Overview

Occupational therapists and occupational therapy assistants are currently registered by the Health Department, and their registration requirements are located in rule. This bill codifies in statute the rules governing occupational therapists and occupational therapy assistants. A registration system protects the use of certain titles but does not prohibit individuals who are not registered from practicing within the scope of practice of an occupational therapist or assistant.

1 Scope. Adds § 148.6401. Specifies that the sections governing occupational therapist and occupational therapy assistant registration apply to applicants for registration, registrants, people who use protected titles, and people who represent that they are registered.

2 Definitions. Adds § 148.6402. Defines the following terms: advisory council, biennial registration period, commissioner, contact hour, credential, credentialing examination for occupational therapist, credentialing examination for occupational therapy assistant, delegate, direct supervision, electrical stimulation device, electrotherapy, licensed health care professional, occupational therapist, occupational therapy, occupational therapy assistant, physical agency modalities, qualified supervisor, registration or registered, registrant, registration by equivalency, registration by reciprocity, service competency, superficial physical agency modality, temporary registration, and ultrasound device.

3 Registration; protected titles and restrictions on use; exempt persons; sanctions. Adds § 148.6403. Lists protected titles, and lists people who are exempt from registration. Allows people credentialed in other states to use certain titles only if they clearly designate the state in which they are credentialed. Makes a person who holds himself or herself out as an occupational therapist or occupational therapy assistant without being registered subject to sanctions against continuing the prohibited activity.

4 Scope of practice. Adds § 148.6404. Specifies what constitutes the practice of occupational therapy by an occupational therapist or occupational therapy assistant.
Registration requirements; procedures and qualifications. Adds § 148.6405. Provides references to the registration requirements for all applicants for registration, for non-credentialed applicants, for applicants for registration by equivalency or by reciprocity, and for applicants for temporary registration.

**Qualifications for occupational therapist.** Adds § 148.6408. Specifies educational and examination requirements for registration as an occupational therapist.

**Subd. 1. Education required.** Requires applicants to complete all requirements of an academic program approved by the Accreditation Council for Occupational Therapy Education, if educated in the U.S. or its territories, or by the World Federation of Occupational Therapists, if educated outside the U.S. or its territories.

**Subd. 2. Qualifying examination score required.** Requires applicants to obtain a qualifying score on a credentialing exam, directs the commissioner of health to determine what constitutes a qualifying score, and makes applicants responsible for certain activities related to taking the exam and having exam scores sent to the commissioner.

**Qualifications for occupational therapy assistants.** Adds § 148.6410. Specifies educational and examination requirements for registration as an occupational therapy assistant.

**Subd. 1. Education required.** Requires applicants to complete all requirements of an occupational therapy assistant program approved by the Accreditation Council for Occupational Therapy Education.

**Subd. 2. Qualifying examination score required.** Requires applicants to obtain a qualifying score on a credentialing exam, directs the commissioner of health to determine what constitutes a qualifying score, and makes applicants responsible for certain activities related to taking the exam and having exam scores sent to the commissioner.

Registration by equivalency. Adds § 148.6412. Specifies requirements for being registered by equivalency.

**Subd. 1. Persons certified by national board for certification in occupational therapy before June 17, 1996.** Allows people certified by the National Board for Certification in Occupational Therapy as occupational therapists or occupational therapy assistants before June 17, 1996, to apply for registration by equivalency.

**Subd. 2. Persons certified by national board for certification in occupational therapy after June 17, 1996.** Allows the commissioner to register a person certified by the National Board for Certification in Occupational Therapy as an occupational therapist or occupational therapy assistant, if the commissioner determines that the certification requirements are equivalent to or exceed the registration requirements in statute. Specifies that this does not limit the commissioner's authority to deny registration based on grounds for discipline.

**Subd. 3. Application procedures.** Specifies the information and fees that applicants for registration by equivalency must provide.

Registration by reciprocity. Adds § 148.6415. Specifies requirements for being registered by reciprocity, allowing a person who is credentialed as an occupational therapist or occupational therapy assistant in a U.S. state or territory with credentialing standards equal to or higher than Minnesota's, to apply for registration by reciprocity. Specifies that this does not limit the commissioner's authority to deny registration based on grounds for discipline. Specifies information and fees that applicants for registration under this section must provide.

Temporary registration. Adds § 148.6418. Establishes requirements for temporary registration.

**Subd. 1. Application.** Directs the commissioner to issue a temporary registration as an occupational therapist or occupational therapy assistant to people who have applied for some form of permanent registration, are not subject to a past or current disciplinary action, and are
not disqualified for registration.

**Subd. 2. Procedures.** Specifies the application materials, fees, and evidence of qualifications that applicants must submit.

**Subd. 3. Additional documentation.** Requires applicants who are credentialed by the National Board for Certification in Occupational Therapy or another jurisdiction to also submit an affidavit stating they are not subject to a pending investigation or a current or past disciplinary action.

**Subd. 4. Supervision required.** Allows occupational therapists and occupational therapy assistants who have graduated from accredited programs but have not passed the required examination to practice only under supervision of a registered occupational therapist. Specifies the amount of supervision that must occur, and requires the therapist or assistant being supervised to provide verification of supervision to the commissioner.

**Subd. 5. Expiration of temporary registration.** Specifies when temporary registrations expire. Allows a temporary registration to be renewed once for applicants for registration as long as the applicant is not the subject of disciplinary action or disqualified. Also allows a temporary registration to be renewed once for applicants for registration by equivalency or reciprocity as long as the applicant is not the subject of disciplinary action, not disqualified, and can demonstrate good cause for failing to meet the registration requirements.

**General registration procedures.** Adds § 148.6420. Establishes procedures for registration by applicants, and specifies what the commissioner must do upon receipt of applications for registration.

**Subd. 1. Applications for registration.** Requires applicants for registration to submit completed applications containing the specified information, submit all required fees, sign a statement that the application information is correct, sign a waiver authorizing the commissioner to access the applicant's records in Minnesota or another state, submit additional information requested by the commissioner, and submit information required for a specific type of registration.

**Subd. 2. Persons applying for registration under section 148.6408 or 148.6410.** Requires an applicant for registration as an occupational therapist or occupational therapy assistant to submit the information required in subdivision 1 and evidence of completion of the educational requirements and test results from an examining agency.

**Subd. 3. Applicants who are certified by national board for certification in occupational therapy.** Requires an applicant who is certified by the national board to submit the information required in subdivision 1 and also provide verification of the applicant's national certification, a statement regarding disciplinary actions, and a waiver authorizing the commissioner to access the applicant's records maintained by the national board.

**Subd. 4. Applicants credentialed in another jurisdiction.** Requires an applicant credentialed in another jurisdiction to submit the information required in subdivision 1 and also ask the other jurisdictions in which the applicant is credentialed to send a letter to the commissioner verifying the applicant's credentials. Prohibits the commissioner from issuing a registration until the applicant's credentials are verified.

**Subd. 5. Action on applications for registration.** Requires the commissioner to approve, approve with conditions, or deny registration, and specifies procedures for the commissioner to approve or deny registration. Allows applicants denied registration or granted conditional registration to file requests for reconsideration with the commissioner.

**Registration renewal.** Adds § 148.6423. Lists what applicants must do to be eligible for registration renewal, requires mailing of registration renewal notices, and establishes deadlines
for registration renewal.

**Subd. 1. Renewal requirements.** Requires an applicant for registration renewal to submit a completed application, a renewal fee, proof of having met continuing education requirements, and additional information requested by the commissioner.

**Subd. 2. Renewal deadline.** Except as otherwise provided, makes registrations expire biennially. Establishes requirements regarding when renewal applications must be posted, proration of fees, and when late fees are owed. Prohibits renewals received after the registration expiration date from being accepted.

**Subd. 3. Registration renewal notice.** Requires the commissioner to send a renewal notice to a licensee at least 60 days before the expiration date of the registration. Requires the notice to include an application for registration renewal and information on required fees. Specifies that a failure to receive a registration renewal notice does not relieve the registrant of the obligation to renew.

**13 Renewal of registration; after expiration date.** Adds § 148.6425. Specifies steps a person must take to renew a registration after the expiration date of the registration.

**Subd. 1. Removal of name from list.** If a registrant does not renew a registration by the registration expiration date, specifies that the registrant's name is removed from the list of people authorized to use protected titles. Requires such registrants to meet the requirements of this section to regain registration status.

**Subd. 2. Registration renewal after registration expiration date.** Lists the items an individual who failed to renew a registration before the registration renewal date must submit to subsequently renew a registration.

**Subd. 3. Registration renewal four years or more after registration expiration date.** Lists the items an individual seeking registration renewal four years or more after the registration's expiration date must submit to subsequently renew a registration.

**14 Change of address.** Adds § 148.6428. Requires a registrant who changes addresses to notify the commissioner of the change within 30 days. Specifies that all notices the commissioner mails to the registrant's address on file are considered to have been received by the registrant.

**15 Delegation of duties; assignment of tasks.** Adds § 148.6430. Specifies that an occupational therapist is responsible for all duties that are delegated to an occupational therapy assistant and for tasks assigned to direct service personnel. Allows certain tasks to be delegated to an occupational therapy assistant if the American Occupational Therapy Association determines that they can be performed by an occupational therapy assistant. Prohibits delegating portions of an evaluation or reevaluation of a person whose condition is changing quickly.

**16 Supervision of occupational therapy assistants.** Adds § 148.6432. If professional standards allow the delegation of an evaluation, reevaluation, or treatment, allows an occupational therapy assistant to provide that service only with the supervision of an occupational therapist. Specifies the services that only an occupational therapist can provide. Requires face-to-face collaborations between the therapist and assistant at least every two weeks. Specifies the circumstances in which occupational therapy assistants need not be supervised.

**17 Coordination of services.** Adds § 148.6435. Requires an occupational therapist to do the following: (1) collect information needed to ensure the provision of occupational therapy services are consistent with the client's physical and mental health status; (2) change or terminate occupational therapy treatment if the treatment is not beneficial, not tolerated by the client, or refused by the client; (3) refer an client to another appropriate provider if the client needs services beyond the therapist's competency or beyond the practice of occupational therapy; (4) cooperate in the coordination of occupational therapy services with other related services; and
(5) communicate in writing with appropriate licensed health care professionals an occupational therapy plan of care.

18 **Recipient notification.** Adds § 148.6438. In the absence of a physician referral or prior authorization and before providing occupational therapy services for payment to a client, requires occupational therapists to give clients (or parents or guardians) a written notice that their provider, insurer, or health plan may require physician referral or prior authorization. Allows a nonwritten notice to be provided if necessary to accommodate the client or client's guardian. Makes the occupational therapist responsible for providing evidence of complying with this section.

19 **Physical agent modalities.** Adds § 148.6440. Establishes requirements for the use of superficial physical agent modalities, electrotherapy, and ultrasound devices by occupational therapists, and for the use of physical agent modalities by occupational therapy assistants. Requires written documentation that the therapist has satisfied the educational and clinical requirements to the commissioner before an occupational therapist may use physical agent modalities, and specifies what the documentation must include. Requires the advisory council to appoint a committee to review the documentation submitted and determine if the educational and clinical requirements are met.

20 **Continuing education requirements.** Adds § 148.6443. Establishes continuing education requirements that must be met by occupational therapists and occupational therapy assistants. Specifies what activities qualify and do not qualify for continuing education contact hours. Requires reporting of contact hours, allows the commissioner to audit contact hours and waive continuing education requirements, and establishes penalties for noncompliance.

**Subd. 1. General requirements.** Requires occupational therapists to complete at least 24 hours of continuing education per two-year period, and requires occupational therapy assistants to complete at least 18 hours of continuing education per two-year period. Allows registrants who have registrations for less than two years to prorate their continuing education hours. Requires continuing education activities to last at least one contact hour.

**Subd. 2. Standards for determining qualified continuing education activities.** Lists the standards an activity must meet to qualify as a continuing education activity.

**Subd. 3. Activities qualifying for continuing education contact hours.** Lists activities that may be counted as continuing education, if they meet the other requirements of this section.

**Subd. 4. Activities not qualifying for continuing education contact hours.** Lists activities that will not be counted as continuing education.

**Subd. 5. Reporting continuing education contact hours.** Requires registrants to submit verification of having met continuing education requirements at the time of registration renewal. Lists information the continuing education report form may contain.

**Subd. 6. Auditing continuing education reports.** Allows the commissioner to audit a certain portion of continuing education reports. Specifies the information that registrants must give to the commissioner for auditing purposes.

**Subd. 7. Waiver of continuing education requirements.** Allows the commissioner to waive continuing education requirements when the requirements impose an extreme hardship on the registrant. Specifies the form and content of the request for a waiver and waiver approvals and denials.

**Subd. 8. Penalties for noncompliance.** Directs the commissioner to refuse to grant or renew or to discipline the registration of any person who fails to meet the continuing education requirements. Allows a registrant to request reconsideration of this decision within 30 days of being notified of the decision.
21 **Fees; surcharge.** Adds § 148.6445. Establishes the following fees: initial registration fee, registration renewal fee, late fee, temporary registration fee, limited registration fee, fee for course approval after lapse of registration, certification to other states, and verification to institutions. Also establishes a surcharge applicable until June 17, 2001. Specifies that all fees are nonrefundable.

22 **Grounds for denial of registration or discipline; investigation procedures; disciplinary actions.** Adds § 148.6448. Lists grounds for disciplinary action and specifies investigation procedures. Specifies the disciplinary actions the commissioner may take and the effect of certain disciplinary actions. Allows people whose registrations have been suspended to apply for reinstatement.

**Subd. 1. Grounds for denial of registration or discipline.** Lists the actions that constitute grounds for disciplinary action or for denial of registration by the commissioner.

**Subd. 2. Investigation of complaints.** Allows the commissioner or a member of the advisory council when authorized by the commissioner to initiate an investigation based on a complaint received that alleges a violation of any section governing practitioners.

**Subd. 3. Disciplinary actions.** Specifies the disciplinary actions the commissioner may take, if the commissioner finds that an occupational therapist or occupational therapy assistant should be disciplined.

**Subd. 4. Effect of specific disciplinary action on use of title.** Prohibits a person whose registration is not renewed or who is no longer authorized to practice occupational therapy from using protected titles and representing to the public that the person is registered.

**Subd. 5. Reinstatement requirements after disciplinary action.** Permits a person whose registration has been suspended to request reinstatement after a suspension period specified by the commissioner. Requires conditions imposed by the commissioner and requirements for registration renewal to be met before reinstatement can occur.

23 **Occupational therapy practitioners advisory council.** Adds § 148.6450. Establishes a seven-member advisory council. Specifies that the makeup of the council includes two public members, two occupational therapists, two occupational therapy assistants, and one licensed or registered health care practitioner who works collaboratively with occupational therapy practitioners. Lists the council's duties.

24 **Repealer.** Repeals existing rules governing registration of occupational therapists and occupational therapy assistants.

25 **Effective date.** Makes the bill effective August 1, 2000.