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State of Minnesota

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309

HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE No. 1745

March 16, 2009

Authored by Ruud

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

March 30, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

May 12, 2009

Calendar For The Day

Amended

Read Third Time as Amended

Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

1.1 A bill for an act
1.2 relating to health; requiring the commissioner of health to enroll pharmacies or
1.3 pharmacists in the pediatric vaccine administration program; changing the age
1.4 requirement for pharmacists administering influenza vaccines; changing certain
1.5 requirements; modifying provisions in health occupations for speech language
1.6 pathologists and occupational therapists; expanding definition of licensed
1.7 health care professional; changing provisions for food, beverage, and lodging
1.8 establishments; requiring the Department of Health to use rules and guidelines
1.9 from the federal government to implement the minimum data set for resident
1.10 reimbursement classification; establishing fees; amending Minnesota Statutes
1.11 2008, sections 148.512, subdivision 13; 148.5193, subdivision 6a; 148.5194,
1.12 subdivisions 2, 3, 7; 148.6402, subdivisions 13, 22a; 148.6405; 148.6440,
1.13 subdivision 2; 151.01, subdivision 27; 157.16, subdivisions 2, 4; proposing
1.14 coding for new law in Minnesota Statutes, chapter 145; repealing Minnesota
1.15 Rules, parts 4610.0420; 4610.0500, subparts 1, 2, 3, 5; 4610.0600, subparts 1,
1.16 3, 4; 4610.0650.

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

1.18 Section 1. [145.58] PEDIATRIC VACCINE ADMINISTRATION.

1.19 The commissioner of health shall enroll a licensed pharmacy or individual
1.20 pharmacist as a program-registered provider in the pediatric vaccine administration
1.21 program under section 13631 of the federal Omnibus Budget Reconciliation Act of 1993,
1.22 Public Law 103-66, based on the program's infrastructure capacity to enroll the additional
1.23 pharmacy providers in the program.

1.24 Sec. 2. [145.987] HEALTHY CHILDREN THROUGH IMMUNIZATION.

1.25 Pharmacies and pharmacists providing immunizations to children under private
1.26 insurance or fee-for-service arrangements prior to June 1, 2009, that are not enrolled
1.27 in the pediatric vaccine administration program under section 13631 of the federal
1.28 Omnibus Budget Reconciliation Act of 1993, Public Law 103-66, must discontinue

2.1 immunization services to children under private insurance or fee-for-service arrangements
2.2 after December 31, 2009.

2.3 Sec. 3. Minnesota Statutes 2008, section 148.512, subdivision 13, is amended to read:

2.4 Subd. 13. **Practice of speech-language pathology.** The "practice of
2.5 speech-language pathology" means:

2.6 (1) identification, assessment, and interpretation, diagnosis, habilitation,
2.7 rehabilitation, treatment and prevention of disorders of speech, articulation, fluency, voice,
2.8 and language;

2.9 (2) identification, assessment, and interpretation, diagnosis, habilitation, and
2.10 rehabilitation of disorders of oral-pharyngeal function and related disorders;

2.11 (3) identification, assessment, and interpretation, diagnosis, habilitation, and
2.12 rehabilitation of communication disorders associated with cognition;

2.13 (4) assessing, selecting, and developing augmentative and alternative communication
2.14 systems and providing training in their use;

2.15 (5) aural habilitation and rehabilitation and related counseling for hearing impaired
2.16 individuals and their families;

2.17 (6) enhancing speech-language proficiency and communication effectiveness;

2.18 (7) ~~audiometric~~ screening individuals for hearing loss or middle ear pathology for
2.19 the purposes of speech-language evaluation or for the identification of possible hearing
2.20 disorders; or

2.21 (8) supervision of the functions in clauses (1) to (7).

2.22 The practice of speech-language pathology does not include the practice of medicine
2.23 and surgery, or osteopathic medicine and surgery, or medical diagnosis that is commonly
2.24 performed by a physician.

2.25 Sec. 4. Minnesota Statutes 2008, section 148.5193, subdivision 6a, is amended to read:

2.26 Subd. 6a. ~~Verification of attendance~~ **Auditing continuing education reports.** ~~An~~
2.27 ~~applicant for licensure renewal must submit verification of attendance as follows:~~

2.28 ~~(1) a certificate of attendance from the sponsor with the continuing education course~~
2.29 ~~name, course date, and licensee's name. If a certificate of attendance is not available,~~
2.30 ~~the commissioner may accept other evidence of attendance such as a confirmation or~~
2.31 ~~statement of registration for regional or national annual conferences or conventions of~~
2.32 ~~professional associations, a copy of the continuing education courses indicating those~~
2.33 ~~attended, and an affidavit of attendance;~~

3.1 ~~(2) a copy of a record of attendance from the sponsor of the continuing education~~
3.2 ~~course;~~

3.3 ~~(3) a signature of the presenter or a designee at the continuing education activity~~
3.4 ~~on the continuing education report form;~~

3.5 ~~(4) a summary or outline of the educational content of an audio or video educational~~
3.6 ~~activity if a designee is not available to sign the continuing education report form;~~

3.7 ~~(5) for self-study programs, a certificate of completion or other documentation~~
3.8 ~~indicating that the individual has demonstrated knowledge and has successfully completed~~
3.9 ~~the program; or~~

3.10 ~~(6) for attendance at a university, college, or vocational course, an official transcript.~~

3.11 (a) The commissioner may audit a percentage of the continuing education reports based on
3.12 random selection. A licensee shall maintain all documentation required by this section
3.13 for two years after the last day of the biennial licensure period in which the contact
3.14 hours were earned.

3.15 (b) All renewal applications that are received after the expiration date may be subject
3.16 to a continuing education report audit.

3.17 (c) Any licensee against whom a complaint is filed may be subject to a continuing
3.18 education report audit.

3.19 (d) The licensee shall make the following information available to the commissioner
3.20 for auditing purposes:

3.21 (1) a copy of the completed continuing education report form for the continuing
3.22 education reporting period that is the subject of the audit including all supporting
3.23 documentation required by subdivision 5;

3.24 (2) a description of the continuing education activity prepared by the presenter or
3.25 sponsor that includes the course title or subject matter, date, place, number of program
3.26 contact hours, presenters, and sponsors;

3.27 (3) documentation of self-study programs by materials prepared by the presenter
3.28 or sponsor that includes the course title, course description, name of sponsor or author,
3.29 and the number of hours required to complete the program;

3.30 (4) documentation of university, college, or vocational school courses by a course
3.31 syllabus, listing in a course bulletin, or equivalent documentation that includes the course
3.32 title, instructor's name, course dates, number of contact hours, and course content,
3.33 objectives, or goals; and

3.34 (5) verification of attendance by:

4.1 (i) a signature of the presenter or a designee at the continuing education activity on
4.2 the continuing education report form or a certificate of attendance with the course name,
4.3 course date, and licensee's name;

4.4 (ii) a summary or outline of the educational content of an audio or video educational
4.5 activity to verify the licensee's participation in the activity if a designee is not available to
4.6 sign the continuing education report form;

4.7 (iii) verification of self-study programs by a certificate of completion or other
4.8 documentation indicating that the individual has demonstrated knowledge and has
4.9 successfully completed the program; or

4.10 (iv) verification of attendance at a university, college, or vocational course by an
4.11 official transcript.

4.12 Sec. 5. Minnesota Statutes 2008, section 148.5194, subdivision 2, is amended to read:

4.13 Subd. 2. **Speech-language pathologist biennial licensure fee.** The fee for initial
4.14 licensure and biennial licensure, clinical fellowship licensure, temporary licensure, or
4.15 renewal for a speech-language pathologist is \$200.

4.16 Sec. 6. Minnesota Statutes 2008, section 148.5194, subdivision 3, is amended to read:

4.17 Subd. 3. **Biennial licensure fee for dual licensure as a speech-language**
4.18 **pathologist and audiologist.** The fee for initial licensure and biennial licensure, clinical
4.19 fellowship licensure, doctoral externship, temporary license, or renewal is ~~\$200~~ \$435.

4.20 Sec. 7. Minnesota Statutes 2008, section 148.5194, subdivision 7, is amended to read:

4.21 Subd. 7. **Audiologist surcharge biennial licensure fee.** (a) The biennial ~~surcharge~~
4.22 licensure fee for audiologists is ~~\$235.~~ ~~The commissioner shall prorate the fee for~~
4.23 ~~clinical fellowship, doctoral externship, temporary, and first-time initial applicants and~~
4.24 ~~renewal~~ licensees according to the number of months that have elapsed between the date
4.25 ~~the license is issued and the date the license expires or must be renewed under section~~
4.26 ~~148.5191, subdivision 4~~ is \$435.

4.27 (b) The audiologist ~~surcharge~~ fee is for practical examination costs greater than
4.28 audiologist exam fee receipts and for complaint investigation, enforcement action
4.29 and consumer information; and assistance expenditures related to hearing instrument
4.30 dispensing.

4.31 Sec. 8. Minnesota Statutes 2008, section 148.6402, subdivision 13, is amended to read:

5.1 Subd. 13. **Licensed health care professional.** "Licensed health care professional"
5.2 means a person licensed in good standing in Minnesota to practice medicine, osteopathy,
5.3 chiropractic, podiatry, advanced practice registered nursing, or dentistry, or is a person
5.4 registered as a physician assistant in Minnesota.

5.5 Sec. 9. Minnesota Statutes 2008, section 148.6402, subdivision 22a, is amended to
5.6 read:

5.7 Subd. 22a. **Limited license.** "Limited license" means a license issued according
5.8 to section 148.6425, subdivision 3, paragraph (c), to persons who ~~have allowed their~~
5.9 ~~license to lapse for four~~ two years or more ~~and did not apply for a license after meeting~~
5.10 the requirements in section 148.6408 or 148.6410 or who choose a supervised practice
5.11 ~~as the method for renewing their license status~~ allowed their license to lapse for four
5.12 years or more.

5.13 Sec. 10. Minnesota Statutes 2008, section 148.6405, is amended to read:

5.14 **148.6405 LICENSURE APPLICATION REQUIREMENTS: PROCEDURES**
5.15 **AND QUALIFICATIONS.**

5.16 (a) An applicant for licensure must comply with the application requirements
5.17 in section 148.6420. To qualify for licensure, an applicant must satisfy one of the
5.18 requirements in paragraphs (b) to (f) and not be subject to denial of licensure under
5.19 section 148.6448.

5.20 (b) A person who applies for licensure as an occupational therapist and who has not
5.21 been credentialed by the National Board for Certification in Occupational Therapy or
5.22 another jurisdiction must meet the requirements in section 148.6408.

5.23 (c) A person who applies for licensure as an occupational therapy assistant and who
5.24 has not been credentialed by the National Board for Certification in Occupational Therapy
5.25 or another jurisdiction must meet the requirements in section 148.6410.

5.26 (d) A person who is certified by the National Board for Certification in Occupational
5.27 Therapy may apply for licensure by equivalency and must meet the requirements in
5.28 section 148.6412.

5.29 (e) A person who is credentialed in another jurisdiction may apply for licensure by
5.30 reciprocity and must meet the requirements in section 148.6415.

5.31 (f) A person who applies for temporary licensure must meet the requirements in
5.32 section 148.6418.

6.1 (g) A person who applies for licensure under paragraph (b), (c), or (f), more than two
6.2 and less than four years after meeting the requirements in section 148.6408 or 148.6410
6.3 must submit the following:

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

6.6 (2) the license application fee required under section 148.6445;

6.7 (3) if applying for occupational therapist licensure, proof of having met a minimum
6.8 of 24 contact hours of continuing education in the two years preceding licensure
6.9 application, or if applying for occupational therapy assistant licensure, proof of having
6.10 met a minimum of 18 contact hours of continuing education in the two years preceding
6.11 licensure application;

6.12 (4) verified documentation of successful completion of 160 hours of supervised
6.13 practice approved by the commissioner under a limited license specified in section
6.14 148.6425, subdivision 3, paragraph (c); and

6.15 (5) additional information as requested by the commissioner to clarify information
6.16 in the application, including information to determine whether the individual has engaged
6.17 in conduct warranting disciplinary action under section 148.6448. The information must
6.18 be submitted within 30 days after the commissioner's request.

6.19 (h) A person who applied for licensure under paragraph (b), (c), or (f), four years
6.20 or more after meeting the requirements in section 148.6408 or 148.6410 must meet
6.21 all the requirements in paragraph (g) except items (3) and (4), submit documentation
6.22 of having retaken and passed the credentialing examination for occupational therapist
6.23 or occupational therapy assistant, or of having completed an occupational therapy
6.24 refresher program that contains both a theoretical and clinical component approved by
6.25 the commissioner, and verified documentation of successful completion of 480 hours of
6.26 supervised practice approved by the commissioner under a limited license specified in
6.27 section 148.6425, subdivision 3, paragraph (c). Only refresher courses completed within
6.28 one year prior to date of application qualify for approval.

6.29 Sec. 11. Minnesota Statutes 2008, section 148.6440, subdivision 2, is amended to read:

6.30 Subd. 2. **Written documentation required.** (a) An occupational therapist must
6.31 provide to the commissioner documentation verifying that the occupational therapist
6.32 has met the educational and clinical requirements described in subdivisions 3 to 5,
6.33 depending on the modality or modalities to be used. Both theoretical training and clinical
6.34 application objectives must be met for each modality used. Documentation must include
6.35 the name and address of the individual or organization sponsoring the activity; the

7.1 name and address of the facility at which the activity was presented; and a copy of the
7.2 course, workshop, or seminar description, including learning objectives and standards
7.3 for meeting the objectives. In the case of clinical application objectives, teaching
7.4 methods must be documented, including actual supervised practice. Documentation must
7.5 include a transcript or certificate showing successful completion of the coursework.

7.6 Coursework completed more than two years prior to date of application must be retaken.

7.7 An occupational therapist who is a certified hand therapist shall document satisfaction
7.8 of the requirements in subdivisions 3 to 5 by submitting to the commissioner a copy of
7.9 a certificate issued by the Hand Therapy Certification Commission. Practitioners are
7.10 prohibited from using physical agent modalities under supervision or independently until
7.11 granted approval as provided in subdivision 7, except under the provisions in paragraph
7.12 (b).

7.13 (b) If a practitioner has successfully completed a specific course previously reviewed
7.14 and approved by the commissioner as provided for in subdivision 7, and has submitted the
7.15 written documentation required in paragraph (a) within 30 calendar days from the course
7.16 date, the practitioner awaiting written approval from the commissioner may use physical
7.17 agent modalities under the supervision of a practitioner listed on the roster of persons
7.18 approved to use physical agent modalities.

7.19 Sec. 12. Minnesota Statutes 2008, section 151.01, subdivision 27, is amended to read:

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

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

7.22 (2) compounding, labeling, and dispensing drugs and devices (except labeling by
7.23 a manufacturer or packager of nonprescription drugs or commercially packaged legend
7.24 drugs and devices);

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

7.27 (4) participation in drug and therapeutic device selection; drug administration for
7.28 first dosage and medical emergencies; drug regimen reviews; and drug or drug-related
7.29 research;

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

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

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

8.6 (6) participation in the practice of managing drug therapy and modifying drug
8.7 therapy, according to section 151.21, subdivision 1, according to a written protocol
8.8 between the specific pharmacist and the individual dentist, optometrist, physician,
8.9 podiatrist, or veterinarian who is responsible for the patient's care and authorized to
8.10 independently prescribe drugs. Any significant changes in drug therapy must be reported
8.11 by the pharmacist to the patient's medical record;

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

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

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

8.17 Sec. 13. Minnesota Statutes 2008, section 151.01, subdivision 27, is amended to read:

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

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

8.20 (2) compounding, labeling, and dispensing drugs and devices (except labeling by
8.21 a manufacturer or packager of nonprescription drugs or commercially packaged legend
8.22 drugs and devices);

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

8.25 (4) participation in drug and therapeutic device selection; drug administration for
8.26 first dosage and medical emergencies; drug regimen reviews; and drug or drug-related
8.27 research;

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

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

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

9.3 (6) participation in the practice of managing drug therapy and modifying drug
9.4 therapy, according to section 151.21, subdivision 1, according to a written protocol
9.5 between the specific pharmacist and the individual dentist, optometrist, physician,
9.6 podiatrist, or veterinarian who is responsible for the patient's care and authorized to
9.7 independently prescribe drugs. Any significant changes in drug therapy must be reported
9.8 by the pharmacist to the patient's medical record;

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

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

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

9.14 Sec. 14. Minnesota Statutes 2008, section 157.16, subdivision 2, is amended to read:

9.15 Subd. 2. **License renewal.** Initial and renewal licenses for all food and beverage
9.16 service establishments, hotels, motels, lodging establishments, public pools, and resorts
9.17 shall be issued ~~for the calendar year for which application is made and shall expire on~~
9.18 ~~December 31 of such year~~ on an annual basis. Any person who operates a place of
9.19 business after the expiration date of a license or without having submitted an application
9.20 and paid the fee shall be deemed to have violated the provisions of this chapter and shall
9.21 be subject to enforcement action, as provided in the Health Enforcement Consolidation
9.22 Act, sections 144.989 to 144.993. In addition, a penalty of \$50 shall be added to the total
9.23 of the license fee for any food and beverage service establishment operating without a
9.24 license as a mobile food unit, a seasonal temporary or seasonal permanent food stand, or a
9.25 special event food stand, and a penalty of \$100 shall be added to the total of the license fee
9.26 for all restaurants, food carts, hotels, motels, lodging establishments, public pools, and
9.27 resorts operating without a license for a period of up to 30 days. A late fee of \$300 shall be
9.28 added to the license fee for establishments operating more than 30 days without a license.

9.29 Sec. 15. Minnesota Statutes 2008, section 157.16, subdivision 4, is amended to read:

9.30 Subd. 4. **Posting requirements.** Every food and beverage service establishment,
9.31 hotel, motel, lodging establishment, public pool, or resort must have the license posted
9.32 in a conspicuous place at the establishment. Mobile food units, food carts, and seasonal
9.33 temporary food stands shall be issued decals with the initial license and each calendar year

10.1 with license renewals. The current license year decal must be placed on the unit or stand
10.2 in a location determined by the commissioner. Decals are not transferable.

10.3 Sec. 16. **MINIMUM DATA SET, VERSION 3.0.**

10.4 The commissioner of health shall implement the minimum data set, version 3.0
10.5 (MDS 3.0) for the resident reimbursement classification in Minnesota Statutes, section
10.6 144.0724, using the rules and guidelines when they are published by the United States
10.7 Department of Health and Human Services, Centers for Medicare and Medicaid Services.
10.8 Implementation of MDS 3.0 must correspond to the implementation times specified in the
10.9 federal requirements. The commissioners of health and human services shall establish
10.10 procedures for the transition from resource utilization groups (RUGs) to MDS 3.0 for
10.11 resident reimbursement classification.

10.12 Sec. 17. **REVISOR'S INSTRUCTION.**

10.13 The revisor of statutes shall renumber Minnesota Statutes, section 43A.312, as
10.14 62J.63 and make any cross-reference changes in Minnesota Statutes.

10.15 Sec. 18. **REPEALER.**

10.16 Minnesota Rules, parts 4610.0420; 4610.0500, subparts 1, 2, 3, and 5; 4610.0600,
10.17 subparts 1, 3, and 4; and 4610.0650, are repealed July 1, 2009.