

SESSION LAWS
of the
STATE OF MINNESOTA

ENACTED BY THE SEVENTY-EIGHTH LEGISLATURE

AT THE 1994 FIRST SPECIAL SESSION

AUGUST 31, 1994

CHAPTER 1—H.F.No. 1

An act relating to civil commitment of sexually dangerous persons and persons with a sexual psychopathic personality; establishing standards and procedures for the commitment of sexually dangerous persons; recodifying the existing psychopathic personality law in the civil commitment chapter; codifying judicial interpretations of the psychopathic personality law; expanding the sex offender registration law to require convicted sex offenders who are sexually dangerous persons or persons with sexual psychopathic personalities to register for ten years after discharge from commitment; amending Minnesota Statutes 1992, sections 8.01; 147.091, subdivisions 1 and 2; 147.111, subdivision 6; 148.10, subdivision 6; 148.102, subdivision 4; 148.262, subdivision 2; 148.263, subdivision 5; 148.32; 148.75; 148B.07, subdivision 6; 148B.175, subdivision 8; 148B.63, subdivision 6; 148B.68, subdivision 1; 148B.69, subdivision 5; 153.19, subdivision 1; 153.22, subdivision 4; 153.24, subdivision 5; 243.55, subdivision 3; 244.05, subdivision 7; 246.014; 253B.02, subdivision 17, and by adding subdivisions; 609.1351; and 626.557, subdivision 2, as amended; Minnesota Statutes 1993 Supplement, sections 8.15, subdivision 1, as amended; 201.15, subdivision 1; 243.166, subdivisions 3 and 6; 246.02, subdivision 2; 246B.01; 246B.02; 246B.03; 246B.04, as amended; 253B.23, subdivision 1a; 254.05; and 611A.06, subdivision 1, as amended; proposing coding for new law in Minnesota Statutes, chapter 253B; repealing Minnesota Statutes 1992, sections 526.09; 526.10; 526.11; and 526.115.

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

ARTICLE 1

COMMITMENT STANDARDS AND PROCEDURES

Section 1. Minnesota Statutes 1992, section 253B.02, is amended by adding a subdivision to read:

Subd. 7a. HARMFUL SEXUAL CONDUCT. (a) "Harmful sexual conduct" means sexual conduct that creates a substantial likelihood of serious physical or emotional harm to another.

(b) There is a rebuttable presumption that conduct described in the following provisions creates a substantial likelihood that a victim will suffer serious physical or emotional harm: section 609.342 (CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE), 609.343 (CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE), 609.344 (CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE), or 609.345 (CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE). If the conduct was motivated by the person's sexual impulses or was part of a pattern of behavior that had criminal sexual conduct as a goal, the presumption also applies to conduct described in section 609.185 (MURDER IN THE FIRST DEGREE), 609.19 (MURDER IN THE SECOND DEGREE), 609.195 (MURDER IN THE THIRD DEGREE), 609.20 (MANSLAUGHTER IN THE FIRST DEGREE), 609.205 (MANSLAUGHTER IN THE SECOND DEGREE), 609.221 (ASSAULT IN THE FIRST DEGREE), 609.222 (ASSAULT IN THE SECOND DEGREE), 609.223 (ASSAULT IN THE THIRD DEGREE), 609.24 (SIMPLE ROBBERY), 609.245 (AGGRAVATED ROBBERY), 609.25 (KIDNAPPING), 609.255 (FALSE IMPRISONMENT), 609.365 (INCEST), 609.498 (TAMPERING WITH A WITNESS), 609.561 (ARSON IN THE FIRST DEGREE), 609.582, subdivision 1 (BURGLARY IN THE FIRST DEGREE), 609.713 (TERRORISTIC THREATS), or 609.749, subdivision 3 or 5 (HARASSMENT AND STALKING).

Sec. 2. Minnesota Statutes 1992, section 253B.02, is amended by adding a subdivision to read:

Subd. 18a. SEXUAL PSYCHOPATHIC PERSONALITY. "Sexual psychopathic personality" means the existence in any person of such conditions of emotional instability, or impulsiveness of behavior, or lack of customary standards of good judgment, or failure to appreciate the consequences of personal acts, or a combination of any of these conditions, which render the person irresponsible for personal conduct with respect to sexual matters, if the person has evidenced, by a habitual course of misconduct in sexual matters, an utter lack of power to control the person's sexual impulses and, as a result, is dangerous to other persons.

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Sec. 3. Minnesota Statutes 1992, section 253B.02, is amended by adding a subdivision to read:

Subd. 18b. SEXUALLY DANGEROUS PERSON. (a) A "sexually dangerous person" means a person who:

(1) has engaged in a course of harmful sexual conduct as defined in subdivision 7a;

(2) has manifested a sexual, personality, or other mental disorder or dysfunction; and

(3) as a result, is likely to engage in acts of harmful sexual conduct as defined in subdivision 7a.

(b) For purposes of this provision, it is not necessary to prove that the person has an inability to control the person's sexual impulses.

Sec. 4. [253B.185] PROCEDURES FOR COMMITMENT OF PERSONS WITH SEXUAL PSYCHOPATHIC PERSONALITIES AND SEXUALLY DANGEROUS PERSONS.

Subdivision 1. GENERAL. Except as otherwise provided in this section, the provisions of this chapter pertaining to persons mentally ill and dangerous to the public apply with like force and effect to persons who are alleged or found to be sexually dangerous persons or persons with a sexual psychopathic personality. Before commitment proceedings are instituted, the facts shall first be submitted to the county attorney, who, if satisfied that good cause exists, will prepare the petition. The county attorney may request a prepetition screening report. The petition is to be executed by a person having knowledge of the facts and filed with the committing court of the county in which the patient has a settlement or is present. If the patient is in the custody of the commissioner of corrections, the petition may be filed in the county where the conviction for which the person is incarcerated was entered. Upon the filing of a petition alleging that a proposed patient is a sexually dangerous person or is a person with a sexual psychopathic personality, the court shall hear the petition as provided in section 253B.18.

Subd. 2. TRANSFER TO CORRECTIONAL FACILITY. (a) If a person has been committed under this section and later is committed to the custody of the commissioner of corrections, the person may be transferred from a hospital to another facility designated by the commissioner of corrections as provided in section 253B.18; except that the special review board and the commissioner of human services may consider the following factors in lieu of the factors listed in section 253B.18, subdivision 6, to determine whether a transfer to the commissioner of corrections is appropriate:

(1) the person's unamenability to treatment;

(2) the person's unwillingness or failure to follow treatment recommendations;

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(3) the person's lack of progress in treatment at the public or private hospital;

(4) the danger posed by the person to other patients or staff at the public or private hospital; and

(5) the degree of security necessary to protect the public.

(b) If a person is committed under this section after a commitment to the commissioner of corrections, the person shall first serve the sentence in a facility designated by the commissioner of corrections. After the person has served the sentence, the person shall be transferred to a regional center designated by the commissioner of human services.

Subd. 3. NOT TO CONSTITUTE DEFENSE. The existence in any person of a condition of a sexual psychopathic personality or the fact that a person is a sexually dangerous person shall not in any case constitute a defense to a charge of crime, nor relieve such person from liability to be tried upon a criminal charge.

Subd. 4. STATEWIDE JUDICIAL PANEL; SEXUAL PSYCHOPATHIC PERSONALITY AND SEXUALLY DANGEROUS PERSONS COMMITMENTS. (a) The supreme court may establish a panel of district judges with statewide authority to preside over commitment proceedings brought under subdivision 1. Only one judge of the panel is required to preside over a particular commitment proceeding. Panel members shall serve for one-year terms. One of the judges shall be designated as the chief judge of the panel, and is vested with the power to designate the presiding judge in a particular case, to set the proper venue for the proceedings, and to otherwise supervise and direct the operation of the panel. The chief judge shall designate one of the other judges to act as chief judge whenever the chief judge is unable to act.

(b) If the supreme court creates the judicial panel authorized by this section, all petitions for civil commitment brought under subdivision 1 shall be filed with the supreme court instead of with the district court in the county where the proposed patient is present, notwithstanding any provision of subdivision 1 to the contrary. Otherwise, all of the other applicable procedures contained in this chapter apply to commitment proceedings conducted by a judge on the panel.

Sec. 5. CONSTRUCTION.

(a) Nothing in this act shall be construed to create grounds for relief or a cause of action for persons previously committed under Minnesota Statutes, sections 526.09 and 526.10. As provided in Minnesota Statutes, section 645.37, this act's repeal of sections 526.09, 526.10, 526.11, and 526.115, and their reenactment as sections 2 (253B.02, subdivision 18a) and 4 (253B.185), shall be construed as a continuation of the earlier repealed provisions. Judicial decisions interpreting or applying the repealed sections shall continue to apply to the same extent as if the repeal and reenactment had not occurred.

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(b) Sections 1 and 3 (253B.02, subdivisions 7a and 18b) are not a reenactment of any prior law.

Sec. 6. REPEALER.

Minnesota Statutes 1992, sections 526.09; 526.10; 526.11; and 526.115, are repealed.

Sec. 7. EFFECTIVE DATE; APPLICATION.

Subdivision 1. EFFECTIVE DATE. Sections 1 to 6 are effective the day following final enactment.

Subd. 2. APPLICATION. Sections 2 and 4 apply immediately upon the effective date of this act to proceedings commenced under Minnesota Statutes, sections 526.09 and 526.10.

Subd. 3. APPLICATION. Sections 1 and 3 apply to proceedings commenced pursuant to a petition or an amended petition for commitment filed on or after the effective date of this act, and to a related proceeding concerning a person committed under the standard in section 3.

ARTICLE 2

TECHNICAL AND CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 1992, section 8.01, is amended to read:

8.01 APPEARANCE.

The attorney general shall appear for the state in all causes in the supreme and federal courts wherein the state is directly interested; also in all civil causes of like nature in all other courts of the state whenever, in the attorney general's opinion, the interests of the state require it. Upon request of the county attorney, the attorney general shall appear in court in such criminal cases as the attorney general deems proper. Upon request of a county attorney, the attorney general may assume the duties of the county attorney in sexual psychopathic personality and sexually dangerous person commitment proceedings under section ~~526.10~~ 253B.185. Whenever the governor shall so request, in writing, the attorney general shall prosecute any person charged with an indictable offense, and in all such cases may attend upon the grand jury and exercise the powers of a county attorney.

Sec. 2. Minnesota Statutes 1993 Supplement, section 8.15, subdivision 1, as amended by Laws 1994, chapter 636, article 10, section 2, is amended to read:

Subdivision 1. **FEE SCHEDULES.** The attorney general in consultation

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with the commissioner of finance shall develop a fee schedule to be used by the attorney general in developing the agreements authorized in subdivision 3.

The attorney general may not assess a county any fee for legal services rendered in connection with a ~~psychopathic~~ personality commitment proceeding under section ~~526.10~~ 253B.185 for which the attorney general assumes responsibility under section 8.01.

Sec. 3. Minnesota Statutes 1992, section 147.091, subdivision 1, is amended to read:

Subdivision 1. **GROUNDS LISTED.** The board may refuse to grant a license or may impose disciplinary action as described in section 147.141 against any physician. The following conduct is prohibited and is grounds for disciplinary action:

(a) Failure to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or rules of the board. The burden of proof shall be upon the applicant to demonstrate such qualifications or satisfaction of such requirements.

(b) Obtaining a license by fraud or cheating, or attempting to subvert the licensing examination process. Conduct which subverts or attempts to subvert the licensing examination process includes, but is not limited to: (1) conduct which violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination; (2) conduct which violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; or (3) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf.

(c) Conviction, during the previous five years, of a felony reasonably related to the practice of medicine or osteopathy. Conviction as used in this subdivision shall include a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered thereon.

(d) Revocation, suspension, restriction, limitation, or other disciplinary action against the person's medical license in another state or jurisdiction, failure to report to the board that charges regarding the person's license have been brought in another state or jurisdiction, or having been refused a license by any other state or jurisdiction.

(e) Advertising which is false or misleading, which violates any rule of the

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board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by another physician.

(f) Violating a rule promulgated by the board or an order of the board, a state, or federal law which relates to the practice of medicine, or in part regulates the practice of medicine including without limitation sections 148A.02, 609.344, and 609.345, or a state or federal narcotics or controlled substance law.

(g) Engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare or safety of a patient; or medical practice which is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established.

(h) Failure to supervise a physician's assistant or failure to supervise a physician under any agreement with the board.

(i) Aiding or abetting an unlicensed person in the practice of medicine, except that it is not a violation of this paragraph for a physician to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of that person's license or registration or delegated authority.

(j) Adjudication as mentally incompetent, mentally ill or mentally retarded, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction, within or without this state. Such adjudication shall automatically suspend a license for the duration thereof unless the board orders otherwise.

(k) Engaging in unprofessional conduct. Unprofessional conduct shall include any departure from or the failure to conform to the minimal standards of acceptable and prevailing medical practice in which proceeding actual injury to a patient need not be established.

(l) Inability to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills.

(m) Revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law.

(n) Failure by a doctor of osteopathy to identify the school of healing in the professional use of the doctor's name by one of the following terms: osteopathic physician and surgeon, doctor of osteopathy, or D.O.

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(o) Improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made pursuant to section 144.335 or to furnish a medical record or report required by law.

(p) Fee splitting, including without limitation:

(1) paying, offering to pay, receiving, or agreeing to receive, a commission, rebate, or remuneration, directly or indirectly, primarily for the referral of patients or the prescription of drugs or devices;

(2) dividing fees with another physician or a professional corporation, unless the division is in proportion to the services provided and the responsibility assumed by each professional and the physician has disclosed the terms of the division;

(3) referring a patient to any health care provider as defined in section 144.335 in which the referring physician has a significant financial interest unless the physician has disclosed the physician's own financial interest; and

(4) dispensing for profit any drug or device, unless the physician has disclosed the physician's own profit interest.

The physician must make the disclosures required in this clause in advance and in writing to the patient and must include in the disclosure a statement that the patient is free to choose a different health care provider. This clause does not apply to the distribution of revenues from a partnership, group practice, non-profit corporation, or professional corporation to its partners, shareholders, members, or employees if the revenues consist only of fees for services performed by the physician or under a physician's direct supervision, or to the division or distribution of prepaid or capitated health care premiums, or fee-for-service withhold amounts paid under contracts established under other state law.

(q) Engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws.

(r) Becoming addicted or habituated to a drug or intoxicant.

(s) Prescribing a drug or device for other than medically accepted therapeutic or experimental or investigative purposes authorized by a state or federal agency or referring a patient to any health care provider as defined in section 144.335 for services or tests not medically indicated at the time of referral.

(t) Engaging in conduct with a patient which is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior which is seductive or sexually demeaning to a patient.

(u) Failure to make reports as required by section 147.111 or to cooperate with an investigation of the board as required by section 147.131.

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(v) Knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo.

(w) Aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(1) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(2) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(3) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(4) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

Sec. 4. Minnesota Statutes 1992, section 147.091, subdivision 2, is amended to read:

Subd. 2. **EFFECTIVE DATES.** A suspension, revocation, condition, limitation, qualification or restriction of a license shall be in effect pending determination of an appeal unless the court, upon petition and for good cause shown, shall otherwise order.

A license to practice medicine is automatically suspended if (1) a guardian of the person of a licensee is appointed by order of a ~~probate~~ court pursuant to sections 525.54 to 525.61, for reasons other than the minority of the licensee; or (2) the licensee is committed by order of a ~~probate~~ court pursuant to chapter 253B ~~or sections 526.09 to 526.11~~. The license remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated by the board after a hearing.

Sec. 5. Minnesota Statutes 1992, section 147.111, subdivision 6, is amended to read:

Subd. 6. **COURTS.** The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court which adjudges or includes a finding that a physician is mentally ill, mentally incompetent, guilty of a felony, or guilty of a violation of federal or state narcotics laws or controlled substances act, guilty of an abuse or fraud under Medicare or Medicaid, appoints a guardian of the physician pursuant to sections 525.54 to 525.61 or commits a physician pursuant to chapter 253B ~~or sections 526.09 to 526.11~~.

Sec. 6. Minnesota Statutes 1992, section 148.10, subdivision 6, is amended to read:

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Subd. 6. **EFFECT OF APPEAL.** A suspension, revocation, condition, limitation, qualification, or restriction of a license shall be in effect pending determination of an appeal unless the court, upon petition and for good cause shown, shall otherwise order.

A license to practice chiropractic is automatically suspended if (1) a guardian of the person of a licensee is appointed by order of a ~~probate~~ court under sections 525.54 to 525.61, for reasons other than the minority of the licensee; or (2) the licensee is committed by order of a ~~probate~~ court under chapter 253B ~~or sections 526.09 to 526.11~~. The license remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated by the board after a hearing.

Sec. 7. Minnesota Statutes 1992, section 148.102, subdivision 4, is amended to read:

Subd. 4. **COURTS.** The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court which adjudges or includes a finding that a doctor of chiropractic is mentally ill, mentally incompetent, guilty of a felony, guilty of an abuse or fraud, appoints a guardian of the doctor of chiropractic under sections 525.54 to 525.61 or commits a doctor of chiropractic under chapter 253B ~~or sections 526.09 to 526.11~~.

Sec. 8. Minnesota Statutes 1992, section 148.262, subdivision 2, is amended to read:

Subd. 2. **AUTOMATIC SUSPENSION.** Unless the board orders otherwise, a license to practice professional or practical nursing is automatically suspended if:

(1) a guardian of a nurse is appointed by order of a ~~probate~~ court under sections 525.54 to 525.61;

(2) the nurse is committed by order of a ~~probate~~ court under chapter 253B ~~or sections 526.09 to 526.11~~; or

(3) the nurse is determined to be mentally incompetent, mentally ill, chemically dependent, or a person dangerous to the public by a court of competent jurisdiction within or without this state.

The license remains suspended until the nurse is restored to capacity by a court and, upon petition by the nurse, the suspension is terminated by the board after a hearing or upon agreement between the board and the nurse.

Sec. 9. Minnesota Statutes 1992, section 148.263, subdivision 5, is amended to read:

Subd. 5. **COURTS.** The court administrator of district court or another

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court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a nurse is mentally ill, mentally incompetent, chemically dependent, a person dangerous to the public, guilty of a felony or gross misdemeanor, guilty of a violation of federal or state narcotics laws or controlled substances act, guilty of operating a motor vehicle while under the influence of alcohol or a controlled substance, or guilty of an abuse or fraud under Medicare or Medicaid, appoints a guardian of the nurse under sections 525.54 to 525.61, or commits a nurse under chapter 253B ~~or section 526.09 to 526.14.~~

Sec. 10. Minnesota Statutes 1992, section 148.32, is amended to read:

148.32 LICENSES; DENIAL, REVOCATION, REFUSAL.

All licenses to practice midwifery heretofore or hereafter issued by the board of medical practice must be renewed and a fee paid for each renewal as set by the board. Licenses may be revoked, suspended, conditioned, limited, qualified or restricted, or renewals refused by the board for unprofessional or dishonorable conduct, or neglect to make proper returns to agents of a board of health as authorized under section 145A.04 of births, deaths, puerperal fever, and other contagious diseases.

A license to practice midwifery is suspended if (1) a guardian of the person of a licensee is appointed by order of a ~~probate~~ court pursuant to sections 525.54 to 525.61, for reasons other than the minority of the licensee; or (2) the licensee is committed by order of a ~~probate~~ court pursuant to chapter 253B ~~or sections 526.09 to 526.14.~~ The license remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated by the board after a hearing.

Sec. 11. Minnesota Statutes 1992, section 148.75, is amended to read:

148.75 CERTIFICATES; DENIAL, SUSPENSION, REVOCATION.

The state board of medical practice may refuse to grant registration to any physical therapist, or may suspend or revoke the registration of any physical therapist for any of the following grounds:

- (a) using drugs or intoxicating liquors to an extent which affects professional competence;
- (b) been convicted of a felony;
- (c) conviction for violating any state or federal narcotic law;
- (d) procuring, aiding or abetting a criminal abortion;
- (e) registration or attempted registration by fraud or deception;

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(f) conduct unbecoming a person registered as a physical therapist or conduct detrimental to the best interests of the public;

(g) gross negligence in the practice of physical therapy as a physical therapist;

(h) treating human ailments by physical therapy after an initial 30-day period of patient admittance to treatment has lapsed, except by the order or referral of a person licensed in this state to practice medicine as defined in section 147.081, the practice of chiropractic as defined in section 148.01, the practice of podiatry as defined in section 153.01, or the practice of dentistry as defined in section 150A.05 and whose license is in good standing; or when a previous diagnosis exists indicating an ongoing condition warranting physical therapy treatment, subject to periodic review defined by board of medical practice rule;

(i) treating human ailments without referral by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;

(j) failure to consult with the patient's health care provider who prescribed the physical therapy treatment if the treatment is altered by the physical therapist from the original written order. The provision does not include written orders specifying orders to "evaluate and treat";

(k) treating human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state;

(l) inappropriate delegation to a physical therapist assistant or inappropriate task assignment to an aide or inadequate supervision of either level of support-personnel;

(m) treating human ailments other than by performing physical therapy procedures unless duly licensed or registered to do so under the laws of this state;

(n) practicing as a physical therapist performing medical diagnosis, the practice of medicine as defined in section 147.081, or the practice of chiropractic as defined in section 148.01;

(o) failure to comply with a reasonable request to obtain appropriate clearance for mental or physical conditions which would interfere with the ability to practice physical therapy, and which may be potentially harmful to patients;

(p) dividing fees with, or paying or promising to pay a commission or part of the fee to, any person who contacts the physical therapist for consultation or sends patients to the physical therapist for treatment;

(q) engaging in an incentive payment arrangement, other than that prohibited by clause (p), that tends to promote physical therapy overutilization,

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whereby the referring person or person who controls the availability of physical therapy services to a client profits unreasonably as a result of patient treatment;

(r) practicing physical therapy and failing to refer to a licensed health care professional any patient whose medical condition at the time of evaluation has been determined by the physical therapist to be beyond the scope of practice of a physical therapist; and

(s) failure to report to the board other registered physical therapists who violate this section.

A certificate of registration to practice as a physical therapist is suspended if (1) a guardian of the person of the physical therapist is appointed by order of a ~~probate~~ court pursuant to sections 525.54 to 525.61, for reasons other than the minority of the physical therapist; or (2) the physical therapist is committed by order of a ~~probate~~ court pursuant to chapter 253B ~~or sections 526.09 to 526.11~~. The certificate of registration remains suspended until the physical therapist is restored to capacity by a court and, upon petition by the physical therapist, the suspension is terminated by the board of medical practice after a hearing.

Sec. 12. Minnesota Statutes 1992, section 148B.07, subdivision 6, is amended to read:

Subd. 6. **COURTS.** The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a licensee is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of an abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the licensee pursuant to sections 525.54 to 525.61 or commits a licensee pursuant to chapter 253B ~~or sections 526.09 to 526.11~~.

Sec. 13. Minnesota Statutes 1992, section 148B.175, subdivision 8, is amended to read:

Subd. 8. **AUTOMATIC SUSPENSION; RESTORATION.** The right to practice is automatically suspended if (1) a guardian of a licensee is appointed by order of a ~~probate~~ court under sections 525.54 to 525.61, or (2) the licensee is committed by order of a ~~probate~~ court pursuant to chapter 253B ~~or sections 526.09 to 526.11~~. The right to practice remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated by the board after a hearing or upon agreement between the board and the licensee. In its discretion, a board may restore and reissue permission to provide services, but as a condition of the permission may impose a disciplinary or corrective measure that it might originally have imposed.

Sec. 14. Minnesota Statutes 1992, section 148B.63, subdivision 6, is amended to read:

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Subd. 6. **COURTS.** The court administrator of district court or any other court of competent jurisdiction shall report to the office of mental health practice any judgment or other determination of the court that adjudges or includes a finding that an unlicensed mental health practitioner is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the unlicensed mental health practitioner under sections 525.54 to 525.61 or commits an unlicensed mental practitioner under chapter 253B ~~or sections 526.09 to 526.11.~~

Sec. 15. Minnesota Statutes 1992, section 148B.68, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED CONDUCT.** The commissioner may impose disciplinary action as described in section 148B.69 against any unlicensed mental health practitioner. The following conduct is prohibited and is grounds for disciplinary action:

(a) Conviction of a crime, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to the provision of mental health services. Conviction, as used in this subdivision, includes a conviction of an offense which, if committed in this state, would be deemed a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered.

(b) Conviction of crimes against persons. For purposes of this chapter, a crime against a person means violations of the following: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.221; 609.222; 609.223; 609.224; 609.23; 609.231; 609.235; 609.24; 609.245; 609.25; 609.255; 609.26, subdivision 1, clause (1) or (2); 609.265; 609.342; 609.343; 609.344; 609.345; 609.365; 609.498, subdivision 1; 609.50, clause (1); 609.561; 609.562; and 609.595.

(c) Failure to comply with the self-reporting requirements of section 148B.63, subdivision 6.

(d) Engaging in sexual contact with a client or former client as defined in section 148A.01, or engaging in contact that may be reasonably interpreted by a client as sexual, or engaging in any verbal behavior that is seductive or sexually demeaning to the patient, or engaging in sexual exploitation of a client or former client.

(e) Advertising that is false, fraudulent, deceptive, or misleading.

(f) Conduct likely to deceive, defraud, or harm the public; or demonstrating a willful or careless disregard for the health, welfare, or safety of a client; or any

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other practice that may create unnecessary danger to any client's life, health, or safety, in any of which cases, proof of actual injury need not be established.

(g) Adjudication as mentally incompetent, or as a person ~~who has a psychopathic personality as defined in section 526.09, or~~ who is dangerous to self, or adjudication pursuant to chapter 253B, as chemically dependent, mentally ill, mentally retarded, ~~or~~ mentally ill and dangerous to the public, or as a sexual psychopathic personality or sexually dangerous person.

(h) Inability to provide mental health services with reasonable safety to clients.

(i) The habitual overindulgence in the use of or the dependence on intoxicating liquors.

(j) Improper or unauthorized personal or other use of any legend drugs as defined in chapter 151, any chemicals as defined in chapter 151, or any controlled substance as defined in chapter 152.

(k) Revealing a communication from, or relating to, a client except when otherwise required or permitted by law.

(l) Failure to comply with a client's request made under section 144.335, or to furnish a client record or report required by law.

(m) Splitting fees or promising to pay a portion of a fee to any other professional other than for services rendered by the other professional to the client.

(n) Engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws.

(o) Failure to make reports as required by section 148B.63, or cooperate with an investigation of the office.

(p) Obtaining money, property, or services from a client, other than reasonable fees for services provided to the client, through the use of undue influence, harassment, duress, deception, or fraud.

(q) Undertaking or continuing a professional relationship with a client in which the objectivity of the professional would be impaired.

(r) Failure to provide the client with a copy of the client bill of rights or violation of any provision of the client bill of rights.

(s) Violating any order issued by the commissioner.

(t) Failure to comply with sections 148B.60 to 148B.71, and the rules adopted under those sections.

(u) Failure to comply with any additional disciplinary grounds established by the commissioner by rule.

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Sec. 16. Minnesota Statutes 1992, section 148B.69, subdivision 5, is amended to read:

Subd. 5. **AUTOMATIC SUSPENSION.** The right to practice is automatically suspended if (1) a guardian of an unlicensed mental health practitioner is appointed by order of a ~~probate~~ court under sections 525.54 to 525.61, or (2) the practitioner is committed by order of a ~~probate~~ court pursuant to chapter 253B ~~or sections 526.09 to 526.11~~. The right to practice remains suspended until the practitioner is restored to capacity by a court and, upon petition by the practitioner, the suspension is terminated by the commissioner after a hearing or upon agreement between the commissioner and the practitioner.

Sec. 17. Minnesota Statutes 1992, section 153.19, subdivision 1, is amended to read:

Subdivision 1. **GROUNDINGS LISTED.** The board may refuse to grant a license or may impose disciplinary action as described in this section against any doctor of podiatric medicine. The following conduct is prohibited and is grounds for disciplinary action:

(1) failure to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or rules of the board; the burden of proof shall be upon the applicant to demonstrate the qualifications or satisfaction of the requirements;

(2) obtaining a license by fraud or cheating or attempting to subvert the licensing examination process;

(3) conviction, during the previous five years, of a felony reasonably related to the practice of podiatric medicine;

(4) revocation, suspension, restriction, limitation, or other disciplinary action against the person's podiatric medical license in another state or jurisdiction, failure to report to the board that charges regarding the person's license have been brought in another state or jurisdiction, or having been refused a license by any other state or jurisdiction;

(5) advertising that is false or misleading;

(6) violating a rule adopted by the board or an order of the board, a state, or federal law that relates to the practice of podiatric medicine, or in part regulates the practice of podiatric medicine, or a state or federal narcotics or controlled substance law;

(7) engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient; or podiatric medical practice that is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established;

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- (8) failure to supervise a preceptor or resident;
- (9) aiding or abetting an unlicensed person in the practice of podiatric medicine, except that it is not a violation of this clause for a podiatrist to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of that person's license or registration or delegated authority;
- (10) adjudication as mentally incompetent, or mentally ill, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction, within or without this state;
- (11) engaging in unprofessional conduct that includes any departure from or the failure to conform to the minimal standards of acceptable and prevailing podiatric medical practice, but actual injury to a patient need not be established;
- (12) inability to practice podiatric medicine with reasonable skill and safety to patients by reason of illness or chemical dependency or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;
- (13) revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law;
- (14) improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made under section 144.335 or to furnish a medical record or report required by law;
- (15) accepting, paying, or promising to pay a part of a fee in exchange for patient referrals;
- (16) engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;
- (17) becoming addicted or habituated to a drug or intoxicant;
- (18) prescribing a drug for other than medically accepted therapeutic or experimental or investigative purposes authorized by a state or federal agency;
- (19) engaging in sexual conduct with a patient or conduct that may reasonably be interpreted by the patient as sexual, or in verbal behavior which is seductive or sexually demeaning to a patient;
- (20) failure to make reports as required by section 153.24 or to cooperate with an investigation of the board as required by section 153.20;
- (21) knowingly providing false or misleading information that is directly

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related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo.

Sec. 18. Minnesota Statutes 1992, section 153.22, subdivision 4, is amended to read:

Subd. 4. **AUTOMATIC SUSPENSION.** A license to practice podiatric medicine is automatically suspended if (1) a guardian of the person of a licensee is appointed by order of a ~~probate~~ court under sections 525.54 to 525.61, for reasons other than the minority of the licensee; or (2) the licensee is committed by order of a ~~probate~~ court under chapter 253B ~~or sections 526.09 to 526.11.~~ The license remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated by the board after a hearing.

Sec. 19. Minnesota Statutes 1992, section 153.24, subdivision 5, is amended to read:

Subd. 5. **COURTS.** The court administrators of the district courts or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a podiatrist is mentally ill, mentally incompetent, guilty of a felony, or guilty of a violation of federal or state narcotics laws or controlled substances act, guilty of an abuse or fraud under Medicare or Medicaid, appoints a guardian of the podiatrist under sections 525.54 to 525.61 or commits a podiatrist under chapter 253B ~~or sections 526.09 to 526.11.~~

Sec. 20. Minnesota Statutes 1993 Supplement, section 201.15, subdivision 1, is amended to read:

Subdivision 1. **GUARDIANSHIPS, INCOMPETENTS AND PSYCHOPATHS.** The ~~probate judge court administrator~~ in each county shall report monthly to the county auditor the name and address of each individual 18 years of age or over, who maintains residence in that county and who, during the month preceding the date of the report:

- (a) was placed under a guardianship of the person;
- (b) adjudged legally incompetent by reason of mental illness, mental deficiency, or inebriation; or
- (c) was adjudged a sexually dangerous person or a person with a sexual psychopathic personality.

The judge shall also report the same information for each individual transferred to the jurisdiction of the court who meets a condition specified in clause (a), (b) or (c). Upon receipt of the report, the county auditor shall determine whether any individual named in the report is registered to vote. The county auditor shall change the status on the record in the statewide registration system

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of any individual named in the report to indicate that the individual is not eligible to reregister or vote.

Sec. 21. Minnesota Statutes 1992, section 243.55, subdivision 3, is amended to read:

Subd. 3. As used in this section, "state hospital" or "hospital" means any state operated facility or hospital under the authority of the commissioner of human services for (a) persons with mental illness, mental retardation, or chemical dependency, (b) sex offenders, ~~or~~ (c) persons with a sexual psychopathic personalities personality, or (d) sexually dangerous persons.

Sec. 22. Minnesota Statutes 1992, section 244.05, subdivision 7, is amended to read:

Subd. 7. **SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION.** Before the commissioner releases from prison any inmate convicted under sections 609.342 to 609.345 or sentenced as a patterned offender under section 609.1352, and determined by the commissioner to be in a high risk category, the commissioner shall make a preliminary determination whether, in the commissioner's opinion, a petition under section ~~526.10~~ 253B.185 may be appropriate. If the commissioner determines that a petition may be appropriate, the commissioner shall forward this determination, along with a summary of the reasons for the determination, to the county attorney in the county where the inmate was convicted no later than six months before the inmate's release date. Upon receiving the commissioner's preliminary determination, the county attorney shall proceed in the manner provided in section ~~526.10~~ 253B.185. The commissioner shall release to the county attorney all requested documentation maintained by the department.

Sec. 23. Minnesota Statutes 1992, section 246.014, is amended to read:

246.014 SERVICES.

The measure of services established and prescribed by section 246.012, are:

(1) There shall be served in state hospitals a single standard of food for patients and employees alike, which is nutritious and palatable together with special diets as prescribed by the medical staff thereof. There shall be a chief dietitian in the department of human services and at least one dietitian at each state hospital. There shall be adequate staff and equipment for processing, preparation, distribution and serving of food.

(2) There shall be a staff of persons, professional and lay, sufficient in number, trained in the diagnosis, care and treatment of persons with mental illness, physical illness, and including religious and spiritual counsel through qualified chaplains (who shall be in the unclassified service) adequate to take advantage of and put into practice modern methods of psychiatry, medicine and related field.

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(3) There shall be a staff and facilities to provide occupational and recreational therapy, entertainment and other creative activities as are consistent with modern methods of treatment and well being.

(4) There shall be in each state hospital for the care and treatment of persons with mental illness facilities for the segregation and treatment of patients and residents who have communicable disease.

(5) The commissioner of human services shall provide modern and adequate psychiatric social case work service.

(6) The commissioner of human services shall make every effort to improve the accommodations for patients and residents so that the same shall be comfortable and attractive with adequate furnishings, clothing, and supplies.

(7) The commissioner of human services shall establish training programs for the training of personnel and may require the participation of personnel in such programs. Within the limits of the appropriations available the commissioner may establish professional training programs in the forms of educational stipends for positions for which there is a scarcity of applicants.

(8) The standards herein established shall be adapted and applied to the diagnosis, care and treatment of persons with chemical dependency or mental retardation who come within those terms as defined in the laws relating to the hospitalization and commitment of such persons, and of persons who are have sexual psychopathic personalities within the definition thereof in Minnesota Statutes 1945, section 526.09 or are sexually dangerous persons as defined in chapter 253B.

(9) The commissioner of human services shall establish a program of detection, diagnosis and treatment of persons with mental illness and persons described in clause (8), and within the limits of appropriations may establish clinics and staff the same with persons specially trained in psychiatry and related fields.

(10) The commissioner of employee relations may reclassify employees of the state hospitals from time to time, and assign classifications to such salary brackets as will adequately compensate personnel and reasonably assure a continuity of adequate staff.

(11) In addition to the chaplaincy services, provided in clause (2), the commissioner of human services shall open said state hospitals to members of the clergy and other spiritual leaders to the end that religious and spiritual counsel and services are made available to the patients and residents therein, and shall cooperate with all members of the clergy and other spiritual leaders in making said patients and residents available for religious and spiritual counsel, and shall provide such members of the clergy and other spiritual leaders with meals and accommodations.

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(12) Within the limits of the appropriations therefor, the commissioner of human services shall establish and provide facilities and equipment for research and study in the field of modern hospital management, the causes of mental and related illness and the treatment, diagnosis and care of persons with mental illness and funds provided therefor may be used to make available services, abilities and advice of leaders in these and related fields, and may provide them with meals and accommodations and compensate them for traveling expenses and services.

Sec. 24. Minnesota Statutes 1993 Supplement, section 246.02, subdivision 2, is amended to read:

Subd. 2. The commissioner of human services shall act with the advice of the medical policy directional committee on mental health in the appointment and removal of the chief executive officers of the following institutions: Anoka-Metro Regional Treatment Center, Ah-Gwah-Ching Center, Fergus Falls Regional Treatment Center, St. Peter Regional Treatment Center and Minnesota Security Hospital, Willmar Regional Treatment Center, Faribault Regional Center, Cambridge Regional Human Services Center, Brainerd Regional Human Services Center, and until June 30, 1995, Moose Lake Regional Treatment Center, and after June 30, 1995, Minnesota Sexual Psychopathic Personality Treatment Center.

Sec. 25. Minnesota Statutes 1993 Supplement, section 246B.01, is amended to read:

246B.01 MINNESOTA SEXUAL PSYCHOPATHIC PERSONALITY TREATMENT CENTER DEFINITIONS.

Subdivision 1. **APPLICABILITY.** The definitions in this section apply to this chapter.

Subd. 2. **COMMISSIONER.** "Commissioner" means the commissioner of human services or the commissioner's designee.

Subd. 3. **SEXUAL PSYCHOPATHIC PERSONALITY.** "Sexual psychopathic personality" has the meaning given in section ~~526.09~~ 253B.02, subdivision 18a.

Subd. 4. **SEXUALLY DANGEROUS PERSON.** "Sexually dangerous person" has the meaning given in section 253B.02, subdivision 18b.

Sec. 26. Minnesota Statutes 1993 Supplement, section 246B.02, is amended to read:

246B.02 ESTABLISHMENT OF MINNESOTA SEXUAL PSYCHOPATHIC PERSONALITY TREATMENT CENTER.

The commissioner of human services shall establish and maintain a secure

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facility located in Moose Lake. The facility shall be known as the Minnesota Sexual Psychopathic Personality Treatment Center. The facility shall provide care and treatment to 100 persons committed by the courts as sexual psychopathic personalities or sexually dangerous persons, or persons admitted there with the consent of the commissioner of human services.

Sec. 27. Minnesota Statutes 1993 Supplement, section 246B.03, is amended to read:

246B.03 LICENSURE.

The commissioner of human services shall apply to the commissioner of health to license the Minnesota Sexual Psychopathic Personality Treatment Center as a supervised living facility with applicable program licensing standards.

Sec. 28. Minnesota Statutes 1993 Supplement, section 246B.04, as amended by Laws 1994, chapter 529, section 3, is amended to read:

246B.04 RULES; EVALUATION.

The commissioner of human services shall adopt rules to govern the operation, maintenance, and licensure of the program established at the Minnesota Sexual Psychopathic Personality Treatment Center, or at any other facility operated by the commissioner, for persons committed as a psychopathic personality. The commissioner shall establish an evaluation process to measure outcomes and behavioral changes as a result of treatment compared with incarceration without treatment, to determine the value, if any, of treatment in protecting the public.

Sec. 29. Minnesota Statutes 1992, section 253B.02, subdivision 17, is amended to read:

Subd. 17. **PERSON MENTALLY ILL AND DANGEROUS TO THE PUBLIC.** A "person mentally ill and dangerous to the public" is a person (a) who is mentally ill; and (b) who as a result of that mental illness presents a clear danger to the safety of others as demonstrated by the facts that (i) the person has engaged in an overt act causing or attempting to cause serious physical harm to another and (ii) there is a substantial likelihood that the person will engage in acts capable of inflicting serious physical harm on another. A person committed as a sexual psychopathic personality or sexually dangerous person as defined in ~~section 526.09 subdivisions 18a and 18b~~ is subject to the provisions of this chapter that apply to persons mentally ill and dangerous to the public.

Sec. 30. Minnesota Statutes 1993 Supplement, section 253B.23, subdivision 1a, is amended to read:

Subd. 1a. **AUTHORITY TO DETAIN AND TRANSPORT A MISSING PATIENT.** If a patient committed under this chapter or ~~chapter 526~~, or detained under a court-ordered hold is absent without authorization, and either

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(1) does not return voluntarily within 72 hours of the time the unauthorized absence began; or (2) is considered by the head of the treatment facility to be a danger to self or others, then the head of the treatment facility shall report the absence to the local law enforcement agency. The head of the treatment facility shall also notify the committing court that the patient is absent and that the absence has been reported to the local law enforcement agency.

Upon receiving a report that a patient subject to this section is absent without authorization, the local law enforcement agency shall enter information on the patient through the criminal justice information system into the missing persons file of the National Crime Information Center computer according to the missing persons practices.

A patient about whom information has been entered under this section may be apprehended and held by a peace officer in any jurisdiction pending return to the facility from which the patient is absent without authorization. A patient may also be returned to any facility operated by the commissioner of human services. Patients committed ~~under chapter 526 or committed~~ as mentally ill and dangerous, a sexual psychopathic personality, or a sexually dangerous person under section 253B.18, and detained under this subdivision, may be held in a jail or lockup only if:

- (1) there is no other feasible place of detention for the patient;
- (2) the detention is for less than 24 hours; and
- (3) there are protections in place, including segregation of the patient, to ensure the safety of the patient.

If a patient is detained under this subdivision, the head of the treatment facility from which the patient is absent shall arrange to pick up the patient within 24 hours of the time detention was begun and shall be responsible for securing transportation for the patient to the facility. The expense of detaining and transporting a patient shall be the responsibility of the treatment facility from which the patient is absent. The expense of detaining and transporting a patient to a treatment facility operated by the department of human services shall be paid by the commissioner unless paid by the patient or the patient's relatives.

Immediately after an absent patient is located, the head of the treatment facility from which the patient is absent, or the law enforcement agency that located or returned the absent patient, shall notify the law enforcement agency that first received the absent patient report under this section and that agency shall cancel the missing persons entry from the National Crime Information Center computer.

Sec. 31. Minnesota Statutes 1993 Supplement, section 254.05, is amended to read:

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254.05 DESIGNATION OF STATE HOSPITALS.

The state hospital located at Anoka shall hereafter be known and designated as the Anoka-metro regional treatment center; the state hospital located at Willmar shall hereafter be known and designated as the Willmar regional treatment center; until June 30, 1995, the state hospital located at Moose Lake shall be known and designated as the Moose Lake regional treatment center; after June 30, 1995, the newly established state facility at Moose Lake shall be known and designated as the Minnesota Sexual Psychopathic Personality Treatment Center; the state hospital located at Fergus Falls shall hereafter be known and designated as the Fergus Falls regional treatment center; and the state hospital located at St. Peter shall hereafter be known and designated as the St. Peter regional treatment center. Each of the foregoing state hospitals shall also be known by the name of regional center at the discretion of the commissioner of human services. The terms "human services" or "treatment" may be included in the designation.

Sec. 32. Minnesota Statutes 1992, section 609.1351, is amended to read:

609.1351 PETITION FOR CIVIL COMMITMENT.

When a court sentences a person under section 609.1352, 609.342, 609.343, 609.344, or 609.345, the court shall make a preliminary determination whether in the court's opinion a petition under section ~~526.10~~ 253B.185 may be appropriate and include the determination as part of the sentencing order. If the court determines that a petition may be appropriate, the court shall forward its preliminary determination along with supporting documentation to the county attorney.

Sec. 33. Minnesota Statutes 1993 Supplement, section 611A.06, subdivision 1, as amended by Laws 1994, chapter 636, article 7, section 5, is amended to read:

Subdivision 1. **NOTICE OF RELEASE REQUIRED.** The commissioner of corrections or other custodial authority shall make a good faith effort to notify the victim that the offender is to be released from imprisonment or incarceration, including release on extended furlough and for work release; released from a juvenile correctional facility; released from a facility in which the offender was confined due to incompetency, mental illness, or mental deficiency, or commitment under section 253B.18 or 253B.185; or if the offender's custody status is reduced, if the victim has mailed to the commissioner of corrections or to the head of the facility in which the offender is confined a written request for this notice. The good faith effort to notify the victim must occur prior to the offender's release or when the offender's custody status is reduced. For a victim of a felony crime against the person for which the offender was sentenced to imprisonment for more than 18 months, the good faith effort to notify the victim must occur 60 days before the offender's release.

Sec. 34. Minnesota Statutes 1992, section 626.557, subdivision 2, as amended by Laws 1994, chapter 636, article 2, section 60, is amended to read:

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Subd. 2. **DEFINITIONS.** As used in this section, the following terms have the meanings given them unless the specific context indicates otherwise.

(a) "Facility" means a hospital or other entity required to be licensed pursuant to sections 144.50 to 144.58; a nursing home required to be licensed to serve adults pursuant to section 144A.02; an agency, day care facility, or residential facility required to be licensed to serve adults pursuant to sections 245A.01 to 245A.16; or a home care provider licensed under section 144A.46.

(b) "Vulnerable adult" means any person 18 years of age or older:

(1) who is a resident or inpatient of a facility;

(2) who receives services at or from a facility required to be licensed to serve adults pursuant to sections 245A.01 to 245A.16, except a person receiving outpatient services for treatment of chemical dependency or mental illness;

(3) who receives services from a home care provider licensed under section 144A.46; or

(4) who, regardless of residence or type of service received, is unable or unlikely to report abuse or neglect without assistance because of impairment of mental or physical function or emotional status.

"Vulnerable adult" does not include a person who is committed as a sexual psychopathic personality or a sexually dangerous person under section ~~526.10~~ 253B.185.

(c) "Caretaker" means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.

(d) "Abuse" means:

(1) any act which constitutes a violation under sections 609.221 to 609.223, 609.23 to 609.235, 609.322, 609.342, 609.343, 609.344, or 609.345;

(2) nontherapeutic conduct which produces or could reasonably be expected to produce pain or injury and is not accidental, or any repeated conduct which produces or could reasonably be expected to produce mental or emotional distress;

(3) any sexual contact between a facility staff person and a resident or client of that facility;

(4) the illegal use of a vulnerable adult's person or property for another person's profit or advantage, or the breach of a fiduciary relationship through the use of a person or a person's property for any purpose not in the proper and law-

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ful execution of a trust, including but not limited to situations where a person obtains money, property, or services from a vulnerable adult through the use of undue influence, harassment, duress, deception, or fraud; or

(5) any aversive and deprivation procedures that have not been authorized under section 245.825.

(e) "Neglect" means:

(1) failure by a caretaker to supply a vulnerable adult with necessary food, clothing, shelter, health care or supervision;

(2) the absence or likelihood of absence of necessary food, clothing, shelter, health care, or supervision for a vulnerable adult; or

(3) the absence or likelihood of absence of necessary financial management to protect a vulnerable adult against abuse as defined in paragraph (d), clause (4). Nothing in this section shall be construed to require a health care facility to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.

(f) "Report" means any report received by a local welfare agency, police department, county sheriff, or licensing agency pursuant to this section.

(g) "Licensing agency" means:

(1) the commissioner of health, for facilities as defined in clause (a) which are required to be licensed or certified by the department of health;

(2) the commissioner of human services, for facilities required by sections 245A.01 to 245A.16 to be licensed;

(3) any licensing board which regulates persons pursuant to section 214.01, subdivision 2; and

(4) any agency responsible for credentialing human services occupations.

(h) "Substantiated" means a preponderance of the evidence shows that an act that meets the definition of abuse or neglect occurred.

(i) "False" means a preponderance of the evidence shows that an act that meets the definition of abuse or neglect did not occur.

(j) "Inconclusive" means there is less than a preponderance of evidence to show that abuse or neglect did or did not occur.

Sec. 35. **EFFECTIVE DATE.**

Sections 1 to 34 are effective the day following final enactment.

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ARTICLE 3

AMENDMENTS TO SEX OFFENDER REGISTRATION LAW

Section 1. Minnesota Statutes 1993 Supplement, section 243.166, subdivision 3, is amended to read:

Subd. 3. **REGISTRATION PROCEDURE.** (a) The person shall register with the corrections agent as soon as the agent is assigned to the person.

(b) ~~If the person changes residence address, the person shall give the new address to the current or last assigned corrections agent in writing within ten days. At least five days before the person changes residence, the person shall give written notice of the address of the new residence to the current or last assigned corrections agent.~~ An offender is deemed to change ~~address~~ residence when the offender remains at a new address for longer than ~~two weeks~~ three days and evinces an intent to take up residence there. The agent shall, within ~~three~~ two business days after receipt of this information, forward it to the bureau of criminal apprehension.

Sec. 2. Minnesota Statutes 1993 Supplement, section 243.166, subdivision 6, is amended to read:

Subd. 6. **REGISTRATION PERIOD.** (a) Notwithstanding the provisions of section 609.165, subdivision 1, a person required to register under this section shall continue to comply with this section until ten years have elapsed since the person was initially assigned to a corrections agent in connection with the offense, or until the probation, supervised release, or conditional release period expires, whichever occurs later. For a person required to register under this section who is committed under section 253B.185, the ten-year registration period does not include the period of commitment.

(b) If a person required to register under this section fails to register following a change in address residence, the commissioner of public safety may require the person to continue to register for an additional period of five years.

Sec. 3. **EFFECTIVE DATE.**

Section 1 is effective January 1, 1995. Section 2 is effective the day following final enactment.

Presented to the governor August 31, 1994

Signed by the governor August 31, 1994, 4:32 p.m.

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REGULAR SESSION LAWS
of the
STATE OF MINNESOTA

Enacted by the Seventy-Ninth Legislature
at the 1995 Regular Session,
January 3 to May 22, 1995