

SENATE

STATE OF MINNESOTA

EIGHTY-SEVENTH LEGISLATURE

S.F. No. 773

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DATE	D-PG	OFFICIAL STATUS
03/14/2011	499	Introduction and first reading Referred to Health and Human Services

1.1

A resolution

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memorializing certain federal agencies concerning Minnesota-licensed health care

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professionals and torture or cruel, inhuman, or degrading treatment or punishment

1.4

of prisoners.

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WHEREAS, this resolution intends to clarify that health care professional licensing

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boards of Minnesota have the authority and responsibility to speak to the participation of

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Minnesota-licensed health care professionals who participate in torture or cruel, inhuman, or

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degrading treatment of prisoners, including prisoners held by federal agencies and departments;

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and

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WHEREAS, this resolution is guided by two principles: (1) health care professionals

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shall be dedicated to providing the highest standard of health care, with compassion and respect

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for human dignity and rights; and (2) "torture" or "cruel, inhuman, or degrading treatment or

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punishment" is illegal and inconsistent with the practice of the health care professions; and

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WHEREAS, "torture" is defined by the Convention against Torture and Other Cruel,

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Inhuman or Degrading Treatment or Punishment as "any act by which severe pain or suffering,

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whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining

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from him or a third person information or a confession, punishing him for an act he or a third

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person has committed or is suspected of having committed, or intimidating or coercing him or a

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third person, or for any reason based on discrimination of any kind, when such pain or suffering

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is inflicted by or at the instigation of or with the consent or acquiescence of a public official or

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other person acting in an official capacity. It does not include pain or suffering arising only from,

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inherent in or incidental to lawful sanctions"; and

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2.1 WHEREAS, "cruel, inhuman or degrading treatment or punishment" is defined by the  
2.2 United Nations' Body of Principles for the Protection of All Persons under Any Form of Detention  
2.3 or Imprisonment as extending "the widest possible protection against abuses, whether physical or  
2.4 mental, including the holding of a detained or imprisoned person in conditions which deprive  
2.5 him, temporarily or permanently, of the use of any of this natural senses, such as sight or hearing,  
2.6 or of this awareness of place and the passing of time"; and

2.7 WHEREAS, "health care professionals' licensing boards" is to be understood, for the  
2.8 purposes of this resolution, as including:

2.9 (a) the Board of Medical Practice established pursuant to Minnesota Statutes, section  
2.10 147.01;

2.11 (b) the Board of Nursing established pursuant to Minnesota Statutes, section 148.181;

2.12 (c) the Board of Psychology established pursuant to Minnesota Statutes, section 148.90;

2.13 (d) the Board of Behavioral Health and Therapy established pursuant to Minnesota Statutes,  
2.14 section 148B.51; and

2.15 (e) the Board of Social Work established pursuant to Minnesota Statutes, section 148D.025;  
2.16 and

2.17 WHEREAS, "health care professionals" is to be understood, for the purposes of this  
2.18 resolution, as persons whose licenses are provided by the above named health care professionals'  
2.19 licensing boards; and

2.20 WHEREAS, health care professionals licensed in Minnesota have served and continue to  
2.21 serve honorably in the armed services and intelligence agencies of the United States of America;  
2.22 and

2.23 WHEREAS, the legislature is mindful that Minnesota health care professional licensing  
2.24 boards are vested with the authority to revoke and suspend the licenses of Minnesota health  
2.25 care professionals; and

2.26 WHEREAS, Minnesota authorizes and empowers its health care professional licensing  
2.27 boards to take disciplinary action, with grounds for unethical or unprofessional conduct as listed  
2.28 in the following nonexhaustive list of sections of Minnesota Statutes:

2.29 (a) Minnesota Statutes, section 147.091, subdivision 1, paragraphs (g) and (k) (medical  
2.30 doctors and osteopaths);

(b) Minnesota Statutes, section 148.261, subdivision 1, clause (6) (nurses);

(c) Minnesota Statutes, section 148.941, subdivision 2, clause (3) (psychologists);

(d) Minnesota Statutes, section 147A.13, subdivision 1, clause (7) (physician assistants);

(e) Minnesota Statutes, section 148B.59, paragraph (a), clause (3) (behavioral health and therapy professional counselors); and

(f) Minnesota Statutes, section 148D.210 (social workers); and

WHEREAS, the legislature is mindful that, notwithstanding limits on Minnesota's jurisdiction relating to health professionals' conduct while working for federal agencies and departments, those same agencies and departments require a state license as a condition of practice and therefore implicitly expect ongoing state review of the credentials and professionalism of such health care professionals; and

WHEREAS, the United States has ratified the Universal Declaration of Human Rights, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Common Article III of the Geneva Conventions, the United Nations' Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and the United Nations International Covenant on Civil and Political Rights, all of which condemn torture and/or cruel, inhuman, or degrading treatment or punishment; and

WHEREAS, the United States, in support of its ratification of the above enumerated Declaration, Conventions, Body of Principles, and Covenant against torture, has enacted federal laws including United States Code, title 18, sections 2340 and 2441; and

WHEREAS, the World Medical Association, the American Medical Association, the American Psychiatric Association, the American Psychological Association, the American Nurses Association, and numerous other healthcare professional organizations have endorsed standards of professional conduct asserting that health professionals may not countenance the torture or inhuman treatment or punishment of prisoners; and

WHEREAS, the Legislature of the State of Minnesota finds that abetting torture or cruel, inhuman, or degrading treatment or punishment of prisoners violates the ethical and legal obligations of licensed health care professionals; NOW, THEREFORE,

BE IT RESOLVED by the Legislature of the State of Minnesota that Minnesota-licensed health professionals may not countenance, condone, or participate in the practice of torture or other forms of cruel, inhuman, or degrading treatment or punishment, shall not provide any

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4.1 premises, instruments, substances, or knowledge to facilitate the practice of torture or other forms  
4.2 of cruel, inhuman, or degrading treatment or punishment, or shall not be present or standing  
4.3 by during any procedure during which torture or other forms of cruel, inhuman, or degrading  
4.4 treatment or punishment are used or threatened.

4.5 BE IT FURTHER RESOLVED that the Legislature hereby requests health care  
4.6 professionals' licensing boards to notify licensed health professionals via newsletter, e-mail, Web  
4.7 site, or other notification processes:

4.8 (a) that licensees may not countenance, condone, or participate in the practice of torture  
4.9 or other forms of cruel, inhuman, or degrading treatment or punishment, shall not provide any  
4.10 premises, instruments, substances, or knowledge to facilitate the practice of torture or other forms  
4.11 of cruel, inhuman, or degrading treatment or punishment, or shall not be present or standing  
4.12 by during any procedure during which torture or other forms of cruel, inhuman, or degrading  
4.13 treatment or punishment are used or threatened; and

4.14 (b) that those who participate in torture or cruel, inhuman, or degrading treatment or  
4.15 punishment risk international or federal criminal prosecution and possible review and sanction by  
4.16 their respective Licensing Board.

4.17 BE IT FURTHER RESOLVED that the Legislature hereby requests all relevant Minnesota  
4.18 healthcare professional licensing boards to notify health professionals licensed in Minnesota that  
4.19 those who participate in torture or cruel, inhuman, or degrading treatment or punishment may be  
4.20 in violation of professional standards, United States law, and international law.

4.21 BE IT FURTHER RESOLVED that the Secretary of State of the State of Minnesota is  
4.22 directed to prepare copies of this memorial and transmit them to the United States Department  
4.23 of Defense and the United States Central Intelligence Agency.