

This act takes effect the day after the filing of a certificate of local approval by the Ramsey county board in compliance with Minnesota Statutes, section 645.021, subdivision 3.

Approved March 19, 1986

CHAPTER 371—S.F.No. 1580

An act relating to human services; requiring adoption of the 1985 life safety code standards for intermediate care facilities for persons with mental retardation.

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

Section 1. LIFE SAFETY REQUIREMENTS FOR INTERMEDIATE CARE FACILITIES FOR PERSONS WITH MENTAL RETARDATION.

Notwithstanding any other law, the state fire marshal and the commissioners of health and human services shall adopt the applicable standards of the 1985 life safety code, and amend existing rules governing life safety to be consistent with the 1985 code, for intermediate care facilities for persons with mental retardation, to the extent allowed by federal statute or rule. The standards and amendments to the standards shall be adopted without rulemaking and are effective 30 days following publication in the State Register.

Sec. 2. SUNSET.

Section 1 is repealed June 30, 1987, or when rules incorporating the 1985 life safety code have been adopted, whichever occurs first.

Sec. 3. EFFECTIVE DATE.

This act is effective the day following final enactment.

Approved March 19, 1986

CHAPTER 372—S.F.No. 1619

An act relating to civil and criminal actions; providing a cause of action for sexual exploitation; providing new procedures for enforcing restitution orders; amending Minnesota Statutes 1984, section 609.135, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapter 148A.

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

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Section 1. [148A.01] DEFINITIONS.

Subdivision 1. GENERAL. The definitions in this section apply to sections 1 to 6.

Subd. 2. EMOTIONALLY DEPENDENT. "Emotionally dependent" means that the nature of the patient's or former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to believe that the patient or former patient is unable to withhold consent to sexual contact by the psychotherapist.

Subd. 3. FORMER PATIENT. "Former patient" means a person who was given psychotherapy within two years prior to sexual contact with the psychotherapist.

Subd. 4. PATIENT. "Patient" means a person who seeks or obtains psychotherapy.

Subd. 5. PSYCHOTHERAPIST. "Psychotherapist" means a physician, psychologist, nurse, chemical dependency counselor, social worker, member of the clergy, or other person, whether or not licensed by the state, who performs or purports to perform psychotherapy.

Subd. 6. PSYCHOTHERAPY. "Psychotherapy" means the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition.

Subd. 7. SEXUAL CONTACT. "Sexual contact" means any of the following, whether or not occurring with the consent of a patient or former patient:

(1) sexual intercourse, cunnilingus, fellatio, anal intercourse or any intrusion, however slight, into the genital or anal openings of the patient's or former patient's body by any part of the psychotherapist's body or by any object used by the psychotherapist for this purpose, or any intrusion, however slight, into the genital or anal openings of the psychotherapist's body by any part of the patient's or former patient's body or by any object used by the patient or former patient for this purpose, if agreed to by the psychotherapist;

(2) kissing of, or the intentional touching by the psychotherapist of the patient's or former patient's genital area, groin, inner thigh, buttocks, or breast or of the clothing covering any of these body parts;

(3) kissing of, or the intentional touching by the patient or former patient of the psychotherapist's genital area, groin, inner thigh, buttocks, or breast or of the clothing covering any of these body parts if the psychotherapist agrees to the kissing or intentional touching.

"Sexual contact" includes requests by the psychotherapist for conduct described in clauses (1) to (3).

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"Sexual contact" does not include conduct described in clause (1) or (2) that is a part of standard medical treatment of a patient.

Subd. 9. THERAPEUTIC DECEPTION. "Therapeutic deception" means a representation by a psychotherapist that sexual contact with the psychotherapist is consistent with or part of the patient's or former patient's treatment.

Sec. 2. [148A.02] CAUSE OF ACTION FOR SEXUAL EXPLOITATION.

A cause of action against a psychotherapist for sexual exploitation exists for a patient or former patient for injury caused by sexual contact with the psychotherapist, if the sexual contact occurred:

(1) during the period the patient was receiving psychotherapy from the psychotherapist; or

(2) after the period the patient received psychotherapy from the psychotherapist if (a) the former patient was emotionally dependent on the psychotherapist; or (b) the sexual contact occurred by means of therapeutic deception.

The patient or former patient may recover damages from a psychotherapist who is found liable for sexual exploitation. It is not a defense to the action that sexual contact with a patient occurred outside a therapy or treatment session or that it occurred off the premises regularly used by the psychotherapist for therapy or treatment sessions.

Sec. 3. [148A.03] LIABILITY OF EMPLOYER.

(a) An employer of a psychotherapist may be liable under section 2 if:

(1) the employer fails or refuses to take reasonable action when the employer knows or has reason to know that the psychotherapist engaged in sexual contact with the plaintiff or any other patient or former patient of the psychotherapist; or

(2) the employer fails or refuses to make inquiries of an employer or former employer, whose name and address have been disclosed to the employer and who employed the psychotherapist as a psychotherapist within the last five years, concerning the occurrence of sexual contacts by the psychotherapist with patients or former patients of the psychotherapist.

(b) An employer or former employer of a psychotherapist may be liable under section 2 if the employer or former employer:

(1) knows of the occurrence of sexual contact by the psychotherapist with patients or former patients of the psychotherapist;

(2) receives a specific written request by another employer or prospective employer of the psychotherapist, engaged in the business of psychotherapy, concerning the existence or nature of the sexual contact; and

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(3) fails or refuses to disclose the occurrence of the sexual contacts.

(c) An employer or former employer may be liable under section 2 only to the extent that the failure or refusal to take any action required by paragraph (a) or (b) was a proximate and actual cause of any damages sustained.

(d) No cause of action arises, nor may a licensing board in this state take disciplinary action, against a psychotherapist's employer or former employer who in good faith complies with section 3.

Sec. 4. [148A.04] SCOPE OF DISCOVERY.

In an action for sexual exploitation, evidence of the plaintiff's sexual history is not subject to discovery except when the plaintiff claims damage to sexual functioning; or

(1) the defendant requests a hearing prior to conducting discovery and makes an offer of proof of the relevancy of the history; and

(2) the court finds that the history is relevant and that the probative value of the history outweighs its prejudicial effect.

The court shall allow the discovery only of specific information or examples of the plaintiff's conduct that are determined by the court to be relevant. The court's order shall detail the information or conduct that is subject to discovery.

Sec. 5. Minnesota Statutes 1984, section 609.135, is amended by adding a subdivision to read:

Subd. 1a. FAILURE TO PAY RESTITUTION. If the court orders payment of restitution as a condition of probation and if the defendant fails to pay the restitution ordered prior to 60 days before the term of probation expires, the defendant's probation officer shall ask the court to hold a hearing to determine whether or not the conditions of probation should be changed or probation should be revoked. The court shall schedule and hold this hearing and take appropriate action before the defendant's term of probation expires.

Sec. 6. [148A.05] ADMISSION OF EVIDENCE.

In an action for sexual exploitation, evidence of the plaintiff's sexual history is not admissible except when:

(1) the defendant requests a hearing prior to trial and makes an offer of proof of the relevancy of the history; and

(2) the court finds that the history is relevant and that the probative value of the history outweighs its prejudicial effect.

The court shall allow the admission only of specific information or examples of the plaintiff's conduct that are determined by the court to be relevant. The court's order shall detail the information or conduct that is admissible and no other such evidence may be introduced.

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Violation of the terms of the order may be grounds for a new trial.

Sec. 7. [148A.06] **LIMITATION PERIOD.**

An action for sexual exploitation shall be commenced within five years after the cause of action arises.

Sec. 8. **EFFECTIVE DATE; APPLICATION.**

Sections 1 to 7 are effective August 1, 1986, and sections 1 to 7 apply to causes of action arising on or after that date.

Approved March 19, 1986

CHAPTER 373—S.F.No. 1642

An act relating to commerce; regulating electricians; amending Minnesota Statutes 1984, sections 326.01, by adding a subdivision; 326.245; 326.248; Minnesota Statutes 1985 Supplement, sections 326.01, subdivision 5; 326.242, subdivisions 1, 2, 6, and 12; 326.2421, subdivision 3; 326.244, subdivisions 2 and 5; and 326.246.

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

Section 1. Minnesota Statutes 1985 Supplement, section 326.01, subdivision 5, is amended to read:

Subd. 5. **ELECTRICAL CONTRACTOR.** The term "electrical contractor" means a person, firm, or corporation operating a business that undertakes or offers to undertake ~~for another~~ to plan for, lay out, supervise, or install or to make additions, alterations, or repairs in the installation of wiring, apparatus or equipment for electric light, heat, or power with or without compensation and who is licensed as such by the state board of electricity. An electrical contractor's license does not of itself qualify its holder to perform the electrical work authorized by holding any class of electrician's license.

Sec. 2. Minnesota Statutes 1984, section 326.01, is amended by adding a subdivision to read:

Subd. 6e. **OWNER.** An owner is a natural person who physically performs electrical work on premises the person owns and actually occupies as a residence or owns and will occupy as a residence upon completion of construction.

Sec. 3. Minnesota Statutes 1985 Supplement, section 326.242, subdivision 1, is amended to read:

Subdivision 1. **MASTER ELECTRICIAN.** Except as otherwise provided by law, no person shall; ~~for another~~ plan, install, repair, lay out, or supervise the

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