

## CHAPTER 154—S.F.No. 1031

*An act relating to health; establishing notice requirements for emergency medical services personnel who are first responders; providing safeguards for first responders against exposure to infectious diseases; proposing coding for new law in Minnesota Statutes, chapter 144.*

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

## NOTICE AND TESTING OF

## EMERGENCY MEDICAL SERVICES PERSONNEL

## Section 1. [144.761] DEFINITIONS.

Subdivision 1. SCOPE OF DEFINITIONS. For purposes of this chapter, the following terms have the meanings given them.

Subd. 2. HIV. "HIV" means the human immunodeficiency virus, the causative agent of AIDS.

Subd. 3. HEPATITIS B. "Hepatitis B" means the hepatitis B virus.

Subd. 4. EMERGENCY MEDICAL SERVICES AGENCY. "Emergency medical services agency" means an agency, entity, or organization that employs or uses emergency medical services personnel as employees or volunteers licensed or certified under sections 144.801 to 144.8091.

Subd. 5. EMERGENCY MEDICAL SERVICES PERSONNEL. "Emergency medical services personnel" means:

(1) individuals employed to provide prehospital emergency medical services;

(2) persons employed as licensed police officers under section 626.84, subdivision 1, who experience a significant exposure in the performance of their duties;

(3) firefighters, paramedics, emergency medical technicians, licensed nurses, rescue squad personnel, or other individuals who serve as employees or volunteers of an ambulance service as defined by sections 144.801 to 144.8092, who provide prehospital emergency medical services;

(4) crime lab personnel receiving a significant exposure while involved in a criminal investigation; and

(5) correctional guards, including security guards at the Minnesota security hospital, employed by the state or a local unit of government who experience a significant exposure to an inmate who is transported to a facility for emergency medical care.

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Subd. 6. PATIENT. "Patient" means an individual who is received by a facility and who receives the services of emergency medical services personnel. Patient includes, but is not limited to, victims of accident or injury, or deceased persons.

Subd. 7. SIGNIFICANT EXPOSURE. "Significant exposure" means:

(1) contact of broken skin or mucous membrane of emergency medical services personnel with a patient's blood, amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, vaginal secretions, or bodily fluids grossly contaminated with blood;

(2) a needle stick, scalpel or instrument wound, or other wound inflicted by an object that is contaminated with blood, and that is capable of cutting or puncturing the skin of emergency medical services personnel; or

(3) an exposure that occurs by any other method of transmission recognized by contemporary epidemiological standards as a significant exposure.

Subd. 8. FACILITY. "Facility" means a licensed hospital and freestanding emergency medical care facility licensed under sections 144.50 to 144.56 that receives a patient cared for by emergency medical services personnel.

## **Sec. 2. [144.762] NOTIFICATION PROTOCOL FOR EXPOSURE TO HIV AND HEPATITIS B.**

Subdivision 1. NOTIFICATION PROTOCOL REQUIRED. Every facility that receives a patient shall adopt a postexposure notification protocol for emergency medical services personnel who have experienced a significant exposure.

Subd. 2. REQUIREMENTS FOR PROTOCOL. The postexposure notification protocol must include the following:

(1) a method for emergency medical services personnel to notify the facility that they may have experienced a significant exposure from a patient that was transported to the facility. The facility shall provide to the emergency medical services personnel a significant exposure report form to be completed by the emergency medical services personnel in a timely fashion;

(2) a process to investigate whether a significant exposure has occurred. This investigation must be completed within 72 hours of receipt of the exposure report;

(3) if there has been a significant exposure, a process to determine whether the patient has hepatitis B or HIV infection;

(4) if the patient has an infectious disease that could be transmitted by the type of exposure that occurred, or, if it is not possible to determine what disease the patient may have, a process for making recommendations for appropriate counseling and testing to the emergency medical services personnel;

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(5) compliance with applicable state and federal laws relating to data practices, confidentiality, informed consent, and the patient bill of rights; and

(6) a process for providing counseling for the patient to be tested and for the emergency medical services personnel filing the exposure report.

Subd. 3. IMMUNITY. A facility is not civilly or criminally liable for actions relating to the notification of emergency medical services personnel if the facility has made a good faith effort to adopt and follow a notification protocol.

**Sec. 3. [144.763] COUNSELING REQUIREMENTS.**

With regard to testing for HIV infection, facilities shall ensure that pretest counseling, notification of test results, and posttest counseling are provided to all patients tested and to emergency medical services personnel requesting notification.

**Sec. 4. [144.764] RESPONSIBILITY FOR TESTING; COSTS.**

The facility that receives a patient shall ensure that tests under sections 1 to 10 are performed. The emergency medical services agency that employs the emergency medical services personnel who request testing under sections 1 to 10 must pay for the cost of counseling, testing, and costs associated with the testing of the patient and of the emergency medical services personnel.

**Sec. 5. [144.765] PATIENT'S RIGHT TO REFUSE TESTING.**

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

**Sec. 6. [144.766] DEATH OF PATIENT.**

If a patient who is the subject of a reported significant exposure dies before an opportunity to consent to blood testing under sections 1 to 10, the facility shall conduct a test of the deceased person for hepatitis B and HIV infection. Consent of the deceased person's representative is not necessary for purposes of this section.

**Sec. 7. [144.767] TEST RESULTS; REPORTS.**

Subdivision 1. REPORT TO EMPLOYER. Results of tests conducted under this section shall be reported by the facility to a designated agent of the

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emergency medical services agency that employs or uses the emergency medical services personnel and to the emergency medical services personnel who report the significant exposure. The test results shall be reported without personally identifying information.

Subd. 2. REPORT TO PATIENT. The facility that receives the patient shall inform the patient or, if the patient is deceased, the representatives of the deceased person, of test results for all tests conducted under this chapter.

**Sec. 8. [144.768] TEST INFORMATION CONFIDENTIALITY.**

Subdivision 1. PRIVATE DATA. Information concerning test results obtained under this chapter is, with respect to patients and employees of persons in the private sector, private and confidential information and, with respect to patients and employees of state agencies, statewide systems, or political subdivisions, private data.

Subd. 2. CONSENT TO RELEASE INFORMATION. A facility shall not disclose to emergency medical services personnel personally identifying information about a patient without a written release signed by the patient or a personal representative of the decedent.

**Sec. 9. [144.769] PENALTY FOR UNAUTHORIZED RELEASE OF PATIENT INFORMATION.**

Any unauthorized release, by an individual or agency described in section 1, subdivision 4 or 5, of personally identifying information under sections 1 to 10 is a misdemeanor. This section does not preclude the patient from pursuing remedies and penalties under sections 13.08 and 13.09 or other private causes of action against an individual, state agency, statewide system, political subdivision, or person responsible for releasing private data, or confidential or private information on the patient or employee.

**Sec. 10. [144.7691] DUTIES OF THE COMMISSIONER.**

Subdivision 1. TECHNICAL CONSULTATION. The commissioner shall provide technical consultation for:

- (1) development of an exposure report form to be used by the facility;
- (2) development of a postexposure notification protocol to be adopted by the facility;
- (3) training and education of emergency medical services personnel on infectious disease guidelines and protocols for emergency medical services personnel to use to prevent transmission of infectious disease;
- (4) development of recommendations for counseling and testing the patient and emergency medical services personnel; and

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(5) a mechanism for the facility to notify the patient of the results of the test.

Subd. 2. RULEMAKING AUTHORITY. The commissioner may adopt rules to carry out sections 1 to 10. The commissioner may by rule add other infectious diseases to section 2, subdivision 2, clause (3).

Sec. 11. EFFECTIVE DATE.

Sections 1 to 10 are effective July 1, 1989.

Presented to the governor May 16, 1989

Signed by the governor May 19, 1989, 4:45 p.m.

#### CHAPTER 155—S.F.No. 206

*An act relating to state government; administrative procedures; regulating exempt rules; making certain technical changes; amending Minnesota Statutes 1988, sections 14.40; and 97A.051, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 3; repealing Minnesota Statutes 1988, sections 97A.051, subdivision 3; 144A.10, subdivision 6a; 174.031, subdivision 2; 254B.03, subdivision 6; 254B.04, subdivision 2; 257.357; and 574.262, subdivision 3; Laws 1985, chapter 4, section 8; and Laws 1987, chapter 337, section 128.*

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

#### Section 1. [3.846] PUBLICATION OF NOTICE OF EXEMPT RULES.

Subdivision 1. REQUIREMENT. (a) Except as provided in paragraph (b), no rule, as defined in section 14.02, subdivision 4, that is exempt from the rulemaking provisions of chapter 14, has the force and effect of law unless a notice has been published and filed under subdivision 2 before its effective date.

(b) Rules of the division of game and fish may have the force and effect of law up to seven days before publishing and filing under subdivision 2 if the commissioner of natural resources determines that an emergency exists and for a rule that affects more than three counties publishes the rule once in a legal newspaper in Minneapolis, St. Paul, and Duluth, or for a rule that affects three or fewer counties publishes the rule once in a legal newspaper in each of the affected counties. A rule of the division of game and fish that is published under this paragraph is not effective until seven days after the rule is published in the legal newspapers as provided in this paragraph or the rule is published and filed under subdivision 2, whichever is earlier.

Subd. 2. NOTICE. The notice must be published in the state register and filed with the secretary of state and the legislative commission to review administrative rules. The notice must contain a citation to the statutory authority for the exempt rule and either: (1) a copy of the rule; or (2) a description of the

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