

Sec. 2. Minnesota Statutes 2003 Supplement, section 609.2231, subdivision 3, is amended to read:

Subd. 3. **CORRECTIONAL EMPLOYEES; PROBATION OFFICERS.**

Whoever commits either of the following acts against an employee of a correctional facility as defined in section 241.021, subdivision 1, paragraph (f), or against a probation officer or other qualified person employed in supervising offenders while the employee, officer, or person is engaged in the performance of a duty imposed by law, policy, or rule is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both:

(1) assaults the employee and inflicts demonstrable bodily harm; or

(2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the employee.

EFFECTIVE DATE. This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Presented to the governor May 7, 2004

Signed by the governor May 10, 2004, 8:45 p.m.

CHAPTER 185—S.F.No. 1671

An act relating to health; placing the term "assisted living facility" into statute as a formal means of referring to registered housing with services establishments; proposing coding for new law in Minnesota Statutes, chapter 144D.

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

Section 1. [144D.015] ASSISTED LIVING FACILITY DEFINITION FOR PURPOSES OF LONG-TERM CARE INSURANCE.

For purposes of consistency with terminology commonly used in long-term care insurance policies, a housing with services establishment that is registered under section 144D.03 and that holds, or contracts with an individual or entity that holds, a home care license and all other licenses, permits, registrations, or other governmental approvals legally required for delivery of the services the establishment offers or provides to its residents, constitutes an "assisted living facility" or "assisted living residence."

Presented to the governor May 7, 2004

Signed by the governor May 10, 2004, 9:20 p.m.

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CHAPTER 186—S.F.No. 2365

An act relating to health; modifying the reporting system for adverse health care events; requiring certain boards to make certain reports; amending Minnesota Statutes 2002, sections 147.121, subdivision 2; 147A.15, subdivision 2; 148.264, subdivision 2; 153.25, subdivision 2; Minnesota Statutes 2003 Supplement, section 144.7065, subdivision 10; Laws 2003, chapter 99, section 7, as amended; proposing coding for new law in Minnesota Statutes, chapters 144; 147; 147A; 148; 151; 153.

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

Section 1. Minnesota Statutes 2003 Supplement, section 144.7065, subdivision 10, is amended to read:

Subd. 10. **RELATION TO OTHER LAW.** (a) Adverse health events described in subdivisions 2 to 6 do not constitute "maltreatment," "neglect," or "a physical injury that is not reasonably explained" under section 626.556 or 626.557 and are excluded from the reporting requirements of ~~section~~ sections 626.556 and 626.557, provided the facility makes a determination within 24 hours of the discovery of the event that this section is applicable and the facility files the reports required under this section in a timely fashion.

(b) A facility that has determined that an event described in subdivisions 2 to 6 has occurred must inform persons who are mandated reporters under section 626.556, subdivision 3, or 626.5572, subdivision 16, of that determination. A mandated reporter otherwise required to report under section 626.556, subdivision 3, or 626.557, subdivision 3, paragraph (e), is relieved of the duty to report an event that the facility determines under paragraph (a) to be reportable under subdivisions 2 to 6.

(c) The protections and immunities applicable to voluntary reports under ~~section~~ sections 626.556 and 626.557 are not affected by this section.

(d) Notwithstanding section 626.556, 626.557, or any other provision of Minnesota statute or rule to the contrary, neither a lead agency under section 626.556, subdivision 3c, or 626.5572, subdivision 13, the commissioner of health, nor the director of the Office of Health Facility Complaints is ~~not~~ required to conduct an investigation of or obtain or create investigative data or reports regarding an event described in subdivisions 2 to 6. If the facility satisfies the requirements described in paragraph (a), the review or investigation shall be conducted and data or reports shall be obtained or created only under sections 144.706 to 144.7069, except as permitted or required under sections 144.50 to 144.564, or as necessary to carry out the state's certification responsibility under the provisions of sections 1864 and 1867 of the Social Security Act.

(e) Data contained in the following records are nonpublic and, to the extent they contain data on individuals, confidential data on individuals, as defined in section 13.02:

(1) reports provided to the commissioner under sections 147.155, 147A.155, 148.267, 151.301, and 153.255;

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(2) event reports, findings of root cause analyses, and corrective action plans filed by a facility under this section; and

(3) records created or obtained by the commissioner in reviewing or investigating the reports, findings, and plans described in clause (2).

For purposes of the nonpublic data classification contained in this paragraph, the reporting facility shall be deemed the subject of the data.

Sec. 2. [144.7068] REPORTS FROM LICENSING BOARDS.

(a) Effective upon full implementation of the adverse health care events reporting system, the records maintained under sections 147.155, 147A.155, 148.267, 151.301, and 153.255, shall be reported to the commissioner on the schedule established in those sections.

(b) The commissioner shall forward these reports to the facility named in the report.

(c) The facility shall determine whether the event has been previously reported under section 144.7065. The facility shall notify the commissioner whether the event has been reported previously. If the event has not been previously reported, the facility shall make a determination whether the event was reportable under section 144.7065. If the facility determines the event was reportable, the date of discovery of the event for the purposes of section 144.7065, subdivision 10, paragraph (d), shall be as follows:

(1) if the commissioner determines that the facility knew or reasonably should have known about the occurrence of the event, the date the event occurred shall be the date of discovery. The facility shall be considered out of compliance with the reporting act, and the event shall be subject to sections 626.556 and 626.557; or

(2) if the commissioner determines that the facility did not know about the occurrence of the event, the date the facility receives the report from the commissioner shall serve as the date of discovery.

If the facility determines that the event was not reportable under section 144.7065, the facility shall notify the commissioner of that determination.

Sec. 3. Minnesota Statutes 2002, section 147.121, subdivision 2, is amended to read:

Subd. 2. **INVESTIGATION; INDEMNIFICATION.** (a) Members of the board, persons employed by the board, consultants retained by the board for the purpose of investigation of violations, the preparation of charges and management of board orders on behalf of the board are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under sections 147.01 to 147.22.

(b) Members of the board and persons employed by the board or engaged in maintaining records and making reports regarding adverse health care events are immune from civil liability and criminal prosecution for any actions, transactions, or

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publications in the execution of or relating to their duties under section 147.155.

(c) For purposes of this section, a member of the board or a consultant described in paragraph (a) is considered a state employee under section 3.736, subdivision 9.

Sec. 4. [147.155] REPORTS TO THE COMMISSIONER OF HEALTH.

(a) The board shall maintain a record of an event that comes to the board's attention that, in the judgment of the board or a committee of the board, qualifies as an adverse health care event under section 144.7065.

(b) Within 30 days of making a determination under paragraph (a) that an event qualifies as an adverse health care event, the board shall forward to the commissioner of health a report of the event, including the facility involved, the date of the event, and information known to the board regarding the event. The report shall not include any identifying information for any of the health care professionals, facility employees, or patients involved.

Sec. 5. Minnesota Statutes 2002, section 147A.15, subdivision 2, is amended to read:

Subd. 2. **INVESTIGATION; INDEMNIFICATION.** (a) Members of the board, persons employed by the board, and consultants retained by the board for the purpose of investigation of violations or the preparation and management of charges of violations of this chapter on behalf of the board are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.

(b) Members of the board and persons employed by the board or engaged in maintaining records and making reports regarding adverse health care events are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of or relating to their duties under section 147A.155.

(c) For purposes of this section, a member of the board or a consultant described in paragraph (a) is considered a state employee under section 3.736, subdivision 9.

Sec. 6. [147A.155] REPORTS TO THE COMMISSIONER OF HEALTH.

(a) The board shall maintain a record of an event that comes to the board's attention that, in the judgment of the board or a committee of the board, qualifies as an adverse health care event under section 144.7065.

(b) Within 30 days of making a determination under paragraph (a) that an event qualifies as an adverse health care event, the board shall forward to the commissioner of health a report of the event, including the facility involved, the date of the event, and information known to the board regarding the event. The report shall not include any identifying information for any of the health care professionals, facility employees, or patients involved.

Sec. 7. Minnesota Statutes 2002, section 148.264, subdivision 2, is amended to read:

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Subd. 2. **INVESTIGATION.** (a) Members of the board and persons employed by the board or engaged in the investigation of violations and in the preparation and management of charges of violations of sections 148.171 to 148.285 on behalf of the board or persons participating in the investigation or testifying regarding charges of violations are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under sections 148.171 to 148.285.

(b) Members of the board and persons employed by the board or engaged in maintaining records and making reports regarding adverse health care events are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of or relating to their duties under section 148.267.

Sec. 8. [148.267] REPORTS TO THE COMMISSIONER OF HEALTH.

(a) The board shall maintain a record of an event that comes to the board's attention that, in the judgment of the board or a committee of the board, qualifies as an adverse health care event under section 144.7065.

(b) Within 30 days of making a determination under paragraph (a) that an event qualifies as an adverse health care event, the board shall forward to the commissioner of health a report of the event, including the facility involved, the date of the event, and information known to the board regarding the event. The report shall not include any identifying information for any of the health care professionals, facility employees, or patients involved.

Sec. 9. [151.301] REPORTS TO THE COMMISSIONER OF HEALTH.

(a) The board shall maintain a record of an event that comes to the board's attention that, in the judgment of the board or a committee of the board, qualifies as an adverse health care event under section 144.7065.

(b) Within 30 days of making a determination under paragraph (a) that an event qualifies as an adverse health care event, the board shall forward to the commissioner of health a report of the event, including the facility involved, the date of the event, and information known to the board regarding the event. The report shall not include any identifying information for any of the health care professionals, facility employees, or patients involved.

Sec. 10. [151.302] IMMUNITY.

Members of the board and persons employed by the board or engaged in maintaining records and making reports regarding adverse health care events are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of or relating to their duties under section 151.301.

Sec. 11. Minnesota Statutes 2002, section 153.25, subdivision 2, is amended to read:

Subd. 2. **INVESTIGATION.** (a) Members of the board and persons employed by the board or engaged in the investigation of violations and in the preparation and

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management of charges of violations of this chapter on behalf of the board are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.

(b) Members of the board and persons employed by the board or engaged in maintaining records and making reports regarding adverse health care events are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of or relating to their duties under section 153.255.

Sec. 12. [153.255] REPORTS TO THE COMMISSIONER OF HEALTH.

(a) The board shall maintain a record of an event that comes to the board's attention that, in the judgment of the board or a committee of the board, qualifies as an adverse health care event under section 144.7065.

(b) Within 30 days of making a determination under paragraph (a) that an event qualifies as an adverse health care event, the board shall forward to the commissioner of health a report of the event, including the facility involved, the date of the event, and information known to the board regarding the event. The report shall not include any identifying information for any of the health care professionals, facility employees, or patients involved.

Sec. 13. Laws 2003, chapter 99, section 7, as amended by Laws 2003, First Special Session chapter 14, article 7, section 86, is amended to read:

Sec. 7. ADVERSE HEALTH CARE EVENTS REPORTING SYSTEM TRANSITION PERIOD.

(a) Effective July 1, 2003, limited implementation of the Adverse Health Care Events Reporting Act shall begin, provided the commissioner of health has secured sufficient nonstate funds for this purpose. During this period, the commissioner must:

- (1) solicit additional nonstate funds to support full implementation of the system;
- (2) work with organizations and experts familiar with patient safety to review reporting categories in Minnesota Statutes, section 144.7065, make necessary clarifications, and develop educational materials; and
- (3) monitor activities of the National Quality Forum and other patient safety organizations, other states, and the federal government in the area of patient safety.

(b) Effective July 1, 2003, facilities defined in Minnesota Statutes, section 144.7063, subdivision 3, shall report any adverse health care events, as defined in Minnesota Statutes, section 144.7065, to the incident reporting system maintained by the Minnesota Hospital Association. The association shall provide a summary report to the commissioner that identifies the types of events by category. The association shall consult with the commissioner regarding the data to be reported to the commissioner, storage of data received by the association but not reported to the commissioner, and eventual retrieval by the commissioner of stored data. Data reported to or retrieved by the commissioner under this section, and data created or obtained by the commissioner in reviewing or investigating reports under this section, are nonpublic data and

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confidential data on individuals as defined in Minnesota Statutes, section 13.02, except as necessary for the commissioner to communicate with facilities and publish the annual report as required by Minnesota Statutes, section 144.7067, subdivision 2.

(c) The commissioner shall report to the legislature by January 15 of 2004 and 2005, with a list of the number of reported events by type and recommendations, if any, for reporting system modifications, including additional categories of events that should be reported.

(d) From July 1, 2003, until full implementation of the reporting system, the commissioner of health shall not make a final disposition as defined in Minnesota Statutes, section 626.5572, subdivision 8, for investigations conducted in licensed hospitals under the provisions of Minnesota Statutes, section 626.557. The commissioner's findings in these cases shall identify noncompliance with federal certification or state licensure rules or laws.

(e) Effective July 1, 2004, The reporting system shall be fully implemented, provided (1) the commissioner has secured sufficient funds from nonstate sources to operate the system during fiscal year 2005, and (2) the commissioner has notified facilities by April 1, 2004 at least four months prior to full implementation, of their duty to report.

Presented to the governor May 7, 2004

Signed by the governor May 10, 2004, 9:15 p.m.

CHAPTER 187—S.F.No. 1716

An act relating to health; providing an exemption from the hospital construction moratorium; amending Minnesota Statutes 2003 Supplement, section 144.551, subdivision 1.

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

Section 1. Minnesota Statutes 2003 Supplement, section 144.551, subdivision 1, is amended to read:

Subdivision 1. **RESTRICTED CONSTRUCTION OR MODIFICATION.** (a) The following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

(b) This section does not apply to:

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