

SENATE

STATE OF MINNESOTA

EIGHTY-NINTH SESSION

S.F. No. 2475

(SENATE AUTHORS: SHERAN)

DATE	D-PG	OFFICIAL STATUS
03/10/2016	4947	Introduction and first reading Referred to Health, Human Services and Housing
03/17/2016	5086a	Comm report: To pass as amended and re-refer to Judiciary
03/30/2016		Comm report: To pass as amended Second reading

1.1

A bill for an act

1.2

relating to health; amending provisions for the statewide trauma system,

1.3

home care, hearing instrument dispensers, and food, beverage, and lodging

1.4

establishments; amending Minnesota Statutes 2014, sections 144.605,

1.5

subdivision 5; 144.608, subdivision 1; 144A.473, subdivision 2; 144A.475,

1.6

subdivisions 3, 3b, by adding a subdivision; 144A.4792, subdivision 13;

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144A.4799, subdivision 1; 144A.482; 153A.14, subdivisions 2d, 2h; 153A.15,

1.8

subdivision 2a; 157.15, subdivision 14; 157.16, subdivision 4.

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

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Section 1. Minnesota Statutes 2014, section 144.605, subdivision 5, is amended to read:

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Subd. 5. **Level IV designation.** (a) The commissioner shall grant the appropriate

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level IV trauma hospital designation to a hospital that successfully completes the

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designation process under paragraph (b).

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(b) The hospital must complete and submit a self-reported survey and application to

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the Trauma Advisory Council for review, verifying that the hospital meets the criteria as a

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level IV trauma hospital. When the Trauma Advisory Council is satisfied the application

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is complete, the council shall review the application and, if the council approves the

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application, send a letter of recommendation to the commissioner for final approval and

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designation. The commissioner shall grant a level IV designation and shall arrange a site

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review visit within three years of the designation and every three years thereafter, to

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coincide with the three-year reverification process. commissioner shall arrange a site

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review visit. Upon successful completion of the site review, the review team shall make

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written recommendations to the Trauma Advisory Council. If approved by the Trauma

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Advisory Council, a letter of recommendation shall be sent to the commissioner for final

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approval and designation.

Sec. 2. Minnesota Statutes 2014, section 144.608, subdivision 1, is amended to read:

Subdivision 1. **Trauma Advisory Council established.** (a) A Trauma Advisory Council is established to advise, consult with, and make recommendations to the commissioner on the development, maintenance, and improvement of a statewide trauma system.

(b) The council shall consist of the following members:

(1) a trauma surgeon certified by the American Board of Surgery or the American Osteopathic Board of Surgery who practices in a level I or II trauma hospital;

(2) a general surgeon certified by the American Board of Surgery or the American Osteopathic Board of Surgery whose practice includes trauma and who practices in a designated rural area as defined under section 144.1501, subdivision 1, paragraph (b);

(3) a neurosurgeon certified by the American Board of Neurological Surgery who practices in a level I or II trauma hospital;

(4) a trauma program nurse manager or coordinator practicing in a level I or II trauma hospital;

(5) an emergency physician certified by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine whose practice includes emergency room care in a level I, II, III, or IV trauma hospital;

(6) a trauma program manager or coordinator who practices in a level III or IV trauma hospital;

(7) a physician certified by the American Board of Family Medicine or the American Osteopathic Board of Family Practice whose practice includes emergency department care in a level III or IV trauma hospital located in a designated rural area as defined under section 144.1501, subdivision 1, paragraph (b);

(8) a nurse practitioner, as defined under section 144.1501, subdivision 1, paragraph (h), or a physician assistant, as defined under section 144.1501, subdivision 1, paragraph (j), whose practice includes emergency room care in a level IV trauma hospital located in a designated rural area as defined under section 144.1501, subdivision 1, paragraph (b);

(9) a ~~pediatrician~~ physician certified in pediatric emergency medicine by the American Board of Pediatrics or certified in pediatric emergency medicine by the American Board of Emergency Medicine or certified by the American Osteopathic Board of Pediatrics whose practice primarily includes emergency department medical care in a level I, II, III, or IV trauma hospital, or a surgeon certified in pediatric surgery by the American Board of Surgery whose practice involves the care of pediatric trauma patients in a trauma hospital;

(10) an orthopedic surgeon certified by the American Board of Orthopaedic Surgery or the American Osteopathic Board of Orthopedic Surgery whose practice includes trauma and who practices in a level I, II, or III trauma hospital;

(11) the state emergency medical services medical director appointed by the Emergency Medical Services Regulatory Board;

(12) a hospital administrator of a level III or IV trauma hospital located in a designated rural area as defined under section 144.1501, subdivision 1, paragraph (b);

(13) a rehabilitation specialist whose practice includes rehabilitation of patients with major trauma injuries or traumatic brain injuries and spinal cord injuries as defined under section 144.661;

(14) an attendant or ambulance director who is an EMT, EMT-I, or EMT-P within the meaning of section 144E.001 and who actively practices with a licensed ambulance service in a primary service area located in a designated rural area as defined under section 144.1501, subdivision 1, paragraph (b); and

(15) the commissioner of public safety or the commissioner's designee.

Sec. 3. Minnesota Statutes 2014, section 144A.473, subdivision 2, is amended to read:

Subd. 2. **Temporary license.** (a) For new license applicants, the commissioner shall issue a temporary license for either the basic or comprehensive home care level. A temporary license is effective for up to one year from the date of issuance. Temporary licensees must comply with sections 144A.43 to 144A.482.

(b) During the temporary license year, the commissioner shall survey the temporary licensee after the commissioner is notified or has evidence that the temporary licensee is providing home care services.

(c) Within five days of beginning the provision of services, the temporary licensee must notify the commissioner that it is serving clients. The notification to the commissioner may be mailed or e-mailed to the commissioner at the address provided by the commissioner. If the temporary licensee does not provide home care services during the temporary license year, then the temporary license expires at the end of the year and the applicant must reapply for a temporary home care license.

(d) A temporary licensee may request a change in the level of licensure prior to being surveyed and granted a license by notifying the commissioner in writing and providing additional documentation or materials required to update or complete the changed temporary license application. The applicant must pay the difference between the application fees when changing from the basic level to the comprehensive level of

4.1 licensure. No refund will be made if the provider chooses to change the license application
4.2 to the basic level.

4.3 (e) If the temporary licensee notifies the commissioner that the licensee has clients
4.4 within 45 days prior to the temporary license expiration, the commissioner may extend the
4.5 temporary license for up to 60 days in order to allow the commissioner to complete the
4.6 on-site survey required under this section and follow-up survey visits.

4.7 Sec. 4. Minnesota Statutes 2014, section 144A.475, subdivision 3, is amended to read:

4.8 Subd. 3. **Notice.** (a) Prior to any suspension, revocation, or refusal to renew a license,
4.9 the home care provider shall be entitled to notice and a hearing as provided by sections
4.10 14.57 to 14.69. In addition to any other remedy provided by law, the commissioner may,
4.11 without a prior contested case hearing, temporarily suspend a license or prohibit delivery
4.12 of services by a provider for not more than 90 days if the commissioner determines that
4.13 there are level 3 or 4 violations as defined in section 144A.474, subdivision 11, paragraph
4.14 (b), that do not have the potential to result in serious injury, impairment, or death, provided:

4.15 (1) advance notice is given to the home care provider;

4.16 (2) after notice, the home care provider fails to correct the problem;

4.17 (3) the commissioner has reason to believe that other administrative remedies are not
4.18 likely to be effective; and

4.19 (4) there is an opportunity for a contested case hearing within the 30 days unless
4.20 there is an extension granted by an administrative law judge pursuant to subdivision 3b.

4.21 (b) If the commissioner determines there are level 4 violations or level 3 violations
4.22 that have the potential to result in serious injury, impairment, or death, the commissioner
4.23 may immediately temporarily suspend a license or prohibit delivery of services by a
4.24 provider without meeting the requirements of paragraph (a), clauses (1) to (4). For the
4.25 purposes of this paragraph, "level 3" and "level 4" have the meanings given in section
4.26 144A.474, subdivision 11, paragraph (b).

4.27 Sec. 5. Minnesota Statutes 2014, section 144A.475, subdivision 3b, is amended to read:

4.28 Subd. 3b. **Temporary suspension expedited hearing.** (a) Within five business
4.29 days of receipt of the license holder's timely appeal of a temporary suspension, the
4.30 commissioner shall request assignment of an administrative law judge. The request must
4.31 include a proposed date, time, and place of a hearing. A hearing must be conducted by an
4.32 administrative law judge within 30 calendar days of the request for assignment, unless
4.33 an extension is requested by either party and granted by the administrative law judge
4.34 for good cause. The commissioner shall issue a notice of hearing by certified mail or

personal service at least ten business days before the hearing. Certified mail to the last known address is sufficient. The scope of the hearing shall be limited solely to the issue of whether the temporary suspension should remain in effect and whether there is sufficient evidence to conclude that the licensee's actions or failure to comply with applicable laws are level 3 or 4 violations as defined in section 144A.474, subdivision 11, paragraph (b).

(b) The administrative law judge shall issue findings of fact, conclusions, and a recommendation within ten business days from the date of hearing. The parties shall have ten calendar days to submit exceptions to the administrative law judge's report. The record shall close at the end of the ten-day period for submission of exceptions. The commissioner's final order shall be issued within ten business days from the close of the record. When an appeal of a temporary immediate suspension is withdrawn or dismissed, the commissioner shall issue a final order affirming the temporary immediate suspension within ten calendar days of the commissioner's receipt of the withdrawal or dismissal. The license holder is prohibited from operation during the temporary suspension period.

(c) When the final order under paragraph (b) affirms an immediate suspension, and a final licensing sanction is issued under subdivisions 1 and 2 and the licensee appeals that sanction, the licensee is prohibited from operation pending a final commissioner's order after the contested case hearing conducted under chapter 14.

(d) A licensee whose license is temporarily suspended must comply with the requirements for notification and transfer of clients in subdivision 5. These requirements remain if an appeal is requested.

Sec. 6. Minnesota Statutes 2014, section 144A.475, is amended by adding a subdivision to read:

Subd. 3c. **Immediate temporary suspension.** (a) In addition to any other remedies provided by law, the commissioner may, without a prior contested case hearing, immediately temporarily suspend a license or prohibit delivery of services by a provider for not more than 90 days if the commissioner determines that there are level 4 violations or level 3 violations that have the potential to result in serious injury, impairment, or death. For the purposes of this subdivision, "level 3" and "level 4" have the meanings given in section 144A.474, subdivision 11, paragraph (b).

(b) A notice stating the reasons for the immediate temporary suspension and informing the license holder of the right to an expedited hearing under subdivision 3b must be delivered by personal service to the address shown on the application or the last known address of the license holder. The license holder may appeal an order immediately temporarily suspending a license. The appeal of an order immediately temporarily

suspending a license must be made in writing by certified mail or personal service.
If mailed, the appeal must be postmarked and sent to the commissioner within five
calendar days after the license holder receives notice that the license has been immediately
temporarily suspended. If a request is made by personal service, it must be received by the
commissioner within five calendar days after the license holder received the order.

(c) A licensee whose license is immediately temporarily suspended must comply
with the requirements for notification and transfer of clients in subdivision 5. These
requirements remain if an appeal is requested.

Sec. 7. Minnesota Statutes 2014, section 144A.4792, subdivision 13, is amended to read:

Subd. 13. **Prescriptions.** There must be a current written or electronically recorded prescription as defined in ~~Minnesota Rules, part 6800.0100, subpart 11a~~ section 151.01, subdivision 16a, for all prescribed medications that the comprehensive home care provider is managing for the client.

Sec. 8. Minnesota Statutes 2014, section 144A.4799, subdivision 1, is amended to read:

Subdivision 1. **Membership.** The commissioner of health shall appoint eight persons to a ~~home care provider~~ home care and assisted living program advisory council consisting of the following:

(1) three public members as defined in section 214.02 who shall be either persons who are currently receiving home care services or have family members receiving home care services, or persons who have family members who have received home care services within five years of the application date;

(2) three Minnesota home care licensees representing basic and comprehensive levels of licensure who may be a managerial official, an administrator, a supervising registered nurse, or an unlicensed personnel performing home care tasks;

(3) one member representing the Minnesota Board of Nursing; and

(4) one member representing the ombudsman for long-term care.

Sec. 9. Minnesota Statutes 2014, section 144A.482, is amended to read:

144A.482 REGISTRATION OF HOME MANAGEMENT PROVIDERS.

(a) For purposes of this section, a home management provider is a person or organization that provides at least two of the following services: housekeeping, meal preparation, and shopping to a person who is unable to perform these activities due to illness, disability, or physical condition.

(b) A person or organization that provides only home management services may not operate in the state without a current certificate of registration issued by the commissioner of health. To obtain a certificate of registration, the person or organization must annually submit to the commissioner the name, mailing and physical addresses, e-mail address, and telephone number of the person or organization and a signed statement declaring that the person or organization is aware that the home care bill of rights applies to their clients and that the person or organization will comply with the home care bill of rights provisions contained in section 144A.44. A person or organization applying for a certificate must also provide the name, business address, and telephone number of each of the persons responsible for the management or direction of the organization.

(c) The commissioner shall charge an annual registration fee of \$20 for persons and \$50 for organizations. The registration fee shall be deposited in the state treasury and credited to the state government special revenue fund.

(d) A home care provider that provides home management services and other home care services must be licensed, but licensure requirements other than the home care bill of rights do not apply to those employees or volunteers who provide only home management services to clients who do not receive any other home care services from the provider. A licensed home care provider need not be registered as a home management service provider but must provide an orientation on the home care bill of rights to its employees or volunteers who provide home management services.

(e) An individual who provides home management services under this section must, within 120 days after beginning to provide services, attend an orientation session ~~approved by the commissioner~~ that provides training on the home care bill of rights and an orientation on the aging process and the needs and concerns of elderly and disabled persons.

(f) The commissioner may suspend or revoke a provider's certificate of registration or assess fines for violation of the home care bill of rights. Any fine assessed for a violation of the home care bill of rights by a provider registered under this section shall be in the amount established in the licensure rules for home care providers. As a condition of registration, a provider must cooperate fully with any investigation conducted by the commissioner, including providing specific information requested by the commissioner on clients served and the employees and volunteers who provide services. Fines collected under this paragraph shall be deposited in the state treasury and credited to the fund specified in the statute or rule in which the penalty was established.

(g) The commissioner may use any of the powers granted in sections 144A.43 to 144A.4798 to administer the registration system and enforce the home care bill of rights under this section.

8.1 Sec. 10. Minnesota Statutes 2014, section 153A.14, subdivision 2d, is amended to read:

8.2 Subd. 2d. **Certification renewal notice.** Certification must be renewed annually.
8.3 The commissioner shall mail a renewal notice to the dispenser's last known address on
8.4 record with the commissioner by September 1 of each year. ~~The notice must include a~~
8.5 ~~renewal application and notice of fees required for renewal.~~ A dispenser is not relieved
8.6 from meeting the renewal deadline on the basis that the dispenser did not receive the
8.7 renewal notice. In renewing a certificate, a dispenser shall follow the procedures for
8.8 applying for a certificate specified in subdivision 1.

8.9 Sec. 11. Minnesota Statutes 2014, section 153A.14, subdivision 2h, is amended to read:

8.10 Subd. 2h. **Certification by examination.** An applicant must achieve a passing score,
8.11 as determined by the commissioner, on an examination according to paragraphs (a) to (c).

8.12 (a) The examination must include, but is not limited to:

8.13 (1) A written examination approved by the commissioner covering the following
8.14 areas as they pertain to hearing instrument selling:

8.15 (i) basic physics of sound;

8.16 (ii) the anatomy and physiology of the ear;

8.17 (iii) the function of hearing instruments; and

8.18 (iv) the principles of hearing instrument selection.

8.19 (2) ~~Practical tests~~ A practical examination of proficiency in the following techniques
8.20 as they pertain to hearing instrument selling:

8.21 (i) pure tone audiometry, including air conduction testing and bone conduction
8.22 testing;

8.23 (ii) live voice or recorded voice speech audiometry including speech recognition
8.24 (discrimination) testing, most comfortable loudness level, and uncomfortable loudness
8.25 measurements of tolerance thresholds;

8.26 (iii) masking when indicated;

8.27 (iv) recording and evaluation of audiograms and speech audiometry to determine
8.28 proper selection and fitting of a hearing instrument;

8.29 (v) taking ear mold impressions;

8.30 (vi) using an otoscope for the visual observation of the entire ear canal; and

8.31 (vii) state and federal laws, rules, and regulations.

8.32 (b) The practical examination shall be administered by the commissioner at least
8.33 twice a year.

8.34 (c) An applicant must achieve a passing score on all portions of the examination
8.35 within a two-year period. An applicant who does not achieve a passing score on all

9.1 portions of the examination within a two-year period must retake the entire examination
9.2 and achieve a passing score on each portion of the examination. An applicant who does not
9.3 apply for certification within one year of successful completion of the examination must
9.4 retake the examination and achieve a passing score on each portion of the examination.
9.5 An applicant may not take any part of the practical examination more than three times in
9.6 a two-year period.

9.7 Sec. 12. Minnesota Statutes 2014, section 153A.15, subdivision 2a, is amended to read:

9.8 Subd. 2a. **Hearings.** If the commissioner proposes to take action against the
9.9 dispenser as described in subdivision 2, the commissioner must first notify the person
9.10 against whom the action is proposed to be taken and provide the person with an
9.11 opportunity to request a hearing under the contested case provisions of chapter 14. Service
9.12 of a notice of disciplinary action may be made personally or by certified mail, return
9.13 receipt requested. If the person does not request a hearing by notifying the commissioner
9.14 within 30 days after service of the notice of the proposed action, the commissioner may
9.15 proceed with the action without a hearing.

9.16 Sec. 13. Minnesota Statutes 2014, section 157.15, subdivision 14, is amended to read:

9.17 Subd. 14. **Special event food stand.** "Special event food stand" means a food
9.18 and beverage service establishment which is used in conjunction with celebrations and
9.19 special events, and which operates ~~no more than three times annually~~ for no more than
9.20 ten total days.

9.21 Sec. 14. Minnesota Statutes 2014, section 157.16, subdivision 4, is amended to read:

9.22 Subd. 4. **Posting requirements.** Every food and beverage service establishment,
9.23 for-profit youth camp, hotel, motel, lodging establishment, public pool, or resort must
9.24 have the original license posted in a conspicuous place at the establishment. ~~Mobile food~~
9.25 ~~units, food carts, and seasonal temporary food stands shall be issued decals with the~~
9.26 ~~initial license and each calendar year with license renewals. The current license year~~
9.27 ~~decal must be placed on the unit or stand in a location determined by the commissioner.~~
9.28 ~~Decals are not transferable.~~