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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 900

02/25/2013 Authored by Ward, J.E.; Holberg; Fritz; Daudt; Abeler and others

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

1.1 A bill for an act
1.2 relating to health; requiring licensure of certain facilities that perform abortions;
1.3 requiring a licensing fee; appropriating money; proposing coding for new law in
1.4 Minnesota Statutes, 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 or
1.10 more women known to be pregnant are willfully terminated or aborted each month shall
1.11 be licensed by the commissioner of health and, notwithstanding Minnesota Rules, part
1.12 4675.0100, subparts 8 and 9, subject to the licensure requirements provided in Minnesota
1.13 Rules, chapter 4675. The commissioner shall not require a facility licensed as a hospital or
1.14 as an outpatient surgical center, pursuant to sections 144.50 to 144.56, to obtain a separate
1.15 license under this section, but may subject these facilities to inspections and investigations
1.16 as permitted under subdivision 2.

1.17 (b) The establishment or operation of a facility described in this section without
1.18 obtaining a license is a misdemeanor punishable by a fine of not more than \$300. The
1.19 commissioner of health, the attorney general, an appropriate county attorney, or a woman
1.20 upon whom an abortion has been performed or attempted to be performed at an unlicensed
1.21 facility may seek an injunction in district court against the continued operation of the
1.22 facility. Proceedings for securing an injunction may be brought by the attorney general or
1.23 by 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 annual license fee for facilities required to be
2.9 licensed under this section is \$3,712.

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

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

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

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

2.18 (5) if there is a pattern of conduct that involves one or more physicians in the

2.19 facility who have a financial or economic interest in the facility, as defined in section

2.20 144.6521, subdivision 3, and who have not provided notice and disclosure of the financial

2.21 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
2.24 14.69. At each hearing, the commissioner of health shall have the burden of establishing
2.25 that a violation described in subdivision 4 has occurred. If a license is revoked, suspended,
2.26 or not renewed, a new application for license may be considered by the commissioner if
2.27 the conditions upon which revocation, suspension, or refusal to renew was based have
2.28 been corrected and evidence of this fact has been satisfactorily furnished. A new license
2.29 may 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 a recommendation
2.31 for licensure has been made by the commissioner or by an inspector as an agent of the
2.32 commissioner.

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

3.1 that it would have passed this section, and each provision, section, subdivision, sentence,
3.2 clause, phrase, or word, regardless of the fact that any one provision, section, subdivision,
3.3 sentence, clause, phrase, or word is declared unconstitutional.

3.4 Sec. 2. **APPROPRIATION.**

3.5 \$63,000 is appropriated in fiscal year 2014 from the state government special
3.6 revenue fund to the commissioner of health for licensing activities under Minnesota
3.7 Statutes, section 145.417.