

Joseph G. Chlebeck, 2456 McMenemy Road, Little Canada, MN 55117.....\$22.50

Carl A. Grant, 1425 Galtier Street, St. Paul, MN 55117.....\$15

Joyce M. Troseth, 403 Camber, South Saint Paul, MN 55075.....\$127.50

Paul J. Sorensen, 3450 Fernbrook Lane, Plymouth, MN 55441.....\$135

Sec. 4. Unless otherwise specified, payment pursuant to this act shall constitute full and final release of any and all claims against the state of Minnesota.

Sec. 5. This act takes effect upon final enactment.

Approved April 3, 1976.

CHAPTER 173—S.F.No.1956

[Coded in Part]

An act relating to nursing homes; providing for the licensing and inspection of nursing homes; providing for the licensing of nursing home administrators; reorganizing various laws relating to nursing homes and nursing home administrators; clarifying language and making necessary revisions; prescribing civil and criminal penalties; amending Minnesota Statutes 1974, Sections 144.053, Subdivision 3; 144.49, Subdivisions 6 and 7; 144.50; 144.51; 144.55; 144.572; 144.63, Subdivision 2; 144.652; 144.653, Subdivision 1; 144.654; 144.655; 144.656; 144.657; 144.68, Subdivisions 2 and 3; 145.61, Subdivision 4; 145.75; 145.862, Subdivision 4; 245.691, Subdivision 3; 256B.02, Subdivision 2; 256B.30; 256D.18, Subdivision 2; 299F.39, Subdivision 1; 609.231; 626.555, Subdivisions 1, 2 and 7; and Minnesota Statutes, 1975 Supplement, Sections 144.53; 144.571; 145.72, Subdivision 2; 145.74; and 214.01, Subdivision 2; repealing Minnesota Statutes 1974, Sections 144.584; 144.951; 144.953; 144.954; 144.955; 144.9555; 144.956; 144.957; 144.958; 144.959; 144.96; 144.961; 144.962; 144.963; 144.964; and 144.965; and Minnesota Statutes, 1975 Supplement, Section 144.952.

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

Section 1. **[144A.01] PUBLIC HEALTH; NURSING HOMES; REGULATIONS; DEFINITIONS.** Subdivision 1. For the purposes of sections 1 to 28 of this act, the terms defined in this section have the meanings given them.

Subd. 2. "Board of health" means the state board of health established by Minnesota Statutes, Section 144.01.

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Subd. 3. "Board of examiners" means the board of examiners for nursing home administrators established by section 19 of this act.

Subd. 4. "Controlling person" means any public body, governmental agency, business entity, officer, nursing home administrator, or director whose responsibilities include the direction of the management or policies of a nursing home. "Controlling person" also means any person who, directly or indirectly, beneficially owns any interest in:

(a) Any corporation, partnership or other business association which is a controlling person;

(b) The land on which a nursing home is located;

(c) The structure in which a nursing home is located;

(d) Any mortgage, contract for deed, or other obligation secured in whole or part by the land or structure comprising a nursing home; or

(e) Any lease or sub-lease of the land, structure, or facilities comprising a nursing home.

"Controlling person" does not include:

(a) A bank, savings bank, trust company, building and loan association, savings and loan association, credit union, industrial loan and thrift company, investment banking firm, or insurance company unless the entity directly or through a subsidiary operates a nursing home;

(b) An individual state official or state employee, or a member or employee of the governing body of a political subdivision of the state which operates one or more nursing homes, unless the individual is also an officer or director of a nursing home, receives any remuneration from a nursing home, or owns any of the beneficial interests not excluded in this subdivision;

(c) A natural person who is a member of a tax-exempt organization under section 290.05, subdivision 1, clause (i), unless the individual is also an officer or director of a nursing home, or owns any of the beneficial interests not excluded in this subdivision; and

(d) A natural person who owns less than five percent of the outstanding common shares of a corporation:

(1) whose securities are exempt by virtue of section 80A.15, subdivision 1, clause (f); or

(2) whose transactions are exempt by virtue of section 80A.15, subdivision 2, clause (b).

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Subd. 5. "Nursing home" means a facility or that part of a facility which provides nursing care to five or more persons. "Nursing home" does not include a facility or that part of a facility which is a hospital, clinic, doctor's office, diagnostic or treatment center, or a residential facility licensed pursuant to Minnesota Statutes, Sections 245.78 to 245.821, 252.28, or 257.081 to 257.124.

Subd. 6. "Nursing care" means health evaluation and treatment of patients and residents who are not in need of an acute care facility but who require nursing supervision on an inpatient basis. The board of health may by rule establish levels of nursing care.

Subd. 7. "Uncorrected violation" means a violation of a statute or rule or any other deficiency for which a notice of noncompliance has been issued and fine assessed pursuant to section 10, subdivision 6.

Subd. 8. "Managerial employee" means an employee of a nursing home whose duties include the direction of some or all of the management or policies of the nursing home.

Subd. 9. "Nursing home administrator" means a person who administers, manages, supervises, or is in general administrative charge of a nursing home, whether or not the individual has an ownership interest in the home, and whether or not his functions and duties are shared with one or more individuals, and who is licensed pursuant to section 21 of this act.

Sec. 2. [144A.02] NURSING HOME LICENSES. Subdivision 1. No facility shall be used as a nursing home to provide nursing care unless the facility has been licensed as a nursing home. The board of health may license a facility as a nursing home if the facility meets the criteria established by sections 2 to 10 of this act, and the rules promulgated thereunder. A license shall describe the facility to be licensed by address and by legal property description. The license shall specify the location and square footage of the floor space constituting the facility and shall incorporate by reference the plans and specifications of the facility, which plans and specifications shall be kept on file with the board of health. The license may also specify the level or levels of nursing care which the facility is licensed to provide and shall state any conditions or limitations imposed on the facility in accordance with the rules of the board of health.

Subd. 2. A controlling person of a nursing home in violation of this section is guilty of a misdemeanor.

The provisions of this subdivision shall not apply to any controlling person who had no legal authority to affect or change decisions related to the operation of the nursing home.

Sec. 3. [144A.03] APPLICATION FOR LICENSE. Subdivision 1. The board of health by rule shall establish forms and procedures for

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the processing of nursing home license applications. An application for a nursing home license shall include the following information:

(a) The names and addresses of all controlling persons and managerial employees of the facility to be licensed;

(b) The address and legal property description of the facility;

(c) A copy of the architectural and engineering plans and specifications of the facility as prepared and certified by an architect or engineer registered to practice in this state; and

(d) Any other relevant information which the board of health by rule or otherwise may determine is necessary to properly evaluate an application for license.

A controlling person which is a corporation shall submit copies of its articles of incorporation and bylaws and any amendments thereto as they occur, together with the names and addresses of its officers and directors. A controlling person which is a foreign corporation shall furnish the board of health with a copy of its certificate of authority to do business in this state. An application on behalf of a controlling person which is a corporation, association or a governmental unit or instrumentality shall be signed by at least two officers or managing agents of that entity.

Subd. 2. Each application for a nursing home license or for renewal of a nursing home license shall specify one or more controlling persons or managerial employees as agents:

(a) Who shall be responsible for dealing with the board of health on all matters provided for in sections 1 to 17 of this act; and

(b) On whom personal service of all notices and orders shall be made, and who shall be authorized to accept service on behalf of all of the controlling persons of the facility, in proceedings under section 6; section 10, subdivisions 4, 5, and 7; section 11, subdivision 3; and section 15 of this act. Notwithstanding any law to the contrary, personal service on the designated person or persons named in an application shall be deemed to be service on all of the controlling persons or managerial employee of the facility, and it shall not be a defense to any action arising under section 6; section 10, subdivisions 4, 5 and 7; section 11, subdivision 3; and section 15 of this act, that personal service was not made on each controlling person or managerial employee of the facility. The designation of one or more controlling persons or managerial employees pursuant to this subdivision shall not affect the legal responsibility of any other controlling person or managerial employee under sections 1 to 17 of this act.

Sec. 4. [144A.04] QUALIFICATIONS FOR LICENSE. Subdivision 1. No nursing home license shall be issued to a facility unless the
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board of health determines that the facility complies with the requirements of this section.

Subd. 2. The controlling persons of the facility must comply with the application requirements specified by section 3 of this act and the rules of the board of health.

Subd. 3. The facility must meet the minimum health, sanitation, safety and comfort standards prescribed by the rules of the board of health with respect to the construction, equipment, maintenance and operation of a nursing home. The board of health may temporarily waive compliance with one or more of the standards if it determines that:

(a) Temporary noncompliance with the standard will not create an imminent risk of harm to a nursing home resident; and

(b) A controlling person on behalf of all other controlling persons:

(1) Has entered into a contract to obtain the materials or labor necessary to meet the standard set by the board of health, but the supplier or other contractor has failed to perform the terms of the contract and the inability of the nursing home to meet the standard is due solely to that failure; or

(2) Is otherwise making a diligent good faith effort to meet the standard.

Subd. 4. The controlling persons of a nursing home may not include any person who was a controlling person of another nursing home during any period of time in the previous two year period during which time of control that other nursing home incurred the following number of uncorrected violations for which violations a fine was assessed and allowed to be recovered:

(a) Two or more uncorrected violations which created an imminent risk of harm to a nursing home resident; or

(b) Ten or more uncorrected violations of any nature.

The provisions of this subdivision shall not apply to any controlling person who had no legal authority to affect or change decisions related to the operation of the nursing home which incurred the uncorrected violations.

Subd. 5. Except as otherwise provided by this subdivision, a nursing home must have a full time licensed nursing home administrator serving the facility. In any nursing home of less than 25 beds, the director of nursing services may also serve as the licensed nursing home administrator. Two nursing homes having a total of 100 beds or less

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and located within 50 miles of each other may share the services of a licensed administrator if the administrator divides his full time work week between the two facilities in proportion to the number of beds in each facility. Every nursing home shall have a person-in-charge on the premises at all times in the absence of the licensed administrator. The name of the person in charge must be posted in a conspicuous place in the facility. The board of health shall by rule promulgate minimum education and experience requirements for persons-in-charge, and may promulgate rules specifying the times of day during which a licensed administrator must be on the nursing home's premises. A nursing home which is located in a facility licensed as a hospital pursuant to Minnesota Statutes, Sections 144.50 to 144.56, may employ as its administrator the registered administrator of the hospital if the individual meets minimum education and long term care experience criteria set by rule of the board of health.

Subd. 6. A nursing home may not employ as a managerial employee or as its licensed administrator any person who was a managerial employee or the licensed administrator of another facility during any period of time in the previous two year period during which time of employment that other nursing home incurred the following number of uncorrected violations which were in the jurisdiction and control of the managerial employee or the administrator and for which violations a fine was assessed and allowed to be recovered:

(a) Two or more uncorrected violations which created an imminent risk of harm to a nursing home resident; or

(b) Ten or more uncorrected violations of any nature.

Sec. 5. [144A.05] LICENSE RENEWAL. Unless the license expires in accordance with section 6 of this act or is suspended or revoked in accordance with section 11 of this act, a nursing home license shall remain effective for a period of one year from the date of its issuance. The board of health by rule shall establish forms and procedures for the processing of license renewals. The board of health shall approve a license renewal application if the facility continues to satisfy the requirements, standards and conditions prescribed by sections 1 to 17 of this act and the rules promulgated thereunder. Except as provided in section 8 of this act, a facility shall not be required to submit with each application for a license renewal additional copies of the architectural and engineering plans and specifications of the facility. Before approving a license renewal, the board of health shall determine that the facility's most recent balance sheet and its most recent statement of revenues and expenses, as audited by the state auditor, by a certified public accountant licensed by this state or by a public accountant as defined in section 412.222, have been received by the department of public welfare. Neither statement may be dated more than three months prior to the date of expiration of the license.

Sec. 6. [144A.06] TRANSFER OF INTERESTS. Subdivision 1.

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NOTICE; EXPIRATION OF LICENSE. Any controlling person who makes any transfer of a beneficial interest in a nursing home shall notify the board of health of the transfer within 14 days of its occurrence. The notification shall identify by name and address the transferor and transferee and shall specify the nature and amount of the transferred interest. If the board of health determines that the transferred beneficial interest exceeds ten percent of the total beneficial interest in the nursing home facility, the structure in which the facility is located, or the land upon which the structure is located, it may, and if it determines that the transferred beneficial interest exceeds 50 percent of the total beneficial interest in the facility, the structure in which the facility is located, or the land upon which the structure is located, it shall, require that the license of the nursing home expire 90 days after the date of transfer. The board of health shall notify the nursing home by certified mail of the expiration of the license at least 60 days prior to the date of expiration.

Subd. 2. RELICENSURE. The board of health by rule shall prescribe procedures for relicensure under this section. The board of health shall relicense a nursing home if the facility satisfies the requirements for license renewal established by section 5 of this act. A facility shall not be relicensed by the board if at the time of transfer there are any uncorrected violations. The board of health may temporarily waive correction of one or more violations if it determines that:

(a) Temporary noncorrection of the violation will not create an imminent risk of harm to a nursing home resident; and

(b) A controlling person on behalf of all other controlling persons:

(1) Has entered into a contract to obtain the materials or labor necessary to correct the violation, but the supplier or other contractor has failed to perform the terms of the contract and the inability of the nursing home to correct the violation is due solely to that failure; or

(2) Is otherwise making a diligent good faith effort to correct the violation.

Sec. 7. [144A.07] FEES. Each application for a license to operate a nursing home, or for a renewal of license, except an application by the Minnesota veterans home or the commissioner of public welfare for the licensing of state institutions, shall be accompanied by a fee to be prescribed by the board of health pursuant to Minnesota Statutes, Section 144.122. No fee shall be refunded.

Sec. 8. [144A.08] PHYSICAL STANDARDS. Subdivision 1. ESTABLISHMENT. The board of health by rule shall establish minimum standards for the construction, maintenance, equipping and operation of nursing homes. The rules shall to the extent possible assure the health, treatment, comfort, safety and well being of nursing home resi-

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dents.

Subd. 2. REPORT. The controlling persons of a nursing home shall, in accordance with rules established by the board of health, within 14 days of the occurrence, notify the board of health of any change in the physical structure of a nursing home, which change would affect compliance with the rules of the board of health or with sections 1 to 17 of this act.

Subd. 3. PENALTY. Any controlling person who establishes, conducts, manages or operates a nursing home which incurs the following number of uncorrected violations, in any two year period, for which violations a fine was assessed and allowed to be recovered:

(a) Two or more uncorrected violations which created an imminent risk of harm to a nursing home resident; or

(b) Ten or more uncorrected violations of any nature, is guilty of a misdemeanor.

The provisions of this subdivision shall not apply to any controlling person who had no legal authority to affect or change decisions as to the operation of the nursing home which incurred the uncorrected violations.

Sec. 9. [144A.09] FACILITIES EXCLUDED. Subdivision 1. No rule established under sections 1 to 17 of this act other than a rule relating to sanitation and safety of premises, to cleanliness of operation or to physical equipment, shall apply to a nursing home conducted in accordance with the teachings of the body known as the Church of Christ, Scientist.

Subd. 2. The provisions of sections 1 to 28 of this act shall not apply to a facility operated by a religious society or order to provide nursing care to 20 or fewer non-lay members of the order or society.

Sec. 10. [144A.10] INSPECTIONS; SANCTIONS. Subdivision 1. ENFORCEMENT AUTHORITY. The board of health is the exclusive state agency charged with the responsibility and duty of inspecting all facilities required to be licensed under section 2 of this act. The board of health shall enforce the rules established pursuant to sections 1 to 17 of this act, subject only to the authority of the department of public safety respecting the enforcement of fire and safety standards in nursing homes and the responsibility of the commissioner of public welfare under Minnesota Statutes, Sections 245.78 to 245.821; 252.28; or 257.081 to 257.124.

Subd. 2. INSPECTIONS. The board of health shall annually inspect each nursing home to assure compliance with sections 1 to 17 of this act and the rules promulgated thereunder. The annual inspection shall be a full inspection of the nursing home. If upon a reinspection

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provided for in subdivision 5 of this section the representative of the board of health finds one or more uncorrected violations, a second inspection of the facility shall be conducted during the remainder of its license year. The second inspection need not be a full inspection. No prior notice shall be given of an inspection conducted pursuant to this subdivision. Any employee of the board of health who willfully gives or causes to be given any advance notice of an inspection required or authorized by this subdivision shall be subject to suspension or dismissal in accordance with Minnesota Statutes, Chapter 43. An inspection required by a federal rule or statute may be conducted in conjunction with or subsequent to any other inspection. Any inspection required by this subdivision shall be in addition to the reinspections required by subdivision 5. Nothing in this subdivision shall be construed to prohibit the board of health from making more than one unannounced inspection of any nursing home during its license year. The board of health shall coordinate its inspections of nursing homes with inspections by other state and local agencies.

Subd. 3. REPORTS; POSTING. After each inspection or reinspection required or authorized by this section, the board of health shall, by certified mail, send copies of any correction order or notice of non-compliance to the nursing home. A copy of each correction order and notice of noncompliance, and copies of any documentation supplied to the board of health or the commissioner of public welfare under sections 3 or 5 of this act shall be kept on file at the nursing home and shall be made available for viewing by any person upon request. Except as otherwise provided by this subdivision, a copy of each correction order and notice of noncompliance received by the nursing home after its most recent inspection or reinspection shall be posted in a conspicuous and readily accessible place in the nursing home. No correction order or notice of noncompliance need be posted until any appeal, if one is requested by the facility, pursuant to subdivision 8, has been completed. All correction orders and notices of noncompliance issued to a nursing home owned and operated by the state or political subdivision of the state shall be circulated and posted at the first public meeting of the governing body after the order or notice is issued. Confidential information protected by Minnesota Statutes, Section 15.1641, shall not be made available or posted as provided in this subdivision unless it may be made available or posted in a manner authorized by Minnesota Statutes, Sections 15.1641 to 15.165.

Subd. 4. CORRECTION ORDERS. Whenever a duly authorized representative of the board of health finds upon inspection of a nursing home, that the facility or a controlling person or an employee of the facility is not in compliance with sections 1 to 17 of this act or the rules promulgated thereunder, a correction order shall be issued to the facility. The correction order shall state the deficiency, cite the specific rule or statute violated, state the suggested method of correction, and specify the time allowed for correction. The board of health by rule shall establish a schedule of allowable time periods for correction of nursing home deficiencies.

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Subd. 5. REINSPECTIONS. A nursing home issued a correction order under this section shall be reinspected at the end of the period allowed for correction. If upon reinspection the representative of the board of health determines that the facility has not corrected a violation identified in the correction order, a notice of noncompliance with the correction order shall be mailed by certified mail to the nursing home. The notice shall specify the violations not corrected and the fines assessed in accordance with subdivision 6.

Subd. 6. FINES. A nursing home which is issued a notice of non-compliance with a correction order shall be assessed a civil fine in accordance with a schedule of fines promulgated by rule of the board of health. The fine shall be assessed for each day the facility remains in noncompliance and until a notice of correction is received by the board of health in accordance with subdivision 7. No fine for a specific violation may exceed \$250 per day of noncompliance.

Subd. 7. ACCUMULATION OF FINES. A nursing home shall promptly notify the board of health in writing when a violation noted in a notice of noncompliance is corrected. Upon receipt of written notification by the board of health, the daily fine assessed for the deficiency shall stop accruing. The facility shall be reinspected within three working days after receipt of the notification. If upon reinspection the representative of the board of health determines that a deficiency has not been corrected as indicated by the notification of compliance the daily fine assessment shall resume and the amount of fines which otherwise would have accrued during the period prior to resumption shall be added to the total assessment due from the nursing home. The board of health shall notify the nursing home of the resumption by certified mail. The nursing home may challenge the resumption as a contested case in accordance with the provisions of Minnesota Statutes, Chapter 15. Recovery of the resumed fine shall be stayed if a controlling person or his legal representative on behalf of the nursing home makes a written request for a hearing on the resumption within 15 days of receipt of the notice of resumption. The cost of a reinspection conducted pursuant to this subdivision shall be added to the total assessment due from the nursing home.

Subd. 8. RECOVERY OF FINES; HEARING. Fines assessed under this section shall be payable 15 days after receipt of the notice of non-compliance and at 15 day intervals thereafter, as the fines accrue. Recovery of an assessed fine shall be stayed if a controlling person or his legal representative on behalf of the nursing home makes a written request for a hearing on the notice of noncompliance within 15 days after the home's receipt of the notice. A hearing under this subdivision shall be conducted as a contested case in accordance with Minnesota Statutes, Chapter 15. If a nursing home, after notice and opportunity for hearing on the notice of noncompliance, or on the resumption of the fine, does not pay a properly assessed fine in accordance with this subdivision, the board of health shall notify the commissioner of public welfare who shall deduct the amount from reimbursement moneys due

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or to be due the facility under Minnesota Statutes, Chapter 256B. The board of health may consolidate the hearings provided for in subdivisions 7 and 8 of this section in cases in which a facility has requested hearings under both provisions. The hearings provided for in subdivisions 7 and 8 shall be held within 30 days after the request for the hearing. If a consolidated hearing is held, it shall be held within 30 days of the request which occurred last.

Subd. 9. NONLIMITING. Nothing in this section shall be construed to limit the powers granted to the board of health by section 11 of this act.

Sec. 11. [144A.11] LICENSE SUSPENSION OR REVOCATION; REINSTATEMENT. Subdivision 1. OPTIONAL PROCEEDINGS. The board of health may institute proceedings to suspend or revoke a nursing home license, or it may refuse to grant or renew the license of a nursing home if any action by a controlling person or employee of the nursing home:

(a) Violates any of the provisions of sections 1 to 8, 13 or 16 of this act, or the rules promulgated thereunder;

(b) Permits, aids, or abets the commission of any illegal act in the nursing home;

(c) Performs any act contrary to the welfare of a patient or resident of the nursing home; or

(d) Obtains, or attempts to obtain, a license by fraudulent means or misrepresentation.

Subd. 2. MANDATORY PROCEEDINGS. The board of health shall initiate proceedings to suspend or revoke a nursing home license or shall refuse to renew a license if within the preceding two years the nursing home has incurred the following number of uncorrected violations for which violations a fine was assessed and allowed to be recovered:

(a) Two or more uncorrected violations which created an imminent risk of harm to a nursing home resident; or

(b) Ten or more uncorrected violations of any nature.

Subd. 3. HEARINGS. No nursing home license may be suspended or revoked without a hearing held as a contested case in accordance with Minnesota Statutes, Chapter 15. If the controlling person designated under section 3, subdivision 2 of this act, as an agent to accept service on behalf of all of the controlling persons of the nursing home has been notified by the board of health that the facility will not receive an initial license or that a license renewal has been denied, the controlling person or his legal representative on behalf of the nursing

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home may request and receive a hearing on the denial. This hearing shall be held as a contested case in accordance with Minnesota Statutes, Chapter 15.

Subd. 4. RELICENSING. If a nursing home license is revoked a new application for license may be considered by the board of health when the conditions upon which revocation was based have been corrected and satisfactory evidence of this fact has been furnished to the board of health. A new license may be granted after an inspection has been made and the facility has been found to comply with all provisions of sections 1 to 17 of this act and the rules promulgated thereunder.

Sec. 12. [144A.12] ADDITIONAL REMEDY; DISCOVERY. Subdivision 1. INJUNCTIVE RELIEF. In addition to any other remedy provided by law, the board of health may in its own name bring an action in the district court in Ramsey county or in the district in which a nursing home is located to enjoin a controlling person or an employee of the nursing home from illegally engaging in activities regulated by sections 1 to 17 of this act. A temporary restraining order may be granted by the court in the proceeding if continued activity by the controlling person or employee would create an imminent risk of harm to a resident of the facility.

Subd. 2. DISCOVERY; SUBPOENAS. In all matters pending before it under sections 1 to 17 of this act, the board of health shall have the power to issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents and other evidentiary material. Any person failing or refusing to appear or testify regarding any matter about which he may be lawfully questioned or to produce any papers, books, records, documents or evidentiary materials in the matter to be heard, after having been required by order of the board of health or by a subpoena of the board of health to do so may, upon application by the board of health to the district court in any district, be ordered by the court to comply therewith. The commissioner of health acting on behalf of the board of health may issue subpoenas and may administer oaths to witnesses, or take their affirmation. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon any named person anywhere within the state by any officer authorized to serve subpoenas in civil actions, with the same fees and mileage and in the same manner as prescribed by law for process issued out of the district court of this state. Fees and mileage and other costs of persons subpoenaed by the board of health shall be paid in the same manner as for proceedings in district court.

Sec. 13. [144A.13] COMPLAINTS; DISCRIMINATION. Subdivision 1. PROCESSING. All matters relating to the operation of a nursing home which are the subject of a written complaint from a resident and which are received by a controlling person or employee of the

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nursing home shall be delivered to the facility's administrator for evaluation and action. Failure of the administrator within seven days of its receipt to resolve the complaint, or alternatively, the failure of the administrator to make a reply within seven days after he receives it to the complaining resident stating that the complaint did not constitute a valid objection to the nursing home's operations, shall be a violation of section 10 of this act. If a complaint directly involves the activities of a nursing home administrator, the complaint shall be resolved in accordance with this section by a person, other than the administrator, duly authorized by the nursing home to investigate the complaint and implement any necessary corrective measures.

Subd. 2. RESIDENT RIGHTS. The administrator of a nursing home shall inform each resident in writing at the time of admission of his right to complain to the administrator about facility accommodations and services. A notice of the right to complain shall be posted in the nursing home. The administrator shall also inform each resident of his right to complain to the board of health. No controlling person or employee of a nursing home shall retaliate in any way against a complaining nursing home resident and no nursing home resident may be denied any right available to him under Minnesota Statutes, Chapter 566.

Sec. 14. [144A.14] VOLUNTARY RECEIVERSHIP. A majority in interest of the controlling persons of a nursing home may at any time request the board of health to assume the operation of the nursing home through appointment of a receiver. Upon receiving a request for a receiver, the board of health may, if it deems receivership desirable, enter into an agreement with a majority in interest of the controlling persons, providing for the appointment of a receiver to take charge of the facility under conditions deemed appropriate by both parties. The agreement shall specify all terms and conditions of the receivership and shall preserve all rights of the facility residents as granted by law. A receivership initiated in accordance with this section shall terminate at the time specified by the parties or at the time when either party notifies the other in writing that he wishes to terminate the receivership agreement.

Sec. 15. [144A.15] INVOLUNTARY RECEIVERSHIP. Subdivision 1. PETITION; NOTICE. In addition to any other remedy provided by law, the board of health may petition the district court in Ramsey county or in the district in which a nursing home is located for an order directing the controlling persons of the nursing home to show cause why the board of health or its designee should not be appointed receiver to operate the facility. The petition to the district court shall contain proof by affidavit that the board of health has either commenced license suspension or revocation proceedings, suspended or revoked a license, or decided not to renew the nursing home license. The order to show cause shall be returnable not less than five days after service is completed and shall provide for personal service of a copy to the nursing home administrator and to the persons designated as

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agents by the controlling persons to accept service on their behalf pursuant to section 3, subdivision 2 of this act.

Subd. 2. APPOINTMENT OF RECEIVER, RENTAL. If, after hearing, the court finds that involuntary receivership is necessary as a means of protecting the health, safety or welfare of a resident of a nursing home, the court shall appoint the board of health, or any other person designated by the board of health, as a receiver to take charge of the facility. The court shall determine a fair monthly rental for the facility, taking into account all relevant factors including the condition of the facility. This rental fee shall be paid by the receiver to the appropriate controlling persons for each month that the receivership remains in effect. Notwithstanding any other law to the contrary, no payment made to a controlling person by any state agency during a period of involuntary receivership shall include any allowance for profit or be based on any formula which includes an allowance for profit.

Subd. 3. POWERS AND DUTIES OF RECEIVER. A nursing home receiver appointed pursuant to this section shall with all reasonable speed, but in any case, within 18 months after the receivership order, provide for the orderly transfer of all the nursing home's residents to other facilities or make other provisions for their continued safety and health care. The receiver may correct or eliminate those deficiencies in the facility which seriously endanger the life, health or safety of the residents unless the correction or elimination of deficiencies involves major alterations in the physical structure of the nursing home. He shall, during this period, operate the nursing home in a manner designed to guarantee the safety and adequate health care of the residents. The receiver shall take no action which impairs the legal rights of a resident of the nursing home. He shall have power to make contracts and incur lawful expenses. He shall collect incoming payments from all sources and apply them to the cost incurred in the performance of his functions as receiver. No security interest in any real or personal property comprising the nursing home or contained within it, or in any fixture of the facility, shall be impaired or diminished in priority by the receiver. The receiver shall pay all valid obligations of the nursing home and shall deduct these expenses, if appropriate, from rental payments owed to any controlling person by virtue of the receivership.

Subd. 4. RECEIVER'S FEE; LIABILITY; BOARD ASSISTANCE. A nursing home receiver appointed pursuant to this section shall be entitled to a reasonable receiver's fee as determined by the court. The receiver shall be liable only in his official capacity for injury to person and property by reason of the conditions of the nursing home. He shall not be personally liable, except for his gross negligence and intentional acts. The board of health shall assist the receiver in carrying out his duties.

Subd. 5. TERMINATION. An involuntary receivership imposed pursuant to this section shall terminate 18 months after the date on

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which it was ordered or at any other time designated by the court or upon the occurrence of any of the following events:

(a) A determination by the board of health that the nursing home's license should be renewed or should not be suspended or revoked;

(b) The granting of a new license to the nursing home; or

(c) A determination by the board of health that all of the residents of the nursing home have been provided alternative health care, either in another facility or otherwise.

Sec. 16. [144A.16] CESSATION OF NURSING HOME OPERATIONS. If a nursing home plans to cease operations or to curtail operations to the extent that relocation of residents is necessary, the controlling persons of the facility shall notify the board of health at least 90 days prior to the scheduled cessation or curtailment. The board of health shall cooperate with and advise the controlling persons of the nursing home in the resettlement of residents. Failure to comply with this section shall be a violation of section 10 of this act.

Sec. 17. [144A.17] ADVISORY COUNCIL. A nursing home advisory council consisting of 15 members shall be appointed by the board of health to advise and make recommendations on proposed rules and other matters relating to nursing homes. The members of the council shall be selected from both urban and rural areas of the state, and shall include the following:

(a) Five professionals engaged in providing services to residents of nursing homes, including a currently registered nurse, pharmacist, dietitian, medical doctor, and social worker;

(b) A licensed nursing home administrator;

(c) Two controlling persons of a proprietary nursing home;

(d) Two controlling persons each associated with a different non-profit nursing home;

(e) Three nursing home residents not residing in the same home; and

(f) Two public members as defined in Minnesota Statutes, Section 214.02.

The council shall expire and the terms, compensation and removal of members shall be as provided in Minnesota Statutes, Section 15.059.

Sec. 18. [144A.18] LICENSE REQUIREMENT FOR ADMINIS-

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TRATORS. No person shall act as a nursing home administrator or purport to be a nursing home administrator unless he is licensed by the board of examiners for nursing home administrators. A violation of this section is a misdemeanor.

Sec. 19. [144A.19] BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS. Subdivision 1. There is hereby created the board of examiners for nursing home administrators which shall consist of the following members:

(a) A designee of the board of health who shall be a nonvoting member;

(b) The commissioner of public welfare, or his designee who shall be a nonvoting member; and

(c) The following members appointed by the governor:

(1) Two members actively engaged in the management, operation, or ownership of proprietary nursing homes;

(2) Two members actively engaged in the management or operation of nonprofit nursing homes;

(3) One member actively engaged in the practice of medicine;

(4) One member actively engaged in the practice of professional nursing; and

(5) Three public members as defined in Minnesota Statutes, Section 214.02.

Subd. 2. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements for the board of examiners shall be as provided in Minnesota Statutes, Sections 214.07 to 214.09.

Sec. 20. [144A.20] ADMINISTRATOR QUALIFICATIONS. Subdivision 1. The board of examiners may issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for nursing home administrators. No license shall be issued to a person as a nursing home administrator unless he:

(a) Is at least 18 years of age and otherwise suitably qualified;

(b) Has satisfactorily met standards set by the board of examiners, which standards shall be designed to assure that nursing home administrators will be individuals who, by training or experience are qualified to serve as nursing home administrators; and

(c) Has passed an examination approved by the board and de-

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signed to test for competence in the subject matters referred to in clause (b), or has been approved by the board of examiners through the development and application of other appropriate techniques.

Subd. 2. Notwithstanding any law to the contrary, no person desiring to be licensed to administer a nursing home operated exclusively in accordance with the teachings of the body known as the Church of Christ, Scientist, shall be required to demonstrate proficiency in any medical technique or meet any medical educational qualification or medical standard which is not in accord with the type of remedial care and treatment provided in a nursing home operated exclusively in accordance with the teachings of that body.

Sec. 21. [144A.21] ADMINISTRATOR LICENSES. Subdivision 1. A nursing home administrator's license shall not be transferable and shall be valid until June 30 of the second year following its issuance or until it is earlier surrendered, suspended or revoked.

Subd. 2. The board of examiners by rule shall establish forms and procedures for the processing of license renewals. A nursing home administrator's license may be renewed only in accordance with the standards adopted by the board of examiners pursuant to section 24 of this act.

Subd. 3. Each person licensed as a nursing home administrator shall be required to pay initial and renewal license fees in amounts to be fixed by rule of the board of examiners. In addition, each person who takes an examination pursuant to section 20 of this act, shall pay a fee in an amount fixed by rule of the board. Except as otherwise provided by this subdivision, the board of examiners shall set fees at a level sufficient to generate receipts approximately equal to anticipated expenditures of the board for the following year. Examination fees shall be set at a level sufficient to generate receipts approximately equal to the costs of administering the examinations. All fees received by the board of examiners shall be credited to the general fund.

Subd. 4. Denial of issuance or renewal, or suspension or revocation of an administrator's license shall be subject to review upon timely written request for review in accordance with Minnesota Statutes, Chapter 15.

Sec. 22. [144A.22] ORGANIZATION OF BOARD. The board of examiners shall elect from its membership a chairman, vice-chairman and secretary-treasurer, and shall adopt rules to govern its proceedings. Except as otherwise provided by law the board of examiners shall employ and fix the compensation and duties of an executive secretary and other necessary personnel to assist it in the performance of its duties. The executive secretary shall not be a member of the board of examiners.

Sec. 23. [144A.23] EXCLUSIVE JURISDICTION OF BOARD. Ex-

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cept as provided in section 4, subdivision 5, the board of examiners shall have exclusive authority to determine the qualifications, skill and fitness required of any person to serve as an administrator of a nursing home. The holder of a license shall be deemed fully qualified to serve as the administrator of a nursing home.

Sec. 24. [144A.24] DUTIES OF THE BOARD. The board of examiners shall:

(a) Develop and enforce standards for nursing home administrator licensing, which standards shall be designed to assure that nursing home administrators will be individuals of good character who, by training or experience, are suitably qualified to serve as nursing home administrators;

(b) Develop appropriate techniques, including examinations and investigations, for determining whether applicants and licensees meet the board's standards;

(c) Issue licenses to those individuals who are found to meet the board's standards;

(d) Establish and implement procedures designed to assure that individuals licensed as nursing home administrators will comply with the board's standards;

(e) Receive, investigate, and take appropriate action consistent with section 25 of this act, to revoke or suspend the license of a nursing home administrator who fails to comply with sections 18 to 28 of this act or the board's standards;

(f) Conduct a continuing study and investigation of nursing homes, and the administrators of nursing homes within the state, with a view to the improvement of the standards imposed for the licensing of administrators and improvement of the procedures and methods used for enforcement of the board's standards; and

(g) Approve or conduct courses of instruction or training designed to prepare individuals for licensing in accordance with the board's standards. Courses designed to meet license renewal requirements shall be designed solely to improve professional skills and shall not include classroom attendance requirements exceeding 50 hours per year. The board may approve courses conducted within or without this state.

Sec. 25. [144A.25] COMPLAINTS. Subdivision 1. RECEIPT OF COMPLAINT. The executive secretary of the board of examiners, a board member or any other person who performs services for the board, who receives a complaint or other communication, whether oral or written, which complaint or communication alleges or implies a violation of a statute or rule which the board is empowered to enforce,

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shall promptly forward the substance of the communication to the designee of the attorney general responsible for providing legal services to the board. Before proceeding further with the communication, the designee of the attorney general may require the complaining party to state his complaint in writing on a form prepared by the attorney general. Complaints which relate to matters within the jurisdiction of another governmental agency shall be forwarded to that agency by the executive secretary. An officer of that agency shall advise the executive secretary of the disposition of that complaint. A complaint received by another agency which relates to a statute or rule which the board is empowered to enforce shall be forwarded to the executive secretary of the board to be processed in accordance with this section.

Subd. 2. INVESTIGATION AND HEARING. The designee of the attorney general providing legal services to the board of examiners shall evaluate the communications forwarded to him by the board or its members or staff. If the communication alleges a violation of statute or rule which the board is to enforce, the designee is empowered to investigate the facts alleged in the communication. In the process of evaluation and investigation, he shall consult with or seek the assistance of the executive secretary or a member of the board who has been designated by the board to assist the designee. He may also consult with or seek the assistance of any other qualified persons who are not members of the board who the designee believes will materially aid in the process of evaluation or investigation. The executive secretary or the consulted board member may attempt to correct improper activities and redress grievances through education, conference, conciliation and persuasion, and in these attempts they may be assisted by the designee of the attorney general. If the attempts at correction or redress do not produce satisfactory results in the opinion of the executive secretary or the consulted board member, or if the designee providing legal services to the board, the executive secretary or the consulted board member believes that the communication and the investigation suggest illegal or unauthorized activities warranting board action, they shall inform the executive secretary of the board who shall schedule a disciplinary hearing in accordance with Minnesota Statutes, Chapter 15. Before scheduling a disciplinary hearing, the executive secretary must have received a verified written complaint from the complaining party. A board member who was consulted during the course of an investigation may participate at the hearing but may not vote on any matter pertaining to the case. The executive secretary of the board shall promptly inform the complaining party of the final disposition of the complaint.

Subd. 3. DISCOVERY; SUBPOENAS. In all matters pending before it, the board of examiners may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents and other evidentiary material. Any person failing or refusing to appear or testify regarding any matter about which he may be lawfully questioned or to produce any papers, books, records, documents or other evidentiary materials in the matter to be

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heard, after having been required by order of the board or by a subpoena of the board to do so may, upon application to the district court in any district, be ordered to comply therewith. The chairman of the board acting on behalf of the board may issue subpoenas and any board member may administer oaths to witnesses, or take their affirmation. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon any person named therein, anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions, with the same fees and mileage and in the same manner as prescribed by law for service of process issued out of the district court of this state. Fees and mileage and other costs shall be paid as the board directs.

Subd. 4. ADDITIONAL REMEDY. In addition to any other remedy provided by law, the board of examiners may in its own name bring an action in district court for injunctive relief to restrain any unauthorized practice or violation or threatened violation of any statute or rule which the board is empowered to regulate or enforce. A temporary restraining order may be granted in a proceeding if continued activity by the person would create an imminent risk of harm to others. Injunctive relief granted pursuant to this section shall not relieve a person enjoined from criminal prosecution by any competent authority or from disciplinary action by the board in respect to the person's license or application for license or renewal.

Sec. 26. [144A.251] MANDATORY PROCEEDINGS. In addition to its discretionary authority to initiate proceedings under sections 24 and 25, the board of examiners shall initiate proceedings to suspend or revoke a nursing home administrator license or shall refuse to renew a license if within the preceding two year period the administrator was employed at a nursing home which during the period of his employment incurred the following number of uncorrected violations, which violations were in the jurisdiction and control of the administrator and for which a fine was assessed and allowed to be recovered:

(a) Two or more uncorrected violations which created an imminent risk of harm to a nursing home resident; or

(b) Ten or more uncorrected violations of any nature.

Sec. 27. [144A.26] RECIPROCITY WITH OTHER STATES. The board of examiners may issue a nursing home administrator's license, without examination, to any person who holds a current license as a nursing home administrator from another jurisdiction if the board finds that the standards for licensure in the other jurisdiction are at least the substantial equivalent of those prevailing in this state and that the applicant is otherwise qualified.

Sec. 28. [144A.27] EMERGENCY PERFORMANCE. If a licensed nursing home administrator is removed from his position by death or

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other unexpected cause, the controlling persons of the nursing home suffering the removal may designate an acting nursing home administrator who may serve without a license for no more than 90 days, unless an extension is granted by the board of examiners.

Sec. 29. **[144A.28] SEVERABILITY.** Any part of sections 18 to 28 of this act which is in conflict with any act of congress of the United States or any rule of a federal agency, so as to deprive nursing homes of this state of federal funds, shall be deemed void without affecting the remaining provisions of sections 18 to 28 of this act.

Sec. 30. **[144A.29] CONTINUITY OF RULES; AUTHORITY.** Subdivision 1. The provisions of any rule affecting nursing homes or nursing home administrators heretofore promulgated in accordance with Minnesota Statutes, Chapter 144, or hereafter promulgated in accordance with subdivision 2, shall remain effective with respect to nursing homes and nursing home administrators until repealed, modified or superseded by a rule promulgated in accordance with this act.

Subd. 2. Any investigation, disciplinary hearing, court action or other proceeding affecting a nursing home or nursing home administrator heretofore initiated by the board of health or board of examiners in accordance with Minnesota Statutes, Chapter 144, shall be conducted and completed in accordance with that chapter as it existed prior to the effective date of this section. Proceedings heretofore initiated by the board of health or board of examiners leading to the establishment of a rule affecting nursing homes or nursing home administrators may be continued and the rule may be promulgated in accordance with heretofore existing law, notwithstanding any other provision of this act.

Subd. 3. As soon as possible after the effective date of this section, the board of health shall by rule establish a schedule of fines in accordance with section 10, subdivision 6 of this act.

Subd. 4. Each rule promulgated by the board of health pursuant to sections 1 to 17 of this act shall contain a short statement of the anticipated costs and benefits to be derived from the provisions of the rule.

Sec. 31. Minnesota Statutes 1974, Section 144.053, Subdivision 3, is amended to read:

Subd. 3. The furnishing of such information to the state board of health or its authorized representative, or to any other cooperating agency in such research project, shall not subject any person, hospital, sanitarium, ~~rest home~~, nursing home or other person or agency furnishing such information, to any action for damages or other relief.

Sec. 32. Minnesota Statutes 1974, Section 144.49, Subdivision 6, is amended to read:

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Subd. 6. Any person, partnership, association, or corporation establishing, conducting, managing, or operating any hospital, sanatorium, ~~rest home, nursing home,~~ or other institution in accordance with the provisions of sections 144.50 to 144.56, without first obtaining a license therefor is guilty of a misdemeanor.

Sec. 33. Minnesota Statutes 1974, Section 144.49, Subdivision 7, is amended to read:

Subd. 7. Any person, partnership, association, or corporation ~~establishing, conducting, managing, or operating~~ which establishes, conducts, manages or operates any hospital, sanatorium ; ~~rest home, nursing home,~~ or other institution ~~in accordance with the provisions of required to be licensed under~~ sections 144.50 to 144.56 ~~violating, in violation of~~ any provision of sections 144.50 to 144.56 or any regulation established thereunder, is guilty of a misdemeanor.

Sec. 34. Minnesota Statutes 1974, Section 144.50, is amended to read:

144.50 HOSPITALS, LICENSES; DEFINITIONS. No person, partnership, association, or corporation, nor any state, county, or local governmental units, nor any division, department, board, or agency thereof, shall establish, operate, conduct, or maintain in the state any hospital, sanatorium ; ~~rest home, nursing home, boarding home,~~ or other institution for the hospitalization or care of human beings without first obtaining a license therefor in the manner ~~hereinafter~~ provided by law .

Hospital, sanatorium ; ~~rest home, nursing home, boarding home, and other related institutions~~ or other institution for the hospitalization or care of human beings , within the meaning of sections 144.50 to 144.56 shall mean any institution, place, building, or agency , other than a diagnostic or treatment center, a clinic, or a physician's office, in which any accommodation is maintained, furnished, or offered for the hospitalization of the sick or injured or ~~for maternity care of more than one woman within a period of six months or for care of five or more aged or infirm persons requiring or receiving chronic or convalescent care for the institutional care of human beings~~ . Nothing in sections 144.50 to 144.56 shall apply to hotels or other similar places that furnish only board and room, or either, to their guests.

"Hospitalization" means the reception and care of persons for a continuous period longer than 24 hours, for the purpose of diagnosis or treatment bearing on the physical or mental health of such persons.

"Maternity care" means the care and treatment of a woman ~~during pregnancy or during delivery or within ten days after delivery,~~ and for the purposes of sections ~~144.50 to 144.56~~ shall include care during such period of time of the infant born to such mother.

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"Chronic or convalescent care" means (1) care required by a person because of prolonged mental or physical illness or defect or during recovery from injury or disease and shall include any or all of the procedures commonly employed in caring for the sick; and (2) care incident to old age required by a person who because of advancing age is not capable of properly caring for himself and shall include necessary personal or custodial care. The furnishing of board, room, and laundry shall not in itself be deemed care incident to old age.

The term "hospital" includes the term "sanatorium" unless the context clearly indicates otherwise.

Nothing in sections 144.50 to 144.56 shall authorize any person, partnership, association, or corporation, nor any state, county, or local governmental units, nor any division, department, board, or agency thereof, to engage, in any manner, in the practice of healing, or the practice of medicine, as defined by law.

Sec. 35. Minnesota Statutes 1974, Section 144.51, is amended to read:

144.51 LICENSE APPLICATIONS. ~~No person, partnership, association, or corporation, nor any state, county, or local governmental units, nor any division, department, board, or agency thereof, may operate a hospital, sanatorium, rest home, nursing home, or boarding home for the infirm aged, without a license therefor.~~

Before a license shall be issued under sections 144.50 to 144.56, the person applying shall submit evidence satisfactory to the state board of health that he is not less than 18 years of age and of reputable and responsible character; in the event the applicant is an association or corporation or governmental unit like evidence shall be submitted as to the members thereof and the persons in charge. All applicants shall, in addition, submit satisfactory evidence of their ability to comply with the provisions of sections 144.50 to 144.56 and all rules, regulations, and minimum standards adopted thereunder.

Sec. 36. Minnesota Statutes, 1975 Supplement, Section 144.53, is amended to read:

144.53 FEES. Each application for a license, or renewal thereof, to operate a hospital, sanatorium; ~~rest home, or boarding home, or related institution or other institution for the hospitalization or care of human beings~~, within the meaning of sections 144.50 to 144.56, except applications by the Minnesota veterans home, the commissioner of public welfare for the licensing of state institutions or by the administrator for the licensing of the university of Minnesota hospitals, shall be accompanied by a fee to be prescribed by the state board of health pursuant to section 144.122. No ~~such~~ fee shall be refunded. Licenses shall expire and shall be renewed as prescribed by the board pursuant to section ~~14.122-144.122~~.

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No license granted hereunder shall be assignable or transferable.

Sec. 37. Minnesota Statutes 1974, Section 144.55, is amended to read:

144.55 LICENSES; ISSUANCE, SUSPENSION AND REVOCATION BY STATE BOARD OF HEALTH. The state board of health is hereby authorized to issue licenses to operate hospitals, sanatoriums ; ~~rest homes, nursing homes, or other related institutions~~ for the hospitalization or care of human beings , which after inspection are found to comply with the provisions of sections 144.50 to 144.56 and any reasonable regulations adopted by the state board of health. All decisions of the state board of health thereunder may be reviewed in the district court in the county in which the institution is located or contemplated.

The state board of health may refuse to grant, refuse to renew, or may suspend or revoke a license on any of the following grounds:

(1) Violation of any of the provisions of sections 144.50 to 144.56 or the rules, regulations, or standards issued pursuant thereto;

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

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

(4) Obtaining, or attempting to obtain a license by fraudulent means or misrepresentation.

Before any ~~such~~ license issued thereunder is suspended, or revoked, or its renewal refused, 30 days written notice shall be given the holder thereof of the date set for hearing of the complaint. The holder of ~~such the~~ license shall be furnished with a copy of the complaint and be entitled to be represented by legal counsel at ~~such the~~ hearing. ~~Such~~ The notice may be given by the state board of health by registered mail. The board may appoint, in writing, any competent person to preside at ~~such the~~ hearing who shall take testimony, administer oaths, issue subpoenas, and compel the attendance of witnesses and transmit the record of ~~such the~~ hearing to the board. The decision of the board shall be based on the testimony and records.

If a license is revoked as herein provided a new application for license may be considered by the state board of health if, when, and after the conditions upon which revocation was based have been corrected and evidence of this fact has been satisfactorily furnished. A new license may then be granted after proper inspection has been made and all provisions of sections 144.50 to 144.56 and rules ~~and regulations promulgated~~ thereunder ~~as heretofore or hereinafter provided~~ have been complied with and recommendation has been made therefor by the hospital inspector as an agent of the state board of health.

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Sec. 38. Minnesota Statutes, 1975 Supplement, Section 144.571, is amended to read:

144.571 ADVISORY COUNCIL. An advisory council of nine members shall be appointed in the following manner to make recommendations to the state board of health and to assist in the establishment and amendment of such rules ; ~~regulations~~; and standards ~~and any amendments thereto~~ authorized by sections 144.50 to 144.58 . This council shall consist of four members to be appointed annually from the membership of the Minnesota hospital association by the board of trustees thereof, one of ~~said four members whom~~ shall be the superintendent of a hospital operated by a county or other local governmental unit ; ~~one member representing homes for chronic or convalescent patients shall be appointed annually by the state board of health; and~~ . Two members shall be doctors of medicine ~~to be~~ appointed annually from the Minnesota state medical association by the council of the Minnesota state medical association. The commissioner of public welfare, or a person from the department of public welfare designated by him, shall be ~~the eighth~~ a member of the council, and the commissioner of public welfare shall designate ~~the ninth~~ a member who will represent the Minnesota county welfare boards. The ninth member of the council shall be a public member as defined in section 214.02, and shall be appointed by the governor to serve at his pleasure.

Sec. 39. Minnesota Statutes 1974, Section 144.572, is amended to read:

144.572 INSTITUTIONS EXCEPTED. No regulation nor requirement shall be made, nor standard established under sections 144.50 to 144.56 for any sanatorium, ~~nursing home, nor rest home~~ conducted in accordance with the practice and principles of the body known as the Church of Christ, Scientist, except as to the sanitary and safe condition of the premises, cleanliness of operation, and its physical equipment.

Sec. 40. Minnesota Statutes 1974, Section 144.63, Subdivision 2, is amended to read:

Subd. 2. An advisory ~~board~~ council of ~~five~~ six members shall be appointed in the following manner to make recommendations to the state board of health ~~in such matters and to assist in concerning~~ the establishment and amendment of such rules ~~and regulations and any amendments thereto~~ authorized by sections 144.59 to 144.65 . This ~~board~~ council shall consist of three members to be appointed annually from the membership of the Minnesota Hospital Association by the board of trustees thereof ; . One of ~~said these~~ three members shall be a hospital administrator of a hospital located outside of a city of the first class; one of ~~said these~~ three members shall be a hospital administrator of a state, county or municipal hospital; and one of ~~said these~~ three members shall be a hospital administrator selected at large ; . One member of ~~said board~~ the council shall be the director of the course of

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hospital administration at the University of Minnesota or his designated representative. One member of ~~said board~~ the council shall be a duly licensed and registered doctor of medicine to be appointed annually from the Minnesota State Medical Association by the council thereof. One member shall be a public member as defined in section 214.02, and shall be appointed by the governor to serve at his pleasure.

Sec. 41. Minnesota Statutes 1974, Section 144.652, is amended to read:

144.652 **NOTICE TO PATIENT.** The policy statement contained in section 144.651 shall be posted conspicuously in a public place in all facilities licensed under the provisions of sections 144.50 to 144.58 , or section 2 of this act . Copies of the policy statement shall be furnished the patient and resident upon admittance to the facility.

Sec. 42. Minnesota Statutes 1974, Section 144.653, Subdivision 1, is amended to read:

144.653 **RULES; INSPECTIONS.** Subdivision 1. **AUTHORIZATION.** The state board of health is the exclusive state agency charged with the responsibility and duty of inspecting all facilities required to be licensed under the provisions of Minnesota Statutes ~~1974~~ , Sections 144.50 to 144.58. The state board of health shall enforce ~~such its~~ such its rules ; ~~regulations and standards~~ subject only to the authority of the department of public safety respecting the enforcement of fire and safety standards in ~~nursing homes and other~~ licensed health care facilities and the responsibility of the commissioner of public welfare pursuant to Minnesota Statutes ~~1974~~ , Sections 245.78; 252.28; and 257.081 to 257.123.

Sec. 43. Minnesota Statutes 1974, Section 144.654, is amended to read:

144.654 **EXPERTS MAY BE EMPLOYED.** The state board of health may employ experts in the field of health care to assist the staffs of facilities required to be licensed under the provisions of sections 144.50 to 144.58 , or section 2 of this act, in programming and providing adequate care of the patients and residents of the facility. Alternate methods of care for patients and residents of ~~such the~~ facilities shall be researched by the state board of health using the knowledge and experience of experts employed therefor.

Sec. 44. Minnesota Statutes 1974, Section 144.655, is amended to read:

144.655 **PROGRAM FOR VOLUNTARY MEDICAL AID.** Licensed physicians may visit a facility required to be licensed under the provisions of sections 144.50 to 144.58 , or section 2 of this act, and examine patients and residents thereof under a program which shall be es-

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established by the state board of health and regulated and governed by rules ~~and regulations~~ promulgated by the state board of health pursuant to the administrative procedures act. ~~Such~~~~The~~ rules ~~and regulations~~ shall protect the privacy of patients and residents of facilities. No patient or resident of any facility shall be required to submit to an examination under ~~such~~~~the~~ program. The state board of health shall consult with medical schools and other experts for the purpose of establishing the program. The state board of health shall encourage the active participation of all licensed physicians on a voluntary basis in ~~such~~~~the~~ program.

Sec. 45. Minnesota Statutes 1974, Section 144.656, is amended to read:

144.656 EMPLOYEES TO BE COMPENSATED. All employees of facilities required to be licensed under the provisions of sections 144.50 to 144.58 , or section 2 of this act, participating in orientation programs or in inservice training provided by the facility shall be compensated therefor at their regular rate of pay, provided, however, that this section will be effective only to the extent that facilities are reimbursed for ~~such~~~~the~~ compensation by the commissioner of public welfare in the proportion of welfare to total residents and patients in the facility.

Sec. 46. Minnesota Statutes 1974, Section 144.657, is amended to read:

144.657 VOLUNTEER EFFORTS ENCOURAGED. The state board of health, through the dissemination of information to appropriate organizations, shall encourage citizens to promote improved care in facilities required to be licensed under the provisions of sections 144.50 to 144.58 , or section 2 of this act, throughout the state.

Sec. 47. Minnesota Statutes 1974, Section 144.68, Subdivision 2, is amended to read:

Subd. 2. **HOSPITALS AND SIMILAR INSTITUTIONS.** Every hospital, sanatorium, ~~rest home~~, nursing home or other ~~place in which any accommodation is offered, furnished, or maintained for the hospitalization of any sick or injured person or for the care of any aged or infirm person requiring or receiving chronic or convalescent care~~ institution for the hospitalization or care of human beings , upon request of the state board of health, shall prepare and forward to the board, in the manner and at ~~such~~~~the~~ times ~~as~~~~that~~ it designates, a detailed record of each case of malignant disease having been therein.

Sec. 48. Minnesota Statutes 1974, Section 144.68, Subdivision 3, is amended to read:

Subd. 3. **INFORMATION WITHOUT LIABILITY.** The furnishing of the information required under subdivisions 1 and 2 shall not subject the person, hospital, sanatorium, ~~rest home~~, nursing home, or

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other place furnishing ~~such the~~ information, to any action for damages or other relief.

Sec. 49. Minnesota Statutes 1974, Section 145.61, Subdivision 4, is amended to read:

Subd. 4. "Health care" means professional services rendered by a professional or an employee of a professional and services furnished by a hospital, sanatorium, ~~rest home~~, nursing home ; ~~boarding home~~ or other institution for the hospitalization or care of human beings.

Sec. 50. Minnesota Statutes, 1975 Supplement, Section 145.72, Subdivision 2, is amended to read:

Subd. 2. "Health care facility" means any hospital facility licensed ~~as such~~ under Minnesota Statutes ~~1969~~, Sections 144.50 to 144.56 ; ~~or any nursing home licensed as such under Minnesota Statutes 1969, Sections 144.50 to 144.56; or any boarding care home licensed as such under Minnesota Statutes 1969, Sections 144.50 to 144.56~~ section 2 of this act; but does not include any facility licensed under Minnesota Statutes, Sections 245.78 to 245.821, 252.28, or 257.081 to 257.124 .

Sec. 51. Minnesota Statutes, 1975 Supplement, Section 145.74, is amended to read:

145.74 HEALTH PLANNING AGENCIES; MEMBERSHIP REGULATIONS. The state planning agency shall, subject to chapter 15, after consulting with the state board of health promulgate regulations concerning the membership of area wide comprehensive health planning agencies. The regulations shall include, but not be limited to, the following factors. The regulations shall:

(1) comply with the provisions of the Partnership for Health Act, P.L.89-749, as amended, and with the National Health Planning and Resources Development Act, P.L.93-641;

(2) provide that a majority of the membership be composed of consumers;

(3) provide for representation of ~~providers of each of the following: hospital ; and nursing home and boarding care providers ;~~

(4) provide for representation of licensed medical doctors and other health professionals;

(5) provide for a fixed term of membership; and

(6) provide that members of an area wide comprehensive health planning agency shall not select their successors.

No existing area wide comprehensive health planning agency
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shall exercise the functions provided in sections 145.71 to 145.83 until it is in compliance with regulations issued pursuant to this section.

If there is no area wide comprehensive health planning agency in a designated area of the state in compliance with sections 145.71 to 145.83, the Minnesota state planning agency shall perform the functions and duties of an area wide comprehensive health planning agency for that area.

Sec. 52. Minnesota Statutes 1974, Section 145.75, is amended to read:

145.75 HEALTH PLANNING AGENCIES; REGULATION OF DUTIES. The state planning agency, in accordance with chapter 15, shall, after consulting with the area wide comprehensive health planning agencies and the state board of health, make regulations to guide the area wide comprehensive health planning agencies in the performance of their duties. The regulations shall provide for the consideration of at least the following factors:

(a) the need for health care facilities and services in the area and the requirements of the population of the area;

(b) maximum and minimum hospital ~~,-and~~ nursing home ~~;~~ ~~and boarding care home~~ bed ratios per 1,000 inhabitants of the area, subject to differences in requirements of the various designated areas;

(c) the possible economies and improvement in service that may be derived from operation of joint, cooperative, or shared health care resources;

(d) the relationship of proposed construction or modification to overall plans for the development of the area;

(e) the availability and adequacy of the area's existing hospitals ~~,-and~~ nursing homes ~~;~~ ~~and boarding care homes~~ currently conforming to state and federal standards; and

(f) the availability and adequacy of other health services in the area such as out-patient, ambulatory or home care service which may serve as alternates or substitutes for the whole or any part of the service to be provided by any proposed health care facility construction or modification.

The fact that a health care facility serves more than a local area constituency or population or is engaged in educational or research activities shall be taken into consideration in the decision making process with respect to any proposal.

Sec. 53. Minnesota Statutes 1974, Section 145.862, Subdivision 4, is amended to read:

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Subd. 4. "Existing state health licensing boards" means the existing professional health licensing boards provided for in Minnesota Statutes ~~1971~~, Sections ~~144.062~~, 146.02, 147.01, 148.02, 148.52, 148.79, 148.181, 148.296, 150A.02, 151.02, 153.02, 156.01, and section 19 of this act, as well as any other professional health licensing boards that may be created hereafter unless specifically exempted therefrom.

Sec. 54. Minnesota Statutes, 1975 Supplement, Section 214.01, Subdivision 2, is amended to read:

Subd. 2. "Health related licensing board" means the board of examiners of nursing home ~~administration~~ administrators established pursuant to section ~~144.062~~ 19 of this act, the board of medical examiners created pursuant to section 147.01, the board of nursing created pursuant to section 148.181, the board of chiropractic examiners established pursuant to section 148.02, the board of licensed practical nursing created pursuant to section 148.29, the board of optometry established pursuant to section 148.52, the board of examiners of psychologists established pursuant to section 148.90, the board of dentistry established pursuant to section 150A.02, the board of pharmacy established pursuant to section 151.02, the board of podiatry examiners and registration established pursuant to section 153.02, and the veterinary examining board, established pursuant to section 156.01.

Sec. 55. Minnesota Statutes 1974, Section 245.691, Subdivision 3, is amended to read:

Subd. 3. Not more than ten patients shall be cared for in any group home established under this section. Minnesota Statutes ~~1967~~, Sections 144.50 to 144.58, and section 2 of this act, are not applicable to group homes established by this section.

Sec. 56. Minnesota Statutes 1974, Section 256B.02, Subdivision 2, is amended to read:

Subd. 2. "Excluded time" means any period of time an applicant spends in a hospital, sanatorium, ~~rest home~~, nursing home; ~~boarding home~~, or ~~similar other~~ institution for the hospitalization or care of human beings, as defined in Minnesota Statutes ~~1965~~, Section 144.50, or section 1 of this act.

Sec. 57. Minnesota Statutes 1974, Section 256B.30, is amended to read:

256B.30 HEALTH CARE FACILITY REPORT. Every facility required to be licensed under the provisions of sections 144.50 to 144.58, or section 2 of this act, shall provide annually to the commissioner of public welfare ~~such the~~ reports as may be required under law and under ~~regulations~~ rules adopted by the commissioner of public welfare under the administrative procedures act. ~~Such regulations~~ The rules shall provide for the submission of a full and complete financial report

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of a facility's operations including:

- (1) An annual statement of income and expenditures;
- (2) A complete statement of fees and charges;
- (3) The names of all persons other than mortgage companies owning any interest in the facility including stockholders with an ownership interest of ten percent or more of the facility.

The financial reports and supporting data of the facility shall be available for inspection and audit by the commissioner of public welfare.

Sec. 58. Minnesota Statutes 1974, Section 256D.18, Subdivision 2, is amended to read:

Subd. 2. "County of financial responsibility" means (a) the county in which an individual resides; or (b) if an individual is a patient in a hospital ~~or~~ nursing home ; ~~or boarding care home~~ , as defined in section 144.50, or section 1 of this act, or is placed in a county as a result of a correctional program or a treatment plan for health, rehabilitation, foster care, child care or training, at the time of making application, and immediately prior thereto resided in another county, then that other county; or (c) the above provisions notwithstanding, if an individual is a recipient of medical assistance, the county from which he is receiving medical assistance.

Sec. 59. Minnesota Statutes 1974, Section 299F.39, Subdivision 1, is amended to read:

299F.39 FIRE SAFETY CODE. Subdivision 1. ESTABLISHMENT. The state fire marshal after holding a public hearing in accordance with law, shall establish a fire safety code. The regulations in the code shall provide for reasonable safety from fire, smoke, and panic therefrom, in all hospitals, as defined in Minnesota Statutes, Section 144.50; nursing homes, ~~rest homes; board and care homes;~~ as defined by the state board of health, as defined in section 1 of this act; schools ~~;~~ and hotels, as defined in Minnesota Statutes, Section 299F.46, Subdivision ~~1-2~~ .

Sec. 60. Minnesota Statutes 1974, Section 609.231, is amended to read:

609.231 MISTREATMENT OF RESIDENTS OR PATIENTS. Whoever, being in charge of or employed in any facility required to be licensed under the provisions of sections 144.50 to 144.58 , or section 2 of this act, intentionally abuses, ill-treats, or culpably neglects any patient or resident therein to his physical detriment may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both.

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Sec. 61. Minnesota Statutes 1974, Section 626.555, Subdivision 1, is amended to read:

626.555 **REPORTING OF MALTREATMENT OF PATIENTS.** Subdivision 1. **DECLARATION OF PURPOSE.** The purpose of this section is to provide for the protection of persons being cared for in hospitals, nursing homes or other related institutions licensed pursuant to sections 144.50 to 144.58, or section 2 of this act, who have had physical injury inflicted upon them, by other than accidental means, when the injury appears to have been caused as a result of physical abuse or neglect.

Sec. 62. Minnesota Statutes 1974, Section 626.555, Subdivision 2, is amended to read:

Subd. 2. **WHO MAKES REPORT AND TO WHOM MADE.** Whether licensed or not, any physician, surgeon, person authorized to engage in the practice of healing, administrator of a hospital or nursing home, nurse or pharmacist, shall immediately report all cases of physical injury to persons being cared for in hospitals, nursing homes or other related institutions for the hospitalization or care of human beings, licensed pursuant to sections 144.50 to 144.58, or section 2 of this act, inflicted by other than accidental means which come to their attention, when the injury appears to have been caused as a result of physical abuse or neglect. Cases shall be reported to the state board of health.

Sec. 63. Minnesota Statutes 1974, Section 626.555, Subdivision 7, is amended to read:

Subd. 7. **RETALIATION PROHIBITED.** No person who directs or exercises any authority in a facility required to be licensed under the provisions of sections 144.50 to 144.58, or section 2 of this act, shall evict, harass, dismiss or retaliate against a patient, resident or employee because he or any member of his family has reported in good faith any violation or suspected violation of laws, ordinances or regulations applying to the facility.

Sec. 64. **REPEALER.** Minnesota Statutes 1974, Sections 144.584; 144.951; 144.953; 144.954; 144.955; 144.9555; 144.956; 144.957; 144.958; 144.959; 144.96; 144.961; 144.962; 144.963; 144.964; and 144.965; and Minnesota Statutes, 1975 Supplement, Section 144.952, are repealed.

Sec. 65. **TRANSITIONAL NURSING HOME LICENSES.** Notwithstanding the provisions of section 5 of this act, nursing home licenses issued or renewed within the 12 months immediately following the effective date of this section shall expire 120 days after the last day of the fiscal year of the facility licensed. Nursing home licenses issued or renewed after that date shall expire as provided in section 5 of this act.

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Sec. 66. EFFECTIVE DATE. Section 10, subdivision 5, and section 30, subdivision 3, are effective the day following their final enactment. The remaining provisions of this act are effective on the effective date of the rule establishing the schedule of fines authorized by section 10, subdivision 6, or on January 1, 1977, whichever occurs first.

Approved April 6, 1976.

CHAPTER 174—S.F.No.4

An act relating to courts; general terms in ninth judicial district, eastern area; amending Minnesota Statutes 1974, Section 484.17.

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

Section 1. Minnesota Statutes 1974, Section 484.17, is amended to read:

484.17 DISTRICT COURTS; NINTH JUDICIAL DISTRICT; TERMS. Subdivision 1. General terms of district court in the counties named in this section shall be held each year at the times herein specified.

EASTERN AREA

Subd. 2. Aitkin county: On the ~~second Tuesday in May~~ first Wednesday after the first Tuesday in February, and the first ~~Tuesday in December~~ Wednesday after the first Tuesday in September .

Subd. 3. Beltrami county: On the first Tuesday in February and the ~~second~~ first Tuesday in September.

Subd. 4. Cass county: On the first ~~Tuesday in May~~ Wednesday after the first Tuesday in February, and the first ~~Tuesday in December~~ Wednesday after the first Tuesday in September .

Subd. 5. Clearwater county: On the ~~third Tuesday in April~~ first Thursday after the first Tuesday in February, and the first ~~Tuesday in November~~ Thursday after the first Tuesday in September .

Subd. 6. Crow Wing county: On the first Tuesday in February and the first Tuesday in September.

Subd. 7. Hubbard county: On the ~~second Tuesday in March~~ first Wednesday after the first Tuesday in February, and the ~~second Tuesday in October~~ first Wednesday after the first Tuesday in September .

Subd. 8. Itasca county: On the ~~third~~ first Tuesday in February and

Changes or additions indicated by underline deletions by ~~strikeout~~