

FORTY-THIRD DAY

St. Paul, Minnesota, Tuesday, April 28, 2009

The Senate met at 11:00 a.m. and was called to order by the President.

**CALL OF THE SENATE**

Senator Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Monsignor James D. Habiger.

The roll was called, and the following Senators answered to their names:

Anderson	Fischbach	Kubly	Ortman	Sieben
Bakk	Fobbe	Langseth	Pappas	Skoe
Berglin	Foley	Latz	Pariseau	Skogen
Betzold	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Chaudhary	Gimse	Lynch	Rest	Tomassoni
Clark	Hann	Marty	Robling	Torres Ray
Cohen	Higgins	Metzen	Rosen	Vandever
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	
Erickson Ropes	Koering	Olson, M.	Sheran	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

**MESSAGES FROM THE HOUSE**

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

**S.F. No. 802:** A bill for an act relating to public safety; appropriating money for public safety, corrections, and other criminal justice agencies; requiring annual appropriation of money in Bureau of Criminal Apprehension account to commissioner of public safety; repealing the mandatory minimum sentences for predatory offender registration offenses and subsequent

controlled substances offenses; providing a 90-day cap on incarceration for certain first-time supervised release violations; eliminating the requirement that judges impose a minimum sentence on felony DWI offenders; requesting the Sentencing Guidelines Commission to rerank the felony DWI offense; providing for supervised release of offenders; expanding the challenge incarceration program; requiring the Sentencing Guidelines Commission and the Departments of Corrections and Public Safety to review its reports; requiring Department of Corrections to annually report on felony DWI offenders; requiring that reports to the legislature by criminal justice agencies be submitted electronically; modifying and expanding the conditional release program for nonviolent drug offenders; including an advisory board for consultation with the commissioner of corrections for the conditional release program; repealing the conditional release program's sunset; authorizing correctional facilities to forward surcharges from offender wages to court or other entity collecting the surcharge; repealing reports on out-of-state juvenile placement; implementing the legislative auditor's recommendations relating to MINNCOR; requiring the licensure of firefighters; expanding the stay of adjudication provision for low-level controlled substance offenders; imposing criminal penalties; appropriating money; amending Minnesota Statutes 2008, sections 3.195, subdivision 1, by adding a subdivision; 152.021, subdivision 3; 152.022, subdivision 3; 152.023, subdivision 3; 152.024, subdivision 3; 152.025, subdivision 3; 152.18, subdivision 1; 169A.275, subdivisions 3, 4, 5; 169A.276, subdivisions 1, 2; 171.29, subdivision 2; 241.27, subdivision 1a, by adding subdivisions; 243.166, subdivision 5; 244.055, subdivisions 2, 3, 5, 7, by adding subdivisions; 244.17; 244.172, subdivision 1; 299N.02, subdivision 3; 357.021, subdivision 6; proposing coding for new law in Minnesota Statutes, chapters 244; 299N; repealing Minnesota Statutes 2008, sections 152.026; 244.055, subdivisions 6, 11; 260B.199, subdivision 2; 260B.201, subdivision 3; 325E.22.

There has been appointed as such committee on the part of the House:

Paymar, Hilstrom, Liebling, Lesch and Cornish.

Senate File No. 802 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 27, 2009

## REPORTS OF COMMITTEES

### **Senator Stumpf from the Committee on Education, to which was re-referred**

**S.F. No. 1797:** A bill for an act relating to education; requiring the State Advisory Council on Early Childhood Education and Care to create an inventory of early childhood services.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 4, insert:

"Section 1. Minnesota Statutes 2008, section 124D.141, subdivision 3, is amended to read:

Subd. 3. **Administration.** For fiscal year 2010 only, an amount up to \$12,500 from federal child

~~care and development fund administrative funds and up to \$12,500 from prekindergarten exploratory project funds appropriated under Laws 2007, chapter 147, article 19, section 3, education allowances under section 124D.143~~ may be used to reimburse the parents on the council and for technical assistance and administrative support of the State Advisory Council on Early Childhood Education and Care. ~~This funding stream is for fiscal year 2009.~~ The council may pursue additional funds from state, federal, and private sources. If additional operational funds are received, the council must reduce the amount of prekindergarten exploratory project funds used in an equal amount.

**EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2010 only."

Page 1, delete line 10 and insert "(1) identify programs and initiatives funded by state, federal, or private"

Page 1, line 12, after "descriptions" insert "and any existing evaluations"

Page 1, line 18, before "income" insert "family"

Renumber the sections in sequence

Amend the title numbers accordingly

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

**Senator Stumpf from the Committee on Education, to which was referred**

**S.F. No. 2089:** A bill for an act relating to education; providing for a study to examine the operating cost differential of school districts in the state.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 10, delete "September" and insert "July"

Page 1, line 21, after "salaries" insert "and benefits"

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

**Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was referred the following appointment:**

CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD  
John J. Scanlon

Reports the same back with the recommendation that the appointment be confirmed.

Senator Pogemiller moved that the foregoing committee report be laid on the table. The motion prevailed.

**Senator Rest from the Committee on State and Local Government Operations and**

**Oversight, to which were referred the following appointments:**

## BOARD OF THE ARTS

Michael Charron

Ken Kaffine

Ellen McInnis

Reports the same back with the recommendation that the appointments be confirmed.

Senator Pogemiller moved that the foregoing committee report be laid on the table. The motion prevailed.

**Senator Rest from the Committee on State and Local Government Operations and Oversight, to which were referred the following appointments:**

## GAMBLING CONTROL BOARD

William B. Goede

Christine Long

Reports the same back with the recommendation that the appointments be confirmed.

Senator Pogemiller moved that the foregoing committee report be laid on the table. The motion prevailed.

**INTRODUCTION AND FIRST READING OF SENATE BILLS**

The following bills were read the first time.

**Senators Gerlach, Rest, Ortman, Langseth and Scheid introduced—**

**S.F. No. 2121:** A bill for an act relating to taxation; sales and use; expanding eligibility and increasing fund-raising sales exemption for nonprofits; amending Minnesota Statutes 2008, section 297A.70, subdivision 13.

Referred to the Committee on Taxes.

**Senator Skogen introduced—**

**S.F. No. 2122:** A bill for an act relating to capital improvements; appropriating money for utility and street improvements in the city of Wadena; authorizing the issuance of state bonds.

Referred to the Committee on Finance.

**Senators Skogen; Saxhaug; Rummel; Olson, G. and Koch introduced—**

**S.F. No. 2123:** A bill for an act relating to state government; appropriating money from the arts and cultural heritage fund for integrating the arts into elementary and secondary curriculum.

Referred to the Committee on Finance.

**RECESS**

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

**CALL OF THE SENATE**

Senator Pogemiller imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

**MOTIONS AND RESOLUTIONS**

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

**MESSAGES FROM THE HOUSE**

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 819:

**H.F. No. 819:** A bill for an act relating to commerce; prohibiting certain unfair Internet ticket sales by original sellers and resellers; proposing coding for new law in Minnesota Statutes, chapter 609.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Atkins, Lillie and Zellers have been appointed as such committee on the part of the House.

House File No. 819 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 27, 2009

Senator Latz moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 819, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

**MOTIONS AND RESOLUTIONS - CONTINUED**

Senator Pogemiller moved that H.F. No. 2323 be taken from the table. The motion prevailed.

**H.F. No. 2323:** A bill for an act relating to the financing and operation of state and local government; making policy, technical, administrative, enforcement, collection, refund, clarifying, and other changes to income, franchise, property, sales and use, estate, gift, cigarette, tobacco, liquor, motor vehicle, gross receipts, minerals, tax increment financing and other taxes and tax-related provisions; requiring certain additions; conforming to federal section 179 expensing allowances; adding Minnesota development subsidies to corporate taxable income; disallowing certain subtractions; allowing certain nonrefundable credits; allowing a refundable Minnesota child credit; repealing various credits; conforming to certain federal tax provisions; expanding definition of domestic corporation to include tax havens; modifying income tax rates; expanding and increasing credit for research activities; accelerating single sales apportionment; modifying minimum fees; allowing county local sales tax; eliminating certain existing local sales taxes; adjusting county program aid; modifying levy limits; making changes to residential homestead market value credit; providing flexibility and mandate reduction provisions; making changes to various property tax and local government aid-related provisions; providing temporary suspension of new or increased maintenance of effort and matching fund requirements; modifying county support of libraries; establishing the Council on Local Results and Innovation; providing property tax system benchmarks, critical indicators, and principles; establishing a property tax work group; creating the Legislative Commission on Mandate Reform; making changes to certain administrative procedures; modifying mortgage registry tax payments; modifying truth in taxation provisions; providing clarification for eligibility for property tax exemption for institutions of purely public charity; making changes to property tax refund and senior citizen property tax deferral programs; providing property tax exemptions; providing a property valuation reduction for certain land constituting a riparian buffer; providing a partial valuation exclusion for disaster damaged homes; extending deadline for special service district and housing improvement districts; requiring a fiscal disparity study; extending emergency medical service special taxing district; providing emergency debt certificates; providing and modifying local taxes; expanding county authorization to abate certain improvements; providing municipal street improvement districts; establishing a seasonal recreational property tax deferral program; expanding sales and use tax base; defining solicitor for purposes of nexus; providing a bovine tuberculosis testing grant; modifying tax preparation services law; modifying authority of municipalities to issue bonds for certain other postemployment benefits; allowing use of increment to offset state aid reductions; allowing additional authority to spend increments for housing replacement district plans; modifying and authorizing certain tax increment financing districts; providing equitable funding health and human services reform; modifying JOBZ provisions; repealing international economic development and biotechnology and health science industry zones; modifying basic sliding fee program funding; providing appointments; requiring reports; appropriating money; amending Minnesota Statutes 2008, sections 3.842, subdivision 4a; 3.843; 16C.28, subdivision 1a; 40A.09; 84.82, subdivision 10; 84.922, subdivision 11; 86B.401, subdivision 12; 123B.10, subdivision 1; 134.34, subdivisions 1, 4; 245.4932, subdivision 1; 253B.045, subdivision 2; 254B.04, subdivision 1; 270C.12, by adding a subdivision; 270C.445; 270C.56, subdivision 3; 272.02, subdivision 7, by adding subdivisions; 272.029, subdivision 6; 273.111, by adding a subdivision; 273.1231, subdivision 1; 273.1232, subdivision 1; 273.124, subdivision 1; 273.13, subdivisions 25, 34; 273.1384, subdivisions 1, 4, by adding a subdivision; 273.1393; 275.025, subdivisions 1, 2; 275.065, subdivisions 1, 1a, 1c, 3, 6; 275.07, subdivisions 1, 4, by adding a subdivision; 275.70, subdivisions 3, 5; 275.71, subdivisions 2, 4, 5; 276.04, subdivision 2; 279.10; 282.08; 287.08; 289A.02, subdivision 7, as amended; 289A.11, subdivision 1; 289A.20, subdivision 4; 289A.31, subdivision 5; 290.01, subdivisions 5, 19, as amended, 19a, as amended, 19b, 19c, as amended, 19d, as amended, 29, 31,

as amended, by adding subdivisions; 290.014, subdivision 2; 290.06, subdivisions 2c, 2d, by adding subdivisions; 290.0671, subdivision 1; 290.068, subdivisions 1, 3, 4; 290.091, subdivision 2; 290.0921, subdivision 3; 290.0922, subdivisions 1, 3, by adding a subdivision; 290.17, subdivisions 2, 4; 290.191, subdivisions 2, 3; 290A.03, subdivision 15, as amended; 290A.04, subdivision 2; 290B.03, subdivision 1; 290B.04, subdivisions 3, 4; 290B.05, subdivision 1; 291.005, subdivision 1, as amended; 291.03, subdivision 1; 295.75, subdivision 2; 297A.61, subdivisions 3, 4, 5, 6, 10, 14a, 17a, 21, 38, by adding subdivisions; 297A.62, by adding a subdivision; 297A.63; 297A.64, subdivision 2; 297A.66, subdivision 1, by adding a subdivision; 297A.67, subdivisions 15, 23; 297A.815, subdivision 3; 297A.83, subdivision 3; 297A.94; 297A.99, subdivisions 1, 6; 297B.02, subdivision 1; 297F.01, by adding a subdivision; 297F.05, subdivisions 1, 3, 4, by adding a subdivision; 297G.03, subdivision 1; 297G.04; 298.001, by adding a subdivision; 298.018, subdivisions 1, 2, by adding a subdivision; 298.227; 298.24, subdivision 1; 298.28, subdivisions 2, 11, by adding a subdivision; 306.243, by adding a subdivision; 344.18; 365.28; 375.194, subdivision 5; 383A.75, subdivision 3; 428A.101; 428A.21; 429.011, subdivision 2a; 429.021, subdivision 1; 429.041, subdivisions 1, 2; 446A.086, subdivision 8; 465.719, subdivision 9; 469.015; 469.174, subdivision 22; 469.175, subdivisions 1, 6; 469.176, subdivisions 3, 6, by adding a subdivision; 469.1763, subdivisions 2, 3; 469.178, subdivision 7; 469.315; 469.3192; 473.13, subdivision 1; 473H.04, by adding a subdivision; 473H.05, subdivision 1; 475.51, subdivision 4; 475.52, subdivision 6; 475.58, subdivision 1; 477A.011, subdivision 36; 477A.0124, by adding a subdivision; 477A.013, subdivision 9, by adding a subdivision; 477A.03, subdivisions 2a, 2b; 641.12, subdivision 1; Laws 1986, chapter 396, section 4, subdivision 3; by adding a subdivision; Laws 1986, chapter 400, section 44, as amended; Laws 1991, chapter 291, article 8, section 27, subdivision 3, as amended; Laws 1993, chapter 375, article 9, section 46, subdivision 2, as amended, by adding a subdivision; Laws 1995, chapter 264, article 5, sections 44, subdivision 4, as amended; 45, subdivision 1, as amended; Laws 1996, chapter 471, article 2, section 30; Laws 1998, chapter 389, article 8, section 37, subdivision 1; Laws 2001, First Special Session chapter 5, article 3, section 8, as amended; Laws 2002, chapter 377, article 3, section 25; Laws 2006, chapter 259, article 3, section 12, subdivision 3; Laws 2008, chapter 366, article 5, section 34; article 6, sections 9; 10; article 7, section 16, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 3; 6; 14; 17; 256E; 270C; 272; 273; 275; 290; 292; 297A; 435; 475; 477A; proposing coding for new law as Minnesota Statutes, chapter 290D; repealing Minnesota Statutes 2008, sections 245.4835; 245.714; 246.54; 254B.02, subdivision 3; 256B.19, subdivision 1; 256I.08; 272.02, subdivision 83; 273.113; 275.065, subdivisions 5a, 6b, 6c, 8, 9, 10; 289A.50, subdivision 10; 290.01, subdivision 6b; 290.06, subdivisions 24, 28, 30, 31, 32, 33, 34; 290.067, subdivisions 1, 2, 2a, 2b, 3, 4; 290.0672; 290.0674; 290.0679; 290.0802; 290.0921, subdivision 7; 290.191, subdivision 4; 290.491; 297A.61, subdivision 45; 297A.68, subdivisions 38, 41; 469.316; 469.317; 469.321; 469.3215; 469.322; 469.323; 469.324; 469.325; 469.326; 469.327; 469.328; 469.329; 469.330; 469.331; 469.332; 469.333; 469.334; 469.335; 469.336; 469.337; 469.338; 469.339; 469.340; 469.341; 477A.0124, subdivisions 3, 4, 5; 477A.03, subdivision 5; Laws 2009, chapter 3, section 1; Laws 2009, chapter 12, article 1, section 8.

### **SUSPENSION OF RULES**

Senator Pogemiller moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 2323 and that the rules of the Senate be so far suspended as to give H.F. No. 2323 its second and third reading and place it on its final

passage.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 48 and nays 17, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Lourey	Pariseau	Skoe
Bakk	Erickson Ropes	Lynch	Pogemiller	Skogen
Berglin	Fobbe	Marty	Prettner Solon	Sparks
Betzold	Foley	Metzen	Rest	Stumpf
Carlson	Frederickson	Moua	Rummel	Tomassoni
Chaudhary	Higgins	Murphy	Saltzman	Torres Ray
Clark	Kelash	Olseen	Saxhaug	Vickerman
Cohen	Kubly	Olson, G.	Scheid	Wiger
Dahle	Langseth	Olson, M.	Sheran	
Dibble	Latz	Pappas	Sieben	

Those who voted in the negative were:

Day	Gimse	Jungbauer	Ortman	Vandev eer
Dille	Hann	Koch	Robling	
Fischbach	Ingebrigtsen	Limmer	Rosen	
Gerlach	Johnson	Michel	Senjem	

The motion prevailed.

H.F. No. 2323 was read the second time.

Senator Bakk moved to amend H.F. No. 2323 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 2323, and insert the language after the enacting clause, and the title, of S.F. No. 2074, the second engrossment.

The motion prevailed. So the amendment was adopted.

### CALL OF THE SENATE

Senator Bakk imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

H.F. No. 2323 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 35 and nays 30, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Latz	Pogemiller	Skoe
Bakk	Foley	Lourey	Prettner Solon	Sparks
Berglin	Higgins	Marty	Rest	Stumpf
Betzold	Johnson	Metzen	Saxhaug	Tomassoni
Chaudhary	Kelash	Moua	Scheid	Torres Ray
Clark	Kubly	Murphy	Sheran	Vickerman
Cohen	Langseth	Pappas	Sieben	Wiger

Those who voted in the negative were:

Carlson	Dahle	Day	Dille	Doll
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Erickson Ropes  
Fischbach  
Fobbe  
Frederickson  
Gerlach

Gimse  
Hann  
Ingebrigtsen  
Jungbauer  
Koch

Limmer  
Lynch  
Michel  
Olseen  
Olson, G.

Olson, M.  
Ortman  
Pariseau  
Robling  
Rosen

Rummel  
Saltzman  
Senjem  
Skogen  
Vandevveer

So the bill, as amended, was passed and its title was agreed to.

### MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Messages From the House and First Reading of House Bills.

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 1362.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 28, 2009

### FIRST READING OF HOUSE BILLS

The following bill was read the first time.

**H.F. No. 1362:** A bill for an act relating to state government; establishing the health and human services budget; making changes to licensing; Minnesota family investment program, children, and adult supports; child support; the Department of Health; health care programs; making technical changes; chemical and mental health; continuing care programs; establishing the State-County Results, Accountability, and Service Delivery Redesign; public health; health-related fees; making forecast adjustments; creating work groups and pilot projects; requiring reports; decreasing provider reimbursements; increasing fees; appropriating money to various state agencies for health and human services provisions; amending Minnesota Statutes 2008, sections 62J.495; 62J.496; 62J.497, subdivisions 1, 2, by adding subdivisions; 62J.692, subdivision 7; 103I.208, subdivision 2; 125A.744, subdivision 3; 144.0724, subdivisions 2, 4, 8, by adding subdivisions; 144.121, subdivisions 1a, 1b; 144.122; 144.1222, subdivision 1a; 144.125, subdivision 1; 144.226, subdivision 4; 144.72, subdivisions 1, 3; 144.9501, subdivisions 22b, 26a, by adding subdivisions; 144.9505, subdivisions 1g, 4; 144.9508, subdivisions 2, 3, 4; 144.9512, subdivision 2; 144.966, by adding a subdivision; 144.97, subdivisions 2, 4, 6, by adding subdivisions; 144.98, subdivisions 1, 2, 3, by adding subdivisions; 144.99, subdivision 1; 144A.073, by adding a subdivision; 144A.44, subdivision 2; 144A.46, subdivision 1; 148.108; 148.6445, by adding a subdivision; 148D.180, subdivisions 1, 2, 3, 5; 148E.180, subdivisions 1, 2, 3, 5; 153A.17; 156.015; 157.15, by adding a subdivision; 157.16; 157.22; 176.011, subdivision 9; 245.462, subdivision 18; 245.470, subdivision 1; 245.4871, subdivision 27; 245.488, subdivision 1; 245.4885, subdivision 1; 245A.03, by adding a subdivision; 245A.10, subdivisions 2, 3, 4, 5, by adding subdivisions; 245A.11, subdivision 2a, by

adding a subdivision; 245A.16, subdivisions 1, 3; 245C.03, subdivision 2; 245C.04, subdivisions 1, 3; 245C.05, subdivision 4; 245C.08, subdivision 2; 245C.10, subdivision 3, by adding subdivisions; 245C.17, by adding a subdivision; 245C.20; 245C.21, subdivision 1a; 245C.23, subdivision 2; 246.50, subdivision 5, by adding subdivisions; 246.51, by adding subdivisions; 246.511; 246.52; 246B.01, by adding subdivisions; 252.46, by adding a subdivision; 252.50, subdivision 1; 254A.02, by adding a subdivision; 254A.16, by adding a subdivision; 254B.03, subdivisions 1, 3, by adding a subdivision; 254B.05, subdivision 1; 254B.09, subdivision 2; 256.01, subdivision 2b, by adding subdivisions; 256.045, subdivision 3; 256.476, subdivisions 5, 11; 256.962, subdivisions 2, 6; 256.963, by adding a subdivision; 256.969, subdivision 3a; 256.975, subdivision 7; 256.983, subdivision 1; 256B.04, subdivision 16; 256B.055, subdivisions 7, 12; 256B.056, subdivisions 3, 3b, 3c, by adding a subdivision; 256B.057, subdivisions 3, 9, by adding a subdivision; 256B.0575; 256B.0595, subdivisions 1, 2; 256B.06, subdivisions 4, 5; 256B.0621, subdivision 2; 256B.0622, subdivision 2; 256B.0623, subdivision 5; 256B.0624, subdivisions 5, 8; 256B.0625, subdivisions 3c, 7, 8, 8a, 9, 13e, 17, 19a, 19c, 26, 41, 42, 47; 256B.0631, subdivision 1; 256B.0641, subdivision 3; 256B.0651; 256B.0652; 256B.0653; 256B.0654; 256B.0655, subdivisions 1b, 4; 256B.0657, subdivisions 2, 6, 8, by adding a subdivision; 256B.08, by adding a subdivision; 256B.0911, subdivisions 1, 1a, 3, 3a, 4a, 5, 6, 7, by adding subdivisions; 256B.0913, subdivision 4; 256B.0915, subdivisions 3e, 3h, 5, by adding a subdivision; 256B.0916, subdivision 2; 256B.0917, by adding a subdivision; 256B.092, subdivision 8a, by adding subdivisions; 256B.0943, subdivision 1; 256B.0944, by adding a subdivision; 256B.0945, subdivision 4; 256B.0947, subdivision 1; 256B.15, subdivisions 1, 1a, 1h, 2, by adding subdivisions; 256B.37, subdivisions 1, 5; 256B.434, by adding a subdivision; 256B.437, subdivision 6; 256B.441, subdivisions 48, 55, by adding subdivisions; 256B.49, subdivisions 12, 13, 14, 17, by adding subdivisions; 256B.501, subdivision 4a; 256B.5011, subdivision 2; 256B.5012, by adding a subdivision; 256B.5013, subdivision 1; 256B.69, subdivisions 5a, 5c, 5f; 256B.76, subdivisions 1, 4, by adding a subdivision; 256B.761; 256D.024, by adding a subdivision; 256D.03, subdivision 4; 256D.051, subdivision 2a; 256D.0515; 256D.06, subdivision 2; 256D.09, subdivision 6; 256D.44, subdivision 5; 256D.49, subdivision 3; 256G.02, subdivision 6; 256I.03, subdivision 7; 256I.05, subdivisions 1a, 7c; 256J.08, subdivision 73a; 256J.20, subdivision 3; 256J.24, subdivisions 5a, 10; 256J.26, by adding a subdivision; 256J.37, subdivision 3a, by adding a subdivision; 256J.38, subdivision 1; 256J.45, subdivision 3; 256J.49, subdivision 13; 256J.575, subdivisions 3, 6, 7; 256J.621; 256J.626, subdivision 6; 256J.751, by adding a subdivision; 256J.95, subdivision 12; 256L.04, subdivision 10a, by adding a subdivision; 256L.05, subdivision 1, by adding subdivisions; 256L.11, subdivisions 1, 7; 256L.12, subdivision 9; 256L.17, subdivision 3; 259.67, by adding a subdivision; 270A.09, by adding a subdivision; 295.52, by adding a subdivision; 327.14, by adding a subdivision; 327.15; 327.16; 327.20, subdivision 1, by adding a subdivision; 393.07, subdivision 10; 501B.89, by adding a subdivision; 518A.53, subdivisions 1, 4, 10; 519.05; 604A.33, subdivision 1; 609.232, subdivision 11; 626.556, subdivision 3c; 626.5572, subdivisions 6, 13, 21; Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 1, as amended; Laws 2007, chapter 147, article 19, section 3, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 62A; 62Q; 156; 246B; 254B; 256; 256B; proposing coding for new law as Minnesota Statutes, chapter 402A; repealing Minnesota Statutes 2008, sections 62U.08; 103I.112; 144.9501, subdivision 17b; 148D.180, subdivision 8; 246.51, subdivision 1; 246.53, subdivision 3; 256.962, subdivision 7; 256B.0655, subdivisions 1, 1a, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13; 256B.071, subdivisions 1, 2, 3, 4; 256B.092, subdivision 5a; 256B.19, subdivision 1d; 256B.431, subdivision 23; 256D.46; 256I.06, subdivision 9; 256J.626, subdivision 7; 327.14, subdivisions 5, 6; Laws 1988, chapter 689, section 251; Minnesota Rules, parts 4626.2015, subpart

9; 9100.0400, subparts 1, 3; 9100.0500; 9100.0600; 9500.1243, subpart 3; 9500.1261, subparts 3, 4, 5, 6; 9555.6125, subpart 4, item B.

### SUSPENSION OF RULES

Senator Pogemiller moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1362 and that the rules of the Senate be so far suspended as to give H.F. No. 1362 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 1362 was read the second time.

Senator Berglin moved to amend H.F. No. 1362 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 1362, and insert the language after the enacting clause, and the title, of S.F. No. 695, the second engrossment.

The motion prevailed. So the amendment was adopted.

H.F. No. 1362 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 40 and nays 25, as follows:

Those who voted in the affirmative were:

Anderson	Dahle	Langseth	Pappas	Scheid
Bakk	Dibble	Latz	Pogemiller	Sheran
Berglin	Dille	Lourey	Prettner Solon	Sieben
Betzold	Doll	Lynch	Rest	Skoe
Carlson	Fobbe	Metzen	Rosen	Stumpf
Chaudhary	Foley	Moua	Rummel	Tomassoni
Clark	Higgins	Murphy	Saltzman	Torres Ray
Cohen	Kelash	Olseen	Saxhaug	Wiger

Those who voted in the negative were:

Day	Gimse	Koch	Olson, G.	Senjem
Erickson Ropes	Hann	Kubly	Olson, M.	Skogen
Fischbach	Ingebrigtsen	Limmer	Ortman	Sparks
Frederickson	Johnson	Marty	Pariseau	Vandever
Gerlach	Jungbauer	Michel	Robling	Vickerman

So the bill, as amended, was passed and its title was agreed to.

### MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the Confirmation Calendar. The motion prevailed.

### CONFIRMATION

Senator Metzen moved that the report from the Committee on Business, Industry and Jobs, reported March 9, 2009, pertaining to the appointment of the commissioner of the Bureau of

Mediation Services, be taken from the table. The motion prevailed.

Senator Metzen moved that the foregoing report be now adopted. The motion prevailed.

Senator Metzen moved that in accordance with the report from the Committee on Business, Industry and Jobs, reported March 9, 2009, the Senate, having given its advice, do now consent to and confirm the appointment of:

**BUREAU OF MEDIATION SERVICES  
COMMISSIONER**

Steven G. Hoffmeyer, 1596 - 9th St., White Bear Lake, Ramsey County, effective January 5, 2009, to complete a term expiring on January 3, 2011.

The motion prevailed. So the appointment was confirmed.

**CONFIRMATION**

Senator Metzen moved that the report from the Committee on Business, Industry and Jobs, reported March 9, 2009, pertaining to appointments to the Board of Electricity, be taken from the table. The motion prevailed.

Senator Metzen moved that the foregoing report be now adopted. The motion prevailed.

Senator Metzen moved that in accordance with the report from the Committee on Business, Industry and Jobs, reported March 9, 2009, the Senate, having given its advice, do now consent to and confirm the appointment of:

**BOARD OF ELECTRICITY**

William M. Hoskins, 220 N. Sunnyside Dr., Caledonia, Houston County, effective June 25, 2008, to complete a term expiring on December 31, 2010.

The motion prevailed. So the appointment was confirmed.

**CONFIRMATION**

Senator Marty moved that the report from the Committee on Health, Housing and Family Security, reported March 30, 2009, pertaining to appointments to the Minnesota Housing Finance Agency, be taken from the table. The motion prevailed.

Senator Marty moved that the foregoing report be now adopted. The motion prevailed.

Senator Marty moved that in accordance with the report from the Committee on Health, Housing and Family Security, reported March 30, 2009, the Senate, having given its advice, do now consent to and confirm the appointment of:

**MINNESOTA HOUSING FINANCE AGENCY**

Joseph B. Johnson III, 3650 E. 4th St., Duluth, Saint Louis County, effective January 12, 2009, for a term expiring on January 7, 2013.

The motion prevailed. So the appointment was confirmed.

**CONFIRMATION**

Senator Pappas moved that the report from the Committee on Higher Education, reported April 22, 2009, pertaining to the appointment of the Director of the Minnesota Office of Higher Education, be taken from the table. The motion prevailed.

Senator Pappas moved that the foregoing report be now adopted. The motion prevailed.

Senator Pappas moved that in accordance with the report from the Committee on Higher Education, reported April 22, 2009, the Senate, having given its advice, do now consent to and confirm the appointment of:

MINNESOTA OFFICE OF HIGHER EDUCATION  
DIRECTOR

David R. Metzen, 273 Salem Church Rd., Sunfish Lake, Dakota County, effective March 25, 2009, to complete a term expiring on January 3, 2011.

The motion prevailed. So the appointment was confirmed.

**CONFIRMATION**

Senator Pappas moved that the reports from the Committee on Higher Education, reported April 22, 2009, pertaining to appointments to the Minnesota Higher Education Facilities Authority, be taken from the table. The motion prevailed.

Senator Pappas moved that the foregoing reports be now adopted. The motion prevailed.

Senator Pappas moved that in accordance with the reports from the Committee on Higher Education, reported April 22, 2009, the Senate, having given its advice, do now consent to and confirm the appointment of:

MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY

Gary Benson, 2064 Pleasantview Dr., New Brighton, Ramsey County, effective April 30, 2007, for a term expiring on January 3, 2011.

Mary Ives, 973 N.E. 4th St., Grand Rapids, Itasca County, effective May 13, 2008, for a term expiring on January 2, 2012.

Raymond VinZant, Jr., 605 Winthrop Ln., Saint Paul, Ramsey County, effective May 13, 2008, for a term expiring on January 2, 2012.

The motion prevailed. So the appointments were confirmed.

**CONFIRMATION**

Senator Pappas moved that the report from the Committee on Higher Education, reported April 22, 2009, pertaining to appointments to the Board of Trustees of the Minnesota State Colleges and Universities, be taken from the table. The motion prevailed.

Senator Pappas moved that the foregoing report be now adopted. The motion prevailed.

Senator Pappas moved that in accordance with the report from the Committee on Higher

Education, reported April 22, 2009, the Senate, having given its advice, do now consent to and confirm the appointment of:

**BOARD OF TRUSTEES OF THE MINNESOTA  
STATE COLLEGES AND UNIVERSITIES**

Cheryl Dickson, 126 Prospect Blvd., Saint Paul, Ramsey County, effective July 2, 2008, for a term expiring on June 30, 2014.

Jacob Englund, 2651 Ulysses St. N.E., Apt. #2, Minneapolis, Hennepin County, effective July 2, 2008, for a term expiring on June 30, 2010.

Clarence Hightower, 11510 - 62nd Pl. N., Plymouth, Hennepin County, effective July 2, 2008, for a term expiring on June 30, 2014.

Allyson Lueneburg, 359 Huff St., Winona, Winona County, effective July 2, 2008, to complete a term expiring on June 30, 2009.

Louise Sundin, 5216 Vincent Ave. S., Minneapolis, Hennepin County, effective July 2, 2008, for a term expiring on June 30, 2014.

Terri Thomas, P.O. Box 8073, Rochester, Olmsted County, effective July 2, 2008, for a term expiring on June 30, 2010.

The motion prevailed. So the appointments were confirmed.

**CONFIRMATION**

Senator Prettnr Solon moved that the report from the Committee on Energy, Utilities, Technology and Communications, reported April 23, 2009, pertaining to appointments to the Public Utilities Commission, be taken from the table. The motion prevailed.

Senator Prettnr Solon moved that the foregoing report be now adopted. The motion prevailed.

Senator Prettnr Solon moved that in accordance with the report from the Committee on Energy, Utilities, Technology and Communications, reported April 23, 2009, the Senate, having given its advice, do now consent to and confirm the appointment of:

**PUBLIC UTILITIES COMMISSION**

David C. Boyd, 22399 Wagonwheel Tr., Lakeville, Scott County, effective January 5, 2009, for a term expiring on January 5, 2015.

Betsy L. Wergin, 14021 - 311th Ave., Princeton, Sherburne County, effective August 1, 2008, to complete a term expiring on January 4, 2010.

The motion prevailed. So the appointments were confirmed.

Senator Prettnr Solon moved that the appointment of J. Dennis O'Brien to the Public Utilities Commission, be laid on the table. The motion prevailed.

**MOTIONS AND RESOLUTIONS - CONTINUED**

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the General Orders Calendar. The motion prevailed.

**GENERAL ORDERS**

The Senate resolved itself into a Committee of the Whole, with Senator Betzold in the chair.

After some time spent therein, the committee arose, and Senator Betzold reported that the committee had considered the following:

S.F. Nos. 1489, 536, 1399, 1425 and 556 which the committee recommends to pass.

**S.F. Nos. 247 and 140**, which the committee recommends to pass, subject to the following motions:

The question was taken on the recommendation to pass S.F. No. 247.

The roll was called, and there were yeas 54 and nays 11, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Latz	Pappas	Sheran
Bakk	Fischbach	Limmer	Pogemiller	Sieben
Berglin	Fobbe	Lourey	Prettner Solon	Skoe
Betzold	Foley	Lynch	Rest	Skogen
Carlson	Frederickson	Marty	Robling	Sparks
Chaudhary	Gimse	Metzen	Rosen	Stumpf
Clark	Higgins	Moua	Rummel	Tomassoni
Cohen	Kelash	Murphy	Saltzman	Torres Ray
Dahle	Koch	Olseen	Saxhaug	Vickerman
Dibble	Kubly	Olson, G.	Scheid	Wiger
Doll	Langseth	Olson, M.	Senjem	

Those who voted in the negative were:

Day	Hann	Jungbauer	Pariseau
Dille	Ingebrigtsen	Michel	Vandev eer
Gerlach	Johnson	Ortman	

The motion prevailed. So S.F. No. 247 was recommended to pass.

The question was taken on the recommendation to pass S.F. No. 140.

The roll was called, and there were yeas 37 and nays 26, as follows:

Those who voted in the affirmative were:

Anderson	Dahle	Langseth	Pappas	Skoe
Bakk	Dibble	Latz	Pogemiller	Stumpf
Berglin	Doll	Lourey	Prettner Solon	Tomassoni
Betzold	Erickson Ropes	Lynch	Rest	Torres Ray
Carlson	Fobbe	Marty	Rummel	Wiger
Chaudhary	Foley	Moua	Saxhaug	
Clark	Higgins	Olseen	Sheran	
Cohen	Kelash	Olson, M.	Sieben	

Those who voted in the negative were:

Day	Hann	Limmer	Rosen	Vandever
Dille	Ingebrigtsen	Metzen	Saltzman	Vickerman
Fischbach	Johnson	Michel	Scheid	
Frederickson	Jungbauer	Olson, G.	Senjem	
Gerlach	Koch	Ortman	Skogen	
Gimse	Kubly	Robling	Sparks	

The motion prevailed. So S.F. No. 140 was recommended to pass.

**S.F. No. 1462**, which the committee recommends to pass with the following amendments offered by Senator Prettner Solon:

Senator Prettner Solon moved to amend S.F. No. 1462 as follows:

Page 4, line 14, strike "(d)" and insert "(e)"

Page 4, line 15, strike "petition" and insert "request"

Page 4, line 26, strike "or county of venue"

Page 7, line 8, delete the first comma

Page 7, line 9, delete "following" and insert "and"

Page 8, line 14, delete "must not be" and insert "is not"

Page 10, line 15, delete "also"

Page 10, line 17, delete "has" and insert "may"

Page 10, line 18, delete "discretion to"

The motion prevailed. So the amendment was adopted.

Senator Prettner Solon moved to amend S.F. No. 1462 as follows:

Page 6, line 34, delete "household representative" and insert "individual"

Page 12, after line 17, insert:

"Sec. 10. **EFFECTIVE DATE.**

Sections 1 to 9 are effective the day following final enactment."

The motion prevailed. So the amendment was adopted.

**S.F. No. 1009**, which the committee recommends to pass with the following amendment offered by Senator Torres Ray:

Page 1, delete section 1 and insert:

"Section 1. Minnesota Statutes 2008, section 609.321, subdivision 12, is amended to read:

Subd. 12. **Public place.** A "public place" means a public street or sidewalk, a pedestrian skyway system as defined in section 469.125, subdivision 4, a hotel, motel, steam room, sauna, massage parlor, shopping mall and other public shopping areas, or other place of public accommodation, a place licensed to sell intoxicating liquor, wine, nonintoxicating malt beverages, or food, or a motor



vehicle located on a public street, alley, or parking lot ordinarily used by or available to the public though not used as a matter of right and a driveway connecting such a parking lot with a street or highway.

**EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes committed on or after that date."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

**S.F. No. 1217**, which the committee recommends to pass with the following amendments offered by Senators Higgins and Prettner Solon:

Senator Higgins moved to amend S.F. No. 1217 as follows:

Page 1, after line 6, insert:

"Section 1. Minnesota Statutes 2008, section 144.1501, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section, the following definitions apply.

(b) "Dentist" means an individual who is licensed to practice dentistry.

(c) "Designated rural area" means:

(1) an area in Minnesota outside the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, excluding the cities of Duluth, Mankato, Moorhead, Rochester, and St. Cloud; or

(2) a municipal corporation, as defined under section 471.634, that is physically located, in whole or in part, in an area defined as a designated rural area under clause (1).

(d) "Emergency circumstances" means those conditions that make it impossible for the participant to fulfill the service commitment, including death, total and permanent disability, or temporary disability lasting more than two years.

(e) "Medical resident" means an individual participating in a medical residency in family practice, internal medicine, obstetrics and gynecology, pediatrics, or psychiatry.

(f) "Midlevel practitioner" means a nurse practitioner, nurse-midwife, nurse anesthetist, advanced clinical nurse specialist, or physician assistant.

(g) "Nurse" means an individual who has completed training and received all licensing or certification necessary to perform duties as a licensed practical nurse or registered nurse.

(h) "Nurse-midwife" means a registered nurse who has graduated from a program of study designed to prepare registered nurses for advanced practice as nurse-midwives.

(i) "Nurse practitioner" means a registered nurse who has graduated from a program of study designed to prepare registered nurses for advanced practice as nurse practitioners.

(j) "Pharmacist" means an individual with a valid license issued under chapter 151.

(k) "Physician" means an individual who is licensed to practice medicine in the areas of family practice, internal medicine, obstetrics and gynecology, pediatrics, or psychiatry.

(l) "Physician assistant" means a person ~~registered~~ licensed under chapter 147A.

(m) "Qualified educational loan" means a government, commercial, or foundation loan 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.

(n) "Underserved urban community" means a Minnesota urban area or population included in the list of designated primary medical care health professional shortage areas (HPSAs), medically underserved areas (MUAs), or medically underserved populations (MUPs) maintained and updated by the United States Department of Health and Human Services."

Page 2, after line 25, insert:

"Sec. 5. Minnesota Statutes 2008, section 144E.001, subdivision 3a, is amended to read:

Subd. 3a. **Ambulance service personnel.** "Ambulance service personnel" means individuals who are authorized by a licensed ambulance service to provide emergency care for the ambulance service and are:

(1) EMTs, EMT-Is, or EMT-Ps;

(2) Minnesota registered nurses who are: (i) EMTs, are currently practicing nursing, and have passed a paramedic practical skills test, as approved by the board and administered by a training program approved by the board; (ii) on the roster of an ambulance service on or before January 1, 2000; or (iii) after petitioning the board, deemed by the board to have training and skills equivalent to an EMT, as determined on a case-by-case basis; or

(3) Minnesota ~~registered~~ licensed physician assistants who are: (i) EMTs, are currently practicing as physician assistants, and have passed a paramedic practical skills test, as approved by the board and administered by a training program approved by the board; (ii) on the roster of an ambulance service on or before January 1, 2000; or (iii) after petitioning the board, deemed by the board to have training and skills equivalent to an EMT, as determined on a case-by-case basis.

Sec. 6. Minnesota Statutes 2008, section 144E.001, subdivision 9c, is amended to read:

Subd. 9c. **Physician assistant.** "Physician assistant" means a person ~~registered~~ licensed to practice as a physician assistant under chapter 147A.

Sec. 7. Minnesota Statutes 2008, section 147.09, is amended to read:

#### **147.09 EXEMPTIONS.**

Section 147.081 does not apply to, control, prevent or restrict the practice, service, or activities of:

(1) A person who is a commissioned medical officer of, a member of, or employed by, the armed forces of the United States, the United States Public Health Service, the Veterans Administration, any federal institution or any federal agency while engaged in the performance of official duties within this state, if the person is licensed elsewhere.

(2) A licensed physician from a state or country who is in actual consultation here.

(3) A licensed or registered physician who treats the physician's home state patients or other participating patients while the physicians and those patients are participating together in outdoor recreation in this state as defined by section 86A.03, subdivision 3. A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to promulgate the contents of that form by rule. No fee shall be charged for this registration.

(4) A student practicing under the direct supervision of a preceptor while the student is enrolled in and regularly attending a recognized medical school.

(5) A student who is in continuing training and performing the duties of an intern or resident or engaged in postgraduate work considered by the board to be the equivalent of an internship or residency in any hospital or institution approved for training by the board, provided the student has a residency permit issued by the board under section 147.0391.

(6) A person employed in a scientific, sanitary, or teaching capacity by the state university, the Department of Education, a public or private school, college, or other bona fide educational institution, a nonprofit organization, which has tax-exempt status in accordance with the Internal Revenue Code, section 501(c)(3), and is organized and operated primarily for the purpose of conducting scientific research directed towards discovering the causes of and cures for human diseases, or the state Department of Health, whose duties are entirely of a research, public health, or educational character, while engaged in such duties; provided that if the research includes the study of humans, such research shall be conducted under the supervision of one or more physicians licensed under this chapter.

(7) ~~Physician's~~ Physician assistants registered licensed in this state.

(8) A doctor of osteopathy duly licensed by the state Board of Osteopathy under Minnesota Statutes 1961, sections 148.11 to 148.16, prior to May 1, 1963, who has not been granted a license to practice medicine in accordance with this chapter provided that the doctor confines activities within the scope of the license.

(9) Any person licensed by a health-related licensing board, as defined in section 214.01, subdivision 2, or registered by the commissioner of health pursuant to section 214.13, including psychological practitioners with respect to the use of hypnosis; provided that the person confines activities within the scope of the license.

(10) A person who practices ritual circumcision pursuant to the requirements or tenets of any established religion.

(11) A Christian Scientist or other person who endeavors to prevent or cure disease or suffering exclusively by mental or spiritual means or by prayer.

(12) A physician licensed to practice medicine in another state who is in this state for the sole purpose of providing medical services at a competitive athletic event. The physician may practice medicine only on participants in the athletic event. A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to adopt the contents of the form by rule. The physician shall provide evidence satisfactory to the board of a current unrestricted license in another state. The board shall charge a fee of \$50 for the registration.

(13) A psychologist licensed under section 148.907 or a social worker licensed under chapter 148D who uses or supervises the use of a penile or vaginal plethysmograph in assessing and treating individuals suspected of engaging in aberrant sexual behavior and sex offenders.

(14) Any person issued a training course certificate or credentialed by the Emergency Medical Services Regulatory Board established in chapter 144E, provided the person confines activities within the scope of training at the certified or credentialed level.

(15) An unlicensed complementary and alternative health care practitioner practicing according to chapter 146A.

Sec. 8. Minnesota Statutes 2008, section 147A.01, is amended to read:

#### **147A.01 DEFINITIONS.**

Subdivision 1. **Scope.** For the purpose of this chapter the terms defined in this section have the meanings given them.

~~Subd. 2. **Active status.** "Active status" means the status of a person who has met all the qualifications of a physician assistant, has a physician-physician assistant agreement in force, and is registered.~~

Subd. 3. **Administer.** "Administer" means the delivery by a physician assistant authorized to prescribe legend drugs, a single dose of a legend drug, including controlled substances, to a patient by injection, inhalation, ingestion, or by any other immediate means, and the delivery by a physician assistant ordered by a physician a single dose of a legend drug by injection, inhalation, ingestion, or by any other immediate means.

Subd. 4. **Agreement.** "Agreement" means the document described in section 147A.20.

Subd. 5. **Alternate supervising physician.** "Alternate supervising physician" means a Minnesota licensed physician listed in the physician-physician assistant delegation agreement, or supplemental listing, who is responsible for supervising the physician assistant when the main primary supervising physician is unavailable. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician.

Subd. 6. **Board.** "Board" means the Board of Medical Practice or its designee.

Subd. 7. **Controlled substances.** "Controlled substances" has the meaning given it in section 152.01, subdivision 4.

~~Subd. 8. **Delegation form.** "Delegation form" means the form used to indicate the categories of drugs for which the authority to prescribe, administer, and dispense has been delegated to the physician assistant and signed by the supervising physician, any alternate supervising physicians, and the physician assistant. This form is part of the agreement described in section 147A.20, and shall be maintained by the supervising physician and physician assistant at the address of record. Copies shall be provided to the board upon request. "Addendum to the delegation form" means a separate listing of the schedules and categories of controlled substances, if any, for which the physician assistant has been delegated the authority to prescribe, administer, and dispense. The addendum shall be maintained as a separate document as described above.~~

Subd. 9. **Diagnostic order.** "Diagnostic order" means a directive to perform a procedure or test, the purpose of which is to determine the cause and nature of a pathological condition or disease.

Subd. 10. **Drug.** "Drug" has the meaning given it in section 151.01, subdivision 5, including controlled substances as defined in section 152.01, subdivision 4.

Subd. 11. **Drug category.** "Drug category" means one of the categories listed on the physician-physician assistant delegation form agreement.

Subd. 12. **Inactive status.** ~~"Inactive status" means the status of a person who has met all the qualifications of a physician assistant, and is registered, but does not have a physician-physician assistant agreement in force~~ a licensed physician assistant whose license has been placed on inactive status under section 147A.05.

~~Subd. 13. **Internal protocol.** "Internal protocol" means a document written by the supervising physician and the physician assistant which specifies the policies and procedures which will apply to the physician assistant's prescribing, administering, and dispensing of legend drugs and medical devices, including controlled substances as defined in section 152.01, subdivision 4, and lists the specific categories of drugs and medical devices, with any exceptions or conditions, that the physician assistant is authorized to prescribe, administer, and dispense. The supervising physician and physician assistant shall maintain the protocol at the address of record. Copies shall be provided to the board upon request.~~

Subd. 14. **Legend drug.** "Legend drug" has the meaning given it in section 151.01, subdivision 17.

Subd. 14a. **Licensed.** "Licensed" means meeting the qualifications in section 147A.02 and being issued a license by the board.

Subd. 14b. **Licensure.** "Licensure" means the process by which the board determines that an applicant has met the standards and qualifications in this chapter.

~~Subd. 15. **Locum tenens permit.** "Locum tenens permit" means time specific temporary permission for a physician assistant to practice as a physician assistant in a setting other than the practice setting established in the physician-physician assistant agreement.~~

Subd. 16. **Medical device.** "Medical device" means durable medical equipment and assistive or rehabilitative appliances, objects, or products that are required to implement the overall plan of care for the patient and that are restricted by federal law to use upon prescription by a licensed practitioner.

Subd. 16a. **Notice of intent to practice.** "Notice of intent to practice" means a document sent to the board by a licensed physician assistant that documents the adoption of a physician-physician assistant delegation agreement and provides the names, addresses, and information required by section 147A.20.

Subd. 17. **Physician.** "Physician" means a person currently licensed in good standing as a physician or osteopath under chapter 147.

Subd. 17a. **Physician-physician assistant delegation agreement.** "Physician-physician assistant delegation agreement" means the document prepared and signed by the physician and

physician assistant affirming the supervisory relationship and defining the physician assistant scope of practice. Alternate supervising physicians must be identified on the delegation agreement or a supplemental listing with signed attestation that each shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician. The physician-physician assistant delegation agreement outlines the role of the physician assistant in the practice, describes the means of supervision, and specifies the categories of drugs, controlled substances, and medical devices that the supervising physician delegates to the physician assistant to prescribe. The physician-physician assistant delegation agreement must comply with the requirements of section 147A.20, be kept on file at the address of record, and be made available to the board or its representative upon request.

Subd. 18. **Physician assistant or ~~registered licensed~~ registered licensed physician assistant.** "Physician assistant" or "~~registered licensed~~ registered licensed physician assistant" means a person ~~registered licensed~~ registered licensed pursuant to this chapter who ~~is qualified by academic or practical training or both to provide patient services as specified in this chapter, under the supervision of a supervising physician meets the qualifications in section 147A.02.~~

Subd. 19. **~~Practice setting description.~~** "~~Practice setting description~~" means a signed record submitted to the board on forms provided by the board, on which:

~~(1) the supervising physician assumes full medical responsibility for the medical care rendered by a physician assistant;~~

~~(2) is recorded the address and phone number of record of each supervising physician and alternate, and the physicians' medical license numbers and DEA number;~~

~~(3) is recorded the address and phone number of record of the physician assistant and the physician assistant's registration number and DEA number;~~

~~(4) is recorded whether the physician assistant has been delegated prescribing, administering, and dispensing authority;~~

~~(5) is recorded the practice setting, address or addresses and phone number or numbers of the physician assistant; and~~

~~(6) is recorded a statement of the type, amount, and frequency of supervision.~~

Subd. 20. **Prescribe.** "Prescribe" means to direct, order, or designate by means of a prescription the preparation, use of, or manner of using a drug or medical device.

Subd. 21. **Prescription.** "Prescription" means a signed written order, ~~or~~ an oral order reduced to writing, or an electronic order meeting current and prevailing standards given by a physician assistant authorized to prescribe drugs for patients in the course of the physician assistant's practice, issued for an individual patient and containing the information required in the physician-physician assistant delegation form agreement.

Subd. 22. **Registration.** "~~Registration~~" is the process by which ~~the board determines that an applicant has been found to meet the standards and qualifications found in this chapter.~~

Subd. 23. **Supervising physician.** "Supervising physician" means a Minnesota licensed physician who accepts full medical responsibility for the performance, practice, and activities of a

physician assistant under an agreement as described in section 147A.20. The supervising physician who completes and signs the delegation agreement may be referred to as the primary supervising physician. A supervising physician shall not supervise more than ~~two~~ five full-time equivalent physician assistants simultaneously. With the approval of the board, or in a disaster or emergency situation pursuant to section 147A.23, a supervising physician may supervise more than five full-time equivalent physician assistants simultaneously.

Subd. 24. **Supervision.** "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. The scope and nature of the supervision shall be defined by the individual physician-physician assistant delegation agreement.

Subd. 25. **Temporary registration license.** ~~"Temporary registration" means the status of a person who has satisfied the education requirement specified in this chapter; is enrolled in the next examination required in this chapter; or is awaiting examination results; has a physician-physician assistant agreement in force as required by this chapter, and has submitted a practice setting description to the board. Such provisional registration shall expire 90 days after completion of the next examination sequence, or after one year, whichever is sooner, for those enrolled in the next examination; and upon receipt of the examination results for those awaiting examination results. The registration shall be granted by the board or its designee.~~ "Temporary license" means a license granted to a physician assistant who meets all of the qualifications for licensure but has not yet been approved for licensure at a meeting of the board.

Subd. 26. **Therapeutic order.** "Therapeutic order" means an order given to another for the purpose of treating or curing a patient in the course of a physician assistant's practice. Therapeutic orders may be written or verbal, but do not include the prescribing of legend drugs or medical devices unless prescribing authority has been delegated within the physician-physician assistant delegation agreement.

Subd. 27. **Verbal order.** "Verbal order" means an oral order given to another for the purpose of treating or curing a patient in the course of a physician assistant's practice. Verbal orders do not include the prescribing of legend drugs unless prescribing authority has been delegated within the physician-physician assistant delegation agreement.

Sec. 9. Minnesota Statutes 2008, section 147A.02, is amended to read:

**147A.02 QUALIFICATIONS FOR ~~REGISTRATION~~ LICENSURE.**

Except as otherwise provided in this chapter, an individual shall be ~~registered~~ licensed by the board before the individual may practice as a physician assistant.

The board may grant ~~registration~~ a license as a physician assistant to an applicant who:

- (1) submits an application on forms approved by the board;
- (2) pays the appropriate fee as determined by the board;
- (3) has current certification from the National Commission on Certification of Physician Assistants, or its successor agency as approved by the board;

(4) certifies that the applicant is mentally and physically able to engage safely in practice as a physician assistant;

(5) has no licensure, certification, or registration as a physician assistant under current discipline, revocation, suspension, or probation for cause resulting from the applicant's practice as a physician assistant, unless the board considers the condition and agrees to licensure;

(6) submits any other information the board deems necessary to evaluate the applicant's qualifications; and

(7) has been approved by the board.

All persons registered as physician assistants as of June 30, 1995, are eligible for continuing ~~registration~~ license renewal. All persons applying for ~~registration~~ licensure after that date shall be ~~registered~~ licensed according to this chapter.

Sec. 10. Minnesota Statutes 2008, section 147A.03, is amended to read:

#### **147A.03 PROTECTED TITLES AND RESTRICTIONS ON USE.**

Subdivision 1. **Protected titles.** No individual may use the titles "Minnesota ~~Registered Licensed~~ Physician Assistant," "~~Registered Licensed~~ Physician Assistant," "Physician Assistant," or "PA" in connection with the individual's name, or any other words, letters, abbreviations, or insignia indicating or implying that the individual is ~~registered with~~ licensed by the state unless they have been ~~registered~~ licensed according to this chapter.

Subd. 2. **Health care practitioners.** Individuals practicing in a health care occupation are not restricted in the provision of services included in this chapter as long as they do not hold themselves out as physician assistants by or through the titles provided in subdivision 1 in association with provision of these services.

~~Subd. 3. **Identification of registered practitioners.** Physician assistants in Minnesota shall wear name tags which identify them as physician assistants.~~

Subd. 4. **Sanctions.** Individuals who hold themselves out as physician assistants by or through any of the titles provided in subdivision 1 without prior ~~registration~~ licensure shall be subject to sanctions or actions against continuing the activity according to section 214.11, or other authority.

Sec. 11. Minnesota Statutes 2008, section 147A.04, is amended to read:

#### **147A.04 TEMPORARY ~~PERMIT~~ LICENSE.**

The board may issue a temporary ~~permit~~ license to practice to a physician assistant eligible for ~~registration~~ licensure under this chapter only if the application for ~~registration~~ licensure is complete, all requirements have been met, and a nonrefundable fee set by the board has been paid. The ~~permit~~ temporary license remains valid only until the next meeting of the board at which a decision is made on the application for ~~registration~~ licensure.

Sec. 12. Minnesota Statutes 2008, section 147A.05, is amended to read:

#### **147A.05 INACTIVE ~~REGISTRATION~~ LICENSE.**

Physician assistants who notify the board in writing ~~on forms prescribed by the board~~ may



elect to place their ~~registrations~~ license on an inactive status. Physician assistants with an inactive ~~registration~~ license shall be excused from payment of renewal fees and shall not practice as physician assistants. Persons who engage in practice while their ~~registrations~~ license is lapsed or on inactive status shall be considered to be practicing without ~~registration~~ a license, which shall be grounds for discipline under section 147A.13. Physician assistants who provide care under the provisions of section 147A.23 shall not be considered practicing without a license or subject to disciplinary action. Physician assistants ~~requesting restoration from inactive status~~ who notify the board of their intent to resume active practice shall be required to pay the current renewal fees and all unpaid back fees and shall be required to meet the criteria for renewal specified in section 147A.07.

Sec. 13. Minnesota Statutes 2008, section 147A.06, is amended to read:

**147A.06 CANCELLATION OF ~~REGISTRATION~~ LICENSE FOR NONRENEWAL.**

The board shall not renew, reissue, reinstate, or restore a ~~registration~~ license that has lapsed on or after July 1, 1996, and has not been renewed within two annual renewal cycles starting July 1, 1997. A ~~registrant~~ licensee whose ~~registration~~ license is canceled for nonrenewal must obtain a new ~~registration~~ license by applying for ~~registration~~ licensure and fulfilling all requirements then in existence for an initial ~~registration~~ license to practice as a physician assistant.

Sec. 14. Minnesota Statutes 2008, section 147A.07, is amended to read:

**147A.07 RENEWAL.**

A person who holds a ~~registration~~ license as a physician assistant shall annually, upon notification from the board, renew the ~~registration~~ license by:

- (1) submitting the appropriate fee as determined by the board;
- (2) completing the appropriate forms; and
- (3) meeting any other requirements of the board;
- ~~(4) submitting a revised and updated practice setting description showing evidence of annual review of the physician-physician assistant supervisory agreement.~~

Sec. 15. Minnesota Statutes 2008, section 147A.08, is amended to read:

**147A.08 EXEMPTIONS.**

(a) This chapter does not apply to, control, prevent, or restrict the practice, service, or activities of persons listed in section 147.09, clauses (1) to (6) and (8) to (13), persons regulated under section 214.01, subdivision 2, or persons defined in section 144.1501, subdivision 1, paragraphs (f), (h), and (i).

(b) Nothing in this chapter shall be construed to require ~~registration~~ licensure of:

(1) a physician assistant student enrolled in a physician assistant ~~or surgeon assistant~~ educational program accredited by the ~~Committee on Allied Health Education and Accreditation~~ Review Commission on Education for the Physician Assistant or by its successor agency approved by the board;

(2) a physician assistant employed in the service of the federal government while performing

duties incident to that employment; or

(3) technicians, other assistants, or employees of physicians who perform delegated tasks in the office of a physician but who do not identify themselves as a physician assistant.

Sec. 16. Minnesota Statutes 2008, section 147A.09, is amended to read:

**147A.09 SCOPE OF PRACTICE, DELEGATION.**

Subdivision 1. **Scope of practice.** Physician assistants shall practice medicine only with physician supervision. Physician assistants may perform those duties and responsibilities as delegated in the physician-physician assistant delegation agreement and delegation forms maintained at the address of record by the supervising physician and physician assistant, including the prescribing, administering, and dispensing of drugs, controlled substances, and medical devices ~~and drugs~~, excluding anesthetics, other than local anesthetics, injected in connection with an operating room procedure, inhaled anesthesia and spinal anesthesia.

Patient service must be limited to:

- (1) services within the training and experience of the physician assistant;
- (2) services customary to the practice of the supervising physician or alternate supervising physician;
- (3) services delegated by the supervising physician or alternate supervising physician under the physician-physician assistant delegation agreement; and
- (4) services within the parameters of the laws, rules, and standards of the facilities in which the physician assistant practices.

Nothing in this chapter authorizes physician assistants to perform duties regulated by the boards listed in section 214.01, subdivision 2, other than the Board of Medical Practice, and except as provided in this section.

Subd. 2. **Delegation.** Patient services may include, but are not limited to, the following, as delegated by the supervising physician and authorized in the delegation agreement:

- (1) taking patient histories and developing medical status reports;
- (2) performing physical examinations;
- (3) interpreting and evaluating patient data;
- (4) ordering or performing diagnostic procedures, including radiography ~~the use of radiographic imaging systems in compliance with Minnesota Rules 2007, chapter 4732~~;
- (5) ordering or performing therapeutic procedures including the use of ionizing radiation in compliance with Minnesota Rules 2007, chapter 4732;
- (6) providing instructions regarding patient care, disease prevention, and health promotion;
- (7) assisting the supervising physician in patient care in the home and in health care facilities;
- (8) creating and maintaining appropriate patient records;

(9) transmitting or executing specific orders at the direction of the supervising physician;

(10) prescribing, administering, and dispensing ~~legend~~ legend drugs, controlled substances, and medical devices if this function has been delegated by the supervising physician pursuant to and subject to the limitations of section 147A.18 and chapter 151. For physician assistants who have been delegated the authority to prescribe controlled substances ~~shall maintain a separate addendum to the delegation form which lists all schedules and categories~~ such delegation shall be included in the physician-physician assistant delegation agreement, and all schedules of controlled substances which the physician assistant has the authority to prescribe. This addendum shall be maintained with the physician-physician assistant agreement, and the delegation form at the address of record shall be specified;

(11) for physician assistants not delegated prescribing authority, administering legend drugs and medical devices following prospective review for each patient by and upon direction of the supervising physician;

(12) functioning as an emergency medical technician with permission of the ambulance service and in compliance with section 144E.127, and ambulance service rules adopted by the commissioner of health;

(13) initiating evaluation and treatment procedures essential to providing an appropriate response to emergency situations; ~~and~~

(14) certifying a ~~physical disability~~ patient's eligibility for a disability parking certificate under section 169.345, subdivision ~~2a~~ 2;

(15) assisting at surgery; and

(16) providing medical authorization for admission for emergency care and treatment of a patient under section 253B.05, subdivision 2.

Orders of physician assistants shall be considered the orders of their supervising physicians in all practice-related activities, including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services.

Sec. 17. Minnesota Statutes 2008, section 147A.11, is amended to read:

**147A.11 EXCLUSIONS OF LIMITATIONS ON EMPLOYMENT.**

Nothing in this chapter shall be construed to limit the employment arrangement of a physician assistant ~~registered~~ licensed under this chapter.

Sec. 18. Minnesota Statutes 2008, section 147A.13, is amended to read:

**147A.13 GROUNDS FOR DISCIPLINARY ACTION.**

Subdivision 1. **Grounds listed.** The board may refuse to grant ~~registration~~ licensure or may impose disciplinary action as described in this subdivision against any physician assistant. The following conduct is prohibited and is grounds for disciplinary action:

(1) failure to demonstrate the qualifications or satisfy the requirements for ~~registration~~ licensure contained in this chapter or rules of the board. The burden of proof shall be upon the applicant to

demonstrate such qualifications or satisfaction of such requirements;

(2) obtaining ~~registration~~ a license by fraud or cheating, or attempting to subvert the examination process. Conduct which subverts or attempts to subvert the examination process includes, but is not limited to:

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

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

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

(3) conviction, during the previous five years, of a felony reasonably related to the practice of physician assistant. Conviction as used in this subdivision includes a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered;

(4) revocation, suspension, restriction, limitation, or other disciplinary action against the person's physician assistant credentials in another state or jurisdiction, failure to report to the board that charges regarding the person's credentials have been brought in another state or jurisdiction, or having been refused ~~registration~~ licensure by any other state or jurisdiction;

(5) advertising which is false or misleading, violates any rule of the board, or claims without substantiation the positive cure of any disease or professional superiority to or greater skill than that possessed by another physician assistant;

(6) violating a rule adopted by the board or an order of the board, a state, or federal law which relates to the practice of a physician assistant, or in part regulates the practice of a physician assistant, including without limitation sections 148A.02, 609.344, and 609.345, or a state or federal narcotics or controlled substance law;

(7) engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient; or practice which is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established;

(8) failure to adhere to the provisions of the physician-physician assistant delegation agreement;

(9) engaging in the practice of medicine beyond that allowed by the physician-physician assistant delegation agreement, ~~including the delegation form or the addendum to the delegation form~~, or aiding or abetting an unlicensed person in the practice of medicine;

(10) adjudication as mentally incompetent, mentally ill or developmentally disabled, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction, within

or without this state. Such adjudication shall automatically suspend a ~~registration~~ license for its duration unless the board orders otherwise;

(11) engaging in unprofessional conduct. Unprofessional conduct includes any departure from or the failure to conform to the minimal standards of acceptable and prevailing practice in which proceeding actual injury to a patient need not be established;

(12) inability to practice with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;

(13) revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law;

(14) any ~~use of~~ identification of a physician assistant by the title "Physician," "Doctor," or "Dr." in a patient care setting or in a communication directed to the general public;

(15) improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made pursuant to sections 144.291 to 144.298, or to furnish a medical record or report required by law;

(16) engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(17) becoming addicted or habituated to a drug or intoxicant;

(18) prescribing a drug or device for other than medically accepted therapeutic, experimental, or investigative purposes authorized by a state or federal agency or referring a patient to any health care provider as defined in sections 144.291 to 144.298 for services or tests not medically indicated at the time of referral;

(19) engaging in conduct with a patient which is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior which is seductive or sexually demeaning to a patient;

(20) failure to make reports as required by section 147A.14 or to cooperate with an investigation of the board as required by section 147A.15, subdivision 3;

(21) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo;

(22) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

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

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

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

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

(23) failure to maintain annually reviewed and updated physician-physician assistant delegation agreements, internal protocols, or prescribing delegation forms for each physician-physician assistant practice relationship, or failure to provide copies of such documents upon request by the board.

**Subd. 2. Effective dates, automatic suspension.** A suspension, revocation, condition, limitation, qualification, or restriction of a registration license shall be in effect pending determination of an appeal unless the court, upon petition and for good cause shown, orders otherwise.

A physician assistant registration license is automatically suspended if:

(1) a guardian of a registrant licensee is appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other than the minority of the registrant licensee; or

(2) the registrant licensee is committed by order of a court pursuant to chapter 253B. The registration license remains suspended until the registrant licensee is restored to capacity by a court and, upon petition by the registrant licensee, the suspension is terminated by the board after a hearing.

**Subd. 3. Conditions on reissued registration license.** In its discretion, the board may restore and reissue a physician assistant registration license, but may impose as a condition any disciplinary or corrective measure which it might originally have imposed.

**Subd. 4. Temporary suspension of registration license.** In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend the registration license of a physician assistant if the board finds that the physician assistant has violated a statute or rule which the board is empowered to enforce and continued practice by the physician assistant would create a serious risk of harm to the public. The suspension shall take effect upon written notice to the physician assistant, specifying the statute or rule violated. The suspension shall remain in effect until the board issues a final order in the matter after a hearing. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act.

The physician assistant shall be provided with at least 20 days' notice of any hearing held pursuant to this subdivision. The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.

**Subd. 5. Evidence.** In disciplinary actions alleging a violation of subdivision 1, clause (3) or (4), a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency which entered it shall be admissible into evidence without further authentication and shall constitute prima facie evidence of the contents thereof.

**Subd. 6. Mental examination; access to medical data.** (a) If the board has probable cause to believe that a physician assistant comes under subdivision 1, clause (1), it may direct the physician assistant to submit to a mental or physical examination. For the purpose of this subdivision, every physician assistant registered licensed under this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived

all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitute a privileged communication. Failure of a physician assistant to submit to an examination when directed constitutes an admission of the allegations against the physician assistant, unless the failure was due to circumstance beyond the physician assistant's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. A physician assistant affected under this subdivision shall at reasonable intervals be given an opportunity to demonstrate that the physician assistant can resume competent practice with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board shall be used against a physician assistant in any other proceeding.

(b) In addition to ordering a physical or mental examination, the board may, notwithstanding sections 13.384, 144.651, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a ~~registrant~~ licensee or applicant without the ~~registrant's~~ licensee's or applicant's consent if the board has probable cause to believe that a physician assistant comes under subdivision 1, clause (1).

The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is classified as private under chapter 13.

Subd. 7. **Tax clearance certificate.** (a) In addition to the provisions of subdivision 1, the board may not issue or renew a ~~registration~~ license if the commissioner of revenue notifies the board and the ~~registrant~~ licensee or applicant for ~~registration~~ licensure that the ~~registrant~~ licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. The board may issue or renew the ~~registration~~ license only if:

- (1) the commissioner of revenue issues a tax clearance certificate; and
- (2) the commissioner of revenue, the ~~registrant~~ licensee, or the applicant forwards a copy of the clearance to the board.

The commissioner of revenue may issue a clearance certificate only if the ~~registrant~~ licensee or applicant does not owe the state any uncontested delinquent taxes.

- (b) For purposes of this subdivision, the following terms have the meanings given:
- (1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes, and
  - (2) "Delinquent taxes" do not include a tax liability if:
    - (i) an administrative or court action that contests the amount or validity of the liability has been filed or served;
    - (ii) the appeal period to contest the tax liability has not expired; or

(iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) When a ~~registrant~~ licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the ~~registrant~~ licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the Office of Administrative Hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the registrant or applicant. The notice may be served personally or by mail.

(d) The board shall require all ~~registrants~~ licensees or applicants to provide their Social Security number and Minnesota business identification number on all ~~registration~~ license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all ~~registrants~~ licensees and applicants, including their names and addresses, Social Security numbers, and business identification numbers. The commissioner of revenue may request a list of the ~~registrants~~ licensees and applicants no more than once each calendar year.

Subd. 8. **Limitation.** No board proceeding against a licensee shall be instituted unless commenced within seven years from the date of commission of some portion of the offense except for alleged violations of subdivision 1, paragraph (19), or subdivision 7.

Sec. 19. Minnesota Statutes 2008, section 147A.16, is amended to read:

**147A.16 FORMS OF DISCIPLINARY ACTION.**

When the board finds that a ~~registered~~ licensed physician assistant has violated a provision of this chapter, it may do one or more of the following:

- (1) revoke the ~~registration~~ license;
- (2) suspend the ~~registration~~ license;
- (3) impose limitations or conditions on the physician assistant's practice, including limiting the scope of practice to designated field specialties; impose retraining or rehabilitation requirements; require practice under additional supervision; or condition continued practice on demonstration of knowledge or skills by appropriate examination or other review of skill and competence;
- (4) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the physician assistant of any economic advantage gained by reason of the violation charged or to reimburse the board for the cost of the investigation and proceeding;
- (5) order the physician assistant to provide unremunerated professional service under supervision at a designated public hospital, clinic, or other health care institution; or
- (6) censure or reprimand the ~~registered~~ licensed physician assistant.

Upon judicial review of any board disciplinary action taken under this chapter, the reviewing court shall seal the administrative record, except for the board's final decision, and shall not make the administrative record available to the public.



Sec. 20. Minnesota Statutes 2008, section 147A.18, is amended to read:

**147A.18 DELEGATED AUTHORITY TO PRESCRIBE, DISPENSE, AND ADMINISTER DRUGS AND MEDICAL DEVICES.**

Subdivision 1. **Delegation.** (a) A supervising physician may delegate to a physician assistant who is ~~registered with~~ licensed by the board, certified by the National Commission on Certification of Physician Assistants or successor agency approved by the board, and who is under the supervising physician's supervision, the authority to prescribe, dispense, and administer legend drugs, ~~medical devices, and controlled substances, and medical devices~~ subject to the requirements in this section. The authority to dispense includes, but is not limited to, the authority to request, receive, and dispense sample drugs. This authority to dispense extends only to those drugs described in the written agreement developed under paragraph (b).

(b) ~~The delegation agreement between the physician assistant and supervising physician and any alternate supervising physicians~~ must include a statement by the supervising physician regarding delegation or nondelegation of the functions of prescribing, dispensing, and administering of legend drugs, controlled substances, and medical devices to the physician assistant. The statement must include ~~a protocol indicating~~ categories of drugs for which the supervising physician delegates prescriptive and dispensing authority including controlled substances when applicable. The delegation must be appropriate to the physician assistant's practice and within the scope of the physician assistant's training. Physician assistants who have been delegated the authority to prescribe, dispense, and administer legend drugs, controlled substances, and medical devices shall provide evidence of current certification by the National Commission on Certification of Physician Assistants or its successor agency when ~~registering or reregistering~~ applying for licensure or license renewal as physician assistants. Physician assistants who have been delegated the authority to prescribe controlled substances must ~~present evidence of the certification and also~~ hold a valid DEA ~~certificate~~ registration. Supervising physicians shall retrospectively review the prescribing, dispensing, and administering of legend ~~and controlled~~ drugs, controlled substances, and medical devices by physician assistants, when this authority has been delegated to the physician assistant as part of the physician-physician assistant delegation agreement ~~between the physician and the physician assistant. This review must take place as outlined in the internal protocol.~~ The process and schedule for the review must be outlined in the physician-physician assistant delegation agreement.

(c) The board may establish by rule:

(1) a system of identifying physician assistants eligible to prescribe, administer, and dispense legend drugs and medical devices;

(2) a system of identifying physician assistants eligible to prescribe, administer, and dispense controlled substances;

(3) a method of determining the categories of legend ~~and controlled~~ drugs, controlled substances, and medical devices that each physician assistant is allowed to prescribe, administer, and dispense; and

(4) a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe legend ~~and controlled~~ drugs, controlled substances, and medical devices.

Subd. 2. **Termination and reinstatement of prescribing authority.** ~~(a)~~ The authority of a physician assistant to prescribe, dispense, and administer legend drugs, controlled substances, and medical devices shall end immediately when:

(1) the physician-physician assistant delegation agreement is terminated;

(2) the authority to prescribe, dispense, and administer is terminated or withdrawn by the supervising physician; ~~or~~

(3) the physician assistant ~~reverts to assistant's license is placed on inactive status, loses National Commission on Certification of Physician Assistants or successor agency certification, or loses or terminates registration status;~~

(4) the physician assistant loses National Commission on Certification of Physician Assistants or successor agency certification; or

(5) the physician assistant loses or terminates licensure status.

~~(b) The physician assistant must notify the board in writing within ten days of the occurrence of any of the circumstances listed in paragraph (a).~~

~~(c) Physician assistants whose authority to prescribe, dispense, and administer has been terminated shall reapply for reinstatement of prescribing authority under this section and meet any requirements established by the board prior to reinstatement of the prescribing, dispensing, and administering authority.~~

Subd. 3. **Other requirements and restrictions.** ~~(a) The supervising physician and the physician assistant must complete, sign, and date an internal protocol which lists each category of drug or medical device, or controlled substance the physician assistant may prescribe, dispense, and administer. The supervising physician and physician assistant shall submit the internal protocol to the board upon request. The supervising physician may amend the internal protocol as necessary, within the limits of the completed delegation form in subdivision 5. The supervising physician and physician assistant must sign and date any amendments to the internal protocol. Any amendments resulting in a change to an addition or deletion to categories delegated in the delegation form in subdivision 5 must be submitted to the board according to this chapter, along with the fee required.~~

~~(b) The supervising physician and physician assistant shall review delegation of prescribing, dispensing, and administering authority on an annual basis at the time of reregistration. The internal protocol must be signed and dated by the supervising physician and physician assistant after review. Any amendments to the internal protocol resulting in changes to the delegation form in subdivision 5 must be submitted to the board according to this chapter, along with the fee required.~~

~~(c)~~ (a) Each prescription initiated by a physician assistant shall indicate the following:

(1) the date of issue;

(2) the name and address of the patient;

(3) the name and quantity of the drug prescribed;

(4) directions for use; and

(5) the name and address of the prescribing physician assistant.

~~(d)~~ (b) In prescribing, dispensing, and administering legend drugs, controlled substances, and medical devices, including controlled substances as defined in section 152.01, subdivision 4, a physician assistant must conform with the agreement, chapter 151, and this chapter.

~~Subd. 4. Notification of pharmacies.~~ (a) The board shall annually provide to the Board of Pharmacy and to registered pharmacies within the state a list of those physician assistants who are authorized to prescribe, administer, and dispense legend drugs and medical devices, or controlled substances.

~~(b)~~ The board shall provide to the Board of Pharmacy a list of physician assistants authorized to prescribe legend drugs and medical devices every two months if additional physician assistants are authorized to prescribe or if physician assistants have authorization to prescribe withdrawn.

~~(c)~~ The list must include the name, address, telephone number, and Minnesota registration number of the physician assistant, and the name, address, telephone number, and Minnesota license number of the supervising physician.

~~(d)~~ The board shall provide the form in subdivision 5 to pharmacies upon request.

~~(e)~~ The board shall make available prototype forms of the physician-physician assistant agreement, the internal protocol, the delegation form, and the addendum form.

~~Subd. 5. Delegation form for physician assistant prescribing.~~ The delegation form for physician assistant prescribing must contain a listing by drug category of the legend drugs and controlled substances for which prescribing authority has been delegated to the physician assistant.

Sec. 21. Minnesota Statutes 2008, section 147A.19, is amended to read:

#### **147A.19 IDENTIFICATION REQUIREMENTS.**

Physician assistants registered licensed under this chapter shall keep their registration license available for inspection at their primary place of business and shall, when engaged in their professional activities, wear a name tag identifying themselves as a "physician assistant."

Sec. 22. Minnesota Statutes 2008, section 147A.20, is amended to read:

#### **147A.20 ~~PHYSICIAN AND PHYSICIAN~~ PHYSICIAN-PHYSICIAN ASSISTANT AGREEMENT DOCUMENTS.**

Subdivision 1. Physician-physician assistant delegation agreement. (a) A physician assistant and supervising physician must sign an a physician-physician assistant delegation agreement which specifies scope of practice and amount and manner of supervision as required by the board. The agreement must contain:

- (1) a description of the practice setting;
- (2) a statement of practice type/specialty;
- ~~(3)~~ a listing of categories of delegated duties;
- ~~(4)~~ (3) a description of supervision type, amount, and frequency; and

~~(5)~~ (4) a description of the process and schedule for review of prescribing, dispensing, and administering legend and controlled drugs and medical devices by the physician assistant authorized to prescribe.

(b) The agreement must be maintained by the supervising physician and physician assistant and made available to the board upon request. If there is a delegation of prescribing, administering, and dispensing of legend drugs, controlled substances, and medical devices, the agreement shall include an internal protocol and delegation form a description of the prescriptive authority delegated to the physician assistant. Physician assistants shall have a separate agreement for each place of employment. Agreements must be reviewed and updated on an annual basis. The supervising physician and physician assistant must maintain the physician-physician assistant delegation agreement, delegation form, and internal protocol at the address of record. ~~Copies shall be provided to the board upon request.~~

(c) Physician assistants must provide written notification to the board within 30 days of the following:

- (1) name change;
- (2) address of record change; and
- (3) telephone number of record change; and

~~(4) addition or deletion of alternate supervising physician provided that the information submitted includes, for an additional alternate physician, an affidavit of consent to act as an alternate supervising physician signed by the alternate supervising physician.~~

~~(d) Modifications requiring submission prior to the effective date are changes to the practice setting description which include:~~

- ~~(1) supervising physician change, excluding alternate supervising physicians; or~~
- ~~(2) delegation of prescribing, administering, or dispensing of legend drugs, controlled substances, or medical devices.~~

~~(e) The agreement must be completed and the practice setting description submitted to the board before providing medical care as a physician assistant.~~

(d) Any alternate supervising physicians must be identified in the physician-physician assistant delegation agreement, or a supplemental listing, and must sign the agreement attesting that they shall provide the physician assistant with supervision in compliance with this chapter, the delegation agreement, and board rules.

Subd. 2. **Notification of intent to practice.** A licensed physician assistant shall submit a notification of intent to practice to the board prior to beginning practice. The notification shall include the name, business address, and telephone number of the supervising physician and the physician assistant. Individuals who practice without submitting a notification of intent to practice shall be subject to disciplinary action under section 147A.13 for practicing without a license, unless the care is provided in response to a disaster or emergency situation pursuant to section 147A.23.

Sec. 23. Minnesota Statutes 2008, section 147A.21, is amended to read:

**147A.21 RULEMAKING AUTHORITY.**

The board shall adopt rules:

- (1) setting ~~registration~~ license fees;
- (2) setting renewal fees;
- (3) ~~setting fees for locum tenens permits;~~
- (4) setting fees for temporary ~~registration~~ licenses; and
- ~~(5)~~ (4) establishing renewal dates.

Sec. 24. Minnesota Statutes 2008, section 147A.23, is amended to read:

**147A.23 RESPONDING TO DISASTER SITUATIONS.**

(a) ~~A registered physician assistant or a physician assistant duly licensed or credentialed in a United States jurisdiction or by a federal employer who is responding to a need for medical care created by an emergency according to section 604A.01, or a state or local disaster may render such care as the physician assistant is able trained to provide, under the physician assistant's license, registration, or credential, without the need of a physician and physician physician-physician assistant delegation agreement or a notice of intent to practice as required under section 147A.20. Physician supervision, as required under section 147A.09, must be provided under the direction of a physician licensed under chapter 147 who is involved with the disaster response. The physician assistant must establish a temporary supervisory agreement with the physician providing supervision before rendering care. A physician assistant may provide emergency care without physician supervision or under the supervision that is available.~~

(b) The physician who provides supervision to a physician assistant while the physician assistant is rendering care ~~in a disaster~~ in accordance with this section may do so without meeting the requirements of section 147A.20.

(c) The supervising physician who otherwise provides supervision to a physician assistant under a ~~physician and physician physician-physician~~ physician-physician assistant delegation agreement described in section 147A.20 shall not be held medically responsible for the care rendered by a physician assistant pursuant to paragraph (a). Services provided by a physician assistant under paragraph (a) shall be considered outside the scope of the relationship between the supervising physician and the physician assistant.

Sec. 25. Minnesota Statutes 2008, section 147A.24, is amended to read:

**147A.24 CONTINUING EDUCATION REQUIREMENTS.**

Subdivision 1. **Amount of education required.** Applicants for ~~registration~~ license renewal ~~or reregistration~~ must either meet standards for continuing education through current certification by the National Commission on Certification of Physician Assistants, or its successor agency as approved by the board, or attest to and document provide evidence of successful completion of at least 50 contact hours of continuing education within the two years immediately preceding registration license renewal, reregistration, or attest to and document taking the national certifying examination required by this chapter within the past two years.

Subd. 2. **Type of education required.** ~~Approved~~ Continuing education is approved if it is equivalent to category 1 credit hours as defined by the American Osteopathic Association Bureau of Professional Education, the Royal College of Physicians and Surgeons of Canada, the American Academy of Physician Assistants, or by organizations that have reciprocal arrangements with the physician recognition award program of the American Medical Association.

Sec. 26. Minnesota Statutes 2008, section 147A.26, is amended to read:

**147A.26 PROCEDURES.**

The board shall establish, in writing, internal operating procedures for receiving and investigating complaints, accepting and processing applications, granting ~~registrations~~ licenses, and imposing enforcement actions. The written internal operating procedures may include procedures for sharing complaint information with government agencies in this and other states. Procedures for sharing complaint information must be consistent with the requirements for handling government data under chapter 13.

Sec. 27. Minnesota Statutes 2008, section 147A.27, is amended to read:

**147A.27 PHYSICIAN ASSISTANT ADVISORY COUNCIL.**

Subdivision 1. **Membership.** (a) The Physician Assistant Advisory Council is created and is composed of seven persons appointed by the board. The seven persons must include:

(1) two public members, as defined in section 214.02;

(2) three physician assistants ~~registered~~ licensed under this chapter who meet the criteria for a new applicant under section 147A.02; and

(3) two licensed physicians with experience supervising physician assistants.

(b) No member shall serve more than ~~a total of~~ two consecutive terms. If a member is appointed for a partial term and serves more than half of that term it shall be considered a full term. ~~Members serving on the council as of July 1, 2000, shall be allowed to complete their current terms.~~

Subd. 2. **Organization.** The council shall be organized and administered under section 15.059.

Subd. 3. **Duties.** The council shall advise the board regarding:

(1) physician assistant ~~registration~~ licensure standards;

(2) enforcement of grounds for discipline;

(3) distribution of information regarding physician assistant ~~registration~~ licensure standards;

(4) applications and recommendations of applicants for ~~registration~~ licensure or ~~registration~~ license renewal; and

(5) complaints and recommendations to the board regarding disciplinary matters and proceedings concerning applicants and ~~registrants~~ licensees according to sections 214.10; 214.103; and 214.13, subdivisions 6 and 7; and

(6) issues related to physician assistant practice and regulation.

The council shall perform other duties authorized for the council by chapter 214 as directed by the board.

Sec. 28. Minnesota Statutes 2008, section 169.345, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For the purpose of section 168.021 and this section, the following terms have the meanings given them in this subdivision.

(b) "Health professional" means a licensed physician, ~~registered~~ licensed physician assistant, advanced practice registered nurse, or licensed chiropractor.

(c) "Long-term certificate" means a certificate issued for a period greater than 12 months but not greater than 71 months.

(d) "Organization certificate" means a certificate issued to an entity other than a natural person for a period of three years.

(e) "Permit" refers to a permit that is issued for a period of 30 days, in lieu of the certificate referred to in subdivision 3, while the application is being processed.

(f) "Physically disabled person" means a person who:

(1) because of disability cannot walk without significant risk of falling;

(2) because of disability cannot walk 200 feet without stopping to rest;

(3) because of disability cannot walk without the aid of another person, a walker, a cane, crutches, braces, a prosthetic device, or a wheelchair;

(4) is restricted by a respiratory disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter;

(5) has an arterial oxygen tension (PAO<sub>2</sub>) of less than 60 mm/Hg on room air at rest;

(6) uses portable oxygen;

(7) has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association;

(8) has lost an arm or a leg and does not have or cannot use an artificial limb; or

(9) has a disability that would be aggravated by walking 200 feet under normal environmental conditions to an extent that would be life threatening.

(g) "Short-term certificate" means a certificate issued for a period greater than six months but not greater than 12 months.

(h) "Six-year certificate" means a certificate issued for a period of six years.

(i) "Temporary certificate" means a certificate issued for a period not greater than six months.

Sec. 29. Minnesota Statutes 2008, section 253B.02, subdivision 7, is amended to read:

Subd. 7. **Examiner.** "Examiner" means a person who is knowledgeable, trained, and practicing in the diagnosis and assessment or in the treatment of the alleged impairment, and who is:

(1) a licensed physician;

(2) a licensed psychologist who has a doctoral degree in psychology or who became a licensed consulting psychologist before July 2, 1975; or

(3) an advanced practice registered nurse certified in mental health or a licensed physician assistant, except that only a physician or psychologist meeting these requirements may be appointed by the court as described by sections 253B.07, subdivision 3; 253B.092, subdivision 8, paragraph (b); 253B.17, subdivision 3; 253B.18, subdivision 2; and 253B.19, subdivisions 1 and 2, and only a physician or psychologist may conduct an assessment as described by Minnesota Rules of Criminal Procedure, rule 20.

Sec. 30. Minnesota Statutes 2008, section 253B.05, subdivision 2, is amended to read:

Subd. 2. **Peace or health officer authority.** (a) A peace or health officer may take a person into custody and transport the person to a licensed physician or treatment facility if the officer has reason to believe, either through direct observation of the person's behavior, or upon reliable information of the person's recent behavior and knowledge of the person's past behavior or psychiatric treatment, that the person is mentally ill or developmentally disabled and in danger of injuring self or others if not immediately detained. A peace or health officer or a person working under such officer's supervision, may take a person who is believed to be chemically dependent or is intoxicated in public into custody and transport the person to a treatment facility. If the person is intoxicated in public or is believed to be chemically dependent and is not in danger of causing self-harm or harm to any person or property, the peace or health officer may transport the person home. The peace or health officer shall make written application for admission of the person to the treatment facility. The application shall contain the peace or health officer's statement specifying the reasons for and circumstances under which the person was taken into custody. If danger to specific individuals is a basis for the emergency hold, the statement must include identifying information on those individuals, to the extent practicable. A copy of the statement shall be made available to the person taken into custody.

(b) As far as is practicable, a peace officer who provides transportation for a person placed in a facility under this subdivision may not be in uniform and may not use a vehicle visibly marked as a law enforcement vehicle.

(c) A person may be admitted to a treatment facility for emergency care and treatment under this subdivision with the consent of the head of the facility under the following circumstances: (1) a written statement shall only be made by the following individuals who are knowledgeable, trained, and practicing in the diagnosis and treatment of mental illness or developmental disability; the medical officer, or the officer's designee on duty at the facility, including a licensed physician, a ~~registered~~ licensed physician assistant, or an advanced practice registered nurse who after preliminary examination has determined that the person has symptoms of mental illness or developmental disability and appears to be in danger of harming self or others if not immediately detained; or (2) a written statement is made by the institution program director or the director's designee on duty at the facility after preliminary examination that the person has symptoms of chemical dependency and appears to be in danger of harming self or others if not immediately detained or is intoxicated in public.

Sec. 31. Minnesota Statutes 2008, section 256B.0625, subdivision 28a, is amended to read:

Subd. 28a. **~~Registered~~ Licensed physician assistant services.** Medical assistance covers



services performed by a ~~registered~~ licensed physician assistant if the service is otherwise covered under this chapter as a physician service and if the service is within the scope of practice of a ~~registered~~ licensed physician assistant as defined in section 147A.09.

Sec. 32. Minnesota Statutes 2008, section 256B.0751, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of sections 256B.0751 to 256B.0753, the following definitions apply.

(b) "Commissioner" means the commissioner of human services.

(c) "Commissioners" means the commissioner of humans services and the commissioner of health, acting jointly.

(d) "Health plan company" has the meaning provided in section 62Q.01, subdivision 4.

(e) "Personal clinician" means a physician licensed under chapter 147, a physician assistant ~~registered~~ licensed and practicing under chapter 147A, or an advanced practice nurse licensed and registered to practice under chapter 148.

(f) "State health care program" means the medical assistance, MinnesotaCare, and general assistance medical care programs."

Page 2, line 27, delete "section 144.604, subdivision 3, is" and insert "sections 144.604, subdivision 3, and 147A.22 are"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Prettner Solon moved to amend S.F. No. 1217 as follows:

Page 2, after line 25, insert:

"Sec. 4. Minnesota Statutes 2008, section 150A.01, subdivision 8, is amended to read:

Subd. 8. **Registered Licensed dental assistant.** "~~Registered Licensed~~ Registered Licensed dental assistant" means a person ~~registered~~ licensed pursuant to section 150A.06.

Sec. 5. Minnesota Statutes 2008, section 150A.02, subdivision 1, is amended to read:

Subdivision 1. **Generally.** There is hereby created a Board of Dentistry whose duty it shall be to carry out the purposes and enforce the provisions of sections 150A.01 to 150A.12. The board shall consist of two public members as defined by section 214.02, five qualified resident dentists, one qualified resident ~~registered~~ licensed dental assistant, and one qualified resident dental hygienist appointed by the governor. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of board complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214. Each board member who is a dentist, ~~registered~~ licensed dental assistant, or dental hygienist shall have been lawfully in active practice

in this state for five years immediately preceding appointment; and no board member shall be eligible for appointment to more than two consecutive four-year terms, and members serving on the board at the time of the enactment hereof shall be eligible to reappointment provided they shall not have served more than nine consecutive years at the expiration of the term to which they are to be appointed. At least 90 days prior to the expiration of the terms of dentists, ~~registered~~ licensed dental assistants, or dental hygienists, the Minnesota Dental Association, Minnesota Dental Assistants Association, or the Minnesota State Dental Hygiene Association shall recommend to the governor for each term expiring not less than two dentists, two ~~registered~~ licensed dental assistants, or two dental hygienists, respectively, who are qualified to serve on the board, and from the list so recommended the governor may appoint members to the board for the term of four years, the appointments to be made within 30 days after the expiration of the terms. Within 60 days after the occurrence of a dentist, ~~registered~~ licensed dental assistant or dental hygienist vacancy, prior to the expiration of the term, in the board, the Minnesota Dental Association, the Minnesota Dental Assistants Association, or the Minnesota State Dental Hygiene Association shall recommend to the governor not less than two dentists, two ~~registered~~ licensed dental assistants, or two dental hygienists, who are qualified to serve on the board and from the list so recommended the governor, within 30 days after receiving such list of dentists, may appoint one member to the board for the unexpired term occasioned by such vacancy. Any appointment to fill a vacancy shall be made within 90 days after the occurrence of such vacancy. The first four-year term of the dental hygienist and of the ~~registered~~ licensed dental assistant shall commence on the first Monday in January, 1977.

Sec. 6. Minnesota Statutes 2008, section 150A.05, subdivision 1, is amended to read:

Subdivision 1. **Practice of dentistry.** A person shall be deemed to be practicing dentistry within the meaning of sections 150A.01 to 150A.12:

(1) who uses a dental degree, or designation, or card, device, directory, sign, or other media whereby the person represents an ability to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaw, or adjacent or associated structures;

(2) who is a manager, proprietor, operator or conductor of a place where dental operations are performed;

(3) who performs dental operations of any kind gratuitously, or for a fee, gift, compensation or reward, paid or to be paid, to any person or agency;

(4) who uses a roentgen or X-ray machine for dental treatment, roentgenograms or for dental diagnostic purposes;

(5) who extracts a human tooth or teeth, or corrects or attempts to correct malpositions of the human teeth or jaws;

(6) who offers and undertakes, by any means or method, to diagnose, treat or remove stains or accretions from human teeth or jaws;

(7) who takes impressions of the human tooth, teeth, or jaws or performs any phase of any operation incident to the replacement of a part of a tooth, a tooth, teeth or associated tissues by means of a filling, a crown, a bridge, a denture or other appliance;

(8) who furnishes, supplies, constructs, reproduces, repairs, or offers to furnish, supply,

construct, reproduce or repair prosthetic dentures or plates, bridges or other substitutes for natural teeth, to the user or prospective user thereof; ~~or~~

(9) who performs any clinical operation included in the curricula of recognized dental schools and colleges; or

(10) who dispenses tooth whitening agents or undertakes to whiten or bleach teeth by any means or method, unless the person is:

(i) dispensing or using a product that may be purchased over the counter for a person's own use;  
or

(ii) authorized by the regulations of the board to engage in such activities without being a licensed dentist.

Sec. 7. Minnesota Statutes 2008, section 150A.05, subdivision 2, is amended to read:

Subd. 2. **Exemptions and exceptions of certain practices and operations.** Sections 150A.01 to 150A.12 do not apply to:

(1) the practice of dentistry or dental hygiene in any branch of the armed services of the United States, the United States Public Health Service, or the United States Veterans Administration;

(2) the practice of dentistry, dental hygiene, or dental assisting by undergraduate dental students, dental hygiene students, and dental assisting students of the University of Minnesota, schools of dental hygiene, or schools of dental assisting approved by the board, when acting under the ~~direction and indirect supervision of a Minnesota licensed dentist or a~~ direction and instruction of a licensed dentist, licensed dental hygienist acting as an instructor, or licensed dental assistant;

(3) the practice of dentistry by licensed dentists of other states or countries while appearing as clinicians under the auspices of a duly approved dental school or college, or a reputable dental society, or a reputable dental study club composed of dentists;

(4) the actions of persons while they are taking examinations for licensure ~~or registration~~ administered or approved by the board pursuant to sections 150A.03, subdivision 1, and 150A.06, subdivisions 1, 2, and 2a;

(5) the practice of dentistry by dentists and dental hygienists licensed by other states during their functioning as examiners responsible for conducting licensure ~~or registration~~ examinations administered by regional and national testing agencies with whom the board is authorized to affiliate and participate under section 150A.03, subdivision 1, and the practice of dentistry by the regional and national testing agencies during their administering examinations pursuant to section 150A.03, subdivision 1;

(6) the use of X-rays or other diagnostic imaging modalities for making radiographs or other similar records in a hospital under the supervision of a physician or dentist or by a person who is credentialed to use diagnostic imaging modalities or X-ray machines for dental treatment, roentgenograms, or dental diagnostic purposes by a credentialing agency other than the Board of Dentistry; or

(7) the service, other than service performed directly upon the person of a patient, of constructing, altering, repairing, or duplicating any denture, partial denture, crown, bridge, splint, orthodontic,

prosthetic, or other dental appliance, when performed according to a written work order from a licensed dentist in accordance with section 150A.10, subdivision 3.

Sec. 8. Minnesota Statutes 2008, section 150A.06, subdivision 2a, is amended to read:

Subd. 2a. **Registered Licensed dental assistant.** A person of good moral character, who has graduated from a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association, may apply for ~~registration~~ licensure. The applicant must submit an application and fee as prescribed by the board and the diploma or certificate of dental assisting. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants shall take the examination before applying to the board for ~~registration~~ licensure. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the ~~registration~~ licensure examination required by the board after failing it twice until further education and training are obtained as specified by board rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be ~~registered~~ licensed as a dental assistant.

Sec. 9. Minnesota Statutes 2008, section 150A.06, subdivision 2b, is amended to read:

Subd. 2b. **Examination.** When the Board of Dentistry administers the examination for licensure ~~or registration~~, only those board members or board-appointed deputy examiners qualified for the particular examination may administer it. An examination which the board requires as a condition of licensure ~~or registration~~ must have been taken within the five years before the board receives the application for licensure ~~or registration~~.

Sec. 10. Minnesota Statutes 2008, section 150A.06, subdivision 2c, is amended to read:

Subd. 2c. **Guest license ~~or registration~~.** (a) The board shall grant a guest license to practice as a dentist ~~or~~, dental hygienist, or a ~~guest registration to practice as a~~ licensed dental assistant if the following conditions are met:

(1) the dentist, dental hygienist, or dental assistant is currently licensed ~~or registered~~ in good standing in North Dakota, South Dakota, Iowa, or Wisconsin;

(2) the dentist, dental hygienist, or dental assistant is currently engaged in the practice of that person's respective profession in North Dakota, South Dakota, Iowa, or Wisconsin;

(3) the dentist, dental hygienist, or dental assistant will limit that person's practice to a public health setting in Minnesota that (i) is approved by the board; (ii) was established by a nonprofit organization that is tax exempt under chapter 501(c)(3) of the Internal Revenue Code of 1986; and (iii) provides dental care to patients who have difficulty accessing dental care;

(4) the dentist, dental hygienist, or dental assistant agrees to treat indigent patients who meet the eligibility criteria established by the clinic; and

(5) the dentist, dental hygienist, or dental assistant has applied to the board for a guest license ~~or registration~~ and has paid a nonrefundable license fee to the board not to exceed \$75.

(b) A guest license ~~or registration~~ must be renewed annually with the board and an annual

renewal fee not to exceed \$75 must be paid to the board.

(c) A dentist, dental hygienist, or dental assistant practicing under a guest license ~~or registration~~ under this subdivision shall have the same obligations as a dentist, dental hygienist, or dental assistant who is licensed in Minnesota and shall be subject to the laws and rules of Minnesota and the regulatory authority of the board. If the board suspends or revokes the guest license ~~or registration~~ of, or otherwise disciplines, a dentist, dental hygienist, or dental assistant practicing under this subdivision, the board shall promptly report such disciplinary action to the dentist's, dental hygienist's, or dental assistant's regulatory board in the border state.

Sec. 11. Minnesota Statutes 2008, section 150A.06, subdivision 2d, is amended to read:

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

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

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

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

(2) provide documentation of ~~certification in advanced or basic cardiac life support recognized by current CPR certification from completion of the American Heart Association healthcare provider course, the American Red Cross professional rescuer course, or an equivalent entity.~~

Sec. 12. Minnesota Statutes 2008, section 150A.06, subdivision 4a, is amended to read:

Subd. 4a. **Appeal of denial of application.** A person whose application for licensure ~~or registration~~ by credentials has been denied may appeal the decision to the board. The board shall establish an appeals process and inform a denied candidate of the right to appeal and the process for filing the appeal.

Sec. 13. Minnesota Statutes 2008, section 150A.06, subdivision 5, is amended to read:

Subd. 5. **Fraud in securing licenses ~~or registrations~~.** Every person implicated in employing fraud or deception in applying for or securing a license ~~or registration~~ to practice dentistry, dental hygiene, or dental assisting or in annually renewing a license ~~or registration~~ under sections 150A.01 to 150A.12 is guilty of a gross misdemeanor.

Sec. 14. Minnesota Statutes 2008, section 150A.06, subdivision 7, is amended to read:

Subd. 7. **Additional remedies for licensure ~~and registration~~.** On a case-by-case basis, for

initial or renewal of licensure ~~or registration~~, the board may add additional remedies for deficiencies found based on the applicant's performance, character, and education.

Sec. 15. Minnesota Statutes 2008, section 150A.06, subdivision 8, is amended to read:

Subd. 8. **Registration Licensure by credentials.** (a) Any dental assistant may, upon application and payment of a fee established by the board, apply for ~~registration~~ licensure based on an evaluation of the applicant's education, experience, and performance record in lieu of completing a board-approved dental assisting program for expanded functions as defined in rule, and may be interviewed by the board to determine if the applicant:

(1) has graduated from an accredited dental assisting program accredited by the Commission of Dental Accreditation of the American Dental Association, or is currently certified by the Dental Assisting National Board;

(2) is not subject to any pending or final disciplinary action in another state or Canadian province, or if not currently certified or registered, previously had a certification or registration in another state or Canadian province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;

(3) is of good moral character and abides by professional ethical conduct requirements;

(4) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and

(5) has met all expanded functions curriculum equivalency requirements of a Minnesota board-approved dental assisting program.

(b) The board, at its discretion, may waive specific ~~registration~~ licensure requirements in paragraph (a).

(c) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for ~~registration~~ licensure under subdivision 2a must be ~~registered~~ licensed to practice the applicant's profession.

(d) If the applicant does not demonstrate the minimum knowledge in dental subjects required for ~~registration~~ licensure under subdivision 2a, the application must be denied. If ~~registration~~ licensure is denied, the board may notify the applicant of any specific remedy that the applicant could take which, when passed, would qualify the applicant for ~~registration~~ licensure. A denial does not prohibit the applicant from applying for ~~registration~~ licensure under subdivision 2a.

(e) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Sec. 16. Minnesota Statutes 2008, section 150A.08, subdivision 1, is amended to read:

Subdivision 1. **Grounds.** The board may refuse or by order suspend or revoke, limit or modify by imposing conditions it deems necessary, any license to practice dentistry ~~or~~ or dental hygiene, or ~~the registration of any dental assistant assisting~~ upon any of the following grounds:

(1) fraud or deception in connection with the practice of dentistry or the securing of a license ~~or registration~~ certificate;

(2) conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of a felony or gross misdemeanor reasonably related to the practice of dentistry as evidenced by a certified copy of the conviction;

(3) conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of an offense involving moral turpitude as evidenced by a certified copy of the conviction;

(4) habitual overindulgence in the use of intoxicating liquors;

(5) improper or unauthorized prescription, dispensing, administering, or personal or other use of any legend drug as defined in chapter 151, of any chemical as defined in chapter 151, or of any controlled substance as defined in chapter 152;

(6) conduct unbecoming a person licensed to practice dentistry or dental hygiene, or ~~registered as a dental assistant~~ assisting, or conduct contrary to the best interest of the public, as such conduct is defined by the rules of the board;

(7) gross immorality;

(8) any physical, mental, emotional, or other disability which adversely affects a dentist's, dental hygienist's, or ~~registered~~ dental assistant's ability to perform the service for which the person is licensed or registered;

(9) revocation or suspension of a license, ~~registration~~, or equivalent authority to practice, or other disciplinary action or denial of a license or ~~registration~~ application taken by a licensing, ~~registering~~, or credentialing authority of another state, territory, or country as evidenced by a certified copy of the licensing authority's order, if the disciplinary action or application denial was based on facts that would provide a basis for disciplinary action under this chapter and if the action was taken only after affording the credentialed person or applicant notice and opportunity to refute the allegations or pursuant to stipulation or other agreement;

(10) failure to maintain adequate safety and sanitary conditions for a dental office in accordance with the standards established by the rules of the board;

(11) employing, assisting, or enabling in any manner an unlicensed person to practice dentistry;

(12) failure or refusal to attend, testify, and produce records as directed by the board under subdivision 7;

(13) violation of, or failure to comply with, any other provisions of sections 150A.01 to 150A.12, the rules of the Board of Dentistry, or any disciplinary order issued by the board, sections 144.291 to 144.298 or 595.02, subdivision 1, paragraph (d), or for any other just cause related to the practice of dentistry. Suspension, revocation, modification or limitation of any license shall not be based upon any judgment as to therapeutic or monetary value of any individual drug prescribed or any individual treatment rendered, but only upon a repeated pattern of conduct;

(14) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo; or

(15) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by

any of the following:

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

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

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

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

Sec. 17. Minnesota Statutes 2008, section 150A.08, subdivision 3, is amended to read:

Subd. 3. **Reinstatement.** Any licensee ~~or registrant~~ whose license ~~or registration~~ has been suspended or revoked may have the license ~~or registration~~ reinstated or a new license ~~or registration~~ issued, as the case may be, when the board deems the action is warranted.

Sec. 18. Minnesota Statutes 2008, section 150A.08, subdivision 3a, is amended to read:

Subd. 3a. **Costs; additional penalties.** (a) The board may impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive a licensee ~~or registrant~~ of any economic advantage gained by reason of the violation, to discourage similar violations by the licensee ~~or registrant~~ or any other licensee ~~or registrant~~, or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.

(b) In addition to costs and penalties imposed under paragraph (a), the board may also:

(1) order the dentist, dental hygienist, or dental assistant to provide unremunerated service;

(2) censure or reprimand the dentist, dental hygienist, or dental assistant; or

(3) any other action as allowed by law and justified by the facts of the case.

Sec. 19. Minnesota Statutes 2008, section 150A.08, subdivision 5, is amended to read:

Subd. 5. **Medical examinations.** If the board has probable cause to believe that a dentist, dental hygienist, ~~registered~~ dental assistant, or applicant engages in acts described in subdivision 1, clause (4) or (5), or has a condition described in subdivision 1, clause (8), it shall direct the dentist, dental hygienist, assistant, or applicant to submit to a mental or physical examination or a chemical dependency assessment. For the purpose of this subdivision, every dentist, hygienist, or dental assistant licensed ~~or registered~~ under this chapter or person submitting an application for a license ~~or registration~~ is deemed to have given consent to submit to a mental or physical examination when directed in writing by the board and to have waived all objections in any proceeding under this section to the admissibility of the examining physician's testimony or examination reports on the ground that they constitute a privileged communication. Failure to submit to an examination



without just cause may result in an application being denied or a default and final order being entered without the taking of testimony or presentation of evidence, other than evidence which may be submitted by affidavit, that the licensee, ~~registrant~~, or applicant did not submit to the examination. A dentist, dental hygienist, ~~registered~~ dental assistant, or applicant affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate ability to start or resume the competent practice of dentistry or perform the duties of a dental hygienist or ~~registered~~ dental assistant with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board is admissible, is subject to subpoena, or may be used against the dentist, dental hygienist, ~~registered~~ dental assistant, or applicant in any proceeding not commenced by the board. Information obtained under this subdivision shall be classified as private pursuant to the Minnesota Government Data Practices Act.

Sec. 20. Minnesota Statutes 2008, section 150A.08, subdivision 6, is amended to read:

Subd. 6. **Medical records.** Notwithstanding contrary provisions of sections 13.384 and 144.651 or any other statute limiting access to medical or other health data, the board may obtain medical data and health records of a licensee, ~~registrant~~, or applicant without the licensee's, ~~registrant's~~, or applicant's consent if the information is requested by the board as part of the process specified in subdivision 5. The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and shall not be liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision shall be classified as private under the Minnesota Government Data Practices Act.

Sec. 21. Minnesota Statutes 2008, section 150A.08, subdivision 8, is amended to read:

Subd. 8. **Suspension of license.** In addition to any other remedy provided by law, the board may, through its designated board members pursuant to section 214.10, subdivision 2, temporarily suspend a license ~~or registration~~ without a hearing if the board finds that the licensee ~~or registrant~~ has violated a statute or rule which the board is empowered to enforce and continued practice by the licensee ~~or registrant~~ would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the licensee ~~or registrant~~ served by first class mail specifying the statute or rule violated, and the time, date, and place of the hearing before the board. If the notice is returned by the post office, the notice shall be effective upon reasonable attempts to locate and serve the licensee ~~or registrant~~. Within ten days of service of the notice, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the board, ~~or licensee, or registrant~~, shall be in affidavit form only. The licensee ~~or registrant~~ or counsel of the licensee ~~or registrant~~ may appear for oral argument. Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act within 45 days of issuance of the order. The administrative law judge shall issue a report within 30 days of the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving that report. The board may allow a person who was licensed by any state to practice dentistry and whose license has been suspended to practice dentistry under the supervision of a licensed dentist for the purpose of demonstrating competence

and eligibility for reinstatement.

Sec. 22. Minnesota Statutes 2008, section 150A.081, is amended to read:

**150A.081 ACCESS TO MEDICAL DATA.**

Subdivision 1. **Access to data on licensee ~~or registrant~~.** When the board has probable cause to believe that a licensee's ~~or registrant's~~ condition meets a ground listed in section 150A.08, subdivision 1, clause (4) or (8), it may, notwithstanding sections 13.384, 144.651, or any other law limiting access to medical data, obtain medical or health records on the licensee ~~or registrant~~ without the licensee's ~~or registrant's~~ consent. The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency. A provider, insurance company, or government agency shall comply with a written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released under the written request, unless the information is false and the entity providing the information knew, or had reason to believe, the information was false.

Subd. 2. **Access to data on patients.** The board has access to medical records of a patient treated by a licensee ~~or registrant~~ under review if the patient signs a written consent permitting access. If the patient has not given consent, the licensee ~~or registrant~~ must delete data from which a patient may be identified before releasing medical records to the board.

Subd. 3. **Data classification; release of certain health data not required.** Information obtained under this section is classified as private data on individuals under chapter 13. Under this section, the commissioner of health is not required to release health data collected and maintained under section 13.3805, subdivision 2.

Sec. 23. Minnesota Statutes 2008, section 150A.09, subdivision 1, is amended to read:

Subdivision 1. **Registration information and procedure.** On or before the license ~~or registration~~ certificate expiration date every licensed dentist, dental hygienist, and ~~registered~~ dental assistant shall transmit to the executive secretary of the board, pertinent information required by the board, together with the fee established by the board. At least 30 days before a license ~~or registration~~ certificate expiration date, the board shall send a written notice stating the amount and due date of the fee and the information to be provided to every licensed dentist, dental hygienist, and ~~registered~~ dental assistant.

Sec. 24. Minnesota Statutes 2008, section 150A.09, subdivision 3, is amended to read:

Subd. 3. **Current address, change of address.** Every dentist, dental hygienist, and ~~registered~~ dental assistant shall maintain with the board a correct and current mailing address. For dentists engaged in the practice of dentistry, the address shall be that of the location of the primary dental practice. Within 30 days after changing addresses, every dentist, dental hygienist, and ~~registered~~ dental assistant shall provide the board written notice of the new address either personally or by first class mail.

Sec. 25. Minnesota Statutes 2008, section 150A.091, subdivision 2, is amended to read:

Subd. 2. **Application fees.** Each applicant ~~for licensure or registration~~ shall submit with a license or ~~registration~~ permit application a nonrefundable fee in the following amounts in order to

administratively process an application:

- (1) dentist, \$140;
- (2) limited faculty dentist, \$140;
- (3) resident dentist, \$55;
- (4) dental hygienist, \$55;
- (5) ~~registered~~ licensed dental assistant, ~~\$35~~ \$55; and
- (6) dental assistant with a ~~limited registration~~ permit as described in Minnesota Rules, part 3100.8500, subpart 3, \$15.

Sec. 26. Minnesota Statutes 2008, section 150A.091, subdivision 3, is amended to read:

Subd. 3. **Initial license or registration permit fees.** Along with the application fee, each of the following ~~licensees or registrants~~ applicants shall submit a separate prorated initial license or registration permit fee. The prorated initial fee shall be established by the board based on the number of months of the ~~licensee's or registrant's~~ applicant's initial term as described in Minnesota Rules, part 3100.1700, subpart 1a, not to exceed the following monthly fee amounts:

- (1) dentist, \$14 times the number of months of the initial term;
- (2) dental hygienist, \$5 times the number of months of the initial term;
- (3) ~~registered~~ licensed dental assistant, \$3 times the number of months of initial term; and
- (4) dental assistant with a ~~limited registration~~ permit as described in Minnesota Rules, part 3100.8500, subpart 3, \$1 times the number of months of the initial term.

Sec. 27. Minnesota Statutes 2008, section 150A.091, subdivision 5, is amended to read:

Subd. 5. **Biennial license or registration permit fees.** Each of the following ~~licensees or registrants~~ applicants shall submit with a biennial license or registration permit renewal application a fee as established by the board, not to exceed the following amounts:

- (1) dentist, \$336;
- (2) dental hygienist, \$118;
- (3) ~~registered~~ licensed dental assistant, \$80; and
- (4) dental assistant with a ~~limited registration~~ permit as described in Minnesota Rules, part 3100.8500, subpart 3, \$24.

Sec. 28. Minnesota Statutes 2008, section 150A.091, subdivision 7, is amended to read:

Subd. 7. **Biennial license or registration permit late fee.** Applications for renewal of any license or registration permit received after the time specified in Minnesota Rules, part 3100.1700, must be assessed a late fee equal to 25 percent of the biennial renewal fee.

Sec. 29. Minnesota Statutes 2008, section 150A.091, subdivision 8, is amended to read:

Subd. 8. **Duplicate license or registration certificate fee.** ~~Each licensee or registrant applicant shall submit, with a request for issuance of a duplicate of the original license or registration, or of an annual or biennial renewal of it~~ certificate for a license or permit, a fee in the following amounts:

- (1) original dentist ~~or, dental hygiene, or dental assistant~~ license, \$35; and
- (2) ~~initial and renewal registration certificates and license~~ annual or biennial renewal certificates, \$10.

Sec. 30. Minnesota Statutes 2008, section 150A.091, subdivision 9, is amended to read:

Subd. 9. **Licensure and registration by credentials.** Each applicant for licensure as a dentist ~~or, dental hygienist, or for registration as a registered dental assistant~~ by credentials pursuant to section 150A.06, subdivisions 4 and 8, and Minnesota Rules, part 3100.1400, shall submit with the license ~~or registration~~ application a fee in the following amounts:

- (1) dentist, \$725;
- (2) dental hygienist, \$175; and
- (3) ~~registered~~ dental assistant, \$35.

Sec. 31. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 9a. **Credential review; nonaccredited dental institution.** Applicants who have graduated from a nonaccredited dental college desiring licensure as a dentist pursuant to section 150A.06, subdivision 1, shall submit an application for credential review and an application fee not to exceed the amount of \$200.

Sec. 32. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 9b. **Limited general license.** Each applicant for licensure as a limited general dentist pursuant to section 150A.06, subdivision 9, shall submit the applicable fees established by the board not to exceed the following amounts:

- (1) initial limited general license application, \$140;
- (2) annual limited general license renewal application, \$155; and
- (3) late fee assessment for renewal application equal to 50 percent of the annual limited general license renewal fee.

Sec. 33. Minnesota Statutes 2008, section 150A.091, subdivision 10, is amended to read:

Subd. 10. **Reinstatement fee.** No dentist, dental hygienist, or ~~registered~~ dental assistant whose license ~~or registration~~ has been suspended or revoked may have the license ~~or registration~~ reinstated or a new license ~~or registration~~ issued until a fee has been submitted to the board in the following amounts:

- (1) dentist, \$140;
- (2) dental hygienist, \$55; and

(3) ~~registered~~ dental assistant, \$35.

Sec. 34. Minnesota Statutes 2008, section 150A.091, subdivision 11, is amended to read:

Subd. 11. **Certificate application fee for anesthesia/sedation.** Each dentist shall submit with a general anesthesia or ~~conscious~~ moderate sedation application or a contracted sedation provider application a fee as established by the board not to exceed the following amounts:

(1) for both a general anesthesia and ~~conscious~~ moderate sedation application, ~~\$50~~ \$250;

(2) for a general anesthesia application only, ~~\$50~~ \$250; and

(3) for a ~~conscious~~ moderate sedation application only, ~~\$50~~ \$250; and

(4) for a contracted sedation provider application, \$250.

Sec. 35. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 11a. **Certificate for anesthesia/sedation late fee.** Applications for renewal of a general anesthesia or moderate sedation certificate or a contracted sedation provider certificate received after the time specified in Minnesota Rules, part 3100.3600, subparts 9 and 9b, must be assessed a late fee equal to 50 percent of the biennial renewal fee for an anesthesia/sedation certificate.

Sec. 36. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 11b. **Recertification fee for anesthesia/sedation.** No dentist whose general anesthesia or moderate sedation certificate has been terminated by the board or voluntarily terminated by the dentist may become recertified until a fee has been submitted to the board not to exceed the amount of \$500.

Sec. 37. Minnesota Statutes 2008, section 150A.091, subdivision 12, is amended to read:

Subd. 12. **Duplicate certificate fee for anesthesia/sedation.** Each dentist shall submit with a request for issuance of a duplicate of the original general anesthesia or ~~conscious~~ moderate sedation certificate or contracted sedation provider certificate a fee in the amount of \$10.

Sec. 38. Minnesota Statutes 2008, section 150A.091, subdivision 14, is amended to read:

Subd. 14. **Affidavit of licensure.** Each licensee ~~or registrant~~ shall submit with a request for an affidavit of licensure a fee in the amount of \$10.

Sec. 39. Minnesota Statutes 2008, section 150A.091, subdivision 15, is amended to read:

Subd. 15. **Verification of licensure.** Each institution or corporation shall submit with a request for verification of a license ~~or registration~~ a fee in the amount of \$5 for each license ~~or registration~~ to be verified.

Sec. 40. Minnesota Statutes 2008, section 150A.10, subdivision 1a, is amended to read:

Subd. 1a. **Limited authorization for dental hygienists.** (a) Notwithstanding subdivision 1, a dental hygienist licensed under this chapter may be employed or retained by a health care facility, program, or nonprofit organization to perform dental hygiene services described under paragraph

(b) without the patient first being examined by a licensed dentist if the dental hygienist:

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

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

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

(4) maintains current ~~certification in advanced or basic cardiac life support as recognized by the American Heart Association, the American Red Cross, or another agency that is equivalent to the CPR certification from completion of the American Heart Association or healthcare provider course,~~ the American Red Cross professional rescuer course, or an equivalent entity.

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

(1) oral health promotion and disease prevention education;

(2) removal of deposits and stains from the surfaces of the teeth;

(3) application of topical preventive or prophylactic agents, including fluoride varnishes and pit and fissure sealants;

(4) polishing and smoothing restorations;

(5) removal of marginal overhangs;

(6) performance of preliminary charting;

(7) taking of radiographs; and

(8) performance of scaling and root planing.

The dental hygienist may administer injections of local anesthetic agents or nitrous oxide inhalation analgesia as specifically delegated in the collaborative agreement with a licensed dentist. The dentist need not first examine the patient or be present. If the patient is considered medically compromised, the collaborative dentist shall review the patient record, including the medical history, prior to the provision of these services. Collaborating dental hygienists may work with ~~unregistered unlicensed and registered licensed dental assistants~~ who may only perform duties for which ~~registration licensure~~ registration licensure is not required. The performance of dental hygiene services in a health care facility, program, or nonprofit organization as authorized under this subdivision is limited to patients, students, and residents of the facility, program, or organization.

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

(1) consideration for medically compromised patients and medical conditions for which a dental

evaluation and treatment plan must occur prior to the provision of dental hygiene services;

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

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

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

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

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

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

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

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

Sec. 41. Minnesota Statutes 2008, section 150A.10, subdivision 2, is amended to read:

Subd. 2. **Dental assistants.** Every licensed dentist who uses the services of any unlicensed person for the purpose of assistance in the practice of dentistry shall be responsible for the acts of such unlicensed person while engaged in such assistance. Such dentist shall permit such unlicensed assistant to perform only those acts which are authorized to be delegated to unlicensed assistants by the Board of Dentistry. Such acts shall be performed under supervision of a licensed dentist. The board may permit differing levels of dental assistance based upon recognized educational standards, approved by the board, for the training of dental assistants. The board may also define by rule the scope of practice of ~~registered licensed~~ and ~~nonregistered unlicensed~~ dental assistants. The board by rule may require continuing education for differing levels of dental assistants, as a condition to their ~~registration~~ license or authority to perform their authorized duties. Any licensed dentist who

shall permit such unlicensed assistant to perform any dental service other than that authorized by the board shall be deemed to be enabling an unlicensed person to practice dentistry, and commission of such an act by such unlicensed assistant shall constitute a violation of sections 150A.01 to 150A.12.

Sec. 42. Minnesota Statutes 2008, section 150A.10, subdivision 4, is amended to read:

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

- (1) place, contour, and adjust amalgam restorations;
- (2) place, contour, and adjust glass ionomer;
- (3) adapt and cement stainless steel crowns; and
- (4) place, contour, and adjust class I and class V supragingival composite restorations where the margins are entirely within the enamel.

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

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

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

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

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

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

Sec. 43. Minnesota Statutes 2008, section 150A.12, is amended to read:

#### **150A.12 VIOLATION AND DEFENSES.**

Every person who violates any of the provisions of sections 150A.01 to 150A.12 for which no specific penalty is provided herein, shall be guilty of a gross misdemeanor; and, upon conviction, punished by a fine of not more than \$3,000 or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment. In the prosecution of any person for violation of sections 150A.01 to 150A.12, it shall not be necessary to allege or prove lack of a valid license to practice dentistry ~~or, dental hygiene, or dental assisting,~~ but such matter shall be a matter of defense to be established by the defendant.

Sec. 44. Minnesota Statutes 2008, section 150A.13, is amended to read:

#### **150A.13 REPORTING OBLIGATIONS.**

Subdivision 1. **Permission to report.** A person who has knowledge of a ~~registrant or~~ a licensee unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs,



chemicals, or any other materials, or as a result of any mental, physical, or psychological condition may report the ~~registrant or licensee~~ to the board.

Subd. 2. **Institutions.** A hospital, clinic, or other health care institution or organization located in this state shall report to the board any action taken by the agency, institution, or organization or any of its administrators or dental or other committees to revoke, suspend, restrict, or condition a ~~registrant's or licensee's~~ privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action against a ~~registrant or licensee~~ described under subdivision 1. The institution or organization shall also report the resignation of any ~~registrants or licensees~~ prior to the conclusion of any disciplinary action proceeding against a ~~registrant or licensee~~ described under subdivision 1.

Subd. 3. **Dental societies.** A state or local dental society or professional dental association shall report to the board any termination, revocation, or suspension of membership or any other disciplinary action taken against a ~~registrant or licensee~~. If the society or association has received a complaint against a ~~registrant or licensee~~ described under subdivision 1, on which it has not taken any disciplinary action, the society or association shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the board. This subdivision does not apply to a society or association when it performs peer review functions as an agent of an outside entity, organization, or system.

Subd. 4. **Licensed professionals.** (a) A licensed ~~or registered~~ health professional shall report to the board personal knowledge of any conduct by any person who the licensed ~~or registered~~ health professional reasonably believes is a ~~registrant or licensee~~ described under subdivision 1.

(b) Notwithstanding paragraph (a), a licensed health professional shall report to the board knowledge of any actions which institutions must report under subdivision 2.

Subd. 5. **Insurers and other entities making liability payments.** (a) Four times each year as prescribed by the board, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to ~~registrants or licensees~~, shall submit to the board a report concerning the ~~registrants and licensees~~ against whom malpractice settlements or awards have been made to the plaintiff. The report must contain at least the following information:

- (1) the total number of malpractice settlements or awards made;
- (2) the date the malpractice settlements or awards were made;
- (3) the allegations contained in the claim or complaint leading to the settlements or awards made;
- (4) the dollar amount of each malpractice settlement or award;
- (5) the regular address of the practice of the ~~registrant or licensee~~ against whom an award was made or with whom a settlement was made; and
- (6) the name of the ~~registrant or licensee~~ against whom an award was made or with whom a settlement was made.

(b) A dental clinic, hospital, political subdivision, or other entity which makes professional liability insurance payments on behalf of ~~registrants or licensees~~ shall submit to the board a report

concerning malpractice settlements or awards paid on behalf of ~~registrants or~~ licensees, and any settlements or awards paid by a clinic, hospital, political subdivision, or other entity on its own behalf because of care rendered by ~~registrants or~~ licensees. This requirement excludes forgiveness of bills. The report shall be made to the board within 30 days of payment of all or part of any settlement or award.

Subd. 6. **Courts.** The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a ~~registrant or~~ licensee is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of an abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the ~~registrant or~~ licensee pursuant to sections 524.5-101 to 524.5-502, or commits a ~~registrant or~~ licensee pursuant to chapter 253B.

Subd. 7. **Self-reporting.** A ~~registrant or~~ licensee shall report to the board any personal action that would require that a report be filed by any person, health care facility, business, or organization pursuant to subdivisions 2 to 6.

Subd. 8. **Deadlines; forms.** Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

Subd. 9. **Subpoenas.** The board may issue subpoenas for the production of any reports required by subdivisions 2 to 7 or any related documents."

Page 2, delete section 4 and insert:

"Sec. 45. **REPEALER.**

Minnesota Statutes 2008, sections 144.604, subdivision 3; and 150A.09, subdivision 6, are repealed."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 1217 was then recommended to pass.

On motion of Senator Pogemiller, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

## RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

## APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the

following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 2082: Senators Betzold, Rest, Olseen, Kubly and Jungbauer.

H.F. No. 819: Senators Latz, Skogen and Jungbauer.

H.F. No. 2123: Senators Anderson, Saxhaug, Chaudhary, Frederickson and Torres Ray.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

Without objection, the Senate reverted to the Orders of Business of Messages From the House and First Reading of House Bills.

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 2251.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 28, 2009

### FIRST READING OF HOUSE BILLS

The following bill was read the first time.

**H.F. No. 2251:** A bill for an act relating to state government finance; providing federal stimulus oversight funding for certain state agencies; establishing a fiscal stabilization account; appropriating money.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1938, now on General Orders.

### MEMBERS EXCUSED

Senator Bonoff was excused from the Session of today. Senator Koering was excused from the Session of today from 1:00 to 2:55 p.m. Senator Murphy was excused from the Session of today at 2:40 p.m. Senator Dille was excused from the Session of today at 3:15 p.m.

### ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 11:00 a.m., Wednesday, April 29, 2009. The motion prevailed.

Peter S. Wattson, Secretary of the Senate (Legislative)



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