

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE **S.F. No. 1045**

(SENATE AUTHORS: CHAMBERLAIN, Gazelka and Brown)

DATE	D-PG	OFFICIAL STATUS
03/25/2011	757	Introduction and first reading Referred to Commerce and Consumer Protection
04/14/2011	1324a 1338	Comm report: To pass as amended Second reading
05/12/2011	2003	General Orders: To pass
05/14/2011	2043	Calendar: Third reading Passed
05/21/2011	3040 3040	Returned from House with amendment Senate not concur, conference committee of 3 requested
05/22/2011	3250 3257	Senate conferees Chamberlain; Gerlach; Brown House conferees Hoppe; Sanders; Lillie
05/23/2011	3298c 3323 3437	Conference committee report, delete everything Senate adopted CC report and repassed bill Third reading House adopted SCC report and repassed bill

A bill for an act

1.1 relating to commerce; regulating continuing education requirements, pharmacy
1.2 benefit managers, insurance coverages, adjusters, and appraisers; amending
1.3 Minnesota Statutes 2010, sections 45.011, subdivision 1; 45.25, by adding
1.4 subdivisions; 60A.23, subdivision 8; 62A.095, subdivision 1; 62A.318,
1.5 subdivision 17; 62E.14, subdivision 3, by adding a subdivision; 62L.03,
1.6 subdivision 3; 72B.041, subdivision 5; 82.641, subdivision 1; 82B.11,
1.7 subdivision 6; 82B.13, by adding a subdivision; 82B.14; 82C.08, subdivision 2;
1.8 proposing coding for new law in Minnesota Statutes, chapters 45; 72B; repealing
1.9 Minnesota Statutes 2010, section 45.25, subdivision 3.
1.10

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

1.12 Section 1. Minnesota Statutes 2010, section 45.011, subdivision 1, is amended to read:

1.13 Subdivision 1. **Scope.** As used in chapters 45 to 80C, 80E to 83, 155A, 332,
1.14 332A, 332B, 345, and 359, and sections 123A.21, subdivision 7, paragraph (a), clause
1.15 (23); 123A.25; 325D.30 to 325D.42; 326B.802 to 326B.885; 386.61 to 386.78; 471.617;
1.16 and 471.982, unless the context indicates otherwise, the terms defined in this section
1.17 have the meanings given them.

1.18 Sec. 2. Minnesota Statutes 2010, section 45.25, is amended by adding a subdivision to
1.19 read:

1.20 Subd. 2a. **Classroom course.** "Classroom course" means an educational process
1.21 based on no geographical separation of instructor and learner.

1.22 Sec. 3. Minnesota Statutes 2010, section 45.25, is amended by adding a subdivision to
1.23 read:

2.1 Subd. 5a. **Distance learning course.** "Distance learning course" means an
2.2 education process based on the geographical separation of instructor and learner. This
2.3 includes, but is not limited to:

2.4 (1) an interactive Internet course; and

2.5 (2) a course taught live by the instructor via the Internet, video, or other electronic
2.6 means.

2.7 Sec. 4. Minnesota Statutes 2010, section 45.25, is amended by adding a subdivision to
2.8 read:

2.9 Subd. 14. **Self-study course.** "Self-study course" means a distance learning course
2.10 that is not entirely taught by the instructor live via the Internet, video, or other electronic
2.11 means.

2.12 Sec. 5. **[45.304] TIME AND VERIFICATION REQUIREMENTS.**

2.13 Subdivision 1. **Maximum hours allowed per day.** A student may not receive credit
2.14 for more than eight hours of continuing education in one day, whether the hours are for a
2.15 classroom course, a distance learning course, or any combination of the two. No course,
2.16 whether a classroom course, a distance learning course, or a combination of the two, shall
2.17 be offered to any one student for longer than eight hours in one day.

2.18 Subd. 2. **Breaks.** A classroom course, or a distance learning course taught live by
2.19 the instructor via the Internet, video, or other electronic means, may include a break of up
2.20 to ten minutes each hour. A break cannot occur at the end of the class. Breaks must not be
2.21 accumulated in order to dismiss the class early.

2.22 Subd. 3. **Verifiable self-study courses.** A self-study course must not be approved
2.23 unless it is objectively verifiable that:

2.24 (1) it includes a closed-book, end-of-course examination; and

2.25 (2) successful completion of the end-of-course examination can be objectively
2.26 documented.

2.27 Sec. 6. Minnesota Statutes 2010, section 60A.23, subdivision 8, is amended to read:

2.28 **Subd. 8. Self-insurance or insurance plan administrators who are vendors**
2.29 **of risk management services.** (1) **Scope.** This subdivision applies to any vendor of
2.30 risk management services and to any entity which administers, for compensation, a
2.31 self-insurance or insurance plan. This subdivision does not apply (a) to an insurance
2.32 company authorized to transact insurance in this state, as defined by section 60A.06,
2.33 subdivision 1, clauses (4) and (5); (b) to a service plan corporation, as defined by section

S.F. No. 1045, as introduced - 87th Legislative Session (2011-2012) [11-0271]

3.1 62C.02, subdivision 6; (c) to a health maintenance organization, as defined by section
3.2 62D.02, subdivision 4; (d) to an employer directly operating a self-insurance plan for
3.3 its employees' benefits; (e) to an entity which administers a program of health benefits
3.4 established pursuant to a collective bargaining agreement between an employer, or group
3.5 or association of employers, and a union or unions; or (f) to an entity which administers a
3.6 self-insurance or insurance plan if a licensed Minnesota insurer is providing insurance
3.7 to the plan and if the licensed insurer has appointed the entity administering the plan as
3.8 one of its licensed agents within this state.

3.9 (2) **Definitions.** For purposes of this subdivision the following terms have the
3.10 meanings given them.

3.11 (a) "Administering a self-insurance or insurance plan" means (i) processing,
3.12 reviewing or paying claims, (ii) establishing or operating funds and accounts, or (iii)
3.13 otherwise providing necessary administrative services in connection with the operation of
3.14 a self-insurance or insurance plan.

3.15 (b) "Employer" means an employer, as defined by section 62E.02, subdivision 2.

3.16 (c) "Entity" means any association, corporation, partnership, sole proprietorship,
3.17 trust, or other business entity engaged in or transacting business in this state.

3.18 (d) "Self-insurance or insurance plan" means a plan for the benefit of employees or
3.19 members of an association providing life, medical or hospital care, accident, sickness or
3.20 disability insurance, or pharmacy benefits, or a plan providing liability coverage for any
3.21 other risk or hazard, which is or is not directly insured or provided by a licensed insurer,
3.22 service plan corporation, or health maintenance organization.

3.23 (e) "Pharmacy benefit manager" means a third-party administrator under contract to
3.24 administer drug benefit programs for self-insurance or insurance plans.

3.25 ~~(e)~~ (f) "Vendor of risk management services" means an entity providing for
3.26 compensation actuarial, financial management, accounting, legal or other services for the
3.27 purpose of designing and establishing a self-insurance or insurance plan for an employer.

3.28 (3) **License.** ~~No~~ A vendor of risk management services ~~or, an~~ entity administering a
3.29 self-insurance or insurance plan ~~may, or a pharmacy benefit manager shall not~~ transact
3.30 this business in this state unless it is licensed to do so by the commissioner. An applicant
3.31 for a license shall state in writing the type of activities it seeks authorization to engage in
3.32 and the type of services it seeks authorization to provide. The license may be granted only
3.33 when the commissioner is satisfied that the entity possesses the necessary organization,
3.34 background, expertise, and financial integrity to supply the services sought to be offered.
3.35 The commissioner may issue a license subject to restrictions or limitations upon the
3.36 authorization, including the type of services which may be supplied or the activities which

4.1 may be engaged in. The license fee is \$1,500 for the initial application and \$1,500 for
4.2 each three-year renewal. All licenses are for a period of three years.

4.3 (4) **Regulatory restrictions; powers of the commissioner.** To assure that
4.4 self-insurance or insurance plans are financially solvent, are administered in a fair and
4.5 equitable fashion, and are processing claims and paying benefits in a prompt, fair,
4.6 and honest manner, vendors of risk management services and entities administering
4.7 insurance or self-insurance plans are subject to the supervision and examination by the
4.8 commissioner. Vendors of risk management services, entities administering insurance or
4.9 self-insurance plans, and insurance or self-insurance plans established or operated by
4.10 them are subject to the trade practice requirements of sections 72A.19 to 72A.30. In lieu
4.11 of an unlimited guarantee from a parent corporation for a vendor of risk management
4.12 services or an entity administering insurance or self-insurance plans, the commissioner
4.13 may accept a surety bond in a form satisfactory to the commissioner in an amount equal to
4.14 120 percent of the total amount of claims handled by the applicant in the prior year. If at
4.15 any time the total amount of claims handled during a year exceeds the amount upon which
4.16 the bond was calculated, the administrator shall immediately notify the commissioner.
4.17 The commissioner may require that the bond be increased accordingly.

4.18 ~~No~~ A contract entered into after July 1, 2001, between a licensed vendor of risk
4.19 management services and a group authorized to self-insure for workers' compensation
4.20 liabilities under section 79A.03, subdivision 6, ~~may~~ shall not take effect until it has been
4.21 filed with the commissioner, and either (1) the commissioner has approved it or (2) 60
4.22 days have elapsed and the commissioner has not disapproved it as misleading or violative
4.23 of public policy.

4.24 (5) **Rulemaking authority.** To carry out the purposes of this subdivision, the
4.25 commissioner may adopt rules pursuant to sections 14.001 to 14.69. These rules may:

4.26 (a) establish reporting requirements for administrators of insurance or self-insurance
4.27 plans;

4.28 (b) establish standards and guidelines to assure the adequacy of financing, reinsuring,
4.29 and administration of insurance or self-insurance plans;

4.30 (c) establish bonding requirements or other provisions assuring the financial integrity
4.31 of entities administering insurance or self-insurance plans; or

4.32 (d) establish other reasonable requirements to further the purposes of this
4.33 subdivision.

4.34 Sec. 7. Minnesota Statutes 2010, section 62A.095, subdivision 1, is amended to read:

S.F. No. 1045, as introduced - 87th Legislative Session (2011-2012) [11-0271]

5.1 Subdivision 1. **Applicability.** (a) ~~No~~ A health plan shall ~~may not~~ be offered, sold,
5.2 or issued to a resident of this state, or to cover a resident of this state, unless the health
5.3 plan complies with subdivision 2.

5.4 (b) Health plans providing benefits under health care programs administered by the
5.5 commissioner of human services are not subject to the limits described in subdivision
5.6 2 but are subject to the right of subrogation provisions under section 256B.37 and the
5.7 lien provisions under section 256.015; 256B.042; 256D.03, subdivision 8; or 256L.03,
5.8 subdivision 6.

5.9 For purposes of this section, "health plan" includes coverage that is excluded under
5.10 section 62A.011, subdivision 3, clauses (4), ~~(6), (7), (8), (9),~~ and (10).

5.11 Sec. 8. Minnesota Statutes 2010, section 62A.318, subdivision 17, is amended to read:

5.12 Subd. 17. **Types of plans.** Medicare select policies and certificates must ~~be either a~~
5.13 ~~basic plan or an extended basic plan~~ provide the coverages specified in sections 62A.315
5.14 to 62A.3165. Before a Medicare select policy or certificate is sold or issued in this state,
5.15 the applicant must be provided with an explanation of coverage for ~~both a Medicare select~~
5.16 ~~basic and a Medicare select extended basic policy or certificate~~ each of the coverages
5.17 specified in sections 62A.315 to 62A.3165 and must be provided with the opportunity of
5.18 purchasing ~~either a Medicare select basic or a Medicare select extended basic policy~~ such
5.19 coverage. The basic plan may also include any of the optional benefit riders authorized by
5.20 section 62A.316. Preventive care provided by Medicare select policies or certificates must
5.21 be provided as set forth in section 62A.315 or 62A.316, except that the benefits are as
5.22 defined in chapter 62D.

5.23 Sec. 9. Minnesota Statutes 2010, section 62E.14, subdivision 3, is amended to read:

5.24 Subd. 3. **Preexisting conditions.** ~~No~~ A person who obtains coverage pursuant to
5.25 this section ~~shall be~~ is not covered for any preexisting condition during the first six months
5.26 of coverage under the state plan if the person was diagnosed or treated for that condition
5.27 during the 90 days immediately preceding the date the application was received by the
5.28 writing carrier, except as provided under subdivisions 3a, 4, 4a, 4b, 4c, 4d, 4e, 5, 6, and 7
5.29 and section 62E.18.

5.30 Sec. 10. Minnesota Statutes 2010, section 62E.14, is amended by adding a subdivision
5.31 to read:

5.32 Subd. 4f. **Waiver of preexisting conditions; persons covered by a**
5.33 **community-based health care coverage program.** A person may enroll in the

6.1 comprehensive plan, with a waiver of preexisting condition limitation in subdivision
6.2 3, if the following requirements are met:

6.3 (1) the person was formerly enrolled in a community-based health care coverage
6.4 program under section 62Q.80;

6.5 (2) the person is a Minnesota resident; and

6.6 (3) the person submits an application for coverage that is received by the writing
6.7 carrier no later than 90 days after coverage under the community-based health care
6.8 program is terminated. For purposes of this clause, termination of coverage includes
6.9 exceeding the maximum lifetime or annual benefit on existing coverage, or moving out of
6.10 an area served by the program.

6.11 Sec. 11. Minnesota Statutes 2010, section 62L.03, subdivision 3, is amended to read:

6.12 Subd. 3. **Minimum participation and contribution.** (a) A small employer that has
6.13 at least 75 percent of its eligible employees who have not waived coverage participating in
6.14 a health benefit plan and that contributes at least 50 percent toward the cost of coverage of
6.15 each eligible employee must be guaranteed coverage on a guaranteed issue basis from
6.16 any health carrier participating in the small employer market. The participation level
6.17 of eligible employees must be determined at the initial offering of coverage and at the
6.18 renewal date of coverage. A health carrier must not increase the participation requirements
6.19 applicable to a small employer at any time after the small employer has been accepted for
6.20 coverage. For the purposes of this subdivision, waiver of coverage includes only waivers
6.21 due to: (1) coverage under another group health plan; (2) coverage under Medicare Parts
6.22 A and B; or (3) coverage under MCHA permitted under section 62E.141; or (4) coverage
6.23 under medical assistance under chapter 256B or general assistance medical care under
6.24 chapter 256D.

6.25 (b) If a small employer does not satisfy the contribution or participation requirements
6.26 under this subdivision, a health carrier may voluntarily issue or renew individual health
6.27 plans, or a health benefit plan which must fully comply with this chapter. A health carrier
6.28 that provides a health benefit plan to a small employer that does not meet the contribution
6.29 or participation requirements of this subdivision must maintain this information in its files
6.30 for audit by the commissioner. A health carrier may not offer an individual health plan,
6.31 purchased through an arrangement between the employer and the health carrier, to any
6.32 employee unless the health carrier also offers the individual health plan, on a guaranteed
6.33 issue basis, to all other employees of the same employer. An arrangement permitted under
6.34 section 62L.12, subdivision 2, paragraph (k), is not an arrangement between the employer
6.35 and the health carrier for purposes of this paragraph.

7.1 (c) Nothing in this section obligates a health carrier to issue coverage to a small
7.2 employer that currently offers coverage through a health benefit plan from another health
7.3 carrier, unless the new coverage will replace the existing coverage and not serve as one
7.4 of two or more health benefit plans offered by the employer. This paragraph does not
7.5 apply if the small employer will meet the required participation level with respect to
7.6 the new coverage.

7.7 Sec. 12. Minnesota Statutes 2010, section 72B.041, subdivision 5, is amended to read:

7.8 Subd. 5. **Exceptions.** (a) An individual who applies for an adjuster license in this
7.9 state who is or was licensed in another state for the same lines of authority based on
7.10 an adjuster examination is not required to complete a prelicensing examination. This
7.11 exemption is only available if the person is currently licensed in another state or if that
7.12 state license has expired and the application is received by this state within 90 days of
7.13 expiration. The applicant must provide certification from the other state that the applicant's
7.14 license is currently in good standing or was in good standing at the time of expiration
7.15 or certification from the other state that its producer database records, maintained by
7.16 the NAIC, its affiliates, or its subsidiaries, indicate that the applicant or the applicant's
7.17 company is or was licensed in good standing. The certification must be of a license with
7.18 the same line of authority for which the individual has applied.

7.19 (b) A person licensed as an adjuster in another state based on an adjuster examination
7.20 who establishes legal residency in this state must make application within 90 days to
7.21 become a resident adjuster licensee pursuant to this section, with the exception that no
7.22 prelicensing examination is required of this person.

7.23 ~~(c) A person who has held a license of any given class or in any field or fields within~~
7.24 ~~three years prior to the application shall be entitled to a renewal of the license in the same~~
7.25 ~~class or in the same fields without taking an examination.~~

7.26 ~~(d)~~ A person applying for a license as a crop hail adjuster shall not be required to
7.27 comply with the requirements of subdivision 4.

7.28 (d) A person applying for the crop line of authority who has satisfactorily completed
7.29 the National Crop Insurance Services Crop Adjuster Proficiency Program or the loss
7.30 adjustment training curriculum and competency testing required by the Federal Crop
7.31 Insurance Corporation Standard Reinsurance Agreement is exempt from the requirements
7.32 of subdivision 4.

7.33 Sec. 13. [72B.055] MULTIPLE PERIL CROP INSURANCE ADJUSTMENTS.

S.F. No. 1045, as introduced - 87th Legislative Session (2011-2012) [11-0271]

8.1 A licensed crop hail adjuster who has satisfactorily completed the loss adjustment
8.2 training curriculum and competency testing required by the Federal Crop Insurance
8.3 Corporation (FCIC) Standard Reinsurance Agreement may act as an adjuster in this state
8.4 in regard to Multiple Peril Crop Insurance policies regulated by the FCIC.

8.5 Sec. 14. Minnesota Statutes 2010, section 82.641, subdivision 1, is amended to read:

8.6 Subdivision 1. **Generally License required.** A person shall not act as a real estate
8.7 closing agent unless licensed as provided in this section. The commissioner shall issue
8.8 a license as a closing agent to a person who qualifies for the license under the terms
8.9 of this chapter.

8.10 Sec. 15. Minnesota Statutes 2010, section 82B.11, subdivision 6, is amended to read:

8.11 Subd. 6. **Temporary practice.** (a) The commissioner shall issue a license for
8.12 temporary practice as a real estate appraiser under subdivision 3, 4, or 5 to a person
8.13 certified or licensed by another state if:

8.14 (1) the property to be appraised is part of a federally related transaction and the
8.15 person is licensed to appraise property limited to the same transaction value or complexity
8.16 provided in subdivision 3, 4, or 5;

8.17 (2) the appraiser's business is of a temporary nature; and

8.18 (3) the appraiser registers with the commissioner to obtain a temporary license
8.19 before conducting appraisals within the state.

8.20 (b) The term of a temporary practice license is the lesser of:

8.21 (1) the time required to complete the assignment; or

8.22 (2) ~~six 12 months, with one extension allowed.~~

8.23 ~~The appraiser may request one extension of no more than six months on a form~~
8.24 ~~provided by the commissioner.~~ If more than 12 months are necessary to complete the
8.25 assignment, a new temporary application and fee is required.

8.26 Sec. 16. Minnesota Statutes 2010, section 82B.13, is amended by adding a subdivision
8.27 to read:

8.28 Subd. 8. **Appraiser prelicense education.** Notwithstanding section 45.22, a college
8.29 or university real estate course may be approved retroactively by the commissioner for
8.30 appraiser prelicense education credit if:

8.31 (1) the course was offered by a college or university physically located in Minnesota;

8.32 (2) the college or university was an approved education provider at the time the
8.33 course was offered; and

9.1 (3) the commissioner's approval is made to the same extent in terms of courses and
9.2 hours and with the same time limits as those specified by the Appraiser Qualifications
9.3 Board.

9.4 Sec. 17. Minnesota Statutes 2010, section 82B.14, is amended to read:

9.5 **82B.14 EXPERIENCE REQUIREMENT.**

9.6 (a) As a prerequisite for licensing as a licensed real property appraiser, an applicant
9.7 must present evidence satisfactory to the commissioner that the person has obtained 2,000
9.8 hours of experience in real property appraisal obtained in no fewer than 12 months.

9.9 As a prerequisite for licensing as a certified residential real property appraiser, an
9.10 applicant must present evidence satisfactory to the commissioner that the person has
9.11 obtained 2,500 hours of experience in real property appraisal obtained in no fewer than
9.12 24 months.

9.13 As a prerequisite for licensing as a certified general real property appraiser, an
9.14 applicant must present evidence satisfactory to the commissioner that the person has
9.15 obtained 3,000 hours of experience in real property appraisal obtained in no fewer than 30
9.16 months. At least 50 percent, or 1,500 hours, must be in nonresidential appraisal work.

9.17 (b) Each applicant for license under section 82B.11, subdivision 3, 4, or 5, shall
9.18 give under oath a detailed listing of the real estate appraisal reports or file memoranda
9.19 for which experience is claimed by the applicant. Upon request, the applicant shall make
9.20 available to the commissioner for examination, a sample of appraisal reports that the
9.21 applicant has prepared in the course of appraisal practice.

9.22 ~~(c) Notwithstanding section 45.22, a college or university real estate course may be~~
9.23 ~~approved retroactively by the commissioner for appraiser prelicense education credit if:~~

9.24 ~~(1) the course was offered by a college or university physically located in Minnesota;~~

9.25 ~~(2) the college or university was an approved education provider at the time the~~
9.26 ~~course was offered;~~

9.27 ~~(3) the commissioner's approval is made to the same extent in terms of courses and~~
9.28 ~~hours and with the same time limits as those specified by the Appraiser Qualifications~~
9.29 ~~Board.~~

9.30 ~~(d)~~ (c) Applicants may not receive credit for experience accumulated while
9.31 unlicensed, if the experience is based on activities which required a license under this
9.32 section.

9.33 ~~(e)~~ (d) Experience for all classifications must be obtained after January 30, 1989,
9.34 and must be USPAP compliant.

S.F. No. 1045, as introduced - 87th Legislative Session (2011-2012) [11-0271]

10.1 Sec. 18. Minnesota Statutes 2010, section 82C.08, subdivision 2, is amended to read:

10.2 Subd. 2. **Amounts.** (a) Each application for initial licensure shall be accompanied
10.3 by a fee of \$5,000.

10.4 (b) Each application for renewal of the license must be received prior to ~~the two-year~~
10.5 its expiration ~~period~~ with the renewal fee of \$2,500.

10.6 Sec. 19. **REPEALER.**

10.7 Minnesota Statutes 2010, section 45.25, subdivision 3, is repealed.