

at the close of any fiscal year periodically transfer to any other fund or account from any debt service reserve fund, any excess in that fund over the amount deemed by the agency to be reasonably necessary for the purpose of the fund.

Sec. 7. Laws 1993, chapter 301, section 1, subdivision 4, as amended by Laws 1999, chapter 47, section 1, and Laws 2001, First Special Session chapter 4, article 2, section 26, is amended to read:

Subd. 4. **WAIVER.** (a) Upon receipt of the committee report required by subdivision 3, each entity head shall submit the list of recommended waivers to the commissioner of employee relations. The commissioner shall then grant the waivers requested by each entity, effective for the requesting entity, for a period ending June 30, 1997, except the waivers granted for the Minnesota housing finance agency shall extend to June 30, 2003 not expire, subject to the restrictions in paragraph (b) and to revision in accordance with subdivision 5. The commissioner shall waive a rule by granting a variance under Minnesota Statutes, section 14.05, subdivision 4.

(b) The commissioner may not grant a waiver if it would result in the layoff of classified employees or unclassified employees covered by a collective bargaining agreement except as provided in a plan negotiated under Minnesota Statutes, chapter 179A, that provides options to layoff for employees who would be affected. If a proposed waiver would violate the terms of a collective bargaining agreement reached under Minnesota Statutes, chapter 179A, the waiver may not be granted without the consent of the exclusive representative that is a party to the agreement.

Sec. 8. Laws 1995, chapter 248, article 12, section 2, as amended by Laws 1999, chapter 47, section 2, and Laws 2001, First Special Session chapter 4, article 2, section 27, is amended to read:

**Sec. 2. TERMINATION.**

Section 1 and the civil service pilot project in the housing finance agency as authorized by Laws 1993, chapter 301, terminate June 30, 2003, or at any earlier time as amended, terminate by a method agreed upon by the commissioners of employee relations and housing finance and the affected exclusive bargaining representative of state employees.

**Sec. 9. EFFECTIVE DATE.**

Sections 7 and 8 are effective July 1, 2003.

Presented to the governor May 15, 2003

Signed by the governor May 19, 2003, 11:33 a.m.

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**CHAPTER 62—S.F.No. 418**

*An act relating to occupations and professions; removing the restriction of prescribing only topical legend drugs by board certified optometrists; requiring that legend drugs be used as*

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*included in optometry curricula; authorizing the prescription of certain controlled substances; amending reporting requirement of health professionals to include all legend drugs; requiring optometrists using legend drugs be held to the same standards as physicians; amending Minnesota Statutes 2002, sections 147.111, subdivision 4; 148.574; 148.575, subdivisions 1, 2; 148.576; 148.577; 151.37, subdivision 11; 152.11, subdivision 2; 152.12, subdivisions 1, 4.*

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

Section 1. Minnesota Statutes 2002, section 147.111, subdivision 4, is amended to read:

Subd. 4. **LICENSED PROFESSIONALS.** A licensed health professional and persons holding a residency permit under section 147.0391, shall report to the board personal knowledge of any conduct which the person reasonably believes constitutes grounds for disciplinary action under sections 147.01 to 147.22 by any physician or person holding a residency permit under section 147.0391, including any conduct indicating that the person may be medically incompetent, or may have engaged in unprofessional conduct or may be medically or physically unable to engage safely in the practice of medicine. A licensed physician or other health professional licensed under this chapter shall also report to the board any occurrence of any adverse reaction resulting from an optometrist's prescription, use, or administration of any topical legend drug. Any reports received by the board must be reported to the board of optometry. No report shall be required if the information was obtained in the course of a physician-patient relationship if the patient is a physician or person holding a residency permit under section 147.0391, and the treating physician successfully counsels the person to limit or withdraw from practice to the extent required by the impairment.

Sec. 2. Minnesota Statutes 2002, section 148.574, is amended to read:

**148.574 PROHIBITIONS RELATING TO LEGEND DRUGS; AUTHORIZING SALES BY PHARMACISTS UNDER CERTAIN CONDITIONS.**

An optometrist shall not purchase, possess, administer, prescribe or give any legend drug as defined in section 151.01 or 152.02 to any person except as is expressly authorized by sections 148.571 to 148.577. ~~The authorizations in sections 148.571 to 148.577 apply only to topical legend drugs.~~ Nothing in chapter 151 shall prevent a pharmacist from selling topical ocular drugs to an optometrist authorized to use such drugs according to sections 148.571 to 148.577. Notwithstanding ~~section~~ sections 151.37 and 152.12, an optometrist is prohibited from dispensing legend drugs at retail.

Sec. 3. Minnesota Statutes 2002, section 148.575, subdivision 1, is amended to read:

Subdivision 1. **CERTIFICATE REQUIRED FOR USE OF TOPICAL LEGEND DRUGS.** A licensed optometrist must be board certified to use ~~topical~~ legend drugs for therapy under section 148.576.

Sec. 4. Minnesota Statutes 2002, section 148.575, subdivision 2, is amended to read:

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Subd. 2. **BOARD CERTIFIED DEFINED.** "Board certified" means that a licensed optometrist has been issued a certificate by the board of optometry certifying that the optometrist has complied with the following requirements for the use of topical legend drugs described in section 148.576:

(1) successful completion of at least 60 hours of study in general and ocular pharmacology emphasizing drugs used for examination or treatment purposes, their systemic effects and management or referral of adverse reactions;

(2) successful completion of at least 100 hours of study in the examination, diagnosis, and treatment of conditions of the human eye with topical legend drugs;

(3) successful completion of two years of supervised clinical experience in differential diagnosis of eye disease or disorders as part of optometric training or one year of that experience and ten years of actual clinical experience as a licensed optometrist; and

(4) successful completion of a nationally standardized examination approved by the board on the subject of treatment and management of ocular disease prepared, administered, and graded by the International Association of Boards of Examiners in Optometry or an equivalent national board examination.

Sec. 5. Minnesota Statutes 2002, section 148.576, is amended to read:

**148.576 USE OF TOPICAL LEGEND DRUGS; LIMITATIONS; REPORTS.**

Subdivision 1. **AUTHORITY TO PRESCRIBE OR ADMINISTER.** A licensed optometrist who is board certified under section 148.575 may prescribe or administer topical legend drugs to aid in the diagnosis, cure, mitigation, prevention, treatment, or management of disease, deficiency, deformity, or abnormality of the human eye and adnexa included in the curricula of accredited schools or colleges of optometry. Nothing in this section shall allow (1) legend drugs to be administered intravenously, intramuscularly, or by injection except for treatment of anaphylaxis, (2) invasive surgery including, but not limited to, surgery using lasers, (3) schedule II and III oral legend drugs and oral steroids to be administered or prescribed, (4) oral antivirals to be prescribed or administered for more than ten days, or (5) oral carbonic anhydrase inhibitors to be prescribed or administered for more than seven days.

Subd. 2. **ADVERSE REACTION REPORTS.** An optometrist certified to prescribe topical legend drugs shall file with the board of optometry within ten working days of its occurrence a report on any adverse reaction resulting from the optometrist's administration of a drug. The report must include the optometrist's name, address, and license number; the patient's name, address, and age; the patient's presenting problem; the diagnosis; the agent administered and the method of administration; the reaction; and the subsequent action taken.

Sec. 6. Minnesota Statutes 2002, section 148.577, is amended to read:

**148.577 STANDARD OF CARE.**

A licensed optometrist who is board certified under section 148.575 is held to the same standard of care in the use of those legend drugs as physicians licensed by the state of Minnesota.

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Sec. 7. Minnesota Statutes 2002, section 151.37, subdivision 11, is amended to read:

Subd. 11. **COMPLAINT REPORTING.** The board of pharmacy shall report on a quarterly basis to the board of optometry any complaints received regarding the prescription or administration of ~~topical~~ legend drugs under section 148.576.

Sec. 8. Minnesota Statutes 2002, section 152.11, subdivision 2, is amended to read:

Subd. 2. **WRITTEN OR ORAL PRESCRIPTION REQUIREMENT FOR SCHEDULE III OR IV CONTROLLED SUBSTANCES.** No person may dispense a controlled substance included in schedule III or IV of section 152.02 without a written or oral prescription from a doctor of medicine, a doctor of osteopathy licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a doctor of podiatry, a doctor of optometry limited to schedule IV, or a doctor of veterinary medicine, lawfully licensed to prescribe in this state or a state bordering Minnesota, and having a current federal drug enforcement administration registration number. Such prescription may not be dispensed or refilled except with the written or verbal consent of the prescriber, and in no event more than six months after the date on which such prescription was issued and no such prescription may be refilled more than five times.

Sec. 9. Minnesota Statutes 2002, section 152.12, subdivision 1, is amended to read:

Subdivision 1. **PRESCRIBING, DISPENSING, ADMINISTERING CONTROLLED SUBSTANCES IN SCHEDULES II THROUGH V.** A licensed doctor of medicine, a doctor of osteopathy, duly licensed to practice medicine, a doctor of dental surgery, ~~or a doctor of dental medicine, or a licensed doctor of podiatry, or a~~ licensed doctor of optometry limited to schedules IV and V, and in the course of professional practice only, may prescribe, administer, and dispense a controlled substance included in Schedules II through V of section 152.02, may cause the same to be administered by a nurse, an intern or an assistant under the direction and supervision of the doctor, and may cause a person who is an appropriately certified and licensed health care professional to prescribe and administer the same within the expressed legal scope of the person's practice as defined in Minnesota Statutes.

Sec. 10. Minnesota Statutes 2002, section 152.12, subdivision 4, is amended to read:

Subd. 4. **SALE OF CONTROLLED SUBSTANCES NOT PROHIBITED FOR CERTAIN PERSONS AND ENTITIES.** Nothing in this chapter shall prohibit the sale to, or the possession of, a controlled substance in schedule II, III, IV or V by: Registered drug wholesalers, registered manufacturers, registered pharmacies, or any licensed hospital or other licensed institutions wherein sick and injured persons are cared for or treated, or bona fide hospitals wherein animals are treated; or by licensed pharmacists, licensed doctors of medicine, doctors of osteopathy duly licensed to practice medicine, licensed doctors of dental surgery, licensed doctors of dental

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medicine, licensed doctors of podiatry, licensed doctors of optometry limited to schedules IV and V, or licensed doctors of veterinary medicine when such practitioners use controlled substances within the course of their professional practice only.

Nothing in this chapter shall prohibit the possession of a controlled substance in schedule II, III, IV or V by an employee or agent of a registered drug wholesaler, registered manufacturer, or registered pharmacy, while acting in the course of employment; ~~or~~; by a patient of a licensed doctor of medicine, a doctor of osteopathy duly licensed to practice medicine, ~~or~~ a licensed doctor of dental surgery, a licensed doctor of dental medicine, or a licensed doctor of optometry limited to schedules IV and V; or by the owner of an animal for which a controlled substance has been prescribed by a licensed doctor of veterinary medicine, when such controlled substances are dispensed according to law.

Presented to the governor May 16, 2003

Signed by the governor May 19, 2003, 11:00 a.m.

#### CHAPTER 63—S.F.No. 374

*An act relating to the city of St. Paul; making technical changes to the civic center authority powers and duties; amending Laws 1967, chapter 459, section 8, subdivisions 1, 3, 4, as amended.*

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

Section 1. Laws 1967, chapter 459, section 8, subdivision 1, as added by Laws 1969, chapter 1138, section 3, is amended to read:

Subdivision 1. There is created an agency of the city of Saint Paul known as the civic center RiverCentre authority.

The authority shall have nine members. Seven public members shall be appointed by the mayor, with the consent of the council, and shall hold no other public office save notary public. Two members shall be designated by the mayor from among the members of the city council.

Until termination of the guarantees provided hereunder five of the seven public members shall be appointed from among nominees presented to the mayor by the guarantors. Three of the five public members nominated by the guarantors, and the two not so nominated, shall reside in Saint Paul.

Three of the public members first appointed shall serve two-year terms. All other appointments of public members shall be for four-year terms, to expire on July 1 of the year of expiration. Councilmen Councilmembers shall serve ~~two-year~~ four-year terms expiring the first Tuesday in June in each even-numbered year beginning on the first business day of January of the year after their election.

New language is indicated by underline, deletions by ~~strikeout~~.