

# House Research Act Summary

**CHAPTER:** 361

**SESSION:** 2000 Regular Session

**TOPIC:** Licensure of Occupational Therapists and Occupational Therapy Assistants

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## Overview

Occupational therapists and occupational therapy assistants were previously registered by the Health Department, and their registration requirements were located in rule. This bill codifies the rules governing occupational therapists and occupational therapy assistants and creates a licensing system.

- 1 **Scope.** Adds § 148.6401. Specifies that the sections governing occupational therapist and occupational therapy assistant licensure apply to applicants for licensure, licensees, people who use protected titles, and people who represent that they are licensed.
- 2 **Definitions.** Adds § 148.6402. Defines the following terms: advisory council, biennial licensure period, commissioner, contact hour, credential, credentialing examination for occupational therapist, credentialing examination for occupational therapy assistant, delegate, direct supervision, electrical stimulation device, electrotherapy, licensed health care professional, occupational therapist, occupational therapy, occupational therapy assistant, physical agent modalities, provisional licensure, license or licensed, licensee, licensure by equivalency, licensure by reciprocity, service competency, superficial physical agency modality, temporary licensure, and ultrasound device.
- 3 **Licensure; protected titles and restrictions on use; exempt persons; sanctions.** Adds § 148.6403. Prohibits unlicensed practice. Lists protected titles, and lists people who are exempt from licensure. Allows people credentialed in other states to use certain titles only if they clearly designate the state in which they are credentialed. Makes a person who holds himself or herself out as an occupational therapist or occupational therapy assistant without being licensed subject to sanctions against continuing the prohibited activity.
- 4 **Scope of practice.** Adds § 148.6404. Specifies what constitutes the practice of occupational therapy by an occupational therapist or occupational therapy assistant.
- 5 **Licensure requirements; procedures and qualifications.** Adds § 148.6405. Provides

references to the licensure requirements for all applicants for licensure, for non-credentialed applicants, for applicants for licensure by equivalency or by reciprocity, and for applicants for temporary licensure.

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

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

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

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

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

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

8 **Licensure by equivalency.** Adds § 148.6412. Specifies requirements for being licensed by equivalency.

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

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

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

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

10 **Temporary licensure.** Adds § 148.6418. Establishes requirements for temporary licensure.

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

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

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

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

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

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

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

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

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

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

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

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

**Subd. 1. Renewal requirements.** Requires an applicant for licensure renewal to submit a completed application, a renewal fee, proof of having met continuing education requirements,

and additional information requested by the commissioner.

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

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

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

**Subd. 1. Removal of name from list.** If a licensee does not renew a license by the license expiration date, specifies that the licensee's name is removed from the list of people authorized to practice occupational therapy and use protected titles. Requires such licensees to meet the requirements of this section to regain licensed status.

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

**Subd. 3. Licensure renewal four years or more after licensure expiration date.** Lists the items an individual seeking licensure renewal four years or more after the license expiration date must submit to subsequently renew a license.

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

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

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

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

18 **Recipient notification.** Adds § 148.6438. In the absence of a physician referral or prior authorization and before providing occupational therapy services for payment to a client,

requires occupational therapists to give clients (or parents or guardians) a written notice that their provider, insurer, or health plan may require physician referral or prior authorization. Allows a nonwritten notice to be provided if necessary to accommodate the client or client's guardian. Makes the occupational therapist responsible for providing evidence of complying with this section.

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

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

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

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

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

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

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

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

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

**Subd. 8. Penalties for noncompliance.** Directs the commissioner to refuse to grant or renew or to limit the license of any person who fails to meet the continuing education requirements. Allows a licensee to request reconsideration of this decision within 30 days of being notified of the decision.

21 **Fees; surcharge.** Adds § 148.6445. Establishes the following fees: initial licensure fee, licensure renewal fee, late fee, temporary licensure fee, limited licensure fee, fee for course approval after lapse of license, certification to other states, and verification to institutions. Also establishes a surcharge applicable until June 17, 2001. Specifies that all fees are nonrefundable.

- 22 **Grounds for denial of licensure or discipline; investigation procedures; disciplinary actions.** Adds § 148.6448. Lists grounds for disciplinary action and specifies investigation procedures. Specifies the disciplinary actions the commissioner may take and the effect of certain disciplinary actions. Allows a person whose license has been suspended to apply for reinstatement.
- Subd. 1. Grounds for denial of licensure or discipline.** Lists the actions that constitute grounds for disciplinary action or for denial of licensure by the commissioner.
- Subd. 2. Investigation of complaints.** Allows the commissioner or a member of the advisory council when authorized by the commissioner to initiate an investigation based on a complaint received that alleges a violation of any section governing practitioners.
- Subd. 3. Disciplinary actions.** Specifies the disciplinary actions the commissioner may take, if the commissioner finds that an occupational therapist or occupational therapy assistant should be disciplined.
- Subd. 4. Effect of specific disciplinary action on use of title.** Prohibits a person whose license is not renewed or who is no longer authorized to practice occupational therapy from using protected titles and representing to the public that the person is licensed.
- Subd. 5. Reinstatement requirements after disciplinary action.** Permits a person whose license has been suspended to request reinstatement after a suspension period specified by the commissioner. Requires conditions imposed by the commissioner and requirements for licensure renewal to be met before reinstatement can occur.
- 23 **Occupational therapy practitioners advisory council.** Adds § 148.6450. Establishes a seven-member advisory council. Specifies that the makeup of the council includes two public members, two occupational therapists, two occupational therapy assistants, and one licensed or registered health care practitioner who works collaboratively with occupational therapy practitioners. Lists the council's duties.
- 24 **Repealer.** Repeals existing rules governing registration of occupational therapists and occupational therapy assistants.
- 25 **Effective date.** Makes the act effective immediately.