



2.1 within 90 days after submission of an application for licensure. Any fees paid by the  
2.2 applicant to the board shall be forfeited if the applicant refuses to consent to the criminal  
2.3 background check or fails to submit the required fingerprints.

2.4 Subd. 5. **Submission of fingerprints to Minnesota BCA.** The board or its designee  
2.5 shall submit applicant fingerprints to the Minnesota BCA. The BCA shall perform a  
2.6 check for state criminal justice information and shall forward the applicant's fingerprints  
2.7 to the FBI to perform a check for national criminal justice information regarding the  
2.8 applicant. The BCA shall report to the board the results of the state and national criminal  
2.9 justice information checks.

2.10 Subd. 6. **Alternatives to fingerprint-based background check.** The board may  
2.11 require an alternative method of criminal history check for an applicant who has submitted  
2.12 at least three sets of fingerprints under this section that the BCA or FBI have been unable  
2.13 to read.

2.14 Subd. 7. **Temporary permits.** An applicant for licensure by interstate endorsement  
2.15 who has submitted fingerprints, consents to a background check, and meets all other  
2.16 requirements for issuance of a temporary permit may be granted a nonrenewable permit  
2.17 prior to the board's receipt of the criminal justice information, but shall not be issued  
2.18 a license until the board receives and completes its review of the applicant's criminal  
2.19 justice information.

2.20 Subd. 8. **Opportunity to challenge accuracy of report.** Prior to taking disciplinary  
2.21 action against an applicant based on a criminal conviction, the board shall provide the  
2.22 applicant with the opportunity to complete or challenge the accuracy of, the criminal  
2.23 justice information reported to the board. The applicant shall have 30 calendar days  
2.24 following notice from the board of the intent to deny licensure to request an opportunity to  
2.25 correct or complete the record prior to the board taking disciplinary action based on the  
2.26 report. The board shall provide the applicant up to 180 days to challenge the accuracy or  
2.27 completeness of the report with the agency responsible for the record.

2.28 Subd. 9. **Denial of licensure.** The board shall deny licensure to an applicant who  
2.29 has been convicted of any of the following crimes or an offense in any other state where  
2.30 the elements of the offense are substantially similar:

2.31 (1) murder in the first degree (section 609.185), in the second degree (section  
2.32 609.19), or in the third degree (section 609.195);

2.33 (2) manslaughter in the first degree (section 609.20);

2.34 (3) felony domestic assault (section 609.2242, subdivision 4);

2.35 (4) kidnapping (section 609.25);

2.36 (5) domestic assault by strangulation (section 609.2247);

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- 3.1 (6) murder of an unborn child in the first degree (section 609.2661);  
3.2 (7) solicitation, inducement, and promotion of prostitution (section 609.322);  
3.3 (8) patrons, prostitutes, housing individuals engaged in prostitution (minors) (section  
3.4 609.324, subdivision 1);  
3.5 (9) criminal sexual conduct in the first degree (section 609.342), in the second  
3.6 degree (section 609.343), in the third degree (section 609.344), in the fourth degree  
3.7 (section 609.345), or in the fifth degree (section 609.3451);  
3.8 (10) criminal sexual predatory conduct (section 609.3453);  
3.9 (11) solicitation of children to engage in sexual conduct; communication of sexually  
3.10 explicit materials to children (section 609.352);  
3.11 (12) incest (section 609.365);  
3.12 (13) felony malicious punishment of a child (section 609.377);  
3.13 (14) felony neglect or endangerment of a child (section 609.378);  
3.14 (15) arson in the first degree (section 609.561);  
3.15 (16) felony stalking (section 609.749, subdivision 3, 4, or 5);  
3.16 (17) controlled substance crimes in the first degree (section 152.021) or in the  
3.17 second degree (section 152.022);  
3.18 (18) violation of predatory offender registration law (section 243.166);  
3.19 (19) indecent exposure involving a minor (section 617.23, subdivision 2, clause  
3.20 (1), or subdivision 3, clause (1));  
3.21 (20) use of minors in sexual performance (section 617.246);  
3.22 (21) possession of pornographic work involving minors (section 617.247);  
3.23 (22) manslaughter in the second degree (section 609.205);  
3.24 (23) assault in the first degree (section 609.221) or in the second degree (section  
3.25 609.222);  
3.26 (24) assault in the fifth degree (section 609.224, subdivision 2, paragraph (c),  
3.27 or subdivision 4);  
3.28 (25) great bodily harm caused by distribution of drugs (section 609.228);  
3.29 (26) mistreatment of persons confined (section 609.23);  
3.30 (27) mistreatment of residents or patients (section 609.231);  
3.31 (28) criminal abuse (section 609.2325);  
3.32 (29) criminal neglect (section 609.233);  
3.33 (30) financial exploitation of a vulnerable adult (section 609.2335);  
3.34 (31) failure to report (section 609.234);  
3.35 (32) simple robbery (section 609.24);  
3.36 (33) aggravated robbery (section 609.245);

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- 4.1           (34) false imprisonment (section 609.255);  
4.2           (35) murder of unborn child in the second degree (section 609.2662) or in the third  
4.3 degree (section 609.2663);  
4.4           (36) presenting false claims to a public officer or body (section 609.465);  
4.5           (37) medical assistance fraud (section 609.466);  
4.6           (38) felony theft (section 609.52);  
4.7           (39) fraud in obtaining credit (section 609.82);  
4.8           (40) felony identity theft (section 609.527);  
4.9           (41) arson in the second degree (section 609.562) or in the third degree (section  
4.10 609.563);  
4.11           (42) felony burglary (section 609.582);  
4.12           (43) felony insurance fraud (section 609.611);  
4.13           (44) aggravated forgery (section 609.625);  
4.14           (45) forgery (section 609.63);  
4.15           (46) felony check forgery (section 609.631);  
4.16           (47) felony drive-by shooting (section 609.66, subdivision 1e);  
4.17           (48) felony riot (section 609.71);  
4.18           (49) terroristic threats (section 609.713);  
4.19           (50) disorderly conduct (section 609.72, subdivision 3);  
4.20           (51) felony financial transaction card fraud (section 609.821);  
4.21           (52) shooting at or in a public transit vehicle or facility (section 609.855, subdivision  
4.22 5);  
4.23           (53) controlled substance crimes in the third degree (section 152.023), fourth degree  
4.24 (section 152.024), or fifth degree (section 152.025); or  
4.25           (54) aiding and abetting, attempting, or conspiring to commit any of the offenses  
4.26 in this subdivision.

4.27           Subd. 10. **Conviction.** For purposes of this section, an applicant is considered to  
4.28 have been convicted of a crime if the applicant has pleaded guilty or nolo contendere, been  
4.29 found guilty, or entered an Alford plea to any of the offenses in this section by any court in  
4.30 the state of Minnesota or any similar offense in another state or United States territory or  
4.31 federal court. The consequences of the conviction shall apply if the applicant has been  
4.32 convicted or found guilty but the sentence of adjudication is stayed or otherwise withheld.

4.33           Subd. 11. **Consideration of other crimes.** When determining an applicant's  
4.34 suitability and eligibility for nurse licensure, nothing in this section shall preclude the  
4.35 board from considering an applicant's conviction of a crime that is not listed in subdivision

5.1 9 or public records from a juvenile delinquency proceeding where there has been a judicial  
5.2 determination that the elements of an offense occurred.

5.3 Subd. 12. **Order of denial.** When an applicant is denied licensure based on  
5.4 conviction of a crime listed in subdivision 9, and following an opportunity to challenge  
5.5 the accuracy and completeness of the criminal history report, the board may issue a public  
5.6 order of denial and is not required to provide the applicant a hearing prior to denying  
5.7 licensure.

5.8 Subd. 13. **Reconsideration of denial.** (a) An applicant denied licensure based  
5.9 on a conviction of a crime listed in subdivision 9, clauses (1) to (21), may not request  
5.10 reconsideration of the denial of licensure and may not reapply for licensure by the board  
5.11 until ten years following absolute discharge from sentence, or unless the applicant has  
5.12 received a court order of expungement of the record or a pardon of conviction. Absolute  
5.13 discharge from sentence means completion of any sentence, including imprisonment,  
5.14 probation, parole, community service, and any form of court supervision.

5.15 (b) An applicant denied licensure based on a conviction of a crime listed in  
5.16 subdivision 9, clauses (22) to (54), may request reconsideration of the board's decision  
5.17 to deny licensure. The applicant requesting reconsideration has the burden of showing,  
5.18 to the satisfaction of the board, that the applicant has been sufficiently rehabilitated and  
5.19 does not pose a risk of harm to the public.

5.20 (c) An applicant seeking reconsideration of a denial of licensure under this chapter  
5.21 shall present evidence to the board addressing the following factors, which the board may  
5.22 consider in determining whether to grant a license to the previously denied applicant:

5.23 (1) the number of crimes for which the applicant has been convicted;

5.24 (2) the nature and seriousness of the crimes and vulnerability of the victims of the  
5.25 crimes, including whether the commission of the crimes involved the abuse of trust or the  
5.26 exploitation of a unique position or knowledge;

5.27 (3) the relationship between the crimes and the practice of nursing;

5.28 (4) the age of the applicant at the time the crimes were committed;

5.29 (5) the amount of time that has elapsed since the crimes occurred and since the  
5.30 completion of the terms of any sentence imposed;

5.31 (6) steps taken by the applicant to address substance abuse or mental or physical  
5.32 health issues present at the time of the crimes or subsequent to the crimes;

5.33 (7) evidence of the applicant's work history; and

5.34 (8) any other evidence demonstrating the applicant does not pose a risk of harm to  
5.35 the health or safety of the public.

6.1 (d) The board may impose limitations and conditions on an applicant's license if the  
6.2 board grants the applicant a license following reconsideration.

6.3 Subd. 14. **Data practices.** All state or national criminal history record information  
6.4 obtained by the board from the BCA or the FBI is private data on individuals under section  
6.5 13.02, subdivision 12, and restricted to the exclusive use of the board, its members,  
6.6 officers, investigative staff, agents, and attorneys for the purpose of evaluating an  
6.7 applicant's eligibility or qualification for licensure.

6.8 Subd. 15. **Current licensees.** The board may request that a licensee who is the  
6.9 subject of an investigation by the board submit to a criminal background check if there  
6.10 is reason to believe the licensee has been charged with or convicted of a crime in this  
6.11 or any other jurisdiction.

6.12 Subd. 16. **Instructions to the board; plan.** The board shall collaborate with the  
6.13 Minnesota Department of Human Services and the BCA to establish a plan for completing  
6.14 criminal background checks of all licensees who were licensed before the effective date of  
6.15 this section. The plan for background checks of current licensees shall be developed no  
6.16 later than 2017 and may be contingent upon the BCA's implementation of a system in  
6.17 which any new crimes that an applicant or licensee commits after an initial background  
6.18 check are flagged in the BCA's database and reported back to the board. The plan shall  
6.19 include recommendations for any necessary statutory changes and shall seek to minimize  
6.20 duplication of requirements for background studies.

6.21 Sec. 2. Minnesota Statutes 2010, section 148.261, subdivision 1, is amended to read:

6.22 Subdivision 1. **Grounds listed.** The board may deny, revoke, suspend, limit, or  
6.23 condition the license and registration of any person to practice professional, advanced  
6.24 practice registered, or practical nursing under sections 148.171 to 148.285, or to otherwise  
6.25 discipline a licensee or applicant as described in section 148.262. The following are  
6.26 grounds for disciplinary action:

6.27 (1) Failure to demonstrate the qualifications or satisfy the requirements for a license  
6.28 contained in sections 148.171 to 148.285 or rules of the board. In the case of a person  
6.29 applying for a license, the burden of proof is upon the applicant to demonstrate the  
6.30 qualifications or satisfaction of the requirements.

6.31 (2) Employing fraud or deceit in procuring or attempting to procure a permit, license,  
6.32 or registration certificate to practice professional or practical nursing or attempting to  
6.33 subvert the licensing examination process. Conduct that subverts or attempts to subvert  
6.34 the licensing examination process includes, but is not limited to:

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7.1 (i) conduct that violates the security of the examination materials, such as removing  
7.2 examination materials from the examination room or having unauthorized possession of  
7.3 any portion of a future, current, or previously administered licensing examination;

7.4 (ii) conduct that violates the standard of test administration, such as communicating  
7.5 with another examinee during administration of the examination, copying another  
7.6 examinee's answers, permitting another examinee to copy one's answers, or possessing  
7.7 unauthorized materials; or

7.8 (iii) impersonating an examinee or permitting an impersonator to take the  
7.9 examination on one's own behalf.

7.10 (3) Conviction ~~during the previous five years~~ of a felony or gross misdemeanor  
7.11 reasonably related to the practice of professional, advanced practice registered, or practical  
7.12 nursing, including, but not limited to, the crimes listed in section 148.192, subdivision  
7.13 9. Conviction as used in this subdivision includes a conviction of an offense that if  
7.14 committed in this state would be considered a felony or gross misdemeanor without regard  
7.15 to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is  
7.16 made or returned but the adjudication of guilt is either withheld or not entered.

7.17 (4) Revocation, suspension, limitation, conditioning, or other disciplinary action  
7.18 against the person's professional or practical nursing license or advanced practice  
7.19 registered nursing credential, in another state, territory, or country; failure to report to the  
7.20 board that charges regarding the person's nursing license or other credential are pending in  
7.21 another state, territory, or country; or having been refused a license or other credential by  
7.22 another state, territory, or country.

7.23 (5) Failure to or inability to perform professional or practical nursing as defined in  
7.24 section 148.171, subdivision 14 or 15, with reasonable skill and safety, including failure  
7.25 of a registered nurse to supervise or a licensed practical nurse to monitor adequately the  
7.26 performance of acts by any person working at the nurse's direction.

7.27 (6) Engaging in unprofessional conduct, including, but not limited to, a departure  
7.28 from or failure to conform to board rules of professional or practical nursing practice that  
7.29 interpret the statutory definition of professional or practical nursing as well as provide  
7.30 criteria for violations of the statutes, or, if no rule exists, to the minimal standards of  
7.31 acceptable and prevailing professional or practical nursing practice, or any nursing  
7.32 practice that may create unnecessary danger to a patient's life, health, or safety. Actual  
7.33 injury to a patient need not be established under this clause.

7.34 (7) Failure of an advanced practice registered nurse to practice with reasonable  
7.35 skill and safety or departure from or failure to conform to standards of acceptable and  
7.36 prevailing advanced practice registered nursing.

8.1 (8) Delegating or accepting the delegation of a nursing function or a prescribed  
8.2 health care function when the delegation or acceptance could reasonably be expected to  
8.3 result in unsafe or ineffective patient care.

8.4 (9) Actual or potential inability to practice nursing with reasonable skill and safety  
8.5 to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or  
8.6 as a result of any mental or physical condition.

8.7 (10) Adjudication as mentally incompetent, mentally ill, a chemically dependent  
8.8 person, or a person dangerous to the public by a court of competent jurisdiction, within or  
8.9 without this state.

8.10 (11) Engaging in any unethical conduct, including, but not limited to, conduct likely  
8.11 to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard  
8.12 for the health, welfare, or safety of a patient. Actual injury need not be established under  
8.13 this clause.

8.14 (12) Engaging in conduct with a patient that is sexual or may reasonably be  
8.15 interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually  
8.16 demeaning to a patient, or engaging in sexual exploitation of a patient or former patient.

8.17 (13) Obtaining money, property, or services from a patient, other than reasonable  
8.18 fees for services provided to the patient, through the use of undue influence, harassment,  
8.19 duress, deception, or fraud.

8.20 (14) Revealing a privileged communication from or relating to a patient except when  
8.21 otherwise required or permitted by law.

8.22 (15) Engaging in abusive or fraudulent billing practices, including violations of  
8.23 federal Medicare and Medicaid laws or state medical assistance laws.

8.24 (16) Improper management of patient records, including failure to maintain adequate  
8.25 patient records, to comply with a patient's request made pursuant to sections 144.291 to  
8.26 144.298, or to furnish a patient record or report required by law.

8.27 (17) Knowingly aiding, assisting, advising, or allowing an unlicensed person to  
8.28 engage in the unlawful practice of professional, advanced practice registered, or practical  
8.29 nursing.

8.30 (18) Violating a rule adopted by the board, an order of the board, or a state or federal  
8.31 law relating to the practice of professional, advanced practice registered, or practical  
8.32 nursing, or a state or federal narcotics or controlled substance law.

8.33 (19) Knowingly providing false or misleading information that is directly related  
8.34 to the care of that patient unless done for an accepted therapeutic purpose such as the  
8.35 administration of a placebo.

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9.1 (20) Aiding suicide or aiding attempted suicide in violation of section 609.215 as  
9.2 established by any of the following:

9.3 (i) a copy of the record of criminal conviction or plea of guilty for a felony in  
9.4 violation of section 609.215, subdivision 1 or 2;

9.5 (ii) a copy of the record of a judgment of contempt of court for violating an  
9.6 injunction issued under section 609.215, subdivision 4;

9.7 (iii) a copy of the record of a judgment assessing damages under section 609.215,  
9.8 subdivision 5; or

9.9 (iv) a finding by the board that the person violated section 609.215, subdivision  
9.10 1 or 2. The board shall investigate any complaint of a violation of section 609.215,  
9.11 subdivision 1 or 2.

9.12 (21) Practicing outside the scope of practice authorized by section 148.171,  
9.13 subdivision 5, 10, 11, 13, 14, 15, or 21.

9.14 (22) Practicing outside the specific field of nursing practice for which an advanced  
9.15 practice registered nurse is certified unless the practice is authorized under section 148.284.

9.16 (23) Making a false statement or knowingly providing false information to the  
9.17 board, failing to make reports as required by section 148.263, or failing to cooperate with  
9.18 an investigation of the board as required by section 148.265.

9.19 (24) Engaging in false, fraudulent, deceptive, or misleading advertising.

9.20 (25) Failure to inform the board of the person's certification status as a nurse  
9.21 anesthetist, nurse-midwife, nurse practitioner, or clinical nurse specialist.

9.22 (26) Engaging in clinical nurse specialist practice, nurse-midwife practice, nurse  
9.23 practitioner practice, or registered nurse anesthetist practice without current certification  
9.24 by a national nurse certification organization acceptable to the board, except during the  
9.25 period between completion of an advanced practice registered nurse course of study and  
9.26 certification, not to exceed six months or as authorized by the board.

9.27 (27) Engaging in conduct that is prohibited under section 145.412.

9.28 (28) Failing to report employment to the board as required by section 148.211,  
9.29 subdivision 2a, or knowingly aiding, assisting, advising, or allowing a person to fail to  
9.30 report as required by section 148.211, subdivision 2a.

9.31 Sec. 3. Minnesota Statutes 2010, section 364.09, is amended to read:

9.32 **364.09 EXCEPTIONS.**

9.33 (a) This chapter does not apply to the licensing process for peace officers; to law  
9.34 enforcement agencies as defined in section 626.84, subdivision 1, paragraph (f); to fire  
9.35 protection agencies; to eligibility for a private detective or protective agent license; to the

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10.1 licensing and background study process under chapters 245A and 245C; to eligibility  
10.2 for school bus driver endorsements; to eligibility for special transportation service  
10.3 endorsements; to eligibility for a commercial driver training instructor license, which is  
10.4 governed by section 171.35 and rules adopted under that section; to emergency medical  
10.5 services personnel, or to the licensing by political subdivisions of taxicab drivers, if the  
10.6 applicant for the license has been discharged from sentence for a conviction within the ten  
10.7 years immediately preceding application of a violation of any of the following:

10.8 (1) sections 609.185 to 609.21, 609.221 to 609.223, 609.342 to 609.3451, or 617.23,  
10.9 subdivision 2 or 3;

10.10 (2) any provision of chapter 152 that is punishable by a maximum sentence of  
10.11 15 years or more; or

10.12 (3) a violation of chapter 169 or 169A involving driving under the influence, leaving  
10.13 the scene of an accident, or reckless or careless driving.

10.14 This chapter also shall not apply to eligibility for juvenile corrections employment, where  
10.15 the offense involved child physical or sexual abuse or criminal sexual conduct.

10.16 (b) This chapter does not apply to a school district or to eligibility for a license  
10.17 issued or renewed by the Board of Teaching or the commissioner of education.

10.18 (c) Nothing in this section precludes the Minnesota Police and Peace Officers  
10.19 Training Board or the state fire marshal from recommending policies set forth in this  
10.20 chapter to the attorney general for adoption in the attorney general's discretion to apply to  
10.21 law enforcement or fire protection agencies.

10.22 (d) This chapter does not apply to a license to practice medicine that has been denied  
10.23 or revoked by the Board of Medical Practice pursuant to section 147.091, subdivision 1a.

10.24 (e) This chapter does not apply to any person who has been denied a license to  
10.25 practice chiropractic or whose license to practice chiropractic has been revoked by the  
10.26 board in accordance with section 148.10, subdivision 7.

10.27 (f) This chapter does not apply to a person who has been denied a license to practice  
10.28 nursing by the Board of Nursing pursuant to section 148.192.

10.29 **Sec. 4. APPROPRIATION.**

10.30 \$200,000 in fiscal year 2013 is appropriated from the state government special  
10.31 revenue fund to the Board of Nursing for implementation of section 1.

10.32 **Sec. 5. EFFECTIVE DATE.**

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- 11.1            Sections 1 and 2 are effective July 1, 2013, or as soon as the necessary interagency  
11.2            infrastructure and related business processes are operational, whichever is later. Sections  
11.3            3 and 4 are effective the day following final enactment.