

**CHAPTER 235--S.F.No. 511**

*An act relating to health; improving access to health care delivered by advanced practice registered nurses; providing penalties; providing for an advisory council; appropriating money; amending Minnesota Statutes 2012, sections 148.171, subdivisions 3, 5, 9, 10, 11, 13, 16, 17, 21, by adding subdivisions; 148.181, subdivision 1; 148.191, subdivision 2; 148.211, subdivision 2, by adding subdivisions; 148.231, subdivisions 1, 4, 5; 148.233, subdivision 2; 148.234; 148.235, by adding subdivisions; 148.251, subdivision 1; 148.261, subdivision 1; 148.262, subdivisions 1, 2, 4; 148.281, subdivision 1, by adding a subdivision; 148.283; 151.01, subdivision 23; 152.12; Minnesota Statutes 2013 Supplement, section 148.271; proposing coding for new law in Minnesota Statutes, chapter 148; repealing Minnesota Statutes 2012, sections 148.171, subdivision 6; 148.235, subdivisions 1, 2, 2a, 4, 4a, 4b, 6, 7; 148.243, subdivision 8; 148.284.*

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

Section 1. Minnesota Statutes 2012, section 148.171, subdivision 3, is amended to read:

Subd. 3. **Advanced practice registered nurse.** "Advanced practice registered nurse," abbreviated APRN, means an individual licensed as a an advanced practice registered nurse by the board and certified by a national nurse certification organization acceptable to the board to practice as a clinical nurse specialist, nurse anesthetist, nurse-midwife, or nurse practitioner. The national nursing certification organization must:

(1) be endorsed by a national professional nursing organization that describes scope and standards statements specific to the practice as a clinical nurse specialist, nurse-midwife, nurse practitioner, or registered nurse anesthetist for the population focus for which the individual will be certified;

(2) be independent from the national professional nursing organization in decision-making for all matters pertaining to certification or recertification;

(3) administer a professional nursing certification program that is psychometrically sound and legally defensible, and meets nationally recognized accreditation standards for certification programs; and

(4) require periodic recertification or be affiliated with an organization that provides recertification.

Sec. 2. Minnesota Statutes 2012, section 148.171, is amended by adding a subdivision to read:

Subd. 4a. **Certification.** "Certification" means the formal recognition of knowledge, skills, and experience demonstrated by the achievement of standards identified by the National Professional Nursing Organization acceptable to the Minnesota Board of Nursing.

Sec. 3. Minnesota Statutes 2012, section 148.171, subdivision 5, is amended to read:

Subd. 5. **Clinical nurse specialist practice.** "Clinical nurse specialist practice" means the provision of patient care in a particular specialty or subspecialty of advanced practice registered nursing within the context of collaborative management, and includes: (1) diagnosing illness and disease; (2) providing non-pharmacologic treatment, including psychotherapy; (3) promoting wellness; and (4) preventing illness and

~~disease. The certified clinical nurse specialist is certified for advanced practice registered nursing in a specific field of clinical nurse specialist practice.:~~

(1) the diagnosis and treatment of health and illness states;

(2) disease management;

(3) prescribing pharmacologic and nonpharmacologic therapies;

(4) ordering, performing, supervising, and interpreting diagnostic studies, excluding interpreting computed tomography scans, magnetic resonance imaging scans, positron emission tomography scans, nuclear scans, and mammography;

(5) prevention of illness and risk behaviors;

(6) nursing care for individuals, families, and communities;

(7) consulting with, collaborating with, or referring to other health care providers as warranted by the needs of the patient; and

(8) integration of care across the continuum to improve patient outcomes.

Sec. 4. Minnesota Statutes 2012, section 148.171, is amended by adding a subdivision to read:

Subd. 5a. **Collaboration.** "Collaboration" means the process in which two or more health care professionals work together to meet the health care needs of a patient, as warranted by the patient.

Sec. 5. Minnesota Statutes 2012, section 148.171, subdivision 9, is amended to read:

Subd. 9. **Nurse.** "Nurse" means advanced practice registered nurse, registered nurse, advanced practice registered nurse, and licensed practical nurse unless the context clearly refers to only one category.

Sec. 6. Minnesota Statutes 2012, section 148.171, subdivision 10, is amended to read:

Subd. 10. **Nurse-midwife practice.** "Nurse-midwife practice" means the management of women's primary health care, focusing on pregnancy, childbirth, the postpartum period, care of the newborn, and the family planning and gynecological needs of women and includes diagnosing and providing nonpharmacologic treatment within a system that provides for consultation, collaborative management, and referral as indicated by the health status of patients.:

(1) the management, diagnosis, and treatment of women's primary health care including pregnancy, childbirth, postpartum period, care of the newborn, family planning, partner care management relating to sexual health, and gynecological care of women across the life span;

(2) ordering, performing, supervising, and interpreting diagnostic studies, excluding interpreting computed tomography scans, magnetic resonance imaging scans, positron emission tomography scans, nuclear scans, and mammography;

(3) prescribing pharmacologic and nonpharmacologic therapies; and

(4) consulting with, collaborating with, or referring to other health care providers as warranted by the needs of the patient.

Sec. 7. Minnesota Statutes 2012, section 148.171, subdivision 11, is amended to read:

Subd. 11. **Nurse practitioner practice.** "Nurse practitioner practice" means, ~~within the context of collaborative management: (1) diagnosing, directly managing, and preventing acute and chronic illness and disease; and (2) promoting wellness, including providing nonpharmacologic treatment. The certified nurse practitioner is certified for advanced registered nurse practice in a specific field of nurse practitioner practice. the provision of care including:~~

(1) health promotion, disease prevention, health education, and counseling;

(2) providing health assessment and screening activities;

(3) diagnosing, treating, and facilitating patients' management of their acute and chronic illnesses and diseases;

(4) ordering, performing, supervising, and interpreting diagnostic studies, excluding interpreting computed tomography scans, magnetic resonance imaging scans, positron emission tomography scans, nuclear scans, and mammography;

(5) prescribing pharmacologic and nonpharmacologic therapies; and

(6) consulting with, collaborating with, or referring to other health care providers as warranted by the needs of the patient.

Sec. 8. Minnesota Statutes 2012, section 148.171, is amended by adding a subdivision to read:

Subd. 12b. **Population focus.** "Population focus" means the categories of patients for which the advanced practice registered nurse has the educational preparation to provide care and services. The categories of population foci are:

(1) family and individual across the life span;

(2) adult gerontology;

(3) neonatal;

(4) pediatrics;

(5) women's and gender-related health; and

(6) psychiatric and mental health.

Sec. 9. Minnesota Statutes 2012, section 148.171, subdivision 13, is amended to read:

Subd. 13. **Practice of advanced practice registered nursing.** (a) The "practice of advanced practice registered nursing" means the performance of clinical nurse specialist practice, nurse-midwife practice, nurse practitioner practice, or registered nurse anesthetist practice as defined in subdivisions 5, 10, 11, and 21 an expanded scope of nursing in at least one of the recognized advanced practice registered nurse roles for at least one population focus. The scope and practice standards of an advanced practice registered nurse are defined by the national professional nursing organizations specific to the practice as a clinical nurse specialist, nurse-midwife, nurse practitioner, or registered nurse anesthetist in the population focus. The scope of advanced practice registered nursing includes, but is not limited to, performing acts of advanced

~~assessment, diagnosing, prescribing, and ordering. The practice includes functioning as a primary care provider, direct care provider, case manager, consultant, educator, and researcher. The practice of advanced practice registered nursing also includes accepting referrals from, consulting with, cooperating with, or referring to all other types of health care providers, including but not limited to physicians, chiropractors, podiatrists, and dentists, provided that the advanced practice registered nurse and the other provider are practicing within their scopes of practice as defined in state law. The advanced practice registered nurse must practice within a health care system that provides for consultation, collaborative management, and referral as indicated by the health status of the patient.~~

(b) The practice of advanced practice registered nursing requires the advanced practice registered nurse to be accountable: (1) to patients for the quality of advanced nursing care rendered; (2) for recognizing limits of knowledge and experience; and (3) for planning for the management of situations beyond the advanced practice registered nurse's expertise. The practice of advanced practice registered nursing includes accepting referrals from, consulting with, collaborating with, or referring to other health care providers as warranted by the needs of the patient.

Sec. 10. Minnesota Statutes 2012, section 148.171, subdivision 16, is amended to read:

Subd. 16. **Prescribing.** "Prescribing" means the act of generating a prescription for the preparation of, use of, or manner of using a drug or therapeutic device in accordance with the provisions of section 148.235. Prescribing does not include recommending the use of a drug or therapeutic device which is not required by the federal Food and Drug Administration to meet the labeling requirements for prescription drugs and devices. Prescribing also does not include recommending or administering a drug or therapeutic device perioperatively for anesthesia care by a certified registered nurse anesthetist.

Sec. 11. Minnesota Statutes 2012, section 148.171, subdivision 17, is amended to read:

Subd. 17. **Prescription.** "Prescription" means a written direction or an oral direction reduced to writing provided to or for an individual patient for the preparation or use of a drug or therapeutic device. In the case of a prescription for a drug, the requirements of section 151.01, subdivisions 16, 16a, and 16b, shall apply.

Sec. 12. Minnesota Statutes 2012, section 148.171, is amended by adding a subdivision to read:

Subd. 17a. **Primary care provider.** "Primary care provider" means a licensed health care provider who acts as the first point of care for comprehensive health maintenance and promotion, preventive care, and undiagnosed health concerns and who provides continuing care of varied health conditions not limited by cause, organ systems, or diagnosis.

Sec. 13. Minnesota Statutes 2012, section 148.171, subdivision 21, is amended to read:

Subd. 21. **Registered nurse anesthetist practice.** (a) "Registered nurse anesthetist practice" means the provision of anesthesia care and related services within the context of collaborative management, including:

(1) selecting, obtaining, and administering drugs and therapeutic devices to facilitate diagnostic, therapeutic, and surgical procedures upon request, assignment, or referral by a patient's physician, dentist, or podiatrist;

(2) ordering, performing, supervising, and interpreting diagnostic studies, excluding interpreting computed tomography scans, magnetic resonance imaging scans, positron emission tomography scans, nuclear scans, and mammography;

(3) prescribing pharmacologic and nonpharmacologic therapies; and

(4) consulting with, collaborating with, or referring to other health care providers as warranted by the needs of the patient.

(b) A registered nurse anesthetist may perform nonsurgical therapies for acute and chronic pain symptoms upon referral and in collaboration with a physician licensed under chapter 147. For purposes of providing nonsurgical therapies for acute and chronic pain symptoms, the registered nurse anesthetist and one or more physicians licensed under chapter 147 must have a mutually agreed upon plan that designates the scope of collaboration necessary for providing nonsurgical therapies to patients with acute and chronic pain. The registered nurse anesthetist must perform the nonsurgical therapies at the same licensed health care facility as the physician.

(c) Notwithstanding section 148.235, for purposes of providing nonsurgical pain therapies for chronic pain symptoms, the registered nurse anesthetist must have a written prescribing agreement with a physician licensed under chapter 147 that defines the delegated responsibilities related to prescribing drugs and therapeutic devices within the scope of the agreement and the practice of the registered nurse anesthetist.

Sec. 14. Minnesota Statutes 2012, section 148.171, is amended by adding a subdivision to read:

Subd. 22a. **Roles of advanced practice registered nurses.** "Role" means one of four recognized advanced practice registered nurse roles: certified registered nurse anesthetist (CRNA); certified nurse-midwife (CNM); certified clinical nurse specialist (CNS); or certified nurse practitioner (CNP).

Sec. 15. Minnesota Statutes 2012, section 148.181, subdivision 1, is amended to read:

Subdivision 1. **Membership.** The Board of Nursing consists of 16 members appointed by the governor, each of whom must be a resident of this state. Eight members must be registered nurses, each of whom must have graduated from an approved school of nursing, must be licensed and currently registered as a registered nurse in this state, and must have had at least five years experience in nursing practice, nursing administration, or nursing education immediately preceding appointment. One of the eight must have had at least two years executive or teaching experience in a baccalaureate degree nursing program approved by the board under section 148.251 during the five years immediately preceding appointment, one of the eight must have had at least two years executive or teaching experience in an associate degree nursing program approved by the board under section 148.251 during the five years immediately preceding appointment, one of the eight must be practicing professional nursing in a nursing home at the time of appointment, one of the eight must have had at least two years executive or teaching experience in a practical nursing program approved by the board under section 148.251 during the five years immediately preceding appointment, and one of the eight must be licensed and have national certification or recertification as a registered nurse anesthetist, nurse practitioner, nurse midwife, or clinical nurse specialist. Four of the eight must have had at least five years of experience in nursing practice or nursing administration immediately preceding appointment. Four members must be licensed practical nurses, each of whom must have graduated from an approved school of nursing, must be licensed and currently registered as a licensed practical nurse in this state, and must have had at least five years experience in nursing practice immediately preceding appointment. The remaining four members must be public members as defined by section 214.02.

A member may be reappointed but may not serve more than two full terms consecutively. The governor shall attempt to make appointments to the board that reflect the geography of the state. The board members who are nurses should as a whole reflect the broad mix of practice types and sites of nurses practicing in Minnesota.

Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements are as provided in sections 214.07 to 214.09. Any nurse on the board who during incumbency permanently ceases to be actively engaged in the practice of nursing or otherwise becomes disqualified for board membership is automatically removed, and the governor shall fill the vacancy. The provision of staff, administrative services, and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations are as provided in sections 148.171 to 148.285 and chapter 214. Each member of the board shall file with the secretary of state the constitutional oath of office before beginning the term of office.

Sec. 16. Minnesota Statutes 2012, section 148.191, subdivision 2, is amended to read:

Subd. 2. **Powers.** (a) The board is authorized to adopt and, from time to time, revise rules not inconsistent with the law, as may be necessary to enable it to carry into effect the provisions of sections 148.171 to 148.285. The board shall prescribe by rule curricula and standards for schools and courses preparing persons for licensure under sections 148.171 to 148.285. It shall conduct or provide for surveys of such schools and courses at such times as it may deem necessary. It shall approve such schools and courses as meet the requirements of sections 148.171 to 148.285 and board rules. It shall examine, license, and renew the license of duly qualified applicants. It shall hold examinations at least once in each year at such time and place as it may determine. It shall by rule adopt, evaluate, and periodically revise, as necessary, requirements for licensure and for registration and renewal of registration as defined in section 148.231. It shall maintain a record of all persons licensed by the board to practice advanced practice, professional, or practical nursing ~~and all registered nurses who hold Minnesota licensure and registration and are certified as advanced practice registered nurses~~. It shall cause the prosecution of all persons violating sections 148.171 to 148.285 and have power to incur such necessary expense therefor. It shall register public health nurses who meet educational and other requirements established by the board by rule, including payment of a fee. It shall have power to issue subpoenas, and to compel the attendance of witnesses and the production of all necessary documents and other evidentiary material. Any board member may administer oaths to witnesses, or take their affirmation. It shall keep a record of all its proceedings.

(b) The board shall have access to hospital, nursing home, and other medical records of a patient cared for by a nurse under review. If the board does not have a written consent from a patient permitting access to the patient's records, the nurse or facility shall delete any data in the record that identifies the patient before providing it to the board. The board shall have access to such other records as reasonably requested by the board to assist the board in its investigation. Nothing herein may be construed to allow access to any records protected by section 145.64. The board shall maintain any records obtained pursuant to this paragraph as investigative data under chapter 13.

(c) The board may accept and expend grants or gifts of money or in-kind services from a person, a public or private entity, or any other source for purposes consistent with the board's role and within the scope of its statutory authority.

(d) The board may accept registration fees for meetings and conferences conducted for the purposes of board activities that are within the scope of its authority.

Sec. 17. Minnesota Statutes 2012, section 148.211, is amended by adding a subdivision to read:

**Subd. 1a. Advanced practice registered nurse licensure.** (a) Effective January 1, 2015, no advanced practice nurse shall practice as an advanced practice registered nurse unless the advanced practice nurse is licensed by the board under this section.

(b) An applicant for a license to practice as an advanced practice registered nurse (APRN) shall apply to the board in a format prescribed by the board and pay a fee in an amount determined under section 148.243.

(c) To be eligible for licensure an applicant:

(1) must hold a current Minnesota professional nursing license or demonstrate eligibility for licensure as a registered nurse in this state;

(2) must not hold an encumbered license as a registered nurse in any state or territory;

(3) must have completed a graduate level APRN program accredited by a nursing or nursing-related accrediting body that is recognized by the United States Secretary of Education or the Council for Higher Education Accreditation as acceptable to the board. The education must be in one of the four APRN roles for at least one population focus;

(4) must be currently certified by a national certifying body recognized by the board in the APRN role and population foci appropriate to educational preparation;

(5) must report any criminal conviction, nolo contendere plea, Alford plea, or other plea arrangement in lieu of conviction; and

(6) must not have committed any acts or omissions which are grounds for disciplinary action in another jurisdiction or, if these acts have been committed and would be grounds for disciplinary action as set forth in section 148.261, the board has found, after investigation, that sufficient restitution has been made.

Sec. 18. Minnesota Statutes 2012, section 148.211, is amended by adding a subdivision to read:

**Subd. 1b. Advanced practice registered nurse grandfather provision.** (a) The board shall issue a license to an applicant who does not meet the education requirements in subdivision 1a, paragraph (c), clause (3), if the applicant:

(1) is recognized by the board to practice as an advanced practice registered nurse in this state on July 1, 2014;

(2) submits an application to the board in a format prescribed by the board and the applicable fee as determined under section 148.243 by January 1, 2015; and

(3) meets the requirements under subdivision 1a, paragraph (c), clauses (1), (2), (4), (5), and (6).

(b) An advanced practice registered nurse licensed under this subdivision shall maintain all practice privileges provided to licensed advanced practice registered nurses under this chapter.

Sec. 19. Minnesota Statutes 2012, section 148.211, is amended by adding a subdivision to read:

**Subd. 1c. Postgraduate practice.** A nurse practitioner or clinical nurse specialist who qualifies for licensure as an advanced practice registered nurse must practice for at least 2,080 hours, within the context of a collaborative agreement, within a hospital or integrated clinical setting where advanced practice registered

nurses and physicians work together to provide patient care. The nurse practitioner or clinical nurse specialist shall submit written evidence to the board with the application, or upon completion of the required collaborative practice experience. For purposes of this subdivision, a collaborative agreement is a mutually agreed upon plan for the overall working relationship between a nurse practitioner or clinical nurse specialist, and one or more physicians licensed under chapter 147, or one or more advanced practice registered nurses licensed under this section that designates the scope of collaboration necessary to manage the care of patients. The nurse practitioner or clinical nurse specialist, and one of the collaborating physicians or advanced practice registered nurses, must have experience in providing care to patients with the same or similar medical problems.

Sec. 20. Minnesota Statutes 2012, section 148.211, subdivision 2, is amended to read:

Subd. 2. **Licensure by endorsement.** (a) The board shall issue a license to practice professional nursing or practical nursing without examination to an applicant who has been duly licensed or registered as a nurse under the laws of another state, territory, or country, if in the opinion of the board the applicant has the qualifications equivalent to the qualifications required in this state as stated in subdivision 1, all other laws not inconsistent with this section, and rules promulgated by the board.

(b) Effective January 1, 2015, an applicant for advanced practice registered nurse licensure by endorsement is eligible for licensure if the applicant meets the requirements in paragraph (a) and demonstrates:

(1) current national certification or recertification in the advanced role and population focus area; and

(2) compliance with the advanced practice nursing educational requirements that were in effect in Minnesota at the time the advanced practice registered nurse completed the advanced practice nursing education program.

Sec. 21. Minnesota Statutes 2012, section 148.231, subdivision 1, is amended to read:

Subdivision 1. **Registration.** (a) Every person licensed to practice advanced practice, professional, or practical nursing must maintain with the board a current registration for practice as a an advanced practice registered nurse, registered nurse, or licensed practical nurse which must be renewed at regular intervals established by the board by rule. No registration shall be issued by the board to a nurse until the nurse has submitted satisfactory evidence of compliance with the procedures and minimum requirements established by the board.

~~The fee for periodic registration for practice as a nurse shall be determined by the board by law.~~ (b) Upon receipt of the application and the required fees, as determined under section 148.243, the board shall verify the application and the evidence of completion of continuing education requirements in effect, and ~~thereupon~~ issue to the nurse registration for the next renewal period.

(c) An applicant for advanced practice registered nursing (APRN) renewal must provide evidence of current certification or recertification in the appropriate APRN role in at least one population focus by a nationally accredited certifying body recognized by the board.

Sec. 22. Minnesota Statutes 2012, section 148.231, subdivision 4, is amended to read:

Subd. 4. **Failure to register.** Any person licensed under the provisions of sections 148.171 to 148.285 who fails to register within the required period shall not be entitled to practice nursing in this state as an advanced practice registered nurse, a registered nurse, or a licensed practical nurse.

Sec. 23. Minnesota Statutes 2012, section 148.231, subdivision 5, is amended to read:

Subd. 5. **Reregistration.** A person whose registration has lapsed desiring to resume practice shall make application for reregistration, submit satisfactory evidence of compliance with the procedures and requirements established by the board, and pay the reregistration fee for the current period to the board. A penalty fee shall be required from a person who practiced nursing without current registration. Thereupon, registration shall be issued to the person who shall immediately be placed on the practicing list as an advanced practice registered nurse, a registered nurse, or a licensed practical nurse.

Sec. 24. Minnesota Statutes 2012, section 148.233, subdivision 2, is amended to read:

Subd. 2. **Advanced practice registered nurse.** ~~An advanced practice registered nurse certified as a certified clinical nurse specialist, certified nurse-midwife, certified nurse practitioner, or certified registered nurse anesthetist shall use the appropriate designation: RN,CNS; RN,CNM; RN,CNP; or RN,CRNA for personal identification and in documentation of services provided. Identification of educational degrees and specialty fields may be added.~~ (a) Only those persons who hold a current license to practice advanced practice registered nursing in this state may use the title advanced practice registered nurse with the role designation of certified registered nurse anesthetist, certified nurse-midwife, certified clinical nurse specialist, or certified nurse practitioner.

(b) An advanced practice registered nurse shall use the appropriate designation: APRN, CNS; APRN, CNM; APRN, CNP; or APRN, CRNA for personal identification and in documentation of services provided. Identification of educational degrees and specialty fields may be added.

(c) When providing nursing care, an advanced practice registered nurse shall provide clear identification of the appropriate advanced practice registered nurse designation.

Sec. 25. Minnesota Statutes 2012, section 148.234, is amended to read:

#### **148.234 STATE BOUNDARIES CONSIDERATION.**

A nurse may perform medical patient care procedures and techniques at the direction of a physician, a podiatrist, or a dentist, or an advanced practice registered nurse licensed in another state, United States territory, or Canadian province if the physician, podiatrist, or dentist, or advanced practice registered nurse gave the direction after examining the patient and issued the direction in that state, United States territory, or Canadian province.

Nothing in this section allows a nurse to perform a medical procedure patient care procedure or technique at the direction of a physician, a podiatrist, or a dentist, or an advanced practice registered nurse that is illegal in this state.

Sec. 26. Minnesota Statutes 2012, section 148.235, is amended by adding a subdivision to read:

Subd. 7a. **Diagnosis, prescribing, and ordering.** Advanced practice registered nurses are authorized to:

(1) diagnose, prescribe, and institute therapy or referrals of patients to health care agencies and providers;

(2) prescribe, procure, sign for, record, administer, and dispense over-the-counter, legend, and controlled substances, including sample drugs; and

(3) plan and initiate a therapeutic regimen that includes ordering and prescribing durable medical devices and equipment, nutrition, diagnostic, and supportive services including, but not limited to, home health care, hospice, physical, and occupational therapy.

Sec. 27. Minnesota Statutes 2012, section 148.235, is amended by adding a subdivision to read:

Subd. 7b. **Drug Enforcement Administration requirements.** (a) Advanced practice registered nurses must:

(1) comply with federal Drug Enforcement Administration (DEA) requirements related to controlled substances; and

(2) file any and all of the nurse's DEA registrations and numbers with the board.

(b) The board shall maintain current records of all advanced practice registered nurses with DEA registration and numbers.

Sec. 28. Minnesota Statutes 2012, section 148.251, subdivision 1, is amended to read:

Subdivision 1. **Initial approval.** An institution desiring to conduct a nursing program shall apply to the board and submit evidence that:

(1) It is prepared to provide a program of theory and practice in advanced practice, professional, or practical nursing that meets the program approval standards adopted by the board. Instruction and required experience may be obtained in one or more institutions or agencies outside the applying institution as long as the nursing program retains accountability for all clinical and nonclinical teaching.

(2) It is prepared to meet other standards established by law and by the board.

Sec. 29. Minnesota Statutes 2012, section 148.261, subdivision 1, is amended to read:

Subdivision 1. **Grounds listed.** The board may deny, revoke, suspend, limit, or condition the license and registration of any person to practice advanced practice, professional, ~~advanced practice registered~~, or practical nursing under sections 148.171 to 148.285, or to otherwise discipline a licensee or applicant as described in section 148.262. The following are grounds for disciplinary action:

(1) Failure to demonstrate the qualifications or satisfy the requirements for a license contained in sections 148.171 to 148.285 or rules of the board. In the case of a person applying for a license, the burden of proof is upon the applicant to demonstrate the qualifications or satisfaction of the requirements.

(2) Employing fraud or deceit in procuring or attempting to procure a permit, license, or registration certificate to practice advanced practice, professional, or practical nursing or attempting to subvert the licensing examination process. Conduct that subverts or attempts to subvert the licensing examination process includes, but is not limited to:

(i) conduct that violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination;

(ii) conduct that violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; or

(iii) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf.

(3) Conviction of a felony or gross misdemeanor reasonably related to the practice of professional, advanced practice registered, or practical nursing. Conviction as used in this subdivision includes a conviction of an offense that if committed in this state would be considered a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered.

(4) Revocation, suspension, limitation, conditioning, or other disciplinary action against the person's professional or practical nursing license or advanced practice registered nursing credential, in another state, territory, or country; failure to report to the board that charges regarding the person's nursing license or other credential are pending in another state, territory, or country; or having been refused a license or other credential by another state, territory, or country.

(5) Failure to or inability to perform professional or practical nursing as defined in section 148.171, subdivision 14 or 15, with reasonable skill and safety, including failure of a registered nurse to supervise or a licensed practical nurse to monitor adequately the performance of acts by any person working at the nurse's direction.

(6) Engaging in unprofessional conduct, including, but not limited to, a departure from or failure to conform to board rules of professional or practical nursing practice that interpret the statutory definition of professional or practical nursing as well as provide criteria for violations of the statutes, or, if no rule exists, to the minimal standards of acceptable and prevailing professional or practical nursing practice, or any nursing practice that may create unnecessary danger to a patient's life, health, or safety. Actual injury to a patient need not be established under this clause.

(7) Failure of an advanced practice registered nurse to practice with reasonable skill and safety or departure from or failure to conform to standards of acceptable and prevailing advanced practice registered nursing.

(8) Delegating or accepting the delegation of a nursing function or a prescribed health care function when the delegation or acceptance could reasonably be expected to result in unsafe or ineffective patient care.

(9) Actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of any mental or physical condition.

(10) Adjudication as mentally incompetent, mentally ill, a chemically dependent person, or a person dangerous to the public by a court of competent jurisdiction, within or without this state.

(11) Engaging in any unethical conduct, including, but not limited to, conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient. Actual injury need not be established under this clause.

(12) Engaging in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient, or engaging in sexual exploitation of a patient or former patient.

(13) Obtaining money, property, or services from a patient, other than reasonable fees for services provided to the patient, through the use of undue influence, harassment, duress, deception, or fraud.

(14) Revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law.

(15) Engaging in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws or state medical assistance laws.

(16) Improper management of patient records, including failure to maintain adequate patient records, to comply with a patient's request made pursuant to sections 144.291 to 144.298, or to furnish a patient record or report required by law.

(17) Knowingly aiding, assisting, advising, or allowing an unlicensed person to engage in the unlawful practice of advanced practice, professional, ~~advanced practice registered~~, or practical nursing.

(18) Violating a rule adopted by the board, an order of the board, or a state or federal law relating to the practice of advanced practice, professional, ~~advanced practice registered~~, or practical nursing, or a state or federal narcotics or controlled substance law.

(19) Knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo.

(20) Aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

(21) Practicing outside the scope of practice authorized by section 148.171, subdivision 5, 10, 11, 13, 14, 15, or 21.

~~(22) Practicing outside the specific field of nursing practice for which an advanced practice registered nurse is certified unless the practice is authorized under section 148.284.~~

~~(23)~~ (22) Making a false statement or knowingly providing false information to the board, failing to make reports as required by section 148.263, or failing to cooperate with an investigation of the board as required by section 148.265.

~~(24)~~ (23) Engaging in false, fraudulent, deceptive, or misleading advertising.

~~(25)~~ (24) Failure to inform the board of the person's certification or recertification status as a certified registered nurse anesthetist, certified nurse-midwife, certified nurse practitioner, or certified clinical nurse specialist.

~~(26)~~ (25) Engaging in clinical nurse specialist practice, nurse-midwife practice, nurse practitioner practice, or registered nurse anesthetist practice without a license and current certification or recertification by a national nurse certification organization acceptable to the board, ~~except during the period between completion of an advanced practice registered nurse course of study and certification, not to exceed six months or as authorized by the board.~~

~~(27)~~ (26) Engaging in conduct that is prohibited under section 145.412.

~~(28)~~ (27) Failing to report employment to the board as required by section 148.211, subdivision 2a, or knowingly aiding, assisting, advising, or allowing a person to fail to report as required by section 148.211, subdivision 2a.

Sec. 30. Minnesota Statutes 2012, section 148.262, subdivision 1, is amended to read:

Subdivision 1. **Forms of disciplinary action.** When the board finds that grounds for disciplinary action exist under section 148.261, subdivision 1, it may take one or more of the following actions:

- (1) deny the license, registration, or registration renewal;
- (2) revoke the license;
- (3) suspend the license;
- (4) impose limitations on the nurse's practice of advanced practice, professional, ~~advanced practice registered~~, or practical nursing including, but not limited to, limitation of scope of practice or the requirement of practice under supervision;
- (5) impose conditions on the retention of the license including, but not limited to, the imposition of retraining or rehabilitation requirements or the conditioning of continued practice on demonstration of knowledge or skills by appropriate examination, monitoring, or other review;
- (6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed as to deprive the nurse of any economic advantage gained by reason of the violation charged, to reimburse the board for the cost of counsel, investigation, and proceeding, and to discourage repeated violations;
- (7) order the nurse to provide unremunerated service;
- (8) censure or reprimand the nurse; or
- (9) any other action justified by the facts in the case.

Sec. 31. Minnesota Statutes 2012, section 148.262, subdivision 2, is amended to read:

Subd. 2. **Automatic suspension.** Unless the board orders otherwise, a license to practice advanced practice, professional, or practical nursing is automatically suspended if:

- (1) a guardian of a nurse is appointed by order of a court under sections 524.5-101 to 524.5-502;
- (2) the nurse is committed by order of a court under chapter 253B; or

(3) the nurse is determined to be mentally incompetent, mentally ill, chemically dependent, or a person dangerous to the public by a court of competent jurisdiction within or without this state.

The license remains suspended until the nurse is restored to capacity by a court and, upon petition by the nurse, the suspension is terminated by the board after a hearing or upon agreement between the board and the nurse.

Sec. 32. Minnesota Statutes 2012, section 148.262, subdivision 4, is amended to read:

Subd. 4. **Reissuance.** The board may reinstate and reissue a license or registration certificate to practice advanced practice, professional, or practical nursing, but as a condition may impose any disciplinary or corrective measure that it might originally have imposed. Any person whose license or registration has been revoked, suspended, or limited may have the license reinstated and a new registration issued when, in the discretion of the board, the action is warranted, provided that the person shall be required by the board to pay the costs of the proceedings resulting in the revocation, suspension, or limitation of the license or registration certificate and reinstatement of the license or registration certificate, and to pay the fee for the current registration period. The cost of proceedings shall include, but not be limited to, the cost paid by the board to the Office of Administrative Hearings and the Office of the Attorney General for legal and investigative services, the costs of a court reporter and witnesses, reproduction of records, board staff time, travel, and expenses, and board members' per diem reimbursements, travel costs, and expenses.

Sec. 33. Minnesota Statutes 2013 Supplement, section 148.271, is amended to read:

#### **148.271 EXEMPTIONS.**

The provisions of sections 148.171 to 148.285 shall not prohibit:

- (1) The furnishing of nursing assistance in an emergency.
- (2) The practice of advanced practice, professional, or practical nursing by any legally qualified advanced practice, registered, or licensed practical nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of official duties.
- (3) The practice of any profession or occupation licensed by the state, other than advanced practice, professional, or practical nursing, by any person duly licensed to practice the profession or occupation, or the performance by a person of any acts properly coming within the scope of the profession, occupation, or license.
- (4) The provision of a nursing or nursing-related service by an unlicensed assistive person who has been delegated or assigned the specific function and is supervised by a registered nurse or monitored by a licensed practical nurse.
- (5) The care of the sick with or without compensation when done in a nursing home covered by the provisions of section 144A.09, subdivision 1.
- (6) Professional nursing practice or advanced practice registered nursing practice by a registered nurse or practical nursing practice by a licensed practical nurse licensed in another state or territory who is in Minnesota as a student enrolled in a formal, structured course of study, such as a course leading to a higher degree, certification in a nursing specialty, or to enhance skills in a clinical field, while the student is practicing in the course.

(7) Professional or practical nursing practice by a student practicing under the supervision of an instructor while the student is enrolled in a nursing program approved by the board under section 148.251.

(8) Advanced practice registered nursing as defined in section 148.171, subdivisions 5, 10, 11, 13, and 21, by a registered nurse who is licensed and currently registered in Minnesota or another United States jurisdiction and who is enrolled as a student in a formal graduate education program leading to eligibility for certification and licensure as an advanced practice registered nurse; ~~or by a registered nurse licensed and currently registered in Minnesota who has completed an advanced practice registered nurse course of study and is awaiting certification, the period not to exceed six months.~~

Sec. 34. Minnesota Statutes 2012, section 148.281, subdivision 1, is amended to read:

Subdivision 1. **Violations described.** It shall be unlawful for any person, corporation, firm, or association, to:

(1) sell or fraudulently obtain or furnish any nursing diploma, license or record, or aid or abet therein;

(2) practice advanced practice, professional, or practical nursing; ~~or practice as a public health nurse; or practice as a certified clinical nurse specialist, certified nurse-midwife, certified nurse practitioner, or certified registered nurse-anesthetist~~ under cover of any diploma, permit, license, registration certificate, advanced practice credential, or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(3) practice advanced practice, professional, or practical nursing unless the person has been issued a temporary permit under the provisions of section 148.212 or is duly licensed and currently registered to do so under the provisions of sections 148.171 to 148.285;

(4) use the professional title nurse unless duly licensed to practice advanced practice, professional, or practical nursing under the provisions of sections 148.171 to 148.285, except as authorized by the board by rule;

(5) use any abbreviation or other designation tending to imply licensure as ~~a~~ an advanced practice registered nurse, a registered nurse, or a licensed practical nurse unless duly licensed and currently registered so to practice advanced practice, professional, or practical nursing under the provisions of sections 148.171 to 148.285 except as authorized by the board by rule;

(6) use any title, abbreviation, or other designation tending to imply certification as a certified registered nurse as defined in section 148.171, subdivision 22, unless duly certified by a national nurse certification organization;

(7) use any abbreviation or other designation tending to imply registration as a public health nurse unless duly registered by the board;

(8) practice advanced practice, professional, ~~advanced practice registered~~, or practical nursing in a manner prohibited by the board in any limitation of a license or registration issued under the provisions of sections 148.171 to 148.285;

(9) practice advanced practice, professional, ~~advanced practice registered~~, or practical nursing during the time a license or current registration issued under the provisions of sections 148.171 to 148.285 shall be suspended or revoked;

(10) conduct a nursing program for the education of persons to become advanced practice registered nurses, registered nurses, or licensed practical nurses unless the program has been approved by the board; and

(11) knowingly employ persons in the practice of advanced practice, professional, or practical nursing who have not been issued a current permit, license, or registration certificate to practice as a nurse in this state; and.

~~(12) knowingly employ a person in advanced practice registered nursing unless the person meets the standards and practices of sections 148.171 to 148.285.~~

Sec. 35. Minnesota Statutes 2012, section 148.281, is amended by adding a subdivision to read:

Subd. 3. **Penalty; advanced practice registered nurses.** In addition to subdivision 2, an advanced practice registered nurse who practices advanced practice registered nursing without a current license and certification or recertification shall pay a penalty fee of \$200 for the first month or part of a month and an additional \$100 for each subsequent month or parts of months of practice. The amount of the penalty fee shall be calculated from the first day the advanced practice registered nurse practiced without a current advanced practice registered nurse license and certification to the last day of practice without a current license and certification, or from the first day the advanced practice registered nurse practiced without a current license and certification on file with the board until the day the current license and certification is filed with the board.

Sec. 36. Minnesota Statutes 2012, section 148.283, is amended to read:

**148.283 UNAUTHORIZED PRACTICE OF PROFESSIONAL, ADVANCED PRACTICE REGISTERED, AND PRACTICAL NURSING.**

The practice of advanced practice, professional, ~~advanced practice registered~~, or practical nursing by any person who has not been licensed to practice advanced practice, professional, or practical nursing under the provisions of sections 148.171 to 148.285, or whose license has been suspended or revoked, or whose registration or national credential has expired, is hereby declared to be inimical to the public health and welfare and to constitute a public nuisance. Upon a complaint being made thereof by the board, or any prosecuting officer, and upon a proper showing of the facts, the district court of the county where such practice occurred may enjoin such acts and practice. Such injunction proceeding shall be in addition to, and not in lieu of, all other penalties and remedies provided by law.

Sec. 37. **[148.284] ADVANCED PRACTICE NURSING ADVISORY COUNCIL.**

Subdivision 1. **Membership.** The Board of Nursing shall convene an Advanced Practice Nursing Advisory Council consisting of seven members with representation as follows:

(1) four Minnesota licensed advanced practice registered nurses, consisting of one nurse practitioner, one nurse-midwife, one clinical nurse specialist, and one nurse anesthetist;

(2) two Minnesota licensed physicians who work with advanced practice registered nurses; and

(3) one public member who is not a Minnesota licensed advanced practice registered nurse or a Minnesota licensed physician.

Subd. 2. **Terms.** Membership terms are as provided in section 15.059, subdivision 2, except that each member appointment shall be for a two-year term, with no member serving more than two consecutive terms.

Subd. 3. **Chair.** The chair shall rotate among the four advanced practice registered nurse members, with each member serving as chair for two years in the following order: nurse practitioner, nurse-midwife, clinical nurse specialist, nurse anesthetist.

Subd. 4. **Duties.** The advisory council shall:

(1) review prescribing trends of advanced practice registered nurses at an aggregate level;

(2) review emerging practices and overlap of advanced practice nursing and specialty medical practices in the six population foci and four categories of advanced practice registered nurse practice;

(3) provide recommendations to the Board of Nursing regarding advanced practice nursing;

(4) advise the board on advanced practice registered nurse licensure and practice standards, including emerging practice trends, aggregate prescribing trends, and overlap of advanced practice registered nursing and medical practices;

(5) advise the board on distribution of information regarding advanced practice registered nurse licensure standards; and

(6) advise the board on issues related to advanced practice registered nurse practice and regulation.

Subd. 5. **Meetings.** The chair shall convene at least one meeting every six months.

Subd. 6. **Compensation.** Members shall not be compensated but shall be reimbursed for expenses under section 15.059, subdivision 3.

Subd. 7. **Removal; vacancies.** Members may be removed and vacancies shall be filled under section 15.059, subdivision 4.

Subd. 8. **Sunset.** This section sunsets February 2, 2022.

Sec. 38. Minnesota Statutes 2012, section 151.01, subdivision 23, is amended to read:

Subd. 23. **Practitioner.** "Practitioner" means a licensed doctor of medicine, licensed doctor of osteopathy duly licensed to practice medicine, licensed doctor of dentistry, licensed doctor of optometry, licensed podiatrist, or licensed veterinarian, or a licensed advanced practice registered nurse. For purposes of sections 151.15, subdivision 4; 151.37, subdivision 2, paragraphs (b), (e), and (f); and 151.461, "practitioner" also means a physician assistant authorized to prescribe, dispense, and administer under chapter 147A, or an advanced practice nurse authorized to prescribe, dispense, and administer under section 148.235. For purposes of sections 151.15, subdivision 4; 151.37, subdivision 2, paragraph (b); and 151.461, "practitioner" also means a dental therapist authorized to dispense and administer under chapter 150A.

Sec. 39. Minnesota Statutes 2012, section 152.12, is amended to read:

**152.12 DOCTORS HEALTH CARE PROVIDERS MAY PRESCRIBE.**

Subdivision 1. **Prescribing, dispensing, administering controlled substances in Schedules II through V.** A licensed doctor of medicine, a doctor of osteopathy, duly licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a licensed doctor of podiatry, a licensed advanced

practice registered nurse, or a licensed doctor of optometry limited to Schedules IV and V, and in the course of professional practice only, may prescribe, administer, and dispense a controlled substance included in Schedules II through V of section 152.02, may cause the same to be administered by a nurse, an intern or an assistant under the direction and supervision of the doctor, and may cause a person who is an appropriately certified and licensed health care professional to prescribe and administer the same within the expressed legal scope of the person's practice as defined in Minnesota Statutes.

Subd. 2. **Doctor of veterinary medicine.** A licensed doctor of veterinary medicine, in good faith, and in the course of professional practice only, and not for use by a human being, may prescribe, administer, and dispense a controlled substance included in Schedules II through V of section 152.02, and may cause the same to be administered by an assistant under the direction and supervision of the doctor.

Subd. 3. **Research project use of controlled substances.** Any qualified person may use controlled substances in the course of a bona fide research project but cannot administer or dispense such drugs to human beings unless such drugs are prescribed, dispensed and administered by a person lawfully authorized to do so. Every person who engages in research involving the use of such substances shall apply annually for registration by the state Board of Pharmacy and shall pay any applicable fee specified in section 151.065, provided that such registration shall not be required if the person is covered by and has complied with federal laws covering such research projects.

Subd. 4. **Sale of controlled substances not prohibited for certain persons and entities.** Nothing in this chapter shall prohibit the sale to, or the possession of, a controlled substance in Schedule II, III, IV or V by: Registered drug wholesalers, registered manufacturers, registered pharmacies, or any licensed hospital or other licensed institutions wherein sick and injured persons are cared for or treated, or bona fide hospitals wherein animals are treated; or by licensed pharmacists, licensed doctors of medicine, doctors of osteopathy duly licensed to practice medicine, licensed doctors of dental surgery, licensed doctors of dental medicine, licensed doctors of podiatry, licensed doctors of optometry limited to Schedules IV and V, or licensed doctors of veterinary medicine when such practitioners use controlled substances within the course of their professional practice only.

Nothing in this chapter shall prohibit the possession of a controlled substance in Schedule II, III, IV or V by an employee or agent of a registered drug wholesaler, registered manufacturer, or registered pharmacy, while acting in the course of employment; by a patient of a licensed doctor of medicine, a doctor of osteopathy duly licensed to practice medicine, a licensed doctor of dental surgery, a licensed doctor of dental medicine, or a licensed doctor of optometry limited to Schedules IV and V; or by the owner of an animal for which a controlled substance has been prescribed by a licensed doctor of veterinary medicine, when such controlled substances are dispensed according to law.

Subd. 5. **Analytical laboratory not prohibited from providing anonymous analysis service.** Nothing in this chapter shall prohibit an analytical laboratory from conducting an anonymous analysis service when such laboratory is registered by the Federal Drug Enforcement Administration, nor prohibit the possession of a controlled substance by an employee or agent of such analytical laboratory while acting in the course of employment.

#### Sec. 40. **INITIAL APPOINTMENTS AND MEETING.**

The Board of Nursing must make initial appointments to the Advanced Practice Nursing Advisory Council established under Minnesota Statutes, section 148.2841, by February 1, 2015. The president of the Board of Nursing must convene the first meeting of the advisory council by March 1, 2015.

Sec. 41. **APPROPRIATION.**

\$377,000 in fiscal year 2015 is appropriated from the state government special revenue fund to the Board of Nursing to implement licensing requirements for Advanced Practice Registered Nurses. The base for this appropriation is \$231,000 in fiscal years 2016 and 2017.

Sec. 42. **REPEALER.**

Minnesota Statutes 2012, sections 148.171, subdivision 6; 148.235, subdivisions 1, 2, 2a, 4, 4a, 4b, 6, and 7; 148.243, subdivision 8; and 148.284, are repealed.

Sec. 43. **EFFECTIVE DATE.**

Sections 1 to 40 are effective January 1, 2015.

Presented to the governor May 9, 2014

Signed by the governor May 13, 2014, 12:07 p.m.