

nonprofit organization to carry out an environmental learning program established by the commissioner. The lease or management agreement must comply with the requirements of section 16A.695 and must provide for the procurement of liability insurance by the nonprofit organization. A nonprofit organization that is operating an environmental learning center under this section is a municipality for purposes of the liability limitations of section 466.04 while acting within the scope of these activities.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Presented to the governor May 6, 2002

Signed by the governor May 8, 2002, 11:20 a.m.

CHAPTER 361—S.F.No. 3026

An act relating to health; regulating the provision of interstate telemedicine services; appropriating money; amending Minnesota Statutes 2000, sections 147.081, subdivision 1; 147.091, subdivision 1; 147.141; proposing coding for new law in Minnesota Statutes, chapter 147.

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

Section 1. [147.032] INTERSTATE PRACTICE OF TELEMEDICINE.

Subdivision 1. REQUIREMENTS; REGISTRATION. (a) A physician not licensed to practice medicine in this state may provide medical services to a patient located in this state through interstate telemedicine if the following conditions are met:

(1) the physician is licensed without restriction to practice medicine in the state from which the physician provides telemedicine services;

(2) the physician has not had a license to practice medicine revoked or restricted in any state or jurisdiction;

(3) the physician does not open an office in this state, does not meet with patients in this state, and does not receive calls in this state from patients; and

(4) the physician annually registers with the board, on a form provided by the board.

(b) To register with the board, a physician must:

(1) state the physician's intention to provide interstate telemedicine services in this state;

(2) provide complete information on:

(i) all states and jurisdictions in which the physician is currently licensed;

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- (ii) any states or jurisdictions in which the physician was previously licensed;
- (iii) any negative licensing actions taken previously against the physician in any state or jurisdiction; and
- (iv) other information requested by the board; and
- (3) pay a registration fee of \$75 annually and an initial application fee of \$100.

(c) A physician registered to provide interstate telemedicine services under this section must immediately notify the board of restrictions placed on the physician's license to practice in any state or jurisdiction.

(d) In registering to provide interstate telemedicine services to state residents under this section, a physician agrees to be subject to state laws, the state judicial system, and the board with respect to providing medical services to state residents.

(e) For the purposes of this section, telemedicine means the practice of medicine as defined in section 147.081, subdivision 3, when the physician is not in the physical presence of the patient.

Subd. 2. EXEMPTIONS FROM REGISTRATION. A physician who is not licensed to practice medicine in this state, but who holds a valid license to practice medicine in another state or jurisdiction, and who provides interstate telemedicine services to a patient located in this state is not subject to the registration requirement of subdivision 1, paragraph (a), clause (4), if:

(1) the services are provided in response to an emergency medical condition. For the purposes of this section, an emergency medical condition means a condition, including emergency labor and delivery, that manifests itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any body organ or part;

(2) the services are provided on an irregular or infrequent basis. For the purposes of this section, a person provides services on an irregular or infrequent basis if the person provides the services less than once a month or provides the services to fewer than ten patients annually; or

(3) the physician provides interstate telemedicine services in this state in consultation with a physician licensed in this state and the Minnesota physician retains ultimate authority over the diagnosis and care of the patient.

Subd. 3. NOTIFICATION TO OTHER STATES. The board shall obtain confirmation of licensure from all states and jurisdictions in which a physician registered under subdivision 1 has ever been licensed to verify statements made by the physician and to be notified if any future adverse action is taken against the physician's license in another state or jurisdiction. This requirement does not replace the reporting obligation under section 147.111.

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Subd. 4. HEALTH RECORDS. A physician who provides interstate telemedicine services to a patient located in this state must comply with section 144.335 with respect to the provision of those services.

Sec. 2. Minnesota Statutes 2000, section 147.081, subdivision 1, is amended to read:

Subdivision 1. **UNLAWFUL PRACTICE OF MEDICINE.** It is unlawful for any person ~~not holding a valid license issued in accordance with this chapter to practice medicine as defined in subdivision 3 in this state unless:~~

(1) the person holds a valid license issued according to this chapter; or

(2) the person is registered to provide interstate telemedicine services according to section 147.032.

Sec. 3. Minnesota Statutes 2000, section 147.091, subdivision 1, is amended to read:

Subdivision 1. **GROUNDINGS LISTED.** The board may refuse to grant a license, may refuse to grant registration to perform interstate telemedicine services, 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

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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 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.

(o) Improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made pursuant to section

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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, nonprofit 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.

(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:

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(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.

(x) Practice of a board-regulated profession under lapsed or nonrenewed credentials.

(y) Failure to repay a state or federally secured student loan in accordance with the provisions of the loan.

(z) Providing interstate telemedicine services other than according to section 147.032.

Sec. 4. Minnesota Statutes 2000, section 147.141, is amended to read:

147.141 FORMS OF DISCIPLINARY ACTION.

When the board finds that a licensed physician or a physician registered under section 147.032 has violated a provision or provisions of sections 147.01 to 147.22, it may do one or more of the following:

(1) revoke the license;

(2) suspend the license;

(3) revoke or suspend registration to perform interstate telemedicine;

(4) impose limitations or conditions on the physician's practice of medicine, including the limitation of scope of practice to designated field specialties; the imposition of retraining or rehabilitation requirements; the requirement of practice under supervision; or the conditioning of continued practice on demonstration of knowledge or skills by appropriate examination or other review of skill and competence;

(4) ~~(5)~~ impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the physician of any economic advantage gained by reason of the violation charged or to reimburse the board for the cost of the investigation and proceeding;

~~(5)~~ (6) order the physician to provide unremunerated professional service under supervision at a designated public hospital, clinic, or other health care institution; or

~~(6)~~ (7) censure or reprimand the licensed physician.

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Sec. 5. APPROPRIATION.

\$4,000 is appropriated in fiscal year 2003 from the state government special revenue fund to the board of medical practice to implement the telemedicine registration requirements under Minnesota Statutes, section 147.032.

Presented to the governor May 6, 2002

Signed by the governor May 8, 2002, 11:30 a.m.

CHAPTER 362—H.F.No. 3359

An act relating to health; modifying certain protocols for nurses; authorizing transfer of certain nursing facility beds; providing for the administration of epinephrine on emergency ambulance calls; amending Minnesota Statutes 2000, sections 148.235, by adding subdivisions; 151.37, subdivision 2; Minnesota Statutes 2001 Supplement, sections 148.284; 256B.437, by adding a subdivision.

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

Section 1. Minnesota Statutes 2000, section 148.235, is amended by adding a subdivision to read:

Subd. 8. PRESCRIPTION BY PROTOCOL. A registered nurse may implement a protocol that does not reference a specific patient and results in a prescription of a legend drug that has been predetermined and delegated by a licensed practitioner as defined under section 151.01, subdivision 23, when caring for a patient whose condition falls within the protocol and when the protocol specifies the circumstances under which the drug is to be prescribed or administered.

Sec. 2. Minnesota Statutes 2000, section 148.235, is amended by adding a subdivision to read:

Subd. 9. VACCINE BY PROTOCOL. A nurse may implement a protocol that does not reference a specific patient and results in the administration of a vaccine that has been predetermined and delegated by a licensed practitioner as defined in section 151.01, subdivision 23, when caring for a patient whose characteristics fall within the protocol and when the protocol specifies the contraindications for implementation, including patients or populations of patients for whom the vaccine must not be administered and the conditions under which the vaccine must not be administered.

Sec. 3. Minnesota Statutes 2001 Supplement, section 148.284, is amended to read:

148.284 CERTIFICATION OF ADVANCED PRACTICE REGISTERED NURSES.

(a) No person shall practice advanced practice registered nursing or use any title, abbreviation, or other designation tending to imply that the person is an advanced practice registered nurse, clinical nurse specialist, nurse anesthetist, nurse-midwife, or nurse practitioner unless the person is certified for such advanced practice registered

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