

HOUSE RESEARCH

Bill Summary

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Table of Contents

Article 1: Board of Social Work	3
Article 2: Board of Social Work; Conforming Amendments	22
Article 3: Physical Therapists	23
Article 4: Dentistry	24
Article 5: Physician Assistants	26
Article 6: Respiratory Therapists	26
Article 7: Licensed Professional Counselors, Alcohol and Drug Counselors	26
Article 8: Audiologists, Hearing Aid Dispensers	29
Article 9: Penalty Fees	33
Article 10: Fee Reductions	35

Article 1: Board of Social Work

Overview

This article recodifies the social work statutes and adds the administrative rules governing social work into the new statutory structure.

- 1 Citation. Adds § 148D.001. This act may be cited as the "Minnesota Board of Social Work Practice Act."
- 2 Purpose. Adds § 148D.005. Sets out the purpose of the chapter.
- 3 Definitions. Adds § 148D.010. Provides definitions as used in this chapter.
- 4 Scope. Adds § 148D.015. Provides that this chapter applies to all persons in or out of this state who use the title social worker or provide social work services to clients who reside in this state.
- 5 Chapter 214. Adds § 148D.020. States that chapter 214 applies unless superseded by this chapter.
- 6 Board of Social Work. Adds § 148D.025. A recodification of section 148B.19 with some changes.

Subd. 1. Creation. States that the governor will appoint ten licensed social workers and five members of the public to act as the Board of Social Work.

Subd. 2. Qualifications of board members. Defines the licensure and practice qualifications of the social work members of the board.

Subd. 3. Officers. States there must be an annual election of officers.

Subd. 4. Bylaws.

Subd. 5. Executive director. States that the employed executive director is not a member of the board.

- 7 Duties of the board. Adds § 148D.030. A recodification of section 148B.20.

Subd. 1. Duties. Provides that the board must establish qualifications and procedures for social work licensure; establish standards of practice; hold examinations; issue licenses; take disciplinary action; and assess fees.

Subd. 2. Rules. Allows the board to adopt and enforce rules.

- 8 Variances. Adds § 148D.035. Allows the board to grant variances to a licensee.
- 9 Immunity. Adds § 148D.040. States that board members, employees and persons engaged on behalf of the board are immune from civil liability.
- 10 Contested case hearing. Adds § 148D.045. Recodifies section 145B.215. Provides a procedure for the subject of disciplinary or adversarial action by the board to request a contested case hearing. There is no change from current law.
- 11 Licensing; scope of practice. Adds § 148D.050.

Subd. 1. Requirements.

Subd. 2. Licensed social worker. Provides that an individual with this license may

practice social work, but must not engage in clinical practice.

Subd. 3. Licensed graduate social worker. Provides that an individual with this license may practice social work, but must not engage in clinical practice unless supervised by a licensed independent clinical social worker or an alternate supervisor.

Subd. 4. Licensed independent social worker. Provides that an individual with this license may practice social work, but must not engage in clinical practice unless supervised by a licensed independent clinical social worker or an alternate supervisor.

Subd. 5. Licensed independent clinical social worker. Provides that an individual with this license may practice social work, including clinical practice.

12 License requirements. Adds § 148D.055. This section recodifies section 148B.21 and incorporates Minnesota Rules, parts 8740.0120, 8740.0122, and 8470.0155.

Subd. 1. License required. Provides that an individual, including a social work instructor, must be licensed by the board to practice, unless exempt pursuant to section 148D.065.

Subd. 2. Qualifications for licensure by examination as a licensed social worker. Provides requirements and minimum qualifications for licensure as a licensed social worker.

Subd. 3. Qualifications for licensure by examination as a licensed graduate social worker. Provides requirements and minimum qualifications for licensure as a graduate social worker.

Subd. 4. Qualifications for licensure by examination as a licensed independent social worker. Provides requirements and minimum qualifications for licensure as a licensed independent social worker.

Subd. 5. Qualifications for licensure by examination as a licensed independent clinical social worker. Provides requirements and minimum qualifications for licensure as a licensed independent clinical social worker.

Subd. 6. Degrees from outside the United States or Canada. Provides that a degree received from an institution outside the United States or Canada that is not accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar body designated by the board does not fulfill the education requirements needed for licensure. Exceptions may be given if the board determines the degree is equivalent to that granted by an institution accredited by one of the above bodies.

Subd. 7. Licensure by endorsement. Requires that the applicant for licensure hold a valid license to practice social work in another jurisdiction and demonstrate that the applicant has passed the examination administered by the Association of Social Work Boards or similar examination body.

Subd. 8. Criminal background checks. Requires an applicant for initial licensure to submit to a criminal background check. Allows the board to take action against the

applicant if the background check indicates the applicant has engaged in criminal behavior.

Subd. 9. Effective date. Provides that the effective date of licensure is the date the board receives the application license fee from an applicant approved for licensure.

Subd. 10. Expiration date. Provides that the expiration date of an initial license is the last day of the licensee's birth month in the second calendar year following effective date of the license.

Subd. 11. Change in license. Provides that a licensee who changes licenses must pay the prorated share of the fee for the new license. States that the effective date is the date the board receives the applicable license fee, and that the expiration date remains the same as that of the license held prior to the change in license.

13

Temporary licenses. Adds § 148D.060. This section recodifies section 148B.21

Subd. 1. Students and other persons not currently licensed in another jurisdiction. Provides that an applicant for licensure who is not licensed in another jurisdiction may be granted a temporary license by the board if the individual has applied for licensure; applied for a temporary license; authorized a criminal background check; passed the licensure examination; graduated with a degree in social work from an accredited institution; and not engaged in conduct that would violate the standards of practice.

Subd. 2. Emergency situations and persons currently licensed in another jurisdiction. Provides that an individual may be granted a temporary license if the individual has applied for a temporary license; authorized a criminal background check; submitted proof of licensure in another jurisdiction; graduated with a degree in social work from an accredited institution; and not engaged in conduct that would violate the standards of practice.

Subd. 3. Teachers. Allows the board to grant a temporary license to an individual from outside the United States who is teaching social work in Minnesota. The license can be for no more than 12 months. The individual must apply for a temporary license; authorize a criminal background check; submit proof the applicant has completed the requirements for a baccalaureate or graduate degree in social work; and show that the applicant has not engaged in conduct that would violate the standards of practice.

Subd. 4. Temporary license application fee. Provides the applicant must pay the fee described in section 148D.180 plus the fee for the cost of the criminal background check.

Subd. 5. Temporary license term. Provides that this license is nonrenewable and is valid until expiration, until the board issues or denies the permanent license, or until the board revokes the temporary license. States that licenses granted under subdivisions 1 (students) and 2 (emergency situations and to those licensed in another jurisdiction) expire after six months. States that licenses granted under subdivision 3 (teachers) expire after 12 months.

Subd. 6. Licensee with a temporary license who has completed requirements for a baccalaureate degree. Allows an individual with a temporary license who has completed degree requirements to practice social work, except the individual may not practice clinical social work.

Subd. 7. Licensee with a temporary license who has completed requirements for a graduate degree. Allows an individual with a temporary license who has completed degree requirements to practice social work, including clinical practice.

Subd. 8. Supervision requirements. Provides that an individual with a temporary license, who is not licensed in another jurisdiction, may practice social work only under the supervision of a licensed social worker who is eligible to provide supervision. Allows an individual licensed in another jurisdiction to practice without supervision.

Subd. 9. Prohibition on practice. Provides that an applicant for a temporary license cannot practice, except as provided in section 148D.065, until the applicant has been granted a temporary license.

Subd. 10. Representation of professional status. Provides that a temporary licensee must state that the licensee has a temporary license.

Subd. 11. Standards of practice. Provides that a temporary licensee must conform to the requirements of sections 148D.195 to 148D.240.

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

Subd. 13. Revocation of temporary license. Allows the board to immediately revoke a temporary license for any violation of this section with cause. Permits revocation without notice or hearing.

14 Exemptions. Adds § 148D.065. This section is a recodification of section 148B.28 with no changes in language.

Subd. 1. Other professionals. Acknowledges that other professionals, in their practice, may use some of the same skills used by professional social workers. Cautions that these individuals must not hold themselves out as social workers. States social workers are not exempt from licensure by use of another professional title.

Subd. 2. Students. Provides that internships and other social work experience, required for graduation, do not constitute the practice of social work.

Subd. 3. Geographic waiver. Allows the board the ability to grant a waiver to permit agencies to hire individuals who are not licensed if there are special regional hiring problems.

Subd. 4. City, county, and state agency social workers. Provides that licensure of these workers is voluntary and that these agencies are not required to hire licensed

social workers.

15 Subd. 5. Federally recognized tribes and private nonprofit agencies with a minority focus. Provides voluntary licensure for social workers employed by these entities. License renewals. Adds § 148D.070. Incorporates Minnesota Rules, parts 8740.0122 and 8740.0200.

Subd. 1. License renewal term. States that the term of license renewal is two years. Provides the effective date of the renewed license is the day following expiration of the expired license. Provides the expiration date is the last day of the licensee's birth month in the second calendar year following the effective date.

Subd. 2. Mailing license renewal notices. Directs the board to mail notices at least 45 days prior to the expiration date of the license to the licensee's last known mailing address by U.S. mail. Provides that failure to receive the notice does not relieve the licensee of the duty to renew the license and to pay the renewal fee.

Subd. 3. Submitting license renewal applications. Requires a licensee to submit an application for license renewal and the applicable fee along with proof that the licensee has met the continuing education requirements, and, if applicable, proof of supervised practice requirements. States that an incomplete application will be returned to the applicant. Adds that by submitting the application, the applicant authorizes the board to investigate any information provided on the application.

Subd. 4. Renewal late fee. Requires the applicant to pay a late fee in addition to the renewal fee if an application is received after the license expiration date.

Subd. 5. Expired license. Provides that a license automatically expires if the licensee does not submit a renewal form and renewal fee, and if filed late, the renewal late fee. Allows an expired license to be reactivated within one year.

16 Inactive licenses. Adds § 148D.075. Incorporates Minnesota Rules, part 8740.0240.

Subd. 1. Inactive status. Provides that a licensee can be granted inactive status when the licensee is granted temporary leave from active practice or when the licensee is granted an emeritus license. Provides that the licensee cannot be engaged in social work practice during inactive status.

Subd. 2. Application. Provides that a licensee can submit an application for temporary leave or emeritus status or can record the same on the application for license renewal.

Subd. 3. Fee. Directs that the licensee must pay the specified fee.

Subd. 4. Time limits for temporary leaves. Provides that a licensee may maintain an inactive license for temporary leave for no more than five consecutive years.

Subd. 5. Time limits for emeritus license. Provides that a licensee may not apply for reactivation after five years following granting of an emeritus license. After five years, the individual may apply for a new license.

Subd. 6. Prohibition on practice. Directs that an individual with an inactive license

must not practice, attempt to practice, offer to practice or advertise as authorized to practice social work. Allows the board to grant a variance in writing if the individual provides emergency social work services.

Subd. 7. Representations of professional status. Directs that an individual with an inactive license must state the license is inactive and that the individual cannot practice social work.

Subd. 8. Disciplinary or other action. Allows the board to resolve pending complaints against the licensee before approving an application for inactive status. Allows the board to take action for conduct occurring before the license is inactive or while the license is inactive.

17 Reactivation. Adds § 148D.080.

Subd. 1. Mailing notices to licensees on temporary leave. Directs the board to mail a notice at least 45 days before license expiration date to the licensee at the licensee's last known mailing address by U.S. mail. Provides that failure to receive the notice does not relieve the licensee of the duty to reactivate the license.

Subd. 2. Reactivation from a temporary leave or emeritus status. Requires the licensee to complete an application; document compliance with continuing education requirements; submit a supervision plan, if required; and pay the required fees.

Subd. 3. Reactivation of an expired license. Requires that within one year of the expiration date, the licensee complete an application form; document compliance with continuing education requirements; document compliance with supervision requirements, if applicable; and pay the required fees.

Subd. 4. Continuing education requirements. Requires the licensee to obtain the continuing education hours that would be required if the license was active. Allows the licensee to request a variance.

Subd. 5. Reactivation of a voluntarily terminated license. Requires that within one year of the date the voluntary termination takes effect, the licensee must complete an application form; document compliance with continuing education requirements; document compliance with supervision requirements, if applicable; and pay the required fees.

18 Voluntary terminations. Adds § 148D.085.

Subd. 1. Requests for voluntary termination. Allows a licensee to request a voluntary termination of a license if the licensee is not engaged in social work practice or practices in a setting in which social workers are exempt from licensure. Allows a licensee to request voluntary termination at any time or as an alternative to applying for a license renewal.

Subd. 2. Application for new license. Provides that a license may not be reactivated more than one year following the date voluntary termination takes effect.

Subd. 3. Prohibition on practice. Directs that a licensee must not practice, attempt to practice, offer to practice, or hold out as authorized to practice except when exempt

from licensure.

Subd. 4. Disciplinary or other action. Allows the board to take action based on conduct occurring before the license is voluntarily terminated or for practicing social work without a license.

19 Name; change of name or address. Adds § 148.090. Incorporates Minnesota Rules, parts 8740.0185 and 8740.0187.

Subd. 1. Name. Provides that a licensee must use the licensee's legal name or a professional name.

Subd. 2. Legal name change. Provides that within 30 days of a legal name change, the licensee must provide legal verification of the name change; request a new license wall certificate; and pay the required fee for the wall certificate.

Subd. 3. Professional name change. Provides that within 30 days of changing the licensee's professional name, the licensee must provide a notarized statement attesting to the name change; request a new license wall certificate; and pay the required fee for the wall certificate.

Subd. 4. Address or telephone change. Provides that within 30 days the licensee must notify the board electronically or in writing of any changes in mailing address, home address, work address, email address, or daytime public phone number.

20 License certificate or card. § 148D.095.

Subd. 1. License wall certificate. Directs the board to issue a new wall certificate when the board issues a new license. Directs the board to replace a wall certificate when the original wall certificate is lost, stolen, or destroyed and the licensee submits the required fee. Directs the board to issue a revised wall certificate when the licensee requests and submits the required fee. Directs the board to issue an additional wall certificate when the licensee practices in more than one location and submits the required fee.

Subd. 2. License card. Directs the board to issue a new card when the board issues a new license. Directs the board to replace a license card with the original license card is lost, stolen or destroyed and the licensee submits the required fee. Directs the board to issue a revised license card when the licensee requests a new wall certificate because of a new professional or legal name.

21 Licensed social workers; supervised practice. § 148D.100. Incorporates Minnesota Rules, part 8740.0130.

Subd. 1. Supervision required after licensure. Provides that the licensee must receive at least 75 hours of supervision after receiving a license.

Subd. 2. Practice requirements. Provides that the licensee must obtain the 75 hours of supervision during the first 4,000 hours of post-baccalaureate practice. Provides that at least three hours of supervision must be obtained during every 160 hours of practice.

Subd. 3. Types of supervision. Provides that one-half the supervision be one-on-one

in-person supervision. Allows the remaining one-half of supervision to be one-on-one in-person, in-person group, or electronic supervision.

Subd. 4. Supervisor requirements. Provides that the supervisor be a licensed social worker, licensed graduate social worker, licensed independent social worker, or a licensed independent clinical social worker.

Subd. 5. Supervisee requirements. Requires content areas in which the supervisee receives supervision. Requires competent and ethical practice. Requires that the supervisee submit a supervision plan.

Subd. 6. After completion of supervision requirements. Provides that no additional supervision is required when the supervision requirements are fulfilled.

Subd. 7. Attestation. Provides the supervisee and supervisor must attest that the supervisee has met or made progress on meeting the required supervision requirements in section 148.125, subdivision 2.

22 Licensed graduate social worker; supervised practice. § 148D.105. Incorporates Minnesota Rules, part 8740.0130.

Subd. 1. Supervision required after licensure. Provides that the licensee must receive at least 75 hours of supervision after receiving a license.

Subd. 2. Practice requirements. Provides that the licensee must obtain the 75 hours of supervision during the first 4,000 hours of post-baccalaureate practice. Provides that at least three hours of supervision must be obtained during every 160 hours of practice.

Subd. 3. Types of supervision. Provides that one-half the supervision be one-on-one in-person supervision. Allows the remaining one-half of supervision to be one-on-one in-person, in-person group, or electronic supervision.

Subd. 4. Supervisor requirements. Provides that if the supervisee is not engaged in clinical practice, the supervisor can be a licensed graduate social worker, a licensed independent social worker, or a licensed independent clinical social worker. Provides that if the supervisee is engaged in clinical practice, the supervisor must be a licensed independent clinical social worker.

Subd. 5. Supervisee requirements. Requires content areas in which the supervisee receives supervision. Requires competent and ethical practice. Requires that the supervisee submit a supervision plan. Requires that the supervisee verify supervised practice if the board does an audit or if the supervisee applies for licensure as a licensed independent social worker or licensed independent clinical social worker.

Subd. 6. Licensed graduate social workers who practice clinical social work. (a) Directs that a licensed graduate social worker must not engage in clinical practice unless supervised by a licensed independent clinical social worker or an alternate supervisor designated pursuant to section 148D.120.

(b) Provides that a licensed graduate social worker must not practice clinical social

work under supervision for more than 8,000 hours.

(c) Provides that the board may grant an exception and allow a graduate social worker to practice clinical social work under supervision for more than 8,000 hours if the social worker demonstrates personal hardship. If an exception is granted, the social worker can continue to practice for an additional 2,000 hours.

(d) Provides that after 4,000 hours of clinical social work practice and 75 hours of supervision, a licensed graduate social worker is eligible to apply for a license as a licensed independent clinical social worker.

Subd. 7. Licensed graduate social workers who do not practice clinical social work. Provides that the licensed graduate social worker is not required to be supervised after completion of the supervision requirements, unless practicing clinical social work.

Subd. 8. Attestation. Provides the supervisee and supervisor must attest that the supervisee has met or made progress on meeting the required supervision requirements in section 148.125, subdivision 2.

23 Licensed independent social workers. § 148D.110. Incorporates Minnesota Rules, part 8740.0130.

Subd. 1. Supervision required before licensure. Provides that before becoming licensed, a person must obtain at least 75 hours of supervision during 4,000 of postgraduate social work experience. Requires that at least three hours of supervision be obtained during every 160 hours of practice.

Subd. 2. Licensed independent social workers who practice clinical social work after licensure. (a) Directs that a licensed independent social worker must not engage in clinical practice unless supervised by a licensed independent clinical social worker or an alternate supervisor designated pursuant to section 148D.120.

(b) Provides that a licensed independent social worker must not practice clinical social work under supervision for more than 8,000 hours.

(c) Provides that the board may grant an exception and allow an independent social worker to practice clinical social work under supervision for more than 8,000 hours if the social worker demonstrates personal hardship. If an exception is granted, the social worker can continue to practice for an additional 2,000 hours.

Subd. 3. Licensed independent social workers who do not practice clinical social work after licensure. Provides that after licensure, a licensed independent social worker is not required to be supervised if the social worker does not perform clinical practice.

24 Licensed independent clinical social workers. § 148D.115. Incorporates Minnesota Rules, part 8740.0130.

Subd. 1. Supervision required before licensure. Requires that before licensure, a person must obtain at least 75 hours of supervision during 4,000 hours of postgraduate clinical practice. Requires at least three hours of supervision during

every 160 hours of practice.

25 Subd. 2. No supervision required after licensure. Provides that after licensure, an independent clinical social worker is not required to be supervised.
Requirements of supervisors. § 148D.120.

Subd. 1. Supervisors licensed as social workers. Provides that a social worker must attest that he or she has met applicable licensure requirements.

26 Subd. 2. Alternate supervisors. Provides that the board may approve an alternate supervisor if the board determines that supervision is not obtainable. Provides the grounds upon which the board may determine supervision is not obtainable. Provides the qualifications for an individual to be approved as an alternate supervisor.
Documentation of supervision. § 148D.125. Incorporates Minnesota Rules, part 8740.0130.

Subd. 1. Supervision plan. Provides that a social worker must submit a supervision plan within 90 days. Provides that a late fee must be paid if the plan is not filed within 90 days. Directs what elements must be addressed by the supervision plan. Requires that the board approve the supervisor and the supervision plan.

Subd. 2. Attestation. Provides that when a supervisee submits renewal application materials to the board, the supervisee and supervisor must submit an attestation form addressing enumerated subjects to demonstrate the supervisee is meeting supervised practice requirements.

Subd. 3. Verification of supervised practice. Provides that the board must receive verification of supervised practice if the board audits a supervisee or the supervisee applies for licensure as a licensed independent social worker or a licensed independent clinical social worker. Requires that the supervisor submit enumerated information to demonstrate the supervisee has met applicable practice requirements.

27 Subd. 4. Alternative verification of supervised practice. Allows a supervisee, who demonstrates inability to locate a former supervisor, to provide alternative verification of supervised practice.
Clock hours required. § 148D.130. Recodifies section 148B.22 and incorporates Minnesota rules, part 8740.0285.

Subd. 1. Total clock hours required. Directs that a licensee must provide evidence of completion of 30 hours of continuing education during the license renewal period.

Subd. 2. Ethics requirement. Requires that the licensee have at least two hours in social work ethics.

Subd. 3. Independent study. States that not more than ten hours of continuing education credit be independent study.

Subd. 4. Coursework. Provides that one credit of academic coursework equals 15 hours of continuing education.

Subd. 5. Prorated renewal term. Provides that if the licensee's renewal term is

prorated to less than or more than 24 months, continuing education is prorated accordingly.

28 Approval of clock hours. § 148D.135.

Subd. 1. Ways of approving clock hours. Provides four ways by which clock hours may be approved.

Subd. 2. Preapproval not required.

29 Variances. § 148D.140. Provides that the board may grant a variance to continuing education requirements when a licensee demonstrates an inability to complete the required number of clock hours during the renewal term. Allows the board to specify a time limit for completion of the hours.

30 Continuing education providers approved by the board. § 148D.145.

Subd. 1. Board approval. Provides that a provider must submit an application to the board containing all the information designated in this section and pay the required fees to be approved as a continuing education provider.

Subd. 2. Information required. States that the provider must provide the board with specific information.

Subd. 3. Criteria for programs offered by continuing education providers. States that continuing education providers must employ specific criteria in determining whether to offer a continuing education program.

Subd. 4. Audits. Provides that the board may audit continuing education programs.

Subd. 5. Information required to be maintained by continuing education providers. Provides that the provider must maintain specific information for three years following the end of each program offered.

31 Continuing education providers approved by the Association of Social Work Boards. § 148D.150. States that in order to receive credit for a program offered by a provider approved by the Association, that provider must be listed on the Association's website as an approved provider.

32 Continuing education programs approved by the National Association of Social Workers. § 148D.155. States that to receive credit for a program approved by NASW, the program must be listed on the NASW website as a currently approved program.

33 Continuing education programs approved by the board. § 148D.155. Provides that to be approved by the board, programs must contain specific content and be taught by specific methods.

34 Continuing education requirements of licensees. § 148D.165. States that the licensee must maintain specific information regarding continuing education clock hours earned for a period of one year. Provides that the board may audit documentation at time of license renewal and reactivation to ensure compliance with requirements.

35 Revocation of continuing education renewals. § 148D.170. Allows that the board may revoke approval of a provider, a program offered by a provider, or an individual program.

36 Fees. § 148D.175. Recodifies section 148B.226. Provides that fees specified in section 148D.150 are nonrefundable.

37 Fee amounts. § 148D.175. Recodifies section 148B.226.

Subd. 1. Application fees. Provides a list of the application for licensure fees.

Subd. 2. License fees. Provides a list of the license fees. Adds that the temporary leave fee is the same as the renewal fee in subdivision 3. Adds that if the licensee's initial license term is less or more than 24 months, the license fee is prorated.

Subd. 3. Renewal fees. Provides a list of the renewal fees.

Subd. 4. Continuing education provider fees. Adds a list of fees for continuing education providers.

Subd. 5. Late fees. Adds that the supervision plan late fee is \$40.

Subd. 6. License cards and wall certificates. Provides fees.

Subd. 7. Reactivation fees. Provides fees.

38 Purpose of compliance laws. § 148D.185. Provides that the board will protect the public by ensuring that persons licensed as social workers meet minimum practice standards and by investigating and resolving complaints.

39 Grounds for action. § 148D.190.

Subd. 1. Scope. Provides that the grounds for action and the standards of practice apply to all licensees and applicants.

Subd. 2. Violations. Recodifies § 148B.26. States that violations of statute, rules, or orders, stipulations or agreements issued by the board are grounds for action.

Subd. 3. Conduct before licensure. Provides that the board can take action if conduct occurred before licensure that does not meet minimum standards of social work practice or adversely affects the applicant's ability to practice social work.

Subd. 4. Unauthorized practice. Provides that the board can take action when a social worker practices outside the scope of authorized practice or engages in the practice of social work without a license.

40 Representations to clients and public. § 148D.195. Incorporates Minnesota Rules, parts 8740.0310 and 8740.0340.

Subd. 1. Required displays and information and clients. Requires that the social worker must conspicuously display the social worker's wall certificate. Requires that the social worker make specific information available to all clients.

Subd. 2. Representations. Provides that an individual licensed as a social worker must use the professional license designation in all professional use of the social worker's name. Provides that advertising must not be, among other things, untruthful, fraudulent or misleading. Provides that the social worker make no promises of successful services, make no false statements to the board, or engage in conduct to deceive a client or others.

Subd. 3. Information on credentials. States that a social worker must provide accurate

information regarding credentials to clients, potential clients, or other persons or organizations. Provides that a social worker must not misrepresent affiliations with institutions or organizations.

41 Competence. § 148D.200. Incorporates Minnesota Rules, part 8740.0315.

Subd. 1. Competence. Provides that social workers must be competent to the extent of training, education, experience or other relevant professional experience. Provides that social workers must make referrals to other professionals when services required are beyond their competence or scope of practice.

Subd. 2. Supervision or consultation. Directs that a social worker must obtain supervision when needed for competent and ethical practice.

Subd. 3. Delegation of social work responsibilities. States that a social worker must not delegate social work responsibilities to an individual whom the social worker knows is not licensed or knows is not competent to perform the task.

42 Impairment. § 148D.205.

Subd. 1. Grounds for action. Provides conditions under which the board can take action when a social worker is unable to practice with reasonable skill and safety.

Subd. 2. Self-Reporting. Provides that a social worker who is unable to practice with reasonable skill and safety, must report to the board or the health professionals services program.

43 Professional and ethical conduct. §148D.210. Provides that the board has grounds to take action when a social worker engages in the following circumstances:

(1) When the social worker engages in unprofessional or unethical conduct; or

(2) When the social worker engages in conduct that could cause harm; or

(3) When the social worker demonstrates a willful or careless disregard for health, welfare or safety; or

(4) When the social worker engages in acts or conduct that adversely affects the worker's ability or fitness to engage in social work practice.

44 Responsibilities to clients. §148D.215.

Subd. 1. Responsibility to clients. Incorporates Minnesota Rules, part 8740.0310. Directs that a social worker's primary responsibility is to the client.

Subd. 2. Nondiscrimination. Incorporates Minnesota Rules, part 8740.0310. Directs that a social must not discriminate in providing services.

Subd. 3. Research. Directs a social worker to abide by accepted protocols for the protection of human subjects.

45 Relationships with clients, former clients, and other individuals. §148D.220. Incorporates Minnesota Rules, part 8740.0325.

Subd. 1. Social worker responsibilities. Directs that a social worker is responsible for professional conduct with clients or former clients. Instructs that a social worker, if permitted to engage in a relationship, must demonstrate that it is not detrimental to the client or professional relationship.

Subd. 2. Professional boundaries. Provides that a social worker must maintain professional boundaries with a client.

Subd. 3. Misuse of professional relationship. Directs that a social worker must not use the professional relationship for the social worker's benefit.

Subd. 4. Improper termination. Provides that the social worker must not terminate the professional relationship in order to begin a personal relationship with a client.

Subd. 5. Personal relationship with a client. Paragraph (a). Directs that a social worker, except as provided in paragraph (b), must not engage in a personal relationship with a client that would harm a client or impair the social worker's professional judgment.

Paragraph (b). Provides that if a social worker is unable to avoid a personal relationship, the social worker must take appropriate precautions to address the potential for risk to the client.

Subd. 6. Personal relationship with a former client. Provides that a social worker may engage in a personal relationship with a former client under certain circumstances.

Subd. 7. Sexual conduct with a client. Mandates that a social worker must not engage in or suggest sexual conduct with a client.

Subd. 8. Sexual conduct with a former client. Provides limited exceptions to the mandate that a social worker must not engage in or suggest sexual conduct with a former client.

Subd. 9. Sexual conduct with a student, supervisee or intern. Provides that a social worker must not engage in or suggest sexual conduct with a student, supervisee or intern.

Subd. 10. Sexual harassment. Directs that a social worker must not engage in any form of sexual harassment toward a client, former client, student, supervisee or intern.

Subd. 11. Business relationship with a client. Directs that a social worker must not engage in a business relationship with a client except in limited circumstances.

Subd. 12. Business relationship with a former client. Allows a social worker to engage in a business relationship with a former client unless the relationship would be detrimental to the client or the social worker.

Subd. 13. Previous sexual, personal or business relationship. Directs that a social

worker must not provide professional services to an individual with whom the social worker had a previous sexual relationship. A social worker must not provide professional services to an individual with whom the social worker had a personal or business relationship if the relationship would be detrimental to the client or the social worker's judgment would be impaired.

Subd. 14. Giving alcohol or other drugs to a client. Provides that unless authorized by law, a social worker must not give medication, a controlled substance or alcohol to a client. Directs that a social worker must not accept alcoholic beverages from a client.

Subd. 15. Relationship with a client's family or household member. Directs that subdivisions 1 to 14 apply.

46 Treatment and intervention services. §148D.225. Incorporates Minnesota Rules, part 8740.0320.

Subd. 1. Assessment or diagnosis. Directs that treatment and intervention are based on assessment and diagnosis.

Subd. 2. Assessment or diagnostic instruments. Provides that a social worker must be trained in the use of these instruments, must follow accepted procedures, and must inform the client of the purpose of the instrument.

Subd. 3. Plan for services. Provides that a social worker's plan for services must include goals based on the client assessment or diagnosis.

Subd. 4. Records. Provides the list of documentation that a social worker must maintain on each client for a period of at least seven years after the last date of service.

Subd. 5. Termination of services. Directs a social worker to terminate services if services are no longer needed or the client is not likely to benefit from continued services.

47 Confidentiality and records. §148D.230. Incorporates Minnesota Rules, part 8740.0330.

Subd. 1. Informed consent. Paragraph (a). Directs a social worker to obtain valid, informed consent. If the patient is unable to provide informed consent, the consent must be obtained from the client's legal representative.

Paragraph (b). Directs that when a client does not have capacity to consent and does not have a legal representative, the social worker must secure a legal representative. The social worker may provide services to protect the client's safety, preserve the client's financial resources or property.

Paragraph (c). Provides the social worker must use clear, understandable language in the client's primary language.

Subd. 2. Mandatory reporting and disclosure of client information. Directs a social worker to disclose to a client when the social worker may be required to disclose confidential information.

Subd. 3. Confidentiality of client information. Directs that client information is to remain confidential. Confidentiality is to be maintained after the professional relationship is terminated.

Subd. 4. Release of client information with written informed consent. Paragraph (a). Provides that client information may only be released with written informed consent.

Paragraph (b). Client information may be provided to a third party for payment of services.

Paragraph (c). Provides that when impractical to obtain written consent, oral consent may be accepted.

Paragraph (d). Provides that a social worker must obtain written informed consent before taking a photograph, or making an audio or video recording of a client.

Subd. 5. Release of client information without written informed consent. Paragraph (a). Directs that a social worker may disclose client information when mandated or authorized by law, when the board issues a subpoena, or when a court orders release.

Paragraph (b). Instructs the social worker to disclose information, if a client is incapacitated and does not have a legal representative, in order for the client to receive necessary services.

Subd. 6. Release of client records or information. Provides that a social worker is to release current, accurate and complete information.

48 Fees and billing practices. §148D. 235. Incorporates Minnesota Rules, part 8740.0345.

Subd. 1. Fees and payments. Directs a social worker to inform the client of all fees at the initial meeting.

Subd. 2. Billing for services not provided. Provides that a social worker may bill only for necessary and appropriate provided services. Allows a social worker to bill a patient, but not a third party payer, for failed appointments or cancellations without sufficient notice.

Subd. 3. No payment for referrals. Prohibits a social worker from accepting a commission, rebate or other form of remuneration to profit from the referral of a client.

Subd. 4. Fees and billing practices. States that a social worker must not engage in fraudulent billing practices.

49 Reporting requirements. §148D.240. Includes section 148B.283, subdivision 5.

Subd. 1. Failure to self-report adverse actions. Provides a list of actions a social worker must report to the board.

Subd. 2. Failure to submit application information. Provides disclosures a social

worker must make on an application to the board.

Subd. 3. Reporting other licensed professionals. Directs a social worker to report other professionals under specific circumstances.

Subd. 4. Reporting unlicensed practice. Directs a social worker to report unlicensed practice to the board.

Subd. 5. Failure to report other applicants or licensed and unlicensed practice. Provides the board can take action for failure to report.

Subd. 6. Duty to warn . Directs a licensee or applicant to comply with section 148.975.

Subd. 7. Reporting maltreatment of minors. Directs a licensee or applicant to comply with section 626.556.

Subd. 8. Reporting maltreatment of vulnerable adults. Directs a licensee or applicant to comply with section 626.557.

Subd. 9. Subpoenas. Allows the board to issue subpoenas.
Investigations. §148D.245. Recodifies § 148B.281.

50

Subd. 1. Subpoenas. Grants the board the power to issue subpoenas; to institute an action in district court to enforce the board's order or subpoena; and to take depositions.

Subd. 2. Classification of data. Directs that records obtained as part of an investigation are classified as investigative data and classified as confidential data under section 13.41. Directs that client records must be treated as private data under chapter 13.

Subd. 3. Mental or physical examination; chemical dependency evaluation. Grants the board power to order a mental, physical, or chemical dependency examination if it has probable cause to believe an applicant or licensee has violated a statute or rule enforced by the board. Provides that an applicant or licensee must submit to the examination when ordered to do so in writing. Provides that by submitting to the examination, the licensee or applicant waives all rights to object to admissibility of the results of the examination.

Subd. 4. Failure to submit to an examination. Paragraph (a). Provides that failure to submit to an ordered examination is an admission by the applicant or licensee that the applicant or licensee violated a statute or rule enforced by the board. Allows the board to take action against the applicant or licensee without a contested case hearing.

Paragraph (b). Provides that the basis of a requested contested case hearing is only whether the board had probable cause to issue the order for examination and whether failure to submit to the examination was due to circumstances beyond the control of

the applicant or licensee.

Paragraph (c). Provides that the record of a proceeding under this subdivision is only admissible in proceedings in which the board is a party.

Paragraph (d). Directs that information obtained under this subdivision is private data. An order issued as a result of failure to submit to an examination is public data.

Subd. 5. Access to data and records. Paragraph (a). Provides that in addition to ordering an examination, the board may subpoena physical, mental, or chemical dependency health records if the board has probable cause and has reason to believe the records are relevant to an investigation.

Paragraph (b). Provides that an entity that releases records is not liable for damages.

Paragraph (c). Directs the board to maintain this data as confidential data under section 13.41.

Paragraph (d). Allows the board to file an action in district court to compel release of records.

Subd. 6. Evidence of past sexual conduct. Provides that a client's prior sexual conduct must not be considered in an action against an applicant or licensee.

Subd. 7. Investigations involving vulnerable adults or children in need of protection. Provides that the public authority may request the board to suspend its investigation of complaints against an applicant or licensee alleged to have engaged in an act involving a vulnerable adult or child in need of protection.

Subd. 8. Notification of complainant. Directs the board to notify the complainant that it has received the complaint within 14 days after the complaint is received. Directs the board to keep the complainant informed about the status of the complaint.

Subd. 9. Notification of licensee. Directs the board to notify the licensee of the complaint within 60 days unless notification would compromise the investigation or notification cannot reasonably be accomplished within this time. Directs the board to keep the licensee informed about the status of the complaint.

Subd. 10. Resolution of complaints. Instructs the board to complete its investigation in no more than one year.

51

Obligation to cooperate. § 148D.250. Recodifies § 148B.282 and incorporates Minnesota Rules, part 8740.0335.

Subd. 1. Obligation to cooperate. Directs an applicant or licensee to cooperate fully with an investigation.

Subd. 2. Investigation. Provides that a social worker must not withhold information, give false or misleading information, or obstruct an investigation.

Subd. 3. Payment for copies. Directs the board to pay for copies it requests.

Subd. 4. Access to client records. Directs that an applicant or licensee must allow the board access to client records. Provides that if a client has not authorized release, identifying information must be redacted.

Subd. 5. Classification of data. Provides that records obtained must be classified as confidential data.

52 Types of actions. §148D.255.

Subd. 1. Provides that the board may take disciplinary action, adversarial but nondisciplinary action, or voluntary action. Any action taken is public data.

Subd. 2. Disciplinary action. Defines disciplinary action.

Subd. 3. Adversarial but nondisciplinary action. Defines adversarial but nondisciplinary action.

Subd. 4. Voluntary action. Defines voluntary action.

53 Disciplinary actions. §148D.260. Recodifies §148B.281.

Subd. 1. General disciplinary actions. Provides the types of disciplinary action available to the board.

Subd. 2. Reprimands. Provides the board with the authority to issue a reprimand. Provides the procedure for hearing on the reprimand.

Subd. 3. Temporary suspensions. Provides the board with the authority to temporarily suspend a license to practice without a hearing. Provides the procedure for a hearing on the suspension.

54 Adversarial but nondisciplinary actions. §148D.265. Recodifies §148B.281.

Subd. 1. Automatic suspension. Lists the reasons for automatic suspension and for how long the license will remain suspended.

Subd. 2. Cease and desist orders. Provides the board with the authority to issue a cease and desist order, outlines the information the board must include in the order, and sets out the procedures to be followed for a hearing.

Subd. 3. Injunctive relief. Provides the board with the authority to bring an action in district court for injunctive relief.

55 Voluntary actions. §148D.270.

Subd. 1. Agreements for corrective action. Allows the board to enter an agreement for corrective action when an applicant or licensee's conduct does not require disciplinary action.

Subd. 2. Stipulations to cease practicing social work. Provides the board with authority to enter into a stipulation to cease practicing social work with a licensee

when the licensee is unable to practice social work competently or safely.
56 Unauthorized practice. § 148D.275. Provides that no individual may practice social work
without a license unless exempt from licensure.
57 Use of titles. § 148D.280. Directs that no individual may use the titles "social work" or
"social worker" unless licensed to practice social work, or is exempt from licensure.
58 Reporting requirements. § 148D.285. Recodifies section 148B.283.

Subd. 1. Institutions. Provides a list of institutions and organizations that must report
to the board any action taken against a social work applicant or licensee for conduct
that might constitute grounds for action under section 148D.190, any resignation of
an applicant or licensee during an investigation, or resignation of an applicant or
licensee prior to the commencement of a proceeding for disciplinary action.

Subd. 2. Professional societies and associations. Provides that these entities, whose
members are primarily licensed social workers, must report any actions taken against
a member.

Subd. 3. Immunity. Provides immunity from civil liability or criminal prosecution for
submitting a good faith report under subdivisions 2 or 3.

59 Penalties. § 148D.290. Provides that any individual or entity that violates sections
148D.275, 148D.280, or 148D.285 is guilty of a misdemeanor.

60 Fee adjustment. Amends § 214.06, subd. 1. Provides that a health-related licensing board
may spend more than is anticipated in revenues by using surplus fees collected in prior
years. States that a board shall not spend more on operating costs than the amount
appropriated by the legislature for the fiscal biennium.

61 Health occupations licensing account. Amends § 214.06 by adding subd. 1a. Adds that the
revenues and expenditures of each health-related licensing board must be tracked separately
in the health occupations licensing account.

62 Repealer.

Subd. 1. Repeal of statutes. Repeals Minnesota Statutes 2004, sections 148B.18;
148B.185; 148B.19; 148B.20; 148B.21; 148B.215; 148B.22; 148B.224; 148B.225;
148B.226; 148B.24; 148B.25; 148B.26; 148B.27; 148B.28; 148B.281; 148B.282;
148B.283; 148B.284; 148B.285; 148B.286; 148B.287; 148B.288; and 148B.289.

Subd. 2. Repeal of rules. Repeals Minnesota Rules, parts 8740.0100; 8740.0110;
8740.0120; 8740.0122; 8740.0130; 8740.0155; 8740.0185; 8740.0187; 8740.0200;
8740.0240; 8740.0260; 8740.0285; 8740.0300; 8740.0310; 8740.0315; 8740.0320;
8740.0325; 8740.0330; 8740.0335; 8740.0340; and 8740.0345.

63 Effective date. Provides that sections 1 to 60 and 62 are effective January 1, 2006 and
section 61 is effective July 1, 2005.

Article 2: Board of Social Work; Conforming Amendments

1. 1 Social workers. Updates cross-references in § 13.383.
- 2 Social workers. Updates cross-reference in § 13.411.
- 3 Definitions. Updates cross-reference in § 144.335.
- 4 Exemptions. Updates cross-reference in § 144A.46.

- 5 Exemptions. Updates cross-reference in § 147.09.
- 6 Health-related licensing board. Updates cross-reference in § 214.01.
- 7 Mental health professional. Updates cross-reference in § 245.462.
- 8 Mental health professional. Updates cross-reference in § 245.4871.
- 9 Payments for mental health services. Updates cross-reference in § 256B.0625.
- 10 Qualified professional. Updates cross-reference in § 256J.08.
- 11 Professional services. Updates cross-reference in § 319B.02.
- 12 Professional health services. Updates cross-reference in § 319B.40.
- 13 Effective date. This article is effective January 1, 2006.

Article 3: Physical Therapists

Overview

This article modifies provisions relating to physical therapists. It defines physical therapist assistants, physical therapy aides, student physical therapists, student physical therapist assistants, and supportive personnel. It also provides provisions for supervision of these individuals.

- 1. 1 Physical therapist assistant. Amends § 148.65 by adding subdivision 3. Provides the definition of and qualifications for a physical therapist assistant.
- 2 Physical therapy aid. Amends § 148.65 by adding subdivision 4. Provides the definition of a physical therapy aid.
- 3 Student physical therapist. Amends § 148.65 by adding subdivision 5. Provides the definition of and supervision required for a student physical therapist.
- 4 Student physical therapist assistant. Amends § 148.65 by adding subdivision 6. Provides the definition of a student physical therapist assistant.
- 5 Supportive personnel. Amends § 148.65 by adding subdivision 7. Provides the definition of supportive personnel.
- 6 Supervision of assistants, aides and students. Amends § 148.706. States that a physical therapist may delegate duties to a physical therapist assistant and assign tasks to a physical therapy aid according to Minnesota Rules, part 5601.1400. Provides that physical therapists who supervise student physical therapists and student physical therapist assistants are responsible for the functions performed by the students.
- 7 Cancellation of license in good standing. Adds § 148.735.

Subd. 1. Board approval; reporting. Provides that a licensed physical therapist may be granted license cancellation if the board is not investigating the person or if the board has not begun disciplinary action against the person. This shall be reported as cancellation in good standing.

Subd. 2. Fees nonrefundable. States that license fees are not refundable if a person is permitted license cancellation.

Subd. 3. New license after cancellation. Provides that if a physical therapist wants to resume practice, the person must apply for licensure and fulfill the requirements then in existence for obtaining an initial license.

- 8 Cancellation of credentials under disciplinary order. Adds § 148.736.

Subd. 1. Board approval; reporting. Provides that a physical therapist whose right to

practice is under suspension, condition, limitation or restriction may be granted the right to cancellation. This shall be reported as cancellation while under discipline.

Subd. 2. Fees nonrefundable. States that a person is not entitled to a refund of license fees if allowed credential cancellation.

Subd. 3. New credential after cancellation. Provides that if a person desires to resume practice, the person must apply to the board and fulfill the requirements then in existence for obtaining an initial license.

9 Cancellation of license for nonrenewal. Adds § 148.737. Provides 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 renewal periods starting January 1, 2008. Provides that the licensee must apply for licensure and fulfill all requirements then in existence for a new license.

10 Licenses; denial, suspension, or revocation. Amends § 148.75. Adds that inappropriate supervision of a student physical therapist, physical therapist assistant, student physical therapist assistant, or a physical therapy aide may result in the board suspending or revoking the license of a physical therapist. Adds that the board may refuse to grant a license or suspend or revoke a license if a physical therapist practices under a lapsed license or nonrenewed credentials.

11 Examination; access to medical data. Adds § 148.754. Paragraph (a). Provides that under section 148.75, paragraph (a), the board may 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). Provides that 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.

12 Temporary suspension of license. Adds § 148.755. Authorizes the board, without a hearing, to temporarily suspend the license of a physical therapist if the board finds that the person has violated a statute or rule the board is empowered to enforce. Provides that the board shall schedule a disciplinary hearing.

13 Repealer. Repeals Minnesota Rules, part 5601.0100, subparts 3 and 4.

Article 4: Dentistry

Overview

This article modifies dental licensure provisions. It proposes new coding for statutes regarding fees.

1. 1 Faculty dentist. Amends § 150A.01, subdivision 6a. Defines a faculty dentist as one who practices as a faculty member at a school of dentistry pursuant to section 150A.06, subdivision 1a.
- 2 Faculty dentist. Amends § 150A.06, subdivision 1a. Adds that pursuant to Minnesota Rules,

chapter 3100, and at the discretion of the board, a limited faculty license must be renewed annually and a full faculty license must be renewed biennially.

3

Fees. Adds § 150A.091.

Subd. 1. Fee refunds. States that no fee may be refunded for any reason.

Subd. 2. Application fees. Lists the application fees for a dentist, limited faculty dentist, resident dentist, dental hygienist, registered dental assistant and dental assistant with limited registration.

Subd. 3. Initial license or registration fees. Provides that in addition to an application fee, a prorated initial license or registration fee must be submitted. Lists the calculations for the monthly prorated fees for dentists, dental hygienists, registered dental assistants and dental assistants with a limited registration.

Subd. 4. Annual license fees. Provides that limited faculty or resident dentists shall submit a fee along with their annual license renewal.

Subd. 5. Biennial license or registration fees. Provides fees for licensees or registrants-dentists, dental hygienists, registered dental assistants, and dental assistants with a limited registration-who submit biennial license or registration fees.

Subd. 6. Annual license late fee. Assesses a late fee of 50 percent of the annual renewal fee.

Subd. 7. Biennial license or registration late fee. Assesses a late fee of 25 percent of the biennial renewal fee.

Subd. 8. Duplicate license or registration fee. Provides the fees for a duplicate license or registration.

Subd. 9. Licensure and registration by credentials. Provides that dentists, dental hygienists, and registered dental assistants applying for licensure or registration by credentials, shall submit specified fees.

Subd. 10. Reinstatement fee. Provides that after suspension or revocation of a license or registration, the license or registration may not be reinstated until a fee has been submitted to the board.

Subd. 11. Certificate application fee for anesthesia/sedation. Provides the fees that a dentist must submit with their certificate application.

Subd. 12. Duplicate certificate fee for anesthesia/sedation. Provides the fee for a duplicate certificate.

Subd. 13. On-site inspection fee. States that the on-site inspection fee is limited to the maximum fee as determined by the board.

Subd. 14. Affidavit of licensure. Provides for the affidavit of license fee.

Subd. 15. Verification of licensure. Provides the fee for verification of licensure.

Article 5: Physician Assistants

Overview

This article modifies the information required on a prescription issued by a physician assistant.

1. 1 Delegation. Amends § 147A.18, subd. 1. Deletes the requirement for weekly reviews and replaces it with the requirement that the review be conducted as outlined in the internal protocol.
- 2 Other requirements and restrictions. Amends § 147A.18, subd. 3. Deletes from the required information on a prescription the telephone number of the physician assistant and the name, address, and telephone number of the physician serving as supervisor.

Article 6: Respiratory Therapists

Overview

Currently, respiratory therapists must hold licenses in each state in which they practice. This requires respiratory therapists to meet varying continuing education and licensure renewal requirements. This article allows for a respiratory therapist licensed or registered in another state to provide respiratory care in Minnesota in emergency and other specified situations.

1. 1 Scope of practice. Amends § 147C.05. Adds paragraph (d), which specifies that this section does not prohibit an individual licensed or registered as a respiratory therapist in another state or county from providing respiratory care in an emergency in this state, providing respiratory care as a member of an organ harvesting team, or from providing respiratory care on board an ambulance as part of an ambulance treatment team.

Article 7: Licensed Professional Counselors, Alcohol and Drug Counselors

Overview

This article modifies provisions related to licensed professional counselors and allows for voluntary licensure of alcohol and drug counselors.

1. 1 General requirements. Amends § 148B.53, subd. 1. Paragraphs (a), (b), and (c) Modify educational, examination, and course work requirements necessary for licensure as a licensed professional counselor.

(d) Exempts licensed psychologists from certain requirements and allows them to be licensed as professional counselors if they meet certain other criteria.

(e) Deems applicants who have degrees from certain specified programs to have met the course work requirements of paragraph (b).

2. 2 Fee. Amends § 148B.53, subd. 3. Makes technical changes.
3. 3 Postdegree completion of degree requirements for licensure. Creates § 148B.531. Allows individuals applying for licensure to complete certain requirements postdegree, in order to obtain licensure, if certain other requirements are met.
4. 4 Continuing education. Amends § 148B.54, subd. 2. Extends the timetable for a licensee to provide evidence to the board of completion of 12 additional postgraduate semester credit hours in counseling from two years to four years.
5. 5 Experienced counselor transition. Creates § 148B.555. (a) Exempts certain applicants for licensure from meeting certain specified requirements if the applicant can document five years of full-time postdegree work experience within the practice of professional counseling.

(b) Makes this section expire July 1, 2007.
6. 6 Retaliatory provisions. Creates § 148B.561. Requires the same or like burden, obligation, requirement, disqualification, or disability that is put upon licensed professional counselors licensed and in good standing in this state, affecting the right of these licensed professional counselors to be registered or licensed in another state, to be put upon the licensure in this state of licensed professional counselors registered in the other state.
7. 7 Grounds for disciplinary action; forms of disciplinary action; restoration of license. Amends § 148B.59. Modifies the list of activities for which an applicant or licensee may be disciplined by the board.
8. 8 Temporary suspension of license. Creates § 148B.5901. (a) Allows the board to issue an order to temporarily suspend the credentials of a licensee after conducting a preliminary inquiry to determine if the licensee has violated a statute or rule that the board is empowered to enforce and whether continued practice by the licensee would create an imminent risk of harm to others.

(b) Allows the order to prohibit the licensee from engaging in the practice of a licensed professional counselor in whole or in part and may condition the end of a suspension on the licensee's compliance with a statute, rule, or order that the board has issued or is empowered to enforce.

(c) Requires the order to give notice of the right to a hearing and to state the reasons for the entry of the order.

(d) Specifies when service of the order is effective.

(e) At the time the board issues a temporary suspension order, requires the board to schedule a hearing to be held before its own members. Specifies when the hearing shall begin and what issues shall be heard. Exempts these hearings from the administrative procedure statutes. Requires evidence presented by the board or the licensee to be in affidavit form only. Allows the licensee or counsel of record to appear for oral argument.

(f) Requires the board to issue its order within five working days of the hearing and, if the suspension is continued, to schedule a contested case hearing within 30 days of the issuance of the order. Requires the administrative law judge to issue a report within 30 days after closing the contested case hearing record. Requires the board to issue a final order within 30 days of receipt of the administrative law judge's report.

9. 9 Mental, physical, or chemical dependency examination or evaluation; access to medical data. Creates § 148B.5905. (a) Allows the board to direct a licensee or applicant to submit to a mental, physical, or chemical dependency examination or evaluation, if the board has probable cause to believe that the licensee or applicant is unable to practice professional counseling with reasonable skill and safety to clients due to any mental or physical illness or condition. Deems every licensee and applicant to have consented to submit to a mental, physical, or chemical dependency examination or evaluation when directed in writing by the board and to have waived all objections to the admissibility of the examining professionals' testimony or examination reports. Makes failure of a licensee or applicant to submit to an examination when directed by the board an admission of the allegations against the person, unless the failure was due to circumstances beyond the person's control. Allows a licensee or applicant affected under this section to be given an opportunity to demonstrate that the person can resume the competent practice of licensed professional counseling with reasonable skill and safety to the public. Prohibits the record of proceedings and the orders entered by the board in any proceedings under this paragraph from being used in any other proceeding against a licensee or applicant.
- (b) Allows the board to obtain medical data and health records relating to a licensee or applicant without the licensee's or applicant's consent if the board has probable cause to believe that the licensee or applicant is unable to practice professional counseling with reasonable skill and safety to clients due to any mental or physical illness or condition. Allows the board to request medical data from a provider, an insurance company, or a government agency, including the Department of Human Services. Requires these entities to comply with any written request of the board under this subdivision and exempts these entities from any liability in any action for damages for releasing the data requested by the board, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Classifies information obtained under this subdivision as private.
10. 10 Assessment tool security. Creates § 148B.5925. Specifies that providers are not required to provide copies of assessment tools, assessment tool materials, or scoring keys to certain individuals if the provider reasonably determines that access would compromise the objectivity, fairness, or integrity of the assessment tool process for the individual or others. If the provider makes this determination, requires the provider to, at the discretion of the individual who has completed the assessment tool, release the information to certain other persons or furnish a summary of the assessment tool results to the individual or to a third party designated by the individual.
11. 11 General. Amends § 148C.03, subd. 1. Removes references to an advisory council or committee established by rule. Removes language related to the development and administration of an examination. Makes technical changes.
12. 12 Requirements for licensure before July 1, 2008. Amends § 148C.04, subd. 3. Modifies the requirements for licensure before July 1, 2008.
13. 13 Requirements for licensure after July 1, 2008. Amends § 148C.04, by adding subd. 4. Modifies the requirements for licensure after July 1, 2008.
14. 14 Supervised postdegree professional practice. Amends § 148C.04, by adding subd. 5b. Defines "supervision," "postdegree professional practice," "supervisor requirements," and "supervised practice requirements for licensure."
15. 15 Temporary permit requirements. Amends § 148C.04, subd. 6. Adds a reference to a statute pertaining to other professionals.
16. 16 Forms of disciplinary action. Amends § 148C.091, subd 1. Removes references to advisory council members' per diem.

17. 17 Use of titles. Amends § 148C.10, subd. 2. Corrects a cross reference.
18. 18 Other professionals. Amends § 148C.11, subd. 1. (a) Adds certain social workers and certain city, county, or state employees to the list of other professionals who may be drug and alcohol counselors.
- (c) Lists licensure requirements for applicants who are exempt but who elect to obtain a license.
- (d) Prohibits persons exempt from licensure from using certain titles unless the person is also licensed as an alcohol and drug counselor.
19. 19 Hospital alcohol and drug counselors. Amends § 148C.11, subd. 4. Changes the effective date from January 1, 2006, to January 1, 2007, of the requirement that hospitals employ licensed alcohol and drug counselors.
20. 20 City, county and state agency alcohol and drug counselors. Amends § 148C.11, subd. 5. Changes the effective date of the requirement that city, county, and state agency alcohol and drug counselors be licensed from January 1, 2006, to January 1, 2007.
21. 21 Transition period for hospital and city, county, and state agency alcohol and drug counselors. Amends § 148C.11, subd. 6. Changes the end date of the transition period from January 1, 2006, to January 1, 2007. Modifies the requirements certain individuals must meet in order to become licensed as an alcohol and drug counselor.
22. 22 Temporary permit fee. Amends § 148C.12, subd. 3. Increases the fee for annual renewal of a temporary permit from \$100 to \$150.
23. 23 Authorization for expedited rulemaking authority. Allows the Board of Behavioral Health and Therapy to use expedited rulemaking authority for adopting and amending rules to conform with sections 1 to 14.
24. 24 Repealer. (a) Repeals sections 148C.02 (alcohol and drug counselors licensing advisory council) and 148C.12, subd. 4 (examination fee).
- (b) Repeals Minnesota Rules, parts 4747.0030, subparts 11 and 16 (cultural diversity committee and education committee), 4747.1200 (cultural diversity committee), and 4747.1300 (education committee).
25. 25 Effective date. Makes sections 1 to 24 effective July 1, 2005.

Article 8: Audiologists, Hearing Aid Dispensers

Overview

This article adds requirements for hearing instrument dispensing. It adds grounds for disciplinary action. It changes the composition of the Speech-Language Pathologist and Audiologist Advisory Council and the Hearing Instrument Dispenser Advisory Council.

1. 1 Audiologist. Amends § 148.512, subd. 6. Changes a cross-reference. Provides that an audiologist be licensed by the commissioner under a general, clinical fellowship, doctoral externship or temporary license.
- 2 Hearing aid. Amends § 148.512 by adding subd. 10a. Defines the term "hearing aid."
- 3 Hearing aid dispensing. Amends § 148.512 by adding subd. 10b. Provides the definition of "hearing aid dispensing."

- 4 Hearing aid dispensers. Amends § 148.513 by adding subd. 2a. Provides that an audiologist must not hold out as a licensed hearing aid dispenser.
- 5 Dispensing audiologist examination requirements. Amends § 148.515 by adding subd. 6. Paragraph (a). Provides that audiologists are exempt from written examination requirements.

Paragraph (b). States that after July 31, 2005, all applicants for an audiologist license must achieve a passing score on the practical test of proficiency.

Paragraph (c). Provides that in order to dispense hearing aids as a member or employee of a for-profit entity, an individual who obtained an audiologist license prior to August 1, 2005, and who is not licensed to dispense hearing aids, must achieve a passing score on the practical test of proficiency. Individuals licensed as audiologists after August 1, 2005, are exempt from the practical tests.

- 6 Audiologist surcharge fee. Amends § 148.5194 by adding subd. 7. Adds a surcharge fee to the audiologist licensure fee.

- 7 Grounds for disciplinary action. Amends § 148.5195, subd. 3. Changes cross-references. Adds grounds for disciplinary action, if the individual is an audiologist or certified hearing aid dispenser:

- prescribing or recommending the use of a hearing instrument unless there is a written prescription from a physician or written recommendation from an audiologist or certified dispenser that is based on an audiogram delivered to the consumer and a consumer notification delivered to the consumer;
- failing to give a copy of an audiogram to a consumer upon the consumer's request;
- failing to provide the consumer rights brochure;
- failing to comply with restrictions on sales of hearing aids in sections 148.5197, subdivision 3, and 148.5198;
- failing to return a consumer's hearing aid used as a trade-in or discount, when requested by the consumer upon cancellation of a contract;
- failing to follow Food and Drug Administration or Federal Trade Commission regulations;
- failing to dispense a hearing aid in a competent manner or without appropriate training;
- delegating hearing aid dispensing authority to a person not authorized to dispense hearing aids;
- failing to comply with the requirements of an employer or supervisor of a hearing aid dispenser trainee; or
- violating a state or federal court order, or the order of a conciliation court, relating to

the activities of the individual's hearing aid dispensing.

8 Membership. Amends § 148.5196, subd. 1. Adds four members to the Speech-Language Pathologist and Audiologist Advisory Council.

- Changes from two to three, the number of public members on the council. Provides that two of these members shall be consumers of services or family members or caregivers of such person. Adds that at least one of these members shall be a hearing aid user or an advocate of one.
- Changes the requirement that three (formerly two) speech-language pathologists be members of the council.
- Changes the requirement that three (formerly two) licensed audiologists serve on the council. Adds the requirement that at least two of these members be engaged in the dispensing of hearing aids.
- Adds as a member of the council one nonaudiologist hearing aid dispenser who has been recommended by a professional association representing hearing aid dispensers.

9 Hearing aid dispensing. Adds § 148.5197.

Subd. 1. Content of contracts. Provides that oral representations by the audiologist must be included in the written contract with the consumer.

Subd. 2. Required use of license number. Requires that an audiologist's license number appear on all contracts, bills of sale and receipts.

Subd. 3. Consumer rights information. Requires that an audiologist provide at the time of recommendation or prescription, the consumer rights brochure prepared by the commissioner. A sales contract for a hearing aid must note receipt of the brochure, signified by the buyer's signature or initials.

Subd. 4. Liability for contracts. Provides for liability on all contracts, written and oral. Lists individuals who can be held liable.

10 Restriction on sale of hearing aids. Adds § 148.5198.

Subd. 1. 45-calendar-day guarantee and buyer right to cancel. Provides that an audiologist must give a buyer a 45-calendar-day money back guarantee. This must permit the buyer to cancel the purchase for any reason. Allows the audiologist to retain as a cancellation fee no more than \$250. Provides that the contract must be written in plain English and must contain the specific disclosure contained in this subdivision.

Subd. 2. Itemized repair bill. Directs that the owner of the hearing aid receive a repair bill that describes the repair and services rendered. States that this does not apply when an express warranty covers the entire cost of the repair.

Subd. 3. Repair warranty. Provides that a guarantee of hearing aid repair must be in writing and delivered to the owner of the hearing aid.

Subd. 4. Misdemeanor. Provides that a person found to have violated this section will be guilty of a misdemeanor.

Subd. 5. Additional. Provides that a person found to have violated this section is subject to the penalties and remedies found in section 325F.69, subdivision 1.

Subd. 6. Estimates. Provides that a written estimate of repairs shall be given. Provides that if this estimate discloses the possible need for additional work, the repairing audiologist may complete the additional work and charge more than the estimate. If not, the repairing audiologist shall return the hearing aid as close as possible to its former condition without making the additional repairs.

- 11 Dispenser of hearing instruments. Amends § 153A.13, subd. 5. Provides that an audiologist as defined in section 148.512 does not need to be certified by the commissioner to be a dispenser of hearing aids.
- 12 Certification by examination. Amends § 153A.14, subd. 2h. Deletes the requirement that an individual display knowledge of state and federal laws, rules and regulations on the written examination. Provides that knowledge of state and federal laws, rules and regulations be shown during the practical proficiency test.
- 13 Continuing education requirement. Amends § 153A.14, subd. 2i. Deletes the option of completing continuing education credits through a course that qualifies for continuing education approved for Minnesota licensed audiologists.
- 14 Dispensing of hearing instruments without certificate. Amends § 153A.14, subd. 4. Adds that unless so provided in sections 148.512 to 148.5198, it is unlawful for an individual to dispense hearing instruments without holding a valid certificate.
- 15 Reciprocity. Amends § 153A.14, subd. 4c. Deletes current credential as an audiologist in another state from items needed for reciprocity.
- 16 Consumer rights. Amends § 153A.14, subd. 9. Provides that a hearing instrument dispenser shall comply with sections 148.5195, subdivision 3, clause (20); 148.5197; and 148.5198.
- 17 Prohibited acts. Amends § 153A.15, subd. 1. Makes technical changes. Deletes surplus language.
- 18 Membership. Amends § 153A.20, subd. 1. Changes the number of persons on the Hearing Instrument Dispenser Advisory Council from nine to seven. Deletes the requirement that three members shall be audiologists certified as hearing instrument dispensers. Adds one audiologist licensed as an audiologist and who dispenses hearing instruments; this individual must be recommended by a professional association representing audiologists and speech-language pathologists.
- 19 Revisor's instructions. Directs the revisor to change references.
- 20 Repealer. Repeals section 153A.14, subdivision 2a, 8, and 10; and section 153A.19.
- 21 Effective date. States that sections 1 to 14 and 16 are effective August 1, 2005.

Article 9: Penalty Fees

This article provides penalty fees for practicing speech language pathology or audiology; occupational therapy; alcohol or drug counseling; or holding oneself out as a hearing instrument dispenser without a current license. Penalty fees are also assessed for failure to comply with continuing education requirements.

1. 1 Penalty fees; speech language pathology or audiology.
 - Provides that the penalty fee for practicing with an expired license is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months.
 - Provides that the penalty fee for practicing before a license is issued is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This does not apply to individuals not qualified to practice.
 - Provides that the penalty fee for failing to submit continuing education reports is \$100 plus \$20 for each missing clock hour. The licensee must complete the required number of hours by the end of the next reporting due date.
 - Provides that civil penalties and discipline under this section incurred prior to August 1, 2005, shall be recorded as nondisciplinary penalty fees. For practicing with an expired license or practicing before a license is issued after August 1, 2005, and exceeding six months, payment of a penalty fee does not preclude disciplinary action.
- 2 Penalty fees; occupational therapy.
 - Provides that the penalty fee for practicing with an expired license is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months.
 - Provides that the penalty fee for practicing before a license is issued is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This does not apply to individuals not qualified to practice.
 - Provides that the penalty fee for failing to submit continuing education reports is \$100 plus \$20 for each missing clock hour. The licensee must complete the required number of hours by the end of the next reporting due date.
 - Provides that civil penalties and discipline under this section incurred prior to August 1, 2005, shall be recorded as nondisciplinary penalty fees. For practicing with an expired license or practicing before a license is issued after August 1, 2005, and exceeding six months, payment of a penalty fee does not preclude disciplinary action.

3 Penalty fees; alcohol and drug counselors.

- Provides that the penalty fee for practicing with an expired license is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months.
- Provides that the penalty fee for practicing before a license is issued is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This does not apply to individuals not qualified to practice.
- Provides that the penalty fee for failing to submit continuing education reports is \$100 plus \$20 for each missing clock hour. The licensee must complete the required number of hours by the end of the next reporting due date.
- Provides that civil penalties and discipline under this section incurred prior to August 1, 2005, shall be recorded as nondisciplinary penalty fees. For practicing with an expired license or practicing before a license is issued after August 1, 2005, and exceeding 12 months, payment of a penalty fee does not preclude disciplinary action.

4 Penalty fees; hearing instrument dispenser.

- Provides that the penalty fee for practicing with an expired certificate 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.
- Provides that the penalty fee for practicing after expiration of the trainee period and before being issued a license is one-half the amount of the certificate application fee for any part of the first day, plus one-half the certificate application fee for any part of any subsequent days up to 30 days. This does not apply to persons not qualified to practice.
- Provides that the penalty fee for failing to submit continuing education reports is \$200 plus \$200 for each missing clock hour. The certificate holder must complete the required clock hours by the next reporting due date.
- Provides that civil penalties and discipline incurred prior to August 1, 2005, under this section shall be recorded as nondisciplinary penalty fees. Payment of a penalty fee does not preclude disciplinary action.

Article 10: Fee Reductions

Overview

This article provides temporary fee reductions for specified professions.

1. 1 Temporary fee reduction; Board of Social Work. Provides beginning January 1, 2006, for fiscal year 2006, and for fiscal years 2007, 2008, and 2009, enumerated fee reductions shall be in effect.
- 2 Fee reduction; Board of Dietetic and Nutrition Practice. Allows the board to lower its fees by an amount not to exceed \$36,000 in each of fiscal years 2006, 2007, 2008, and 2009.
- 3 Fee reduction; Board of Nursing. Allows the board to lower its fees by an amount not to exceed \$467,000 in fiscal year 2006, and \$422,000 in each of fiscal years 2007, 2008, and 2009.