

expend public funds for the benefit of the clients without complying with subdivision 1b or section 384.13, 471.38 or 471.391. County boards opting to implement the program according to this subdivision must have internal accounting and administrative control procedures to ensure proper disbursement of public funds. The procedures must include county-owned demand deposit accounts and periodic review of the program by the county board.

**Sec. 2. EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

Presented to the governor March 22, 2002

Signed by the governor March 25, 2002, 2:16 p.m.

**CHAPTER 272—S.F.No. 2463**

*An act relating to employment; regulating overtime for nurses; allowing reciprocity for border state nursing licensees; amending Minnesota Statutes 2000, sections 148.211, by adding a subdivision; 148.261, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 181.*

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

Section 1. Minnesota Statutes 2000, section 148.211, is amended by adding a subdivision to read:

**Subd. 2a. LICENSE RECOGNITION FOR NURSES FROM BORDER STATES; RECIPROCIITY.** (a) A license to practice professional or practical nursing issued by Iowa, North Dakota, South Dakota, or Wisconsin (border state) to a resident in that state must be recognized by the board as authorizing a licensure privilege to practice professional or practical nursing in Minnesota, if:

(1) the licensure standards in the state licensed are substantially the same as Minnesota licensure standards;

(2) the border state has not taken adverse action against the nurse license;

(3) the nurse is not participating in an alternative or diversion program; or

(4) the nurse has not been refused a license to practice nursing in Minnesota.

(b) Within ten days of employment by a hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state, a nurse who practices professional or practical nursing in Minnesota under the authority of a licensure privilege as provided in this subdivision shall report the employment to the board on a form provided by the board. The board shall maintain a list of the nurses practicing in Minnesota under this subdivision.

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(c) A nurse who practices professional or practical nursing in Minnesota under the authority of a licensure privilege as provided in this subdivision has the same obligations as if the nurse was licensed in Minnesota and is subject to the laws and rules of Minnesota and the regulatory authority of the board, including taking all forms of disciplinary action provided for in section 148.262, subdivision 1, and corrective action provided for in section 214.103, subdivision 6, against an individual's licensure privilege based on the grounds listed in section 148.261, subdivision 1, any other statute authorizing or requiring the board to take corrective or disciplinary action, and issuing a cease and desist order to limit or revoke a nurse's authority to practice in Minnesota. The board is authorized to recover from a nurse practicing professional or practical nursing in Minnesota under this subdivision the cost of proceedings as provided in section 148.262, subdivision 4. The board shall promptly report any such actions to the border state licensing board.

(d) The board shall seek reciprocity of nurse licensure with Iowa, North Dakota, South Dakota, and Wisconsin. Lack of reciprocity does not limit the board's recognition of nurse licenses from border states.

Sec. 2. Minnesota Statutes 2000, section 148.261, subdivision 1, is amended to read:

Subdivision 1. **GROUND LISTED.** The board may deny, revoke, suspend, limit, or condition the license and registration of any person to practice professional, advanced practice registered, or practical nursing under sections 148.171 to 148.285, or to otherwise discipline a licensee or applicant as described in section 148.262. The following are grounds for disciplinary action:

(1) Failure to demonstrate the qualifications or satisfy the requirements for a license contained in sections 148.171 to 148.285 or rules of the board. In the case of a person applying for a license, the burden of proof is upon the applicant to demonstrate the qualifications or satisfaction of the requirements.

(2) Employing fraud or deceit in procuring or attempting to procure a permit, license, or registration certificate to practice professional or practical nursing or attempting to subvert the licensing examination process. Conduct that subverts or attempts to subvert the licensing examination process includes, but is not limited to:

(i) conduct that 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;

(ii) conduct that 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

(iii) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf.

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(3) Conviction during the previous five years of a felony or gross misdemeanor reasonably related to the practice of professional, advanced practice registered, or practical nursing. Conviction as used in this subdivision includes a conviction of an offense that if committed in this state would be considered a felony or gross misdemeanor 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.

(4) Revocation, suspension, limitation, conditioning, or other disciplinary action against the person's professional or practical nursing license or advanced practice registered nursing credential, in another state, territory, or country; failure to report to the board that charges regarding the person's nursing license or other credential are pending in another state, territory, or country; or having been refused a license or other credential by another state, territory, or country.

(5) Failure to or inability to perform professional or practical nursing as defined in section 148.171, subdivision 14 or 15, with reasonable skill and safety, including failure of a registered nurse to supervise or a licensed practical nurse to monitor adequately the performance of acts by any person working at the nurse's direction.

(6) Engaging in unprofessional conduct, including, but not limited to, a departure from or failure to conform to board rules of professional or practical nursing practice that interpret the statutory definition of professional or practical nursing as well as provide criteria for violations of the statutes, or, if no rule exists, to the minimal standards of acceptable and prevailing professional or practical nursing practice, or any nursing practice that may create unnecessary danger to a patient's life, health, or safety. Actual injury to a patient need not be established under this clause.

(7) Failure of an advanced practice registered nurse to practice with reasonable skill and safety or departure from or failure to conform to standards of acceptable and prevailing advanced practice registered nursing.

(8) Delegating or accepting the delegation of a nursing function or a prescribed health care function when the delegation or acceptance could reasonably be expected to result in unsafe or ineffective patient care.

(9) Actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of any mental or physical condition.

(10) Adjudication as mentally incompetent, mentally ill, a chemically dependent person, or a person dangerous to the public by a court of competent jurisdiction, within or without this state.

(11) Engaging in any unethical conduct, including, but not limited to, 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. Actual injury need not be established under this clause.

(12) Engaging in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or

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sexually demeaning to a patient, or engaging in sexual exploitation of a patient or former patient.

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

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

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

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

(17) Knowingly aiding, assisting, advising, or allowing an unlicensed person to engage in the unlawful practice of professional, advanced practice registered, or practical nursing.

(18) Violating a rule adopted by the board, an order of the board, or a state or federal law relating to the practice of professional, advanced practice registered, or practical nursing, or a state or federal narcotics or controlled substance law.

(19) 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.

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

(i) 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;

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

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

(iv) 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.

(21) Practicing outside the scope of practice authorized by section 148.171, subdivision 5, 10, 11, 13, 14, 15, or 21.

(22) Practicing outside the specific field of nursing practice for which an advanced practice registered nurse is certified unless the practice is authorized under section 148.284.

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(23) Making a false statement or knowingly providing false information to the board, failing to make reports as required by section 148.263, or failing to cooperate with an investigation of the board as required by section 148.265.

(24) Engaging in false, fraudulent, deceptive, or misleading advertising.

(25) Failure to inform the board of the person's certification status as a nurse anesthetist, nurse-midwife, nurse practitioner, or clinical nurse specialist.

(26) Engaging in clinical nurse specialist practice, nurse-midwife practice, nurse practitioner practice, or registered nurse anesthetist practice without current certification by a national nurse certification organization acceptable to the board, except during the period between completion of an advanced practice registered nurse course of study and certification, not to exceed six months or as authorized by the board.

(27) Engaging in conduct that is prohibited under section 145.412.

(28) Failing to report employment to the board as required by section 148.211, subdivision 2a, or knowingly aiding, assisting, advising, or allowing a person to fail to report as required by section 148.211, subdivision 2a.

### Sec. 3. **[181.275] REGULATING NURSES' OVERTIME.**

Subdivision 1. DEFINITIONS. For purposes of this section, the following terms have the meanings given them:

(1) "emergency" means a period when replacement staff are not able to report for duty for the next shift or increased patient need, because of unusual, unpredictable, or unforeseen circumstances such as, but not limited to, an act of terrorism, a disease outbreak, adverse weather conditions, or natural disasters which impact continuity of patient care;

(2) "normal work period" means 12 or fewer consecutive hours consistent with a predetermined work shift;

(3) "nurse" has the meaning given in section 148.171, subdivision 9; and

(4) "taking action against" means discharging; disciplining; threatening; reporting to the board of nursing; discriminating against; or penalizing regarding compensation, terms, conditions, location, or privileges of employment.

Subd. 2. PROHIBITED ACTIONS. Except as provided in subdivision 3, a hospital or other entity licensed under sections 144.50 to 144.58, and its agent, or other health care facility licensed by the commissioner of health, and the facility's agent, is prohibited from taking action against a nurse solely on the grounds that the nurse fails to accept an assignment of additional consecutive hours at the facility in excess of a normal work period, if the nurse declines to work additional hours because doing so may, in the nurse's judgment, jeopardize patient safety. This subdivision does not apply to a nursing facility, an intermediate care facility for persons with mental retardation, a licensed boarding care facility, or a housing with services establishment.

Subd. 3. EMERGENCY. Notwithstanding subdivision 2, a nurse may be scheduled for duty or required to continue on duty for more than one normal work period in an emergency.

New language is indicated by underline, deletions by strikeout.

Subd. 4. EXCEPTION. Section 645.241 does not apply to violations of this section.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 and 2 are effective January 1, 2003.

Presented to the governor March 22, 2002

Signed by the governor March 25, 2002, 2:13 p.m.

#### CHAPTER 273—S.F.No. 3167

*An act relating to corrections; providing access to data for purposes of the commissioner's preliminary determination whether a petition of civil commitment as a sexual psychopathic personality or sexually dangerous person is appropriate; amending Minnesota Statutes 2000, section 244.05, subdivision 7.*

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

Section 1. Minnesota Statutes 2000, section 244.05, subdivision 7, is amended to read:

**Subd. 7. SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION.**

(a) Before the commissioner releases from prison any inmate convicted under sections 609.342 to 609.345 or sentenced as a patterned offender under section 609.108, 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 253B.185 may be appropriate.

(b) In making this decision, the commissioner shall have access to the following data only for the purposes of the assessment and referral decision:

(1) private medical data under section 13.384 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the offender;

(2) private and confidential court services data under section 13.84;

(3) private and confidential corrections data under section 13.85; and

(4) private criminal history data under section 13.87.

(c) 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 12 months before the inmate's release date. If the inmate is received for incarceration with fewer than 12 months remaining in the inmate's term of imprisonment, or if the commissioner receives additional information less than 12 months before release which makes the inmate's case appropriate for referral, the commissioner shall forward the determination as soon as is practicable. Upon receiving

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