

CHAPTER 145

PUBLIC HEALTH PROVISIONS

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145.34 [Repealed, 1991 c 202 s 42]

145.35 [Repealed, 1991 c 202 s 42]

145.43 HEARING AIDS; RESTRICTIONS ON SALES.

[For text of subd 1, see M.S.1990]

Subd. 1a. **30-day guarantee and buyer right to cancel.** No person shall sell a hearing aid in this state unless:

(a) The seller provides the buyer with a 30-day written money-back guarantee. The guarantee must permit the buyer to cancel the purchase for any reason within 30 days after receiving the hearing aid by giving or mailing written notice of cancellation to the seller. If the hearing aid must be repaired, remade, or adjusted during the 30-day money-back guarantee period, the running of the 30-day period is suspended one day for each 24-hour period that the hearing aid is not in the buyer's possession. A repaired, remade, or adjusted hearing aid must be claimed by the buyer within three working days after notification of availability, after which time the running of the 30-day period resumes. The guarantee must entitle the buyer, upon cancellation, to receive a full refund of payment within 30 days of return of the hearing aid to the seller. The seller may retain as a cancellation fee ten percent of the buyer's total purchase price of the hearing aid.

(b) The seller shall provide the buyer with a contract written in plain English, that contains uniform language and provisions that meet the requirements and are certified by the attorney general under the Plain Language Contract Act, sections 325G.29 to 325G.36. The contract must include, but is not limited to, the following: in immediate proximity to the space reserved for the signature of the buyer, or on the first page if there is no space reserved for the signature of the buyer, a clear and conspicuous disclosure of the following specific statement in all capital letters of no less than 12-point boldface type: MINNESOTA STATE LAW GIVES THE BUYER THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO MID-NIGHT OF THE 30TH CALENDAR DAY AFTER RECEIPT OF THE HEARING AID(S). THIS CANCELLATION MUST BE IN WRITING AND MUST BE GIVEN OR MAILED TO THE SELLER. IF THE BUYER DECIDES TO RETURN THE HEARING AID(S) WITHIN THIS 30-DAY PERIOD, THE BUYER WILL RECEIVE A REFUND OF \$..... (State the dollar amount of refund.)

[For text of subds 4 and 5, see M.S.1990]

History: 1991 c 202 s 8

145.61 DEFINITIONS.

[For text of subds 1 to 4, see M.S.1990]

Subd. 4a. "Administrative staff" means the staff of a hospital, clinic, nonprofit health service plan corporation, or health maintenance organization.

Subd. 4b. "Consumer director" means a director of a health service plan corpora-

tion or health maintenance organization who is not a licensed or registered health care professional.

Subd. 5. "Review organization" means a nonprofit organization acting according to clause (k) or a committee whose membership is limited to professionals, administrative staff, and consumer directors, except where otherwise provided for by state or federal law, and which is established by a hospital, by a clinic, by one or more state or local associations of professionals, by an organization of professionals from a particular area or medical institution, by a health maintenance organization as defined in chapter 62D, by a nonprofit health service plan corporation as defined in chapter 62C, by a professional standards review organization established pursuant to United States Code, title 42, section 1320c-1 et seq., or by a medical review agent established to meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), or by the department of human services, to gather and review information relating to the care and treatment of patients for the purposes of:

(a) evaluating and improving the quality of health care rendered in the area or medical institution;

(b) reducing morbidity or mortality;

(c) obtaining and disseminating statistics and information relative to the treatment and prevention of diseases, illness and injuries;

(d) developing and publishing guidelines showing the norms of health care in the area or medical institution;

(e) developing and publishing guidelines designed to keep within reasonable bounds the cost of health care;

(f) reviewing the quality or cost of health care services provided to enrollees of health maintenance organizations, health service plans, and insurance companies;

(g) acting as a professional standards review organization pursuant to United States Code, title 42, section 1320c-1 et seq.;

(h) determining whether a professional shall be granted staff privileges in a medical institution, or participating status in a nonprofit health service plan corporation, health maintenance organization, or insurance company, or whether a professional's staff privileges or participation status should be limited, suspended or revoked;

(i) reviewing, ruling on, or advising on controversies, disputes or questions between:

(1) health insurance carriers, nonprofit health service plan corporations, or health maintenance organizations and their insureds, subscribers, or enrollees;

(2) professional licensing boards acting under their powers including disciplinary, license revocation or suspension procedures and health providers licensed by them when the matter is referred to a review committee by the professional licensing board;

(3) professionals and their patients concerning diagnosis, treatment or care, or the charges or fees therefor;

(4) professionals and health insurance carriers, nonprofit health service plan corporations, or health maintenance organizations concerning a charge or fee for health care services provided to an insured, subscriber, or enrollee;

(5) professionals or their patients and the federal, state, or local government, or agencies thereof;

(j) providing underwriting assistance in connection with professional liability insurance coverage applied for or obtained by dentists, or providing assistance to underwriters in evaluating claims against dentists;

(k) acting as a medical review agent under section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b); or

(l) providing recommendations on the medical necessity of a health service, or the relevant prevailing community standard for a health service.

History: 1991 c 137 s 1-3

145.63 LIMITATION ON LIABILITY FOR SPONSORING ORGANIZATIONS, REVIEW ORGANIZATIONS, AND MEMBERS OF REVIEW ORGANIZATIONS.

Subdivision 1. **Members, directors, and officers.** No review organization and no person who is a member or employee, director, or officer of, who acts in an advisory capacity to, or who furnishes counsel or services to, a review organization shall be liable for damages or other relief in any action brought by a person or persons whose activities have been or are being scrutinized or reviewed by a review organization, by reason of the performance by the person of any duty, function, or activity of such review organization, unless the performance of such duty, function or activity was motivated by malice toward the person affected thereby. No review organization and no person shall be liable for damages or other relief in any action by reason of the performance of the review organization or person of any duty, function, or activity as a review organization or a member of a review committee or by reason of any recommendation or action of the review committee when the person acts in the reasonable belief that the action or recommendation is warranted by facts known to the person or the review organization after reasonable efforts to ascertain the facts upon which the review organization's action or recommendation is made, except that any corporation designated as a review organization under the Code of Federal Regulations, title 42, section 466 (1983) shall be subject to actions for damages or other relief by reason of any failure of a person, whose care or treatment is required to be scrutinized or reviewed by the review organization, to receive medical care or treatment as a result of a determination by the review organization that medical care was unnecessary or inappropriate.

The protections from liability provided in this subdivision shall also apply to the governing body of the review organization and shall not be waived as a result of referral of a matter from the review organization to the governing body or consideration by the governing body of decisions, recommendations, or documentation of the review organization.

[For text of subd 2, see M.S.1990]

History: 1991 c 137 s 4

145.64 CONFIDENTIALITY OF RECORDS OF REVIEW ORGANIZATION.

Subdivision 1. **Data and information.** All data and information acquired by a review organization, in the exercise of its duties and functions, shall be held in confidence, shall not be disclosed to anyone except to the extent necessary to carry out one or more of the purposes of the review organization, and shall not be subject to subpoena or discovery. No person described in section 145.63 shall disclose what transpired at a meeting of a review organization except to the extent necessary to carry out one or more of the purposes of a review organization. The proceedings and records of a review organization shall not be subject to discovery or introduction into evidence in any civil action against a professional arising out of the matter or matters which are the subject of consideration by the review organization. Information, documents or records otherwise available from original sources shall not be immune from discovery or use in any civil action merely because they were presented during proceedings of a review organization, nor shall any person who testified before a review organization or who is a member of it be prevented from testifying as to matters within the person's knowledge, but a witness cannot be asked about the witness' testimony before a review organization or opinions formed by the witness as a result of its hearings.

The confidentiality protection and protection from discovery or introduction into evidence provided in this subdivision shall also apply to the governing body of the review organization and shall not be waived as a result of referral of a matter from the review organization to the governing body or consideration by the governing body of decisions, recommendations, or documentation of the review organization.

Subd. 2. **Provider data.** The restrictions in subdivision 1 shall not apply to professionals requesting or seeking through discovery, data, information, or records relating to their medical staff privileges or participation status.

History: 1991 c 137 s 5

145.883 DEFINITIONS.

[For text of subs 1 to 4, see M.S.1990]

Subd. 5. **Low income.** "Low income" means an individual or family with an income determined to be at or below 175 percent of the income official poverty line defined by the office of management and budget and revised annually in accordance with United States Code, title 42, section 9902, as amended through December 31, 1982. With respect to an individual who is a high risk person, "low income" means that the income of the high risk person or the person's family is determined to be at or below 200 percent of the income official poverty line defined by the office of management and budget and revised annually in accordance with United States Code, title 42, section 9902, as amended through December 31, 1982, or that the person is pregnant and determined eligible for medical assistance or the special supplemental food program for women, infants and children (WIC). The commissioner shall establish the low income level for eligibility for services to children with handicaps.

[For text of subs 6 to 9, see M.S.1990]

History: 1991 c 36 s 3

145.924 AIDS PREVENTION GRANTS.

(a) The commissioner may award grants to boards of health as defined in section 145A.02, subdivision 2, state agencies, state councils, or nonprofit corporations to provide evaluation and counseling services to populations at risk for acquiring human immunodeficiency virus infection, including, but not limited to, minorities, adolescents, intravenous drug users, and homosexual men.

(b) The commissioner may award grants to agencies experienced in providing services to communities of color, for the design of innovative outreach and education programs for targeted groups within the community who may be at risk of acquiring the human immunodeficiency virus infection, including intravenous drug users and their partners, adolescents, gay and bisexual individuals and women. Grants shall be awarded on a request for proposal basis and shall include funds for administrative costs. Priority for grants shall be given to agencies or organizations that have experience in providing service to the particular community which the grantee proposes to serve; that have policymakers representative of the targeted population; that have experience in dealing with issues relating to HIV/AIDS; and that have the capacity to deal effectively with persons of differing sexual orientations. For purposes of this paragraph, the "communities of color" are: the American-Indian community; the Hispanic community; the African-American community; and the Asian-Pacific community.

History: 1991 c 292 art 2 s 31

145.925 FAMILY PLANNING GRANTS.

[For text of subs 1 to 8, see M.S.1990]

Subd. 9. Notwithstanding any rules to the contrary, including rules proposed in the State Register on April 1, 1991, the commissioner, in allocating grant funds for family planning special projects, shall not limit the total amount of funds that can be allocated to an organization that has submitted applications from more than one region, except that no more than \$75,000 may be allocated to any grantee within a single region. For two or more organizations who have submitted a joint application, that limit is \$75,000 for each organization. This subdivision does not affect any procedure established in rule for allocating special project money to the different regions. The commissioner shall revise the rules for family planning special project grants so that they conform to the requirements of this subdivision. In adopting these revisions, the commissioner is not subject to the rulemaking provisions of chapter 14, but is bound by section 14.38, subdivision 7.

History: 1991 c 292 art 2 s 32

145.926 WAY TO GROW/SCHOOL READINESS PROGRAM.

Subdivision 1. Administration. The commissioner of education shall administer the way to grow/school readiness program, in collaboration with the commissioners of health and human services, to promote intellectual, social, emotional, and physical development and school readiness of children prebirth to age six by coordinating and improving access to community-based and neighborhood-based services that support and assist all parents in meeting the health and developmental needs of their children at the earliest possible age.

Subd. 2. Program components. (a) A way to grow/school readiness program must:

- (1) collaborate and coordinate delivery of services with other community organizations and agencies serving children prebirth to age six and their families;
- (2) target services to families with children prebirth to age six with services increasing based on need;
- (3) build on existing services and coordinate a continuum of prebirth to age six essential services, including but not limited to prenatal health services, parent education and support, and preschool programs;
- (4) provide strategic outreach efforts to families using trained paraprofessionals such as home visitors; and
- (5) support of neighborhood oriented and culturally specific social support, information, outreach, and other programs to promote healthy development of children and to help parents obtain the information, resources, and parenting skills needed to nurture and care for their children.

(b) A way to grow/school readiness program may include:

- (1) a program of home visitors to contact pregnant women early in their pregnancies, encourage them to obtain prenatal care, and provide social support, information, and referrals regarding prenatal care and well-baby care to reduce infant mortality, low birth weight, and childhood injury, disease, and disability;
- (2) a program of home visitors to provide social support, information, and referrals regarding parenting skills and to encourage families to participate in parenting skills programs and other family supportive services;
- (3) support of neighborhood-based or community-based parent-child and family resource centers or interdisciplinary resource teams to offer supportive services to families with preschool children;
- (4) staff training, technical assistance, and incentives for collaboration designed to raise the quality of community services relating to prenatal care, child development, health, and school readiness;
- (5) programs to raise general public awareness about practices that promote healthy child development and school readiness;
- (6) programs to expand public and private collaboration to promote the development of a coordinated and culturally specific system of services available to all families;
- (7) support of periodic screening and evaluation services for preschool children to assure adequate developmental progress;
- (8) support of health, educational, and other developmental services needed by families with preschool children;
- (9) support of family prevention and intervention programs needed to address risks of child abuse or neglect;
- (10) development or support of a jurisdiction-wide coordinating agency to develop and oversee programs to enhance child health, development, and school readiness with special emphasis on neighborhoods with a high proportion of children in need; and
- (11) other programs or services to improve the health, development, and school readiness of children in target neighborhoods and communities.

Subd. 3. Eligible grantees. An application for a grant may be submitted by any of the following entities:

- (1) a city, town, county, school district, or other local unit of government;
- (2) two or more governmental units organized under a joint powers agreement;
- (3) a community action agency that satisfies the requirements of section 268.53, subdivision 1; or
- (4) a nonprofit organization, or consortium of nonprofit organizations, that demonstrates collaborative effort with at least one unit of local government.

Subd. 4. Distribution. The commissioner of education shall give priority to funding existing programs at their current levels.

To the extent possible, the commissioner shall award grants to applicants with experience or demonstrated ability in providing comprehensive, multidisciplinary, community-based programs with objectives similar to those listed in subdivision 2, or in providing other human services or social services programs using a multidisciplinary, community-based approach.

Subd. 5. Applications. Each grant application must propose a five-year program designed to accomplish the purposes of this section. The application must be submitted on forms provided by the commissioner of education. The grant application must include:

- (1) a description of the specific neighborhoods that will be served under the program and the name, address, and a description of each community agency or agencies with which the applicant intends to contract to provide services using grant money;

- (2) a letter of intent from each community agency identified in clause (1) that indicates the agency's willingness to participate in the program and approval of the proposed program structure and components;

- (3) a detailed description of the structure and components of the proposed program and an explanation of how each component will contribute to accomplishing the purposes of this section;

- (4) a description of how public and private resources, including schools, health care facilities, government agencies, neighborhood organizations, and other resources, will be coordinated and made accessible to families in target neighborhoods, including letters of intent from public and private agencies indicating their willingness to cooperate with the program;

- (5) a detailed, proposed budget that demonstrates the ability of the program to accomplish the purposes of this section using grant money and other available resources, including funding sources other than a grant; and

- (6) a comprehensive evaluation plan for measuring the success of the program in meeting the objectives of the overall grant program and the individual grant project, including an assessment of the impact of the program in terms of at least three of the following criteria:

- (i) utilization rates of community services;

- (ii) availability of support systems for families;

- (iii) birth weights of newborn babies;

- (iv) child accident rates;

- (v) utilization rates of prenatal care;

- (vi) reported rates of child abuse;

- (vii) rates of health screening and evaluation; and

- (viii) school readiness of way to grow participants compared to nonparticipants.

Subd. 6. Match. Each dollar of state money must be matched with 50 cents of non-state money. Programs may match state money with in-kind contributions, including volunteer assistance.

Subd. 7. Advisory committees. The commissioner of education shall establish a program advisory committee consisting of persons knowledgeable in child development, child health and family services, who reflect the geographic, cultural, racial, and ethnic diversity of the state; and representatives of the commissioners of education,

human services, and health. This program advisory committee shall review grant applications, assist in distribution of the grants, and monitor progress of the way to grow/school readiness program. Each grantee must establish a program advisory board of 12 or more members to advise the grantee on program design, operation, and evaluation. The board must include representatives of local units of government and representatives of the project area who reflect the geographic, cultural, racial, and ethnic diversity of that community.

Subd. 8. Report. The advisory committee shall report to the education committee of the legislature by January 15, 1993, on the evaluation required in subdivision 5, clause (6), and shall make recommendations for establishing successful way to grow programs in unserved areas of the state.

History: 1991 c 265 art 4 s 26; 1991 c 345 art 2 s 38-42