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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

**EIGHTY-FIFTH  
SESSION**

**HOUSE FILE No. 3708**

March 3, 2008

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The bill was read for the first time and referred to the Committee on Health and Human Services

1.1 A bill for an act  
1.2 relating to health; changing licensing requirements for certain health professions;  
1.3 amending Minnesota Statutes 2006, sections 148.512, subdivisions 10b, 20;  
1.4 148.5161, subdivisions 2, 3; 148.5175; 148.519, subdivision 3; 148.5194,  
1.5 subdivisions 7, 8; 148.5195, subdivision 3; 148.6425; 148.6428; 148.6440;  
1.6 148.6443, subdivisions 1, 3; 148.6445, subdivision 11; 153A.13, subdivision  
1.7 4; 153A.14, subdivisions 2i, 4a, 11; 153A.175; Minnesota Statutes 2007  
1.8 Supplement, section 148.515, subdivision 2.

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

1.10 Section 1. Minnesota Statutes 2006, section 148.512, subdivision 10b, is amended to  
1.11 read:

1.12 Subd. 10b. **Hearing aid instrument dispensing.** "Hearing aid instrument  
1.13 dispensing" means ~~making ear mold impressions, prescribing, or recommending a hearing~~  
1.14 ~~aid, assisting the consumer in aid selection, selling hearing aids at retail, or testing human~~  
1.15 ~~hearing in connection with these activities regardless of whether the person conducting~~  
1.16 ~~these activities has a monetary interest in the dispensing of hearing aids to the consumer.~~  
1.17 the following activities performed separately or together for the purpose of selling hearing  
1.18 instruments at retail and regardless of whether the person performing the activities has a  
1.19 monetary interest in the sale of the hearing instrument to a consumer:

- 1.20 (1) taking a hearing health history;
- 1.21 (2) visually inspecting the ear and ear canal;
- 1.22 (3) measuring human hearing by means of an audiometer and other standardized  
1.23 tests;
- 1.24 (4) referring to the appropriate health care provider when required by state and  
1.25 federal laws;

- 2.1           (5) prescribing or recommending a hearing instrument appropriate for the consumer's  
2.2 type of hearing loss;
- 2.3           (6) assisting the consumer in hearing instrument selection;
- 2.4           (7) fully informing the consumer of the contents of the instructional brochure and  
2.5 contract of sale as required by state and federal laws;
- 2.6           (8) selling the hearing instrument and obtaining the consumer's signature on  
2.7 documents required by state and federal laws;
- 2.8           (9) making ear mold impressions;
- 2.9           (10) adjusting and fitting the hearing instrument to the consumer; and
- 2.10          (11) providing the consumer initial instruction in hearing instrument use and  
2.11 follow-up services on the hearing instrument.
- 2.12          Hearing instrument dispensing does not include cleaning or repairing the instrument.

2.13          Sec. 2. Minnesota Statutes 2006, section 148.512, subdivision 20, is amended to read:

2.14          Subd. 20. **Supervisor.** "Supervisor" means a person who has the authority to direct  
2.15 or evaluate a supervisee and who:

2.16           (1) is a licensed speech-language pathologist or audiologist under section 148.515,  
2.17 148.516, or 148.517; or

2.18           (2) when the commissioner determines that supervision by a licensed  
2.19 speech-language pathologist or audiologist as required in clause (1) is unobtainable, and  
2.20 in other situations considered appropriate by the commissioner, is a person practicing  
2.21 speech-language pathology or audiology who holds a current certificate of clinical  
2.22 competence from the American Speech-Language-Hearing Association or board  
2.23 certification in audiology by the American Board of Audiology.

2.24          Sec. 3. Minnesota Statutes 2007 Supplement, section 148.515, subdivision 2, is  
2.25 amended to read:

2.26          Subd. 2. **Master's or doctoral degree required for speech-language pathology**  
2.27 **applicants.** (a) An applicant for speech-language pathology must possess a master's or  
2.28 doctoral degree that meets the requirements of paragraph (b). If completing a doctoral  
2.29 program in which a master's degree has not been conferred, an applicant must submit a  
2.30 transcript showing completion of course work equivalent to, or exceeding, a master's  
2.31 degree that meets the requirement of paragraph (b). In addition to the transcript, the  
2.32 commissioner may require a letter from the academic department chair or program  
2.33 director documenting that the applicant has completed coursework equivalent to or

3.1 exceeding a master's degree or that the applicant is eligible for enrollment in current  
3.2 doctoral externship credit.

3.3 (b) All of the speech-language pathology applicant's graduate coursework and  
3.4 clinical practicum required in the professional area for which licensure is sought must  
3.5 have been initiated and completed at an institution whose program meets the current  
3.6 requirements and was accredited by the Educational Standards Board of the Council  
3.7 on Academic Accreditation in Audiology and Speech-Language Pathology, a body  
3.8 recognized by the United States Department of Education, or an equivalent as determined  
3.9 by the commissioner, in the area for which licensure is sought.

3.10 Sec. 4. Minnesota Statutes 2006, section 148.5161, subdivision 2, is amended to read:

3.11 Subd. 2. **Procedures.** To be eligible for clinical fellowship licensure or doctoral  
3.12 externship licensure, an applicant must submit an application form provided by the  
3.13 commissioner, the fees required by section 148.5194, and evidence of successful  
3.14 completion of the requirements in section 148.515, subdivision 2 or 2a.

3.15 Sec. 5. Minnesota Statutes 2006, section 148.5161, subdivision 3, is amended to read:

3.16 Subd. 3. **Supervision required.** (a) A clinical fellowship licensee or doctoral  
3.17 externship licensee must practice under the supervision of an individual who meets  
3.18 the requirements of section 148.512, subdivision 20. Supervision must conform to the  
3.19 requirements in paragraphs (b) to (e).

3.20 (b) Supervision must include both on-site observation and other monitoring  
3.21 activities. On-site observation must involve the supervisor, the clinical fellowship licensee  
3.22 or doctoral externship licensee, and the client receiving speech-language pathology or  
3.23 audiology services and must include direct observation by the supervisor of treatment  
3.24 given by the clinical fellowship licensee or doctoral externship licensee. Other monitoring  
3.25 activities must involve direct or indirect evaluative contact by the supervisor of the clinical  
3.26 fellowship licensee or doctoral externship licensee, may be executed by correspondence,  
3.27 and may include, but are not limited to, conferences with the clinical fellowship licensee  
3.28 or doctoral externship licensee, evaluation of written reports, and evaluations by  
3.29 professional colleagues. Other monitoring activities do not include the client receiving  
3.30 speech-language pathology or audiology services.

3.31 (c) The clinical fellowship licensee or doctoral externship licensee must be  
3.32 supervised by an individual who meets the definition of section 148.512, subdivision 20,  
3.33 and:

4.1 (1) when the clinical fellowship licensee or doctoral externship licensee is a  
4.2 speech-language pathologist, is a licensed speech-language pathologist, or holds a current  
4.3 certificate of clinical competence in speech-language pathology from the American  
4.4 Speech-Language-Hearing Association; or

4.5 (2) when the clinical fellowship licensee or doctoral externship licensee is an  
4.6 audiologist, is a licensed audiologist, or holds a current certificate of clinical competence  
4.7 in audiology from the American Speech-Language-Hearing Association or board  
4.8 certification in audiology by the American Board of Audiology.

4.9 (d) Clinical fellowship licensure or doctoral externship licensure shall not be granted  
4.10 until the applicant has completed the academic coursework and clinical training in section  
4.11 148.515, subdivision 2. In addition to the transcript, the commissioner may require a  
4.12 letter from the academic department chair or program director documenting that the  
4.13 applicant has completed coursework equivalent to or exceeding a master's degree or that  
4.14 the applicant is eligible for enrollment in current doctoral externship credit.

4.15 (e) The clinical fellowship licensee or doctoral externship licensee must provide  
4.16 verification of supervision on the application form provided by the commissioner.

4.17 Sec. 6. Minnesota Statutes 2006, section 148.5175, is amended to read:

4.18 **148.5175 TEMPORARY LICENSURE.**

4.19 (a) The commissioner shall issue temporary licensure as a speech-language  
4.20 pathologist, an audiologist, or both, to an applicant who:

4.21 (1) submits a signed and dated affidavit stating that the applicant is not the subject of  
4.22 a disciplinary action or past disciplinary action in this or another jurisdiction and is not  
4.23 disqualified on the basis of section 148.5195, subdivision 3; and

4.24 (2) either:

4.25 (i) provides a copy of a current credential as a speech-language pathologist, an  
4.26 audiologist, or both, held in the District of Columbia or a state or territory of the United  
4.27 States; or

4.28 (ii) provides a copy of a current certificate of clinical competence issued by the  
4.29 American Speech-Language-Hearing Association or board certification in audiology by  
4.30 the American Board of Audiology.

4.31 (b) A temporary license issued to a person under this subdivision expires 90 days  
4.32 after it is issued or on the date the commissioner grants or denies licensure, whichever  
4.33 occurs first.

4.34 (c) Upon application, a temporary license shall be renewed ~~once~~ twice to a person  
4.35 who is able to demonstrate good cause for failure to meet the requirements for licensure

5.1 within the initial temporary licensure period and who is not the subject of a disciplinary  
5.2 action or disqualified on the basis of section 148.5195, subdivision 3. Good cause  
5.3 includes but is not limited to inability to take and complete the required practical exam for  
5.4 dispensing hearing instruments.

5.5 (d) Upon application, a temporary license shall be issued to a person who meets  
5.6 the requirements of section 148.515, subdivisions 2a and 4, but has not completed the  
5.7 requirement in section 148.515, subdivision 6.

5.8 Sec. 7. Minnesota Statutes 2006, section 148.519, subdivision 3, is amended to read:

5.9 Subd. 3. **Change of address name, employment, and addresses.** A licensee who  
5.10 changes addresses must inform the commissioner, in writing, of the change of name,  
5.11 employment, or address within 30 days. A change in name must be accompanied by a  
5.12 copy of a marriage certificate or court order. All notices or other correspondence mailed  
5.13 to or served on a licensee by the commissioner at the licensee's address on file with the  
5.14 commissioner shall be considered as having been received by the licensee.

5.15 Sec. 8. Minnesota Statutes 2006, section 148.5194, subdivision 7, is amended to read:

5.16 Subd. 7. **Audiologist surcharge fee.** (a) The biennial surcharge fee for audiologists  
5.17 is \$235. The commissioner shall prorate the fee for clinical fellowship, doctoral  
5.18 externship, temporary, and first time licensees according to the number of months that  
5.19 have elapsed between the date the license is issued and the date the license expires or must  
5.20 be renewed under section 148.5191, subdivision 4.

5.21 (b) ~~Effective November 1, 2005, the commissioner shall collect the \$235 audiologist~~  
5.22 ~~surcharge fee prorated according to the number of months remaining until the next~~  
5.23 ~~scheduled license renewal.~~ The audiologist surcharge fee is for practical examination costs  
5.24 greater than audiologist exam fee receipts and complaint investigation, enforcement action  
5.25 and consumer information, and assistance expenditures related to hearing instrument  
5.26 dispensing.

5.27 Sec. 9. Minnesota Statutes 2006, section 148.5194, subdivision 8, is amended to read:

5.28 Subd. 8. **Penalty fees.** (a) The penalty fee for practicing speech language pathology  
5.29 or audiology or using protected titles without a current license after the credential has  
5.30 expired and before it is renewed is the amount of the license renewal fee for any part of  
5.31 the first month, plus the license renewal fee for any part of any subsequent month up  
5.32 to 36 months.

6.1 (b) The penalty fee for applicants who engage in the unauthorized practice of speech  
6.2 language pathology or audiology or using protected titles before being issued a license is  
6.3 the amount of the license application fee for any part of the first month, plus the license  
6.4 application fee for any part of any subsequent month up to 36 months. This paragraph  
6.5 does not apply to applicants not qualifying for a license who engage in the unauthorized  
6.6 practice of speech language pathology or audiology.

6.7 (c) The penalty fee for practicing speech language pathology or audiology and failing  
6.8 to submit a continuing education report by the due date with the correct number or type of  
6.9 hours in the correct time period is \$100 plus \$20 for each missing clock hour. Missing  
6.10 means not obtained between the effective and expiration dates of the certificate, the  
6.11 one-month period following the certificate expiration date, or the 30 days following notice  
6.12 of a penalty fee for failing to report all continuing education hours. The licensee must  
6.13 obtain the missing number of continuing education hours by the next reporting due date.

6.14 (d) Civil penalties and discipline incurred by licensees prior to August 1, 2005, for  
6.15 conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty  
6.16 fees. For conduct described in paragraph (a) or (b) occurring after August 1, 2005, and  
6.17 exceeding six months, payment of a penalty fee does not preclude any disciplinary action  
6.18 reasonably justified by the individual case.

6.19 Sec. 10. Minnesota Statutes 2006, section 148.5195, subdivision 3, is amended to read:

6.20 Subd. 3. **Grounds for disciplinary action by commissioner.** The commissioner  
6.21 may take any of the disciplinary actions listed in subdivision 4 on proof that the individual  
6.22 has:

6.23 (1) intentionally submitted false or misleading information to the commissioner  
6.24 or the advisory council;

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

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

6.29 (4) violated sections 148.511 to 148.5198;

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

6.32 (6) violated any state or federal law, rule, or regulation, and the violation is a felony  
6.33 or misdemeanor, an essential element of which is dishonesty, or which relates directly  
6.34 or indirectly to the practice of speech-language pathology or audiology. Conviction for

7.1 violating any state or federal law which relates to speech-language pathology or audiology  
7.2 is necessarily considered to constitute a violation, except as provided in chapter 364;

7.3 (7) aided or abetted another person in violating any provision of sections 148.511 to  
7.4 148.5198;

7.5 (8) been or is being disciplined by another jurisdiction, if any of the grounds for  
7.6 the discipline is the same or substantially equivalent to those under sections 148.511 to  
7.7 148.5198;

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

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

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

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

7.16 (13) engaged in abusive or fraudulent billing practices, including violations of  
7.17 federal Medicare and Medicaid laws, Food and Drug Administration regulations, or state  
7.18 medical assistance laws;

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

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

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

7.26 (17) had the certification required by chapter 153A denied, suspended, or revoked  
7.27 according to chapter 153A;

7.28 (18) used the term doctor of audiology, doctor of speech-language pathology,  
7.29 AuD, or SLPD without having obtained the degree from an institution accredited by  
7.30 the North Central Association of Colleges and Secondary Schools, the Council on  
7.31 Academic Accreditation in Audiology and Speech-Language Pathology, the United States  
7.32 Department of Education, or an equivalent;

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

7.35 (20) if the individual is an audiologist or certified hearing ~~aid~~ instrument dispenser:

8.1 (i) prescribed or otherwise recommended to a consumer or potential consumer the use  
8.2 of a hearing ~~aid~~ instrument, unless the prescription from a physician or recommendation  
8.3 from an audiologist or certified dispenser is in writing, is based on an audiogram that is  
8.4 delivered to the consumer or potential consumer when the prescription or recommendation  
8.5 is made, and bears the following information in all capital letters of 12-point or larger  
8.6 boldface type: "THIS PRESCRIPTION OR RECOMMENDATION MAY BE FILLED  
8.7 BY, AND HEARING ~~AIDS~~ INSTRUMENTS MAY BE PURCHASED FROM, THE  
8.8 LICENSED AUDIOLOGIST OR CERTIFIED DISPENSER OF YOUR CHOICE";

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

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

8.13 (iv) failed to comply with restrictions on sales of hearing ~~aids~~ instruments in sections  
8.14 148.5197, subdivision 3, and 148.5198;

8.15 (v) failed to return a consumer's hearing ~~aid~~ instrument used as a trade-in or for a  
8.16 discount in the price of a new hearing ~~aid~~ instrument when requested by the consumer  
8.17 upon cancellation of the purchase agreement;

8.18 (vi) failed to follow Food and Drug Administration or Federal Trade Commission  
8.19 regulations relating to dispensing hearing ~~aids~~ instruments;

8.20 (vii) failed to dispense a hearing ~~aid~~ instrument in a competent manner or without  
8.21 appropriate training;

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

8.24 (ix) failed to comply with the requirements of an employer or supervisor of a hearing  
8.25 ~~aid~~ instrument dispenser trainee; ~~or~~

8.26 (x) violated a state or federal court order or judgment, including a conciliation court  
8.27 judgment, relating to the activities of the individual's hearing ~~aid~~ instrument dispensing; or

8.28 (xi) failed to include on the audiogram the practitioner's printed name, credential  
8.29 type, credential number, signature, and date.

8.30 Sec. 11. Minnesota Statutes 2006, section 148.6425, is amended to read:

8.31 **148.6425 RENEWAL OF LICENSURE; AFTER EXPIRATION DATE.**

8.32 Subdivision 1. **Removal of name from list.** The names of licensees who do not  
8.33 comply with the licensure renewal requirements of section 148.6423 on or before the  
8.34 expiration date shall be removed from the list of individuals authorized to practice

9.1 occupational therapy and to use the protected titles in section 148.6403. The licensees  
9.2 must comply with the requirements of this section in order to regain licensed status.

9.3 Subd. 2. **Licensure renewal after licensure expiration date.** An individual  
9.4 whose application for licensure renewal is received after the licensure expiration date  
9.5 must submit the following:

9.6 (1) a completed and signed application for licensure following lapse in licensed  
9.7 status on forms provided by the commissioner;

9.8 (2) the renewal fee and the late fee required under section 148.6445;

9.9 (3) proof of having met the continuing education requirements ~~since the individual's~~  
9.10 ~~initial licensure or last licensure renewal~~ in section 148.6443, subdivision 1; and

9.11 (4) additional information as requested by the commissioner to clarify information in  
9.12 the application, including information to determine whether the individual has engaged in  
9.13 conduct warranting disciplinary action as set forth in section 148.6448. The information  
9.14 must be submitted within 30 days after the commissioner's request.

9.15 Subd. 3. **Licensure renewal four years or more after licensure expiration date.**

9.16 (a) An individual who requests licensure renewal four years or more after the licensure  
9.17 expiration date must submit the following:

9.18 (1) a completed and signed application for licensure on forms provided by the  
9.19 commissioner;

9.20 (2) the renewal fee and the late fee required under section 148.6445 if renewal  
9.21 application is based on paragraph (b), clause (1), (2), or (3), or the renewal fee required  
9.22 under section 148.6445 if renewal application is based on paragraph (b), clause (4);

9.23 (3) proof of having met the continuing education requirement ~~for the most recently~~  
9.24 ~~completed two-year continuing education cycle~~ in section 148.6443, subdivision 1,  
9.25 except the continuing education must be obtained in the two years immediately preceding  
9.26 application renewal; and

9.27 (4) at the time of the next licensure renewal, proof of having met the continuing  
9.28 education requirement, which shall be prorated based on the number of months licensed  
9.29 during the ~~biennial~~ two-year licensure period.

9.30 (b) In addition to the requirements in paragraph (a), the applicant must submit proof  
9.31 of one of the following:

9.32 (1) verified documentation of successful completion of 160 hours of supervised  
9.33 practice approved by the commissioner as described in paragraph (c);

9.34 (2) verified documentation of having achieved a qualifying score on the credentialing  
9.35 examination for occupational therapists or the credentialing examination for occupational  
9.36 therapy assistants administered within the past year;

10.1 (3) documentation of having completed a combination of occupational therapy  
10.2 courses or an occupational therapy refresher program that contains both a theoretical and  
10.3 clinical component approved by the commissioner. Only courses completed within one  
10.4 year preceding the date of the application or one year after the date of the application  
10.5 qualify for approval; or

10.6 (4) evidence that the applicant holds a current and unrestricted credential for the  
10.7 practice of occupational therapy in another jurisdiction and that the applicant's credential  
10.8 from that jurisdiction has been held in good standing during the period of lapse.

10.9 (c) To participate in a supervised practice as described in paragraph (b), clause  
10.10 (1), the applicant shall obtain limited licensure. To apply for limited licensure, the  
10.11 applicant shall submit the completed limited licensure application, fees, and agreement  
10.12 for supervision of an occupational therapist or occupational therapy assistant practicing  
10.13 under limited licensure signed by the supervising therapist and the applicant. The  
10.14 supervising occupational therapist shall state the proposed level of supervision on the  
10.15 supervision agreement form provided by the commissioner. The supervising therapist  
10.16 shall determine the frequency and manner of supervision based on the condition of the  
10.17 patient or client, the complexity of the procedure, and the proficiencies of the supervised  
10.18 occupational therapist. At a minimum, a supervising occupational therapist shall be on  
10.19 the premises at all times that the person practicing under limited licensure is working;  
10.20 be in the room ten percent of the hours worked each week by the person practicing  
10.21 under limited licensure; and provide daily face-to-face collaboration for the purpose  
10.22 of observing service competency of the occupational therapist or occupational therapy  
10.23 assistant, discussing treatment procedures and each client's response to treatment, and  
10.24 reviewing and modifying, as necessary, each treatment plan. The supervising therapist  
10.25 shall document the supervision provided. The occupational therapist participating in  
10.26 a supervised practice is responsible for obtaining the supervision required under this  
10.27 paragraph and must comply with the commissioner's requirements for supervision during  
10.28 the entire 160 hours of supervised practice. The supervised practice must be completed in  
10.29 two months and may be completed at the applicant's place of work.

10.30 (d) In addition to the requirements in paragraphs (a) and (b), the applicant must  
10.31 submit additional information as requested by the commissioner to clarify information in  
10.32 the application, including information to determine whether the applicant has engaged in  
10.33 conduct warranting disciplinary action as set forth in section 148.6448. The information  
10.34 must be submitted within 30 days after the commissioner's request.

11.1 Sec. 12. Minnesota Statutes 2006, section 148.6428, is amended to read:

11.2 **148.6428 CHANGE OF NAME, ADDRESS, OR EMPLOYMENT.**

11.3 A licensee who changes ~~addresses~~ a name, address, or employment must inform the  
 11.4 commissioner, in writing, of the change of name, address, employment, business address,  
 11.5 or business telephone number within 30 days. A change in name must be accompanied by  
 11.6 a copy of a marriage certificate or court order. All notices or other correspondence mailed  
 11.7 to or served on a licensee by the commissioner at the licensee's address on file with the  
 11.8 commissioner shall be considered as having been received by the licensee.

11.9 Sec. 13. Minnesota Statutes 2006, section 148.6440, is amended to read:

11.10 **148.6440 PHYSICAL AGENT MODALITIES.**

11.11 Subdivision 1. **General considerations.** (a) Occupational therapists who intend  
 11.12 to use superficial physical agent modalities must comply with the requirements in  
 11.13 subdivision 3. Occupational therapists who intend to use electrotherapy must comply with  
 11.14 the requirements in subdivision 4. Occupational therapists who intend to use ultrasound  
 11.15 devices must comply with the requirements in subdivision 5. Occupational therapy  
 11.16 assistants who intend to use physical agent modalities must comply with subdivision 6.

11.17 (b) Use of superficial physical agent modalities, electrical stimulation devices, and  
 11.18 ultrasound devices must be on the order of a physician.

11.19 (c) Prior to any use of any physical agent modality, a licensee must obtain approval  
 11.20 from the commissioner. The commissioner shall maintain a roster of persons licensed  
 11.21 under sections 148.6401 to 148.6450 who are approved to use physical agent modalities.  
 11.22 ~~Prior to using a physical agent modality, licensees must inform the commissioner of~~  
 11.23 ~~the physical agent modality they will use. Persons who use physical agent modalities~~  
 11.24 ~~must indicate on their initial and renewal applications the physical agent modalities that~~  
 11.25 ~~they use.~~

11.26 (d) Licensees are responsible for informing the commissioner of any changes in the  
 11.27 information required in this section within 30 days of any change.

11.28 Subd. 2. **Written documentation required.** ~~Prior to use of physical agent~~  
 11.29 ~~modalities,~~ An occupational therapist must provide to the commissioner documentation  
 11.30 verifying that the occupational therapist has met the educational and clinical requirements  
 11.31 described in subdivisions 3 to 5, depending on the modality or modalities to be used. Both  
 11.32 theoretical training and clinical application objectives must be met for each modality used.  
 11.33 Documentation must include the name and address of the individual or organization  
 11.34 sponsoring the activity; the name and address of the facility at which the activity was  
 11.35 presented; and a copy of the course, workshop, or seminar description, including learning

12.1 objectives and standards for meeting the objectives. In the case of clinical application  
12.2 objectives, teaching methods must be documented, including actual supervised practice.  
12.3 Documentation must include a transcript or certificate showing successful completion of  
12.4 the coursework. An occupational therapist who is a certified hand therapist shall document  
12.5 satisfaction of the requirements in subdivisions 3 to 5 by submitting to the commissioner a  
12.6 copy of a certificate issued by the Hand Therapy Certification Commission. Practitioners  
12.7 are prohibited from using physical agent modalities under supervision or independently  
12.8 until granted approval as provided in subdivision 7.

12.9           Subd. 3. **Educational and clinical requirements for use of superficial physical**  
12.10 **agent modalities.** (a) An occupational therapist may use superficial physical agent  
12.11 modalities if the occupational therapist has received theoretical training and clinical  
12.12 application training in the use of superficial physical agent modalities and been granted  
12.13 approval as provided in subdivision 7.

12.14           (b) Theoretical training in the use of superficial physical agent modalities must:

12.15           (1) explain the rationale and clinical indications for use of superficial physical agent  
12.16 modalities;

12.17           (2) explain the physical properties and principles of the superficial physical agent  
12.18 modalities;

12.19           (3) describe the types of heat and cold transference;

12.20           (4) explain the factors affecting tissue response to superficial heat and cold;

12.21           (5) describe the biophysical effects of superficial physical agent modalities in  
12.22 normal and abnormal tissue;

12.23           (6) describe the thermal conductivity of tissue, matter, and air;

12.24           (7) explain the advantages and disadvantages of superficial physical agent  
12.25 modalities; and

12.26           (8) explain the precautions and contraindications of superficial physical agent  
12.27 modalities.

12.28           (c) Clinical application training in the use of superficial physical agent modalities  
12.29 must include activities requiring the practitioner to:

12.30           (1) formulate and justify a plan for the use of superficial physical agents for  
12.31 treatment appropriate to its use and simulate the treatment;

12.32           (2) evaluate biophysical effects of the superficial physical agents;

12.33           (3) identify when modifications to the treatment plan for use of superficial physical  
12.34 agents are needed and propose the modification plan;

12.35           (4) safely and appropriately administer superficial physical agents under the  
12.36 supervision of a course instructor or clinical trainer;

13.1 (5) document parameters of treatment, patient response, and recommendations for  
13.2 progression of treatment for the superficial physical agents; and

13.3 (6) demonstrate the ability to work competently with superficial physical agents as  
13.4 determined by a course instructor or clinical trainer.

13.5 Subd. 4. **Educational and clinical requirements for use of electrotherapy.** (a) An  
13.6 occupational therapist may use electrotherapy if the occupational therapist has received  
13.7 theoretical training and clinical application training in the use of electrotherapy and been  
13.8 granted approval as provided in subdivision 7.

13.9 (b) Theoretical training in the use of electrotherapy must:

13.10 (1) explain the rationale and clinical indications of electrotherapy, including pain  
13.11 control, muscle dysfunction, and tissue healing;

13.12 (2) demonstrate comprehension and understanding of electrotherapeutic terminology  
13.13 and biophysical principles, including current, voltage, amplitude, and resistance;

13.14 (3) describe the types of current used for electrical stimulation, including the  
13.15 description, modulations, and clinical relevance;

13.16 (4) describe the time-dependent parameters of pulsed and alternating currents,  
13.17 including pulse and phase durations and intervals;

13.18 (5) describe the amplitude-dependent characteristics of pulsed and alternating  
13.19 currents;

13.20 (6) describe neurophysiology and the properties of excitable tissue;

13.21 (7) describe nerve and muscle response from externally applied electrical  
13.22 stimulation, including tissue healing;

13.23 (8) describe the electrotherapeutic effects and the response of nerve, denervated and  
13.24 innervated muscle, and other soft tissue; and

13.25 (9) explain the precautions and contraindications of electrotherapy, including  
13.26 considerations regarding pathology of nerve and muscle tissue.

13.27 (c) Clinical application training in the use of electrotherapy must include activities  
13.28 requiring the practitioner to:

13.29 (1) formulate and justify a plan for the use of electrical stimulation devices for  
13.30 treatment appropriate to its use and simulate the treatment;

13.31 (2) evaluate biophysical treatment effects of the electrical stimulation;

13.32 (3) identify when modifications to the treatment plan using electrical stimulation are  
13.33 needed and propose the modification plan;

13.34 (4) safely and appropriately administer electrical stimulation under supervision  
13.35 of a course instructor or clinical trainer;

14.1 (5) document the parameters of treatment, case example (patient) response, and  
14.2 recommendations for progression of treatment for electrical stimulation; and

14.3 (6) demonstrate the ability to work competently with electrical stimulation as  
14.4 determined by a course instructor or clinical trainer.

14.5 **Subd. 5. Educational and clinical requirements for use of ultrasound.** (a) An  
14.6 occupational therapist may use an ultrasound device if the occupational therapist has  
14.7 received theoretical training and clinical application training in the use of ultrasound and  
14.8 been granted approval as provided in subdivision 7.

14.9 (b) The theoretical training in the use of ultrasound must:

14.10 (1) explain the rationale and clinical indications for the use of ultrasound, including  
14.11 anticipated physiological responses of the treated area;

14.12 (2) describe the biophysical thermal and nonthermal effects of ultrasound on normal  
14.13 and abnormal tissue;

14.14 (3) explain the physical principles of ultrasound, including wavelength, frequency,  
14.15 attenuation, velocity, and intensity;

14.16 (4) explain the mechanism and generation of ultrasound and energy transmission  
14.17 through physical matter; and

14.18 (5) explain the precautions and contraindications regarding use of ultrasound devices.

14.19 (c) The clinical application training in the use of ultrasound must include activities  
14.20 requiring the practitioner to:

14.21 (1) formulate and justify a plan for the use of ultrasound for treatment appropriate to  
14.22 its use and stimulate the treatment;

14.23 (2) evaluate biophysical effects of ultrasound;

14.24 (3) identify when modifications to the treatment plan for use of ultrasound are  
14.25 needed and propose the modification plan;

14.26 (4) safely and appropriately administer ultrasound under supervision of a course  
14.27 instructor or clinical trainer;

14.28 (5) document parameters of treatment, patient response, and recommendations for  
14.29 progression of treatment for ultrasound; and

14.30 (6) demonstrate the ability to work competently with ultrasound as determined  
14.31 by a course instructor or clinical trainer.

14.32 **Subd. 6. Occupational therapy assistant use of physical agent modalities.** An  
14.33 occupational therapy assistant may set up and implement treatment using physical agent  
14.34 modalities if the assistant meets the requirements of this section, has demonstrated service  
14.35 competency for the particular modality used, and works under the direct supervision  
14.36 of an occupational therapist who has been granted approval as provided in subdivision

15.1 7. An occupational therapy assistant who uses superficial physical agent modalities  
15.2 must meet the requirements of subdivision 3. An occupational therapy assistant who  
15.3 uses electrotherapy must meet the requirements of subdivision 4. An occupational  
15.4 therapy assistant who uses ultrasound must meet the requirements of subdivision 5. An  
15.5 occupational therapist may not delegate evaluation, reevaluation, treatment planning, and  
15.6 treatment goals for physical agent modalities to an occupational therapy assistant.

15.7 Subd. 7. **Approval.** (a) The advisory council shall appoint a committee to review  
15.8 documentation under subdivisions 2 to 6 to determine if established educational and  
15.9 clinical requirements are met. If, after review of course documentation, the committee  
15.10 verifies that a specific course meets the theoretical and clinical requirements in  
15.11 subdivisions 2 to 6, the commissioner may approve practitioner applications that include  
15.12 the required course documentation evidencing completion of the same course.

15.13 (b) Occupational therapists shall be advised of the status of their request for approval  
15.14 within 30 days. Occupational therapists must provide any additional information requested  
15.15 by the committee that is necessary to make a determination regarding approval or denial.

15.16 (c) A determination regarding a request for approval of training under this  
15.17 subdivision shall be made in writing to the occupational therapist. If denied, the reason for  
15.18 denial shall be provided.

15.19 (d) A licensee who was approved by the commissioner as a level two provider prior  
15.20 to July 1, 1999, shall remain on the roster maintained by the commissioner in accordance  
15.21 with subdivision 1, paragraph (c).

15.22 (e) To remain on the roster maintained by the commissioner, a licensee who was  
15.23 approved by the commissioner as a level one provider prior to July 1, 1999, must submit to  
15.24 the commissioner documentation of training and experience gained using physical agent  
15.25 modalities since the licensee's approval as a level one provider. The committee appointed  
15.26 under paragraph (a) shall review the documentation and make a recommendation to the  
15.27 commissioner regarding approval.

15.28 (f) An occupational therapist who received training in the use of physical agent  
15.29 modalities prior to July 1, 1999, but who has not been placed on the roster of approved  
15.30 providers may submit to the commissioner documentation of training and experience  
15.31 gained using physical agent modalities. The committee appointed under paragraph (a)  
15.32 shall review documentation and make a recommendation to the commissioner regarding  
15.33 approval.

15.34 Sec. 14. Minnesota Statutes 2006, section 148.6443, subdivision 1, is amended to read:

16.1 Subdivision 1. **General requirements.** ~~An A licensed~~ occupational therapist  
 16.2 ~~applying for licensure renewal~~ must ~~have completed~~ obtain a minimum of 24 contact  
 16.3 hours of continuing education in the ~~two years preceding~~ two-year licensure ~~renewal~~  
 16.4 period. ~~An A licensed~~ occupational therapy assistant ~~applying for licensure renewal~~ must  
 16.5 ~~have completed~~ obtain a minimum of 18 contact hours of continuing education in the ~~two~~  
 16.6 ~~years preceding~~ two-year licensure ~~renewal~~ period. All continuing education coursework  
 16.7 must be obtained between the effective and expiration dates of the license. Licensees who  
 16.8 are issued licenses for a period of less than two years shall ~~prorate the~~ obtain a prorated  
 16.9 number of contact hours required for licensure renewal based on the number of months  
 16.10 licensed during the ~~biennial~~ two-year licensure period. ~~Licensees shall receive contact~~  
 16.11 ~~hours for continuing education activities only for the biennial licensure period in which~~  
 16.12 ~~the continuing education activity was performed.~~

16.13 To qualify as a continuing education activity, the activity must be a minimum of  
 16.14 one contact hour. Contact hours must be earned and reported in increments of one contact  
 16.15 hour or one-half contact hour after the first contact hour of each continuing education  
 16.16 activity. One-half contact hour means an instructional session of 30 consecutive minutes,  
 16.17 excluding coffee breaks, registration, meals without a speaker, and social activities.

16.18 Each licensee is responsible for financing the cost of the licensee's continuing  
 16.19 education activities.

16.20 Sec. 15. Minnesota Statutes 2006, section 148.6443, subdivision 3, is amended to read:

16.21 Subd. 3. **Activities qualifying for continuing education contact hours.** (a) The  
 16.22 activities in this subdivision qualify for continuing education contact hours if they meet all  
 16.23 other requirements of this section.

16.24 (b) A minimum of one-half of the required contact hours must be directly related  
 16.25 to the occupational therapy practice. The remaining contact hours may be related to  
 16.26 occupational therapy practice, the delivery of occupational therapy services, or to the  
 16.27 practitioner's current professional role.

16.28 (c) A licensee may obtain an unlimited number of contact hours in any two-year  
 16.29 continuing education period through participation in the following:

16.30 (1) attendance at educational programs of annual conferences, lectures, panel  
 16.31 discussions, workshops, in-service training, seminars, and symposiums;

16.32 (2) successful completion of college or university courses. The licensee must obtain  
 16.33 a grade of at least a "C" or a pass in a pass or fail course in order to receive the following  
 16.34 continuing education credits:

16.35 (i) one semester credit equals 14 contact hours;

- 17.1 (ii) one trimester credit equals 12 contact hours; and
- 17.2 (iii) one quarter credit equals ten contact hours;
- 17.3 (3) successful completion of home study courses that require the participant to
- 17.4 demonstrate the participant's knowledge following completion of the course.
- 17.5 (d) A licensee may obtain a maximum of six contact hours in any two-year
- 17.6 continuing education period for:
- 17.7 (1) teaching continuing education courses that meet the requirements of this section.
- 17.8 A licensee is entitled to earn a maximum of two contact hours as preparation time for
- 17.9 each contact hour of presentation time. Contact hours may be claimed only once for
- 17.10 teaching the same course in any two-year continuing education period. A course schedule
- 17.11 or brochure must be maintained for audit;
- 17.12 (2) supervising occupational therapist or occupational therapy assistant students. A
- 17.13 licensee may earn one contact hour for every eight hours of student supervision. Licensees
- 17.14 must maintain a log indicating the name of each student supervised and the hours each
- 17.15 student was supervised. Contact hours obtained by student supervision must be obtained
- 17.16 by supervising students from an occupational therapy education program accredited by the
- 17.17 Accreditation Council for Occupational Therapy Education;
- 17.18 (3) teaching or participating in courses related to leisure activities, recreational
- 17.19 activities, or hobbies if the practitioner uses these interventions within the practitioner's
- 17.20 current practice or employment; and
- 17.21 (4) engaging in research activities or outcome studies that are associated with grants,
- 17.22 postgraduate studies, or publications in professional journals or books.
- 17.23 (e) A licensee may obtain a maximum of two contact hours in any two-year
- 17.24 continuing education period for continuing education activities in the following areas:
- 17.25 (1) ~~business-related topics: marketing, time management, administration, risk~~
- 17.26 ~~management, government regulations, techniques for training professionals, computer~~
- 17.27 ~~skills, payment systems, including covered services, coding, documentation, billing,~~
- 17.28 ~~and similar topics;~~
- 17.29 ~~(2)~~ personal skill topics: career burnout, communication skills, human relations, and
- 17.30 similar topics; and
- 17.31 ~~(3)~~ (2) training that is obtained in conjunction with a licensee's employment, occurs
- 17.32 during a licensee's normal workday, and does not include subject matter specific to the
- 17.33 fundamentals of occupational therapy.

17.34 Sec. 16. Minnesota Statutes 2006, section 148.6445, subdivision 11, is amended to

17.35 read:

18.1 Subd. 11. **Penalty fees.** (a) The penalty fee for practicing occupational therapy or  
18.2 using protected titles without a current license after the credential has expired and before it  
18.3 is renewed is the amount of the license renewal fee for any part of the first month, plus the  
18.4 license renewal fee for any part of any subsequent month up to 36 months.

18.5 (b) The penalty fee for applicants who engage in the unauthorized practice of  
18.6 occupational therapy or use protected titles before being issued a license is the amount  
18.7 of the license application fee for any part of the first month, plus the license application  
18.8 fee for any part of any subsequent month up to 36 months. This paragraph does not  
18.9 apply to applicants not qualifying for a license who engage in the unauthorized practice  
18.10 of occupational therapy.

18.11 (c) The penalty fee for practicing occupational therapy and failing to submit a  
18.12 continuing education report by the due date with the correct number or type of hours in  
18.13 the correct time period is \$100 plus \$20 for each missing clock hour. Missing means not  
18.14 obtained between the effective and expiration dates of the license, the one-month period  
18.15 following the license expiration date, or the 30 days following notice of a penalty fee for  
18.16 failing to report all continuing education hours. The licensee must obtain the missing  
18.17 number of continuing education hours by the next reporting due date.

18.18 (d) Civil penalties and discipline incurred by licensees prior to August 1, 2005, for  
18.19 conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty  
18.20 fees. For conduct described in paragraph (a) or (b) occurring after August 1, 2005, and  
18.21 exceeding six months, payment of a penalty fee does not preclude any disciplinary action  
18.22 reasonably justified by the individual case.

18.23 Sec. 17. Minnesota Statutes 2006, section 153A.13, subdivision 4, is amended to read:

18.24 Subd. 4. **Hearing instrument dispensing.** "Hearing instrument dispensing" means  
18.25 ~~making ear mold impressions, prescribing, or recommending a hearing instrument,~~  
18.26 ~~assisting the consumer in instrument selection, selling hearing instruments at retail, or~~  
18.27 ~~testing human hearing in connection with these activities regardless of whether the person~~  
18.28 ~~conducting these activities has a monetary interest in the sale of hearing instruments to~~  
18.29 ~~the consumer.~~ the following activities performed separately or together for the purpose  
18.30 of selling hearing instruments at retail, regardless of whether the person performing the  
18.31 activities has a monetary interest in the sale of the hearing instrument to a consumer:

18.32 (1) taking a hearing health history;

18.33 (2) visually inspecting the ear and ear canal;

18.34 (3) measuring human hearing by means of an audiometer and other standardized  
18.35 tests;

- 19.1 (4) referring to the appropriate health care provider when required by state and  
 19.2 federal laws;
- 19.3 (5) prescribing or recommending a hearing instrument appropriate for the consumer's  
 19.4 type of hearing loss;
- 19.5 (6) assisting the consumer in hearing instrument selection;
- 19.6 (7) fully informing the consumer of the contents of the instructional brochure and  
 19.7 contract of sale as required by state and federal laws;
- 19.8 (8) selling the hearing instrument and obtaining the consumer's signature on  
 19.9 documents required by state and federal laws;
- 19.10 (9) making ear mold impressions;
- 19.11 (10) adjusting and fitting the hearing instrument to the consumer; and
- 19.12 (11) providing the consumer initial instruction in hearing instrument use and  
 19.13 follow-up services on the hearing instrument.
- 19.14 Hearing instrument dispensing does not include cleaning or repairing the instrument.

19.15 Sec. 18. Minnesota Statutes 2006, section 153A.14, subdivision 2i, is amended to read:

19.16 Subd. 2i. **Continuing education requirement.** On forms provided by the  
 19.17 commissioner, each certified dispenser must submit with the application for renewal of  
 19.18 certification evidence of completion of ten course hours of continuing education earned  
 19.19 within the 12-month period of ~~July~~ November 1 to ~~June 30~~ immediately preceding renewal  
 19.20 October 31, between the effective and expiration dates of certification. Continuing  
 19.21 education courses must be directly related to hearing instrument dispensing and  
 19.22 approved by the International Hearing Society, the American Speech-Language-Hearing  
 19.23 Association, American Board of Audiology, or the American Academy of Audiology.  
 19.24 Evidence of completion of the ten course hours of continuing education must be submitted  
 19.25 ~~with renewal applications by October~~ December 1 of each year. This requirement does  
 19.26 not apply to dispensers certified for less than one year. ~~The first report of evidence of~~  
 19.27 ~~completion of the continuing education credits shall be due October 1, 1997.~~

19.28 Sec. 19. Minnesota Statutes 2006, section 153A.14, subdivision 4a, is amended to read:

19.29 Subd. 4a. **Trainees.** (a) A person who is not certified under this section may dispense  
 19.30 hearing instruments as a trainee for a period not to exceed 12 months if the person:  
 19.31 (1) submits an application on forms provided by the commissioner;  
 19.32 (2) is under the supervision of a certified dispenser meeting the requirements of  
 19.33 this subdivision; ~~and~~

20.1 (3) meets all requirements for certification except passage of the examination  
20.2 required by this section; and

20.3 (4) uses the title "dispenser trainee" in contacts with the patients, clients, or  
20.4 consumers.

20.5 (b) A certified hearing instrument dispenser may not supervise more than two  
20.6 trainees at the same time and may not directly supervise more than one trainee at a time.  
20.7 The certified dispenser is responsible for all actions or omissions of a trainee in connection  
20.8 with the dispensing of hearing instruments. A certified dispenser may not supervise a  
20.9 trainee if there are any commissioner, court, or other orders, currently in effect or issued  
20.10 within the last five years, that were issued with respect to an action or omission of a  
20.11 certified dispenser or a trainee under the certified dispenser's supervision.

20.12 Until taking and passing the practical examination testing the techniques described  
20.13 in subdivision 2h, paragraph (a), clause (2), trainees must be directly supervised in all  
20.14 areas described in subdivision 4b, and the activities tested by the practical examination.  
20.15 Thereafter, trainees may dispense hearing instruments under indirect supervision until  
20.16 expiration of the trainee period. Under indirect supervision, the trainee must complete two  
20.17 monitored activities a week. Monitored activities may be executed by correspondence,  
20.18 telephone, or other telephonic devices, and include, but are not limited to, evaluation  
20.19 of audiograms, written reports, and contracts. The time spent in supervision must be  
20.20 recorded and the record retained by the supervisor.

20.21 Sec. 20. Minnesota Statutes 2006, section 153A.14, subdivision 11, is amended to read:

20.22 Subd. 11. **Requirement to maintain current information.** A dispenser must notify  
20.23 the commissioner in writing within 30 days of the occurrence of any of the following:

20.24 (1) a change of name, address, home or business telephone number, or business  
20.25 name;

20.26 (2) the occurrence of conduct prohibited by section 153A.15;

20.27 (3) a settlement, conciliation court judgment, or award based on negligence,  
20.28 intentional acts, or contractual violations committed in the dispensing of hearing  
20.29 instruments by the dispenser; and

20.30 (4) the cessation of hearing instrument dispensing activities as an individual or a  
20.31 business.

20.32 Sec. 21. Minnesota Statutes 2006, section 153A.175, is amended to read:

20.33 **153A.175 PENALTY FEES.**

21.1 (a) The penalty fee for holding oneself out as a hearing instrument dispenser without  
21.2 a current certificate after the credential has expired and before it is renewed is one-half  
21.3 the amount of the certificate renewal fee for any part of the first day, plus one-half the  
21.4 certificate renewal fee for any part of any subsequent days up to 30 days.

21.5 (b) The penalty fee for applicants who hold themselves out as hearing instrument  
21.6 dispensers after expiration of the trainee period and before being issued a certificate is  
21.7 one-half the amount of the certificate application fee for any part of the first day, plus  
21.8 one-half the certificate application fee for any part of any subsequent days up to 30 days.  
21.9 This paragraph does not apply to applicants not qualifying for a certificate who hold  
21.10 themselves out as hearing instrument dispensers.

21.11 (c) The penalty fee for practicing hearing instrument dispensing and failing to submit  
21.12 a continuing education report by the due date with the correct number or type of hours in  
21.13 the correct time period is \$200 plus \$200 for each missing clock hour. "Missing" means  
21.14 not obtained between the effective and expirations dates of the certificate, the one-month  
21.15 period following the certificate expiration date, or the 30 days following notice of a  
21.16 penalty fee for failing to report all continuing education hours. The certificate holder must  
21.17 obtain the missing number of continuing education hours by the next reporting due date.

21.18 (d) Civil penalties and discipline incurred by certificate holders prior to August  
21.19 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as  
21.20 nondisciplinary penalty fees. Payment of a penalty fee does not preclude any disciplinary  
21.21 action reasonably justified by the individual case.