may
2 take action pursuant to sections 148D.255 to 148D.270.

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

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

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

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

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

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

1 likely to improve the score; and

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

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

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

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

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

27 This paragraph expires August 1, 2007.

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

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

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

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

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

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

20 (6) has not engaged in conduct that was or would be in
21 violation of the standards of practice specified in sections
22 148D.195 to 148D.240. If the applicant has engaged in conduct
23 that was or would be in violation of the standards of practice,
24 the board may take action pursuant to sections 148D.255 to
25 148D.270.

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

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

34 (d) By submitting an application for licensure, an
35 applicant authorizes the board to investigate any information
36 provided or requested in the application. The board may request

1 that the applicant provide additional information, verification,
2 or documentation.

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

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

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

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

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

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

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

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

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

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

22 This paragraph expires August 1, 2007.

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

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

32 (2) has practiced social work as defined in section
33 148D.010, and has met the supervised practice requirements
34 specified in sections 148D.100 to 148D.125;

35 (3) has passed the advanced generalist or equivalent
36 examination administered by the Association of Social Work

1 Boards or a similar examination body designated by the board.
2 Unless an applicant applies for licensure by endorsement
3 pursuant to subdivision 7, an examination is not valid if it was
4 taken and passed eight or more years prior to submitting a
5 completed, signed application form provided by the board;

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

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

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

16 (7) has not engaged in conduct that was or would be in
17 violation of the standards of practice specified in sections
18 148D.195 to 148D.240. If the applicant has engaged in conduct
19 that was or would be in violation of the standards of practice,
20 the board may take action pursuant to sections 148D.255 to
21 148D.270.

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

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

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

35 (e) Within one year of the time the board receives an
36 application for licensure, the applicant must meet all the

1 requirements specified in paragraph (a) and must provide all of
2 the information requested by the board pursuant to paragraph
3 (d). If within one year the applicant does not meet all the
4 requirements, or does not provide all of the information
5 requested, the applicant is considered ineligible and the
6 application for licensure must be closed.

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

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

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

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

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

33 (h) An individual must not practice social work until the
34 individual passes the examination and receives a social work
35 license under this section or section 148D.060. If the board
36 has reason to believe that an applicant may be practicing social

1 work without a license, except as provided in section 148D.065,
2 and the applicant has failed the advanced generalist or
3 equivalent examination administered by the Association of Social
4 Work Boards or a similar examination body designated by the
5 board, the board may notify the applicant's employer that the
6 applicant is not licensed as a social worker.

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

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

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

19 This paragraph expires August 1, 2007.

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

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

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

34 (3) has passed the clinical or equivalent examination
35 administered by the Association of Social Work Boards or a
36 similar examination body designated by the board. Unless an

1 applicant applies for licensure by endorsement pursuant to
2 subdivision 7, an examination is not valid if it was taken and
3 passed eight or more years prior to submitting a completed,
4 signed application form provided by the board;

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

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

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

15 (7) has not engaged in conduct that was or would be in
16 violation of the standards of practice specified in sections
17 148D.195 to 148D.240. If the applicant has engaged in conduct
18 that was or would be in violation of the standards of practice,
19 the board may take action pursuant to sections 148D.255 to
20 148D.270.

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

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

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

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

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

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

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

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

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

36 (h) An applicant who was born in a foreign country, who has

1 taken and failed to pass the examination specified in paragraph
2 (a), clause (3), at least once since January 1, 2000, and for
3 whom English is a second language, is eligible for licensure as
4 a social worker if the applicant:

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

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

12 This paragraph expires August 1, 2007.

13 Subd. 6. [DEGREES FROM OUTSIDE THE UNITED STATES OR
14 CANADA.] If an applicant receives a degree from a program
15 outside the United States or Canada that is not accredited by
16 the Council on Social Work Education, the Canadian Association
17 of Schools of Social Work, or a similar examination body
18 designated by the board, the degree does not fulfill the
19 requirements specified in subdivision 2, paragraph (a), clause
20 (1); 3, paragraph (a), clause (1); 4, paragraph (a), clause (1);
21 or 5, paragraph (a), clause (1), unless the Council on Social
22 Work Education or a similar accreditation body designated by the
23 board has determined through the council's international
24 equivalency determination service that the degree earned is
25 equivalent to the degree required.

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

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

36 (c) An application for licensure by endorsement must meet

1 the applicable license requirements specified in subdivisions 1
2 to 6 and submit the licensure by endorsement application fee
3 specified in section 148D.180.

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

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

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

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

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

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

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

24 Subd. 10. [EXPIRATION DATE.] The expiration date of an
25 initial license is the last day of the licensee's birth month in
26 the second calendar year following the effective date of the
27 initial license.

28 Subd. 11. [CHANGE IN LICENSE.] (a) A licensee who changes
29 from a licensed social worker to a licensed graduate social
30 worker, or from a licensed graduate social worker to a licensed
31 independent social worker, or from a licensed graduate social
32 worker or licensed independent social worker to a licensed
33 independent clinical social worker, must pay the prorated share
34 of the fee for the new license.

35 (b) The effective date of the new license is the day on
36 which the board receives the applicable license fee from an

1 applicant approved for the new license.

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

5 Sec. 17. [148D.060] [TEMPORARY LICENSES.]

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

11 (1) applied for a license under section 148D.055;

12 (2) applied for a temporary license on a form provided by
13 the board;

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

16 (4) passed the applicable licensure examination provided
17 for in section 148D.055;

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

24 (6) not engaged in conduct that was or would be in
25 violation of the standards of practice specified in sections
26 148D.195 to 148D.240. If the applicant has engaged in conduct
27 that was or would be in violation of the standards of practice,
28 the board may take action pursuant to sections 148D.255 to
29 148D.270.

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

36 (1) applied for a temporary license on a form provided by

1 the board;

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

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

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

13 (5) not engaged in conduct that was or would be in
14 violation of the standards of practice specified in sections
15 148D.195 to 148D.240. If the applicant has engaged in conduct
16 that was or would be in violation of the standards of practice,
17 the board may take action pursuant to sections 148D.255 to
18 148D.270.

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

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

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

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

32 (4) has not engaged in conduct that was or would be in
33 violation of the standards of practice specified in sections
34 148D.195 to 148D.240. If the applicant has engaged in conduct
35 that was or would be in violation of the standards of practice,
36 the board may take action pursuant to sections 148D.255 to

1 148D.270.

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

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

14 (b) A temporary license issued pursuant to subdivision 1 or
15 2 expires after six months.

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

18 Subd. 6. [LICENSEE WITH A TEMPORARY LICENSE WHO HAS
19 COMPLETED REQUIREMENTS FOR A BACCALAUREATE DEGREE.] A licensee
20 with a temporary license who has provided evidence to the board
21 that the licensee has completed the requirements for a
22 baccalaureate degree in social work from a program accredited by
23 the Council on Social Work Education, the Canadian Association
24 of Schools of Social Work, or a similar accreditation body
25 designated by the board may temporarily engage in social work
26 practice except that a licensee with a temporary license may not
27 engage in clinical social work practice.

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

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

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

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

23 Subd. 10. [REPRESENTATION OF PROFESSIONAL STATUS.] In
24 making representations of professional status to the public, a
25 licensee with a temporary license must state that the licensee
26 has a temporary license.

27 Subd. 11. [STANDARDS OF PRACTICE.] A licensee with a
28 temporary license must conduct all professional activities as a
29 social worker in accordance with the requirements of sections
30 148D.195 to 148D.240.

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

35 Subd. 13. [REVOCAION OF TEMPORARY LICENSE.] The board may
36 immediately revoke the temporary license of any licensee who

1 violates any requirements of this section. The revocation must
2 be made for cause, without notice or opportunity to be heard. A
3 licensee whose temporary license is revoked must immediately
4 return the temporary license to the board.

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

6 Subdivision 1. [OTHER PROFESSIONALS.] Nothing in this
7 chapter may be construed to prevent members of other professions
8 or occupations from performing functions for which they are
9 qualified or licensed. This exception includes but is not
10 limited to: licensed physicians, registered nurses, licensed
11 practical nurses, licensed psychologists, psychological
12 practitioners, probation officers, members of the clergy and
13 Christian Science practitioners, attorneys, marriage and family
14 therapists, alcohol and drug counselors, professional
15 counselors, school counselors, and registered occupational
16 therapists or certified occupational therapist assistants.
17 These persons must not, however, hold themselves out to the
18 public by any title or description stating or implying that they
19 are engaged in the practice of social work, or that they are
20 licensed to engage in the practice of social work. Persons
21 engaged in the practice of social work are not exempt from the
22 board's jurisdiction solely by the use of one of the titles in
23 this subdivision.

24 Subd. 2. [STUDENTS.] An internship, externship, or any
25 other social work experience that is required for the completion
26 of an accredited program of social work does not constitute the
27 practice of social work under this chapter.

28 Subd. 3. [GEOGRAPHIC WAIVER.] A geographic waiver may be
29 granted by the board on a case-by-case basis to agencies with
30 special regional hiring problems. The waiver is for the purpose
31 of permitting agencies to hire individuals who do not meet the
32 qualifications of section 148D.055 or 148D.060 to practice
33 social work.

34 Subd. 4. [CITY, COUNTY, AND STATE AGENCY SOCIAL
35 WORKERS.] The licensure of city, county, and state agency social
36 workers is voluntary. City, county, and state agencies

1 employing social workers are not required to employ licensed
2 social workers.

3 Subd. 5. [FEDERALLY RECOGNIZED TRIBES AND PRIVATE
4 NONPROFIT AGENCIES WITH A MINORITY FOCUS.] The licensure of
5 social workers who are employed by federally recognized tribes,
6 or by private nonprofit agencies whose primary service focus
7 addresses ethnic minority populations, and who are themselves
8 members of ethnic minority populations within those agencies, is
9 voluntary.

10 Sec. 19. [148D.070] [LICENSE RENEWALS.]

11 Subdivision 1. [LICENSE RENEWAL TERM.] (a) If a license is
12 renewed, the license must be renewed for a two-year renewal
13 term. The renewal term is the period from the effective date of
14 an initial or renewed license to the expiration date of the
15 license.

16 (b) The effective date of a renewed license is the day
17 following the expiration date of the expired license.

18 (c) The expiration date of a renewed license is the last
19 day of the licensee's birth month in the second calendar year
20 following the effective date of the renewed license.

21 Subd. 2. [MAILING LICENSE RENEWAL NOTICES.] The board must
22 mail a notice for license renewal to a licensee at least 45 days
23 before the expiration date of the license. Mailing the notice
24 by United States mail to the licensee's last known mailing
25 address constitutes valid mailing. Failure to receive the
26 renewal notice does not relieve a licensee of the obligation to
27 renew a license and to pay the renewal fee.

28 Subd. 3. [SUBMITTING LICENSE RENEWAL APPLICATIONS.] (a) In
29 order to renew a license, a licensee must submit:

30 (1) a completed, signed application for license renewal;
31 and

32 (2) the applicable renewal fee specified in section
33 148D.180.

34 The completed, signed application and renewal fee must be
35 received by the board prior to midnight of the day of the
36 license expiration date. For renewals submitted electronically,

1 a "signed application" means providing an attestation as
2 specified by the board.

3 (b) An application which is not completed and signed, or
4 which is not accompanied by the correct fee, must be returned to
5 the applicant, along with any fee submitted, and is void.

6 (c) The completed, signed application must include
7 documentation that the licensee has met the continuing education
8 requirements specified in sections 148D.130 to 148D.170 and, if
9 applicable, the supervised practice requirements specified in
10 sections 148D.100 to 148D.125.

11 (d) By submitting a renewal application, an applicant
12 authorizes the board to:

13 (1) investigate any information provided or requested in
14 the application. The board may request that the applicant
15 provide additional information, verification, or documentation;

16 (2) conduct an audit to determine if the applicant has met
17 the continuing education requirements specified in sections
18 148D.130 to 148D.170; and

19 (3) if applicable, conduct an audit to determine whether
20 the applicant has met the supervision requirements specified in
21 sections 148D.100 to 148D.125.

22 (e) If a licensee's application for license renewal meets
23 the requirements specified in paragraph (a), the licensee may
24 continue to practice after the license expiration date until the
25 board approves or denies the application.

26 Subd. 4. [RENEWAL LATE FEE.] An application that is
27 received after the license expiration date must be accompanied
28 by the renewal late fee specified in section 148D.180 in
29 addition to the applicable renewal fee. The application,
30 renewal fee, and renewal late fee must be received by the board
31 within 60 days of the license expiration date, or the license
32 automatically expires.

33 Subd. 5. [EXPIRED LICENSE.] (a) If an application does not
34 meet the requirements specified in subdivisions 3 and 4, the
5 license automatically expires. A licensee whose license has
36 expired may reactivate a license by meeting the requirements in

1 section 148D.080 or be relicensed by meeting the requirements
2 specified in section 148D.055.

3 (b) The board may take action pursuant to sections 148D.255
4 to 148D.270 based on a licensee's conduct before the expiration
5 of the license.

6 (c) An expired license may be reactivated within one year
7 of the expiration date specified in section 148D.080. After one
8 year of the expiration date, an individual may apply for a new
9 license pursuant to section 148D.055.

10 Sec. 20. [148D.075] [INACTIVE LICENSES.]

11 Subdivision 1. [INACTIVE STATUS.] (a) A licensee qualifies
12 for inactive status under either of the circumstances described
13 in paragraph (b) or (c).

14 (b) A licensee qualifies for inactive status when the
15 licensee is granted temporary leave from active practice. A
16 licensee qualifies for temporary leave from active practice if
17 the licensee demonstrates to the satisfaction of the board that
18 the licensee is not engaged in the practice of social work in
19 any setting, including settings in which social workers are
20 exempt from licensure pursuant to section 148D.065. A licensee
21 who is granted temporary leave from active practice may
22 reactivate the license pursuant to section 148D.080.

23 (c) A licensee qualifies for inactive status when a
24 licensee is granted an emeritus license. A licensee qualifies
25 for an emeritus license if the licensee demonstrates to the
26 satisfaction of the board that:

27 (i) the licensee is retired from social work practice; and

28 (ii) the licensee is not engaged in the practice of social
29 work in any setting, including settings in which social workers
30 are exempt from licensure pursuant to section 148D.065.

31 A licensee who possesses an emeritus license may reactivate the
32 license pursuant to section 148D.080.

33 Subd. 2. [APPLICATION.] A licensee may apply for inactive
34 status:

35 (1) at any time by submitting an application for a
36 temporary leave from active practice or for an emeritus license;

1 or

2 (2) as an alternative to applying for the renewal of a
3 license by so recording on the application for license renewal
4 and submitting the completed, signed application to the board.

5 An application that is not completed or signed, or that is
6 not accompanied by the correct fee, must be returned to the
7 applicant, along with any fee submitted, and is void. For
8 applications submitted electronically, a "signed application"
9 means providing an attestation as specified by the board.

10 Subd. 3. [FEE.] (a) Regardless of when the application for
11 inactive status is submitted, the temporary leave or emeritus
12 license fee specified in section 148D.180, whichever is
13 applicable, must accompany the application. A licensee who is
14 approved for inactive status before the license expiration date
15 is not entitled to receive a refund for any portion of the
16 license or renewal fee.

17 (b) If an application for temporary leave is received after
18 the license expiration date, the licensee must pay a renewal
19 late fee as specified in section 148D.180 in addition to the
20 temporary leave fee.

21 Subd. 4. [TIME LIMITS FOR TEMPORARY LEAVES.] A licensee
22 may maintain an inactive license on temporary leave for no more
23 than five consecutive years. If a licensee does not apply for
24 reactivation within 60 days following the end of the consecutive
25 five-year period, the license automatically expires.

26 Subd. 5. [TIME LIMITS FOR AN EMERITUS LICENSE.] A licensee
27 with an emeritus license may not apply for reactivation pursuant
28 to section 148D.080 after five years following the granting of
29 the emeritus license. However, after five years following the
30 granting of the emeritus license, an individual may apply for
31 new licensure pursuant to section 148D.055.

32 Subd. 6. [PROHIBITION ON PRACTICE.] (a) Except as provided
33 in paragraph (b), a licensee whose license is inactive must not
34 practice, attempt to practice, offer to practice, or advertise
35 or hold out as authorized to practice social work.

36 (b) The board may grant a variance to the requirements of

1 paragraph (a) if a licensee on inactive status provides
2 emergency social work services. A variance is granted only if
3 the board provides the variance in writing to the licensee. The
4 board may impose conditions or restrictions on the variance.

5 Subd. 7. [REPRESENTATIONS OF PROFESSIONAL STATUS.] In
6 making representations of professional status to the public, a
7 licensee whose license is inactive must state that the license
8 is inactive and that the licensee cannot practice social work.

9 Subd. 8. [DISCIPLINARY OR OTHER ACTION.] The board may
10 resolve any pending complaints against a licensee before
11 approving an application for inactive status. The board may
12 take action pursuant to sections 148D.255 to 148D.270 against a
13 licensee whose license is inactive based on conduct occurring
14 before the license is inactive or conduct occurring while the
15 license is inactive.

16 Sec. 21. [148D.080] [REACTIVATIONS.]

17 Subdivision 1. [MAILING NOTICES TO LICENSEES ON TEMPORARY
18 LEAVE.] The board must mail a notice for reactivation to a
19 licensee on temporary leave at least 45 days before the
20 expiration date of the license pursuant to section 148D.075,
21 subdivision 4. Mailing the notice by United States mail to the
22 licensee's last known mailing address constitutes valid
23 mailing. Failure to receive the reactivation notice does not
24 relieve a licensee of the obligation to comply with the
25 provisions of this section to reactivate a license.

26 Subd. 2. [REACTIVATION FROM A TEMPORARY LEAVE OR EMERITUS
27 STATUS.] To reactivate a license from a temporary leave or
28 emeritus status, a licensee must do the following within the
29 time period specified in section 148D.075, subdivisions 4 and 5:

30 (1) complete an application form specified by the board;

31 (2) document compliance with the continuing education
32 requirements specified in subdivision 4;

33 (3) submit a supervision plan, if required;

34 (4) pay the reactivation of an inactive licensee fee
35 specified in section 148D.180; and

36 (5) pay the wall certificate fee in accordance with section

1 148D.095, subdivision 1, paragraph (b) or (c), if the licensee
2 needs a duplicate license.

3 Subd. 3. [REACTIVATION OF AN EXPIRED LICENSE.] To
4 reactivate an expired license, a licensee must do the following
5 within one year of the expiration date:

6 (1) complete an application form specified by the board;

7 (2) document compliance with the continuing education
8 requirements that were in effect at the time the license
9 expired;

10 (3) document compliance with the supervision requirements,
11 if applicable, that were in effect at the time the license
12 expired; and

13 (4) pay the reactivation of an expired license fee
14 specified in section 148D.180.

15 Subd. 4. [CONTINUING EDUCATION REQUIREMENTS.] (a) A
16 licensee who is on temporary leave or who has an emeritus
17 license must obtain the continuing education hours that would be
18 required if the license was active. At the time of
19 reactivation, the licensee must document compliance with the
20 continuing education requirements specified in sections 148D.130
21 to 148D.170.

22 (b) A licensee applying for reactivation pursuant to
23 subdivision 2 or 3 may apply for a variance to the continuing
24 education requirements pursuant to sections 148D.130 to 148D.170.

25 Subd. 5. [REACTIVATION OF A VOLUNTARILY TERMINATED
26 LICENSE.] To reactivate a voluntarily terminated license, a
27 licensee must do the following within one year of the date the
28 voluntary termination takes effect:

29 (1) complete an application form specified by the board;

30 (2) document compliance with the continued education
31 requirements that were in effect at the time the license was
32 voluntarily terminated;

33 (3) document compliance with the supervision requirements,
34 if applicable, that were in effect at the time the license was
35 voluntarily terminated; and

36 (4) pay the reactivation of an expired or voluntarily

1 terminated license fee specified in section 148D.180.

2 Sec. 22. [148D.085] [VOLUNTARY TERMINATIONS.]

3 Subdivision 1. [REQUESTS FOR VOLUNTARY TERMINATION.] (a) A

4 licensee may request voluntary termination of a license if the
5 licensee demonstrates to the satisfaction of the board that the
6 licensee is not engaged in the practice of social work in any
7 setting except settings in which social workers are exempt from
8 licensure pursuant to section 148D.065.

9 (b) A licensee may apply for voluntary termination:

10 (1) at any time by submitting an application; or

11 (2) as an alternative to applying for the renewal of a
12 license by so recording on the application for license renewal
13 and submitting the completed, signed application to the board.
14 For applications submitted electronically, a "signed
15 application" means providing an attestation as specified by the
16 board. An application that is not completed and signed must be
17 returned to the applicant and is void.

18 (c) The board may resolve any pending complaints against a
19 licensee before approving a request for voluntary termination.

20 Subd. 2. [APPLICATION FOR NEW LICENSURE.] A licensee who
21 has voluntarily terminated a license may not reactivate the
22 license after one year following the date the voluntary
23 termination takes effect. However, a licensee who has
24 voluntarily terminated a license may apply for a new license
25 pursuant to section 148D.055.

26 Subd. 3. [PROHIBITION ON PRACTICE.] A licensee who has
27 voluntarily terminated a license must not practice, attempt to
28 practice, offer to practice, or advertise or hold out as
29 authorized to practice social work, except when the individual
30 is exempt from licensure pursuant to section 148D.065.

31 Subd. 4. [DISCIPLINARY OR OTHER ACTION.] The board may
32 take action pursuant to sections 148D.255 to 148D.270 against a
33 licensee whose license has been terminated based on conduct
34 occurring before the license is terminated or for practicing
35 social work without a license.

36 Sec. 23. [148D.090] [NAME; CHANGE OF NAME OR ADDRESS.]

1 Subdivision 1. [NAME.] A licensee must use the licensee's
2 legal name or a professional name. If the licensee uses a
3 professional name, the licensee must inform the board in writing
4 of both the licensee's professional name and legal name and must
5 comply with the requirements of this section.

6 Subd. 2. [LEGAL NAME CHANGE.] Within 30 days after
7 changing the licensee's legal name, a licensee must:

- 8 (1) request a new license wall certificate;
9 (2) provide legal verification of the name change; and
10 (3) pay the license wall certificate fee specified in
11 section 148D.180.

12 Subd. 3. [PROFESSIONAL NAME CHANGE.] Within 30 days after
13 changing the licensee's professional name, a licensee must:

- 14 (1) request a new license wall certificate;
15 (2) provide a notarized statement attesting to the name
16 change; and
17 (3) pay the license wall certificate fee specified in
18 section 148D.180.

19 Subd. 4. [ADDRESS OR TELEPHONE CHANGE.] When a licensee
20 changes a mailing address, home address, work address, e-mail
21 address, or daytime public telephone number, the licensee must
22 notify the board of the change electronically or in writing no
23 more than 30 days after the date of the change.

24 Sec. 24. [148D.095] [LICENSE CERTIFICATE OR CARD.]

25 Subdivision 1. [LICENSE WALL CERTIFICATE.] (a) The board
26 must issue a new license wall certificate when the board issues
27 a new license. No fee in addition to the applicable license fee
28 specified in section 148D.180 is required.

29 (b) The board must replace a license wall certificate when:

- 30 (1) a licensee submits an affidavit to the board that the
31 original license wall certificate was lost, stolen, or
32 destroyed; and

33 (2) the licensee submits the license wall certificate fee
34 specified in section 148D.180.

35 (c) The board must issue a revised license wall certificate
36 when:

1 (1) a licensee requests a revised license wall certificate
2 pursuant to section 148D.095; and

3 (2) submits the license wall certificate fee specified in
4 section 148D.180.

5 (d) The board must issue an additional license wall
6 certificate when:

7 (1) a licensee submits a written request for a new
8 certificate because the licensee practices in more than one
9 location; and

10 (2) the licensee submits the license wall certificate fee
11 specified in section 148D.180.

12 Subd. 2. [LICENSE CARD.] (a) The board must issue a new
13 license card when the board issues a new license. No fee in
14 addition to the applicable license fee specified in section
15 148D.180 is required.

16 (b) The board must replace a license card when a licensee
17 submits:

18 (1) an affidavit to the board that the original license
19 card was lost, stolen, or destroyed; and

20 (2) the license card fee specified in section 148D.180.

21 (c) The board must issue a revised license card when the
22 licensee submits a written request for a new license wall
23 certificate because of a new professional or legal name pursuant
24 to section 148D.090, subdivision 2 or 3. No fee in addition to
25 the one specified in subdivision 1, paragraph (b), is required.

26 Sec. 25. [148D.100] [LICENSED SOCIAL WORKERS; SUPERVISED
27 PRACTICE.]

28 Subdivision 1. [SUPERVISION REQUIRED AFTER LICENSURE.]
29 After receiving a license from the board as a licensed social
30 worker, the licensed social worker must obtain at least 75 hours
31 of supervision in accordance with the requirements of this
32 section.

33 Subd. 2. [PRACTICE REQUIREMENTS.] The supervision required
34 by subdivision 1 must be obtained during the first 4,000 hours
35 of postbaccalaureate social work practice authorized by law. At
36 least three hours of supervision must be obtained during every

1 160 hours of practice.

2 Subd. 3. [TYPES OF SUPERVISION.] (a) Thirty-seven and
3 one-half hours of the supervision required by subdivision 1 must
4 consist of one-on-one in-person supervision.

5 (b) Thirty-seven and one-half hours must consist of one or
6 more of the following types of supervision, subject to the
7 limitation in clause (3):

8 (1) one-on-one in-person supervision;

9 (2) in-person group supervision; or

10 (3) electronic supervision such as by telephone or video
11 conferencing, provided that electronic supervision must not
12 exceed 25 hours.

13 (c) To qualify as in-person group supervision, the group
14 must not exceed seven members including the supervisor.

15 Subd. 4. [SUPERVISOR REQUIREMENTS.] The supervision
16 required by subdivision 1 must be provided by a supervisor who:

17 (1) is a licensed social worker who has completed the
18 supervised practice requirements;

19 (2) is a licensed graduate social worker, licensed
20 independent social worker, or licensed independent clinical
21 social worker; or

22 (3) meets the requirements specified in section 148D.120,
23 subdivision 2.

24 Subd. 5. [SUPERVISEE REQUIREMENTS.] The supervisee must:

25 (1) to the satisfaction of the supervisor, practice
26 competently and ethically in accordance with professional social
27 work knowledge, skills, and values;

28 (2) receive supervision in the following content areas:

29 (i) development of professional values and
30 responsibilities;

31 (ii) practice skills;

32 (iii) authorized scope of practice;

33 (iv) ensuring continuing competence; and

34 (v) ethical standards of practice;

35 (3) submit a supervision plan in accordance with section
36 148D.125, subdivision 1; and

1 (4) if the board audits the supervisee's supervised
2 practice, submit verification of supervised practice in
3 accordance with section 148D.125, subdivision 3.

4 Subd. 6. [AFTER COMPLETION OF SUPERVISION REQUIREMENTS.] A
5 licensed social worker who fulfills the supervision requirements
6 specified in subdivisions 1 to 5 is not required to be
7 supervised after completion of the supervision requirements.

8 Subd. 7. [ATTESTATION.] The social worker and the social
9 worker's supervisor must attest that the supervisee has met or
10 has made progress on meeting the applicable supervision
11 requirements in accordance with section 148D.125, subdivision 2.

12 Sec. 26. [148D.105] [LICENSED GRADUATE SOCIAL WORKERS;
13 SUPERVISED PRACTICE.]

14 Subdivision 1. [SUPERVISION REQUIRED AFTER
15 LICENSURE.] After receiving a license from the board as a
16 licensed graduate social worker, a licensed graduate social
17 worker must obtain at least 75 hours of supervision in
18 accordance with the requirements of this section.

19 Subd. 2. [PRACTICE REQUIREMENTS.] The supervision required
20 by subdivision 1 must be obtained during the first 4,000 hours
21 of postgraduate social work practice authorized by law. At
22 least three hours of supervision must be obtained during every
23 160 hours of practice.

24 Subd. 3. [TYPES OF SUPERVISION.] (a) Thirty-seven and
25 one-half hours of the supervision required by subdivision 1 must
26 consist of one-on-one in-person supervision.

27 (b) Thirty-seven and one-half hours must consist of one or
28 more of the following types of supervision, subject to the
29 limitation in clause (3):

30 (1) one-on-one in-person supervision;

31 (2) in-person group supervision; or

32 (3) electronic supervision such as by telephone or video
33 conferencing, provided that electronic supervision must not
34 exceed 25 hours.

35 (c) To qualify as in-person group supervision, the group
36 must not exceed seven members including the supervisor.

1 Subd. 4. [SUPERVISOR REQUIREMENTS.] The supervision
2 required by subdivision 1 must be provided by a supervisor who
3 meets the requirements specified in section 148D.120. The
4 supervision must be provided:

5 (1) if the supervisee is not engaged in clinical practice,
6 by a (i) licensed independent social worker, (ii) licensed
7 graduate social worker who has completed the supervised practice
8 requirements, or (iii) licensed independent clinical social
9 worker;

10 (2) if the supervisee is engaged in clinical practice, by a
11 licensed independent clinical social worker; or

12 (3) by a supervisor who meets the requirements specified in
13 section 148D.120, subdivision 2.

14 Subd. 5. [SUPERVISEE REQUIREMENTS.] The supervisee must:

15 (1) to the satisfaction of the supervisor, practice
16 competently and ethically in accordance with professional social
17 work knowledge, skills, and values;

18 (2) receive supervision in the following content areas:

19 (i) development of professional values and
20 responsibilities;

21 (ii) practice skills;

22 (iii) authorized scope of practice;

23 (iv) ensuring continuing competence; and

24 (v) ethical standards of practice;

25 (3) submit a supervision plan in accordance with section
26 148D.125, subdivision 1; and

27 (4) verify supervised practice in accordance with section
28 148D.125, subdivision 3, if:

29 (i) the board audits the supervisee's supervised practice;

30 or

31 (ii) a licensed graduate social worker applies for a
32 licensed independent social worker or licensed independent
33 clinical social worker license.

34 Subd. 6. [LICENSED GRADUATE SOCIAL WORKERS WHO PRACTICE
35 CLINICAL SOCIAL WORK.] (a) A licensed graduate social worker
36 must not engage in clinical social work practice except under

1 supervision by a licensed independent clinical social worker or
2 an alternate supervisor designated pursuant to section 148D.120,
3 subdivision 2.

4 (b) Except as provided in paragraph (c), a licensed
5 graduate social worker must not engage in clinical social work
6 practice under supervision for more than 8,000 hours. In order
7 to practice clinical social work for more than 8,000 hours, a
8 licensed graduate social worker must obtain a licensed
9 independent clinical social worker license.

10 (c) Notwithstanding the requirements of paragraph (b), the
11 board may grant a licensed graduate social worker permission to
12 engage in clinical social work practice for more than 8,000
13 hours if the licensed graduate social worker petitions the board
14 and demonstrates to the board's satisfaction that for reasons of
15 personal hardship the licensed graduate social worker should be
16 granted an extension to continue practicing clinical social work
17 under supervision for up to an additional 2,000 hours.

18 (d) Upon completion of 4,000 hours of clinical social work
19 practice and 75 hours of supervision in accordance with the
20 requirements of this section, a licensed graduate social worker
21 is eligible to apply for a licensed independent clinical social
22 worker license pursuant to section 148D.115, subdivision 1.

23 Subd. 7. [LICENSED GRADUATE SOCIAL WORKERS WHO DO NOT
24 PRACTICE CLINICAL SOCIAL WORK.] A licensed graduate social
25 worker who fulfills the supervision requirements specified in
26 subdivisions 1 to 5, and who does not practice clinical social
27 work, is not required to be supervised after completion of the
28 supervision requirements.

29 Subd. 8. [ATTESTATION.] A social worker and the social
30 worker's supervisor must attest that the supervisee has met or
31 has made progress on meeting the applicable supervision
32 requirements in accordance with section 148D.125, subdivision 2.

33 Sec. 27. [148D.110] [LICENSED INDEPENDENT SOCIAL WORKERS;
34 SUPERVISED PRACTICE.]

35 Subdivision 1. [SUPERVISION REQUIRED BEFORE
36 LICENSURE.] Before becoming licensed as a licensed independent

1 social worker, a person must have obtained at least 75 hours of
2 supervision during 4,000 hours of postgraduate social work
3 practice authorized by law in accordance with the requirements
4 of section 148D.105, subdivisions 3, 4, and 5. At least three
5 hours of supervision must be obtained during every 160 hours of
6 practice.

7 Subd. 2. [LICENSED INDEPENDENT SOCIAL WORKERS WHO PRACTICE
8 CLINICAL SOCIAL WORK AFTER LICENSURE.] (a) After licensure, a
9 licensed independent social worker must not engage in clinical
10 social work practice except under supervision by a licensed
11 independent clinical social worker or an alternate supervisor
12 designated pursuant to section 148D.120, subdivision 2.

13 (b) Except as provided in paragraph (c), a licensed
14 independent social worker must not engage in clinical social
15 work practice under supervision for more than 8,000 hours. In
16 order to practice clinical social work for more than 8,000
17 hours, a licensed independent social worker must obtain a
18 licensed independent clinical social worker license.

19 (c) Notwithstanding the requirements of paragraph (b), the
20 board may grant a licensed independent social worker permission
21 to engage in clinical social work practice for more than 8,000
22 hours if the licensed independent social worker petitions the
23 board and demonstrates to the board's satisfaction that for
24 reasons of personal hardship the licensed independent social
25 worker should be granted an extension to continue practicing
26 clinical social work under supervision for up to an additional
27 2,000 hours.

28 Subd. 3. [LICENSED INDEPENDENT SOCIAL WORKERS WHO DO NOT
29 PRACTICE CLINICAL SOCIAL WORK AFTER LICENSURE.] After licensure,
30 a licensed independent social worker is not required to be
31 supervised if the licensed independent social worker does not
32 practice clinical social work.

33 Sec. 28. [148D.115] [LICENSED INDEPENDENT CLINICAL SOCIAL
34 WORKERS; SUPERVISED PRACTICE.]

35 Subdivision 1. [SUPERVISION REQUIRED BEFORE
36 LICENSURE.] Before becoming licensed as a licensed independent

1 clinical social worker, a person must have obtained at least 75
2 hours of supervision during 4,000 hours of postgraduate clinical
3 practice authorized by law in accordance with the requirements
4 of section 148D.105, subdivisions 3, 4, and 5. At least three
5 hours of supervision must be obtained during every 160 hours of
6 practice.

7 Subd. 2. [NO SUPERVISION REQUIRED AFTER LICENSURE.] After
8 licensure, a licensed independent clinical social worker is not
9 required to be supervised.

10 Sec. 29. [148D.120] [REQUIREMENTS OF SUPERVISORS.]

11 Subdivision 1. [SUPERVISORS LICENSED AS SOCIAL WORKERS.]

12 (a) Except as provided in paragraph (b), to be eligible to
13 provide supervision under this section, a social worker must
14 attest, on a form provided by the board, that he or she has met
15 the applicable licensure requirements specified in sections
16 148D.100 to 148D.115.

17 (b) If the board determines that supervision is not
18 obtainable from an individual meeting the requirements specified
19 in paragraph (a), the board may approve an alternate supervisor
20 pursuant to subdivision 2.

21 Subd. 2. [ALTERNATE SUPERVISORS.] (a) The board may
22 approve an alternate supervisor if:

23 (1) the board determines that supervision is not obtainable
24 pursuant to paragraph (b);

25 (2) the licensee requests in the supervision plan submitted
26 pursuant to section 148D.125, subdivision 1, that an alternate
27 supervisor conduct the supervision;

28 (3) the licensee describes the proposed supervision and the
29 name and qualifications of the proposed alternate supervisor;

30 and

31 (4) the requirements of paragraph (d) are met.

32 (b) The board may determine that supervision is not
33 obtainable if:

34 (1) the licensee provides documentation as an attachment to
35 the supervision plan submitted pursuant to section 148D.125,
36 subdivision 1, that the licensee has conducted a thorough search

1 for a supervisor meeting the applicable licensure requirements
2 specified in sections 148D.100 to 148D.115;

3 (2) the licensee demonstrates to the board's satisfaction
4 that the search was unsuccessful; and

5 (3) the licensee describes the extent of the search and the
6 names and locations of the persons and organizations contacted.

7 (c) The following are not grounds for a determination that
8 supervision is unobtainable:

9 (1) obtaining a supervisor who meets the requirements of
10 subdivision 1 would present the licensee with a financial
11 hardship;

12 (2) the licensee is unable to obtain a supervisor who meets
13 the requirements of subdivision 1 within the licensee's agency
14 or organization and the agency or organization will not allow
15 outside supervision; or

16 (3) the specialized nature of the licensee's practice
17 requires supervision from a practitioner other than an
18 individual licensed as a social worker.

19 (d) An alternate supervisor must:

20 (1) be an unlicensed social worker who is employed in, and
21 provides the supervision in, a setting exempt from licensure by
22 section 148D.065, and who has qualifications equivalent to the
23 applicable requirements specified in sections 148D.100 to
24 148D.115; or

25 (2) be a licensed marriage and family therapist or a mental
26 health professional as established by section 245.462,
27 subdivision 18, or 245.4871, subdivision 27, or an equivalent
28 mental health professional, as determined by the board, who is
29 licensed or credentialed by a state, territorial, provincial, or
30 foreign licensing agency.

31 In order to qualify to provide clinical supervision of a
32 licensed graduate social worker or licensed independent social
33 worker engaged in clinical practice, the alternate supervisor
34 must be a mental health professional as established by section
35 245.462, subdivision 18, or 245.4871, subdivision 27, or an
36 equivalent mental health professional, as determined by the

1 board, who is licensed or credentialed by a state, territorial,
2 provincial, or foreign licensing agency.

3 Sec. 30. [148D.125] [DOCUMENTATION OF SUPERVISION.]

4 Subdivision 1. [SUPERVISION PLAN.] (a) A social worker
5 must submit, on a form provided by the board, a supervision plan
6 for meeting the supervision requirements specified in sections
7 148D.100 to 148D.120.

8 (b) The supervision plan must be submitted no later than 90
9 days after the licensee begins a social work practice position
10 after becoming licensed.

11 (c) For failure to submit the supervision plan within 90
12 days after beginning a social work practice position, a licensee
13 must pay the supervision plan late fee specified in section
14 148D.180 when the licensee applies for license renewal.

15 (d) A license renewal application submitted pursuant to
16 paragraph (a) must not be approved unless the board has received
17 a supervision plan.

18 (e) The supervision plan must include the following:

19 (1) the name of the supervisee, the name of the agency in
20 which the supervisee is being supervised, and the supervisee's
21 position title;

22 (2) the name and qualifications of the person providing the
23 supervision;

24 (3) the number of hours of one-on-one in-person supervision
25 and the number and type of additional hours of supervision to be
26 completed by the supervisee;

27 (4) the supervisee's position description;

28 (5) a brief description of the supervision the supervisee
29 will receive in the following content areas:

30 (i) clinical practice, if applicable;

31 (ii) development of professional social work knowledge,
32 skills, and values;

33 (iii) practice methods;

34 (iv) authorized scope of practice;

35 (v) ensuring continuing competence; and

36 (vi) ethical standards of practice; and

1 (6) if applicable, a detailed description of the
2 supervisee's clinical social work practice, addressing:
3 (i) the client population, the range of presenting issues,
4 and the diagnoses;
5 (ii) the clinical modalities that were utilized; and
6 (iii) the process utilized for determining clinical
7 diagnoses, including the diagnostic instruments used and the
8 role of the supervisee in the diagnostic process.

9 (f) The board must receive a revised supervision plan
10 within 90 days of any of the following changes:

11 (1) the supervisee has a new supervisor;
12 (2) the supervisee begins a new social work position;
13 (3) the scope or content of the supervisee's social work
14 practice changes substantially;
15 (4) the number of practice or supervision hours changes
16 substantially; or
17 (5) the type of supervision changes as supervision is
18 described in section 148D.100, subdivision 3, or 148D.105,
19 subdivision 3, or as required in section 148D.115, subdivision 4.

20 (g) For failure to submit a revised supervised plan as
21 required in paragraph (f), a supervisee must pay the supervision
22 plan late fee specified in section 148D.180, when the supervisee
23 applies for license renewal.

24 (h) The board must approve the supervisor and the
25 supervision plan.

26 Subd. 2. [ATTESTATION.] (a) When a supervisee submits
27 renewal application materials to the board, the supervisee and
28 supervisor must submit an attestation providing the following
29 information on a form provided by the board:

30 (1) the name of the supervisee, the name of the agency in
31 which the supervisee is being supervised, and the supervisee's
32 position title;

33 (2) the name and qualifications of the supervisor;

34 (3) the number of hours and dates of each type of
35 supervision completed;

36 (4) the supervisee's position description;

1 (5) a declaration that the supervisee has not engaged in
2 conduct in violation of the standards of practice specified in
3 sections 148D.195 to 148D.240;

4 (6) a declaration that the supervisee has practiced
5 competently and ethically in accordance with professional social
6 work knowledge, skills, and values; and

7 (7) a list of the content areas in which the supervisee has
8 received supervision, including the following:

9 (i) clinical practice, if applicable;

10 (ii) development of professional social work knowledge,
11 skills, and values;

12 (iii) practice methods;

13 (iv) authorized scope of practice;

14 (v) ensuring continuing competence; and

15 (vi) ethical standards of practice.

16 (b) The information provided on the attestation form must
17 demonstrate to the board's satisfaction that the supervisee has
18 met or has made progress on meeting the applicable supervised
19 practice requirements.

20 Subd. 3. [VERIFICATION OF SUPERVISED PRACTICE.] (a) In
21 addition to receiving the attestation required pursuant to
22 subdivision 2, the board must receive verification of supervised
23 practice if:

24 (1) the board audits the supervision of a supervisee
25 pursuant to section 148D.070, subdivision 3; or

26 (2) an applicant applies for a license as a licensed
27 independent social worker or as a licensed independent clinical
28 social worker.

29 (b) When verification of supervised practice is required
30 pursuant to paragraph (a), the board must receive from the
31 supervisor the following information on a form provided by the
32 board:

33 (1) the name of the supervisee, the name of the agency in
34 which the supervisee is being supervised, and the supervisee's
35 position title;

36 (2) the name and qualifications of the supervisor;

- 1 (3) the number of hours and dates of each type of
2 supervision completed;
- 3 (4) the supervisee's position description;
- 4 (5) a declaration that the supervisee has not engaged in
5 conduct in violation of the standards of practice specified in
6 sections 148D.195 to 148D.240;
- 7 (6) a declaration that the supervisee has practiced
8 ethically and competently in accordance with professional social
9 work knowledge, skills, and values;
- 10 (7) a list of the content areas in which the supervisee has
11 received supervision, including the following:
- 12 (i) clinical practice, if applicable;
- 13 (ii) development of professional social work knowledge,
14 skills, and values;
- 15 (iii) practice methods;
- 16 (iv) authorized scope of practice;
- 17 (v) ensuring continuing competence; and
- 18 (vi) ethical standards of practice; and
- 19 (8) if applicable, a detailed description of the
20 supervisee's clinical social work practice, addressing:
- 21 (i) the client population, the range of presenting issues,
22 and the diagnoses;
- 23 (ii) the clinical modalities that were utilized; and
- 24 (iii) the process utilized for determining clinical
25 diagnoses, including the diagnostic instruments used and the
26 role of the supervisee in the diagnostic process.
- 27 (c) The information provided on the verification form must
28 demonstrate to the board's satisfaction that the supervisee has
29 met the applicable supervised practice requirements.
- 30 Subd. 4. [ALTERNATIVE VERIFICATION OF SUPERVISED
31 PRACTICE.] Notwithstanding the requirements of subdivision 3,
32 the board may accept alternative verification of supervised
33 practice if a supervisee demonstrates to the satisfaction of the
34 board that the supervisee is unable to locate a former
5 supervisor to provide the required information.
- 36 Sec. 31. [148D.130] [CLOCK HOURS REQUIRED.]

1 Subdivision 1. [TOTAL CLOCK HOURS REQUIRED.] At the time
2 of license renewal, a licensee must provide evidence
3 satisfactory to the board that the licensee has, during the
4 renewal term, completed at least 30 clock hours of continuing
5 education.

6 Subd. 2. [ETHICS REQUIREMENT.] At least two of the clock
7 hours required under subdivision 1 must be in social work ethics.

8 Subd. 3. [INDEPENDENT STUDY.] Independent study must not
9 consist of more than ten clock hours of continuing education per
10 renewal term. Independent study must be for publication, public
11 presentation, or professional development. Independent study
12 includes, but is not limited to, electronic study.

13 Subd. 4. [COURSEWORK.] One credit of coursework in a
14 semester-based academic institution is the equivalent of 15
15 clock hours.

16 Subd. 5. [PRORATED RENEWAL TERM.] If the licensee's
17 renewal term is prorated to be less or more than 24 months, the
18 required number of continuing education clock hours is prorated
19 proportionately.

20 Sec. 32. [148D.135] [APPROVAL OF CLOCK HOURS.]

21 Subdivision 1. [WAYS OF APPROVING CLOCK HOURS.] The clock
22 hours required under section 148D.130 must be approved in one or
23 more of the following ways:

24 (1) the hours must be offered by a continuing education
25 provider approved by the board;

26 (2) the hours must be offered by a continuing education
27 provider approved by the Association of Social Work Boards or a
28 similar examination body designated by the board;

29 (3) the hours must be earned through a continuing education
30 program approved by the National Association of Social Workers;
31 or

32 (4) the hours must be earned through a continuing education
33 program approved by the board.

34 Subd. 2. [PREAPPROVAL NOT REQUIRED.] Providers and
35 programs are not required to be preapproved but must meet the
36 requirements specified in this section.

1 Sec. 33. [148D.140] [VARIANCES.]

2 The board may grant a variance to the continuing education
3 requirements specified in section 148D.130, when a licensee
4 demonstrates to the satisfaction of the board that the licensee
5 is unable to complete the required number of clock hours during
6 the renewal term. The board may allow a licensee to complete
7 the required number of clock hours within a time frame specified
8 by the board. The board must not allow a licensee to complete
9 less than the required number of clock hours.

10 Sec. 34. [148D.145] [CONTINUING EDUCATION PROVIDERS
11 APPROVED BY THE BOARD.]

12 Subdivision 1. [BOARD APPROVAL.] (a) The board must
13 approve a continuing education provider who:

14 (1) submits a completed application to the board which
15 provides the information required by subdivision 2 and which
16 meets the criteria specified in subdivision 3; and

17 (2) pays the provider fee specified in section 148D.180.

18 (b) An approval is valid for programs offered no later than
19 one year from the date the application is approved by the board.

20 Subd. 2. [INFORMATION REQUIRED.] The information that must
21 be provided to the board includes, but is not limited to, the
22 following:

23 (1) the name of the continuing education provider;

24 (2) the address, telephone number, and e-mail address of a
25 contact person for the provider;

26 (3) a signed statement that indicates the provider
27 understands and agrees to abide by the criteria specified in
28 subdivision 3; and

29 (4) a signed statement that indicates the provider agrees
30 to furnish a certificate of attendance to each participant in a
31 program offered by the provider.

32 Subd. 3. [CRITERIA FOR PROGRAMS OFFERED BY CONTINUING
33 EDUCATION PROVIDERS.] (a) A continuing education provider must
34 employ the following criteria in determining whether to offer a
35 continuing education program:

36 (1) whether the material to be presented will promote the

1 standards of practice described in sections 148D.195 to
2 148D.240;

3 (2) whether the material to be presented will contribute to
4 the practice of social work as defined in section 148D.010;

5 (3) whether the material to be presented is intended for
6 the benefit of practicing social workers; and

7 (4) whether the persons presenting the program are
8 qualified in the subject matter being presented.

9 (b) The material presented must not be primarily procedural
10 or primarily oriented towards business practices or
11 self-development.

12 Subd. 4. [AUDITS.] (a) The board may audit programs
13 offered by a continuing education provider approved by the board
14 to determine compliance with the requirements of this section.

15 (b) A continuing education provider audited by the board
16 must provide the documentation specified in subdivision 5.

17 Subd. 5. [INFORMATION REQUIRED TO BE MAINTAINED BY
18 CONTINUING EDUCATION PROVIDERS.] For three years following the
19 end of each program offered by a continuing education provider,
20 the provider must maintain the following information:

21 (1) the title of the program;

22 (2) a description of the content and objectives of the
23 program;

24 (3) the date of the program;

25 (4) the number of clock hours credited for participation in
26 the program;

27 (5) the program location;

28 (6) the names and qualifications of the primary presenters;

29 (7) a description of the primary audience the program was
30 designed for; and

31 (8) a list of the participants in the program.

32 Sec. 35. [148D.150] [CONTINUING EDUCATION PROVIDERS
33 APPROVED BY THE ASSOCIATION OF SOCIAL WORK BOARDS.]

34 In order to receive credit for a program offered by a
35 continuing education provider approved by the Association of
36 Social Work Boards or a similar examination body designated by

1 the board, the provider must be listed on the Association of
2 Social Work Boards Web site as a provider currently approved by
3 the Association of Social Work Boards or a similar examination
4 body designated by the board.

5 Sec. 36. [148D.155] [CONTINUING EDUCATION PROGRAMS
6 APPROVED BY THE NATIONAL ASSOCIATION OF SOCIAL WORKERS.]

7 In order to receive credit for a program approved by the
8 National Association of Social Workers, the program must be
9 listed on the National Association of Social Workers Web site as
10 a program currently approved by the National Association of
11 Social Workers.

12 Sec. 37. [148D.160] [CONTINUING EDUCATION PROGRAMS
13 APPROVED BY THE BOARD.]

14 Subdivision 1. [REQUIRED PROGRAM CONTENT.] In order to be
15 approved by the board, a continuing education program must:

16 (1) promote the standards of practice described in sections
17 148D.195 to 148D.240;

18 (2) contribute to the practice of social work as defined in
19 section 148D.010; and

20 (3) not be primarily procedural or be primarily oriented
21 towards business practices or self-development.

22 Subd. 2. [TYPES OF CONTINUING EDUCATION PROGRAMS.] In
23 order to be approved by the board, a continuing education
24 program must be one of the following: academic coursework
25 offered by an institution of higher learning; educational
26 workshops, seminars, or conferences offered by an organization
27 or individual; staff training offered by a public or private
28 employer; or independent study.

29 Sec. 38. [148D.165] [CONTINUING EDUCATION REQUIREMENTS OF
30 LICENSEES.]

31 Subdivision 1. [INFORMATION REQUIRED TO BE MAINTAINED BY
32 LICENSEES.] For one year following the expiration date of a
33 license, the licensee must maintain documentation of clock hours
34 earned during the previous renewal term. The documentation must
35 include the following:

36 (1) for educational workshops or seminars offered by an

1 organization or at a conference, a copy of the certificate of
2 attendance issued by the presenter or sponsor giving the
3 following information:

- 4 (i) the name of the sponsor or presenter of the program;
5 (ii) the title of the workshop or seminar;
6 (iii) the dates the licensee participated in the program;

7 and

- 8 (iv) the number of clock hours completed;

9 (2) for academic coursework offered by an institution of
10 higher learning, a copy of a transcript giving the following
11 information:

- 12 (i) the name of the institution offering the course;
13 (ii) the title of the course;
14 (iii) the dates the licensee participated in the course;

15 and

- 16 (iv) the number of credits completed;

17 (3) for staff training offered by public or private
18 employers, a copy of the certificate of attendance issued by the
19 employer giving the following information:

- 20 (i) the name of the employer;
21 (ii) the title of the staff training;
22 (iii) the dates the licensee participated in the program;

23 and

- 24 (iv) the number of clock hours completed; and

25 (4) for independent study, including electronic study, a
26 written summary of the study conducted, including the following
27 information:

- 28 (i) the topics studied;
29 (ii) a description of the applicability of the study to the
30 licensee's authorized scope of practice;

31 (iii) the titles and authors of books and articles
32 consulted or the name of the organization offering the study;

- 33 (iv) the dates the licensee conducted the study; and

34 (v) the number of clock hours the licensee conducted the
35 study.

36 Subd. 2. [AUDITS.] The board may audit license renewal and

1 reactivation applications to determine compliance with the
2 requirements of sections 148D.130 to 148D.170. A licensee
3 audited by the board must provide the documentation specified in
4 subdivision 1 regardless of whether the provider or program has
5 been approved by the board, the Association of Social Work
6 Boards, or a similar examination body designated by the board,
7 or the National Association of Social Workers.

8 Sec. 39. [148D.170] [REVOCATION OF CONTINUING EDUCATION
9 APPROVALS.]

10 The board may revoke approval of a provider or of a program
11 offered by a provider, or of an individual program approved by
12 the board, if the board determines subsequent to the approval
13 that the provider or program failed to meet the requirements of
14 sections 148D.130 to 148D.170.

15 Sec. 40. [148D.175] [FEES.]

16 The fees specified in section 148D.180 are nonrefundable
17 and must be deposited in the state government special revenue
18 fund.

19 Sec. 41. [148D.180] [FEE AMOUNTS.]

20 Subdivision 1. [APPLICATION FEES.] Application fees for
21 licensure are as follows:

- 22 (1) for a licensed social worker, \$45;
23 (2) for a licensed graduate social worker, \$45;
24 (3) for a licensed independent social worker, \$90;
25 (4) for a licensed independent clinical social worker, \$90;
26 (5) for a temporary license, \$50; and
27 (6) for a licensure by endorsement, \$150.

28 The fee for criminal background checks is the fee charged
29 by the Bureau of Criminal Apprehension. The criminal background
30 check fee must be included with the application fee as required
31 pursuant to section 148D.055.

32 Subd. 2. [LICENSE FEES.] License fees are as follows:

- 33 (1) for a licensed social worker, \$115.20;
34 (2) for a licensed graduate social worker, \$201.60;
35 (3) for a licensed independent social worker, \$302.40;
36 (4) for a licensed independent clinical social worker,

1 \$331.20;

2 (5) for an emeritus license, \$43.20; and

3 (6) for a temporary leave fee, the same as the renewal fee
4 specified in subdivision 3.

5 If the licensee's initial license term is less or more than
6 24 months, the required license fees must be prorated
7 proportionately.

8 Subd. 3. [RENEWAL FEES.] Renewal fees for licensure are as
9 follows:

10 (1) for a licensed social worker, \$115.20;

11 (2) for a licensed graduate social worker, \$201.60;

12 (3) for a licensed independent social worker, \$302.40; and

13 (4) for a licensed independent clinical social worker,

14 \$331.20.

15 Subd. 4. [CONTINUING EDUCATION PROVIDER FEES.] Continuing
16 education provider fees are as follows:

17 (1) for a provider who offers programs totaling one to
18 eight clock hours in a one-year period pursuant to section
19 148D.145, \$50;

20 (2) for a provider who offers programs totaling nine to 16
21 clock hours in a one-year period pursuant to section 148D.145,
22 \$100;

23 (3) for a provider who offers programs totaling 17 to 32
24 clock hours in a one-year period pursuant to section 148D.145,
25 \$200;

26 (4) for a provider who offers programs totaling 33 to 48
27 clock hours in a one-year period pursuant to section 148D.145,
28 \$400; and

29 (5) for a provider who offers programs totaling 49 or more
30 clock hours in a one-year period pursuant to section 148D.145,
31 \$600.

32 Subd. 5. [LATE FEES.] Late fees are as follows:

33 (1) renewal late fee, one-half of the renewal fee specified
34 in subdivision 3; and

35 (2) supervision plan late fee, \$40.

36 Subd. 6. [LICENSE CARDS AND WALL CERTIFICATES.] (a) The

1 fee for a license card as specified in section 148D.095 is \$10.

2 (b) The fee for a license wall certificate as specified in
3 section 148D.095 is \$30.

4 Subd. 7. [REACTIVATION FEES.] Reactivation fees are as
5 follows:

6 (1) reactivation from a temporary leave or emeritus status,
7 the prorated share of the renewal fee specified in subdivision
8 3; and

9 (2) reactivation of an expired license, 1-1/2 times the
10 renewal fees specified in subdivision 3.

11 Sec. 42. [148D.185] [PURPOSE OF COMPLIANCE LAWS.]

12 The purpose of sections 148D.185 to 148D.290 is to protect
13 the public by ensuring that all persons licensed as social
14 workers meet minimum standards of practice. The board shall
15 promptly and fairly investigate and resolve all complaints
16 alleging violations of statutes and rules that the board is
17 empowered to enforce and (1) take appropriate disciplinary
18 action, adversarial action, or other action justified by the
19 facts, or (2) enter into corrective action agreements or
20 stipulations to cease practice, when doing so is consistent with
21 the board's obligation to protect the public.

22 Sec. 43. [148D.190] [GROUNDS FOR ACTION.]

23 Subdivision 1. [SCOPE.] The grounds for action in
24 subdivisions 2 to 4 and the standards of practice requirements
25 in sections 148D.195 to 148D.240 apply to all licensees and
26 applicants.

27 Subd. 2. [VIOLATIONS.] The board has grounds to take
28 action pursuant to sections 148D.255 to 148D.270 when a social
29 worker violates:

30 (1) a statute or rule enforced by the board, including this
31 section and sections 148D.195 to 148D.240;

32 (2) a federal or state law or rule related to the practice
33 of social work; or

34 (3) an order, stipulation, or agreement agreed to or issued
35 by the board.

36 Subd. 3. [CONDUCT BEFORE LICENSURE.] A violation of the

1 requirements specified in this section and sections 148D.195 to
2 148D.240 is grounds for the board to take action under sections
3 148D.255 to 148D.270. The board's jurisdiction to exercise the
4 powers provided in this section extends to an applicant or
5 licensee's conduct that occurred before licensure if:

6 (1) the conduct did not meet the minimum accepted and
7 prevailing standards of professional social work practice at the
8 time the conduct occurred; or

9 (2) the conduct adversely affects the applicant or
10 licensee's present ability to practice social work in conformity
11 with the requirements of sections 148D.195 to 148D.240.

12 Subd. 4. [UNAUTHORIZED PRACTICE.] The board has grounds to
13 take action pursuant to sections 148D.255 to 148D.270 when a
14 social worker:

15 (1) practices outside the scope of practice authorized by
16 section 148D.050;

17 (2) engages in the practice of social work without a social
18 work license under section 148D.055 or 148D.060, except when the
19 social worker is exempt from licensure pursuant to section
20 148D.065;

21 (3) provides social work services to a client who receives
22 social work services in this state, and is not licensed pursuant
23 to section 148D.055 or 148D.060, except when the social worker
24 is exempt from licensure pursuant to section 148D.065.

25 Sec. 44. [148D.195] [REPRESENTATIONS TO CLIENTS AND
26 PUBLIC.]

27 Subdivision 1. [REQUIRED DISPLAYS AND INFORMATION FOR
28 CLIENTS.] (a) A social worker must conspicuously display at the
29 social worker's places of practice, or make available as a
30 handout for all clients, information that the client has the
31 right to the following:

32 (1) to be informed of the social worker's license status,
33 education, training, and experience;

34 (2) to examine public data on the social worker maintained
35 by the board;

36 (3) to report a complaint about the social worker's

1 practice to the board; and

2 (4) to be informed of the board's mailing address, e-mail
3 address, Web site address, and telephone number.

4 (b) A social worker must conspicuously display the social
5 worker's wall certificate at the social worker's places of
6 practice and office locations. Additional wall certificates may
7 be requested pursuant to section 148D.095.

8 Subd. 2. [REPRESENTATIONS.] (a) No applicant or other
9 individual may be represented to the public by any title
10 incorporating the words "social work" or "social worker" unless
11 the individual holds a license pursuant to sections 148D.055 and
12 148D.060 or practices in a setting exempt from licensure
13 pursuant to section 148D.065.

14 (b) In all professional use of a social worker's name, the
15 social worker must use the license designation "LSW" or
16 "licensed social worker" for a licensed social worker, "LGSW" or
17 "licensed graduate social worker" for a licensed graduate social
18 worker, "LISW" or "licensed independent social worker" for a
19 licensed independent social worker, or "LICSW" or "licensed
20 independent clinical social worker" for a licensed independent
21 clinical social worker.

22 (c) Public statements or advertisements must not be
23 untruthful, misleading, false, fraudulent, deceptive, or
24 potentially exploitative of clients, former clients, interns,
25 students, supervisees, or the public.

26 (d) A social worker must not:

27 (1) use licensure status as a claim, promise, or guarantee
28 of successful service;

29 (2) obtain a license by cheating or employing fraud or
30 deception;

31 (3) make false statements or misrepresentations to the
32 board or in materials submitted to the board; or

33 (4) engage in conduct that has the potential to deceive or
34 defraud a social work client, intern, student, supervisee, or
35 the public.

36 Subd. 3. [INFORMATION ON CREDENTIALS.] (a) A social worker

1 must provide accurate and factual information concerning the
2 social worker's credentials, education, training, and experience
3 when the information is requested by clients, potential clients,
4 or other persons or organizations.

5 (b) A social worker must not misrepresent directly or by
6 implication the social worker's license, degree, professional
7 certifications, affiliations, or other professional
8 qualifications in any oral or written communications to clients,
9 potential clients, or other persons or organizations. A social
10 worker must take reasonable steps to prevent such
11 misrepresentations by other social workers.

12 (c) A social worker must not hold out as a person licensed
13 as a social worker without having a social work license pursuant
14 to sections 148D.055 and 148D.060.

15 (d) A social worker must not misrepresent directly or by
16 implication (1) affiliations with institutions or organizations,
17 or (2) purposes or characteristics of institutions or
18 organizations with which the social worker is or has been
19 affiliated.

20 Sec. 45. [148D.200] [COMPETENCE.]

21 Subdivision 1. [COMPETENCE.] (a) A social worker must
22 provide services and hold out as competent only to the extent
23 the social worker's education, training, license, consultation
24 received, supervision experience, or other relevant professional
25 experience demonstrate competence in the services provided. A
26 social worker must make a referral to a competent professional
27 when the services required are beyond the social worker's
28 competence or authorized scope of practice.

29 (b) When generally recognized standards do not exist with
30 respect to an emerging area of practice, including but not
31 limited to providing social work services through electronic
32 means, a social worker must take the steps necessary, such as
33 consultation or supervision, to ensure the competence of the
34 social worker's work and to protect clients from harm.

35 Subd. 2. [SUPERVISION OR CONSULTATION.] Notwithstanding
36 the completion of supervision requirements as specified in

1 sections 148D.100 to 148D.125, a social worker must obtain
2 supervision or engage in consultation when appropriate or
3 necessary for competent and ethical practice.

4 Subd. 3. [DELEGATION OF SOCIAL WORK RESPONSIBILITIES.] (a)
5 A social worker must not delegate a social work responsibility
6 to another individual when the social worker knows or reasonably
7 should know that the individual is not licensed when required to
8 be licensed pursuant to sections 148D.055 and 148D.060.

9 (b) A social worker must not delegate a social work
10 responsibility to another individual when the social worker
11 knows or reasonably should know that the individual is not
12 competent to assume the responsibility or perform the task.

13 Sec. 46. [148D.205] [IMPAIRMENT.]

14 Subdivision 1. [GROUNDS FOR ACTION.] The board has grounds
15 to take action under sections 148D.255 to 148D.270 when a social
16 worker is unable to practice with reasonable skill and safety by
17 reason of illness, use of alcohol, drugs, chemicals, or any
18 other materials, or as a result of any mental, physical, or
19 psychological condition.

20 Subd. 2. [SELF-REPORTING.] A social worker regulated by
21 the board who is unable to practice with reasonable skill and
22 safety by reason of illness, use of alcohol, drugs, chemicals,
23 or any other materials, or as a result of any mental, physical,
24 or psychological condition, must report to the board or the
25 health professionals services program.

26 Sec. 47. [148D.210] [PROFESSIONAL AND ETHICAL CONDUCT.]

27 The board has grounds to take action under sections
28 148D.255 to 148D.270 when a social worker:

29 (1) engages in unprofessional or unethical conduct,
30 including any departure from or failure to conform to the
31 minimum accepted ethical and other prevailing standards of
32 professional social work practice, without actual injury to a
33 social work client, intern, student, supervisee or the public
34 needing to be established;

35 (2) engages in conduct that has the potential to cause harm
36 to a client, intern, student, supervisee, or the public;

1 (3) demonstrates a willful or careless disregard for the
2 health, welfare, or safety of a client, intern, student, or
3 supervisee; or

4 (4) engages in acts or conduct adversely affecting the
5 applicant or licensee's current ability or fitness to engage in
6 social work practice, whether or not the acts or conduct
7 occurred while engaged in the practice of social work.

8 Sec. 48. [148D.215] [RESPONSIBILITIES TO CLIENTS.]

9 Subdivision 1. [RESPONSIBILITY TO CLIENTS.] A social
10 worker's primary professional responsibility is to the client.
11 A social worker must respect the client's interests, including
12 the interest in self-determination, except when required to do
13 otherwise by law.

14 Subd. 2. [NONDISCRIMINATION.] A social worker must not
15 discriminate against a client, intern, student, or supervisee or
16 in providing services to a client, intern, or supervisee on the
17 basis of age, gender, sexual orientation, race, color, national
18 origin, religion, illness, disability, political affiliation, or
19 social or economic status.

20 Subd. 3. [RESEARCH.] When undertaking research activities,
21 a social worker must use accepted protocols for the protection
22 of human subjects, including (1) establishing appropriate
23 safeguards to protect the subject's vulnerability, and (2)
24 obtaining the subjects' informed consent.

25 Sec. 49. [148D.220] [RELATIONSHIPS WITH CLIENTS, FORMER
26 CLIENTS, AND OTHER INDIVIDUALS.]

27 Subdivision 1. [SOCIAL WORKER RESPONSIBILITY.] (a) A
28 social worker is responsible for acting professionally in
29 relationships with clients or former clients. A client or a
30 former client's initiation of, or attempt to engage in, or
31 request to engage in, a personal, sexual, or business
32 relationship is not a defense to a violation of this section.

33 (b) When a relationship is permitted by this section,
34 social workers who engage in such a relationship assume the full
35 burden of demonstrating that the relationship will not be
36 detrimental to the client or the professional relationship.

1 Subd. 2. [PROFESSIONAL BOUNDARIES.] A social worker must
2 maintain appropriate professional boundaries with a client. A
3 social worker must not engage in practices with clients that
4 create an unacceptable risk of client harm or of impairing a
5 social worker's objectivity or professional judgment. A social
6 worker must not act or fail to act in a way that, as judged by a
7 reasonable and prudent social worker, inappropriately encourages
8 the client to relate to the social worker outside of the
9 boundaries of the professional relationship, or in a way that
10 interferes with the client's ability to benefit from social work
11 services from the social worker.

12 Subd. 3. [MISUSE OF PROFESSIONAL RELATIONSHIP.] A social
13 worker must not use the professional relationship with a client,
14 student, supervisee, or intern to further the social worker's
15 personal, emotional, financial, sexual, religious, political, or
16 business benefit or interests.

17 Subd. 4. [IMPROPER TERMINATION.] A social worker must not
18 terminate a professional relationship for the purpose of
19 beginning a personal, sexual, or business relationship with a
20 client.

21 Subd. 5. [PERSONAL RELATIONSHIP WITH A CLIENT.] (a) Except
22 as provided in paragraph (b), a social worker must not engage in
23 a personal relationship with a client that creates a risk of
24 client harm or of impairing a social worker's objectivity or
25 professional judgment.

26 (b) Notwithstanding paragraph (a), if a social worker is
27 unable to avoid a personal relationship with a client, the
28 social worker must take appropriate precautions, such as
29 consultation or supervision, to address the potential for risk
30 of client harm or of impairing a social worker's objectivity or
31 professional judgment.

32 Subd. 6. [PERSONAL RELATIONSHIP WITH A FORMER CLIENT.] A
33 social worker may engage in a personal relationship with a
34 former client after appropriate termination of the professional
35 relationship, except:

36 (1) as prohibited by subdivision 8; or

1 (2) if a reasonable and prudent social worker would
2 conclude after appropriate assessment that (i) the former client
3 is emotionally dependent on the social worker or continues to
4 relate to the social worker as a client, or (ii) the social
5 worker is emotionally dependent on the client or continues to
6 relate to the former client as a social worker.

7 Subd. 7. [SEXUAL CONDUCT WITH A CLIENT.] A social worker
8 must not engage in or suggest sexual conduct with a client.

9 Subd. 8. [SEXUAL CONDUCT WITH A FORMER CLIENT.] (a) A
10 social worker who has engaged in diagnosing, counseling, or
11 treating a client with mental, emotional, or behavioral
12 disorders must not engage in or suggest sexual conduct with the
13 former client under any circumstances unless:

14 (1) the social worker did not intentionally or
15 unintentionally coerce, exploit, deceive, or manipulate the
16 former client at any time;

17 (2) the social worker did not represent to the former
18 client that sexual conduct with the social worker is consistent
19 with or part of the client's treatment;

20 (3) the social worker's sexual conduct was not detrimental
21 to the former client at any time;

22 (4) the former client is not emotionally dependent on the
23 social worker and does not continue to relate to the social
24 worker as a client; and

25 (5) the social worker is not emotionally dependent on the
26 client and does not continue to relate to the former client as a
27 social worker.

28 (b) If there is an alleged violation of paragraph (a), the
29 social worker assumes the full burden of demonstrating to the
30 board that the social worker did not intentionally or
31 unintentionally coerce, exploit, deceive, or manipulate the
32 client, and the social worker's sexual conduct was not
33 detrimental to the client at any time. Upon request, a social
34 worker must provide information to the board addressing:

35 (1) the amount of time that has passed since termination of
36 services;

1 (2) the duration, intensity, and nature of services;

2 (3) the circumstances of termination of services;

3 (4) the former client's emotional, mental, and behavioral
4 history;

5 (5) the former client's current emotional, mental, and
6 behavioral status;

7 (6) the likelihood of adverse impact on the former client;
8 and

9 (7) the existence of actions, conduct, or statements made
10 by the social worker during the course of services suggesting or
11 inviting the possibility of a sexual relationship with the
12 client following termination of services.

13 (c) A social worker who has provided social work services
14 other than those described in paragraph (a) to a client must not
15 engage in or suggest sexual conduct with the former client if a
16 reasonable and prudent social worker would conclude after
17 appropriate assessment that engaging in such behavior with the
18 former client would create an unacceptable risk of harm to the
19 former client.

20 Subd. 9. [SEXUAL CONDUCT WITH A STUDENT, SUPERVISEE, OR
21 INTERN.] (a) A social worker must not engage in or suggest
22 sexual conduct with a student while the social worker has
23 authority over any part of the student's academic program.

24 (b) A social worker supervising an intern must not engage
25 in or suggest sexual conduct with the intern during the course
26 of the internship.

27 (c) A social worker practicing social work as a supervisor
28 must not engage in or suggest sexual conduct with a supervisee
29 during the period of supervision.

30 Subd. 10. [SEXUAL HARASSMENT.] A social worker must not
31 engage in any physical, oral, written, or electronic behavior
32 that a client, former client, student, supervisee, or intern may
33 reasonably interpret as sexually harassing or sexually demeaning.

34 Subd. 11. [BUSINESS RELATIONSHIP WITH A CLIENT.] A social
35 worker must not purchase goods or services from a client or
36 otherwise engage in a business relationship with a client except

1 when:

2 (1) a social worker purchases goods or services from the
3 client and a reasonable and prudent social worker would
4 determine that it is not practical or reasonable to obtain the
5 goods or services from another provider; and

6 (2) engaging in the business relationship will not be
7 detrimental to the client or the professional relationship.

8 Subd. 12. [BUSINESS RELATIONSHIP WITH A FORMER CLIENT.] A
9 social worker may purchase goods or services from a former
10 client or otherwise engage in a business relationship with a
11 former client after appropriate termination of the professional
12 relationship unless a reasonable and prudent social worker would
13 conclude after appropriate assessment that:

14 (1) the former client is emotionally dependent on the
15 social worker and purchasing goods or services from the former
16 client or otherwise engaging in a business relationship with the
17 former client would be detrimental to the former client; or

18 (2) the social worker is emotionally dependent on the
19 former client and purchasing goods or services from the former
20 client or otherwise engaging in a business relationship with the
21 former client would be detrimental to the former client.

22 Subd. 13. [PREVIOUS SEXUAL, PERSONAL, OR BUSINESS
23 RELATIONSHIP.] (a) A social worker must not engage in a social
24 worker/client relationship with an individual with whom the
25 social worker had a previous sexual relationship.

26 (b) A social worker must not engage in a social
27 worker/client relationship with an individual with whom the
28 social worker had a previous personal or business relationship
29 if a reasonable and prudent social worker would conclude after
30 appropriate assessment that the social worker/client
31 relationship would create an unacceptable risk of client harm or
32 that the social worker's objectivity or professional judgment
33 may be impaired.

34 Subd. 14. [GIVING ALCOHOL OR OTHER DRUGS TO A CLIENT.] (a)
35 Unless authorized by law, a social worker must not offer
36 medication or controlled substances to a client.

1 (b) A social worker must not accept medication or
2 controlled substances from a client except that if authorized by
3 law, a social worker may accept medication or controlled
4 substances from a client for purposes of disposal or to monitor
5 use.

6 (c) A social worker must not offer alcoholic beverages to a
7 client except when such an offer is authorized or prescribed by
8 a physician or is in accordance with a client's care plan.

9 (d) A social worker must not accept alcoholic beverages
10 from a client.

11 Subd. 15. [RELATIONSHIP WITH A CLIENT'S FAMILY OR
12 HOUSEHOLD MEMBER.] Subdivisions 1 to 14 apply to a social
13 worker's relationship with a client's family or household member
14 when a reasonable and prudent social worker would conclude after
15 appropriate assessment that a relationship with a family or
16 household member would create an unacceptable risk of harm to
17 the client.

18 Sec. 50. [148D.225] [TREATMENT AND INTERVENTION SERVICES.]

19 Subdivision 1. [ASSESSMENT OR DIAGNOSIS.] A social worker
20 must base treatment and intervention services on an assessment
21 or diagnosis. A social worker must evaluate, on an ongoing
22 basis, the appropriateness of the assessment or diagnosis.

23 Subd. 2. [ASSESSMENT OR DIAGNOSTIC INSTRUMENTS.] A social
24 worker must not use an assessment or diagnostic instrument
25 without adequate training. A social worker must follow
26 standards and accepted procedures for using an assessment or
27 diagnostic instrument. A social worker must inform a client of
28 the purpose before administering the instrument and must make
29 the results available to the client.

30 Subd. 3. [PLAN FOR SERVICES.] A social worker must develop
31 a plan for services that includes goals based on the assessment
32 or diagnosis. A social worker must evaluate, on an ongoing
33 basis, the appropriateness of the plan and the client's progress
34 toward the goals.

5 Subd. 4. [RECORDS.] (a) A social worker must make and
36 maintain current and accurate records, appropriate to the

1 circumstances, of all services provided to a client. At a
2 minimum, the records must contain documentation of:

3 (1) the assessment or diagnosis;

4 (2) the content of the service plan;

5 (3) progress with the plan and any revisions of assessment,
6 diagnosis, or plan;

7 (4) any fees charged and payments made;

8 (5) copies of all client-written authorizations for release
9 of information; and

10 (6) other information necessary to provide appropriate
11 services.

12 (b) These records must be maintained by the social worker
13 for at least seven years after the last date of service to the
14 client. Social workers who are employed by an agency or other
15 entity are not required to:

16 (1) maintain personal or separate records; or

17 (2) personally retain records at the conclusion of their
18 employment.

19 Subd. 5. [TERMINATION OF SERVICES.] A social worker must
20 terminate a professional relationship with a client when the
21 social worker reasonably determines that the client is not
22 likely to benefit from continued services or the services are no
23 longer needed, unless the social worker is required by law to
24 provide services. A social worker who anticipates terminating
25 services must give reasonable notice to the client in a manner
26 that is appropriate to the needs of the client. The social
27 worker must provide appropriate referrals as needed or upon
28 request of the client.

29 Sec. 51. [148D.230] [CONFIDENTIALITY AND RECORDS.]

30 Subdivision 1. [INFORMED CONSENT.] (a) A social worker
31 must obtain valid, informed consent, appropriate to the
32 circumstances, before providing services to clients. When
33 obtaining informed consent, the social worker must determine
34 whether the client has the capacity to provide informed
35 consent. If the client does not have the capacity to provide
36 consent, the social worker must obtain consent for the services

1 from the client's legal representative. The social worker must
2 not provide services, unless authorized or required by law, if
3 the client or the client's legal representative does not consent
4 to the services.

5 (b) If a social worker determines that a client does not
6 have the capacity to provide consent, and the client does not
7 have a legal representative, the social worker:

8 (1) must, except as provided in clause (2), secure a legal
9 representative for a client before providing services; or

10 (2) may, notwithstanding clause (1), provide services,
11 except when prohibited by other applicable law, that are
12 necessary to ensure the client's safety or to preserve the
13 client's property or financial resources.

14 (c) A social worker must use clear and understandable
15 language, including using an interpreter proficient in the
16 client's primary language as necessary, to inform clients of the
17 plan of services, risks related to the plan, limits to services,
18 relevant costs, terms of payment, reasonable alternatives, the
19 client's right to refuse or withdraw consent, and the time frame
20 covered by the consent.

21 Subd. 2. [MANDATORY REPORTING AND DISCLOSURE OF CLIENT
22 INFORMATION.] At the beginning of a professional relationship
23 and during the professional relationship as necessary and
24 appropriate, a social worker must inform the client of those
25 circumstances under which the social worker may be required to
26 disclose client information specified in subdivision 3,
27 paragraph (a), without the client's consent.

28 Subd. 3. [CONFIDENTIALITY OF CLIENT INFORMATION.] (a) A
29 social worker must ensure the confidentiality of all client
30 information obtained in the course of the social worker/client
31 relationship and all client information otherwise obtained by
32 the social worker that is relevant to the social worker/client
33 relationship. Except as provided in this section, client
34 information may be disclosed or released only with the client's
35 or the client's legal representative's valid informed consent,
36 appropriate to the circumstances, except when otherwise required

1 by law. A social worker must seek consent to disclose or
2 release client information only when such disclosure or release
3 is necessary to provide social work services.

4 (b) A social worker must continue to maintain
5 confidentiality of the client information specified in paragraph
6 (a) upon termination of the professional relationship including
7 upon the death of the client, except as provided under this
8 section or other applicable law.

9 (c) A social worker must limit access to the client
10 information specified in paragraph (a) in a social worker's
11 agency to appropriate agency staff whose duties require access.

12 Subd. 4. [RELEASE OF CLIENT INFORMATION WITH WRITTEN
13 INFORMED CONSENT.] (a) Except as provided in subdivision 5,
14 client information specified in subdivision 3, paragraph (a),
15 may be released only with the client's or the client's legal
16 representative's written informed consent. The written informed
17 consent must:

18 (1) explain to whom the client's records may be released;

19 (2) explain the purpose for the release; and

20 (3) state an expiration date for the authorized release of
21 the records.

22 (b) A social worker may provide client information
23 specified in subdivision 3, paragraph (a), to a third party for
24 the purpose of payment for services rendered only with the
25 client's written informed consent.

26 (c) Except as provided in subdivision 5, a social worker
27 may disclose client information specified in subdivision 3,
28 paragraph (a), only with the client's or the client's legal
29 representative's written informed consent. When it is not
30 practical to obtain written informed consent before providing
31 necessary services, a social worker may disclose or release
32 client information with the client's or the client's legal
33 representative's oral informed consent.

34 (d) Unless otherwise authorized by law, a social worker
35 must obtain a client's written informed consent before taking a
36 photograph of the client or making an audio or video recording

1 of the client, or allowing a third party to do the same. The
2 written informed consent must explain:

3 (1) the purpose of the photograph or the recording and how
4 the photograph or recording will be used, how it will be stored,
5 and when it will be destroyed; and

6 (2) how the client may have access to the photograph or
7 recording.

8 Subd. 5. [RELEASE OF CLIENT INFORMATION WITHOUT WRITTEN
9 INFORMED CONSENT.] (a) A social worker may disclose client
10 information specified in subdivision 3, paragraph (a), without
11 the written consent of the client or the client's legal
12 representative only under the following circumstances or under
13 the circumstances described in paragraph (b):

14 (1) when mandated or authorized by federal or state law,
15 including the mandatory reporting requirements under the duty to
16 warn, maltreatment of minors, and vulnerable adult laws
17 specified in section 148D.240, subdivisions 6 to 8;

18 (2) when the board issues a subpoena to the social worker;
19 or

20 (3) when a court of competent jurisdiction orders release
21 of the client records or information.

22 (b) When providing services authorized or required by law
23 to a client who does not have the capacity to provide consent
24 and who does not have a legal representative, a social worker
25 must disclose or release client records or information as
26 necessary to provide services to ensure the client's safety or
27 to preserve the client's property or financial resources.

28 Subd. 6. [RELEASE OF CLIENT RECORDS OR INFORMATION.] When
29 releasing client records or information under this section, a
30 social worker must release current, accurate, and complete
31 records or information.

32 Sec. 52. [148D.235] [FEES AND BILLING PRACTICES.]

33 Subdivision 1. [FEES AND PAYMENTS.] (a) A social worker
34 must ensure that a client or a client's legal representative is
35 informed of all fees at the initial session or meeting with the
36 client, and that payment for services is arranged with the

1 client or the client's legal representative at the beginning of
2 the professional relationship. Upon request from a client or a
3 client's legal representative, a social worker must provide in a
4 timely manner a written payment plan or a written explanation of
5 the charges for any services rendered.

6 (b) When providing services authorized or required by law
7 to a client who does not have the capacity to provide consent
8 and who does not have a legal representative, a social worker
9 may submit reasonable bills to an appropriate payer for services
10 provided.

11 Subd. 2. [BILLING FOR SERVICES NOT PROVIDED.] A social
12 worker must not bill for services that have not been provided
13 except that, with prior notice to the client, a social worker
14 may bill for failed appointments or for cancellations without
15 sufficient notice. A social worker may bill only for provided
16 services which are necessary and appropriate. Financial
17 responsibility for failed appointment billings resides solely
18 with the client and such costs may not be billed to public or
19 private payers.

20 Subd. 3. [NO PAYMENT FOR REFERRALS.] A social worker must
21 not accept or give a commission, rebate, or other form of
22 remuneration solely or primarily to profit from the referral of
23 a client.

24 Subd. 4. [FEES AND BILLING PRACTICES.] A social worker
25 must not engage in improper or fraudulent billing practices,
26 including, but not limited to, violations of the federal
27 Medicare and Medicaid laws or state medical assistance laws.

28 Sec. 53. [148D.240] [REPORTING REQUIREMENTS.]

29 Subdivision 1. [FAILURE TO SELF-REPORT ADVERSE
30 ACTIONS.] The board has grounds to take action under sections
31 148D.255 to 148D.270 when a social worker fails to report to the
32 board within 90 days:

33 (1) having been disciplined, sanctioned, or found to have
34 violated a state, territorial, provincial, or foreign licensing
35 agency's laws or rules;

36 (2) having been convicted of committing a felony, gross

1 misdemeanor, or misdemeanor reasonably related to the practice
2 of social work;

3 (3) having had a finding or verdict of guilt, whether or
4 not the adjudication of guilt is withheld or not entered, of
5 committing a felony, gross misdemeanor, or misdemeanor
6 reasonably related to the practice of social work;

7 (4) having admitted to committing, or entering a no contest
8 plea to committing, a felony, gross misdemeanor, or misdemeanor
9 reasonably related to the practice of social work; or

10 (5) having been denied licensure by a state, territorial,
11 provincial, or foreign licensing agency.

12 Subd. 2. [FAILURE TO SUBMIT APPLICATION INFORMATION.] The
13 board has grounds to take action under sections 148D.255 to
14 148D.270 when an applicant or licensee fails to submit with an
15 application the following information:

16 (1) the dates and dispositions of any malpractice
17 settlements or awards made relating to the social work services
18 provided by the applicant or licensee; or

19 (2) the dates and dispositions of any civil litigations or
20 arbitrations relating to the social work services provided by
21 the applicant or licensee.

22 Subd. 3. [REPORTING OTHER LICENSED HEALTH
23 PROFESSIONALS.] An applicant or licensee must report to the
24 appropriate health-related licensing board conduct by a licensed
25 health professional which would constitute grounds for
26 disciplinary action under the statutes and rules enforced by
27 that board.

28 Subd. 4. [REPORTING UNLICENSED PRACTICE.] An applicant or
29 licensee must report to the board conduct by an unlicensed
30 person which constitutes the practice of social work, as defined
31 in section 148D.010, except when the unlicensed person is exempt
32 from licensure pursuant to section 148D.065.

33 Subd. 5. [FAILURE TO REPORT OTHER APPLICANTS OR LICENSEES
34 AND UNLICENSED PRACTICE.] The board has grounds to take action
35 under sections 148D.255 to 148.270 when an applicant or licensee
36 fails to report to the board conduct:

1 (1) by another licensee or applicant which the applicant or
2 licensee has reason to believe may reasonably constitute grounds
3 for disciplinary action under this section; or

4 (2) by an unlicensed person that constitutes the practice
5 of social work when a license is required to practice social
6 work.

7 Subd. 6. [DUTY TO WARN.] A licensee must comply with the
8 duty to warn established by section 148.975.

9 Subd. 7. [REPORTING MALTREATMENT OF MINORS.] An applicant
10 or licensee must comply with the reporting of maltreatment of
11 minors established by section 626.556.

12 Subd. 8. [REPORTING MALTREATMENT OF VULNERABLE ADULTS.] An
13 applicant or licensee must comply with the reporting of
14 maltreatment of vulnerable adults established by section 626.557.

15 Subd. 9. [SUBPOENAS.] The board may issue subpoenas
16 pursuant to section 148D.245 and chapter 214 for the production
17 of any reports required by this section or any related documents.

18 Sec. 54. [148D.245] [INVESTIGATIVE POWERS AND PROCEDURES.]

19 Subdivision 1. [SUBPOENAS.] (a) The board may issue
20 subpoenas and compel the attendance of witnesses and the
21 production of all necessary papers, books, records, documents,
22 and other evidentiary material as part of its investigation of
23 an applicant or licensee under this section or chapter 214.

24 (b) If any person fails or refuses to appear or testify
25 regarding any matter about which the person may be lawfully
26 questioned, or fails or refuses to produce any papers, books,
27 records, documents, or other evidentiary materials in the matter
28 to be heard, after having been required by order of the board or
29 by a subpoena of the board to do so, the board may institute a
30 proceeding in any district court to enforce the board's order or
31 subpoena.

32 (c) The board or a designated member of the board acting on
33 behalf of the board may issue subpoenas or administer oaths to
34 witnesses or take affirmations. Depositions may be taken within
35 or out of the state in the manner provided by law for the taking
36 of depositions in civil actions.

1 (d) A subpoena or other process or paper may be served upon
2 any person named therein, by mail or by any officer authorized
3 to serve subpoenas or other process or paper in civil actions,
4 with the same fees and mileage and in the same manner as
5 prescribed by law for service of process issued out of the
6 district court of this state.

7 (e) Fees, mileage, and other costs must be paid as the
8 board directs.

9 Subd. 2. [CLASSIFICATION OF DATA.] (a) Any records
10 obtained as part of an investigation must be treated as
11 investigative data under section 13.41 and be classified as
12 confidential data.

13 (b) Notwithstanding paragraph (a), client records must be
14 treated as private data under chapter 13. Client records must
15 be protected as private data in the records of the board and in
16 administrative or judicial proceedings unless the client
17 authorizes the board in writing to make public the identity of
18 the client or a portion or all of the client's records.

19 Subd. 3. [MENTAL OR PHYSICAL EXAMINATION; CHEMICAL
20 DEPENDENCY EVALUATION.] (a) If the board has (1) probable cause
21 to believe that an applicant or licensee has violated a statute
22 or rule enforced by the board, or an order issued by the board
23 and (2) the board believes the applicant may have a
24 health-related condition relevant to the violation, the board
25 may issue an order directing the applicant or licensee to submit
26 to one or more of the following: a mental examination, a
27 physical examination, or a chemical dependency evaluation.

28 (b) An examination or evaluation order issued by the board
29 must include:

30 (1) factual specifications on which the order is based;

31 (2) the purpose of the examination or evaluation;

32 (3) the name of the person or entity that will conduct the
33 examination or evaluation; and

34 (4) the means by which the examination or evaluation will
35 be paid for.

36 (c) Every applicant or licensee must submit to a mental

1 examination, a physical examination, or a chemical dependency
2 evaluation when ordered to do so in writing by the board.

3 (d) By submitting to a mental examination, a physical
4 examination, or a chemical dependency evaluation, an applicant
5 or licensee waives all objections to the admissibility of the
6 examiner or evaluator's testimony or reports on the grounds that
7 the testimony or reports constitute a privileged communication.

8 Subd. 4. [FAILURE TO SUBMIT TO AN EXAMINATION.] (a) If an
9 applicant or licensee fails to submit to an examination or
10 evaluation ordered by the board pursuant to subdivision 3,
11 unless the failure was due to circumstances beyond the control
12 of the applicant or licensee, the failure is an admission that
13 the applicant or licensee violated a statute or rule enforced by
14 the board as specified in the examination or evaluation order
15 issued by the board. The failure may result in an application
16 being denied or other adversarial, corrective, or disciplinary
17 action being taken by the board without a contested case hearing.

18 (b) If an applicant or licensee requests a contested case
19 hearing after the board denies an application or takes other
20 disciplinary or adversarial action, the only issues which may be
21 determined at the hearing are:

22 (1) whether the board had probable cause to issue the
23 examination or evaluation order; and

24 (2) whether the failure to submit to the examination or
25 evaluation was due to circumstances beyond the control of the
26 applicant or licensee.

27 (c) Neither the record of a proceeding under this
28 subdivision nor an order issued by the board may be admissible,
29 subject to subpoena, or be used against the applicant or
30 licensee in a proceeding in which the board is not a party or
31 decision maker.

32 (d) Information obtained under this subdivision must be
33 treated as private data under chapter 13. An order issued by
34 the board as the result of an applicant's or licensee's failure
35 to submit to an examination or evaluation must be treated as
36 public data under chapter 13.

1 Subd. 5. [ACCESS TO DATA AND RECORDS.] (a) In addition to
2 ordering a physical or mental examination or chemical dependency
3 evaluation, and notwithstanding section 13.384, 144.651, 595.02,
4 or any other statute limiting access to health records, the
5 board or a designated member of the board acting on behalf of
6 the board may subpoena physical, mental, and chemical dependency
7 health records relating to an applicant or licensee without the
8 applicant's or licensee's consent if:

9 (1) the board has probable cause to believe that the
10 applicant or licensee has violated chapter 214, a statute or
11 rule enforced by the board, or an order issued by the board; and

12 (2) the board has reason to believe that the records are
13 relevant and necessary to the investigation.

14 (b) An applicant, licensee, insurance company, government
15 agency, health care facility, or provider as defined in section
16 144.335, subdivision 1, paragraph (b), must comply with any
17 subpoena of the board under this subdivision and is not liable
18 in any action for damages for releasing information subpoenaed
19 by the board under this subdivision unless the information
20 provided is false and the person or entity providing the
21 information knew or had reason to know that the information was
22 false.

23 (c) Information on individuals obtained under this
24 subdivision must be treated as investigative data under section
25 13.41 and be classified as confidential data.

26 (d) If an applicant, licensee, person, or entity does not
27 comply with any subpoena of the board under this subdivision,
28 the board may institute a proceeding in any district court to
29 enforce the board's subpoena.

30 Subd. 6. [EVIDENCE OF PAST SEXUAL CONDUCT.] If, in a
31 proceeding for taking action against an applicant or licensee
32 under this section, the charges involve sexual contact with a
33 client or former client, the board or administrative law judge
34 must not consider evidence of the client's or former client's
35 previous sexual conduct. Reference to the client's or former
36 client's previous sexual conduct must not be made during the

1 proceedings or in the findings, except by motion of the
2 complainant, unless the evidence would be admissible under the
3 applicable provisions of section 609.347, subdivision 3.

4 Subd. 7. [INVESTIGATIONS INVOLVING VULNERABLE ADULTS OR
5 CHILDREN IN NEED OF PROTECTION.] (a) Except as provided in
6 paragraph (b), if the board receives a complaint about a social
7 worker regarding the social worker's involvement in a case of
8 vulnerable adults or children in need of protection, the county
9 or other appropriate public authority may request that the board
10 suspend its investigation, and the board must comply until such
11 time as the court issues its findings on the case.

12 (b) Notwithstanding paragraph (a), the board may continue
13 with an investigation if the board determines that doing so is
14 in the best interests of the vulnerable adult or child and is
15 consistent with the board's obligation to protect the public.
16 If the board chooses to continue an investigation, the board
17 must notify the county or other appropriate public authority in
18 writing and state its reasons for doing so.

19 Subd. 8. [NOTIFICATION OF COMPLAINANT.] (a) In no more
20 than 14 calendar days after receiving a complaint regarding a
21 licensee, the board must notify the complainant that the board
22 has received the complaint.

23 (b) The board must periodically notify the complainant of
24 the status of the complaint.

25 Subd. 9. [NOTIFICATION OF LICENSEE.] (a) Except as
26 provided in paragraph (b), in no more than 60 calendar days
27 after receiving a complaint regarding a licensee, the board must
28 notify the licensee that the board has received the complaint
29 and inform the licensee of:

30 (1) the substance of the complaint;

31 (2) the sections of the law that allegedly have been
32 violated; and

33 (3) whether an investigation is being conducted.

34 (b) Paragraph (a) does not apply if:

35 (1) the board determines that such notice would compromise
36 the board's investigation pursuant to section 214.10; or

1 (2) the board determines that such notice cannot reasonably
2 be accomplished within this time.

3 (c) The board must periodically notify the licensee of the
4 status of the complaint.

5 Subd. 10. [RESOLUTION OF COMPLAINTS.] In no more than one
6 year after receiving a complaint regarding a licensee, the board
7 must resolve or dismiss the complaint unless the board
8 determines that resolving or dismissing the complaint cannot
9 reasonably be accomplished within this time.

10 Sec. 55. [148D.250] [OBLIGATION TO COOPERATE.]

11 Subdivision 1. [OBLIGATION TO COOPERATE.] An applicant or
12 licensee who is the subject of an investigation, or who is
13 questioned by or on behalf of the board in connection with an
14 investigation, must cooperate fully with the investigation.

15 Cooperation includes, but is not limited to:

16 (1) responding fully and promptly to any question relating
17 to the investigation;

18 (2) as reasonably requested by the board, providing copies
19 of client and other records in the applicant's or licensee's
20 possession relating to the investigation;

21 (3) executing release of records as reasonably requested by
22 the board; and

23 (4) appearing at conferences, hearings, or meetings
24 scheduled by the board, as required in sections 148D.255 to
25 148D.270 and chapter 214.

26 Subd. 2. [INVESTIGATION.] A social worker must not
27 knowingly withhold relevant information, give false or
28 misleading information, or do anything to obstruct an
29 investigation of the social worker or another social worker by
30 the board or by another state or federal regulatory or law
31 enforcement authority.

32 Subd. 3. [PAYMENT FOR COPIES.] The board must pay for
33 copies requested by the board.

34 Subd. 4. [ACCESS TO CLIENT RECORDS.] Notwithstanding any
35 law to the contrary, an applicant or licensee must allow the
36 board access to any records of a client provided services by the

1 applicant or licensee under investigation. If the client has
2 not signed a consent permitting access to the client's records,
3 the applicant or licensee must delete any data in the records
4 that identifies the client before providing the records to the
5 board.

6 Subd. 5. [CLASSIFICATION OF DATA.] Any records obtained
7 pursuant to this subdivision must be treated as investigative
8 data pursuant to section 13.41 and be classified as confidential
9 data.

10 Sec. 56. [148D.255] [TYPES OF ACTIONS.]

11 Subdivision 1. [ACTIONS.] The board may take disciplinary
12 action pursuant to section 148D.260, adversarial but
13 nondisciplinary action pursuant to section 148D.265, or
14 voluntary action pursuant to section 148D.270. Any action taken
15 under sections 148D.260 to 148D.270 is public data.

16 Subd. 2. [DISCIPLINARY ACTION.] For purposes of section
17 148D.260, "disciplinary action" means an action taken by the
18 board against an applicant or licensee that addresses a
19 complaint alleging a violation of a statute or rule the board is
20 empowered to enforce.

21 Subd. 3. [ADVERSARIAL BUT NONDISCIPLINARY ACTION.] For
22 purposes of section 148D.265, "adversarial but nondisciplinary
23 action" means a nondisciplinary action taken by the board that
24 addresses a complaint alleging a violation of a statute or rule
25 the board is empowered to enforce.

26 Subd. 4. [VOLUNTARY ACTION.] For purposes of section
27 148D.270, "voluntary action" means a nondisciplinary action
28 agreed to by the board or a designated board member and an
29 applicant or licensee that, through educational or other
30 corrective means, addresses a complaint alleging a violation of
31 a statute or rule that the board is empowered to enforce.

32 Sec. 57. [148D.260] [DISCIPLINARY ACTIONS.]

33 Subdivision 1. [GENERAL DISCIPLINARY ACTIONS.] (a) When
34 the board has grounds for disciplinary actions under this
35 chapter, the board may take one or more of the following
36 disciplinary actions:

1 (1) deny an application;

2 (2) permanently revoke a license to practice social work;

3 (3) indefinitely or temporarily suspend a license to
4 practice social work;

5 (4) impose restrictions on a licensee's scope of practice;

6 (5) impose conditions required for the licensee to maintain
7 licensure, including, but not limited to, additional education,
8 supervision, and requiring the passing of an examination
9 provided for in section 148D.055;

10 (6) reprimand a licensee;

11 (7) impose a civil penalty of up to \$10,000 for each
12 violation in order to discourage future violations or to deprive
13 the licensee of any economic advantage gained by reason of the
14 violation; or

15 (8) impose a fee to reimburse the board for all or part of
16 the cost of the proceedings resulting in disciplinary action,
17 including, but not limited to, the amount paid by the board for
18 services received from or expenses incurred by the Office of
19 Administrative Hearings, the Office of the Attorney General,
20 court reporters, witnesses, board members, board staff, or the
21 amount paid by the board for reproducing records.

22 (b) Disciplinary action taken by the board under this
23 subdivision is in effect pending determination of an appeal
24 unless the court, upon petition and for good cause shown,
25 decides otherwise.

26 Subd. 2. [REPRIMANDS.] (a) In addition to the board's
27 authority to issue a reprimand pursuant to subdivision 1, a
28 designated board member reviewing a complaint as provided for in
29 chapter 214 may issue a reprimand to a licensee. The designated
30 board member must notify the licensee that the reprimand will
31 become final disciplinary action unless the licensee requests a
32 hearing by the board within 14 calendar days.

33 (b) If the licensee requests a hearing within 14 calendar
34 days, the board must schedule a hearing unless the designated
5 board member withdraws the reprimand.

36 (c) The hearing must be scheduled within 14 working days of

1 the time the licensee submits a request for the hearing.

2 (d) The designated board member who issued the reprimand
3 may participate in the hearing but must not deliberate or vote
4 on the decision by the board.

5 (e) The only evidence permitted at the hearing is
6 affidavits or other documents except for testimony by the
7 licensee or other witnesses whose testimony the board chair has
8 authorized for good cause.

9 (f) If testimony is authorized, the testimony is subject to
10 cross-examination.

11 (g) After the hearing, the board must affirm or dismiss the
12 reprimand.

13 Subd. 3. [TEMPORARY SUSPENSIONS.] (a) In addition to any
14 other remedy provided by statute, the board or a designated
15 board member may, without a hearing, temporarily suspend a
16 license to practice social work if the board or the designated
17 board member finds that:

18 (1) the licensee has violated a statute or rule enforced by
19 the board, any other federal or state law or rule related to the
20 practice of social work, or an order, stipulation, or agreement
21 agreed to or issued by the board; and

22 (2) continued practice by the licensee would create a
23 serious risk of harm to others.

24 (b) The suspension is in effect upon service of a written
25 order on the licensee specifying the statute, rule, order,
26 stipulation, or agreement violated. Service of the order is
27 effective if the order is served on the licensee or the
28 licensee's attorney personally or by first class mail to the
29 most recent address provided to the board for the licensee or
30 the licensee's attorney.

31 (c) The temporary suspension remains in effect until after
32 the board issues an order pursuant to paragraph (e), or if there
33 is a contested case hearing, after the board issues a written
34 final order pursuant to paragraph (g).

35 (d) If the licensee requests in writing within five
36 calendar days of service of the order that the board hold a

1 hearing, the board must hold a hearing on the sole issue of
2 whether to continue, modify, or lift the suspension. The board
3 must hold the hearing within ten working days of receipt of the
4 licensee's written request. Evidence presented by the board or
5 licensee must be in affidavit form only, except that the
6 licensee or the licensee's attorney may present oral argument.

7 (e) Within five working days after the hearing, the board
8 must issue its order. If the licensee contests the order, the
9 board must schedule a contested case hearing under chapter 14.
10 The contested case hearing must be scheduled to occur within 45
11 calendar days after issuance of the order.

12 (f) The administrative law judge must issue a report within
13 30 calendar days after the contested case hearing is concluded.

14 (g) The board must issue a final order within 30 calendar
15 days after the board receives the administrative law judge's
16 report.

17 Sec. 58. [148D.265] [ADVERSARIAL BUT NONDISCIPLINARY
18 ACTIONS.]

19 Subdivision 1. [AUTOMATIC SUSPENSIONS.] (a) A license to
20 practice social work is automatically suspended if:

21 (1) a guardian of a licensee is appointed by order of a
22 court pursuant to sections 524.5-101 and 524.5.102; or

23 (2) the licensee is committed by order of a court pursuant
24 to chapter 253B.

25 (b) A license remains suspended until:

26 (1) the licensee is restored to capacity by a court; and

27 (2) upon petition by the licensee and after a hearing or an
28 agreement with the licensee, the board terminates the suspension.

29 (c) If the board terminates the suspension, it may do so
30 with or without conditions or restrictions, including, but not
31 limited to, participation in the health professional services
32 program.

33 Subd. 2. [CEASE AND DESIST ORDERS.] (a) The board or a
34 designated board member may issue a cease and desist order to
35 stop a person from engaging in unauthorized practice or from
36 violating or threatening to violate a statute or rule enforced

1 by the board or an order, stipulation, or agreement agreed to or
2 issued by the board.

3 (b) The cease and desist order must state the reason for
4 its issuance and give notice of the person's right to request a
5 hearing under sections 14.57 to 14.62. If the person fails to
6 request a hearing in writing postmarked within 15 calendar days
7 after service of the cease and desist order, the order is the
8 final order of the board and is not reviewable by a court or
9 agency.

10 (c) If the board receives a written request for a hearing
11 postmarked within 15 calendar days after service of the cease
12 and desist order, the board must schedule a hearing within 30
13 calendar days of receiving the request.

14 (d) The administrative law judge must issue a report within
15 30 calendar days after the contested case hearing is concluded.

16 (e) Within 30 calendar days after the board receives the
17 administrative law judge's report, the board must issue a final
18 order modifying, vacating, or making permanent the cease and
19 desist order. The final order remains in effect until modified
20 or vacated by the board.

21 (f) If a person does not comply with a cease and desist
22 order, the board may institute a proceeding in any district
23 court to obtain injunctive relief or other appropriate relief,
24 including but not limited to, a civil penalty payable to the
25 board of up to \$10,000 for each violation.

26 (g) A cease and desist order issued pursuant to this
27 subdivision does not relieve a person from criminal prosecution
28 by a competent authority or from disciplinary action by the
29 board.

30 Subd. 3. [INJUNCTIVE RELIEF.] (a) In addition to any other
31 remedy provided by law, the board may bring an action in
32 district court for injunctive relief to restrain any
33 unauthorized practice or violation or threatened violation of
34 any statute or rule, stipulation, or agreement agreed to or
35 enforced by the board or an order issued by the board.

36 (b) A temporary restraining order may be granted in the

1 proceeding if continued activity by a person would create an
2 imminent risk of harm to others.

3 (c) Injunctive relief granted pursuant to this subdivision
4 does not relieve a person from criminal prosecution by a
5 competent authority or from disciplinary action by the board.

6 (d) In bringing an action for injunctive relief, the board
7 need not show irreparable harm.

8 Sec. 59. [148D.270] [VOLUNTARY ACTIONS.]

9 Subdivision 1. [AGREEMENTS FOR CORRECTIVE ACTION.] (a) The
10 board or a designated board member may enter into an agreement
11 for corrective action with an applicant or licensee when the
12 board or a designated board member determines that a complaint
13 alleging a violation of a statute or rule enforced by the board
14 or an order issued by the board may best be resolved through an
15 agreement for corrective action when disciplinary action is not
16 required to protect the public.

17 (b) An agreement for corrective action must:

18 (1) be in writing;

19 (2) specify the facts upon which the agreement is based;

20 (3) clearly indicate the corrective action agreed upon; and

21 (4) provide that the complaint that resulted in the

22 agreement must be dismissed by the board or the designated board
23 member upon successful completion of the corrective action.

24 (c) The board or designated board member may determine
25 successful completion when the applicant or licensee submits a
26 request for dismissal that documents the applicant's or
27 licensee's successful completion of the corrective action. The
28 burden of proof is on the applicant or licensee to prove
29 successful completion.

30 (d) An agreement for corrective action is not disciplinary
31 action but must be treated as public data under chapter 13.

32 (e) The board may impose a fee to reimburse the board for
33 all or part of the costs of the proceedings resulting in a
34 corrective action, including, but not limited to, the amount
35 paid by the board for services received from or expenses
36 incurred by the Office of the Attorney General, board members,

1 board staff, or the amount paid by the board for reproducing
2 records.

3 (f) The board or designated board member must not enter
4 into an agreement for corrective action when the complaint
5 alleged sexual conduct with a client unless there is
6 insufficient evidence to justify disciplinary action but there
7 is a basis for corrective action.

8 Subd. 2. [STIPULATIONS TO CEASE PRACTICING SOCIAL
9 WORK.] (a) The board or a designated board member may enter into
10 a stipulation to cease practicing social work with a licensee if
11 the board or designated board member determines that the
12 licensee is unable to practice social work competently or safely
13 or that the social worker's continued practice creates an
14 unacceptable risk of safety to clients, potential clients, or
15 the public.

16 (b) A stipulation to cease practicing social work must:

17 (1) be in writing;

18 (2) specify the facts upon which the stipulation is based;

19 (3) clearly indicate that the licensee must not practice
20 social work and must not hold out to the public that the social
21 worker is licensed; and

22 (4) specify the term of the stipulation or when and under
23 what circumstances the licensee may petition the board for
24 termination of the stipulation.

25 (c) A stipulation to cease practicing social work is not
26 disciplinary action but must be treated as public data under
27 chapter 13.

28 (d) Nothing in this subdivision prevents the board or
29 designated board member from taking any other disciplinary or
30 adversarial action authorized by sections 148D.255 to 148D.265
31 in lieu of or in addition to entering into a stipulation to
32 cease practicing social work.

33 Sec. 60. [148D.275] [UNAUTHORIZED PRACTICE.]

34 No individual may:

35 (1) engage in the practice of social work without a social
36 work license under sections 148D.055 and 148D.060, except when

1 the individual is exempt from licensure pursuant to section
2 148D.065;

3 (2) provide social work services to a client who resides in
4 this state when the individual providing the services is not
5 licensed as a social worker pursuant to sections 148D.055 to
6 148D.060, except when the individual is exempt from licensure
7 pursuant to section 148D.065.

8 Sec. 61. [148D.280] [USE OF TITLES.]

9 No individual may be presented to the public by any title
10 incorporating the words "social work" or "social worker" or in
11 the titles in section 148D.195, unless that individual holds a
12 license pursuant to sections 148D.055 and 148D.060, or practices
13 in a setting exempt from licensure pursuant to section 148D.065.

14 Sec. 62. [148D.285] [REPORTING REQUIREMENTS.]

15 Subdivision 1. [INSTITUTIONS.] A state agency, political
16 subdivision, agency of a local unit of government, private
17 agency, hospital, clinic, prepaid medical plan, or other health
18 care institution or organization must report to the board:

19 (1) any adversarial action, disciplinary action, or other
20 sanction for conduct that might constitute grounds for action
21 under section 148D.190;

22 (2) the resignation of any applicant or licensee prior to
23 the conclusion of any proceeding for adversarial action,
24 disciplinary action, or other sanction for conduct that might
25 constitute grounds for action under section 148D.190; or

26 (3) the resignation of any applicant or licensee prior to
27 the commencement of a proceeding for adversarial action,
28 disciplinary action, or other sanction for conduct that might
29 constitute grounds for action under section 148D.190, but after
30 the applicant or licensee had knowledge that a proceeding was
31 contemplated or in preparation.

32 Subd. 2. [PROFESSIONAL SOCIETIES AND ASSOCIATIONS.] A
33 state or local professional society or association whose members
34 consist primarily of licensed social workers must report to the
35 board any adversarial action, disciplinary action, or other
36 sanction taken against a member.

1 Subd. 3. [IMMUNITY.] An individual, professional society
2 or association, state agency, political subdivision, agency of a
3 local unit of government, private agency, hospital, clinic,
4 prepaid medical plan, other health care institution or
5 organization or other entity is immune from civil liability or
6 criminal prosecution for submitting in good faith a report under
7 subdivision 1 or 2 or for otherwise reporting, providing
8 information, or testifying about violations or alleged
9 violations of this chapter.

10 Sec. 63. [148D.290] [PENALTIES.]

11 An individual or other entity that violates section
12 148D.275, 148D.280, or 148D.285 is guilty of a misdemeanor.

13 Sec. 64. Minnesota Statutes 2004, section 214.01,
14 subdivision 2, is amended to read:

15 Subd. 2. [HEALTH-RELATED LICENSING BOARD.] "Health-related
16 licensing board" means the Board of Examiners of Nursing Home
17 Administrators established pursuant to section 144A.19, the
18 Office of Unlicensed Complementary and Alternative Health Care
19 Practice established pursuant to section 146A.02, the Board of
20 Medical Practice created pursuant to section 147.01, the Board
21 of Nursing created pursuant to section 148.181, the Board of
22 Chiropractic Examiners established pursuant to section 148.02,
23 the Board of Optometry established pursuant to section 148.52,
24 the Board of Physical Therapy established pursuant to section
25 148.67, the Board of Psychology established pursuant to section
26 148.90, the Board of Social Work pursuant to section ~~148B.19~~
27 148D.025, the Board of Marriage and Family Therapy pursuant to
28 section 148B.30, the Office of Mental Health Practice
29 established pursuant to section 148B.61, the Board of Behavioral
30 Health and Therapy established by section 148B.51, the Alcohol
31 and Drug Counselors Licensing Advisory Council established
32 pursuant to section 148C.02, the Board of Dietetics and
33 Nutrition Practice established under section 148.622, the Board
34 of Dentistry established pursuant to section 150A.02, the Board
35 of Pharmacy established pursuant to section 151.02, the Board of
36 Podiatric Medicine established pursuant to section 153.02, and

1 the Board of Veterinary Medicine, established pursuant to
2 section 156.01.

3 Sec. 65. Minnesota Statutes 2004, section 245.462,
4 subdivision 18, is amended to read:

5 Subd. 18. [MENTAL HEALTH PROFESSIONAL.] "Mental health
6 professional" means a person providing clinical services in the
7 treatment of mental illness who is qualified in at least one of
8 the following ways:

9 (1) in psychiatric nursing: a registered nurse who is
10 licensed under sections 148.171 to 148.285; and:

11 (i) who is certified as a clinical specialist or as a nurse
12 practitioner in adult or family psychiatric and mental health
13 nursing by a national nurse certification organization; or

14 (ii) who has a master's degree in nursing or one of the
15 behavioral sciences or related fields from an accredited college
16 or university or its equivalent, with at least 4,000 hours of
17 post-master's supervised experience in the delivery of clinical
18 services in the treatment of mental illness;

19 (2) in clinical social work: a person licensed as an
20 independent clinical social worker under ~~section 148B.21,~~
21 ~~subdivision 6~~ chapter 148D, or a person with a master's degree
22 in social work from an accredited college or university, with at
23 least 4,000 hours of post-master's supervised experience in the
24 delivery of clinical services in the treatment of mental
25 illness;

26 (3) in psychology: an individual licensed by the Board of
27 Psychology under sections 148.88 to 148.98 who has stated to the
28 Board of Psychology competencies in the diagnosis and treatment
29 of mental illness;

30 (4) in psychiatry: a physician licensed under chapter 147
31 and certified by the American Board of Psychiatry and Neurology
32 or eligible for board certification in psychiatry;

33 (5) in marriage and family therapy: the mental health
34 professional must be a marriage and family therapist licensed
35 under sections 148B.29 to 148B.39 with at least two years of
36 post-master's supervised experience in the delivery of clinical

1 services in the treatment of mental illness; or

2 (6) in allied fields: a person with a master's degree from
3 an accredited college or university in one of the behavioral
4 sciences or related fields, with at least 4,000 hours of
5 post-master's supervised experience in the delivery of clinical
6 services in the treatment of mental illness.

7 Sec. 66. Minnesota Statutes 2004, section 245.4871,
8 subdivision 27, is amended to read:

9 Subd. 27. [MENTAL HEALTH PROFESSIONAL.] "Mental health
10 professional" means a person providing clinical services in the
11 diagnosis and treatment of children's emotional disorders. A
12 mental health professional must have training and experience in
13 working with children consistent with the age group to which the
14 mental health professional is assigned. A mental health
15 professional must be qualified in at least one of the following
16 ways:

17 (1) in psychiatric nursing, the mental health professional
18 must be a registered nurse who is licensed under sections
19 148.171 to 148.285 and who is certified as a clinical specialist
20 in child and adolescent psychiatric or mental health nursing by
21 a national nurse certification organization or who has a
22 master's degree in nursing or one of the behavioral sciences or
23 related fields from an accredited college or university or its
24 equivalent, with at least 4,000 hours of post-master's
25 supervised experience in the delivery of clinical services in
26 the treatment of mental illness;

27 (2) in clinical social work, the mental health professional
28 must be a person licensed as an independent clinical social
29 worker under ~~section 148B-217-subdivision-6~~ chapter 148D, or a
30 person with a master's degree in social work from an accredited
31 college or university, with at least 4,000 hours of
32 post-master's supervised experience in the delivery of clinical
33 services in the treatment of mental disorders;

34 (3) in psychology, the mental health professional must be
35 an individual licensed by the board of psychology under sections
36 148.88 to 148.98 who has stated to the board of psychology

1 competencies in the diagnosis and treatment of mental disorders;
2 (4) in psychiatry, the mental health professional must be a
3 physician licensed under chapter 147 and certified by the
4 American board of psychiatry and neurology or eligible for board
5 certification in psychiatry;

6 (5) in marriage and family therapy, the mental health
7 professional must be a marriage and family therapist licensed
8 under sections 148B.29 to 148B.39 with at least two years of
9 post-master's supervised experience in the delivery of clinical
10 services in the treatment of mental disorders or emotional
11 disturbances; or

12 (6) in allied fields, the mental health professional must
13 be a person with a master's degree from an accredited college or
14 university in one of the behavioral sciences or related fields,
15 with at least 4,000 hours of post-master's supervised experience
16 in the delivery of clinical services in the treatment of
17 emotional disturbances.

18 Sec. 67. Minnesota Statutes 2004, section 256B.0625,
19 subdivision 38, is amended to read:

20 Subd. 38. [PAYMENTS FOR MENTAL HEALTH SERVICES.] Payments
21 for mental health services covered under the medical assistance
22 program that are provided by masters-prepared mental health
23 professionals shall be 80 percent of the rate paid to
24 doctoral-prepared professionals. Payments for mental health
25 services covered under the medical assistance program that are
26 provided by masters-prepared mental health professionals
27 employed by community mental health centers shall be 100 percent
28 of the rate paid to doctoral-prepared professionals. For
29 purposes of reimbursement of mental health professionals under
30 the medical assistance program, all social workers who:

31 (1) have received a master's degree in social work from a
32 program accredited by the Council on Social Work Education;

33 (2) are licensed at the level of graduate social worker or
34 independent social worker; and

5 (3) are practicing clinical social work under appropriate
36 supervision, as defined by ~~section 148B.18~~ chapter 148D; meet

1 all requirements under Minnesota Rules, part 9505.0323, subpart
2 24, and shall be paid accordingly.

3 Sec. 68. Minnesota Statutes 2004, section 256J.08,
4 subdivision 73a, is amended to read:

5 Subd. 73a. [QUALIFIED PROFESSIONAL.] (a) For physical
6 illness, injury, or incapacity, a "qualified professional" means
7 a licensed physician, a physician's assistant, a nurse
8 practitioner, or a licensed chiropractor.

9 (b) For mental retardation and intelligence testing, a
10 "qualified professional" means an individual qualified by
11 training and experience to administer the tests necessary to
12 make determinations, such as tests of intellectual functioning,
13 assessments of adaptive behavior, adaptive skills, and
14 developmental functioning. These professionals include licensed
15 psychologists, certified school psychologists, or certified
16 psychometrists working under the supervision of a licensed
17 psychologist.

18 (c) For learning disabilities, a "qualified professional"
19 means a licensed psychologist or school psychologist with
20 experience determining learning disabilities.

21 (d) For mental health, a "qualified professional" means a
22 licensed physician or a qualified mental health professional. A
23 "qualified mental health professional" means:

24 (1) for children, in psychiatric nursing, a registered
25 nurse who is licensed under sections 148.171 to 148.285, and who
26 is certified as a clinical specialist in child and adolescent
27 psychiatric or mental health nursing by a national nurse
28 certification organization or who has a master's degree in
29 nursing or one of the behavioral sciences or related fields from
30 an accredited college or university or its equivalent, with at
31 least 4,000 hours of post-master's supervised experience in the
32 delivery of clinical services in the treatment of mental
33 illness;

34 (2) for adults, in psychiatric nursing, a registered nurse
35 who is licensed under sections 148.171 to 148.285, and who is
36 certified as a clinical specialist in adult psychiatric and

1 mental health nursing by a national nurse certification
2 organization or who has a master's degree in nursing or one of
3 the behavioral sciences or related fields from an accredited
4 college or university or its equivalent, with at least 4,000
5 hours of post-master's supervised experience in the delivery of
6 clinical services in the treatment of mental illness;

7 (3) in clinical social work, a person licensed as an
8 independent clinical social worker under ~~section-148B-217~~
9 ~~subdivision-6~~ chapter 148D, or a person with a master's degree
10 in social work from an accredited college or university, with at
11 least 4,000 hours of post-master's supervised experience in the
12 delivery of clinical services in the treatment of mental
13 illness;

14 (4) in psychology, an individual licensed by the Board of
15 Psychology under sections 148.88 to 148.98, who has stated to
16 the Board of Psychology competencies in the diagnosis and
17 treatment of mental illness;

18 (5) in psychiatry, a physician licensed under chapter 147
19 and certified by the American Board of Psychiatry and Neurology
20 or eligible for board certification in psychiatry; and

21 (6) in marriage and family therapy, the mental health
22 professional must be a marriage and family therapist licensed
23 under sections 148B.29 to 148B.39, with at least two years of
24 post-master's supervised experience in the delivery of clinical
25 services in the treatment of mental illness.

26 Sec. 69. Minnesota Statutes 2004, section 319B.02,
27 subdivision 19, is amended to read:

28 Subd. 19. [PROFESSIONAL SERVICES.] "Professional services"
29 means services of the type required or permitted to be furnished
30 by a professional under a license, registration, or certificate
31 issued by the state of Minnesota to practice medicine and
32 surgery under sections 147.01 to 147.22, as a physician
33 assistant pursuant to sections 147A.01 to 147A.27, chiropractic
34 under sections 148.01 to 148.105, registered nursing under
35 sections 148.171 to 148.285, optometry under sections 148.52 to
36 148.62, psychology under sections 148.88 to 148.98, social work

1 under ~~sections 148B.18 to 148B.289~~ chapter 148D, dentistry and
2 dental hygiene under sections 150A.01 to 150A.12, pharmacy under
3 sections 151.01 to 151.40, podiatric medicine under sections
4 153.01 to 153.25, veterinary medicine under sections 156.001 to
5 156.14, architecture, engineering, surveying, landscape
6 architecture, geoscience, and certified interior design under
7 sections 326.02 to 326.15, accountancy under chapter 326A, or
8 law under sections 481.01 to 481.17, or under a license or
9 certificate issued by another state under similar laws.

10 Professional services includes services of the type required to
11 be furnished by a professional pursuant to a license or other
12 authority to practice law under the laws of a foreign nation.

13 Sec. 70. Minnesota Statutes 2004, section 319B.40, is
14 amended to read:

15 319B.40 [PROFESSIONAL HEALTH SERVICES.]

16 (a) Individuals who furnish professional services pursuant
17 to a license, registration, or certificate issued by the state
18 of Minnesota to practice medicine pursuant to sections 147.01 to
19 147.22, as a physician assistant pursuant to sections 147A.01 to
20 147A.27, chiropractic pursuant to sections 148.01 to 148.106,
21 registered nursing pursuant to sections 148.171 to 148.285,
22 optometry pursuant to sections 148.52 to 148.62, psychology
23 pursuant to sections 148.88 to 148.98, social work pursuant to
24 ~~sections 148B.18 to 148B.289~~ chapter 148D, dentistry pursuant to
25 sections 150A.01 to 150A.12, pharmacy pursuant to sections
26 151.01 to 151.40, or podiatric medicine pursuant to sections
27 153.01 to 153.26 are specifically authorized to practice any of
28 these categories of services in combination if the individuals
29 are organized under this chapter.

30 (b) This authorization does not authorize an individual to
31 practice any profession, or furnish a professional service, for
32 which the individual is not licensed, registered, or certified,
33 but otherwise applies regardless of any contrary provision of a
34 licensing statute or rules adopted pursuant to that statute,
35 related to practicing and organizing in combination with other
36 health services professionals.

1 Sec. 71. [REPEALER.]

2 Subdivision 1. [REPEAL OF STATUTES.] Minnesota Statutes
3 2004, sections 148B.18; 148B.185; 148B.19; 148B.20; 148B.21;
4 148B.215; 148B.22; 148B.224; 148B.225; 148B.226; 148B.24;
5 148B.25; 148B.26; 148B.27; 148B.28; 148B.281; 148B.282;
6 148B.283; 148B.284; 148B.285; 148B.286; 148B.287; 148B.288; and
7 148B.289, are repealed.

8 Subd. 2. [REPEAL OF RULES.] Minnesota Rules, parts
9 8740.0100; 8740.0110; 8740.0120; 8740.0122; 8740.0130;
10 8740.0155; 8740.0185; 8740.0187; 8740.0200; 8740.0240;
11 8740.0260; 8740.0285; 8740.0300; 8740.0310; 8740.0315;
12 8740.0320; 8740.0325; 8740.0330; 8740.0335; 8740.0340; and
13 8740.0345, are repealed.

14 Sec. 72. [EFFECTIVE DATE.]

15 This article is effective January 1, 2006.

16 ARTICLE 2

17 BOARD OF PHYSICAL THERAPY

18 Section 1. Minnesota Statutes 2004, section 148.65, is
19 amended by adding a subdivision to read:

20 Subd. 3. [PHYSICAL THERAPIST ASSISTANT.] "Physical
21 therapist assistant" means a graduate of a physical therapist
22 assistant educational program accredited by the Commission on
23 Accreditation in Physical Therapy Education (CAPTE) or a
24 recognized comparable national accrediting agency approved by
25 the board. The physical therapist assistant, under the
26 direction and supervision of the physical therapist, performs
27 physical therapy interventions and assists with coordination,
28 communication, and documentation; and patient-client-related
29 instruction. The physical therapist is not required to be
30 on-site except as required under Minnesota Rules, part
31 5601.1500, but must be easily available by telecommunications.

32 Sec. 2. Minnesota Statutes 2004, section 148.65, is
33 amended by adding a subdivision to read:

34 Subd. 4. [PHYSICAL THERAPY AIDE.] "Physical therapy aide"
35 means a person, working under the direct supervision of a
36 physical therapist, who is not a physical therapist assistant as

1 defined in subdivision 3, who performs tasks as provided under
2 Minnesota Rules, part 5601.1400.

3 Sec. 3. Minnesota Statutes 2004, section 148.65, is
4 amended by adding a subdivision to read:

5 Subd. 5. [STUDENT PHYSICAL THERAPIST.] "Student physical
6 therapist" means a person in a professional educational program,
7 approved by the board under section 148.705, who is satisfying
8 supervised clinical education requirements by performing
9 physical therapy under the on-site supervision of a licensed
10 physical therapist. "On-site supervision" means the physical
11 therapist is easily available for instruction to the student
12 physical therapist. The physical therapist shall have direct
13 contact with the patient during at least every second treatment
14 session by the student physical therapist. Telecommunications,
15 except within the facility, does not meet the requirement of
16 on-site supervision.

17 Sec. 4. Minnesota Statutes 2004, section 148.65, is
18 amended by adding a subdivision to read:

19 Subd. 6. [STUDENT PHYSICAL THERAPIST ASSISTANT.] "Student
20 physical therapist assistant" means a person in a physical
21 therapist assistant educational program accredited by the
22 Commission on Accreditation in Physical Therapy Education
23 (CAPTE) or a recognized comparable national accrediting agency
24 approved by the board. The student physical therapist
25 assistant, under the direct supervision of the physical
26 therapist, or the direct supervision of the physical therapist
27 and physical therapist assistant, performs physical therapy
28 interventions and assists with coordination, communication,
29 documentation, and patient-client-related instruction. "Direct
30 supervision" means the physical therapist is physically present
31 and immediately available to provide instruction to the student
32 physical therapist assistant.

33 Sec. 5. Minnesota Statutes 2004, section 148.65, is
34 amended by adding a subdivision to read:

35 Subd. 7. [SUPPORTIVE PERSONNEL.] "Supportive personnel"
36 means a physical therapist assistant and a physical therapy aide.

1 Sec. 6. Minnesota Statutes 2004, section 148.706, is
2 amended to read:

3 148.706 [SUPERVISION OF ASSISTANTS AND, AIDES, AND
4 STUDENTS.]

5 Every physical therapist who uses the services of an a
6 physical therapist assistant or physical therapy aide for the
7 purpose of assisting in the practice of physical therapy is
8 responsible for functions performed by the assistant or aide
9 while engaged in such assistance. The physical therapist shall
10 ~~permit-the-assistant-or-aide-to-perform-only-these-functions~~
11 ~~which-the-therapist-is-authorized-by-rule-to-delegate-to-a~~
12 ~~physical-therapist-assistant-or-assign-to-a-physical-therapy~~
13 ~~aide-and-shall-provide-supervision-as-specified~~ delegate duties
14 to the physical therapist assistant and assign tasks to the
15 physical therapy aide in accordance with Minnesota Rules, part
16 5601.1400. Physical therapists who instruct student physical
17 therapists and student physical therapist assistants are
18 responsible for the functions performed by the students and
19 shall supervise the students as provided under section 148.65,
20 subdivisions 5 and 6.

21 Sec. 7. [148.735] [CANCELLATION OF LICENSE IN GOOD
22 STANDING.]

23 Subdivision 1. [BOARD APPROVAL; REPORTING.] A physical
24 therapist holding an active license to practice physical therapy
25 in the state may, upon approval of the board, be granted license
26 cancellation if the board is not investigating the person as a
27 result of a complaint or information received or if the board
28 has not begun disciplinary proceedings against the person. Such
29 action by the board shall be reported as a cancellation of a
30 license in good standing.

31 Subd. 2. [FEES NONREFUNDABLE.] A physical therapist who
32 receives board approval for license cancellation is not entitled
33 to a refund of any license fees paid for the licensure year in
34 which cancellation of the license occurred.

35 Subd. 3. [NEW LICENSE AFTER CANCELLATION.] If a physical
36 therapist who has been granted board approval for license

1 cancellation desires to resume the practice of physical therapy
2 in Minnesota, that physical therapist must obtain a new license
3 by applying for licensure and fulfilling the requirements then
4 in existence for obtaining an initial license to practice
5 physical therapy in Minnesota.

6 Sec. 8. [148.736] [CANCELLATION OF CREDENTIALS UNDER
7 DISCIPLINARY ORDER.]

8 Subdivision 1. [BOARD APPROVAL; REPORTING.] A physical
9 therapist, whose right to practice is under suspension,
10 condition, limitation, qualification, or restriction by the
11 board may be granted cancellation of credentials by approval of
12 the board. Such action by the board shall be reported as
13 cancellation while under discipline. Credentials, for purposes
14 of this section, means board authorized documentation of the
15 privilege to practice physical therapy.

16 Subd. 2. [FEES NONREFUNDABLE.] A physical therapist who
17 receives board approval for credential cancellation is not
18 entitled to a refund of any fees paid for the credentialing year
19 in which cancellation of the credential occurred.

20 Subd. 3. [NEW CREDENTIAL AFTER CANCELLATION.] If a
21 physical therapist who has been granted board approval for
22 credential cancellation desires to resume the practice of
23 physical therapy in Minnesota, that physical therapist must
24 obtain a new credential by applying to the board and fulfilling
25 the requirements then in existence for obtaining an initial
26 credential to practice physical therapy in Minnesota.

27 Sec. 9. [148.737] [CANCELLATION OF LICENSE FOR
28 NONRENEWAL.]

29 The Board of Physical Therapy shall not renew, reissue,
30 reinstate, or restore a license that has lapsed on or after
31 January 1, 2006, and has not been renewed within two annual
32 license renewal cycles starting January 1, 2008. A licensee
33 whose license is canceled for nonrenewal must obtain a new
34 license by applying for licensure and fulfilling all
35 requirements then in existence for an initial license to
36 practice physical therapy in Minnesota.

1 Sec. 10. Minnesota Statutes 2004, section 148.75, is
2 amended to read:

3 148.75 [LICENSES; DENIAL, SUSPENSION, REVOCATION.]

4 (a) The state Board of Physical Therapy may refuse to grant
5 a license to any physical therapist, or may suspend or revoke
6 the license of any physical therapist for any of the following
7 grounds:

8 (1) using drugs or intoxicating liquors to an extent which
9 affects professional competence;

10 (2) conviction of a felony;

11 (3) conviction for violating any state or federal narcotic
12 law;

13 (4) obtaining a license or attempting to obtain a license
14 by fraud or deception;

15 (5) conduct unbecoming a person licensed as a physical
16 therapist or conduct detrimental to the best interests of the
17 public;

18 (6) gross negligence in the practice of physical therapy as
19 a physical therapist;

20 (7) treating human ailments by physical therapy after an
21 initial 30-day period of patient admittance to treatment has
22 lapsed, except by the order or referral of a person licensed in
23 this state in the practice of medicine as defined in section
24 147.081, the practice of chiropractic as defined in section
25 148.01, the practice of podiatry as defined in section 153.01,
26 or the practice of dentistry as defined in section 150A.05 and
27 whose license is in good standing; or when a previous diagnosis
28 exists indicating an ongoing condition warranting physical
29 therapy treatment, subject to periodic review defined by board
30 of physical therapy rule;

31 (8) treating human ailments, without referral, by physical
32 therapy treatment without first having practiced one year under
33 a physician's orders as verified by the board's records;

34 (9) failing to consult with the patient's health care
35 provider who prescribed the physical therapy treatment if the
36 treatment is altered by the physical therapist from the original

1 written order. The provision does not include written orders to
2 "evaluate and treat";

3 (10) treating human ailments other than by physical therapy
4 unless duly licensed or registered to do so under the laws of
5 this state;

6 (11) inappropriate delegation to a physical therapist
7 assistant or inappropriate task assignment to an aide or
8 inadequate supervision of ~~either-level-of-supportive-personnel~~ a
9 student physical therapist, physical therapist assistant,
10 student physical therapist assistant, or a physical therapy
11 aide;

12 (12) practicing as a physical therapist performing medical
13 diagnosis, the practice of medicine as defined in section
14 147.081, or the practice of chiropractic as defined in section
15 148.01;

16 (13) failing to comply with a reasonable request to obtain
17 appropriate clearance for mental or physical conditions that
18 would interfere with the ability to practice physical therapy,
19 and that may be potentially harmful to patients;

20 (14) dividing fees with, or paying or promising to pay a
21 commission or part of the fee to, any person who contacts the
22 physical therapist for consultation or sends patients to the
23 physical therapist for treatment;

24 (15) engaging in an incentive payment arrangement, other
25 than that prohibited by clause (14), that tends to promote
26 physical therapy overuse, that allows the referring person or
27 person who controls the availability of physical therapy
28 services to a client to profit unreasonably as a result of
29 patient treatment;

30 (16) practicing physical therapy and failing to refer to a
31 licensed health care professional a patient whose medical
32 condition at the time of evaluation has been determined by the
33 physical therapist to be beyond the scope of practice of a
34 physical therapist; and

35 (17) failing to report to the board other licensed physical
36 therapists who violate this section; and

1 (18) practice of physical therapy under lapsed or
2 nonrenewed credentials.

3 (b) A license to practice as a physical therapist is
4 suspended if (1) a guardian of the physical therapist is
5 appointed by order of a court pursuant to sections 524.5-101 to
6 524.5-502, for reasons other than the minority of the physical
7 therapist; or (2) the physical therapist is committed by order
8 of a court pursuant to chapter 253B. The license remains
9 suspended until the physical therapist is restored to capacity
10 by a court and, upon petition by the physical therapist, the
11 suspension is terminated by the Board of Physical Therapy after
12 a hearing.

13 Sec. 11. [148.754] [EXAMINATION; ACCESS TO MEDICAL DATA.]

14 (a) If the board has probable cause to believe that a
15 physical therapist comes under section 148.75, paragraph (a), it
16 may direct the physical therapist to submit to a mental or
17 physical examination. For the purpose of this paragraph, every
18 physical therapist is deemed to have consented to submit to a
19 mental or physical examination when directed in writing by the
20 board and further to have waived all objections to the
21 admissibility of the examining physicians' testimony or
22 examination reports on the ground that they constitute a
23 privileged communication. Failure of the physical therapist to
24 submit to an examination when directed constitutes an admission
25 of the allegations against the person, unless the failure was
26 due to circumstances beyond the person's control, in which case
27 a default and final order may be entered without the taking of
28 testimony or presentation of evidence. A physical therapist
29 affected under this paragraph shall, at reasonable intervals, be
30 given an opportunity to demonstrate that the person can resume
31 the competent practice of physical therapy with reasonable skill
32 and safety to the public.

33 (b) In any proceeding under paragraph (a), neither the
34 record of proceedings nor the orders entered by the board shall
5 be used against a physical therapist in any other proceeding.

36 (c) In addition to ordering a physical or mental

1 examination, the board may, notwithstanding section 13.384,
2 144.651, or any other law limiting access to medical or other
3 health data, obtain medical data and health records relating to
4 a physical therapist or applicant without the person's or
5 applicant's consent if the board has probable cause to believe
6 that a physical therapist comes under paragraph (a). The
7 medical data may be requested from a provider, as defined in
8 section 144.335, subdivision 1, paragraph (b), an insurance
9 company, or a government agency, including the Department of
10 Human Services. A provider, insurance company, or government
11 agency shall comply with any written request of the board under
12 this paragraph and is not liable in any action for damages for
13 releasing the data requested by the board if the data are
14 released pursuant to a written request under this paragraph,
15 unless the information is false and the provider giving the
16 information knew, or had reason to believe, the information was
17 false. Information obtained under this paragraph is classified
18 as private under sections 13.01 to 13.87.

19 Sec. 12. [148.755] [TEMPORARY SUSPENSION OF LICENSE.]

20 In addition to any other remedy provided by law, the board
21 may, without a hearing, temporarily suspend the license of a
22 physical therapist if the board finds that the physical
23 therapist has violated a statute or rule which the board is
24 empowered to enforce and continued practice by the physical
25 therapist would create a serious risk of harm to the public.
26 The suspension shall take effect upon written notice to the
27 physical therapist, specifying the statute or rule violated.
28 The suspension shall remain in effect until the board issues a
29 final order in the matter after a hearing. At the time it
30 issues the suspension notice, the board shall schedule a
31 disciplinary hearing to be held pursuant to the Administrative
32 Procedure Act, chapter 14. The physical therapist shall be
33 provided with at least 20 days' notice of any hearing held
34 pursuant to this section. The hearing shall be scheduled to
35 begin no later than 30 days after the issuance of the suspension
36 order.

1 Sec. 13. [REPEALER.]
2 Minnesota Rules, part 5601.0100, subparts 3 and 4, are
3 repealed.

4 ARTICLE 3

5 BOARD OF PSYCHOLOGY

6 Section 1. Minnesota Statutes 2004, section 148.89,
7 subdivision 5, is amended to read:

8 Subd. 5. [PRACTICE OF PSYCHOLOGY.] "Practice of
9 psychology" means the observation, description, evaluation,
10 interpretation, or modification of human behavior by the
11 application of psychological principles, methods, or
12 procedures for any reason, including to prevent, eliminate, or
13 manage symptomatic, maladaptive, or undesired behavior and to
14 enhance interpersonal relationships, work, life and
15 developmental adjustment, personal and organizational
16 effectiveness, behavioral health, and mental health. The
17 practice of psychology includes, but is not limited to, the
18 following services, regardless of whether the provider receives
19 payment for the services:

20 (1) psychological research and teaching of psychology;

21 (2) assessment, including psychological testing and other
22 means of evaluating personal characteristics such as
23 intelligence, personality, abilities, interests, aptitudes, and
24 neuropsychological functioning;

25 (3) a psychological report, whether written or oral,
26 including testimony of a provider as an expert witness,
27 concerning the characteristics of an individual or entity;

28 (4) psychotherapy, including but not limited to, categories
29 such as behavioral, cognitive, emotive, systems,
30 psychophysiological, or insight-oriented therapies; counseling;
31 hypnosis; and diagnosis and treatment of:

32 (i) mental and emotional disorder or disability;

33 (ii) alcohol and substance dependence or abuse;

34 (iii) disorders of habit or conduct;

35 (iv) the psychological aspects of physical illness or
36 condition, accident, injury, or disability;

1 (v) life adjustment issues, including work-related and
2 bereavement issues; and

3 (vi) child, family, or relationship issues;

4 (5) psychoeducational services and treatment; and

5 (6) consultation and supervision.

6 Sec. 2. Minnesota Statutes 2004, section 148.90,
7 subdivision 1, is amended to read:

8 Subdivision 1. [BOARD OF PSYCHOLOGY.] (a) The Board of
9 Psychology is created with the powers and duties described in
10 this section. The board has 11 members who consist of:

11 (1) three ~~persons~~ individuals licensed as licensed
12 psychologists who have a doctoral ~~degree~~ degrees in psychology;

13 (2) two ~~persons~~ individuals licensed as licensed
14 psychologists who have a master's ~~degree~~ degrees in psychology;

15 (3) two psychologists, not necessarily licensed, one with a
16 doctoral degree in psychology who represents a doctoral training
17 program in psychology, and one who represents a master's degree
18 training program in psychology;

19 (4) one ~~person~~ individual licensed or qualified to be
20 licensed as: (i) through December 31, 2010, a licensed
21 psychological practitioner; and (ii) after December 31, 2010, a
22 licensed psychologist; and

23 (5) three public members.

24 (b) After the date on which fewer than 30 percent of the
25 ~~persons~~ individuals licensed by the board as licensed
26 psychologists qualify for licensure under section 148.907,
27 subdivision 3, paragraph (b), ~~the-first-vacaney~~ vacancies filled
28 under paragraph (a), clause (2), shall be filled by ~~a-person~~ an
29 individual with either a master's or doctoral degree in
30 psychology licensed or qualified to be licensed as a
31 ~~licensed psychological-practitioner.--From-this-date-on--this~~
32 ~~position-when-vacant-shall-be-filled-by-a-person-licensed-or~~
33 ~~qualified-to-be-licensed-as-a-licensed-psychological~~
34 ~~practitioner~~ psychologist.

35 (c) After the date on which fewer than 15 percent of the
36 ~~persons~~ individuals licensed by the board as licensed

1 psychologists qualify for licensure under section 148.907,
2 subdivision 3, paragraph (b), ~~the-first-vacaney~~ vacancies under
3 paragraph (a), clause (2), ~~for-a-licensed-psychologist~~ shall be
4 filled by an individual with either a master's or doctoral
5 degree in psychology shall-be-filled-by-a licensed or qualified
6 to be licensed as a licensed psychologist. ~~From-this-date-on,~~
7 ~~this-position-when-vacant-shall-be-filled-by-a-person-licensed~~
8 ~~as-a-licensed-psychologist.~~

9 Sec. 3. Minnesota Statutes 2004, section 148.907, is
10 amended by adding a subdivision to read:

11 Subd. 5. [CONVERTING FROM A LICENSED PSYCHOLOGICAL
12 PRACTITIONER TO A LICENSED PSYCHOLOGIST.] Notwithstanding
13 subdivision 3, to convert from licensure as a licensed
14 psychological practitioner to licensure as a licensed
15 psychologist, a licensed psychological practitioner shall have:

16 (1) completed an application provided by the board for
17 conversion from licensure as a licensed psychological
18 practitioner to licensure as a licensed psychologist;

19 (2) paid a nonrefundable fee of \$500;

20 (3) documented successful completion of two full years, or
21 the equivalent, of supervised postlicensure employment meeting
22 the requirements of section 148.925, subdivision 5, as it
23 relates to preparation for licensure as a licensed psychologist
24 as follows:

25 (i) for individuals licensed as licensed psychological
26 practitioners on or before December 31, 2006, the supervised
27 practice must be completed by December 31, 2010; and

28 (ii) for individuals licensed as licensed psychological
29 practitioners after December 31, 2006, the supervised practice
30 must be completed within four years from the date of licensure;
31 and

32 (4) no unresolved disciplinary action or complaints
33 pending, or incomplete disciplinary orders or corrective action
34 agreements in Minnesota or any other jurisdiction.

35 Sec. 4. Minnesota Statutes 2004, section 148.908,
36 subdivision 2, is amended to read:

1 Subd. 2. [REQUIREMENTS FOR LICENSURE AS A LICENSED
2 PSYCHOLOGICAL PRACTITIONER.] To become licensed by the board as
3 a licensed psychological practitioner, an applicant shall comply
4 with the following requirements:

5 ~~(1) pass-an-examination-in-psychology;~~

6 ~~(2)-pass-a-professional-responsibility-examination-on-the
7 practice-of-psychology;~~

8 ~~(3)-pass-any-other-examinations-as-required-by-board-rules;~~

9 ~~(4)-pay-nonrefundable-fees-to-the-board-for-applications,
10 processing,-testing,-renewals,-and-materials;~~

11 ~~(5)-have-attained-the-age-of-majority,-be-of-good-moral
12 character,-and-have-no-unresolved-disciplinary-action-or
13 complaints-pending-in-the-state-of-Minnesota-or-any-other
14 jurisdiction;-and~~

15 ~~(6) have earned a doctoral or master's degree or the
16 equivalent of a master's degree in a doctoral program with a
17 major in psychology from a regionally accredited educational
18 institution meeting the standards the board has established by
19 rule. The degree requirements must be completed by December 31,
20 2005;~~

21 (2) complete an application for admission to the
22 examination for professional practice in psychology and pay the
23 nonrefundable application fee by December 31, 2005;

24 (3) complete an application for admission to the
25 professional responsibility examination and pay the
26 nonrefundable application fee by December 31, 2005;

27 (4) pass the examination for professional practice in
28 psychology by December 31, 2006;

29 (5) pass the professional responsibility examination by
30 December 31, 2006;

31 (6) complete an application for licensure as a licensed
32 psychological practitioner and pay the nonrefundable application
33 fee by March 1, 2007; and

34 (7) have attained the age of majority, be of good moral
35 character, and have no unresolved disciplinary action or
36 complaints pending in the state of Minnesota or any other

1 jurisdiction.

2 Sec. 5. Minnesota Statutes 2004, section 148.908, is
3 amended by adding a subdivision to read:

4 Subd. 3. [TERMINATION OF LICENSURE.] Effective December
5 31, 2011, the licensure of all licensed psychological
6 practitioners shall be terminated without further notice and
7 licensure as a licensed psychological practitioner in Minnesota
8 shall be eliminated.

9 Sec. 6. Minnesota Statutes 2004, section 148.909, is
10 amended to read:

11 148.909 [LICENSURE FOR VOLUNTEER PRACTICE.]

12 The board, at its discretion, may grant licensure for
13 volunteer practice to an applicant who:

14 (1) ~~is-a-former-licensee-who~~ is completely retired from the
15 practice of psychology;

16 (2) has no unresolved disciplinary action or complaints
17 pending in the state of Minnesota or any other jurisdiction; and

18 (3) has held a license, certificate, or registration to
19 practice psychology in any jurisdiction ~~for-at-least-15-years.~~

20 Sec. 7. Minnesota Statutes 2004, section 148.916,
21 subdivision 2, is amended to read:

22 Subd. 2. [PSYCHOLOGICAL CONSULTATIONS.] Notwithstanding
23 subdivision 1, a nonresident of the state of Minnesota, who is
24 not seeking licensure in this state, may serve as an expert
25 witness, organizational consultant, presenter, or educator
26 without obtaining guest licensure, provided the person is
27 appropriately trained, educated, or has been issued a license,
28 certificate, or registration by another jurisdiction.

29 Sec. 8. Minnesota Statutes 2004, section 148.925,
30 subdivision 6, is amended to read:

31 Subd. 6. [SUPERVISEE DUTIES.] Individuals preparing for
32 licensure as a licensed psychologist during their postdegree
33 supervised employment may perform as part of their training any
34 functions specified in section 148.89, subdivision 5, but only
35 under qualified supervision.

36 Sec. 9. Minnesota Statutes 2004, section 148.941,

1 subdivision 2, is amended to read:

2 Subd. 2. [GROUNDS FOR DISCIPLINARY ACTION; FORMS OF
3 DISCIPLINARY ACTION.] (a) The board may impose disciplinary
4 action as described in paragraph (b) against an applicant or
5 licensee whom the board, by a preponderance of the evidence,
6 determines:

7 (1) has violated a statute, rule, or order that the board
8 issued or is empowered to enforce;

9 (2) has engaged in fraudulent, deceptive, or dishonest
10 conduct, whether or not the conduct relates to the practice of
11 psychology, that adversely affects the person's ability or
12 fitness to practice psychology;

13 (3) has engaged in unprofessional conduct or any other
14 conduct which has the potential for causing harm to the public,
15 including any departure from or failure to conform to the
16 minimum standards of acceptable and prevailing practice without
17 actual injury having to be established;

18 (4) has been convicted of or has pled guilty or nolo
19 contendere to a felony or other crime, an element of which is
20 dishonesty or fraud, or has been shown to have engaged in acts
21 or practices tending to show that the applicant or licensee is
22 incompetent or has engaged in conduct reflecting adversely on
23 the applicant's or licensee's ability or fitness to engage in
24 the practice of psychology;

25 (5) has employed fraud or deception in obtaining or
26 renewing a license, in requesting approval of continuing
27 education activities, or in passing an examination;

28 (6) has had a license, certificate, charter, registration,
29 privilege to take an examination, or other similar authority
30 denied, revoked, suspended, canceled, limited, reprimanded, or
31 otherwise disciplined, or not renewed for cause in any
32 jurisdiction; or has surrendered or voluntarily terminated a
33 license or certificate during a board investigation of a
34 complaint, as part of a disciplinary order, or while under a
35 disciplinary order;

36 (7) has been subject to a corrective action or similar

1 action in another jurisdiction or by another regulatory
2 authority;

3 (8) has failed to meet any requirement for the issuance or
4 renewal of the person's license. The burden of proof is on the
5 applicant or licensee to demonstrate the qualifications or
6 satisfy the requirements for a license under the Psychology
7 Practice Act;

8 (9) has failed to cooperate with an investigation of the
9 board as required under subdivision 4;

10 (10) has demonstrated an inability to practice psychology
11 with reasonable skill and safety to clients due to any mental or
12 physical illness or condition; or

13 (11) has engaged in fee splitting. This clause does not
14 apply to the distribution of revenues from a partnership, group
15 practice, nonprofit corporation, or professional corporation to
16 its partners, shareholders, members, or employees if the
17 revenues consist only of fees for services performed by the
18 licensee or under a licensee's administrative authority. This
19 clause also does not apply to the charging of a general
20 membership fee by a licensee or applicant to health care
21 providers, as defined in section 144.335, for participation in a
22 referral service, provided that the licensee or applicant
23 discloses in advance to each referred client the financial
24 nature of the referral arrangement. Fee splitting includes, but
25 is not limited to:

26 (i) paying, offering to pay, receiving, or agreeing to
27 receive a commission, rebate, or remuneration, directly or
28 indirectly, primarily for the referral of clients;

29 (ii) dividing client fees with another individual or
30 entity, unless the division is in proportion to the services
31 provided and the responsibility assumed by each party;

32 (iii) referring an individual or entity to any health care
33 provider, as defined in section 144.335, or for other
34 professional or technical services in which the referring
35 licensee or applicant has a significant financial interest
36 unless the licensee has disclosed the financial interest in

1 advance to the client; and

2 (iv) dispensing for profit or recommending any instrument,
3 test, procedure, or device that for commercial purposes the
4 licensee or applicant has developed or distributed, unless the
5 licensee or applicant has disclosed any profit interest in
6 advance to the client.

7 (b) If grounds for disciplinary action exist under
8 paragraph (a), the board may take one or more of the following
9 actions:

10 (1) refuse to grant or renew a license;

11 (2) revoke a license;

12 (3) suspend a license;

13 (4) impose limitations or conditions on a licensee's
14 practice of psychology, including, but not limited to, limiting
15 the scope of practice to designated competencies, imposing
16 retraining or rehabilitation requirements, requiring the
17 licensee to practice under supervision, or conditioning
18 continued practice on the demonstration of knowledge or skill by
19 appropriate examination or other review of skill and competence;

20 (5) censure or reprimand the licensee;

21 (6) refuse to permit an applicant to take the licensure
22 examination or refuse to release an applicant's examination
23 grade if the board finds that it is in the public interest; or

24 (7) impose a civil penalty not exceeding \$7,500 for each
25 separate violation. The amount of the penalty shall be fixed so
26 as to deprive the applicant or licensee of any economic
27 advantage gained by reason of the violation charged, to
28 discourage repeated violations, or to recover the board's costs
29 that occur in bringing about a disciplinary order. For purposes
30 of this clause, costs are limited to legal, paralegal, and
31 investigative charges billed to the board by the Attorney
32 General's Office, witness costs, consultant and expert witness
33 fees, and charges attendant to the use of an administrative law
34 judge.

35 (c) In lieu of or in addition to paragraph (b), the board
36 may require, as a condition of ~~continued~~ licensure, termination

1 of suspension, reinstatement of license, examination, or release
2 of examination grades, that the applicant or licensee:

3 (1) submit to a quality review, as specified by the board,
4 of the applicant's or licensee's ability, skills, or quality of
5 work;

6 (2) complete to the satisfaction of the board educational
7 courses specified by the board; and

8 (3) reimburse to the board all costs incurred by the board
9 that are the result of a provider failing, neglecting, or
10 refusing to fully comply, or not complying in a timely manner,
11 with any part of the remedy section of a stipulation and consent
12 order or the corrective action section of an agreement for
13 corrective action. For purposes of this clause, costs are
14 limited to legal, paralegal, and investigative charges billed to
15 the board by the Attorney General's Office, witness costs,
16 consultant and expert witness fees, and charges attendant to the
17 use of an administrative law judge.

18 (d) Service of the order is effective if the order is
19 served on the applicant, licensee, or counsel of record
20 personally or by mail to the most recent address provided to the
21 board for the licensee, applicant, or counsel of record. The
22 order shall state the reasons for the entry of the order.

23 Sec. 10. Minnesota Statutes 2004, section 148.96,
24 subdivision 3, is amended to read:

25 Subd. 3. [REQUIREMENTS FOR REPRESENTATIONS TO PUBLIC.] (a)
26 Unless licensed under sections 148.88 to 148.98, except as
27 provided in paragraphs (b) through (e), persons shall not
28 represent themselves or permit themselves to be represented to
29 the public by:

30 (1) using any title or description of services
31 incorporating the words "psychology," "psychological,"
32 "psychological practitioner," or "psychologist"; or

33 (2) representing that the person has expert qualifications
34 in an area of psychology.

35 (b) Psychologically trained individuals who are employed by
36 an educational institution recognized by a regional accrediting

1 organization, by a federal, state, county, or local government
 2 institution, ~~by agencies~~ agency, or by research
 3 ~~facilities~~ facility, may represent themselves by the title
 4 designated by that organization provided that the title does not
 5 indicate that the individual is credentialed by the board.

6 (c) A psychologically trained individual from an
 7 institution described in paragraph (b) may offer lecture
 8 services and is exempt from the provisions of this section.

9 (d) A person who is preparing for the practice of
 10 psychology under supervision in accordance with board statutes
 11 and rules may be designated as a "psychological intern,"
 12 "psychological trainee," or by other terms clearly describing
 13 the person's training status.

14 (e) Former licensees who are completely retired from the
 15 practice of psychology may represent themselves using the
 16 descriptions in paragraph (a), clauses (1) and (2), but shall
 17 not represent themselves or allow themselves to be represented
 18 as current licensees of the board.

19 (f) Nothing in this section shall be construed to prohibit
 20 the practice of school psychology by a person licensed in
 21 accordance with chapters 122A and 129.

22 Section 11. [EFFECTIVE DATE.]

23 Sections 1 to 10 are effective the day following final
 24 enactment.

ARTICLE 4

BOARD OF DENTAL PRACTICE

27 Section 1. Minnesota Statutes 2004, section 150A.01,
 28 subdivision 6a, is amended to read:

29 Subd. 6a. [FACULTY DENTIST.] "Faculty dentist" means a
 30 person who is licensed to practice dentistry as a faculty member
 31 of a school of dentistry, pursuant to section 150A.06,
 32 subdivision 1a.

33 Sec. 2. Minnesota Statutes 2004, section 150A.06,
 34 subdivision 1a, is amended to read:

35 Subd. 1a. [FACULTY DENTISTS.] (a) Faculty members of a
 36 school of dentistry must be licensed in order to practice

1 dentistry as defined in section 150A.05. The board may issue to
2 members of the faculty of a school of dentistry a license
3 designated as either a "limited faculty license" or a "full
4 faculty license" entitling the holder to practice dentistry
5 within the terms described in paragraph (b) or (c). The dean of
6 a school of dentistry and program directors of a Minnesota
7 dental hygiene or dental assisting school accredited by the
8 Commission on Dental Accreditation of the American Dental
9 Association shall certify to the board those members of the
10 school's faculty who practice dentistry but are not licensed to
11 practice dentistry in Minnesota. A faculty member who practices
12 dentistry as defined in section 150A.05, before beginning duties
13 in a school of dentistry or a dental hygiene or dental assisting
14 school, shall apply to the board for a limited or full faculty
15 license. ~~The license expires the next July 1 and may, at the~~
16 ~~discretion of the board, be renewed on a yearly basis.~~ Pursuant
17 to Minnesota Rules, chapter 3100, and at the discretion of the
18 board, a limited faculty license must be renewed annually and a
19 full faculty license must be renewed biennially. The faculty
20 applicant shall pay a nonrefundable fee set by the board for
21 issuing and renewing the faculty license. The faculty license
22 is valid during the time the holder remains a member of the
23 faculty of a school of dentistry or a dental hygiene or dental
24 assisting school and subjects the holder to this chapter.

25 (b) The board may issue to dentist members of the faculty
26 of a Minnesota school of dentistry, dental hygiene, or dental
27 assisting accredited by the Commission on Dental Accreditation
28 of the American Dental Association, a license designated as a
29 limited faculty license entitling the holder to practice
30 dentistry within the school and its affiliated teaching
31 facilities, but only for the purposes of teaching or conducting
32 research. The practice of dentistry at a school facility for
33 purposes other than teaching or research is not allowed unless
34 the dentist was a faculty member on August 1, 1993.

35 (c) The board may issue to dentist members of the faculty
36 of a Minnesota school of dentistry, dental hygiene, or dental

1 assisting accredited by the Commission on Dental Accreditation
2 of the American Dental Association a license designated as a
3 full faculty license entitling the holder to practice dentistry
4 within the school and its affiliated teaching facilities and
5 elsewhere if the holder of the license is employed 50 percent
6 time or more by the school in the practice of teaching or
7 research, and upon successful review by the board of the
8 applicant's qualifications as described in subdivisions 1, 1c,
9 and 4 and board rule. The board, at its discretion, may waive
10 specific licensing prerequisites.

11 Sec. 3. [150A.091] [FEES.]

12 Subdivision 1. [FEE REFUNDS.] No fee may be refunded for
13 any reason.

14 Subd. 2. [APPLICATION FEES.] Each applicant for licensure
15 or registration shall submit with a license or registration
16 application a nonrefundable fee in the following amounts in
17 order to administratively process an application:

18 (1) dentist, \$140;

19 (2) limited faculty dentist, \$140;

20 (3) resident dentist, \$55;

21 (4) dental hygienist, \$55;

22 (5) registered dental assistant, \$35; and

23 (6) dental assistant with a limited registration, \$15.

24 Subd. 3. [INITIAL LICENSE OR REGISTRATION FEES.] Along
25 with the application fee, each of the following licensees or
26 registrants shall submit a separate prorated initial license or
27 registration fee. The prorated initial fee shall be established
28 by the board based on the number of months of the licensee's or
29 registrant's initial term as described in Minnesota Rules, part
30 3100.1700, subpart 1a, not to exceed the following monthly fee
31 amounts:

32 (1) dentist, \$14 times the number of months of the initial
33 term;

34 (2) dental hygienist, \$5 times the number of months of the
35 initial term;

36 (3) registered dental assistant, \$3 times the number of

1 months of initial term; and

2 (4) dental assistant with a limited registration, \$1 times
3 the number of months of the initial term.

4 Subd. 4. [ANNUAL LICENSE FEES.] Each limited faculty or
5 resident dentist shall submit with an annual license renewal
6 application a fee established by the board not to exceed the
7 following amounts:

8 (1) limited faculty dentist, \$168; and

9 (2) resident dentist, \$59.

10 Subd. 5. [BIENNIAL LICENSE OR REGISTRATION FEES.] Each of
11 the following licensees or registrants shall submit with a
12 biennial license or registration renewal application a fee as
13 established by the board, not to exceed the following amounts:

14 (1) dentist, \$336;

15 (2) dental hygienist, \$118;

16 (3) registered dental assistant, \$80; and

17 (4) dental assistant with a limited registration, \$24.

18 Subd. 6. [ANNUAL LICENSE LATE FEE.] Applications for
19 renewal of any license received after the time specified in
20 Minnesota Rules, part 3100.1750, must be assessed a late fee
21 equal to 50 percent of the annual renewal fee.

22 Subd. 7. [BIENNIAL LICENSE OR REGISTRATION LATE
23 FEE.] Applications for renewal of any license or registration
24 received after the time specified in Minnesota Rules, part
25 3100.1700, must be assessed a late fee equal to 25 percent of
26 the biennial renewal fee.

27 Subd. 8. [DUPLICATE LICENSE OR REGISTRATION FEE.] Each
28 licensee or registrant shall submit, with a request for issuance
29 of a duplicate of the original license or registration, or of an
30 annual or biennial renewal of it, a fee in the following amounts:

31 (1) original dentist or dental hygiene license, \$35; and

32 (2) initial and renewal registration certificates and
33 license renewal certificates, \$10.

34 Subd. 9. [LICENSURE AND REGISTRATION BY CREDENTIALS.] Each
5 applicant for licensure as a dentist or dental hygienist or for
36 registration as a registered dental assistant by credentials

1 pursuant to section 150A.06, subdivisions 4 and 8, and Minnesota
2 Rules, part 3100.1400, shall submit with the license or
3 registration application a fee in the following amounts:

- 4 (1) dentist, \$725;
5 (2) dental hygienist, \$175; and
6 (3) registered dental assistant, \$35.

7 Subd. 10. [REINSTATEMENT FEE.] No dentist, dental
8 hygienist, or registered dental assistant whose license or
9 registration has been suspended or revoked may have the license
10 or registration reinstated or a new license or registration
11 issued until a fee has been submitted to the board in the
12 following amounts:

- 13 (1) dentist, \$140;
14 (2) dental hygienist, \$55; and
15 (3) registered dental assistant, \$35.

16 Subd. 11. [CERTIFICATE APPLICATION FEE FOR
17 ANESTHESIA/SEDATION.] Each dentist shall submit with a general
18 anesthesia or conscious sedation application a fee as
19 established by the board not to exceed the following amounts:

- 20 (1) for both a general anesthesia and conscious sedation
21 application, \$50;
22 (2) for a general anesthesia application only, \$50; and
23 (3) for a conscious sedation application only, \$50.

24 Subd. 12. [DUPLICATE CERTIFICATE FEE FOR
25 ANESTHESIA/SEDATION.] Each dentist shall submit with a request
26 for issuance of a duplicate of the original general anesthesia
27 or conscious sedation certificate a fee in the amount of \$10.

28 Subd. 13. [ON-SITE INSPECTION FEE.] An on-site inspection
29 fee must be paid to the individual, organization, or agency
30 conducting the inspection and be limited to a maximum fee as
31 determined by the board. Travel, lodging, and other expenses
32 are not part of the on-site inspection fee.

33 Subd. 14. [AFFIDAVIT OF LICENSURE.] Each licensee or
34 registrant shall submit with a request for an affidavit of
35 licensure a fee in the amount of \$10.

36 Subd. 15. [VERIFICATION OF LICENSURE.] Each institution or

1 corporation shall submit with a request for verification of a
2 license or registration a fee in the amount of \$5 for each
3 license or registration to be verified.

4 Sec. 4. Minnesota Statutes 2004, section 150A.10,
5 subdivision 1a, is amended to read:

6 Subd. 1a. [LIMITED AUTHORIZATION FOR DENTAL HYGIENISTS.]

7 (a) Notwithstanding subdivision 1, a dental hygienist licensed
8 under this chapter may be employed or retained by a health care
9 facility, program, or nonprofit organization to perform dental
10 hygiene services described under paragraph (b) without the
11 patient first being examined by a licensed dentist if the dental
12 hygienist:

13 (1) has been engaged in the active practice of clinical
14 dental hygiene for not less than 2,400 hours in the past 18
15 months or a career total of 3,000 hours, including a minimum of
16 200 hours of clinical practice in two of the past three years;

17 (2) has entered into a collaborative agreement with a
18 licensed dentist that designates authorization for the services
19 provided by the dental hygienist;

20 (3) has documented participation in courses in infection
21 control and medical emergencies within each continuing education
22 cycle; and

23 (4) maintains current certification in advanced or basic
24 cardiac life support as recognized by the American Heart
25 Association, the American Red Cross, or another agency that is
26 equivalent to the American Heart Association or the American Red
27 Cross.

28 (b) The dental hygiene services authorized to be performed
29 by a dental hygienist under this subdivision are limited to:

30 (1) oral health promotion and disease prevention education;

31 (2) removal of deposits and stains from the surfaces of the
32 teeth;

33 (3) application of topical preventive or prophylactic
34 agents, including fluoride varnishes and pit and fissure
35 sealants;

36 (4) polishing and smoothing restorations;

- 1 (5) removal of marginal overhangs;
- 2 (6) performance of preliminary charting;
- 3 (7) taking of radiographs; and
- 4 (8) performance of scaling and root planing.

5 The dental hygienist ~~shall not perform~~ may administer
6 injections of local anesthetic agents or ~~the administration of~~
7 nitrous oxide ~~unless under the indirect supervision~~
8 of inhalation analgesia as specifically delegated in the
9 collaborative agreement with a licensed dentist. The dentist
10 need not first examine the patient or be present. If the
11 patient is considered medically compromised, the collaborative
12 dentist shall review the patient record, including the medical
13 history, prior to the provision of these services.

14 Collaborating dental hygienists may work with unregistered and
15 registered dental assistants who may only perform duties for
16 which registration is not required. The performance of dental
17 hygiene services in a health care facility, program, or
18 nonprofit organization as authorized under this subdivision is
19 limited to patients, students, and residents of the facility,
20 program, or organization.

21 (c) A collaborating dentist must be licensed under this
22 chapter and may enter into a collaborative agreement with no
23 more than four dental hygienists unless otherwise authorized by
24 the board. The board shall develop parameters and a process for
25 obtaining authorization to collaborate with more than four
26 dental hygienists. The collaborative agreement must include:

27 (1) consideration for medically compromised patients and
28 medical conditions for which a dental evaluation and treatment
29 plan must occur prior to the provision of dental hygiene
30 services;

31 (2) age- and procedure-specific standard collaborative
32 practice protocols, including recommended intervals for the
33 performance of dental hygiene services and a period of time in
34 which an examination by a dentist should occur;

35 (3) copies of consent to treatment form provided to the
36 patient by the dental hygienist;

1 (4) specific protocols for the placement of pit and fissure
2 sealants and requirements for follow-up care to assure the
3 efficacy of the sealants after application; and

4 (5) a procedure for creating and maintaining dental records
5 for the patients that are treated by the dental hygienist. This
6 procedure must specify where these records are to be located.
7 The collaborative agreement must be signed and maintained by the
8 dentist, the dental hygienist, and the facility, program, or
9 organization; must be reviewed annually by the collaborating
10 dentist and dental hygienist; and must be made available to the
11 board upon request.

12 (d) Before performing any services authorized under this
13 subdivision, a dental hygienist must provide the patient with a
14 consent to treatment form which must include a statement
15 advising the patient that the dental hygiene services provided
16 are not a substitute for a dental examination by a licensed
17 dentist. If the dental hygienist makes any referrals to the
18 patient for further dental procedures, the dental hygienist must
19 fill out a referral form and provide a copy of the form to the
20 collaborating dentist.

21 (e) For the purposes of this subdivision, a "health care
22 facility, program, or nonprofit organization" is limited to a
23 hospital; nursing home; home health agency; group home serving
24 the elderly, disabled, or juveniles; state-operated facility
25 licensed by the commissioner of human services or the
26 commissioner of corrections; and federal, state, or local public
27 health facility, community clinic, tribal clinic, school
28 authority, Head Start program, or nonprofit organization that
29 serves individuals who are uninsured or who are Minnesota health
30 care public program recipients.

31 (f) For purposes of this subdivision, a "collaborative
32 agreement" means a written agreement with a licensed dentist who
33 authorizes and accepts responsibility for the services performed
34 by the dental hygienist. The services authorized under this
35 subdivision and the collaborative agreement may be performed
36 without the presence of a licensed dentist and may be performed

1 at a location other than the usual place of practice of the
2 dentist or dental hygienist and without a dentist's diagnosis
3 and treatment plan, unless specified in the collaborative
4 agreement.

5 ARTICLE 5

6 BOARD OF BEHAVIORAL THERAPY AND HEALTH
7 (LICENSED PROFESSIONAL COUNSELORS AND
8 ALCOHOL AND DRUG COUNSELORS)

9 Section 1. Minnesota Statutes 2004, section 148B.53,
10 subdivision 1, is amended to read:

11 Subdivision 1. [GENERAL REQUIREMENTS.] (a) To be licensed
12 as a licensed professional counselor (LPC), an applicant must
13 provide evidence satisfactory to the board that the applicant:

14 (1) is at least 18 years of age;

15 (2) is of good moral character;

16 (3) has completed a master's or doctoral degree program in
17 counseling or a related field, as determined by the board based
18 on the criteria in paragraph (b), that includes a minimum of 48
19 semester hours or 72 quarter hours and a supervised field
20 experience of not fewer than 700 hours that is counseling in
21 nature;

22 (4) has submitted to the board a plan for supervision
23 during the first 2,000 hours of professional practice or has
24 submitted proof of supervised professional practice that is
25 acceptable to the board; and

26 (5) has demonstrated competence in professional counseling
27 by passing the National Counseling Exam (NCE) administered by
28 the National Board for Certified Counselors, Inc. (NBCC)
29 ~~including-obtaining-a-passing-score-on-the-examination-accepted~~
30 ~~by-the-board-based-on-the-determinations-made-by-the-NBCC~~ or an
31 equivalent national examination as determined by the board, and
32 ethical, oral, and situational examinations if prescribed by the
33 board.

34 (b) The degree described in paragraph (a), clause (3), must
35 be from a counseling program recognized by the Council for
36 Accreditation of Counseling and Related Education Programs

1 (CACREP) or from an institution of higher education that is
 2 accredited by a regional accrediting organization recognized by
 3 the Council for Higher Education Accreditation (CHEA). Specific
 4 academic course content and training must ~~meet standards~~
 5 ~~established by the CACREP, including~~ include course work in each
 6 of the following subject areas:

- 7 (1) the helping relationship, including counseling theory
- 8 and practice;
- 9 (2) human growth and development;
- 10 (3) lifestyle and career development;
- 11 (4) group dynamics, processes, counseling, and consulting;
- 12 (5) assessment and appraisal;
- 13 (6) social and cultural foundations, including
- 14 multicultural issues;
- 15 (7) principles of etiology, treatment planning, and
- 16 prevention of mental and emotional disorders and dysfunctional
- 17 behavior;
- 18 (8) family counseling and therapy;
- 19 (9) research and evaluation; and
- 20 (10) professional counseling orientation and ethics.

21 (c) To be licensed as a professional counselor, a
 22 psychological practitioner licensed under section 148.908 need
 23 only show evidence of licensure under that section and is not
 24 required to comply with paragraph (a), clauses (1) to (3) and
 25 (5), or paragraph (b).

26 (d) To be licensed as a professional counselor, a Minnesota
 27 licensed psychologist need only show evidence of licensure from
 28 the Minnesota Board of Psychology and is not required to comply
 29 with paragraph (a) or (b).

30 Sec. 2. Minnesota Statutes 2004, section 148B.53,
 31 subdivision 3, is amended to read:

32 Subd. 3. [FEE.] ~~Each applicant shall pay a~~
 33 Nonrefundable fee fees are as follows:

- 34 (1) initial license application fee for licensed
- 35 professional counseling (LPC) - \$250;
- 36 (2) annual active license renewal fee for LPC - \$200 or

1 equivalent;

2 (3) annual inactive license renewal fee for LPC - \$100;

3 (4) license renewal late fee - \$100 per month or portion
4 thereof;

5 (5) copy of board order or stipulation - \$10;

6 (6) certificate of good standing or license verification -
7 \$10;

8 (7) duplicate certificate fee - \$10;

9 (8) professional firm renewal fee - \$25;

10 (9) initial registration fee - \$50; and

11 (10) annual registration renewal fee - \$25.

12 Sec. 3. [148B.531] [POSTDEGREE COMPLETION OF DEGREE
13 REQUIREMENTS FOR LICENSURE.]

14 An individual whose degree upon which licensure is to be
15 based included less than 48 semester hours or 72 quarter hours,
16 who did not complete 700 hours of supervised professional
17 practice as part of the degree program, or who did not complete
18 course work in all of the content areas required by section
19 148B.53, subdivision 1, paragraph (b), may complete these
20 requirements postdegree in order to obtain licensure, if:

21 (1) all course work and field experiences are completed
22 through an institution of higher education that is accredited by
23 a regional accrediting organization recognized by the Council
24 for Higher Education Accreditation (CHEA) or through a
25 counseling program recognized by the Council for Accreditation
26 of Counseling and Related Education Programs (CACREP);

27 (2) all course work and field experiences are taken and
28 passed for credit; and

29 (3) no more than 20 semester credits or 30 quarter credits
30 are completed postdegree for purposes of licensure unless the
31 credits are earned as part of an organized sequence of study.

32 Sec. 4. Minnesota Statutes 2004, section 148B.54,
33 subdivision 2, is amended to read:

34 Subd. 2. [CONTINUING EDUCATION.] At the completion of the
35 first ~~two~~ four years of licensure, a licensee must provide
36 evidence satisfactory to the board of completion of 12

1 additional postgraduate semester credit hours or its equivalent
2 in counseling as determined by the board, except that no
3 licensee shall be required to show evidence of greater than 60
4 semester hours or its equivalent. Thereafter, at the time of
5 renewal, each licensee shall provide evidence satisfactory to
6 the board that the licensee has completed during each two-year
7 period at least the equivalent of 40 clock hours of professional
8 postdegree continuing education in programs approved by the
9 board and continues to be qualified to practice under sections
10 148B.50 to 148B.593.

11 Sec. 5. [148B.555] [EXPERIENCED COUNSELOR TRANSITION.]

12 (a) An applicant for licensure who, prior to December 31,
13 2003, completed a master's or doctoral degree program in
14 counseling or a related field, as determined by the board, and
15 whose degree was from a counseling program recognized by the
16 Council for Accreditation of Counseling and Related Education
17 Programs (CACREP) or from an institution of higher education
18 that is accredited by a regional accrediting organization
19 recognized by the Council for Higher Education Accreditation
20 (CHEA), need not comply with the requirements of section
21 148B.53, subdivision 1, paragraph (a), clause (3), or (b), so
22 long as the applicant can document five years of full-time
23 postdegree work experience within the practice of professional
24 counseling as defined under section 148B.50, subdivisions 4 and
25 5.

26 (b) This section expires July 1, 2007.

27 Sec. 6. [148B.561] [RETALIATORY PROVISIONS.]

28 If by the laws of any state or the rulings or decisions of
29 the appropriate officers or boards thereof, any burden,
30 obligation, requirement, disqualification, or disability is put
31 upon licensed professional counselors licensed and in good
32 standing in this state, affecting the right of these licensed
33 professional counselors to be registered or licensed in that
34 state, then the same or like burden, obligation, requirement,
35 disqualification, or disability may be put upon the licensure in
36 this state of licensed professional counselors registered in

1 that state.

2 Sec. 7. Minnesota Statutes 2004, section 148B.59, is
3 amended to read:

4 148B.59 [GROUNDS FOR DISCIPLINARY ACTION; FORMS OF
5 DISCIPLINARY ACTION; RESTORATION OF LICENSE.]

6 (a) The board may impose disciplinary action as described
7 in paragraph (b) against an applicant or licensee whom the
8 board, by a preponderance of the evidence, determines:

9 (1) has violated a statute, rule, or order that the board
10 issued or is empowered to enforce;

11 (2) has engaged in fraudulent, deceptive, or dishonest
12 conduct, whether or not the conduct relates to the practice of
13 licensed professional counseling, that adversely affects the
14 person's ability or fitness to practice professional counseling;

15 (3) has engaged in unprofessional conduct or any other
16 conduct which has the potential for causing harm to the public,
17 including any departure from or failure to conform to the
18 minimum standards of acceptable and prevailing practice without
19 actual injury having to be established;

20 (4) has been convicted of or has pled guilty or nolo
21 contendere to a felony or other crime, an element of which is
22 dishonesty or fraud, or has been shown to have engaged in acts
23 or practices tending to show that the applicant or licensee is
24 incompetent or has engaged in conduct reflecting adversely on
25 the applicant's or licensee's ability or fitness to engage in
26 the practice of professional counseling;

27 (5) has employed fraud or deception in obtaining or
28 renewing a license, or in passing an examination;

29 (6) has had any counseling license, certificate,
30 registration, privilege to take an examination, or other similar
31 authority denied, revoked, suspended, canceled, limited, or not
32 renewed for cause in any jurisdiction or has surrendered or
33 voluntarily terminated a license or certificate during a board
34 investigation of a complaint, as part of a disciplinary order,
35 or while under a disciplinary order;

36 (7) has failed to meet any requirement for the issuance or

1 renewal of the person's license. The burden of proof is on the
2 applicant or licensee to demonstrate the qualifications or
3 satisfy the requirements for a license under the Licensed
4 Professional Counseling Act;

5 (8) has failed to cooperate with an investigation of the
6 board;

7 (9) has demonstrated an inability to practice professional
8 counseling with reasonable skill and safety to clients due to
9 any mental or physical illness or condition;

10 (10) has engaged in fee splitting. This clause does not
11 apply to the distribution of revenues from a partnership, group
12 practice, nonprofit corporation, or professional corporation to
13 its partners, shareholders, members, or employees if the
14 revenues consist only of fees for services performed by the
15 licensee or under a licensee's administrative authority. Fee
16 splitting includes, but is not limited to:

17 (i) dividing fees with another person or a professional
18 corporation, unless the division is in proportion to the
19 services provided and the responsibility assumed by each
20 professional; and

21 (ii) referring a client to any health care provider as
22 defined in section 144.335 in which the referring licensee has a
23 significant financial interest, unless the licensee has
24 disclosed in advance to the client the licensee's own financial
25 interest; ~~or~~ and

26 (iii) paying, offering to pay, receiving, or agreeing to
27 receive a commission, rebate, or remuneration, directly or
28 indirectly, primarily for the referral of clients;

29 (11) has engaged in conduct with a patient client that is
30 sexual or may reasonably be interpreted by the patient client as
31 sexual, or in any verbal behavior that is seductive or sexually
32 demeaning to a patient client;

33 (12) has been subject to a corrective action or similar
34 action in another jurisdiction or by another regulatory
35 authority; or

36 (13) has been adjudicated as mentally incompetent, mentally

1 ill, or mentally retarded or as a chemically dependent person, a
2 person dangerous to the public, a sexually dangerous person, or
3 a person who has a sexual psychopathic personality by a court of
4 competent jurisdiction within this state or an equivalent
5 adjudication from another state. Adjudication automatically
6 suspends a license for the duration thereof unless the board
7 orders otherwise.

8 (b) If grounds for disciplinary action exist under
9 paragraph (a), the board may take one or more of the following
10 actions:

11 (1) refuse to grant or renew a license;

12 (2) revoke a license;

13 (3) suspend a license;

14 (4) impose limitations or conditions on a licensee's
15 practice of professional counseling, including, but not limited
16 to, limiting the scope of practice to designated competencies,
17 imposing retraining or rehabilitation requirements, requiring
18 the licensee to practice under supervision, or conditioning
19 continued practice on the demonstration of knowledge or skill by
20 appropriate examination or other review of skill and competence;

21 (5) censure or reprimand the licensee;

22 (6) refuse to permit an applicant to take the licensure
23 examination or refuse to release an applicant's examination
24 grade if the board finds that it is in the public interest; or

25 (7) impose a civil penalty not exceeding \$10,000 for each
26 separate violation, the amount of the civil penalty to be fixed
27 so as to deprive the applicant or licensee of any economic
28 advantage gained by reason of the violation charged, to
29 discourage similar violations or to reimburse the board for the
30 cost of the investigation and proceeding, including, but not
31 limited to, fees paid for services provided by the Office of
32 Administrative Hearings, legal and investigative services
33 provided by the Office of the Attorney General, court reporters,
34 witnesses, reproduction of records, board members' per diem
35 compensation, board staff time, and travel costs and expenses
36 incurred by board staff and board members.

1 (c) In lieu of or in addition to paragraph (b), the board
2 may require, as a condition of continued licensure, termination
3 of suspension, reinstatement of license, examination, or release
4 of examination grades, that the applicant or licensee:

5 (1) submit to a quality review, as specified by the board,
6 of the applicant's or licensee's ability, skills, or quality of
7 work; and

8 (2) complete to the satisfaction of the board educational
9 courses specified by the board.

10 The board may also refer a licensee, if appropriate, to the
11 health professionals services program described in sections
12 214.31 to 214.37.

13 (d) Service of the order is effective if the order is
14 served on the applicant, licensee, or counsel of record
15 personally or by mail to the most recent address provided to the
16 board for the licensee, applicant, or counsel of record. The
17 order shall state the reasons for the entry of the order.

18 Sec. 8. [148B.5901] [TEMPORARY SUSPENSION OF LICENSE.]

19 (a) In addition to any other remedy provided by law, the
20 board may issue an order to temporarily suspend the credentials
21 of a licensee after conducting a preliminary inquiry to
22 determine if the board reasonably believes that the licensee has
23 violated a statute or rule that the board is empowered to
24 enforce and whether continued practice by the licensee would
25 create an imminent risk of harm to others.

26 (b) The order may prohibit the licensee from engaging in
27 the practice of licensed professional counseling in whole or in
28 part and may condition the end of a suspension on the licensee's
29 compliance with a statute, rule, or order that the board has
30 issued or is empowered to enforce.

31 (c) The order shall give notice of the right to a hearing
32 according to this subdivision and shall state the reasons for
33 the entry of the order.

34 (d) Service of the order is effective when the order is
35 served on the licensee personally or by certified mail, which is
36 complete upon receipt, refusal, or return for nondelivery to the

1 most recent address provided to the board for the licensee.

2 (e) At the time the board issues a temporary suspension
3 order, the board shall schedule a hearing to be held before its
4 own members. The hearing shall begin no later than 60 days
5 after issuance of the temporary suspension order or within 15
6 working days of the date of the board's receipt of a request for
7 hearing by a licensee, on the sole issue of whether there is a
8 reasonable basis to continue, modify, or lift the temporary
9 suspension. The hearing is not subject to chapter 14. Evidence
10 presented by the board or the licensee shall be in affidavit
11 form only. The licensee or counsel of record may appear for
12 oral argument.

13 (f) Within five working days of the hearing, the board
14 shall issue its order and, if the suspension is continued,
15 schedule a contested case hearing within 30 days of the issuance
16 of the order. Notwithstanding chapter 14, the administrative
17 law judge shall issue a report within 30 days after closing the
18 contested case hearing record. The board shall issue a final
19 order within 30 days of receipt of the administrative law
20 judge's report.

21 Sec. 9. [148B.5905] [MENTAL, PHYSICAL, OR CHEMICAL
22 DEPENDENCY EXAMINATION OR EVALUATION; ACCESS TO MEDICAL DATA.]

23 (a) If the board has probable cause to believe section
24 148B.59, paragraph (a), clause (9), applies to a licensee or
25 applicant, the board may direct the person to submit to a
26 mental, physical, or chemical dependency examination or
27 evaluation. For the purpose of this section, every licensee and
28 applicant is deemed to have consented to submit to a mental,
29 physical, or chemical dependency examination or evaluation when
30 directed in writing by the board and to have waived all
31 objections to the admissibility of the examining professionals'
32 testimony or examination reports on the grounds that the
33 testimony or examination reports constitute a privileged
34 communication. Failure of a licensee or applicant to submit to
35 an examination when directed by the board constitutes an
36 admission of the allegations against the person, unless the

1 failure was due to circumstances beyond the person's control, in
2 which case a default and final order may be entered without the
3 taking of testimony or presentation of evidence. A licensee or
4 applicant affected under this paragraph shall at reasonable
5 intervals be given an opportunity to demonstrate that the person
6 can resume the competent practice of licensed professional
7 counseling with reasonable skill and safety to the public. In
8 any proceeding under this paragraph, neither the record of
9 proceedings nor the orders entered by the board shall be used
10 against a licensee or applicant in any other proceeding.

11 (b) In addition to ordering a physical or mental
12 examination, the board may, notwithstanding section 13.384,
13 144.651, or any other law limiting access to medical or other
14 health data, obtain medical data and health records relating to
15 a licensee or applicant without the licensee's or applicant's
16 consent if the board has probable cause to believe that section
17 148B.59, paragraph (a), clause (9), applies to the licensee or
18 applicant. The medical data may be requested from a provider,
19 as defined in section 144.335, subdivision 1, paragraph (b); an
20 insurance company; or a government agency, including the
21 Department of Human Services. A provider, insurance company, or
22 government agency shall comply with any written request of the
23 board under this subdivision and is not liable in any action for
24 damages for releasing the data requested by the board if the
25 data are released pursuant to a written request under this
26 subdivision, unless the information is false and the provider
27 giving the information knew, or had reason to believe, the
28 information was false. Information obtained under this
29 subdivision is classified as private under sections 13.01 to
30 13.87.

31 Sec. 10. [148B.5925] [ASSESSMENT TOOL SECURITY.]

32 Notwithstanding section 144.335, subdivision 2, paragraphs
33 (a) and (b), a provider shall not be required to provide copies
34 of assessment tools, assessment tool materials, or scoring keys
35 to any individual who has completed an assessment tool or to an
36 individual not qualified to administer, score, and interpret the

1 assessment tool, if the provider reasonably determines that
 2 access would compromise the objectivity, fairness, or integrity
 3 of the testing process for the individual or others. If the
 4 provider makes this determination, the provider shall, at the
 5 discretion of the individual who has completed the assessment
 6 tool, release the information either to another provider who is
 7 qualified to administer, score, and interpret the assessment
 8 tool or furnish a summary of the assessment tool results to the
 9 individual or to a third party designated by the individual.

10 Sec. 11. Minnesota Statutes 2004, section 148C.03,
 11 subdivision 1, is amended to read:

12 Subdivision 1. [GENERAL.] The commissioner shall, ~~after~~
 13 ~~consultation with the advisory council or a committee~~
 14 ~~established by rule:~~

15 (a) adopt and enforce rules for licensure of alcohol and
 16 drug counselors, including establishing standards and methods of
 17 determining whether applicants and licensees are qualified under
 18 section 148C.04. The rules must provide for examinations and
 19 establish standards for the regulation of professional conduct.
 20 The rules must be designed to protect the public;

21 ~~(b) develop and, at least twice a year, administer an~~
 22 ~~examination to assess applicants' knowledge and skills. The~~
 23 ~~commissioner may contract for the administration of an~~
 24 ~~examination with an entity designated by the commissioner. The~~
 25 ~~examinations must be psychometrically valid and reliable, must~~
 26 ~~be written and oral, with the oral examination based on a~~
 27 ~~written case presentation, must minimize cultural bias, and must~~
 28 ~~be balanced in various theories relative to the practice of~~
 29 ~~alcohol and drug counseling;~~

30 ~~(c)~~ issue licenses to individuals qualified under sections
 31 148C.01 to 148C.11;

32 ~~(d)~~ (c) issue copies of the rules for licensure to all
 33 applicants;

34 ~~(e)~~ (d) adopt rules to establish and implement procedures,
 35 including a standard disciplinary process and rules of
 36 professional conduct;

1 ~~(f)~~ (e) carry out disciplinary actions against licensees;
2 ~~(g)~~ (f) ~~establish, with the advice and recommendations of~~
3 ~~the advisory council,~~ written internal operating procedures for
4 receiving and investigating complaints and for taking
5 disciplinary actions as appropriate;

6 ~~(h)~~ (g) educate the public about the existence and content
7 of the rules for alcohol and drug counselor licensing to enable
8 consumers to file complaints against licensees who may have
9 violated the rules;

10 ~~(i)~~ (h) evaluate the rules in order to refine and improve
11 the methods used to enforce the commissioner's standards; and

12 ~~(j)~~ (i) collect license fees for alcohol and drug
13 counselors.

14 Sec. 12. Minnesota Statutes 2004, section 148C.04,
15 subdivision 3, is amended to read:

16 Subd. 3. [REQUIREMENTS FOR LICENSURE BEFORE JULY 1, 2008.]

17 An applicant for a license must furnish evidence satisfactory to
18 the commissioner that the applicant has met all the requirements
19 in clauses (1) to (3). The applicant must have:

20 (1) received an associate degree, or an equivalent number
21 of credit hours, and a certificate in alcohol and drug
22 counseling, including 18 semester credits or 270 clock hours of
23 academic course work in accordance with subdivision 5a,
24 paragraph (a), from an accredited school or educational program
25 and 880 clock hours of supervised alcohol and drug counseling
26 practicum;

27 (2) completed one of the following:

28 (i) a written case presentation and satisfactorily passed
29 an oral examination established by the commissioner that
30 demonstrates competence in the core functions as determined by
31 the board; or

32 (ii) satisfactorily completed 2,000 hours of supervised
33 postdegree equivalent professional practice in accordance with
34 section 148C.044; and

35 (3) satisfactorily passed a written examination as
36 established by the commissioner examinations for licensure as

1 determined by the board.

2 Sec. 13. Minnesota Statutes 2004, section 148C.04,
3 subdivision 4, is amended to read:

4 Subd. 4. [REQUIREMENTS FOR LICENSURE AFTER JULY 1, 2008.]

5 An applicant for a license must submit evidence to the
6 commissioner that the applicant has met one of the following
7 requirements:

8 (1) the applicant must have:

9 (i) received a bachelor's degree from an accredited school
10 or educational program, including 18 semester credits or 270
11 clock hours of academic course work in accordance with
12 subdivision 5a, paragraph (a), from an accredited school or
13 educational program and 880 clock hours of supervised alcohol
14 and drug counseling practicum;

15 (ii) completed a written case presentation and
16 satisfactorily passed an oral examination established by the
17 commissioner that demonstrates competence in the core functions;
18 or submitted to the board a plan for supervision during the
19 first 2,000 hours of professional practice, or submitted proof
20 of supervised professional practice that is acceptable to the
21 commissioner; and

22 (iii) satisfactorily passed a written examination as
23 established by the commissioner; or

24 (2) the applicant must meet the requirements of section
25 148C.07.

26 Sec. 14. Minnesota Statutes 2004, section 148C.04,
27 subdivision 6, is amended to read:

28 Subd. 6. [TEMPORARY PERMIT REQUIREMENTS.] (a) The
29 commissioner shall issue a temporary permit to practice alcohol
30 and drug counseling prior to being licensed under this chapter
31 if the person:

32 (1) either:

33 (i) submits verification of a current and unrestricted
34 credential for the practice of alcohol and drug counseling from
35 a national certification body or a certification or licensing
36 body from another state, United States territory, or federally

1 recognized tribal authority;

2 (ii) submits verification of the completion of at least 64
3 semester credits, including 270 clock hours or 18 semester
4 credits of formal classroom education in alcohol and drug
5 counseling and at least 880 clock hours of alcohol and drug
6 counseling practicum from an accredited school or educational
7 program;

8 (iii) applies to renew a lapsed license according to the
9 requirements of section 148C.055, subdivision 3, clauses (1) and
10 (2), or section 148C.055, subdivision 4, clauses (1) and (2); or

11 (iv) meets the requirements of section 148C.11, subdivision
12 1, paragraph (c), or 6, clauses (1), (2), and (5);

13 (2) applies, in writing, on an application form provided by
14 the commissioner, which includes the nonrefundable temporary
15 permit fee as specified in section 148C.12 and an affirmation by
16 the person's supervisor, as defined in paragraph (c), clause
17 (1), which is signed and dated by the person and the person's
18 supervisor; and

19 (3) has not been disqualified to practice temporarily on
20 the basis of a background investigation under section 148C.09,
21 subdivision 1a.

22 (b) The commissioner must notify the person in writing
23 within 90 days from the date the completed application and all
24 required information is received by the commissioner whether the
25 person is qualified to practice under this subdivision.

26 (c) A person practicing under this subdivision:

27 (1) may practice under tribal jurisdiction or under the
28 direct supervision of a person who is licensed under this
29 chapter;

30 (2) is subject to the Rules of Professional Conduct set by
31 rule; and

32 (3) is not subject to the continuing education requirements
33 of section 148C.075.

34 (d) A person practicing under this subdivision must use the
35 title or description stating or implying that the person is a
36 trainee engaged in the practice of alcohol and drug counseling.

1 (e) A person practicing under this subdivision must
2 annually submit a renewal application on forms provided by the
3 commissioner with the renewal fee required in section 148C.12,
4 subdivision 3, and the commissioner may renew the temporary
5 permit if the trainee meets the requirements of this
6 subdivision. A trainee may renew a practice permit no more than
7 five times.

8 (f) A temporary permit expires if not renewed, upon a
9 change of employment of the trainee or upon a change in
10 supervision, or upon the granting or denial by the commissioner
11 of a license.

12 Sec. 15. [148C.044] [SUPERVISED POSTDEGREE PROFESSIONAL
13 PRACTICE.]

14 Subdivision 1. [SUPERVISION.] For the purpose of this
15 section, "supervision" means documented interactive
16 consultation, which, subject to the limitations in subdivision
17 4, paragraph (a), clause (2), may be conducted in person, by
18 telephone, or by audio or audiovisual electronic device, with a
19 supervisor as defined in subdivision 2. The supervision must be
20 adequate to ensure the quality and competence of the activities
21 supervised. Supervisory consultation must include discussions
22 on the nature and content of the practice of the supervisee,
23 including, but not limited to, a review of a representative
24 sample of counseling services in the supervisee's practice.

25 Subd. 2. [POSTDEGREE PROFESSIONAL PRACTICE.] "Postdegree
26 professional practice" means required postdegree paid or
27 volunteer work experience and training that involves the
28 professional oversight by a supervisor approved by the board and
29 that satisfies the supervision requirements in subdivision 4.

30 Subd. 3. [SUPERVISOR REQUIREMENTS.] For purposes of this
31 section, a supervisor shall:

32 (1) be a licensed alcohol and drug counselor or other
33 qualified professional as determined by the board;

34 (2) have four years of experience in providing alcohol and
35 drug counseling;

36 (3) have received a minimum of 12 hours of training in

1 clinical and ethical supervision, which may include graduate
2 course work, continuing education courses, workshops, or a
3 combination thereof; and

4 (4) supervise no more than three persons in postdegree
5 professional practice.

6 Subd. 4. [SUPERVISED PRACTICE REQUIREMENTS FOR
7 LICENSURE.] (a) The content of supervision must include:

8 (1) knowledge, skills, values, and ethics with specific
9 application to the practice issues faced by the supervisee,
10 including the core functions as described in section 148C.01,
11 subdivision 9;

12 (2) the standards of practice and ethical conduct, with
13 particular emphasis given to the counselor's role and
14 appropriate responsibilities, professional boundaries, and power
15 dynamics; and

16 (3) the supervisee's permissible scope of practice, as
17 defined by section 148C.01, subdivision 10.

18 (b) The supervision must be obtained at the rate of one
19 hour of supervision per 40 hours of professional practice, for a
20 total of 50 hours of supervision. The supervision must be
21 evenly distributed over the course of the supervised
22 professional practice. At least 75 percent of the required
23 supervision hours must be received in person. The remaining 25
24 percent of the required hours may be received by telephone or by
25 audio or audiovisual electronic device. At least 50 percent of
26 the required hours of supervision must be received on an
27 individual basis. The remaining 50 percent may be received in a
28 group setting.

29 (c) The supervision must be completed in no fewer than 12
30 consecutive months and no more than 36 consecutive months.

31 (d) The applicant shall include with an application for
32 licensure verification of completion of the 2,000 hours of
33 supervised professional practice. Verification must be on a
34 form specified by the board. The supervisor shall verify that
35 the supervisee has completed the required hours of supervision
36 in accordance with this section. The supervised practice

1 required under this section is unacceptable if the supervisor
2 attests that the supervisee's performance, competence, or
3 adherence to the standards of practice and ethical conduct has
4 been unsatisfactory.

5 Sec. 16. Minnesota Statutes 2004, section 148C.091,
6 subdivision 1, is amended to read:

7 Subdivision 1. [FORMS OF DISCIPLINARY ACTION.] When the
8 commissioner finds that an applicant or a licensed alcohol and
9 drug counselor has violated a provision or provisions of
10 sections 148C.01 to 148C.11, or rules promulgated under this
11 chapter, the commissioner may take one or more of the following
12 actions:

- 13 (1) refuse to grant a license;
- 14 (2) revoke the license;
- 15 (3) suspend the license;
- 16 (4) impose limitations or conditions;
- 17 (5) impose a civil penalty not exceeding \$10,000 for each
18 separate violation, the amount of the civil penalty to be fixed
19 so as to deprive the counselor of any economic advantage gained
20 by reason of the violation charged or to reimburse the
21 commissioner for all costs of the investigation and proceeding;
22 including, but not limited to, the amount paid by the
23 commissioner for services from the Office of Administrative
24 Hearings, attorney fees, court reports, witnesses, reproduction
25 of records, ~~advisory-council-members-per-diem-compensation,~~
26 staff time, and expense incurred by ~~advisory-council-members-and~~
27 staff of the department;
- 28 (6) order the counselor to provide uncompensated
29 professional service under supervision at a designated public
30 hospital, clinic, or other health care institution;
- 31 (7) censure or reprimand the counselor; or
- 32 (8) any other action justified by the case.

33 Sec. 17. Minnesota Statutes 2004, section 148C.10,
34 subdivision 2, is amended to read:

35 Subd. 2. [USE OF TITLES.] No person shall present
36 themselves or any other individual to the public by any title

1 incorporating the words "licensed alcohol and drug counselor" or
2 otherwise hold themselves out to the public by any title or
3 description stating or implying that they are licensed or
4 otherwise qualified to practice alcohol and drug counseling
5 unless that individual holds a valid license. Persons issued a
6 temporary permit must use titles consistent with section
7 148C.04, subdivision 6, paragraph ~~(e)~~ (d).

8 Sec. 18. Minnesota Statutes 2004, section 148C.11,
9 subdivision 1, is amended to read:

10 Subdivision 1. [OTHER PROFESSIONALS.] (a) Nothing in this
11 chapter prevents members of other professions or occupations
12 from performing functions for which they are qualified or
13 licensed. This exception includes, but is not limited to:
14 licensed physicians_{7,i}; registered nurses_{7,i}; licensed practical
15 nurses_{7,i}; licensed psychological practitioners_{7,i}; members of the
16 clergy_{7,i}; American Indian medicine men and women_{7,i}; licensed
17 attorneys_{7,i}; probation officers_{7,i}; licensed marriage and family
18 therapists_{7,i}; licensed social workers_{7,i}; social workers employed
19 by city, county, or state agencies; licensed professional
20 counselors_{7,i}; licensed school counselors_{7,i}; registered
21 occupational therapists or occupational therapy assistants_{7,i};
22 city, county, or state employees when providing assessments or
23 case management under Minnesota Rules, chapter 9530; and until
24 July 1, 2005, individuals providing integrated dual-diagnosis
25 treatment in adult mental health rehabilitative programs
26 certified by the Department of Human Services under section
27 256B.0622 or 256B.0623.

28 (b) Nothing in this chapter prohibits technicians and
29 resident managers in programs licensed by the Department of
30 Human Services from discharging their duties as provided in
31 Minnesota Rules, chapter 9530.

32 (c) Any person who is exempt under this ~~section~~ subdivision
33 but who elects to obtain a license under this chapter is subject
34 to this chapter to the same extent as other licensees. The
35 commissioner shall issue a license without examination to an
36 applicant who is licensed or registered in a profession

1 identified in paragraph (a) if the applicant:

2 (1) shows evidence of current licensure or registration;

3 and

4 (2) has submitted to the commissioner a plan for

5 supervision during the first 2,000 hours of professional

6 practice or has submitted proof of supervised professional

7 practice that is acceptable to the commissioner.

8 (d) ~~These persons~~ Any person who is exempt from licensure

9 under this section must not, ~~however,~~ use a title incorporating

10 the words "alcohol and drug counselor" or "licensed alcohol and

11 drug counselor" or otherwise hold themselves out to the public

12 by any title or description stating or implying that they are

13 engaged in the practice of alcohol and drug counseling, or that

14 they are licensed to engage in the practice of alcohol and drug

15 counseling unless that person is also licensed as an alcohol and

16 drug counselor. Persons engaged in the practice of alcohol and

17 drug counseling are not exempt from the commissioner's

18 jurisdiction solely by the use of one of the above titles.

19 Sec. 19. Minnesota Statutes 2004, section 148C.11,

20 subdivision 4, is amended to read:

21 Subd. 4. [HOSPITAL ALCOHOL AND DRUG COUNSELORS.] Effective

22 January 1, ~~2006~~ 2007, hospitals employing alcohol and drug

23 counselors shall be required to employ licensed alcohol and drug

24 counselors. An alcohol or drug counselor employed by a hospital

25 must be licensed as an alcohol and drug counselor in accordance

26 with this chapter.

27 Sec. 20. Minnesota Statutes 2004, section 148C.11,

28 subdivision 5, is amended to read:

29 Subd. 5. [CITY, COUNTY, AND STATE AGENCY ALCOHOL AND DRUG

30 COUNSELORS.] Effective January 1, ~~2006~~ 2007, city, county, and

31 state agencies employing alcohol and drug counselors shall be

32 required to employ licensed alcohol and drug counselors. An

33 alcohol and drug counselor employed by a city, county, or state

34 agency must be licensed as an alcohol and drug counselor in

35 accordance with this chapter.

36 Sec. 21. Minnesota Statutes 2004, section 148C.11,

1 subdivision 6, is amended to read:

2 Subd. 6. [TRANSITION PERIOD FOR HOSPITAL AND CITY, COUNTY,
3 AND STATE AGENCY ALCOHOL AND DRUG COUNSELORS.] For the period
4 between July 1, 2003, and January 1, ~~2006~~ 2007, the commissioner
5 shall grant a license to an individual who is employed as an
6 alcohol and drug counselor at a Minnesota school district or
7 hospital, or a city, county, or state agency in Minnesota, if
8 the individual meets the requirements in section 148C.0351 and:

9 (1) was employed as an alcohol and drug counselor at a
10 school district, a hospital, or a city, county, or state agency
11 before August 1, 2002; ~~{2}~~ has 8,000 hours of alcohol and drug
12 counselor work experience; ~~{3}~~ has completed a written case
13 presentation and satisfactorily passed an oral examination
14 established by the commissioner; ~~{4}~~ and has satisfactorily
15 passed a written examination as established by the commissioner;
16 ~~and-{5}-meets-the-requirements-in-section-148C-0351~~ or

17 (2) is credentialed as a board certified counselor (BCC) or
18 board certified counselor reciprocal (BCCR) by the Minnesota
19 Certification Board; or

20 (3) has 14,000 hours of supervised alcohol and drug
21 counselor work experience as documented by the employer.

22 Sec. 22. Minnesota Statutes 2004, section 148C.12,
23 subdivision 3, is amended to read:

24 Subd. 3. [TEMPORARY PERMIT FEE.] The initial fee for
25 applicants under section 148C.04, subdivision 6, paragraph (a),
26 is \$100. The fee for annual renewal of a temporary permit
27 is ~~is \$100~~ \$150, but when the first expiration date occurs in less
28 or more than one year, the fee must be prorated.

29 Sec. 23. Minnesota Statutes 2004, section 214.01,
30 subdivision 2, is amended to read:

31 Subd. 2. [HEALTH-RELATED LICENSING BOARD.] "Health-related
32 licensing board" means the Board of Examiners of Nursing Home
33 Administrators established pursuant to section 144A.19, the
34 Office of Unlicensed Complementary and Alternative Health Care
35 Practice established pursuant to section 146A.02, the Board of
36 Medical Practice created pursuant to section 147.01, the Board

1 of Nursing created pursuant to section 148.181, the Board of
 2 Chiropractic Examiners established pursuant to section 148.02,
 3 the Board of Optometry established pursuant to section 148.52,
 4 the Board of Physical Therapy established pursuant to section
 5 148.67, the Board of Psychology established pursuant to section
 6 148.90, the Board of Social Work pursuant to section 148B.19,
 7 the Board of Marriage and Family Therapy pursuant to section
 8 148B.30, the Office of Mental Health Practice established
 9 pursuant to section 148B.61, the Board of Behavioral Health and
 10 Therapy established by section 148B.51, ~~the Alcohol and Drug~~
 11 ~~Counselors Licensing Advisory Council established pursuant to~~
 12 ~~section 148E.02~~, the Board of Dietetics and Nutrition Practice
 13 established under section 148.622, the Board of Dentistry
 14 established pursuant to section 150A.02, the Board of Pharmacy
 15 established pursuant to section 151.02, the Board of Podiatric
 16 Medicine established pursuant to section 153.02, and the Board
 17 of Veterinary Medicine, established pursuant to section 156.01.

18 Sec. 24. Minnesota Statutes 2004, section 214.103,
 19 subdivision 1, is amended to read:

20 Subdivision 1. [APPLICATION.] For purposes of this
 21 section, "board" means "health-related licensing board" and does
 22 not include ~~the Alcohol and Drug Counselors Licensing Advisory~~
 23 ~~Council established pursuant to section 148E.02~~, or the
 24 non-health-related licensing boards. Nothing in this section
 25 supersedes section 214.10, subdivisions 2a, 3, 8, and 9, as they
 26 apply to the health-related licensing boards.

27 Sec. 25. [AUTHORIZATION FOR EXPEDITED RULEMAKING
 28 AUTHORITY.]

29 The Board of Behavioral Health and Therapy may use the
 30 expedited rulemaking process under Minnesota Statutes, section
 31 14.389, for adopting and amending rules to conform with sections
 32 1 to 10.

33 Sec. 26. [REPEALER.]

34 (a) Minnesota Statutes 2004, sections 148C.02 and 148C.12,
 35 subdivision 4, are repealed.

36 (b) Minnesota Rules, parts 4747.0030, subparts 11 and 16;

1 4747.1200; and 4747.1300, are repealed.

2 Sec. 27. [EFFECTIVE DATE.]

3 This article is effective July 1, 2005.

4 ARTICLE 6

5 BOARD OF MEDICAL PRACTICE

6 (PHYSICIAN ASSISTANTS AND RESPIRATORY CARE PRACTITIONERS)

7 Section 1. Minnesota Statutes 2004, section 147A.18,
8 subdivision 1, is amended to read:

9 Subdivision 1. [DELEGATION.] (a) A supervising physician
10 may delegate to a physician assistant who is registered with the
11 board, certified by the National Commission on Certification of
12 Physician Assistants or successor agency approved by the board,
13 and who is under the supervising physician's supervision, the
14 authority to prescribe, dispense, and administer legend drugs,
15 medical devices, and controlled substances subject to the
16 requirements in this section. The authority to dispense
17 includes, but is not limited to, the authority to request,
18 receive, and dispense sample drugs. This authority to dispense
19 extends only to those drugs described in the written agreement
20 developed under paragraph (b).

21 (b) The agreement between the physician assistant and
22 supervising physician and any alternate supervising physicians
23 must include a statement by the supervising physician regarding
24 delegation or nondelegation of the functions of prescribing,
25 dispensing, and administering of legend drugs and medical
26 devices to the physician assistant. The statement must include
27 a protocol indicating categories of drugs for which the
28 supervising physician delegates prescriptive and dispensing
29 authority. The delegation must be appropriate to the physician
30 assistant's practice and within the scope of the physician
31 assistant's training. Physician assistants who have been
32 delegated the authority to prescribe, dispense, and administer
33 legend drugs and medical devices shall provide evidence of
34 current certification by the National Commission on
35 Certification of Physician Assistants or its successor agency
36 when registering or reregistering as physician assistants.

1 Physician assistants who have been delegated the authority to
2 prescribe controlled substances must present evidence of the
3 certification and hold a valid DEA certificate. Supervising
4 physicians shall retrospectively review the prescribing,
5 dispensing, and administering of legend and controlled drugs and
6 medical devices by physician assistants, when this authority has
7 been delegated to the physician assistant as part of the
8 delegation agreement between the physician and the physician
9 assistant. This review must take place ~~at-least-weekly~~ as
10 outlined in the internal protocol. The process and schedule for
11 the review must be outlined in the delegation agreement.

12 (c) The board may establish by rule:

13 (1) a system of identifying physician assistants eligible
14 to prescribe, administer, and dispense legend drugs and medical
15 devices;

16 (2) a system of identifying physician assistants eligible
17 to prescribe, administer, and dispense controlled substances;

18 (3) a method of determining the categories of legend and
19 controlled drugs and medical devices that each physician
20 assistant is allowed to prescribe, administer, and dispense; and

21 (4) a system of transmitting to pharmacies a listing of
22 physician assistants eligible to prescribe legend and controlled
23 drugs and medical devices.

24 Sec. 2. Minnesota Statutes 2004, section 147A.18,
25 subdivision 3, is amended to read:

26 Subd. 3. [OTHER REQUIREMENTS AND RESTRICTIONS.] (a) The
27 supervising physician and the physician assistant must complete,
28 sign, and date an internal protocol which lists each category of
29 drug or medical device, or controlled substance the physician
30 assistant may prescribe, dispense, and administer. The
31 supervising physician and physician assistant shall submit the
32 internal protocol to the board upon request. The supervising
33 physician may amend the internal protocol as necessary, within
34 the limits of the completed delegation form in subdivision 5.
35 The supervising physician and physician assistant must sign and
36 date any amendments to the internal protocol. Any amendments

1 resulting in a change to an addition or deletion to categories
2 delegated in the delegation form in subdivision 5 must be
3 submitted to the board according to this chapter, along with the
4 fee required.

5 (b) The supervising physician and physician assistant shall
6 review delegation of prescribing, dispensing, and administering
7 authority on an annual basis at the time of reregistration. The
8 internal protocol must be signed and dated by the supervising
9 physician and physician assistant after review. Any amendments
10 to the internal protocol resulting in changes to the delegation
11 form in subdivision 5 must be submitted to the board according
12 to this chapter, along with the fee required.

13 (c) Each prescription initiated by a physician assistant
14 shall indicate the following:

- 15 (1) the date of issue;
- 16 (2) the name and address of the patient;
- 17 (3) the name and quantity of the drug prescribed;
- 18 (4) directions for use; and
- 19 (5) the name, and address, ~~and telephone number~~ of the
20 prescribing physician assistant ~~and of the physician serving as~~
21 supervisor.

22 (d) In prescribing, dispensing, and administering legend
23 drugs and medical devices, including controlled substances as
24 defined in section 152.01, subdivision 4, a physician assistant
25 must conform with the agreement, chapter 151, and this chapter.

26 Sec. 3. Minnesota Statutes 2004, section 147C.05, is
27 amended to read:

28 147C.05 [SCOPE OF PRACTICE.]

29 (a) The practice of respiratory care by a registered
30 respiratory care practitioner includes, but is not limited to,
31 the following services:

- 32 (1) providing and monitoring therapeutic administration of
33 medical gases, aerosols, humidification, and pharmacological
34 agents related to respiratory care procedures, but not including
35 administration of general anesthesia;

36 (2) carrying out therapeutic application and monitoring of

1 mechanical ventilatory support;

2 (3) providing cardiopulmonary resuscitation and maintenance
3 of natural airways and insertion and maintenance of artificial
4 airways;

5 (4) assessing and monitoring signs, symptoms, and general
6 behavior relating to, and general physical response to,
7 respiratory care treatment or evaluation for treatment and
8 diagnostic testing, including determination of whether the
9 signs, symptoms, reactions, behavior, or general response
10 exhibit abnormal characteristics;

11 (5) obtaining physiological specimens and interpreting
12 physiological data including:

13 (i) analyzing arterial and venous blood gases;

14 (ii) assessing respiratory secretions;

15 (iii) measuring ventilatory volumes, pressures, and flows;

16 (iv) testing pulmonary function;

17 (v) testing and studying the cardiopulmonary system; and

18 (vi) diagnostic testing of breathing patterns related to
19 sleep disorders;

20 (6) assisting hemodynamic monitoring and support of the
21 cardiopulmonary system;

22 (7) assessing and making suggestions for modifications in
23 the treatment regimen based on abnormalities, protocols, or
24 changes in patient response to respiratory care treatment;

25 (8) providing cardiopulmonary rehabilitation including
26 respiratory-care related educational components, postural
27 drainage, chest physiotherapy, breathing exercises, aerosolized
28 administration of medications, and equipment use and
29 maintenance;

30 (9) instructing patients and their families in techniques
31 for the prevention, alleviation, and rehabilitation of
32 deficiencies, abnormalities, and diseases of the cardiopulmonary
33 system; and

34 (10) transcribing and implementing physician orders for
35 respiratory care services.

36 (b) Patient service by a practitioner must be limited to:

1 (1) services within the training and experience of the
2 practitioner; and

3 (2) services within the parameters of the laws, rules, and
4 standards of the facilities in which the respiratory care
5 practitioner practices.

6 (c) Respiratory care services provided by a registered
7 respiratory care practitioner, whether delivered in a health
8 care facility or the patient's residence, must not be provided
9 except upon referral from a physician.

10 (d) This section does not prohibit an individual licensed
11 or registered as a respiratory therapist in another state or
12 country from providing respiratory care in an emergency in this
13 state, providing respiratory care as a member of an organ
14 harvesting team, or from providing respiratory care on board an
15 ambulance as part of an ambulance treatment team.

16 ARTICLE 7

17 COMMISSIONER OF HEALTH - AUDIOLOGISTS

18 Section 1. Minnesota Statutes 2004, section 148.512,
19 subdivision 6, is amended to read:

20 Subd. 6. [AUDIOLOGIST.] "Audiologist" means a natural
21 person who engages in the practice of audiology, meets the
22 qualifications required by sections 148.511 to ~~148.5196~~
23 148.5198, and is licensed by the commissioner under a general,
24 clinical fellowship, doctoral externship, or temporary license.
25 Audiologist also means a natural person using any descriptive
26 word with the title audiologist.

27 Sec. 2. Minnesota Statutes 2004, section 148.512, is
28 amended by adding a subdivision to read:

29 Subd. 10a. [HEARING AID.] "Hearing aid" means an
30 instrument, or any of its parts, worn in the ear canal and
31 designed to or represented as being able to aid or enhance human
32 hearing. "Hearing aid" includes the aid's parts, attachments,
33 or accessories, including, but not limited to, ear molds and
34 behind the ear (BTE) devices with or without an ear mold.
35 Batteries and cords are not parts, attachments, or accessories
36 of a hearing aid. Surgically implanted hearing aids, and

1 assistive listening devices not worn within the ear canal, are
2 not hearing aids.

3 Sec. 3. Minnesota Statutes 2004, section 148.512, is
4 amended by adding a subdivision to read:

5 Subd. 10b. [HEARING AID DISPENSING.] "Hearing aid
6 dispensing" means making ear mold impressions, prescribing, or
7 recommending a hearing aid, assisting the consumer in aid
8 selection, selling hearing aids at retail, or testing human
9 hearing in connection with these activities regardless of
10 whether the person conducting these activities has a monetary
11 interest in the dispensing of hearing aids to the consumer.

12 Sec. 4. Minnesota Statutes 2004, section 148.513, is
13 amended by adding a subdivision to read:

14 Subd. 2a. [HEARING AID DISPENSERS.] An audiologist must
15 not hold out as a licensed hearing aid dispenser.

16 Sec. 5. Minnesota Statutes 2004, section 148.515, is
17 amended by adding a subdivision to read:

18 Subd. 6. [DISPENSING AUDIOLOGIST EXAMINATION
19 REQUIREMENTS.] (a) Audiologists are exempt from the written
20 examination requirement in section 153A.14, subdivision 2h,
21 paragraph (a), clause (1).

22 (b) After July 31, 2005, all applicants for audiologist
23 licensure under sections 148.512 to 148.5198 must achieve a
24 passing score on the practical tests of proficiency described in
25 section 153A.14, subdivision 2h, paragraph (a), clause (2),
26 within the time period described in section 153A.14, subdivision
27 2h, paragraph (c).

28 (c) In order to dispense hearing aids as a sole proprietor,
29 member of a partnership, or for a limited liability company,
30 corporation, or any other entity organized for profit, a
31 licensee who obtained audiologist licensure under sections
32 148.512 to 148.5198, before August 1, 2005, and who is not
33 certified to dispense hearing aids under chapter 153A, must
34 achieve a passing score on the practical tests of proficiency
35 described in section 153A.14, subdivision 2h, paragraph (a),
36 clause (2), within the time period described in section 153A.14,

1 subdivision 2h, paragraph (c). All other audiologist licensees
2 who obtained licensure before August 1, 2005, are exempt from
3 the practical tests.

4 Sec. 6. Minnesota Statutes 2004, section 148.5194, is
5 amended by adding a subdivision to read:

6 Subd. 7. [AUDIOLOGIST SURCHARGE FEE.] (a) The biennial
7 surchARGE fee for audiologists is \$235. The commissioner shall
8 prorate the fee for clinical fellowship, doctoral externship,
9 temporary, and first time licensees according to the number of
10 months that have elapsed between the date the license is issued
11 and the date the license expires or must be renewed under
12 section 148.5191, subdivision 4.

13 (b) Effective November 1, 2005, the commissioner shall
14 collect the \$235 audiologist surcharge fee prorated according to
15 the number of months remaining until the next scheduled license
16 renewal.

17 Sec. 7. Minnesota Statutes 2004, section 148.5195,
18 subdivision 3, is amended to read:

19 Subd. 3. [GROUNDS FOR DISCIPLINARY ACTION BY
20 COMMISSIONER.] The commissioner may take any of the disciplinary
21 actions listed in subdivision 4 on proof that the individual has:

22 (1) intentionally submitted false or misleading information
23 to the commissioner or the advisory council;

24 (2) failed, within 30 days, to provide information in
25 response to a written request, via certified mail, by the
26 commissioner or advisory council;

27 (3) performed services of a speech-language pathologist or
28 audiologist in an incompetent or negligent manner;

29 (4) violated sections 148.511 to ~~148-5196~~ 148.5198;

30 (5) failed to perform services with reasonable judgment,
31 skill, or safety due to the use of alcohol or drugs, or other
32 physical or mental impairment;

33 (6) violated any state or federal law, rule, or regulation,
34 and the violation is a felony or misdemeanor, an essential
35 element of which is dishonesty, or which relates directly or
36 indirectly to the practice of speech-language pathology or

1 audiology. Conviction for violating any state or federal law
2 which relates to speech-language pathology or audiology is
3 necessarily considered to constitute a violation, except as
4 provided in chapter 364;

5 (7) aided or abetted another person in violating any
6 provision of sections 148.511 to ~~148.5196~~ 148.5198;

7 (8) been or is being disciplined by another jurisdiction,
8 if any of the grounds for the discipline is the same or
9 substantially equivalent to those under sections 148.511 to
10 148.5196;

11 (9) not cooperated with the commissioner or advisory
12 council in an investigation conducted according to subdivision
13 1;

14 (10) advertised in a manner that is false or misleading;

15 (11) engaged in conduct likely to deceive, defraud, or harm
16 the public; or demonstrated a willful or careless disregard for
17 the health, welfare, or safety of a client;

18 (12) failed to disclose to the consumer any fee splitting
19 or any promise to pay a portion of a fee to any other
20 professional other than a fee for services rendered by the other
21 professional to the client;

22 (13) engaged in abusive or fraudulent billing practices,
23 including violations of federal Medicare and Medicaid laws, Food
24 and Drug Administration regulations, or state medical assistance
25 laws;

26 (14) obtained money, property, or services from a consumer
27 through the use of undue influence, high pressure sales tactics,
28 harassment, duress, deception, or fraud;

29 (15) performed services for a client who had no possibility
30 of benefiting from the services;

31 (16) failed to refer a client for medical evaluation or to
32 other health care professionals when appropriate or when a
33 client indicated symptoms associated with diseases that could be
34 medically or surgically treated;

35 (17) ~~if-the-individual-is-a-dispenser-of-hearing~~
36 ~~instruments-as-defined-by-section-153A-13,-subdivision-5,~~ had

1 the certification required by chapter 153A, denied, suspended,
2 or revoked according to chapter 153A;

3 (18) used the term doctor of audiology, doctor of
4 speech-language pathology, AuD, or SLPD without having obtained
5 the degree from an institution accredited by the North Central
6 Association of Colleges and Secondary Schools, the Council on
7 Academic Accreditation in Audiology and Speech-Language
8 Pathology, the United States Department of Education, or an
9 equivalent; ~~or~~

10 (19) failed to comply with the requirements of section
11 148.5192 regarding supervision of speech-language pathology
12 assistants; or

13 (20) if the individual is an audiologist or certified
14 hearing aid dispenser:

15 (i) prescribed or otherwise recommended to a consumer or
16 potential consumer the use of a hearing aid, unless the
17 prescription from a physician or recommendation from an
18 audiologist or certified dispenser is in writing, is based on an
19 audiogram that is delivered to the consumer or potential
20 consumer when the prescription or recommendation is made, and
21 bears the following information in all capital letters of
22 12-point or larger boldface type: "THIS PRESCRIPTION OR
23 RECOMMENDATION MAY BE FILLED BY, AND HEARING AIDS MAY BE
24 PURCHASED FROM, THE LICENSED AUDIOLOGIST OR CERTIFIED DISPENSER
25 OF YOUR CHOICE";

26 (ii) failed to give a copy of the audiogram, upon which the
27 prescription or recommendation is based, to the consumer when
28 the consumer requests a copy;

29 (iii) failed to provide the consumer rights brochure
30 required by section 148.5197, subdivision 3;

31 (iv) failed to comply with restrictions on sales of hearing
32 aids in sections 148.5197, subdivision 3, and 148.5198;

33 (v) failed to return a consumer's hearing aid used as a
34 trade-in or for a discount in the price of a new hearing aid
5 when requested by the consumer upon cancellation of the purchase
36 agreement;

1 (vi) failed to follow Food and Drug Administration or
2 Federal Trade Commission regulations relating to dispensing
3 hearing aids;

4 (vii) failed to dispense a hearing aid in a competent
5 manner or without appropriate training;

6 (viii) delegated hearing instrument dispensing authority to
7 a person not authorized to dispense a hearing instrument under
8 this chapter or chapter 153A;

9 (ix) failed to comply with the requirements of an employer
10 or supervisor of a hearing aid dispenser trainee; or

11 (x) violated a state or federal court order or judgment,
12 including a conciliation court judgment, relating to the
13 activities of the individual's hearing aid dispensing.

14 Sec. 8. Minnesota Statutes 2004, section 148.5196,
15 subdivision 1, is amended to read:

16 Subdivision 1. [MEMBERSHIP.] The commissioner shall
17 appoint ~~eight~~ 12 persons to a Speech-Language Pathologist and
18 Audiologist Advisory Council. The ~~eight~~ 12 persons must include:

19 (1) ~~two~~ three public members, as defined in section 214.02.
20 Two of the public members shall be either persons receiving
21 services of a speech-language pathologist or audiologist, or
22 family members of or caregivers to such persons, and at least
23 one of the public members shall be either a hearing instrument
24 user or an advocate of one;

25 (2) ~~two~~ three speech-language pathologists licensed under
26 sections 148.511 to 148.5196, one of whom is currently and has
27 been, for the five years immediately preceding the appointment,
28 engaged in the practice of speech-language pathology in
29 Minnesota and each of whom is employed in a different employment
30 setting including, but not limited to, private practice,
31 hospitals, rehabilitation settings, educational settings, and
32 government agencies;

33 (3) one speech-language pathologist licensed under sections
34 148.511 to 148.5196, who is currently and has been, for the five
35 years immediately preceding the appointment, employed by a
36 Minnesota public school district or a Minnesota public school

1 district consortium that is authorized by Minnesota Statutes and
2 who is licensed in speech-language pathology by the Minnesota
3 Board of Teaching;

4 (4) ~~two~~ three audiologists licensed under sections 148.511
5 to 148.5196, ~~one~~ two of whom ~~is~~ are currently and ~~has~~ have
6 been, for the five years immediately preceding the appointment,
7 engaged in the practice of audiology and the dispensing of
8 hearing instruments in Minnesota and each of whom is employed in
9 a different employment setting including, but not limited to,
10 private practice, hospitals, rehabilitation settings,
11 educational settings, industry, and government agencies; and

12 (5) one nonaudiologist hearing instrument dispenser
13 recommended by a professional association representing hearing
14 instrument dispensers; and

15 (6) one physician licensed under chapter 147 and certified
16 by the American Board of Otolaryngology, Head and Neck Surgery.

17 Sec. 9. [148.5197] [HEARING AID DISPENSING.]

18 Subdivision 1. [CONTENT OF CONTRACTS.] Oral statements
19 made by an audiologist or certified dispenser regarding the
20 provision of warranties, refunds, and service on the hearing aid
21 or aids dispensed must be written on, and become part of, the
22 contract of sale, specify the item or items covered, and
23 indicate the person or business entity obligated to provide the
24 warranty, refund, or service.

25 Subd. 2. [REQUIRED USE OF LICENSE NUMBER.] The
26 audiologist's license number or certified dispenser's
27 certificate number must appear on all contracts, bills of sale,
28 and receipts used in the sale of hearing aids.

29 Subd. 3. [CONSUMER RIGHTS INFORMATION.] An audiologist or
30 certified dispenser shall, at the time of the recommendation or
31 prescription, give a consumer rights brochure, prepared by the
32 commissioner and containing information about legal requirements
33 pertaining to dispensing of hearing aids, to each potential
34 consumer of a hearing aid. The brochure must contain
35 information about the consumer information center described in
36 section 153A.18. A contract for a hearing aid must note the

1 receipt of the brochure by the consumer, along with the
2 consumer's signature or initials.

3 Subd. 4. [LIABILITY FOR CONTRACTS.] Owners of entities in
4 the business of dispensing hearing aids, employers of
5 audiologists or persons who dispense hearing aids, supervisors
6 of trainees or audiology students, and hearing aid dispensers
7 conducting the transaction at issue are liable for satisfying
8 all terms of contracts, written or oral, made by their agents,
9 employees, assignees, affiliates, or trainees, including terms
10 relating to products, repairs, warranties, service, and
11 refunds. The commissioner may enforce the terms of hearing aid
12 contracts against the principal, employer, supervisor, or
13 dispenser who conducted the transaction and may impose any
14 remedy provided for in this chapter.

15 Sec. 10. [148.5198] [RESTRICTION ON SALE OF HEARING AIDS.]

16 Subdivision 1. [45-CALENDAR-DAY GUARANTEE AND BUYER RIGHT
17 TO CANCEL.] (a) An audiologist or certified dispenser dispensing
18 a hearing aid in this state must comply with paragraphs (b) and
19 (c).

20 (b) The audiologist or certified dispenser must provide the
21 buyer with a 45-calendar-day written money-back guarantee. The
22 guarantee must permit the buyer to cancel the purchase for any
23 reason within 45 calendar days after receiving the hearing aid
24 by giving or mailing written notice of cancellation to the
25 audiologist or certified dispenser. If the buyer mails the
26 notice of cancellation, the 45-calendar-day period is counted
27 using the postmark date, to the date of receipt by the
28 audiologist or certified dispenser. If the hearing aid must be
29 repaired, remade, or adjusted during the 45-calendar-day
30 money-back guarantee period, the running of the 45-calendar-day
31 period is suspended one day for each 24-hour period that the
32 hearing aid is not in the buyer's possession. A repaired,
33 remade, or adjusted hearing aid must be claimed by the buyer
34 within three business days after notification of availability,
35 after which time the running of the 45-calendar-day period
36 resumes. The guarantee must entitle the buyer, upon

1 cancellation, to receive a refund of payment within 30 days of
2 return of the hearing aid to the audiologist or certified
3 dispenser. The audiologist or certified dispenser may retain as
4 a cancellation fee no more than \$250 of the buyer's total
5 purchase price of the hearing aid.

6 (c) The audiologist or certified dispenser shall provide
7 the buyer with a contract written in plain English, that
8 contains uniform language and provisions that meet the
9 requirements under the Plain Language Contract Act, sections
10 325G.29 to 325G.36. The contract must include, but is not
11 limited to, the following: in immediate proximity to the space
12 reserved for the signature of the buyer, or on the first page if
13 there is no space reserved for the signature of the buyer, a
14 clear and conspicuous disclosure of the following specific
15 statement in all capital letters of no less than 12-point
16 boldface type: "MINNESOTA STATE LAW GIVES THE BUYER THE RIGHT
17 TO CANCEL THIS PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO
18 MIDNIGHT OF THE 45TH CALENDAR DAY AFTER RECEIPT OF THE HEARING
19 AID(S). THIS CANCELLATION MUST BE IN WRITING AND MUST BE GIVEN
20 OR MAILED TO THE AUDIOLOGIST OR CERTIFIED DISPENSER. IF THE
21 BUYER DECIDES TO RETURN THE HEARING AID(S) WITHIN THIS
22 45-CALENDAR-DAY PERIOD, THE BUYER WILL RECEIVE A REFUND OF THE
23 TOTAL PURCHASE PRICE OF THE AID(S) FROM WHICH THE AUDIOLOGIST OR
24 CERTIFIED DISPENSER MAY RETAIN AS A CANCELLATION FEE NO MORE
25 THAN \$250."

26 Subd. 2. [ITEMIZED REPAIR BILL.] Any audiologist,
27 certified dispenser, or company who agrees to repair a hearing
28 aid must provide the owner of the hearing aid, or the owner's
29 representative, with a bill that describes the repair and
30 services rendered. The bill must also include the repairing
31 audiologist's, certified dispenser's, or company's name,
32 address, and telephone number.

33 This subdivision does not apply to an audiologist,
34 certified dispenser, or company that repairs a hearing aid
35 pursuant to an express warranty covering the entire hearing aid
36 and the warranty covers the entire cost, both parts and labor,

1 of the repair.

2 Subd. 3. [REPAIR WARRANTY.] Any guarantee of hearing aid
3 repairs must be in writing and delivered to the owner of the
4 hearing aid, or the owner's representative, stating the
5 repairing audiologist's, certified dispenser's, or company's
6 name, address, telephone number, length of guarantee, model, and
7 serial number of the hearing aid and all other terms and
8 conditions of the guarantee.

9 Subd. 4. [MISDEMEANOR.] A person found to have violated
10 this section is guilty of a misdemeanor.

11 Subd. 5. [ADDITIONAL.] In addition to the penalty provided
12 in subdivision 4, a person found to have violated this section
13 is subject to the penalties and remedies provided in section
14 325F.69, subdivision 1.

15 Subd. 6. [ESTIMATES.] Upon the request of the owner of a
16 hearing aid or the owner's representative for a written estimate
17 and prior to the commencement of repairs, a repairing
18 audiologist, certified dispenser, or company shall provide the
19 customer with a written estimate of the price of repairs. If a
20 repairing audiologist, certified dispenser, or company provides
21 a written estimate of the price of repairs, it must not charge
22 more than the total price stated in the estimate for the
23 repairs. If the repairing audiologist, certified dispenser, or
24 company after commencing repairs determines that additional work
25 is necessary to accomplish repairs that are the subject of a
26 written estimate and if the repairing audiologist, certified
27 dispenser, or company did not unreasonably fail to disclose the
28 possible need for the additional work when the estimate was
29 made, the repairing audiologist, certified dispenser, or company
30 may charge more than the estimate for the repairs if the
31 repairing audiologist, certified dispenser, or company
32 immediately provides the owner or owner's representative a
33 revised written estimate pursuant to this section and receives
34 authorization to continue with the repairs. If continuation of
35 the repairs is not authorized, the repairing audiologist,
36 certified dispenser, or company shall return the hearing aid as

1 close as possible to its former condition and shall release the
2 hearing aid to the owner or owner's representative upon payment
3 of charges for repairs actually performed and not in excess of
4 the original estimate.

5 Sec. 11. Minnesota Statutes 2004, section 153A.13,
6 subdivision 5, is amended to read:

7 Subd. 5. [DISPENSER OF HEARING INSTRUMENTS.] "Dispenser of
8 hearing instruments" means a natural person who engages in
9 hearing instrument dispensing whether or not certified by the
10 commissioner of health or licensed by an existing health-related
11 board, except that a person described as follows is not a
12 dispenser of hearing instruments:

13 (1) a student participating in supervised field work that
14 is necessary to meet requirements of an accredited educational
15 program if the student is designated by a title which clearly
16 indicates the student's status as a student trainee; or

17 (2) a person who helps a dispenser of hearing instruments
18 in an administrative or clerical manner and does not engage in
19 hearing instrument dispensing.

20 A person who offers to dispense a hearing instrument, or a
21 person who advertises, holds out to the public, or otherwise
22 represents that the person is authorized to dispense hearing
23 instruments must be certified by the commissioner except when
24 the person is an audiologist as defined in section 148.512.

25 Sec. 12. Minnesota Statutes 2004, section 153A.14,
26 subdivision 2h, is amended to read:

27 Subd. 2h. [CERTIFICATION BY EXAMINATION.] An applicant
28 must achieve a passing score, as determined by the commissioner,
29 on an examination according to paragraphs (a) to (c).

30 (a) The examination must include, but is not limited to:

31 (1) A written examination approved by the commissioner
32 covering the following areas as they pertain to hearing
33 instrument selling:

34 (i) basic physics of sound;

35 (ii) the anatomy and physiology of the ear;

36 (iii) the function of hearing instruments; and

1 (iv) the principles of hearing instrument selection, and
2 ~~(v) state and federal laws, rules, and regulations.~~

3 (2) Practical tests of proficiency in the following
4 techniques as they pertain to hearing instrument selling:

5 (i) pure tone audiometry, including air conduction testing
6 and bone conduction testing;

7 (ii) live voice or recorded voice speech audiometry
8 including speech recognition (discrimination) testing, most
9 comfortable loudness level, and uncomfortable loudness
10 measurements of tolerance thresholds;

11 (iii) masking when indicated;

12 (iv) recording and evaluation of audiograms and speech
13 audiometry to determine proper selection and fitting of a
14 hearing instrument;

15 (v) taking ear mold impressions; and

16 (vi) using an otoscope for the visual observation of the
17 entire ear canal; and

18 (vii) state and federal laws, rules, and regulations.

19 (b) The examination shall be administered by the
20 commissioner at least twice a year.

21 (c) An applicant must achieve a passing score on all
22 portions of the examination within a two-year period. An
23 applicant who does not achieve a passing score on all portions
24 of the examination within a two-year period must retake the
25 entire examination and achieve a passing score on each portion
26 of the examination. An applicant who does not apply for
27 certification within one year of successful completion of the
28 examination must retake the examination and achieve a passing
29 score on each portion of the examination. An applicant may not
30 take any part of the examination more than three times in a
31 two-year period.

32 Sec. 13. Minnesota Statutes 2004, section 153A.14,
33 subdivision 2i, is amended to read:

34 Subd. 2i. [CONTINUING EDUCATION REQUIREMENT.] On forms
35 provided by the commissioner, each certified dispenser must
36 submit with the application for renewal of certification

1 evidence of completion of ten course hours of continuing
2 education earned within the 12-month period of July 1 to June 30
3 immediately preceding renewal. Continuing education courses
4 must be directly related to hearing instrument dispensing and
5 approved by the International Hearing Society ~~or-qualify-for~~
6 ~~continuing-education-approved-for-Minnesota-licensed~~
7 audiologists. Evidence of completion of the ten course hours of
8 continuing education must be submitted with renewal applications
9 by October 1 of each year. This requirement does not apply to
10 dispensers certified for less than one year. The first report
11 of evidence of completion of the continuing education credits
12 shall be due October 1, 1997.

13 Sec. 14. Minnesota Statutes 2004, section 153A.14,
14 subdivision 4, is amended to read:

15 Subd. 4. [DISPENSING OF HEARING INSTRUMENTS WITHOUT
16 CERTIFICATE.] Except as provided in subdivisions 4a and 4c, and
17 in sections 148.512 to 148.5198, it is unlawful for any person
18 not holding a valid certificate to dispense a hearing instrument
19 as defined in section 153A.13, subdivision 3. A person who
20 dispenses a hearing instrument without the certificate required
21 by this section is guilty of a gross misdemeanor.

22 Sec. 15. Minnesota Statutes 2004, section 153A.14,
23 subdivision 4c, is amended to read:

24 Subd. 4c. [RECIPROCITY.] (a) A person applying for
25 certification as a hearing instrument dispenser under
26 subdivision 1 who has dispensed hearing instruments in another
27 jurisdiction may dispense hearing instruments as a trainee under
28 indirect supervision if the person:

29 (1) satisfies the provisions of subdivision 4a, paragraph
30 (a);

31 (2) submits a signed and dated affidavit stating that the
32 applicant is not the subject of a disciplinary action or past
33 disciplinary action in this or another jurisdiction and is not
34 disqualified on the basis of section 153A.15, subdivision 1; and

35 (3) provides a copy of a current credential as a hearing
36 instrument dispenser, ~~an audiologist, or both,~~ held in the

1 District of Columbia or a state or territory of the United
2 States.

3 (b) A person becoming a trainee under this subdivision who
4 fails to take and pass the practical examination described in
5 subdivision 2h, paragraph (a), clause (2), when next offered
6 must cease dispensing hearing instruments unless under direct
7 supervision.

8 Sec. 16. Minnesota Statutes 2004, section 153A.14,
9 subdivision 9, is amended to read:

10 Subd. 9. [CONSUMER RIGHTS INFORMATION.] A hearing
11 instrument dispenser shall ~~at the time of the recommendation or~~
12 ~~prescription, give a consumer rights brochure, prepared by the~~
13 ~~commissioner and containing information about legal requirements~~
14 ~~pertaining to sales of hearing instruments, to each potential~~
15 ~~buyer of a hearing instrument. A sales contract for a hearing~~
16 ~~instrument must note the receipt of the brochure by the buyer,~~
17 ~~along with the buyer's signature or initials~~ comply with the
18 requirements of sections 148.5195, subdivision 3, clause (20);
19 148.5197; and 148.5198.

20 Sec. 17. Minnesota Statutes 2004, section 153A.15,
21 subdivision 1, is amended to read:

22 Subdivision 1. [PROHIBITED ACTS.] The commissioner may
23 take enforcement action as provided under subdivision 2 against
24 a dispenser of hearing instruments for the following acts and
25 conduct:

26 (1) ~~prescribing or otherwise recommending to a consumer or~~
27 ~~potential consumer the use of a hearing instrument, unless the~~
28 ~~prescription from a physician or recommendation from a hearing~~
29 ~~instrument dispenser or audiologist is in writing, is based on~~
30 ~~an audiogram that is delivered to the consumer or potential~~
31 ~~consumer when the prescription or recommendation is made, and~~
32 ~~bears the following information in all capital letters of~~
33 ~~12-point or larger boldface type: "THIS PRESCRIPTION OR~~
34 ~~RECOMMENDATION MAY BE FILLED BY, AND HEARING INSTRUMENTS MAY BE~~
35 ~~PURCHASED FROM, THE CERTIFIED DISPENSER OR LICENSED AUDIOLOGIST~~
36 ~~OF YOUR CHOICE";~~

1 ~~(2)-failing-to-give-a-copy-of-the-audiogram,-upon-which-the~~
2 ~~prescription-or-recommendation-is-based,-to-the-consumer-when~~
3 ~~there-has-been-a-charge-for-the-audiogram-and-the-consumer~~
4 ~~requests-a-copy;~~

5 (3) dispensing a hearing instrument to a minor person 18
6 years or younger unless evaluated by an audiologist for hearing
7 evaluation and hearing aid evaluation;

8 ~~(4)-failing-to-provide-the-consumer-rights-brochure~~
9 ~~required-by-section-153A.14,-subdivision-9;~~

10 (5) (2) being disciplined through a revocation, suspension,
11 restriction, or limitation by another state for conduct subject
12 to action under this chapter;

13 (6) (3) presenting advertising that is false or misleading;

14 (7) (4) providing the commissioner with false or misleading
15 statements of credentials, training, or experience;

16 (8) (5) engaging in conduct likely to deceive, defraud, or
17 harm the public; or demonstrating a willful or careless
18 disregard for the health, welfare, or safety of a consumer;

19 (9) (6) splitting fees or promising to pay a portion of a
20 fee to any other professional other than a fee for services
21 rendered by the other professional to the client;

22 (10) (7) engaging in abusive or fraudulent billing
23 practices, including violations of federal Medicare and Medicaid
24 laws, Food and Drug Administration regulations, or state medical
25 assistance laws;

26 (11) (8) obtaining money, property, or services from a
27 consumer through the use of undue influence, high pressure sales
28 tactics, harassment, duress, deception, or fraud;

29 ~~(12)-failing-to-comply-with-restrictions-on-sales-of~~
30 ~~hearing-aids-in-sections-153A.14,-subdivision-9,-and-153A.19;~~

31 (13) (9) performing the services of a certified hearing
32 instrument dispenser in an incompetent or negligent manner;

33 (14) (10) failing to comply with the requirements of this
34 chapter as an employer, supervisor, or trainee;

5 (15) (11) failing to provide information in a timely manner
36 in response to a request by the commissioner, commissioner's

1 designee, or the advisory council;

2 ~~{16}~~ (12) being convicted within the past five years of
3 violating any laws of the United States, or any state or
4 territory of the United States, and the violation is a felony,
5 gross misdemeanor, or misdemeanor, an essential element of which
6 relates to hearing instrument dispensing, except as provided in
7 chapter 364;

8 ~~{17}~~ (13) failing to cooperate with the commissioner, the
9 commissioner's designee, or the advisory council in any
10 investigation;

11 ~~{18}~~ (14) failing to perform hearing instrument dispensing
12 with reasonable judgment, skill, or safety due to the use of
13 alcohol or drugs, or other physical or mental impairment;

14 ~~{19}~~ (15) failing to fully disclose actions taken against
15 the applicant or the applicant's legal authorization to dispense
16 hearing instruments in this or another state;

17 ~~{20}~~ (16) violating a state or federal court order or
18 judgment, including a conciliation court judgment, relating to
19 the activities of the applicant in hearing instrument
20 dispensing;

21 ~~{21}~~ (17) having been or being disciplined by the
22 commissioner of the Department of Health, or other authority, in
23 this or another jurisdiction, if any of the grounds for the
24 discipline are the same or substantially equivalent to those in
25 sections 153A.13 to 153A.19;

26 ~~{22}~~ (18) misrepresenting the purpose of hearing tests, or
27 in any way communicating that the hearing test or hearing test
28 protocol required by section 153A.14, subdivision 4b, is a
29 medical evaluation, a diagnostic hearing evaluation conducted by
30 an audiologist, or is other than a test to select a hearing
31 instrument, except that the hearing instrument dispenser can
32 determine the need for or recommend the consumer obtain a
33 medical evaluation consistent with requirements of the United
34 States Food and Drug Administration;

35 ~~{23}~~ (19) violating any of the provisions of sections
36 148.5195, subdivision 3, clause (20); 148.5197; 148.5198; and

1 153A.13 to ~~153A.19~~ 153A.18; and

2 ~~(24)~~ (20) aiding or abetting another person in violating
3 any of the provisions of sections 148.5195, subdivision 3,
4 clause (20); 148.5197; 148.5198; and 153A.13 to ~~153A.19~~ 153A.18.

5 Sec. 18. Minnesota Statutes 2004, section 153A.20,
6 subdivision 1, is amended to read:

7 Subdivision 1. [MEMBERSHIP.] The commissioner shall
8 appoint ~~nine~~ seven persons to a Hearing Instrument Dispenser
9 Advisory Council.

10 (a) The ~~nine~~ seven persons must include:

11 (1) three public members, as defined in section 214.02. At
12 least one of the public members shall be a hearing instrument
13 user and one of the public members shall be either a hearing
14 instrument user or an advocate of one; and

15 (2) three hearing instrument dispensers certified under
16 sections 153A.14 to 153A.20, each of whom is currently, and has
17 been for the five years immediately preceding their appointment,
18 engaged in hearing instrument dispensing in Minnesota and who
19 represent the occupation of hearing instrument dispensing and
20 who are not audiologists; and

21 ~~(3) three audiologists who are certified hearing instrument~~
22 ~~dispensers or are~~ one audiologist licensed as audiologists an
23 audiologist under chapter 148 who dispenses hearing instruments,
24 recommended by a professional association representing
25 audiologists and speech-language pathologists.

26 (b) The factors the commissioner may consider when
27 appointing advisory council members include, but are not limited
28 to, professional affiliation, geographical location, and type of
29 practice.

30 (c) No two members of the advisory council shall be
31 employees of, or have binding contracts requiring sales
32 exclusively for, the same hearing instrument manufacturer or the
33 same employer.

34 Sec. 19. [REVISOR'S INSTRUCTION.]

35 The revisor of statutes shall change references from
36 "sections 148.511 to 148.5196" to "sections 148.511 to 148.5198"

1 wherever they appear in Minnesota Statutes and Minnesota Rules,
2 and change "153A.19" to "148.5197" in Minnesota Statutes,
3 section 325G.203.

4 Sec. 20. [REPEALER.]

5 Minnesota Statutes 2004, sections 153A.14, subdivisions 2a,
6 8, and 10; and 153A.19, are repealed.

7 Sec. 21. [EFFECTIVE DATE.]

8 Sections 1 to 18 and 20 are effective August 1, 2005.

9 ARTICLE 8

10 OFFICE OF MENTAL HEALTH PRACTICES COMMITTEE

11 Section 1. Minnesota Statutes 2004, section 148B.60, is
12 amended to read:

13 148B.60 [DEFINITIONS.]

14 Subdivision 1. [TERMS.] As used in sections 148B.60 to
15 148B.71, the following terms have the meanings given them in
16 this section.

17 Subd. 2. [OFFICE OF MENTAL HEALTH PRACTICE OR OFFICE.]

18 "Office of Mental Health Practice" or "office" means the Office
19 of Mental Health Practice ~~established~~ authorized in section
20 148B.61.

21 Subd. 3. [UNLICENSED MENTAL HEALTH PRACTITIONER OR
22 PRACTITIONER.] "Unlicensed mental health practitioner" or
23 "practitioner" means a person who provides or purports to
24 provide, for remuneration, mental health services as defined in
25 subdivision 4. It does not include persons licensed by the
26 Board of Medical Practice under chapter 147 or registered by the
27 Board of Medical Practice under chapter 147A; the Board of
28 Nursing under sections 148.171 to 148.285; the Board of
29 Psychology under sections 148.88 to 148.98; the Board of Social
30 Work under sections 148B.18 to 148B.289; the Board of Marriage
31 and Family Therapy under sections 148B.29 to 148B.39; the Board
32 of Behavioral Health and Therapy under sections 148B.50 to
33 148B.593 and chapter 148C; or another licensing board if the
34 person is practicing within the scope of the license; members of
35 the clergy who are providing pastoral services in the context of
36 performing and fulfilling the salaried duties and obligations

1 required of a member of the clergy by a religious congregation;
2 American Indian medicine men and women; licensed attorneys;
3 probation officers; school counselors employed by a school
4 district while acting within the scope of employment as school
5 counselors; registered licensed occupational therapists;
6 or licensed occupational therapy assistants. For the purposes
7 of complaint investigation or disciplinary action relating to an
8 individual practitioner, the term includes:

9 (1) persons employed by a program licensed by the
10 commissioner of human services who are acting as mental health
11 practitioners within the scope of their employment;

12 (2) persons employed by a program licensed by the
13 commissioner of human services who are providing chemical
14 dependency counseling services; persons who are providing
15 chemical dependency counseling services in private practice; and

16 (3) clergy who are providing mental health services that
17 are equivalent to those defined in subdivision 4.

18 Subd. 4. [MENTAL HEALTH SERVICES.] "Mental health
19 services" means psychotherapy, behavioral health care, spiritual
20 counseling, hypnosis when not for entertainment, and the
21 professional assessment, treatment, or counseling of another
22 person for a cognitive, behavioral, emotional, social, or mental
23 condition, symptom, or dysfunction, including intrapersonal or
24 interpersonal dysfunctions. The term does not include pastoral
25 services provided by members of the clergy to members of a
26 religious congregation in the context of performing and
27 fulfilling the salaried duties and obligations required of a
28 member of the clergy by that religious congregation or services
29 provided by Christian Scientist practitioners.

30 Subd. 5. [MENTAL HEALTH CLIENT OR CLIENT.] "Mental health
31 client" or "client" means a person who receives or pays for the
32 services of a mental health practitioner.

33 Subd. 5a. [MENTAL-HEALTH-RELATED LICENSING
34 BOARDS.] "Mental-health-related licensing boards" means the
35 Boards of Medical Practice, Nursing, Psychology, Social Work,
36 Marriage and Family Therapy, and Behavioral Health and Therapy.

1 ~~Subd. 7. [COMMISSIONER.] "Commissioner" means the~~
 2 ~~commissioner of health or the commissioner's designee.~~

3 Subd. 7a. [COMMITTEE.] "Committee" means the Office of
 4 Mental Health Practices Committee, consisting of one person
 5 appointed by each of the following licensing boards: the Board
 6 of Medical Practice; the Board of Nursing; the Board of
 7 Psychology; the Board of Social Work; the Board of Marriage and
 8 Family Therapy; and the Board of Behavioral Health and Therapy.

9 Subd. 8. [DISCIPLINARY ACTION.] "Disciplinary action"
 10 means an adverse action taken by the commissioner against an
 11 unlicensed mental health practitioner relating to the person's
 12 right to provide mental health services.

13 Sec. 2. Minnesota Statutes 2004, section 148B.61, is
 14 amended to read:

15 148B.61 [OFFICE OF MENTAL HEALTH PRACTICE.]

16 Subdivision 1. [CREATION AUTHORITY.] (a) The Office of
 17 ~~Mental Health Practice is created in the Department of Health~~
 18 transferred to the mental-health-related licensing boards. The
 19 mental-health-related licensing boards shall convene an Office
 20 of Mental Health Practices Committee to investigate complaints
 21 and take and enforce disciplinary actions against all unlicensed
 22 mental health practitioners for violations of prohibited
 23 conduct, as defined in section 148B.68.

24 (b) The office committee shall publish a complaint
 25 telephone number, provide an informational Web site, and also
 26 serve as a referral point and clearinghouse on complaints
 27 against mental health services and both licensed and unlicensed
 28 mental-health-professionals, through the dissemination
 29 of practitioners. The committee shall disseminate objective
 30 information to consumers and through the development and
 31 performance of public education activities, including outreach,
 32 regarding the provision of mental health services and both
 33 licensed and unlicensed mental health professionals who provide
 34 these services.

35 ~~Subd. 2. [RULEMAKING.] The commissioner of health shall~~
 36 ~~adopt rules necessary to implement, administer, or enforce~~

1 ~~provisions of sections 148B.60 to 148B.71 pursuant to chapter~~
 2 ~~14. The commissioner may not adopt rules that restrict or~~
 3 ~~prohibit persons from providing mental health services on the~~
 4 ~~basis of education, training, experience, or supervision.~~

5 Subd. 4. [MANAGEMENT, REPORT, AND SUNSET OF THE
 6 OFFICE.] (a) The committee shall:

7 (1) designate one board to provide administrative
 8 management of the committee;

9 (2) set the program budget; and

10 (3) ensure that the committee's direction is in accord with
 11 its authority.

12 (b) If the participating boards change which board is
 13 designated to provide administrative management of the
 14 committee, any appropriation remaining for the committee shall
 15 transfer to the newly designated board on the effective date of
 16 the change. The participating boards must inform the
 17 appropriate legislative committees and the commissioner of
 18 finance of any change in the designated board and the amount of
 19 any appropriation transferred under this provision.

20 (c) The designated board shall hire the office employees
 21 and pay expenses of the committee from funds appropriated for
 22 that purpose.

23 (d) After July 1, 2008, the committee shall prepare and
 24 submit a report to the legislature by January 15, 2009,
 25 evaluating the activity of the office and making recommendations
 26 concerning the regulation of unlicensed mental health
 27 practitioners. In the absence of legislative action to continue
 28 the committee, the committee expires on June 30, 2009.

29 Sec. 3. Laws 2003, chapter 118, section 29, as amended by
 30 Laws 2004, chapter 279, article 5, section 10, is amended to
 31 read:

32 Sec. 29. [REPEALER.]

33 (a) Minnesota Statutes 2002, sections 148B.60; 148B.61;
 34 148B.63; 148B.64; 148B.65; 148B.66; 148B.67; 148B.68; 148B.69;
 35 148B.70; and 148B.71, are repealed.

36 [EFFECTIVE DATE.] This paragraph is effective July 1,

1 2005 2009.

2 (b) Minnesota Statutes 2002, section 148C.01, subdivision
3 6, is repealed.

4 [EFFECTIVE DATE.] This paragraph is effective July 1, 2005.

5 Sec. 4. [APPROPRIATION.]

6 \$205,000 is appropriated from the state government special
7 revenue fund to the board designated to provide administrative
8 management under Minnesota Statutes, section 148B.61,
9 subdivision 4. The following boards shall be assessed a
10 prorated amount depending on the number of licensees under the
11 board's regulatory authority providing mental health services
12 within their scope of practice: the Board of Medical Practice,
13 the Board of Nursing, the Board of Psychology, the Board of
14 Social Work, the Board of Marriage and Family Therapy, and the
15 Board of Behavioral Health and Therapy.

16 Sec. 5. [REVISOR INSTRUCTION.]

17 The revisor of statutes shall insert "committee" or
18 "committee's" wherever "commissioner of health" or
19 "commissioner's" appears in Minnesota Statutes, sections 148B.60
20 to 148B.71.

21 Sec. 6. [EFFECTIVE DATE.]

22 This article is effective July 1, 2005.

23 ARTICLE 9

24 MISCELLANEOUS

25 Section 1. Minnesota Statutes 2004, section 148.5194, is
26 amended by adding a subdivision to read:

27 Subd. 7. [PENALTY FEES.] (a) The penalty fee for
28 practicing speech language pathology or audiology without a
29 current license after the credential has expired and before it
30 is renewed is the amount of the license renewal fee for any part
31 of the first month, plus the license renewal fee for any part of
32 any subsequent month up to 36 months.

33 (b) The penalty fee for applicants who engage in the
34 unauthorized practice of speech language pathology or audiology
35 before being issued a license is the amount of the license
36 application fee for any part of the first month, plus the

1 license application fee for any part of any subsequent month up
2 to 36 months. This paragraph does not apply to applicants not
3 qualifying for a license who engage in the unauthorized practice
4 of speech language pathology or audiology.

5 (c) The penalty fee for failing to submit a continuing
6 education report by the due date with the correct number or type
7 of hours in the correct time period is \$100 plus \$20 for each
8 missing clock hour. The licensee must obtain the missing number
9 of continuing education hours by the next reporting due date.

10 (d) Civil penalties and discipline incurred by licensees
11 prior to August 1, 2005, for conduct described in paragraph (a),
12 (b), or (c) shall be recorded as nondisciplinary penalty fees.
13 For conduct described in paragraph (a) or (b) occurring after
14 August 1, 2005, and exceeding six months, payment of a penalty
15 fee does not preclude any disciplinary action reasonably
16 justified by the individual case.

17 Sec. 2. Minnesota Statutes 2004, section 148.6445, is
18 amended by adding a subdivision to read:

19 Subd. 11. [PENALTY FEES.] (a) The penalty fee for
20 practicing occupational therapy without a current license after
21 the credential has expired and before it is renewed is the
22 amount of the license renewal fee for any part of the first
23 month, plus the license renewal fee for any part of any
24 subsequent month up to 36 months.

25 (b) The penalty fee for applicants who engage in the
26 unauthorized practice of occupational therapy before being
27 issued a license is the amount of the license application fee
28 for any part of the first month, plus the license application
29 fee for any part of any subsequent month up to 36 months. This
30 paragraph does not apply to applicants not qualifying for a
31 license who engage in the unauthorized practice of occupational
32 therapy.

33 (c) The penalty fee for failing to submit a continuing
34 education report by the due date with the correct number or type
5 of hours in the correct time period is \$100 plus \$20 for each
36 missing clock hour. The licensee must obtain the missing number

1 of continuing education hours by the next reporting due date.

2 (d) Civil penalties and discipline incurred by licensees
3 prior to August 1, 2005, for conduct described in paragraph (a),
4 (b), or (c) shall be recorded as nondisciplinary penalty fees.
5 For conduct described in paragraph (a) or (b) occurring after
6 August 1, 2005, and exceeding six months, payment of a penalty
7 fee does not preclude any disciplinary action reasonably
8 justified by the individual case.

9 Sec. 3. Minnesota Statutes 2004, section 148C.12, is
10 amended by adding a subdivision to read:

11 Subd. 11. [PENALTY FEES.] (a) The penalty fee for
12 practicing alcohol and drug counseling without a current license
13 after the credential has expired and before it is renewed is the
14 amount of the license renewal fee for any part of the first
15 month, plus the license renewal fee for any part of any
16 subsequent month up to 36 months.

17 (b) The penalty fee for applicants who engage in the
18 unauthorized practice of alcohol and drug counseling before
19 being issued a license is the amount of the license application
20 fee for any part of the first month, plus the license
21 application fee for any part of any subsequent month up to 36
22 months. This paragraph does not apply to applicants not
23 qualifying for a license who engage in the unauthorized practice
24 of alcohol and drug counseling.

25 (c) The penalty fee for failing to submit a continuing
26 education report by the due date with the correct number or type
27 of hours in the correct time period is \$100 plus \$20 for each
28 missing clock hour. The licensee must obtain the correct number
29 of continuing education hours by the next reporting due date.

30 (d) Civil penalties and discipline incurred by licensees
31 prior to August 1, 2005, for conduct described in paragraph (a),
32 (b), or (c) shall be recorded as nondisciplinary penalty fees.
33 For conduct described in paragraph (a) or (b) occurring after
34 August 1, 2005, and exceeding 12 months, payment of a penalty
35 fee does not preclude any disciplinary action reasonably
36 justified by the individual case.

1 Sec. 4. [153A.175] [PENALTY FEES.]

2 (a) The penalty fee for holding oneself out as a hearing
3 instrument dispenser without a current certificate after the
4 credential has expired and before it is renewed is one-half the
5 amount of the certificate renewal fee for any part of the first
6 day, plus one-half the certificate renewal fee for any part of
7 any subsequent days up to 30 days.

8 (b) The penalty fee for applicants who hold themselves out
9 as hearing instrument dispensers after expiration of the trainee
10 period and before being issued a certificate is one-half the
11 amount of the certificate application fee for any part of the
12 first day, plus one-half the certificate application fee for any
13 part of any subsequent days up to 30 days. This paragraph does
14 not apply to applicants not qualifying for a certificate who
15 hold themselves out as hearing instrument dispensers.

16 (c) The penalty fee for failing to submit a continuing
17 education report by the due date with the correct number or type
18 of hours in the correct time period is \$200 plus \$200 for each
19 missing clock hour. The certificate holder must obtain the
20 missing number of continuing education hours by the next
21 reporting due date.

22 (d) Civil penalties and discipline incurred by certificate
23 holders prior to August 1, 2005, for conduct described in
24 paragraph (a), (b), or (c) shall be recorded as nondisciplinary
25 penalty fees. Payment of a penalty fee does not preclude any
26 disciplinary action reasonably justified by the individual case.

27 Sec. 5. Minnesota Statutes 2004, section 214.06,
28 subdivision 1, is amended to read:

29 Subdivision 1. [FEE ADJUSTMENT.] Notwithstanding any law
30 to the contrary, the commissioner of health as authorized by
31 section 214.13, all health-related licensing boards and all
32 non-health-related licensing boards shall by rule, with the
33 approval of the commissioner of finance, adjust, as needed, any
34 fee which the commissioner of health or the board is empowered
35 to assess. As provided in section 16A.1285, the adjustment
36 shall be an amount sufficient so that the total fees collected

1 by each board will ~~as-closely-as-possible-equal~~ be based on
 2 anticipated expenditures during-the-fiscal-biennium, including
 3 expenditures for the programs authorized by sections ~~214-17-to~~
 4 ~~214-25-and-214-31-to-214-37~~ 214.10, 214.103, 214.11, 214.17 to
 5 214.24, 214.28 to 214.37, and 214.40, except that a
 6 health-related licensing board may have anticipated expenditures
 7 in excess of anticipated revenues in a biennium by using
 8 accumulated surplus revenues from fees collected by that board
 9 in previous bienniums. A health-related licensing board shall
 10 not spend more money than the amount appropriated by the
 11 legislature for a biennium. For members of an occupation
 12 registered after July 1, 1984, by the commissioner of health
 13 under the provisions of section 214.13, the fee established must
 14 include an amount necessary to recover, over a five-year period,
 15 the commissioner's direct expenditures for adoption of the rules
 16 providing for registration of members of the occupation. All
 17 fees received shall be deposited in the state treasury. Fees
 18 ~~received-by-the-commissioner-of-health-or-health-related~~
 19 ~~licensing-boards-must-be-credited-to-the-health-occupations~~
 20 ~~licensing-account-in-the-state-government-special-revenue-fund.~~

21 Sec. 6. Minnesota Statutes 2004, section 214.06, is
 22 amended by adding a subdivision to read:

23 Subd. 1a. [HEALTH OCCUPATIONS LICENSING ACCOUNT.] Fees
 24 received by the commissioner of health or health-related
 25 licensing boards must be credited to the health occupations
 26 licensing account in the state government special revenue fund.
 27 The commissioner of finance shall ensure that the revenues and
 28 expenditures of each health-related licensing board are tracked
 29 separately in the health occupations licensing account.

30 ARTICLE 10

31 EMERGENCY MEDICAL SERVICES REGULATORY BOARD

32 Section 1. Minnesota Statutes 2004, section 144E.001,
 33 subdivision 8, is amended to read:

34 Subd. 8. [LICENSEE.] "Licensee" means a natural person,
 35 partnership, association, corporation, Indian tribe, or unit of
 36 government which possesses an ambulance service license.

1 Sec. 2. Minnesota Statutes 2004, section 144E.001, is
2 amended by adding a subdivision to read:

3 Subd. 14a. [TRIBE.] "Tribe" means a federally recognized
4 Indian tribe, as defined in United States Code, title 25,
5 section 450b, paragraph (e), located within the state of
6 Minnesota.

7 Sec. 3. Minnesota Statutes 2004, section 144E.001,
8 subdivision 15, is amended to read:

9 Subd. 15. [VOLUNTEER AMBULANCE ATTENDANT.] "Volunteer
10 ambulance attendant" means a person who provides emergency
11 medical services for a Minnesota licensed ambulance service
12 without the expectation of remuneration and who does not depend
13 in any way upon the provision of these services for the person's
14 livelihood. An individual may be considered a volunteer
15 ambulance attendant even though the individual receives an
16 hourly stipend for each hour of actual service provided, except
17 for hours on standby alert, or other nominal fee, and even
18 though the hourly stipend or other nominal fee is regarded as
19 taxable income for purposes of state or federal law, provided
20 that the hourly stipend and other nominal fees do not exceed
21 ~~\$3,000-within-one-year-of-the-final-certification~~
22 examination \$6,000 annually.

23 Sec. 4. [144E.266] [EMERGENCY SUSPENSION OF AMBULANCE
24 SERVICE REQUIREMENT.]

25 (a) The requirements of sections 144E.10; 144E.101,
26 subdivisions 1, 2, 3, 6, 7, 8, 9, 10, 11, and 13; 144E.103;
27 144E.12; 144E.121; 144E.123; 144E.127; and 144E.15, are
28 suspended:

29 (1) throughout the state during a national security
30 emergency declared under section 12.31;

31 (2) in the geographic areas of the state affected during a
32 peacetime emergency declared under section 12.31; and

33 (3) in the geographic areas of the state affected during a
34 local emergency declared under section 12.29.

35 (b) For purposes of this section, the geographic areas of
36 the state affected shall include geographic areas where one or

1 more ambulance services are providing requested mutual aid to
2 the site of the emergency.

3 Sec. 5. Minnesota Statutes 2004, section 144E.27,
4 subdivision 2, is amended to read:

5 Subd. 2. [REGISTRATION.] To be eligible for registration
6 with the board as a first responder, an individual
7 shall complete a board-approved application form and:

8 (1) successfully complete a board-approved initial first
9 responder training program. Registration under this clause is
10 valid for two years and expires at the end of the month in which
11 the registration was issued; or

12 (2) be credentialed as a first responder by the National
13 Registry of Emergency Medical Technicians. Registration under
14 this clause expires the same day as the National Registry
15 credential.

16 Sec. 6. Minnesota Statutes 2004, section 144E.28,
17 subdivision 1, is amended to read:

18 Subdivision 1. [REQUIREMENTS.] To be eligible for
19 certification by the board as an EMT, EMT-I, or EMT-P, an
20 individual shall:

21 (1) successfully complete the United States Department of
22 Transportation course, or its equivalent as approved by the
23 board, specific to the EMT, EMT-I, or EMT-P classification; and

24 (2) pass the written and practical examinations approved by
25 the board and administered by the board or its designee,
26 specific to the EMT, EMT-I, or EMT-P classification; and

27 (3) complete a board-approved application form.

28 Sec. 7. Minnesota Statutes 2004, section 144E.28,
29 subdivision 3, is amended to read:

30 Subd. 3. [RECIPROCITY.] The board may certify an
31 individual who possesses a current National Registry of
32 Emergency Medical Technicians registration from another
33 jurisdiction if the individual submits a board-approved
34 application form. The board certification classification shall
35 be the same as the National Registry's classification.
36 Certification shall be for the duration of the applicant's

1 registration period in another jurisdiction, not to exceed two
2 years.

3 Sec. 8. Minnesota Statutes 2004, section 144E.28,
4 subdivision 7, is amended to read:

5 Subd. 7. [RENEWAL.] (a) Before the expiration date of
6 certification, an applicant for renewal of certification as an
7 EMT shall:

8 (1) successfully complete a course in cardiopulmonary
9 resuscitation that is approved by the board or the licensee's
10 medical director; and

11 (2) take the United States Department of Transportation EMT
12 refresher course and successfully pass the practical skills test
13 portion of the course, or successfully complete 48 hours of
14 continuing education in EMT programs that are consistent with
15 the United States Department of Transportation National Standard
16 Curriculum or its equivalent as approved by the board or as
17 approved by the licensee's medical director and pass a practical
18 skills test approved by the board and administered by a training
19 program approved by the board. The cardiopulmonary
20 resuscitation course and practical skills test may be included
21 as part of the refresher course or continuing education renewal
22 requirements. Twenty-four of the 48 hours must include at least
23 four hours of instruction in each of the following six
24 categories:

- 25 (i) airway management and resuscitation procedures;
26 (ii) circulation, bleeding control, and shock;
27 (iii) human anatomy and physiology, patient assessment, and
28 medical emergencies;
29 (iv) injuries involving musculoskeletal, nervous,
30 digestive, and genito-urinary systems;
31 (v) environmental emergencies and rescue techniques; and
32 (vi) emergency childbirth and other special situations; and
33 (3) complete a board-approved application form.

34 (b) Before the expiration date of certification, an
5 applicant for renewal of certification as an EMT-I or EMT-P
36 shall:

1 (1) for an EMT-I, successfully complete a course in
2 cardiopulmonary resuscitation that is approved by the board or
3 the licensee's medical director and for an EMT-P, successfully
4 complete a course in advanced cardiac life support that is
5 approved by the board or the licensee's medical director; and
6 (2) successfully complete 48 hours of continuing education
7 in emergency medical training programs, appropriate to the level
8 of the applicant's EMT-I or EMT-P certification, that are
9 consistent with the United States Department of Transportation
10 National Standard Curriculum or its equivalent as approved by
11 the board or as approved by the licensee's medical director. An
12 applicant may take the United States Department of
13 Transportation Emergency Medical Technician refresher course or
14 its equivalent without the written or practical test as approved
15 by the board, and as appropriate to the applicant's level of
16 certification, as part of the 48 hours of continuing education.
17 Each hour of the refresher course, the cardiopulmonary
18 resuscitation course, and the advanced cardiac life support
19 course counts toward the 48-hour continuing education
20 requirement; and

21 (3) complete a board-approved application form.

22 (c) Certification shall be renewed every two years.

23 (d) If the applicant does not meet the renewal requirements
24 under this subdivision, the applicant's certification expires.

25 Sec. 9. Minnesota Statutes 2004, section 144E.28,
26 subdivision 8, is amended to read:

27 Subd. 8. [REINSTATEMENT.] (a) Within four years of a
28 certification expiration date, a person whose certification has
29 expired under subdivision 7, paragraph (d), may have the
30 certification reinstated upon submission of:

31 (1) evidence to the board of training equivalent to the
32 continuing education requirements of subdivision 7; and

33 (2) a board-approved application form.

34 (b) If more than four years have passed since a certificate
35 expiration date, an applicant must complete the initial
36 certification process required under subdivision 1.

Consolidated Fiscal Note – 2005-06 Session

Bill #: S1204-1E (R) **Complete Date:** 05/03/05

Chief Author: KISCADEN, SHEILA

Title: HEALTH OCCUP LICENSING PROVISIONS

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings	X	
Tax Revenue		X

Agencies: Social Work Board (04/20/05)
 Dentistry Board (04/20/05)
 Behavioral Health & Therapy Bd (04/20/05)
 Medical Practice Board (04/20/05)

Health Dept (05/03/05)
 Physical Therapy, Board of (04/20/05)
 Psychology Board (04/20/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
State Govt Special Revenue Fund		(39)	(39)	(39)	(39)
Health Dept		(39)	(39)	(39)	(39)
Health Related Boards Fund					
Behavioral Health & Therapy Bd					
Revenues					
State Govt Special Revenue Fund		(39)	(39)	(39)	(39)
Health Dept		(39)	(39)	(39)	(39)
Health Related Boards Fund		(20)	(15)	(15)	(15)
Dentistry Board		3	3	3	3
Psychology Board					
Behavioral Health & Therapy Bd		(23)	(18)	(18)	(18)
Net Cost <Savings>					
State Govt Special Revenue Fund		0	0	0	0
Health Dept		0	0	0	0
Health Related Boards Fund		20	15	15	15
Dentistry Board		(3)	(3)	(3)	(3)
Psychology Board					
Behavioral Health & Therapy Bd		23	18	18	18
Total Cost <Savings> to the State		20	15	15	15

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
State Govt Special Revenue Fund		(0.33)	(0.33)	(0.33)	(0.33)
Health Dept		(0.33)	(0.33)	(0.33)	(0.33)
Total FTE		(0.33)	(0.33)	(0.33)	(0.33)

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
 Date: 05/03/05 Phone: 286-5618

Fiscal Note – 2005-06 Session

Bill #: S1204-1E (R) **Complete Date:** 04/20/05

Chief Author: KISCADEN, SHEILA

Title: HEALTH OCCUP LICENSING PROVISIONS

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Social Work Board

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

This bill version has no fiscal effect on our agency.

FN Coord Signature: JULI VANGSNESS
Date: 04/12/05 Phone: 617-2120

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
Date: 04/20/05 Phone: 286-5618

Fiscal Note – 2005-06 Session

Bill #: S1204-1E (R) **Complete Date:** 05/03/05

Chief Author: KISCADEN, SHEILA

Title: HEALTH OCCUP LICENSING PROVISIONS

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings	X	
Tax Revenue		X

Agency Name: Health Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
State Govt Special Revenue Fund		(39)	(39)	(39)	(39)
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
State Govt Special Revenue Fund		(39)	(39)	(39)	(39)
Revenues					
State Govt Special Revenue Fund		(39)	(39)	(39)	(39)
Net Cost <Savings>					
State Govt Special Revenue Fund		0	0	0	0
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
State Govt Special Revenue Fund		(0.33)	(0.33)	(0.33)	(0.33)
Total FTE		(0.33)	(0.33)	(0.33)	(0.33)

Bill Description:

Articles 5, 7 and 9 concern occupations regulated by the Minnesota Department Of Health:

In Article 5, Section 11 concerns alcohol and drug counselor (ADC) licensing and amends the commissioner's duties by deleting responsibility to administer written and oral examinations and repeals the alcohol and drug counselor advisory council and its committees; Sections 12 and 13 create an option to obtain 2,000 hours of supervised post-degree professional practice in lieu of the examination requirement to qualify for licensing; Section 15 defines the content of supervised post-degree professional practice and the requirements for supervisors; Sections 18, 19, 20 and 21 modify the transition period requirements for hospital and public employees exempt from licensing requirements; and Section 22 increases the temporary permit fee.

Article 7 concerns audiologist and non-audiologist hearing instrument dispensers and repeals a requirement that licensed audiologists be certified as hearing instrument dispensers, copies into the audiology licensing law the consumer protection provisions from the certification regulations and repeals corresponding provisions in the certification law, and provides for a new surcharge fee in the audiology licensing system to cover the costs of investigating hearing instrument consumer complaints against audiologists.

Article 9 establishes penalty fees for practitioners in the occupations of alcohol and drug counseling, audiology, hearing instrument dispensing, occupational therapy and speech language pathology when applicants for credentials and renewal of credentials practice without current, valid licenses or do not submit completed continuing education reports as required by their practice acts. The legislation also characterizes the civil penalties for such violations non-disciplinary actions so that it is not a public and permanent sanction of record.

Assumptions

Article 5, all Sections: Effective July 1, 2005, administration of the licensing system for alcohol and drug counselors transfers from the Minnesota Department of Health (MDH) to the Board of Behavioral Health and Therapy (BBHT). Therefore, the amendments in Article 5 have no fiscal impact to MDH for FY'06 through FY'09.

Article 7, all sections: The legislation reduces credentialing and investigation/enforcement costs in the amount of \$79,000 annually in the hearing instrument dispenser certification system because 227 audiologists would no longer be certified. The legislation shifts the activity of investigating consumer complaints against audiologists from the hearing instrument dispenser certification system to the speech language pathology and audiology (SLPA) licensing system. Investigation and enforcement activities in the SLPA licensing system that concern the sale of hearing aids would be paid for by a new surcharge fee. All audiologists (n = 340) would pay the surcharge fee regardless of whether they dispensed hearing aids in their practice. The competency review committee of the SLPA licensing system will have increased activity from the investigation of hearing aid consumer complaints. Therefore, approximately \$40,000 in expenditures is added to the audiology licensing system to cover the cost of investigation and enforcement activities. The investigation costs are based on MDH regulation of hearing instrument dispensing in past years. Over the last five years (2000 – 2004), approximately 40% of the complaints against certified dispensers concerned audiologists, and, therefore, .4FTE of an investigator's time is subtracted from the certification system and added to the SLPA licensing system.

Article 9, all sections: The amendment is revenue neutral because fee receipts from civil penalty for violations for illegal practice and non-compliance with continuing education requirements are not expected to change. The legislation affects the process by which practitioners are held accountable and the number or rate of violations by practitioners is expected to be the same. The civil penalty amounts established in the legislation are equivalent to penalties currently assessed for the same violations. Staff resources will remain the same as accountability procedures will shift to credentialing staff from investigation/enforcement staff.

Expenditure and/or Revenue Formula

Article 7: Expenditure Reduction: Eliminating credentialing, investigation and enforcement activities for audiologists in the certification system (n = 227) will reduce annual costs by (\$79,000).

Revenue Reduction: Annual revenues in the certification system will be reduced by (\$79,000) because 227 audiologists will no longer pay an annual \$350.00 certification fee.

Expenditure Increase: Annual expenditures in the SLPA licensing system will increase by approximately \$40,000 because of additional investigation and enforcement activity involving selling of hearing instruments by audiologists that was previously conducted in the certification licensing system.

Revenue calculation: The estimated annual costs of investigations and enforcement actions in the SLPA licensing system of \$39,715 will be paid for by a new biennial fee of \$235 paid by each licensed audiologist (n = 342). The estimated investigation and enforcement costs are based on the record of complaints against hearing aid dispensers between FY2000 and FY2004 showing that 40% concerned audiologists. Surcharge revenues will be collected in one of four renewal periods occurring in each biennium, except for the first surcharge fee, which must be prorated based on the number of months remaining between the effective date (coinciding with the certification renewal date of November 1 each year) and the biennial license renewal period for each audiologist.

Long-Term Fiscal Considerations

Article 7: The changes in expenditures and revenues are expected to be ongoing, but may be adjusted in future years if the level of consumer complaints against audiologists changes and affects investigation and enforcement expenses.

Local Government Costs

N/A

References/Sources

All articles and sections:

Agency Contact Name: Tom Hiendlmayr (651.282.5626)

Agency Contact Name: Tom Hiendlmayr (651-282-5626)

FN Coord Signature: DAVE HOVET

Date: 05/03/05 Phone: 215-0389

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: CRAIG WIEBER

Date: 05/03/05 Phone: 282-5065

Fiscal Note – 2005-06 Session

Bill #: S1204-1E (R) **Complete Date:** 04/20/05

Chief Author: KISCADEN, SHEILA

Title: HEALTH OCCUP LICENSING PROVISIONS

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings	X	
Tax Revenue		X

Agency Name: Dentistry Board

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
Health Related Boards Fund		3	3	3	3
Net Cost <Savings>					
Health Related Boards Fund		(3)	(3)	(3)	(3)
Total Cost <Savings> to the State		(3)	(3)	(3)	(3)

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

SF1204-1E places existing Board of Dentistry fees established in Rule into MN Statute, increases the fee for duplicate licenses, initiates a new fee for applications for anesthesia/conscious sedation permits, and (in the original HF1865) proposes a change related to supervision levels in Collaborative Agreements.

Assumptions

- The fee structure has been established in Rule
- The Board is now required to address fees legislatively (in statute)
- The fees reflect annualized rates that have been applied to recently adopted and implemented (2004) biennial cycles
- The fee for duplicate licenses must be raised to cover costs
- Applications for anesthesia/conscious sedation permits are increasing in volume, and review of the applications involves staff and Board member time and money
- On-site anesthesia/sedation inspection fees are paid to the third party conducting the inspection

Expenditure and/or Revenue Formula

Fee Increase

1. *Duplicate Licenses*

Current: ~130 duplicate licenses per year @ \$20 = \$ 2,600

Proposed: ~130 duplicate licenses per year @ \$35 = \$ 4,550

Expenditures remain stable; revenues increase by **\$ 1,950/yr** to cover duplicate license costs

New Fee

2. Anesthesia/Conscious Sedation Permits

Proposed: ~25 permits per year @ \$50 = \$ 1,250

Revenues increase by **\$1,250/yr** related to anesthesia/sedation permit application review

Long-Term Fiscal Considerations

The change from annual to biennial license renewal allows the Board to better manage work flow, and significantly reduces the need for overtime and temporary staff.

The fee changes for duplicate licenses and anesthesia permits reflect the Board's position that appropriate charges should be assessed to cover costs of additional services requested.

Local Government Costs

None

References/Sources

N/A

FN Coord Signature: JULI VANGSNESS

Date: 04/12/05 Phone: 617-2120

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
Date: 04/20/05 Phone: 286-5618

Fiscal Note – 2005-06 Session

Bill #: S1204-1E (R) Complete Date: 04/20/05

Chief Author: KISCADEN, SHEILA

Title: HEALTH OCCUP LICENSING PROVISIONS

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Physical Therapy, Board of

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

SF 1204-1E Health Occup Violations Penalty Fees

Article 2 pertains to the Physical Therapists Practice Act - moving definitions of physical therapists assistants and physical therapy aides from rule to statute; adding definitions of student PT's and PTA's; addition of provisions for cancellation of a PT license; adding grounds for discipline related to supervision and delegation to students, and for practice under lapsed or non-renewed credentials; adding provision for mental or physical examination; adding temporary suspension provision; and providing for the issuance of a physical therapist license based on PT licenses in 3 other states and one foreign country between 1980 and 1995.

Assumptions

The entire bill will not add cost for the board. The majority of the bill is adding definitions that will not add cost to the board. The special conditions for issuing a PT license (PT licensure in 3 other states and 1 foreign country between 1980 and 1995) will apply to only one individual.

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

No

Local Government Costs

No

FN Coord Signature: JULI VANGSNESS
Date: 04/12/05 Phone: 617-2120

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
Date: 04/20/05 Phone: 286-5618

Fiscal Note – 2005-06 Session

Bill #: S1204-1E (R) **Complete Date:** 04/20/05

Chief Author: KISCADEN, SHEILA

Title: HEALTH OCCUP LICENSING PROVISIONS

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings	X	
Tax Revenue		X

Agency Name: Behavioral Health & Therapy Bd

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Health Related Boards Fund					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Health Related Boards Fund					
Revenues					
Health Related Boards Fund		(23)	(18)	(18)	(18)
Net Cost <Savings>					
Health Related Boards Fund		23	18	18	18
Total Cost <Savings> to the State		23	18	18	18

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

SF – 1204-1E

Portion of bill relating to licensed professional counselors:

First, modifying certain provisions governing the licensing of licensed professional counselors (LPC) by the Board of Behavioral Health and Therapy; broadening certain general requirements for licensure qualification purposes; permitting post-degree completion of certain degree requirements for licensure under certain conditions; modifying certain continuing education requirements; providing for certain retaliatory actions; expanding the grounds for disciplinary action; authorizing and providing for temporary suspension of licenses under certain conditions; authorizing the board to require submission to mental, physical or chemical dependency examination or evaluations upon probable cause, failure to submit to constitutes an admission of the allegations, exception, granting the board access to certain medical data and health records; providing for assessment tool security; authorizing the board to use the expedited rulemaking process to adapt and amend rules for conformity purposes.

Second, the addition of a two-year “grandparenting” period will qualify some counselors with five years of experience post-degree to be licensed with the board.

Portion of bill relating to licensed alcohol and drug counselors:

First, regarding alcohol and drug counselors (ADC) licensing and amendments to Minnesota Statutes Ch. 148C only, and beginning with section 11, the bill modifies the commissioner’s duties by deleting responsibility to administer written and oral examination, creates an option to obtain 2,000 hours of supervised post-degree professional practice in lieu of the oral examination requirement to qualify for licensure, defines the content of supervised post-degree professional practice and the requirements for supervisors, changes the transition period requirements for hospital and public employees and repeals the alcohol and drug counselor advisory council and its committees.

Second, the bill extends the dates requiring licensing for hospital and public employees from January 1, 2006 to January 1, 2007. The bill also clarifies exemption language, creates an option to obtain 2,000 hours of supervision in lieu of an examination requirement for applicants licensed or registered in a profession excepted from the licensing requirements, creates an additional option in the transition requirements for hospital and public employees to become licensed and increases the temporary permit renewal fee from \$100 to \$150 per year.

Assumptions

Portion of bill relating to licensed professional counselors:

First, the primary purpose of this bill is house keeping - it also includes provisions on temporary suspension of licensed professional counselors, post-degree completion of requirements for licensure, and a two-year grandparenting provision for experienced counselors to obtain licensure.

This bill will allow more individuals to become licensed under the licensed professional counselor licensure requirements. This bill allows individuals to take specific courses or complete necessary additional graduate credits or supervision hours in order to qualify for licensure.

Second, the board assumes that additional individuals will be eligible for licensure through the “grandparenting” provision. The board anticipates that this bill will allow several hundred individuals to be eligible for licensure should they choose to apply for licensure.

Portion of bill relating to licensed alcohol and drug counselors:

First, effective July 1, 2005, administration of the licensing system for alcohol and drug counselors transfers from the Minnesota Department of Health (MDH) to the Board of Behavioral Health and Therapy (BBHT). Therefore, the bill has a fiscal impact for the BBHT beginning FY 2006.

BBHT – assumes FY 05 estimated expenditures and revenues at MDH are the same each year in the future biennia at BBHT.

Eliminating the requirement to administer examinations will reduce staff administrative time and supply expenditures and eliminate revenues from exam fees. Creation of an option to obtain 2,000 hours of supervised post-degree professional practice in lieu of the examination requirement to qualify for licensing will not significantly increase administrative expenses because the option will utilize existing licensing forms and procedures. Deletion of the transition period requirements from hospital and public employees will eliminate use of a form and has no fiscal impact.

Eliminating advisory council and advisory committees will reduce staff administrative time and supply expenditures.

Second, according to the MDH – the original estimates and assumptions about applicants for alcohol and drug counselor licensing did not include hospital and public employees and were not adjusted when the exceptions to licensing requirements were repealed in 2003. Therefore, there are no effects to account for in the revenue and expense projections for processing new applicants for licenses or by extending the licensing requirement one year.

Renewal of temporary permits occurs annually on July 31st, and the deadline for submitting the renewal application and fee is June 30th. The effective date of acts without appropriations is August 1st following each legislative session unless a different date is specified. Therefore, there is no fiscal impact in FY 06.

Expenditure and/or Revenue Formula

Portion of bill relating to licensed professional counselors:

This bill will not generate more revenue than what the board originally anticipated when it was first established because when the board was first established, the original number of potential LPC licensees was overestimated. In addition, the original licensure language had very little flexibility and actually prevented many individuals from qualifying for licensure. The hypothesis at the time the LPC credential was established was that the BBHT would capture almost all of the unlicensed mental health practitioners (MDH provided a figure of about 3000 unlicensed practitioners at that time) and be able to license them as LPCs. That turned out not to be the case, and the number of applicants and licensees was only about 12 percent of that number.

This bill will broaden the opportunity for licensure and allow more individuals to be licensed. However, it is not possible to estimate how many people will take advantage of the grandparenting option or the options now proposed under the general requirements for licensure which permit someone to complete courses or supervised field experience post-degree in order to be able to qualify for licensure. Even with the flexibility afforded to applicants by the language in this bill, it will take a period of time before the number of applicants and licensees approaches the estimates made when the board was first established.

Portion of bill relating to licensed alcohol and drug counselors:

The following fiscal impact has been provided to the BBHT for inclusion in the BBHT fiscal note by MDH.

According to MDH, a reduction of \$65,462 in salary, benefit and supplies and exam expenditures will occur as a result of a total .5 reduction in FTE of staff and activities associated with administration of 6 examination and 12 to 15 advisory group meetings each year. However, this reduction estimate may not actually occur at all. First, although the examination duties are being eliminated, staff will need to track applicants' supervision and the qualifications of supervisors and there will be administrative costs related to this duty. Second, only two FTE staff are transferring from MDH to the BBHT. The transferring staff members' duties are with the licensure process. The transferring staff does not have responsibility for complaint or background investigations. Funds will need to be used to hire investigative staff at the board office or to pay the Attorney General's Office for investigative services.

Written and oral exam fee revenue in the amount of \$23,000 will be eliminated.

Licensing fees and other revenues are not affected.

Second, currently there are 132 temporary permit holders, but only about 100 are expected to renew. The current renewal fee is \$100. An increase of \$50 times 100 persons produces additional revenue of \$5,000.00 per year, beginning in FY 07.

Long-Term Fiscal Considerations

Portion of bill relating to licensed professional counselors:

Any fiscal impact will be long term and indirect. The bill if passed should result in more applicants for LPC licensure. This should result in additional revenue for the board. The original bill prevented many individuals from qualifying for licensure – this bill should allow more individuals to become LPC's.

Portion of bill relating to licensed alcohol and drug counselors:

First, reduction in expenditures for regulating ADC's does not cause a reduction of licensing fees at this time. At

the beginning of FY 06, the account balance for the ADC licensing activity was (\$1,049,000) deficit. Beginning FY 03 this deficit as amortized with a ten-year licensing surcharge fee of \$99. Cost savings from reductions in regulatory expenditures will accrue to the account deficit and may allow repeal of the surcharge ahead of its scheduled expiration in FY 13.

Second, repealing the written and oral examination testing fees should result in more efficient operation of the licensure program for alcohol and drug counselors because applicants will communicate directly with testing entities and the state will no longer have to process the fees. It is unknown whether this change will significantly affect the costs related to staff time devoted to this activity, because staff will now have to track supervision documentation for those applicants who elect that route to licensure.

Local Government Costs

Portion of bill relating to licensed professional counselors:

Portion of bill relating to licensed alcohol and drug counselors:

References/Sources

Portion of bill relating to licensed professional counselors:

Portion of bill relating to licensed alcohol and drug counselors:

Agency Contact Name: Kari Rechtzigel (612-617-2192)

FN Coord Signature: JULI VANGSNESS
Date: 04/19/05 Phone: 617-2120

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
Date: 04/20/05 Phone: 286-5618

Fiscal Note – 2005-06 Session

Bill #: S1204-1E (R) **Complete Date:** 04/20/05

Chief Author: KISCADEN, SHEILA

Title: HEALTH OCCUP LICENSING PROVISIONS

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Medical Practice Board

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

SF 1204-1E

Omnibus health occupations bill. In part, transfers Office of Mental Health Practice to the Mental Health Related Licensing Boards (Social Work, Psychology, Marriage & Family Therapy, Medical Practice and Nursing). Requires each board to appoint one member to the Office of Mental Health Practice Committee. The committee will designate an administrating board.

Assumptions

All costs associated with administrating the profession will be taken from the health related boards special revenue fund.

Each board will be responsible for reimbursement of their appointed committee member. The designated committee member for Medical Practice will participate and be reimbursed for no more then six meetings per year @ \$55.00 per day.

Expenditure and/or Revenue Formula

$\$55.00 \times 6 = \330 in per diems expenses each year of the biennium.

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

FN Coord Signature: JULI VANGSNESS

Date: 04/14/05 Phone: 617-2120

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN

Date: 04/20/05 Phone: 286-5618

Fiscal Note – 2005-06 Session

Bill #: S1204-1E (R) **Complete Date:** 04/20/05

Chief Author: KISCADEN, SHEILA

Title: HEALTH OCCUP LICENSING PROVISIONS

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings	X	
Tax Revenue		X

Agency Name: Psychology Board

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
Health Related Boards Fund					
Net Cost <Savings>					
Health Related Boards Fund					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

SF 1204-1E

Article 3 of this bill contains a number of housekeeping changes to the Psychology Practice Act. It also allows for the conversion of qualified Licensed Psychological Practitioners (LPP) to Licensed Psychologist (LP) licensure and then it sunsets LPP licensure.

Assumptions:

Article 3 takes into account the fact that LPP licensure has been available in Minnesota since 1991, yet the Board of Psychology only has approximately 53 individuals licensed as LPP's. It is not a licensure option that is attractive to psychology graduates because of the difficulties LPP's have obtaining employment. The LPP license is not a license for independent practice, meaning that licensees at this level must be supervised throughout their careers. They have found that potential employers do not want to hire LPP's and pay someone to supervise them. Paying for supervision themselves is expensive. LPP's have found that most third party payers will not reimburse agencies for services provided by LPP's because it is not an independent license.

Expenditure and/or Revenue Formula:

LPP's as a level of licensure are not a drain on the Psychology Board's budget and are a minor source of revenue. The fiscal impact of eliminating this level of licensure will be minimal.

1. Applicants must complete applications for admission to the exams by 12/31/05
2. Applicants must pass the exams by 12/31/06
3. Applicants must complete applications for licensure by 03/01/07
4. LPP licensure will sunset by 12/31/11

During this time frame qualified applicants will apply for the conversion from LPP to LP licensure. Revenue from LPP licensure will increase during the conversion period, and then decline. Since licensure renewal is every two years, revenue from LP licensure will slightly increase following the conversion period.

Long-Term Fiscal Considerations:

Eliminating LPP licensure will not result in any long-term fiscal impact since after 14 years of having this licensure available in the state, only 53 individuals maintain LPP licensure. Each fiscal year, the agency has traditionally averaged about 1-3 new LPP's. The agency believes 14 years of experience to be indicative of the future.

Local Government Costs:

Since the Board of Psychology is totally fee supported, there are no costs to local governments.

References/Sources:

FN Coord Signature: JULI VANGSNESS

Date: 04/12/05 Phone: 617-2120

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN

Date: 04/20/05 Phone: 286-5618

1 Senator moves to amend S.F. No. 1204 as follows:

2 Page 59, after line 19, insert:

3 "Subd. 8. [TEMPORARY FEE REDUCTION.] For fiscal years
4 2006, 2007, 2008, and 2009, the following fee changes are
5 effective:

6 (1) in subdivision 1, the application fee for a licensed
7 independent social worker is reduced to \$45;

8 (2) in subdivision 1, the application fee for a licensed
9 independent clinical social worker is reduced to \$45;

10 (3) in subdivision 1, the application fee for a licensure
11 by endorsement is reduced to \$85;

12 (4) in subdivision 2, the license fee for a licensed social
13 worker is reduced to \$90;

14 (5) in subdivision 2, the license fee for a licensed
15 graduate social worker is reduced to \$160;

16 (6) in subdivision 2, the license fee for a licensed
17 independent social worker is reduced to \$240;

18 (7) in subdivision 2, the license fee for a licensed
19 independent clinical social worker is reduced to \$265;

20 (8) in subdivision 3, the renewal fee for a licensed social
21 worker is reduced to \$90;

22 (9) in subdivision 3, the renewal fee for a licensed
23 graduate social worker is reduced to \$160;

24 (10) in subdivision 3, the renewal fee for a licensed
25 independent social worker is reduced to \$240;

26 (11) in subdivision 3, the renewal fee for a licensed
27 independent clinical social worker is reduced to \$265; and

28 (12) in subdivision 5, the renewal late fee is reduced to
29 one-third of the renewal fee specified in subdivision 3.

30 This subdivision expires on June 30, 2009."

31 Page 97, delete line 21 and insert:

32 "Sections 1 to 40; 41, subdivisions 1 to 7; and 42 to 71
33 are effective January 1, 2006. Section 41, subdivision 8, is
34 effective July 1, 2005."