

A bill for an act

relating to insurance; modifying certain regulations to reduce the incidence of insurance fraud; providing licensing authority penalties; regulating no-fault auto benefits; modifying certain economic benefits under chapter 65B; establishing a task force on motor vehicle insurance coverage verification; amending Minnesota Statutes 2012, sections 13.7191, subdivision 16; 60A.952, subdivision 3; 65B.44, subdivisions 2, 3, 4, 6; 65B.525, subdivision 1; 72A.502, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 45; repealing Minnesota Statutes 2012, section 72A.327.

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

Section 1. Minnesota Statutes 2012, section 13.7191, subdivision 16, is amended to read:

Subd. 16. **Regulation of trade practices; insurance contract data.** ~~(a) Insurance contract data.~~ Certain insurance contract data held by the commissioner of commerce are classified under section 72A.20, subdivision 15.

~~(b) Health claims appeals.~~ Documents that are part of an appeal from denial of health care coverage for experimental treatment are classified under section 72A.327.

Sec. 2. **[45.0137] LICENSING AUTHORITY PENALTIES.**

Subdivision 1. Definitions. (a) As used in this section, the following terms have the meaning given.

(b) "Appropriate licensing authority" means the state agency responsible for licensing and discipline of a provider.

(c) "Commissioner" means the commissioner of commerce.

(d) "Medical services" means those services eligible for reimbursement under section 65B.44, subdivision 2.

(e) "Provider of medical services" or "provider" means a person or entity that has provided medical services.

**Subd. 2. Authority to impose penalties.** In addition to any other disciplinary authority available, an appropriate licensing authority upon finding, after investigation as provided in subdivision 5, or referral by the commissioner, that a provider engaged in prohibited activities set forth in subdivision 4, may, by order:

(1) remove authorization for a provider of medical services to demand or request payment under chapter 65B for medical services;

(2) impose an administrative penalty against a provider of medical services not exceeding \$10,000 for each separate violation of engaging in the prohibited activities set forth in subdivision 4. The amount of the administrative penalty is to be fixed as to deprive the provider of medical services of any economic advantage gained by reason of the violation, to reimburse the appropriate licensing authority for the cost of counsel, investigation, and proceeding, and to discourage repeated violations;

(3) order restitution by the provider of medical services of any proceeds received by the provider of medical services in engaging in the prohibited activities set forth in subdivision 4.

**Subd. 3. Factors to consider in imposing penalties.** (a) In determining the penalties imposed under subdivision 2, the appropriate licensing authority must consider:

(1) the nature, circumstances, extent, gravity, and number of violations;

(2) the degree of culpability of the violator;

(3) prior offenses and repeated violations of the violator; and

(4) any other matter that the appropriate licensing authority considers appropriate and relevant.

(b) If an administrative penalty is not paid after all rights of appeal have been waived or exhausted, the appropriate licensing authority may bring a civil action in a court of competent jurisdiction to collect the administrative penalty, including expenses and litigation costs, reasonable attorney fees, and interest.

(c) This section does not affect the right to take any independent action to seek recovery against a provider who violates this section.

**Subd. 4. Prohibited activities.** A provider may be subject to the penalties as set forth in subdivision 2, if an appropriate licensing authority has found the provider, in connection with medical services rendered, to have:

(1) committed unprofessional conduct;

(2) practiced outside the provider's professional licensure;

3.1 (3) been found guilty of engaging in activities, including the use of runners, in  
3.2 violation of section 609.612;

3.3 (4) unlawfully refused to appear before, or to answer upon request of, a duly  
3.4 authorized officer of an appropriate licensing authority, any legal question, or to produce  
3.5 any relevant information concerning conduct in connection with providing medical  
3.6 services; or

3.7 (5) been found guilty of engaging in insurance fraud in violation of section 609.611.

3.8 Subd. 5. **Investigation.** (a) An appropriate licensing authority may investigate any  
3.9 reports, allegations, or other information in its possession regarding a provider of medical  
3.10 services engaging in any of the prohibited activities set forth in subdivision 4.

3.11 (b) The commissioner, consistent with the powers granted under section 45.027,  
3.12 may investigate any reports made under section 45.0135, or other information in the  
3.13 commissioner's possession, regarding providers of medical services engaging in any of  
3.14 the prohibited activities set forth in subdivision 4. After conducting an investigation, the  
3.15 commissioner may refer to the appropriate licensing authority a list of any providers who  
3.16 the commissioner believes may have engaged in any of the prohibited activities set forth in  
3.17 subdivision 4 together with a description of the grounds for inclusion on the list. Within 60  
3.18 days of receipt of the list, the appropriate licensing authority must notify the commissioner  
3.19 in writing of any action taken with respect to the provider of medical services, including  
3.20 whether an order was made under subdivision 2. The appropriate licensing authority must  
3.21 post on the appropriate licensing authority's Web site a list of providers for which an order  
3.22 was issued under subdivision 2. The appropriate licensing authority must post quarterly  
3.23 on its Web site the number of complaints filed against licensees, how many of those  
3.24 complaints were investigated, and how many of the complaints resulted in disciplinary  
3.25 action by the appropriate licensing authority.

3.26 (c) Hearings under this section must be conducted in accordance with chapter 14 and  
3.27 any other applicable law.

3.28 Subd. 6. **Not compensable.** If a provider renders medical services to an insured,  
3.29 notwithstanding issuance of an order under subdivision 2, clause (1), those medical  
3.30 services are not compensable under chapter 65B and may not be billed to the insured.

3.31 Sec. 3. Minnesota Statutes 2012, section 60A.952, subdivision 3, is amended to read:

3.32 Subd. 3. **Immunity from liability.** If insurers, insurance support organizations  
3.33 as defined in section 72A.491, subdivision 12, agents acting on the insurers' behalf, or  
3.34 authorized persons release information in good faith under this section, whether orally

or in writing, they are immune from any liability, civil or criminal, for the release or reporting of the information.

Sec. 4. Minnesota Statutes 2012, section 65B.44, subdivision 2, is amended to read:

Subd. 2. **Medical expense benefits.** (a) Medical expense benefits shall reimburse all reasonable expenses for necessary:

(1) medical, surgical, x-ray, optical, dental, chiropractic, and rehabilitative services, including prosthetic devices;

(2) prescription drugs, provided that:

(i) prescription drugs filled and dispensed outside of a licensed pharmacy shall be billed at the average wholesale price (AWP), or its equivalent, for that drug on that date as published in Medispan, Redbook, or Gold Standard Drug Database, as identified by its National Drug Code, plus a dispensing fee of \$4.18;

(ii) if a prescription drug has been repackaged, the average wholesale price used to determine the maximum reimbursement shall be the average wholesale price for the underlying drug product, as identified by its National Drug Code from the original labeler; and

(iii) compound drugs shall be billed by listing each drug and its National Drug Code number included in the compound and calculating the charge for each drug separately. Reimbursement shall be based on the sum of the fee for each ingredient for which there is an assigned National Drug Code number plus a single dispensing fee of \$4.18. Compound drugs shall not be dispensed without first obtaining preauthorization from the reparation obligor;

(3) ambulance and all other transportation expenses incurred in traveling to receive other covered medical expense benefits;

(4) sign interpreting and language translation services, other than such services provided by a family member of the patient, related to the receipt of medical, surgical, x-ray, optical, dental, chiropractic, hospital, extended care, nursing, and rehabilitative services; and

(5) hospital, extended care, and nursing services.

(b) Hospital room and board benefits may be limited, except for intensive care facilities, to the regular daily semiprivate room rates customarily charged by the institution in which the recipient of benefits is confined.

(c) Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of this state for an injured person who relies

upon spiritual means through prayer alone for healing in accordance with that person's religious beliefs.

(d) Medical expense loss includes medical expenses accrued prior to the death of a person notwithstanding the fact that benefits are paid or payable to the decedent's survivors.

(e) Medical expense benefits for rehabilitative services shall be subject to the provisions of section 65B.45.

Sec. 5. Minnesota Statutes 2012, section 65B.44, subdivision 3, is amended to read:

Subd. 3. **Disability and income loss benefits.** (a) Disability and income loss benefits shall provide compensation for 85 percent of the injured person's loss of present and future gross income from inability to work proximately caused by the nonfatal injury subject to a maximum of ~~\$250~~ \$500 per week. Loss of income includes the costs incurred by a self-employed person to hire substitute employees to perform tasks which are necessary to maintain the income of the injured person, which are normally performed by the injured person, and which cannot be performed because of the injury.

(b) If the injured person is unemployed at the time of injury and is receiving or is eligible to receive unemployment benefits under chapter 268, but the injured person loses eligibility for those benefits because of inability to work caused by the injury, disability and income loss benefits shall provide compensation for the lost benefits in an amount equal to the unemployment benefits which otherwise would have been payable, subject to a maximum of ~~\$250~~ \$500 per week.

(c) Compensation under this subdivision shall be reduced by any income from substitute work actually performed by the injured person or by income the injured person would have earned in available appropriate substitute work which the injured person was capable of performing but unreasonably failed to undertake.

(d) For the purposes of this section "inability to work" means disability which prevents the injured person from engaging in any substantial gainful occupation or employment on a regular basis, for wage or profit, for which the injured person is or may by training become reasonably qualified. If the injured person returns to employment and is unable by reason of the injury to work continuously, compensation for lost income shall be reduced by the income received while the injured person is actually able to work. The weekly maximums may not be prorated to arrive at a daily maximum, even if the injured person does not incur loss of income for a full week.

(e) For the purposes of this section, an injured person who is "unable by reason of the injury to work continuously" includes, but is not limited to, a person who misses time from work, including reasonable travel time, and loses income, vacation, or sick leave

6.1 benefits, to obtain medical treatment for an injury arising out of the maintenance or use  
6.2 of a motor vehicle.

6.3 Sec. 6. Minnesota Statutes 2012, section 65B.44, subdivision 4, is amended to read:

6.4 Subd. 4. **Funeral and burial expenses.** Funeral and burial benefits shall be  
6.5 reasonable expenses not in excess of ~~\$2,000~~ \$5,000, including expenses for cremation or  
6.6 delivery under the Darlene Luther Revised Uniform Anatomical Gift Act, chapter 525A.

6.7 Sec. 7. Minnesota Statutes 2012, section 65B.44, subdivision 6, is amended to read:

6.8 Subd. 6. **Survivors economic loss benefits.** Survivors economic loss benefits, in  
6.9 the event of death occurring within one year of the date of the accident, caused by and  
6.10 arising out of injuries received in the accident, are subject to a maximum of ~~\$200~~ \$500  
6.11 per week and shall cover loss accruing after decedent's death of contributions of money  
6.12 or tangible things of economic value, not including services, that surviving dependents  
6.13 would have received from the decedent for their support during their dependency had the  
6.14 decedent not suffered the injury causing death.

6.15 For the purposes of definition under sections 65B.41 to 65B.71, the following  
6.16 described persons shall be presumed to be dependents of a deceased person: (a) a wife  
6.17 is dependent on a husband with whom she lives at the time of his death; (b) a husband  
6.18 is dependent on a wife with whom he lives at the time of her death; (c) any child while  
6.19 under the age of 18 years, or while over that age but physically or mentally incapacitated  
6.20 from earning, is dependent on the parent with whom the child is living or from whom the  
6.21 child is receiving support regularly at the time of the death of such parent; or (d) an actual  
6.22 dependent who lives with the decedent at the time of the decedent's death. Questions of  
6.23 the existence and the extent of dependency shall be questions of fact, considering the  
6.24 support regularly received from the deceased.

6.25 Payments shall be made to the dependent, except that benefits to a dependent who  
6.26 is a child or an incapacitated person may be paid to the dependent's surviving parent or  
6.27 guardian. Payments shall be terminated whenever the recipient ceases to maintain a status  
6.28 which if the decedent were alive would be that of dependency.

6.29 Sec. 8. Minnesota Statutes 2012, section 65B.525, subdivision 1, is amended to read:

6.30 Subdivision 1. **Mandatory submission to binding arbitration.** ~~Except as~~  
6.31 ~~otherwise provided in section 72A.327,~~ The Supreme Court and the several courts of  
6.32 general trial jurisdiction of this state shall by rules of court or other constitutionally  
6.33 allowable device, provide for the mandatory submission to binding arbitration of all cases

at issue where the claim at the commencement of arbitration is in an amount of \$10,000 or less against any insured's reparation obligor for no-fault benefits or comprehensive or collision damage coverage.

Sec. 9. Minnesota Statutes 2012, section 72A.502, subdivision 2, is amended to read:

Subd. 2. **Prevention of fraud.** Personal or privileged information may be disclosed without a written authorization to another person if the information is limited to that which is reasonably necessary to detect or prevent criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with an insurance transaction, and that person agrees not to disclose the information further without the individual written authorization unless the further disclosure is otherwise permitted by this section if made by an insurer, insurance agent, or insurance-support organization. Any insurer, insurance agent, or insurance-support organization making such a disclosure is immune from liability under section 60A.952, subdivision 3.

Sec. 10. **TASK FORCE ON MOTOR VEHICLE INSURANCE COVERAGE VERIFICATION.**

Subdivision 1. **Establishment.** The task force on motor vehicle insurance coverage verification is established to review and evaluate approaches to insurance coverage verification and recommend legislation to create and fund a program in this state.

Subd. 2. **Membership; meetings; staff.** (a) The task force shall be composed of 13 members, who must be appointed by July 1, 2014, and who serve at the pleasure of their appointing authorities:

(1) the commissioner of public safety or a designee;

(2) the commissioner of commerce or a designee;

(3) two members of the house of representatives, one appointed by the speaker of the house and one appointed by the minority leader;

(4) two members of the senate, one appointed by the Subcommittee on Committees of the Committee on Rules and Administration and one appointed by the minority leader;

(5) a representative of Minnesota Deputy Registrars Association;

(6) a representative of AAA Minnesota;

(7) a representative of AARP Minnesota;

(8) a representative of the Insurance Federation of Minnesota;

(9) a representative of the Minnesota Bankers Association;

(10) a representative of the Minnesota Association for Justice;

(11) a representative of the Minnesota Police and Peace Officers Association; and

(12) a representative of the Minnesota chapter of the International Association of Special Investigation Units.

(b) Compensation and expense reimbursement must be as provided under Minnesota Statutes, section 15.059, subdivision 3, to members of the task force.

(c) The commissioner of public safety shall convene the task force by August 1, 2014, and shall appoint a chair from the membership of the task force. Staffing and technical assistance must be provided by the Department of Public Safety.

Subd. 3. **Duties.** The task force shall review and evaluate programs established in other states as well as programs proposed by third parties, identify one or more programs recommended for implementation in this state, and, as to the recommended programs, adopt findings concerning:

(1) comparative costs of programs;

(2) implementation considerations, and in particular, identifying the appropriate supervising agency and assessing compatibility with existing and planned computer systems;

(3) effectiveness in verifying existence of motor vehicle insurance coverage;

(4) identification of categories of authorized users;

(5) simplicity of access and use for authorized users;

(6) data privacy considerations;

(7) data retention policies; and

(8) statutory changes necessary for implementation.

Subd. 4. **Report.** By February 1, 2015, the task force must submit to the chairs and ranking minority members of the house of representatives and senate committees and divisions with primary jurisdiction over commerce and transportation its written recommendations, including any draft legislation necessary to implement the recommendations.

Subd. 5. **Sunset.** The task force shall sunset the day after submitting the report under subdivision 4, or February 2, 2015, whichever is earlier.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

**Sec. 11. REPEALER.**

Minnesota Statutes 2012, section 72A.327, is repealed.