

Sec. 5. Minnesota Statutes 1986, section 326.51, is amended to read:

326.51 DEPARTMENT MAY REVOKE LICENSES.

The department may revoke or suspend, for cause, any license obtained through error or fraud, or if the licensee is shown to be incompetent, or for a ~~second willful~~ violation of any of its rules and regulations applicable to such work. The licensee shall have notice, in writing, enumerating the charges, and be entitled to a hearing ~~by the commissioner~~ on at least five ten days' notice, with the right to produce testimony. ~~The commissioner may appoint, in writing, any competent person to take testimony, who shall have power to administer oaths, issue subpoenas, and compel the attendance of witnesses. The decision of the commissioner shall be based on the testimony and records. The hearing shall be held pursuant to chapter 14. The commissioner shall issue a final order based on testimony and the record at hearing.~~ One year from the date of revocation application may be made for a new license.

Sec. 6. [326.52] VIOLATIONS; PENALTY PROVISIONS.

Unless otherwise specifically provided, any violation of any provision or requirement of sections 326.46 to 326.52 is a misdemeanor.

Sec. 7. EFFECTIVE DATE.

This act is effective the day following final enactment.

Approved May 14, 1987

CHAPTER 133—H.F.No. 721

An act relating to human services; providing for the recovery of medical assistance overpayments; amending Minnesota Statutes 1986, section 256B.0641, by adding a subdivision.

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

Section 1. Minnesota Statutes 1986, section 256B.0641, is amended by adding a subdivision to read:

Subd. 2. OVERPAYMENTS TO PRIOR OWNERS. The current owner of a nursing home, boarding care home, or intermediate care facility for persons with mental retardation or a related condition is liable for the overpayment amount owed by a former owner for any facility sold, transferred, or reorganized after the effective date of this section. Within 12 months of a written request by the current owner, the commissioner shall conduct a field audit of the facility for the auditable rate years during which the former owner owned the facility and issue a report of the field audit within 15 months of the written request. Nothing in this subdivision limits the liability of a former owner.

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

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Approved May 14, 1987

CHAPTER 134—H.F.No. 730

An act relating to witnesses; allowing spousal testimony with respect to crimes committed against children; amending Minnesota Statutes 1986, section 595.02, subdivision 1.

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

Section 1. Minnesota Statutes 1986, section 595.02, subdivision 1, is amended to read:

Subdivision 1. **COMPETENCY OF WITNESSES.** Every person of sufficient understanding, including a party, may testify in any action or proceeding, civil or criminal, in court or before any person who has authority to receive evidence, except as provided in this subdivision:

(a) A husband cannot be examined for or against his wife without her consent, nor a wife for or against her husband without his consent, nor can either, during the marriage or afterwards, without the consent of the other, be examined as to any communication made by one to the other during the marriage. This exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other or against a child of either or against a child under the care of either spouse, nor to a criminal action or proceeding in which one is charged with homicide or an attempt to commit homicide and the date of the marriage of the defendant is subsequent to the date of the offense, nor to an action or proceeding for nonsupport, neglect, dependency, or termination of parental rights.

(b) An attorney cannot, without the consent of the attorney's client, be examined as to any communication made by the client to the attorney or the attorney's advice given thereon in the course of professional duty; nor can any employee of the attorney be examined as to the communication or advice, without the client's consent.

(c) A member of the clergy or other minister of any religion shall not, without the consent of the party making the confession, be allowed to disclose a confession made to the member of the clergy or other minister in a professional character, in the course of discipline enjoined by the rules or practice of the religious body to which the member of the clergy or other minister belongs; nor shall a member of the clergy or other minister of any religion be examined as to

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