

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

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Senate

State of Minnesota

TO: Members of the Health and Human Services Budget Division

FROM: David Giel, Senate Research (296-7178) 

DATE: April 20, 2005

SUBJECT: 1. Background on Medical Assistance (MA) Claim Involving Ms. Jule Borg
2. Disproportionate Share Hospital (DSH) Payments

I was asked to provide the Division some background information on Ms. Borg's division testimony, and I have confirmed with the Department of Human Services (DHS) the DSH payments available to Minnesota in the upcoming years and wanted to pass that along to you as well.

Medical Assistance Estate Claim. I obtained the following information about the status of the claim against the estate of Ms. Jule Borg's mother. DHS and Crow Wing County officials were only able to give me limited information because of privacy concerns.

Ms. Borg's mother received about \$350,000 of MA home care services over a period of 12 years, according to Candace Prigge, an assistant Crow Wing County Attorney. The county has filed a claim for that amount. Ms. Borg, who is the personal representative for her mother's estate, denied the claim. The county filed a motion in probate court to allow the claim, and the matter is yet to be decided. Ms. Borg filed a claim with the estate for \$950,000 for services she provided to her mother. She approved this claim as the personal representative, and the county has filed a petition to have that claim disallowed. The claim against this estate is based on longstanding DHS policy and is unrelated to the 2003 changes in MA lien law

Also, because Ms. Borg's mother was not institutionalized, Ms. Borg cannot apply to transfer the homestead to herself under the provisions of section 256B.0595, subdivision 3, which allows the transfer of a homestead to a son or daughter who resided in the home for at least two years before the recipient's admission to a facility and provided care that permitted the individual to remain at home during that period. According to Ms. Prigge, Ms. Borg could, although she has not yet done so, seek relief under Minnesota Statutes, section 256B.15, subdivision 4, which allows sons or daughters who provide similar care to parents who are not eventually institutionalized, to remain living in the homestead for as long as they wish, in which case the county would be entitled to a lien on the property.

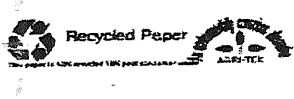
Ms. Borg has filed for a hardship waiver of the county claim under section 256B.15, subdivision 5, on the grounds that she is disabled. The county has denied that claim and an appeal hearing was held recently before a DHS hearing officer. No decision has been issued in that matter.

DSH Hospital Payments. These payments have been allowed by the federal government for a number of years. They are designed to enhance reimbursement to facilities that serve an above-average number of MA recipients. The major benefit to a hospital in receiving these payments rather than a regular MA payment, is that DSH payments are not subject to so-called “upper payment limits” established by the federal government. In the 1990s the federal government established state-by-state caps on DSH payments, but in recent years Congress has increased those capped amounts substantially. At present Minnesota is not close to utilizing all of the DSH money available from the federal government, largely because it requires a 50 percent state match.

Paul Olson provided the following data on our unspent DSH allocation in future years. When Congress approved these allocations they were established by federal fiscal year, which ends on September 30. The numbers can, of course, be converted to state fiscal years to fit in with our budgeting system. I have listed the numbers below for both state and federal fiscal years. These numbers are the total amount available, and, if spent, would consist half of federal money and half of state match. (The state fiscal year number is higher than the federal fiscal year number because the state fiscal year ends nine months after the federal fiscal year and the DSH limits are growing over time.)

Federal Fiscal Year	Amount	State Fiscal Year	Amount
2005	\$33.5 million	2006	\$44.4 million
2006	\$48.1 million	2007	\$60.7 million
2007	\$64.9 million	2008	\$79.6 million
2008	\$84.5 million	2009	\$101.5 million

DG:rdr



SENATE
STATE OF MINNESOTA
EIGHTY-FOURTH LEGISLATURE

S.F. No. 1115

(SENATE AUTHORS: FISCHBACH, Lourey, Kelley, Gaither and Moua; Companion to H.F. No. 1370.)

DATE	D-PG	OFFICIAL STATUS
02/21/2005	444	Introduction and first reading
02/21/2005		Referred to Health and Family Security
03/10/2005	667a	Comm rpt: To pass as amend & re-ref to State an Local Government Operations
03/29/2005		Committee report: To pass
03/29/2005		Second reading

1 A bill for an act

2 relating to occupations; requiring plumbers to be

3 licensed; establishing inspection requirements for new

4 plumbing installations; allowing the commissioner to

5 charge fees to hire staff; licensing restricted

6 plumbing contractors; requiring rulemaking; amending

7 Minnesota Statutes 2004, sections 144.122; 326.01, by

8 adding a subdivision; 326.37, subdivision 1, by adding

9 a subdivision; 326.38; 326.40, subdivision 1;

10 proposing coding for new law in Minnesota Statutes,

11 chapter 326; repealing Minnesota Statutes 2004,

12 section 326.45.

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

14 Section 1. Minnesota Statutes 2004, section 144.122, is

15 amended to read:

16 144.122 [LICENSE, PERMIT, AND SURVEY FEES.]

17 (a) The state commissioner of health, by rule, may

18 prescribe reasonable procedures and fees for filing with the

19 commissioner as prescribed by statute and for the issuance of

20 original and renewal permits, licenses, registrations, and

21 certifications issued under authority of the commissioner. The

22 expiration dates of the various licenses, permits,

23 registrations, and certifications as prescribed by the rules

24 shall be plainly marked thereon. Fees may include application

25 and examination fees and a penalty fee for renewal applications

26 submitted after the expiration date of the previously issued

27 permit, license, registration, and certification. The

28 commissioner may also prescribe, by rule, reduced fees for

29 ~~permissioher~~ permissioher may also prescribe, by rule, reduced fees for

29 permits, licenses, registrations, and certifications when the

1 application therefor is submitted during the last three months
2 of the permit, license, registration, or certification period.
3 Fees proposed to be prescribed in the rules shall be first
4 approved by the Department of Finance. All fees proposed to be
5 prescribed in rules shall be reasonable. The fees shall be in
6 an amount so that the total fees collected by the commissioner
7 will, where practical, approximate the cost to the commissioner
8 in administering the program. All fees collected shall be
9 deposited in the state treasury and credited to the state
10 government special revenue fund unless otherwise specifically
11 appropriated by law for specific purposes.

12 (b) The commissioner shall adopt reasonable rules
13 establishing criteria and procedures for refusal to grant or
14 renew licenses and registrations, and for suspension and
15 revocation of licenses and registrations.

16 (c) The commissioner may refuse to grant or renew licenses
17 and registrations, or suspend or revoke licenses and
18 registrations, in accordance with the commissioner's criteria
19 and procedures as adopted by rule.

20 (d) The commissioner may charge a fee for voluntary
21 certification of medical laboratories and environmental
22 laboratories, and for environmental and medical laboratory
23 services provided by the department, without complying with
24 paragraph (a) or chapter 14. Fees charged for environment and
25 medical laboratory services provided by the department must be
26 approximately equal to the costs of providing the services.

27 ~~(d)~~ (e) The commissioner may develop a schedule of fees for
28 diagnostic evaluations conducted at clinics held by the services
29 for children with handicaps program. All receipts generated by
30 the program are annually appropriated to the commissioner for
31 use in the maternal and child health program.

32 ~~(d)~~ (f) The commissioner shall set license fees for
33 hospitals and nursing homes that are not boarding care homes at
34 the following levels:

35 Joint Commission on Accreditation of Healthcare
36 Organizations (JCAHO hospitals) \$7,055

1 Non-JCAHO hospitals \$4,680 plus \$234 per bed

2 Nursing home \$183 plus \$91 per bed

3 The commissioner shall set license fees for outpatient
4 surgical centers, boarding care homes, and supervised living
5 facilities at the following levels:

6 Outpatient surgical centers \$1,512

7 Boarding care homes \$183 plus \$91 per bed

8 Supervised living facilities \$183 plus \$91 per bed.

9 ~~(e)~~ (g) Unless prohibited by federal law, the commissioner
10 of health shall charge applicants the following fees to cover
11 the cost of any initial certification surveys required to
12 determine a provider's eligibility to participate in the
13 Medicare or Medicaid program:

14 Prospective payment surveys for \$ 900
15 hospitals

16 Swing bed surveys for nursing homes \$1,200

18 Psychiatric hospitals \$1,400

20 Rural health facilities \$1,100

22 Portable x-ray providers \$ 500

24 Home health agencies \$1,800

26 Outpatient therapy agencies \$ 800

28 End stage renal dialysis providers \$2,100

30 Independent therapists \$ 800

32 Comprehensive rehabilitation \$1,200
34 outpatient facilities

35 Hospice providers \$1,700

37 Ambulatory surgical providers \$1,800

39 Hospitals \$4,200

41 Other provider categories or Actual surveyor costs:
42 additional resurveys required average surveyor cost x
43 to complete initial certification number of hours for the
44 survey process.
45

46 These fees shall be submitted at the time of the
47 application for federal certification and shall not be
48 refunded. All fees collected after the date that the imposition
49 of fees is not prohibited by federal law shall be deposited in
50 the state treasury and credited to the state government special
51 revenue fund.

1 (h) The commissioner shall charge the following fees for
 2 examinations, registrations, licenses, and inspections:

3	<u>Plumbing examination</u>	\$ 50
4	<u>Water conditioning examination</u>	\$ 50
5	<u>Plumbing bond registration fee</u>	\$ 40
6	<u>Water conditioning bond registration fee</u>	\$ 40
7	<u>Master plumber's license</u>	\$120
8	<u>Restricted plumbing contractor license</u>	\$ 90
9	<u>Journeyman plumber's license</u>	\$ 55
10	<u>Apprentice registration</u>	\$ 25
11	<u>Water conditioning contractor license</u>	\$ 70
12	<u>Water conditioning installer license</u>	\$ 35
13	<u>Residential inspection fee (each visit)</u>	\$ 50
14	<u>Public, commercial, and</u>	<u>Inspection fee</u>
15	<u>industrial inspections</u>	
16	<u>25 or fewer drainage</u>	
17	<u>fixture units</u>	\$ 300
18	<u>26 to 50 drainage</u>	
19	<u>fixture units</u>	\$ 900
20	<u>51 to 150 drainage</u>	
21	<u>fixture units</u>	\$1,200
22	<u>151 to 249 drainage</u>	
23	<u>fixture units</u>	\$1,500
24	<u>250 or more drainage</u>	
25	<u>fixture units</u>	\$1,800
26	<u>Callback fee (each visit)</u>	\$ 100

27 (i) Plumbing installations that require only fixture
 28 installation or replacement require a minimum of one
 29 inspection. Residence remodeling involving plumbing
 30 installations requires a minimum of two inspections. New
 31 residential plumbing installations require a minimum of three
 32 inspections. For purposes of this paragraph and paragraph (h),
 33 residences of more than four units are considered commercial.

34 Sec. 2. Minnesota Statutes 2004, section 326.01, is
 35 amended by adding a subdivision to read:

36 Subd. 9a. [RESTRICTED PLUMBING CONTRACTOR.] A "restricted

1 plumbing contractor" is any person skilled in the planning,
 2 superintending, and practical installation of plumbing who is
 3 otherwise lawfully qualified to contract for plumbing and
 4 installations and to conduct the business of plumbing, who is
 5 familiar with the laws and rules governing the business of
 6 plumbing, and who performs the plumbing trade in cities and
 7 towns with a population of fewer than 5,000 according to federal
 8 census.

9 Sec. 3. Minnesota Statutes 2004, section 326.37,
 10 subdivision 1, is amended to read:

11 Subdivision 1. [RULES.] The state commissioner of
 12 health ~~may~~ shall, by rule, prescribe minimum uniform standards
 13 ~~which shall be uniform, and which standards shall thereafter be~~
 14 effective for all new plumbing installations, including
 15 additions, extensions, alterations, and replacements ~~connected~~
 16 ~~with any water or sewage disposal system owned or operated by or~~
 17 ~~for any municipality, institution, factory, office building,~~
 18 ~~hotel, apartment building, or any other place of business~~
 19 ~~regardless of location or the population of the city or town in~~
 20 ~~which located.~~ Notwithstanding the provisions of Minnesota
 21 Rules, part 4715.3130, as they apply to review of plans and
 22 specifications, the commissioner may allow plumbing
 23 construction, alteration, or extension to proceed without
 24 approval of the plans or specifications by the commissioner.

25 The commissioner shall administer the provisions of
 26 sections 326.37 to ~~326.45~~ 326.451 and for such purposes may
 27 employ plumbing inspectors and other assistants.

28 Sec. 4. Minnesota Statutes 2004, section 326.37, is
 29 amended by adding a subdivision to read:

30 Subd. 1a. [INSPECTION.] All new plumbing installations,
 31 including additions, extensions, alterations, and replacements,
 32 shall be inspected by the commissioner for compliance with
 33 accepted standards of construction for health, safety to life
 34 and property, and compliance with applicable codes. The
 35 Department of Health must have full implementation of its
 36 inspections plan in place and operational July 1, 2007. This

1 Sec. 7. [326.402] [RESTRICTED PLUMBING CONTRACTOR
2 LICENSE.]

3 Subdivision 1. [LICENSURE.] The commissioner shall grant a
4 restricted plumbing contractor license to any person who applies
5 to the commissioner and provides evidence of having at least two
6 years of practical plumbing experience in the plumbing trade
7 preceding application for licensure.

8 Subd. 2. [USE OF LICENSE.] A restricted plumbing
9 contractor may engage in the plumbing trade only in cities and
10 towns with a population of fewer than 5,000 according to federal
11 census.

12 Subd. 3. [APPLICATION PERIOD.] Applications for restricted
13 plumbing contractor licenses must be submitted to the
14 commissioner prior to January 1, 2006.

15 Subd. 4. [USE PERIOD FOR RESTRICTED PLUMBING CONTRACTOR
16 LICENSE.] A restricted plumbing contractor license does not
17 expire and remains in effect for as long as that person engages
18 in the plumbing trade.

19 Subd. 5. [PROHIBITION OF TRANSFERENCE.] A restricted
20 plumbing contractor license must not be transferred or sold to
21 any other person.

22 Subd. 6. [RESTRICTED PLUMBING CONTRACTOR LICENSE RENEWAL.]
23 The commissioner shall adopt rules for renewal of the restricted
24 plumbing contractor license.

25 Sec. 8. [326.451] [INSPECTORS.]

26 (a) The commissioner shall set all reasonable criteria and
27 procedures by rule for inspector certification, certification
28 period, examinations, examination fees, certification fees, and
29 renewal of certifications.

30 (b) The commissioner shall adopt reasonable rules
31 establishing criteria and procedures for refusal to grant or
32 renew inspector certifications, and for suspension and
33 revocation of inspector certifications.

34 (c) The commissioner shall refuse to renew or grant
35 inspector certifications, or suspend or revoke inspector
36 certifications, in accordance with the commissioner's criteria

1 and procedures as adopted by rule.

2 Sec. 9. [REVISOR'S INSTRUCTION.]

3 The revisor of statutes shall change all references to
4 Minnesota Statutes, section 326.45, to Minnesota Statutes,
5 section 326.451, in Minnesota Statutes, sections 144.99, 326.44,
6 326.61, and 326.65.

7 Sec. 10. [REPEALER.]

8 Minnesota Statutes 2004, section 326.45, is repealed.

9 Sec. 11. [EFFECTIVE DATE.]

10 Sections 1 to 8 and 10 are effective July 1, 2005.

Fiscal Note – 2005-06 Session

Bill #: S1115-1E **Complete Date:** 04/04/05

Chief Author: FISCHBACH, MICHELLE

Title: PLUMBERS LICENSING & INSPECTION REQ

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		941	6,228	6,228	6,228
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
State Govt Special Revenue Fund		941	6,228	6,228	6,228
Revenues					
State Govt Special Revenue Fund		2,640	4,780	5,531	6,282
Net Cost <Savings>					
State Govt Special Revenue Fund		(1,699)	1,448	697	(54)
Total Cost <Savings> to the State		(1,699)	1,448	697	(54)

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
State Govt Special Revenue Fund		11.00	14.00	14.00	14.00
Total FTE		11.00	14.00	14.00	14.00

Bill Description

Requiring and providing for the licensing of plumbers by the commissioner of health; requiring the commissioner to adopt rules establishing criteria and procedures for denial, refusal to renew, suspension and revocation of licenses and registrations under the authority of the commissioner and granting the commissioner the authority to deny, refuse to renew, suspend or revoke licenses and registrations in accordance with the adopted criteria and procedures; establishing a fee schedule for plumber examinations, bond and apprentice registrations, licenses, and inspections and specifying certain minimum plumbing installation inspection requirements; defining restricted plumbing contractor for licensing purposes; making mandatory the option of the commissioner to by rule prescribe minimum uniform standards for new plumbing installations; requiring commissioner inspection of new plumbing installations for compliance with accepted standards of construction for health and safety and for compliance with applicable codes, exceptions, requiring full implementation and operation of an inspection plan by a certain date; prohibiting city, town or state license requirements for persons installing building sewer or water service completing pipe laying training prescribed by the commissioner; requiring commissioner licensing of master, journeyman and restricted plumbing contractors and specifying certain requirements for licensing as a restricted plumbing contractor; requiring the commissioner to establish criteria and procedures by rule for inspector certification and examination; specifying certain reference change instructions to the revisor of statutes.

Assumptions

A number of provisions of this bill have no implications for staffing. However, the legislation will provide for services that include inspections of all installations of plumbing across the state not done by local officials, and extending licensing to plumbers currently not required to hold a license since they do not work in cities of 5,000 or greater. Activities associated with the new license requirement for currently unlicensed plumbers will be funded by new fees. There are an estimated 5,000 unlicensed plumbers in Minnesota.

Inspections in this program will be done by inspectors hired on contract in a system analogous to that carried out by the Board of Electricity for electrical inspections. Based on recent estimates of new home construction and remodeling for homes not on municipal water and sewer services, and the number of plumbing plans received for review by MDH each year for public and commercial buildings, an estimated 80,000 inspections will be required each year. Based on travel and inspection time estimates, 58 contract inspectors will be required to provide these inspections and fees are set to cover the contract costs. The budget and staff levels are phased in during FY 06 through FY 08 to allow staff training and program development

MDH staff references in this note will carry out responsibilities in the following areas:

- Coordination of inspection program for 58 contract inspectors, including distribution of an estimated 80,000 inspection requests and reports, training, technical assistance and code interpretation, and code compliance enforcement activities (1 Plumbing Standards Rep, 6 field inspectors and 1 supervisor, and 4 associated support staff). Technical staff would be knowledgeable in the plumbing code and capable of field inspections. The staff may also be involved in licensing and examination activities. Support staff would assist with correspondence and reports. With current staff plus the proposed additions, there will be about 1 MDH technical staff person for each 5 contract inspectors.
- Inspection information management, e.g. requests and reports (1 data management staff).

The inspector certification program for an estimated 1,000 inspectors will be funded through examination fees.

EXPENDITURES

- Contract inspectors to be hired for approximately \$80,000 each which is analogous to the amount paid by the Board of Electricity to contractors for electrical inspections. This cost includes salary, travel, and supplies.
 - Assume 3 inspections average per residential project = $(6,020 + 14,000) * 3 = 60,060$ inspections per year.
 - Assume 7 inspections average per public/commercial project = $2,850 * 7 = 19,950$ inspections per year.
 - Assume 5 inspections average per day per inspector.
 - $60,060 + 19,950 = 80,010$ or 80,000 inspections per year.
 - Assume 240 work days per year (assuming 52 weekends, 11 holidays, and 10 days vacation or sick leave).

- 80,000 inspections / 240 work days per year = 330 inspections per day.
- 330 inspections per day / 5-6 inspections per day per inspector = 55-66 contract inspectors total (assume 58).
- Assume 58 contract inspectors require technical assistance on a 1 to 5 basis = 11 or 12 tech reps.
- Assume plumbing standard representatives and field inspectors serve as both inspectors and technical assistance providers. .

<u>September 1, 2005 to June 30, 2006</u>	<u>Staff</u>	<u>Salary</u>	<u>10 months</u>	
			<u>Total</u>	
Plumbing Std. Rep.	1	\$48,600	\$40,500	
Data Management	1	\$44,100	\$36,750	
Field Inspectors	6	\$49,680	\$248,400	
Field Supervisors	1	\$54,450	\$45,375	
Support Staff	2	\$27,000	\$45,000	
Subtotal	11		\$416,025	
Fringe Costs (29%)			\$120,647	
Total salary and fringe				\$536,672
Supplies and Expenses			\$230,000	
Equipment		\$26,000	\$26,000	
Indirect costs (19.4%)			\$148,734	
Total Supplies and Expenses				\$404,734
FY06 Expenditures (10 months)				\$941,406
<u>FY 2007 forward</u>				
Plumbing Std. Rep.	1	\$48,600	\$48,600	
Data Management	1	\$44,100	\$44,100	
Support Staff	4	\$27,000	\$108,000	
Office Support Supervisor	1	\$36,900	\$36,900	
Field Inspectors	6	\$49,680	\$298,080	
Field Supervisors	1	\$54,450	\$54,450	
Total Positions	14			
Subtotal			\$590,130	
Fringe Costs (29%)			\$171,138	
Total salary and fringe				\$761,268
Supplies and Expenses		\$300,000	\$300,000	
Equipment		\$40,000	\$40,000	
Contract inspectors compensation	58	\$80,000	\$4,640,000	
Indirect costs (19.4%)			\$487,186	
Total Supplies and Expenses				\$5,467,186
FY07 Expenditures				\$6,228,454

REVENUES

Public, Commercial, and Industrial Inspection Fee

Inspection Fee

Number of Fixture Units

25 or less	\$300
26 to 50	\$900
51 to 150	\$1,200
151 to 249	\$1,500
250 or more	\$1,800
Call back fee (each visit)	\$100
Residential Inspection Fee	\$50
Call back fee (each visit)	\$50

- Inspection fees for commercial and public projects may be collected with submitted plans once the legislation takes effect at the start of the program in FY06. We assume associated fees could be collected in full from the start of the effective date of the legislation, although it will take some time both to inform plumbing contractors of the new inspection requirements and to hire additional inspectors to carry out the inspections. Number per year and average fee, based on the size of the projects, could vary considerably.
- It is likely that the program for providing a license to currently unlicensed plumbers will take some time to implement. Unlicensed plumbers must apply for a restricted plumbing contractors license by January 1, 2006. Therefore this source of funding will not reach full estimated revenue until FY07. 100% FY 2007 forward)
- It is likely that the program for residential plumbing installations and associated fees will take up to 4 years to implement as people become aware of the requirements, so revenues from this source are prorated accordingly.
- The revenues for the inspector certification program will begin once the program for certification begins, and so that should reach full funding in the first fiscal year after the legislation becomes effective.

<u>New Fees</u>	<u>Number</u>	<u>Fee</u>	<u>FY 2006</u> <u>Total</u>	<u>FY 2007</u> <u>Total</u>	<u>FY 2008</u> <u>Total</u>	<u>FY 2009</u> <u>Total</u>
New Restricted Plumbing Contractor license	5,000	\$90	\$225,000	\$450,000	\$450,000	\$450,000
Inspector certification exam fee	1,000	\$50	\$25,000	\$50,000	\$50,000	\$50,000
New Public, Commercial, Industrial Inspection fee	2,850	\$975	\$1,389,375	\$2,778,750	\$2,778,750	\$2,778,750
New Residential Inspection fee – where code applies but no local program	60,060	\$50	\$1,001,000	\$1,501,500	\$2,252,250	\$3,003,000
Total New Fees			\$2,640,375	\$4,780,250	\$5,531,000	\$6,281,750

Long-Term Fiscal Considerations

The expenditures associated with this bill will be funded by fees collected for providing these services. In this fiscal note the department has attempted to estimate the staffing and expenditures associated with the bill's requirements; nevertheless, due to the unknown amount of research activity required, it is possible that additional resources will be needed.

Local Government Costs

None

References/Sources

MPCA and MDH program staff. We were unable to consult with others or receive responses from our inquiries before the due date of this note.

Agency Contact Name: Randy Ellingboe (651-215-0838)
FN Coord Signature: MARGARET KELLY

Date: 03/31/05 Phone: 281-9998

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: CRAIG WIEBER

Date: 04/04/05 Phone: 282-5065

Fiscal Note – 2005-06 Session

Bill #: S1115-1E (R) **Complete Date:** 04/21/05

Chief Author: FISCHBACH, MICHELLE

Title: PLUMBERS LICENSING & INSPECTION REQ

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Net Cost <Savings>					
State Govt Special Revenue Fund		(1,924)	1,278	697	(54)
Total Cost <Savings> to the State		(1,924)	1,278	697	(54)

	FY05	FY06	FY07	FY08	FY09
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The inspector certification program for an estimated 1,000 inspectors will be funded through examination fees.

EXPENDITURES

- Contract inspectors to be hired for approximately \$80,000 each which is analogous to the amount paid by the Board of Electricity to contractors for electrical inspections. This cost includes salary, travel, and supplies.
 - Assume 3 inspections average per residential project = $(6,020 + 14,000) * 3 = 60,060$ inspections per year.
 - Assume 7 inspections average per public/commercial project = $2,850 * 7 = 19,950$ inspections per year.
 - Assume 5 inspections average per day per inspector.
 - $60,060 + 19,950 = 80,010$ or 80,000 inspections per year.
 - Assume 240 work days per year (assuming 52 weekends, 11 holidays, and 10 days vacation or sick leave.

- 80,000 inspections / 240 work days per year = 330 inspections per day.
- 330 inspections per day / 5-6 inspections per day per inspector = 55-66 contract inspectors total (assume 58).
- Assume 58 contract inspectors require technical assistance on a 1 to 5 basis = 11 or 12 tech reps.
- Assume plumbing standard representatives and field inspectors serve as both inspectors and technical assistance providers. .

<u>September 1, 2005 to June 30, 2006</u>	<u>Staff</u>	<u>Salary</u>	<u>10 months</u>	
			<u>Total</u>	
Plumbing Std. Rep.	1	\$48,600	\$40,500	
Data Management	1	\$44,100	\$36,750	
Field Inspectors	6	\$49,680	\$248,400	
Field Supervisors	1	\$54,450	\$45,375	
Support Staff	2	\$27,000	\$45,000	
Subtotal	11		\$416,025	
Fringe Costs (29%)			\$120,647	
Total salary and fringe				\$536,672
Supplies and Expenses			\$230,000	
Equipment		\$26,000	\$26,000	
Indirect costs (19.4%)			\$148,734	
Total Supplies and Expenses				\$404,734
FY06 Expenditures (10 months)				\$941,406
<u>FY 2007 forward</u>				
Plumbing Std. Rep.	1	\$48,600	\$48,600	
Data Management	1	\$44,100	\$44,100	
Support Staff	4	\$27,000	\$108,000	
Office Support Supervisor	1	\$36,900	\$36,900	
Field Inspectors	6	\$49,680	\$298,080	
Field Supervisors	1	\$54,450	\$54,450	
Total Positions	14			
Subtotal			\$590,130	
Fringe Costs (29%)			\$171,138	
Total salary and fringe				\$761,268
Supplies and Expenses		\$300,000	\$300,000	
Equipment		\$40,000	\$40,000	
Contract inspectors compensation	58	\$80,000	\$4,640,000	
Indirect costs (19.4%)			\$487,186	
Total Supplies and Expenses				\$5,467,186
FY07 Expenditures				\$6,228,454

REVENUES

Public, Commercial, and Industrial Inspection Fee

Inspection Fee

Number of Fixture Units

25 or less	\$300
26 to 50	\$900
51 to 150	\$1,200
151 to 249	\$1,500
250 or more	\$1,800
Call back fee (each visit)	\$100
Residential Inspection Fee	\$50
Call back fee (each visit)	\$50

- Unlicensed plumbers must apply for a restricted plumbing contractors license by January 1, 2006. Therefore this source of funding will reach full estimated revenue in FY 2006.
- The revenues for the inspector certification program will begin once the program for certification begins, and so that program should reach full funding in first fiscal year 2007.
- Inspection fees for commercial and public projects may be collected with submitted plans once the legislation takes effect at the start of the program in FY 2006. We assume associated fees could be collected in full from the start of the effective date of the legislation, although it will take some time both to inform plumbing contractors of the new inspection requirements and to hire additional inspectors to carry out the inspections. Number per year and average fee, based on the size of the projects, could vary considerably.
- It is likely that the program for residential plumbing installations and associated fees will take up to 4 years to implement as people become aware of the requirements, so revenues from this source are prorated accordingly.

<u>New Fees</u>	<u>Number</u>	<u>Fee</u>	<u>FY 2006 Total</u>	<u>FY 2007 Total</u>	<u>FY 2008 Total</u>	<u>FY 2009 Total</u>
New Restricted Plumbing Contractor license	5,000	\$90	\$450,000	\$450,000	\$450,000	\$450,000
Inspector certification exam fee	1,000	\$50	\$25,000	\$50,000	\$50,000	\$50,000
New Public, Commercial, Industrial Inspection fee	2,850	\$975	\$1,389,375	\$2,778,750	\$2,778,750	\$2,778,750
New Residential Inspection fee – where code applies but no local program	60,060	\$50	\$1,001,000	\$1,671,500	\$2,252,250	\$3,003,000
Total New Fees			\$2,865,375	\$4,950,250	\$5,531,000	\$6,281,750

Long-Term Fiscal Considerations

The expenditures associated with this bill will be funded by fees collected for providing these services. In this fiscal note the department has attempted to estimate the staffing and expenditures associated with the bill's requirements; nevertheless, due to the unknown amount of research activity required, it is possible that additional resources will be needed.

Local Government Costs

None

References/Sources

MPCA and MDH program staff. We were unable to consult with others or receive responses from our inquiries before the due date of this note.

Agency Contact Name: Randy Ellingboe (651-215-0838)
FN Coord Signature: MARGARET KELLY
Date: 04/21/05 Phone: 281-9998

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: CRAIG WIEBER
Date: 04/21/05 Phone: 282-5065

1 A bill for an act

2 relating to health; providing an exception to the
3 hospital construction moratorium; amending Minnesota
4 Statutes 2004, section 144.551, subdivision 1.

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

6 Section 1. Minnesota Statutes 2004, section 144.551,
7 subdivision 1, is amended to read:

8 Subdivision 1. [RESTRICTED CONSTRUCTION OR MODIFICATION.]

9 (a) The following construction or modification may not be
10 commenced:

11 (1) any erection, building, alteration, reconstruction,
12 modernization, improvement, extension, lease, or other
13 acquisition by or on behalf of a hospital that increases the bed
14 capacity of a hospital, relocates hospital beds from one
15 physical facility, complex, or site to another, or otherwise
16 results in an increase or redistribution of hospital beds within
17 the state; and

18 (2) the establishment of a new hospital.

19 (b) This section does not apply to:

20 (1) construction or relocation within a county by a
21 hospital, clinic, or other health care facility that is a
22 national referral center engaged in substantial programs of
23 patient care, medical research, and medical education meeting
24 state and national needs that receives more than 40 percent of
25 its patients from outside the state of Minnesota;

1 (2) a project for construction or modification for which a
2 health care facility held an approved certificate of need on May
3 1, 1984, regardless of the date of expiration of the
4 certificate;

5 (3) a project for which a certificate of need was denied
6 before July 1, 1990, if a timely appeal results in an order
7 reversing the denial;

8 (4) a project exempted from certificate of need
9 requirements by Laws 1981, chapter 200, section 2;

10 (5) a project involving consolidation of pediatric
11 specialty hospital services within the Minneapolis-St. Paul
12 metropolitan area that would not result in a net increase in the
13 number of pediatric specialty hospital beds among the hospitals
14 being consolidated;

15 (6) a project involving the temporary relocation of
16 pediatric-orthopedic hospital beds to an existing licensed
17 hospital that will allow for the reconstruction of a new
18 philanthropic, pediatric-orthopedic hospital on an existing site
19 and that will not result in a net increase in the number of
20 hospital beds. Upon completion of the reconstruction, the
21 licenses of both hospitals must be reinstated at the capacity
22 that existed on each site before the relocation;

23 (7) the relocation or redistribution of hospital beds
24 within a hospital building or identifiable complex of buildings
25 provided the relocation or redistribution does not result in:
26 (i) an increase in the overall bed capacity at that site; (ii)
27 relocation of hospital beds from one physical site or complex to
28 another; or (iii) redistribution of hospital beds within the
29 state or a region of the state;

30 (8) relocation or redistribution of hospital beds within a
31 hospital corporate system that involves the transfer of beds
32 from a closed facility site or complex to an existing site or
33 complex provided that: (i) no more than 50 percent of the
34 capacity of the closed facility is transferred; (ii) the
35 capacity of the site or complex to which the beds are
36 transferred does not increase by more than 50 percent; (iii) the

1 beds are not transferred outside of a federal health systems
2 agency boundary in place on July 1, 1983; and (iv) the
3 relocation or redistribution does not involve the construction
4 of a new hospital building;

5 (9) a construction project involving up to 35 new beds in a
6 psychiatric hospital in Rice County that primarily serves
7 adolescents and that receives more than 70 percent of its
8 patients from outside the state of Minnesota;

9 (10) a project to replace a hospital or hospitals with a
10 combined licensed capacity of 130 beds or less if: (i) the new
11 hospital site is located within five miles of the current site;
12 and (ii) the total licensed capacity of the replacement
13 hospital, either at the time of construction of the initial
14 building or as the result of future expansion, will not exceed
15 70 licensed hospital beds, or the combined licensed capacity of
16 the hospitals, whichever is less;

17 (11) the relocation of licensed hospital beds from an
18 existing state facility operated by the commissioner of human
19 services to a new or existing facility, building, or complex
20 operated by the commissioner of human services; from one
21 regional treatment center site to another; or from one building
22 or site to a new or existing building or site on the same
23 campus;

24 (12) the construction or relocation of hospital beds
25 operated by a hospital having a statutory obligation to provide
26 hospital and medical services for the indigent that does not
27 result in a net increase in the number of hospital beds;

28 (13) a construction project involving the addition of up to
29 31 new beds in an existing nonfederal hospital in Beltrami
30 County;

31 (14) a construction project involving the addition of up to
32 eight new beds in an existing nonfederal hospital in Otter Tail
33 County with 100 licensed acute care beds;

34 (15) a construction project involving the addition of 20
35 new hospital beds used for rehabilitation services in an
36 existing hospital in Carver County serving the southwest

1 suburban metropolitan area. Beds constructed under this clause
2 shall not be eligible for reimbursement under medical
3 assistance, general assistance medical care, or MinnesotaCare;

4 (16) a project for the construction or relocation of up to
5 20 hospital beds for the operation of up to two psychiatric
6 facilities or units for children provided that the operation of
7 the facilities or units have received the approval of the
8 commissioner of human services;

9 (17) a project involving the addition of 14 new hospital
10 beds to be used for rehabilitation services in an existing
11 hospital in Itasca County; ~~or~~

12 (18) a project to add 20 licensed beds in existing space at
13 a hospital in Hennepin County that closed 20 rehabilitation beds
14 in 2002, provided that the beds are used only for rehabilitation
15 in the hospital's current rehabilitation building. If the beds
16 are used for another purpose or moved to another location, the
17 hospital's licensed capacity is reduced by 20 beds; or

18 (19) one or more projects to construct hospitals in the
19 city of Maple Grove on sites approved by the city, provided that:

20 (i) each hospital is constructed and operated by an entity
21 that participated in the public interest review under section
22 144.552 prior to April 1, 2005;

23 (ii) each hospital provides a full continuum of health care
24 services, including emergency medical services, surgery,
25 obstetrics, and behavioral health services, including mental
26 health services for children and adolescents;

27 (iii) each hospital makes a significant commitment to
28 providing uncompensated care; and

29 (iv) each hospital operator has agreed to participate with
30 the University of Minnesota in the training of health
31 professionals.

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.281~~~~-subdivisions-2-and-5~~~~-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.286~~
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.285~~~~-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,-this~~
9 ~~position-when-vacant-shall-be-filled-by-a-person-licensed-or~~
10 ~~qualified-to-be-licensed-as-a-licensed-psychological~~
11 ~~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,at-least-twice-a-year,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,;--must~~
33 ~~be-written-and-oral,;with-the-oral-examination-based-on-a~~
34 ~~written-case-presentation,;must-minimize-cultural-bias,;and-must~~
35 ~~be-balanced-in-various-theories-relative-to-the-practice-of~~
36 ~~alcohol-and-drug-counseling,;~~

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 ~~(e)~~ (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 physicians₇; registered nurses₇; licensed practical
22 nurses₇; licensed psychological practitioners₇; members of the
23 clergy₇; American Indian medicine men and women₇; licensed
24 attorneys₇; probation officers₇; licensed marriage and family
25 therapists₇; licensed social workers₇; social workers employed
26 by city, county, or state agencies; licensed professional
27 counselors₇; licensed school counselors₇; registered
28 occupational therapists or occupational therapy assistants₇;
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 148E.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 148E.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.

Article 1 BOARD OF SOCIAL WORK..... page 2

Article 2 BOARD OF PHYSICAL THERAPY..... page 97

Article 3 BOARD OF PSYCHOLOGY..... page 105

Article 4 BOARD OF DENTAL PRACTICE..... page 115

Article 5 BOARD OF BEHAVIORAL THERAPY AND HEALTH..... page 122
(LICENSED PROFESSIONAL COUNSELORS AND
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Article 7 COMMISSIONER OF HEALTH - AUDIOLOGISTS..... page 147

Article 8 OFFICE OF MENTAL HEALTH PRACTICES COMMITTEE..... page 160

Article 9 MISCELLANEOUS..... page 164

APPENDIX
Repealed Minnesota Statutes for S1204-1

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

APPENDIX
Repealed Minnesota Statutes for S1204-1

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

APPENDIX
Repealed Minnesota Statutes for S1204-1

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.



MINNESOTA BOARD OF PHYSICAL THERAPY

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April 21, 2005

Senator Yvonne Prettner Solon
303 State Capitol
75 Rev. Martin Luther King Jr Blvd
St Paul, MN 55155-1606

RE: Position of the Board of Physical Therapy on SF 1204, art 2, sec 13

Dear Senator Solon:

As reflected in the January 27, 2005 Minutes of the Minnesota Board of Physical Therapy meeting, the Board's position is:

The Board affirmed that all applicants for licensure must meet all of the Minnesota Physical Therapy Practice Act requirements.

The Board notified the person, who is the subject of this bill, if they were to apply for licensure as a physical therapist in Minnesota, that they need to meet all existing requirements for licensure.

The legislative language in SF 619 (later amended and incorporated into SF 1204, art 2, sec 13) was also discussed at the March 17, 2005 Board meeting. As a matter of public protection, the Board does not believe it is appropriate to deviate from existing standards and to alter the application process.

Sincerely,


Stephanie Lunning, PT
Executive Director



American Physical Therapy Association

MINNESOTA CHAPTER

April 21, 2005

Senator Berglin and Members of the Senate Health and Human Services Budget Committee

Re: Proposed compromise language to SF 1204, Article 2, Section 13-- Physical therapy licensure reciprocity-- as brought forward by Board of Physical Therapy

The MN Chapter of the American Physical Therapy Association (MN APTA) is opposed to the proposed compromise language to SF 1204, Article 2, Section 13 offered by the MN Board of Physical Therapy for the following reasons:

1. We support **strong licensure standards** that are designed to protect the public. Consumers of healthcare should be able to assume that healthcare providers meet the *minimum* standard, to which ALL providers are held in this state. We do not support granting "variances" to individuals who do not meet the standards.
2. We believe in the **state's right** to license and regulate professional practice that occurs in this state. This bill relies on the standards of other states and other countries, which vary widely.
3. **Bad public policy.** We do not believe the MN Legislature should engage in the business of **determining competency for individual healthcare providers** who wish to circumvent the current licensure process. While this bill applies to a physical therapist, the same logic could be applied to any licensee of the state. Licensure boards and departments have been given authority to regulate professional practice and should be allowed to do so according to standards that are set for all providers.

In summary, we support physical therapy licensure statutes that are currently in place. We do not see a need to change current statute. We do not support language that would allow a person to obtain a physical therapy license when they do not meet currently established minimum standards.

Sincerely,

Jon Nordrum, PT, GCS,
President, MN APTA

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

G-17 STATE CAPITOL
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JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 1204 - Health-Related Occupations – Licensing (First Engrossment)

Author: Senator Sheila M. Kiscaden

Prepared by: Katie Cavanor, Senate Counsel (651/296-3801) *KTC*

Date: April 19, 2005

Article 1 Board of Social Work

Section 1 (13.383, subdivision 10) makes a conforming change.

Section 2 (13.411, subdivision 5) makes a conforming change.

Section 3 (144.335, subdivision 1) makes a conforming change.

Section 4 (144A.46, subdivision 2) makes a conforming change.

Section 5 (147.09) makes a conforming change.

Section 6 (148D.001) is the citation.

Section 7 (148D.010) defines terms used in the chapter.

Section 8 (148D.015) establishes the scope of the board's regulatory authority.

Section 9 (148D.020) states that Minnesota Statutes, chapter 214, the statute generally governing all licensing boards, applies to the Board of Social Work unless superseded by this new chapter.

Section 10 (148D.025) establishes the board, prescribes membership and membership qualifications, requires an annual election of officers, requires bylaws to be adopted, and requires the appointment of an executive director.

Section 11 (148D.030) outlines board duties.

Section 12 (148D.035) authorizes the board to grant variances from requirements of this chapter, excluding core licensing standards, under certain conditions, if the variance is consistent with protection of public health, safety, and welfare.

Section 13 (148D.040) grants immunity to board members, employees, and agents during the lawful conduct of their duties under this chapter.

Section 14 (148D.045) grants applicants and licensees who are subject to a disciplinary or adversarial action by the board the right to a contested case hearing.

Section 15 (148D.050) outlines the scope of practice for the following licensed practitioners: social workers, graduate social workers, independent social workers, and independent clinical social workers.

Section 16 (148D.055) requires persons who practice or teach social work to be licensed, unless exempted later in this chapter. Qualifications for licensure by examination are outlined for various levels of practice. This section establishes criteria for determining the sufficiency of education obtained outside of the United States or Canada. It establishes a procedure for licensure by endorsement for persons currently licensed or credentialed in another jurisdiction. It establishes board policy with respect to background checks, licensure effective dates and expiration dates, and changes between levels of licensure.

Section 17 (148D.060) authorizes temporary licensure.

Section 18 (148D.065) provides exemptions from licensure.

Section 19 (148D.070) establishes licensure renewal procedures.

Section 20 (148D.075) authorizes inactive licensure when the licensee is granted a temporary leave from active practice or is granted an emeritus license.

Section 21 (148D.080) establishes procedures for reactivating a license that is in temporary leave status or emeritus status, or has expired or been voluntarily terminated.

Section 22 (148D.085) establishes policy governing voluntary license termination.

Section 23 (148D.090) governs reporting of licensee names, addresses, and telephone numbers. A licensee may use the person's legal name or a professional name.

Section 24 (148D.095) governs issuance of license wall certificates and license cards.

Section 25 (148D.100) establishes supervision requirements for licensed social workers.

Section 26 (148D.105) establishes supervision requirements for licensed graduate social workers.

Section 27 (148D.110) establishes supervision requirements for licensed independent social workers.

Section 28 (148D.115) establishes supervision requirements for licensed independent clinical social workers.

Section 29 (148D.120) establishes requirements for persons serving as supervisors and allows for alternative supervisors under certain circumstances.

Section 30 (148D.125) establishes procedures for documenting and verifying the completion of required supervision.

Section 31 (148D.135) requires 30 hours of continuing education every 24 months.

Section 32 (148D.135) establishes criteria for approving continuing education hours.

Section 33 (148D.140) allows the board to grant temporary variances of continuing education requirements under certain circumstances.

Section 34 (148D.145) establishes criteria for board approval of continuing education providers.

Section 35 (148D.150) establishes criteria for continuing education providers approved by an entity other than the board.

Section 36 (148D.155) establishes criteria for continuing education programs approved by the National Association of Social Workers.

Section 37 (148D.160) establishes criteria for board approval of continuing education programs.

Section 38 (148D.165) requires licensees to maintain documentation of continuing education hours earned and authorizes the board to audit applications to determine compliance with continuing education requirements.

Section 39 (148D.170) authorizes the board to revoke the approval of a continuing education program or provider for failure to meet statutory requirements.

Section 40 (148D.175) provides that board fees are nonrefundable and must be deposited in the state government special revenue fund.

Section 41 (148D.180) sets board fee amounts, which are unchanged from current law.

Section 42 (148D.185) states the purpose of the board's compliance statutes is to protect the public by ensuring that all licensees meet minimum standards or practice. The board must investigate complaints and take appropriate corrective action when warranted to protect the public.

Section 43 (148D.190) establishes grounds for board action to enforce licensing requirements. Conduct that occurs before licensure and unauthorized practice may warrant board action under certain circumstances.

Section 44 (148D.195) establishes the standard of practice with respect to representations to clients and the public.

Section 45 (148D.200) sets standards for the provision of competent social work services.

Section 46 (148D.205) establishes grounds for board action when a licensee is impaired due to illness, use of chemicals, or as a result of any mental, physical, or psychological condition. Licensees who are unable to practice competently due to an impairment are required to report to the board or to the Health Professionals Services Program.

Section 47 (148D.210) establishes grounds for board action if a licensee engages in unprofessional or unethical conduct or in other proscribed activities.

Section 48 (148D.215) establishes the responsibilities social workers have with respect to clients.

Section 49 (148D.220) requires social workers to act professionally in relationships with clients and former clients and maintain professional boundaries. This section establishes standards for permissible personal and business relationships with clients and former clients.

Section 50 (148D.225) establishes standards for treatment and intervention services.

Section 51 (148D.230) establishes requirements with respect to confidentiality and records.

Section 52 (148D.235) establishes requirements with respect to social worker fees and billing practices.

Section 53 (148D.240) establishes social worker reporting requirements.

Section 54 (148D.245) establishes the board's investigative powers and procedures.

Section 55 (148D.250) requires applicants or licensees who are the subject of a board investigation or are questioned by the board in connection with an investigation to cooperate fully.

Section 56 (148D.255) authorizes the board to take various types of disciplinary actions against applicants and licensees to address complaints alleging a violation of a statute or rule the board is empowered to enforce.

Section 57 (148D.260) outlines the various disciplinary options available to the board.

Section 58 (148D.265) outlines adversarial but nondisciplinary actions the board may take, including automatic suspensions and cease-and-desist orders.

Section 59 (148D.270) outlines voluntary disciplinary actions the board and an applicant or licensee may agree to, including an agreement for corrective action and a stipulation to cease practicing.

Section 60 (148D.275) prohibits the practice of social work or the provision of social work services without a license, unless the person is exempt from licensure under section 148D.065.

Section 61 (148D.280) prohibits use of the title “social worker” by unlicensed persons unless they practice in a setting exempt from licensure under section 148D.065.

Section 62 (148D.285) requires a variety of public and private entities to report to the board disciplinary action against a person for conduct that might constitute grounds for disciplinary action by the board or the resignation of an applicant or licensee prior to the conclusion of this type of disciplinary action.

Section 63 (148D.290) makes it a misdemeanor to violate chapter 148D.

Section 64 (214.01, subdivision 2) makes a conforming change.

Section 65 (245.462, subdivision 18) makes a conforming change.

Section 66 (245.4871, subdivision 27) makes a conforming change.

Section 67 (256B.0625, subdivision 32) makes a conforming change.

Section 68 (256J.08, subdivision 73a) makes a conforming change.

Section 69 (319B.02, subdivision 19) makes a conforming change.

Section 70 (319B.40) makes a conforming change.

Section 71 repeals the boards current statutes and rules.

Section 72 is the effective date of January 1, 2006.

Article 2 Board of Physical Therapy

Section 1 [148.65] subdivision 3, defines “physical therapist assistant.”

Section 2 [148.65] subdivision 4, defines “physical therapy aide.”

Section 3 [148.65] subdivision 5, defines “student physical therapist.”

Section 4 [148.65] subdivision 6, defines “student physical therapist assistant.”

Section 5 [148.65] subdivision 7, defines “supportive personnel.”

Section 6 [148.706] authorizes a physical therapist to delegate duties to a physical therapist assistant and assign tasks to the physical therapist aide in accordance with rules. States that physical therapists who instruct student therapists and student assistants are responsible for the functions performed by the students.

Section 7 [148.735] describes cancellation of a license in good standing.

Subdivision 1 states that a physical therapist holding an active license may be granted a license cancellation if the board is not investigating the individual or has not begun disciplinary proceedings against the individual. Such a cancellation shall be reported as a cancellation of a license in good standing.

Subdivision 2 states that license fees are not refundable if a person is permitted license cancellation.

Subdivision 3 states that if a physical therapist who has been granted a cancellation desires to resume practice, the therapist must obtain a new license by applying for licensure and fulfilling the requirements that are then in existence for obtaining an initial license to practice.

Section 8 [148.736] describes cancellation of credentials under a disciplinary order.

Subdivision 1 states that a physical therapist whose right to practice is under suspension, condition, limitation, or restriction may be granted cancellation of credentials by approval of the board. This action shall be reported as cancellation while under discipline.

Subdivision 2 states that a person is not entitled to a refund of license fees if allowed credential cancellation.

Subdivision 3 states that if a therapist who has been granted a credential cancellation desires to resume the practice, that therapist must obtain a new credential by applying to the board and fulfilling the requirements that are in existence for obtaining an initial credential to practice.

Section 9 [148.737] states that the board shall not renew, reissue, reinstate, or restore a license that has lapsed on or after January 1, 2006, and has not been renewed within two annual license renewal cycles starting January 1, 2008. A licensee whose license is cancelled for nonrenewal must obtain a new license by applying for licensure and fulfilling all requirements than in existence for an initial license to practice.

Section 10 [148.75] states that the board may discipline a physical therapist for inadequate supervision of a student physical therapist, physical therapist assistant, student physical therapist assistant, or a physical therapy aide; and for practicing under a lapsed or nonrenewal credential.

Section 11 [148.754] paragraph (a), authorizes the board to direct a physical therapist to submit to a mental or physical examination. States that every physical therapist is deemed to have consented to an evaluation when directed by the board in writing. Failure to submit to the examination constitutes an admission of the allegations.

Paragraph (b) states that the records and orders under this section shall not be used in any other proceeding.

Paragraph (c) permits the board to access medical data and health records without the person's consent if it has probable cause to believe the physical therapist comes under section 148.75, paragraph (a). A provider is immune from liability. All data obtained is classified as private data.

Section 12 [148.755] authorizes the board without a hearing to temporarily suspend the license of a physical therapist if the board finds that the therapist has violated a statute or rule the board is empowered to enforce. Provides that the board shall schedule a disciplinary hearing.

Section 13 provides a license exception for an individual who has been issued a physical therapy license between 1980 and 1995 in at least three other states and at least one foreign country and applies before August 1, 2005.

Section 14 repeals Rules 5601.0100, subparts 3 and 4.

Article 3 Board of Psychology

Section 1 (148.89, subdivision 5) clarifies that the practice of psychology means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures for any reason.

Section 2 (148.90, subdivision 1) makes technical and conforming changes to the makeup of the Board of Psychology.

Section 3 (148.907, subdivision 5) establishes the requirements for converting from a licensed psychological practitioner to a licensed psychologist. In order for a licensed psychological practitioner to obtain a license as a licensed psychologist, the licensed psychological practitioner must have:

- (1) completed an application provided by the board;
- (2) paid a nonrefundable fee of \$500;
- (3) documented successful completion of two full years or the equivalent of supervised postlicensure employment meeting specified requirements; and
- (4) no unresolved disciplinary action or complaints pending, or incomplete disciplinary orders or corrective action agreements.

Section 4 (148.908, subdivision 2) modifies the requirements for licensure as a licensed psychological practitioner. An applicant must:

- (1) complete the educational degree requirements by December 31, 2005;

- (2) complete the application for admission to the examination and pay the application fee by December 31, 2005;
- (3) complete the application for the professional responsibility examination by December 31, 2005;
- (4) pass the examination for professional practice in psychology by December 31, 2006;
- (5) pass the professional responsibility examination by December 31, 2006;
- (6) complete an application for licensure and pay the fee by March 1, 2007; and
- (7) have reached the age of majority, be of good moral character, and have no unresolved disciplinary action or complaints pending.

Section 5 (148.908, subdivision 3) states that effective December 31, 2011, the licensure of all licensed psychological practitioners shall be terminate without further notice and licensure for psychological practitioners shall be eliminated.

Section 6 (148.909) modifies the licensure for volunteer practice by striking language requiring the applicant to be a former licensee and requiring the applicant to have held a license, certificate, or registration for at least 15 years.

Section 7 (148.916, subdivision 2) permits a nonresident who is not seeking licensure to serve as an organizational consultant.

Section 8 (148.925, subdivision 6) makes a technical change.

Section 9 (148.941, subdivision 2) makes a technical change.

Section 10 (148.96, subdivision 3) makes a technical change.

Section 11 is an effective date for **sections 1 to 10** of the day following final enactment.

Article 4 Board of Dental Practice

Section 1 (150A.01, subdivision 6a) makes technical change in the definition of "faculty dentist" clarifying that the facility dentist must be licensed as a faculty dentist.

Section 2 (150A.06, subdivision 1a) permits a limited faculty license to be renewed annually and a full faculty license to be renewed biennially.

Section 3 (150A.091) establishes fees in statute.

Subdivision 1 states that fees are not refundable.

Subdivision 2 establishes an application fee.

Subdivision 3 establishes an initial license or registration fee.

Subdivision 4 establishes an annual license fee.

Subdivision 5 establishes a biennial license or registration fee.

Subdivision 6 establishes an annual license late fee.

Subdivision 7 establishes a biennial license or registration late fee.

Subdivision 8 establishes a duplicate license or registration fee.

Subdivision 9 establishes licensure and registration by credentials fee.

Subdivision 10 establishes reinstatement fees.

Subdivision 11 establishes a certificate application fee for anesthesia/sedation.

Subdivision 12 establishes a duplicate certificate fee for anesthesia/sedation.

Subdivision 13 establishes an on site inspection fee.

Subdivision 14 establishes an affidavit of licensure fee.

Subdivision 15 establishes a verification of licensure fee.

Section 4 (150A.10, subdivision 1a) requires a dental hygienist who is injecting anesthetic agents or administering nitrous oxide under the limited authorization provision must be under either the indirect or general supervision of a licensed dentist. (Currently, the dental hygienist must be under the indirect supervision of a dentist).

Article 5
Board of Behavioral Therapy and Health
(Licensed Professional Counselors and
Alcohol and Drug Counselors)

Section 1 (148.53, subdivision 1) permits an applicant for licensure to have completed a doctoral degree program in counseling or a masters or doctoral degree in a related field as determined by the board. Requires the program to include a minimum of 48 semester hours or 72 quarter hours. Permits an applicant to demonstrate competence in professional counseling by passing a national exam that is equivalent to the National Counseling Exam as determined by the board. Removes the requirement that the specific academic course work meet standards established by the Council for Accreditation of Counseling and Related Education Programs (CACREP). Specifies that a licensed psychological practitioner is eligible to be licensed as a professional counselor and is only required to comply with the

paragraph (a), clause (4). Specifies that a licensed psychologist need only show evidence of licensure from the Board of Psychology to be licensed as a professional counselor. States that if the masters or doctoral degree is from a program that is recognized by CACREP the applicant is deemed to have met the specific course work requirements.

Section 2 (148B.53, subdivision 3) makes a technical change.

Section 3 (148B.531) permits an individual whose degree included less than the required number of hours, or did not complete the required number of hours of supervised professional practice, or did not complete the course work in all the content areas, to complete these requirements postdegree under certain conditions.

Section 4 (148B.54, subdivision 2) requires a licensee at the completion of the first four years of licensure to submit evidence of completion of 12 additional postgraduate semester credit hours or its equivalent.

Section 5 (148B.555) states that an applicant who has completed a master's or doctoral's degree program in counseling or a related field before December 31, 2003, and the degree was from a program recognized by CACREP or from an institution of higher education that is accredited by an organization recognized by the Council for Higher Education Accreditation (CHEA) does not have to comply with the education requirement so long as the applicant can document five years of full-time postdegree work experience within the practice of professional counseling. This section expires July 1, 2007.

Section 6 (148B.561) permits the board to place any disciplinary provisions that were placed on the professional counselor in another state on the license of the professional counselor in this state.

Section 7(148B.59) authorizes the board to impose disciplinary action against an applicant or licensee who has surrendered or voluntarily terminated a license or certificate during a board investigation of a complaint as part of a disciplinary order or while under an order; has been subject to a corrective action in another jurisdiction or by another regulatory authority; or has been adjudicated as mentally incompetent, mentally ill, mentally retarded, or as chemically dependent, etc. States that fee splitting includes paying, offering to pay, receiving, or agreeing to receive a commission, rebate, or remuneration, directly or indirectly, for the referral of clients.

Section 8 (148B.5901) authorizes the board to temporarily suspend the credentials of a licensee after conducting a preliminary inquiry to determine if the board reasonably believes that the licensee has violated a statute or rule and that continuing to practice would create an imminent risk of harm to others.

Section 9 (148B.5905) authorizes the board to direct an applicant or licensee to submit to a mental, physical, or chemical dependency examination or evaluation.

Section 10 (148B.5925) states that a provider is not required to provide copies of test, test materials, or scoring keys to any individual who has completed a test or to an individual not qualified to administer, score, and interpret the test if the provider determines that access would compromise the objectivity, fairness, or integrity of the testing process.

Sections 11 to 24 and 26 modify the alcohol and drug counselors' statutes.

Section 11 (148C.03, subdivision 1) removes reference to the advisory council and the requirement that the commissioner administer an examination.

Section 12 (148C.04, subdivision 3) permits before July 1, 2008, the ability for an applicant to meet licensure requirements by either completing a written case presentation and passing an oral examination or completing 2,000 hours of supervised postdegree equivalent professional practice.

Section 13 (148C.04, subdivision 4) permits after July 1, 2008, the ability for an applicant to meet licensure requirements by completing a written case presentation and passing an oral examination or submitted to the board a plan for supervision during the first 2,000 hours of professional practice, or submitted proof of supervised professional practice that is acceptable to the board.

Section 14 (148C.04, subdivision 6) makes a conforming change.

Section 15 (148C.044) establishes supervised postdegree requirements for the supervisor and the supervised practice requirements for licensure.

Section 16 (148C.091, subdivision 1) removes reference to advisory council.

Section 17 (148C.10, subdivision 2) corrects a cross-reference.

Section 18 (148C.11, subdivision 1) includes in the list of other professionals who do not need to be licensed as alcohol and drug counselors to perform functions that they are qualified or licensed to perform; social workers employed by the city, county, or state agencies and city, county, or state employees when providing assessments or case management under Minnesota Rules, chapter 9530. States that the board shall issue a license without examination to an applicant who is licensed or registered in a profession listed in the exceptions if the applicant:

(1) shows evidence of current licensure or registration; and

(2) has submitted a plan for supervision during the first 2,000 hours of professional practice or has submitted proof of supervised professional practice that is acceptable to the commissioner.

Section 19 (148C.11, subdivision 4) extends the licensure requirement for alcohol and drug counselors employed by a hospital for one year until January 1, 2007.

Section 20 (148C.11, subdivision 5) extends the licensure requirement for alcohol and drug counselors employed by a city, county, or state agency for one year until January 1, 2007.

Section 21 (148C.11, subdivision 6) modifies the transition period for hospital and city, county, and state agency alcohol and drug counselors by permitting a license to be granted if the applicant is credentialed as a board certified counselor or board certified counselor reciprocal by the Minnesota Certification Board or if the applicant has 14,000 hours of supervised alcohol and drug counselor work experience as documented by the employer.

Section 22 (148C.12, subdivision 3) increases the fee for annual renewal of a temporary permit to \$150.

Section 23 (214.01, subdivision 2) removes reference to the advisory council.

Section 24 (214.103, subdivision 1) removes reference to the advisory council.

Section 25 gives the Board of Behavioral Therapy and Health the authority to use the expedited rulemaking process for adopting rules for the licensed professional counselors.

Section 26 repeals sections 148C.02 (alcohol and drug counselors licensing advisory council) and 148C.12, subdivision 4 (examination fees).

Repeals rules: 4747.0030, subpart 11 (cultural diversity committee), and subpart 16 (education committee); 4747.1200 (cultural diversity committee); and 4747.1300 (education committee).

Section 27 provides an effective date of July 1, 2005.

Article 6
Board of Medical Practice
(Physician Assistants and Respiratory Care Practitioners)

Section 1 (147A.18, subdivision 1) deletes the requirement for weekly reviews by the supervising physician and replaces it with the requirement that the review be conducted as outlined in the internal protocol.

Section 2 (147A.18, subdivision 3) states that prescriptions initiated by a physician assistant must contain the name and the address of the prescribing physician assistant and removes the requirement of including the telephone number of the physician assistant and the name of the supervising physician.

Section 3 (147C.05) states that the scope of practice of respiratory care does not prohibit an individual who is licensed or registered as a respiratory therapist in another state or country from providing respiratory care in the case of an emergency, as a member of an organ harvesting team, or as part of an ambulance treatment team on board an ambulance.

Article 7
Commissioner of Health - Audiologists

Section 1 (148.512, subdivision 6) clarifies that an audiologist may be licensed under a general, clinical fellowship, doctoral externship, or temporary license.

Section 2 (148.512, subdivision 10a) defines "hearing aid."

Section 3 (148.512, subdivision 10b) defines "hearing aid dispensing."

Section 4 (148.515, subdivision 6) requires an audiologist applying for licensure on or after August 1, 2005, to achieve a passing score on the examination described in section 153A.14, paragraph (a), clause (2), unless the audiologist is licensed by reciprocity who was licensed before April 1, 2005, in another jurisdiction. Exempts audiologists from the written examination requirement in section 153A.14, subdivision 2h, paragraph (a), clause (1).

Section 5 (148.5194, subdivision 7) adds a surcharge to the audiologist licensure fee.

Section 6 148.5195, subdivision 3) adds to the list of grounds upon which the commissioner may take disciplinary action the following:

- prescribing to a consumer the use of a hearing instrument unless the prescription is in writing, is based on an audiogram that is provided to the consumer and contains specified information;
- failing to give a copy of the audiogram to the consumer when the consumer requests a copy;
- failing to provide the consumer with the consumer rights brochure;
- failing to comply with the restrictions on sales of hearing aids; and
- failing to return a consumer's hearing aid used as a trade in or for a discount in the price of a new hearing aid when requested by the consumer upon cancellation of the purchase agreement.

Section 7 (148.5197) establishes hearing instrument dispensing provisions.

Subdivision 1 states that all oral statements made by the audiologist regarding warranties, refunds, and service must be written and must be part of the contract of sale, must specify the item or items covered, and the person or entity that is obligated to provide the warranty, refund, or service.

Subdivision 2 requires the audiologist's license number must appear on all contracts, bills of sale, and receipts.

Subdivision 3 requires an audiologist to give the consumer the consumer rights brochure at the time of a recommendation or prescription. States what the brochure must contain and states that a sales contract must note that the brochure was received by the buyer along with the buyer's signature or initials.

Subdivision 4 states who is liable for satisfying the terms of a contract either written or oral. The commissioner may enforce the terms of the sales contract against the principal, employer, supervisor, or dispenser who conducted the sale and may impose any remedy provided under this chapter.

Section 8 (148.5198) establishes restrictions on the sale of hearing aids.

Subdivision 1 establishes the 45-calendar-day guarantee and buyers right to cancel.

Subdivision 2 requires the audiologist or company who agrees to repair a hearing aid to provide a bill that describes the repair and service rendered.

Subdivision 3 requires any guarantee of a hearing aid to be in writing and delivered to the owner of the hearing aid.

Subdivision 4 states that any person who violates this section is guilty of a misdemeanor.

Subdivision 5 states that in addition to being guilty of a misdemeanor, the person is subject to the penalties and remedies in section 325F.69, subdivision 1 (fraud, misrepresentation, and deceptive practices).

Subdivision 6 requires an audiologist or company to provide the owner of a hearing aid with a written estimate of the price of repairs, upon request, and that the audiologist must not charge more than the total price stated on the estimate.

Sections 9 to 14 make conforming changes to chapter 153A (hearing instrument dispensing).

Section 9 (153A.13, subdivision 5) permits a licensed audiologist to dispense a hearing instrument without being certified by the commissioner.

Section 10 (153A.14, subdivision 2i) removes a reference to audiologists.

Section 11 (153A.14, subdivision 4) makes a conforming technical change.

Section 12 (153A.14, subdivision 4c) removes a reference to audiologists.

Section 13 (153A.15, subdivision 1) makes a conforming change to the information that must be provided by a hearing instrument dispenser clarifying that a prescription for a hearing instrument may be purchased from a licensed audiologist as well as a certified dispenser.

Section 14 (153A.20, subdivision 1) makes a conforming change to the hearing dispenser advisory council in that the audiologists on the council do not have to be certified hearing dispensers.

Section 15 instructs the Revisor to make conforming changes.

Section 16 repeals section 153A.14, subdivision 2a (exemption from written examination requirement for audiologists).

Section 17 is an effective date of August 1, 2005.

Article 8
Office of Mental Health Practices Committee

Section 1 (148B.60) adds to the definition of “mental health services” behavioral health care, spiritual counseling, and hypnosis when not for entertainment. Adds a definition for “mental-health-related licensing boards” that includes the Boards of Medical Practice, Nursing, Psychology, Social Work, Marriage and Family Therapy, and Behavioral Health and Therapy. Adds a definition for “committee” that shall consist of one member appointed from each of the mental-health-related licensing boards. Makes other technical changes.

Section 2 (148B.61) makes changes to the Office of Mental Health Practice.

Subdivision 1 transfers the Office of Mental Health Practice to the mental-health-related licensing boards. Requires the office to publish a complaint telephone number, provide an informational Web site, and to serve as a referral point and clearinghouse on complaints against mental health practitioners.

Subdivision 4, paragraph (a), requires the committee to:

- (1) designate one board to provide administrative management of the program;
- (2) set the program budget; and
- (3) ensure that the program’s direction is in accord with its authority.

Paragraph (b) states that if the participating boards change which board is designated to provide administrative management of the program, any appropriation remaining shall transfer to the newly designated board. Requires the participating boards to inform the appropriated legislative committees and the Commissioner of Finance of the change and the amount of any appropriation transferred.

Paragraph (c) requires the designated board to hire the office employees and pay expenses of the program from the appropriated funds.

Paragraph (d) requires the committee to prepare and submit a report to the Legislature by January 15, 2009, evaluating the activity of the office and making recommendations on the regulation of unlicensed mental health practitioners. States that the committee and office expires on June 30, 2009, unless legislative action is taken to continue the office.

Section 3 delays the expiration of the unlicensed mental health practice statutes until July 1, 2009. (Currently, these statutes are scheduled to expire July 1, 2005.)

Section 4 appropriates money from the state government special revenue fund to the mental-health-related licensing boards as nonrecovery funds.

Section 5 instructs the Revisor to insert “committee” where the “Commissioner of Health” appears in Minnesota Statutes, sections 148B.60 to 148B.71.

Section 6 is an effective date of July 1, 2005.

Article 9
Miscellaneous

Sections 1 to 3 (148.5194, subdivision 7; 148.6445, subdivision 11; and 148C.12, subdivision 11) establish the following penalty fees for speech language pathologists, audiologists, and occupational therapists:

- For practicing without a current license, the penalty is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any subsequent month up to 36 months;
- For practicing before a license is issued, the penalty is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months;
- For failing to submit continuing education reports, the penalty is \$100, plus \$20 for each missing clock hour and the licensee must complete the required number of hours by the end of the next reporting due date; and
- States that civil penalties and discipline incurred by licensees before August 1, 2005, for any of the above reasons are to be recorded as nondisciplinary penalty fees and after August 1, 2005, the payment of a penalty for practicing without a license or before a license is issued for a period longer than 12 months does not preclude further disciplinary action if justified by the individual case.

Section 4 (153A.175) establishes the following penalties for hearing instrument dispensers:

- For practicing with an expired certificate, the penalty is one-half the amount of the certificate renewal fee for any part of the first day, plus one half the certificate renewal fee for any part of any subsequent days up to 30 days;
- For practicing after expiration of the trainee period and before a certificate is issued, the penalty is one-half the amount of the certificate application fee for any part of the first day, plus one half the certificate application fee for any part of any subsequent days up to 30 days;
- For failing to submit continuing education reports, the penalty is \$200, plus \$200 for each missing clock hour and the dispenser must complete the required clock hours by the next reporting due date; and

- States that civil penalties and discipline incurred before August 1, 2005, for any of the reasons stated above will be recorded as nondisciplinary penalty fees but payment of a penalty does not preclude disciplinary action if justified by the individual case.

KC:ph

Preliminary

Consolidated Fiscal Note – 2005-06 Session

Bill #: S1204-1E **Complete Date:**

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
 Psychology Board
 Physical Therapy, Board of

Dentistry Board
 Behavioral Health & Therapy Bd
 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
Net Expenditures					
Health Related Boards Fund					
Behavioral Health & Therapy Bd					
Revenues					
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>					
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					
-- No Impact --					
Total FTE					

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1204-1E **Complete Date:**

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 Equivalent					
-- No Impact --					
Total FTE					

Preliminary

This bill version has no fiscal effect on our agency.

FN Coord Signature: JULI VANGSNESS

Date: 04/12/05 Phone: 617-2120

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1204-1E **Complete Date:**

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					

Preliminary

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

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1204-1E **Complete Date:**

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					

Preliminary

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

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1204-1E **Complete Date:**

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					

Preliminary

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 bienna 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.

Preliminary

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

Preliminary

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

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1204-1E Complete Date:

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					

Preliminary

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

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1204-1E **Complete Date:**

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					

Preliminary

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

Consolidated Fiscal Note – 2005-06 Session

Bill #: S1204-1E **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

Agencies: Social Work Board (04/20/05)
 Psychology Board (04/20/05)
 Physical Therapy, Board of (04/20/05)

Dentistry Board (04/20/05)
 Behavioral Health & Therapy Bd (04/20/05)
 Medical Practice 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					
Health Related Boards Fund					
Behavioral Health & Therapy Bd					
Revenues					
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>					
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					
-- No Impact --					
Total FTE					

Consolidated 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 **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 **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 **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 Equivalent					
-- 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 **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 **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 **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 Pages 162 and 163, delete section 2 and insert:

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

5 148B.61 [OFFICE OF MENTAL HEALTH PRACTICE.]

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

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

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

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

33 (1) designate one board to provide administrative
34 management of the committee;

35 (2) set the program budget; and

36 (3) ensure that the committee's direction is in accord with

1 its authority.

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

10 (c) The designated board shall hire the office employees
11 and pay expenses of the committee from funds appropriated for
12 that purpose.

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

19 Page 164, delete lines 4 to 6 and insert:

20 "\$..... is appropriated from the state government special
21 revenue fund to the board designated to provide administrative
22 management under Minnesota Statutes, section 148B.61,
23 subdivision 4. The following boards shall be assessed a
24 prorated amount depending on the number of licensees under the
25 board's regulatory authority providing mental health services
26 within their scope of practice: Board of Medical Practice, the
27 Board of Nursing, the Board of Psychology, the Board of Social
28 Work, the Board of Marriage and Family Therapy, and the Board of
29 Behavioral Health and Therapy."

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

ATTACHMENT "B"

04/20/05

[COUNSEL] KC

SCS1204A-7

1 Senator moves to amend S.F. No. 1204 as follows:

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

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

7 Page 167, after line 17, insert:

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

10 Subdivision 1. [FEE ADJUSTMENT.] Notwithstanding any law
11 to the contrary, the commissioner of health as authorized by
12 section 214.13, all health-related licensing boards and all
13 non-health-related licensing boards shall by rule, with the
14 approval of the commissioner of finance, adjust, as needed, any
15 fee which the commissioner of health or the board is empowered
16 to assess. As provided in section 16A.1285, the adjustment
17 shall be an amount sufficient so that the total fees collected
18 by each board will ~~as-closely-as-possible-equal~~ be based on
19 anticipated expenditures during-the-fiscal-biennium, including
20 expenditures for the programs authorized by sections ~~214-17-to~~
21 ~~214-25-and-214-31-to-214-37~~ 214.10, 214.103, 214.11, 214.17 to
22 214.24, 214.28 to 214.37, and 214.40, except that a
23 health-related licensing board may have anticipated expenditures
24 in excess of anticipated revenues in a biennium by using
25 accumulated surplus revenues from fees collected by that board
26 in previous bienniums. A health-related licensing board shall
27 not spend more money than the amount appropriated by the
28 legislature for a biennium. For members of an occupation
29 registered after July 1, 1984, by the commissioner of health
30 under the provisions of section 214.13, the fee established must
31 include an amount necessary to recover, over a five-year period,
32 the commissioner's direct expenditures for adoption of the rules
33 providing for registration of members of the occupation. All
34 fees received shall be deposited in the state treasury. Fees
35 received-by-the-commissioner-of-health-or-health-related
36 licensing-boards-must-be-credited-to-the-health-occupations

1 ~~licensing-account-in-the-state-government-special-revenue-fund-~~

2 Sec. 6. Minnesota Statutes 2004, section 214.06, is

3 amended by adding a subdivision to read:

4 Subd 1a. [HEALTH OCCUPATIONS LICENSING ACCOUNT.] Fees

5 received by the commissioner of health or health-related

6 licensing boards must be credited to the health occupations

7 licensing account in the state government special revenue fund.

8 The commissioner of finance shall ensure that the revenues and

9 expenditures of each health-related licensing board are tracked

10 separately in the health occupations licensing account."

11 Amend the title accordingly

ATTACHMENT "C"

04/21/05

[COUNSEL] KC

SCS1204A-4

1 Senator moves to amend S.F. No. 1204 as follows:

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

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

6 "The dental hygienist ~~shall-not-perform~~ may administer
7 injections of local anesthetic agents or ~~the-administration-of~~
8 nitrous oxide ~~unless-under-the-indirect-supervision~~
9 of inhalation analgesia as specifically delegated in the
10 collaborative agreement with a licensed dentist. The dentist,
11 need not first examine the patient or be present. If the
12 patient is considered medically compromised, the collaborative
13 dentist shall review the patient record, including the medical
14 history, prior to the provision of these services.

15 Collaborating dental hygienists may work with"

16 Page 161, line 4, delete "licensed"

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

1 Senator moves to amend S.F. No. 1204 as follows:

2 Page 167, after line 17, insert:

3 "ARTICLE 10

4 EMERGENCY MEDICAL SERVICES REGULATORY BOARD

5 Section 1. Minnesota Statutes 2004, section 144E.001,

6 subdivision 8, is amended to read:

7 Subd. 8. [LICENSEE.] "Licensee" means a natural person,

8 partnership, association, corporation, Indian tribe, or unit of

9 government which possesses an ambulance service license.

10 Sec. 2. Minnesota Statutes 2004, section 144E.001, is

11 amended by adding a subdivision to read:

12 Subd. 14a. [TRIBE.] "Tribe" means a federally recognized

13 Indian tribe, as defined in United States Code, title 25,

14 section 450b, paragraph (e), located within the state of

15 Minnesota.

16 Sec. 3. Minnesota Statutes 2004, section 144E.001,

17 subdivision 15, is amended to read:

18 Subd. 15. [VOLUNTEER AMBULANCE ATTENDANT.] "Volunteer

19 ambulance attendant" means a person who provides emergency

20 medical services for a Minnesota licensed ambulance service

21 without the expectation of remuneration and who does not depend

22 in any way upon the provision of these services for the person's

23 livelihood. An individual may be considered a volunteer

24 ambulance attendant even though the individual receives an

25 hourly stipend for each hour of actual service provided, except

26 for hours on standby alert, or other nominal fee, and even

27 though the hourly stipend or other nominal fee is regarded as

28 taxable income for purposes of state or federal law, provided

29 that the hourly stipend and other nominal fees do not exceed

30 ~~\$3,000-within-one-year-of-the-final-certification~~

31 ~~examination~~ \$6,000 annually.

32 Sec. 4. [144E.266] [EMERGENCY SUSPENSION OF AMBULANCE

33 SERVICE REQUIREMENT.]

34 (a) The requirements of sections 144E.10; 144E.101,

35 subdivisions 1, 2, 3, 6, 7, 8, 9, 10, 11, and 13; 144E.103;

36 144E.12; 144E.121; 144E.123; 144E.127; and 144E.15, are

1 suspended:

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

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

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

8 (b) For purposes of this section, the geographic areas of
9 the state affected shall include geographic areas where one or
10 more ambulance services are providing requested mutual aid to
11 the site of the emergency.

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

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

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

21 (2) be credentialed as a first responder by the National
22 Registry of Emergency Medical Technicians. Registration under
23 this clause expires the same day as the National Registry
24 credential.

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

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

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

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

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

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

3 Subd. 3. [RECIPROCITY.] The board may certify an
4 individual who possesses a current National Registry of
5 Emergency Medical Technicians registration from another
6 jurisdiction if the individual submits a board-approved
7 application form. The board certification classification shall
8 be the same as the National Registry's classification.
9 Certification shall be for the duration of the applicant's
10 registration period in another jurisdiction, not to exceed two
11 years.

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

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

17 (1) successfully complete a course in cardiopulmonary
18 resuscitation that is approved by the board or the licensee's
19 medical director; and

20 (2) take the United States Department of Transportation EMT
21 refresher course and successfully pass the practical skills test
22 portion of the course, or successfully complete 48 hours of
23 continuing education in EMT programs that are consistent with
24 the United States Department of Transportation National Standard
25 Curriculum or its equivalent as approved by the board or as
26 approved by the licensee's medical director and pass a practical
27 skills test approved by the board and administered by a training
28 program approved by the board. The cardiopulmonary
29 resuscitation course and practical skills test may be included
30 as part of the refresher course or continuing education renewal
31 requirements. Twenty-four of the 48 hours must include at least
32 four hours of instruction in each of the following six
33 categories:

34 (i) airway management and resuscitation procedures;
35 (ii) circulation, bleeding control, and shock;
36 (iii) human anatomy and physiology, patient assessment, and

1 medical emergencies;

2 (iv) injuries involving musculoskeletal, nervous,
3 digestive, and genito-urinary systems;

4 (v) environmental emergencies and rescue techniques; and

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

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

7 (b) Before the expiration date of certification, an

8 applicant for renewal of certification as an EMT-I or EMT-P

9 shall:

10 (1) for an EMT-I, successfully complete a course in
11 cardiopulmonary resuscitation that is approved by the board or
12 the licensee's medical director and for an EMT-P, successfully
13 complete a course in advanced cardiac life support that is
14 approved by the board or the licensee's medical director; and

15 (2) successfully complete 48 hours of continuing education
16 in emergency medical training programs, appropriate to the level
17 of the applicant's EMT-I or EMT-P certification, that are
18 consistent with the United States Department of Transportation
19 National Standard Curriculum or its equivalent as approved by
20 the board or as approved by the licensee's medical director. An
21 applicant may take the United States Department of
22 Transportation Emergency Medical Technician refresher course or
23 its equivalent without the written or practical test as approved
24 by the board, and as appropriate to the applicant's level of
25 certification, as part of the 48 hours of continuing education.
26 Each hour of the refresher course, the cardiopulmonary
27 resuscitation course, and the advanced cardiac life support
28 course counts toward the 48-hour continuing education
29 requirement; and

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

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

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

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

36 Subd. 8. [REINSTATEMENT.] (a) Within four years of a

1 certification expiration date, a person whose certification has
2 expired under subdivision 7, paragraph (d), may have the
3 certification reinstated upon submission of:

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

6 (2) a board-approved application form.

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

10 Amend the title accordingly

1 Senator moves to amend S.F. No. 1204 as follows:

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

3 "ARTICLE 7

4 COMMISSIONER OF HEALTH - AUDIOLOGISTS

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

7 Subd. 6. [AUDIOLOGIST.] "Audiologist" means a natural
8 person who engages in the practice of audiology, meets the
9 qualifications required by sections 148.511 to ~~148.5196~~
10 148.5198, and is licensed by the commissioner under a general,
11 clinical fellowship, doctoral externship, or temporary license.
12 Audiologist also means a natural person using any descriptive
13 word with the title audiologist.

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

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

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

28 Subd. 10b. [HEARING AID DISPENSING.] "Hearing aid
29 dispensing" means making ear mold impressions, prescribing, or
30 recommending a hearing aid, assisting the consumer in aid
31 selection, selling hearing aids at retail, or testing human
32 hearing in connection with these activities regardless of
33 whether the person conducting these activities has a monetary
34 interest in the dispensing of hearing aids to the consumer.

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

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

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

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

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

15 (c) In order to dispense hearing aids as a sole proprietor,
16 member of a partnership, or for a limited liability company,
17 corporation, or any other entity organized for profit, a
18 licensee who obtained audiologist licensure under sections
19 148.512 to 148.5198, before August 1, 2005, and who is not
20 certified to dispense hearing aids under chapter 153A, must
21 achieve a passing score on the practical tests of proficiency
22 described in section 153A.14, subdivision 2h, paragraph (a),
23 clause (2), within the time period described in section 153A.14,
24 subdivision 2h, paragraph (c). All other audiologist licensees
25 who obtained licensure before August 1, 2005, are exempt from
26 the practical tests.

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

29 Subd. 7. [AUDIOLOGIST SURCHARGE FEE.] (a) The biennial
30 surchARGE fee for audiologists is \$235. The commissioner shall
31 prorate the fee for clinical fellowship, doctoral externship,
32 temporary, and first time licensees according to the number of
33 months that have elapsed between the date the license is issued
34 and the date the license expires or must be renewed under
35 section 148.5191, subdivision 4.

36 (b) Effective November 1, 2005, the commissioner shall

1 collect the \$235 audiologist surcharge fee prorated according to
2 the number of months remaining until the next scheduled license
3 renewal.

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

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

9 (1) intentionally submitted false or misleading information
10 to the commissioner or the advisory council;

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

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

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

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

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

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

30 (8) been or is being disciplined by another jurisdiction,
31 if any of the grounds for the discipline is the same or
32 substantially equivalent to those under sections 148.511 to
33 148.5196;

34 (9) not cooperated with the commissioner or advisory
35 council in an investigation conducted according to subdivision
36 1;

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

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

5 (12) failed to disclose to the consumer any fee splitting
6 or any promise to pay a portion of a fee to any other
7 professional other than a fee for services rendered by the other
8 professional to the client;

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

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

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

18 (16) failed to refer a client for medical evaluation or to
19 other health care professionals when appropriate or when a
20 client indicated symptoms associated with diseases that could be
21 medically or surgically treated;

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

26 (18) used the term doctor of audiology, doctor of
27 speech-language pathology, AuD, or SLPD without having obtained
28 the degree from an institution accredited by the North Central
29 Association of Colleges and Secondary Schools, the Council on
30 Academic Accreditation in Audiology and Speech-Language
31 Pathology, the United States Department of Education, or an
32 equivalent; ~~or~~

33 (19) failed to comply with the requirements of section
34 148.5192 regarding supervision of speech-language pathology
35 assistants; or

36 (20) if the individual is an audiologist or certified

1 hearing aid dispenser:

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

13 (ii) failed to give a copy of the audiogram, upon which the
14 prescription or recommendation is based, to the consumer when
15 the consumer requests a copy;

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

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

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

24 (vi) failed to follow Food and Drug Administration or
25 Federal Trade Commission regulations relating to dispensing
26 hearing aids;

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

29 (viii) delegated hearing instrument dispensing authority to
30 a person not authorized to dispense a hearing instrument under
31 this chapter or chapter 153A;

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

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

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

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

6 (1) ~~two~~ three public members, as defined in section 214.02.
7 Two of the public members shall be either persons receiving
8 services of a speech-language pathologist or audiologist, or
9 family members of or caregivers to such persons, and at least
10 one of the public members shall be either a hearing instrument
11 user or an advocate of one;

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

20 (3) one speech-language pathologist licensed under sections
21 148.511 to 148.5196, who is currently and has been, for the five
22 years immediately preceding the appointment, employed by a
23 Minnesota public school district or a Minnesota public school
24 district consortium that is authorized by Minnesota Statutes and
25 who is licensed in speech-language pathology by the Minnesota
26 Board of Teaching;

27 (4) ~~two~~ three audiologists licensed under sections 148.511
28 to 148.5196, ~~one~~ two of whom ~~is~~ are currently and ~~has~~ have
29 been, for the five years immediately preceding the appointment,
30 engaged in the practice of audiology and the dispensing of
31 hearing instruments in Minnesota and each of whom is employed in
32 a different employment setting including, but not limited to,
33 private practice, hospitals, rehabilitation settings,
34 educational settings, industry, and government agencies; and

35 (5) one nonaudiologist hearing instrument dispenser
36 recommended by a professional association representing hearing

1 instrument dispensers; and

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

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

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

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

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

26 Subd. 4. [LIABILITY FOR CONTRACTS.] Owners of entities in
27 the business of dispensing hearing aids, employers of
28 audiologists or persons who dispense hearing aids, supervisors
29 of trainees or audiology students, and hearing aid dispensers
30 conducting the transaction at issue are liable for satisfying
31 all terms of contracts, written or oral, made by their agents,
32 employees, assignees, affiliates, or trainees, including terms
33 relating to products, repairs, warranties, service, and
34 refunds. The commissioner may enforce the terms of hearing aid
35 contracts against the principal, employer, supervisor, or
36 dispenser who conducted the transaction and may impose any

1 remedy provided for in this chapter.

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

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

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

29 (c) The audiologist or certified dispenser shall provide
30 the buyer with a contract written in plain English, that
31 contains uniform language and provisions that meet the
32 requirements under the Plain Language Contract Act, sections
33 325G.29 to 325G.36. The contract must include, but is not
34 limited to, the following: in immediate proximity to the space
35 reserved for the signature of the buyer, or on the first page if
36 there is no space reserved for the signature of the buyer, a

1 clear and conspicuous disclosure of the following specific
2 statement in all capital letters of no less than 12-point
3 boldface type: "MINNESOTA STATE LAW GIVES THE BUYER THE RIGHT
4 TO CANCEL THIS PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO
5 MIDNIGHT OF THE 45TH CALENDAR DAY AFTER RECEIPT OF THE HEARING
6 AID(S). THIS CANCELLATION MUST BE IN WRITING AND MUST BE GIVEN
7 OR MAILED TO THE AUDIOLOGIST OR CERTIFIED DISPENSER. IF THE
8 BUYER DECIDES TO RETURN THE HEARING AID(S) WITHIN THIS
9 45-CALENDAR-DAY PERIOD, THE BUYER WILL RECEIVE A REFUND OF THE
10 TOTAL PURCHASE PRICE OF THE AID(S) FROM WHICH THE AUDIOLOGIST OR
11 CERTIFIED DISPENSER MAY RETAIN AS A CANCELLATION FEE NO MORE
12 THAN \$250."

13 Subd. 2. [ITEMIZED REPAIR BILL.] Any audiologist,
14 certified dispenser, or company who agrees to repair a hearing
15 aid must provide the owner of the hearing aid, or the owner's
16 representative, with a bill that describes the repair and
17 services rendered. The bill must also include the repairing
18 audiologist's, certified dispenser's, or company's name,
19 address, and telephone number.

20 This subdivision does not apply to an audiologist,
21 certified dispenser, or company that repairs a hearing aid
22 pursuant to an express warranty covering the entire hearing aid
23 and the warranty covers the entire cost, both parts and labor,
24 of the repair.

25 Subd. 3. [REPAIR WARRANTY.] Any guarantee of hearing aid
26 repairs must be in writing and delivered to the owner of the
27 hearing aid, or the owner's representative, stating the
28 repairing audiologist's, certified dispenser's, or company's
29 name, address, telephone number, length of guarantee, model, and
30 serial number of the hearing aid and all other terms and
31 conditions of the guarantee.

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

34 Subd. 5. [ADDITIONAL.] In addition to the penalty provided
35 in subdivision 4, a person found to have violated this section
36 is subject to the penalties and remedies provided in section

1 325F.69, subdivision 1.

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

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

30 Subd. 5. [DISPENSER OF HEARING INSTRUMENTS.] "Dispenser of
31 hearing instruments" means a natural person who engages in
32 hearing instrument dispensing whether or not certified by the
33 commissioner of health or licensed by an existing health-related
34 board, except that a person described as follows is not a
35 dispenser of hearing instruments:

36 (1) a student participating in supervised field work that

1 is necessary to meet requirements of an accredited educational
2 program if the student is designated by a title which clearly
3 indicates the student's status as a student trainee; or

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

7 A person who offers to dispense a hearing instrument, or a
8 person who advertises, holds out to the public, or otherwise
9 represents that the person is authorized to dispense hearing
10 instruments must be certified by the commissioner except when
11 the person is an audiologist as defined in section 148.512.

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

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

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

18 (1) A written examination approved by the commissioner
19 covering the following areas as they pertain to hearing
20 instrument selling:

21 (i) basic physics of sound;

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

23 (iii) the function of hearing instruments; and

24 (iv) the principles of hearing instrument selection; ~~and~~

25 ~~(v) state and federal laws, rules, and regulations.~~

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

28 (i) pure tone audiometry, including air conduction testing
29 and bone conduction testing;

30 (ii) live voice or recorded voice speech audiometry
31 including speech recognition (discrimination) testing, most
32 comfortable loudness level, and uncomfortable loudness
33 measurements of tolerance thresholds;

34 (iii) masking when indicated;

35 (iv) recording and evaluation of audiograms and speech
36 audiometry to determine proper selection and fitting of a

1 hearing instrument;

2 (v) taking ear mold impressions; and

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

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

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

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

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

21 Subd. 2i. [CONTINUING EDUCATION REQUIREMENT.] On forms
22 provided by the commissioner, each certified dispenser must
23 submit with the application for renewal of certification
24 evidence of completion of ten course hours of continuing
25 education earned within the 12-month period of July 1 to June 30
26 immediately preceding renewal. Continuing education courses
27 must be directly related to hearing instrument dispensing and
28 approved by the International Hearing Society ~~or-qualify-for~~
29 ~~continuing-education-approved-for-Minnesota-licensed~~
30 ~~audiologists~~. Evidence of completion of the ten course hours of
31 continuing education must be submitted with renewal applications
32 by October 1 of each year. This requirement does not apply to
33 dispensers certified for less than one year. The first report
34 of evidence of completion of the continuing education credits
35 shall be due October 1, 1997.

36 Sec. 14. Minnesota Statutes 2004, section 153A.14,

1 subdivision 4, is amended to read:

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

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

11 Subd. 4c. [RECIPROCITY.] (a) A person applying for
12 certification as a hearing instrument dispenser under
13 subdivision 1 who has dispensed hearing instruments in another
14 jurisdiction may dispense hearing instruments as a trainee under
15 indirect supervision if the person:

16 (1) satisfies the provisions of subdivision 4a, paragraph
17 (a);

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

22 (3) provides a copy of a current credential as a hearing
23 instrument dispenser, ~~an audiologist, or both,~~ held in the
24 District of Columbia or a state or territory of the United
25 States.

26 (b) A person becoming a trainee under this subdivision who
27 fails to take and pass the practical examination described in
28 subdivision 2h, paragraph (a), clause (2), when next offered
29 must cease dispensing hearing instruments unless under direct
30 supervision.

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

33 Subd. 9. [CONSUMER RIGHTS INFORMATION.] A hearing
34 instrument dispenser shall, ~~at the time of the recommendation or~~
35 ~~prescription, give a consumer rights brochure, prepared by the~~
36 ~~commissioner and containing information about legal requirements~~

1 ~~pertaining-to-sales-of-hearing-instruments,-to-each-potential~~
2 ~~buyer-of-a-hearing-instrument.--A-sales-contract-for-a-hearing~~
3 ~~instrument-must-note-the-receipt-of-the-brochure-by-the-buyer,~~
4 ~~along-with-the-buyer's-signature-or-initials comply with the~~
5 ~~requirements of sections 148.5195, subdivision 3, clause (20);~~
6 ~~148.5197; and 148.5198.~~

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

9 Subdivision 1. [PROHIBITED ACTS.] The commissioner may
10 take enforcement action as provided under subdivision 2 against
11 a dispenser of hearing instruments for the following acts and
12 conduct:

13 (1) ~~prescribing-or-otherwise-recommending-to-a-consumer-or~~
14 ~~potential-consumer-the-use-of-a-hearing-instrument,-unless-the~~
15 ~~prescription-from-a-physician-or-recommendation-from-a-hearing~~
16 ~~instrument-dispenser-or-audiologist-is-in-writing,-is-based-on~~
17 ~~an-audiogram-that-is-delivered-to-the-consumer-or-potential~~
18 ~~consumer-when-the-prescription-or-recommendation-is-made,-and~~
19 ~~bears-the-following-information-in-all-capital-letters-of~~
20 ~~12-point-or-larger-boldface-type:--"THIS-PRESCRIPTION-OR~~
21 ~~RECOMMENDATION-MAY-BE-FILLED-BY,-AND-HEARING-INSTRUMENTS-MAY-BE~~
22 ~~PURCHASED-FROM,-THE-CERTIFIED-DISPENSER-OR-LICENSED-AUDIOLOGIST~~
23 ~~OF-YOUR-CHOICE";~~

24 (2) ~~failing-to-give-a-copy-of-the-audiogram,-upon-which-the~~
25 ~~prescription-or-recommendation-is-based,-to-the-consumer-when~~
26 ~~there-has-been-a-charge-for-the-audiogram-and-the-consumer~~
27 ~~requests-a-copy;~~

28 (3) ~~dispensing a hearing instrument to a minor person 18~~
29 ~~years or younger unless evaluated by an audiologist for hearing~~
30 ~~evaluation and hearing aid evaluation;~~

31 (4) ~~failing-to-provide-the-consumer-rights-brochure~~
32 ~~required-by-section-153A.14,-subdivision-9;~~

33 (5) ~~(2) being disciplined through a revocation, suspension,~~
34 ~~restriction, or limitation by another state for conduct subject~~
35 ~~to action under this chapter;~~

36 (6) ~~(3) presenting advertising that is false or misleading;~~

- 1 ~~(7)~~ (4) providing the commissioner with false or misleading
2 statements of credentials, training, or experience;
- 3 ~~(8)~~ (5) engaging in conduct likely to deceive, defraud, or
4 harm the public; or demonstrating a willful or careless
5 disregard for the health, welfare, or safety of a consumer;
- 6 ~~(9)~~ (6) splitting fees or promising to pay a portion of a
7 fee to any other professional other than a fee for services
8 rendered by the other professional to the client;
- 9 ~~(10)~~ (7) engaging in abusive or fraudulent billing
10 practices, including violations of federal Medicare and Medicaid
11 laws, Food and Drug Administration regulations, or state medical
12 assistance laws;
- 13 ~~(11)~~ (8) obtaining money, property, or services from a
14 consumer through the use of undue influence, high pressure sales
15 tactics, harassment, duress, deception, or fraud;
- 16 ~~(12)-failing-to-comply-with-restrictions-on-sales-of~~
17 ~~hearing-aids-in-sections-153A-147-subdivision-97-and-153A-197~~
- 18 ~~(13)~~ (9) performing the services of a certified hearing
19 instrument dispenser in an incompetent or negligent manner;
- 20 ~~(14)~~ (10) failing to comply with the requirements of this
21 chapter as an employer, supervisor, or trainee;
- 22 ~~(15)~~ (11) failing to provide information in a timely manner
23 in response to a request by the commissioner, commissioner's
24 designee, or the advisory council;
- 25 ~~(16)~~ (12) being convicted within the past five years of
26 violating any laws of the United States, or any state or
27 territory of the United States, and the violation is a felony,
28 gross misdemeanor, or misdemeanor, an essential element of which
29 relates to hearing instrument dispensing, except as provided in
30 chapter 364;
- 31 ~~(17)~~ (13) failing to cooperate with the commissioner, the
32 commissioner's designee, or the advisory council in any
33 investigation;
- 34 ~~(18)~~ (14) failing to perform hearing instrument dispensing
35 with reasonable judgment, skill, or safety due to the use of
36 alcohol or drugs, or other physical or mental impairment;

1 ~~(19)~~ (15) failing to fully disclose actions taken against
2 the applicant or the applicant's legal authorization to dispense
3 hearing instruments in this or another state;

4 ~~(20)~~ (16) violating a state or federal court order or
5 judgment, including a conciliation court judgment, relating to
6 the activities of the applicant in hearing instrument
7 dispensing;

8 ~~(21)~~ (17) having been or being disciplined by the
9 commissioner of the Department of Health, or other authority, in
10 this or another jurisdiction, if any of the grounds for the
11 discipline are the same or substantially equivalent to those in
12 sections 153A.13 to 153A.19;

13 ~~(22)~~ (18) misrepresenting the purpose of hearing tests, or
14 in any way communicating that the hearing test or hearing test
15 protocol required by section 153A.14, subdivision 4b, is a
16 medical evaluation, a diagnostic hearing evaluation conducted by
17 an audiologist, or is other than a test to select a hearing
18 instrument, except that the hearing instrument dispenser can
19 determine the need for or recommend the consumer obtain a
20 medical evaluation consistent with requirements of the United
21 States Food and Drug Administration;

22 ~~(23)~~ (19) violating any of the provisions of sections
23 148.5195, subdivision 3, clause (20); 148.5197; 148.5198; and
24 153A.13 to ~~153A.19~~ 153A.18; and

25 ~~(24)~~ (20) aiding or abetting another person in violating
26 any of the provisions of sections 148.5195, subdivision 3,
27 clause (20); 148.5197; 148.5198; and 153A.13 to ~~153A.19~~ 153A.18.

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

30 Subdivision 1. [MEMBERSHIP.] The commissioner shall
31 appoint ~~nine~~ seven persons to a Hearing Instrument Dispenser
32 Advisory Council.

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

34 (1) three public members, as defined in section 214.02. At
35 least one of the public members shall be a hearing instrument
36 user and one of the public members shall be either a hearing

1 instrument user or an advocate of one; and

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

8 (3) ~~three audiologists who are certified hearing instrument~~
9 ~~dispensers or are~~ one audiologist licensed as audiologists an
10 audiologist under chapter 148 who dispenses hearing instruments,
11 recommended by a professional association representing
12 audiologists and speech-language pathologists.

13 (b) The factors the commissioner may consider when
14 appointing advisory council members include, but are not limited
15 to, professional affiliation, geographical location, and type of
16 practice.

17 (c) No two members of the advisory council shall be
18 employees of, or have binding contracts requiring sales
19 exclusively for, the same hearing instrument manufacturer or the
20 same employer.

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

22 The revisor of statutes shall change references from
23 "sections 148.511 to 148.5196" to "sections 148.511 to 148.5198"
24 wherever they appear in Minnesota Statutes and Minnesota Rules,
25 and change "153A.19" to "148.5197" in Minnesota Statutes,
26 section 325G.203.

27 Sec. 20. [REPEALER.]

28 Minnesota Statutes 2004, sections 153A.14, subdivisions 2a,
29 8, and 10; and 153A.19, are repealed.

30 Sec. 21. [EFFECTIVE DATE.]

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

32 Amend the title accordingly

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:

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~~

~~licensing-boards-must-be-credited-to-the-health-occupations
licensing-account-in-the-state-government-special-revenue-fund.~~

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

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

ARTICLE 10

EMERGENCY MEDICAL SERVICES REGULATORY BOARD

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

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

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

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

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

Subd. 15. [VOLUNTEER AMBULANCE ATTENDANT.] "Volunteer ambulance attendant" means a person who provides emergency medical services for a Minnesota licensed ambulance service without the expectation of remuneration and who does not depend in any way upon the provision of these services for the person's livelihood. An individual may be considered a volunteer ambulance attendant even though the individual receives an hourly stipend for each hour of actual service provided, except for hours on standby alert, or other nominal fee, and even though the hourly stipend or other nominal fee is regarded as

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; providing an exception to the
hospital construction moratorium; amending Minnesota
Statutes 2004, section 144.551, subdivision 1.

3

4

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

5

Section 1. Minnesota Statutes 2004, section 144.551,

6

subdivision 1, is amended to read:

7

Subdivision 1. [RESTRICTED CONSTRUCTION OR MODIFICATION.]

8

(a) The following construction or modification may not be

9

commenced:

10

(1) any erection, building, alteration, reconstruction,

11

modernization, improvement, extension, lease, or other

12

acquisition by or on behalf of a hospital that increases the bed

13

capacity of a hospital, relocates hospital beds from one

14

physical facility, complex, or site to another, or otherwise

15

results in an increase or redistribution of hospital beds within

16

the state; and

17

(2) the establishment of a new hospital.

18

(b) This section does not apply to:

19

(1) construction or relocation within a county by a

20

hospital, clinic, or other health care facility that is a

21

national referral center engaged in substantial programs of

22

patient care, medical research, and medical education meeting

23

state and national needs that receives more than 40 percent of

24

its patients from outside the state of Minnesota;

1 (2) a project for construction or modification for which a
2 health care facility held an approved certificate of need on May
3 1, 1984, regardless of the date of expiration of the
4 certificate;

5 (3) a project for which a certificate of need was denied
6 before July 1, 1990, if a timely appeal results in an order
7 reversing the denial;

8 (4) a project exempted from certificate of need
9 requirements by Laws 1981, chapter 200, section 2;

10 (5) a project involving consolidation of pediatric
11 specialty hospital services within the Minneapolis-St. Paul
12 metropolitan area that would not result in a net increase in the
13 number of pediatric specialty hospital beds among the hospitals
14 being consolidated;

15 (6) a project involving the temporary relocation of
16 pediatric-orthopedic hospital beds to an existing licensed
17 hospital that will allow for the reconstruction of a new
18 philanthropic, pediatric-orthopedic hospital on an existing site
19 and that will not result in a net increase in the number of
20 hospital beds. Upon completion of the reconstruction, the
21 licenses of both hospitals must be reinstated at the capacity
22 that existed on each site before the relocation;

23 (7) the relocation or redistribution of hospital beds
24 within a hospital building or identifiable complex of buildings
25 provided the relocation or redistribution does not result in:
26 (i) an increase in the overall bed capacity at that site; (ii)
27 relocation of hospital beds from one physical site or complex to
28 another; or (iii) redistribution of hospital beds within the
29 state or a region of the state;

30 (8) relocation or redistribution of hospital beds within a
31 hospital corporate system that involves the transfer of beds
32 from a closed facility site or complex to an existing site or
33 complex provided that: (i) no more than 50 percent of the
34 capacity of the closed facility is transferred; (ii) the
35 capacity of the site or complex to which the beds are
36 transferred does not increase by more than 50 percent; (iii) the

1 beds are not transferred outside of a federal health systems
2 agency boundary in place on July 1, 1983; and (iv) the
3 relocation or redistribution does not involve the construction
4 of a new hospital building;

5 (9) a construction project involving up to 35 new beds in a
6 psychiatric hospital in Rice County that primarily serves
7 adolescents and that receives more than 70 percent of its
8 patients from outside the state of Minnesota;

9 (10) a project to replace a hospital or hospitals with a
10 combined licensed capacity of 130 beds or less if: (i) the new
11 hospital site is located within five miles of the current site;
12 and (ii) the total licensed capacity of the replacement
13 hospital, either at the time of construction of the initial
14 building or as the result of future expansion, will not exceed
15 70 licensed hospital beds, or the combined licensed capacity of
16 the hospitals, whichever is less;

17 (11) the relocation of licensed hospital beds from an
18 existing state facility operated by the commissioner of human
19 services to a new or existing facility, building, or complex
20 operated by the commissioner of human services; from one
21 regional treatment center site to another; or from one building
22 or site to a new or existing building or site on the same
23 campus;

24 (12) the construction or relocation of hospital beds
25 operated by a hospital having a statutory obligation to provide
26 hospital and medical services for the indigent that does not
27 result in a net increase in the number of hospital beds;

28 (13) a construction project involving the addition of up to
29 31 new beds in an existing nonfederal hospital in Beltrami
30 County;

31 (14) a construction project involving the addition of up to
32 eight new beds in an existing nonfederal hospital in Otter Tail
33 County with 100 licensed acute care beds;

34 (15) a construction project involving the addition of 20
35 new hospital beds used for rehabilitation services in an
36 existing hospital in Carver County serving the southwest

1 suburban metropolitan area. Beds constructed under this clause
2 shall not be eligible for reimbursement under medical
3 assistance, general assistance medical care, or MinnesotaCare;

4 (16) a project for the construction or relocation of up to
5 20 hospital beds for the operation of up to two psychiatric
6 facilities or units for children provided that the operation of
7 the facilities or units have received the approval of the
8 commissioner of human services;

9 (17) a project involving the addition of 14 new hospital
10 beds to be used for rehabilitation services in an existing
11 hospital in Itasca County; or

12 (18) a project to add 20 licensed beds in existing space at
13 a hospital in Hennepin County that closed 20 rehabilitation beds
14 in 2002, provided that the beds are used only for rehabilitation
15 in the hospital's current rehabilitation building. If the beds
16 are used for another purpose or moved to another location, the
17 hospital's licensed capacity is reduced by 20 beds; or

18 (19) one or more projects to construct hospitals in the
19 city of Maple Grove on sites approved by the city, provided that:

20 (i) each hospital is constructed and operated by an entity
21 that participated in the public interest review under section
22 144.552 prior to April 1, 2005;

23 (ii) each hospital provides a full continuum of health care
24 services, including emergency medical services, surgery,
25 obstetrics, and behavioral health services, including mental
26 health services for children and adolescents;

27 (iii) each hospital makes a significant commitment to
28 providing uncompensated care; and

29 (iv) each hospital operator has agreed to participate with
30 the University of Minnesota in the training of health
31 professionals.

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A bill for an act

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relating to health; providing an exception to the
hospital construction moratorium; amending Minnesota
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30 the University of Minnesota in the training of health
31 professionals.

Memo

To: Senator Linda Berglin
From: Scott Leitz
Date: 4/20/2005
Re: Side by side charity care policy comparison

At the April 13 meeting of the Senate Health, Human Services, and Corrections Budget Division meeting, Senator Higgins requested that MDH prepare a side-by-side comparison of the charity care policies of organizations proposing to build a hospital in Maple Grove. I have attached that comparison; the information contained in the side by side was provided by each of the organizations (or partner organizations) proposing to build in Maple Grove.

Should you have any questions, please feel free to contact me at 651-282-6361, or scott.leitz@state.mn.us.

**Side by Side Comparison of Charity Care Policies
for Organizations Proposing Maple Grove Hospital**

Organization & Name of Program	Income Guidelines for Charity Care Discount	Percentage Discount	Basis of Discount	Other Information	Date Implemented
Fairview Health Services Community Care Program	Up to 200% of FPG 201 to 275% of FPG 276 to 350% of FPG 351 to 450% of FPG	100% discount 75% discount 50% discount 40% discount	Billed charges		April 1, 2005
North Memorial Health Care Financial Assistance Program	Up to 200% of FPG 201 to 300% of FPG 301 to 400% of FPG	100% discount 50 to 100% discount 15 to 50% discount	Billed charges	Patients whose non-covered charges exceed \$50,000 are eligible for discount of up to 40% regardless of income. "Quick pay" discount of 15% for patients who don't qualify for charity care and who pay their bill on a timely basis. Assets are also considered in determining eligibility for charity care/discounts.	September 2004
Allina Community Care Program & Uninsured Discount Program	Up to 275% of FPG 276 to 350% of FPG 351 to 400% of FPG Above 400% of FPG	100% discount (Community Care) 50% discount (Uninsured Discount) 30% discount (Uninsured Discount) 20% discount (Uninsured Discount)	Billed charges	Patients must apply for Medicaid and be found ineligible before they qualify for the Community Care Program.	October 2004
Children's Hospitals and Clinics	Up to 100% of FPG 101 to 150% of FPG 151 to 200% of FPG 201 to 250% of FPG 251 to 300% of FPG 301 to 350% of FPG 351 to 400% of FPG 401 to 450% of FPG	100% discount 100% discount and \$10 flat fee 80% discount and \$20 flat fee 70% discount and \$30 flat fee 60% discount and \$40 flat fee 50% discount and \$50 flat fee 40% discount and \$60 flat fee 30% discount and \$70 flat fee	Billed charges	For families with incomes above 450% of FPG, there is a 30% discount if their account balance is greater than 10% of gross income.	July 2004
Park Nicollet Health Services Financial Assistance Program	Up to 99% of FPG 100 to 109% of FPG 110 to 119% of FPG 120 to 129% of FPG 130 to 139% of FPG 140 to 149% of FPG	100% discount 90% discount 80% discount 70% discount 60% discount 50% discount	Billed charges	Discounts based on both income and assets. For all income levels, self-pay responsibility is capped at 25% of prior year income and current eligible assets. Liquid assets in excess of \$80,000 are included as income in calculation of eligibility for discount.	Income guidelines - 1998; cap on self-pay responsibility at 25% of income - July 2004

Memo

To: Senator Linda Berglin
From: Scott Leitz
Date: 4/20/2005
Re: Future hospital bed need projections

At the April 12, 2005 evening meeting of the Senate Health and Family Security Committee, you requested information on how future growth in population and aging will impact on hospital occupancy rates in the Twin Cities. Specifically, you asked how many additional inpatient hospital beds would be needed in the Twin Cities in the coming years.

Attached are projections of future hospital bed need in the Twin Cities metro area. The estimates are for the seven-county Twin Cities metro area. Several caveats should be noted about these projections. First, the projections assume that use rates (hospitalizations per 100 of the population by age group) and average length of hospital stay remain constant over the projection period. There may be reasons why use rates and average length of stay could be higher or lower than currently, but for the purposes of the projections, we assume these rates remain constant at 2001 levels. Second, as mentioned in committee and MDH's public interest review reports, there is no agreed-upon "right" occupancy rate. As a result, I've provided a range of occupancy rate targets and the estimated number of new operational beds that would achieve that desired target occupancy rate.

The attached sheet shows projections for 2010, 2015 and 2020. The projected need for additional inpatient hospital capacity grows over time, as population growth and aging affect the likely use of hospital services. The attached table shows the projected number of additional *available* beds necessary to achieve a given occupancy rate Twin Cities-wide. For example, we estimate that, in order to achieve a 75% Twin Cities-wide occupancy rate by 2010, 357 new available beds would likely be needed. To achieve an 80% Twin Cities-wide occupancy rate by 2010, we estimate that there would not be a need for any new beds; however to achieve an 80% occupancy rate by 2015, we estimate a need of approximately 476 new available beds. These new available beds could be from the addition of new inpatient capacity at a new site, either through new licensed beds or the use of existing but unused licensed beds, or through expansion at existing facilities.

Finally, it should be noted that while we estimate that there is currently sufficient *licensed* bed capacity in the Twin Cities to meet demand through 2020, there are likely situations where an existing hospital has licensed beds that it would be unable to use without an exception to the hospital moratorium law. In other words, if all currently licensed capacity in the Twin Cities were made available, there would likely be a sufficient supply of beds to serve the Twin Cities population through 2020. However, it is likely that under current law, legislative action would need to be taken to allow the transfer of existing licensed beds to new locations within the metro area where they are needed. Further, it is likely that some facilities with licensed but unused bed capacity have reached (or are near reaching) the limits of their ability to expand on existing sites and would potentially need an exception to the moratorium to construct on a new site.

Should you have any additional questions, please feel free to contact me at 651-282-6361 or at scott.leitz@state.mn.us.

Potential Future Need for Hospital Beds in the Twin Cities Metropolitan Region

1. Summary of projected volume and occupancy

	2010	2015	2020
Projected # of inpatient days:	1,625,977	1,769,108	1,925,561
Projected occupancy rate (based on 2003 available beds)	79.8%	86.8%	94.5%
2003 available beds	5,583	5,583	5,583
2003 licensed beds	8,335	8,335	8,335

2. Projections of number of additional beds needed to achieve desired 2010 occupancy rates:

Target occupancy rate	Total beds needed	2003 licensed beds	2003 available beds	New available beds needed
70% occupancy rate	6,364	8,335	5,583	781
75% occupancy rate	5,940	8,335	5,583	357
80% occupancy rate	5,568	8,335	5,583	0
85% occupancy rate	5,241	8,335	5,583	0

3. Projections of number of additional beds needed to achieve desired 2015 occupancy rates:

Target occupancy rate	Total beds needed	2003 licensed beds	2003 available beds	New available beds needed
70% occupancy rate	6,924	8,335	5,583	1,341
75% occupancy rate	6,462	8,335	5,583	879
80% occupancy rate	6,059	8,335	5,583	476
85% occupancy rate	5,702	8,335	5,583	119

4. Projections of number of additional beds needed to achieve desired 2020 occupancy rates:

Target occupancy rate	Total beds needed	2003 licensed beds	2003 available beds	New available beds needed
70% occupancy rate	7,536	8,335	5,583	1,953
75% occupancy rate	7,034	8,335	5,583	1,451
80% occupancy rate	6,594	8,335	5,583	1,011
85% occupancy rate	6,206	8,335	5,583	623

Notes:

- a. The projected number of inpatient days in 2020 for the Twin Cities metro (7-county area) is based on projections of population and age distribution from the Minnesota State Demographic Center. Within each age group, hospital use rates and lengths of stay are assumed to be the same as in 2001.
- b. 2003 available beds and 2003 licensed beds are from MDH Health Care Cost Information System (HCCIS)
- c. There is no agreed-upon "right" occupancy rate. Based on MDH staff research and conversations with industry experts, hospitals typically try to achieve an occupancy rate of 70% to 80%. Costly inefficiencies (such as delays in the ability to admit or transfer patients between units) are more likely to occur at occupancy rates above 85%.
- d. Although the aggregate number of licensed beds in the Twin Cities metro appears to be sufficient to meet future demand, there are likely situations where an existing hospital has licensed beds that it would be unable to use without an exception to the hospital moratorium law. In other words, there is some likelihood that under current law legislative action would be necessary to allow the transfer of existing licensed beds to new locations within the metro area where they are needed.

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

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

**S.F. No. 1840 - Moratorium Exception For a New Maple
Grove Hospital (The First Engrossment)**

Author: Senator Warren Limmer

Prepared by: David Giel, Senate Research (296-7178)



Date: April 21, 2005

S.F. No. 1840 authorizes an exception to the hospital moratorium for the construction of one or more new hospitals in Maple Grove on sites approved by the city, provided that:

- (1) each hospital is constructed and operated by an entity that participated in the public interest review process prior to April 1, 2005;
- (2) each hospital provides a full continuum of health care services;
- (3) each hospital makes a significant commitment to providing uncompensated care; and
- (4) each hospital has agreed to participate with the University of Minnesota to train health professionals.

DG:rdr

Fiscal Note – 2005-06 Session

Bill #: S1840-0 **Complete Date:** 03/25/05

Chief Author: LIMMER, WARREN

Title: MAPLE GROVE HOSP CONSTR MORATORIUM

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 1840

Bill Description

This bill makes a change to the moratorium on new beds.

A change to the moratorium on new beds does not increase MA costs because all medically necessary inpatient hospital services are already being provided, just at a different location.

Fiscal impact for Department of Human Services = \$0

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: 03/23/05 Phone: 296-5685

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KATIE BURNS
Date: 03/25/05 Phone: 296-7289

1 Senator moves to amend S.F. No. 1840 as follows:

2 Page 4, delete lines 18 to 30

3 Page 4, line 31, delete everything before the period and
4 insert:

5 "(19) a project involving the establishment of a new
6 hospital in the city of Maple Grove by an existing hospital that
7 relocates or redistributes the beds from its current site or
8 adds new licensed beds, provided that the project applicant
9 demonstrates, to the satisfaction of the commissioner, the
10 ability of the project applicant to meet the following criteria:

11 (i) the hospital will have a significant commitment to
12 providing uncompensated care, including discounts for uninsured
13 patients, coordination with community health centers and other
14 providers of care to low-income uninsured persons, and
15 coordination with other hospitals providing uncompensated care
16 and serving public program participants;

17 (ii) the hospital will be a site for workforce development
18 for a broad spectrum of health care-related occupations and have
19 a commitment to providing clinical training programs for
20 physicians and other health care providers, including, but not
21 limited to, obstetrics and gynecology, pediatrics, psychiatry,
22 and pediatric psychiatry, in coordination with other medical
23 education training programs in the state;

4 (iii) the hospital will operate in a clinical coordination
25 with other hospitals in Hennepin County providing additional
26 specialized services at volume levels conducive to the
27 maintenance of high quality care;

28 (iv) the hospital's initial inpatient services will include
29 at least medical and surgical services, obstetrical and
30 gynecological services, intensive care services, orthopedics,
31 pediatrics, noninvasive cardiac diagnostics, behavioral health,
32 including mental health services for children and adolescents,
33 and emergency room services;

4 (v) the initial licensed bed capacity of the hospital will
35 be no less than 80 beds and the final licensed bed capacity
36 shall not exceed 250 beds;

1 (vi) the project shall include ambulatory care services
2 colocated with the hospital component of the project, including
3 mental health services, urgent care services, pediatrics, and
4 imaging services;

5 (vii) the project's initial mental health services shall
6 include stabilization services for children and adolescents in
7 acute psychiatric crisis, mental health and substance abuse
8 stabilization and referral services, nonovernight children and
9 adolescent observation services, intensive child and adolescent
10 outpatient services, and outpatient chemical dependency services
11 for persons over age 16;

12 (viii) the hospital will participate in the Medicare and
13 medical assistance programs;

14 (ix) the hospital will be owned by a nonprofit corporation
15 that is exempt from federal income tax under section 501(c)(3)
16 of the Internal Revenue Code, or has applied for an exemption;

17 (x) the member or members of the nonprofit corporation each
18 own other hospitals located in Hennepin County;

19 (xi) the other hospitals in Hennepin County owned by the
20 member or members of the nonprofit corporation possess the
21 capabilities of furnishing services to the patients of the Maple
22 Grove hospital in the following specialty or tertiary care
23 areas: neurosurgery, oncology, cardiology, cardiac surgery,
24 chronic epilepsy services, pediatric intensive care unit, and
25 neonatal intensive care unit;

26 (xii) the applicant or a member organization of the
27 nonprofit corporation owns a hospital in which an automated
28 patient medical records system, including physician order entry,
29 has been implemented;

30 (xiii) the applicant or one of the members of the applicant
31 organization owns a hospital that has received recognition for
32 leadership in quality and patient safety from a national
33 organization; and

34 (xiv) the applicant demonstrates the ability to provide and
35 staff sufficient new beds to meet the growing needs of the Maple
36 Grove service area and the surrounding communities currently

1 served by the applicant.
2 The exception under this clause is available for the
3 establishment of only one new hospital. Between June 30 and
4 September 30 of each year until the commissioner issues an order
5 approving an application under this clause, any entity that has
6 a plan for such a hospital that has been previously determined
7 by the commissioner to be in the public interest according to
8 section 144.552 and desires to establish a new hospital must
9 submit to the commissioner an application for an exception under
10 this clause. The application must contain the plan, a true copy
11 of the commissioner's determination, any additional relevant
12 evidence not contained in the plan that is supportive of the
13 application, and evidence of compliance with the criteria
14 specified in this clause. When submitting a plan to the
15 commissioner for approval, an applicant shall pay the
16 commissioner for the commissioner's cost of reviewing the plan,
17 as determined by the commissioner and notwithstanding section
18 16A.1283. Money received by the commissioner under this section
19 is appropriated to the commissioner for the purpose of
20 administering this section.

21 If there is only one applicant, the commissioner shall
22 review the application to determine its compliance with the
23 criteria. If the commissioner determines that the application
24 complies with the criteria, the commissioner shall issue an
25 order approving the application.

26 If there is more than one applicant during any period
27 between June 30 and September 30, the commissioner shall
28 determine which plan or plans continue to be in the public
29 interest and the applicant's compliance with the criteria. If
30 more than one applicant would meet the criteria, the
31 commissioner shall determine which applicant has demonstrated
32 that it is best able to provide services consistent with the
33 criteria in this clause. The commissioner shall make this
34 determination by order following a hearing according to this
35 paragraph. The hearing shall not constitute or be considered to
36 be a contested case hearing under chapter 14 and shall be

1 conducted solely under the procedures specified in this
2 paragraph. The hearing shall commence upon at least 90 days'
3 notice to the applicants by the commissioner. The hearing may
4 be conducted by the commissioner or by a person designated by
5 the commissioner. The designee may be an administrative law
6 judge. The purpose of the hearing shall be to receive evidence
7 to assist the commissioner in determining which applicant has
8 demonstrated that it best meets the criteria in this clause.
9 The parties to the hearing shall consist only of those
10 applicants who have submitted a completed application that the
11 commissioner has determined would be in the public interest.
12 Each applicant shall have the right to be represented by
13 counsel, to present evidence deemed relevant by the
14 commissioner, and to examine and cross-examine witnesses.
15 Persons who are not parties to the proceeding but who wish to
16 present comments or submit information may do so in the manner
17 determined by the commissioner or the commissioner's designee.
18 Any person who is not a party shall have no right to examine or
19 cross-examine witnesses. The commissioner shall issue an order
20 approving an application within 30 days following the closing of
21 the record of the hearing. The commissioner's order shall
22 include a statement of the reasons the application best meets
23 the criteria of this clause"

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. 1840: A bill for an act relating to health;
7 providing an exception to the hospital construction moratorium;
8 amending Minnesota Statutes 2004, section 144.551, subdivision 1.

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

11 Page 4, delete lines 18 to 30

12 Page 4, line 31, delete everything before the period and
13 insert:

14 "(19) a project involving the establishment of a new
15 hospital in the city of Maple Grove by an existing hospital that
16 relocates or redistributes the beds from its current site or
17 adds new licensed beds, provided that the project applicant
18 demonstrates, to the satisfaction of the commissioner, the
19 ability of the project applicant to meet the following criteria:

20 (i) the hospital will have a significant commitment to
21 providing uncompensated care, including discounts for uninsured
22 patients, coordination with community health centers and other
23 providers of care to low-income uninsured persons, and
24 coordination with other hospitals providing uncompensated care
25 and serving public program participants;

26 (ii) the hospital will be a site for workforce development
27 for a broad spectrum of health care-related occupations and have
28 a commitment to providing clinical training programs for
29 physicians and other health care providers, including, but not
30 limited to, obstetrics and gynecology, pediatrics, psychiatry,
31 and pediatric psychiatry, in coordination with other medical
32 education training programs in the state;

33 (iii) the hospital will operate in a clinical coordination
34 with other hospitals in Hennepin County providing additional
35 specialized services at volume levels conducive to the
36 maintenance of high quality care;

37 (iv) the hospital's initial inpatient services will include
38 at least medical and surgical services, obstetrical and

1 gynecological services, intensive care services, orthopedics,
2 pediatrics, noninvasive cardiac diagnostics, behavioral health,
3 including mental health services for children and adolescents,
4 and emergency room services;

5 (v) the initial licensed bed capacity of the hospital will
6 be no less than 80 beds and the final licensed bed capacity
7 shall not exceed 250 beds;

8 (vi) the project shall include ambulatory care services
9 colocated with the hospital component of the project, including
10 mental health services, urgent care services, pediatrics, and
11 imaging services;

12 (vii) the project's initial mental health services shall
13 include stabilization services for children and adolescents in
14 acute psychiatric crisis, mental health and substance abuse
15 stabilization and referral services, nonovernight children and
16 adolescent observation services, intensive child and adolescent
17 outpatient services, and outpatient chemical dependency services
18 for persons over age 16;

19 (viii) the hospital will participate in the Medicare and
20 medical assistance programs;

21 (ix) the hospital will be owned by a nonprofit corporation
22 that is exempt from federal income tax under section 501(c)(3)
23 of the Internal Revenue Code, or has applied for an exemption;

24 (x) the applicant or a member organization of the nonprofit
25 corporation owns a hospital in which an automated patient
26 medical records system, including physician order entry, has
27 been or is in the process of being implemented;

28 (xi) the applicant has a record of providing high quality
29 health care services, and the proposal demonstrates a commitment
30 to quality care and patient safety;

31 (xii) the applicant demonstrates the ability to provide and
32 staff sufficient new beds to meet the growing needs of the Maple
33 Grove service area and the surrounding communities currently
34 served by the applicant;

35 (xiii) the hospital will have a positive impact on the
36 viability of existing providers, including physicians, in the

1 Maple Grove market;

2 (xiv) the hospital will increase competition in the health
3 care marketplace and will not add to the pressure to consolidate
4 the provision of health care services;

5 (xv) the project will provide a broad range of senior
6 services to enable seniors to remain living in the community;
7 and

8 (xvi) the hospital will have a positive impact on the
9 emergency medical services system, including the coordination
10 and provision of trauma services and the licensed emergency
11 ambulance providers currently serving the area, and a positive
12 impact on the continuity of patient emergency medical care.

13 The exception under this clause is available for the
14 establishment of only one new hospital. Between June 30 and
15 September 30 of 2005, any entity that has a plan for such a
16 hospital that has been previously determined by the commissioner
17 to be in the public interest according to section 144.552 and
18 desires to establish a new hospital must submit to the
19 commissioner an application for an exception under this clause.
20 The application must contain the plan, a true copy of the
21 commissioner's determination, any additional relevant evidence
22 not contained in the plan that is supportive of the application,
23 and evidence of compliance with the criteria specified in this
24 clause. When submitting a plan to the commissioner for
25 approval, an applicant shall pay the commissioner for the
26 commissioner's cost of reviewing the plan, as determined by the
27 commissioner and notwithstanding section 16A.1283. Money
28 received by the commissioner under this section is appropriated
29 to the commissioner for the purpose of administering this
30 section.

31 If there is only one applicant, the commissioner shall
32 review the application to determine its compliance with the
33 criteria. If the commissioner determines that the application
34 complies with the criteria, the commissioner shall issue an
35 order approving the application.

36 If there is more than one applicant between June 30 and

1 September 30 of 2005, the commissioner shall determine which
2 plan or plans continue to be in the public interest and the
3 applicant's compliance with the criteria. If more than one
4 applicant would meet the criteria, the commissioner shall
5 determine which applicant has demonstrated that it is best able
6 to provide services consistent with the criteria in this
7 clause. The commissioner shall make this determination by order
8 following a hearing according to this paragraph. The hearing
9 shall not constitute or be considered to be a contested case
10 hearing under chapter 14 and shall be conducted solely under the
11 procedures specified in this paragraph. The hearing shall
12 commence upon at least 90 days' notice to the applicants by the
13 commissioner. The hearing may be conducted by the commissioner
14 or by a person designated by the commissioner. The designee may
15 be an administrative law judge. The purpose of the hearing
16 shall be to receive evidence to assist the commissioner in
17 determining which applicant has demonstrated that it best meets
18 the criteria in this clause. The parties to the hearing shall
19 consist only of those applicants who have submitted a completed
20 application that the commissioner has determined would be in the
21 public interest. Each applicant shall have the right to be
22 represented by counsel, to present evidence deemed relevant by
23 the commissioner, and to examine and cross-examine witnesses.
24 Persons who are not parties to the proceeding but who wish to
25 present comments or submit information may do so in the manner
26 determined by the commissioner or the commissioner's designee.
27 Any person who is not a party shall have no right to examine or
28 cross-examine witnesses. The commissioner shall issue an order
29 approving an application within 30 days following the closing of
30 the record of the hearing. The commissioner's order shall
31 include a statement of the reasons the application best meets
32 the criteria of this clause"

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

35 *Linda Berglin*
36 (Division Chair)
37

38 April 21, 2005.....
(Date of Division action)