

## **Health Professions Discipline Laws**

This information brief provides an overview of health professions discipline laws, including grounds for disciplinary action, deadlines for taking disciplinary action, discipline and penalties, investigatory powers, immunity, and access to records. An appendix supplies statutory citations to discipline laws that apply to specific occupations.

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## Introduction

There are at least 35 occupations that provide direct health care to individuals and are regulated in some way by the state. These occupations have statutes, administrative rules, or both, governing professional discipline issues.

The disciplinary laws governing health professions are organized in a variety of ways. Some occupations are regulated by their own boards under statutes governing all aspects of discipline. Other occupations are regulated by the governing boards of related occupations, such as the Boards of Medical Practice, Dentistry, or Nursing. Some professions regulated in this manner are covered by discipline laws specific to them; others adhere to the discipline laws of the related board that regulates them. In addition, the Minnesota Department of Health (MDH) regulates several professions in cooperation with occupation-specific advisory councils.

Health occupations are not subject to the same disciplinary grounds, penalties, investigatory procedures, immunity, or data practices provisions. While it is not necessary for all occupations to be treated identically, an understanding of the range of approaches will help policymakers make conscious choices about the features of a given regulatory program.

This information brief provides an overview of major issues addressed by the health occupations discipline statutes. Rather than summarize all features of the regulatory scheme for each occupation, it describes both common and unique features of the laws in order to give a sense of the issues addressed and the range of approaches among the statutes on different occupations.

Topics addressed include grounds for disciplinary action; how misconduct is discovered; time limits for imposing disciplinary action; disciplinary actions and penalties applied; investigatory powers and hearing procedures; the availability of immunity for certain participants; and access to disciplinary records.

An appendix lists selected health occupations regulated by the state and applicable statutory citations for the disciplinary laws of each. It specifies the regulating body for each occupation and statutory citations to provisions on grounds for disciplinary action, discipline and penalties, investigatory powers, immunity, and records access for the occupation. Policymakers interested in obtaining more detailed information about specific occupations or in comparing approaches to a certain topic across occupations may want to use this chart as a guide for further research.

All Minnesota Statutes citations are to the statutes in effect following the 2010 legislative session.

## Grounds for Disciplinary Action

### Conduct That May be Prohibited

The Minnesota Legislature has stipulated in statute that “no regulation shall be imposed upon any occupation unless required for the safety and well-being of the citizens of the state.”<sup>1</sup> An important aim of occupational regulation is to protect the public from unqualified or unfit health professionals and from their unethical or unprofessional conduct. Monitoring and disciplining health care providers is one way to ensure high standards of care. Health occupations statutes may list prohibited types of conduct against which the regulatory board or agency can take action. These types of prohibited conduct are referred to as grounds for disciplinary action.

### General Grounds for Disciplinary Action

Some major grounds for disciplinary action are common to several occupations. Some grounds precisely identify the actions that are prohibited, while others are broad in scope. Regulatory entities generally do not discipline health professionals for actions that may be malpractice, unless the conduct is also a ground for discipline.

**Conditions that may put a patient’s life or health at risk.** Some grounds for discipline protect patients from life- or health-threatening situations by identifying a professional’s physical or mental incapacity, whether caused by physical illness, mental illness, or chemical dependency. Such conditions are identified in a variety of ways. Some grounds rely on determinations by a court; for instance, being adjudicated mentally ill, mentally incompetent, mentally retarded, chemically dependent, or dangerous to the public are grounds for discipline. Other grounds are triggered when a professional is addicted to a drug or intoxicant, or is unable to practice with reasonable skill and safety due to a physical or mental condition or the use of drugs or alcohol.

**Maltreatment of a child or vulnerable adult.** A substantiated report of child or vulnerable adult maltreatment against a license applicant or licensee under the jurisdiction of a health-related licensing board is grounds for discipline.

**Unprofessional conduct.** Unprofessional conduct encompasses a wide range of activities. Conduct may be considered unprofessional when a person unfairly uses professional status or a professional relationship with a patient to the patient’s disadvantage, or when a professional’s conduct harms the provider-patient relationship. Some grounds of this kind include failing to satisfy minimal standards of acceptable practice for the profession; advertising information that is false, misleading, or makes claims that cannot be substantiated; acting unethically, or in a way that may deceive or defraud the public; revealing a privileged communication about a patient; improperly managing medical records; engaging in sexual behavior with a patient; recommending medical services, tests, or prescriptions that are not medically indicated; providing false or misleading information on patient care; or bartering with a client.

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<sup>1</sup> [Minn. Stat. § 214.001](#), subd. 2.

Another category of unprofessional conduct is the failure of a professional to cooperate with regulatory board requests. Such activities include failing to provide information requested by a board, advisory council, or the Commissioner of Health; and failing to cooperate with the commissioner, an advisory council, or a board in any investigation.

**Conduct related to the credential.** Other reasons for discipline relate to violations of the terms of credentialing or the process of obtaining a credential. For instance, individuals may be disciplined or denied a credential if they obtained a credential by fraud, were subject to disciplinary action in another jurisdiction, did not report conduct that is a ground for disciplinary action, failed to satisfy the requirements for continuing education, failed to report credentialing changes, or practiced with a lapsed license.

**Conduct related to supervision and delegation.** Since many professionals have a duty to supervise other professionals or trainees or to practice under appropriate supervision, a failure to comply with statutory requirements on supervision may subject a person to disciplinary action. In addition, it may be improper for a person to delegate, or accept delegation of, a job-related function that could result in the unsafe or ineffective provision of care.

**Criminal conduct.** In addition to other legal consequences, disciplinary action may result from breaking state or federal laws related to the provision of health care services. For example, a health professional is convicted of a felony related to the practice of the profession, violates a law related to medicine or controlled substances, bills patients in an abusive or fraudulent manner, including violations of Medicare or Medicaid laws, or assists suicide or attempted suicide.

**Failure to meet certain statutory obligations.** Grounds for discipline also exist to enforce other laws. For example, disciplinary action may be taken against members of most board-regulated occupations who intentionally fail to provide required health care cost containment data or information needed to implement the health care provider tax. Professionals may also be disciplined for intentionally failing to pay the health care provider tax, or for entering into a prohibited contract or arrangement with a health plan company. In addition, all members of regulated occupations may be disciplined for being in arrears in child support or maintenance obligations. Similarly, a person may have an application for a license denied or have a professional license revoked if the person has not filed tax returns or is delinquent in state taxes by \$500 or more.

## **Unique Grounds for Disciplinary Action**

In addition to common grounds noted above, many professions also have unique grounds designed to target problems specific to them and their patients. These grounds exist to eliminate specific threats to public health or public confidence raised by a professional's conduct, to discourage activities that are outside the permitted scope of the occupation's practice, or to help enforce relevant consumer protection provisions.

**Issues raised by the nature of the occupation.** Some grounds apply only to certain occupations to address concerns raised by the specific nature of the occupation, such as the services provided or the materials handled in the course of practice.

- ▶ Pharmacists are subject to a number of requirements related to handling, labeling, and selling drugs and poisons, filling prescriptions, and performing drug utilization review and patient counseling activities.
- ▶ Mortuary science practitioners may be disciplined for improperly disinterring or re-interring a dead body or human remains or for violating any requirements related to accepting and holding funds given as prepayment of funeral services.

**Scope of practice issues.** Other occupations have grounds related to the occupation's scope of practice. When the occupation's scope of practice is specifically defined or is limited in certain ways, grounds for discipline are appropriate to ensure that the scope of practice is not exceeded. Professions address this issue in different ways.

- ▶ The Board of Optometry prohibits specific conduct. For example, optometrists who are not certified may not purchase, possess, or prescribe legend drugs.
- ▶ A number of professionals, including speech-language pathologists, audiologists, physical therapists, and occupational therapists, may be disciplined for failing to refer a patient to another health care professional if the patient's physical condition is beyond their scope of practice.
- ▶ A physician assistant's scope of practice is controlled by prohibiting a physician assistant from practicing medicine beyond what is allowed by a physician-physician assistant delegation agreement, by requiring adherence to physician-physician assistant delegation agreements on supervision and delegation, and by requiring maintenance of annually updated agreements and internal protocols.
- ▶ Physical therapists are subject to very detailed controls on their practices; they can be disciplined for treating a patient for more than 90 days without authorization, failing to consult with a provider before departing from the original treatment order, and treating by any method other than physical therapy.

**Consumer protection issues.** A few professions use grounds for disciplinary action to enforce applicable consumer protection measures.

- ▶ Because a large part of a hearing instrument dispenser's duties relate to fitting and selling hearing aids, a member of this profession may be disciplined for failing to give a customer a copy of the customer's audiogram and a brochure on consumer rights; for misrepresenting the purpose of a hearing test; or for failing to comply with statutory requirements on purchasing, returning, and repairing hearing instruments.

- ▶ Unlicensed complementary and alternative health care providers may be disciplined for failing to give a client a copy of the Patient Bill of Rights or for violating any of those rights.
- ▶ The Board of Dietetics and Nutrition Practice may take action against a licensee who sells dietary supplement products and financially benefits from the sale.

## Detecting Misconduct and Reporting Requirements

### How Misconduct Can Be Discovered

**Regulatory entities for health occupations use two approaches to discover misconduct by health professionals: (1) inspection and compliance review authority and (2) reporting requirements.** Some regulating bodies have authority to inspect the facilities in which health professionals practice. If, during an inspection, a regulator learns of conduct that may be a ground for disciplinary action, disciplinary proceedings may be initiated. For example, MDH has authority to conduct compliance reviews and inspect the premises in which mortuary science practitioners operate. If grounds for disciplinary action are uncovered in the course of an inspection, the Commissioner of Health is authorized to pursue them.

Disciplinary bodies also rely on reporting standards and requirements to learn of misconduct. In general, all patients or members of the general public may file a complaint if they have knowledge of conduct that warrants discipline. Additionally, the statutes governing some occupations specify the individuals and entities that are required to report and the conduct that must be reported. For instance, the Board of Medical Practice has established the following comprehensive reporting obligations:

- ▶ Any person with knowledge of conduct constituting one or more grounds for discipline may report the conduct to the board.
- ▶ Health care institutions located in Minnesota—hospitals, clinics, prepaid medical plans, and other organizations—must report if they revoke, suspend, or restrict a physician's privilege to practice, or if any other disciplinary action is taken.
- ▶ Medical societies must report any action taken against a physician's membership, any disciplinary action taken, and any complaints received for which no action was taken.
- ▶ All licensed health professionals and medical residents are required to report any conduct of a physician or resident that constitutes a ground for discipline.
- ▶ Insurers and health care institutions that provide professional liability insurance must report malpractice settlements and awards paid.
- ▶ Court administrators must reveal when courts find physicians mentally ill, mentally incompetent, or guilty of certain crimes.

- ▶ Physicians are mandated to self-report any personal action that would require a report to be filed by another person or organization.

A number of other professions, including physician assistants, podiatrists, chiropractors, acupuncturists, and nurses are subject to the same or similar reporting requirements.

For some occupations without specific reporting requirements, such as speech-language pathologists, audiologists, and athletic trainers, credentialing statutes contain a more general statement permitting the Commissioner of Health or an advisory council to initiate an investigation upon receipt of a complaint. For professionals regulated by licensing boards, a member of the board and the board's executive director or executive secretary are permitted to initiate complaints.

## **Deadline for Taking Disciplinary Action**

### **The Time Limits for Taking Disciplinary Action**

**The statutes governing some occupational licensing bodies set deadlines for when discipline may be imposed.** A typical example is that a person may be disciplined for being convicted of a felony (and, in the case of some occupations, a gross misdemeanor or misdemeanor) related to the practice of the occupation only if the conviction occurred within a specified period of time. For instance, nurses may be disciplined for any conviction in the past five years of a felony or gross misdemeanor reasonably related to the practice of nursing. Another example allows discipline against a professional who has engaged in sexual contact with a client or former client within the past two years. At least two boards are restricted to pursuing professional violations that have occurred within the past seven years. Certain types of conduct are exempt from these time deadlines.

## **Disciplinary Actions and Penalties**

### **The Consequences of Misconduct**

Credentialing statutes may provide licensing actions and civil and criminal penalties applicable to covered professionals. Licensing actions are administrative actions or civil penalties imposed by the body that regulates the profession, while criminal penalties are imposed by the judicial system.

## Licensing Actions and Civil Penalties

**Some disciplinary actions involve the terms of a professional's licensure.** The standard provision, applicable to all professions, authorizes a regulating body to revoke or suspend a professional's license or registration, limit or condition a person's use of the license or registration, or refuse to renew or grant a license or registration if any provision of the licensing statute is violated. At the very least, a professional may be censured or reprimanded for a violation.

In the case of substantiated child or vulnerable adult maltreatment, a health-related licensing board may immediately temporarily suspend a license, deny a credential, or require continuous supervision of an individual, in addition to other available remedies.

**A regulatory entity may prohibit or require specific actions by health professionals.** For professions regulated by MDH, the Commissioner of Health is authorized to issue cease and desist orders, impose a civil penalty, or apply for injunctive relief to stop a person from engaging in an unauthorized activity or from violating, or threatening to violate, a statute, rule, or order. Health-related licensing boards have the authority to bring actions in district court for injunctive relief to restrain any unauthorized practice or to stop a violation of any statute or rule that the board enforces. Several professionals, including physicians, nurses, podiatrists, physician assistants, and alcohol and drug counselors, may be required to provide free services to the public, under appropriate supervision. A few regulating bodies have the broad authority to take any lawful action justified by the facts of the case.

**In some situations, a regulatory authority may want to correct a ground for disciplinary action informally.** The Commissioner of Health and boards have authority to enter into stipulation and consent orders with the regulated person, in which all the parties cooperatively agree on the appropriate corrective action. A wide range of disciplinary actions can be imposed with such orders, if the parties agree to the discipline.

**Monetary fines and costs of the proceeding may also be imposed on the professional.** In general, these fines are levied to deny the professional any economic gain from the violation, to reimburse the body investigating the violation for the costs of the investigation, or to discourage repeated violations. A majority of regulatory bodies are authorized to impose civil penalties for each violation or to require the person being disciplined to pay the costs of the action's investigation and proceedings. Regulating bodies are given discretion to set penalty amounts, with penalty ceilings provided in statute; most boards allow penalties of up to \$10,000 (the Board of Psychology is limited to a penalty of up to \$7,500). For hearing instrument dispensers, the Commissioner of Health is also permitted to impose an automatic civil penalty of one-half of the certificate renewal fee on any dispenser who fails to renew a certificate by the renewal deadline.

The Commissioner of Health can also use administrative penalty orders to correct violations of statutes, rules, and other directives and assess monetary penalties. With such orders, the commissioner applies monetary fines based on an established plan that specifies the consequences of certain activities. Orders may be issued for up to \$10,000 per person for all violations found in an inspection or compliance review. The attorney general may enforce

monetary penalties in two ways: by having the administrative order entered as an order of the district court, and by bringing a civil action in district court.

**Certain violations have mandatory consequences.** Disciplinary action may be mandated if some immediate action is required to protect the public from the threat of immediate or likely harm.

- ▶ Many professions automatically suspend a license if a guardian is appointed for the professional or if the professional is civilly committed.
- ▶ A few professions require license revocation if the professional is convicted of felony criminal sexual conduct.
- ▶ Most professions have a more general requirement that a practitioner's license is temporarily suspended if it is found, after an investigation, that the practitioner has violated a statute or rule and that continued practice would create a serious risk of harm to others.
- ▶ Some regulatory entities are prohibited from issuing or renewing a professional license or registration to a person who owes the state \$500 or more in delinquent taxes.

## **Criminal Penalties**

In addition to disciplinary actions imposed by regulatory bodies, criminal penalties may apply. County and city attorneys enforce criminal laws and have discretion whether to prosecute for particular instances of violating a credentialing statute or rule. In a court proceeding, a judge or jury determines whether criminal penalties are appropriate.

For most professionals, the penalty of gross misdemeanor applies to specific actions. Depending on the occupation, it may be a gross misdemeanor to do the following:

- ▶ practice without a license, registration, or certificate
- ▶ make unauthorized use of a protected title by illegally or fraudulently obtaining a license or certificate, or by fraudulently implying possession of a license or registration
- ▶ practice outside the scope of practice for the profession or otherwise practice in a prohibited manner
- ▶ violate any of the provisions of the licensing statutes, including any of the grounds for disciplinary action

Some occupations are subject to either lesser or greater penalties for certain activities. For example, acupuncturists and social workers who engage in an unauthorized practice or use a

protected title without proper authorization are guilty of a misdemeanor. On the other hand, a mortuary science practitioner who violates specified procedures for the disinterment and reinterment of dead bodies is guilty of a felony.

## Investigatory Powers and Hearing Procedures

### How Disciplinary Matters Are Investigated

If a regulating entity determines that it is necessary to discipline a health professional or to limit or deny the ability to practice, certain procedures must be followed. Under both the U.S. Constitution and the Minnesota Constitution, the government cannot deprive a person of life and certain liberty or property interests without due process of law.<sup>2</sup> In Minnesota, as in other states, courts have found that a health professional's license or other credential to practice is a property right that deserves constitutional protection, including due process protection.<sup>3</sup> To protect a person's property right in a credential to practice, a regulatory body's actions that affect the credential must meet certain standards of fairness. Accordingly, entities like the health-related licensing boards and MDH must give health professionals certain procedural rights and must follow specific procedures, specified in statute, before a person can be disciplined.

[Minnesota Statutes, sections 214.10](#) and [214.103](#), specify the procedures for all health-related licensing boards handling disciplinary matters against persons they regulate.

When a health-related licensing board receives an oral complaint, it may require that the complaint be put in writing. The board must then determine whether it has jurisdiction over the individual and the conduct in the complaint. The board must refer a matter outside its jurisdiction to another state agency with jurisdiction, if there is one.

A board with jurisdiction over a complaint must forward the matter to the attorney general when:

- ▶ investigation is required before resolution is possible;
- ▶ attempts at resolution of the complaint or initiation of a contested case hearing are appropriate;
- ▶ an agreement for corrective action is appropriate;

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<sup>2</sup> The Fifth Amendment to the U.S. Constitution provides that "No person shall be . . . deprived of life, liberty, or property without due process of law. . ." U.S. Const. amend. V. The Fourteenth Amendment to the U.S. Constitution prohibits any state from "depriv[ing] any person of life, liberty, or property, without due process of law . . ." U.S. Const. amend. XIV, sec. 1. The Minnesota Constitution states that "No person shall be . . . deprived of life, liberty or property without due process of law." [Minn. Const. art. I, sec. 7](#).

<sup>3</sup> See, for instance, *Humenansky v. Minnesota Bd. of Medical Examiners*, 525 N.W.2d 559, 566 (Minn. App. 1994) (a license to practice medicine is a property right deserving constitutional protection, including due process), pet. for rev. denied (Minn. Feb. 14, 1995); *Padilla v. Minnesota State Bd. of Medical Examiners*, 382 N.W.2d 876, 882 (Minn. App. 1986), pet. for rev. denied (Minn. Apr. 24, 1986).

- ▶ the complaint involves alleged sexual contact with a client; or
- ▶ the complaint should be dismissed but involves alleged criminal conduct, child or vulnerable adult abuse, alleged inability to practice by reason of illness or use of chemicals, alleged violation of Medical Assistance laws, or a disciplinary action in another jurisdiction.

The health-related licensing boards have subpoena power to require the attendance of witnesses and production of information.

The board's executive director is empowered to attempt to resolve a complaint by conference with the regulated person. If that approach seems inappropriate or is unsuccessful, the executive director or a board member may initiate a contested case proceeding under [Minnesota Statutes, chapter 14](#). A complaint may not be dismissed without the concurrence of at least two board members. The attorney general must review the proposed dismissal of any complaint that involves alleged criminal conduct, child or vulnerable adult abuse, sexual conduct with a client, alleged inability to practice by reason of illness or use of chemicals, alleged violation of Medical Assistance laws, or a disciplinary action in another jurisdiction.

Other statutes that govern specific occupations have notable features. The Office of Unlicensed Complementary and Alternative Health Care Practice are required to investigate every complaint filed with them. The mortuary science practitioner statute authorizes the regulator to inspect premises when there is a reasonable suspicion of a violation or threatened violation of the professional regulatory law, and to examine and copy any records of a regulated person relevant to a matter under investigation.

## **Immunity**

### **Protection for Certain Participants**

Many statutes on health professional discipline provide immunity for certain participants in the process. The statute on the Board of Medical Practice provides an extensive immunity scheme. The immunity provisions apply to physician discipline as well as to other specified health occupations, such as physician assistants, respiratory care practitioners, and acupuncturists. Civil and criminal immunity are granted to: (1) anyone who reports conduct that is grounds for discipline, and (2) the board, its employees, and any consultants who are hired to investigate, prepare charges, and manage board orders. In addition, the statute grants civil and criminal immunity to an insurer or government agency that releases to the board, on written request, medical data on regulated persons, unless the information is false and the entity knew or had reason to know it was false.

Statutes governing other health occupations contain variations on the above immunity scheme that create either broader or narrower immunity for the specific occupation. For example:

- ▶ **reporters of complaints** to the appropriate regulatory entity for nurses, marriage and family therapists, and mortuary science practitioners are immune only if the complaint is made in good faith; and
- ▶ the statute for the Board of Podiatric Medicine grants unqualified immunity to **entities that provide medical data to the board at its request.**

On the other hand, statutes governing several health occupations contain no express immunity provisions for any participants in any aspect of the process.

## Access to Records

### Regulation of Discipline Records

Many of the statutes on discipline of health professionals regulate access to records generated in the disciplinary process. The Board of Medical Practice has the most specific scheme. Board disciplinary hearings are closed, and all records relating to the board's regulatory jurisdiction are confidential (that is, the board is not required to share them with anyone).<sup>4</sup> Further, any reviewing court must seal the administrative record, except for the board's final decision.<sup>5</sup> Numerous provisions dealing with access to disciplinary records include the following:

- ▶ a party to a disciplinary proceeding may obtain from the board documents relevant to the proceedings in accordance with discovery provisions of the rules of civil procedure
- ▶ the board must share information with other Minnesota licensing boards investigating complaints
- ▶ the board must provide other states with information regarding disciplinary actions against licensees
- ▶ when the board acts on a complaint, the complainant receives a description of board activity, a summary of the investigation results, and the reason for the actions taken
- ▶ when discipline is imposed, the record of board votes, the name and business address of the licensee, the nature of the misconduct, and the board's action are public
- ▶ when discipline is imposed through a settlement agreement, the entire file is public
- ▶ when a case involves allegations of sexual misconduct, a probable cause hearing is closed, but if there is no request for a probable cause hearing, there is public notice

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<sup>4</sup> The statute on physician assistants contains a similar provision.

<sup>5</sup> The statutes for nurses and physician assistants contain similar provisions.

that a hearing is scheduled; and, on a showing of probable cause by the board, factual allegations that support the charge are public

- ▶ reports may be published of licensee misconduct<sup>6</sup> that identify the individual, business address, the nature of the misconduct, and the discipline imposed

The statute on the Board of Medical Practice contains express provisions about access to medical records of regulated persons and their patients. Regulated persons are deemed to have consented to mental or physical examinations and to have waived all objections on grounds of medical privilege to admitting the examination results as evidence. Patient records needed for an investigation of a regulated person will be provided to the board, with the patient's identity if the patient gives consent. In the absence of patient consent, the provider must forward the record with the patient's identity deleted.

Separate statutes, [Minnesota Statutes, sections 214.10](#) and [214.103](#), contain provisions about procedures and access to records applying to all health-related licensing boards, including the Board of Medical Practice. These statutes are in some ways parallel to the statute on the Board of Medical Practice. For example, they:

- ▶ require that all health-related licensing boards share with each other information regarding discipline matters;
- ▶ require all such boards to exchange data with other states regarding the discipline of licensees;
- ▶ require that a complainant be given a description of board actions relating to the complaint; and
- ▶ require a report to the legislature summarizing disciplinary actions without identifying individuals.

The statutes also give the health-related licensing boards access to all data on regulated persons held by the Department of Human Services. Finally, the law provides that an approved stipulation to resolve a disciplinary complaint is public; it does not address the status of other licensing action outcomes. Assuming the licensing data statute ([Minnesota Statutes, section 13.41](#), subdivision 4) is held to apply, orders for hearing, findings of fact, conclusions of law, and the final disciplinary action in these matters would be public.

The statute governing mortuary science practitioners takes yet another approach to records access by relying on the Data Practices Act in some respects. Complaint data and data on disciplinary actions taken or anticipated by the Commissioner of Health are: (1) confidential civil investigative data under the Data Practices Act when they are data on entities rather than individuals, and (2) licensing data under the Data Practices Act when they relate to individuals. Under the licensing data statute, orders for hearing, findings of fact, conclusions of law, and the final disciplinary action in these matters would be public. The regulatory statutes also provide

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<sup>6</sup> Excluding cases involving solely illness, drunkenness, use of drugs, or addiction to drugs or alcohol.

that data on complainants against mortuary science practitioners are confidential while the investigation is active and, departing from the Data Practices Act, become private (rather than public) when the investigation is inactive.

## Summary

While the disciplinary laws of health occupations share common features, they also include elements, approaches, and exceptions unique to particular occupations. Health occupations generally rely on reporting requirements to discover misconduct and begin the discipline process, but the scope of the reporting requirements varies by occupation. In addition, many occupations apply similar grounds for disciplinary action, discipline provisions, and penalty provisions to address common problems, but each may differ in the exact grounds and penalties applied. Statutes specifying a common set of investigatory powers and hearing procedures cover most occupations, yet some occupations also include unique features in their individual statutes. Finally, immunity and records access provisions vary in scope of coverage, and the disciplinary laws of some occupations do not explicitly address these issues.

Because of the variations that exist across occupations discipline laws, it is necessary to consult specific statutes for information on particular occupations or to compare approaches to an issue across occupations. The following chart lists selected health occupations, each occupation's regulatory body, and applicable statutory citations to the disciplinary laws for each occupation.

## Appendix

Several statutes have broad applicability to health occupations discipline matters (e.g., [Minn. Stat. §§ 13.41, 214.10, and 214.103](#); Chapter 148A). This table only lists statutes that are expressly applicable to a particular occupation.

**Statutory Citations to Discipline Laws Specific to Selected Occupations**

Occupation	Regulating Body	Grounds for Disciplinary Action	Deadline for Taking Disciplinary Action	Discipline and Penalties	Investigation/Hearing	Immunity	Records Access
<b>Acupuncture practitioner</b>	Board of Medical Practice and Acupuncture Advisory Council	<a href="#">147B.07 (147.091 to 147.162)</a>	<a href="#">147B.07 (147.091, subd. 1, para. (t), and subd. 8)</a>	<a href="#">147B.02, subd. 3; 147B.07 (147.091 to 147.162)</a>	<a href="#">147B.07 (147.091 to 147.162)</a>	<a href="#">147B.07 (147.121)</a>	<a href="#">147B.07 (147.091, subd. 6; 147.092; 147.151)</a>
<b>Alcohol and drug counselor</b>	Board of Behavioral Health and Therapy	<a href="#">148C.09, subd. 1; 148C.091, subd. 1</a>	<a href="#">148C.09, subd. 1, cl. (15), (16)</a>	<a href="#">148C.09, subd. 1; 148C.091, subds. 1, 3, 4; 148C.093, subds. 1, 2; 148C.10, subd. 3</a>	<a href="#">148C.03; 148C.091, subd. 2</a>	Not specified	<a href="#">148C.099</a>
<b>Athletic trainer</b>	Board of Medical Practice and Athletic Trainers Advisory Council	<a href="#">148.7813, subd. 2</a>	Not specified	<a href="#">148.7813, subd. 3</a>	<a href="#">148.7813, subd. 1 (214.10, subds. 2, 2a)</a>	Not specified	Not specified
<b>Audiologist</b>	Health Department and Speech-Language Pathologist and Audiologist Advisory Council	<a href="#">148.5195, subd. 3</a>	Not specified	<a href="#">148.5195, subds. 4, 5</a>	<a href="#">148.5195, subds. 1, 2 (214.10, subds. 2, 2a)</a>	Not specified	Not specified
<b>Body artist</b>	Health Department	<a href="#">146B.08, subd. 3</a>	Not specified	<a href="#">148B.08, subd. 4</a>	<a href="#">146B.08, subd. 1</a>	Not specified	Not specified
<b>Chiropractor</b>	Board of Chiropractic Examiners	<a href="#">148.10, subds. 1, 7</a>	<a href="#">148.10, subd. 1, para. (a), cl. (5)</a>	<a href="#">148.10, subds. 3, 4, 7</a>	<a href="#">148.04</a>	<a href="#">148.103</a>	<a href="#">148.106, subd. 10</a>

Occupation	Regulating Body	Grounds for Disciplinary Action	Deadline for Taking Disciplinary Action	Discipline and Penalties	Investigation/Hearing	Immunity	Records Access
<b>Dentist, dental hygienist, dental assistant, dental therapist, advanced dental therapist</b>	Board of Dentistry	150A.08; 150A.11	Not specified	150A.06; 150A.08; 150A.12	150A.08, subd. 5	150A.08, subd. 7; 150A.14	150A.08, subds. 4, 5, 6; 150A.081
<b>Dietician</b>	Board of Dietetics and Nutrition Practice	148.629	Not specified	148.629; 148.631	148.623	Not specified	Not specified
<b>Emergency medical technician</b>	Emergency Medical Services Regulatory Board	144E.28, subd. 5	Not specified	144E.28, subds. 4 to 6; 144E.30, subd. 4; 144E.31; 144E.33	144E.28, subds. 5, 6; 144E.30, subd. 5; 144E.31	144E.305, subd. 3	144E.30, subd. 5; 144E.305, subd. 3
<b>First responder</b>	Emergency Medical Services Regulatory Board	144E.27, subd. 5	Not specified	144E.27, subds. 5, 6; 144E.30, subd. 4; 144E.31; 144E.33	144E.27, subds. 5, 6; 144E.30, subd. 5; 144E.31	144E.305, subd. 3	144E.30, subd. 5; 144E.305, subd. 3
<b>Hearing instrument dispenser</b>	Health Department and Hearing Instrument Dispenser Advisory Council	153A.15, subd. 1; 153A.14, subd. 4	153A.15, subd. 1, cl. (12)	153A.14, subd. 4; 153A.15, subds. 2, 4; 153A.19, subds. 5, 6	153A.14, subds. 1, 2b; 153A.15, subds. 2a, 3, 3a	Not specified	153A.15, subd. 3a
<b>Licensed professional counselor, licensed professional clinical counselor</b>	Board of Behavioral Health and Therapy	148B.59	Not specified	148B.59; 148B.5901	148B.5901; 148B.5905; 148B.5915	148B.5916	Not specified
<b>Marriage and family therapist</b>	Board of Marriage and Family Therapy	148B.32; 148B.37, subd. 1	Not specified	148B.37, subd. 1; 148B.32, subd. 3; 148B.175, subds. 6 to 11	148B.11, subds. 1, 2; 148B.175	148B.08	148B.10; 148B.11, subd. 3; 148B.13; 148B.175, subds. 2, 3, 5

Occupation	Regulating Body	Grounds for Disciplinary Action	Deadline for Taking Disciplinary Action	Discipline and Penalties	Investigation/Hearing	Immunity	Records Access
<b>Midwife (traditional)</b>	Board of Medical Practice and Advisory Council on Licensed Traditional Midwifery	147D.23 (147.091 to 147.162)	147D.23 (147.091, subd. 1, para. (c), and subd. 8)	147D.23 (147.091 to 147.162)	147D.23 (147.091 to 147.162)	147D.23 (147.121)	147D.23 (147.091, subd. 6; 147.092; 147.151)
<b>Mortuary science practitioner</b>	Health Department	149A.09, subd. 1; 149A.60; 149A.63; 149A.70, subds. 3 to 7; 149A.97, subd. 12	Not specified	149A.05, subd. 1; 149A.06, subds. 1, 5, 10, 11; 149A.08, subds. 1, 6, 7; 149A.09, subds. 1, 4; 149A.10, subds. 1, 3; 149A.11; 149A.96, subd. 10	149A.04, subds. 2 to 4; 149A.05, subds. 3, 4	149A.62	149A.04, subds. 3, 5; 149A.11; 149A.97, subds. 7, 9 to 11
<b>Nurse</b>	Board of Nursing	148.261; 148.281	148.261, subd. 1, cl. (3)	148.262; 148.281	148.191, subd. 2	148.264	148.181, subd. 3; 148.191, subd. 2; 148.261, subd. 5; 148.266
<b>Nutritionist</b>	Board of Dietetics and Nutrition Practice	148.629	Not specified	148.629; 148.631	148.623	Not specified	Not specified
<b>Occupational therapist, occupational therapy assistant</b>	Health Department and Occupational Therapy Practitioners Advisory Council	148.6403, subd. 6; 148.6448, subd. 1	Not specified	148.6448, subd. 3	148.6448, subd. 2	Not specified	Not specified
<b>Optometrist</b>	Board of Optometry	148.56; 148.57, subd. 3; 148.574	Not specified	148.57, subd. 3; 148.61; 148.603	148.53	Not specified	Not specified

Occupation	Regulating Body	Grounds for Disciplinary Action	Deadline for Taking Disciplinary Action	Discipline and Penalties	Investigation/Hearing	Immunity	Records Access
<b>Pharmacist</b>	Board of Pharmacy	151.06, subds. 1, 1a; 151.15; 151.17; 151.18; 151.21; 151.23; 151.24; 151.25; 151.33; 151.34; 151.37; 151.40	Not specified	151.06; 151.29	151.06, subd. 3	151.302	Not specified
<b>Physical therapist</b>	Board of Physical Therapy	148.75; 148.745, subd. 2	Not specified	148.75; 148.76; 148.77	Not specified	Not specified	148.691, subd. 3
<b>Physician assistant</b>	Board of Medical Practice and Physician Assistant Advisory Council	147A.13, subd. 1	147A.13, subd. 1, cl. (3)	147A.16; 147A.13, subds. 2, 4	147A.13, subd. 6; 147A.15, subds. 2, 3; 147A.17, subds. 1, 2	147A.13, subd. 6; 147A.15, subds. 1, 2	147A.17; subds. 1, 3; 147A.15, subds. 1, 3; 147A.16; 147A.13, subd. 6
<b>Physician, osteopath</b>	Board of Medical Practice	147.081, subd. 1; 147.091, subds. 1, 1a, 2, 7	147.091, subd. 1, para. (c), and subd. 8	147.141; 147.091; 147.031, subd. 4; 147.081, subd. 2	147.02, subd. 5; 147.091, subd. 6	147.091, subd. 6; 147.121	147.01, subd. 4; 147.02, subds. 6, 6a; 147.091, subd. 6; 147.092; 147.151
<b>Podiatrist</b>	Board of Podiatric Medicine	153.17; 153.19	153.19, subd. 1, cl. (3)	153.17; 153.19; 153.22	153.21; 153.23; 153.24	153.21, subd. 2; 153.25	153.21, subd. 2; 153.23, subd. 2
<b>Psychologist</b>	Board of Psychology	148.941	148.941, subd. 7	148.941	148.941	Not specified	148.941
<b>Registered naturopathic doctor</b>	Board of Medical Practice and Registered Naturopathic Doctor Advisory Council	147E.05, subd. 2; 147.09, subds. 1, 1a, 2, 7	147.091, subd. 1, para. (c), and subd. 8	147.141; 147.091; 147.031, subd. 4; 147.081, subd. 2	147.02, subd. 5; 147.091, subd. 6	147.091, subd. 6; 147.121	147.01, subd. 4; 147.02, subds. 6, 6a; 147.091, subd. 6; 147.092; 147.151

Occupation	Regulating Body	Grounds for Disciplinary Action	Deadline for Taking Disciplinary Action	Discipline and Penalties	Investigation/Hearing	Immunity	Records Access
<b>Respiratory care practitioner</b>	Board of Medical Practice and Respiratory Care Practitioner Advisory Council	147C.30 (147.091 to 147.162)	147C.30 (147.091, subd. 1, para. (c), and subd. 8)	147C.10, subd. 3; 147C.30 (147.091 to 147.162)	147C.15; 147C.20; 147C.30 (147.091 to 147.162)	147C.30 (147.121)	147C.30 (147.091, subd. 6; 147.092; 147.151)
<b>Social worker</b>	Board of Social Work	148D.190, subd. 2; 148D.210; 148D.205	Not specified	148D.255; 148D.260; 148D.265; 148D.270; 148D.290	148D.245	148D.040	148D.230; 148D.245, subd. 3; 148D.250, subds. 1, 4, 5
<b>Speech-language pathologist</b>	Health Department and Speech-Language Pathologist and Audiologist Advisory Council	148.5195, subd. 3	Not specified	148.5195, subds. 4 to 5	148.5195, subds. 1 to 2	Not specified	Not specified
<b>Unlicensed complementary and alternative health care practitioner</b>	Health Department and Office of Unlicensed Complementary and Alternative Health Care Practice	146A.08, subd. 1	Not specified	146A.09, subds. 1, 5, 6; 146A.10	146A.08, subd. 4; 146A.09, subds. 2 to 4	146A.04	146A.05; 146A.06, subds. 2, 3; 146A.08, subd. 4
<b>Unlicensed mental health practitioner<sup>7</sup></b>	Board of Social Work	148B.68	148B.63, subd. 8	148B.69; 148B.70	148B.67; 148B.69, subds. 2, 2a	148B.64	148B.65; 148B.66; 148B.69, subd. 7

For more information about health care, visit the health and human services area of our web site, [www.house.mn/hrd/hrd.htm](http://www.house.mn/hrd/hrd.htm).

<sup>7</sup> Laws 2005, chapter 147, article 8, repealed 148B sections on unlicensed mental health practice effective July 1, 2009.