

**CHAPTER 247—H.F.No. 2246**

*An act relating to health; modifying the nursing facility survey process; establishing a quality improvement program; requiring annual quality improvement reports; requiring the commissioner of health to seek federal waivers and approvals; amending Minnesota Statutes 2002, sections 144A.10, subdivision 1a, by adding a subdivision; 256.01, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 144A.*

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

Section 1. Minnesota Statutes 2002, section 144A.10, subdivision 1a, is amended to read:

Subd. 1a. **TRAINING AND EDUCATION FOR NURSING FACILITY PROVIDERS.** The commissioner of health must establish and implement a prescribed process and program for providing training and education to providers licensed by the Department of Health, either by itself or in conjunction with the industry trade associations, before using any new regulatory guideline, regulation, interpretation, program letter or memorandum, or any other materials used in surveyor training to survey licensed providers. The process should include, but is not limited to, the following key components:

(1) facilitate the implementation of immediate revisions to any course curriculum for nursing assistants which reflect any new standard of care practice that has been adopted or referenced by the Health Department concerning the issue in question;

(2) conduct training of long-term care providers and health department survey inspectors either jointly or during the same time frame on the department's new expectations; and

(3) ~~within available resources the commissioner shall cooperate in the development of clinical standards, work with vendors of supplies and services regarding hazards, and identify research of interest to the long-term care community consult with experts in the field to develop or make available training resources on current standards of practice and the use of technology.~~

Sec. 2. Minnesota Statutes 2002, section 144A.10, is amended by adding a subdivision to read:

Subd. 17. **AGENCY QUALITY IMPROVEMENT PROGRAM; ANNUAL REPORT ON SURVEY PROCESS.** (a) The commissioner shall establish a quality improvement program for the nursing facility survey and complaint processes. The commissioner must regularly consult with consumers, consumer advocates, and representatives of the nursing home industry and representatives of nursing home employees in implementing the program. The commissioner, through the quality improvement program, shall submit to the legislature an annual survey and certification quality improvement report, beginning December 15, 2004, and each December 15 thereafter.

(b) The report must include, but is not limited to, an analysis of:

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- (1) the number, scope, and severity of citations by region within the state;
- (2) cross-referencing of citations by region within the state and between states within the Centers for Medicare and Medicaid Services region in which Minnesota is located;
- (3) the number and outcomes of independent dispute resolutions;
- (4) the number and outcomes of appeals;
- (5) compliance with timelines for survey revisits and complaint investigations;
- (6) techniques of surveyors in investigations, communication, and documentation to identify and support citations;
- (7) compliance with timelines for providing facilities with completed statements of deficiencies; and
- (8) other survey statistics relevant to improving the survey process.

(c) The report must also identify and explain inconsistencies and patterns across regions of the state, include analyses and recommendations for quality improvement areas identified by the commissioner, consumers, consumer advocates, and representatives of the nursing home industry and nursing home employees, and provide action plans to address problems that are identified.

**Sec. 3. [144A.101] PROCEDURES FOR FEDERALLY REQUIRED SURVEY PROCESS.**

Subdivision 1. APPLICABILITY. This section applies to survey certification and enforcement activities by the commissioner related to regular, expanded, or extended surveys under Code of Federal Regulations, title 42, part 488.

Subd. 2. STATEMENT OF DEFICIENCIES. The commissioner shall provide nursing facilities with draft statements of deficiencies at the time of the survey exit process and shall provide facilities with completed statements of deficiencies within 15 working days of the exit process.

Subd. 3. SURVEYOR NOTES. The commissioner, upon the request of a nursing facility, shall provide the facility with copies of formal surveyor notes taken during the survey, with the exception of interview forms, at the time of the exit conference or at the time the completed statement of deficiency is provided to the facility. The survey notes shall be redacted to protect the confidentiality of individuals providing information to the surveyors. A facility requesting formal surveyor notes must agree to pay the commissioner for the cost of copying and redacting.

Subd. 4. POSTING OF STATEMENTS OF DEFICIENCIES. The commissioner, when posting statements of a nursing facility's deficiencies on the agency Web site, must include in the posting the facility's response to the citations. The Web site must also include the dates upon which deficiencies are corrected and the date upon which a facility is considered to be in compliance with survey requirements. If deficiencies are under dispute, the commissioner must note this on the Web site using

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a method that clearly identifies for consumers which citations are under dispute.

**Subd. 5. SURVEY REVISITS.** The commissioner shall conduct survey revisits within 15 calendar days of the date by which corrections will be completed, as specified by the provider in its plan of correction, in cases where category 2 or category 3 remedies are in place. The commissioner may conduct survey revisits by telephone or written communications for facilities at which the highest scope and severity score for a violation was level E or lower.

**Subd. 6. FAMILY COUNCILS.** Nursing facility family councils shall be interviewed as part of the survey process and invited to participate in the exit conference.

Sec. 4. Minnesota Statutes 2002, section 256.01, is amended by adding a subdivision to read:

**Subd. 21. INTERAGENCY AGREEMENT WITH DEPARTMENT OF HEALTH.** The commissioner of human services shall amend the interagency agreement with the commissioner of health to certify nursing facilities for participation in the medical assistance program, to require the commissioner of health, as a condition of the agreement, to comply beginning July 1, 2005, with action plans included in the annual survey and certification quality improvement report required under section 144A.10, subdivision 17.

**Sec. 5. PROGRESS REPORT.**

The commissioner of health shall include in the December 15, 2004, quality improvement report required under section 2 a progress report and implementation plan for the following legislatively directed activities:

(1) an analysis of the frequency of defensive documentation and a plan, developed in consultation with the nursing home industry, consumers, unions representing nursing home employees, and advocates, to minimize defensive documentation;

(2) the nursing home providers workgroup established under Laws 2003, First Special Session chapter 14, article 13c, section 3; and

(3) progress in implementing the independent informal dispute resolution process required under Minnesota Statutes, section 144A.10, subdivision 16.

**Sec. 6. RESUBMITTAL OF REQUESTS FOR FEDERAL WAIVERS AND APPROVALS.**

(a) The commissioner of health shall seek federal waivers, approvals, and law changes necessary to implement the alternative nursing home survey process established under Minnesota Statutes, section 144A.37.

(b) The commissioner of health shall seek changes in the federal policy that mandates the imposition of federal sanctions without providing an opportunity for a nursing facility to correct deficiencies, solely as the result of previous deficiencies issued to the nursing facility.

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Presented to the governor May 18, 2004

Signed by the governor May 26, 2004, 9:00 p.m.

### CHAPTER 248—H.F.No. 2040

*An act relating to water; modifying provisions relating to warrantied sewage treatment systems; creating a certification program for new wastewater treatment technology; appropriating money; amending Minnesota Statutes 2002, section 115.55, subdivision 9; proposing coding for new law in Minnesota Statutes, chapter 115.*

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

Section 1. Minnesota Statutes 2002, section 115.55, subdivision 9, is amended to read:

Subd. 9. **WARRANTIED SYSTEMS.** (a) An individual sewage treatment system may be installed provided that it meets all local ordinance requirements and provided the requirements of paragraphs (b) to (d) (e) are met.

(b) The manufacturer shall provide to the commissioner:

(1) documentation that the manufacturer's system was designated by the agency as a warrantied system as of June 30, 2001, and or the system is a modified version of the system that was designated as a warrantied system and meets the size requirements or other requirements that were the basis for the previous warrantied system classification; or

(2) documentation showing that a minimum of 50 of the manufacturer's systems have been installed and operated and are under normal use across all major soil classifications for a minimum of three years;

~~(3) (c) For each system that meets the requirements of paragraph (b), clause (1) or (2), the manufacturer must provide to the commissioner:~~

(1) documentation that the system manufacturer or designer will provide full warranty effective for at least five years from the time of installation, covering design, labor, and material costs to remedy failure to meet performance expectations for systems used and installed in accordance with the manufacturer's or designer's instructions; and

(4) (2) a commonly accepted financial assurance document or documentation of the manufacturer's or designer's financial ability to cover potential replacement and upgrades necessitated by failure of the system to meet the performance expectations for the duration of the warranty period.

(e) (d) The manufacturer shall reimburse the agency an amount of \$1,000 \$2,000 for staff services needed to review the information submitted pursuant to ~~paragraph~~

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