CONFERENCE COMMITTEE REPORT ON H. F. No. 1760

A bill for an act

relating to human services; changing provisions for long-term care, adverse health care events, suicide prevention, doula services, developmental disabilities, mental health commitment, alternative care services, self-directed options, nursing facilities, ICF/MR facilities, and data management; requiring a safe patient handling plan; establishing a health department work group and an Alzheimer's disease work group; amending Minnesota Statutes 2008, sections 43A.318, subdivision 2; 62Q.525, subdivision 2; 144.7065, subdivisions 8, 10; 145.56, subdivisions 1, 2; 148.995, subdivisions 2, 4; 182.6551; 182.6552, by adding a subdivision; 252.27, subdivision 1a; 252.282, subdivisions 3, 5; 253B.095, subdivision 1; 256B.0657, subdivision 5; 256B.0913, subdivisions 4, 5a, 12; 256B.0915, subdivision 2; 256B.431, subdivision 10; 256B.433, subdivision 1; 256B.441, subdivisions 5, 11; 256B.5011, subdivision 2; 256B.5012, subdivisions 6, 7; 256B.5013, subdivisions 1, 6; 256B.69, subdivision 9b; 403.03; 626.557, subdivision 12b; proposing coding for new law in Minnesota Statutes, chapter 182; repealing Minnesota Statutes 2008, section 256B.5013, subdivisions 2, 3, 5.

May 17, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 1760 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 1760 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 62A.65, subdivision 4, is amended to read:

Subd. 4. **Gender rating prohibited.** (a) No individual health plan offered, sold, issued, or renewed to a Minnesota resident may determine the premium rate or any other underwriting decision, including initial issuance, through a method that is in any way based upon the gender of any person covered or to be covered under the health plan. This

subdivision prohibits the use of marital status or generalized differences in expected costs between principal insureds and their spouses.

(b) No health carrier may refuse to initially offer, sell, or issue an individual health plan to a Minnesota resident solely on the basis that the individual had a previous cesarean delivery.

Sec. 2. Minnesota Statutes 2008, section 62M.09, subdivision 3a, is amended to read:

Subd. 3a. **Mental health and substance abuse reviews.** (a) A peer of the treating mental health or substance abuse provider or a physician must review requests for outpatient services in which the utilization review organization has concluded that a determination not to certify a mental health or substance abuse service for clinical reasons is appropriate, provided that any final determination not to certify treatment is made by a psychiatrist certified by the American Board of Psychiatry and Neurology and appropriately licensed in this state or by a doctoral-level psychologist licensed in this state if the treating provider is a psychologist.

(b) Notwithstanding the notification requirements of section 62M.05, a utilization review organization that has made an initial decision to certify in accordance with the requirements of section 62M.05 may elect to provide notification of a determination to continue coverage through facsimile or mail.

(c) This subdivision does not apply to determinations made in connection with policies issued by a health plan company that is assessed less than three percent of the total amount assessed by the Minnesota Comprehensive Health Association.

Sec. 3. Minnesota Statutes 2008, section 62Q.525, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Medical literature" means articles from major peer reviewed medical journals that have recognized the drug or combination of drugs' safety and effectiveness for treatment of the indication for which it has been prescribed. Each article shall meet the uniform requirements for manuscripts submitted to biomedical journals established by the International Committee of Medical Journal Editors or be published in a journal specified by the United States Secretary of Health and Human Services pursuant to United States Code, title 42, section 1395x, paragraph (t), clause (2), item (B), as amended, as acceptable peer review medical literature. Each article must use generally acceptable scientific standards and must not use case reports to satisfy this criterion.

(c) "Off-label use of drugs" means when drugs are prescribed for treatments other than those stated in the labeling approved by the federal Food and Drug Administration.

(d) "Standard reference compendia" means~~:~~

~~(1) the United States Pharmacopeia Drug Information; or~~

~~(2) the American Hospital Formulary Service Drug Information~~ any authoritative compendia as identified by the Medicare program for use in the determination of a medically accepted indication of drugs and biologicals used off-label.

Sec. 4. Minnesota Statutes 2008, section 62U.01, subdivision 8, is amended to read:

Subd. 8. **Health plan company.** "Health plan company" has the meaning provided in section 62Q.01, subdivision 4. For the purposes of this chapter, health plan company shall include county-based purchasing arrangements authorized under section 256B.692.

Sec. 5. Minnesota Statutes 2008, section 62U.09, subdivision 2, is amended to read:

Subd. 2. **Members.** (a) The Health Care Reform Review Council shall consist of ~~14~~ 16 members who are appointed as follows:

(1) two members appointed by the Minnesota Medical Association, at least one of whom must represent rural physicians;

(2) one member appointed by the Minnesota Nurses Association;

(3) two members appointed by the Minnesota Hospital Association, at least one of whom must be a rural hospital administrator;

(4) one member appointed by the Minnesota Academy of Physician Assistants;

(5) one member appointed by the Minnesota Business Partnership;

(6) one member appointed by the Minnesota Chamber of Commerce;

(7) one member appointed by the SEIU Minnesota State Council;

(8) one member appointed by the AFL-CIO;

(9) one member appointed by the Minnesota Council of Health Plans;

(10) one member appointed by the Smart Buy Alliance;

(11) one member appointed by the Minnesota Medical Group Management Association; ~~and~~

(12) one consumer member appointed by AARP Minnesota;

(13) one member appointed by the Minnesota Psychological Association; and

(14) one member appointed by the Minnesota Chiropractic Association.

(b) If a member is no longer able or eligible to participate, a new member shall be appointed by the entity that appointed the outgoing member.

Sec. 6. Minnesota Statutes 2008, section 144.1501, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section, the following definitions apply.

(b) "Dentist" means an individual who is licensed to practice dentistry.

(c) "Designated rural area" means:

(1) an area in Minnesota outside the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, excluding the cities of Duluth, Mankato, Moorhead, Rochester, and St. Cloud; or

(2) a municipal corporation, as defined under section 471.634, that is physically located, in whole or in part, in an area defined as a designated rural area under clause (1).

(d) "Emergency circumstances" means those conditions that make it impossible for the participant to fulfill the service commitment, including death, total and permanent disability, or temporary disability lasting more than two years.

(e) "Medical resident" means an individual participating in a medical residency in family practice, internal medicine, obstetrics and gynecology, pediatrics, or psychiatry.

(f) "Midlevel practitioner" means a nurse practitioner, nurse-midwife, nurse anesthetist, advanced clinical nurse specialist, or physician assistant.

(g) "Nurse" means an individual who has completed training and received all licensing or certification necessary to perform duties as a licensed practical nurse or registered nurse.

(h) "Nurse-midwife" means a registered nurse who has graduated from a program of study designed to prepare registered nurses for advanced practice as nurse-midwives.

(i) "Nurse practitioner" means a registered nurse who has graduated from a program of study designed to prepare registered nurses for advanced practice as nurse practitioners.

(j) "Pharmacist" means an individual with a valid license issued under chapter 151.

(k) "Physician" means an individual who is licensed to practice medicine in the areas of family practice, internal medicine, obstetrics and gynecology, pediatrics, or psychiatry.

(l) "Physician assistant" means a person ~~registered~~ licensed under chapter 147A.

(m) "Qualified educational loan" means a government, commercial, or foundation loan for actual costs paid for tuition, reasonable education expenses, and reasonable living expenses related to the graduate or undergraduate education of a health care professional.

(n) "Underserved urban community" means a Minnesota urban area or population included in the list of designated primary medical care health professional shortage areas (HPSAs), medically underserved areas (MUAs), or medically underserved populations (MUPs) maintained and updated by the United States Department of Health and Human Services.

Sec. 7. Minnesota Statutes 2008, section 144.7065, subdivision 8, is amended to read:

Subd. 8. **Root cause analysis; corrective action plan.** Following the occurrence of an adverse health care event, the facility must conduct a root cause analysis of the event.

In conducting the root cause analysis, the facility must consider as one of the factors staffing levels and the impact of staffing levels on the event. Following the analysis, the facility must: (1) implement a corrective action plan to implement the findings of the analysis or (2) report to the commissioner any reasons for not taking corrective action. If the root cause analysis and the implementation of a corrective action plan are complete at the time an event must be reported, the findings of the analysis and the corrective action plan must be included in the report of the event. The findings of the root cause analysis and a copy of the corrective action plan must otherwise be filed with the commissioner within 60 days of the event.

Sec. 8. Minnesota Statutes 2008, section 144.7065, subdivision 10, is amended to read:

Subd. 10. **Relation to other law; data classification.** (a) Adverse health events described in subdivisions 2 to 6 do not constitute "maltreatment," "neglect," or "a physical injury that is not reasonably explained" under section 626.556 or 626.557 and are excluded from the reporting requirements of sections 626.556 and 626.557, provided the facility makes a determination within 24 hours of the discovery of the event that this section is applicable and the facility files the reports required under this section in a timely fashion.

(b) A facility that has determined that an event described in subdivisions 2 to 6 has occurred must inform persons who are mandated reporters under section 626.556, subdivision 3, or 626.5572, subdivision 16, of that determination. A mandated reporter otherwise required to report under section 626.556, subdivision 3, or 626.557, subdivision 3, paragraph (e), is relieved of the duty to report an event that the facility determines under paragraph (a) to be reportable under subdivisions 2 to 6.

(c) The protections and immunities applicable to voluntary reports under sections 626.556 and 626.557 are not affected by this section.

(d) Notwithstanding section 626.556, 626.557, or any other provision of Minnesota statute or rule to the contrary, neither a lead agency under section 626.556, subdivision 3c, or 626.5572, subdivision 13, the commissioner of health, nor the director of the Office of Health Facility Complaints is required to conduct an investigation of or obtain or create investigative data or reports regarding an event described in subdivisions 2 to 6. If the facility satisfies the requirements described in paragraph (a), the review or investigation shall be conducted and data or reports shall be obtained or created only under sections 144.706 to 144.7069, except as permitted or required under sections 144.50 to 144.564, or as necessary to carry out the state's certification responsibility under the provisions of sections 1864 and 1867 of the Social Security Act. If a licensed health care provider reports an event to the facility required to be reported under subdivisions 2 to 6, in a timely manner, the provider's licensing board is not required to conduct an investigation of

or obtain or create investigative data or reports regarding the individual reporting of the events described in subdivisions 2 to 6.

(e) Data contained in the following records are nonpublic and, to the extent they contain data on individuals, confidential data on individuals, as defined in section 13.02:

(1) reports provided to the commissioner under sections 147.155, 147A.155, 148.267, 151.301, and 153.255;

(2) event reports, findings of root cause analyses, and corrective action plans filed by a facility under this section; and

(3) records created or obtained by the commissioner in reviewing or investigating the reports, findings, and plans described in clause (2).

For purposes of the nonpublic data classification contained in this paragraph, the reporting facility shall be deemed the subject of the data.

Sec. 9. Minnesota Statutes 2008, section 144E.001, subdivision 3a, is amended to read:

Subd. 3a. **Ambulance service personnel.** "Ambulance service personnel" means individuals who are authorized by a licensed ambulance service to provide emergency care for the ambulance service and are:

(1) EMTs, EMT-Is, or EMT-Ps;

(2) Minnesota registered nurses who are: (i) EMTs, are currently practicing nursing, and have passed a paramedic practical skills test, as approved by the board and administered by a training program approved by the board; (ii) on the roster of an ambulance service on or before January 1, 2000; or (iii) after petitioning the board, deemed by the board to have training and skills equivalent to an EMT, as determined on a case-by-case basis; or

(3) Minnesota ~~registered~~ licensed physician assistants who are: (i) EMTs, are currently practicing as physician assistants, and have passed a paramedic practical skills test, as approved by the board and administered by a training program approved by the board; (ii) on the roster of an ambulance service on or before January 1, 2000; or (iii) after petitioning the board, deemed by the board to have training and skills equivalent to an EMT, as determined on a case-by-case basis.

Sec. 10. Minnesota Statutes 2008, section 144E.001, subdivision 9c, is amended to read:

Subd. 9c. **Physician assistant.** "Physician assistant" means a person ~~registered~~ licensed to practice as a physician assistant under chapter 147A.

Sec. 11. Minnesota Statutes 2008, section 145.56, subdivision 1, is amended to read:

Subdivision 1. **Suicide prevention plan.** The commissioner of health shall refine, coordinate, and implement the state's suicide prevention plan using an evidence-based, public health approach for a life span plan focused on awareness and prevention, in collaboration with the commissioner of human services; the commissioner of public safety; the commissioner of education; the chancellor of Minnesota State Colleges and Universities; the president of the University of Minnesota; and appropriate agencies, organizations, and institutions in the community.

Sec. 12. Minnesota Statutes 2008, section 145.56, subdivision 2, is amended to read:

Subd. 2. **Community-based programs.** To the extent funds are appropriated for the purposes of this subdivision, the commissioner shall establish a grant program to fund:

(1) community-based programs to provide education, outreach, and advocacy services to populations who may be at risk for suicide;

(2) community-based programs that educate community helpers and gatekeepers, such as family members, spiritual leaders, coaches, and business owners, employers, and coworkers on how to prevent suicide by encouraging help-seeking behaviors;

(3) community-based programs that educate populations at risk for suicide and community helpers and gatekeepers that must include information on the symptoms of depression and other psychiatric illnesses, the warning signs of suicide, skills for preventing suicides, and making or seeking effective referrals to intervention and community resources; and

(4) community-based programs to provide evidence-based suicide prevention and intervention education to school staff, parents, and students in grades kindergarten through 12, and for students attending Minnesota colleges and universities.

Sec. 13. Minnesota Statutes 2008, section 147.09, is amended to read:

147.09 EXEMPTIONS.

Section 147.081 does not apply to, control, prevent or restrict the practice, service, or activities of:

(1) A person who is a commissioned medical officer of, a member of, or employed by, the armed forces of the United States, the United States Public Health Service, the Veterans Administration, any federal institution or any federal agency while engaged in the performance of official duties within this state, if the person is licensed elsewhere.

(2) A licensed physician from a state or country who is in actual consultation here.

(3) A licensed or registered physician who treats the physician's home state patients or other participating patients while the physicians and those patients are participating together in outdoor recreation in this state as defined by section 86A.03, subdivision 3.

A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to promulgate the contents of that form by rule. No fee shall be charged for this registration.

(4) A student practicing under the direct supervision of a preceptor while the student is enrolled in and regularly attending a recognized medical school.

(5) A student who is in continuing training and performing the duties of an intern or resident or engaged in postgraduate work considered by the board to be the equivalent of an internship or residency in any hospital or institution approved for training by the board, provided the student has a residency permit issued by the board under section 147.0391.

(6) A person employed in a scientific, sanitary, or teaching capacity by the state university, the Department of Education, a public or private school, college, or other bona fide educational institution, a nonprofit organization, which has tax-exempt status in accordance with the Internal Revenue Code, section 501(c)(3), and is organized and operated primarily for the purpose of conducting scientific research directed towards discovering the causes of and cures for human diseases, or the state Department of Health, whose duties are entirely of a research, public health, or educational character, while engaged in such duties; provided that if the research includes the study of humans, such research shall be conducted under the supervision of one or more physicians licensed under this chapter.

(7) ~~Physician's~~ Physician assistants ~~registered~~ licensed in this state.

(8) A doctor of osteopathy duly licensed by the state Board of Osteopathy under Minnesota Statutes 1961, sections 148.11 to 148.16, prior to May 1, 1963, who has not been granted a license to practice medicine in accordance with this chapter provided that the doctor confines activities within the scope of the license.

(9) Any person licensed by a health-related licensing board, as defined in section 214.01, subdivision 2, or registered by the commissioner of health pursuant to section 214.13, including psychological practitioners with respect to the use of hypnosis; provided that the person confines activities within the scope of the license.

(10) A person who practices ritual circumcision pursuant to the requirements or tenets of any established religion.

(11) A Christian Scientist or other person who endeavors to prevent or cure disease or suffering exclusively by mental or spiritual means or by prayer.

(12) A physician licensed to practice medicine in another state who is in this state for the sole purpose of providing medical services at a competitive athletic event. The physician may practice medicine only on participants in the athletic event. A physician shall first register with the board on a form developed by the board for that purpose. The

board shall not be required to adopt the contents of the form by rule. The physician shall provide evidence satisfactory to the board of a current unrestricted license in another state. The board shall charge a fee of $50 for the registration.

(13) A psychologist licensed under section 148.907 or a social worker licensed under chapter 148D who uses or supervises the use of a penile or vaginal plethysmograph in assessing and treating individuals suspected of engaging in aberrant sexual behavior and sex offenders.

(14) Any person issued a training course certificate or credentialed by the Emergency Medical Services Regulatory Board established in chapter 144E, provided the person confines activities within the scope of training at the certified or credentialed level.

(15) An unlicensed complementary and alternative health care practitioner practicing according to chapter 146A.

Sec. 14. Minnesota Statutes 2008, section 147A.01, is amended to read:

147A.01 DEFINITIONS.

Subdivision 1. **Scope.** For the purpose of this chapter the terms defined in this section have the meanings given them.

~~Subd. 2. **Active status.** "Active status" means the status of a person who has met all the qualifications of a physician assistant, has a physician-physician assistant agreement in force, and is registered.~~

Subd. 3. **Administer.** "Administer" means the delivery by a physician assistant authorized to prescribe legend drugs, a single dose of a legend drug, including controlled substances, to a patient by injection, inhalation, ingestion, or by any other immediate means, and the delivery by a physician assistant ordered by a physician a single dose of a legend drug by injection, inhalation, ingestion, or by any other immediate means.

Subd. 4. **Agreement.** "Agreement" means the document described in section 147A.20.

Subd. 5. **Alternate supervising physician.** "Alternate supervising physician" means a Minnesota licensed physician listed in the physician-physician assistant delegation agreement, or supplemental listing, who is responsible for supervising the physician assistant when the ~~main~~ primary supervising physician is unavailable. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician.

Subd. 6. **Board.** "Board" means the Board of Medical Practice or its designee.

Subd. 7. **Controlled substances.** "Controlled substances" has the meaning given it in section 152.01, subdivision 4.

~~Subd. 8. **Delegation form.** "Delegation form" means the form used to indicate the categories of drugs for which the authority to prescribe, administer, and dispense has been delegated to the physician assistant and signed by the supervising physician, any alternate supervising physicians, and the physician assistant. This form is part of the agreement described in section 147A.20, and shall be maintained by the supervising physician and physician assistant at the address of record. Copies shall be provided to the board upon request. "Addendum to the delegation form" means a separate listing of the schedules and categories of controlled substances, if any, for which the physician assistant has been delegated the authority to prescribe, administer, and dispense. The addendum shall be maintained as a separate document as described above.~~

Subd. 9. **Diagnostic order.** "Diagnostic order" means a directive to perform a procedure or test, the purpose of which is to determine the cause and nature of a pathological condition or disease.

Subd. 10. **Drug.** "Drug" has the meaning given it in section 151.01, subdivision 5, including controlled substances as defined in section 152.01, subdivision 4.

Subd. 11. **Drug category.** "Drug category" means one of the categories listed on the physician-physician assistant delegation ~~form~~ agreement.

Subd. 12. **Inactive ~~status~~.** "Inactive ~~status~~" means ~~the status of a person who has met all the qualifications of a physician assistant, and is registered, but does not have a physician-physician assistant agreement in force~~ a licensed physician assistant whose license has been placed on inactive status under section 147A.05.

~~Subd. 13. **Internal protocol.** "Internal protocol" means a document written by the supervising physician and the physician assistant which specifies the policies and procedures which will apply to the physician assistant's prescribing, administering, and dispensing of legend drugs and medical devices, including controlled substances as defined in section 152.01, subdivision 4, and lists the specific categories of drugs and medical devices, with any exceptions or conditions, that the physician assistant is authorized to prescribe, administer, and dispense. The supervising physician and physician assistant shall maintain the protocol at the address of record. Copies shall be provided to the board upon request.~~

Subd. 14. **Legend drug.** "Legend drug" has the meaning given it in section 151.01, subdivision 17.

Subd. 14a. **Licensed.** "Licensed" means meeting the qualifications in section 147A.02 and being issued a license by the board.

Subd. 14b. **Licensure.** "Licensure" means the process by which the board determines that an applicant has met the standards and qualifications in this chapter.

~~Subd. 15. **Locum tenens permit.** "Locum tenens permit" means time specific temporary permission for a physician assistant to practice as a physician assistant in a setting other than the practice setting established in the physician-physician assistant agreement.~~

Subd. 16. **Medical device.** "Medical device" means durable medical equipment and assistive or rehabilitative appliances, objects, or products that are required to implement the overall plan of care for the patient and that are restricted by federal law to use upon prescription by a licensed practitioner.

Subd. 16a. **Notice of intent to practice.** "Notice of intent to practice" means a document sent to the board by a licensed physician assistant that documents the adoption of a physician-physician assistant delegation agreement and provides the names, addresses, and information required by section 147A.20.

Subd. 17. **Physician.** "Physician" means a person currently licensed in good standing as a physician or osteopath under chapter 147.

Subd. 17a. **Physician-physician assistant delegation agreement.** "Physician-physician assistant delegation agreement" means the document prepared and signed by the physician and physician assistant affirming the supervisory relationship and defining the physician assistant scope of practice. Alternate supervising physicians must be identified on the delegation agreement or a supplemental listing with signed attestation that each shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician. The physician-physician assistant delegation agreement outlines the role of the physician assistant in the practice, describes the means of supervision, and specifies the categories of drugs, controlled substances, and medical devices that the supervising physician delegates to the physician assistant to prescribe. The physician-physician assistant delegation agreement must comply with the requirements of section 147A.20, be kept on file at the address of record, and be made available to the board or its representative upon request.

Subd. 18. **Physician assistant or ~~registered~~ licensed physician assistant.** "Physician assistant" or "~~registered~~ licensed physician assistant" means a person ~~registered~~ licensed pursuant to this chapter who ~~is qualified by academic or practical training or~~

~~both to provide patient services as specified in this chapter, under the supervision of a supervising physician~~ meets the qualifications in section 147A.02.

~~Subd. 19. **Practice setting description.** "Practice setting description" means a signed record submitted to the board on forms provided by the board, on which:~~

~~(1) the supervising physician assumes full medical responsibility for the medical care rendered by a physician assistant;~~

~~(2) is recorded the address and phone number of record of each supervising physician and alternate, and the physicians' medical license numbers and DEA number;~~

~~(3) is recorded the address and phone number of record of the physician assistant and the physician assistant's registration number and DEA number;~~

~~(4) is recorded whether the physician assistant has been delegated prescribing, administering, and dispensing authority;~~

~~(5) is recorded the practice setting, address or addresses and phone number or numbers of the physician assistant; and~~

~~(6) is recorded a statement of the type, amount, and frequency of supervision.~~

Subd. 20. **Prescribe.** "Prescribe" means to direct, order, or designate by means of a prescription the preparation, use of, or manner of using a drug or medical device.

Subd. 21. **Prescription.** "Prescription" means a signed written order, ~~or~~ an oral order reduced to writing, or an electronic order meeting current and prevailing standards given by a physician assistant authorized to prescribe drugs for patients in the course of the physician assistant's practice, issued for an individual patient and containing the information required in the physician-physician assistant delegation ~~form~~ agreement.

~~Subd. 22. **Registration.** "Registration" is the process by which the board determines that an applicant has been found to meet the standards and qualifications found in this chapter.~~

Subd. 23. **Supervising physician.** "Supervising physician" means a Minnesota licensed physician who accepts full medical responsibility for the performance, practice, and activities of a physician assistant under an agreement as described in section 147A.20. The supervising physician who completes and signs the delegation agreement may be referred to as the primary supervising physician. A supervising physician shall not supervise more than ~~two~~ five full-time equivalent physician assistants simultaneously. With the approval of the board, or in a disaster or emergency situation pursuant to section 147A.23, a supervising physician may supervise more than five full-time equivalent physician assistants simultaneously.

Subd. 24. **Supervision.** "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. The scope and nature of the supervision shall be defined by the individual physician-physician assistant delegation agreement.

Subd. 25. **Temporary ~~registration~~ license.** ~~"Temporary registration" means the status of a person who has satisfied the education requirement specified in this chapter; is enrolled in the next examination required in this chapter; or is awaiting examination results; has a physician-physician assistant agreement in force as required by this chapter, and has submitted a practice setting description to the board. Such provisional registration shall expire 90 days after completion of the next examination sequence, or after one year, whichever is sooner, for those enrolled in the next examination; and upon receipt of the examination results for those awaiting examination results. The registration shall be granted by the board or its designee.~~ "Temporary license" means a license granted to a physician assistant who meets all of the qualifications for licensure but has not yet been approved for licensure at a meeting of the board.

Subd. 26. **Therapeutic order.** "Therapeutic order" means an order given to another for the purpose of treating or curing a patient in the course of a physician assistant's practice. Therapeutic orders may be written or verbal, but do not include the prescribing of legend drugs or medical devices unless prescribing authority has been delegated within the physician-physician assistant delegation agreement.

Subd. 27. **Verbal order.** "Verbal order" means an oral order given to another for the purpose of treating or curing a patient in the course of a physician assistant's practice. Verbal orders do not include the prescribing of legend drugs unless prescribing authority has been delegated within the physician-physician assistant delegation agreement.

Sec. 15. Minnesota Statutes 2008, section 147A.02, is amended to read:

147A.02 QUALIFICATIONS FOR ~~REGISTRATION~~ LICENSURE.

Except as otherwise provided in this chapter, an individual shall be ~~registered~~ licensed by the board before the individual may practice as a physician assistant.

The board may grant ~~registration~~ a license as a physician assistant to an applicant who:

(1) submits an application on forms approved by the board;

(2) pays the appropriate fee as determined by the board;

(3) has current certification from the National Commission on Certification of Physician Assistants, or its successor agency as approved by the board;

(4) certifies that the applicant is mentally and physically able to engage safely in practice as a physician assistant;

(5) has no licensure, certification, or registration as a physician assistant under current discipline, revocation, suspension, or probation for cause resulting from the applicant's practice as a physician assistant, unless the board considers the condition and agrees to licensure;

(6) submits any other information the board deems necessary to evaluate the applicant's qualifications; and

(7) has been approved by the board.

All persons registered as physician assistants as of June 30, 1995, are eligible for continuing ~~registration~~ license renewal. All persons applying for ~~registration~~ licensure after that date shall be ~~registered~~ licensed according to this chapter.

Sec. 16. Minnesota Statutes 2008, section 147A.03, is amended to read:

147A.03 PROTECTED TITLES AND RESTRICTIONS ON USE.

Subdivision 1. **Protected titles.** No individual may use the titles "Minnesota ~~Registered~~ Licensed Physician Assistant," "~~Registered~~ Licensed Physician Assistant," "Physician Assistant," or "PA" in connection with the individual's name, or any other words, letters, abbreviations, or insignia indicating or implying that the individual is ~~registered with~~ licensed by the state unless they have been ~~registered~~ licensed according to this chapter.

Subd. 2. **Health care practitioners.** Individuals practicing in a health care occupation are not restricted in the provision of services included in this chapter as long as they do not hold themselves out as physician assistants by or through the titles provided in subdivision 1 in association with provision of these services.

~~Subd. 3. **Identification of registered practitioners.** Physician assistants in Minnesota shall wear name tags which identify them as physician assistants.~~

Subd. 4. **Sanctions.** Individuals who hold themselves out as physician assistants by or through any of the titles provided in subdivision 1 without prior ~~registration~~ licensure shall be subject to sanctions or actions against continuing the activity according to section 214.11, or other authority.

Sec. 17. Minnesota Statutes 2008, section 147A.04, is amended to read:

147A.04 TEMPORARY ~~PERMIT~~ LICENSE.

The board may issue a temporary ~~permit~~ license to practice to a physician assistant eligible for ~~registration~~ licensure under this chapter only if the application for ~~registration~~ licensure is complete, all requirements have been met, and a nonrefundable fee set by the board has been paid. The ~~permit~~ temporary license remains valid only until the next meeting of the board at which a decision is made on the application for ~~registration~~ licensure.

Sec. 18. Minnesota Statutes 2008, section 147A.05, is amended to read:

147A.05 INACTIVE ~~REGISTRATION~~ LICENSE.

Physician assistants who notify the board in writing ~~on forms prescribed by the board~~ may elect to place their ~~registrations~~ license on an inactive status. Physician assistants with an inactive ~~registration~~ license shall be excused from payment of renewal fees and shall not practice as physician assistants. Persons who engage in practice while their ~~registrations are~~ license is lapsed or on inactive status shall be considered to be practicing without ~~registration~~ a license, which shall be grounds for discipline under section 147A.13. Physician assistants who provide care under the provisions of section 147A.23 shall not be considered practicing without a license or subject to disciplinary action. Physician assistants ~~requesting restoration from inactive status~~ who notify the board of their intent to resume active practice shall be required to pay the current renewal fees and all unpaid back fees and shall be required to meet the criteria for renewal specified in section 147A.07.

Sec. 19. Minnesota Statutes 2008, section 147A.06, is amended to read:

147A.06 CANCELLATION OF ~~REGISTRATION~~ LICENSE FOR NONRENEWAL.

The board shall not renew, reissue, reinstate, or restore a ~~registration~~ license that has lapsed on or after July 1, 1996, and has not been renewed within two annual renewal cycles starting July 1, 1997. A ~~registrant~~ licensee whose ~~registration~~ license is canceled for nonrenewal must obtain a new ~~registration~~ license by applying for ~~registration~~ licensure and fulfilling all requirements then in existence for an initial ~~registration~~ license to practice as a physician assistant.

Sec. 20. Minnesota Statutes 2008, section 147A.07, is amended to read:

147A.07 RENEWAL.

A person who holds a ~~registration~~ license as a physician assistant shall annually, upon notification from the board, renew the ~~registration~~ license by:

(1) submitting the appropriate fee as determined by the board;

(2) completing the appropriate forms; and

(3) meeting any other requirements of the board~~;~~

~~(4) submitting a revised and updated practice setting description showing evidence of annual review of the physician-physician assistant supervisory agreement~~.

Sec. 21. Minnesota Statutes 2008, section 147A.08, is amended to read:

147A.08 EXEMPTIONS.

(a) This chapter does not apply to, control, prevent, or restrict the practice, service, or activities of persons listed in section 147.09, clauses (1) to (6) and (8) to (13), persons regulated under section 214.01, subdivision 2, or persons defined in section 144.1501, subdivision 1, paragraphs (f), (h), and (i).

(b) Nothing in this chapter shall be construed to require ~~registration~~ licensure of:

(1) a physician assistant student enrolled in a physician assistant ~~or surgeon assistant~~ educational program accredited by the ~~Committee on Allied Health Education and~~ Accreditation Review Commission on Education for the Physician Assistant or by its successor agency approved by the board;

(2) a physician assistant employed in the service of the federal government while performing duties incident to that employment; or

(3) technicians, other assistants, or employees of physicians who perform delegated tasks in the office of a physician but who do not identify themselves as a physician assistant.

Sec. 22. Minnesota Statutes 2008, section 147A.09, is amended to read:

147A.09 SCOPE OF PRACTICE, DELEGATION.

Subdivision 1. **Scope of practice.** Physician assistants shall practice medicine only with physician supervision. Physician assistants may perform those duties and responsibilities as delegated in the physician-physician assistant delegation agreement and delegation forms maintained at the address of record by the supervising physician and physician assistant, including the prescribing, administering, and dispensing of drugs, controlled substances, and medical devices ~~and drugs~~, excluding anesthetics, other than local anesthetics, injected in connection with an operating room procedure, inhaled anesthesia and spinal anesthesia.

Patient service must be limited to:

(1) services within the training and experience of the physician assistant;

(2) services customary to the practice of the supervising physician or alternate supervising physician;

(3) services delegated by the supervising physician or alternate supervising physician under the physician-physician assistant delegation agreement; and

(4) services within the parameters of the laws, rules, and standards of the facilities in which the physician assistant practices.

Nothing in this chapter authorizes physician assistants to perform duties regulated by the boards listed in section 214.01, subdivision 2, other than the Board of Medical Practice, and except as provided in this section.

Subd. 2. **Delegation.** Patient services may include, but are not limited to, the following, as delegated by the supervising physician and authorized in the delegation agreement:

(1) taking patient histories and developing medical status reports;

(2) performing physical examinations;

(3) interpreting and evaluating patient data;

(4) ordering or performing diagnostic procedures, including ~~radiography~~ the use of radiographic imaging systems in compliance with Minnesota Rules 2007, chapter 4732;

(5) ordering or performing therapeutic procedures including the use of ionizing radiation in compliance with Minnesota Rules 2007, chapter 4732;

(6) providing instructions regarding patient care, disease prevention, and health promotion;

(7) assisting the supervising physician in patient care in the home and in health care facilities;

(8) creating and maintaining appropriate patient records;

(9) transmitting or executing specific orders at the direction of the supervising physician;

(10) prescribing, administering, and dispensing ~~legend~~ drugs, controlled substances, and medical devices if this function has been delegated by the supervising physician pursuant to and subject to the limitations of section 147A.18 and chapter 151. For physician assistants who have been delegated the authority to prescribe controlled substances ~~shall maintain a separate addendum to the delegation form which lists all schedules and categories~~ such delegation shall be included in the physician-physician assistant delegation agreement, and all schedules of controlled substances ~~which~~ the physician assistant has the authority to prescribe~~. This addendum shall be maintained with the physician-physician assistant agreement, and the delegation form at the address of record~~ shall be specified;

(11) for physician assistants not delegated prescribing authority, administering legend drugs and medical devices following prospective review for each patient by and upon direction of the supervising physician;

(12) functioning as an emergency medical technician with permission of the ambulance service and in compliance with section 144E.127, and ambulance service rules adopted by the commissioner of health;

(13) initiating evaluation and treatment procedures essential to providing an appropriate response to emergency situations; ~~and~~

(14) certifying a ~~physical disability~~ patient's eligibility for a disability parking certificate under section 169.345, subdivision ~~2a~~ 2;

(15) assisting at surgery; and

(16) providing medical authorization for admission for emergency care and treatment of a patient under section 253B.05, subdivision 2.

Orders of physician assistants shall be considered the orders of their supervising physicians in all practice-related activities, including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services.

Sec. 23. Minnesota Statutes 2008, section 147A.11, is amended to read:

147A.11 EXCLUSIONS OF LIMITATIONS ON EMPLOYMENT.

Nothing in this chapter shall be construed to limit the employment arrangement of a physician assistant ~~registered~~ licensed under this chapter.

Sec. 24. Minnesota Statutes 2008, section 147A.13, is amended to read:

147A.13 GROUNDS FOR DISCIPLINARY ACTION.

Subdivision 1. **Grounds listed.** The board may refuse to grant ~~registration~~ licensure or may impose disciplinary action as described in this subdivision against any physician assistant. The following conduct is prohibited and is grounds for disciplinary action:

(1) failure to demonstrate the qualifications or satisfy the requirements for ~~registration~~ licensure contained in this chapter or rules of the board. The burden of proof shall be upon the applicant to demonstrate such qualifications or satisfaction of such requirements;

(2) obtaining ~~registration~~ a license by fraud or cheating, or attempting to subvert the examination process. Conduct which subverts or attempts to subvert the examination process includes, but is not limited to:

(i) conduct which violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination;

(ii) conduct which violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying

another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; and

(iii) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf;

(3) conviction, during the previous five years, of a felony reasonably related to the practice of physician assistant. Conviction as used in this subdivision includes a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered;

(4) revocation, suspension, restriction, limitation, or other disciplinary action against the person's physician assistant credentials in another state or jurisdiction, failure to report to the board that charges regarding the person's credentials have been brought in another state or jurisdiction, or having been refused ~~registration~~ licensure by any other state or jurisdiction;

(5) advertising which is false or misleading, violates any rule of the board, or claims without substantiation the positive cure of any disease or professional superiority to or greater skill than that possessed by another physician assistant;

(6) violating a rule adopted by the board or an order of the board, a state, or federal law which relates to the practice of a physician assistant, or in part regulates the practice of a physician assistant, including without limitation sections 148A.02, 609.344, and 609.345, or a state or federal narcotics or controlled substance law;

(7) engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient; or practice which is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established;

(8) failure to adhere to the provisions of the physician-physician assistant delegation agreement;

(9) engaging in the practice of medicine beyond that allowed by the physician-physician assistant delegation agreement, ~~including the delegation form or the addendum to the delegation form,~~ or aiding or abetting an unlicensed person in the practice of medicine;

(10) adjudication as mentally incompetent, mentally ill or developmentally disabled, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of

competent jurisdiction, within or without this state. Such adjudication shall automatically suspend a ~~registration~~ license for its duration unless the board orders otherwise;

(11) engaging in unprofessional conduct. Unprofessional conduct includes any departure from or the failure to conform to the minimal standards of acceptable and prevailing practice in which proceeding actual injury to a patient need not be established;

(12) inability to practice with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;

(13) revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law;

(14) any ~~use of~~ identification of a physician assistant by the title "Physician," "Doctor," or "Dr." in a patient care setting or in a communication directed to the general public;

(15) improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made pursuant to sections 144.291 to 144.298, or to furnish a medical record or report required by law;

(16) engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(17) becoming addicted or habituated to a drug or intoxicant;

(18) prescribing a drug or device for other than medically accepted therapeutic, experimental, or investigative purposes authorized by a state or federal agency or referring a patient to any health care provider as defined in sections 144.291 to 144.298 for services or tests not medically indicated at the time of referral;

(19) engaging in conduct with a patient which is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior which is seductive or sexually demeaning to a patient;

(20) failure to make reports as required by section 147A.14 or to cooperate with an investigation of the board as required by section 147A.15, subdivision 3;

(21) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo;

(22) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2; or

(23) failure to maintain annually reviewed and updated physician-physician assistant delegation agreements~~, internal protocols, or prescribing delegation forms~~ for each physician-physician assistant practice relationship, or failure to provide copies of such documents upon request by the board.

Subd. 2. **Effective dates, automatic suspension.** A suspension, revocation, condition, limitation, qualification, or restriction of a ~~registration~~ license shall be in effect pending determination of an appeal unless the court, upon petition and for good cause shown, orders otherwise.

A physician assistant ~~registration~~ license is automatically suspended if:

(1) a guardian of a ~~registrant~~ licensee is appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other than the minority of the ~~registrant~~ licensee; or

(2) the ~~registrant~~ licensee is committed by order of a court pursuant to chapter 253B. The ~~registration~~ license remains suspended until the ~~registrant~~ licensee is restored to capacity by a court and, upon petition by the ~~registrant~~ licensee, the suspension is terminated by the board after a hearing.

Subd. 3. **Conditions on reissued ~~registration~~ license.** In its discretion, the board may restore and reissue a physician assistant ~~registration~~ license, but may impose as a condition any disciplinary or corrective measure which it might originally have imposed.

Subd. 4. **Temporary suspension of ~~registration~~ license.** In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend the ~~registration~~ license of a physician assistant if the board finds that the physician assistant has violated a statute or rule which the board is empowered to enforce and continued practice by the physician assistant would create a serious risk of harm to the public. The suspension shall take effect upon written notice to the physician assistant, specifying the statute or rule violated. The suspension shall remain in effect until the board issues a final order in the matter after a hearing. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act.

The physician assistant shall be provided with at least 20 days' notice of any hearing held pursuant to this subdivision. The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.

Subd. 5. **Evidence.** In disciplinary actions alleging a violation of subdivision 1, clause (3) or (4), a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency which entered it shall be admissible into evidence without further authentication and shall constitute prima facie evidence of the contents thereof.

Subd. 6. **Mental examination; access to medical data.** (a) If the board has probable cause to believe that a physician assistant comes under subdivision 1, clause (1), it may direct the physician assistant to submit to a mental or physical examination. For the purpose of this subdivision, every physician assistant ~~registered~~ licensed under this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitute a privileged communication. Failure of a physician assistant to submit to an examination when directed constitutes an admission of the allegations against the physician assistant, unless the failure was due to circumstance beyond the physician assistant's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. A physician assistant affected under this subdivision shall at reasonable intervals be given an opportunity to demonstrate that the physician assistant can resume competent practice with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board shall be used against a physician assistant in any other proceeding.

(b) In addition to ordering a physical or mental examination, the board may, notwithstanding sections 13.384, 144.651, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a ~~registrant~~ licensee or applicant without the ~~registrant's~~ licensee's or applicant's consent if the board has probable cause to believe that a physician assistant comes under subdivision 1, clause (1).

The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information

is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is classified as private under chapter 13.

Subd. 7. **Tax clearance certificate.** (a) In addition to the provisions of subdivision 1, the board may not issue or renew a ~~registration~~ license if the commissioner of revenue notifies the board and the ~~registrant~~ licensee or applicant for ~~registration~~ licensure that the ~~registrant~~ licensee or applicant owes the state delinquent taxes in the amount of $500 or more. The board may issue or renew the ~~registration~~ license only if:

(1) the commissioner of revenue issues a tax clearance certificate; and

(2) the commissioner of revenue, the ~~registrant~~ licensee, or the applicant forwards a copy of the clearance to the board.

The commissioner of revenue may issue a clearance certificate only if the ~~registrant~~ licensee or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given:

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes, and

(2) "Delinquent taxes" do not include a tax liability if:

(i) an administrative or court action that contests the amount or validity of the liability has been filed or served;

(ii) the appeal period to contest the tax liability has not expired; or

(iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) When a ~~registrant~~ licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the ~~registrant~~ licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the Office of Administrative Hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the registrant or applicant. The notice may be served personally or by mail.

(d) The board shall require all ~~registrants~~ licensees or applicants to provide their Social Security number and Minnesota business identification number on all ~~registration~~ license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all ~~registrants~~ licensees and applicants, including their names and addresses, Social Security numbers, and business identification

numbers. The commissioner of revenue may request a list of the ~~registrants~~ licensees and applicants no more than once each calendar year.

Subd. 8. **Limitation.** No board proceeding against a licensee shall be instituted unless commenced within seven years from the date of commission of some portion of the offense except for alleged violations of subdivision 1, paragraph (19), or subdivision 7.

Sec. 25. Minnesota Statutes 2008, section 147A.16, is amended to read:

147A.16 FORMS OF DISCIPLINARY ACTION.

When the board finds that a ~~registered~~ licensed physician assistant has violated a provision of this chapter, it may do one or more of the following:

(1) revoke the ~~registration~~ license;

(2) suspend the ~~registration~~ license;

(3) impose limitations or conditions on the physician assistant's practice, including limiting the scope of practice to designated field specialties; impose retraining or rehabilitation requirements; require practice under additional supervision; or condition continued practice on demonstration of knowledge or skills by appropriate examination or other review of skill and competence;

(4) impose a civil penalty not exceeding $10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the physician assistant of any economic advantage gained by reason of the violation charged or to reimburse the board for the cost of the investigation and proceeding;

(5) order the physician assistant to provide unremunerated professional service under supervision at a designated public hospital, clinic, or other health care institution; or

(6) censure or reprimand the ~~registered~~ licensed physician assistant.

Upon judicial review of any board disciplinary action taken under this chapter, the reviewing court shall seal the administrative record, except for the board's final decision, and shall not make the administrative record available to the public.

Sec. 26. Minnesota Statutes 2008, section 147A.18, is amended to read:

147A.18 DELEGATED AUTHORITY TO PRESCRIBE, DISPENSE, AND ADMINISTER DRUGS AND MEDICAL DEVICES.

Subdivision 1. **Delegation.** (a) A supervising physician may delegate to a physician assistant who is ~~registered with~~ licensed by the board, certified by the National Commission on Certification of Physician Assistants or successor agency approved by the board, and who is under the supervising physician's supervision, the authority to prescribe, dispense, and administer legend drugs, ~~medical devices, and~~ controlled substances, and medical devices subject to the requirements in this section. The authority to dispense

includes, but is not limited to, the authority to request, receive, and dispense sample drugs. This authority to dispense extends only to those drugs described in the written agreement developed under paragraph (b).

(b) The delegation agreement between the physician assistant and supervising physician ~~and any alternate supervising physicians~~ must include a statement by the supervising physician regarding delegation or nondelegation of the functions of prescribing, dispensing, and administering ~~of~~ legend drugs, controlled substances, and medical devices to the physician assistant. The statement must include ~~a protocol indicating~~ categories of drugs for which the supervising physician delegates prescriptive and dispensing authority including controlled substances when applicable. The delegation must be appropriate to the physician assistant's practice and within the scope of the physician assistant's training. Physician assistants who have been delegated the authority to prescribe, dispense, and administer legend drugs, controlled substances, and medical devices shall provide evidence of current certification by the National Commission on Certification of Physician Assistants or its successor agency when ~~registering or reregistering~~ applying for licensure or license renewal as physician assistants. Physician assistants who have been delegated the authority to prescribe controlled substances must ~~present evidence of the certification and~~ also hold a valid DEA ~~certificate~~ registration. Supervising physicians shall retrospectively review the prescribing, dispensing, and administering of legend ~~and controlled~~ drugs, controlled substances, and medical devices by physician assistants, when this authority has been delegated to the physician assistant as part of the physician-physician assistant delegation agreement ~~between the physician and the physician assistant. This review must take place as outlined in the internal protocol~~. The process and schedule for the review must be outlined in the physician-physician assistant delegation agreement.

(c) The board may establish by rule:

(1) a system of identifying physician assistants eligible to prescribe, administer, and dispense legend drugs and medical devices;

(2) a system of identifying physician assistants eligible to prescribe, administer, and dispense controlled substances;

(3) a method of determining the categories of legend ~~and controlled~~ drugs, controlled substances, and medical devices that each physician assistant is allowed to prescribe, administer, and dispense; and

(4) a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe legend ~~and controlled~~ drugs, controlled substances, and medical devices.

Subd. 2. **Termination and reinstatement of prescribing authority.** ~~(a)~~ The authority of a physician assistant to prescribe, dispense, and administer legend drugs, controlled substances, and medical devices shall end immediately when:

(1) the physician-physician assistant delegation agreement is terminated;

(2) the authority to prescribe, dispense, and administer is terminated or withdrawn by the supervising physician; ~~or~~

(3) the physician ~~assistant reverts to~~ assistant's license is placed on inactive status~~;~~ ~~loses National Commission on Certification of Physician Assistants or successor agency certification, or loses or terminates registration status~~;

(4) the physician assistant loses National Commission on Certification of Physician Assistants or successor agency certification; or

(5) the physician assistant loses or terminates licensure status.

~~(b) The physician assistant must notify the board in writing within ten days of the occurrence of any of the circumstances listed in paragraph (a).~~

~~(c) Physician assistants whose authority to prescribe, dispense, and administer has been terminated shall reapply for reinstatement of prescribing authority under this section and meet any requirements established by the board prior to reinstatement of the prescribing, dispensing, and administering authority.~~

Subd. 3. **Other requirements and restrictions.** ~~(a) The supervising physician and the physician assistant must complete, sign, and date an internal protocol which lists each category of drug or medical device, or controlled substance the physician assistant may prescribe, dispense, and administer. The supervising physician and physician assistant shall submit the internal protocol to the board upon request. The supervising physician may amend the internal protocol as necessary, within the limits of the completed delegation form in subdivision 5. The supervising physician and physician assistant must sign and date any amendments to the internal protocol. Any amendments resulting in a change to an addition or deletion to categories delegated in the delegation form in subdivision 5 must be submitted to the board according to this chapter, along with the fee required.~~

~~(b) The supervising physician and physician assistant shall review delegation of prescribing, dispensing, and administering authority on an annual basis at the time of reregistration. The internal protocol must be signed and dated by the supervising physician and physician assistant after review. Any amendments to the internal protocol resulting in changes to the delegation form in subdivision 5 must be submitted to the board according to this chapter, along with the fee required.~~

~~(c)~~ (a) Each prescription initiated by a physician assistant shall indicate the following:

(1) the date of issue;

(2) the name and address of the patient;

(3) the name and quantity of the drug prescribed;

(4) directions for use; and

(5) the name and address of the prescribing physician assistant.

~~(d)~~ (b) In prescribing, dispensing, and administering legend drugs, controlled substances, and medical devices~~, including controlled substances as defined in section 152.01, subdivision 4,~~ a physician assistant must conform with the agreement, chapter 151, and this chapter.

~~Subd. 4. **Notification of pharmacies.** (a) The board shall annually provide to the Board of Pharmacy and to registered pharmacies within the state a list of those physician assistants who are authorized to prescribe, administer, and dispense legend drugs and medical devices, or controlled substances.~~

~~(b) The board shall provide to the Board of Pharmacy a list of physician assistants authorized to prescribe legend drugs and medical devices every two months if additional physician assistants are authorized to prescribe or if physician assistants have authorization to prescribe withdrawn.~~

~~(c) The list must include the name, address, telephone number, and Minnesota registration number of the physician assistant, and the name, address, telephone number, and Minnesota license number of the supervising physician.~~

~~(d) The board shall provide the form in subdivision 5 to pharmacies upon request.~~

~~(e) The board shall make available prototype forms of the physician-physician assistant agreement, the internal protocol, the delegation form, and the addendum form.~~

~~Subd. 5. **Delegation form for physician assistant prescribing.** The delegation form for physician assistant prescribing must contain a listing by drug category of the legend drugs and controlled substances for which prescribing authority has been delegated to the physician assistant.~~

Sec. 27. Minnesota Statutes 2008, section 147A.19, is amended to read:

147A.19 IDENTIFICATION REQUIREMENTS.

Physician assistants ~~registered~~ licensed under this chapter shall keep their ~~registration~~ license available for inspection at their primary place of business and shall, when engaged in their professional activities, wear a name tag identifying themselves as a "physician assistant."

Sec. 28. Minnesota Statutes 2008, section 147A.20, is amended to read:

147A.20 ~~PHYSICIAN AND PHYSICIAN~~ PHYSICIAN-PHYSICIAN ASSISTANT AGREEMENT DOCUMENTS.

Subdivision 1. **Physician-physician assistant delegation agreement.** (a) A physician assistant and supervising physician must sign ~~an~~ a physician-physician assistant delegation agreement which specifies scope of practice ~~and amount~~ and manner of supervision as required by the board. The agreement must contain:

(1) a description of the practice setting;

(2) ~~a statement of practice type/specialty;~~

~~(3)~~ a listing of categories of delegated duties;

~~(4)~~ (3) a description of supervision type~~, amount, and frequency~~; and

~~(5)~~ (4) a description of the process and schedule for review of prescribing, dispensing, and administering legend and controlled drugs and medical devices by the physician assistant authorized to prescribe.

(b) The agreement must be maintained by the supervising physician and physician assistant and made available to the board upon request. If there is a delegation of prescribing, administering, and dispensing of legend drugs, controlled substances, and medical devices, the agreement shall include ~~an internal protocol and delegation form~~ a description of the prescriptive authority delegated to the physician assistant. Physician assistants shall have a separate agreement for each place of employment. Agreements must be reviewed and updated on an annual basis. The supervising physician and physician assistant must maintain the physician-physician assistant delegation agreement~~, delegation form, and internal protocol~~ at the address of record. ~~Copies shall be provided to the board upon request.~~

(c) Physician assistants must provide written notification to the board within 30 days of the following:

(1) name change;

(2) address of record change; and

(3) telephone number of record change~~; and~~

~~(4) addition or deletion of alternate supervising physician provided that the information submitted includes, for an additional alternate physician, an affidavit of consent to act as an alternate supervising physician signed by the alternate supervising physician~~.

~~(d) Modifications requiring submission prior to the effective date are changes to the practice setting description which include:~~

~~(1) supervising physician change, excluding alternate supervising physicians; or~~

~~(2) delegation of prescribing, administering, or dispensing of legend drugs, controlled substances, or medical devices.~~

~~(c) The agreement must be completed and the practice setting description submitted to the board before providing medical care as a physician assistant.~~

(d) Any alternate supervising physicians must be identified in the physician-physician assistant delegation agreement, or a supplemental listing, and must sign the agreement attesting that they shall provide the physician assistant with supervision in compliance with this chapter, the delegation agreement, and board rules.

Subd. 2. **Notification of intent to practice.** A licensed physician assistant shall submit a notification of intent to practice to the board prior to beginning practice. The notification shall include the name, business address, and telephone number of the supervising physician and the physician assistant. Individuals who practice without submitting a notification of intent to practice shall be subject to disciplinary action under section 147A.13 for practicing without a license, unless the care is provided in response to a disaster or emergency situation pursuant to section 147A.23.

Sec. 29. Minnesota Statutes 2008, section 147A.21, is amended to read:

147A.21 RULEMAKING AUTHORITY.

The board shall adopt rules:

(1) setting ~~registration~~ license fees;

(2) setting renewal fees;

(3) ~~setting fees for locum tenens permits;~~

~~(4)~~ setting fees for temporary ~~registration~~ licenses; and

~~(5)~~ (4) establishing renewal dates.

Sec. 30. Minnesota Statutes 2008, section 147A.23, is amended to read:

147A.23 RESPONDING TO DISASTER SITUATIONS.

(a) A ~~registered physician assistant or a~~ physician assistant duly licensed or credentialed in a United States jurisdiction or by a federal employer who is responding to a need for medical care created by an emergency according to section 604A.01, or a state or local disaster may render such care as the physician assistant is ~~able~~ trained to provide, under the physician assistant's license~~, registration,~~ or credential, without the need of a ~~physician and physician~~ physician-physician assistant delegation agreement or a notice of intent to practice as required under section 147A.20. ~~Physician supervision, as required under section 147A.09, must be provided under the direction of a physician licensed under chapter 147 who is involved with the disaster response. The physician assistant must establish a temporary supervisory agreement with the physician providing~~

~~supervision before rendering care.~~ A physician assistant may provide emergency care without physician supervision or under the supervision that is available.

(b) The physician who provides supervision to a physician assistant while the physician assistant is rendering care ~~in a disaster~~ in accordance with this section may do so without meeting the requirements of section 147A.20.

(c) The supervising physician who otherwise provides supervision to a physician assistant under a ~~physician and physician~~ physician-physician assistant delegation agreement described in section 147A.20 shall not be held medically responsible for the care rendered by a physician assistant pursuant to paragraph (a). Services provided by a physician assistant under paragraph (a) shall be considered outside the scope of the relationship between the supervising physician and the physician assistant.

Sec. 31. Minnesota Statutes 2008, section 147A.24, is amended to read:

147A.24 CONTINUING EDUCATION REQUIREMENTS.

Subdivision 1. **Amount of education required.** Applicants for ~~registration~~ license renewal ~~or reregistration~~ must either meet standards for continuing education through current certification by the National Commission on Certification of Physician Assistants, or its successor agency as approved by the board, or ~~attest to and document~~ provide evidence of successful completion of at least 50 contact hours of continuing education within the two years immediately preceding ~~registration~~ license renewal~~, reregistration, or attest to and document taking the national certifying examination required by this chapter within the past two years~~.

Subd. 2. **Type of education required.** ~~Approved~~ Continuing education is approved if it is equivalent to category 1 credit hours as defined by the American Osteopathic Association Bureau of Professional Education, the Royal College of Physicians and Surgeons of Canada, the American Academy of Physician Assistants, or by organizations that have reciprocal arrangements with the physician recognition award program of the American Medical Association.

Sec. 32. Minnesota Statutes 2008, section 147A.26, is amended to read:

147A.26 PROCEDURES.

The board shall establish, in writing, internal operating procedures for receiving and investigating complaints, accepting and processing applications, granting ~~registrations~~ licenses, and imposing enforcement actions. The written internal operating procedures may include procedures for sharing complaint information with government agencies in this and other states. Procedures for sharing complaint information must be consistent with the requirements for handling government data under chapter 13.

Sec. 33. Minnesota Statutes 2008, section 147A.27, is amended to read:

147A.27 PHYSICIAN ASSISTANT ADVISORY COUNCIL.

Subdivision 1. **Membership.** (a) The Physician Assistant Advisory Council is created and is composed of seven persons appointed by the board. The seven persons must include:

(1) two public members, as defined in section 214.02;

(2) three physician assistants ~~registered~~ licensed under this chapter who meet the criteria for a new applicant under section 147A.02; and

(3) two licensed physicians with experience supervising physician assistants.

(b) No member shall serve more than ~~a total of~~ two consecutive terms. If a member is appointed for a partial term and serves more than half of that term it shall be considered a full term. ~~Members serving on the council as of July 1, 2000, shall be allowed to complete their current terms.~~

Subd. 2. **Organization.** The council shall be organized and administered under section 15.059.

Subd. 3. **Duties.** The council shall advise the board regarding:

(1) physician assistant ~~registration~~ licensure standards;

(2) enforcement of grounds for discipline;

(3) distribution of information regarding physician assistant ~~registration~~ licensure standards;

(4) applications and recommendations of applicants for ~~registration~~ licensure or ~~registration~~ license renewal; ~~and~~

(5) complaints and recommendations to the board regarding disciplinary matters and proceedings concerning applicants and ~~registrants~~ licensees according to sections 214.10; 214.103; and 214.13, subdivisions 6 and 7; and

(6) issues related to physician assistant practice and regulation.

The council shall perform other duties authorized for the council by chapter 214 as directed by the board.

Sec. 34. Minnesota Statutes 2008, section 148.06, subdivision 1, is amended to read:

Subdivision 1. **License required; qualifications.** No person shall practice chiropractic in this state without first being licensed by the state Board of Chiropractic Examiners. The applicant shall have earned at least one-half of all academic credits required for awarding of a baccalaureate degree from the University of Minnesota, or other university, college, or community college of equal standing, in subject matter determined by the board, and taken a four-year resident course of at least eight months

each in a school or college of chiropractic or in a chiropractic program that is accredited by the Council on Chiropractic Education, ~~holds a recognition agreement with the Council on Chiropractic Education, or~~ is accredited by an agency approved by the United States Office of Education or their successors as of January 1, 1988, or is approved by a Council on Chiropractic Education member organization of the Council on Chiropractic International. The board may issue licenses to practice chiropractic without compliance with prechiropractic or academic requirements listed above if in the opinion of the board the applicant has the qualifications equivalent to those required of other applicants, the applicant satisfactorily passes written and practical examinations as required by the Board of Chiropractic Examiners, and the applicant is a graduate of a college of chiropractic ~~with a recognition agreement with the Council on Chiropractic Education~~ approved by a Council on Chiropractic Education member organization of the Council on Chiropractic International. The board may recommend a two-year prechiropractic course of instruction to any university, college, or community college which in its judgment would satisfy the academic prerequisite for licensure as established by this section.

An examination for a license shall be in writing and shall include testing in:

(a) The basic sciences including but not limited to anatomy, physiology, bacteriology, pathology, hygiene, and chemistry as related to the human body or mind;

(b) The clinical sciences including but not limited to the science and art of chiropractic, chiropractic physiotherapy, diagnosis, roentgenology, and nutrition; and

(c) Professional ethics and any other subjects that the board may deem advisable.

The board may consider a valid certificate of examination from the National Board of Chiropractic Examiners as evidence of compliance with the examination requirements of this subdivision. The applicant shall be required to give practical demonstration in vertebral palpation, neurology, adjusting and any other subject that the board may deem advisable. A license, countersigned by the members of the board and authenticated by the seal thereof, shall be granted to each applicant who correctly answers 75 percent of the questions propounded in each of the subjects required by this subdivision and meets the standards of practical demonstration established by the board. Each application shall be accompanied by a fee set by the board. The fee shall not be returned but the applicant may, within one year, apply for examination without the payment of an additional fee. The board may grant a license to an applicant who holds a valid license to practice chiropractic issued by the appropriate licensing board of another state, provided the applicant meets the other requirements of this section and satisfactorily passes a practical examination approved by the board. The burden of proof is on the applicant to demonstrate these qualifications or satisfaction of these requirements.

Sec. 35. **[148.107] RECORD KEEPING.**

All items in this section should be contained in the patient record, including, but not limited to, paragraphs (a), (b), (c), (e), (g), and (i).

(a) A description of past conditions and trauma, past treatment received, current treatment being received from other health care providers, and a description of the patient's current condition including onset and description of trauma if trauma occurred.

(b) Examinations performed to determine a preliminary or final diagnosis based on indicated diagnostic tests, with a record of findings of each test performed.

(c) A diagnosis supported by documented subjective and objective findings, or clearly qualified as an opinion.

(d) A treatment plan that describes the procedures and treatment used for the conditions identified, including approximate frequency of care.

(e) Daily notes documenting current subjective complaints as described by the patient, any change in objective findings if noted during that visit, a listing of all procedures provided during that visit, and all information that is exchanged and will affect that patient's treatment.

(f) A description by the chiropractor or written by the patient each time an incident occurs that results in an aggravation of the patient's condition or a new developing condition.

(g) Results of reexaminations that are performed to evaluate significant changes in a patient's condition, including tests that were positive or deviated from results used to indicate normal findings.

(h) When symbols or abbreviations are used, a key that explains their meanings must accompany each file when requested in writing by the patient or a third party.

(i) Documentation that family history has been evaluated.

Sec. 36. Minnesota Statutes 2008, section 148.624, subdivision 2, is amended to read:

Subd. 2. **Nutrition.** The board shall issue a license as a nutritionist to a person who files a completed application, pays all required fees, and certifies and furnishes evidence satisfactory to the board that the applicant:

(1) meets the following qualifications:

(i) has received a master's or doctoral degree from an accredited or approved college or university with a major in human nutrition, public health nutrition, clinical nutrition, nutrition education, community nutrition, or food and nutrition; and

(ii) has completed a documented supervised preprofessional practice experience component in dietetic practice of not less than 900 hours under the supervision of a registered dietitian, a state licensed nutrition professional, or an individual with a doctoral

degree conferred by a United States regionally accredited college or university with a major course of study in human nutrition, nutrition education, food and nutrition, dietetics, or food systems management. Supervised practice experience must be completed in the United States or its territories. Supervisors who obtain their doctoral degree outside the United States and its territories must have their degrees validated as equivalent to the doctoral degree conferred by a United States regionally accredited college or university; or

(2) has ~~qualified as a diplomate of the American Board of Nutrition, Springfield, Virginia~~ received certification as a Certified Nutrition Specialist by the Certification Board for Nutrition Specialists.

Sec. 37. Minnesota Statutes 2008, section 148.89, subdivision 5, is amended to read:

Subd. 5. **Practice of psychology.** "Practice of psychology" means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures for any reason, including to prevent, eliminate, or manage symptomatic, maladaptive, or undesired behavior and to enhance interpersonal relationships, work, life and developmental adjustment, personal and organizational effectiveness, behavioral health, and mental health. The practice of psychology includes, but is not limited to, the following services, regardless of whether the provider receives payment for the services:

(1) psychological research and teaching of psychology;

(2) assessment, including psychological testing and other means of evaluating personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning;

(3) a psychological report, whether written or oral, including testimony of a provider as an expert witness, concerning the characteristics of an individual or entity;

(4) psychotherapy, including but not limited to, categories such as behavioral, cognitive, emotive, systems, psychophysiological, or insight-oriented therapies; counseling; hypnosis; and diagnosis and treatment of:

(i) mental and emotional disorder or disability;

(ii) alcohol and substance dependence or abuse;

(iii) disorders of habit or conduct;

(iv) the psychological aspects of physical illness or condition, accident, injury, or disability, including the psychological impact of medications;

(v) life adjustment issues, including work-related and bereavement issues; and

(vi) child, family, or relationship issues;

(5) psychoeducational services and treatment; and

(6) consultation and supervision.

Sec. 38. Minnesota Statutes 2008, section 148.995, subdivision 2, is amended to read:

Subd. 2. **Certified doula.** "Certified doula" means an individual who has received a certification to perform doula services from the International Childbirth Education Association, the Doulas of North America (DONA), the Association of Labor Assistants and Childbirth Educators (ALACE), Birthworks, Childbirth and Postpartum Professional Association (CAPPA), ~~or~~ Childbirth International, or International Center for Traditional Childbearing.

Sec. 39. Minnesota Statutes 2008, section 148.995, subdivision 4, is amended to read:

Subd. 4. **Doula services.** "Doula services" means continuous emotional and physical support ~~during pregnancy, labor, birth, and postpartum~~ throughout labor and birth, and intermittently during the prenatal and postpartum periods.

Sec. 40. Minnesota Statutes 2008, section 150A.01, subdivision 8, is amended to read:

Subd. 8. **~~Registered~~ Licensed dental assistant.** "~~Registered~~ Licensed dental assistant" means a person ~~registered~~ licensed pursuant to section 150A.06.

Sec. 41. Minnesota Statutes 2008, section 150A.02, subdivision 1, is amended to read:

Subdivision 1. **Generally.** There is hereby created a Board of Dentistry whose duty it shall be to carry out the purposes and enforce the provisions of sections 150A.01 to 150A.12. The board shall consist of two public members as defined by section 214.02, five qualified resident dentists, one qualified resident ~~registered~~ licensed dental assistant, and one qualified resident dental hygienist appointed by the governor. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of board complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214. Each board member who is a dentist, ~~registered~~ licensed dental assistant, or dental hygienist shall have been lawfully in active practice in this state for five years immediately preceding appointment; and no board member shall be eligible for appointment to more than two consecutive four-year terms, and members serving on the board at the time of the enactment hereof shall be eligible to reappointment provided they shall not have served more than nine consecutive years at the expiration of the term to which they are to be appointed. At least 90 days prior to the expiration of the terms of dentists, ~~registered~~ licensed dental assistants, or dental hygienists, the Minnesota Dental Association, Minnesota Dental Assistants Association, or the Minnesota State Dental Hygiene Association shall recommend to the governor for

each term expiring not less than two dentists, two ~~registered~~ licensed dental assistants, or two dental hygienists, respectively, who are qualified to serve on the board, and from the list so recommended the governor may appoint members to the board for the term of four years, the appointments to be made within 30 days after the expiration of the terms. Within 60 days after the occurrence of a dentist, ~~registered~~ licensed dental assistant or dental hygienist vacancy, prior to the expiration of the term, in the board, the Minnesota Dental Association, the Minnesota Dental Assistants Association, or the Minnesota State Dental Hygiene Association shall recommend to the governor not less than two dentists, two ~~registered~~ licensed dental assistants, or two dental hygienists, who are qualified to serve on the board and from the list so recommended the governor, within 30 days after receiving such list of dentists, may appoint one member to the board for the unexpired term occasioned by such vacancy. Any appointment to fill a vacancy shall be made within 90 days after the occurrence of such vacancy. The first four-year term of the dental hygienist and of the ~~registered~~ licensed dental assistant shall commence on the first Monday in January, 1977.

Sec. 42. Minnesota Statutes 2008, section 150A.05, subdivision 2, is amended to read:

Subd. 2. **Exemptions and exceptions of certain practices and operations.** Sections 150A.01 to 150A.12 do not apply to:

(1) the practice of dentistry or dental hygiene in any branch of the armed services of the United States, the United States Public Health Service, or the United States Veterans Administration;

(2) the practice of dentistry, dental hygiene, or dental assisting by undergraduate dental students, dental hygiene students, and dental assisting students of the University of Minnesota, schools of dental hygiene, or schools of dental assisting approved by the board, when acting under the ~~direction and~~ indirect supervision of a Minnesota licensed dentist ~~or a~~ and under the instruction of a licensed dentist, licensed dental hygienist ~~acting as an instructor~~, or licensed dental assistant;

(3) the practice of dentistry by licensed dentists of other states or countries while appearing as clinicians under the auspices of a duly approved dental school or college, or a reputable dental society, or a reputable dental study club composed of dentists;

(4) the actions of persons while they are taking examinations for licensure ~~or registration~~ administered or approved by the board pursuant to sections 150A.03, subdivision 1, and 150A.06, subdivisions 1, 2, and 2a;

(5) the practice of dentistry by dentists and dental hygienists licensed by other states during their functioning as examiners responsible for conducting licensure ~~or registration~~ examinations administered by regional and national testing agencies with whom the

board is authorized to affiliate and participate under section 150A.03, subdivision 1, and the practice of dentistry by the regional and national testing agencies during their administering examinations pursuant to section 150A.03, subdivision 1;

(6) the use of X-rays or other diagnostic imaging modalities for making radiographs or other similar records in a hospital under the supervision of a physician or dentist or by a person who is credentialed to use diagnostic imaging modalities or X-ray machines for dental treatment, roentgenograms, or dental diagnostic purposes by a credentialing agency other than the Board of Dentistry; or

(7) the service, other than service performed directly upon the person of a patient, of constructing, altering, repairing, or duplicating any denture, partial denture, crown, bridge, splint, orthodontic, prosthetic, or other dental appliance, when performed according to a written work order from a licensed dentist in accordance with section 150A.10, subdivision 3.

Sec. 43. Minnesota Statutes 2008, section 150A.06, subdivision 2a, is amended to read:

Subd. 2a. **~~Registered~~ Licensed dental assistant.** A person of good moral character, who has graduated from a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association, may apply for ~~registration~~ licensure. The applicant must submit an application and fee as prescribed by the board and the diploma or certificate of dental assisting. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants shall take the examination before applying to the board for ~~registration~~ licensure. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the ~~registration~~ licensure examination required by the board after failing it twice until further education and training are obtained as specified by board rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be ~~registered~~ licensed as a dental assistant.

Sec. 44. Minnesota Statutes 2008, section 150A.06, subdivision 2b, is amended to read:

Subd. 2b. **Examination.** When the Board of Dentistry administers the examination for licensure ~~or registration~~, only those board members or board-appointed deputy examiners qualified for the particular examination may administer it. An examination which the board requires as a condition of licensure ~~or registration~~ must have been taken within the five years before the board receives the application for licensure ~~or registration~~.

Sec. 45. Minnesota Statutes 2008, section 150A.06, subdivision 2c, is amended to read:

Subd. 2c. **Guest license ~~or registration.~~** (a) The board shall grant a guest license to practice as a dentist ~~or~~, dental hygienist, or ~~a guest registration to practice as a~~ licensed dental assistant if the following conditions are met:

(1) the dentist, dental hygienist, or dental assistant is currently licensed ~~or registered~~ in good standing in North Dakota, South Dakota, Iowa, or Wisconsin;

(2) the dentist, dental hygienist, or dental assistant is currently engaged in the practice of that person's respective profession in North Dakota, South Dakota, Iowa, or Wisconsin;

(3) the dentist, dental hygienist, or dental assistant will limit that person's practice to a public health setting in Minnesota that (i) is approved by the board; (ii) was established by a nonprofit organization that is tax exempt under chapter 501(c)(3) of the Internal Revenue Code of 1986; and (iii) provides dental care to patients who have difficulty accessing dental care;

(4) the dentist, dental hygienist, or dental assistant agrees to treat indigent patients who meet the eligibility criteria established by the clinic; and

(5) the dentist, dental hygienist, or dental assistant has applied to the board for a guest license ~~or registration~~ and has paid a nonrefundable license fee to the board not to exceed $75.

(b) A guest license ~~or registration~~ must be renewed annually with the board and an annual renewal fee not to exceed $75 must be paid to the board.

(c) A dentist, dental hygienist, or dental assistant practicing under a guest license ~~or registration~~ under this subdivision shall have the same obligations as a dentist, dental hygienist, or dental assistant who is licensed in Minnesota and shall be subject to the laws and rules of Minnesota and the regulatory authority of the board. If the board suspends or revokes the guest license ~~or registration~~ of, or otherwise disciplines, a dentist, dental hygienist, or dental assistant practicing under this subdivision, the board shall promptly report such disciplinary action to the dentist's, dental hygienist's, or dental assistant's regulatory board in the border state.

Sec. 46. Minnesota Statutes 2008, section 150A.06, subdivision 2d, is amended to read:

Subd. 2d. **Continuing education and professional development waiver.** (a) The board shall grant a waiver to the continuing education requirements under this chapter for a licensed dentist, licensed dental hygienist, or ~~registered~~ licensed dental assistant who documents to the satisfaction of the board that the dentist, dental hygienist, or ~~registered~~ licensed dental assistant has retired from active practice in the state and limits the provision of dental care services to those offered without compensation in a public health, community, or tribal clinic or a nonprofit organization that provides services to

the indigent or to recipients of medical assistance, general assistance medical care, or MinnesotaCare programs.

(b) The board may require written documentation from the volunteer and retired dentist, dental hygienist, or ~~registered~~ licensed dental assistant prior to granting this waiver.

(c) The board shall require the volunteer and retired dentist, dental hygienist, or ~~registered~~ licensed dental assistant to meet the following requirements:

(1) a licensee ~~or registrant~~ seeking a waiver under this subdivision must complete and document at least five hours of approved courses in infection control, medical emergencies, and medical management for the continuing education cycle; and

(2) provide documentation of ~~certification in advanced or basic cardiac life support recognized by~~ current CPR certification from completion of the American Heart Association healthcare provider course, the American Red Cross professional rescuer course, or an equivalent entity.

Sec. 47. Minnesota Statutes 2008, section 150A.06, subdivision 4a, is amended to read:

Subd. 4a. **Appeal of denial of application.** A person whose application for licensure ~~or registration~~ by credentials has been denied may appeal the decision to the board. The board shall establish an appeals process and inform a denied candidate of the right to appeal and the process for filing the appeal.

Sec. 48. Minnesota Statutes 2008, section 150A.06, subdivision 5, is amended to read:

Subd. 5. **Fraud in securing licenses ~~or registrations.~~** Every person implicated in employing fraud or deception in applying for or securing a license ~~or registration~~ to practice dentistry, dental hygiene, or dental assisting or in annually renewing a license ~~or registration~~ under sections 150A.01 to 150A.12 is guilty of a gross misdemeanor.

Sec. 49. Minnesota Statutes 2008, section 150A.06, subdivision 7, is amended to read:

Subd. 7. **Additional remedies for licensure ~~and registration.~~** On a case-by-case basis, for initial or renewal of licensure ~~or registration~~, the board may add additional remedies for deficiencies found based on the applicant's performance, character, and education.

Sec. 50. Minnesota Statutes 2008, section 150A.06, subdivision 8, is amended to read:

Subd. 8. **~~Registration~~ Licensure by credentials.** (a) Any dental assistant may, upon application and payment of a fee established by the board, apply for ~~registration~~ licensure based on an evaluation of the applicant's education, experience, and performance record in lieu of completing a board-approved dental assisting program for expanded functions as defined in rule, and may be interviewed by the board to determine if the applicant:

(1) has graduated from an accredited dental assisting program accredited by the Commission of Dental Accreditation of the American Dental Association, or is currently certified by the Dental Assisting National Board;

(2) is not subject to any pending or final disciplinary action in another state or Canadian province, or if not currently certified or registered, previously had a certification or registration in another state or Canadian province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;

(3) is of good moral character and abides by professional ethical conduct requirements;

(4) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and

(5) has met all expanded functions curriculum equivalency requirements of a Minnesota board-approved dental assisting program.

(b) The board, at its discretion, may waive specific ~~registration~~ licensure requirements in paragraph (a).

(c) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for ~~registration~~ licensure under subdivision 2a must be ~~registered~~ licensed to practice the applicant's profession.

(d) If the applicant does not demonstrate the minimum knowledge in dental subjects required for ~~registration~~ licensure under subdivision 2a, the application must be denied. If ~~registration~~ licensure is denied, the board may notify the applicant of any specific remedy that the applicant could take which, when passed, would qualify the applicant for ~~registration~~ licensure. A denial does not prohibit the applicant from applying for ~~registration~~ licensure under subdivision 2a.

(e) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Sec. 51. Minnesota Statutes 2008, section 150A.08, subdivision 1, is amended to read:

Subdivision 1. **Grounds.** The board may refuse or by order suspend or revoke, limit or modify by imposing conditions it deems necessary, any license to practice dentistry ~~or~~, dental hygiene, or ~~the registration of any~~ dental ~~assistant~~ assisting upon any of the following grounds:

(1) fraud or deception in connection with the practice of dentistry or the securing of a license ~~or registration~~ certificate;

(2) conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of a felony or gross misdemeanor reasonably related to the practice of dentistry as evidenced by a certified copy of the conviction;

(3) conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of an offense involving moral turpitude as evidenced by a certified copy of the conviction;

(4) habitual overindulgence in the use of intoxicating liquors;

(5) improper or unauthorized prescription, dispensing, administering, or personal or other use of any legend drug as defined in chapter 151, of any chemical as defined in chapter 151, or of any controlled substance as defined in chapter 152;

(6) conduct unbecoming a person licensed to practice dentistry ~~or~~, dental hygiene, or ~~registered as a~~ dental ~~assistant~~ assisting, or conduct contrary to the best interest of the public, as such conduct is defined by the rules of the board;

(7) gross immorality;

(8) any physical, mental, emotional, or other disability which adversely affects a dentist's, dental hygienist's, or ~~registered~~ dental assistant's ability to perform the service for which the person is licensed ~~or registered~~;

(9) revocation or suspension of a license~~, registration,~~ or equivalent authority to practice, or other disciplinary action or denial of a license ~~or registration~~ application taken by a licensing~~, registering,~~ or credentialing authority of another state, territory, or country as evidenced by a certified copy of the licensing authority's order, if the disciplinary action or application denial was based on facts that would provide a basis for disciplinary action under this chapter and if the action was taken only after affording the credentialed person or applicant notice and opportunity to refute the allegations or pursuant to stipulation or other agreement;

(10) failure to maintain adequate safety and sanitary conditions for a dental office in accordance with the standards established by the rules of the board;

(11) employing, assisting, or enabling in any manner an unlicensed person to practice dentistry;

(12) failure or refusal to attend, testify, and produce records as directed by the board under subdivision 7;

(13) violation of, or failure to comply with, any other provisions of sections 150A.01 to 150A.12, the rules of the Board of Dentistry, or any disciplinary order issued by the board, sections 144.291 to 144.298 or 595.02, subdivision 1, paragraph (d), or for any other just cause related to the practice of dentistry. Suspension, revocation, modification or limitation of any license shall not be based upon any judgment as to therapeutic or monetary value of any individual drug prescribed or any individual treatment rendered, but only upon a repeated pattern of conduct;

(14) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo; or

(15) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

Sec. 52. Minnesota Statutes 2008, section 150A.08, subdivision 3, is amended to read:

Subd. 3. **Reinstatement.** Any licensee ~~or registrant~~ whose license ~~or registration~~ has been suspended or revoked may have the license ~~or registration~~ reinstated or a new license ~~or registration~~ issued, as the case may be, when the board deems the action is warranted.

Sec. 53. Minnesota Statutes 2008, section 150A.08, subdivision 3a, is amended to read:

Subd. 3a. **Costs; additional penalties.** (a) The board may impose a civil penalty not exceeding $10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive a licensee ~~or registrant~~ of any economic advantage gained by reason of the violation, to discourage similar violations by the licensee ~~or registrant~~ or any other licensee ~~or registrant~~, or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.

(b) In addition to costs and penalties imposed under paragraph (a), the board may also:

(1) order the dentist, dental hygienist, or dental assistant to provide unremunerated service;

(2) censure or reprimand the dentist, dental hygienist, or dental assistant; or

(3) any other action as allowed by law and justified by the facts of the case.

Sec. 54. Minnesota Statutes 2008, section 150A.08, subdivision 5, is amended to read:

Subd. 5. **Medical examinations.** If the board has probable cause to believe that a dentist, dental hygienist, ~~registered~~ dental assistant, or applicant engages in acts described in subdivision 1, clause (4) or (5), or has a condition described in subdivision 1, clause (8), it shall direct the dentist, dental hygienist, assistant, or applicant to submit to a mental or physical examination or a chemical dependency assessment. For the purpose of this subdivision, every dentist, hygienist, or dental assistant licensed ~~or registered~~ under this chapter or person submitting an application for a license ~~or registration~~ is deemed to have given consent to submit to a mental or physical examination when directed in writing by the board and to have waived all objections in any proceeding under this section to the admissibility of the examining physician's testimony or examination reports on the ground that they constitute a privileged communication. Failure to submit to an examination without just cause may result in an application being denied or a default and final order being entered without the taking of testimony or presentation of evidence, other than evidence which may be submitted by affidavit, that the licensee~~, registrant,~~ or applicant did not submit to the examination. A dentist, dental hygienist, ~~registered~~ dental assistant, or applicant affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate ability to start or resume the competent practice of dentistry or perform the duties of a dental hygienist or ~~registered~~ dental assistant with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board is admissible, is subject to subpoena, or may be used against the dentist, dental hygienist, ~~registered~~ dental assistant, or applicant in any proceeding not commenced by the board. Information obtained under this subdivision shall be classified as private pursuant to the Minnesota Government Data Practices Act.

Sec. 55. Minnesota Statutes 2008, section 150A.08, subdivision 6, is amended to read:

Subd. 6. **Medical records.** Notwithstanding contrary provisions of sections 13.384 and 144.651 or any other statute limiting access to medical or other health data, the board may obtain medical data and health records of a licensee~~, registrant,~~ or applicant without the licensee's~~, registrant's,~~ or applicant's consent if the information is requested by the board as part of the process specified in subdivision 5. The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and shall not be liable in any action for damages for releasing the data requested by the board if the data are released

pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision shall be classified as private under the Minnesota Government Data Practices Act.

Sec. 56. Minnesota Statutes 2008, section 150A.08, subdivision 8, is amended to read:

Subd. 8. **Suspension of license.** In addition to any other remedy provided by law, the board may, through its designated board members pursuant to section 214.10, subdivision 2, temporarily suspend a license ~~or registration~~ without a hearing if the board finds that the licensee ~~or registrant~~ has violated a statute or rule which the board is empowered to enforce and continued practice by the licensee ~~or registrant~~ would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the licensee ~~or registrant~~ served by first class mail specifying the statute or rule violated, and the time, date, and place of the hearing before the board. If the notice is returned by the post office, the notice shall be effective upon reasonable attempts to locate and serve the licensee ~~or registrant~~. Within ten days of service of the notice, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the board~~,~~ or licensee~~, or registrant,~~ shall be in affidavit form only. The licensee ~~or registrant~~ or counsel of the licensee ~~or registrant~~ may appear for oral argument. Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act within 45 days of issuance of the order. The administrative law judge shall issue a report within 30 days of the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving that report. The board may allow a person who was licensed by any state to practice dentistry and whose license has been suspended to practice dentistry under the supervision of a licensed dentist for the purpose of demonstrating competence and eligibility for reinstatement.

Sec. 57. Minnesota Statutes 2008, section 150A.081, is amended to read:

150A.081 ACCESS TO MEDICAL DATA.

Subdivision 1. **Access to data on licensee ~~or registrant~~.** When the board has probable cause to believe that a licensee's ~~or registrant's~~ condition meets a ground listed in section 150A.08, subdivision 1, clause (4) or (8), it may, notwithstanding sections 13.384, 144.651, or any other law limiting access to medical data, obtain medical or health records on the licensee ~~or registrant~~ without the licensee's ~~or registrant's~~ consent. The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph

(h), an insurance company, or a government agency. A provider, insurance company, or government agency shall comply with a written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released under the written request, unless the information is false and the entity providing the information knew, or had reason to believe, the information was false.

Subd. 2. **Access to data on patients.** The board has access to medical records of a patient treated by a licensee ~~or registrant~~ under review if the patient signs a written consent permitting access. If the patient has not given consent, the licensee ~~or registrant~~ must delete data from which a patient may be identified before releasing medical records to the board.

Subd. 3. **Data classification; release of certain health data not required.** Information obtained under this section is classified as private data on individuals under chapter 13. Under this section, the commissioner of health is not required to release health data collected and maintained under section 13.3805, subdivision 2.

Sec. 58. Minnesota Statutes 2008, section 150A.09, subdivision 1, is amended to read:

Subdivision 1. **Registration information and procedure.** On or before the license ~~or registration~~ certificate expiration date every licensed dentist, dental hygienist, and ~~registered~~ dental assistant shall transmit to the executive secretary of the board, pertinent information required by the board, together with the fee established by the board. At least 30 days before a license ~~or registration~~ certificate expiration date, the board shall send a written notice stating the amount and due date of the fee and the information to be provided to every licensed dentist, dental hygienist, and ~~registered~~ dental assistant.

Sec. 59. Minnesota Statutes 2008, section 150A.09, subdivision 3, is amended to read:

Subd. 3. **Current address, change of address.** Every dentist, dental hygienist, and ~~registered~~ dental assistant shall maintain with the board a correct and current mailing address. For dentists engaged in the practice of dentistry, the address shall be that of the location of the primary dental practice. Within 30 days after changing addresses, every dentist, dental hygienist, and ~~registered~~ dental assistant shall provide the board written notice of the new address either personally or by first class mail.

Sec. 60. Minnesota Statutes 2008, section 150A.091, subdivision 2, is amended to read:

Subd. 2. **Application fees.** Each applicant ~~for licensure or registration~~ shall submit with a license or ~~registration~~ permit application a nonrefundable fee in the following amounts in order to administratively process an application:

(1) dentist, $140;

(2) limited faculty dentist, $140;

(3) resident dentist, $55;

(4) dental hygienist, $55;

(5) ~~registered~~ licensed dental assistant, ~~$35~~ $55; and

(6) dental assistant with a ~~limited registration~~ permit as described in Minnesota Rules, part 3100.8500, subpart 3, $15.

Sec. 61. Minnesota Statutes 2008, section 150A.091, subdivision 3, is amended to read:

Subd. 3. **Initial license or ~~registration~~ permit fees.** Along with the application fee, each of the following ~~licensees or registrants~~ applicants shall submit a separate prorated initial license or ~~registration~~ permit fee. The prorated initial fee shall be established by the board based on the number of months of the ~~licensee's or registrant's~~ applicant's initial term as described in Minnesota Rules, part 3100.1700, subpart 1a, not to exceed the following monthly fee amounts:

(1) dentist, $14 times the number of months of the initial term;

(2) dental hygienist, $5 times the number of months of the initial term;

(3) ~~registered~~ licensed dental assistant, $3 times the number of months of initial term; and

(4) dental assistant with a ~~limited registration~~ permit as described in Minnesota Rules, part 3100.8500, subpart 3, $1 times the number of months of the initial term.

Sec. 62. Minnesota Statutes 2008, section 150A.091, subdivision 5, is amended to read:

Subd. 5. **Biennial license or ~~registration~~ permit fees.** Each of the following ~~licensees or registrants~~ applicants shall submit with a biennial license or ~~registration~~ permit renewal application a fee as established by the board, not to exceed the following amounts:

(1) dentist, $336;

(2) dental hygienist, $118;

(3) ~~registered~~ licensed dental assistant, $80; and

(4) dental assistant with a ~~limited registration~~ permit as described in Minnesota Rules, part 3100.8500, subpart 3, $24.

Sec. 63. Minnesota Statutes 2008, section 150A.091, subdivision 7, is amended to read:

Subd. 7. **Biennial license or ~~registration~~ permit late fee.** Applications for renewal of any license or ~~registration~~ permit received after the time specified in Minnesota Rules, part 3100.1700, must be assessed a late fee equal to 25 percent of the biennial renewal fee.

Sec. 64. Minnesota Statutes 2008, section 150A.091, subdivision 8, is amended to read:

Subd. 8. **Duplicate license or ~~registration~~ certificate fee.** Each ~~licensee or registrant~~ applicant shall submit, with a request for issuance of a duplicate of the original license ~~or registration~~, or of an annual or biennial renewal ~~of it~~ certificate for a license or permit, a fee in the following amounts:

(1) original dentist ~~or~~, dental hygiene, or dental assistant license, $35; and

(2) ~~initial and renewal registration certificates and license~~ annual or biennial renewal certificates, $10.

Sec. 65. Minnesota Statutes 2008, section 150A.091, subdivision 9, is amended to read:

Subd. 9. **Licensure ~~and registration~~ by credentials.** Each applicant for licensure as a dentist ~~or~~, dental hygienist, or ~~for registration as a registered~~ dental assistant by credentials pursuant to section 150A.06, subdivisions 4 and 8, and Minnesota Rules, part 3100.1400, shall submit with the license ~~or registration~~ application a fee in the following amounts:

(1) dentist, $725;

(2) dental hygienist, $175; and

(3) ~~registered~~ dental assistant, $35.

Sec. 66. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 9a. **Credential review; nonaccredited dental institution.** Applicants who have graduated from a nonaccredited dental college desiring licensure as a dentist pursuant to section 150A.06, subdivision 1, shall submit an application for credential review and an application fee not to exceed the amount of $200.

Sec. 67. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 9b. **Limited general license.** Each applicant for licensure as a limited general dentist pursuant to section 150A.06, subdivision 9, shall submit the applicable fees established by the board not to exceed the following amounts:

(1) initial limited general license application, $140;

(2) annual limited general license renewal application, $155; and

(3) late fee assessment for renewal application equal to 50 percent of the annual limited general license renewal fee.

Sec. 68. Minnesota Statutes 2008, section 150A.091, subdivision 10, is amended to read:

Subd. 10. **Reinstatement fee.** No dentist, dental hygienist, or ~~registered~~ dental assistant whose license ~~or registration~~ has been suspended or revoked may have the license ~~or registration~~ reinstated or a new license ~~or registration~~ issued until a fee has been submitted to the board in the following amounts:

(1) dentist, $140;

(2) dental hygienist, $55; and

(3) ~~registered~~ dental assistant, $35.

Sec. 69. Minnesota Statutes 2008, section 150A.091, subdivision 11, is amended to read:

Subd. 11. **Certificate application fee for anesthesia/sedation.** Each dentist shall submit with a general anesthesia or ~~conscious~~ moderate sedation application or a contracted sedation provider application a fee as established by the board not to exceed the following amounts:

(1) for both a general anesthesia and ~~conscious~~ moderate sedation application, ~~$50~~ $250;

(2) for a general anesthesia application only, ~~$50~~ $250; ~~and~~

(3) for a ~~conscious~~ moderate sedation application only, ~~$50.~~ $250; and

(4) for a contracted sedation provider application, $250.

Sec. 70. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 11a. **Certificate for anesthesia/sedation late fee.** Applications for renewal of a general anesthesia or moderate sedation certificate or a contracted sedation provider certificate received after the time specified in Minnesota Rules, part 3100.3600, subparts 9 and 9b, must be assessed a late fee equal to 50 percent of the biennial renewal fee for an anesthesia/sedation certificate.

Sec. 71. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 11b. **Recertification fee for anesthesia/sedation.** No dentist whose general anesthesia or moderate sedation certificate has been terminated by the board or voluntarily terminated by the dentist may become recertified until a fee has been submitted to the board not to exceed the amount of $500.

Sec. 72. Minnesota Statutes 2008, section 150A.091, subdivision 12, is amended to read:

Subd. 12. **Duplicate certificate fee for anesthesia/sedation.** Each dentist shall submit with a request for issuance of a duplicate of the original general anesthesia or ~~conscious~~ moderate sedation certificate or contracted sedation provider certificate a fee in the amount of $10.

Sec. 73. Minnesota Statutes 2008, section 150A.091, subdivision 14, is amended to read:

Subd. 14. **Affidavit of licensure.** Each licensee ~~or registrant~~ shall submit with a request for an affidavit of licensure a fee in the amount of $10.

Sec. 74. Minnesota Statutes 2008, section 150A.091, subdivision 15, is amended to read:

Subd. 15. **Verification of licensure.** Each institution or corporation shall submit with a request for verification of a license ~~or registration~~ a fee in the amount of $5 for each license ~~or registration~~ to be verified.

Sec. 75. Minnesota Statutes 2008, section 150A.10, subdivision 1a, is amended to read:

Subd. 1a. **Limited authorization for dental hygienists.** (a) Notwithstanding subdivision 1, a dental hygienist licensed under this chapter may be employed or retained by a health care facility, program, or nonprofit organization to perform dental hygiene services described under paragraph (b) without the patient first being examined by a licensed dentist if the dental hygienist:

(1) has been engaged in the active practice of clinical dental hygiene for not less than 2,400 hours in the past 18 months or a career total of 3,000 hours, including a minimum of 200 hours of clinical practice in two of the past three years;

(2) has entered into a collaborative agreement with a licensed dentist that designates authorization for the services provided by the dental hygienist;

(3) has documented participation in courses in infection control and medical emergencies within each continuing education cycle; and

(4) maintains current ~~certification in advanced or basic cardiac life support as recognized by the American Heart Association, the American Red Cross, or another agency that is equivalent to the~~ CPR certification from completion of the American Heart Association ~~or~~ healthcare provider course, the American Red Cross professional rescuer course, or an equivalent entity.

(b) The dental hygiene services authorized to be performed by a dental hygienist under this subdivision are limited to:

(1) oral health promotion and disease prevention education;

(2) removal of deposits and stains from the surfaces of the teeth;

(3) application of topical preventive or prophylactic agents, including fluoride varnishes and pit and fissure sealants;

(4) polishing and smoothing restorations;

(5) removal of marginal overhangs;

(6) performance of preliminary charting;

(7) taking of radiographs; and

(8) performance of scaling and root planing.

The dental hygienist may administer injections of local anesthetic agents or nitrous oxide inhalation analgesia as specifically delegated in the collaborative agreement with a licensed dentist. The dentist need not first examine the patient or be present. If the patient is considered medically compromised, the collaborative dentist shall review the patient record, including the medical history, prior to the provision of these services. Collaborating dental hygienists may work with ~~unregistered~~ unlicensed and ~~registered~~ licensed dental assistants who may only perform duties for which ~~registration~~ licensure is not required. The performance of dental hygiene services in a health care facility, program, or nonprofit organization as authorized under this subdivision is limited to patients, students, and residents of the facility, program, or organization.

(c) A collaborating dentist must be licensed under this chapter and may enter into a collaborative agreement with no more than four dental hygienists unless otherwise authorized by the board. The board shall develop parameters and a process for obtaining authorization to collaborate with more than four dental hygienists. The collaborative agreement must include:

(1) consideration for medically compromised patients and medical conditions for which a dental evaluation and treatment plan must occur prior to the provision of dental hygiene services;

(2) age- and procedure-specific standard collaborative practice protocols, including recommended intervals for the performance of dental hygiene services and a period of time in which an examination by a dentist should occur;

(3) copies of consent to treatment form provided to the patient by the dental hygienist;

(4) specific protocols for the placement of pit and fissure sealants and requirements for follow-up care to assure the efficacy of the sealants after application; and

(5) a procedure for creating and maintaining dental records for the patients that are treated by the dental hygienist. This procedure must specify where these records are to be located.

The collaborative agreement must be signed and maintained by the dentist, the dental hygienist, and the facility, program, or organization; must be reviewed annually by the collaborating dentist and dental hygienist; and must be made available to the board upon request.

(d) Before performing any services authorized under this subdivision, a dental hygienist must provide the patient with a consent to treatment form which must include a statement advising the patient that the dental hygiene services provided are not a substitute for a dental examination by a licensed dentist. If the dental hygienist makes any referrals to the patient for further dental procedures, the dental hygienist must fill out a referral form and provide a copy of the form to the collaborating dentist.

(e) For the purposes of this subdivision, a "health care facility, program, or nonprofit organization" is limited to a hospital; nursing home; home health agency; group home serving the elderly, disabled, or juveniles; state-operated facility licensed by the commissioner of human services or the commissioner of corrections; and federal, state, or local public health facility, community clinic, tribal clinic, school authority, Head Start program, or nonprofit organization that serves individuals who are uninsured or who are Minnesota health care public program recipients.

(f) For purposes of this subdivision, a "collaborative agreement" means a written agreement with a licensed dentist who authorizes and accepts responsibility for the services performed by the dental hygienist. The services authorized under this subdivision and the collaborative agreement may be performed without the presence of a licensed dentist and may be performed at a location other than the usual place of practice of the dentist or dental hygienist and without a dentist's diagnosis and treatment plan, unless specified in the collaborative agreement.

Sec. 76. Minnesota Statutes 2008, section 150A.10, subdivision 2, is amended to read:

Subd. 2. **Dental assistants.** Every licensed dentist who uses the services of any unlicensed person for the purpose of assistance in the practice of dentistry shall be responsible for the acts of such unlicensed person while engaged in such assistance. Such dentist shall permit such unlicensed assistant to perform only those acts which are authorized to be delegated to unlicensed assistants by the Board of Dentistry. Such acts shall be performed under supervision of a licensed dentist. The board may permit differing levels of dental assistance based upon recognized educational standards, approved by the board, for the training of dental assistants. The board may also define by rule the scope of practice of ~~registered~~ licensed and ~~nonregistered~~ unlicensed dental assistants. The board by rule may require continuing education for differing levels of dental assistants, as a condition to their ~~registration~~ license or authority to perform their authorized duties. Any

licensed dentist who shall permit such unlicensed assistant to perform any dental service other than that authorized by the board shall be deemed to be enabling an unlicensed person to practice dentistry, and commission of such an act by such unlicensed assistant shall constitute a violation of sections 150A.01 to 150A.12.

Sec. 77. Minnesota Statutes 2008, section 150A.10, subdivision 4, is amended to read:

Subd. 4. **Restorative procedures.** (a) Notwithstanding subdivisions 1, 1a, and 2, a licensed dental hygienist or ~~a registered~~ licensed dental assistant may perform the following restorative procedures:

(1) place, contour, and adjust amalgam restorations;

(2) place, contour, and adjust glass ionomer;

(3) adapt and cement stainless steel crowns; and

(4) place, contour, and adjust class I and class V supragingival composite restorations where the margins are entirely within the enamel.

(b) The restorative procedures described in paragraph (a) may be performed only if:

(1) the licensed dental hygienist or ~~the registered~~ licensed dental assistant has completed a board-approved course on the specific procedures;

(2) the board-approved course includes a component that sufficiently prepares the licensed dental hygienist or ~~registered~~ licensed dental assistant to adjust the occlusion on the newly placed restoration;

(3) a licensed dentist has authorized the procedure to be performed; and

(4) a licensed dentist is available in the clinic while the procedure is being performed.

(c) The dental faculty who teaches the educators of the board-approved courses specified in paragraph (b) must have prior experience teaching these procedures in an accredited dental education program.

Sec. 78. Minnesota Statutes 2008, section 150A.12, is amended to read:

150A.12 VIOLATION AND DEFENSES.

Every person who violates any of the provisions of sections 150A.01 to 150A.12 for which no specific penalty is provided herein, shall be guilty of a gross misdemeanor; and, upon conviction, punished by a fine of not more than $3,000 or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment. In the prosecution of any person for violation of sections 150A.01 to 150A.12, it shall not be necessary to allege or prove lack of a valid license to practice dentistry ~~or~~, dental hygiene, or dental assisting, but such matter shall be a matter of defense to be established by the defendant.

Sec. 79. Minnesota Statutes 2008, section 150A.13, is amended to read:

150A.13 REPORTING OBLIGATIONS.

Subdivision 1. **Permission to report.** A person who has knowledge of ~~a registrant or~~ a licensee unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition may report the ~~registrant or~~ licensee to the board.

Subd. 2. **Institutions.** A hospital, clinic, or other health care institution or organization located in this state shall report to the board any action taken by the agency, institution, or organization or any of its administrators or dental or other committees to revoke, suspend, restrict, or condition a ~~registrant's or~~ licensee's privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action against a ~~registrant or~~ licensee described under subdivision 1. The institution or organization shall also report the resignation of any ~~registrants or~~ licensees prior to the conclusion of any disciplinary action proceeding against a ~~registrant or~~ licensee described under subdivision 1.

Subd. 3. **Dental societies.** A state or local dental society or professional dental association shall report to the board any termination, revocation, or suspension of membership or any other disciplinary action taken against a ~~registrant or~~ licensee. If the society or association has received a complaint against a ~~registrant or~~ licensee described under subdivision 1, on which it has not taken any disciplinary action, the society or association shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the board. This subdivision does not apply to a society or association when it performs peer review functions as an agent of an outside entity, organization, or system.

Subd. 4. **Licensed professionals.** (a) A licensed ~~or registered~~ health professional shall report to the board personal knowledge of any conduct by any person who the licensed ~~or registered~~ health professional reasonably believes is a ~~registrant or~~ licensee described under subdivision 1.

(b) Notwithstanding paragraph (a), a licensed health professional shall report to the board knowledge of any actions which institutions must report under subdivision 2.

Subd. 5. **Insurers and other entities making liability payments.** (a) Four times each year as prescribed by the board, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to ~~registrants or~~ licensees, shall submit to the board a report concerning the ~~registrants and~~ licensees against whom malpractice settlements or awards have been made to the plaintiff. The report must contain at least the following information:

(1) the total number of malpractice settlements or awards made;

(2) the date the malpractice settlements or awards were made;

(3) the allegations contained in the claim or complaint leading to the settlements or awards made;

(4) the dollar amount of each malpractice settlement or award;

(5) the regular address of the practice of the ~~registrant or~~ licensee against whom an award was made or with whom a settlement was made; and

(6) the name of the ~~registrant or~~ licensee against whom an award was made or with whom a settlement was made.

(b) A dental clinic, hospital, political subdivision, or other entity which makes professional liability insurance payments on behalf of ~~registrants or~~ licensees shall submit to the board a report concerning malpractice settlements or awards paid on behalf of ~~registrants or~~ licensees, and any settlements or awards paid by a clinic, hospital, political subdivision, or other entity on its own behalf because of care rendered by ~~registrants or~~ licensees. This requirement excludes forgiveness of bills. The report shall be made to the board within 30 days of payment of all or part of any settlement or award.

Subd. 6. **Courts.** The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a ~~registrant or~~ licensee is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of an abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the ~~registrant or~~ licensee pursuant to sections 524.5-101 to 524.5-502, or commits a ~~registrant or~~ licensee pursuant to chapter 253B.

Subd. 7. **Self-reporting.** A ~~registrant or~~ licensee shall report to the board any personal action that would require that a report be filed by any person, health care facility, business, or organization pursuant to subdivisions 2 to 6.

Subd. 8. **Deadlines; forms.** Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

Subd. 9. **Subpoenas.** The board may issue subpoenas for the production of any reports required by subdivisions 2 to 7 or any related documents.

Sec. 80. Minnesota Statutes 2008, section 169.345, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For the purpose of section 168.021 and this section, the following terms have the meanings given them in this subdivision.

(b) "Health professional" means a licensed physician, ~~registered~~ licensed physician assistant, advanced practice registered nurse, or licensed chiropractor.

(c) "Long-term certificate" means a certificate issued for a period greater than 12 months but not greater than 71 months.

(d) "Organization certificate" means a certificate issued to an entity other than a natural person for a period of three years.

(e) "Permit" refers to a permit that is issued for a period of 30 days, in lieu of the certificate referred to in subdivision 3, while the application is being processed.

(f) "Physically disabled person" means a person who:

(1) because of disability cannot walk without significant risk of falling;

(2) because of disability cannot walk 200 feet without stopping to rest;

(3) because of disability cannot walk without the aid of another person, a walker, a cane, crutches, braces, a prosthetic device, or a wheelchair;

(4) is restricted by a respiratory disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter;

(5) has an arterial oxygen tension (PAO2) of less than 60 mm/Hg on room air at rest;

(6) uses portable oxygen;

(7) has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association;

(8) has lost an arm or a leg and does not have or cannot use an artificial limb; or

(9) has a disability that would be aggravated by walking 200 feet under normal environmental conditions to an extent that would be life threatening.

(g) "Short-term certificate" means a certificate issued for a period greater than six months but not greater than 12 months.

(h) "Six-year certificate" means a certificate issued for a period of six years.

(i) "Temporary certificate" means a certificate issued for a period not greater than six months.

Sec. 81. Minnesota Statutes 2008, section 182.6551, is amended to read:

182.6551 CITATION; SAFE PATIENT HANDLING ACT.

Sections 182.6551 to ~~182.6553~~ 182.6554 may be cited as the "Safe Patient Handling Act."

Sec. 82. Minnesota Statutes 2008, section 182.6552, is amended by adding a subdivision to read:

Subd. 5. **Clinical settings that move patients.** "Clinical settings that move patients" means physician, dental, and other outpatient care facilities, except for outpatient surgical settings, where service requires movement of patients from point to point as part of the scope of service.

Sec. 83. **[182.6554] SAFE PATIENT HANDLING IN CLINICAL SETTINGS.**

Subdivision 1. **Safe patient handling plan required.** (a) By July 1, 2010, every clinical setting that moves patients in the state shall develop a written safe patient handling plan to achieve by January 1, 2012, the goal of ensuring the safe handling of patients by minimizing manual lifting of patients by direct patient care workers and by utilizing safe patient handling equipment.

(b) The plan shall address:

(1) assessment of risks with regard to patient handling that considers the patient population and environment of care;

(2) the acquisition of an adequate supply of appropriate safe patient handling equipment;

(3) initial and ongoing training of direct patient care workers on the use of this equipment;

(4) procedures to ensure that physical plant modifications and major construction projects are consistent with plan goals; and

(5) periodic evaluations of the safe patient handling plan.

(c) A health care organization with more than one covered clinical setting that moves patients may establish a plan at each clinical setting or establish one plan to serve this function for all the clinical settings.

Subd. 2. **Facilities with existing programs.** A clinical setting that moves patients that has already adopted a safe patient handling plan that satisfies the requirements of subdivision 1, or a clinical setting that moves patients that is covered by a safe patient handling plan that is covered under and consistent with section 182.6553, is considered to be in compliance with the requirements of this section.

Subd. 3. **Training materials.** The commissioner shall make training materials on implementation of this section available at no cost to all clinical settings that move patients as part of the training and education duties of the commissioner under section 182.673.

Subd. 4. **Enforcement.** This section shall be enforced by the commissioner under section 182.661. An initial violation of this section shall not be assessed a penalty. A

subsequent violation of this section is subject to the penalties provided under section 182.666.

Sec. 84. Minnesota Statutes 2008, section 252.27, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** A "related condition" is a condition (1) that is found to be closely related to developmental disability, including, but not limited to, cerebral palsy, epilepsy, autism, fetal alcohol spectrum disorder, and Prader-Willi syndrome, and (2) that meets all of the following criteria:

~~(1)~~ (i) is severe and chronic;

~~(2)~~ (ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with developmental disabilities;

~~(3)~~ (iii) requires treatment or services similar to those required for persons with developmental disabilities;

~~(4)~~ (iv) is manifested before the person reaches 22 years of age;

~~(5)~~ (v) is likely to continue indefinitely;

~~(6)~~ (vi) results in substantial functional limitations in three or more of the following areas of major life activity: ~~(i)~~ (A) self-care, ~~(ii)~~ (B) understanding and use of language, ~~(iii)~~ (C) learning, ~~(iv)~~ (D) mobility, ~~(v)~~ (E) self-direction, ~~(vi)~~ (F) capacity for independent living; and

~~(7)~~ (vii) is not attributable to mental illness as defined in section 245.462, subdivision 20, or an emotional disturbance as defined in section 245.4871, subdivision 15.

For purposes of ~~clause (7)~~ item (vii), notwithstanding section 245.462, subdivision 20, or 245.4871, subdivision 15, "mental illness" does not include autism or other pervasive developmental disorders.

Sec. 85. Minnesota Statutes 2008, section 252.282, subdivision 3, is amended to read:

Subd. 3. **Recommendations.** (a) Upon completion of the local system needs planning assessment, the host county shall make recommendations by May 15, 2000, and by July 1 every two years thereafter beginning in 2001. If no change is recommended, a copy of the assessment along with corresponding documentation shall be provided to the commissioner by July 1 prior to the contract year.

~~(b) Except as provided in section 252.292, subdivision 4, recommendations regarding closures, relocations, or downsizings that include a rate increase shall be submitted to the statewide advisory committee for review, along with the assessment, plan, and corresponding documentation that supports the payment rate adjustment request.~~

~~(c)~~ (b) Recommendations for closures, relocations, and downsizings that do not include a rate increase and for modification of existing services for which a change in the

framework of service delivery is necessary shall be provided to the commissioner by July 1 prior to the contract year or at least 90 days prior to the anticipated change, along with the assessment and corresponding documentation.

Sec. 86. Minnesota Statutes 2008, section 252.282, subdivision 5, is amended to read:

Subd. 5. **Responsibilities of commissioner.** (a) In collaboration with counties and providers, the commissioner shall ensure that services recognize the preferences and needs of persons with developmental disabilities and related conditions through a recurring systemic review and assessment of ICF/MR facilities within the state.

~~(b) The commissioner shall publish a notice in the State Register no less than biannually to announce the opportunity for counties or providers to submit requests for payment rate adjustments associated with plans for downsizing, relocation, and closure of ICF/MR facilities.~~

~~(c) The commissioner shall designate funding parameters to counties and to the statewide advisory committee for the overall implementation of system needs within the fiscal resources allocated by the legislature.~~

~~(d)~~ (b) The commissioner shall contract with ICF/MR providers. Contracts shall be for two-year periods.

Sec. 87. Minnesota Statutes 2008, section 253B.02, subdivision 7, is amended to read:

Subd. 7. **Examiner.** "Examiner" means a person who is knowledgeable, trained, and practicing in the diagnosis and assessment or in the treatment of the alleged impairment, and who is:

(1) a licensed physician;

(2) a licensed psychologist who has a doctoral degree in psychology or who became a licensed consulting psychologist before July 2, 1975; or

(3) an advanced practice registered nurse certified in mental health or a licensed physician assistant, except that only a physician or psychologist meeting these requirements may be appointed by the court as described by sections 253B.07, subdivision 3; 253B.092, subdivision 8, paragraph (b); 253B.17, subdivision 3; 253B.18, subdivision 2; and 253B.19, subdivisions 1 and 2, and only a physician or psychologist may conduct an assessment as described by Minnesota Rules of Criminal Procedure, rule 20.

Sec. 88. Minnesota Statutes 2008, section 253B.05, subdivision 2, is amended to read:

Subd. 2. **Peace or health officer authority.** (a) A peace or health officer may take a person into custody and transport the person to a licensed physician or treatment facility if the officer has reason to believe, either through direct observation of the person's behavior,

or upon reliable information of the person's recent behavior and knowledge of the person's past behavior or psychiatric treatment, that the person is mentally ill or developmentally disabled and in danger of injuring self or others if not immediately detained. A peace or health officer or a person working under such officer's supervision, may take a person who is believed to be chemically dependent or is intoxicated in public into custody and transport the person to a treatment facility. If the person is intoxicated in public or is believed to be chemically dependent and is not in danger of causing self-harm or harm to any person or property, the peace or health officer may transport the person home. The peace or health officer shall make written application for admission of the person to the treatment facility. The application shall contain the peace or health officer's statement specifying the reasons for and circumstances under which the person was taken into custody. If danger to specific individuals is a basis for the emergency hold, the statement must include identifying information on those individuals, to the extent practicable. A copy of the statement shall be made available to the person taken into custody.

(b) As far as is practicable, a peace officer who provides transportation for a person placed in a facility under this subdivision may not be in uniform and may not use a vehicle visibly marked as a law enforcement vehicle.

(c) A person may be admitted to a treatment facility for emergency care and treatment under this subdivision with the consent of the head of the facility under the following circumstances: (1) a written statement shall only be made by the following individuals who are knowledgeable, trained, and practicing in the diagnosis and treatment of mental illness or developmental disability; the medical officer, or the officer's designee on duty at the facility, including a licensed physician, a ~~registered~~ licensed physician assistant, or an advanced practice registered nurse who after preliminary examination has determined that the person has symptoms of mental illness or developmental disability and appears to be in danger of harming self or others if not immediately detained; or (2) a written statement is made by the institution program director or the director's designee on duty at the facility after preliminary examination that the person has symptoms of chemical dependency and appears to be in danger of harming self or others if not immediately detained or is intoxicated in public.

Sec. 89. Minnesota Statutes 2008, section 256B.0625, subdivision 28a, is amended to read:

Subd. 28a. **~~Registered~~ Licensed physician assistant services.** Medical assistance covers services performed by a ~~registered~~ licensed physician assistant if the service is otherwise covered under this chapter as a physician service and if the service is within the scope of practice of a ~~registered~~ licensed physician assistant as defined in section 147A.09.

Sec. 90. Minnesota Statutes 2008, section 256B.0657, subdivision 5, is amended to read:

Subd. 5. **Self-directed supports option plan requirements.** (a) The plan for the self-directed supports option must meet the following requirements:

(1) the plan must be completed using a person-centered process that:

(i) builds upon the recipient's capacity to engage in activities that promote community life;

(ii) respects the recipient's preferences, choices, and abilities;

(iii) involves families, friends, and professionals in the planning or delivery of services or supports as desired or required by the recipient; and

(iv) addresses the need for personal care assistant services identified in the recipient's self-directed supports option assessment;

(2) the plan shall be developed by the recipient or by the guardian of an adult recipient or by a parent or guardian of a minor child, ~~with the assistance of an enrolled medical assistance home care targeted case manager~~ and may be assisted by a provider who meets the requirements established for using a person-centered planning process and shall be reviewed at least annually upon reassessment or when there is a significant change in the recipient's condition; and

(3) the plan must include the total budget amount available divided into monthly amounts that cover the number of months of personal care assistant services authorization included in the budget. The amount used each month may vary, but additional funds shall not be provided above the annual personal care assistant services authorized amount unless a change in condition is documented.

(b) The commissioner shall:

(1) establish the format and criteria for the plan as well as the requirements for providers who assist with plan development;

(2) review the assessment and plan and, within 30 days after receiving the assessment and plan, make a decision on approval of the plan;

(3) notify the recipient, parent, or guardian of approval or denial of the plan and provide notice of the right to appeal under section 256.045; and

(4) provide a copy of the plan to the fiscal support entity selected by the recipient.

Sec. 91. Minnesota Statutes 2008, section 256B.0751, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of sections 256B.0751 to 256B.0753, the following definitions apply.

(b) "Commissioner" means the commissioner of human services.

(c) "Commissioners" means the commissioner of humans services and the commissioner of health, acting jointly.

(d) "Health plan company" has the meaning provided in section 62Q.01, subdivision 4.

(e) "Personal clinician" means a physician licensed under chapter 147, a physician assistant ~~registered~~ licensed and practicing under chapter 147A, or an advanced practice nurse licensed and registered to practice under chapter 148.

(f) "State health care program" means the medical assistance, MinnesotaCare, and general assistance medical care programs.

Sec. 92. Minnesota Statutes 2008, section 256B.0913, subdivision 4, is amended to read:

Subd. 4. **Eligibility for funding for services for nonmedical assistance recipients.** (a) Funding for services under the alternative care program is available to persons who meet the following criteria:

(1) the person has been determined by a community assessment under section 256B.0911 to be a person who would require the level of care provided in a nursing facility, but for the provision of services under the alternative care program;

(2) the person is age 65 or older;

(3) the person would be eligible for medical assistance within 135 days of admission to a nursing facility;

(4) the person is not ineligible for the payment of long-term care services by the medical assistance program due to an asset transfer penalty under section 256B.0595 or equity interest in the home exceeding $500,000 as stated in section 256B.056;

(5) the person needs long-term care services that are not funded through other state or federal funding, or other health insurance or other third-party insurance such as long-term care insurance;

(6) the monthly cost of the alternative care services funded by the program for this person does not exceed 75 percent of the monthly limit described under section 256B.0915, subdivision 3a. This monthly limit does not prohibit the alternative care client from payment for additional services, but in no case may the cost of additional services purchased under this section exceed the difference between the client's monthly service limit defined under section 256B.0915, subdivision 3, and the alternative care program monthly service limit defined in this paragraph. If care-related supplies and equipment or environmental modifications and adaptations are or will be purchased for an alternative care services recipient, the costs may be prorated on a monthly basis for

up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's other alternative care services exceeds the monthly limit established in this paragraph, the annual cost of the alternative care services shall be determined. In this event, the annual cost of alternative care services shall not exceed 12 times the monthly limit described in this paragraph; and

(7) the person is making timely payments of the assessed monthly fee.

A person is ineligible if payment of the fee is over 60 days past due, unless the person agrees to:

(i) the appointment of a representative payee;

(ii) automatic payment from a financial account;

(iii) the establishment of greater family involvement in the financial management of payments; or

(iv) another method acceptable to the lead agency to ensure prompt fee payments.

The lead agency may extend the client's eligibility as necessary while making arrangements to facilitate payment of past-due amounts and future premium payments. Following disenrollment due to nonpayment of a monthly fee, eligibility shall not be reinstated for a period of 30 days.

(b) Alternative care funding under this subdivision is not available for a person who is a medical assistance recipient or who would be eligible for medical assistance without a spenddown or waiver obligation. A person whose initial application for medical assistance and the elderly waiver program is being processed may be served under the alternative care program for a period up to 60 days. If the individual is found to be eligible for medical assistance, medical assistance must be billed for services payable under the federally approved elderly waiver plan and delivered from the date the individual was found eligible for the federally approved elderly waiver plan. Notwithstanding this provision, alternative care funds may not be used to pay for any service the cost of which: (i) is payable by medical assistance; (ii) is used by a recipient to meet a waiver obligation; or (iii) is used to pay a medical assistance income spenddown for a person who is eligible to participate in the federally approved elderly waiver program under the special income standard provision.

(c) Alternative care funding is not available for a person who resides in a licensed nursing home, certified boarding care home, hospital, or intermediate care facility, except for case management services which are provided in support of the discharge planning process for a nursing home resident or certified boarding care home resident to assist with a relocation process to a community-based setting.

(d) Alternative care funding is not available for a person whose income is greater than the maintenance needs allowance under section 256B.0915, subdivision 1d, but equal to or less than 120 percent of the federal poverty guideline effective July 1 in the fiscal year for which alternative care eligibility is determined, who would be eligible for the elderly waiver with a waiver obligation.

Sec. 93. Minnesota Statutes 2008, section 256B.0913, subdivision 5a, is amended to read:

Subd. 5a. **Services; service definitions; service standards.** (a) Unless specified in statute, the services, service definitions, and standards for alternative care services shall be the same as the services, service definitions, and standards specified in the federally approved elderly waiver plan, except alternative care does not cover transitional support services, assisted living services, adult foster care services, and residential care and benefits defined under section 256B.0625 that meet primary and acute health care needs.

(b) The lead agency must ensure that the funds are not used to supplant or supplement services available through other public assistance or services programs, including supplementation of client co-pays, deductibles, premiums, or other cost-sharing arrangements for health-related benefits and services or entitlement programs and services that are available to the person, but in which they have elected not to enroll. The lead agency must ensure that the benefit department recovery system in the Medicaid Management Information System (MMIS) has the necessary information on any other health insurance or third-party insurance policy to which the client may have access. For a provider of supplies and equipment when the monthly cost of the supplies and equipment is less than $250, persons or agencies must be employed by or under a contract with the lead agency or the public health nursing agency of the local board of health in order to receive funding under the alternative care program. Supplies and equipment may be purchased from a vendor not certified to participate in the Medicaid program if the cost for the item is less than that of a Medicaid vendor.

(c) Personal care services must meet the service standards defined in the federally approved elderly waiver plan, except that a lead agency may contract with a client's relative who meets the relative hardship waiver requirements or a relative who meets the criteria and is also the responsible party under an individual service plan that ensures the client's health and safety and supervision of the personal care services by a qualified professional as defined in section 256B.0625, subdivision 19c. Relative hardship is established by the lead agency when the client's care causes a relative caregiver to do any of the following: resign from a paying job, reduce work hours resulting in lost wages, obtain a leave of absence resulting in lost wages, incur substantial client-related expenses,

provide services to address authorized, unstaffed direct care time, or meet special needs of the client unmet in the formal service plan.

Sec. 94. Minnesota Statutes 2008, section 256B.0913, subdivision 12, is amended to read:

Subd. 12. **Client fees.** (a) A fee is required for all alternative care eligible clients to help pay for the cost of participating in the program. The amount of the fee for the alternative care client shall be determined as follows:

(1) when the alternative care client's income less recurring and predictable medical expenses is less than 100 percent of the federal poverty guideline effective on July 1 of the state fiscal year in which the fee is being computed, and total assets are less than $10,000, the fee is zero;

(2) when the alternative care client's income less recurring and predictable medical expenses is equal to or greater than 100 percent but less than 150 percent of the federal poverty guideline effective on July 1 of the state fiscal year in which the fee is being computed, and total assets are less than $10,000, the fee is five percent of the cost of alternative care services;

(3) when the alternative care client's income less recurring and predictable medical expenses is equal to or greater than 150 percent but less than 200 percent of the federal poverty guidelines effective on July 1 of the state fiscal year in which the fee is being computed and assets are less than $10,000, the fee is 15 percent of the cost of alternative care services;

(4) when the alternative care client's income less recurring and predictable medical expenses is equal to or greater than 200 percent of the federal poverty guidelines effective on July 1 of the state fiscal year in which the fee is being computed and assets are less than $10,000, the fee is 30 percent of the cost of alternative care services; and

(5) when the alternative care client's assets are equal to or greater than $10,000, the fee is 30 percent of the cost of alternative care services.

For married persons, total assets are defined as the total marital assets less the estimated community spouse asset allowance, under section 256B.059, if applicable. For married persons, total income is defined as the client's income less the monthly spousal allotment, under section 256B.058.

All alternative care services shall be included in the estimated costs for the purpose of determining the fee.

Fees are due and payable each month alternative care services are received unless the actual cost of the services is less than the fee, in which case the fee is the lesser amount.

(b) The fee shall be waived by the commissioner when:

(1) a person is residing in a nursing facility;

(2) a married couple is requesting an asset assessment under the spousal impoverishment provisions;

(3) a person is found eligible for alternative care, but is not yet receiving alternative care services including case management services; or

(4) a person has chosen to participate in a consumer-directed service plan for which the cost is no greater than the total cost of the person's alternative care service plan less the monthly fee amount that would otherwise be assessed.

(c) The commissioner will bill and collect the fee from the client. Money collected must be deposited in the general fund and is appropriated to the commissioner for the alternative care program. The client must supply the lead agency with the client's Social Security number at the time of application. The lead agency shall supply the commissioner with the client's Social Security number and other information the commissioner requires to collect the fee from the client. The commissioner shall collect unpaid fees using the Revenue Recapture Act in chapter 270A and other methods available to the commissioner. The commissioner may require lead agencies to inform clients of the collection procedures that may be used by the state if a fee is not paid. ~~This paragraph does not apply to alternative care pilot projects authorized in Laws 1993, First Special Session chapter 1, article 5, section 133, if a county operating under the pilot project reports the following dollar amounts to the commissioner quarterly:~~

~~(1) total fees billed to clients;~~

~~(2) total collections of fees billed; and~~

~~(3) balance of fees owed by clients.~~

~~If a lead agency does not adhere to these reporting requirements, the commissioner may terminate the billing, collecting, and remitting portions of the pilot project and require the lead agency involved to operate under the procedures set forth in this paragraph.~~

Sec. 95. Minnesota Statutes 2008, section 256B.0915, subdivision 2, is amended to read:

Subd. 2. **Spousal impoverishment policies.** The commissioner shall apply:

~~(1)~~ the spousal impoverishment criteria as authorized under United States Code, title 42, section 1396r-5, and as implemented in sections 256B.0575, 256B.058, and 256B.059~~;~~, except that individuals with income at or below the special income standard according to Code of Federal Regulations, title 42, section 435.236, receive the maintenance needs amount in subdivision 1d.

~~(2) the personal needs allowance permitted in section 256B.0575; and~~

~~(3) an amount equivalent to the group residential housing rate as set by section 256I.03, subdivision 5, and according to the approved federal waiver and medical assistance state plan.~~

Sec. 96. Minnesota Statutes 2008, section 256B.431, subdivision 10, is amended to read:

Subd. 10. **Property rate adjustments and construction projects.** A nursing ~~facility's~~ facility completing a construction project that is eligible for a rate adjustment under section 256B.434, subdivision 4f, and that was not approved through the moratorium exception process in section 144A.073 must request ~~for~~ from the commissioner a property-related payment rate adjustment ~~and the related supporting documentation of project construction cost information must be submitted to the commissioner~~. If the request is made within 60 days after the construction project's completion date ~~to be considered eligible for a property-related payment rate adjustment~~ the effective date of the rate adjustment is the first of the month following the completion date. If the request is made more than 60 days after the completion date, the rate adjustment is effective on the first of the month following the request. The commissioner shall provide a rate notice reflecting the allowable costs within 60 days after receiving all the necessary information to compute the rate adjustment. No sooner than the effective date of the rate adjustment for the ~~building~~ construction project, a nursing facility may adjust its rates by the amount anticipated to be allowed. Any amounts collected from private pay residents in excess of the allowable rate must be repaid to private pay residents with interest at the rate used by the commissioner of revenue for the late payment of taxes and in effect on the date the rate increase is effective. Construction projects with completion dates within one year of the completion date associated with the property rate adjustment request and phased projects with project completion dates within three years of the last phase of the phased project must be aggregated for purposes of the minimum thresholds in subdivisions 16 and 17, and the maximum threshold in section 144A.071, subdivision 2. "Construction project" and "project construction costs" have the meanings given them in Minnesota Statutes, section 144A.071, subdivision 1a.

Sec. 97. Minnesota Statutes 2008, section 256B.433, subdivision 1, is amended to read:

Subdivision 1. **Setting payment; monitoring use of therapy services.** The commissioner shall ~~promulgate~~ adopt rules ~~pursuant to~~ under the Administrative Procedure Act to set the amount and method of payment for ancillary materials and services provided to recipients residing in nursing facilities. Payment for materials and services may be made to either ~~the nursing facility in the operating cost per diem, to~~ the

vendor of ancillary services pursuant to Minnesota Rules, parts 9505.0170 to 9505.0475, or to a nursing facility pursuant to Minnesota Rules, parts 9505.0170 to 9505.0475. Payment for the same or similar service to a recipient shall not be made to both the nursing facility and the vendor. The commissioner shall ensure the avoidance of double payments through audits and adjustments to the nursing facility's annual cost report as required by section 256B.47, and that charges and arrangements for ancillary materials and services are cost-effective and as would be incurred by a prudent and cost-conscious buyer. Therapy services provided to a recipient must be medically necessary and appropriate to the medical condition of the recipient. If the vendor, nursing facility, or ordering physician cannot provide adequate medical necessity justification, as determined by the commissioner, the commissioner may recover or disallow the payment for the services and may require prior authorization for therapy services as a condition of payment or may impose administrative sanctions to limit the vendor, nursing facility, or ordering physician's participation in the medical assistance program. If the provider number of a nursing facility is used to bill services provided by a vendor of therapy services that is not related to the nursing facility by ownership, control, affiliation, or employment status, no withholding of payment shall be imposed against the nursing facility for services not medically necessary except for funds due the unrelated vendor of therapy services as provided in subdivision 3, paragraph (c). For the purpose of this subdivision, no monetary recovery may be imposed against the nursing facility for funds paid to the unrelated vendor of therapy services as provided in subdivision 3, paragraph (c), for services not medically necessary. For purposes of this section and section 256B.47, therapy includes physical therapy, occupational therapy, speech therapy, audiology, and mental health services that are covered services according to Minnesota Rules, parts 9505.0170 to 9505.0475~~, and that could be reimbursed separately from the nursing facility per diem~~. For purposes of this subdivision, "ancillary services" include transportation defined as a covered service in section 256B.0625, subdivision 17.

Sec. 98. Minnesota Statutes 2008, section 256B.441, subdivision 5, is amended to read:

Subd. 5. **Administrative costs.** "Administrative costs" means the direct costs for administering the overall activities of the nursing home. These costs include salaries and wages of the administrator, assistant administrator, business office employees, security guards, and associated fringe benefits and payroll taxes, fees, contracts, or purchases related to business office functions, licenses, and permits except as provided in the external fixed costs category, employee recognition, travel including meals and lodging, all training except as specified in subdivision 11, voice and data communication or transmission, office supplies, liability insurance and other forms of insurance not designated to other

areas, personnel recruitment, legal services, accounting services, management or business consultants, data processing, information technology, Web site, central or home office costs, business meetings and seminars, postage, fees for professional organizations, subscriptions, security services, advertising, board of director's fees, working capital interest expense, and bad debts and bad debt collection fees.

Sec. 99. Minnesota Statutes 2008, section 256B.441, subdivision 11, is amended to read:

Subd. 11. **Direct care costs.** "Direct care costs" means costs for the wages of nursing administration, ~~staff education,~~ direct care registered nurses, licensed practical nurses, certified nursing assistants, trained medication aides, employees conducting training in resident care topics and associated fringe benefits and payroll taxes; services from a supplemental nursing services agency; supplies that are stocked at nursing stations or on the floor and distributed or used individually, including, but not limited to: alcohol, applicators, cotton balls, incontinence pads, disposable ice bags, dressings, bandages, water pitchers, tongue depressors, disposable gloves, enemas, enema equipment, soap, medication cups, diapers, plastic waste bags, sanitary products, thermometers, hypodermic needles and syringes, clinical reagents or similar diagnostic agents, drugs that are not paid on a separate fee schedule by the medical assistance program or any other payer, and technology related to the provision of nursing care to residents, such as electronic charting systems; costs of materials used for resident care training, and training courses outside of the facility attended by direct care staff on resident care topics.

Sec. 100. Minnesota Statutes 2008, section 256B.5011, subdivision 2, is amended to read:

Subd. 2. **Contract provisions.** (a) The service contract with each intermediate care facility must include provisions for:

(1) modifying payments when significant changes occur in the needs of the consumers;

~~(2) the establishment and use of a quality improvement plan. Using criteria and options for performance measures developed by the commissioner, each intermediate care facility must identify a minimum of one performance measure on which to focus its efforts for quality improvement during the contract period;~~

~~(3)~~ (2) appropriate and necessary statistical information required by the commissioner;

~~(4)~~ (3) annual aggregate facility financial information; and

~~(5)~~ (4) additional requirements for intermediate care facilities not meeting the standards set forth in the service contract.

(b) The commissioner of human services and the commissioner of health, in consultation with representatives from counties, advocacy organizations, and the provider community, shall review the consolidated standards under chapter 245B and the supervised living facility rule under Minnesota Rules, chapter 4665, to determine what provisions in Minnesota Rules, chapter 4665, may be waived by the commissioner of health for intermediate care facilities in order to enable facilities to implement the performance measures in their contract and provide quality services to residents without a duplication of or increase in regulatory requirements.

Sec. 101. Minnesota Statutes 2008, section 256B.5012, subdivision 6, is amended to read:

Subd. 6. **ICF/MR rate increases October 1, 2005, and October 1, 2006.** (a) For the rate periods beginning October 1, 2005, and October 1, 2006, the commissioner shall make available to each facility reimbursed under this section an adjustment to the total operating payment rate of 2.2553 percent.

(b) 75 percent of the money resulting from the rate adjustment under paragraph (a) must be used to increase wages and benefits and pay associated costs for employees, except for administrative and central office employees. 75 percent of the money received by a facility as a result of the rate adjustment provided in paragraph (a) must be used only for wage, benefit, and staff increases implemented on or after the effective date of the rate increase each year, and must not be used for increases implemented prior to that date. The wage adjustment eligible employees may receive may vary based on merit, seniority, or other factors determined by the provider.

(c) For each facility, the commissioner shall make available an adjustment, based on occupied beds, using the percentage specified in paragraph (a) multiplied by the total payment rate, including variable rate but excluding the property-related payment rate, in effect on the preceding day. The total payment rate shall include the adjustment provided in section 256B.501, subdivision 12.

(d) A facility whose payment rates are governed by closure agreements~~,~~ or receivership agreements~~, or Minnesota Rules, part 9553.0075,~~ is not eligible for an adjustment otherwise granted under this subdivision.

(e) A facility may apply for the portion of the payment rate adjustment provided under paragraph (a) for employee wages and benefits and associated costs. The application must be made to the commissioner and contain a plan by which the facility will distribute the funds according to paragraph (b). For facilities in which the employees are represented

by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan. A negotiated agreement may constitute the plan only if the agreement is finalized after the date of enactment of all rate increases for the rate year. The commissioner shall review the plan to ensure that the payment rate adjustment per diem is used as provided in this subdivision. To be eligible, a facility must submit its plan by March 31, 2006, and December 31, 2006, respectively. If a facility's plan is effective for its employees after the first day of the applicable rate period that the funds are available, the payment rate adjustment per diem is effective the same date as its plan.

(f) A copy of the approved distribution plan must be made available to all employees by giving each employee a copy or by posting it in an area of the facility to which all employees have access. If an employee does not receive the wage and benefit adjustment described in the facility's approved plan and is unable to resolve the problem with the facility's management or through the employee's union representative, the employee may contact the commissioner at an address or telephone number provided by the commissioner and included in the approved plan.

Sec. 102. Minnesota Statutes 2008, section 256B.5012, subdivision 7, is amended to read:

Subd. 7. **ICF/MR rate increases effective October 1, 2007, and October 1, 2008.** (a) For the rate year beginning October 1, 2007, the commissioner shall make available to each facility reimbursed under this section operating payment rate adjustments equal to 2.0 percent of the operating payment rates in effect on September 30, 2007. For the rate year beginning October 1, 2008, the commissioner shall make available to each facility reimbursed under this section operating payment rate adjustments equal to 2.0 percent of the operating payment rates in effect on September 30, 2008. For each facility, the commissioner shall make available an adjustment, based on occupied beds, using the percentage specified in this paragraph multiplied by the total payment rate, including the variable rate but excluding the property-related payment rate, in effect on the preceding day. The total payment rate shall include the adjustment provided in section 256B.501, subdivision 12. A facility whose payment rates are governed by closure agreements~~,~~ or receivership agreements~~, or Minnesota Rules, part 9553.0075,~~ is not eligible for an adjustment otherwise granted under this subdivision.

(b) Seventy-five percent of the money resulting from the rate adjustments under paragraph (a) must be used for increases in compensation-related costs for employees directly employed by the facility on or after the effective date of the rate adjustments, except:

(1) the administrator;

(2) persons employed in the central office of a corporation that has an ownership interest in the facility or exercises control over the facility; and

(3) persons paid by the facility under a management contract.

(c) Two-thirds of the money available under paragraph (b) must be used for wage increases for all employees directly employed by the facility on or after the effective date of the rate adjustments, except those listed in paragraph (b), clauses (1) to (3). The wage adjustment that employees receive under this paragraph must be paid as an equal hourly percentage wage increase for all eligible employees. All wage increases under this paragraph must be effective on the same date. Only costs associated with the portion of the equal hourly percentage wage increase that goes to all employees shall qualify under this paragraph. Costs associated with wage increases in excess of the amount of the equal hourly percentage wage increase provided to all employees shall be allowed only for meeting the requirements in paragraph (b). This paragraph shall not apply to employees covered by a collective bargaining agreement.

(d) The commissioner shall allow as compensation-related costs all costs for:

(1) wages and salaries;

(2) FICA taxes, Medicare taxes, state and federal unemployment taxes, and workers' compensation;

(3) the employer's share of health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, and pensions; and

(4) other benefits provided, subject to the approval of the commissioner.

(e) The portion of the rate adjustments under paragraph (a) that is not subject to the requirements in paragraphs (b) and (c) shall be provided to facilities effective October 1 of each year.

(f) Facilities may apply for the portion of the rate adjustments under paragraph (a) that is subject to the requirements in paragraphs (b) and (c). The application must be submitted to the commissioner within six months of the effective date of the rate adjustments, and the facility must provide additional information required by the commissioner within nine months of the effective date of the rate adjustments. The commissioner must respond to all applications within three weeks of receipt. The commissioner may waive the deadlines in this paragraph under extraordinary circumstances, to be determined at the sole discretion of the commissioner. The application must contain:

(1) an estimate of the amounts of money that must be used as specified in paragraphs (b) and (c);

(2) a detailed distribution plan specifying the allowable compensation-related and wage increases the facility will implement to use the funds available in clause (1);

(3) a description of how the facility will notify eligible employees of the contents of the approved application, which must provide for giving each eligible employee a copy of the approved application, excluding the information required in clause (1), or posting a copy of the approved application, excluding the information required in clause (1), for a period of at least six weeks in an area of the facility to which all eligible employees have access; and

(4) instructions for employees who believe they have not received the compensation-related or wage increases specified in clause (2), as approved by the commissioner, and which must include a mailing address, e-mail address, and the telephone number that may be used by the employee to contact the commissioner or the commissioner's representative.

(g) The commissioner shall ensure that cost increases in distribution plans under paragraph (f), clause (2), that may be included in approved applications, comply with requirements in clauses (1) to (4):

(1) costs to be incurred during the applicable rate year resulting from wage and salary increases effective after October 1, 2006, and prior to the first day of the facility's payroll period that includes October 1 of each year shall be allowed if they were not used in the prior year's application and they meet the requirements of paragraphs (b) and (c);

(2) a portion of the costs resulting from tenure-related wage or salary increases may be considered to be allowable wage increases, according to formulas that the commissioner shall provide, where employee retention is above the average statewide rate of retention of direct care employees;

(3) the annualized amount of increases in costs for the employer's share of health and dental insurance, life insurance, disability insurance, and workers' compensation shall be allowable compensation-related increases if they are effective on or after April 1 of the year in which the rate adjustments are effective and prior to April 1 of the following year; and

(4) for facilities in which employees are represented by an exclusive bargaining representative, the commissioner shall approve the application only upon receipt of a letter of acceptance of the distribution plan, as regards members of the bargaining unit, signed by the exclusive bargaining agent and dated after May 25, 2007. Upon receipt of the letter of acceptance, the commissioner shall deem all requirements of this section as having been met in regard to the members of the bargaining unit.

(h) The commissioner shall review applications received under paragraph (f) and shall provide the portion of the rate adjustments under paragraphs (b) and (c) if the requirements of this subdivision have been met. The rate adjustments shall be effective October 1 of each year. Notwithstanding paragraph (a), if the approved application distributes less money than is available, the amount of the rate adjustment shall be reduced so that the amount of money made available is equal to the amount to be distributed.

Sec. 103. Minnesota Statutes 2008, section 256B.5013, subdivision 1, is amended to read:

Subdivision 1. **Variable rate adjustments.** (a) For rate years beginning on or after October 1, 2000, when there is a documented increase in the needs of a current ICF/MR recipient, the county of financial responsibility may recommend a variable rate to enable the facility to meet the individual's increased needs. Variable rate adjustments made under this subdivision replace payments for persons with special needs under section 256B.501, subdivision 8, and payments for persons with special needs for crisis intervention services under section 256B.501, subdivision 8a. Effective July 1, 2003, facilities with a base rate above the 50th percentile of the statewide average reimbursement rate for a Class A facility or Class B facility, whichever matches the facility licensure, are not eligible for a variable rate adjustment. Variable rate adjustments may not exceed a 12-month period, except when approved for purposes established in paragraph (b), clause (1). Variable rate adjustments approved solely on the basis of changes on a developmental disabilities screening document will end June 30, 2002.

(b) A variable rate may be recommended by the county of financial responsibility for increased needs in the following situations:

(1) a need for resources due to an individual's full or partial retirement from participation in a day training and habilitation service when the individual: (i) has reached the age of 65 or has a change in health condition that makes it difficult for the person to participate in day training and habilitation services over an extended period of time because it is medically contraindicated; and (ii) has expressed a desire for change through the developmental disability screening process under section 256B.092;

(2) a need for additional resources for intensive short-term programming which is necessary prior to an individual's discharge to a less restrictive, more integrated setting;

(3) a demonstrated medical need that significantly impacts the type or amount of services needed by the individual; or

(4) a demonstrated behavioral need that significantly impacts the type or amount of services needed by the individual.

(c) The county of financial responsibility must justify the purpose, the projected length of time, and the additional funding needed for the facility to meet the needs of the individual.

(d) The facility shall provide ~~a quarterly~~ an annual report to the county case manager on the use of the variable rate funds and the status of the individual on whose behalf the funds were approved. The county case manager will forward the facility's report with a recommendation to the commissioner to approve or disapprove a continuation of the variable rate.

(e) Funds made available through the variable rate process that are not used by the facility to meet the needs of the individual for whom they were approved shall be returned to the state.

Sec. 104. Minnesota Statutes 2008, section 256B.5013, subdivision 6, is amended to read:

Subd. 6. **Commissioner's responsibilities.** The commissioner shall:

(1) make a determination to approve, deny, or modify a request for a variable rate adjustment within 30 days of the receipt of the completed application;

(2) notify the ICF/MR facility and county case manager of the duration and conditions of variable rate adjustment approvals; and

(3) modify MMIS II service agreements to reimburse ICF/MR facilities for approved variable rates~~;~~.

~~(4) provide notification of legislatively appropriated funding for facility closures, downsizings, and relocations;~~

~~(5) assess the fiscal impacts of the proposals for closures, downsizings, and relocations forwarded for consideration through the state advisory committee; and~~

~~(6) review the payment rate process on a biannual basis and make recommendations to the legislature for necessary adjustments to the review and approval process.~~

Sec. 105. Minnesota Statutes 2008, section 256B.69, subdivision 9b, is amended to read:

Subd. 9b. **Reporting provider payment rates.** (a) According to guidelines developed by the commissioner, in consultation with health care providers, managed care plans, and county-based purchasing plans, each managed care plan and county-based purchasing plan must annually provide to the commissioner~~, at the commissioner's request, detailed or aggregate~~ information on reimbursement rates paid by the managed care plan under this section or the county-based purchasing plan under section 256B.692 to ~~provider types~~ providers and vendors for administrative services under contract with the plan.

(b) Each managed care plan and county-based purchasing plan must annually provide to the commissioner, in the form and manner specified by the commissioner:

(1) the amount of the payment made to the plan under this section that is paid to health care providers for patient care;

(2) aggregate provider payment data, categorized by inpatient payments and outpatient payments, with the outpatient payments categorized by payments to primary care providers and nonprimary care providers;

(3) the process by which increases or decreases in payments made to the plan under this section, that are based on actuarial analysis related to provider cost increases or decreases, or that are required by legislative action, are passed through to health care providers, categorized by payments to primary care providers and nonprimary care providers; and

(4) specific information on the methodology used to establish provider reimbursement rates paid by the managed health care plan and county-based purchasing plan.

Data provided to the commissioner under this subdivision must allow the commissioner to conduct the analyses required under paragraph (d).

~~(b)~~ (c) Data provided to the commissioner under this subdivision are nonpublic data as defined in section 13.02.

(d) The commissioner shall analyze data provided under this subdivision to assist the legislature in providing oversight and accountability related to expenditures under this section. The analysis must include information on payments to physicians, physician extenders, and hospitals, and may include other provider types as determined by the commissioner. The commissioner shall also array aggregate provider reimbursement rates by health plan, by primary care, and nonprimary care categories. The commissioner shall report the analysis to the legislature annually, beginning December 15, 2010, and each December 15 thereafter. The commissioner shall also make this information available on the agency's Web site to managed care and county-based purchasing plans, health care providers, and the public.

Sec. 106. Minnesota Statutes 2008, section 403.03, is amended to read:

403.03 911 SERVICES TO BE PROVIDED.

Services available through a 911 system ~~shall~~ must include police, firefighting, and emergency medical and ambulance services. Other emergency and civil defense services may be incorporated into the 911 system at the discretion of the public agency operating the public safety answering point. The 911 system may include a referral to mental health crisis teams, where available.

Sec. 107. Minnesota Statutes 2008, section 626.557, subdivision 12b, is amended to read:

Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a lead agency, the county social service agency shall maintain appropriate records. Data collected by the county social service agency under this section are welfare data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this paragraph that are inactive investigative data on an individual who is a vendor of services are private data on individuals, as defined in section 13.02. The identity of the reporter may only be disclosed as provided in paragraph (c).

Data maintained by the common entry point are confidential data on individuals or protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the common entry point shall ~~destroy data~~ maintain data for three calendar years after date of receipt and then destroy the data unless otherwise directed by federal requirements.

(b) The commissioners of health and human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. County social service agencies must maintain private data on individuals but are not required to prepare an investigation memorandum. During an investigation by the commissioner of health or the commissioner of human services, data collected under this section are confidential data on individuals or protected nonpublic data as defined in section 13.02. Upon completion of the investigation, the data are classified as provided in clauses (1) to (3) and paragraph (c).

(1) The investigation memorandum must contain the following data, which are public:

(i) the name of the facility investigated;

(ii) a statement of the nature of the alleged maltreatment;

(iii) pertinent information obtained from medical or other records reviewed;

(iv) the identity of the investigator;

(v) a summary of the investigation's findings;

(vi) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made;

(vii) a statement of any action taken by the facility;

(viii) a statement of any action taken by the lead agency; and

(ix) when a lead agency's determination has substantiated maltreatment, a statement of whether an individual, individuals, or a facility were responsible for the substantiated maltreatment, if known.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the names or, to the extent possible, data on individuals or private data listed in clause (2).

(2) Data on individuals collected and maintained in the investigation memorandum are private data, including:

(i) the name of the vulnerable adult;

(ii) the identity of the individual alleged to be the perpetrator;

(iii) the identity of the individual substantiated as the perpetrator; and

(iv) the identity of all individuals interviewed as part of the investigation.

(3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

(c) The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by a court that the report was false and there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

(d) Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services must be ~~destroyed~~ maintained under the following schedule and then destroyed unless otherwise directed by federal requirements:

(1) data from reports determined to be false, ~~two~~ maintained for three years after the finding was made;

(2) data from reports determined to be inconclusive, maintained for four years after the finding was made;

(3) data from reports determined to be substantiated, maintained for seven years after the finding was made; and

(4) data from reports which were not investigated by a lead agency and for which there is no final disposition, ~~two~~ maintained for three years from the date of the report.

(e) The commissioners of health and human services shall each annually report to the legislature and the governor on the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigation under this section, and the resolution of those investigations. The report shall identify:

(1) whether and where backlogs of cases result in a failure to conform with statutory time frames;

(2) where adequate coverage requires additional appropriations and staffing; and

(3) any other trends that affect the safety of vulnerable adults.

(f) Each lead agency must have a record retention policy.

(g) Lead agencies, prosecuting authorities, and law enforcement agencies may exchange not public data, as defined in section 13.02, if the agency or authority requesting the data determines that the data are pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation under this section. Data collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, and licensing agencies investigating the alleged maltreatment under this section. The lead agency shall exchange not public data with the vulnerable adult maltreatment review panel established in section 256.021 if the data are pertinent and necessary for a review requested under that section. Upon completion of the review, not public data received by the review panel must be returned to the lead agency.

(h) Each lead agency shall keep records of the length of time it takes to complete its investigations.

(i) A lead agency may notify other affected parties and their authorized representative if the agency has reason to believe maltreatment has occurred and determines the information will safeguard the well-being of the affected parties or dispel widespread rumor or unrest in the affected facility.

(j) Under any notification provision of this section, where federal law specifically prohibits the disclosure of patient identifying information, a lead agency may not provide any notice unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

Sec. 108. **STUDY OF ALLOWING LONG-TERM CARE INSURANCE TO BE PURCHASED BY LOCAL GOVERNMENT EMPLOYEES.**

The commissioner of management and budget, in conjunction with two representatives of state government employees, with one each to be designated by the American Federation of State, County, and Municipal Employees and the Minnesota Association of Professional Employees; one representative of local government employees to be designated by the American Federation of State, County, and Municipal Employees; and one representative each designated by the League of Minnesota Cities and the Association of Minnesota Counties, shall study allowing local government employees to purchase long-term care insurance authorized under Minnesota Statutes, section 43A.318, subdivision 2. On or before February 15, 2010, the commissioner shall report on their findings and recommendations to the chairs of the house of representatives Health Care

and Human Services Policy and Oversight Committee and the senate Health, Housing, and Family Security Committee.

Sec. 109. **HEALTH DEPARTMENT WORKGROUP.**

The commissioner of health shall consult with hospitals, RN staff nurses, and quality assurance staff working in facilities that report under Minnesota Statutes, section 144.7065, subdivision 8, and other stakeholders, taking into account geographic balance, to define and develop questions related to staffing for inclusion in the root cause analysis tool required under that subdivision.

Sec. 110. **ALZHEIMER'S DISEASE WORKING GROUP.**

Subdivision 1. **Establishment; members.** The Minnesota Board on Aging must appoint, unless otherwise provided, an Alzheimer's disease working group that consists of no more than 20 members including, but not limited to:

(1) at least one caregiver of a person who has been diagnosed with Alzheimer's disease;

(2) at least one person who has been diagnosed with Alzheimer's disease;

(3) a representative of the nursing facility industry;

(4) a representative of the assisted living industry;

(5) a representative of the adult day services industry;

(6) a representative of the medical care provider community;

(7) a psychologist who specializes in dementia care;

(8) an Alzheimer's researcher;

(9) a representative of the Alzheimer's Association;

(10) the commissioner of human services or a designee;

(11) the commissioner of health or a designee;

(12) the ombudsman for long-term care or a designee; and

(13) at least two public members named by the governor.

The appointing authorities under this subdivision must complete their appointments no later than September 1, 2009.

Subd. 2. **Duties; recommendations.** The Alzheimer's disease working group must examine the array of needs of individuals diagnosed with Alzheimer's disease, services available to meet these needs, and the capacity of the state and current providers to meet these and future needs. The working group shall consider and make recommendations and findings on the following issues:

(1) trends in the state's Alzheimer's population and service needs including, but not limited to:

(i) the state's role in long-term care, family caregiver support, and assistance to persons with early-stage and early-onset of Alzheimer's disease;

(ii) state policy regarding persons with Alzheimer's disease and dementia; and

(iii) establishment of a surveillance system to provide proper estimates of the number of persons in the state with Alzheimer's disease, and the changing population with dementia;

(2) existing resources, services, and capacity including, but not limited to:

(i) type, cost, and availability of dementia services;

(ii) dementia-specific training requirements for long-term care staff;

(iii) quality care measures for residential care facilities;

(iv) availability of home and community-based resources for persons with Alzheimer's disease, including respite care;

(v) number and availability of long-term care dementia units;

(vi) adequacy and appropriateness of geriatric psychiatric units for persons with behavior disorders associated with Alzheimer's and related dementia;

(vii) assisted living residential options for persons with dementia; and

(viii) state support of Alzheimer's research through Minnesota universities and other resources; and

(3) needed policies or responses including, but not limited to, the provision of coordinated services and supports to persons and families living with Alzheimer's and related disorders, the capacity to meet these needs, and strategies to address identified gaps in services.

Subd. 3. **Meetings.** The board must select a designee to convene the first meeting of the working group no later than September 1, 2009. Meetings of the working group must be open to the public, and to the extent practicable, technological means, such as Web casts, shall be used to reach the greatest number of people throughout the state. The members of the working group shall select a chair from their membership at the first meeting.

Subd. 4. **Report.** The Board on Aging must submit a report providing the findings and recommendations of the working group, including any draft legislation necessary to implement the recommendations, to the governor and chairs and ranking minority members of the legislative committees with jurisdiction over health care no later than January 15, 2011.

Subd. 5. **Private funding.** To the extent available, the Board on Aging may utilize funding provided by private foundations and other private funding sources to complete the duties of the Alzheimer's disease working group.

Subd. 6. **Expiration.** This section expires when the report under subdivision 4 is submitted.

Sec. 111. **DEADLINE FOR APPOINTMENT.**

(a) The Minnesota Psychological Association must complete the appointment required under Minnesota Statutes, section 62U.09, subdivision 2, paragraph (a), clause (13), no later than October 1, 2009.

(b) The Minnesota Chiropractic Association must complete the appointment required under Minnesota Statutes, section 62U.09, subdivision2, paragraph (a), clause (14), no later than October 1, 2009.

Sec. 112. **REPEALER.**

Minnesota Statutes 2008, sections 147A.22; 148.627; 150A.09, subdivision 6; and 256B.5013, subdivisions 2, 3, and 5, are repealed."

Delete the title and insert:

"A bill for an act

relating to state government; modifying health and human services policy provisions; changing health plan requirements; modifying nursing facility provisions; requiring licensure of physician assistants; requiring patient record keeping; changing the definition of doula services; requiring licensure of dental assistants; changing health occupation fees; imposing late fees; establishing safe patient handling in clinical settings; changing medical assistant reimbursement provisions; requiring annual payment reports from manage care plans and county-based purchasing plans; requiring a study of long-term care insurance and local government employees; creating workgroups; requiring reports; amending Minnesota Statutes 2008, sections 62A.65, subdivision 4; 62M.09, subdivision 3a; 62Q.525, subdivision 2; 62U.01, subdivision 8; 62U.09, subdivision 2; 144.1501, subdivision 1; 144.7065, subdivisions 8, 10; 144E.001, subdivisions 3a, 9c; 145.56, subdivisions 1, 2; 147.09; 147A.01; 147A.02; 147A.03; 147A.04; 147A.05; 147A.06; 147A.07; 147A.08; 147A.09; 147A.11; 147A.13; 147A.16; 147A.18; 147A.19; 147A.20; 147A.21; 147A.23; 147A.24; 147A.26; 147A.27; 148.06, subdivision 1; 148.624, subdivision 2; 148.89, subdivision 5; 148.995, subdivisions 2, 4; 150A.01, subdivision 8; 150A.02, subdivision 1; 150A.05, subdivision 2; 150A.06, subdivisions 2a, 2b, 2c, 2d, 4a, 5, 7, 8; 150A.08, subdivisions 1, 3, 3a, 5, 6, 8; 150A.081; 150A.09, subdivisions 1, 3; 150A.091, subdivisions 2, 3, 5, 7, 8, 9, 10, 11, 12, 14, 15, by adding subdivisions; 150A.10, subdivisions 1a, 2, 4; 150A.12; 150A.13; 169.345, subdivision 2; 182.6551; 182.6552, by adding a subdivision; 252.27, subdivision 1a; 252.282, subdivisions 3, 5; 253B.02, subdivision 7; 253B.05, subdivision 2; 256B.0625, subdivision 28a; 256B.0657, subdivision 5; 256B.0751, subdivision 1; 256B.0913, subdivisions 4, 5a, 12; 256B.0915, subdivision 2; 256B.431, subdivision 10; 256B.433, subdivision 1; 256B.441, subdivisions 5, 11; 256B.5011, subdivision 2; 256B.5012, subdivisions 6, 7; 256B.5013, subdivisions 1, 6; 256B.69, subdivision 9b; 403.03; 626.557, subdivision 12b; proposing coding for new law in Minnesota Statutes, chapters 148; 182; repealing Minnesota Statutes 2008, sections 147A.22; 148.627; 150A.09, subdivision 6; 256B.5013, subdivisions 2, 3, 5."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed)

.....	.....
Paul Thissen	Maria Ruud
.....	.....
Julie Bunn	Patti Fritz
.....	
Tim Kelly	

Senate Conferees: (Signed)

.....	.....
Tony Lourey	John Marty
.....	.....
Linda Higgins	Yvonne Prettner Solon
.....	
Michelle Fischbach	