

## CHAPTER 144

## DEPARTMENT OF HEALTH

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**144.06 STATE COMMISSIONER OF HEALTH TO PROVIDE INSTRUCTION.**

The state commissioner of health, hereinafter referred to as the commissioner, is hereby authorized to provide instruction and advice to expectant mothers and fathers during pregnancy and to mothers, fathers, and their infants after childbirth; and to employ such persons as may be necessary to carry out the requirements of sections 144.06 and 144.07. The instruction, advice, and care shall be given only to applicants residing within the state. No person receiving aid under sections 144.06, 144.07, and 144.09 shall for this reason be affected thereby in any civil or political rights, nor shall the person's identity be disclosed except upon written order of the commissioner.

**History:** 1981 c 31 s 2

**144.0742 CONTRACTS FOR PROVISION OF PUBLIC HEALTH SERVICES.**

The commissioner of health is authorized to enter into contractual agreements with any public or private entity for the provision of statutorily prescribed public health services by the department. The contracts shall specify the services to be provided and the amount and method of reimbursement therefor. Funds generated in a contractual agreement made pursuant to this section are appropriated to the department for purposes of providing the services specified in the contracts. All such contractual agreements shall be processed in accordance with the provisions of section 16.098.

**History:** 1981 c 360 art 1 s 15

**144.125 TESTS OF INFANTS FOR INBORN METABOLIC ERRORS CAUSING MENTAL RETARDATION.**

It is the duty of (1) the administrative officer or other person in charge of each institution caring for infants 28 days or less of age and (2) the person required in pursuance of the provisions of section 144.215, to register the birth of a child, to cause to have administered to every such infant or child in its or his care tests for phenylketonuria and other inborn errors of metabolism causing mental retardation in accordance with rules or regulations prescribed by the state commissioner of health. Testing and the recording and reporting of the results of such tests shall be performed at such times and in such manner as may be prescribed by the state commissioner of health. The provisions of this section shall not apply to any infant whose parents object thereto on the grounds that such tests and treatment conflict with their religious tenets and practices.

**History:** 1Sp1981 c 4 art 1 s 75

**144.343 PREGNANCY, VENEREAL DISEASE, ALCOHOL OR DRUG ABUSE, ABORTION.**

Subdivision 1. **Minor's consent valid.** Any minor may give effective consent for medical, mental and other health services to determine the presence of or to treat pregnancy and conditions associated therewith, venereal disease, alcohol and other drug abuse, and the consent of no other person is required.

Subd. 2. **Notification concerning abortion.** Notwithstanding the provisions of section 15.162, subdivision 4, no abortion operation shall be performed upon an unemancipated minor or upon a woman for whom a guardian or conservator has been appointed pursuant to sections 525.54 to 525.551 because of a finding of incompetency, until at least 48 hours after written notice of the pending operation has been delivered in the manner specified in subdivisions 2 to 4.

(a) The notice shall be addressed to the parent at his usual place of abode and delivered personally to the parent by the physician or his agent.

(b) In lieu of the delivery required by clause (a), notice shall be made by certified mail addressed to the parent at his usual place of abode with return receipt requested and restricted delivery to the addressee which means postal employee can only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing.

Subd. 3. **Parent, abortion; definitions.** For purposes of this section, "parent" means both parents of the pregnant woman if they are both living, one parent of the pregnant woman if only one is living or if the second one cannot be located through reasonably diligent effort, or the guardian or conservator if the pregnant woman has one.

For purposes of this section, "abortion" means the use of any means to terminate the pregnancy of a woman known to be pregnant with knowledge that the termination with those means will, with reasonable likelihood, cause the death of the fetus and "fetus" means any individual human organism from fertilization until birth.

Subd. 4. **Limitations.** No notice shall be required under this section if:

(a) The attending physician certifies in the pregnant woman's medical record that the abortion is necessary to prevent the woman's death and there is insufficient time to provide the required notice; or

(b) The abortion is authorized in writing by the person or persons who are entitled to notice; or

(c) The pregnant minor woman declares that she is a victim of sexual abuse, neglect, or physical abuse as defined in section 626.556. Notice of that declaration shall be made to the proper authorities as provided in section 626.556, subdivision 3.

Subd. 5. **Penalty.** Performance of an abortion in violation of this section shall be a misdemeanor and shall be grounds for a civil action by a person wrongfully denied notification. A person shall not be held liable under this section if the person establishes by written evidence that the person relied upon evidence sufficient to convince a careful and prudent person that the representations of the pregnant woman regarding information necessary to comply with this section are bona fide and true, or if the person has attempted with reasonable diligence to deliver notice, but has been unable to do so.

Subd. 6. **Substitute notification provisions.** If subdivision 2 of this law is ever temporarily or permanently restrained or enjoined by judicial order, subdivi-

sion 2 shall be enforced as though the following paragraph were incorporated as paragraph (c) of that subdivision; provided, however, that if such temporary or permanent restraining order or injunction is ever stayed or dissolved, or otherwise ceases to have effect, subdivision 2 shall have full force and effect, without being modified by the addition of the following substitute paragraph which shall have no force or effect until or unless an injunction or restraining order is again in effect.

(c)(i) If such a pregnant woman elects not to allow the notification of one or both of her parents or guardian or conservator, any judge of a court of competent jurisdiction shall, upon petition, or motion, and after an appropriate hearing, authorize a physician to perform the abortion if said judge determines that the pregnant woman is mature and capable of giving informed consent to the proposed abortion. If said judge determines that the pregnant woman is not mature, or if the pregnant woman does not claim to be mature, the judge shall determine whether the performance of an abortion upon her without notification of her parents, guardian, or conservator would be in her best interests and shall authorize a physician to perform the abortion without such notification if said judge concludes that the pregnant woman's best interests would be served thereby.

(ii) Such a pregnant woman may participate in proceedings in the court on her own behalf, and the court may appoint a guardian ad litem for her. The court shall, however, advise her that she has a right to court appointed counsel, and shall, upon her request, provide her with such counsel.

(iii) Proceedings in the court under this section shall be confidential and shall be given such precedence over other pending matters so that the court may reach a decision promptly and without delay so as to serve the best interests of the pregnant woman. A judge of the court who conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting his decision and shall order a record of the evidence to be maintained including his own findings and conclusions.

(iv) An expedited confidential appeal shall be available to any such pregnant woman for whom the court denies an order authorizing an abortion without notification. An order authorizing an abortion without notification shall not be subject to appeal. No filing fees shall be required of any such pregnant woman at either the trial or the appellate level. Access to the trial court for the purposes of such a petition or motion, and access to the appellate courts for purposes of making an appeal from denial of the same, shall be afforded such a pregnant woman 24 hours a day, seven days a week.

**Subd. 7. Severability.** If any provision, word, phrase or clause of this section or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions, words, phrases, clauses or application of this section which can be given effect without the invalid provision, word, phrase, clause, or application, and to this end the provisions, words, phrases, and clauses of this section are declared to be severable.

**History:** 1981 c 228 s 1

#### **144.50 HOSPITALS, LICENSES; DEFINITIONS.**

Subdivision 1. No person, partnership, association, or corporation; nor any state, county, or local governmental units, nor any division, department, board, or agency thereof, shall establish, operate, conduct, or maintain in the state any hospital, sanatorium or other institution for the hospitalization or care of human beings without first obtaining a license therefor in the manner provided in sections 144.50 to 144.56.

*[For text of subs 2 to 5, see M.S.1980]*

**History:** 1981 c 95 s 1

# MINNESOTA STATUTES 1981 SUPPLEMENT

## 144.55 LICENSES; ISSUANCE, SUSPENSION AND REVOCATION BY COMMISSIONER.

Subdivision 1. **Issuance.** The state commissioner of health is hereby authorized to issue licenses to operate hospitals, sanatoriums or other institutions for the hospitalization or care of human beings, which are found to comply with the provisions of sections 144.50 to 144.56 and any reasonable rules promulgated by the commissioner. All decisions of the commissioner thereunder may be reviewed in the district court in the county in which the institution is located or contemplated.

Subd. 2. **Definition.** For the purposes of this section, "joint commission" means the joint commission on accreditation of hospitals.

Subd. 3. **Standards for licensure.** Notwithstanding the provisions of section 144.56, for the purpose of hospital licensure, the commissioner of health shall use as minimum standards the hospital certification regulations promulgated pursuant to Title XVIII of the Social Security Act, 42 U.S.C., Section 1395, et. seq. The commissioner may use as minimum standards changes in the federal hospital certification regulations promulgated after May 7, 1981 if he finds that such changes are reasonably necessary to protect public health and safety. The commissioner shall also promulgate in rules additional minimum standards for new construction.

Subd. 4. **Routine inspections; presumption.** Any hospital surveyed and accredited under the standards of the hospital accreditation program of the joint commission that submits to the commissioner within a reasonable time copies of (a) its currently valid accreditation certificate and accreditation letter, together with accompanying recommendations and comments and (b) any further recommendations, progress reports and correspondence directly related to the accreditation is presumed to comply with application requirements of subdivision 1 and the standards requirements of subdivision 3 and no further routine inspections or accreditation information shall be required by the commissioner to determine compliance. Notwithstanding the provisions of sections 144.54 and 144.653, subdivisions 2 and 4, hospitals shall be inspected only as provided in this section. The provisions of section 144.653 relating to the assessment and collection of fines shall not apply to any hospital. The commissioner of health shall annually conduct, with notice, validation inspections of a selected sample of the number of hospitals accredited by the joint commission, not to exceed ten percent of accredited hospitals, for the purpose of determining compliance with the provisions of subdivision 3. If a validation survey discloses a failure to comply with subdivision 3, the provisions of section 144.653 relating to correction orders, reinspections, and notices of noncompliance shall apply. The commissioner shall also conduct any inspection necessary to determine whether hospital construction, addition, or remodeling projects comply with standards for construction promulgated in rules pursuant to subdivision 3. Pursuant to section 144.653, the commissioner shall inspect any hospital that does not have a currently valid hospital accreditation certificate from the joint commission. Nothing in this subdivision shall be construed to limit the investigative powers of the office of health facility complaints as established in sections 144A.51 to 144A.54.

Subd. 5. **Coordination of inspections.** Prior to conducting routine inspections of hospitals, a state agency shall notify the commissioner of its intention to inspect. The commissioner shall then determine whether the inspection is necessary in light of any previous inspections conducted by the commissioner, any other state agency, or the joint commission. The commissioner shall notify the agency

of his determination and may authorize the agency to conduct the inspection. No state agency may routinely inspect any hospital without the authorization of the commissioner. The commissioner shall coordinate, insofar as is possible, routine inspections conducted by state agencies, so as to minimize the number of inspections to which hospitals are subject.

**Subd. 6. Suspension, revocation, and refusal to renew.** The commissioner may refuse to grant or renew, or may suspend or revoke, a license on any of the following grounds:

(1) Violation of any of the provisions of sections 144.50 to 144.56 or the rules, regulations, or standards issued pursuant thereto;

(2) Permitting, aiding, or abetting the commission of any illegal act in the institution;

(3) Conduct or practices detrimental to the welfare of the patient; or

(4) Obtaining or attempting to obtain a license by fraud or misrepresentation.

**Subd. 7. Hearing.** Prior to any suspension, revocation or refusal to renew a license, the licensee shall be entitled to notice and a hearing as provided by sections 15.0418 to 15.0426. At each hearing, the commissioner shall have the burden of establishing that a violation described in subdivision 6 has occurred.

If a license is revoked, suspended, or not renewed, a new application for license may be considered by the commissioner if the conditions upon which revocation, suspension, or refusal to renew was based have been corrected and evidence of this fact has been satisfactorily furnished. A new license may then be granted after proper inspection has been made and all provisions of sections 144.50 to 144.56 and any rules promulgated thereunder have been complied with and recommendation has been made by the inspector as an agent of the commissioner.

**Subd. 8. Rules.** The commissioner may promulgate rules necessary to implement the provisions of this section, except that the standards described in subdivision 3 shall constitute the sole minimum quality standards for licensure of hospitals.

**Subd. 9. Expiration of presently valid licenses.** All licenses presently in effect shall remain valid following May 7, 1981 and shall expire on the dates specified on the licenses unless suspended or revoked.

**Subd. 10. Evaluation report.** On November 15, 1983, the commissioner shall provide the legislature and the governor with a written report evaluating the utilization of the accreditation program, paying particular attention to its effect upon the public health and safety.

**Subd. 11. State hospitals not affected.** Subdivisions 3, 4 and 5 do not apply to state hospitals and other facilities operated under the direction of the commissioner of public welfare.

**History:** 1981 c 95 s 2

#### 144.56 STANDARDS.

*[For text of subs 1 and 2, see M.S.1980]*

**Subd. 2a.** The commissioner shall not adopt any rule which unconditionally prohibits double beds in a boarding care home. The commissioner may adopt rules setting criteria for when double beds will be allowed.

*[For text of subs 3 and 4, see M.S.1980]*

**History:** 1981 c 23 s 2

**144.653 RULES; PERIODIC INSPECTIONS; ENFORCEMENT.**

Subdivision 1. **Rules.** The state commissioner of health is the exclusive state agency charged with the responsibility and duty of inspecting all facilities required to be licensed under the provisions of sections 144.50 to 144.58. The state commissioner of health shall enforce its rules subject only to the authority of the department of public safety respecting the enforcement of fire and safety standards in licensed health care facilities and the responsibility of the commissioner of public welfare pursuant to sections 245.781 to 245.812 and 252.28.

*[For text of subds 2 to 9, see M.S.1980]*

**History:** *1Sp1981 c 4 art 1 s 76*

**144.704 GIFTS AND GRANTS.**

Subdivision 1. **Legislative policy.** It is the policy of the state of Minnesota that philanthropic support for health care should be encouraged and expanded, especially in support of experimental and innovative efforts to improve the health care delivery system.

Subd. 2. **Use in determining costs.** For the purposes of determining reasonable revenue necessary for the delivery of services furnished by hospitals, and for the purposes of third party cost payors in determining reasonable costs of services furnished by hospitals, the following grants, gifts and income from endowments from non-governmental sources shall be excluded:

(a) A donor-designated or restricted grant, gift, or income from an endowment, as defined in 42 Code of Federal Regulations 405.423(b)(2) as of December 31, 1980;

(b) An unrestricted grant or gift, or income from an unrestricted grant or gift, which is not available for use as operating funds because of its designation by the hospital's governing board; and

(c) Money from the sale or mortgage of any real estate or other capital assets of the hospital which the hospital acquired through a gift or grant and which is not available for use as operating funds under the terms of the gift or grant or because of its designation by the hospital's governing board, except for recovery of the appropriate share of gains and losses realized from the disposal of depreciable assets.

**History:** *1981 c 200 s 1*

**144.801 DEFINITIONS.**

*[For text of subds 1 to 7, see M.S.1980]*

Subd. 8. "Health systems agency" means an agency established under section 145.845 to meet the requirements of the National Health Planning and Resources Development Act, P.L. 93-641, 42 U.S.C. Section 300k et seq.

*[For text of subds 9 and 10, see M.S.1980]*

**History:** *1Sp1981 c 4 art 1 s 77*

**144.92 GRANTS OR GIFTS.**

The board is authorized to receive and expend in accordance with approved plans such funds as may be granted by the public health service or any other federal agency which may appropriate funds for this purpose, or such funds as may be received as gifts from private organizations and individuals to the state for carrying out the purposes of section 144.91.

**History:** *1Sp1981 c 4 art 1 s 78*