

CHAPTER 274—S.F.No. 2851

An act relating to health; making technical changes to licensing provisions; amending Minnesota Statutes 2008, sections 144.55, subdivision 2; 148.5193, subdivision 6; 148.5195, subdivision 3; 148.6418, subdivisions 1, 2; Minnesota Statutes 2009 Supplement, section 148.6405.

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

Section 1. Minnesota Statutes 2008, section 144.55, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For the purposes of this section, the following terms have the meanings given:

(a) "Outpatient surgical center" or "center" means a freestanding facility organized for the specific purpose of providing elective outpatient surgery for preexamined, prediagnosed, low-risk patients. Admissions are limited to procedures that utilize general anesthesia or conscious sedation and that do not require overnight inpatient care. An outpatient surgical center is not organized to provide regular emergency medical services and does not include a physician's or dentist's office or clinic for the practice of medicine, the practice of dentistry, or the delivery of primary care.

(b) "Approved accrediting organization" means ~~the Joint Commission on Accreditation of Health Care Organizations or the American Osteopathic Association~~ any organization recognized as an accreditation organization by the Centers for Medicare and Medicaid Services.

Sec. 2. Minnesota Statutes 2008, section 148.5193, subdivision 6, is amended to read:

Subd. 6. **Records of attendance.** (a) A licensee must maintain for four years records of attending the continuing education contact hours required for licensure renewal.

(b) An applicant for licensure renewal must submit documentation demonstrating compliance with continuing education requirements of the American Speech-Language-Hearing Association or the American Board of Audiology or an equivalent, or the following information on a form provided by the commissioner: the sponsoring organization, the dates of the course, the course name, the number of contact hours completed, and the name and signature of the licensee. ~~The form must be submitted with the renewal application under section 148.5191, subdivision 1.~~

Sec. 3. Minnesota Statutes 2008, section 148.5195, subdivision 3, is amended to read:

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

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

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

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

(4) violated sections 148.511 to 148.5198;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4. Minnesota Statutes 2009 Supplement, section 148.6405, is amended to read:

148.6405 LICENSURE APPLICATION REQUIREMENTS: PROCEDURES AND QUALIFICATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

(h) A person who applied for licensure under paragraph (b), (c), or (f) four years or more after meeting the requirements in section 148.6408 or 148.6410 must meet all the requirements in paragraph (g) except clauses (3) and (4), submit documentation of having retaken and passed the credentialing examination for occupational therapist or occupational therapy assistant, or of having completed an occupational therapy refresher program that contains both a theoretical and clinical component approved by the commissioner, and verified documentation of successful completion of 480 hours of supervised practice approved by the commissioner under a limited license specified in section 148.6425, subdivision 3, paragraph (c). The 480 hours of supervised practice must be completed in six months and may be completed at the applicant's place of work. Only refresher courses completed within one year prior to the date of application qualify for approval.

Sec. 5. Minnesota Statutes 2008, section 148.6418, subdivision 1, is amended to read:

Subdivision 1. **Application.** The commissioner shall issue temporary licensure as an occupational therapist or occupational therapy assistant to applicants who ~~have applied for licensure under section 148.6408, subdivisions 1 and 2, 148.6410, subdivisions 1~~

~~and 2, 148.6412, or 148.6415 and who~~ are not the subject of a disciplinary action or past disciplinary action, nor disqualified on the basis of items listed in section 148.6448, subdivision 1.

Sec. 6. Minnesota Statutes 2008, section 148.6418, subdivision 2, is amended to read:

Subd. 2. **Procedures.** To be eligible for temporary licensure, an applicant must submit ~~the~~ a completed application materials required by section 148.6420, subdivision 1 for temporary licensure on forms provided by the commissioner, the fees required by section 148.6445, and one of the following:

(1) evidence of successful completion of the requirements in section 148.6408, subdivision 1, or 148.6410, subdivision 1;

(2) a copy of a current and unrestricted credential for the practice of occupational therapy as either an occupational therapist or occupational therapy assistant in another jurisdiction; or

(3) a copy of a current and unrestricted certificate from the National Board for Certification in Occupational Therapy stating that the applicant is certified as an occupational therapist or occupational therapy assistant.

Presented to the governor April 22, 2010

Signed by the governor April 26, 2010, 5:08 p.m.