

CHAPTER 555—H.F.No. 2925

VETOED

CHAPTER 556—H.F.No. 2120

An act relating to occupations and professions; providing that health-related licensing boards may establish a program to protect the public from impaired regulated persons; providing for appointments; providing for rulemaking; appropriating money; amending Minnesota Statutes 1993 Supplement, section 214.06, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 214.

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

Section 1. Minnesota Statutes 1993 Supplement, section 214.06, subdivision 1, is amended to read:

Subdivision 1. **FEE ADJUSTMENT.** Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust, as needed, any fee which the commissioner of health or the board is empowered to assess ~~a~~. As provided in section 16A.1285, the adjustment shall be an amount sufficient amount so that the total fees collected by each board will as closely as possible equal anticipated expenditures during the fiscal biennium, ~~as provided in section 16A.128 including expenditures for the programs authorized by sections 214.17 to 214.25 and 2 to 8.~~ For members of an occupation registered after July 1, 1984, by the commissioner of health under the provisions of section 214.13, the fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules providing for registration of members of the occupation. All fees received shall be deposited in the state treasury. Fees received by the commissioner of health or health-related licensing boards must be credited to the health occupations licensing account in the state government special revenue fund.

HEALTH PROFESSIONALS SERVICES PROGRAM

Sec. 2. [214.31] AUTHORITY.

Two or more of the health-related licensing boards listed in section 214.01, subdivision 2, may jointly conduct a health professionals services program to protect the public from persons regulated by the boards who are unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition. The program does not affect a board's authority to discipline violations of a board's practice act.

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Sec. 3. [214.32] PROGRAM MANAGEMENT, SERVICES, PARTICIPANT COSTS, ELIGIBILITY, COMPLETIONS, VOLUNTARY TERMINATION AND DISCHARGE.

Subdivision 1. MANAGEMENT. (a) A health professionals services program committee is established, consisting of one person appointed by each participating board, with each participating board having one vote. The committee shall designate one board to provide administrative management of the program, set the program budget and the pro rata share of program expenses to be borne by each participating board, provide guidance on the general operation of the program, including hiring of program personnel, and ensure that the program's direction is in accord with its authority. No more than half plus one of the members of the committee may be of one gender.

(b) The designated board, upon recommendation of the health professional services program committee, shall hire the program manager and employees and pay expenses of the program from funds appropriated for that purpose. The designated board may apply for grants to pay program expenses and may enter into contracts on behalf of the program to carry out the purposes of the program. The participating boards shall enter into written agreements with the designated board.

(c) An advisory committee is established to advise the program committee consisting of:

(1) one member appointed by each of the following: the Minnesota Academy of Physician Assistants, the Minnesota Dental Association, the Minnesota Chiropractic Association, the Minnesota Licensed Practical Nurse Association, the Minnesota Medical Association, the Minnesota Nurses Association, and the Minnesota Podiatric Medicine Association;

(2) one member appointed by each of the professional associations of the other professions regulated by a participating board not specified in clause (1); and

(3) two public members, as defined by section 214.02.

Members of the advisory committee shall be appointed for two years and members may be reappointed.

No more than half plus one of the members of the committee may be of one gender.

The advisory committee expires June 30, 1997.

Subd. 2. SERVICES. (a) The program shall provide the following services to program participants:

(1) referral of eligible regulated persons to qualified professionals for evaluation, treatment, and a written plan for continuing care consistent with the regu-

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lated person's illness. The referral shall take into consideration the regulated person's financial resources as well as specific needs;

(2) development of individualized program participation agreements between participants and the program to meet the needs of participants and protect the public. An agreement may include, but need not be limited to, recommendations from the continuing care plan, practice monitoring, health monitoring, practice restrictions, random drug screening, support group participation, filing of reports necessary to document compliance, and terms for successful completion of the regulated person's program; and

(3) monitoring of compliance by participants with individualized program participation agreements or board orders.

(b) The program may develop services related to sections 2 to 8 for employees and colleagues of regulated persons from participating boards.

Subd. 3. PARTICIPANT COSTS. Each program participant shall be responsible for paying for the costs of physical, psychosocial, or other related evaluation, treatment, laboratory monitoring, and random drug screens.

Subd. 4. ELIGIBILITY. Admission to the health professional services program is available to a person regulated by a participating board who is unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition. Admission in the health professional services program shall be denied to persons:

(1) who have diverted controlled substances for other than self-administration;

(2) who have been terminated from this or any other state professional services program for noncompliance in the program;

(3) currently under a board disciplinary order or corrective action agreement, unless referred by a board;

(4) regulated under sections 214.17 to 214.25, unless referred by a board or by the commissioner of health;

(5) accused of sexual misconduct; or

(6) whose continued practice would create a serious risk of harm to the public.

Subd. 5. COMPLETION; VOLUNTARY TERMINATION; DISCHARGE. A regulated person completes the program when the terms of the program participation agreement are fulfilled. A regulated person may voluntarily terminate participation in the health professionals service program at any time by reporting to the person's board. The program manager may choose to

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discharge a regulated person from the program and make a referral to the person's board at any time for reasons including but not limited to: the degree of cooperation and compliance by the regulated person, the inability to secure information or the medical records of the regulated person, or indication of other possible violations of the regulated person's practice act. The regulated person shall be notified in writing by the program manager of any change in the person's program status. A regulated person who has been terminated or discharged from the program may be referred back to the program for monitoring.

Sec. 4. [214.33] REPORTING.

Subdivision 1. PERMISSION TO REPORT. A person who has personal knowledge that a regulated person has the inability to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals or any other materials, or as a result of any mental, physical, or psychological condition may report that knowledge to the program or to the board. A report to the program under this subdivision fulfills the reporting requirement contained in a regulated person's practice act.

Subd. 2. SELF-REPORTING. A person regulated by a participating board who is unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition shall report to the person's board or the program.

Subd. 3. PROGRAM MANAGER. The program manager shall report to the appropriate participating board a regulated person who does not meet program admission criteria, violates the terms of the program participation agreement, or leaves the program except upon fulfilling the terms for successful completion of the program as set forth in the participation agreement. The program manager shall report to the appropriate participating board a regulated person who is alleged to have committed violations of the person's practice act that are outside the authority of the health professionals services program as described in sections 2 to 8. The program manager shall inform any reporting person of the disposition of the person's report to the program.

Subd. 4. BOARD. A board may refer any regulated person to the program consistent with section 3, subdivision 4, if the board believes the regulated person will benefit and the public will be protected.

Sec. 5. [214.34] IMMUNITY.

Subdivision 1. REPORTING IMMUNITY. Any individual, agency, institution, facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report in good faith to the program under this section or for cooperating with an investigation of a report or with staff of the program. Reports are confidential and are privileged communication.

Subd. 2. PROGRAM IMMUNITY. Members of the participating boards and persons employed by the boards and program, program consultants, and

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members of advisory bodies for the program are immune from civil liability and criminal prosecution for any actions, transactions, or reports in the execution of, or relating to, their duties under sections 2 to 7.

Sec. 6. [214.35] CLASSIFICATION OF DATA.

All data collected and maintained and any agreements with regulated persons entered into as part of the program is classified as active investigative data under section 13.41 while the individual is in the program, except for monitoring data which is classified as private. When a regulated person successfully completes the program, the data and participation agreement become inactive investigative data which shall be classified as private data under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9, in the case of data not on individuals. Data and agreements shall not be forwarded to the board unless the program reports a participant to a board as described in section 4, subdivision 3.

Sec. 7. [214.36] BOARD PARTICIPATION.

Participating boards may, by mutual agreement, implement the program upon enactment. Thereafter, health-related licensing boards desiring to enter into or discontinue an agreement to participate in the health professionals services program shall provide a written resolution indicating the board's intent to the designated board by January 1 preceding the start of a biennium.

Sec. 8. [214.37] RULEMAKING.

By July 1, 1996, the participating boards shall adopt joint rules relating to the provisions of sections 2 to 7 in consultation with the advisory committee and other appropriate individuals. The required rule writing does not prevent the implementation of sections 2 to 9 upon enactment.

Sec. 9. APPROPRIATION.

\$198,000 is appropriated from the special revenue fund for the fiscal year ending June 30, 1995, to the board of medical practice for the purposes of sections 2 to 8. The pro rata share of program expenses to be borne by each participating board shall be determined by the participating boards through an inter-agency agreement and funds equal to the appropriation shall be deposited into the special revenue fund.

Sec. 10. EFFECTIVE DATE.

(a) Sections 1 to 9 are effective the day after final enactment.

(b) Laws 1994, chapters 389 and 433, are effective the day following final enactment.

Presented to the governor May 2, 1994

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Signed by the governor May 4, 1994, 3:18 p.m.

CHAPTER 557—H.F.No. 2485

An act relating to water; providing for duties of the legislative water commission; providing for a sustainable agriculture advisory committee; requiring plans relating to sustainable agriculture and integrated pest management; regulating acceptance of empty pesticide containers; changing disclosures and fees related to dewatering wells; establishing groundwater policy and education; changing water well permit requirements; requiring reports to the legislature; amending Minnesota Statutes 1992, sections 3.887, subdivisions 5, 6, and 8; 17.114, subdivisions 1, 3, 4, and by adding a subdivision; 18B.045, subdivision 1; 103A.43; 103B.151, subdivision 1; 103G.271, subdivision 5; 103H.175, by adding a subdivision; 103H.201, subdivisions 1 and 4; 103I.101, subdivision 5; 103I.205, subdivision 1; 103I.208; 103I.235, subdivision 1; 103I.331, subdivision 6; and 103I.401, subdivision 1; Minnesota Statutes 1993 Supplement, sections 18B.135, subdivision 1; 18E.06; and 115B.20, subdivision 6; proposing coding for new law in Minnesota Statutes, chapters 103A; and 103F; repealing Minnesota Statutes 1992, section 103F.460.

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

Section 1. Minnesota Statutes 1992, section 3.887, subdivision 5, is amended to read:

Subd. 5. **POWERS AND DUTIES.** (a) The legislative water commission shall review water policy reports and recommendations of the environmental quality board, the biennial report of the board of water and soil resources, and other water-related reports as may be required by law or the legislature.

(b) The commission shall oversee the activities of the pollution control agency under sections 116.16 to 116.181 relating to water pollution control.

(c) The commission may conduct public hearings and otherwise secure data and comments.

(d) The commission shall hold annual hearings on issues relating to groundwater including, in every even-numbered year, a hearing on the groundwater policy report required by section 103A.204.

(e) The commission shall make recommendations as it deems proper to assist the legislature in formulating legislation.

(e) (f) Data or information compiled by the legislative water commission or its subcommittees shall be made available to the legislative commission on Minnesota resources and standing and interim committees of the legislature on request of the chair of the respective commission or committee.

Sec. 2. Minnesota Statutes 1992, section 3.887, subdivision 6, is amended to read:

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