

## Veterans

## CHAPTER 196

## DEPARTMENT OF VETERANS AFFAIRS

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**196.01 CREATED.**

There is hereby created and established a department of veterans affairs, hereinafter referred to as the department.

*History: 1943 c 420 s 1*

**196.02 COMMISSIONER OF VETERANS AFFAIRS.**

Subdivision 1. **Appointment; qualifications.** The department shall be under the supervision and control of a commissioner of veterans affairs who shall be appointed by the governor under the provisions of section 15.06. No person shall be eligible to receive appointment as commissioner unless that person has the following qualifications:

- (1) Residence in the state of Minnesota;
- (2) Citizenship in the United States;
- (3) Veteran of the armed forces of the United States as defined in section 197.447.

Subd. 2. **Bond of commissioner.** The commissioner shall give bond to the state in the sum of \$10,000.

Subd. 3. [Repealed, 1988 c 699 s 33]

*History: 1943 c 420 s 2; 1949 c 739 s 20; 1951 c 713 s 18; 1969 c 275 s 1; 1969 c 1129 art 8 s 4; 1977 c 29 s 1; 1977 c 305 s 26; 1986 c 444*

**196.021 DEPUTY COMMISSIONERS TO BE APPOINTED; DUTIES.**

Subdivision 1. **Appointment.** The commissioner shall appoint a deputy commissioner for veteran services as provided in subdivision 2, and the board of directors of the Minnesota veterans homes may appoint a deputy commissioner for veteran health care as provided in section 198.004. Both deputy commissioners serve in the unclassified service, the deputy for veteran services at the pleasure of the commissioner and the deputy for veteran health care at the pleasure of the board. Both deputies shall be residents of Minnesota, citizens of the United States, and veterans as defined in section 197.447.

Subd. 2. **Deputy for veteran services; powers and duties.** The deputy commissioner for veteran services has those powers delegated by the commissioner that have not oth-

erwise been delegated to the deputy commissioner for veteran health care by the commissioner or assigned to that deputy commissioner by law. A delegation must be in writing, signed by the commissioner, and filed with the secretary of state.

**History:** 1988 c 699 s 1

### 196.03 OFFICERS AND EMPLOYEES.

Except as provided in chapter 198, all officers and employees of the department shall be appointed by the commissioner and they shall perform such duties as may be assigned to them by the commissioner.

**History:** 1943 c 420 s 3; 1988 c 699 s 2

### 196.04 RULES.

**Subdivision 1. Promulgation.** The commissioner shall adopt reasonable and proper rules to govern the procedure of the divisions of the department and to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same, in order to establish the right to benefits provided for by the law. Such rules shall become effective when approved by the attorney general and then be filed in the office of the secretary of state.

**Subd. 2. Existing rules to govern.** Until modified or repealed by the commissioner, all orders, rules and permits or other privileges issued or granted with respect to any function consolidated hereunder, and in effect at the time of such consolidation, shall continue in effect to the same extent as if such consolidation had not occurred.

**History:** 1943 c 420 s 4; 1985 c 248 s 70

### 196.05 DUTIES OF COMMISSIONER.

The commissioner shall:

(1) act as the agent of a resident of the state having a claim against the United States for benefits arising out of or by reason of service in the armed forces and prosecute the claim without charge;

(2) act as custodian of veterans' bonus records;

(3) administer the laws relating to the providing of bronze flag holders at veterans' graves for memorial purposes;

(4) administer the laws relating to recreational or rest camps for veterans so far as applicable to state agencies;

(5) administer the state soldiers' welfare fund and veterans' relief fund and other funds appropriated for the payment of bonuses or other benefits to veterans or for the rehabilitation of veterans;

(6) cooperate with national, state, county, municipal, and private social agencies in securing to veterans and their dependents the benefits provided by national, state, and county laws, municipal ordinances, or public and private social agencies;

(7) provide necessary assistance where other adequate aid is not available to the dependent family of a veteran while the veteran is hospitalized and after the veteran is released for as long a period as is necessary as determined by the commissioner;

(8) act as the guardian of the estate for a minor or an incompetent person receiving money from the United States government when requested to do so by an agency of the United States of America provided sufficient personnel are available;

(9) cooperate with United States governmental agencies providing compensation, pensions, insurance, or other benefits provided by federal law, by supplementing the benefits prescribed therein, when conditions in an individual case make it necessary;

(10) assist in implementing state laws, rights, and privileges relating to the reemployment of veterans upon their separation from the armed forces;

(11) contact, at times as the commissioner deems proper, war veterans, as defined in section 197.447, who are confined in a public institution; investigate the treatment

accorded those veterans and report annually to the governor the results of the investigations; and the heads of the public institutions shall permit the commissioner, or the commissioner's representative, to visit any veteran; and, if the commissioner, or the commissioner's representative requests any information relative to any veteran and the veteran's affairs, the head of the institution shall furnish it; and

(12) exercise other powers as may be authorized and necessary to carry out the provisions of this chapter and chapters 197 and 198, consistent with those chapters.

**History:** 1943 c 420 s 5; 1947 c 172 s 1; 1963 c 132 s 1; 1969 c 275 s 2; 1980 c 414 s 3; 1986 c 444; 1988 c 699 s 3

### 196.051 GUARDIANSHIP.

**Subdivision 1. Appointment of commissioner.** The probate court may appoint the commissioner of veterans affairs guardian of the estate of a veteran or dependent for whom the appointment of a guardian is found by the court to be necessary. When appointed and qualified, the commissioner may act as guardian of the estate. The probate court is not authorized to appoint the commissioner guardian of the person of a veteran. The word "veteran" as used in this section shall have the same meaning as it is defined in section 197.447.

**Subd. 2. Bonding.** Notwithstanding section 525.551 or other law, the commissioner is not required to file a bond when acting as guardian pursuant to authority granted by this section.

**Subd. 3. Funds.** The commissioner may commingle the funds of persons who are under the commissioner's guardianship pursuant to authority granted by section 196.051. The commissioner shall keep complete and accurate accounts showing each transaction that occurs with respect to the funds of each person under the commissioner's guardianship.

**Subd. 4. Fees.** When permitted by the court, the commissioner may charge a fee of up to five percent of the income of the estate of the person under guardianship to cover the expenses of providing the guardianship service.

**History:** 1977 c 241 s 1; 1980 c 414 s 4; 1Sp1985 c 13 s 298; 1986 c 444

### 196.052 GIFT ACCEPTANCE AND INVESTMENT.

On the behalf of the state, the commissioner may accept any gift, grant, bequest, or devise made for the purposes of this chapter and chapters 197 and 198. The commissioner must administer the funds as directed by the donor. All funds must be deposited in the state treasury and, except as provided for in sections 198.16, 198.161, and 198.23, are credited to the veterans affairs endowment, bequest, and devises fund. The balance of the fund is annually appropriated to the commissioner of veterans affairs to accomplish the purposes of this chapter and chapters 197 and 198. Funds received by the commissioner under this section or 198.16, 198.161, and 198.23 in excess of current needs must be invested by the state board of investment in accordance with section 11A.24. Disbursements from this fund must be in the manner provided for the issuance of other state warrants. The commissioner may refuse to accept any gift, grant, bequest, or devise if acceptance would not be in the best interest of the state or Minnesota's veterans.

**History:** 1983 c 147 s 1

### 196.054 USE OF FACILITIES OR SERVICES BY OUTSIDE AGENCIES.

**Subdivision 1. Commissioner's authority.** The commissioner of veterans affairs may allow public or private social service, educational, or rehabilitation agencies or organizations and their clients to use the facilities, staff, and other resources of the department and may require the participating agencies or organizations to pay for that use.

**Subd. 2. Appropriation.** There is a veterans affairs resources fund in the state treasury. All money received by the department pursuant to subdivision 1 must be depos-

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ited in the state treasury and credited to the veterans affairs resources fund. The commissioner may only use money from the veterans affairs resources fund for operation, maintenance, repair of facilities, associated legal fees, and other related expenses used under subdivision 1.

**History:** 1986 c 393 s 2

## 196.06 ANNUAL REPORT.

Subdivision 1. **To Governor.** The commissioner shall make an annual written report to the governor giving:

- a. An account of all moneys received and disbursed;
- b. A description of the work done;
- c. Administrative improvements;
- d. Activities of the department;
- e. The number of veterans who have, during the past year, received relief in any form;
- f. The number of veterans on relief rolls;
- g. The number of claims presented on behalf of veterans, and the disposition thereof;
- h. The recommendations the commissioner may deem necessary for the active performance of the duties and purposes of the department.

Subd. 2. **Available to legislature.** The report referred to in the preceding subdivision shall be made available to the members of the legislature.

**History:** 1943 c 420 s 6; 1969 c 275 s 3; 1986 c 444

## 196.07 TECHNICAL STAFF.

The commissioner's technical staff shall have the same qualifications as enumerated for the commissioner in section 196.02.

**History:** 1943 c 420 s 7

## 196.08 FILES AND RECORDS CONFIDENTIAL.

The contents of, and all files, records, reports, papers and documents pertaining to, any claim for the benefits of Laws 1943, chapter 420, whether pending or adjudicated, shall be deemed confidential and privileged and no disclosure thereof shall be made, without the consent in writing of the claimant who has not been adjudicated incompetent, except as follows:

- a. To said claimant personally, a duly appointed guardian, an attorney in fact, or a duly authorized representative, and as to personal matters, when, in the judgment of the commissioner, such disclosure would not be injurious to the physical or mental health of the claimant.
- b. To the representatives of veterans' organizations recognized by the United States government, not exceeding five from each such veterans' organizations, and when such representatives have been duly certified as such by the state department of any such veterans' organizations in the state of Minnesota.
- c. In any court in the state of Minnesota which has jurisdiction of the parties to, and subject matter of, an action or proceeding therein pending, as found by said court, when required to be produced by the process of such court, and then only in open court, as evidence, in such action or proceeding after a judge thereof shall have ruled the same to be relevant and competent evidence in such action or proceeding according to the laws and statutes of said state.

**History:** 1943 c 420 s 8; 1986 c 444

## 196.09 [Repealed, 1969 c 275 s 12]

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## 196.10 POWERS OF COMMISSIONER.

The commissioner shall have the power to order, regulate, consolidate, eliminate, or redistribute the functions of the departments, agencies, divisions, offices or activities in the department of veterans affairs, and fix the functions thereof and the duties and powers of their respective executive aids.

*History: 1943 c 420 s 10*

## 196.11 CERTAIN POWERS OF ADJUTANT GENERAL TRANSFERRED.

All powers and duties now imposed by law upon the adjutant general with reference to war veterans and the Soldiers' Welfare Director are hereby transferred to the commissioner of veterans affairs and shall hereafter be exercised, performed, and administered by the commissioner of veteran's affairs.

*History: 1943 c 420 s 11; 1986 c 444*

196.12 [Repealed, 1969 c 275 s 12]

196.13 [Repealed, 1969 c 275 s 12]

## 196.14 EMPLOYMENT OF PERSONS ENTITLED TO VETERANS' PREFERENCE.

The commissioner shall employ persons entitled to preference under section 43A.11 whenever the commissioner deems it practicable. Upon request by the commissioner, the commissioner of employee relations shall certify for appointment to positions in the department from the appropriate eligible list only those persons entitled to preference under section 43A.11. Otherwise employment in the department shall be governed by the provisions of the state civil service act.

*History: 1943 c 420 s 14; 1973 c 507 s 45; 1980 c 617 s 47; 1981 c 210 s 54; 1986 c 444*

## 196.15 OFFICE SPACE TO BE ASSIGNED TO DEPARTMENT.

The commissioner of administration shall assign the office space in the state veterans service building so far as necessary to carry out the purposes of Laws 1943, chapter 420.

*History: 1943 c 420 s 15; 1969 c 275 s 4*

196.16 [Repealed, 1969 c 275 s 12]

196.17 MS 1984 [Obsolete]

## 196.18 VETERANS AFFAIRS; UNCOMPENSATED AND VOLUNTARY SERVICES; EXPENSES.

To assist in the discharge of the functions of the department, the commissioner of veterans affairs may accept uncompensated and voluntary services and enter into written agreements with private or public agencies or persons for uncompensated and voluntary services as may be practical. Persons rendering voluntary uncompensated services may be reimbursed for travel expenses incurred in the performance of official duties at the same rate per mile as state employees.

*History: 1980 c 414 s 1*

## 196.19 AGENT ORANGE INFORMATION AND ASSISTANCE ACT; CITATION.

Sections 196.19 to 196.26 may be cited as the "Agent Orange information and assistance act."

*History: 1982 c 513 s 1*

**196.20 PURPOSE.**

A large number of Vietnam era veterans were exposed to dioxin or other toxic substances found in certain defoliants, herbicides, pesticides, and similar chemical substances while serving in the armed forces of the United States. It is a legitimate concern and responsibility of the state to provide information, referral, and counseling services to those veterans who may have suffered adverse health conditions as a result of possible exposure to these chemical agents.

*History: 1982 c 513 s 2*

**196.21 DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 196.19 to 196.26 the following terms have the meanings given them.

Subd. 2. **Veteran.** "Veteran" means a person who is a resident of this state and who served in the armed forces of the United States of America during the Vietnam era.

Subd. 3. **Chemical agents.** "Chemical agents" means dioxin or other toxic substances found in certain defoliants, herbicides, pesticides, and similar chemical substances.

Subd. 4. **Agent Orange.** "Agent Orange" means a herbicide containing dioxin and composed primarily of trichlorophenoxyacetic acid and dichlorophenoxyacetic acid.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of veterans affairs.

*History: 1982 c 513 s 3*

**196.22 POWERS AND DUTIES OF THE COMMISSIONER.**

Subdivision 1. **Agent Orange information program.** The commissioner shall establish and maintain an Agent Orange information program. The commissioner shall:

(1) provide information regarding epidemiological, genetic, and other scientific studies proposed, underway, or completed that pertain to adverse health conditions which may be associated with exposure to chemical agents, including Agent Orange;

(2) monitor and report on the activities and policies of the United States government relating to the exposure of veterans to chemical agents, including Agent Orange; and

(3) respond, within the commissioner's powers and duties under this chapter and chapter 197, to other issues of concern to veterans relating to exposure to chemical agents, including Agent Orange.

Subd. 2. **Referral programs.** The commissioner, in cooperation with the United States Veterans Administration, county veterans service officers, and veterans organizations shall institute referral programs to:

(1) refer veterans to appropriate federal agencies or other available resources for treatment of adverse health conditions which may have resulted from possible exposure to chemical agents, including Agent Orange; and

(2) refer veterans to state, county, or veterans organizations advocacy services to assist them in filing compensation claims for disabilities that may have resulted from possible exposure to chemical agents, including Agent Orange.

Subd. 3. **Limited studies.** The commissioner may contract for limited studies regarding the prevalence of adverse health conditions in veterans which may be associated with possible exposure to chemical agents, including Agent Orange. Prior to contracting for such studies, the commissioner shall consult with the commissioner of health, the University of Minnesota school of public health, and other appropriate scientific and technical advisors pertaining to their design.

Subd. 4. **Annual report.** The commissioner shall prepare an annual report to be distributed annually to members of the standing committees of the legislature having jurisdiction over veterans affairs, the administrator of the United States Veterans Administration, and appropriate veterans organizations. The report shall contain:

(1) a comprehensive review and summary analysis of the scientific literature covering current research findings on the effects of exposure to chemical agents, including Agent Orange;

(2) a summary of the activities undertaken by the commissioner to inform and assist veterans who may have been exposed to chemical agents, including Agent Orange;

(3) a description and interpretation of the results of any limited studies undertaken pursuant to subdivision 3; and

(4) any comments or recommendations as the commissioner may consider appropriate.

**Subd. 5. Communication of veterans concerns.** Within the commissioner's powers and duties under chapters 196 and 197, the commissioner shall take any action appropriate to represent the concerns of veterans related to exposure to chemical agents, including Agent Orange, to appropriate officials and representatives of the United States government.

**History:** 1982 c 513 s 4; 1986 c 444

### 196.23 AGENT ORANGE INFORMATION AND ASSISTANCE SECTION.

**Subdivision 1. Establishment of section.** The commissioner shall establish an Agent Orange information and assistance section in the department of veterans affairs. The section shall be headed by a director who shall serve in the unclassified service. The commissioner shall provide the director with office space, administrative services, and clerical support.

**Subd. 2. Position of director.** The director shall be appointed by the commissioner. The director shall assist the commissioner in carrying out the duties and responsibilities required under sections 196.19 to 196.26. The commissioner of employee relations, in consultation with the commissioner, shall establish minimum qualifications for the position of director. In setting the minimum qualifications, the commissioner of employee relations shall consider the scientific and technical background necessary to perform the duties under sections 196.19 to 196.26.

**History:** 1982 c 513 s 5

### 196.24 DUTIES OF THE COMMISSIONER OF HEALTH.

**Subdivision 1. Information to health professionals.** The commissioner of health shall provide medical information to health professionals in this state regarding the detection, diagnosis, and treatment of acute and chronic symptoms which may be associated with exposure to chemical agents, including Agent Orange.

**Subd. 2. Genetic information and counseling.** The commissioner of health, in cooperation with the health facilities of the University of Minnesota, shall provide genetic information and counseling to veterans who have concerns regarding the possible genetic effects which may be associated with exposure to chemical agents, including Agent Orange.

**Subd. 3. Technical assistance.** The commissioner of health shall provide scientific information and other appropriate technical assistance necessary to enable the commissioner to perform the duties and responsibilities required under sections 196.19 to 196.26.

**History:** 1982 c 513 s 6

### 196.25 CONFIDENTIALITY.

The identity of a veteran about whom information has been received under sections 196.19 to 196.26 is classified as private data pursuant to section 13.02, subdivision 12, and may not be disclosed unless the veteran consents to the disclosure. Summary data, as defined in section 13.02, subdivision 19, derived from information received under sections 196.19 to 196.26 is public information.

**History:** 1981 c 311 s 39; 1982 c 513 s 7; 1982 c 545 s 24

## **196.26 CLASS ACTION REPRESENTATION BY ATTORNEY GENERAL.**

The commissioner may request the attorney general to represent a class of individuals composed of veterans who may have suffered adverse health conditions as a result of possible exposure to chemical agents, including Agent Orange, in a suit for release of information relating to exposure to these chemicals during military service and for release of individual medical records.

**History:** 1982 c 513 s 8

## **196.27 AGENT ORANGE SETTLEMENT PAYMENTS.**

(a) Payments received by veterans or their dependents because of settlements between them and the manufacturers of Agent Orange or other chemical agents, as defined in section 196.21, must not be treated as income (or an available resource) of the veterans or their dependents for the purposes of any program of public assistance or benefit program administered by the department of veterans affairs, the department of human services, or other agencies of the state or political subdivisions of the state, except as provided in paragraph (b).

(b) The income and resource exclusion in paragraph (a) does not apply to the medical assistance, food stamps, or aid to families with dependent children programs until the commissioner of human services receives formal approval from the United States Department of Health and Human Services, for the medical assistance and aid to families with dependent children programs, and from the United States Department of Agriculture, for the food stamps program. The income exclusion does not apply to the Minnesota supplemental aid program until the commissioner receives formal federal approval of the exclusion for the medical assistance program.

**History:** 1989 c 282 art 2 s 53