

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

**Section 1. [604A.35] PUBLIC NOTIFICATION OF EMERGENCY.**

(a) A person who notifies the public of an emergency via a medium of mass communications including, without limitation, radio, television, cable television, or Internet, is not liable for civil damages resulting from acts or omissions by that person in making the notification, unless the person acts in bad faith or recklessly in providing the notification.

(b) For purposes of this section, notifying the public of an emergency includes a notification made through the Emergency Alert System, a notification made through the Amber Alert System, or a notification requested by a government entity.

**Sec. 2. EFFECTIVE DATE; APPLICATION.**

Section 1 is effective August 1, 2003, and applies to actions arising from incidents occurring on or after that date.

Presented to the governor May 16, 2003

Signed by the governor May 20, 2003, 5:02 p.m.

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**CHAPTER 66—H.F.No. 1044**

*An act relating to professions; providing clarification of costs and penalties that may be collected in disciplinary proceedings by the boards of nursing home administrators, optometry, chiropractic examiners, dietetics and nutrition, physical therapy, dentistry, podiatric medicine, pharmacy, and veterinary medicine; providing for civil penalties; amending Minnesota Statutes 2002, sections 148.10, subdivision 3; 148.603; 148.631; 150A.08, subdivision 3, by adding a subdivision; 151.06, by adding a subdivision; 153.22, subdivisions 1, 5; 156.127, subdivisions 1, 3; proposing coding for new law in Minnesota Statutes, chapters 144A; 148.*

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

**NURSING HOME ADMINISTRATION**

**Section 1. [144A.2511] COSTS; PENALTIES.**

If the board of examiners has initiated proceedings under section 144A.24 or 144A.251 or chapter 214, and upon completion of the proceedings has found that a nursing home administrator has violated a provision or provisions of sections 144A.18 to 144A.27, it may impose a civil penalty not exceeding \$10,000 for each separate violation, with all violations related to a single event or incident considered as one violation. The amount of the civil penalty shall be fixed so as to deprive the nursing home administrator of any economic advantage gained by reason of the violation

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charged or to reimburse the board for the cost of the investigation and proceeding. For purposes of this section, the cost of the investigation and proceeding may include, but is not limited to, fees paid for services provided by the office of administrative hearings, legal and investigative services provided by the office of the attorney general, court reporters, witnesses, and reproduction of records.

### CHIROPRACTIC

Sec. 2. Minnesota Statutes 2002, section 148.10, subdivision 3, is amended to read:

Subd. 3. **REPRIMAND; PENALTIES; PROBATION.** In addition to the other powers granted to the board under this chapter, the board may, in connection with any person whom the board, after a hearing, adjudges unqualified or whom the board, after a hearing, finds to have performed one or more of the acts described in subdivision 1:

(1) publicly reprimand or censure the person;

(2) place the person on probation for the period and upon the terms and conditions that the board may prescribe; and

(3) ~~require payment of all costs of proceedings resulting in the disciplinary action;~~  
and

(4) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the doctor of chiropractic of any economic advantage gained by reason of the violation charged ~~or~~, to reimburse the board for the cost of the investigation and proceeding, or to discourage similar violations. For purposes of this section, the cost of the investigation and proceeding may include, but is not limited to, fees paid for services provided by the office of administrative hearings, legal and investigative services provided by the office of the attorney general, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.

### OPTOMETRY

Sec. 3. Minnesota Statutes 2002, section 148.603, is amended to read:

#### 148.603 **FORMS OF DISCIPLINARY ACTIONS.**

When grounds exist under section 148.57, subdivision 3, or other statute or rule which the board is authorized to enforce, the board may take one or more of the following disciplinary actions, provided that disciplinary or corrective action may not be imposed by the board on any regulated person except after a contested case hearing conducted pursuant to chapter 14 or by consent of the parties:

(1) deny an application for a credential;

(2) revoke the regulated person's credential;

(3) suspend the regulated person's credential;

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- (4) impose limitations on the regulated person's credential;
- (5) impose conditions on the regulated person's credential;
- (6) censure or reprimand the regulated person;

(7) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the person of any economic advantage gained by reason of the violation or to discourage repeated similar violations or to reimburse the board for the cost of the investigation and proceeding. For purposes of this section, the cost of the investigation and proceeding may include, but is not limited to, fees paid for services provided by the office of administrative hearings, legal and investigative services provided by the office of the attorney general, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members; or

(8) when grounds exist under section 148.57, subdivision 3, or a board rule, enter into an agreement with the regulated person for corrective action which may include requiring the regulated person:

- (i) to complete an educational course or activity;
- (ii) to submit to the executive director or designated board member a written protocol or reports designed to prevent future violations of the same kind;
- (iii) to meet with a board member or board designee to discuss prevention of future violations of the same kind; or
- (iv) ~~to reimburse the board for its legal and investigative costs; or~~
- (v) ~~to perform other action justified by the facts.~~

Listing the measures in clause (8) does not preclude the board from including them in an order for disciplinary action.

#### DIETETICS AND NUTRITION

Sec. 4. Minnesota Statutes 2002, section 148.631, is amended to read:

##### 148.631 PENALTY.

A person who violates sections 148.621 to 148.633 is guilty of a misdemeanor. If a person other than a licensed dietitian or nutritionist engages in an act or practice constituting an offense under sections 148.621 to 148.633, a district court on application of the board may issue an injunction or other appropriate order restraining the act or practice.

If the board finds that a licensed dietitian or nutritionist has violated a provision of sections 148.621 to 148.633 or rules adopted under them, it may impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the dietitian or nutritionist of any economic advantage gained by reason of the violation charged, to discourage similar violations,

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or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the office of administrative hearings, legal and investigational services provided by the office of the attorney general, services of court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expenses incurred by board members and staff.

#### PHYSICAL THERAPY

##### Sec. 5. [148.775] FORMS OF DISCIPLINARY ACTION.

If the board finds that a licensed physical therapist has violated a provision or provisions of section 148.75 or 148.76, it may do one or more of the following:

(1) deny the application for the license;

(2) deny the renewal of the license;

(3) revoke the license;

(4) suspend the license;

(5) impose limitations or conditions on the physical therapist's practice of physical therapy, including the limitation of scope of practice to designated field specialties; the imposition of retraining or rehabilitation requirements; the requirement of practice under supervision; or the conditioning of continued practice on demonstration of knowledge or skills by appropriate examination, monitoring, or other review of skill and competence;

(6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the physical therapist of any economic advantage gained by reason of the violation charged, to discourage similar violations or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the office of administrative hearings, legal and investigative services provided by the office of the attorney general, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members;

(7) order the physical therapist to provide unremunerated service;

(8) censure or reprimand the licensed physical therapist; or

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

#### DENTISTRY

Sec. 6. Minnesota Statutes 2002, section 150A.08, subdivision 3, is amended to read:

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

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deems the action is warranted. The board may require the licensee or registrant to pay all costs of proceedings resulting in the suspension or revocation of license or registration and reinstatement or new license and the fee for reinstatement established by the board. Any licensee or registrant who has been disciplined by the board in a manner other than by suspension or revocation may be required by the board to pay all costs of proceedings resulting in the disciplinary action.

Sec. 7. Minnesota Statutes 2002, section 150A.08, is amended by adding a subdivision to read:

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

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

- (1) order the dentist, dental hygienist, or dental assistant to provide unremunerated service;
- (2) censure or reprimand the dentist, dental hygienist, or dental assistant; or
- (3) any other action as allowed by law and justified by the facts of the case.

#### PHARMACY

Sec. 8. Minnesota Statutes 2002, section 151.06, is amended by adding a subdivision to read:

**Subd. 5. COSTS; PENALTIES.** The board may impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive a licensee or registrant of any economic advantage gained by reason of the violation, to discourage similar violations by the licensee or registrant or any other licensee or registrant, or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the office of administrative hearings, legal and investigative services provided by the office of the attorney general, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.

#### PODIATRIC MEDICINE

Sec. 9. Minnesota Statutes 2002, section 153.22, subdivision 1, is amended to read:

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Subdivision 1. **FORMS OF DISCIPLINARY ACTION.** When the board finds, after notice and hearing, that a licensed doctor of podiatric medicine has violated a provision or provisions of this chapter, it may do one or more of the following:

- (1) revoke the license;
- (2) suspend the license;

(3) impose limitations or conditions on the podiatrist's practice of podiatric medicine; the imposition of retraining or rehabilitation requirements; the requirement of practice under supervision; or the conditioning of continued practice on demonstration of knowledge or skills by appropriate examination or other review of skill and competence;

(4) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the podiatrist of any economic advantage gained by reason of the violation charged, to discourage similar violations, or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the office of administrative hearings, legal and investigative services provided by the office of the attorney general, court reporter services, witnesses, reproduction of records, board members' per diem compensation, board staff time, and board and staff expenses;

(5) order the podiatrist to provide unremunerated professional service under supervision at a designated public hospital, nursing home, clinic, or other health care institution; or

- (6) censure or reprimand the licensed podiatrist.

Sec. 10. Minnesota Statutes 2002, section 153.22, subdivision 5, is amended to read:

Subd. 5. **REINSTATEMENT; COSTS; CONDITIONS ON REISSUED RE-INSTATED OR NEW LICENSE.** In its discretion, the board may restore and reissue a license to practice podiatric medicine, but Any licensee whose license has been suspended or revoked may have the license reinstated or a new license issued, as the case may be, when the board finds the action is warranted. As a condition of reinstatement or the new license, the board may impose any disciplinary or corrective measure, other than suspension or revocation, that it might originally have imposed.

#### VETERINARY MEDICINE

Sec. 11. Minnesota Statutes 2002, section 156.127, subdivision 1, is amended to read:

Subdivision 1. **BOARD ACTION.** When grounds exist under section 156.081, or other statute or rule which the board is authorized to enforce, the board may take one or more of the following disciplinary actions:

- (1) deny an application for a license;
- (2) revoke the regulated person's license;

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- (3) suspend the regulated person's license;
- (4) impose limitations on the regulated person's license;
- (5) impose conditions on the regulated person's license;
- (6) censure or reprimand, publicly or privately, the regulated person;

(7) impose an administrative penalty not exceeding ~~\$5,000~~ \$10,000 for each separate violation, the amount of the penalty to be fixed so as to deprive the person of any economic advantage gained by reason of the violation ~~or, to discourage repeated similar violations, or to reimburse the board for the cost of the investigation and proceeding including, but not limited to, fees paid for services provided by the office of administrative hearings, legal and investigative services provided by the office of the attorney general, court reporter services, witnesses, reproduction of records, board members' per diem compensation, board staff time, and board and staff expenses;~~ or

- (8) take any other action justified by the facts of the case.

Sec. 12. Minnesota Statutes 2002, section 156.127, subdivision 3, is amended to read:

Subd. 3. **DISCIPLINARY ACTION AND REINSTATEMENT FEE.** Upon reinstating a regulated person's license or granting an applicant's license, the board may, at its discretion, impose any disciplinary action, cost, or penalty listed in subdivision 1, as well as any reinstatement fee.

Presented to the governor May 16, 2003

Signed by the governor May 20, 2003, 5:00 p.m.

#### CHAPTER 67—H.F.No. 1374

*An act relating to agriculture; providing for the headquarters of the departments of agriculture and health to be named after Orville L. Freeman.*

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

##### Section 1. **ORVILLE L. FREEMAN BUILDING.**

The headquarters of the departments of agriculture and health shall be named the Orville L. Freeman building.

Presented to the governor May 16, 2003

Signed by the governor May 19, 2003, 11:32 a.m.

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