

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 2063

03/02/2017 Authored by Theis, Olson and Peterson
The bill was read for the first time and referred to the Committee on Health and Human Services Finance
03/20/2017 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time
05/22/2017 Pursuant to Rule 4.20, returned to the Committee on Health and Human Services Finance

1.1 A bill for an act
1.2 relating to health; modifying the duties of the Home Care Provider Advisory
1.3 Council with respect to the use of revenue generated by fines on providers;
1.4 amending Minnesota Statutes 2016, sections 144A.474, subdivision 11; 144A.4799,
1.5 subdivision 3.

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

1.7 Section 1. Minnesota Statutes 2016, section 144A.474, subdivision 11, is amended to
1.8 read:

1.9 Subd. 11. **Fines.** (a) Fines and enforcement actions under this subdivision may be assessed
1.10 based on the level and scope of the violations described in paragraph (c) as follows:

1.11 (1) Level 1, no fines or enforcement;

1.12 (2) Level 2, fines ranging from \$0 to \$500, in addition to any of the enforcement
1.13 mechanisms authorized in section 144A.475 for widespread violations;

1.14 (3) Level 3, fines ranging from \$500 to \$1,000, in addition to any of the enforcement
1.15 mechanisms authorized in section 144A.475; and

1.16 (4) Level 4, fines ranging from \$1,000 to \$5,000, in addition to any of the enforcement
1.17 mechanisms authorized in section 144A.475.

1.18 (b) Correction orders for violations are categorized by both level and scope and fines
1.19 shall be assessed as follows:

1.20 (1) level of violation:

1.21 (i) Level 1 is a violation that has no potential to cause more than a minimal impact on
1.22 the client and does not affect health or safety;

(ii) Level 2 is a violation that did not harm a client's health or safety but had the potential to have harmed a client's health or safety, but was not likely to cause serious injury, impairment, or death;

(iii) Level 3 is a violation that harmed a client's health or safety, not including serious injury, impairment, or death, or a violation that has the potential to lead to serious injury, impairment, or death; and

(iv) Level 4 is a violation that results in serious injury, impairment, or death.

(2) scope of violation:

(i) isolated, when one or a limited number of clients are affected or one or a limited number of staff are involved or the situation has occurred only occasionally;

(ii) pattern, when more than a limited number of clients are affected, more than a limited number of staff are involved, or the situation has occurred repeatedly but is not found to be pervasive; and

(iii) widespread, when problems are pervasive or represent a systemic failure that has affected or has the potential to affect a large portion or all of the clients.

(c) If the commissioner finds that the applicant or a home care provider required to be licensed under sections 144A.43 to 144A.482 has not corrected violations by the date specified in the correction order or conditional license resulting from a survey or complaint investigation, the commissioner may impose a fine. A notice of noncompliance with a correction order must be mailed to the applicant's or provider's last known address. The noncompliance notice must list the violations not corrected.

(d) The license holder must pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies by paying the fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

(e) A license holder shall promptly notify the commissioner in writing when a violation specified in the order is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order, the commissioner may issue a second fine. The commissioner shall notify the license holder by mail to the last known address in the licensing record that a second fine has been assessed. The license holder may appeal the second fine as provided under this subdivision.

(f) A home care provider that has been assessed a fine under this subdivision has a right to a reconsideration or a hearing under this section and chapter 14.

(g) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder shall be liable for payment of the fine.

(h) In addition to any fine imposed under this section, the commissioner may assess costs related to an investigation that results in a final order assessing a fine or other enforcement action authorized by this chapter.

(i) Fines collected under this subdivision shall be deposited in the state government special revenue fund and credited to an account separate from the revenue collected under section 144A.472. Subject to an appropriation by the legislature, the revenue from the fines collected ~~may~~ must be used by the commissioner for special projects to improve home care in Minnesota as recommended by the advisory council established in section 144A.4799.

Sec. 2. Minnesota Statutes 2016, section 144A.4799, subdivision 3, is amended to read:

Subd. 3. **Duties.** (a) At the commissioner's request, the advisory council shall provide advice regarding regulations of Department of Health licensed home care providers in this chapter, including advice on the following:

(1) community standards for home care practices;

(2) enforcement of licensing standards and whether certain disciplinary actions are appropriate;

(3) ways of distributing information to licensees and consumers of home care;

(4) training standards;

(5) identifying emerging issues and opportunities in the home care field, including the use of technology in home and telehealth capabilities;

(6) allowable home care licensing modifications and exemptions, including a method for an integrated license with an existing license for rural licensed nursing homes to provide limited home care services in an adjacent independent living apartment building owned by the licensed nursing home; and

(7) recommendations for studies using the data in section 62U.04, subdivision 4, including but not limited to studies concerning costs related to dementia and chronic disease among an elderly population over 60 and additional long-term care costs, as described in section 62U.10, subdivision 6.

(b) The advisory council shall perform other duties as directed by the commissioner.

4.1 (c) The advisory council shall annually review the balance of the account in the state
4.2 government special revenue fund described in section 144A.474, subdivision 11, paragraph
4.3 (i), and make annual recommendations by January 15 directly to the chairs and ranking
4.4 minority members of the legislative committees with jurisdiction over health and human
4.5 services regarding appropriations to the commissioner for the purposes in section 144A.474,
4.6 subdivision 11, paragraph (i).