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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1002

02/28/2013 Authored by Schoen, Winkler, Lesch and Abeler

The bill was read for the first time and referred to the Committee on Health and Human Services Policy

03/20/2013 Adoption of Report: Pass and re-referred to the Committee on Civil Law

1.1 A bill for an act
1.2 relating to health occupations; establishing a criminal background check
1.3 process for individuals licensed by the health-related licensing boards and the
1.4 commissioner of health; appropriating money; amending Minnesota Statutes
1.5 2012, section 13.411, subdivision 7; proposing coding for new law in Minnesota
1.6 Statutes, chapter 214.

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

1.8 Section 1. Minnesota Statutes 2012, section 13.411, subdivision 7, is amended to read:

1.9 Subd. 7. **Examining and licensing boards.** (a) **Health licensing boards.** Data
1.10 held by health licensing boards are classified under sections 214.10, subdivision 8, and
1.11 214.25, subdivision 1.

1.12 (b) **Combined boards data.** Data held by licensing boards participating in a health
1.13 professional services program are classified under sections 214.34 and 214.35.

1.14 (c) **Criminal background checks.** Criminal history record information obtained by
1.15 a health-related licensing board or the commissioner of health is classified under section
1.16 214.075, subdivision 7.

1.17 Sec. 2. **[214.075] HEALTH-RELATED LICENSING BOARDS; CRIMINAL**
1.18 **BACKGROUND CHECKS.**

1.19 Subdivision 1. **Applications.** (a) By January 1, 2018, each health-related licensing
1.20 board, as defined in section 214.01, subdivision 2, and the commissioner of health,
1.21 as the regulator for occupational therapy practitioners, speech-language pathologists,
1.22 audiologists, and hearing instrument dispensers, shall require applicants for initial
1.23 licensure, licensure by endorsement, or reinstatement or other relicensure after a lapse in
1.24 licensure, as defined by the individual health-related licensing boards or the commissioner

2.1 of health, to submit to a criminal history records check of state data completed by the
2.2 Bureau of Criminal Apprehension (BCA) and a national criminal history records check,
2.3 including a search of the records of the Federal Bureau of Investigation (FBI).

2.4 (b) An applicant must complete a criminal background check if more than one year
2.5 has elapsed since the applicant last submitted a background check to the board.

2.6 Subd. 2. **Investigations.** If a health-related licensing board or the commissioner of
2.7 health has reasonable cause to believe a licensee has been charged with or convicted of a
2.8 crime in this or any other jurisdiction, the health-related licensing board or commissioner
2.9 may require the licensee to submit to a criminal history records check of state data
2.10 completed by the BCA and a national criminal history records check, including a search
2.11 of the records of the FBI.

2.12 Subd. 3. **Consent form; fees; and fingerprints.** In order to effectuate the federal
2.13 level, fingerprint-based criminal background check, the applicant or licensee must submit
2.14 a completed criminal history records check consent form and a full set of fingerprints to
2.15 the respective health-related licensing board or the commissioner or a designee in the
2.16 manner and form specified by the board or the commissioner. The applicant or licensee is
2.17 responsible for all fees associated with preparation of the fingerprints, the criminal records
2.18 check consent form, and the criminal background check. The fees for the criminal records
2.19 background check shall be set by the BCA and the FBI and are not refundable.

2.20 Subd. 4. **Refusal to consent.** (a) The health-related licensing boards or
2.21 commissioner of health shall not issue a license to any applicant who refuses to consent
2.22 to a criminal background check or fails to submit fingerprints within 90 days after
2.23 submission of an application for licensure. Any fees paid by the applicant to the board
2.24 shall be forfeited if the applicant refuses to consent to the criminal background check or
2.25 fails to submit the required fingerprints.

2.26 (b) The failure of a licensee to submit to a criminal background check as provided in
2.27 subdivision 3 is grounds for disciplinary action by the respective health licensing board or
2.28 commissioner of health.

2.29 Subd. 5. **Submission of fingerprints to the Bureau of Criminal Apprehension.**
2.30 The health-related licensing board, commissioner, or designee shall submit applicant
2.31 or licensee fingerprints to the BCA. The BCA shall perform a check for state criminal
2.32 justice information and shall forward the applicant's or licensee's fingerprints to the FBI
2.33 to perform a check for national criminal justice information regarding the applicant or
2.34 licensee. The BCA shall report to the board or the commissioner the results of the state
2.35 and national criminal justice information checks.

3.1 Subd. 6. **Alternatives to fingerprint-based criminal background checks.** The
3.2 health-related licensing board or commissioner may require an alternative method of
3.3 criminal history checks for an applicant or licensee who has submitted at least three sets
3.4 of fingerprints in accordance with this section that have been unreadable by the BCA or
3.5 the FBI.

3.6 Subd. 7. **Data practices.** Criminal history record information obtained by the
3.7 health-related licensing board or commissioner under this section is private data on
3.8 individuals under section 13.02, subdivision 12.

3.9 Subd. 8. **Opportunity to challenge accuracy of report.** Prior to taking disciplinary
3.10 action against an applicant or a licensee based on a criminal conviction, the health-related
3.11 licensing board or commissioner shall provide the applicant or the licensee an opportunity
3.12 to complete or challenge the accuracy of the criminal history information reported
3.13 to the board or commissioner. The applicant or licensee shall have 30 calendar days
3.14 following notice from the board or commissioner of the intent to deny licensure or to take
3.15 disciplinary action to request an opportunity to correct or complete the record prior to the
3.16 board or the commissioner taking disciplinary action based on the information reported to
3.17 the board or commissioner. The board or commissioner shall provide the applicant up
3.18 to 180 days to challenge the accuracy or completeness of the report with the agency
3.19 responsible for the record.

3.20 Subd. 9. **Instructions to the board; plans.** The health-related licensing boards and
3.21 the commissioner of health, in collaboration with the commissioner of human services
3.22 and the BCA, shall establish a plan for completing criminal background checks of all
3.23 licensees who were licensed before the effective date requirement under subdivision
3.24 1. The plan must seek to minimize duplication of requirements for background checks
3.25 of licensed health professionals. The plan for background checks of current licensees
3.26 shall be developed no later than January 1, 2017, and may be contingent upon the
3.27 implementation of a system by the BCA or FBI in which any new crimes that an applicant
3.28 or licensee commits after an initial background check are flagged in the BCA's or FBI's
3.29 database and reported back to the board or commissioner of health. The plan shall include
3.30 recommendations for any necessary statutory changes.

3.31 Sec. 3. **APPROPRIATION.**

3.32 \$..... is appropriated for fiscal year 2014 from the state government special revenue
3.33 fund to the Administrative Services Unit for the implementation of a criminal background
3.34 check program.