

other action or relief which requires the services, certification or approval of the examiner.

Presented to the governor May 13, 2003

Signed by the governor May 16, 2003, 3:40 p.m.

CHAPTER 55—H.F.No. 1251

An act relating to health; modifying nursing home qualification requirements; modifying requirements for medical assistance payment demonstration project for nursing homes; seeking change in federal policy; excluding certain licensed home care agencies from supplemental nursing services law; requiring a review and report on certain home care provider laws; amending Minnesota Statutes 2002, sections 144A.04, subdivision 3, by adding a subdivision; 144A.70, subdivision 6; 256B.434, subdivision 10.

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

Section 1. Minnesota Statutes 2002, section 144A.04, subdivision 3, is amended to read:

Subd. 3. **STANDARDS.** (a) The facility must meet the minimum health, sanitation, safety and comfort standards prescribed by the rules of the commissioner of health with respect to the construction, equipment, maintenance and operation of a nursing home. The commissioner of health may temporarily waive compliance with one or more of the standards if the commissioner determines that:

(a) (1) temporary noncompliance with the standard will not create an imminent risk of harm to a nursing home resident; and

(b) (2) a controlling person on behalf of all other controlling persons:

(1) (i) has entered into a contract to obtain the materials or labor necessary to meet the standard set by the commissioner of health, but the supplier or other contractor has failed to perform the terms of the contract and the inability of the nursing home to meet the standard is due solely to that failure; or

(2) (ii) is otherwise making a diligent good faith effort to meet the standard.

The commissioner shall make available to other nursing homes information on facility-specific waivers that are granted. The commissioner shall, upon the request of a facility, extend a waiver granted to a specific facility to other similarly situated facilities, if the commissioner determines that these facilities also satisfy clauses (1) and (2) and any other terms and conditions of the waiver.

The commissioner of health shall allow, by rule, a nursing home to provide fewer hours of nursing care to intermediate care residents of a nursing home than required by the present rules of the commissioner if the commissioner determines that the needs of

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the residents of the home will be adequately met by a lesser amount of nursing care.

(b) A facility is not required to seek a waiver for room furniture or equipment under paragraph (a) when responding to resident-specific requests if the facility has discussed health and safety concerns with the resident and the resident request and discussion of health and safety concerns are documented in the resident's patient record.

EFFECTIVE DATE. This section is effective July 1, 2003.

Sec. 2. Minnesota Statutes 2002, section 144A.04, is amended by adding a subdivision to read:

Subd. 11. INCONTINENT RESIDENTS. Notwithstanding Minnesota Rules, part 4658.0520, an incontinent resident must be checked according to a specific time interval written in the resident's care plan. The resident's attending physician must authorize in writing any interval longer than two hours unless the resident, if competent, or a family member or legally appointed conservator, guardian, or health care agent of a resident who is not competent, agrees in writing to waive physician involvement in determining this interval, and this waiver is documented in the resident's care plan.

EFFECTIVE DATE. This section is effective July 1, 2003.

Sec. 3. Minnesota Statutes 2002, 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 does not include a professional home care agency licensed as a Class A provider under section 144A.46 and rules adopted thereunder that only provides staff to other home care providers.

Sec. 4. Minnesota Statutes 2002, section 256B.434, subdivision 10, is amended to read:

Subd. 10. EXEMPTIONS. (a) To the extent permitted by federal law, (1) a facility that has entered into a contract under this section is not required to file a cost report, as defined in Minnesota Rules, part 9549.0020, subpart 13, for any year after the base year that is the basis for the calculation of the contract payment rate for the first rate year of the alternative payment demonstration project contract; and (2) a facility under contract is not subject to audits of historical costs or revenues, or paybacks or retroactive adjustments based on these costs or revenues, except audits, paybacks, or adjustments relating to the cost report that is the basis for calculation of the first rate year under the contract.

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(b) A facility that is under contract with the commissioner under this section is not subject to the moratorium on licensure or certification of new nursing home beds in section 144A.071, unless the project results in a net increase in bed capacity or involves relocation of beds from one site to another. Contract payment rates must not be adjusted to reflect any additional costs that a nursing facility incurs as a result of a construction project undertaken under this paragraph. In addition, as a condition of entering into a contract under this section, a nursing facility must agree that any future medical assistance payments for nursing facility services will not reflect any additional costs attributable to the sale of a nursing facility under this section and to construction undertaken under this paragraph that otherwise would not be authorized under the moratorium in section 144A.073. Nothing in this section prevents a nursing facility participating in the alternative payment demonstration project under this section from seeking approval of an exception to the moratorium through the process established in section 144A.073, and if approved the facility's rates shall be adjusted to reflect the cost of the project. Nothing in this section prevents a nursing facility participating in the alternative payment demonstration project from seeking legislative approval of an exception to the moratorium under section 144A.071, and, if enacted, the facility's rates shall be adjusted to reflect the cost of the project.

(c) Notwithstanding section 256B.48, subdivision 6, paragraphs (c), (d), and (e), and pursuant to any terms and conditions contained in the facility's contract, a nursing facility that is under contract with the commissioner under this section is in compliance with section 256B.48, subdivision 6, paragraph (b), if the facility is Medicare certified.

(d) Notwithstanding paragraph (a), if by April 1, 1996, the health care financing administration has not approved a required waiver, or the Centers for Medicare and Medicaid Services otherwise requires cost reports to be filed prior to the waiver's approval, the commissioner shall require a cost report for the rate year.

(e) A facility that is under contract with the commissioner under this section shall be allowed to change therapy arrangements from an unrelated vendor to a related vendor during the term of the contract. The commissioner may develop reasonable requirements designed to prevent an increase in therapy utilization for residents enrolled in the medical assistance program.

(f) A facility that has entered a contract under this section must either participate in the quality improvement program established by the commissioner, or submit information on its own quality improvement process for the commissioner's approval. A nursing facility choosing the latter must report annually on results for at least one key area.

EFFECTIVE DATE. This section is effective July 1, 2003.

Sec. 5. IMPOSITION OF FEDERAL CERTIFICATION REMEDIES.

The commissioner of health shall pursue changes in federal policy that mandate the imposition of federal sanctions without providing an opportunity to correct deficiencies solely as the result of previous deficiencies issued to a facility.

EFFECTIVE DATE. This section is effective July 1, 2003.

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Sec. 6. CHANGES TO THE MEDICARE CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES.

(a) The commissioner of health shall convene a working group to consist of home care providers and other interested individuals. The first purpose of this group is to develop a summary of federal home care agency regulations and laws that hamper state flexibility and place burdens on the goal of achieving a high quality of services, such as provisions requiring rigid time frames for the completion of supervisory visits by registered nurses and for the submission of home care client assessment information. The commissioner shall share this summary with the legislature, other states, and national groups that advocate for state interests. The commissioner shall work with officials of the federal government and with members of the Minnesota congressional delegation to achieve necessary changes in the law.

(b) The commissioner of health shall also review with this working group the current licensure process for home care providers and evaluate continued appropriateness of that process. This review shall consider federal certification regulations for home care and hospice and the need to have separate licensure provisions for certified facilities. The commissioner shall make recommendations to the legislature by January 1, 2005.

Sec. 7. EFFECTIVE DATE.

Sections 3 and 6 are effective the day following final enactment.

Presented to the governor May 13, 2003

Signed by the governor May 16, 2003, 12:05 p.m.

CHAPTER 56—H.F.No. 361

An act relating to elections; providing procedures and criteria for calling special elections to fill vacancies in certain instances; amending Minnesota Statutes 2002, sections 365.52, subdivision 1; 367.03, subdivision 6.

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

Section 1. Minnesota Statutes 2002, section 365.52, subdivision 1, is amended to read:

Subdivision 1. **MEETING; HOW, WHY CALLED.** A special town meeting may be held ~~for an election to fill a vacancy when the town board has failed to fill the vacancy by appointment. A special meeting may also be held to do other to~~ conduct any lawful business. To call a special meeting, the supervisors and town clerk, or any two of them, together with at least 12 other town freeholders, shall file a statement in the town clerk's office. The statement must tell why the meeting is called, the particular business to be transacted, and that the interests of the town require the meeting. A

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