

CHAPTER 4—S.F.No. 28

An act relating to state government; changing the name of the department of trade and economic development.

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

Section 1. **DTED NAME CHANGE.**

Subdivision 1. NAME CHANGE. Effective July 1, 2003, the name of the department of trade and economic development is changed to the department of employment and economic development.

Subd. 2. REVISOR'S INSTRUCTION. The revisor shall make the name change described in subdivision 1 in Minnesota Statutes and Minnesota Rules.

Presented to the governor May 27, 2003

Signed by the governor May 30, 2003, 4:00 p.m.

CHAPTER 5—S.F.No. 13

An act relating to health; modifying dental practice provisions; requiring a study; amending Minnesota Statutes 2002, sections 150A.06, subdivisions 1a, 3, by adding a subdivision; 150A.10, subdivision 1a, by adding a subdivision; 256B.55, subdivisions 3, 4, 5.

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

Section 1. Minnesota Statutes 2002, section 150A.06, subdivision 1a, is amended to read:

Subd. 1a. **FACULTY DENTISTS.** (a) Faculty members of a school of dentistry must be licensed or registered in order to practice dentistry as defined in section 150A.05. The board may issue to members of the faculty of a school of dentistry a license designated as either a "limited faculty license" or a "full faculty license" entitling the holder to practice dentistry within the school and its affiliated teaching facilities, but only for the purposes of instructing or conducting research. The practice of dentistry at a school facility for purposes other than instruction or research is not allowed unless the faculty member is licensed under subdivision 1 or is a faculty member on August 1, 1993 terms described in paragraph (b) or (c). The dean of the school of dentistry and program directors of accredited Minnesota dental hygiene or dental assisting schools shall certify to the board those members of the school's faculty who practice dentistry but are not licensed to practice dentistry in Minnesota. A faculty member who practices dentistry as defined in section 150A.05, before beginning duties in the school of dentistry, shall apply to the board for a limited or full faculty license. The license expires the next July 1 and may, at the discretion of the board, be renewed

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on a yearly basis. The faculty applicant shall pay a nonrefundable fee set by the board for issuing and renewing the faculty license. The faculty license is valid during the time the holder remains a member of the faculty of a school of dentistry and subjects the holder to this chapter. ~~This subdivision takes effect on September 1 following the date that the rules adopted under this subdivision become effective.~~

(b) The board may issue to dentist members of the faculty of an accredited Minnesota school of dentistry, dental hygiene, or dental assisting a license designated as a limited faculty license entitling the holder to practice dentistry within the school and its affiliated teaching facilities, but only for the purposes of instructing or conducting research. The practice of dentistry at a school facility for purposes other than instruction or research is not allowed unless the faculty member is licensed under subdivision 1 or is a faculty member on August 1, 1993.

(c) The board may issue to dentist members of the faculty of an accredited Minnesota school of dentistry, dental hygiene, or dental assisting a license designated as a full faculty license entitling the holder to practice dentistry within the school and its affiliated teaching facilities and elsewhere if the holder of the license is employed 50 percent time or more by the school in the practice of teaching or research, and upon successful review by the board of the applicant's qualifications as described in subdivisions 1c and 4. The board, at its discretion, may waive specific licensing prerequisites.

Sec. 2. Minnesota Statutes 2002, section 150A.06, is amended by adding a subdivision to read:

Subd. 2d. VOLUNTEER AND RETIRED DENTISTS, DENTAL HYGIENISTS, AND REGISTERED DENTAL ASSISTANTS. (a) The board shall grant a waiver to the continuing education requirements under this chapter for a dentist, dental hygienist, or registered dental assistant who documents to the satisfaction of the board that the dentist, dental hygienist, or registered dental assistant has retired from active practice in the state and limits the provision of dental care services to those offered without compensation in a public health, community, or tribal clinic or a nonprofit organization that provides services to the indigent or to recipients of medical assistance, general assistance medical care, or MinnesotaCare programs.

(b) The board may require written documentation from the volunteer and retired dentist, dental hygienist, or registered dental assistant prior to granting this waiver.

(c) The board shall require the volunteer and retired dentist, dental hygienist, or registered dental assistant to meet the following requirements:

(1) a licensee or registrant seeking a waiver under this subdivision must complete at least five hours of approved courses in infection control, medical emergencies, and medical management for the continuing education cycle; and

(2) provide documentation of certification in advanced or basic cardiac life support recognized by the American Heart Association, the American Red Cross, or an equivalent entity.

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Sec. 3. Minnesota Statutes 2002, section 150A.06, subdivision 3, is amended to read:

Subd. 3. **WAIVER OF EXAMINATION.** (a) All or any part of the examination for dentists or dental hygienists, except that pertaining to the law of Minnesota relating to dentistry and the rules of the board, may, at the discretion of the board, be waived for an applicant who presents a certificate of qualification from the national board of dental examiners or evidence of having maintained an adequate scholastic standing as determined by the board, in dental school as to dentists, or dental hygiene school as to dental hygienists.

(b) Effective January 1, 2004, the board shall waive the clinical examination required for licensure for any applicant who is a graduate of a dental school accredited by the commission on dental accreditation of the American Dental Association or an equivalent organization as determined by the board, who has successfully completed Parts I and II of National Boards, and who has satisfactorily completed a Minnesota-based postdoctoral general dentistry residency program accredited by the commission on dental accreditation of the American Dental Association if the program is of at least one year's duration and includes an outcome assessment evaluation assessing the resident's competence to practice dentistry. The board may require the applicant to submit any information deemed necessary by the board to determine whether the waiver is applicable. The board may waive the clinical examination for an applicant who meets the requirements of this paragraph and has satisfactorily completed an accredited postdoctoral general dentistry residency program located outside of Minnesota.

Sec. 4. Minnesota Statutes 2002, section 150A.10, subdivision 1a, is amended to read:

Subd. 1a. **LIMITED AUTHORIZATION FOR DENTAL HYGIENISTS.** (a) Notwithstanding subdivision 1, a dental hygienist licensed under this chapter may be employed or retained by a health care facility, program, or nonprofit organization to perform dental hygiene services described under paragraph (b) without the patient first being examined by a licensed dentist if the dental hygienist:

(1) has two years practical clinical experience with a licensed dentist within the preceding five years has been engaged in the active practice of clinical dental hygiene for not less than 2,400 hours in the past 18 months or a career total of 3,000 hours, including a minimum of 200 hours of clinical practice in two of the past three years; and

(2) has entered into a collaborative agreement with a licensed dentist that designates authorization for the services provided by the dental hygienist;

(3) has documented participation in courses in infection control and medical emergencies within each continuing education cycle; and

(4) maintains current certification in advanced or basic cardiac life support as recognized by the American Heart Association, the American Red Cross, or another

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agency that is equivalent to the American Heart Association or the American Red Cross.

(b) The dental hygiene services authorized to be performed by a dental hygienist under this subdivision are limited to:

- (1) oral health promotion and disease prevention education;
- (2) removal of deposits and stains from the surfaces of the teeth;
- (3) application of topical preventive or prophylactic agents, including fluoride varnishes and pit and fissure sealants;
- (4) polishing and smoothing restorations;
- (5) removal of marginal overhangs;
- (6) performance of preliminary charting;
- (7) taking of radiographs; and
- (8) performance of scaling and root planing and soft-tissue curettage. The dental hygienist shall not place pit and fissure sealants, unless the patient has been recently examined and the treatment planned by a licensed dentist.

The dental hygienist shall not perform injections of anesthetic agents or the administration of nitrous oxide unless under the indirect supervision of a licensed dentist. Collaborating dental hygienists may work with unregistered and registered dental assistants who may only perform duties for which registration is not required. The performance of dental hygiene services in a health care facility, program, or nonprofit organization as authorized under this subdivision is limited to patients, students, and residents of the facility, program, or organization.

(c) A collaborating dentist must be licensed under this chapter and may enter into a collaborative agreement with no more than four dental hygienists unless otherwise authorized by the board. The board shall develop parameters and a process for obtaining authorization to collaborate with more than four dental hygienists. The collaborative agreement must include:

(1) consideration for medically compromised patients and medical conditions for which a dental evaluation and treatment plan must occur prior to the provision of dental hygiene services; and

(2) age- and procedure-specific standard collaborative practice protocols, including recommended intervals for the performance of dental hygiene services and a period of time in which an examination by a dentist should occur;

(3) copies of consent to treatment form provided to the patient by the dental hygienist;

(4) specific protocols for the placement of pit and fissure sealants and requirements for follow-up care to assure the efficacy of the sealants after application; and

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(5) a procedure for creating and maintaining dental records for the patients that are treated by the dental hygienist. This procedure must specify where these records are to be located.

The collaborative agreement must be signed and maintained by the dentist and, the dental hygienist, and the facility, program, or organization; must be reviewed annually by the collaborating dentist and dental hygienist; and must be made available to the board upon request.

(d) Before performing any services authorized under this subdivision, a dental hygienist must provide the patient with a consent to treatment form which must include a statement advising the patient that the dental hygiene services provided are not a substitute for a dental examination by a licensed dentist. If the dental hygienist makes any referrals to the patient for further dental procedures, the dental hygienist must fill out a referral form and provide a copy of the form to the collaborating dentist.

(e) For the purposes of this subdivision, a "health care facility, program, or nonprofit organization" is limited to a hospital; nursing home; home health agency; group home serving the elderly, disabled, or juveniles; state-operated facility licensed by the commissioner of human services or the commissioner of corrections; and federal, state, or local public health facility, community clinic, or tribal clinic, school authority, Head Start program, or nonprofit organization that serves individuals who are uninsured or who are Minnesota health care public program recipients.

(e) (f) For purposes of this subdivision, a "collaborative agreement" means a written agreement with a licensed dentist who authorizes and accepts responsibility for the services performed by the dental hygienist. The services authorized under this subdivision and the collaborative agreement may be performed without the presence of a licensed dentist and may be performed at a location other than the usual place of practice of the dentist or dental hygienist and without a dentist's diagnosis and treatment plan, unless specified in the collaborative agreement.

Sec. 5. Minnesota Statutes 2002, section 150A.10, is amended by adding a subdivision to read:

Subd. 4. RESTORATIVE PROCEDURES. (a) Notwithstanding subdivisions 1, 1a, and 2, a licensed dental hygienist or a registered dental assistant may perform the following restorative procedures:

(1) place, contour, and adjust amalgam restorations;

(2) place, contour, and adjust glass ionomer;

(3) adapt and cement stainless steel crowns; and

(4) place, contour, and adjust class I and class V supragingival composite restorations where the margins are entirely within the enamel.

(b) The restorative procedures described in paragraph (a) may be performed only if:

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(1) the licensed dental hygienist or the registered dental assistant has completed a board-approved course on the specific procedures;

(2) the board-approved course includes a component that sufficiently prepares the dental hygienist or registered dental assistant to adjust the occlusion on the newly placed restoration;

(3) a licensed dentist has authorized the procedure to be performed; and

(4) a licensed dentist is available in the clinic while the procedure is being performed.

(c) The dental faculty who teaches the educators of the board-approved courses specified in paragraph (b) must have prior experience teaching these procedures in an accredited dental education program.

Sec. 6. Minnesota Statutes 2002, section 256B.55, subdivision 3, is amended to read:

Subd. 3. **DUTIES.** The advisory committee shall provide recommendations on the following:

(1) how to reduce the administrative burden governing dental care coverage policies in order to promote administrative simplification, including prior authorization, coverage limits, and co-payment collections developing a new model for purchasing, administering, and delivering dental care services to public program recipients based on public health principles;

(2) developing and implementing an action plan to improve the oral health of children and persons with special needs in the state exploring innovative ways to develop workforce solutions to ensure access to dental care statewide; and

(3) exploring alternative ways of purchasing and improving access to dental services;

(4) developing ways to foster greater responsibility among health care program recipients in seeking and obtaining dental care, including initiatives to keep dental appointments and comply with dental care plans;

(5) exploring innovative ways for dental providers to schedule public program patients in order to reduce or minimize the effect of appointment no shows;

(6) exploring ways to meet the barriers that may be present in providing dental services to health care program recipients such as language, culture, disability, and lack of transportation; and

(7) exploring the possibility of pediatricians, family physicians, and nurse practitioners providing basic oral health screenings and basic preventive dental services identifying data needed to effectively evaluate the dental care needs of the state.

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Sec. 7. Minnesota Statutes 2002, section 256B.55, subdivision 4, is amended to read:

Subd. 4. **REPORT.** The commissioner shall submit a report by February 1, 2002, and by each February 1, 2003 thereafter, summarizing the activities and recommendations of the advisory committee.

Sec. 8. Minnesota Statutes 2002, section 256B.55, subdivision 5, is amended to read:

Subd. 5. **SUNSET.** Notwithstanding section 15.059, subdivision 5, this section expires June 30, ~~2003~~ 2007.

Sec. 9. URGENT CARE DENTAL CLINIC.

The commissioner of human services, in consultation with the dental access advisory committee, is requested to report on the feasibility of developing one or more urgent care dental clinics. The primary purpose of an urgent care dental clinic is to provide recipients of medical assistance, general assistance medical care, and MinnesotaCare with an alternative to receiving dental care services in hospital emergency rooms. The commissioner shall determine if savings from the reduction in dental care provided in emergency rooms would warrant the construction of urgent care facilities. The commissioner may seek funding for the construction and operation of a dental urgent care clinic from the federal government as authorized by Congress under the dental health improvement provisions of the Health Care Safety Net Improvement Act of 2002.

Sec. 10. DENTAL ASSISTANT STUDY.

The board of dentistry, in consultation with the Minnesota Dental Association, the Minnesota Dental Assistants Association, and the Minnesota Dental Hygienists' Association, shall make recommendations on the appropriate level of regulation for dental assistants and the appropriate terminology used to distinguish the different levels of training and education. The recommendations must include:

- (1) whether registered dental assistants should be licensed; and
- (2) whether the term "nonregistered dental assistants" should be changed to a term that better describes this position.

In making these recommendations, the board must consult with representatives of registered and nonregistered dental assistants and must review the issues in terms of the requirements of Minnesota Statutes, section 214.001, subdivision 2, and consumer safety and awareness. The board must report the recommendations to the chairs and ranking minority members of the house and senate health and human services policy committees by January 15, 2004.

Sec. 11. EXPIRATION.

Minnesota Statutes 2002, section 150A.06, subdivision 3, paragraph (b), expires on August 1, 2008.

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Presented to the governor May 27, 2003

Signed by the governor May 30, 2003, 4:03 p.m.

CHAPTER 6—S.F.No. 6

An act relating to administrative rules; imposing notice requirements for use of the good cause exemption; amending Minnesota Statutes 2002, section 14.388.

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

Section 1. Minnesota Statutes 2002, section 14.388, is amended to read:

14.388 GOOD CAUSE EXEMPTION.

Subdivision 1. REQUIREMENTS. If an agency for good cause finds that the rulemaking provisions of this chapter are unnecessary, impracticable, or contrary to the public interest when adopting, amending, or repealing a rule to:

- (1) address a serious and immediate threat to the public health, safety, or welfare;
- (2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with sections 14.14 to 14.28;
- (3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required; or
- (4) make changes that do not alter the sense, meaning, or effect of a rule, the agency may adopt, amend, or repeal the rule after satisfying the requirements of subdivision 2 and section 14.386, paragraph (a), clauses (1) to (3). The agency shall incorporate its findings and a brief statement of its supporting reasons in its order adopting, amending, or repealing the rule.

After considering the agency's statement and any comments received, the office of administrative hearings shall determine whether the agency has provided adequate justification for its use of this section.

Rules adopted, amended, or repealed under clauses (1) and (2) are effective for a period of two years from the date of publication of the rule in the State Register.

Rules adopted, amended, or repealed under clause (3) or (4) are effective upon publication in the State Register.

Subd. 2. NOTICE. An agency proposing to adopt, amend, or repeal a rule under this section must give electronic notice of its intent in accordance with section 16E.07, subdivision 3, and notice by United States mail or electronic mail to persons who have registered their names with the agency under section 14.14, subdivision 1a. The notice must be given no later than the date the agency submits the proposed rule to the office

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