

# Health Program Updates and Repealers

HF 1745 / SF 1445

## Description

This proposal updates a number of health programs in the following ways:

- **Repeal Minnesota Rule 4610** to eliminate a repetition of mortuary regulations already found in Minnesota Statutes Chapter 149A.
- **Amend the occupational regulations** for speech-hearing (SLP) to improve the effectiveness of the regulations and the efficiency of regulatory activity.
- Include **rider language to provide for the transition of the current case mix system** from the current federal assessment instrument to the new federal assessment instrument to be implemented October 1, 2010.
- **Reduce regulatory restrictiveness for Occupational Therapy Practitioners (OTPs)** for using physical agent modalities (PAMs) under the supervision of an approved practitioner.
- Develop fair and equitable fee schedules for Food Beverage Lodging (FBL) **licensing requirements**.

## Background

### Mortuary Science

In 1997 and again in 2007, mortuary regulations found in Minnesota Rule 4610 were moved into Minnesota Statutes Chapter 149A. Four of the 32 original rules were inadvertently not repealed at those times.

### Health Occupations Program (HOP)

The Health Occupations Program (HOP) has regulated speech language pathologists and audiologists since 1991 and occupational therapy practitioners since 1996. As HOP conducts regulatory activities affecting these occupations, it identifies ways to improve regulatory effectiveness. This proposal contains amendments having no measurable fiscal impact.

Each occupation has an advisory council comprised of consumers and practitioners. Members of these councils have reviewed and support the amendments.

### Case Mix 3.0

The Centers for Medicare & Medicaid Services (CMS) plans to replace the current federally prescribed health and functional assessment of nursing home residents, known as the Minimum Data Set (MDS). The MDS is the basis for classifying residents into Resource Utilization Groups, Version 3 (RUG-III) groups for purposes of establishing payment rates for Medicaid and private pay residents of the nursing facility. The current version, MDS 2.0, has been used in Minnesota to establish case mix classification and associated payment rates since 2002. The MDS 3.0 is to be implemented October 1, 2010.

### Occupational Therapist use of physical agent modalities

Using physical agent modalities in OTP practice requires special qualifications and training and MDH reviews applications from OTPs and issues written approvals. [Physical agent modalities involve use of heat, cold, ultrasound and/or electrotherapy in treatments.] Currently, state law requires that the OTP receive the written approval from the Commissioner of Health prior to using physical agent modalities. The proposal would allow use of physical agent modalities prior to the OTP receiving written commissioner approval if the OTP has completed a course previously approved by the commissioner.

### Food Beverage Lodging

Local agencies with delegation agreements have asked for statutory changes related to the licensing adjustments in Minnesota Statutes Section 157.16, subd 2. Currently, the statutory language marks December 31 as the license expiration date. Local agencies with delegation agreements for food, beverage and lodging licensing activities are affected by this statute.



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## **Proposed changes**

### **Mortuary Science**

This proposal repeals four remaining mortuary rules:

- 4610.0420 (Internship registration.)
  - Now found in 149A.20, 149A.40 and 149A.65.
- 4610.0500 (Mortician license application, renewal and endorsement.)
  - Now found in 149A.20, 149A.30, 149A.40 and 149A.65.
- 4610.0600 (Funeral director license application and renewal.)
  - This license is obsolete. The renewal application is found in 149A.40 and the renewal fee is found in 149A.65.
- 4610.0650 (Funeral establishment application and renewal.)

### **Health Occupations Program (HOP)**

This proposal contains changes to statutes that will reduce regulatory burdens on the professions, update or correct conflicts in requirements, or streamline administrative procedures.

For Speech Language Pathologists (SLP) and Audiologists the changes include modifying a service description in the scope of practice to make the language consistent with the national definition, substituting audits to replace required licensee submission of documents verifying attendance at continuing education

For Audiologists only it combines the current biennial base license fee of \$200 and the biennial surcharge fee of \$235 into one total biennial license fee of \$435. This change has no fiscal impact.

### **Case Mix 3.0**

The rider language provides that the Minnesota Department of Health will use the federal guidelines and timelines in transitioning from the MDS 2.0 and MDS 3.0. The Department of Health and Department of Human Services will establish procedures in transitioning rates under the current RUGS to the RUGS under MDS 3.0.

### **Occupational Therapist use of physical agent modalities**

The first change allows use of physical agent modalities (PAMs) under supervision and prior to

the OT receiving written commissioner approval if the OT has completed a course previously approved by the commissioner. This change reduces regulatory restrictiveness on Occupational Therapists' use of PAMs in the rehabilitation of neuromusculoskeletal dysfunction.

The second change updates the Chapter's definition of "licensed health care professional" by adding physician assistants and advanced practice nurses to the types of practitioners with whom OTs must coordinate their services.

A final set of changes for OT's addresses two inconsistencies in the regulations. The first is between requirements for first time applicants for a license and those licensees seeking to renew licensed status after a lapse of years. The proposed amendment would require first-time OT license applicants who waited some years after completing their education and national test to take continuing education, complete a refresher course, retake the exam before applying and/or apply for a limited license and work under supervision. The second change would require persons to retake the PAMs coursework if they wait more than two years before applying for Commissioner of Health approval to use PAMS in their practice after initially completing the (PAMs) training.

### **Food Beverage Lodging**

Section 157.16, subd 2 is being amended to delete the specific expiration date for food beverage and lodging establishments and to change it to an annual license that may be issued at any time during the year. This change is proposed in response to a request from the local delegated public health programs. The change in subd. 4 allows a mobile food unit to have a sticker rather than having to post its license.