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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2340

02/16/2012 Authored by Holberg, Zellers, Fritz, Gottwalt, Dean and others
The bill was read for the first time and referred to the Committee on Health and Human Services Reform
03/15/2012 Adoption of Report: Pass and re-referred to the Committee on Government Operations and Elections
03/22/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on Health and Human Services Finance
04/02/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to health; requiring licensure of certain facilities that perform abortions;
1.3 setting a facility license fee; proposing coding for new law in Minnesota Statutes,
1.4 chapter 145.

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

1.6 Section 1. [145.417] LICENSURE OF CERTAIN FACILITIES THAT PERFORM
1.7 ABORTIONS.

1.8 Subdivision 1. License required for facilities that perform ten or more abortions
1.9 per month. (a) A clinic, health center, or other facility in which the pregnancies of ten
1.10 or more women known to be pregnant are willfully terminated or aborted each month,
1.11 including nonsurgical abortions, shall be licensed by the commissioner of health and,
1.12 notwithstanding Minnesota Rules, part 4675.0100, subparts 8 and 9, is subject to the
1.13 licensure requirements provided in Minnesota Rules, chapter 4675. The commissioner
1.14 shall not require a facility licensed as a hospital or outpatient surgical center, pursuant to
1.15 section 144.55, to obtain a separate license under this section; however such facility may
1.16 be subject to inspections and investigations as permitted under subdivision 2.

1.17 (b) Establishing or operating a facility described in this section without obtaining a
1.18 license is a misdemeanor punishable by a fine of not more than \$300. The commissioner
1.19 of health, attorney general, an appropriate county attorney, or a woman upon whom an
1.20 abortion has been performed or attempted to be performed, at an unlicensed facility
1.21 may seek an injunction in district court against the continuing operation of the facility.
1.22 Proceedings for securing an injunction may be brought by the attorney general or by
1.23 the appropriate county attorney.

1.24 (c) Sanctions provided in this subdivision do not restrict other available sanctions.

2.1 Subd. 2. **Inspections; no notice required.** No more than two times per year,
2.2 the commissioner of health shall perform routine and comprehensive inspections and
2.3 investigations of facilities described under subdivision 1. Every clinic, health center,
2.4 or other facility described under subdivision 1, and any other premise proposed to be
2.5 conducted as a facility by an applicant for a license, shall be open at all reasonable times
2.6 to inspection authorized in writing by the commissioner of health. No notice need be
2.7 given to any person prior to any inspection.

2.8 Subd. 3. **Licensure fee.** (a) The license fee for a facility is \$.....

2.9 (b) Fees shall be collected and deposited according to section 144.122.

2.10 Subd. 4. **Suspension, revocation and refusal to renew.** The commissioner of
2.11 health may refuse to grant or renew, or may suspend or revoke, a license on any of the
2.12 following grounds:

2.13 (1) violation of any of the provisions of this section or Minnesota Rules, chapter
2.14 4675;

2.15 (2) permitting, aiding, or abetting the commission of any illegal act in the facility;

2.16 (3) conduct or practices detrimental to the welfare of the patient; or

2.17 (4) obtaining or attempting to obtain a license by fraud or misrepresentation; or

2.18 (5) with respect to the facility, if the commissioner of health determines that there is
2.19 a pattern of conduct that one or more physicians who have a financial or economic interest
2.20 in the facility, as defined in section 144.6521, subdivision 3, and have not provided notice
2.21 and disclosure of the financial or economic interest as required by section 144.6521.

2.22 Subd. 5. **Hearing.** Prior to any suspension, revocation or refusal to renew a license,
2.23 the licensee shall be entitled to notice and a hearing as provided by sections 14.57 to 14.69.
2.24 At each hearing, the commissioner of health shall have the burden of establishing that a
2.25 violation described in subdivision 4 has occurred. If a license is revoked, suspended, or
2.26 not renewed, a new application for license may be considered by the commissioner if the
2.27 conditions upon which revocation, suspension, or refusal to renew was based have been
2.28 corrected and evidence of this fact has been satisfactorily furnished. A new license may
2.29 then be granted after proper inspection has been made and all provisions of this section
2.30 and Minnesota Rules, chapter 4675, have been complied with and recommendation has
2.31 been made by the inspector as an agent of the commissioner of health.

2.32 Subd. 6. **Severability.** If any one or more provision, section, subdivision, sentence,
2.33 clause, phrase, or word of this section or the application of it to any person or circumstance
2.34 is found to be unconstitutional, it is declared to be severable and the balance of this section
2.35 shall remain effective notwithstanding such unconstitutionality. The legislature intends
2.36 that it would have passed this section, and each provision, section, subdivision, sentence,

- 3.1 clause, phrase, or word, regardless of the fact that any one provision, section, subdivision,
- 3.2 sentence, clause, phrase, or word is declared unconstitutional.