

Subd. 2a. MONETARY SETTLEMENTS. The commissioner shall not coerce or attempt to coerce a licensee to enter into any monetary settlement with a consumer in connection with any complaint investigation. The commissioner may consider the totality of the circumstances, including any efforts by the licensee to mitigate any losses by a consumer, in determining the appropriateness or severity of administrative sanction.

Presented to the governor March 25, 2002

Signed by the governor March 26, 2002, 2:26 p.m.

CHAPTER 287—S.F.No. 2459

An act relating to health; modifying requirements for supplemental nursing services agencies; providing for revocation of supplemental nursing services agency's registration if the agency supplies persons with illegal diplomas to health care facilities; providing for revocation procedures; amending Minnesota Statutes 2001 Supplement, sections 144A.70, subdivision 6; 144A.71, subdivision 2; 144A.72, subdivision 1, by adding subdivisions; 144A.74.

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

Section 1. Minnesota Statutes 2001 Supplement, section 144A.70, subdivision 6, is amended to read:

Subd. 6. SUPPLEMENTAL NURSING SERVICES AGENCY. "Supplemental nursing services agency" means a person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring temporary employment in health care facilities for nurses, nursing assistants, nurse aides, and orderlies. Supplemental nursing services agency does not include an individual who only engages in providing the individual's services on a temporary basis to health care facilities. Supplemental nursing services agency also does not include any nursing service agency that is limited to providing temporary nursing personnel solely to one or more health care facilities owned or operated by the same person, firm, corporation, or partnership.

Sec. 2. Minnesota Statutes 2001 Supplement, section 144A.71, subdivision 2, is amended to read:

Subd. 2. APPLICATION INFORMATION AND FEE. The commissioner shall establish forms and procedures for processing each supplemental nursing services agency registration application. An application for a supplemental nursing services agency registration must include at least the following:

- (1) the names and addresses of the owner or owners of the supplemental nursing services agency;
- (2) if the owner is a corporation, copies of its articles of incorporation and current bylaws, together with the names and addresses of its officers and directors;

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(3) satisfactory proof of compliance with section 144A.72, subdivision 1, clauses (5) to (7);

(4) any other relevant information that the commissioner determines is necessary to properly evaluate an application for registration; and

(4) (5) the annual registration fee for a supplemental nursing services agency, which is \$891.

Sec. 3. Minnesota Statutes 2001 Supplement, section 144A.72, subdivision 1, is amended to read:

Subdivision 1. **MINIMUM CRITERIA.** The commissioner shall require that, as a condition of registration:

(1) the supplemental nursing services agency shall document that each temporary employee provided to health care facilities currently meets the minimum licensing, training, and continuing education standards for the position in which the employee will be working;

(2) the supplemental nursing services agency shall comply with all pertinent requirements relating to the health and other qualifications of personnel employed in health care facilities;

(3) the supplemental nursing services agency must not restrict in any manner the employment opportunities of its employees;

(4) ~~the supplemental nursing services agency, when supplying temporary employees to a health care facility, and when requested by the facility to do so, shall agree that at least 30 percent of the total personnel hours supplied are during night, holiday, or weekend shifts;~~

(5) the supplemental nursing services agency shall carry medical malpractice insurance to insure against the loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in the provision of health care services by the supplemental nursing services agency or by any employee of the agency; and

(6) (5) the supplemental nursing services agency shall carry an employee dishonesty bond in the amount of \$10,000;

(6) the supplemental nursing services agency shall maintain insurance coverage for workers' compensation for all nurses, nursing assistants, nurse aides, and orderlies provided or procured by the agency;

(7) the supplemental nursing services agency shall file with the commissioner of revenue: (i) the name and address of the bank, savings bank, or savings association in which the supplemental nursing services agency deposits all employee income tax withholdings; and (ii) the name and address of any nurse, nursing assistant, nurse aide, or orderly whose income is derived from placement by the agency, if the agency purports the income is not subject to withholding;

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(8) the supplemental nursing services agency must not, in any contract with any employee or health care facility, require the payment of liquidated damages, employment fees, or other compensation should the employee be hired as a permanent employee of a health care facility; and

(9) the supplemental nursing services agency shall document that each temporary employee provided to health care facilities is an employee of the agency and is not an independent contractor.

Sec. 4. Minnesota Statutes 2001 Supplement, section 144A.72, is amended by adding a subdivision to read:

Subd. 3. **REVOCATION.** Notwithstanding subdivision 2, the registration of a supplemental nursing services agency that knowingly supplies to a health care facility a person with an illegally or fraudulently obtained or issued diploma, registration, license, certificate, or background study shall be revoked by the commissioner. The commissioner shall notify the supplemental nursing services agency 15 days in advance of the date of revocation.

Sec. 5. Minnesota Statutes 2001 Supplement, section 144A.72, is amended by adding a subdivision to read:

Subd. 4. **HEARING.** (a) No supplemental nursing services agency's registration may be revoked without a hearing held as a contested case in accordance with chapter 14. The hearing must commence within 60 days after the proceedings are initiated.

(b) If a controlling person has been notified by the commissioner of health that the supplemental nursing services agency will not receive an initial registration or that a renewal of the registration has been denied, the controlling person or a legal representative on behalf of the supplemental nursing services agency may request and receive a hearing on the denial. This hearing shall be held as a contested case in accordance with chapter 14.

Sec. 6. Minnesota Statutes 2001 Supplement, section 144A.72, is amended by adding a subdivision to read:

Subd. 5. **PERIOD OF INELIGIBILITY.** (a) The controlling person of a supplemental nursing services agency whose registration has not been renewed or has been revoked because of noncompliance with the provisions of sections 144A.70 to 144A.74 shall not be eligible to apply for nor will be granted a registration for five years following the effective date of the nonrenewal or revocation.

(b) The commissioner shall not issue or renew a registration to a supplemental nursing services agency if a controlling person includes any individual or entity who was a controlling person of a supplemental nursing services agency whose registration was not renewed or was revoked as described in paragraph (a) for five years following the effective date of nonrenewal or revocation.

Sec. 7. Minnesota Statutes 2001 Supplement, section 144A.74, is amended to read:

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144A.74 MAXIMUM CHARGES.

A supplemental nursing services agency must not bill or receive payments from a nursing home licensed under this chapter at a rate higher than 150 percent of the sum of the weighted average wage rate, plus a factor determined by the commissioner to incorporate payroll taxes as defined in Minnesota Rules, part 9549.0020, subpart 33, for the applicable employee classification for the geographic group to which the nursing home is assigned under Minnesota Rules, part 9549.0052. The weighted average wage rates must be determined by the commissioner of human services and reported to the commissioner of health on an annual basis. Wages are defined as hourly rate of pay and shift differential, including weekend shift differential and overtime. Facilities shall provide information necessary to determine weighted average wage rates to the commissioner of human services in a format requested by the commissioner. The maximum rate must include all charges for administrative fees, contract fees, or other special charges in addition to the hourly rates for the temporary nursing pool personnel supplied to a nursing home.

EFFECTIVE DATE. This section is effective 14 days after final enactment.

Presented to the governor March 25, 2002

Signed by the governor March 26, 2002, 2:35 p.m.

CHAPTER 288—S.F.No. 2115

An act relating to motor vehicles; regulating dealers; clarifying licensed motor vehicle dealer bonding requirements; amending Minnesota Statutes 2000, section 168.27, subdivision 24.

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

Section 1. Minnesota Statutes 2000, section 168.27, subdivision 24, is amended to read:

Subd. 24. **BONDS.** All persons licensed hereunder shall keep in full force and effect a bond with a corporate surety to be approved by the registrar of motor vehicles in amounts as herein provided; in the case of boat trailer, snowmobile trailer, horse trailer or motorized bicycle dealers in the amount of \$5,000; and as to all other persons in the amount of \$50,000. The bond shall be conditioned on the faithful performance by the licensee of the obligations imposed on persons engaged in motor vehicle transactions by the laws of this state, including the conduct required of a licensee by this section and other sections governing the sale or transfer of motor vehicles, and the payment of all taxes, license fees, and penalties. The bond shall be for the benefit of the state of Minnesota and any transferor, seller, or purchaser of a motor vehicle for any monetary loss caused by failure of the licensee to meet the obligations enumerated above. Proceedings on the forfeiture of the bonds shall be commenced in the district court of the county wherein the business of the licensed person was carried on, or if

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