

## CHAPTER 144

## DEPARTMENT OF HEALTH

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| 144.011 | Department of health.   | 144.652 | Bill of rights notice to patient or resident; violation. |
| 144.12  | Regulation, enforcement, licenses, fees.                          | 144.653 | Rules; periodic inspections; enforcement.                |
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| 144.571 | Repealed.   |         |  |
| 144.651 | Patients and residents of health care facilities; bill of rights. |         |  |

**144.011 DEPARTMENT OF HEALTH.**

*[For text of subd 1, see M.S.1982]*

Subd. 2. **State health advisory task force.** The commissioner of health may appoint a state health advisory task force. If appointed, members of the task force shall be broadly representative of the licensed health professions and shall also include public members as defined by section 214.02. The task force shall expire, and the terms, compensation, and removal of members shall be as provided in section 15.059.

**History:** 1983 c 260 s 30

**144.12 REGULATION, ENFORCEMENT, LICENSES, FEES.**

Subdivision 1. **Rules.** The commissioner may adopt reasonable rules pursuant to chapter 14 for the preservation of the public health. The rules shall not conflict with the charter or ordinance of a city of the first class upon the same subject. The commissioner may control, by rule, by requiring the taking out of licenses or permits, or by other appropriate means, any of the following matters:

- (1) The manufacture into articles of commerce, other than food, of diseased, tainted, or decayed animal or vegetable matter;
- (2) The business of scavenging and the disposal of sewage;
- (3) The location of mortuaries and cemeteries and the removal and burial of the dead;
- (4) The management of boarding places for infants and the treatment of infants in them;
- (5) The pollution of streams and other waters and the distribution of water by persons for drinking or domestic use;
- (6) The construction and equipment, in respect to sanitary conditions, of schools, hospitals, almshouses, prisons, and other public institutions, and of lodging houses and other public sleeping places kept for gain;
- (7) The treatment, in hospitals and elsewhere, of persons suffering from communicable diseases, including all manner of venereal disease and infection, the disinfection and quarantine of persons and places in case of those diseases, and the reporting of sicknesses and deaths from them;

Neither the commissioner nor any local board of health nor director of public health may adopt any rule or regulation for the treatment in any penal or correctional institution of any person suffering from any communicable disease or venereal disease or infection, which requires the involuntary detention of any person after the expiration of his period of sentence to the penal or correctional institution, or after the expiration of the period to which the sentence may be reduced by good time allowance or by the lawful order of any judge or the department of corrections;

(8) The prevention of infant blindness and infection of the eyes of the newly born by the designation, from time to time, of one or more prophylactics to be used in those cases and in the manner that the commissioner directs, unless specifically objected to by a parent of the infant;

(9) The furnishing of vaccine matter; the assembling, during epidemics of smallpox, with other persons not vaccinated, but no rule of the board or of any public board or officer shall at any time compel the vaccination of a child, or exclude, except during epidemics of smallpox and when approved by the local board of education, a child from the public schools for the reason that the child has not been vaccinated; any person required to be vaccinated may select for that purpose any licensed physician and no rule shall require the vaccination of any child whose physician certifies that by reason of his physical condition vaccination would be dangerous;

(10) The accumulation of filthy and unwholesome matter to the injury of the public health and its removal;

(11) The collection, recording, and reporting of vital statistics by public officers and the furnishing of information to them by physicians, undertakers, and others of births, deaths, causes of death, and other pertinent facts;

(12) The construction, equipment, and maintenance, in respect to sanitary conditions, of lumber camps, migratory or migrant labor camps, and other industrial camps;

(13) The general sanitation of tourist camps, summer hotels, and resorts in respect to water supplies, disposal of sewage, garbage, and other wastes and the prevention and control of communicable diseases; and, to that end, may prescribe the respective duties of county and local health officers; and all county and local boards of health shall make such investigations and reports and obey such directions as the commissioner may require or give and, under the supervision of the commissioner, enforce the regulations;

(14) Atmospheric pollution which may be injurious or detrimental to public health;

(15) Sources of radiation, and the handling, storage, transportation, use and disposal of radioactive isotopes and fissionable materials; and

(16) The establishment, operation and maintenance of all clinical laboratories not owned, or functioning as a component of a licensed hospital. These laboratories shall not include laboratories owned or operated by five or less licensed practitioners of the healing arts, unless otherwise provided by federal law or regulation, and in which these practitioners perform tests or procedures solely in connection with the treatment of their patients. Rules promulgated under the authority of this clause, which shall not take effect until federal legislation relating to the regulation and improvement of clinical laboratories has been enacted, may relate at least to minimum requirements for external and internal quality control, equipment, facility environment, personnel, administration and records. These rules may include the establishment of a fee schedule for clinical laboratory inspections. The provisions of this clause shall expire 30 days after the conclusion of any fiscal year in which the federal government pays for less than 45 percent of the cost of regulating clinical laboratories.

*[For text of subs 2 and 3, see M.S.1982]*

**History:** 1983 c 359 s 9

**144.225 DISCLOSURE OF INFORMATION FROM VITAL RECORDS.**

*[For text of subd 1, see M.S.1982]*

Subd. 2. **Information about certain births.** Disclosure of information pertaining to the birth of a child to a woman who was not married to the child's father when the child was conceived nor when the child was born or information from which it can be ascertained, shall be made only to the guardian of the person, the person to whom the record pertains when the person is 18 years of age or older, a parent of the person born to a mother who was not married to the child's father when the child was conceived nor when the child was born as provided by section 144.218, subdivision 1, or upon order of a court of competent jurisdiction. The birth and death records of the commissioner of health shall be open to inspection by the commissioner of public welfare and it shall not be necessary for him to obtain an order of the court in order to inspect records or to secure certified copies of them.

*[For text of subds 3 to 5, see M.S.1982]*

**History:** 1983 c 7 s 2; 1983 c 243 s 5 subd 2

**144.571** [Repealed, 1983 c 260 s 68]

**144.651 PATIENTS AND RESIDENTS OF HEALTH CARE FACILITIES; BILL OF RIGHTS.**

Subdivision 1. **Legislative intent.** It is the intent of the legislature and the purpose of this section to promote the interests and well being of the patients and residents of health care facilities. No health care facility may require a patient or resident to waive these rights as a condition of admission to the facility. Any guardian or conservator of a patient or resident or, in the absence of a guardian or conservator, an interested person, may seek enforcement of these rights on behalf of a patient or resident. It is the intent of this section that every patient's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and that the facility shall encourage and assist in the fullest possible exercise of these rights.

Subd. 2. **Definitions.** For the purposes of this section, "patient" means a person who is admitted to an acute care inpatient facility for a continuous period longer than 24 hours, for the purpose of diagnosis or treatment bearing on the physical or mental health of that person. "Resident" means a person who is admitted to a nonacute care facility including extended care facilities, nursing homes, and board and care homes for care required because of prolonged mental or physical illness or disability, recovery from injury or disease, or advancing age.

Subd. 3. **Public policy declaration.** It is declared to be the public policy of this state that the interests of each patient and resident be protected by a declaration of a patients' bill of rights which shall include but not be limited to the rights specified in this section.

Subd. 4. **Information about rights.** Patients and residents shall, at admission, be told that there are legal rights for their protection during their stay at the facility and that these are described in an accompanying written statement of the applicable rights and responsibilities set forth in this section. Reasonable arrangements shall be made for those with communication impairments and those who speak a language other than English. Current facility policies, inspection findings of state and local health authorities, and further explanation of the written statement of rights shall be available to patients, residents, their guardians or their

chosen representatives upon reasonable request to the administrator or other designated staff person.

Subd. 5. **Courteous treatment.** Patients and residents have the right to be treated with courtesy and respect for their individuality by employees of or persons providing service in a health care facility.

Subd. 6. **Appropriate health care.** Patients and residents shall have the right to appropriate medical and personal care based on individual needs. Appropriate care for residents means care designed to enable residents to achieve their highest level of physical and mental functioning. This right is limited where the service is not reimbursable by public or private resources.

Subd. 7. **Physician's identity.** Patients and residents shall have or be given, in writing, the name, business address, telephone number, and specialty, if any, of the physician responsible for coordination of their care. In cases where it is medically inadvisable, as documented by the attending physician in a patient's or resident's care record, the information shall be given to the patient's or resident's guardian or other person designated by the patient or resident as his or her representative.

Subd. 8. **Relationship with other health services.** Patients and residents who receive services from an outside provider are entitled, upon request, to be told the identity of the provider. Residents shall be informed, in writing, of any health care services which are provided to those residents by individuals, corporations, or organizations other than their facility. Information shall include the name of the outside provider, the address, and a description of the service which may be rendered. In cases where it is medically inadvisable, as documented by the attending physician in a patient's or resident's care record, the information shall be given to the patient's or resident's guardian or other person designated by the patient or resident as his or her representative.

Subd. 9. **Information about treatment.** Patients and residents shall be given by their physicians complete and current information concerning their diagnosis, treatment, alternatives, risks, and prognosis as required by the physician's legal duty to disclose. This information shall be in terms and language the patients or residents can reasonably be expected to understand. Patients and residents may be accompanied by a family member or other chosen representative. This information shall include the likely medical or major psychological results of the treatment and its alternatives. In cases where it is medically inadvisable, as documented by the attending physician in a patient's or resident's medical record, the information shall be given to the patient's or resident's guardian or other person designated by the patient or resident as his or her representative. Individuals have the right to refuse this information.

Subd. 10. **Participation in planning treatment.** Patients and residents shall have the right to participate in the planning of their health care. This right includes the opportunity to discuss treatment and alternatives with individual caregivers, the opportunity to request and participate in formal care conferences, and the right to include a family member or other chosen representative. In the event that the patient or resident cannot be present, a family member or other representative chosen by the patient or resident may be included in such conferences.

Subd. 11. **Continuity of care.** Patients and residents shall have the right to be cared for with reasonable regularity and continuity of staff assignment as far as facility policy allows.

Subd. 12. **Right to refuse care.** Competent patients and residents shall have the right to refuse treatment based on the information required in subdivision 9. Residents who refuse treatment, medication, or dietary restrictions shall be informed of the likely medical or major psychological results of the refusal, with documentation in the individual medical record. In cases where a patient or resident is incapable of understanding the circumstances but has not been adjudicated incompetent, or when legal requirements limit the right to refuse treatment, the conditions and circumstances shall be fully documented by the attending physician in the patient's or resident's medical record.

Subd. 13. **Experimental research.** Written, informed consent must be obtained prior to a patient's or resident's participation in experimental research. Patients and residents have the right to refuse participation. Both consent and refusal shall be documented in the individual care record.

Subd. 14. **Freedom from abuse.** Patients and residents shall be free from mental and physical abuse as defined in the Vulnerable Adults Protection Act. "Abuse" means any act which constitutes assault, sexual exploitation, or criminal sexual conduct as described in section 626.557, subdivision 2d, or the intentional and nontherapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce mental or emotional distress. Every patient and resident shall also be free from nontherapeutic chemical and physical restraints, except in fully documented emergencies, or as authorized in writing after examination by a patient's or resident's physician for a specified and limited period of time, and only when necessary to protect the resident from self-injury or injury to others.

Subd. 15. **Treatment privacy.** Patients and residents shall have the right to respectfulness and privacy as it relates to their medical and personal care program. Case discussion, consultation, examination, and treatment are confidential and shall be conducted discreetly. Privacy shall be respected during toileting, bathing, and other activities of personal hygiene, except as needed for patient or resident safety or assistance.

Subd. 16. **Confidentiality of records.** Patients and residents shall be assured confidential treatment of their personal and medical records, and may approve or refuse their release to any individual outside the facility. Residents shall be notified when personal records are requested by any individual outside the facility and may select someone to accompany them when the records or information are the subject of a personal interview. Copies of records and written information from the records shall be made available in accordance with this subdivision and section 144.335. This right does not apply to complaint investigations and inspections by the department of health, where required by third party payment contracts, or where otherwise provided by law.

Subd. 17. **Disclosure of services available.** Patients and residents shall be informed, prior to or at the time of admission and during their stay, of services which are included in the facility's basic per diem or daily room rate and that other services are available at additional charges. Facilities shall make every effort to assist patients and residents in obtaining information regarding whether the medicare or medical assistance program will pay for any or all of the aforementioned services.

Subd. 18. **Responsive service.** Patients and residents shall have the right to a prompt and reasonable response to their questions and requests.

Subd. 19. **Personal privacy.** Patients and residents shall have the right to every consideration of their privacy, individuality, and cultural identity as related to their social, religious, and psychological well-being. Facility staff shall respect

the privacy of a resident's room by knocking on the door and seeking consent before entering, except in an emergency or where clearly inadvisable.

**Subd. 20. Grievances.** Patients and residents shall be encouraged and assisted, throughout their stay in a facility, to understand and exercise their rights as patients, residents, and citizens. Patients and residents may voice grievances and recommend changes in policies and services to facility staff and others of their choice, free from restraint, interference, coercion, discrimination, or reprisal, including threat of discharge. Notice of the facility's grievance procedure, as well as addresses and telephone numbers for the office of health facility complaints and the area nursing home ombudsman pursuant to the Older Americans Act, section 307(a)(12) shall be posted in a conspicuous place.

**Subd. 21. Communication privacy.** Patients and residents may associate and communicate privately with persons of their choice and enter and, except as provided by the Minnesota Commitment Act, leave the facility as they choose. Patients and residents shall have access, at their expense, to writing instruments, stationery, and postage. Personal mail shall be sent without interference and received unopened unless medically or programmatically contraindicated and documented by the physician in the medical record. There shall be access to a telephone where patients and residents can make and receive calls as well as speak privately. Facilities which are unable to provide a private area shall make reasonable arrangements to accommodate the privacy of patients' or residents' calls. This right is limited where medically inadvisable, as documented by the attending physician in a patient's or resident's care record. Where programmatically limited by a facility abuse prevention plan pursuant to section 626.557, subdivision 14, clause 2, this right shall also be limited accordingly.

**Subd. 22. Personal property.** Patients and residents may retain and use their personal clothing and possessions as space permits, unless to do so would infringe upon rights of other patients or residents, and unless medically or programmatically contraindicated for documented medical, safety, or programmatic reasons. The facility must either maintain a central locked depository or provide individual locked storage areas in which residents may store their valuables for safekeeping. The facility may, but is not required to, provide compensation for or replacement of lost or stolen items.

**Subd. 23. Services for the facility.** Patients and residents shall not perform labor or services for the facility unless those activities are included for therapeutic purposes and appropriately goal-related in their individual medical record.

**Subd. 24. Choice of supplier.** A resident may purchase or rent goods or services not included in the per diem rate from a supplier of his or her choice unless otherwise provided by law. The supplier shall ensure that these purchases are sufficient to meet the medical or treatment needs of the resident.

**Subd. 25. Financial affairs.** Competent residents may manage their personal financial affairs, or shall be given at least a quarterly accounting of financial transactions on their behalf if they delegate this responsibility in accordance with the laws of Minnesota to the facility for any period of time.

**Subd. 26. Right to associate.** Residents may meet with visitors and participate in activities of commercial, religious, political, as defined in section 203B.11 and community groups without interference at their discretion if the activities do not infringe on the right to privacy of other residents or are not programmatically contraindicated. This includes the right to join with other individuals within and outside the facility to work for improvements in long-term care.

Subd. 27. **Advisory councils.** Residents and their families shall have the right to organize, maintain, and participate in resident advisory and family councils. Each facility shall provide assistance and space for meetings. Council meetings shall be afforded privacy, with staff or visitors attending only upon the council's invitation. A staff person shall be designated the responsibility of providing this assistance and responding to written requests which result from council meetings. Resident and family councils shall be encouraged to make recommendations regarding facility policies.

Subd. 28. **Married residents.** Residents, if married, shall be assured privacy for visits by their spouses and, if both spouses are residents of the facility, they shall be permitted to share a room, unless medically contraindicated and documented by their physicians in the medical records.

Subd. 29. **Transfers and discharges.** Residents shall not be arbitrarily transferred or discharged. Residents must be notified, in writing, of the proposed discharge or transfer and its justification no later than 30 days before discharge from the facility and seven days before transfer to another room within the facility. This notice shall include the resident's right to contest the proposed action, with the address and telephone number of the area nursing home ombudsman pursuant to the Older Americans Act, section 307(a)(12). The resident, informed of this right, may choose to relocate before the notice period ends. The notice period may be shortened in situations outside the facility's control, such as a determination by utilization review, the accommodation of newly-admitted residents, a change in the resident's medical or treatment program, the resident's own or another resident's welfare, or nonpayment for stay unless prohibited by the public program or programs paying for the resident's care, as documented in the medical record. Facilities shall make a reasonable effort to accommodate new residents without disrupting room assignments.

**History:** 1983 c 248 s 1

#### **144.652 BILL OF RIGHTS NOTICE TO PATIENT OR RESIDENT; VIOLATION.**

Subdivision 1. **Distribution; posting.** Except as provided below, section 144.651 shall be posted conspicuously in a public place in all facilities licensed under the provisions of sections 144.50 to 144.58, or 144A.02. Copies of the law shall be furnished the patient or resident and the patient or resident's guardian or conservator upon admittance to the facility. Facilities providing services to patients may delete section 144.651, subdivisions 24 to 29, and those portions of other subdivisions that apply only to residents, from copies posted or distributed to patients with appropriate notation that residents have additional rights under law. The policy statement shall include the address and telephone number of the board of medical examiners and/or the name and phone number of the person within the facility to whom inquiries about the medical care received may be directed. The notice shall include a brief statement describing how to file a complaint with the office of health facility complaints established pursuant to section 144A.52 concerning a violation of section 144.651 or any other state statute or rule. This notice shall include the address and phone number of the office of health facility complaints.

Subd. 2. **Correction order; emergencies.** A substantial violation of the rights of any patient or resident as defined in section 144.651, shall be grounds for issuance of a correction order pursuant to section 144.653 or 144A.10. The issuance or nonissuance of a correction order shall not preclude, diminish, enlarge,

or otherwise alter private action by or on behalf of a patient or resident to enforce any unreasonable violation of his rights. Compliance with the provisions of section 144.651 shall not be required whenever emergency conditions, as documented by the attending physician in a patient's medical record or a resident's care record, indicate immediate medical treatment, including but not limited to surgical procedures, is necessary and it is impossible or impractical to comply with the provisions of section 144.651 because delay would endanger the patient's or resident's life, health, or safety.

**History:** 1983 c 248 s 2

#### 144.653 RULES; PERIODIC INSPECTIONS; ENFORCEMENT.

*[For text of subd 1, see M.S.1982]*

Subd. 2. **Periodic inspection.** All facilities required to be licensed under the provisions of sections 144.50 to 144.58 shall be periodically inspected by the state commissioner of health to ensure compliance with rules and standards. Inspections shall occur at different times throughout the calendar year. The commissioner of health may enter into agreements with political subdivisions providing for the inspection of such facilities by locally employed inspectors.

The commissioner of health shall conduct inspections and reinspections of facilities licensed under the provisions of sections 144.50 to 144.56 with a frequency and in a manner calculated to produce the greatest benefit to residents within the limits of the resources available to the commissioner. In performing this function, the commissioner may devote proportionately more resources to the inspection of those facilities in which conditions present the most serious concerns with respect to resident health, treatment, comfort, safety, and well-being.

These conditions include but are not limited to: change in ownership; frequent change in administration in excess of normal turnover rates; complaints about care, safety, or rights; where previous inspections or reinspections have resulted in correction orders related to care, safety, or rights; and, where persons involved in ownership or administration of the facility have been indicted for alleged criminal activity. Any health care facility that has none of the above conditions or any other condition established by the commissioner that poses a risk to resident care, safety, or rights shall be inspected once every two years.

*[For text of subs 3 to 9, see M.S.1982]*

**History:** 1983 c 312 art 1 s 16