

144.55 LICENSES; ISSUANCE, SUSPENSION AND REVOCATION.

Subdivision 1. **Issuance.** (a) The state commissioner of health is hereby authorized to issue licenses to operate hospitals, sanitariums, outpatient surgical centers, or other institutions for the hospitalization or care of human beings, which are found to comply with the provisions of sections 144.50 to 144.56 and any reasonable rules promulgated by the commissioner. The commissioner shall not require an outpatient surgical center licensed as part of a hospital to obtain a separate outpatient surgical center license. All decisions of the commissioner thereunder may be reviewed in the district court in the county in which the institution is located or contemplated.

(b) The commissioner may issue a conditional license to operate an outpatient surgical center if:

(1) the applicant is seeking a license to operate an outpatient surgical center that will share a facility with an existing licensed outpatient surgical center that is also federally certified under Medicare as an ambulatory surgical center; and

(2) the outpatient surgical center otherwise meets the requirements for licensure under this subdivision.

A conditional license issued under this paragraph is valid for 120 days and may be renewed once for an additional 120 days. The commissioner shall convert a valid conditional license to a nonconditional license if the licensee can demonstrate to the commissioner that the conditionally licensed outpatient surgical center is federally certified under Medicare as an ambulatory surgical center.

Subd. 1a. **License fee.** The annual license fee for outpatient surgical centers is \$1,512.

Subd. 1b. **Standards for nursing care.** As a condition of licensure, outpatient surgical centers must provide nursing care consistent with nationally accepted nursing clinical standards for perioperative nursing, including, but not limited to Association of Operating Room Nurses and American Nurses Association standards, which are generally accepted in the professional nursing community.

Subd. 2. **Definitions.** (a) For the purposes of this section, the terms in this subdivision have the meanings given them.

(b) "Outpatient surgical center" or "center" means a facility organized for the specific purpose of providing elective outpatient surgery for preexamined, prediagnosed, low-risk patients. An outpatient surgical center is not organized to provide regular emergency medical services and does not include a physician's or dentist's office or clinic for the practice of medicine, the practice of dentistry, or the delivery of primary care.

(c) "Approved accrediting organization" means any organization recognized as an accreditation organization by the Centers for Medicare and Medicaid Services.

Subd. 3. **Standards for licensure.** (a) Notwithstanding the provisions of section 144.56, for the purpose of hospital licensure, the commissioner of health shall use as minimum standards the hospital certification regulations promulgated pursuant to title XVIII of the Social Security Act, United States Code, title 42, section 1395, et seq. The commissioner may use as minimum standards changes in the federal hospital certification regulations promulgated after May 7, 1981, if the commissioner finds that such changes are reasonably necessary to protect public health and safety. The commissioner shall also promulgate in rules additional minimum standards for new construction.

(b) Each hospital and outpatient surgical center shall establish policies and procedures to prevent the transmission of human immunodeficiency virus and hepatitis B virus to patients and within the health care setting. The policies and procedures shall be developed in conformance with the most recent recommendations

issued by the United States Department of Health and Human Services, Public Health Service, Centers for Disease Control. The commissioner of health shall evaluate a hospital's compliance with the policies and procedures according to subdivision 4.

(c) An outpatient surgical center must establish and maintain a comprehensive tuberculosis infection control program according to the most current tuberculosis infection control guidelines issued by the United States Centers for Disease Control and Prevention (CDC), Division of Tuberculosis Elimination, as published in CDC's Morbidity and Mortality Weekly Report (MMWR). This program must include a tuberculosis infection control plan that covers all paid and unpaid employees, contractors, students, and volunteers. The Department of Health shall provide technical assistance regarding implementation of the guidelines.

(d) Written compliance with this subdivision must be maintained by the outpatient surgical center.

Subd. 3a. **Standards for admission; outpatient surgical centers.** Admissions to outpatient surgical centers are limited to procedures that utilize general anesthesia or conscious sedation and that do not require overnight inpatient care.

Subd. 3b. **Facility standards for outpatient surgical centers.** An outpatient surgical center must be a freestanding facility unless:

(1) the outpatient surgical center is licensed as part of a hospital;

(2) the licensed outpatient surgical center is federally certified under Medicare as an ambulatory surgical center and shares a facility only with other licensed outpatient surgical centers federally certified under Medicare as ambulatory surgical centers; or

(3) the outpatient surgical center is conditionally licensed under subdivision 1, paragraph (b), and shares a facility only with other licensed outpatient surgical centers federally certified under Medicare as ambulatory surgical centers.

Subd. 4. **Routine inspections; presumption.** Any hospital surveyed and accredited under the standards of the hospital accreditation program of an approved accrediting organization that submits to the commissioner within a reasonable time copies of (a) its currently valid accreditation certificate and accreditation letter, together with accompanying recommendations and comments and (b) any further recommendations, progress reports and correspondence directly related to the accreditation is presumed to comply with application requirements of subdivision 1 and the standards requirements of subdivision 3 and no further routine inspections or accreditation information shall be required by the commissioner to determine compliance. Notwithstanding the provisions of sections 144.54 and 144.653, subdivisions 2 and 4, hospitals shall be inspected only as provided in this section. The provisions of section 144.653 relating to the assessment and collection of fines shall not apply to any hospital. The commissioner of health shall annually conduct, with notice, validation inspections of a selected sample of the number of hospitals accredited by an approved accrediting organization, not to exceed ten percent of accredited hospitals, for the purpose of determining compliance with the provisions of subdivision 3. If a validation survey discloses a failure to comply with subdivision 3, the provisions of section 144.653 relating to correction orders, reinspections, and notices of noncompliance shall apply. The commissioner shall also conduct any inspection necessary to determine whether hospital construction, addition, or remodeling projects comply with standards for construction promulgated in rules pursuant to subdivision 3. Pursuant to section 144.653, the commissioner shall inspect any hospital that does not have a currently valid hospital accreditation certificate from an approved accrediting organization. Nothing in this subdivision shall be construed to limit the investigative powers of the Office of Health Facility Complaints as established in sections 144A.51 to 144A.54.

Subd. 5. Coordination of inspections. Prior to conducting routine inspections of hospitals and outpatient surgical centers, a state agency shall notify the commissioner of its intention to inspect. The commissioner shall then determine whether the inspection is necessary in light of any previous inspections conducted by the commissioner, any other state agency, or an approved accrediting organization. The commissioner shall notify the agency of the determination and may authorize the agency to conduct the inspection. No state agency may routinely inspect any hospital without the authorization of the commissioner. The commissioner shall coordinate, insofar as is possible, routine inspections conducted by state agencies, so as to minimize the number of inspections to which hospitals are subject.

Subd. 6. Suspension, revocation, and refusal to renew. (a) The commissioner may refuse to grant or renew, or may suspend or revoke, a license on any of the following grounds:

(1) violation of any of the provisions of sections 144.50 to 144.56 or the rules or standards issued pursuant thereto, or Minnesota Rules, chapters 4650 and 4675;

(2) permitting, aiding, or abetting the commission of any illegal act in the institution;

(3) conduct or practices detrimental to the welfare of the patient; or

(4) obtaining or attempting to obtain a license by fraud or misrepresentation; or

(5) with respect to hospitals and outpatient surgical centers, if the commissioner determines that there is a pattern of conduct that one or more physicians who have a "financial or economic interest," as defined in section 144.6521, subdivision 3, in the hospital or outpatient surgical center, have not provided the notice and disclosure of the financial or economic interest required by section 144.6521.

(b) The commissioner shall not renew a license for a boarding care bed in a resident room with more than four beds.

Subd. 7. Hearing. Prior to any suspension, revocation or refusal to renew a license, the licensee shall be entitled to notice and a hearing as provided by sections 14.57 to 14.69. At each hearing, the commissioner shall have the burden of establishing that a violation described in subdivision 6 has occurred.

If a license is revoked, suspended, or not renewed, a new application for license may be considered by the commissioner if the conditions upon which revocation, suspension, or refusal to renew was based have been corrected and evidence of this fact has been satisfactorily furnished. A new license may then be granted after proper inspection has been made and all provisions of sections 144.50 to 144.56 and any rules promulgated thereunder, or Minnesota Rules, chapters 4650 and 4675, have been complied with and recommendation has been made by the inspector as an agent of the commissioner.

Subd. 8. Rules. The commissioner may promulgate rules necessary to implement the provisions of this section, except that the standards described in subdivision 3 shall constitute the sole minimum quality standards for licensure of hospitals.

Subd. 9. Expiration of licenses. All licenses expire on the dates specified on the licenses unless suspended or revoked.

Subd. 10. MS 2018 [Repealed, 2019 c 22 s 6]

Subd. 11. **State hospitals not affected.** Subdivisions 3, 4, and 5 do not apply to state hospitals and other facilities operated under the direction of the commissioner of human services.

History: 1941 c 549 s 6; 1951 c 304 s 6; 1976 c 173 s 37; 1977 c 305 s 45; 1978 c 674 s 60; 1981 c 95 s 2; 1982 c 424 s 130; 1984 c 654 art 5 s 58; 1985 c 248 s 70; 1986 c 444; 1987 c 384 art 2 s 1; 1987 c 403 art 4 s 1; 1992 c 559 art 1 s 2; 2004 c 198 s 1-8; 2005 c 85 s 2-4; 2010 c 274 s 1; 2013 c 43 s 6; 2019 c 22 s 1-5; 2019 c 50 art 1 s 38