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Printed Page No. **471**

State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 3708

March 3, 2008

Authored by Murphy, E.

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

March 18, 2008

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to health; changing licensing requirements for certain health professions;
1.3 changing a provision for unlicensed complementary and alternative health care
1.4 practitioners; amending Minnesota Statutes 2006, sections 147.03, subdivision
1.5 1; 148.512, subdivision 20; 148.5161, subdivisions 2, 3; 148.5175; 148.519,
1.6 subdivision 3; 148.5194, subdivisions 7, 8; 148.5195, subdivision 3; 148.6425;
1.7 148.6428; 148.6440; 148.6443, subdivisions 1, 3; 148.6445, subdivision 11;
1.8 151.01, subdivision 27; 153A.14, subdivisions 2i, 4a, 11; 153A.175; Minnesota
1.9 Statutes 2007 Supplement, sections 146A.11, subdivision 1; 147.037, subdivision
1.10 1; 148.515, subdivision 2; proposing coding for new law in Minnesota Statutes,
1.11 chapter 148B.

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

1.13 Section 1. Minnesota Statutes 2007 Supplement, section 146A.11, subdivision 1,
1.14 is amended to read:

1.15 Subdivision 1. **Scope.** (a) All unlicensed complementary and alternative health
1.16 care practitioners shall provide to each complementary and alternative health care
1.17 client prior to providing treatment a written copy of the complementary and alternative
1.18 health care client bill of rights. A copy must also be posted in a prominent location
1.19 in the office of the unlicensed complementary and alternative health care practitioner.
1.20 Reasonable accommodations shall be made for those clients who cannot read or who
1.21 have communication impairments and those who do not read or speak English. The
1.22 complementary and alternative health care client bill of rights shall include the following:

1.23 (1) the name, complementary and alternative health care title, business address,
1.24 and telephone number of the unlicensed complementary and alternative health care
1.25 practitioner;

2.1 (2) the degrees, training, experience, or other qualifications of the practitioner
2.2 regarding the complimentary and alternative health care being provided, followed by the
2.3 following statement in bold print:

2.4 "THE STATE OF MINNESOTA HAS NOT ADOPTED ANY EDUCATIONAL
2.5 AND TRAINING STANDARDS FOR UNLICENSED COMPLEMENTARY AND
2.6 ALTERNATIVE HEALTH CARE PRACTITIONERS. THIS STATEMENT OF
2.7 CREDENTIALS IS FOR INFORMATION PURPOSES ONLY.

2.8 Under Minnesota law, an unlicensed complementary and alternative health care
2.9 practitioner may not provide a medical diagnosis or recommend discontinuance of
2.10 medically prescribed treatments. If a client desires a diagnosis from a licensed physician,
2.11 chiropractor, or acupuncture practitioner, or services from a physician, chiropractor, nurse,
2.12 osteopath, physical therapist, dietitian, nutritionist, acupuncture practitioner, athletic
2.13 trainer, or any other type of health care provider, the client may seek such services at
2.14 any time.";

2.15 (3) the name, business address, and telephone number of the practitioner's
2.16 supervisor, if any;

2.17 (4) notice that a complementary and alternative health care client has the right to
2.18 file a complaint with the practitioner's supervisor, if any, and the procedure for filing
2.19 complaints;

2.20 (5) the name, address, and telephone number of the office of unlicensed
2.21 complementary and alternative health care practice and notice that a client may file
2.22 complaints with the office;

2.23 (6) the practitioner's fees per unit of service, the practitioner's method of billing
2.24 for such fees, the names of any insurance companies that have agreed to reimburse the
2.25 practitioner, or health maintenance organizations with whom the practitioner contracts to
2.26 provide service, whether the practitioner accepts Medicare, medical assistance, or general
2.27 assistance medical care, and whether the practitioner is willing to accept partial payment,
2.28 or to waive payment, and in what circumstances;

2.29 (7) a statement that the client has a right to reasonable notice of changes in services
2.30 or charges;

2.31 (8) a brief summary, in plain language, of the theoretical approach used by the
2.32 practitioner in providing services to clients;

2.33 (9) notice that the client has a right to complete and current information concerning
2.34 the practitioner's assessment and recommended service that is to be provided, including
2.35 the expected duration of the service to be provided;

3.1 (10) a statement that clients may expect courteous treatment and to be free from
3.2 verbal, physical, or sexual abuse by the practitioner;

3.3 (11) a statement that client records and transactions with the practitioner are
3.4 confidential, unless release of these records is authorized in writing by the client, or
3.5 otherwise provided by law;

3.6 (12) a statement of the client's right to be allowed access to records and written
3.7 information from records in accordance with sections 144.291 to 144.298;

3.8 (13) a statement that other services may be available in the community, including
3.9 where information concerning services is available;

3.10 (14) a statement that the client has the right to choose freely among available
3.11 practitioners and to change practitioners after services have begun, within the limits of
3.12 health insurance, medical assistance, or other health programs;

3.13 (15) a statement that the client has a right to coordinated transfer when there will
3.14 be a change in the provider of services;

3.15 (16) a statement that the client may refuse services or treatment, unless otherwise
3.16 provided by law; and

3.17 (17) a statement that the client may assert the client's rights without retaliation.

3.18 (b) This section does not apply to an unlicensed complementary and alternative
3.19 health care practitioner who is employed by or is a volunteer in a hospital or hospice who
3.20 provides services to a client in a hospital or under an appropriate hospice plan of care.
3.21 Patients receiving complementary and alternative health care services in an inpatient
3.22 hospital or under an appropriate hospice plan of care shall have and be made aware of
3.23 the right to file a complaint with the hospital or hospice provider through which the
3.24 practitioner is employed or registered as a volunteer.

3.25 Sec. 2. Minnesota Statutes 2006, section 147.03, subdivision 1, is amended to read:

3.26 Subdivision 1. **Endorsement; reciprocity.** (a) The board may issue a license to
3.27 practice medicine to any person who satisfies the requirements in paragraphs (b) to (f).

3.28 (b) The applicant shall satisfy all the requirements established in section 147.02,
3.29 subdivision 1, paragraphs (a), (b), (d), (e), and (f).

3.30 (c) The applicant shall:

3.31 (1) have passed an examination prepared and graded by the Federation of State
3.32 Medical Boards, the National Board of Medical Examiners, or the United States Medical
3.33 Licensing Examination (USMLE) program in accordance with section 147.02, subdivision
3.34 1, paragraph (c), clause (2); the National Board of Osteopathic Examiners; or the Medical
3.35 Council of Canada; and

4.1 (2) have a current license from the equivalent licensing agency in another state or
4.2 Canada and, if the examination in clause (1) was passed more than ten years ago, either:

4.3 (i) pass the Special Purpose Examination of the Federation of State Medical Boards
4.4 with a score of 75 or better within three attempts; or

4.5 (ii) have a current certification by a specialty board of the American Board of
4.6 Medical Specialties, of the American Osteopathic Association Bureau of Professional
4.7 Education, the Royal College of Physicians and Surgeons of Canada, or of the College of
4.8 Family Physicians of Canada; or

4.9 (3) if the applicant fails to meet the requirement established in section 147.02,
4.10 subdivision 1, paragraph (c), clause (2), because the applicant failed to pass each of steps
4.11 one, two, and three of the USMLE within the required three attempts, the applicant may
4.12 be granted a license provided the applicant:

4.13 (i) has passed each of steps one, two, and three with passing scores as recommended
4.14 by the USMLE program within no more than four attempts for any of the three steps;

4.15 (ii) is currently licensed in another state; and

4.16 (iii) has current certification by a specialty board of the American Board of Medical
4.17 Specialties, the American Osteopathic Association Bureau of Professional Education, the
4.18 Royal College of Physicians and Surgeons of Canada, or the College of Family Physicians
4.19 of Canada.

4.20 (d) The applicant shall pay a fee established by the board by rule. The fee may
4.21 not be refunded.

4.22 (e) The applicant must not be under license suspension or revocation by the licensing
4.23 board of the state or jurisdiction in which the conduct that caused the suspension or
4.24 revocation occurred.

4.25 (f) The applicant must not have engaged in conduct warranting disciplinary action
4.26 against a licensee, or have been subject to disciplinary action other than as specified in
4.27 paragraph (e). If an applicant does not satisfy the requirements stated in this paragraph,
4.28 the board may issue a license only on the applicant's showing that the public will be
4.29 protected through issuance of a license with conditions or limitations the board considers
4.30 appropriate.

4.31 (g) Upon the request of an applicant, the board may conduct the final interview of
4.32 the applicant by teleconference.

4.33 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.34 Sec. 3. Minnesota Statutes 2007 Supplement, section 147.037, subdivision 1, is
4.35 amended to read:

5.1 Subdivision 1. **Requirements.** The board shall issue a license to practice medicine
5.2 to any person who satisfies the requirements in paragraphs (a) to (g).

5.3 (a) The applicant shall satisfy all the requirements established in section 147.02,
5.4 subdivision 1, paragraphs (a), (e), (f), (g), and (h).

5.5 (b) The applicant shall present evidence satisfactory to the board that the applicant
5.6 is a graduate of a medical or osteopathic school approved by the board as equivalent
5.7 to accredited United States or Canadian schools based upon its faculty, curriculum,
5.8 facilities, accreditation, or other relevant data. If the applicant is a graduate of a medical or
5.9 osteopathic program that is not accredited by the Liaison Committee for Medical Education
5.10 or the American Osteopathic Association, the applicant may use the Federation of State
5.11 Medical Boards' Federation Credentials Verification Service (FCVS) or its successor. If
5.12 the applicant uses this service as allowed under this paragraph, the physician application
5.13 fee may be less than \$200 but must not exceed the cost of administering this paragraph.

5.14 (c) The applicant shall present evidence satisfactory to the board that the applicant
5.15 has been awarded a certificate by the Educational Council for Foreign Medical Graduates,
5.16 and the applicant has a working ability in the English language sufficient to communicate
5.17 with patients and physicians and to engage in the practice of medicine.

5.18 (d) The applicant shall present evidence satisfactory to the board of the completion
5.19 of two years of graduate, clinical medical training in a program located in the United
5.20 States, its territories, or Canada and accredited by a national accrediting organization
5.21 approved by the board. This requirement does not apply:

5.22 (1) to an applicant who is admitted as a permanent immigrant to the United States on
5.23 or before October 1, 1991, as a person of exceptional ability in the sciences according to
5.24 Code of Federal Regulations, title 20, section 656.22(d);

5.25 (2) to an applicant holding a valid license to practice medicine in another country
5.26 and issued a permanent immigrant visa after October 1, 1991, as a person of extraordinary
5.27 ability in the field of science or as an outstanding professor or researcher according to
5.28 Code of Federal Regulations, title 8, section 204.5(h) and (i), or a temporary nonimmigrant
5.29 visa as a person of extraordinary ability in the field of science according to Code of
5.30 Federal Regulations, title 8, section 214.2(o),

5.31 provided that a person under clause (1) or (2) is admitted pursuant to rules of the United
5.32 States Department of Labor; or

5.33 (3) to an applicant who is licensed in another state, has practiced five years without
5.34 disciplinary action in the United States, its territories, or Canada, has completed one year
5.35 of the graduate, clinical medical training required by this paragraph, and has passed the

6.1 Special Purpose Examination of the Federation of State Medical Boards within three
6.2 attempts in the 24 months before licensing.

6.3 (e) The applicant must:

6.4 (1) have passed an examination prepared and graded by the Federation of State
6.5 Medical Boards, the United States Medical Licensing Examination program in accordance
6.6 with section 147.02, subdivision 1, paragraph (c), clause (2), or the Medical Council
6.7 of Canada; and

6.8 (2) have a current license from the equivalent licensing agency in another state or
6.9 country and, if the examination in clause (1) was passed more than ten years ago, either:

6.10 (i) pass the Special Purpose Examination of the Federation of State Medical Boards
6.11 with a score of 75 or better within three attempts; or

6.12 (ii) have a current certification by a specialty board of the American Board of
6.13 Medical Specialties, of the American Osteopathic Association Bureau of Professional
6.14 Education, of the Royal College of Physicians and Surgeons of Canada, or of the College
6.15 of Family Physicians of Canada; or

6.16 (3) if the applicant fails to meet the requirement established in section 147.02,
6.17 subdivision 1, paragraph (c), clause (2), because the applicant failed to pass each of steps
6.18 one, two, and three of the USMLE within the required three attempts, the applicant may
6.19 be granted a license provided the applicant:

6.20 (i) has passed each of steps one, two, and three with passing scores as recommended
6.21 by the USMLE program within no more than four attempts for any of the three steps;

6.22 (ii) is currently licensed in another state; and

6.23 (iii) has current certification by a specialty board of the American Board of Medical
6.24 Specialties, the American Osteopathic Association Bureau of Professional Education, the
6.25 Royal College of Physicians and Surgeons of Canada, or the College of Family Physicians
6.26 of Canada.

6.27 (f) The applicant must not be under license suspension or revocation by the licensing
6.28 board of the state or jurisdiction in which the conduct that caused the suspension or
6.29 revocation occurred.

6.30 (g) The applicant must not have engaged in conduct warranting disciplinary action
6.31 against a licensee, or have been subject to disciplinary action other than as specified in
6.32 paragraph (f). If an applicant does not satisfy the requirements stated in this paragraph,
6.33 the board may issue a license only on the applicant's showing that the public will be
6.34 protected through issuance of a license with conditions or limitations the board considers
6.35 appropriate.

6.36 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.1 Sec. 4. Minnesota Statutes 2006, section 148.512, subdivision 20, is amended to read:

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

7.4 (1) is a licensed speech-language pathologist or audiologist under section 148.515,
7.5 148.516, or 148.517; or

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

7.12 Sec. 5. Minnesota Statutes 2007 Supplement, section 148.515, subdivision 2, is
7.13 amended to read:

7.14 Subd. 2. **Master's or doctoral degree required for speech-language pathology**
7.15 **applicants.** (a) An applicant for speech-language pathology must possess a master's or
7.16 doctoral degree that meets the requirements of paragraph (b). If completing a doctoral
7.17 program in which a master's degree has not been conferred, an applicant must submit a
7.18 transcript showing completion of course work equivalent to, or exceeding, a master's
7.19 degree that meets the requirement of paragraph (b). In addition to the transcript, the
7.20 commissioner may require a letter from the academic department chair or program
7.21 director documenting that the applicant has completed coursework equivalent to or
7.22 exceeding a master's degree or that the applicant is eligible for enrollment in current
7.23 doctoral externship credit.

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

7.31 Sec. 6. Minnesota Statutes 2006, section 148.5161, subdivision 2, is amended to read:

7.32 Subd. 2. **Procedures.** To be eligible for clinical fellowship licensure or doctoral
7.33 externship licensure, an applicant must submit an application form provided by the

8.1 commissioner, the fees required by section 148.5194, and evidence of successful
8.2 completion of the requirements in section 148.515, subdivision 2 or 2a.

8.3 Sec. 7. Minnesota Statutes 2006, section 148.5161, subdivision 3, is amended to read:

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

8.8 (b) Supervision must include both on-site observation and other monitoring
8.9 activities. On-site observation must involve the supervisor, the clinical fellowship licensee
8.10 or doctoral externship licensee, and the client receiving speech-language pathology or
8.11 audiology services and must include direct observation by the supervisor of treatment
8.12 given by the clinical fellowship licensee or doctoral externship licensee. Other monitoring
8.13 activities must involve direct or indirect evaluative contact by the supervisor of the clinical
8.14 fellowship licensee or doctoral externship licensee, may be executed by correspondence,
8.15 and may include, but are not limited to, conferences with the clinical fellowship licensee
8.16 or doctoral externship licensee, evaluation of written reports, and evaluations by
8.17 professional colleagues. Other monitoring activities do not include the client receiving
8.18 speech-language pathology or audiology services.

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

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

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

8.30 (d) Clinical fellowship licensure or doctoral externship licensure shall not be granted
8.31 until the applicant has completed the academic coursework and clinical training in section
8.32 148.515, subdivision 2 or 2a. In addition to the transcript, the commissioner may require
8.33 a letter from the academic department chair or program director documenting that the
8.34 applicant has completed coursework equivalent to or exceeding a master's degree or that
8.35 the applicant is eligible for enrollment in current doctoral externship credit.

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

9.3 Sec. 8. Minnesota Statutes 2006, section 148.5175, is amended to read:

9.4 **148.5175 TEMPORARY LICENSURE.**

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

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

9.10 (2) either:

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

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

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

9.20 (c) Upon application, a temporary license shall be renewed ~~once~~ twice to a person
9.21 who is able to demonstrate good cause for failure to meet the requirements for licensure
9.22 within the initial temporary licensure period and who is not the subject of a disciplinary
9.23 action or disqualified on the basis of section 148.5195, subdivision 3. Good cause
9.24 includes but is not limited to inability to take and complete the required practical exam for
9.25 dispensing hearing instruments.

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

9.29 Sec. 9. Minnesota Statutes 2006, section 148.519, subdivision 3, is amended to read:

9.30 Subd. 3. **Change of address name, employment, and addresses.** A licensee who
9.31 changes addresses must inform the commissioner, in writing, of the change of name,
9.32 employment, or address within 30 days. A change in name must be accompanied by a
9.33 copy of a marriage certificate or court order. All notices or other correspondence mailed

10.1 to or served on a licensee by the commissioner at the licensee's address on file with the
10.2 commissioner shall be considered as having been received by the licensee.

10.3 Sec. 10. Minnesota Statutes 2006, section 148.5194, subdivision 7, is amended to read:

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

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

10.15 Sec. 11. Minnesota Statutes 2006, section 148.5194, subdivision 8, is amended to read:

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

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

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

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

11.6 Sec. 12. Minnesota Statutes 2006, section 148.5195, subdivision 3, is amended to read:

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

11.10 (1) intentionally submitted false or misleading information to the commissioner
11.11 or the advisory council;

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

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

11.16 (4) violated sections 148.511 to 148.5198;

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

11.19 (6) violated any state or federal law, rule, or regulation, and the violation is a felony
11.20 or misdemeanor, an essential element of which is dishonesty, or which relates directly
11.21 or indirectly to the practice of speech-language pathology or audiology. Conviction for
11.22 violating any state or federal law which relates to speech-language pathology or audiology
11.23 is necessarily considered to constitute a violation, except as provided in chapter 364;

11.24 (7) aided or abetted another person in violating any provision of sections 148.511 to
11.25 148.5198;

11.26 (8) been or is being disciplined by another jurisdiction, if any of the grounds for
11.27 the discipline is the same or substantially equivalent to those under sections 148.511 to
11.28 148.5198;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13.1 (iv) failed to comply with restrictions on sales of hearing ~~aids~~ instruments in sections
13.2 148.5197, subdivision 3, and 148.5198;

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

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

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

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

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

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

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

13.18 Sec. 13. Minnesota Statutes 2006, section 148.6425, is amended to read:

13.19 **148.6425 RENEWAL OF LICENSURE; AFTER EXPIRATION DATE.**

13.20 Subdivision 1. **Removal of name from list.** The names of licensees who do not
13.21 comply with the licensure renewal requirements of section 148.6423 on or before the
13.22 expiration date shall be removed from the list of individuals authorized to practice
13.23 occupational therapy and to use the protected titles in section 148.6403. The licensees
13.24 must comply with the requirements of this section in order to regain licensed status.

13.25 Subd. 2. **Licensure renewal after licensure expiration date.** An individual
13.26 whose application for licensure renewal is received after the licensure expiration date
13.27 must submit the following:

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

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

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

13.33 (4) additional information as requested by the commissioner to clarify information in
13.34 the application, including information to determine whether the individual has engaged in

14.1 conduct warranting disciplinary action as set forth in section 148.6448. The information
14.2 must be submitted within 30 days after the commissioner's request.

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

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

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

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

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

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

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

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

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

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

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

14.33 (c) To participate in a supervised practice as described in paragraph (b), clause
14.34 (1), the applicant shall obtain limited licensure. To apply for limited licensure, the
14.35 applicant shall submit the completed limited licensure application, fees, and agreement
14.36 for supervision of an occupational therapist or occupational therapy assistant practicing

15.1 under limited licensure signed by the supervising therapist and the applicant. The
15.2 supervising occupational therapist shall state the proposed level of supervision on the
15.3 supervision agreement form provided by the commissioner. The supervising therapist
15.4 shall determine the frequency and manner of supervision based on the condition of the
15.5 patient or client, the complexity of the procedure, and the proficiencies of the supervised
15.6 occupational therapist. At a minimum, a supervising occupational therapist shall be on
15.7 the premises at all times that the person practicing under limited licensure is working;
15.8 be in the room ten percent of the hours worked each week by the person practicing
15.9 under limited licensure; and provide daily face-to-face collaboration for the purpose
15.10 of observing service competency of the occupational therapist or occupational therapy
15.11 assistant, discussing treatment procedures and each client's response to treatment, and
15.12 reviewing and modifying, as necessary, each treatment plan. The supervising therapist
15.13 shall document the supervision provided. The occupational therapist participating in
15.14 a supervised practice is responsible for obtaining the supervision required under this
15.15 paragraph and must comply with the commissioner's requirements for supervision during
15.16 the entire 160 hours of supervised practice. The supervised practice must be completed in
15.17 two months and may be completed at the applicant's place of work.

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

15.23 Sec. 14. Minnesota Statutes 2006, section 148.6428, is amended to read:

15.24 **148.6428 CHANGE OF NAME, ADDRESS, OR EMPLOYMENT.**

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

15.31 Sec. 15. Minnesota Statutes 2006, section 148.6440, is amended to read:

15.32 **148.6440 PHYSICAL AGENT MODALITIES.**

15.33 Subdivision 1. **General considerations.** (a) Occupational therapists who intend
15.34 to use superficial physical agent modalities must comply with the requirements in

16.1 subdivision 3. Occupational therapists who intend to use electrotherapy must comply with
16.2 the requirements in subdivision 4. Occupational therapists who intend to use ultrasound
16.3 devices must comply with the requirements in subdivision 5. Occupational therapy
16.4 assistants who intend to use physical agent modalities must comply with subdivision 6.

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

16.7 (c) Prior to any use of any physical agent modality, a licensee must obtain approval
16.8 from the commissioner. The commissioner shall maintain a roster of persons licensed
16.9 under sections 148.6401 to 148.6450 who are approved to use physical agent modalities.
16.10 ~~Prior to using a physical agent modality, licensees must inform the commissioner of~~
16.11 ~~the physical agent modality they will use. Persons who use physical agent modalities~~
16.12 ~~must indicate on their initial and renewal applications the physical agent modalities that~~
16.13 ~~they use.~~

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

16.16 Subd. 2. **Written documentation required.** ~~Prior to use of physical agent~~
16.17 ~~modalities,~~ An occupational therapist must provide to the commissioner documentation
16.18 verifying that the occupational therapist has met the educational and clinical requirements
16.19 described in subdivisions 3 to 5, depending on the modality or modalities to be used. Both
16.20 theoretical training and clinical application objectives must be met for each modality used.
16.21 Documentation must include the name and address of the individual or organization
16.22 sponsoring the activity; the name and address of the facility at which the activity was
16.23 presented; and a copy of the course, workshop, or seminar description, including learning
16.24 objectives and standards for meeting the objectives. In the case of clinical application
16.25 objectives, teaching methods must be documented, including actual supervised practice.
16.26 Documentation must include a transcript or certificate showing successful completion of
16.27 the coursework. An occupational therapist who is a certified hand therapist shall document
16.28 satisfaction of the requirements in subdivisions 3 to 5 by submitting to the commissioner a
16.29 copy of a certificate issued by the Hand Therapy Certification Commission. Practitioners
16.30 are prohibited from using physical agent modalities under supervision or independently
16.31 until granted approval as provided in subdivision 7.

16.32 Subd. 3. **Educational and clinical requirements for use of superficial physical**
16.33 **agent modalities.** (a) An occupational therapist may use superficial physical agent
16.34 modalities if the occupational therapist has received theoretical training and clinical
16.35 application training in the use of superficial physical agent modalities and been granted
16.36 approval as provided in subdivision 7.

- 17.1 (b) Theoretical training in the use of superficial physical agent modalities must:
- 17.2 (1) explain the rationale and clinical indications for use of superficial physical agent
- 17.3 modalities;
- 17.4 (2) explain the physical properties and principles of the superficial physical agent
- 17.5 modalities;
- 17.6 (3) describe the types of heat and cold transference;
- 17.7 (4) explain the factors affecting tissue response to superficial heat and cold;
- 17.8 (5) describe the biophysical effects of superficial physical agent modalities in
- 17.9 normal and abnormal tissue;
- 17.10 (6) describe the thermal conductivity of tissue, matter, and air;
- 17.11 (7) explain the advantages and disadvantages of superficial physical agent
- 17.12 modalities; and
- 17.13 (8) explain the precautions and contraindications of superficial physical agent
- 17.14 modalities.
- 17.15 (c) Clinical application training in the use of superficial physical agent modalities
- 17.16 must include activities requiring the practitioner to:
- 17.17 (1) formulate and justify a plan for the use of superficial physical agents for
- 17.18 treatment appropriate to its use and simulate the treatment;
- 17.19 (2) evaluate biophysical effects of the superficial physical agents;
- 17.20 (3) identify when modifications to the treatment plan for use of superficial physical
- 17.21 agents are needed and propose the modification plan;
- 17.22 (4) safely and appropriately administer superficial physical agents under the
- 17.23 supervision of a course instructor or clinical trainer;
- 17.24 (5) document parameters of treatment, patient response, and recommendations for
- 17.25 progression of treatment for the superficial physical agents; and
- 17.26 (6) demonstrate the ability to work competently with superficial physical agents as
- 17.27 determined by a course instructor or clinical trainer.
- 17.28 **Subd. 4. Educational and clinical requirements for use of electrotherapy.** (a) An
- 17.29 occupational therapist may use electrotherapy if the occupational therapist has received
- 17.30 theoretical training and clinical application training in the use of electrotherapy and been
- 17.31 granted approval as provided in subdivision 7.
- 17.32 (b) Theoretical training in the use of electrotherapy must:
- 17.33 (1) explain the rationale and clinical indications of electrotherapy, including pain
- 17.34 control, muscle dysfunction, and tissue healing;
- 17.35 (2) demonstrate comprehension and understanding of electrotherapeutic terminology
- 17.36 and biophysical principles, including current, voltage, amplitude, and resistance;

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

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

18.5 (5) describe the amplitude-dependent characteristics of pulsed and alternating
18.6 currents;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19.10 (2) evaluate biophysical effects of ultrasound;

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

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

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

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

19.19 Subd. 6. **Occupational therapy assistant use of physical agent modalities.** An
19.20 occupational therapy assistant may set up and implement treatment using physical agent
19.21 modalities if the assistant meets the requirements of this section, has demonstrated service
19.22 competency for the particular modality used, and works under the direct supervision
19.23 of an occupational therapist who has been granted approval as provided in subdivision
19.24 7. An occupational therapy assistant who uses superficial physical agent modalities
19.25 must meet the requirements of subdivision 3. An occupational therapy assistant who
19.26 uses electrotherapy must meet the requirements of subdivision 4. An occupational
19.27 therapy assistant who uses ultrasound must meet the requirements of subdivision 5. An
19.28 occupational therapist may not delegate evaluation, reevaluation, treatment planning, and
19.29 treatment goals for physical agent modalities to an occupational therapy assistant.

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

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

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

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

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

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

20.22 Sec. 16. Minnesota Statutes 2006, section 148.6443, subdivision 1, is amended to read:

20.23 Subdivision 1. **General requirements.** ~~An A licensed occupational therapist~~
20.24 ~~applying for licensure renewal must have completed~~ obtain a minimum of 24 contact
20.25 hours of continuing education in the ~~two years preceding~~ two-year licensure renewal
20.26 period. ~~An A licensed occupational therapy assistant applying for licensure renewal~~
20.27 ~~have completed~~ obtain a minimum of 18 contact hours of continuing education in the ~~two~~
20.28 ~~years preceding~~ two-year licensure renewal period. All continuing education coursework
20.29 must be obtained between the effective and expiration dates of the license. Licensees who
20.30 are issued licenses for a period of less than two years shall ~~prorate the~~ obtain a prorated
20.31 number of contact hours required for licensure renewal based on the number of months
20.32 licensed during the ~~biennial~~ two-year licensure period. ~~Licensees shall receive contact~~
20.33 ~~hours for continuing education activities only for the biennial licensure period in which~~
20.34 ~~the continuing education activity was performed.~~

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

21.6 Each licensee is responsible for financing the cost of the licensee's continuing
21.7 education activities.

21.8 Sec. 17. Minnesota Statutes 2006, section 148.6443, subdivision 3, is amended to read:

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

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

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

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

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

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

21.24 (ii) one trimester credit equals 12 contact hours; and

21.25 (iii) one quarter credit equals ten contact hours;

21.26 (3) successful completion of home study courses that require the participant to
21.27 demonstrate the participant's knowledge following completion of the course.

21.28 (d) A licensee may obtain a maximum of six contact hours in any two-year
21.29 continuing education period for:

21.30 (1) teaching continuing education courses that meet the requirements of this section.

21.31 A licensee is entitled to earn a maximum of two contact hours as preparation time for
21.32 each contact hour of presentation time. Contact hours may be claimed only once for
21.33 teaching the same course in any two-year continuing education period. A course schedule
21.34 or brochure must be maintained for audit;

22.1 (2) supervising occupational therapist or occupational therapy assistant students. A
 22.2 licensee may earn one contact hour for every eight hours of student supervision. Licensees
 22.3 must maintain a log indicating the name of each student supervised and the hours each
 22.4 student was supervised. Contact hours obtained by student supervision must be obtained
 22.5 by supervising students from an occupational therapy education program accredited by the
 22.6 Accreditation Council for Occupational Therapy Education;

22.7 (3) teaching or participating in courses related to leisure activities, recreational
 22.8 activities, or hobbies if the practitioner uses these interventions within the practitioner's
 22.9 current practice or employment; and

22.10 (4) engaging in research activities or outcome studies that are associated with grants,
 22.11 postgraduate studies, or publications in professional journals or books.

22.12 (e) A licensee may obtain a maximum of two contact hours in any two-year
 22.13 continuing education period for continuing education activities in the following areas:

22.14 (1) ~~business-related topics: marketing, time management, administration, risk~~
 22.15 ~~management, government regulations, techniques for training professionals, computer~~
 22.16 ~~skills, payment systems, including covered services, coding, documentation, billing,~~
 22.17 ~~and similar topics;~~

22.18 ~~(2)~~ personal skill topics: career burnout, communication skills, human relations, and
 22.19 similar topics; and

22.20 ~~(3)~~ (2) training that is obtained in conjunction with a licensee's employment, occurs
 22.21 during a licensee's normal workday, and does not include subject matter specific to the
 22.22 fundamentals of occupational therapy.

22.23 Sec. 18. Minnesota Statutes 2006, section 148.6445, subdivision 11, is amended to
 22.24 read:

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

22.29 (b) The penalty fee for applicants who engage in the unauthorized practice of
 22.30 occupational therapy or use protected titles before being issued a license is the amount
 22.31 of the license application fee for any part of the first month, plus the license application
 22.32 fee for any part of any subsequent month up to 36 months. This paragraph does not
 22.33 apply to applicants not qualifying for a license who engage in the unauthorized practice
 22.34 of occupational therapy.

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

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

23.13 Sec. 19. **[148B.195] DUTY TO WARN.**

23.14 A licensee must comply with the duty to warn established in section 148.975.

23.15 Sec. 20. Minnesota Statutes 2006, section 151.01, subdivision 27, is amended to read:

23.16 Subd. 27. **Practice of pharmacy.** "Practice of pharmacy" means:

23.17 (1) interpretation and evaluation of prescription drug orders;

23.18 (2) compounding, labeling, and dispensing drugs and devices (except labeling by
 23.19 a manufacturer or packager of nonprescription drugs or commercially packaged legend
 23.20 drugs and devices);

23.21 (3) participation in clinical interpretations and monitoring of drug therapy for
 23.22 assurance of safe and effective use of drugs;

23.23 (4) participation in drug and therapeutic device selection; drug administration for
 23.24 first dosage and medical emergencies; drug regimen reviews; and drug or drug-related
 23.25 research;

23.26 (5) participation in administration of influenza ~~and pneumococcal vaccine~~ vaccines
 23.27 to all eligible individuals over 18 ten years of age and all other vaccines to patients 18
 23.28 years of age and older under standing orders from a physician licensed under chapter 147
 23.29 or by written protocol with a physician provided that:

23.30 (i) the pharmacist is trained in a program approved by the American Council of
 23.31 Pharmaceutical Education for the administration of immunizations or graduated from a
 23.32 college of pharmacy in 2001 or thereafter; and

23.33 (ii) the pharmacist reports the administration of the immunization to the patient's
 23.34 primary physician or clinic;

24.1 (6) participation in the practice of managing drug therapy and modifying drug
 24.2 therapy, according to section 151.21, subdivision 1, ~~on a case-by-case basis~~ according to a
 24.3 written protocol between the specific pharmacist and the individual dentist, optometrist,
 24.4 physician, podiatrist, or veterinarian who is responsible for the patient's care and
 24.5 authorized to independently prescribe drugs. Any significant changes in drug therapy must
 24.6 be reported by the pharmacist to the patient's medical record;

24.7 (7) participation in the storage of drugs and the maintenance of records;

24.8 (8) responsibility for participation in patient counseling on therapeutic values,
 24.9 content, hazards, and uses of drugs and devices; and

24.10 (9) offering or performing those acts, services, operations, or transactions necessary
 24.11 in the conduct, operation, management, and control of a pharmacy.

24.12 Sec. 21. Minnesota Statutes 2006, section 153A.14, subdivision 2i, is amended to read:

24.13 Subd. 2i. **Continuing education requirement.** On forms provided by the
 24.14 commissioner, each certified dispenser must submit with the application for renewal of
 24.15 certification evidence of completion of ten course hours of continuing education earned
 24.16 within the 12-month period of ~~July~~ November 1 to ~~June 30~~ immediately preceding renewal
 24.17 October 31, between the effective and expiration dates of certification. Continuing
 24.18 education courses must be directly related to hearing instrument dispensing and
 24.19 approved by the International Hearing Society, the American Speech-Language-Hearing
 24.20 Association, or the American Academy of Audiology. Evidence of completion of the
 24.21 ten course hours of continuing education must be submitted ~~with renewal applications~~
 24.22 by ~~October~~ December 1 of each year. This requirement does not apply to dispensers
 24.23 certified for less than one year. ~~The first report of evidence of completion of the continuing~~
 24.24 ~~education credits shall be due October 1, 1997.~~

24.25 Sec. 22. Minnesota Statutes 2006, section 153A.14, subdivision 4a, is amended to read:

24.26 Subd. 4a. **Trainees.** (a) A person who is not certified under this section may dispense
 24.27 hearing instruments as a trainee for a period not to exceed 12 months if the person:

24.28 (1) submits an application on forms provided by the commissioner;

24.29 (2) is under the supervision of a certified dispenser meeting the requirements of
 24.30 this subdivision; ~~and~~

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

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

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

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

25.17 Sec. 23. Minnesota Statutes 2006, section 153A.14, subdivision 11, is amended to read:

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

25.20 (1) a change of name, address, home or business telephone number, or business
25.21 name;

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

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

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

25.28 Sec. 24. Minnesota Statutes 2006, section 153A.175, is amended to read:

25.29 **153A.175 PENALTY FEES.**

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

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

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

26.14 (d) Civil penalties and discipline incurred by certificate holders prior to August
26.15 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as
26.16 nondisciplinary penalty fees. Payment of a penalty fee does not preclude any disciplinary
26.17 action reasonably justified by the individual case.

26.18 Sec. 25. **EXEMPTION.**

26.19 The Board of Physical Therapy shall grant a waiver of the examination requirements
26.20 under Minnesota Statutes, section 148.723, to an applicant applying for licensure before
26.21 July 1, 2008, who has been issued physical therapy licenses between 1980 and 1995 in at
26.22 least three other states and one or more foreign countries. The licenses issued by the other
26.23 states and foreign country must be in good standing or were in good standing at the time
26.24 the license expired. The applicant must meet all other requirements of Minnesota Statutes,
26.25 section 148.705. This waiver expires on September 1, 2008.

26.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.