

HOUSE RESEARCH

Bill Summary

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Overview

This bill prohibits granting or renewing a license for a health professional who has been convicted of specified felony level criminal sexual conduct offenses. It makes technical changes to practice acts related to nursing, professional counseling, social work, and dentistry.

- 1 Conviction of a felony-level criminal sexual conduct offense.** Amends § 148.10, subd. 7. Provides that the Board of Chiropractic Examiners shall not grant or renew a license to practice to any person convicted on or after August 1, 2011, of one of the enumerated felony-level sexual offenses.
- 2 Registration; failure to register; reregistration; verification.** Amends § 148.231. Strikes obsolete language and references to administrative rules.
- 3 General requirements.** Amends § 148B.5301, subd. 1. Strikes obsolete language.
- 4 Conversion from licensed professional counselor to licensed professional clinical counselor.** Amends § 148B.5301, subd. 3. Extends the conversion date from August 1, 2011, to August 1, 2013.
- 5 Conversion to licensed professional clinical counselor after August 1, 2013.** Amends § 148B.5301, subd. 4. Makes a conforming change to reflect the change in the conversion date made in section 8.
- 6 Continuing education.** Amends § 148B.54, subd. 2. Adds that each licensee in the first four years of licensure must complete 40 hours of continuing education. Permits graduate course hours, successfully completed, in the first four years of licensure to apply both to the graduate credit requirement and the continuing education requirement.
- 7 Relicensure following termination.** Amends § 148.54, subd. 3. Allows an individual whose license was terminated and who can demonstrate completion of graduate credit requirements to be exempt from continuing education requirements in order to get the license reinstated. Provides that this section does not apply to individuals whose licenses have been canceled.
- 8 Students and other persons not currently licensed in another jurisdiction.** Amends § 148E.060, subd. 1. Makes a technical change. Adds that a temporary license to practice social work expires after

six months.

Provides this section is effective August 1, 2011.

- 9 Emergency situations and persons currently licensed in another jurisdiction.** Amends § 148E.060, subd. 2. Makes a technical change. Adds that a temporary license to practice social work expires after six months.
- Provides this section is effective August 1, 2011.
- 10 Programs in candidacy status.** Amends § 148E.060, by adding subd. 2b. Paragraph (a) permits the board to issue a temporary license to practice social work to an applicant from a social work program in candidacy status if the applicant has complied with all licensure requirements.
- Paragraph (b) provides that the temporary permit expires after 12 months, but may be extended at the board's discretion.
- Provides this section is effective August 1, 2011.
- 11 Teachers.** Amends § 148E.060, subd. 3. Provides that a temporary social work license issued to teachers expires after 12 months.
- Provides an August 1, 2011, effective date.
- 12 Temporary license term.** Amends § 148E.060, subd. 5. Makes conforming changes.
- Provides an August 1, 2011, effective date.
- 13 Requirements of supervisors.** Amends § 148E.120. Modifies the requirements for alternate supervisors. In subdivision 2:
- Paragraph (a) allows the board to approve a qualified licensed mental health professional to provide up to 25 percent of the required hours of supervision to become licensed as a social worker.
- Paragraph (b) provides the conditions under which the board can approve an alternate supervisor to provide up to 100 percent of the required supervision hours.
- Paragraph (c) lays out the requirements the supervisee must meet in order to receive approval for an alternate supervisor.
- Provides an effective date of August 1, 2011.
- 14 Generally.** Amends § 150A.02, subd. 1. Requires one board member who is a licensed dentist to be involved with the education, employment or utilization of a dental therapist or advanced dental therapist.
- 15 Specialty dentists.** Amends § 150A.06, subd. 1c. Makes a technical change.
- 16 Dental therapist.** Amends § 150A.06, subd. 1d. Requires clinical examinations for dental therapy and advanced dental therapy to be comparable to those administered to dental students for the same competencies.
- 17 Waiver of examination.** Amends § 150A.06, subd. 3. Makes technical changes.
- 18 Licensure by credentials.** Amends § 150A.06, subd. 4. Adds a requirement that a dentist or dental therapist who is applying for licensure based on performance rather than examination to have passed all components of the National Board of Dental Examinations.

- 19 Display of name and certificates.** Amends § 150A.06, subd. 6. Allows the board to permit a licensee to display a wallet-sized license and renewal certificate only at nonprimary practice locations.
- 20 Current address, change of address.** Amends § 150A.09, subd. 3. Requires licensees to provide their email address to the board.
- 21 Use of dental assistants.** Amends § 150A.105, subd. 7. Makes technical changes.
- 22 General.** Amends § 150A.106, subd. 1. Adds that an advanced dental therapist must pass a certification examination comparable to those administered to dental students.
- 23 Immunity.** Amends § 150A.14. Adds a cross reference to the new language on criminal history record checks. Adds that members of the board and consultants retained by the board are considered state employees for purposes of tort claim indemnification.
- 24 Health-related boards.** Amends § 214.09, by adding subd. 5. Prohibits current members of a board from seeking a paid employment position with that board.
- 25 Health-related licensing boards; complaint, investigation, and hearing.** Amends § 214.103.

Subd. 1. Application. No changes made in this subdivision.

Subd. 1a. Notifications and resolution. Paragraph (a) provides that within 14 days of receipt of a complaint, the board must notify the complainant of receipt of the complaint and a written description of the review process. Requires the board to contact the complainant at least every 120 days of the status of the complaint.

Paragraph (b) requires the board, within 60 days of receipt of the complaint, to notify the licensee of the substance of the complaint, the laws that have allegedly been violated, the sections of professional rules that have allegedly been violated, and whether an investigation is being conducted.

Paragraph (c) requires the board to notify the licensee at least every 120 days of the status of the complaint.

Paragraph (d) provides that the board is not required to make notifications to the licensee if the notice would compromise the investigation or the notice cannot reasonably be accomplished within the time frames.

Paragraph (e) requires the board to resolve or dismiss a complaint within one year unless this cannot reasonably be accomplished and is not in the public interest.

Paragraph (f) provides that the board's failure to comply with the above paragraphs does not deprive the board of jurisdiction to complete the investigation or take action against a licensee.

Subd. 2. Receipt of complaint. Requires complainants to state the complaint in writing or authorize transcription of an oral complaint.

Subd. 3. Referral to other agencies. Permits government agencies to coordinate and conduct joint investigations when a complaint involves more than one agency.

Subd. 4. Role of the attorney general. No changes.

Subd. 5. Investigation by the attorney general. Adds that when the designee of the attorney general completes an investigation, the designee shall forward the report to the executive director of the board with recommendations for further consideration or dismissal.

Subd. 6. Attempts at resolution. Adds that neither the executive director nor any member of the board's staff shall be a voting member on a disciplinary review panel. Strikes the provision that a contested case hearing can be initiated by the executive director if attempts at resolution are not satisfactory to the executive director.

Subd. 7. Contested case hearing. Requires the concurrence of a second board member in order for the executive director to initiate a contested case hearing when there is a determination that resolution of a complaint is not in the public interest.

Subd. 8. Dismissal and reopening of a complaint. Adds that the board cannot reopen a dismissed complaint unless it receives newly discovered information that was not available during the initial investigation or the board receives a new complaint that indicates a pattern of behavior or conduct.

Subd. 9. Information to complainant. No change.

Subd. 10. Prohibited participation by board member. No change.

26 Conviction of felony-level criminal sexual conduct offense. Creates section 214.107.

Subd. 1. Applicability. Provides that this section applies to all health-related licensing boards, except medical practice, and also applies to the Board of Barber Examiners, the Board of Cosmetologist Examiners, and speech-language pathologists and audiologists, hearing instrument dispensers, and occupational therapists and occupational therapy assistants (professions credentialed by the Minnesota Department of Health). The Board of Medical Practice and Board of Chiropractic Examiners already have statutes in place which prohibit granting a license to an individual who has been convicted of specified felony-level criminal sexual conduct crimes.

Subd. 2. Issuing and renewing a credential to practice. Paragraph (a) provides that a credentialing authority shall not issue or renew a credential to practice to any person convicted on, or after August 1, 2011, of any of the provisions of sections 609.342, subdivision 1 (criminal sexual conduct in the first degree), 609.343, subdivision 1 (criminal sexual conduct in the second degree), 609.344, subdivision 1, paragraphs (c) to (o) (criminal sexual conduct in the third degree), or 609.345, subdivision 1, paragraphs (b) to (o) (criminal sexual conduct in the fourth degree).

Paragraph (b) prohibits a credentialing authority from granting a credential to an individual who has been convicted in any other state or country on, or after August 1, 2011, of an offense where the elements are substantially similar to the offenses listed in paragraph (a).

Paragraph (c) provides for automatic revocation of a credential if a person is convicted of a crime listed in paragraph (a).

Paragraph (d) provides that denial or revocation of a license under this section is exempt from the provisions of chapter 364 (Criminal offenders; rehabilitation).

Paragraph (e) defines conviction.

Paragraph (f) establishes the conditions under which a credentialing authority can establish criteria to grant or renew a credential of an individual who has been convicted of an offense listed in paragraph (a). Prohibits a credentialing authority from granting or renewing a license if the victim of the offense was a patient or client at the time of the offense.

Provides an effective date of August 1, 2011.

- 27 Health-related licensing boards; licensee guidance.** Creates § 214.108. Allows a board to offer guidance to licensees about the application of laws and rules the board enforces. Provides that this guidance is not binding on any court or other adjudicatory body.
- 28 Recordkeeping.** Creates § 214.109. Allows a board to take administrative action against a regulated person whose records do not meet professional standards. Records that are fraudulent or could result in patient harm may be handled through disciplinary action.
- Allows the board to issue a warning for the first offense and require the regulated person to attend a remedial class. For a second offense, the board may require additional training and may assess a \$50 penalty. For a third offense, the board may require additional training and may assess a \$100 penalty.
- States that action under this section is not disciplinary action.
- 29 Exceptions.** Amends § 364.09. Adds that this section does not apply to individuals whose credential has been denied or revoked in accordance with section 214.107.
- Adds that this section does not apply to individuals whose license to practice nursing has been denied or revoked pursuant to section 148.192.
- Provides that this section is effective for credentials issued or renewed on, or after August 1, 2011.
- 30 Effective date.** Amends Laws 2010, chapter 349, section 1, by making a change to the effective date language so that the section applies to licenses issued or renewed on, or after August 1, 2010.
- 31 Effective date.** Amends Laws 2010, chapter 349, section 2, by making a change to the effective date language so that the section applies to licenses issued or renewed on, or after August 1, 2010.
- 32 Working group; psychiatric medications.** Paragraph (a) instructs the commissioner of health to convene a working group composed of the executive directors of specified health boards and professional associations to make recommendations on collaborative agreements between psychiatrists and mental health professionals for administration and management of psychiatric medications.
- Paragraph (b) places responsibility on the executive directors to set agendas, convene subsequent meetings, and issue a report to the legislature.
- Paragraph (c) excludes the working group from the provisions of section 15.059.
- 33 Report.** Requires the executive directors of the health related licensing boards to issue a report to the legislature with recommendations for the use of nondisciplinary cease and desist letters. Requires the report to be issued by December 15, 2011.
- 34 Revisor's instruction.** Instructs the Revisor to include in each practice act regulated by a credentialing authority listed in section 31 a statement of notification that all applicants for a credential and individuals renewing a credential are subject to the provisions of section 214.107.