

**CHAPTER 284—H.F.No. 3222**

*An act relating to state government; modifying reporting requirements for health-related boards; changing membership requirements for the health professionals services program committee; amending Minnesota Statutes 1998, sections 147.01, subdivision 4; 148B.04, subdivision 4; 148B.285, subdivision 3; 214.07; 214.10, subdivision 8; 214.31; and 214.32, subdivision 1; Minnesota Statutes 1999 Supplement, section 148.691, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 144E; and 214.*

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

**Section 1. [144E.287] DIVERSION PROGRAM.**

The board shall either conduct a health professionals service program under sections 214.31 to 214.37 or contract for a diversion program under section 214.28 for professionals regulated by the board who are unable to perform their duties 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.

Sec. 2. Minnesota Statutes 1998, section 147.01, subdivision 4, is amended to read:

Subd. 4. **DISCLOSURE.** Subject to the exceptions listed in this subdivision, all communications or information received by or disclosed to the board relating to any person or matter subject to its regulatory jurisdiction are confidential and privileged and any disciplinary hearing shall be closed to the public.

(a) Upon application of a party in a proceeding before the board under section 147.091, the board shall produce and permit the inspection and copying, by or on behalf of the moving party, of any designated documents or papers relevant to the proceedings, in accordance with the provisions of rule 34, Minnesota rules of civil procedure.

(b) If the board imposes disciplinary measures of any kind, whether by contested case or by settlement agreement, the name and business address of the licensee, the nature of the misconduct, and the action taken by the board are public data. If disciplinary action is taken by settlement agreement, the entire agreement is public data. The board shall decide disciplinary matters, whether by settlement or by contested case, by roll call vote. The votes are public data.

(c) The board shall exchange information with other licensing boards, agencies, or departments within the state, as required under section 214.10, subdivision 8, paragraph (d) ~~(c)~~, and may release information in the reports required under sections section 147.02, subdivision 6, and 214.10, subdivision 8, paragraph (b).

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(d) The board shall upon request furnish to a person who made a complaint, or the alleged victim of a violation of section 147.091, subdivision 1, paragraph (t), or both, a description of the activities and actions of the board relating to that complaint, a summary of the results of an investigation of that complaint, and the reasons for actions taken by the board.

(e) A probable cause hearing held pursuant to section 147.092 shall be closed to the public, except for the notices of hearing made public by operation of section 147.092.

(f) Findings of fact, conclusions, and recommendations issued by the administrative law judge, and transcripts of oral arguments before the board pursuant to a contested case proceeding in which an administrative law judge found a violation of section 147.091, subdivision 1, paragraph (t), are public data.

Sec. 3. Minnesota Statutes 1999 Supplement, section 148.691, subdivision 3, is amended to read:

Subd. 3. **DISCLOSURE.** Subject to the exceptions listed in this subdivision, all communications or information received by or disclosed to the board relating to any person or matter subject to its regulatory jurisdiction are confidential and privileged and any disciplinary hearing shall be closed to the public.

(a) Upon application of a party in a proceeding before the board, the board shall produce and permit the inspection and copying, by or on behalf of the moving party, of any designated documents or papers relevant to the proceedings, in accordance with the provisions of rule 34, Minnesota Rules of Civil Procedure.

(b) If the board imposes disciplinary measures of any kind, whether by contested case or by settlement agreement, the name and business address of the licensee, the nature of the misconduct, and the action taken by the board are public data. If disciplinary action is taken by settlement agreement, the entire agreement is public data. The board shall decide disciplinary matters, whether by settlement or by contested case, by roll call vote. The votes are public data.

(c) The board shall exchange information with other licensing boards, agencies, or departments within the state, as required under section 214.10, subdivision 8, paragraph (d), and ~~may release information in the reports required under section 214.10, subdivision 8, paragraph (b)~~ (c).

(d) The board shall upon request furnish to a person who made a complaint, a description of the activities and actions of the board relating to that complaint, a summary of the results of an investigation of that complaint, and the reasons for actions taken by the board.

Sec. 4. Minnesota Statutes 1998, section 148B.04, subdivision 4, is amended to read:

Subd. 4. **EXCHANGE OF INFORMATION.** The board shall exchange information with other boards, agencies, or departments within the state, as required under section 214.10, subdivision 8, paragraph ~~(d)~~ (c).

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Sec. 5. Minnesota Statutes 1998, section 148B.285, subdivision 3, is amended to read:

Subd. 3. **EXCHANGE OF INFORMATION.** The board shall exchange information with other boards, agencies, or departments within the state, as required under section 214.10, subdivision 8, paragraph ~~(d)~~ (c).

Sec. 6. Minnesota Statutes 1998, section 214.07, is amended to read:

**214.07 REPORTS.**

Subdivision 1. **NON-HEALTH-RELATED BOARD REPORTS.** The health-related ~~licensing boards and the non-health-related licensing boards~~ shall prepare reports according to this subdivision and ~~subdivision 1a~~ by October 1 of each even-numbered year. Copies of the reports shall be delivered to the governor. ~~Copies of the reports of the health-related licensing boards shall also be delivered to the commissioner of health.~~ The reports shall contain the following information relating to the two-year period ending the previous June 30:

- (a) a general statement of board activities;
- (b) the number of meetings and approximate total number of hours spent by all board members in meetings and on other board activities;
- (c) the receipts and disbursements of board funds;
- (d) the names of board members and their addresses, occupations, and dates of appointment and reappointment to the board;
- (e) the names and job classifications of board employees;
- (f) a brief summary of board rules proposed or adopted during the reporting period with appropriate citations to the State Register and published rules;
- (g) the number of persons having each type of license and registration issued by the board as of June 30 in the year of the report;
- (h) the locations and dates of the administration of examinations by the board;
- (i) the number of persons examined by the board with the persons subdivided into groups showing age categories, sex, and states of residency;
- (j) the number of persons licensed or registered by the board after taking the examinations referred to in clause (h) with the persons subdivided by age categories, sex, and states of residency;
- (k) the number of persons not licensed or registered by the board after taking the examinations referred to in clause (h) with the persons subdivided by age categories, sex, and states of residency;
- (l) the number of persons not taking the examinations referred to in clause (h) who were licensed or registered by the board or who were denied licensing or registration with the reasons for the licensing or registration or denial thereof and with the persons subdivided by age categories, sex, and states of residency;

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(m) the number of persons previously licensed or registered by the board whose licenses or registrations were revoked, suspended, or otherwise altered in status with brief statements of the reasons for the revocation, suspension or alteration;

(n) the number of written and oral complaints and other communications received by the executive director or executive secretary of the board, a board member, or any other person performing services for the board (1) which allege or imply a violation of a statute or rule which the board is empowered to enforce and (2) which are forwarded to other agencies as required by section 214.10;

(o) a summary, by specific category, of the substance of the complaints and communications referred to in clause (n) and, for each specific category, the responses or dispositions thereof pursuant to section 214.10 or 214.11;

(p) any other objective information which the board members believe will be useful in reviewing board activities.

**Subd. 1a. REPORT REQUIREMENT FOR BOARD OF MEDICAL PRACTICE AND BOARD OF NURSING.** ~~The board of medical practice and the board of nursing shall include in the report required under subdivision 1, clause (o), specific information regarding complaints and communications involving obstetrics, gynecology, prenatal care, and delivery, and the boards' responses or dispositions.~~

**Subd. 1b. HEALTH-RELATED LICENSING BOARD REPORTS.** Each health-related licensing board must prepare a report by October 15 of each even-numbered year. The report must be submitted to the administrative services unit serving the boards. The report must contain the following information for the two-year period ending the previous June 30: (1) the number and type of credentials issued or renewed; (2) the number of complaints received; (3) the number and age of complaints open at the end of the period; (4) receipts, disbursements, and major fees; and (5) such other information that the interests of health occupation regulation require. The report must also contain information showing historical trends. The reports must use a common format and consistent terminology and data.

**Subd. 2. SUMMARY OF BOARD REPORTS.** Not later than December 15 of each even-numbered year, the commissioner of health with respect to the health-related licensing boards shall prepare summary reports compiling the information required by subdivision 1, clauses (b) and (g) to (p), and contained in the reports submitted by the boards the preceding year pursuant to subdivision 1. The summary reports must also specify the staff and services provided by the department to each board. The summary reports must be distributed to the legislature under section 3.195 and to the governor.  
**ADMINISTRATIVE SERVICES REPORT.** The administrative services unit serving the boards shall prepare a report by December 15 of each even-numbered year. One copy of the administrative services report must be delivered to each of the following: the governor, the commissioner of health, and the chairs of the house and senate policy and appropriations committees with jurisdiction over health-related licensing boards. Six copies must be delivered to the legislative reference library. The administrative services report must contain the following information:

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(1) a summary of the information contained in the reports submitted by the health-related licensing boards pursuant to subdivision 1b;

(2) a description of the health-related licensing boards' cooperative activities during the two-year period ending the previous June 30;

(3) a description of emerging issues relating to health occupation regulation that affect more than one board or more than one occupation; and

(4) a copy of each health-related licensing board report submitted to the administrative services unit pursuant to subdivision 1b.

Sec. 7. Minnesota Statutes 1998, section 214.10, subdivision 8, is amended to read:

**Subd. 8. SPECIAL REQUIREMENTS FOR HEALTH-RELATED LICENSING BOARDS.** In addition to the provisions of this section that apply to all examining and licensing boards, the requirements in this subdivision apply to all health-related licensing boards, except the board of veterinary medicine.

(a) If the executive director or consulted board member determines that a communication received alleges a violation of statute or rule that involves sexual contact with a patient or client, the communication shall be forwarded to the designee of the attorney general for an investigation of the facts alleged in the communication. If, after an investigation it is the opinion of the executive director or consulted board member that there is sufficient evidence to justify disciplinary action, the board shall conduct a disciplinary conference or hearing. If, after a hearing or disciplinary conference the board determines that misconduct involving sexual contact with a patient or client occurred, the board shall take disciplinary action. Notwithstanding subdivision 2, a board may not attempt to correct improper activities or redress grievances through education, conciliation, and persuasion, unless in the opinion of the executive director or consulted board member there is insufficient evidence to justify disciplinary action. The board may settle a case by stipulation prior to, or during, a hearing if the stipulation provides for disciplinary action.

(b) ~~In addition to the information required under section 214.07, subdivision 1, each board shall include in its reports to the legislature summaries of each individual case that involved possible sexual contact with a patient or client. The summary must include a description of the alleged misconduct; the general results of the investigation; the nature of board activities relating to that case; the disposition of the case; and the reasons for board decisions concerning the disposition of the case. The information disclosed under this section must not include the name or specific identifying information about any person, agency, or organization.~~

(e) A board member who has a direct current or former financial connection or professional relationship to a person who is the subject of board disciplinary activities must not participate in board activities relating to that case.

(d) (c) Each health-related licensing board shall establish procedures for exchanging information with other Minnesota state boards, agencies, and departments

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responsible for regulating health-related occupations, facilities, and programs, and for coordinating investigations involving matters within the jurisdiction of more than one regulatory body. The procedures must provide for the forwarding to other regulatory bodies of all information and evidence, including the results of investigations, that are relevant to matters within that licensing body's regulatory jurisdiction. Each health-related licensing board shall have access to any data of the department of human services relating to a person subject to the jurisdiction of the licensing board. The data shall have the same classification under sections 13.01 to 13.88, the Minnesota Government Data Practices Act, in the hands of the agency receiving the data as it had in the hands of the department of human services.

(e) (d) Each health-related licensing board shall establish procedures for exchanging information with other states regarding disciplinary actions against licensees. The procedures must provide for the collection of information from other states about disciplinary actions taken against persons who are licensed to practice in Minnesota or who have applied to be licensed in this state and the dissemination of information to other states regarding disciplinary actions taken in Minnesota. In addition to any authority in chapter 13 permitting the dissemination of data, the board may, in its discretion, disseminate data to other states regardless of its classification under chapter 13. Before transferring any data that is not public, the board shall obtain reasonable assurances from the receiving state that the data will not be made public.

#### Sec. 8. [214.28] ALTERNATIVE DIVERSION PROGRAM.

A health-related licensing board may establish performance criteria and contract for a diversion program for regulated professionals 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.

#### Sec. 9. [214.29] DIVERSION PROGRAM.

Each health-related licensing board, including the emergency medical services regulatory board under chapter 144E, shall either conduct a health professionals service program under sections 214.31 to 214.37 or contract for a diversion program under section 214.28.

Sec. 10. Minnesota Statutes 1998, section 214.31, is amended to read:

#### 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. For purposes of sections 214.31 to 214.37, the emergency medical services regulatory board shall be included in the definition of a health-related licensing board under chapter 144E.

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Sec. 11. Minnesota Statutes 1998, section 214.32, subdivision 1, is amended to read:

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.~~ If the participating boards change which board is designated to provide administrative management of the program, any appropriation remaining for the program shall transfer to the newly designated board on the effective date of the change. The participating boards must inform the appropriate legislative committees and the commissioner of finance of any change in the administrative management of the program, and the amount of any appropriation transferred under this provision.

(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, 2001.

**Sec. 12. EFFECTIVE DATE.**

Sections 1, 8, 9, and 10 are effective July 1, 2001.

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Presented to the governor March 23, 2000

Signed by the governor March 27, 2000, 2:35 p.m.

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**CHAPTER 285—H.F.No. 3332**

*An act relating to agriculture; allowing the commissioner of agriculture to establish alternative term expiration dates for members of the dairy research and promotion council; amending Minnesota Statutes 1998, section 17.54, subdivisions 6 and 13.*

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

Section 1. Minnesota Statutes 1998, section 17.54, subdivision 6, is amended to read:

Subd. 6. **ORGANIZATION.** (a) The commissioner shall serve as a member of each council without vote. Each council shall elect from its own membership a chair, a vice-chair, a secretary, and other officers the council deems appropriate. An executive committee of no more than five members including the officers may also be elected. Except as provided in paragraph (b), terms of the officers shall expire on June 30 of each year; however, they may serve until their successors have been elected but not beyond July 15.

(b) If the commissioner establishes an alternative expiration date for a specific council under subdivision 5 or 13, council members may serve on the council until their successors have been elected but not beyond 15 days after the expiration date.

Sec. 2. Minnesota Statutes 1998, section 17.54, subdivision 13, is amended to read:

Subd. 13. **TERMS; DAIRY COUNCIL.** Notwithstanding subdivision 5, the term of office of members of any council established for the producers of cows' milk or products derived from cows' milk shall be as provided in this subdivision. The term of office shall be two years, with the terms of half the council members expiring ~~June 30~~ in odd-numbered years, and the terms of the remaining council members expiring ~~June 30~~ in even-numbered years. All terms expire on June 30 of the last year of the term unless another date is established by the commissioner for the council.

Presented to the governor March 23, 2000

Signed by the governor March 27, 2000, 2:38 p.m.

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**CHAPTER 286—H.F.No. 3433**

*An act relating to the St. Paul port authority; changing the powers and jurisdiction with*

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