

collecting laboratory specimens and samples, and an evaluation of the definition of communicable disease;

(4) due process protections to apply to persons under isolation or quarantine;

(5) enforcement methods to ensure compliance with emergency measures and measures to detect and prevent the spread of disease;

(6) ways to preserve the effectiveness of fluoroquinolones and other antibiotics that are vital to protecting human health; and

(7) the impact of each recommendation on the constitutional and other rights of citizens.

(b) In developing this report and recommendations, the commissioner shall consult with the commissioner of public safety, the state director of homeland security, and representatives of local government, tribal government, emergency managers, the board of animal health, health care provider organizations, emergency medical services personnel, and legal advocacy and civil liberties groups. All meetings with these representatives must be open to the public and adequate notice of the meetings must be provided to the public. The commissioner shall delineate and describe the impact of each recommendation on the constitutional and other rights of citizens.

Sec. 21. SUNSET.

Sections 1 to 19 expire August 1, 2004.

Sec. 22. EFFECTIVE DATE.

Sections 1 to 21 are effective the day following final enactment.

Presented to the governor May 20, 2002

Signed by the governor May 22, 2002, 1:32 p.m.

CHAPTER 403—H.F.No. 2780

An act relating to civil law; regulating medical malpractice actions; modifying provisions relating to liens against real property; creating a curative act for conveyances by counties; providing for recording of documents written in foreign language; providing for an affidavit of custodian; removing a sunset; amending Minnesota Statutes 2000, sections 145.682, subdivision 6; 481.13; 573.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 507; 527; repealing Minnesota Statutes 2000, section 514.99, subdivision 6.

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

Section 1. Minnesota Statutes 2000, section 145.682, subdivision 6, is amended to read:

Subd. 6. **PENALTY FOR NONCOMPLIANCE.** (a) Failure to comply with subdivision 2, clause (1), within 60 days after demand for the affidavit results, upon

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motion, in mandatory dismissal with prejudice of each cause of action as to which expert testimony is necessary to establish a prima facie case.

(b) Failure to comply with subdivision 2, clause (2), and subdivision 4 results, upon motion, in mandatory dismissal with prejudice of each cause of action as to which expert testimony is necessary to establish a prima facie case.

(c) Failure to comply with subdivision 4 because of deficiencies in the affidavit or answers to interrogatories results, upon motion, in mandatory dismissal with prejudice of each action as to which expert testimony is necessary to establish a prima facie case, provided that:

(1) the motion to dismiss the action identifies the claimed deficiencies in the affidavit or answers to interrogatories;

(2) the time for hearing the motion is at least 45 days from the date of service of the motion; and

(3) before the hearing on the motion, the plaintiff does not serve upon the defendant an amended affidavit or answers to interrogatories that correct the claimed deficiencies.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to causes of action commenced on or after that date.

Sec. 2. Minnesota Statutes 2000, section 481.13, is amended to read:

481.13 LIEN FOR ATTORNEYS' FEES.

Subdivision 1. **GENERALLY.** (a) An attorney has a lien for compensation whether the agreement therefor be for compensation is expressed or implied: (1) upon the cause of action from the time of the service of the summons therein in the action, or the commencement of the proceeding, and (2) upon the interest of the attorney's client in any money or property involved in or affected by any action or proceeding in which the attorney may have been employed, from the commencement of the action or proceeding, and, as against third parties, from the time of filing the notice of such the lien claim, as provided in this section.

~~(2) (b) An attorney has a lien for compensation upon a judgment, and whether there be is a special express or implied agreement as to compensation, or whether a lien is claimed for the reasonable value of the services. The lien shall extend extends to the amount thereof of the judgment from the time of giving notice of the claim to the judgment debtor, but this. The lien under this paragraph is subordinate to the rights existing between the parties to the action or proceeding.~~

(3) The liens (c) A lien provided by clauses (1) and (2) paragraphs (a) and (b) may be established, and the amount thereof of the lien may be determined, by the court, summarily, in the action or proceeding, by the court under this paragraph on the application of the lien claimant or of any person or party interested in the property subject to such the lien, on such notice to all parties interested therein as the court may, by order to show cause, prescribe, or such liens may be enforced, and the amount

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thereof determined, by the court, in an action for equitable relief brought for that purpose.

Judgment shall be entered under the direction of the court, adjudging the amount due.

Subd. 2. PERFECTION OF LIEN. (4) (a) If the lien is claimed on the client's interest in real estate property involved in or affected by the action or proceeding, such a notice of intention to claim a lien thereon on the property shall must be filed in the office of the county recorder or registrar of titles, where appropriate, and therein noted on the certificate or certificates of title affected, in and for the county within which where the same real property is situated located. Within 30 days of filing a lien on real property, the claimant must prepare and deliver a written notice of the filing personally or by certified mail to the owner of the real property or the owner's authorized agent. A person who fails to provide the required notice shall not have the lien and remedy provided by this section. Upon receipt of payment in full of the debt which gave rise to the lien, the lienholder shall deliver within 30 days a recordable satisfaction and release of lien to the owner of the real property or the owner's authorized agent. No notice of intent to claim a lien may be filed more than 120 days after the last item of claim.

(b) If the lien is claimed on the client's interest in personal property involved in or affected by the action or proceeding, the notice shall must be filed in the same manner as provided by law for the filing of a security interest.

Subd. 3. ONE-YEAR LIMITATION. No lien against real property shall be enforced unless the lienholder, by filing either a complaint or an answer with the court administrator, asserts a lien within one year after the filing of the notice of intention to claim a lien, unless within the one-year time period the owner has agreed to a longer time period to assert the lien. This agreement must be in a written instrument signed by the owner containing the legal description of the affected real property and a description of the recording information of the filed lien and the written instrument must be recorded in the same office as the lien. In no event may the lien be asserted more than three years after filing. No person is bound by any judgment in the action unless made a party to the action within the time limit. The absence from the record in the office of the county recorder or the registrar of titles, where appropriate, of a notice of lis pendens of an action after the expiration of the time limit in which the lien could be so asserted is conclusive evidence that the lien may no longer be enforced as to a bona fide purchaser, mortgagee, or encumbrancer without notice. In the case of registered land, the registrar of titles shall refrain from carrying forward to new certificates of title the memorials of lien statements when no notice of lis pendens has been registered within the time limit.

EFFECTIVE DATE. This section is effective August 1, 2002, and applies to a notice of intention to claim a lien filed on or after that date. Subdivision 3 of this section applies to notices of intention to claim a lien filed prior to August 1, 2002. These liens expire on August 1, 2003, unless prior to August 1, 2003, the lienholder complies with the provisions of subdivision 3 by filing either a complaint or an answer

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with the court administrator and filing with the county recorder or registrar of titles, where appropriate, a notice of lis pendens of the action. In the case of registered land, the registrar of titles shall refrain from carrying forward to new certificates of title the memorials of lien statements if no notice of lis pendens has been registered before August 1, 2003.

Sec. 3. [507.422] CERTAIN COUNTY CONVEYANCES VALIDATED.

No deed of conveyance of real estate made by a county in this state that has been of record with the county recorder or registrar of titles for more than five years shall be held invalid or void for failure to comply with the requirements of section 373.01, subdivision 1, clause (4).

Sec. 4. [507.46] CERTIFICATE OF TRANSLATION OF DOCUMENTS IN FOREIGN LANGUAGES.

Subdivision 1. FORM OF CERTIFICATE. A county recorder or registrar of titles shall accept for recording a document that is not written in the English language, but is otherwise in recordable form, if there is appended to the non-English language document a translation of the document into the English language and a certificate of translation in substantially the following form:

CERTIFICATE OF TRANSLATION

State of Minnesota

County of

I certify that the attached English language document is a complete and accurate translation of the attached document from the language.

.....

Signature of translator

.....

Typed or printed name

.....

Street

.....

City, State, and Zip Code

.....

Telephone number

.....

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Subscribed and sworn to before me this day of, 20..

.....

Notary public

Subd. 2. CERTIFICATE AS EVIDENCE. Any certificate of translation recorded under subdivision 1, or a certified copy, is admissible as evidence in any action involving the instrument to which it relates or the title to the real estate affected by the instrument and is prima facie evidence of the facts stated in it.

Sec. 5. [527.405] CONVEYANCE BY CUSTODIAN.

Subdivision 1. AFFIDAVIT OF CUSTODIAN. In support of a real property transaction where an interest in real property is held in a custodianship, a custodian shall furnish to the grantee or other party to the transaction an affidavit attesting that:

(1) the custodian has not resigned or been removed prior to executing the conveyance; and

(2) the custodianship has not terminated, or if the custodianship has terminated that the conveyance is to the minor or to the personal representative of the minor's estate.

Subd. 2. FORM OF AFFIDAVIT. An affidavit under this section must be substantially in the following form:

AFFIDAVIT OF CUSTODIAN

State of Minnesota

County of.....

....., being first duly sworn on oath says, that:

1. Affiant was appointed or designated as custodian in the document dated and filed for record as Document No., (or in book .. of page ..) in the office of the (County Recorder) (Registrar of Titles) of County, Minnesota (being the document which originally conveyed the real estate to the custodian).

2. Affiant is the grantor custodian for the minor in the document dated ..., conveying to an interest in the real property in County, Minnesota, legally described as: (insert legal description here)

3. The name of the minor is

4. The custodianship (check one) has not terminated prior to the date of the document described in paragraph 2 above (or) has terminated and the conveyance is to the minor or to the personal representative of the minor's estate.

5. Affiant's address is:

6. Affiant has not resigned and does not have actual knowledge of affiant's removal as custodian.

Affiant knows the matters herein stated are true and makes this affidavit for the purpose

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of inducing the passing of title to the real property.

.....

Affiant

Subscribed and sworn to before me this day of ..., 20..

.....

Notary Public

This instrument was drafted by

Subd. 3. EFFECT OF AFFIDAVIT. An affidavit by a custodian under this section is conclusive proof that the custodian has not resigned or been removed as custodian prior to executing the conveyance and that the custodianship has not terminated, or that if the custodianship has terminated, the conveyance is to the minor or to the personal representative of the minor's estate. However, the affidavit is not conclusive as to a party dealing directly with the custodian who has actual knowledge that the custodian has resigned or been removed or that the custodianship has terminated and the conveyance is not to the minor or the personal representative of the minor's estate.

Sec. 6. Minnesota Statutes 2000, section 573.02, subdivision 1, is amended to read:

Subdivision 1. When death is caused by the wrongful act or omission of any person or corporation, the trustee appointed as provided in subdivision 3 may maintain an action therefor if the decedent might have maintained an action, had the decedent lived, for an injury caused by the wrongful act or omission. An action to recover damages for a death caused by the alleged professional negligence of a physician, surgeon, dentist, hospital or sanitarium, or an employee of a physician, surgeon, dentist, hospital or sanitarium shall be commenced within the time set forth in section 541.07, subdivision 1 three years of the date of death, but in no event shall be commenced beyond the time set forth in section 541.076. An action to recover damages for a death caused by an intentional act constituting murder may be commenced at any time after the death of the decedent. Any other action under this section may be commenced within three years after the date of death provided that the action must be commenced within six years after the act or omission. The recovery in the action is the amount the jury deems fair and just in reference to the pecuniary loss resulting from the death, and shall be for the exclusive benefit of the surviving spouse and next of kin, proportionate to the pecuniary loss severally suffered by the death. The court then determines the proportionate pecuniary loss of the persons entitled to the recovery and orders distribution accordingly. Funeral expenses and any demand for the support of the decedent allowed by the court having jurisdiction of the action, are first deducted and paid. Punitive damages may be awarded as provided in section 549.20.

If an action for the injury was commenced by the decedent and not finally determined while living, it may be continued by the trustee for recovery of damages for the exclusive benefit of the surviving spouse and next of kin, proportionate to the pecuniary loss severally suffered by the death. The court on motion shall make an order

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allowing the continuance and directing pleadings to be made and issues framed as in actions begun under this section.

EFFECTIVE DATE. This section is effective retroactive to August 1, 1999.

Sec. 7. REPEALER.

Minnesota Statutes 2000, section 514.99, subdivision 6, is repealed.

Sec. 8. EFFECTIVE DATE.

(a) Section 3 is effective the day following final enactment and applies to all conveyances of real estate made by counties executed before, on, or after the effective date.

(b) Section 3 does not affect an action or proceeding involving the validity of a conveyance from a county if:

(1) the action or proceeding is pending as of the effective date of section 3, or is commenced before February 1, 2003; and

(2) a notice of the pendency of the action or proceeding is recorded or filed before February 1, 2003, in the office of the county recorder or registrar of titles of the county in which the property affected by the action or proceeding is located.

(c) Section 7 is effective the day following final enactment.

Presented to the governor May 20, 2002

Signed by the governor May 22, 2002, 1:32 p.m.

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