CHAPTER 144

DEPARTMENT OF HEALTH

144.121 X-RAY MACHINES AND FACILITIES USING RADIUM.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Exemption.** Notwithstanding rules adopted by the commissioner under section 144.12, subdivision 1, clause (15), practitioners of veterinary medicine are not required to conduct densitometry and sensitometry tests as part of any ionizing radiation quality assurance program.

Subd. 4. **Radiation monitoring.** Whenever involved in radiation procedures, practitioners of veterinary medicine and staff shall wear film-based radiation monitoring badges to monitor individual exposure. The badges must be submitted periodically to a dosimetry service for individual exposure determination.

History: *1993 c 188 s 1,2*

144.1211 [Repealed, 1993 c 206 s 25]

144.122 LICENSE AND PERMIT FEES.

(a) The state commissioner of health, by rule, may prescribe reasonable procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued per-

mit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the department of finance. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the state government special revenue fund unless otherwise specifically appropriated by law for specific purposes.

(b) The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with paragraph (a) or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be approximately equal to the costs of providing the services.

(c) The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with handicaps program. All receipts generated by the program are annually appropriated to the commissioner for use in the maternal and child health program.

(d) The commissioner, for fiscal years 1993 and beyond, shall set license fees for hospitals and nursing homes that are not boarding care homes at a level sufficient to recover, over a two-year period, the deficit associated with the collection of license fees from these facilities. The license fees for these facilities shall be set at the following levels:

Joint Commission on Accreditation of Healthcare Organizations (JCAHO hospitals)	$2,142
Non-JCAHO hospitals	$2,228 plus $138 per bed
Nursing home	$324 plus $76 per bed

For fiscal years 1993 and beyond, the commissioner shall set license fees for outpatient surgical centers, boarding care homes, and supervised living facilities at a level sufficient to recover, over a four-year period, the deficit associated with the collection of license fees from these facilities. The license fees for these facilities shall be set at the following levels:

Outpatient surgical centers	$1,645
Boarding care homes	$249 plus $58 per bed
Supervised living facilities	$249 plus $58 per bed.

History: *1Sp1993 c 1 art 9 s 18*

144.123 FEES FOR DIAGNOSTIC LABORATORY SERVICES; EXCEPTIONS.

Subdivision 1. **Who must pay.** Except for the limitation contained in this section, the commissioner of health shall charge a handling fee for each specimen submitted to the department of health for analysis for diagnostic purposes by any hospital, private laboratory, private clinic, or physician. No fee shall be charged to any entity which receives direct or indirect financial assistance from state or federal funds administered by the department of health, including any public health department, nonprofit community clinic, venereal disease clinic, family planning clinic, or similar entity. The commissioner of health may establish by rule other exceptions to the handling fee as may be necessary to gather information for epidemiologic purposes. All fees collected pursuant to this section shall be deposited in the state treasury and credited to the state government special revenue fund.

[For text of subd 2, see M.S.1992]

History: *1Sp1993 c 1 art 9 s 19*

SUMMER HEALTH CARE INTERNS

144.1464 SUMMER HEALTH CARE INTERNS.

Subdivision 1. **Summer internships.** The commissioner of health, through a contract with a nonprofit organization as required by subdivision 4, shall award grants to hospitals and clinics to establish a summer health care intern program. The purpose of the program is to expose interested high school pupils to various careers within the health care profession.

Subd. 2. **Criteria.** (a) The commissioner, through the organization under contract, shall award grants to hospitals and clinics that agree to:

(1) provide summer health care interns with formal exposure to the health care profession;

(2) provide an orientation for summer health care interns;

(3) pay one-half the costs of employing a summer health care intern, based on an overall hourly wage that is at least the minimum wage but does not exceed $6 an hour; and

(4) interview and hire pupils for a minimum of six weeks and a maximum of 12 weeks.

(b) In order to be eligible to be hired as a summer health intern by a hospital or clinic, a pupil must:

(1) intend to complete high school graduation requirements and be between the junior and senior year of high school;

(2) be from a school district in proximity to the facility; and

(3) provide the facility with a letter of recommendation from a health occupations or science educator.

(c) Hospitals and clinics awarded grants may employ pupils as summer health care interns beginning on or after June 15, 1993, if they agree to pay the intern, during the period before disbursement of state grant money, with money designated as the facility's 50 percent contribution towards internship costs.

Subd. 3. **Grants.** The commissioner, through the organization under contract, shall award grants to hospitals and clinics meeting the requirements of subdivision 2. The grants must be used to pay one-half of the costs of employing a pupil in a hospital or clinic during the course of the program. No more than five pupils may be selected from any one high school to participate in the program and no more than one-half of the number of pupils selected may be from the seven-county metropolitan area.

Subd. 4. **Contract.** The commissioner shall contract with a statewide, nonprofit organization representing facilities at which summer health care interns will serve, to administer the grant program established by this section. The organization awarded the grant shall provide the commissioner with any information needed by the commissioner to evaluate the program, in the form and at the times specified by the commissioner.

History: *1992 c 499 art 7 s 9; 1993 c 345 art 11 s 1; 1993 c 366 s 28,29*

144.147 RURAL HOSPITAL PLANNING AND TRANSITION GRANT PROGRAM.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. **Allocation of grants.** (a) Eligible hospitals must apply to the commissioner no later than September 1 of each fiscal year for grants awarded for that fiscal year. A grant may be awarded upon signing of a grant contract.

(b) The commissioner must make a final decision on the funding of each application within 60 days of the deadline for receiving applications.

(c) Each relevant community health board has 30 days in which to review and comment to the commissioner on grant applications from hospitals in their community health service area.

(d) In determining which hospitals will receive grants under this section, the commissioner shall consider the following factors:

(1) Description of the problem, description of the project, and the likelihood of successful outcome of the project. The applicant must explain clearly the nature of the health services problems in their service area, how the grant funds will be used, what will be accomplished, and the results expected. The applicant should describe achievable objectives, a timetable, and roles and capabilities of responsible individuals and organizations.

(2) The extent of community support for the hospital and this proposed project. The applicant should demonstrate support for the hospital and for the proposed project from other local health service providers and from local community and government leaders. Evidence of such support may include past commitments of financial support from local individuals, organizations, or government entities; and commitment of financial support, in-kind services or cash, for this project.

(3) The comments, if any, resulting from a review of the application by the community health board in whose community health service area the hospital is located.

(e) In evaluating applications, the commissioner shall score each application on a 100 point scale, assigning the maximum of 70 points for an applicant's understanding of the problem, description of the project, and likelihood of successful outcome of the project; and a maximum of 30 points for the extent of community support for the hospital and this project. The commissioner may also take into account other relevant factors.

(f) A grant to a hospital, including hospitals that submit applications as consortia, may not exceed $37,500 a year and may not exceed a term of two years. Prior to the receipt of any grant, the hospital must certify to the commissioner that at least one-half of the amount, which may include in-kind services, is available for the same purposes from nonstate sources. A hospital receiving a grant under this section may use the grant for any expenses incurred in the development of strategic plans or the implementation of transition projects with respect to which the grant is made. Project grants may not be used to retire debt incurred with respect to any capital expenditure made prior to the date on which the project is initiated.

(g) The commissioner may adopt rules to implement this section.

[For text of subd 5, see M.S.1992]

History: *1993 c 247 art 5 s 11; 1993 c 345 art 10 s 1*

144.1481 RURAL HEALTH ADVISORY COMMITTEE.

Subdivision 1. **Establishment; membership.** The commissioner of health shall establish a 15-member rural health advisory committee. The committee shall consist of the following members, all of whom must reside outside the seven-county metropolitan area, as defined in section 473.121, subdivision 2:

(1) two members from the house of representatives of the state of Minnesota, one from the majority party and one from the minority party;

(2) two members from the senate of the state of Minnesota, one from the majority party and one from the minority party;

(3) a volunteer member of an ambulance service based outside the seven-county metropolitan area;

(4) a representative of a hospital located outside the seven-county metropolitan area;

(5) a representative of a nursing home located outside the seven-county metropolitan area;

(6) a medical doctor or doctor of osteopathy licensed under chapter 147;

(7) a midlevel practitioner;

(8) a registered nurse or licensed practical nurse;

(9) a licensed health care professional from an occupation not otherwise represented on the committee;

(10) a representative of an institution of higher education located outside the seven-county metropolitan area that provides training for rural health care providers; and

(11) three consumers, at least one of whom must be an advocate for persons who are mentally ill or developmentally disabled.

The commissioner will make recommendations for committee membership. Committee members will be appointed by the governor. In making appointments, the governor shall ensure that appointments provide geographic balance among those areas of the state outside the seven-county metropolitan area. The chair of the committee shall be elected by the members. The terms, compensation, and removal of members are governed by section 15.059, except that the existence of the committee does not terminate and members do not receive per diem compensation.

[For text of subds 2 and 3, see M.S.1992]

History: *1993 c 247 art 5 s 12*

144.1484 RURAL HOSPITAL FINANCIAL ASSISTANCE GRANTS.

Subdivision 1. **Sole community hospital financial assistance grants.** The commissioner of health shall award financial assistance grants to rural hospitals in isolated areas of the state. To qualify for a grant, a hospital must: (1) be eligible to be classified as a sole community hospital according to the criteria in Code of Federal Regulations, title 42, section 412.92 or be located in a community with a population of less than 5,000 and located more than 25 miles from a like hospital currently providing acute short-term services; (2) have experienced net income losses in the two most recent consecutive hospital fiscal years for which audited financial information is available; (3) consist of 40 or fewer licensed beds; and (4) demonstrate to the commissioner that it has obtained local support for the hospital and that any state support awarded under this program will not be used to supplant local support for the hospital. The commissioner shall review audited financial statements of the hospital to assess the extent of local support. Evidence of local support may include bonds issued by a local government entity such as a city, county, or hospital district for the purpose of financing hospital projects; and loans, grants, or donations to the hospital from local government entities, private organizations, or individuals. The commissioner shall determine the amount of the award to be given to each eligible hospital based on the hospital's financial need and the total amount of funding available.

Subd. 2. **Grants to at-risk rural hospitals to offset the impact of the hospital tax.** (a) The commissioner of health shall award financial assistance grants to rural hospitals that would otherwise close as a direct result of the hospital tax in section 295.52. To be eligible for a grant, a hospital must have 50 or fewer beds and must not be located in a city of the first class. To receive a grant, the hospital must demonstrate to the satisfaction of the commissioner of health that the hospital will close in the absence of state assistance under this subdivision and that the hospital tax is the principal reason for the closure.

(b) At a minimum the hospital must demonstrate that:

(1) it has had a net margin of minus ten percent or below in at least one of the last two years or a net margin of less than zero percent in at least three of the last four years. For purposes of this subdivision, "net margin" means the ratio of net income from all hospital sources to total revenues generated by the hospital;

(2) it has had a negative cash flow in at least three of the last four years. For purposes of this subdivision, "cash flow" means the total of net income plus depreciation; and

(3) its fund balance has declined by at least 25 percent over the last two years, and its fund balance at the end of its last fiscal year was equal to or less than its accumulated

net loss during the last two years. For purposes of this subdivision, "fund balance" means the excess of assets of the hospital's fund over its liabilities and reserves.

(c) A hospital seeking a grant shall submit the following with its application:

(1) a statement of the projected dollar amount of tax liability for the current fiscal year, projected monthly disbursements, and projected net patient revenue base for the current fiscal year, broken down by payer categories including Medicare, medical assistance, MinnesotaCare, general assistance medical care, and others. The figures must be certified by the hospital administrator;

(2) a statement of all rate increases, listing the date and percentage of each increase during the last three years and the date and percentage of any increases for the current fiscal year. The statement must be certified by the hospital administrator and must include a narrative explaining whether or not the rate increase incorporates a pass-through of the hospital tax;

(3) a statement certified by the chair or equivalent of the hospital board, and by an independent auditor, that the hospital will close within the next 12 months as a result of the hospital tax unless it receives a grant; and

(4) a statement certified by the chair or equivalent of the hospital board that the hospital will not close for financial reasons within the next 12 months if it receives a grant.

The amount of the grant must not exceed the amount of the tax the hospital would pay under section 295.52, based on the previous year's hospital revenues. A hospital that closes within 12 months after receiving a grant under this subdivision must refund the amount of the grant to the commissioner of health.

History: *1993 c 345 art 10 s 2,3*

144.1486 RURAL COMMUNITY HEALTH CENTERS.

The commissioner of health shall develop and implement a program to establish community health centers in rural areas of Minnesota that are underserved by health care providers. The program shall provide rural communities and community organizations with technical assistance, capital grants for start-up costs, and short-term assistance with operating costs. The technical assistance component of the program must provide assistance in review of practice management, market analysis, practice feasibility analysis, medical records system analysis, and scheduling and patient flow analysis. The program must: (1) include a local match requirement for state dollars received; (2) require local communities, through instrumentalities of the state of Minnesota or nonprofit boards comprised of local residents, to operate and own their community's health care program; (3) encourage the use of midlevel practitioners; and (4) incorporate a quality assurance strategy that provides regular evaluation of clinical performance and allows peer review comparisons for rural practices. The commissioner shall report to the legislature on implementation of the program by February 15, 1994.

History: *1993 c 247 art 5 s 13*

NATIONAL HEALTH SERVICES CORPS STATE LOAN REPAYMENT PROGRAM

144.1487 LOAN REPAYMENT PROGRAM FOR HEALTH PROFESSIONALS.

Subdivision 1. **Definitions.** (a) For purposes of sections 144.1487 to 144.1492, the following definitions apply.

(b) "Board" means the higher education coordinating board.

(c) "Health professional shortage area" means an area designated as such by the federal Secretary of Health and Human Services, as provided under Code of Federal Regulations, title 42, part 5, and United States Code, title 42, section 254E.

Subd. 2. **Establishment and purpose.** The commissioner shall establish a National Health Services Corps state loan repayment program authorized by section 388I of the

Public Health Service Act, United States Code, title 42, section 254q-1, as amended by Public Law Number 101-597. The purpose of the program is to assist communities with the recruitment and retention of health professionals in federally designated health professional shortage areas.

History: *1993 c 345 art 11 s 16*

144.1488 PROGRAM ADMINISTRATION AND ELIGIBILITY.

Subdivision 1. **Duties of the commissioner of health.** The commissioner shall administer the state loan repayment program. The commissioner shall:

(1) ensure that federal funds are used in accordance with program requirements established by the federal National Health Services Corps;

(2) notify potentially eligible loan repayment sites about the program;

(3) develop and disseminate application materials to sites;

(4) review and rank applications using the scoring criteria approved by the federal Department of Health and Human Services as part of the Minnesota department of health's National Health Services Corps state loan repayment program application;

(5) select sites that qualify for loan repayment based upon the availability of federal and state funding;

(6) provide the higher education coordinating board with a list of qualifying sites; and

(7) carry out other activities necessary to implement and administer sections 144.1487 to 144.1492.

The commissioner shall enter into an interagency agreement with the higher education coordinating board to carry out the duties assigned to the board under sections 144.1487 to 144.1492.

Subd. 2. **Duties of the higher education coordinating board.** The higher education coordinating board, through an interagency agreement with the commissioner of health, shall:

(1) verify the eligibility of program participants;

(2) sign a contract with each participant that specifies the obligations of the participant and the state;

(3) arrange for the payment of qualifying educational loans for program participants;

(4) monitor the obligated service of program participants;

(5) waive or suspend service or payment obligations of participants in appropriate situations;

(6) place participants who fail to meet their obligations in default;

(7) enforce penalties for default; and

(8) report regularly to the commissioner.

Subd. 3. **Eligible loan repayment sites.** Private, nonprofit, and public entities located in and providing health care services in federally designated primary care health professional shortage areas are eligible to apply for the program. The commissioner shall develop a list of Minnesota health professional shortage areas in greatest need of health care professionals and shall select loan repayment sites from that list. The commissioner shall ensure, to the greatest extent possible, that the geographic distribution of sites within the state reflects the percentage of the population living in rural and urban health professional shortage areas.

Subd. 4. **Eligible health professionals.** (a) To be eligible to apply to the higher education coordinating board for the loan repayment program, health professionals must be citizens or nationals of the United States, must not have any unserved obligations for service to a federal, state, or local government, or other entity, and must be ready to begin full-time clinical practice upon signing a contract for obligated service.

(b) In selecting physicians for participation, the board shall give priority to physi-

cians who are board certified or have completed a residency in family practice, osteopathic general practice, obstetrics and gynecology, internal medicine, or pediatrics. A physician selected for participation is not eligible for loan repayment until the physician has an employment agreement or contract with an eligible loan repayment site and has signed a contract for obligated service with the higher education coordinating board.

History: *1993 c 345 art 11 s 17*

144.1489 OBLIGATIONS OF PARTICIPANTS.

Subdivision 1. **Contract required.** Before starting the period of obligated service, a participant must sign a contract with the higher education coordinating board that specifies the obligations of the participant and the board.

Subd. 2. **Obligated service.** A participant shall agree in the contract to fulfill the period of obligated service by providing primary health care services in full-time clinical practice. The service must be provided in a private, nonprofit, or public entity that is located in and providing services to a federally designated health professional shortage area and that has been designated as an eligible site by the commissioner under the state loan repayment program.

Subd. 3. **Length of service.** Participants must agree to provide obligated service for a minimum of two years. A participant may extend a contract to provide obligated service for a third year, subject to board approval and the availability of federal and state funding.

Subd. 4. **Affidavit of service required.** Within 30 days of the start of obligated service, and by February 1 of each succeeding calendar year, a participant shall submit an affidavit to the board stating that the participant is providing the obligated service and which is signed by a representative of the organizational entity in which the service is provided. Participants must provide written notice to the board within 30 days of: a change in name or address, a decision not to fulfill a service obligation, or cessation of clinical practice.

Subd. 5. **Tax responsibility.** The participant is responsible for reporting on federal income tax returns any amount paid by the state on designated loans, if required to do so under federal law.

Subd. 6. **Nondiscrimination requirements.** Participants are prohibited from charging a higher rate for professional services than the usual and customary rate prevailing in the area where the services are provided. If a patient is unable to pay this charge, a participant shall charge the patient a reduced rate or not charge the patient. Participants must agree not to discriminate on the basis of ability to pay or status as a Medicare or medical assistance enrollee. Participants must agree to accept assignment under the Medicare program and to serve as an enrolled provider under medical assistance.

History: *1993 c 345 art 11 s 18*

144.1490 RESPONSIBILITIES OF THE LOAN REPAYMENT PROGRAM.

Subdivision 1. **Loan repayment.** Subject to the availability of federal and state funds for the loan repayment program, the higher education coordinating board shall pay all or part of the qualifying education loans up to $20,000 annually for each primary care physician participant that fulfills the required service obligation. For purposes of this provision, "qualifying educational loans" are government and commercial loans for actual costs paid for tuition, reasonable education expenses, and reasonable living expenses related to the graduate or undergraduate education of a health care professional.

Subd. 2. **Procedure for loan repayment.** Program participants, at the time of signing a contract, shall designate the qualifying loan or loans for which the higher education coordinating board is to make payments. The participant shall submit to the board all payment books for the designated loan or loans or all monthly billings for the designated loan or loans within five days of receipt. The board shall make payments in accor-

dance with the terms and conditions of the designated loans, in an amount not to exceed $20,000 when annualized. If the amount paid by the board is less than $20,000 during a 12-month period, the board shall pay during the 12th month an additional amount towards a loan or loans designated by the participant, to bring the total paid to $20,000. The total amount paid by the board must not exceed the amount of principal and accrued interest of the designated loans.

History: *1993 c 345 art 11 s 19*

144.1491 FAILURE TO COMPLETE OBLIGATED SERVICE.

Subdivision 1. **Penalties for breach of contract.** A program participant who fails to complete two years of obligated service shall repay the amount paid, as well as a financial penalty based upon the length of the service obligation not fulfilled. If the participant has served at least one year, the financial penalty is the number of unserved months multiplied by $1,000. If the participant has served less than one year, the financial penalty is the total number of obligated months multiplied by $1,000.

Subd. 2. **Suspension or waiver of obligation.** Payment or service obligations cancel in the event of a participant's death. The board may waive or suspend payment or service obligations in case of total and permanent disability or long-term temporary disability lasting for more than two years. The board shall evaluate all other requests for suspension or waivers on a case-by-case basis.

History: *1993 c 345 art 11 s 20*

144.215 BIRTH REGISTRATION.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Father's name; child's name.** In any case in which paternity of a child is determined by a court of competent jurisdiction, a declaration of parentage is executed under section 257.34, or a recognition of parentage is executed under section 257.75, the name of the father shall be entered on the birth certificate. If the order of the court declares the name of the child, it shall also be entered on the birth certificate. If the order of the court does not declare the name of the child, or there is no court order, then upon the request of both parents in writing, the surname of the child shall be that of the father.

Subd. 4. **Social security number registration.** (a) Parents of a child born within this state shall give their social security numbers to the office of vital statistics at the time of filing the birth certificate, but the numbers shall not appear on the certificate.

(b) The social security numbers are classified as private data, as defined in section 13.02, subdivision 12, on individuals, but the office of vital statistics shall provide the social security number to the public authority responsible for child support services upon request by the public authority for use in the establishment of parentage and the enforcement of child support obligations.

History: *1Sp1993 c 1 art 6 s 1,2*

144.226 FEES.

[For text of subd 1, see M.S.1992]

Subd. 2. **Fees to state government special revenue fund.** Fees collected under this section by the state registrar shall be deposited to the state government special revenue fund.

[For text of subd 3, see M.S.1992]

History: *1Sp1993 c 1 art 9 s 20*

144.29 HEALTH RECORDS; CHILDREN OF SCHOOL AGE.

It shall be the duty of every school nurse, school physician, school attendance officer, superintendent of schools, principal, teacher, and of the persons charged with the duty of compiling and keeping the school census records, to cause a permanent public health record to be kept for each child of school age. Such record shall be kept in such form that it may be transferred with the child to any school which the child shall attend within the state and transferred to the commissioner when the child ceases to attend school. It shall contain a record of such health matters as shall be prescribed by the commissioner, and of all mental and physical defects and handicaps which might permanently cripple or handicap the child. Nothing in sections 144.29 to 144.32 shall be construed to require any child whose parent or guardian objects in writing thereto to undergo a physical or medical examination or treatment. A copy shall be forwarded to the proper department of any state to which the child shall remove. Each district shall assign a teacher, school nurse, or other professional person to review, at the beginning of each school year, the health record of all pupils under the assignee's direction. Growth, results of vision and hearing screening, and findings obtained from health assessments must be entered periodically on the pupil's health record.

History: *1993 c 224 art 12 s 30*

144.335 ACCESS TO HEALTH RECORDS.

[For text of subds 1 to 3, see M.S.1992]

Subd. 3a. **Patient consent to release of records; liability.** (a) A provider, or a person who receives health records from a provider, may not release a patient's health records to a person without a signed and dated consent from the patient or the patient's legally authorized representative authorizing the release, unless the release is specifically authorized by law. Except as provided in paragraph (c), a consent is valid for one year or for a lesser period specified in the consent or for a different period provided by law.

(b) This subdivision does not prohibit the release of health records for a medical emergency when the provider is unable to obtain the patient's consent due to the patient's condition or the nature of the medical emergency.

(c) Notwithstanding paragraph (a), if a patient explicitly gives informed consent to the release of health records for the purposes and pursuant to the restrictions in clauses (1) and (2), the consent does not expire after one year for:

(1) the release of health records to a provider who is being advised or consulted with in connection with the current treatment of the patient;

(2) the release of health records to an accident and health insurer, health service plan corporation, health maintenance organization, or third-party administrator for purposes of payment of claims, fraud investigation, or quality of care review and studies, provided that:

(i) the use or release of the records complies with sections 72A.49 to 72A.505;

(ii) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited; and

(iii) the recipient establishes adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient.

(d) Until June 1, 1994, paragraph (a) does not prohibit the release of health records to qualified personnel solely for purposes of medical or scientific research, if the patient has not objected to a release for research purposes and the provider who releases the records makes a reasonable effort to determine that:

(i) the use or disclosure does not violate any limitations under which the record was collected;

(ii) the use or disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which the use or disclosure is to be made;

(iii) the recipient has established and maintains adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient; and

(iv) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited.

(e) A person who negligently or intentionally releases a health record in violation of this subdivision, or who forges a signature on a consent form, or who obtains under false pretenses the consent form or health records of another person, or who, without the person's consent, alters a consent form, is liable to the patient for compensatory damages caused by an unauthorized release, plus costs and reasonable attorney's fees.

(f) Upon the written request of a spouse, parent, child, or sibling of a patient being evaluated for or diagnosed with mental illness, a provider shall inquire of a patient whether the patient wishes to authorize a specific individual to receive information regarding the patient's current and proposed course of treatment. If the patient so authorizes, the provider shall communicate to the designated individual the patient's current and proposed course of treatment. Paragraph (a) applies to consents given under this paragraph.

Subd. 3b. **Release of records to commissioner of health or data institute.** Subdivision 3a does not apply to the release of health records to the commissioner of health or the data institute under chapter 62J, provided that the commissioner encrypts the patient identifier upon receipt of the data.

Subd. 3c. **Independent medical examination.** This section applies to the subject and provider of an independent medical examination requested by or paid for by a third party. Notwithstanding subdivision 3a, a provider may release health records created as part of an independent medical examination to the third party who requested or paid for the examination.

[For text of subds 4 to 6, see M.S.1992]

History: *1993 c 345 art 12 s 7; 1993 c 351 s 24,25*

144.3441 HEPATITIS B VACCINATION.

A minor may give effective consent for a hepatitis B vaccination. The consent of no other person is required.

History: *1993 c 167 s 1*

144.3831 FEES.

[For text of subd 1, see M.S.1992]

Subd. 2. **Collection and payment of fee.** The public water supply described in subdivision 1 shall:

(1) collect the fees assessed on its service connections;

(2) pay the department of revenue an amount equivalent to the fees based on the total number of service connections. The service connections for each public water supply described in subdivision 1 shall be verified every four years by the department of health; and

(3) pay one-fourth of the total yearly fee to the department of revenue each calendar quarter. The first quarterly payment is due on or before September 30, 1992. In lieu of quarterly payments, a public water supply described in subdivision 1 with fewer than 50 service connections may make a single annual payment by June 30 each year, starting in 1993. The fees payable to the department of revenue shall be deposited in the state treasury as nondedicated state government special revenue fund revenues.

[For text of subd 3, see M.S.1992]

History: *1Sp1993 c 1 art 9 s 21*

144.386 PENALTIES.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. [Repealed, 1993 c 206 s 25]

144.414 PROHIBITIONS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Day care premises.** Smoking is prohibited in a day care center licensed under Minnesota Rules, parts 9503.0005 to 9503.0175, or in a family home or in a group family day care provider home licensed under Minnesota Rules, parts 9502.0300 to 9502.0445, during its hours of operation.

[For text of subd 3, see M.S.1992]

History: *1993 c 14 s 1*

NOTE: Subdivision 2 was amended by Laws 1993, chapter 14, section 1, and the prohibition on smoking in day care licensed under Minnesota Rules, parts 9502.0300 to 9502.0445, is effective March 1, 1994. See Laws 1993, chapter 14, section 2.

144.4165 TOBACCO PRODUCTS PROHIBITED IN PUBLIC SCHOOLS.

No person shall at any time smoke, chew, or otherwise ingest tobacco or a tobacco product in a public school, as defined in section 120.05, subdivision 2. This prohibition extends to all facilities, whether owned, rented, or leased, and all vehicles that a school district owns, leases, rents, contracts for, or controls. This prohibition does not apply to a technical college. Nothing in this section shall prohibit the lighting of tobacco by an adult as a part of a traditional Indian spiritual or cultural ceremony. For purposes of this section, an Indian is a person who is a member of an Indian tribe as defined in section 257.351, subdivision 9.

History: *1993 c 224 art 9 s 42*

144.441 TUBERCULOSIS SCREENING IN SCHOOLS.

Subdivision 1. **Definitions.** As used in sections 144.441 to 144.444, the following terms have the meanings given them:

(a) "Person employed by a school or school district" means a person employed by a school, school district, or by an educational cooperative services unit as a member of the instructional, supervisory, or support staff including, but not limited to, superintendents, principals, supervisors, teachers, librarians, counselors, school psychologists, school nurses, school social workers, audiovisual directors or coordinators, recreation personnel, media generalists or supervisors, speech therapists, athletic coaches, teachers' aids, clerical workers, custodians, school bus drivers, and food service workers.

(b) "Person enrolled in a school" means a person enrolled in grades kindergarten through 12 and a handicapped child receiving special instruction and services in a school.

(c) "School" includes any public elementary, middle, secondary, or vocational center school as defined in section 120.05, or nonpublic school, church, or religious organization in which a child is provided instruction in compliance with sections 120.101 and 120.102.

Subd. 2. **Designation of schools.** Based on the occurrence of active tuberculosis or evidence of a higher than expected prevalence of tuberculosis infection in the population attending or employed by one or more schools in a school district, the commissioner of health may designate schools or a school district in which screening of some or all persons enrolled in or employed by the school or school district for tuberculosis is a necessary public health measure. In making the designation, the commissioner shall also determine the frequency with which proof of screening must be submitted. In determining whether the population attending or employed by a school or school dis-

trict has a higher than expected prevalence of tuberculosis infection, the commissioner shall consider factors such as race or ethnicity, age, and the geographic location of residence of the student population; the expected background prevalence of tuberculosis infection in the community; and currently accepted public health standards pertaining to the control of tuberculosis.

Subd. 3. **Screening of students.** As determined by the commissioner under subdivision 2, no person may enroll or remain enrolled in any school which the commissioner has designated under subdivision 2 until the person has submitted to the administrator or other person having general control and supervision of the school, one of the following statements:

(1) a statement from a physician or public clinic stating that the person has had a negative Mantoux test reaction within the past year, provided that the person has no symptoms suggestive of tuberculosis or evidence of a new exposure to active tuberculosis;

(2) a statement from a physician or public clinic stating that a person who has a positive Mantoux test reaction has had a negative chest roentgenogram (X-ray) for tuberculosis within the past year, provided that the person has no symptoms suggestive of tuberculosis or evidence of a new exposure to active tuberculosis;

(3) a statement from a physician or public health clinic stating that the person (i) has a history of adequately treated active tuberculosis; (ii) is currently receiving tuberculosis preventive therapy; (iii) is currently undergoing therapy for active tuberculosis and the person's presence in a school building will not endanger the health of other people; or (iv) has completed a course of tuberculosis preventive therapy or was intolerant to preventive therapy, provided the person has no symptoms suggestive of tuberculosis or evidence of a new exposure to active tuberculosis; or

(4) a notarized statement signed by the minor child's parent or guardian or by the emancipated person stating that the person has not submitted the proof of tuberculosis screening as required by this subdivision because of the conscientiously held beliefs of the parent or guardian of the minor child or of the emancipated person. This statement must be forwarded to the commissioner.

Subd. 4. **Screening of employees.** As determined by the commissioner under subdivision 2, a person employed by the designated school or school district shall submit to the administrator or other person having general control and supervision of the school one of the following:

(1) a statement from a physician or public clinic stating that the person has had a negative Mantoux test reaction within the past year, provided that the person has no symptoms suggestive of tuberculosis or evidence of a new exposure to active tuberculosis;

(2) a statement from a physician or public clinic stating that a person who has a positive Mantoux test reaction has had a negative chest roentgenogram (X-ray) for tuberculosis within the past year, provided that the person has no symptoms suggestive of tuberculosis or evidence of a new exposure to active tuberculosis;

(3) a statement from a physician or public health clinic stating that the person (i) has a history of adequately treated active tuberculosis; (ii) is currently receiving tuberculosis preventive therapy; (iii) is currently undergoing therapy for active tuberculosis and the person's presence in a school building will not endanger the health of other people; or (iv) has completed a course of preventive therapy or was intolerant to preventive therapy, provided the person has no symptoms suggestive of tuberculosis or evidence of a new exposure to active tuberculosis; or

(4) a notarized statement signed by the person stating that the person has not submitted the proof of tuberculosis screening as required by this subdivision because of conscientiously held beliefs. This statement must be forwarded to the commissioner of health.

Subd. 5. **Exceptions.** Subdivisions 3 and 4 do not apply to:

(1) a person with a history of either a past positive Mantoux test reaction or active

tuberculosis who has a documented history of completing a course of tuberculosis therapy or preventive therapy when the school or school district holds a statement from a physician or public health clinic indicating that such therapy was provided to the person and that the person has no symptoms suggestive of tuberculosis or evidence of a new exposure to active tuberculosis; and

(2) a person with a history of a past positive Mantoux test reaction who has not completed a course of preventive therapy. This determination shall be made by the commissioner based on currently accepted public health standards and the person's health status.

Subd. 6. **Programs using school facilities.** The commissioner may require the statements described in subdivisions 3 and 4 to be submitted by participants or staff of a program or activity that uses the facilities of a school or school district on a regular and ongoing basis, if the commissioner has determined that tuberculosis screening is necessary.

Subd. 7. **Implementation.** The administrator or other person having general control and supervision of the school or school district designated by the commissioner under subdivision 2 shall take the measures that are necessary, including the exclusion of persons from the premises of a school, to obtain the proof of screening required by subdivisions 3 and 4.

Subd. 8. **Access to records.** The commissioner shall have access to any school or school district records, including health records of persons enrolled in or employed by a school or school district, that are needed to determine whether a tuberculosis screening program is necessary, or to administer a screening program.

Subd. 9. **Reports.** The administrator or other person having general control and supervision of a school or school district that the commissioner has designated under subdivision 2 shall provide the commissioner with any reports determined by the commissioner to be necessary to implement a screening or control program or to evaluate the need for further tuberculosis screening or control efforts in a school.

Subd. 10. **Waiver.** The commissioner may waive any portion of the requirements of subdivisions 3 to 9 if the commissioner determines that it is not necessary in order to protect the public health.

History: *1993 c 167 s 2*

144.442 TESTING IN SCHOOL CLINICS.

Subdivision 1. **Administration; notification.** In the event that the commissioner designates a school or school district under section 144.441, subdivision 2, the school or school district or board of health may administer Mantoux screening tests to some or all persons enrolled in or employed by the designated school or school district. Any Mantoux screening provided under this section shall be under the direction of a licensed physician.

Prior to administering the Mantoux test to such persons, the school or school district or board of health shall inform in writing such persons and parents or guardians of minor children to whom the test may be administered, of the following:

(1) that there has been an occurrence of active tuberculosis or evidence of a higher than expected prevalence of tuberculosis infection in that school or school district;

(2) that screening is necessary to avoid the spread of tuberculosis;

(3) the manner by which tuberculosis is transmitted;

(4) the risks and possible side effects of the Mantoux test;

(5) the risks from untreated tuberculosis to the infected person and others;

(6) the ordinary course of further diagnosis and treatment if the Mantoux test is positive;

(7) that screening has been scheduled; and

(8) that no person will be required to submit to the screening if he or she submits a statement of objection due to the conscientiously held beliefs of the person employed or of the parent or guardian of a minor child.

Subd. 2. **Consent of minors.** Minors may give consent for testing as set forth in sections 144.341 to 144.347.

Subd. 3. **Screening of minors.** Prior to administering a Mantoux test to a minor, the school or school district or board of health shall prepare a form for signature in which the parent or guardian shall consent or submit a statement of objection to the test. The parent or guardian of a minor child shall return a signed form to the school or school district or board of health which is conducting the screening indicating receipt of the notice and consent or objection to the administration of the test. In the event that the form with a signed consent or objection is not returned, the school or school district or board of health may undertake such steps as are reasonable to secure such consent or objection. If after such steps the school or school district or board of health chooses to screen the minor without consent, it shall send a notice of intent to test by certified mail, restricted delivery with return receipt, to the address given to the school or school district by the parent or guardian for emergency contact of the parent or guardian. The accuracy of the address shall be checked with the person enrolled, if possible. Placing notice as specified in this subdivision shall constitute service. Reasonable efforts shall be made to provide this notice in a language understood by the parent or guardian. If this notice cannot be delivered or a form with a signed consent or objection is not returned, the school or school district or board of health shall check the permanent medical record required by section 144.29 to determine if the parent or guardian previously withheld consent to immunizations or other medical treatment because of conscientiously held beliefs. If there is such a statement on file or if the school district otherwise has notice of such a statement, the school or school district or board of health shall not administer the Mantoux test unless the consent of the parent or guardian is obtained. If there is no such statement in the permanent medical record or known to exist otherwise, the school or school district or board of health may administer the Mantoux test at the time and place specified in the notice unless medically contraindicated. The school or school district or board of health shall document in the permanent medical record its efforts to notify the parent or guardian of the minor child, and its efforts to check the permanent medical records.

Subd. 4. **Consent for subsequent testing or treatment.** In the event the Mantoux test is positive, no further diagnosis of or treatment for tuberculosis in a minor child shall be undertaken without the signed consent of the parent or guardian of the minor child.

History: *1993 c 167 s 3*

144.443 TUBERCULOSIS HEALTH THREAT TO OTHERS.

A "health threat to others" as defined in section 144.4172, subdivision 8, includes a person who, although not currently infectious, has failed to complete a previously prescribed course of tuberculosis therapy, demonstrates an inability or unwillingness to initiate or complete, or shows an intent to fail to complete, a prescribed course of tuberculosis drug therapy, if that failure could lead to future infectiousness.

History: *1993 c 167 s 4*

144.444 TUBERCULOSIS EMERGENCY HOLD.

A temporary emergency hold under section 144.4182 may be placed on a person who is a health threat to others when there is reasonable cause to believe that the person may be unlocatable for the purposes of applying the procedures described in sections 144.4171 to 144.4186, or when medical or epidemiologic evidence suggests that the person is or may become infectious before the conclusion of court proceedings and appeals.

History: *1993 c 167 s 5*

144.445 TUBERCULOSIS SCREENING IN CORRECTIONAL INSTITUTIONS AND FACILITIES.

Subdivision 1. **Screening of inmates.** All persons detained or confined for seven

consecutive days or more in facilities operated, licensed, or inspected by the department of corrections shall be screened for tuberculosis with either a Mantoux test or a chest roentgenogram (X-ray) as consistent with screening and follow-up practices recommended by the United States Public Health Service or the department of health, as determined by the commissioner of health. Administration of the Mantoux test or chest roentgenogram (X-ray) must take place on or before the seventh day of detention or confinement.

Subd. 2. **Screening of employees.** All employees of facilities operated, licensed, or inspected by the department of corrections shall be screened for tuberculosis before employment in the facility and annually thereafter, with either a Mantoux test or a chest roentgenogram (X-ray) as consistent with screening and follow-up practices recommended by the United States Public Health Service or the department of health, as determined by the commissioner of health.

Subd. 3. **Exceptions.** Subdivisions 1 and 2 do not apply to:

(1) a person who is detained or confined in a juvenile temporary holdover facility, provided that the person has no symptoms suggestive of tuberculosis, evidence of a new exposure to active tuberculosis, or other health condition that may require a chest roentgenogram (X-ray) be performed to rule out active tuberculosis;

(2) a person who is detained or confined in a facility operated, licensed, or inspected by the department of corrections where the facility holds a written record of a negative Mantoux test performed on the person (i) within three months prior to intake into the facility; or (ii) within 12 months prior to intake into the facility if the person has remained under the continuing jurisdiction of a correctional facility since the negative Mantoux test, provided that the person has no symptoms suggestive of tuberculosis, evidence of a new exposure to active tuberculosis, or other health condition that may require a chest roentgenogram (X-ray) be performed to rule out active tuberculosis;

(3) a person who is detained or confined in a facility operated, licensed, or inspected by the department of corrections where the facility has a written record of (i) a history of adequately treated active tuberculosis; (ii) compliance with currently prescribed tuberculosis therapy or preventive therapy; or (iii) completion of a course of preventive therapy, provided the person has no symptoms suggestive of tuberculosis, evidence of a new exposure to active tuberculosis, or other health condition that may require a chest roentgenogram (X-ray) to rule out active tuberculosis;

(4) a person who is detained or confined in a facility operated, licensed, or inspected by the department of corrections where the facility holds a written record of a negative chest roentgenogram (X-ray) (i) within six months; or (ii) within 12 months prior to intake in the facility if the person has remained under the continuing jurisdiction of a correctional facility since the negative chest roentgenogram (X-ray), provided that the person has no symptoms suggestive of tuberculosis, evidence of a new exposure to active tuberculosis, or other health condition that may require a new chest roentgenogram (X-ray) to rule out active tuberculosis;

(5) an employee with a record of either a past positive Mantoux test reaction or active tuberculosis who is currently completing or has a documented history of completing a course of tuberculosis therapy or preventive therapy, provided the employee has no symptoms suggestive of tuberculosis, evidence of a new exposure to active tuberculosis, or other health condition that may require a chest roentgenogram (X-ray) be performed to rule out active tuberculosis;

(6) an employee with a positive or significant Mantoux test reaction in preemployment screening who does not complete a course of preventive therapy may be exempt from annual Mantoux testing or other screening. This determination shall be made by the commissioner of health based on currently accepted public health standards and the person's health status; and

(7) the commissioner may exempt additional employees or persons detained or confined in facilities operated, licensed, or inspected by the department of corrections based on currently accepted public health standards or the person's health status.

Subd. 4. **Reports.** The administrator or other person having general control and supervision of a facility operated, licensed, or inspected by the department of corrections shall provide the commissioner with any reports determined by the commissioner of health to be necessary to evaluate the need for further tuberculosis screening or control efforts in a facility or facilities.

Subd. 5. **Waiver.** The commissioner may waive any portion of the requirements of subdivisions 1 to 4 if the commissioner of health determines that it is not necessary to protect the public health or if the screening may have a detrimental effect on a person's health status.

History: *1993 c 167 s 6*

144.551 HOSPITAL CONSTRUCTION MORATORIUM.

Subdivision 1. **Restricted construction or modification.** (a) The following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

(b) This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied before July 1, 1990, if a timely appeal results in an order reversing the denial;

(4) a project exempted from certificate of need requirements by Laws 1981, chapter 200, section 2;

(5) a project involving consolidation of pediatric specialty hospital services within the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number of pediatric specialty hospital beds among the hospitals being consolidated;

(6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to an existing licensed hospital that will allow for the reconstruction of a new philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a net increase in the number of hospital beds. Upon completion of the reconstruction, the licenses of both hospitals must be reinstated at the capacity that existed on each site before the relocation;

(7) the relocation or redistribution of hospital beds within a hospital building or identifiable complex of buildings provided the relocation or redistribution does not result in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from one physical site or complex to another; or (iii) redistribution of hospital beds within the state or a region of the state;

(8) relocation or redistribution of hospital beds within a hospital corporate system that involves the transfer of beds from a closed facility site or complex to an existing site or complex provided that: (i) no more than 50 percent of the capacity of the closed facility is transferred; (ii) the capacity of the site or complex to which the beds are transferred does not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal health systems agency boundary in place on July 1, 1983; and (iv) the relocation or redistribution does not involve the construction of a new hospital building;

(9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice county that primarily serves adolescents and that receives more than 70 percent of its patients from outside the state of Minnesota;

(10) a project to replace a hospital or hospitals with a combined licensed capacity of 130 beds or less if: (i) the new hospital site is located within five miles of the current site; and (ii) the total licensed capacity of the replacement hospital, either at the time of construction of the initial building or as the result of future expansion, will not exceed 70 licensed hospital beds, or the combined licensed capacity of the hospitals, whichever is less;

(11) the relocation of licensed hospital beds from an existing state facility operated by the commissioner of human services to a new or existing facility, building, or complex operated by the commissioner of human services; from one regional treatment center site to another; or from one building or site to a new or existing building or site on the same campus; or

(12) the construction or relocation of hospital beds operated by a hospital having a statutory obligation to provide hospital and medical services for the indigent that does not result in a net increase in the number of hospital beds.

[For text of subds 2 to 4, see M.S.1992]

History: *1993 c 243 s 1*

144.651 PATIENTS AND RESIDENTS OF HEALTH CARE FACILITIES; BILL OF RIGHTS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Definitions.** For the purposes of this section, "patient" means a person who is admitted to an acute care inpatient facility for a continuous period longer than 24 hours, for the purpose of diagnosis or treatment bearing on the physical or mental health of that person. "Patient" also means a minor who is admitted to a residential program as defined in section 253C.01. For purposes of subdivisions 1, 3 to 16, 18, 20 and 30, "patient" also means any person who is receiving mental health treatment on an outpatient basis or in a community support program or other community-based program. "Resident" means a person who is admitted to a nonacute care facility including extended care facilities, nursing homes, and boarding care homes for care required because of prolonged mental or physical illness or disability, recovery from injury or disease, or advancing age. For purposes of all subdivisions except subdivisions 28 and 29, "resident" also means a person who is admitted to a facility licensed as a board and lodging facility under Minnesota Rules, parts 4625.0100 to 4625.2355, or a supervised living facility under Minnesota Rules, parts 4665.0100 to 4665.9900, and which operates a rehabilitation program licensed under Minnesota Rules, parts 9530.4100 to 9530.4450.

[For text of subds 3 to 20, see M.S.1992]

Subd. 21. **Communication privacy.** Patients and residents may associate and communicate privately with persons of their choice and enter and, except as provided by the Minnesota Commitment Act, leave the facility as they choose. Patients and residents shall have access, at their expense, to writing instruments, stationery, and postage. Personal mail shall be sent without interference and received unopened unless medically or programmatically contraindicated and documented by the physician in the medical record. There shall be access to a telephone where patients and residents can make and receive calls as well as speak privately. Facilities which are unable to provide a private area shall make reasonable arrangements to accommodate the privacy of patients' or residents' calls. Upon admission to a facility, a patient or resident, or the patient's or resident's legal guardian or conservator, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility, to callers or visitors who may seek to communicate with the patient or resident. This disclosure

option must be made available in all cases where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors. To the extent possible, the legal guardian or conservator of a patient or resident shall consider the opinions of the patient or resident regarding the disclosure of the patient's or resident's presence in the facility. This right is limited where medically inadvisable, as documented by the attending physician in a patient's or resident's care record. Where programmatically limited by a facility abuse prevention plan pursuant to section 626.557, subdivision 14, clause 2, this right shall also be limited accordingly.

[For text of subds 22 to 25, see M.S.1992]

Subd. 26. **Right to associate.** Residents may meet with visitors and participate in activities of commercial, religious, political, as defined in section 203B.11 and community groups without interference at their discretion if the activities do not infringe on the right to privacy of other residents or are not programmatically contraindicated. This includes the right to join with other individuals within and outside the facility to work for improvements in long-term care. Upon admission to a facility, a patient or resident, or the patient's or resident's legal guardian or conservator, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility, to callers or visitors who may seek to communicate with the patient or resident. This disclosure option must be made available in all cases where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors. To the extent possible, the legal guardian or conservator of a patient or resident shall consider the opinions of the patient or resident regarding the disclosure of the patient's or resident's presence in the facility.

[For text of subds 27 to 32, see M.S.1992]

History: *1993 c 54 s 1-3*

144.6581 DETERMINATION OF WHETHER DATA IDENTIFIES INDIVIDUALS.

The commissioner of health may: (1) withhold access to health or epidemiologic data if the commissioner determines the data are data on an individual, as defined in section 13.02, subdivision 5; or (2) grant access to health or epidemiologic data, if the commissioner determines the data are summary data as defined in section 13.02, subdivision 19. In the exercise of this discretion, the commissioner shall consider whether the data requested, alone or in combination, may constitute information from which an individual subject of data may be identified using epidemiologic methods. In making this determination, the commissioner shall consider disease incidence, associated risk factors for illness, and similar factors unique to the data by which it could be linked to a specific subject of the data. This discretion is limited to health or epidemiologic data maintained by the commissioner of health or a board of health, as defined in section 145A.02.

History: *1993 c 351 s 26*

144.71 PURPOSE; DEFINITIONS.

Subdivision 1. **Health and safety.** The purpose of sections 144.71 to 144.74 is to protect the health and safety of children in attendance at children's camps.

[For text of subds 2 and 3, see M.S.1992]

History: *1993 c 206 s 6*

144.73 STATE COMMISSIONER OF HEALTH, DUTIES.

[For text of subd 1, see M.S.1992]

Subd. 2. [Repealed, 1993 c 206 s 25]

Subd. 3. [Repealed, 1993 c 206 s 25]

Subd. 4. [Repealed, 1993 c 206 s 25]

NOTE: Subdivision 3 was also amended by Laws 1993, chapter 286, section 2, to read as follows:

"Subd. 3. **Hearings.** The procedure for hearings or for appeals from the order of the department or the commissioner shall be in accordance with chapter 14."

144.76 [Repealed, 1993 c 206 s 25]

144.765 PATIENT'S RIGHT TO REFUSE TESTING.

Upon notification of a significant exposure, the facility shall ask the patient to consent to blood testing to determine the presence of the HIV virus or the hepatitis B virus. The patient shall be informed that the test results without personally identifying information will be reported to the emergency medical services personnel. The patient shall be informed of the right to refuse to be tested. If the patient refuses to be tested, the patient's refusal will be forwarded to the emergency medical services agency and to the emergency medical services personnel. The right to refuse a blood test under the circumstances described in this section does not apply to a prisoner who is in the custody or under the jurisdiction of the commissioner of corrections or a local correctional authority as a result of a criminal conviction.

History: *1993 c 326 art 4 s 1*

144.802 LICENSING.

Subdivision 1. **Licenses; contents, changes, and transfers.** No natural person, partnership, association, corporation or unit of government may operate an ambulance service within this state unless it possesses a valid license to do so issued by the commissioner. The license shall specify the base of operations, primary service area, and the type or types of ambulance service for which the licensee is licensed. The licensee shall obtain a new license if it wishes to establish a new base of operation, or to expand its primary service area, or to provide a new type or types of service. A license, or the ownership of a licensed ambulance service, may be transferred only after the approval of the commissioner, based upon a finding that the proposed licensee or proposed new owner of a licensed ambulance service meets or will meet the requirements of section 144.804. If the proposed transfer would result in a change in or addition of a new base of operations, expansion of the service's primary service area, or provision of a new type or types of ambulance service, the commissioner shall require the prospective licensee or owner to comply with subdivision 3. The commissioner may approve the license or ownership transfer prior to completion of the application process described in subdivision 3 upon obtaining written assurances from the proposed licensee or proposed new owner that no change in the service's base of operations, expansion of the service's primary service area, or provision of a new type or types of ambulance service will occur during the processing of the application. The cost of licenses shall be in an amount prescribed by the commissioner pursuant to section 144.122. Licenses shall expire and be renewed as prescribed by the commissioner pursuant to section 144.122. Fees collected shall be deposited to the trunk highway fund.

[For text of subds 2 to 3a, see M.S.1992]

Subd. 3b. **Summary approval of primary service areas.** Except for submission of a written application to the commissioner on a form provided by the commissioner, an application to provide changes in a primary service area shall be exempt from subdivisions 3, paragraphs (d) to (g); and 4, if:

(1) the application is for a change of primary service area to improve coverage, to improve coordination with 911 emergency dispatching, or to improve efficiency of operations;

(2) the application requests redefinition of contiguous or overlapping primary service areas;

(3) the application shows approval from all ambulance licensees whose primary

service area is either contiguous, overlapping, or both, with those of the current and proposed primary service area of the applicant;

(4) the application shows that the applicant requested review and comment on the application, and has included those comments received from: all county boards in the areas of coverage included in the application; all community health boards in the areas of coverage included in the application; all directors of 911 public safety answering point areas in the areas of coverage included in the application; and all regional emergency medical systems areas designated under section 144.8093 in the areas of coverage included in the application; and

(5) the application shows consideration of the factors listed in subdivision 3, paragraph (g).

[For text of subds 4 to 6, see M.S.1992]

History: *1993 c 76 s 1; 1Sp1993 c 1 art 9 s 22*

144.8091 REIMBURSEMENT TO NONPROFIT AMBULANCE SERVICES.

Subdivision 1. **Repayment for volunteer training.** Any political subdivision, or nonprofit hospital or nonprofit corporation operating a licensed ambulance service shall be reimbursed by the commissioner for the necessary expense of the initial training of a volunteer ambulance attendant upon successful completion by the attendant of a basic emergency care course, or a continuing education course for basic emergency care, or both, which has been approved by the commissioner, pursuant to section 144.804. Reimbursement may include tuition, transportation, food, lodging, hourly payment for the time spent in the training course, and other necessary expenditures, except that in no instance shall a volunteer ambulance attendant be reimbursed more than $450 for successful completion of a basic course, and $225 for successful completion of a continuing education course.

[For text of subd 2, see M.S.1992]

History: *1Sp1993 c 1 art 9 s 23*

144.871 DEFINITIONS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Abatement.** "Abatement" means removal of, replacement of, or encapsulation of deteriorated paint, bare soil, dust, drinking water, or other lead-containing materials that are or may become readily accessible during the lead abatement process and pose an immediate threat of actual lead exposure to people.

[For text of subds 3 to 5, see M.S.1992]

Subd. 6. **Elevated blood lead level.** "Elevated blood lead level" in a child before the sixth birthday or in a pregnant woman means a blood lead level that exceeds the federal Centers for Disease Control guidelines for preventing lead poisoning in young children, unless the commissioner finds that a lower concentration is necessary to protect public health.

[For text of subd 7, see M.S.1992]

Subd. 7a. **High risk for toxic lead exposure.** "High risk for toxic lead exposure" means a census tract that meets one or more of the following criteria:

(1) a census tract where elevated blood lead levels have been diagnosed in a population of children or pregnant women; or

(2) a census tract with many residential structures known to have or suspected of having deteriorated lead-based paint; or

(3) a census tract with a median soil lead concentration greater than 100 parts per million for any sample collected according to Minnesota Rules, part 4761.0400, subpart 8, and rules adopted under section 144.878.

Subd. 7b. **Primary prevention for toxic lead exposure.** "Primary prevention for toxic lead exposure" includes any or all of the following:

(1) education of the general public in populations where children under six years of age and pregnant women have been identified with blood lead levels greater than nine micrograms per deciliter;

(2) education for property owners and renters concerning in-place management of potential lead hazards to create lead-safe housing;

(3) in-place management of potential lead hazards using swab team services or property owner or renter lead abatement activities; and

(4) encapsulation, and removal and replacement abatement where necessary to make the residence lead safe.

Subd. 7c. **Lead inspector.** "Lead inspector" means a person who has successfully completed a training course in investigation of residences for possible sources of lead exposure and who is licensed by the commissioner according to rules adopted under section 144.877, subdivision 6, to perform this activity.

Subd. 7d. **Person.** "Person" has the meaning given in section 103I.005, subdivision 16.

[For text of subd 8, see M.S.1992]

Subd. 9. **Swab team.** "Swab team" means a person or persons who implement in-place management of lead exposure sources. Swab team services include any or all of the following:

(1) removing lead dust by washing, vacuuming, and cleaning the interior of residential property;

(2) other means that immediately protect children who engage in mouthing or pica behavior from lead sources, including cleanup and health education, advice and assistance to help a family locate and move to a temporary lead-safe residence while abatement is being completed, or to help a family locate and move to alternate lead-safe housing when abatement is not completed by the property owner, and any other assistance necessary to meet the family's immediate needs as a result of the relocation;

(3) removing loose paint and paint chips and installing guards to protect intact paint; and

(4) covering or replacing bare soil that has a lead concentration of 100 parts per million, and establishing safe exterior play and garden areas.

Subd. 10. **Venous blood sample.** "Venous blood sample" means a quantity of blood drawn from a vein.

History: *1993 c 286 s 3-8; 1Sp1993 c 1 art 9 s 24-31*

144.872 LEAD-RELATED CONTRACTS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Home assessments.** (a) The commissioner shall, within available federal or state appropriations, contract with boards of health, who may determine priority for responding to cases of elevated blood lead levels, to conduct assessments to determine sources of lead contamination in the residences of pregnant women whose blood lead levels are at least ten micrograms per deciliter and of children whose blood lead levels are at least 20 micrograms per deciliter or whose blood lead levels persist in the range of 15 to 19 micrograms per deciliter for 90 days after initial identification to the board of health or the commissioner. Assessments must be conducted within five working days of the board of health receiving notice that the criteria in this subdivision have been met. The commissioner or boards of health must be notified of all violations of standards under section 144.878, subdivision 2, that are identified during a home assessment.

(b) The commissioner or boards of health must identify the known addresses for

the previous 12 months of the child or pregnant woman with elevated blood lead levels and notify the property owners at those addresses. The commissioner may also collect information on the race, sex, and family income of children and pregnant women with elevated blood lead levels.

(c) Within the limits of appropriations, a board of health shall conduct home assessments for children and pregnant women whose confirmed blood lead levels are in the range of ten to 19 micrograms per deciliter.

(d) The commissioner shall also provide educational materials on all sources of lead to boards of health to provide education on ways of reducing the danger of lead contamination. The commissioner may provide laboratory or field lead testing equipment to a board of health or may reimburse a board of health for direct costs associated with assessments.

Subd. 3. **Safe housing.** The commissioner shall, within the limits of available appropriations, contract with boards of health for safe housing to be used in meeting relocation requirements in section 144.874, subdivision 4. The commissioner shall, within available federal or state appropriations, award grants to boards of health for the purposes of paying housing and relocation costs under section 144.874, subdivision 4.

Subd. 4. **Lead cleanup equipment and material grants.** (a) Within the limits of available state or federal appropriations, funds shall be made available under a grant program to nonprofit community-based organizations in areas at high risk for toxic lead exposure. Grantees shall use the money to purchase lead cleanup equipment and to pay for training for staff and volunteers for lead abatement certification. Grantees may work with licensed lead abatement contractors and certified trainers in order to receive training necessary for certification under section 144.876, subdivision 1. Lead cleanup equipment shall include: high efficiency particle accumulator and wet vacuum cleaners, drop cloths, secure containers, respirators, scrapers, dust and particle containment material, and other cleanup and containment materials to remove loose paint and plaster, patch plaster, control household dust, wax floors, clean carpets and sidewalks, and cover bare soil.

(b) Upon certification, the grantee's staff and volunteers may make equipment and educational materials available to residents and property owners and instruct them on the proper use. Equipment shall be made available to low-income households on a priority basis at no fee, and other households on a sliding fee scale. Equipment shall not be made available to any person, licensed lead abatement contractor, or certified trainer who charges or intends to charge a fee for services performed using equipment or materials purchased by a nonprofit community-based organization through a grant obtained under this subdivision.

Subd. 5. **Swab teams.** Boards of health may determine priority for responding to cases of elevated blood lead levels.

History: *1993 c 286 s 9; 1Sp1993 c 1 art 9 s 32-35*

144.8721 [Repealed, 1993 c 286 s 34; 1Sp1993 c 1 art 9 s 75]

144.873 REPORTING OF MEDICAL AND ENVIRONMENTAL SAMPLE ANALYSES.

Subdivision 1. **Report required.** Medical laboratories performing blood lead analyses must report to the commissioner finger stick and venipuncture blood lead results and the method used to obtain these results. Boards of health must report to the commissioner the results of analyses from residential samples of paint, soil, dust, and drinking water. The commissioner shall require the date of the test, and the current address and birthdate of the patient, and other related information from medical laboratories and boards of health as may be needed to monitor and evaluate blood lead levels in the public. If a clinic or physician sends a blood lead test to a medical laboratory outside of Minnesota, that clinic or physician must meet the reporting requirements under this subdivision.

Subd. 2. **Test of children in high risk areas.** Within limits of available state and federal appropriations, the commissioner shall promote and subsidize a blood lead test of all children before the sixth birthday who live in all areas of high risk for toxic lead exposure that are currently known or subsequently identified. Within the limits of available appropriations, the commissioner shall conduct surveys to determine probable sources of lead exposure in greater Minnesota communities where a case of elevated blood lead levels has been reported.

Surveys conducted under this subdivision must consist of evaluating census tracts to determine whether or not they are at high risk for toxic lead exposure. The evaluation shall consist of a priority response determination under section 144.878, subdivision 2a. In making this evaluation, the commissioner shall:

(1) conduct a soil survey in the manner provided for under Minnesota Rules, part 4761.0400, subpart 8; and

(2) evaluate housing quality, if data is available.

The commissioner may also conduct a blood lead screening of children under six years of age within the census tract.

Subd. 3. **Statewide lead screening.** Statewide lead screening by blood lead assays in conjunction with routine blood tests analyzed by laboratories that meet the center for disease control laboratory proficiency standards, by atomic absorption equipment, or other equipment with equivalent or better accuracy shall be used by boards of health.

History: *1993 c 286 s 10; 1Sp1993 c 1 art 9 s 36*

144.874 ASSESSMENT AND ABATEMENT.

Subdivision 1. **Residence assessment.** (a) A board of health must conduct a timely assessment of a residence and all common areas, if the residence is located in a building with two or more residential units, within five working days of receiving notification that the criteria in this subdivision have been met, as confirmed by lead analysis of a venous blood sample, to determine sources of lead exposure if:

(1) a pregnant woman in the residence is identified as having a blood lead level of at least ten micrograms of lead per deciliter of whole blood;

(2) a child in the residence is identified as having a blood lead level at or above 20 micrograms per deciliter; or

(3) a child in the residence is identified as having a blood lead level that persists in the range of 15 to 19 micrograms per deciliter for 90 days after initial identification. Assessments must be conducted by a board of health regardless of the availability of state or federal appropriations for assessments.

(b) Within the limits of available state and federal appropriations, a board of health shall also conduct home assessments for children whose confirmed blood lead levels are in the range of ten to 19 micrograms per deciliter. A board of health may assess a residence even if none of the three criteria in this subdivision are met.

(c) If a child regularly spends several hours at one or more other sites such as another residence, or a residential or commercial child care facility, the board of health must also assess the other sites. The board of health shall have one additional day to complete the assessment for each additional site.

(d) Sections 144.871 to 144.879 neither authorize nor prohibit a board of health from charging a property owner for the cost of assessment.

(e) The board of health must conduct the residential assessment according to rules adopted by the commissioner under section 144.878. A board of health must have residence assessments performed by lead inspectors licensed by the commissioner according to rules adopted under section 144.878. A board of health may observe the performance of lead abatement in progress and may enforce the provisions of sections 144.871 to 144.879 under section 144.8781. The staff complement of the department of health shall be increased by two full-time equivalent positions who shall be lead inspectors.

Subd. 2. **Residential lead assessment guide.** (a) The commissioner of health shall develop or purchase a residential lead assessment guide that enables parents and other caregivers to assess the possible lead sources present and that suggests lead abatement actions. The guide must provide information on safe abatement and disposal methods, sources of equipment, and telephone numbers for additional information to enable the persons to either perform the abatement or to intelligently select an abatement contractor. In addition, the guide must:

(1) meet the requirements of Minnesota laws and rules;

(2) be understandable at not more than an eighth grade reading level;

(3) include information on all necessary safety precautions for all lead source cleanup; and

(4) be the best available educational material.

(b) A board of health must provide the residential lead assessment guide at no cost to:

(1) parents and other caregivers of children who are identified as having blood lead levels of at least ten micrograms per deciliter; and

(2) all property owners who are issued housing code orders requiring abatement of lead sources, and all occupants of those residences.

(c) A board of health must provide the residential lead assessment guide on request to owners or occupants of residential property within the jurisdiction of the board of health.

Subd. 3. **Swab teams; lead assessment; lead abatement orders.** A board of health must order a property owner to perform abatement on a lead source that exceeds a standard adopted according to section 144.878 at the residence of a child with an elevated blood lead level or a pregnant woman with a blood lead level of at least ten micrograms per deciliter. Lead abatement orders must require that any source of damage, such as leaking roofs, plumbing, and windows, must be repaired or replaced, as needed, to prevent damage to lead-containing interior surfaces. The board of health is not required to pay for lead abatement. With each lead abatement order, the board of health must coordinate with swab team abatement and provide a residential lead abatement guide.

Subd. 3a. **Swab team services.** After issuing abatement orders for a residence of a child or pregnant women with elevated blood lead levels, the commissioner or a board of health must send a swab team within five working days to the residence to perform swab team services as defined in section 144.871, subdivision 9. If the commissioner or board of health provides swab team services after an assessment, but before the issuance of an abatement order, swab team services do not need to be repeated after the issuance of an abatement order. Swab team services are not considered completed until the reassessment required under subdivision 6 shows no violation of one or more of the standards under section 144.878, subdivision 2. If assessments and abatement orders are conducted at times when weather or soil conditions do not permit the assessment or abatement of lead in soil, the residences shall have their soil assessed and abated, if necessary, at the first opportunity that weather and soil conditions allow.

Subd. 4. **Relocation of residents.** (a) A board of health must ensure that residents are relocated from rooms or dwellings during abatement that generates leaded dust, such as removal or disruption of lead-based paint or plaster that contains lead. A board of health is not required to pay for relocation unless state or federal funding is available for this purpose. Residents must be allowed to return to the residence or dwelling after completion of abatement. A board of health shall use grant funds under section 144.872, subdivision 3, in cooperation with local housing agencies, to pay for moving costs and rent for a temporary residence for any low-income resident temporarily relocated during lead abatement. For purposes of this section, "low-income resident" means any resident whose gross household income is at or below 185 percent of the federal poverty level.

(b) Any resident of rental property who is notified by the board of health to vacate the premises during lead abatement notwithstanding any rental agreement or lease provisions:

(1) shall not be required to pay rent due the landlord for the period of time the tenant must vacate the premises; and

(2) may elect to immediately terminate the tenancy effective on the date the tenant vacates the premises for lead abatement, and shall not be liable for any further rent or other charges due under the terms of the tenancy.

(c) A landlord of rental property in which tenants must vacate the premises during lead abatement must:

(1) allow a tenant to return to the dwelling after lead abatement and retesting, as required under subdivision 6, is completed unless the tenant has elected to terminate the tenancy under paragraph (b); and

(2) return any security deposit due under section 504.20 to any tenant who terminates tenancy under paragraph (b) within five days of the date the tenant vacates the unit.

Subd. 5. **Warning notice; fine.** A warning notice must be posted on all entrances to properties for which an order to abate a lead source has been issued by a board of health. A person who unlawfully removes a warning notice posted under this section may be subject to a fine up to $250. The warning notice must be at least 8-1/2 by 11 inches in size and must include the following language, or substantially similar language:

(a) "This property contains dangerous amounts of lead to which children under age six and pregnant women should not be exposed."

(b) "It is unlawful to remove or deface this warning."

(c) "Persons who remove or deface this warning are subject to a $250 fine. This warning may be removed only upon the direction of the board of health."

Subd. 6. **Services and retesting required.** After completion of swab team services and the lead abatement as ordered, including any repairs ordered by a local housing or building inspector, the board of health must retest the residence to assure the violations no longer exist. The board of health is not required to test a residence after lead abatement that was not ordered by the board of health.

[For text of subd 8, see M.S.1992]

Subd. 9. **Primary prevention.** Although children who are found to already have elevated blood lead levels must have the highest priority for intervention, the commissioner shall pursue primary prevention for toxic lead exposure within the limits of appropriations.

Subd. 10. [Repealed, 1993 c 286 s 34; 1Sp1993 c 1 art 9 s 75]

[For text of subd 11, see M.S.1992]

Subd. 11a. **Lead abatement directives.** In order to achieve statewide consistency in the application of lead abatement standards, the commissioner shall issue program directives that interpret the application of rules under section 144.878 in ambiguous or unusual lead abatement situations. These directives are guidelines to local boards of health. The commissioner shall periodically review the evaluation of lead abatement orders and the program directives to determine if the rules under section 144.878 need to be amended to reflect new understanding of lead abatement practices and methods.

[For text of subd 12, see M.S.1992]

History: *1993 c 286 s 12-14; 1Sp1993 c 1 art 9 s 37-45*

NOTE: Subdivision 1, paragraph (e), was also amended by Laws 1993, chapter 286, section 11, to read as follows:

"(e) The board of health must conduct the residential assessment according to rules adopted by the commissioner according to section 144.878. A board of health shall have residential assessments performed by lead inspectors licensed by the commissioner according to rules adopted under section 144.877. A board of health may observe the performance of lead abatement in progress and has authority to enforce the provisions of chapter 144."

144.876 REGISTRATION AND LICENSING OF ABATEMENT CONTRACTORS AND CERTIFICATION OF EMPLOYEES.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. **Notice of abatement.** At least five days before starting work at each lead abatement worksite, a lead abatement contractor shall give written notice to the commissioner and the board of health.

History: *1Sp1993 c 1 art 9 s 46*

144.877 LEAD INSPECTORS; LICENSING.

Subdivision 1. **License required.** A lead inspector must obtain a license within 180 days of July 1, 1993, and must renew it annually. The license must be readily available at assessment sites for inspection by the commissioner or by staff of a board of health with jurisdiction over a work site. A license cannot be transferred.

Subd. 2. **License application.** An application for license or license renewal must be on a form provided by the commissioner and must include:

(1) a $50 nonrefundable fee, in the form of a check;

(2) evidence that the applicant has successfully completed a lead inspector training course approved in subdivision 6, or has, within the previous 180 days, successfully completed an initial lead inspection training course.

The fee required in this subdivision is waived for an employee of a board of health.

Subd. 3. **License renewal.** A license is valid for one year from the issuance date unless the commissioner revokes it. An applicant must successfully complete either an initial lead inspection training course or an annual refresher lead inspection training course to apply for license renewal.

Subd. 4. **License replacement.** A licensed lead inspector may obtain a replacement license by reapplying for a license. A replacement expires on the same date as the original license. A nonrefundable $25 fee is required with each replacement application.

Subd. 5. **Denial of license application.** The commissioner may deny an application, revoke, or impose limitations or conditions on a license, if the applicant or licensed lead inspector:

(1) violates rules adopted under sections 144.871 to 144.879;

(2) submits an application that is incomplete, inaccurate, or lacks the required fee, or submits an invalid check;

(3) obtains a license, certificate, or approval through error, fraud, or cheating;

(4) provides false or fraudulent information on forms;

(5) aids or allows an unlicensed or uncertified person to engage in activities for which a license or certificate is required;

(6) endangers public health or safety;

(7) has been convicted during the previous five years of a felony or gross misdemeanor related to residential lead assessment or residential lead abatement; or

(8) has been convicted during the previous five years of a violation of section 270.72, 325F.69, or 325F.71.

An application for licensure that has been denied may be resubmitted when the reasons for denial have been corrected. A person whose license is revoked may not apply for a license within one year of the date of revocation. After one year, the application requirements must be followed by an applicant for a license, certificate, or course approval. An applicant who submits an approvable application within 60 days of initial denial is not required to pay a second fee.

Subd. 6. **Approval of lead inspection course.** A lead inspection course sponsored by the United States Environmental Protection Agency is an approved course for the purpose of this section.

Subd. 7. **Lead inspection; rules.** The commissioner may adopt rules to implement

this section. The commissioner may also approve lead inspector courses offered by groups other than those approved by the United States Environmental Protection Agency and shall charge a fee to cover the costs of approving courses.

History: *1Sp1993 c 1 art 9 s 47*

NOTE: See section 144.8771.

144.8771 LEAD INSPECTORS.

Subdivision 1. **License required.** No person may perform the duties of a lead inspector unless the person is licensed by the commissioner. A lead inspector shall have the inspector's license readily available at all times at an assessment site and make it available, upon request, for inspection by the commissioner or by a member of the staff of a board of health with jurisdiction over the site. A license must be renewed annually and may not be transferred.

Subd. 2. **License application.** (a) An application for a license and for renewal of a license must be on a form provided by the commissioner and be accompanied by:

(1) the fee set by the commissioner; and

(2) evidence that the applicant has successfully completed a lead inspection training course approved by the commissioner or, within the previous 180 days, an initial lead inspection training course.

(b) The fee required by this subdivision is waived for an employee of a board of health.

Subd. 3. **License renewal.** A license is valid for one year from the issuance date unless revoked by the commissioner. An applicant must successfully complete either an approved initial lead inspection training course or an approved annual refresher lead inspection training course to apply for license renewal.

Subd. 4. **License replacement.** A licensed lead inspector may obtain a replacement license by reapplying for a license. A replacement license expires on the same date as the original license.

Subd. 5. **Grounds for disciplinary action.** (a) The commissioner may deny an application, revoke a license, or impose limitations or conditions on a license if a licensed lead inspector:

(1) violates this section or rules adopted by the commissioner;

(2) submits an application that is incomplete or inaccurate or is not accompanied by the required fee, or if the fee is paid by an invalid check;

(3) obtains a license, certificate, or approval through error, fraud, or cheating;

(4) provides false or fraudulent information on forms submitted to the commissioner;

(5) allows an unlicensed or uncertified person to engage, or aids an unlicensed or uncertified person in engaging, in activities for which a license or certificate is required;

(6) endangers public health or safety; or

(7) has been convicted during the previous five years of a felony or gross misdemeanor under section 270.72, 325F.69, or 325F.71.

(b) An application for licensure that has been denied may be resubmitted when the reasons for the denial have been corrected. A person whose license is revoked may not apply for a license within one year of the date of revocation.

Subd. 6. **Rules.** The commissioner shall adopt rules to implement this section, including rules setting fees for licenses and license renewals and rules for approving initial lead inspection training courses and annual refresher lead inspection training courses.

History: *1993 c 286 s 15*

NOTE: See section 144.877.

144.878 RULES.

[For text of subd 1, see M.S.1992]

Subd. 2. **Lead standards and abatement methods.** (a) The commissioner shall adopt rules establishing standards and abatement methods for lead in paint, dust, and drinking water in a manner that protects public health and the environment for all residences, including residences also used for a commercial purpose. The commissioner shall differentiate between intact paint and deteriorating paint. The commissioner and political subdivisions shall require abatement of intact paint only if the commissioner or political subdivision finds that the intact paint is on a chewable or lead-dust producing surface that is a known source or reasonably expected to be a source of actual lead exposure to a specific person. In adopting rules under this subdivision, the commissioner shall require the best available technology for lead abatement methods, paint stabilization, and repainting.

(b) The commissioner of health shall adopt standards and abatement methods for lead in bare soil on playgrounds and residential property in a manner to protect public health and the environment. The commissioner shall adopt a maximum standard of 100 parts of lead per million in bare soil, unless it is proven that a different standard provides greater protection of public health.

(c) The commissioner of the pollution control agency shall adopt rules to ensure that removal of exterior lead-based coatings from residential property by abrasive blasting methods is conducted in a manner that protects public health and the environment.

(d) All standards adopted under this subdivision must provide reasonable margins of safety that are consistent with a detailed review of scientific evidence and an emphasis on overprotection rather than underprotection when the scientific evidence is ambiguous. The rules must apply to any individual performing or ordering the performance of lead abatement.

(e) No unit of local government may have an ordinance or regulation governing lead abatement methods for lead in paint, dust, or soil for residences and residential land that require a different lead abatement method than the lead abatement standards established under sections 144.871 to 144.879.

Subd. 2a. [Repealed, 1993 c 286 s 34; 1Sp1993 c 1 art 9 s 75]

[For text of subd 3, see M.S.1992]

Subd. 5. **Lead abatement contractors and employees.** The commissioner shall adopt rules to license lead abatement contractors, to certify employees of lead abatement contractors who perform abatement, and to certify lead abatement trainers who provide lead abatement training for contractors, employees, or other lead abatement trainers. A person who performs painting, renovation, rehabilitation, remodeling, or other residential work that is not lead abatement need not be a licensed lead abatement contractor. By July 1, 1994, a person who performs work that removes intact paint on residences built before February 27, 1978, must determine whether lead sources are present and whether the planned work would be lead abatement as defined in section 144.871, subdivision 2. This determination may be made by quantitative chemical analysis, X-ray fluorescence analyzer, or chemical spot test using sodium rhodizonate. If lead sources are identified, the work must be performed by a licensed lead abatement contractor. An owner of an owner-occupied residence with one or two units is not subject to the requirements under this subdivision. All lead abatement training must include a hands-on component and instruction on the health effects of lead exposure, the use of personal protective equipment, workplace hazards and safety problems, abatement methods and work practices, decontamination procedures, cleanup and waste disposal procedures, lead monitoring and testing methods, and legal rights and responsibilities. The commissioner shall adopt rules to approve lead abatement training courses and to charge a fee for approval. At least 30 days before publishing initial notice of proposed rules under this subdivision on the licensing of lead abatement contractors, the commissioner shall submit the rules to the chairs of the health and human

services committee in the house of representatives and the health care committee in the senate, and to any legislative committee on licensing created by the legislature.

History: *1993 c 4 s 21; 1993 c 13 art 1 s 27; 1993 c 286 s 16,17; 1Sp1993 c 1 art 9 s 48,50*

NOTE: Subdivision 2a was also amended by Laws 1993, First Special Session chapter 1, article 9, section 49, to read as follows:

"Subd. 2a. **Priorities for response action.** The commissioner of health must adopt new rules establishing a priority list of census tracts at high risk for toxic lead exposure for primary prevention response actions. In establishing the list, the commissioner shall award points under this subdivision to each census tract on which information is available. The priority for primary prevention response actions in census tracts at high risk for toxic lead exposure shall be based on the cumulative points awarded to each census tract. A greater number of points means a higher priority. If a tie occurs in the number of points, priority shall be given to the census tract with the higher percentage of population with blood lead levels greater than ten micrograms of lead per deciliter. All local governmental units and boards of health shall follow the priorities under this subdivision. The commissioner shall revise and update the priority list at least every five years. Points shall be awarded to each census tract for each criteria, considered independently, defined in section 144.871, subdivision 7a. Points shall be awarded as follows:

(a) In a census tract where at least 20 children have been screened in the last five years, one point shall be awarded for each five percent of children who were under six years old at the time they were screened for lead in blood and whose blood lead level exceeds ten micrograms of lead per deciliter. An additional point shall be awarded if one percent of the children had blood levels greater than 20 micrograms per deciliter of blood. Two points shall be awarded to a census tract, where the blood lead screening has been inadequate, that is contiguous with a census tract where more than ten percent of the children under six years of age have blood lead levels exceeding ten micrograms per deciliter.

(b) One point shall be awarded for every five percent of housing that is defined as dilapidated or deteriorated by the planning department or similar agency of the city in which the housing is located. Where data is available by neighborhood or section within a city, the percent of dilapidated or deteriorated housing shall apply equally to each census tract within the neighborhood or section.

(c) One point shall be awarded for every 100 parts per million of lead soil, based on the median soil lead values of foundation soil samples, calculated on 100 parts per million intervals, or fraction thereof. For the cities of St. Paul and Minneapolis, the commissioner shall use the June 1988 census tract version of the houseside map entitled "Distribution of Household Lead Content of Soil Dust in the Twin Cities," prepared by the center for urban and regional affairs. Where the map displays a census tract that is crossed by two or more intervals, the commissioner shall make a reasoned determination of the median foundation soil lead value for that tract. Values for census tracts may be updated by surveying the tract according to the procedures under Minnesota Rules, part 4761.0400, subpart 8."

144.8781 ENFORCEMENT.

Subdivision 1. **Cease and desist order.** (a) The commissioner may issue an order requiring a person to cease lead abatement if the commissioner determines that a condition exists that poses an immediate danger to the public health. For purposes of this subdivision, an immediate danger to the public health exists if the commissioner determines that:

(1) lead abatement is being performed in a manner that violates applicable state or federal law or related rules;

(2) the person performing lead abatement is not currently licensed or certified as required by rules adopted under sections 144.871 to 144.879; or

(3) the lead abatement contractor has not given prior written notice required by section 144.876 to the commissioner and board of health.

(b) An order to cease lead abatement is effective for a maximum of 60 days. Following issuance of the order, the commissioner shall provide the contractor or individual with an opportunity for a hearing under the contested case provisions of chapter 14. Within ten days of the hearing, the commissioner shall decide whether to rescind, modify, or reissue the previous order. A modified or reissued order is effective for a maximum of 60 days from the date of modification or reissuance.

Subd. 2. **Order for corrective action.** (a) The commissioner may issue an order requiring a person violating sections 144.871 to 144.879 or a rule adopted under sections 144.871 to 144.879 to take the corrective action the commissioner determines will accomplish the purpose of the project and prevent future violation. The order for corrective action shall state the conditions that constitute the violation, the specific statute or rule violated, and the time by which the violation must be corrected.

(b) If the person believes that the information contained in the commissioner's order for corrective action is in error, the person may ask the commissioner to reconsider the parts of the order that are alleged to be in error. The request must be in writing, delivered to the commissioner by certified mail within five working days of receipt of the order, and:

(1) specify which parts of the order for corrective action are alleged to be in error;

(2) explain why they are in error; and

(3) provide documentation to support the allegation of error.

The commissioner shall respond to a request made under this subdivision within 15 working days after receipt of the request. A request for reconsideration does not stay the order for corrective action but the commissioner may provide additional time to comply with the order after reviewing the request. The commissioner's disposition of a request for reconsideration is final.

Subd. 3. **Injunctive relief.** In addition to any other remedy provided by law, the commissioner may bring an action for injunctive relief in the district court in Ramsey county or, at the commissioner's discretion, in the district court in the county in which the lead abatement is being undertaken, to halt the work or an activity connected with it. A temporary restraining order or other injunctive relief may be granted by the court if continuation of the lead abatement or an activity connected with it would result in an imminent risk of harm to any person.

Subd. 4. **Penalties.** (a) A person who violates any of the requirements of sections 144.871 to 144.879 or any requirement, rule, or order issued under this section is subject to a civil penalty of not more than $5,000 per day of violation. Penalties may be recovered in a civil action in the name of the state brought by the attorney general.

(b) The commissioner may issue an order assessing a penalty of not more than $5,000 per violation to any person who violates any of the requirements of sections 144.871 to 144.879 or any requirement, rule, or order issued under this section. A person subject to an administrative penalty order may request a contested case hearing under chapter 14 within 20 days from date of receipt of the penalty order. If the penalty order is not contested within 20 days of receipt, it becomes final and may not be contested.

(c) The amount of penalty shall be based on the past history of violations, the severity of violation, the culpability of the person, and other relevant factors.

(d) Penalties assessed under sections 144.871 to 144.879 shall be paid to the commissioner for deposit in the general fund. Unpaid penalties shall be increased to 125 percent of the original assessed amount if not paid within 60 days after the penalty order becomes final. After 60 days, interest shall accrue on the unpaid penalty balance at the rate established in section 549.09.

Subd. 5. **Misdemeanor penalty.** A person is guilty of a misdemeanor and may be sentenced to payment of a fine of not more than $700, imprisonment for not more than 30 days, or both, for each violation if that person:

(1) hinders or delays the commissioner or the commissioner's authorized representative in the performance of the duty to enforce sections 144.871 to 144.879;

(2) undertakes lead abatement without a current, valid license;

(3) refuses to make a license or certificate accessible to either the commissioner or the commissioner's authorized representative;

(4) employs a person to do lead abatement who does not have a valid certificate;

(5) fails to report lead abatement as required by section 144.876; or

(6) makes a false material statement related to a license, certificate, report, or other documents required under sections 144.871 to 144.879.

Subd. 6. **Discrimination.** A person who discriminates against or otherwise sanctions an employee who complains to or cooperates with the commissioner in administering sections 144.871 to 144.879 is guilty of a misdemeanor.

History: *1Sp1993 c 1 art 9 s 51*

144.95 MOSQUITO RESEARCH PROGRAM.

[For text of subds 1 to 6, see M.S.1992]

Subd. 7. **Research plots.** The commissioner of health may lease and maintain experimental plots of land for mosquito research. The commissioner of health shall determine the locations of the experimental plots and may enter into agreements with any public or private agency or individual to lease the land. The commissioners of agriculture, natural resources, transportation, and iron range resources and rehabilitation shall cooperate with the commissioner of health.

[For text of subds 8 to 10, see M.S.1992]

History: *1993 c 163 art 1 s 25*

144.98 CERTIFICATION OF ENVIRONMENTAL LABORATORIES.

[For text of subds 1 to 4, see M.S.1992]

Subd. 5. **State government special revenue fund.** Fees collected under this section must be deposited in the state government special revenue fund.

History: *1Sp1993 c 1 art 9 s 52*

HEALTH ENFORCEMENT CONSOLIDATION ACT OF 1993

144.989 TITLE; CITATION.

Sections 144.989 to 144.993 may be cited as the "health enforcement consolidation act of 1993."

History: *1993 c 206 s 7*

144.99 ENFORCEMENT.

Subdivision 1. **Remedies available.** The provisions of chapters 103I and 157 and sections 115.71 to 115.82; 144.12, subdivision 1, paragraphs (1), (2), (5), (6), (10), (12), (13), (14), and (15); 144.121; 144.35; 144.381 to 144.385; 144.411 to 144.417; 144.491; 144.495; 144.71 to 144.76; 144.871 to 144.878; 144.992; 326.37 to 326.45; 326.57 to 326.785; 327.10 to 327.131; and 327.14 to 327.28 and all rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, certificates, and permits adopted or issued by the department or under any other law now in force or later enacted for the preservation of public health may, in addition to provisions in other statutes, be enforced under this section.

Subd. 2. **Access to information and property.** The commissioner or an employee or agent authorized by the commissioner, upon presentation of credentials, may:

(1) examine and copy any books, papers, records, memoranda, or data of any person subject to regulation under the statutes listed in subdivision 1; and

(2) enter upon any property, public or private, for the purpose of taking any action authorized under statutes, rules, or other actions listed in subdivision 1 including obtaining information from a person who has a duty to provide information under the statutes listed in subdivision 1, taking steps to remedy violations, or conducting surveys or investigations.

Subd. 3. **Correction orders.** (a) The commissioner may issue correction orders that require a person to correct a violation of the statutes, rules, and other actions listed in subdivision 1. The correction order must state the deficiencies that constitute the violation; the specific statute, rule, or other action; and the time by which the violation must be corrected.

(b) If the person believes that the information contained in the commissioner's correction order is in error, the person may ask the commissioner to reconsider the parts of the order that are alleged to be in error. The request must be in writing, delivered to the commissioner by certified mail within seven calendar days after receipt of the order, and:

(1) specify which parts of the order for corrective action are alleged to be in error;

(2) explain why they are in error; and

(3) provide documentation to support the allegation of error.

The commissioner must respond to requests made under this paragraph within 15 calendar days after receiving a request. A request for reconsideration does not stay the correction order; however, after reviewing the request for reconsideration, the commissioner may provide additional time to comply with the order if necessary. The commissioner's disposition of a request for reconsideration is final.

Subd. 4. **Administrative penalty orders.** The commissioner may issue an order requiring violations to be corrected and administratively assessing monetary penalties for violations of the statutes, rules, and other actions listed in subdivision 1. The procedures in section 144.991 must be followed when issuing administrative penalty orders. Except in the case of repeated or serious violations, the penalty assessed in the order must be forgiven if the person who is subject to the order demonstrates in writing to the commissioner before the 31st day after receiving the order that the person has corrected the violation or has developed a corrective plan acceptable to the commissioner. The maximum amount of administrative penalty orders is $10,000 for all violations identified in an inspection or review of compliance.

Subd. 5. **Injunctive relief.** In addition to any other remedy provided by law, the commissioner may bring an action for injunctive relief in the district court in Ramsey county or, at the commissioner's discretion, in the district court in the county in which a violation of the statutes, rules, or other actions listed in subdivision 1 has occurred to enjoin the violation.

Subd. 6. **Cease and desist.** The commissioner, or an employee of the department designated by the commissioner, may issue an order to cease an activity covered by subdivision 1 if continuation of the activity would result in an immediate risk to public health. An order issued under this paragraph is effective for a maximum of 72 hours. The commissioner must seek an injunction or take other administrative action authorized by law to restrain activities for a period beyond 72 hours. The issuance of a cease and desist order does not preclude the commissioner from pursuing any other enforcement action available to the commissioner.

Subd. 7. **Plan for use of administrative penalties and cease and desist authority.** The commissioner of health shall prepare a plan for using the administrative penalty and cease and desist authority in this section. The commissioner shall provide a 30-day period for public comment on the plan. The plan must be finalized by December 1, 1993.

Subd. 8. **Denial or refusal to reissue permits, licenses, registrations, or certificates.** (a) The commissioner may deny or refuse to renew an application for a permit, license, registration, or certificate required under the statutes or rules cited in subdivision 1, if the applicant has any unresolved violations related to the activity for which the permit, license, registration, or certificate was issued.

(b) The commissioner may also deny or refuse to renew a permit, license, registration, or certificate required under the statutes or rules cited in subdivision 1 if the applicant has a persistent pattern of violations related to the permit, license, registration, or certificate, or if the applicant submitted false material information to the department in connection with the application.

(c) The commissioner may condition the grant or renewal of a permit, license, registration, or certificate on a demonstration by the applicant that actions needed to ensure compliance with the requirements of the statutes listed in subdivision 1 have been taken, or may place conditions on or issue a limited permit, license, registration, or certificate as a result of previous violations by the applicant.

Subd. 9. **Suspension or revocation of permits, licenses, registrations, or certificates.** The commissioner may suspend, place conditions on, or revoke a permit, license, registration, or certificate issued under the statutes or rules cited in subdivision 1 for serious or repeated violations of the requirements in the statutes, rules, or other actions listed in subdivision 1 that apply to the permit, license, registration, or certificate, or if the

applicant submitted false material information to the department in connection with the permit, license, registration, or certificate.

Subd. 10. **Hearings related to denial, refusal to renew, suspension, or revocation of a permit, license, registration, or certificate.** If the commissioner proposes to deny, refuses to renew, suspends, or revokes a permit, license, registration, or certificate under subdivision 8 or 9, the commissioner must first notify the person against whom the action is proposed to be taken and provide the person an opportunity to request a hearing under the contested case provisions of chapter 14. If the person does not request a hearing by notifying the commissioner within 20 days after receipt of the notice of proposed action, the commissioner may proceed with the action without a hearing.

Subd. 11. **Misdemeanor penalties.** A person convicted of violating a statute or rule listed in subdivision 1 is guilty of a misdemeanor.

History: *1993 c 206 s 8; 1Sp1993 c 6 s 33*

144.991 ADMINISTRATIVE PENALTY ORDER PROCEDURE.

Subdivision 1. **Amount of penalty; considerations.** (a) In determining the amount of a penalty under section 144.99, subdivision 4, the commissioner may consider:

(1) the willfulness of the violation;

(2) the gravity of the violation, including damage to humans, animals, air, water, land, or other natural resources of the state;

(3) the history of past violations;

(4) the number of violations;

(5) the economic benefit gained by the person by allowing or committing the violation; and

(6) other factors as justice may require, if the commissioner specifically identifies the additional factors in the commissioner's order.

(b) For a violation after an initial violation, the commissioner shall, in determining the amount of a penalty, consider the factors in paragraph (a) and the:

(1) similarity of the most recent previous violation and the violation to be penalized;

(2) time elapsed since the last violation;

(3) number of previous violations; and

(4) response of the person to the most recent previous violation identified.

Subd. 2. **Contents of order.** An order assessing an administrative penalty under section 144.99, subdivision 4, must include:

(1) a concise statement of the facts alleged to constitute a violation;

(2) a reference to the section of the statute, rule, variance, order, stipulation agreement, or term or condition of a permit that has been violated;

(3) a statement of the amount of the administrative penalty to be imposed and the factors upon which the penalty is based; and

(4) a statement of the person's right to review of the order.

Subd. 3. **Corrective order.** (a) The commissioner may issue an order assessing a penalty and requiring the violations cited in the order to be corrected within 30 calendar days from the date the order is received.

(b) The person to whom the order was issued shall provide information to the commissioner before the 31st day after the order was received demonstrating that the violation has been corrected or developed a corrective plan acceptable to the commissioner. The commissioner shall determine whether the violation has been corrected and notify the person subject to the order of the commissioner's determination.

Subd. 4. **Penalty.** (a) Except as provided in paragraph (b), if the commissioner determines that the violation has been corrected or developed a corrective plan acceptable to the commissioner, the penalty must be forgiven. Unless the person requests

review of the order under subdivision 5 before the penalty is due, the penalty in the order is due and payable:

(1) on the 31st day after the order was received, if the person subject to the order fails to provide information to the commissioner showing that the violation has been corrected or that appropriate steps have been taken toward correcting the violation; or

(2) on the 20th day after the person receives the commissioner's determination under paragraph (b), if the person subject to the order has provided information to the commissioner that the commissioner determines is not sufficient to show the violation has been corrected or that appropriate steps have been taken toward correcting the violation.

(b) For repeated or serious violations, the commissioner may issue an order with a penalty that will not be forgiven after the corrective action is taken. The penalty is due by 31 days after the order was received unless review of the order under subdivision 5 has been sought.

(c) Interest at the rate established in section 549.09 begins to accrue on penalties under this subdivision on the 31st day after the order with the penalty was received.

Subd. 5. **Expedited administrative hearing.** (a) Within 30 days after receiving an order or within 20 days after receiving notice that the commissioner has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may request an expedited hearing, utilizing the procedures of Minnesota Rules, parts 1400.8510 to 1400.8612, to review the commissioner's action. The hearing request must specifically state the reasons for seeking review of the order. The person to whom the order is directed and the commissioner are the parties to the expedited hearing. The commissioner must notify the person to whom the order is directed of the time and place of the hearing at least 20 days before the hearing. The expedited hearing must be held within 30 days after a request for hearing has been filed with the commissioner unless the parties agree to a later date.

(b) All written arguments must be submitted within ten days following the close of the hearing. The hearing shall be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by this subdivision. The office of administrative hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this section.

(c) The administrative law judge shall issue a report making recommendations about the commissioner's action to the commissioner within 30 days following the close of the record. The administrative law judge may not recommend a change in the amount of the proposed penalty unless the administrative law judge determines that, based on the factors in subdivision 2, the amount of the penalty is unreasonable.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the commissioner may add to the amount of the penalty the costs charged to the agency by the office of administrative hearings for the hearing.

(e) If a hearing has been held, the commissioner may not issue a final order until at least five days after receipt of the report of the administrative law judge. The person to whom an order is issued may, within those five days, comment to the commissioner on the recommendations and the commissioner will consider the comments. The final order may be appealed in the manner provided in sections 14.63 to 14.69.

(f) If a hearing has been held and a final order issued by the commissioner, the penalty shall be paid by 30 days after the date the final order is received unless review of the final order is requested under sections 14.63 to 14.69. If review is not requested or the order is reviewed and upheld, the amount due is the penalty, together with interest accruing from 31 days after the original order was received at the rate established in section 549.09.

Subd. 6. **Mediation.** In addition to review under subdivision 5, the commissioner is authorized to enter into mediation concerning an order issued under this section if the commissioner and the person to whom the order is issued both agree to mediation.

Subd. 7. **Enforcement.** (a) The attorney general may proceed on behalf of the state to enforce penalties that are due and payable under this section in any manner provided by law for the collection of debts.

(b) The attorney general may petition the district court to file the administrative order as an order of the court. At any court hearing, the only issues parties may contest are procedural and notice issues. Once entered, the administrative order may be enforced in the same manner as a final judgment of the district court.

(c) If a person fails to pay the penalty, the attorney general may bring a civil action in district court seeking payment of the penalties, injunctive, or other appropriate relief including monetary damages, attorney fees, costs, and interest.

Subd. 8. **Revocation and suspension of permit, license, registration, or certificate.** If a person fails to pay a penalty owed under this section, the agency has grounds to revoke or refuse to reissue or renew a permit, license, registration, or certificate issued by the department.

Subd. 9. **Cumulative remedy.** The authority of the agency to issue a corrective order assessing penalties is in addition to other remedies available under statutory or common law, except that the state may not seek civil penalties under any other provision of law for the violations covered by the administrative penalty order. The payment of a penalty does not preclude the use of other enforcement provisions, under which penalties are not assessed, in connection with the violation for which the penalty was assessed.

History: *1993 c 206 s 9*

144.992 FALSE INFORMATION.

A person subject to any of the requirements listed in section 144.99, subdivision 1, may not make a false material statement, representation, or certification in; omit material information from; or alter, conceal, or fail to file or maintain a notice, application, record, report, plan, or other document required under the statutes, rules, or other actions listed in section 144.99, subdivision 1.

History: *1993 c 206 s 10*

144.993 RECOVERY OF LITIGATION COSTS AND EXPENSES.

In any judicial action brought by the attorney general for civil penalties, injunctive relief, or an action to compel performance pursuant to the authority cited in section 144.99, subdivision 1, if the state finally prevails, and if the proven violation was willful, the state, in addition to other penalties provided by law, may be allowed an amount determined by the court to be the reasonable value of all or part of the litigation expenses incurred by the state. In determining the amount of the litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

History: *1993 c 206 s 11*