

CHAPTER 145

PUBLIC HEALTH PROVISIONS

- 145.075 Injunctive relief brought by commissioner.
- 145.131 Findings and purpose.
- 145.132 Authorized removal of brain.
- 145.135 Determination of death.
- 145.14 Delivery of subjects for dissection.
- 145.15 What bodies excepted.
- 145.16 Delivery of bodies.
- 145.161 Dissection; when permitted.
- 145.162 Burial or cremation.
- 145.1621 Disposition of aborted or miscarried fetuses.
- 145.163 Interfering with dead body or funeral.
- 145.24 Violations.
- 145.30 Superintendent of hospitals to transfer records.
- 145.31 Photostatic copies to be used as evidence.
- 145.32 Old records may be destroyed.
- 145.33 Construction.
- 145.36 Exposing person with contagious disease.
- 145.365 Trafficking in skunks.
- 145.37 Manufacture of certain products which may be injurious.
- 145.406 Information on the sale and use of toxic substances.
- 145.41 Blood donations, age of donor.
- 145.411 Regulation of abortions; definitions.
- 145.412 Criminal acts.
- 145.413 Recording and reporting health data.
- 145.414 Abortion not mandatory.
- 145.415 Live fetus after abortion, treatment.
- 145.416 Licensing and regulation of facilities.
- 145.42 Abortions; nonliability for refusal to perform.
- 145.421 Human conceptus, experimentation, research or sale; definitions.
- 145.422 Experimentation or sale.
- 145.423 Abortion; live births.
- 145.424 Prohibition of tort actions.
- 145.425 Pay toilets in public places; prohibitions; penalty.
- 145.46 Dental health education program.
- HEALTH CARE INFORMATION, REVIEW ORGANIZATIONS
- 145.61 Definitions.
- 145.62 Limitation on liability for persons providing information to review organization.
- 145.63 Limitation on liability for sponsoring organizations, review organizations, and members of review organizations.
- 145.64 Confidentiality of records of review organization.
- 145.65 Guidelines not admissible in evidence.
- 145.66 Penalty for violation.
- 145.67 Protection of patient.
- MALPRACTICE ACTIONS; EXPERT REVIEW
- 145.682 Certification of expert review; affidavit.
- DRUG DEPENDENT PERSONS; COMMITMENT
- 145.698 Confinement of drug dependent person.
- UNIFORM DUTIES TO DISABLED PERSONS ACT
- 145.851 Definitions.
- 145.852 Identifying devices for persons having certain conditions.
- 145.853 Duty of law enforcement officer.
- 145.854 Duty of medical practitioners.
- 145.855 Duty of others.
- 145.856 Falsifying identification or misrepresenting condition; penalty.
- 145.857 Other duties.
- 145.858 Citation.
- 145.867 Persons requiring special diets.
- MATERNAL AND CHILD HEALTH
- 145.88 Purpose.
- 145.881 Maternal and child health advisory task force.
- 145.882 Maternal and child health block grant distribution.
- 145.883 Definitions.
- 145.884 Grants to qualified programs.
- 145.885 Application for a grant.
- 145.886 Grant review process.
- 145.888 Limitations.
- 145.889 Rules.
- 145.891 Citation.
- 145.892 Definitions.
- 145.893 Nutritional supplement program.
- 145.894 State commissioner of health; duties, responsibilities.
- 145.895 Department of human services.
- 145.896 Program not a substitute or replacement.
- 145.897 Vouchers.
- 145.898 Sudden infant death.
- 145.90 Fetal, infant, and maternal death studies.
- COMMUNITY HEALTH SERVICES
- 145.924 AIDS prevention grants.
- 145.9245 Grants for case management services for AIDS infected persons.
- 145.925 Family planning grants.
- 145.9265 Fetal alcohol syndrome and effects and drug-exposed infant prevention.
- 145.927 Bone marrow donor education.
- POISON CONTROL SYSTEM
- 145.93 Minnesota poison information centers; establishment.
- HAZARDOUS SUBSTANCE EXPOSURE
- 145.94 Exposure to hazardous substance.
- HILL-BURTON PROGRAM
- 145.97 Hill-Burton program; rules.
- 145.98 Council on health promotion and wellness.

145.01 [Repealed, 1987 c 309 s 27]

145.02 [Repealed, 1976 c 44 s 70]

- 145.03 [Repealed, 1987 c 309 s 27]
 145.031 [Repealed, 1987 c 309 s 27]
 145.04 [Repealed, 1987 c 309 s 27]
 145.05 [Repealed, 1987 c 309 s 27]
 145.06 [Repealed, 1987 c 309 s 27]
 145.07 [Repealed, 1987 c 309 s 27]

145.075 INJUNCTIVE RELIEF BROUGHT BY COMMISSIONER.

In addition to any other remedy provided by law, the commissioner may in the commissioner's own name bring an action in the court of appropriate jurisdiction to enjoin any violation of a statute or rule which the commissioner is empowered to enforce or adopt, or to enjoin as a public health nuisance any activity or failure to act that adversely affects the public health.

History: 1978 c 762 s 7; 1987 c 309 s 18

- 145.08 [Repealed, 1987 c 309 s 27]
 145.085 [Repealed, 1987 c 309 s 27]
 145.09 [Repealed, 1965 c 45 s 73]
 145.10 [Repealed, 1987 c 309 s 27]
 145.11 [Repealed, 1987 c 309 s 27]
 145.12 [Repealed, 1987 c 309 s 27]
 145.123 [Repealed, 1987 c 309 s 27]
 145.125 [Repealed, 1987 c 309 s 27]
 145.13 [Repealed, 1980 c 357 s 22]

145.131 FINDINGS AND PURPOSE.

The legislature finds that Alzheimer's and other dementia diseases occur in recipients of medical assistance. The costs the state pays in terms of human suffering, lost productivity, and medical assistance expenditures are enormous. The legislature also finds that research for the identification, cause, cure, and prevention of Alzheimer's and other dementia diseases requires autopsies and pathological studies of suspected victims. Expenses for autopsies and pathological studies are not provided for recipients of medical assistance.

History: 1Sp1985 c 9 art 2 s 14

145.132 AUTHORIZED REMOVAL OF BRAIN.

If the attending physician of a recipient of medical assistance is of the opinion that the deceased recipient was a victim of Alzheimer's disease, the physician or a designated pathologist may remove the brain of the decedent. Before the physician removes the brain, the physician shall obtain the permission of the decedent's next of kin, the authorization of the county coroner or medical examiner, and the authorization of the appropriate department of the St. Paul Ramsey medical center. The extracted brain shall be immediately transported to the St. Paul Ramsey medical center in a manner prescribed by the St. Paul Ramsey medical center.

History: 1Sp1985 c 9 art 2 s 15

145.135 DETERMINATION OF DEATH.

Subdivision 1. **Citation.** This section may be cited as the uniform determination of death act.

Subd. 2. **Determination of death.** An individual is dead if the individual sustains irreversible cessation of:

- (1) circulatory and respiratory functions; or

(2) all functions of the entire brain, including the brain stem.

A determination of death must be made in accordance with generally accepted medical standards.

History: 1989 c 93 s 1

145.14 DELIVERY OF SUBJECTS FOR DISSECTION.

Except as otherwise provided in section 145.15, the bodies of all persons dying within the state and not claimed for burial within 36 hours after death shall be delivered by the person in charge thereof for purposes of anatomical study. The deans of the medical colleges and chiropractic colleges of the state shall appoint a committee to receive such bodies, which committee shall apportion the same to the several colleges according to the numbers of their students. The maximum number of cadavers allotted to a chiropractic college shall be 16 per year. Any body so received shall be surrendered on demand of a relative entitled to its possession. The remains of any such body, after it has answered the purposes, shall be decently buried in a public cemetery and the expense of transporting and burying such body shall be borne by the college receiving the same.

History: (5392) RL s 2152; 1976 c 200 s 1

145.15 WHAT BODIES EXCEPTED.

No body shall be so delivered:

- (1) After it has been regularly interred;
- (2) After it has been claimed for burial or cremation by any person entitled to receive it for such purpose;
- (3) Without the consent of all known relatives of the person deceased;
- (4) If such person in last sickness requested that the remains be buried;
- (5) If the person died while detained as a witness or under suspicion of crime; or
- (6) If by any provision of the law another disposition thereof be required.

History: (5393) RL s 2153; 1986 c 444

145.16 DELIVERY OF BODIES.

Every official or other person in possession or control of any such body shall forthwith notify the committee and deliver the same according to its request.

History: (5394) RL s 2154

145.161 DISSECTION; WHEN PERMITTED.

The right to dissect the dead body of a human being shall be limited to: (a) cases specially provided by statute, or by the direction or will of the deceased; (b) cases where a coroner is authorized to hold an inquest upon the body, and then only so far as the coroner may authorize dissection; (c) cases where the husband or wife shall authorize dissection for the purpose of ascertaining the cause of death, and then only to the extent so authorized; and (d) cases where one of the next of kin, charged by law with the duty of burial, shall authorize dissection for the purpose of ascertaining the cause of death and then only to the extent so authorized, provided no dissection shall be performed pursuant to this clause if there is objection by anyone of such next of kin. Every person who shall make, cause or procure to be made, any dissection of the body of a human being, except as hereinbefore provided, shall be guilty of a gross misdemeanor.

History: (10227) RL s 4975; 1967 c 220 s 1; 1986 c 444

145.162 BURIAL OR CREMATION.

Except in cases of dissection provided for in section 145.161, and where a dead body shall rightfully be carried through or removed from the state for the purpose of burial elsewhere, every dead body of a human being lying within this state, and the

remains of any dissected body after dissection, shall be decently buried, or cremated, within a reasonable time after death.

History: (10228) RL s 4976

145.1621 DISPOSITION OF ABORTED OR MISCARRIED FETUSES.

Subdivision 1. **Purpose.** The purpose of this section is to protect the public health and welfare by providing for the dignified and sanitary disposition of the remains of aborted or miscarried human fetuses in a uniform manner and to declare violations of this section to be a public nuisance.

Subd. 2. **Definition; remains of a human fetus.** For the purposes of this section, the term "remains of a human fetus" means the remains of the dead offspring of a human being that has reached a stage of development so that there are cartilaginous structures, fetal or skeletal parts after an abortion or miscarriage, whether or not the remains have been obtained by induced, spontaneous, or accidental means.

Subd. 3. **Regulation of disposal.** Remains of a human fetus resulting from an abortion or miscarriage, induced or occurring accidentally or spontaneously at a hospital, clinic, or medical facility must be deposited or disposed of in this state only at the place and in the manner provided by this section or, if not possible, as directed by the commissioner of health.

Subd. 4. **Disposition; tests.** Hospitals, clinics, and medical facilities in which abortions are induced or occur spontaneously or accidentally and laboratories to which the remains of human fetuses are delivered must provide for the disposal of the remains by cremation, interment by burial, or in a manner directed by the commissioner of health. The hospital, clinic, medical facility, or laboratory may complete laboratory tests necessary for the health of the woman or her future offspring or for purposes of a criminal investigation or determination of parentage prior to disposing of the remains.

Subd. 5. **Violation; penalty.** Failure to comply with this section constitutes a public nuisance. A person, firm, or corporation failing to comply with this section is guilty of a misdemeanor.

Subd. 6. **Exclusions.** To comply with this section, a religious service or ceremony is not required as part of the disposition of the remains of a human fetus, and no discussion of the method of disposition is required with the woman obtaining an induced abortion.

History: 1987 c 238 s 1

145.163 INTERFERING WITH DEAD BODY OR FUNERAL.

Every person who shall arrest or attach the dead body of a human being upon a debt or demand, or shall detain or claim to detain it for any debt or demand, or upon any pretended lien or charge, or who, without authority of law, shall obstruct or detain a person engaged in carrying or accompanying the dead body of a human being to a place of burial or cremation, shall be guilty of a misdemeanor.

History: (10230) RL s 4978

- 145.17 [Repealed, 1987 c 309 s 27]
- 145.18 [Repealed, 1987 c 309 s 27]
- 145.19 [Repealed, 1987 c 309 s 27]
- 145.20 [Repealed, 1987 c 309 s 27]
- 145.21 [Repealed, 1987 c 309 s 27]
- 145.22 [Repealed, 1987 c 309 s 27]
- 145.23 [Repealed, 1987 c 309 s 27]

145.24 VIOLATIONS.

Subdivision 1. [Repealed, 1987 c 309 s 27]

Subd. 2. [Repealed, 1987 c 309 s 27]

Subd. 3. **Fines; penalties.** Every person who shall fail to comply with the provisions of sections 145.15 and 145.16 shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of \$25. Every person who shall use any body mentioned in sections 145.15 and 145.16 for a purpose other than that contemplated therein, or who shall remove it from the state, or in any manner traffic therein, or refuse to deliver the same upon proper demand, shall be guilty of a gross misdemeanor.

Subd. 4. [Repealed, 1980 c 357 s 22]

History: (5349, 5350, 5388-2, 5394) *RL s 2135, 2136, 2154; 1919 c 479 s 2; 1923 c 92 s 1; 1941 c 475 s 6; 1977 c 305 s 45; 1986 c 444*

145.30 SUPERINTENDENT OF HOSPITALS TO TRANSFER RECORDS.

The superintendent or other chief administrative officer of any public or private hospital, by and with the consent and approval of its board of directors or other governing body, is authorized to transfer and record, or cause to be transferred and recorded, upon photographic film of convenient size for the preservation thereof as evidence, any or all of the original files and records of any such hospital dealing with the case history, physical examination, and daily hospital records of the individual patients thereof, including any miscellaneous documents, papers, and correspondence in connection therewith.

History: 1941 c 229 s 1

145.31 PHOTOSTATIC COPIES TO BE USED AS EVIDENCE.

Upon the transferring and recording of any such original hospital files and records in the manner hereinbefore provided, such photographic film records thereof shall have the same force and effect, when offered in evidence in any proceeding in this state, as the original records from which the same were so transferred and recorded, and any photographic or photostatic copy made therefrom, when duly certified in writing, attached thereto, by the officer or employee of such hospital in charge of the records, to be such correct and complete photographic or photostatic copy thereof, shall be admitted and received in evidence, without further foundation, in any proceeding in this state with the same force and effect as the original record of such hospital from which such film recording was originally made, whether the original is in existence or not.

History: 1941 c 229 s 2; 1971 c 231 s 1

145.32 OLD RECORDS MAY BE DESTROYED.

Subdivision 1. **Hospital records.** The superintendent or other chief administrative officer of any public or private hospital, by and with the consent and approval of the board of directors or other governing body of the hospital, may divest the files and records of that hospital of any individual case records bearing dates more than three years prior to the date of the divestiture and, with that consent and approval, may destroy the records. The records shall first have been transferred and recorded as authorized in section 145.30.

Portions of individual hospital medical records that comprise an individual permanent medical record, as defined by the commissioner of health, shall be retained as authorized in section 145.30. Other portions of the individual medical record, including any miscellaneous documents, papers, and correspondence in connection with them, may be divested and destroyed after seven years without transfer to photographic film.

All portions of individual hospital medical records of minors shall be maintained for seven years following the age of majority.

Nothing in this section shall be construed to prohibit the retention of hospital medical records beyond the periods described in this section. Nor shall anything in this section be construed to prohibit patient access to hospital medical records as provided in section 144.335.

Subd. 2. **Individual permanent medical record.** (a) The commissioner of health shall define by rule the term "individual permanent medical record" by enumerating the specific types of records or other information that, at a minimum, must be maintained on a permanent basis by the hospital.

(b) "Individual permanent medical record" includes outpatient diagnostic and laboratory test results.

History: 1941 c 229 s 3; 1971 c 231 s 2; 1983 c 237 s 1; 1988 c 670 s 9

145.33 CONSTRUCTION.

Sections 145.30 to 145.33 shall not be construed as requiring any such public or private hospital to retain among its files and records, during the period hereinbefore specified or otherwise, any such individual hospital case records, miscellaneous documents, papers, or correspondence, except as the preservation and retention thereof is otherwise required by law.

History: 1941 c 229 s 4

145.34 [Repealed, 1991 c 202 s 42]

145.35 [Repealed, 1991 c 202 s 42]

145.36 EXPOSING PERSON WITH CONTAGIOUS DISEASE.

Every person who shall willfully expose self or another affected with any contagious or infectious disease, in any public place or thoroughfare, except upon the person's necessary removal in a manner not dangerous to the public health, shall be guilty of a misdemeanor.

History: (10270) RL s 5008; 1986 c 444

145.365 TRAFFICKING IN SKUNKS.

Subdivision 1. **Prohibition.** In order to protect the public health and prevent human and domestic animal exposure to rabies, it shall be unlawful to:

(a) Import into or export out of this state any live skunk, for sale, barter, exchange or gift for any purpose whatsoever;

(b) Acquire, sell, barter, exchange, give, or purchase any live skunks.

Subd. 2. **Exception.** The provisions of subdivision 1 do not apply to the importation, acquisition, or exportation of a skunk by a publicly or privately owned zoological park or circus or any other show where a skunk is exhibited but is not in physical contact with the public, or by scientific or educational institutions for research or educational purposes.

Subd. 3. [Repealed, 1982 c 591 s 1]

Subd. 4. **Penalty.** Violation of subdivision 1 or 3 is a misdemeanor.

History: 1982 c 591 s 1

145.37 MANUFACTURE OF CERTAIN PRODUCTS WHICH MAY BE INJURIOUS.

Subdivision 1. **Cement; waterproofing or curing products.** It shall be unlawful for any person to manufacture for sale or distribution within the state any product to be used in waterproofing or curing cement which product may be injurious to the skin or eyes of the user unless there is specified on the container of such product the chemical composition thereof, a warning of possible injurious effect, and the antidote in the event of injury.

Subd. 2. **Penalty.** Violation of this section shall constitute a misdemeanor.

History: 1957 c 67 s 1

145.38 [Repealed, 1992 c 485 s 3]

145.385 [Repealed, 1992 c 485 s 3]

145.39 [Repealed, 1992 c 485 s 3]

145.40 [Repealed, 1992 c 485 s 3]

145.406 INFORMATION ON THE SALE AND USE OF TOXIC SUBSTANCES.

The commissioner of health shall prepare and distribute materials designed to provide information to retail businesses on the requirements of section 609.684.

History: 1989 c 282 art 2 s 31; 1992 c 485 s 1

145.41 BLOOD DONATIONS, AGE OF DONOR.

Any person of the age of 17 years or over shall be eligible to donate blood in any voluntary and noncompensatory blood program without the necessity of obtaining parental permission or authorization.

History: 1969 c 685 s 1; 1976 c 169 s 1

145.411 REGULATION OF ABORTIONS; DEFINITIONS.

Subdivision 1. **Terms.** As used in sections 145.411 to 145.416, the terms defined in this section have the meaning given to them.

Subd. 2. **Viable.** "Viable" means able to live outside the womb even though artificial aid may be required. During the second half of its gestation period a fetus shall be considered potentially "viable".

Subd. 3. **Hospital.** "Hospital" means an institution licensed by the state commissioner of health; adequately and properly staffed and equipped; providing services, facilities and beds for the reception and care of one or more nonrelated persons for a continuous period longer than 24 hours for diagnosis, treatment or care of illness, injury or pregnancy; and regularly providing clinical laboratory services, diagnostic X-ray services and treatment facilities for surgery, obstetrical care or other definitive medical treatment of similar extent. "Hospital" shall not include diagnostic or treatment centers, physicians' offices or clinics, or other facilities for the foster care of children licensed by the commissioner of human services.

Subd. 4. **Abortion facility.** "Abortion facility" means those places properly recognized and licensed by the state commissioner of health under lawful rules promulgated by the commissioner for the performance of abortions.

Subd. 5. **Abortion.** "Abortion" includes an act, procedure or use of any instrument, medicine or drug which is supplied or prescribed for or administered to a pregnant woman which results in the termination of pregnancy.

History: 1974 c 177 s 1; 1977 c 305 s 45; 1984 c 654 art 5 s 58; 1985 c 248 s 70

145.412 CRIMINAL ACTS.

Subdivision 1. **Requirements.** It shall be unlawful to willfully perform an abortion unless the abortion is performed:

(1) by a physician licensed to practice medicine pursuant to chapter 147, or a physician in training under the supervision of a licensed physician;

(2) in a hospital or abortion facility if the abortion is performed after the first trimester;

(3) in a manner consistent with the lawful rules promulgated by the state commissioner of health; and

(4) with the consent of the woman submitting to the abortion after a full explanation of the procedure and effect of the abortion.

Subd. 2. **Unconsciousness; lifesaving.** It shall be unlawful to perform an abortion upon a woman who is unconscious except if the woman has been rendered unconscious for the purpose of having an abortion or if the abortion is necessary to save the life of the woman.

Subd. 3. **Viability.** It shall be unlawful to perform an abortion when the fetus is potentially viable unless:

- (1) the abortion is performed in a hospital;
- (2) the attending physician certifies in writing that in the physician's best medical judgment the abortion is necessary to preserve the life or health of the pregnant woman; and
- (3) to the extent consistent with sound medical practice the abortion is performed under circumstances which will reasonably assure the live birth and survival of the fetus.

Subd. 4. **Penalty.** A person who performs an abortion in violation of this section is guilty of a felony.

History: 1974 c 177 s 2; 1977 c 305 s 45; 1985 c 248 s 70; 1986 c 444

145.413 RECORDING AND REPORTING HEALTH DATA.

Subdivision 1. **Rules.** The state commissioner of health shall promulgate rules to effect a reporting system on terminated pregnancies in order that statistical data is obtained that will relate to maternal health. The rules and reporting system shall not interfere with the right of a pregnant woman to seek an abortion before the fetus is potentially viable. No such report, or any part thereof, shall be disclosed, in any manner, by any official or clerk or other employee or person having access thereto, and all such information shall be confidential.

Subd. 2. **Death of woman.** If any woman who has had an abortion dies from any cause within 30 days of the abortion or from any cause potentially related to the abortion within 90 days of the abortion, that fact shall be reported to the state commissioner of health.

Subd. 3. **Penalty.** A physician who performs an abortion and who fails to comply with subdivision 1 and transmit the required information to the state commissioner of health within 30 days after the abortion is guilty of a misdemeanor.

History: 1974 c 177 s 3; 1977 c 305 s 45; 1985 c 248 s 70

145.414 ABORTION NOT MANDATORY.

No person and no hospital or institution shall be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to an abortion for any reason.

History: 1974 c 177 s 4

145.415 LIVE FETUS AFTER ABORTION, TREATMENT.

Subdivision 1. **Recognition.** A potentially viable fetus which is live born following an attempted abortion shall be fully recognized as a human person under the law.

Subd. 2. **Medical care.** If an abortion of a potentially viable fetus results in a live birth, the responsible medical personnel shall take all reasonable measures, in keeping with good medical practice, to preserve the life and health of the live born person.

Subd. 3. **Status.** (1) Unless the abortion is performed to save the life of the woman or child, or, (2) unless one or both of the parents of the unborn child agrees within 30 days of the birth to accept the parental rights and responsibilities for the child if it survives the abortion, whenever an abortion of a potentially viable fetus results in a live birth, the child shall be an abandoned ward of the state and the parents shall have no parental rights or obligations as if the parental rights had been terminated pursuant to section 260.221. The child shall be provided for pursuant to sections 256.12, subdivision 14 and 256.72 to 256.87.

History: 1974 c 177 s 5

145.416 LICENSING AND REGULATION OF FACILITIES.

The state commissioner of health shall license and promulgate rules for facilities as defined in section 145.411, subdivision 4, which are organized for purposes of delivering abortion services.

History: 1974 c 177 s 6; 1977 c 305 s 45; 1985 c 248 s 70

145.42 ABORTIONS; NONLIABILITY FOR REFUSAL TO PERFORM.

Subdivision 1. **Damages.** No physician, nurse, or other person who refuses to perform or assist in the performance of an abortion, and no hospital that refuses to permit the performance of an abortion upon its premises, shall be liable to any person for damages allegedly arising from the refusal.

Subd. 2. **Related actions.** No physician, nurse, or other person who refuses to perform or assist in the performance of an abortion shall, because of that refusal, be dismissed, suspended, demoted, or otherwise prejudiced or damaged by a hospital with which the person is affiliated or by which the person is employed.

History: 1971 c 693 s 1,2; 1986 c 444

145.421 HUMAN CONCEPTUS, EXPERIMENTATION, RESEARCH OR SALE; DEFINITIONS.

Subdivision 1. **Terms.** As used in this section and section 145.422, the terms defined in this section shall have the meanings given them.

Subd. 2. **Human conceptus.** "Human conceptus" means any human organism, conceived either in the human body or produced in an artificial environment other than the human body, from fertilization through the first 265 days thereafter.

Subd. 3. **Living.** "Living," as defined for the sole purpose of this section and section 145.422, means the presence of evidence of life, such as movement, heart or respiratory activity, the presence of electroencephalographic or electrocardiographic activity.

History: 1973 c 562 s 1

145.422 EXPERIMENTATION OR SALE.

Subdivision 1. **Penalty.** Whoever uses or permits the use of a living human conceptus for any type of scientific, laboratory research or other experimentation except to protect the life or health of the conceptus, or except as herein provided, shall be guilty of a gross misdemeanor.

Subd. 2. **Permitted acts.** The use of a living human conceptus for research or experimentation which verifiable scientific evidence has shown to be harmless to the conceptus shall be permitted.

Subd. 3. **Penalty; permitted payments.** Whoever buys or sells a living human conceptus or nonrenewable organ of the body is guilty of a gross misdemeanor. Nothing in this subdivision prohibits (1) the buying and selling of a cell culture line or lines taken from a nonliving human conceptus; (2) payments for reasonable expenses associated with the removal, storage, and transportation of a human organ, including payments made to or on behalf of a living organ donor for actual expenses such as medical costs, lost income, or travel expenses that are incurred as a direct result of the donation of the nonrenewable organ; or (3) financial assistance payments provided under insurance and medicare reimbursement programs.

History: 1973 c 562 s 2; 1984 c 475 s 1

145.423 ABORTION; LIVE BIRTHS.

Subdivision 1. **Recognition; medical care.** A live child born as a result of an abortion shall be fully recognized as a human person, and accorded immediate protection under the law. All reasonable measures consistent with good medical practice, including the compilation of appropriate medical records, shall be taken to preserve the life and health of the child.

Subd. 2. Physician required. When an abortion is performed after the twentieth week of pregnancy, a physician, other than the physician performing the abortion, shall be immediately accessible to take all reasonable measures consistent with good medical practice, including the compilation of appropriate medical records, to preserve the life and health of any live birth that is the result of the abortion.

Subd. 3. Death. If a child described in subdivision 1 dies after birth, the body shall be disposed of in accordance with the provisions of sections 145.14 to 145.163.

History: 1976 c 170 s 1

145.424 PROHIBITION OF TORT ACTIONS.

Subdivision 1. Wrongful life action prohibited. No person shall maintain a cause of action or receive an award of damages on behalf of that person based on the claim that but for the negligent conduct of another, the person would have been aborted.

Subd. 2. Wrongful birth action prohibited. No person shall maintain a cause of action or receive an award of damages on the claim that but for the negligent conduct of another, a child would have been aborted.

Subd. 3. Failure or refusal to prevent a live birth. Nothing in this section shall be construed to preclude a cause of action for intentional or negligent malpractice or any other action arising in tort based on the failure of a contraceptive method or sterilization procedure or on a claim that, but for the negligent conduct of another, tests or treatment would have been provided or would have been provided properly which would have made possible the prevention, cure, or amelioration of any disease, defect, deficiency, or handicap; provided, however, that abortion shall not have been deemed to prevent, cure, or ameliorate any disease, defect, deficiency, or handicap. The failure or refusal of any person to perform or have an abortion shall not be a defense in any action, nor shall that failure or refusal be considered in awarding damages or in imposing a penalty in any action.

History: 1982 c 521 s 1; 1986 c 444

145.425 PAY TOILETS IN PUBLIC PLACES; PROHIBITIONS; PENALTY.

Pay toilets and urinals in public places, public conveyances or public buildings are prohibited unless at least one-half of the available toilets in the same area or rest room are free and maintained at the same standards of sanitation and upkeep. Violation of this section is a misdemeanor.

History: 1975 c 215 s 1

145.43 Subdivision 1. MS 1990 [Renumbered 153A.19 subdivision 1]

Subd. 1a. MS 1991 Supp [Renumbered 153A.19 subd 2]

Subd. 2. MS 1982 [Repealed, 1984 c 418 s 2]

Subd. 3. MS 1974 [Repealed, 1975 c 182 s 2]

Subd. 4. MS 1990 [Renumbered 153A.19 subd 3]

Subd. 5. MS 1990 [Renumbered 153A.19 subd 4]

NOTE: Subdivision 1a was also amended by Laws 1988, chapter 495, section 1, to read as follows:

"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:

(1) permit the buyer to cancel the purchase for any reason within the first 30 days during which the buyer has possession of the hearing aid by giving or mailing written notice of cancellation to the seller;

(2) entitle the buyer, upon cancellation, to receive a full refund of payment within 30 days of return of the hearing aid to the seller; provided, however, that the seller may retain as a cancellation fee an amount not to exceed ten percent of the buyer's total payment for the hearing aid;

(b) The seller shall provide a written receipt or contract to the buyer which includes, 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: **THE BUYER HAS THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO MIDNIGHT OF THE 30TH CALENDAR DAY OF THE BUYER'S ACTUAL POSSESSION OF THE HEARING AID(S) AFTER INITIAL RECEIPT OF THE HEARING AID(S). IF THIS PURCHASE IS CANCELED, THE BUYER WILL RECEIVE THE SUM OF \$....."**

145.44 [Repealed, 1984 c 418 s 2]

145.45 [Renumbered 153A.19 subds 5 and 6]

145.46 DENTAL HEALTH EDUCATION PROGRAM.

Subdivision 1. **Development of program.** The commissioner of health shall assist school and community personnel, including dental professionals, to develop a comprehensive preventive oral health program in the elementary school community.

Subd. 2. **Objectives.** The program shall be operated so as to achieve the following:

(a) Decreasing oral disease through an instruction program or oral health education for teachers;

(b) Improving oral health knowledge, attitudes, and behavior of both the student and the wider school community, including educators, administrators, and parents; and

(c) Planning a sequential oral health education curriculum emphasizing behavior modification for the total health education program of a school system.

Subd. 3. **Duties of commissioner of health.** (a) Technical assistance teams; in-service training of educators. The commissioner of health shall establish technical assistance teams of dental hygienists, consulting dentists, and consulting health educators. The initial program will place one team in four state health regions and reflecting rural, suburban, and urban communities. The teams shall provide in-service education to teachers in the district on methods and techniques of dental behavior change.

(b) Guidelines for implementation in schools. The commissioner of health shall provide guidelines to selected schools for the implementation of their programs to train classroom teachers to be dental health educators. The teachers shall participate in oral health education, analysis, and recording of data.

(c) Standards; evaluation. The commissioner of health shall establish standards for program performance. These standards, together with accepted dental indices, shall be used by the technical assistance teams to evaluate school programs of oral health knowledge and behavior modification on test and control groups.

(d) Consultation to dental personnel. The commissioner of health shall provide information and assistance to dental personnel on methods and techniques of oral health behavior improvement.

History: 1975 c 434 s 25; 1977 c 305 s 45

145.47 [Repealed, 1987 c 309 s 27]

145.48 [Repealed, 1987 c 309 s 27]

145.49 [Repealed, 1987 c 309 s 27]

145.50 [Repealed, 1987 c 309 s 27]

145.51 [Repealed, 1987 c 309 s 27]

145.52 [Repealed, 1987 c 309 s 27]

145.53 [Repealed, 1987 c 309 s 27]

145.54 [Repealed, 1987 c 309 s 27]

145.55 [Repealed, 1987 c 309 s 27]

HEALTH CARE INFORMATION, REVIEW ORGANIZATIONS

145.61 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 145.61 to 145.67 the terms defined in this section have the meanings given them.

Subd. 2. **Professional.** "Professional" means a person licensed or registered to practice a healing art under chapter 147 or 148, to practice dentistry under chapter 150A, to practice as a pharmacist under chapter 151, or to practice podiatry under chapter 153.

Subd. 3. "Professional service" means service rendered by a professional of the type such professional is licensed to perform.

Subd. 4. "Health care" means professional services rendered by a professional or an employee of a professional and services furnished by a hospital, sanitarium, nursing home or other institution for the hospitalization or care of human beings.

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

Subd. 4b. "Consumer director" means a director of a health service plan corporation or health maintenance organization who is not a licensed or registered health care professional.

Subd. 4c. **Preferred provider organization.** "Preferred provider organization" means an organization that contracts with insurance carriers or other entities to arrange a network of health care providers whose services are offered to the insureds or other covered persons.

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 one or more of the following: a hospital, a clinic, a nursing home, one or more state or local associations of professionals, an organization of professionals from a particular area or medical institution, a health maintenance organization as defined in chapter 62D, a nonprofit health service plan corporation as defined in chapter 62C, a preferred provider organization, a professional standards review organization established pursuant to United States Code, title 42, section 1320c-1 et seq., a medical review agent established to meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), the department of human services, or a corporation organized under chapter 317A that owns, operates, or is established by one or more of the above referenced entities, 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 or by the entity or organization that established the review organization;

(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 or in the entity or organization that established the review organization;

(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, preferred provider organizations, 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, membership in a state or local association of professionals, or participating status in a nonprofit health service plan corporation, health maintenance organization, preferred provider organization, or insurance company, or whether a professional's staff privileges, membership, 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, health maintenance organizations, self-insurers and their insureds, subscribers, enrollees, or other covered persons;

- (2) professional licensing boards and health providers licensed by them;
- (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, health maintenance organizations, or self-insurers concerning a charge or fee for health care services provided to an insured, subscriber, enrollee, or other covered person;
- (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);
- (l) providing recommendations on the medical necessity of a health service, or the relevant prevailing community standard for a health service;
- (m) reviewing a provider's professional practice as requested by the data analysis unit under section 62J.32;
- (n) providing quality assurance as required by United States Code, title 42, sections 1396r(b)(1)(b) and 1395i-3(b)(1)(b) of the Social Security Act;
- (o) providing information to group purchasers of health care services when that information was originally generated within the review organization for a purpose specified by this subdivision; or
- (p) providing information to other, affiliated or nonaffiliated review organizations, when that information was originally generated within the review organization for a purpose specified by this subdivision, and as long as that information will further the purposes of a review organization as specified by this subdivision.

History: 1971 c 283 s 1; 1974 c 295 s 1,2; 1975 c 73 s 1; 1976 c 173 s 49; 1982 c 424 s 133; 1982 c 546 s 1; 1985 c 184 s 1; 1989 c 282 art 3 s 30; 1991 c 137 s 1-3; 1992 c 400 s 1,2; 1992 c 549 art 7 s 6; 1993 c 345 art 3 s 18; 1994 c 497 s 1,2

145.62 LIMITATION ON LIABILITY FOR PERSONS PROVIDING INFORMATION TO REVIEW ORGANIZATION.

No person, firm, or corporation providing information to a review organization shall be subject to any action for damages or other relief, by reason of having furnished such information, unless such information is false and the person providing such information knew, or had reason to believe, such information was false.

History: 1971 c 283 s 2

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.

Subd. 2. Organizations. No state or local association of professionals or organization of professionals from a particular area shall be liable for damages or other relief in any action brought by a person whose activities have been or are being scrutinized or reviewed by a review organization established by the association or organization, unless the association or organization was motivated by malice towards the person affected by the review or scrutiny.

History: 1971 c 283 s 3; 1974 c 295 s 3; 1985 c 184 s 2; 1986 c 444; 1987 c 152 art 2 s 1; 1989 c 282 art 3 s 31; 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, or by an individual or other entity acting at the direction of a review organization, 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.

The governing body of a hospital, health maintenance organization, community integrated service network, or integrated service network, that is owned or operated by a governmental entity, may close a meeting to discuss decisions, recommendations, deliberations, or documentation of the review organization. A meeting may not be closed except by a majority vote of the governing body in a public meeting. The closed meeting must be tape recorded and the tape must be retained by the governing body for five years.

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, membership, or participation status. However, any data so disclosed in such proceedings shall not be admissible in any other judicial proceeding than those brought by the professional to challenge an action relating to the professional's medical staff privileges or participation status.

History: 1971 c 283 s 4; 1974 c 295 s 4; 1975 c 73 s 2; 1986 c 444; 1991 c 137 s 5; 1992 c 549 art 7 s 7; 1994 c 497 s 3; 1994 c 625 art 8 s 47

145.65 GUIDELINES NOT ADMISSIBLE IN EVIDENCE.

No guideline established by a review organization shall be admissible in evidence in any proceeding brought by or against a professional by a person to whom such professional has rendered professional services.

History: 1971 c 283 s 5

145.66 PENALTY FOR VIOLATION.

Any disclosure other than that authorized by section 145.64, of data and information acquired by a review committee or of what transpired at a review meeting, is a misdemeanor.

History: 1971 c 283 s 6

145.67 PROTECTION OF PATIENT.

Nothing contained in sections 145.61 to 145.67 shall be construed to relieve any person of any liability which the person has incurred or may incur to a patient as a result of furnishing health care to such patient.

History: 1971 c 283 s 7; 1986 c 444

MALPRACTICE ACTIONS; EXPERT REVIEW**145.682 CERTIFICATION OF EXPERT REVIEW; AFFIDAVIT.**

Subdivision 1. Definition. For purposes of this section, "health care provider" means a physician, surgeon, dentist, or other health care professional or hospital, including all persons or entities providing health care as defined in section 145.61, subdivisions 2 and 4, or a certified health care professional employed by or providing services as an independent contractor in a hospital.

Subd. 2. Requirement. In an action alleging malpractice, error, mistake, or failure to cure, whether based on contract or tort, against a health care provider which includes a cause of action as to which expert testimony is necessary to establish a prima facie case, the plaintiff must: (1) unless otherwise provided in subdivision 3, paragraph (b), serve upon defendant with the summons and complaint an affidavit as provided in subdivision 3; and (2) serve upon defendant within 180 days after commencement of the suit an affidavit as provided by subdivision 4.

Subd. 3. Affidavit of expert review. The affidavit required by subdivision 2, clause (1), must be by the plaintiff's attorney and state that:

(a) the facts of the case have been reviewed by the plaintiff's attorney with an expert whose qualifications provide a reasonable expectation that the expert's opinions could be admissible at trial and that, in the opinion of this expert, one or more defendants deviated from the applicable standard of care and by that action caused injury to the plaintiff; or

(b) the expert review required by paragraph (a) could not reasonably be obtained before the action was commenced because of the applicable statute of limitations. If an affidavit is executed pursuant to this paragraph, the affidavit in paragraph (a) must be served on defendant or the defendant's counsel within 90 days after service of the summons and complaint.

Subd. 4. Identification of experts to be called. (a) The affidavit required by subdivision 2, clause (2), must be signed by each expert listed in the affidavit and by the plaintiff's attorney and state the identity of each person whom plaintiff expects to call as an expert witness at trial to testify with respect to the issues of malpractice or causation, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion. Answers to interrogatories that state the information required by this subdivision satisfy the requirements of this subdivision if they are signed by the plaintiff's attorney and by each expert listed in the answers to interrogatories and served upon the defendant within 180 days after commencement of the suit against the defendant.

(b) The parties or the court for good cause shown, may by agreement, provide for extensions of the time limits specified in subdivision 2, 3, or this subdivision. Nothing in this subdivision may be construed to prevent either party from calling additional expert witnesses or substituting other expert witnesses.

(c) In any action alleging medical malpractice, all expert interrogatory answers must be signed by the attorney for the party responding to the interrogatory and by each expert listed in the answers. The court shall include in a scheduling order a deadline prior to the close of discovery for all parties to answer expert interrogatories for all experts to be called at trial. No additional experts may be called by any party without agreement of the parties or by leave of the court for good cause shown.

Subd. 5. Responsibilities of plaintiff as attorney. If the plaintiff is acting pro se, the plaintiff shall sign the affidavit or answers to interrogatories referred to in this section and is bound by those provisions as if represented by an attorney.

Subd. 6. Penalty for noncompliance. Failure to comply with subdivision 2, clause (1), within 60 days after demand for the affidavit results, upon motion, in mandatory dismissal with prejudice of each cause of action as to which expert testimony is necessary to establish a prima facie case.

Failure to comply with subdivision 2, clause (2), and subdivision 4 results, upon motion, in mandatory dismissal with prejudice of each cause of action as to which expert testimony is necessary to establish a prima facie case.

Subd. 7. Consequences of signing affidavit. The signature of the plaintiff or the plaintiff's attorney constitutes a certification that the person has read the affidavit or answers to interrogatories, and that to the best of the person's knowledge, information, and belief formed after a reasonable inquiry, it is true, accurate, and made in good faith. A certification made in violation of this subdivision subjects the attorney or plaintiff responsible for such conduct to reasonable attorney's fees, costs, and disbursements.

History: 1986 c 455 s 60; 1992 c 549 art 8 s 1

DRUG DEPENDENT PERSONS; COMMITMENT

145.696 [Repealed, 1973 c 572 s 18]

145.697 [Repealed, 1973 c 572 s 18]

145.698 CONFINEMENT OF DRUG DEPENDENT PERSON.

Subdivision 1. Authority. When a person has been accused of violating any state or local law or ordinance in district or municipal court, and if it appears to the court that the defendant may be a drug dependent person, or by reason of the repeated use of drugs may not be responsible for that person's actions, the court may adjourn the proceedings and order the county attorney to file a petition for commitment of the defendant pursuant to the Minnesota hospitalization and commitment act for confinement in a hospital, a mental health center, the Willmar regional treatment center or other drug treatment facility until such time as the court feels that such person can be returned to the court.

Subd. 2. Stay; commitment. Upon conviction of a defendant for any crime, or following revocation of probation previously granted whether or not sentence has been imposed, if it appears to the court that the defendant may be a drug dependent person, or by reason of the repeated use of drugs may be in imminent danger of becoming addicted, the court may adjourn the proceedings or suspend imposition or execution of sentence and order the county attorney to file a petition for commitment of the defendant pursuant to chapter 253B until the court feels that the person is no longer in need of institutional care and treatment.

History: 1971 c 892 s 11; 1983 c 247 s 62; 1986 c 444; 1987 c 384 art 1 s 49

145.699 [Repealed, 1973 c 572 s 18]

145.71 [Repealed, 1979 c 323 s 16]

- 145.72 [Repealed, 1979 c 323 s 16]
 145.73 [Repealed, 1979 c 323 s 16]
 145.74 [Repealed, 1979 c 323 s 16]
 145.75 [Repealed, 1979 c 323 s 16]
 145.751 [Repealed, 1979 c 323 s 16]
 145.76 [Repealed, 1979 c 323 s 16]
 145.761 [Repealed, 1979 c 323 s 16]
 145.77 [Repealed, 1979 c 323 s 16]
 145.78 [Repealed, 1979 c 323 s 16]
 145.79 [Repealed, 1979 c 323 s 16]
 145.80 [Repealed, 1979 c 323 s 16]
 145.81 [Repealed, 1975 c 299 s 12]
 145.811 [Repealed, 1979 c 323 s 16]
 145.812 [Repealed, 1979 c 323 s 16]
 145.82 [Repealed, 1979 c 323 s 16]
 145.83 [Repealed, 1979 c 323 s 16]
 145.831 [Repealed, 1979 c 323 s 16]
 145.832 [Repealed, 1982 c 614 s 12; 1983 c 312 art 1 s 26]
 145.833 [Repealed, 1982 c 614 s 12; 1983 c 312 art 1 s 26]
 145.834 [Repealed, 1982 c 614 s 12; 1983 c 312 art 1 s 26]
 145.835 [Repealed, 1982 c 614 s 12; 1983 c 312 art 1 s 26]
 145.836 [Repealed, 1982 c 614 s 12; 1983 c 312 art 1 s 26]
 145.837 [Repealed, 1982 c 614 s 12; 1983 c 312 art 1 s 26]
 145.838 [Repealed, 1982 c 614 s 12; 1983 c 312 art 1 s 26]
 145.839 [Repealed, 1982 c 614 s 12; 1983 c 312 art 1 s 26]
 145.84 [Repealed, 1982 c 614 s 12; 1983 c 312 art 1 s 26]
 145.841 [Repealed, 1982 c 614 s 12; 1983 c 312 art 1 s 26]
 145.842 [Repealed, 1982 c 614 s 12; 1983 c 312 art 1 s 26]
 145.843 [Repealed, 1982 c 614 s 12; 1983 c 312 art 1 s 26]
 145.844 [Repealed, 1982 c 614 s 12; 1983 c 312 art 1 s 26]
 145.845 [Repealed, 1982 c 614 s 12; 1983 c 312 art 1 s 26]

UNIFORM DUTIES TO DISABLED PERSONS ACT

145.851 DEFINITIONS.

In sections 145.851 to 145.858:

- (a) "disabled condition" means the condition of being unconscious, semiconscious, incoherent, or otherwise incapacitated to communicate;
- (b) "disabled person" means a person in a disabled condition;
- (c) "the emergency symbol" means the caduceus inscribed within a six-barred cross used by the American Medical Association to denote emergency information;
- (d) "identifying device" means an identifying bracelet, necklace, metal tag, or similar device bearing the emergency symbol and the information needed in an emergency;
- (e) "medical practitioner" means a person licensed or authorized to practice medicine, osteopathy, and the healing arts.

History: 1973 c 428 s 1

145.852 IDENTIFYING DEVICES FOR PERSONS HAVING CERTAIN CONDITIONS.

Subdivision 1. **Authorization.** A person who suffers from epilepsy, diabetes, a cardiac condition, or any other type of illness that causes temporary blackouts, semiconscious periods, or complete unconsciousness, or who suffers from a condition requiring specific medication or medical treatment, is allergic to certain medications or items used in medical treatment, wears contact lenses, or is unable to communicate coherently or effectively in the English language, is authorized and encouraged to wear an identifying device.

Subd. 2. **Identification card.** Any person may carry an identification card bearing the person's name, type of medical condition, physician's name, and other medical information.

Subd. 3. **Consent.** By wearing an identifying device a person gives consent for any law enforcement officer or medical practitioner who finds the person in a disabled condition to make a reasonable search of the person's clothing or other effects for an identification card of the type described in subdivision 2.

History: 1973 c 428 s 2; 1986 c 444

145.853 DUTY OF LAW ENFORCEMENT OFFICER.

Subdivision 1. **Diligent effort required.** A law enforcement officer shall make a diligent effort to determine whether any disabled person found is a person having epilepsy or a diabetic, or suffers from some other type of illness that would cause the condition. Whenever feasible, this effort shall be made before the person is charged with a crime or taken to a place of detention.

Subd. 2. **Search.** In seeking to determine whether a disabled person suffers from an illness, a law enforcement officer shall make a reasonable search for an identifying device and an identification card of the type described in section 145.852, subdivision 2, and examine them for emergency information. The law enforcement officer may not search for an identifying device or an identification card in a manner or to an extent that would appear to a reasonable person in the circumstances to cause an unreasonable risk of worsening the disabled person's condition. The law enforcement officer may not remove an identifying device or an identification card from the possession of a disabled person unless the removal is necessary for law enforcement purposes or to protect the safety of the disabled person.

Subd. 3. **Duty; absence of device.** A law enforcement officer who finds a disabled person without an identifying device or identification card is not relieved of the duty to that person to make a diligent effort to ascertain the existence of any illness causing the disabled condition.

Subd. 4. **Actions.** A cause of action against a law enforcement officer does not arise from the officer's making a reasonable search of the disabled person to locate an identifying device or identification card, even though the person is not wearing an identifying device or carrying an identification card.

Subd. 5. **Notification; medical care.** A law enforcement officer who determines or has reason to believe that a disabled person is suffering from an illness causing the person's condition shall promptly notify the person's physician, if practicable. If the officer is unable to ascertain the physician's identity or to communicate with the physician, the officer shall make a reasonable effort to cause the disabled person to be transported immediately to a medical practitioner or to a facility where medical treatment is available. If the officer believes it unduly dangerous to move the disabled person, the officer shall make a reasonable effort to obtain the assistance of a medical practitioner.

History: 1973 c 428 s 3; 1983 c 10 s 1; 1986 c 444; 1988 c 689 art 2 s 44

145.854 DUTY OF MEDICAL PRACTITIONERS.

Subdivision 1. **Search.** A medical practitioner, in discharging a duty to a disabled person whom the practitioner has undertaken to examine or treat, shall make a reason-

able search for an identifying device or identification card of the type described in section 145.852, subdivision 2 and examine them for emergency information.

Subd. 2. Actions. A cause of action against a medical practitioner does not arise from the practitioner's making a reasonable search of a disabled person to locate an identifying device or identification card, even though the person is not wearing an identifying device or carrying an identification card.

History: 1973 c 428 s 4; 1986 c 444

145.855 DUTY OF OTHERS.

Subdivision 1. Notification; search. A person, other than a law enforcement officer or medical practitioner, who finds a disabled person shall make a reasonable effort to notify a law enforcement officer. If a law enforcement officer or medical practitioner is not present, a person who finds a disabled person may (1) make a reasonable search for an identifying device, and (2) if the identifying device is found may make a reasonable search for an identification card of the type described in section 145.852, subdivision 2. If a device or card is located, the person making the search shall attempt promptly to bring its contents to the attention of a law enforcement officer or medical practitioner.

Subd. 2. Actions. A cause of action does not arise from a reasonable search to locate an identifying device or identification card as authorized by subdivision 1.

History: 1973 c 428 s 5

145.856 FALSIFYING IDENTIFICATION OR MISREPRESENTING CONDITION; PENALTY.

A person who with intent to deceive provides, wears, uses, or possesses a false identifying device or identification card of the type described in section 145.852, subdivision 2 is guilty of a misdemeanor.

History: 1973 c 428 s 6

145.857 OTHER DUTIES.

The duties imposed by sections 145.851 to 145.858 are in addition to, and not in limitation of, other duties existing under the law of this state.

History: 1973 c 428 s 7

145.858 CITATION.

Sections 145.851 to 145.858 may be cited as the "uniform duties to disabled persons act."

History: 1973 c 428 s 8

145.861 [Repealed, 1976 c 222 s 209]

145.862 [Repealed, 1976 c 222 s 209]

145.863 [Repealed, 1976 c 222 s 209]

145.864 [Repealed, 1976 c 222 s 209]

145.865 Subdivision 1. [Repealed, 1976 c 222 s 209]

Subd. 2. [Repealed, 1975 c 315 s 26]

Subd. 3. [Repealed, 1976 c 222 s 209]

145.866 [Repealed, 1976 c 222 s 209]

145.867 PERSONS REQUIRING SPECIAL DIETS.

Subdivision 1. Public facility. "Public facility" means an auditorium, concert hall, sports stadium, sports arena, or theater.

Subd. 2. Identification card for individuals needing a special diet. The commissioner of health shall make special diet identification cards available to physicians and

to persons with diabetes and other conditions requiring special diets. The identification card must contain spaces for: (1) the person's name, address, and signature; (2) the physician's name, phone number, and signature; (3) a description of the person's medical condition; and (4) an expiration date. The card must also contain the following provision, in identical or substantially similar language: "The owner of this card is exempted by the commissioner of health from prohibitions on bringing outside food and drink into a public facility." Persons with medical conditions requiring a special diet may ask their physician to fill out and sign the card. The physician shall fill out and sign the card if, in the physician's medical judgment, the person has a medical condition that requires a special diet. Persons with diabetes shall be automatically assumed by physicians to require special diets. Special diet identification cards shall be valid for five years. Persons with a medical condition requiring a special diet may request a new card from their physician up to six months before the expiration date.

Subd. 3. Exemption from food and drink prohibitions. Persons with medical conditions requiring a special diet who present a valid special diet identification card to any employee of a public facility shall be allowed to bring in outside food and drink, subject to the limitations in subdivision 4. To be valid, the card must be filled out according to subdivision 2 and must be current. Persons with special diet identification cards must obey all other food and drink regulations established by a public facility including prohibitions on eating or drinking in certain areas of the public facility.

Subd. 4. Limitation on exemption. Public facilities may limit the amount of food and drink that may be brought into a public facility by a person with a special diet identification card to the amount that can reasonably be consumed by a single individual. Public facilities may also place limits on the size of any food or drink container carried in, if the container would be a safety hazard or interfere with other patrons or customers. Public facilities may also require persons displaying a special diet identification card to show some other form of identification.

History: 1989 c 282 art 2 s 32

MATERNAL AND CHILD HEALTH

145.88 PURPOSE.

The legislature finds that it is in the public interest to assure:

(a) statewide planning and coordination of maternal and child health services through the acquisition and analysis of population-based health data, provision of technical support and training, and coordination of the various public and private maternal and child health efforts; and

(b) support for targeted maternal and child health services in communities with significant populations of high risk, low income families through a grants process.

Federal money received by the Minnesota department of health, pursuant to United States Code, title 42, sections 701 to 709, shall be expended to:

(1) assure access to quality maternal and child health services for mothers and children, especially those of low income and with limited availability to health services and those children at risk of physical, neurological, emotional, and developmental problems arising from chemical abuse by a mother during pregnancy;

(2) reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children;

(3) reduce the need for inpatient and long-term care services and to otherwise promote the health of mothers and children, especially by providing preventive and primary care services for low-income mothers and children and prenatal, delivery and postpartum care for low-income mothers;

(4) provide rehabilitative services for blind and disabled children under age 16 receiving benefits under title XVI of the Social Security Act; and

(5) provide and locate medical, surgical, corrective and other service for children who are crippled or who are suffering from conditions that lead to crippling.

History: 1982 c 431 s 1; 1990 c 542 s 3

145.881 MATERNAL AND CHILD HEALTH ADVISORY TASK FORCE.

Subdivision 1. **Composition of task force.** The commissioner shall establish and appoint a maternal and child health advisory task force consisting of 15 members who will provide equal representation from:

- (1) professionals with expertise in maternal and child health services;
- (2) representatives of community health boards as defined in section 145A.02, subdivision 5; and
- (3) consumer representatives interested in the health of mothers and children.

No members shall be employees of the state department of health. Task force members shall be appointed and removed as provided in section 15.059, subdivisions 2 and 4. The maternal and child health advisory task force shall terminate on the date provided by section 15.059, subdivision 5, and members shall receive compensation as provided in section 15.059, subdivision 6.

Subd. 2. **Duties.** The advisory task force shall meet on a regular basis to perform the following duties:

(a) Review and report on the health care needs of mothers and children throughout the state of Minnesota;

(b) Review and report on the type, frequency and impact of maternal and child health care services provided to mothers and children under existing maternal and child health care programs, including programs administered by the commissioner of health;

(c) Establish, review, and report to the commissioner a list of program guidelines and criteria which the advisory task force considers essential to providing an effective maternal and child health care program to low income populations and high risk persons and fulfilling the purposes defined in section 145.88;

(d) Review staff recommendations of the department of health regarding maternal and child health grant awards before the awards are made;

(e) Make recommendations to the commissioner for the use of other federal and state funds available to meet maternal and child health needs;

(f) Make recommendations to the commissioner of health on priorities for funding the following maternal and child health services: (1) prenatal, delivery and postpartum care, (2) comprehensive health care for children, especially from birth through five years of age, (3) adolescent health services, (4) family planning services, (5) preventive dental care, (6) special services for chronically ill and handicapped children and (7) any other services which promote the health of mothers and children; and

(g) Make recommendations to the commissioner of health on the process to distribute, award and administer the maternal and child health block grant funds.

History: 1982 c 431 s 2; 1983 c 312 art 4 s 1; 1987 c 209 s 32; 1987 c 309 s 24

145.882 MATERNAL AND CHILD HEALTH BLOCK GRANT DISTRIBUTION.

Subdivision 1. **Funding levels and advisory task force review.** Any decrease in the amount of federal funding to the state for the maternal and child health block grant must be apportioned to reflect a proportional decrease for each recipient. Any increase in the amount of federal funding to the state must be distributed under subdivisions 2, 3, and 4.

The advisory task force shall review and recommend the proportion of maternal and child health block grant funds to be expended for indirect costs, direct services and special projects.

Subd. 2. **Allocation to the commissioner of health.** Beginning January 1, 1986, up to one-third of the total maternal and child health block grant money may be retained by the commissioner of health for administrative and technical assistance services, projects of regional or statewide significance, direct services to children with handicaps, and other activities of the commissioner.

Subd. 3. **Allocation to community health services areas.** (a) The maternal and child

health block grant money remaining after distributions made under subdivision 2 must be allocated according to the formula in subdivision 4 to community health services areas for distribution by community health boards as defined in section 145A.02, subdivision 5, to qualified programs that provide essential services within the community health services area as long as:

(1) the Minneapolis community health service area is allocated at least \$1,626,215 per year;

(2) the St. Paul community health service area is allocated at least \$822,931 per year; and

(3) all other community health service areas are allocated at least \$30,000 per county per year or their 1988-1989 funding cycle award, whichever is less.

(b) Notwithstanding paragraph (a), if the total amount of maternal and child health block grant funding decreases, the decrease must be apportioned to reflect a proportional decrease for each recipient, including recipients who would otherwise receive a guaranteed minimum allocation under paragraph (a).

Subd. 4. Distribution formula. The amount available for each community health services area is determined according to the following formula:

(a) Each community health services area is allocated an amount based on the following three variables:

(1) the proportion of resident mothers within the city, county, or counties who are under 20 years of age or over 35 years of age, as determined by averaging the data available for the three most current years;

(2) the proportion of resident infants within the city, county, or counties whose weight at birth is less than 2,500 grams, as determined by averaging the data available for the three most current years; and

(3) the proportion of resident children within the city, county, or counties under the age of 19 who are on general assistance or medical assistance and the proportion of resident women within the city, county, or counties aged 19 to 49 who are on general assistance or medical assistance, as determined by using the data available for the most current year.

(b) Each variable is expressed as a city or county score consisting of the city or county frequency of each variable divided by the statewide frequency of the variable.

(c) A total score for each city or county jurisdiction is computed by totaling the scores of the three factors and dividing the total by three. The resulting amount is added to the total score for the most recent two-year grant period and the sum is divided by two.

(d) Each community health services area is allocated an amount equal to the total score obtained above for the city, county, or counties in its area multiplied by the amount of money available for special projects of local significance.

Subd. 5. Nonparticipants in the community health services subsidy program. A city or county that is not participating in the community health services subsidy program must be allocated money under subdivisions 3 and 4, and for this limited purpose the city or county is a "community health services area." For these areas, the commissioner shall convene a meeting of public and private nonprofit agencies in the city or county that have expressed an intent to submit an application for funding, in order to attempt to develop a single coordinated grant application for the city or county. Applications, whether consolidated into a single application or submitted as individual applications, must be submitted according to section 145.885. Grants for qualified programs providing essential services in these areas are awarded and distributed by the commissioner.

Subd. 6. Reallocation. If no approvable applications are received for a community health services area, the commissioner must reallocate the money available for that area to other community health service areas for which approvable applications have been received.

Subd. 7. Use of block grant money. (a) Maternal and child health block grant

money allocated to a community health board or community health services area under this section must be used for qualified programs for high risk and low-income individuals. Block grant money must be used for programs that:

(1) specifically address the highest risk populations, particularly low-income and minority groups with a high rate of infant mortality and children with low birth weight, by providing services, including prepregnancy family planning services, calculated to produce measurable decreases in infant mortality rates, instances of children with low birth weight, and medical complications associated with pregnancy and childbirth, including infant mortality, low birth rates, and medical complications arising from chemical abuse by a mother during pregnancy;

(2) specifically target pregnant women whose age, medical condition, maternal history, or chemical abuse substantially increases the likelihood of complications associated with pregnancy and childbirth or the birth of a child with an illness, disability, or special medical needs;

(3) specifically address the health needs of young children who have or are likely to have a chronic disease or disability or special medical needs, including physical, neurological, emotional, and developmental problems that arise from chemical abuse by a mother during pregnancy;

(4) provide family planning and preventive medical care for specifically identified target populations, such as minority and low-income teenagers, in a manner calculated to decrease the occurrence of inappropriate pregnancy and minimize the risk of complications associated with pregnancy and childbirth; or

(5) specifically address the frequency and severity of childhood injuries in high risk target populations by providing services calculated to produce measurable decreases in mortality and morbidity. However, money may be used for this purpose only if the community health board's application includes program components for the purposes in clauses (1) to (4) in the proposed geographic service area and the total expenditure for injury-related programs under this clause does not exceed ten percent of the total allocation under subdivision 3.

(b) Maternal and child health block grant money may be used for purposes other than the purposes listed in this subdivision only under the following conditions:

(1) the community health board or community health services area can demonstrate that existing programs fully address the needs of the highest risk target populations described in this subdivision; or

(2) the money is used to continue projects that received funding before creation of the maternal and child health block grant in 1981.

(c) Projects that received funding before creation of the maternal and child health block grant in 1981, must be allocated at least the amount of maternal and child health special project grant funds received in 1989, unless (1) the local board of health provides equivalent alternative funding for the project from another source; or (2) the local board of health demonstrates that the need for the specific services provided by the project has significantly decreased as a result of changes in the demographic characteristics of the population, or other factors that have a major impact on the demand for services. If the amount of federal funding to the state for the maternal and child health block grant is decreased, these projects must receive a proportional decrease as required in subdivision 1. Increases in allocation amounts to local boards of health under subdivision 4 may be used to increase funding levels for these projects.

Subd. 8. Report. The commissioner shall prepare, with the advice of the advisory task force, an annual report to the legislature which details the distribution of maternal and child health block grant money, including the amounts to be expended for indirect costs, direct services, and local grants. The report shall also identify the statewide needs of low income and high risk populations and the department of health's plans and community health board plans for meeting their needs. The legislature must receive the report no later than January of each year.

History: 1982 c 431 s 3; 1983 c 312 art 4 s 2; 1Sp1985 c 14 art 19 s 18; 1987 c 209 s 33; 1987 c 309 s 24; 1989 c 282 art 2 s 33-35; 1990 c 542 s 4

145.883 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 145.881 to 145.888, the terms defined in this section shall have the meanings given them.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 3. **Qualified program.** "Qualified program" means a program with professional maternal and child health care staff which is established for the purpose of providing one or more essential services in maternal and child health care to target populations of low income and high risk persons. Nothing in this subdivision shall imply that every person served must take a means test.

Subd. 4. **Essential services.** "Essential services" means (a) prenatal, delivery, and post partum care; (b) comprehensive health care for children from birth through five years of age; (c) adolescent health services; (d) family planning services, as defined in section 145.925, subdivision 1a; (e) preventive dental care; or (f) special services for chronically ill children and for handicapped children.

Subd. 5. **Low income.** "Low income" means an individual or family income determined to be at or below 175 percent of the official poverty line established by the office of management and budget and revised annually in accordance with United States Code, title 42, section 9902, as amended. 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 official poverty line established by the office of management and budget and revised annually in accordance with United States Code, title 42, section 9902, as amended, or determined to meet the income eligibility requirements of medical assistance, MinnesotaCare, 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.

Subd. 6. **High risk person.** "High risk person" means a mother or child with a condition which significantly increases the probability of disease, injury, death, or other adverse health-related problem. Determination that a condition results in high risk shall be based on well validated, scientific studies.

Subd. 7. **Special project.** "Special project" means a qualified program that receives maternal and child health block grant money and is administered by a public or private nonprofit agency other than the Minnesota department of health. A special project may not impose residency requirements, other than state residence, as a condition of receiving essential services. A special project that can demonstrate a need to reduce services as a result of high demand for these services from outside the project's proposed service area may apply for additional funds. Any special project providing statewide essential services may serve a population that is low income or high risk.

Subd. 8. **Maternal and child health block grant money.** "Maternal and child health block grant money" means the money received by the state from the federal maternal and child health block grant. The commissioner shall carry forward from state fiscal year 1985, and succeeding years, only sufficient money for qualified programs approved through the federal award period.

Subd. 9. **Community health services area.** "Community health services area" means a city, county, or multicounty area that is organized as a community health board under section 145A.09 and for which a state subsidy is received under sections 145A.09 to 145A.13.

History: 1983 c 312 art 4 s 3; 1Sp1985 c 14 art 19 s 19,20; 1987 c 309 s 24-26; 1991 c 36 s 3; 1Sp1993 c 1 art 3 s 1

145.884 GRANTS TO QUALIFIED PROGRAMS.

Subdivision 1. **Rules.** The commissioner shall, in the name of the state and within the limit of the federal maternal and child health block grant appropriation, make grants under sections 145.881 to 145.888 for qualified programs of maternal and child health care services. The commissioner shall promulgate rules for the administration of grants. The rules shall establish and contain as a minimum:

- (a) procedures for grant applications;
- (b) conditions and procedures for the administration of grants;
- (c) criteria of eligibility for grants; and
- (d) other matters the commissioner finds necessary for the proper administration of the grant program.

Subd. 2. [Repealed, 1Sp1985 c 14 art 19 s 38]

History: 1983 c 312 art 4 s 4; 1Sp1985 c 14 art 19 s 21

145.885 APPLICATION FOR A GRANT.

Subdivision 1. **Requirements for all applications.** An application for a grant shall be submitted to the commissioner at a time and in a form and manner as the commissioner prescribes. Department of health technical staff shall be available to provide technical assistance in development of grant applications. The application must contain:

- (1) a complete description of the program and the manner in which the applicant intends to conduct the program;
- (2) a description of the manner in which the program responds to needs and priorities for services identified by the maternal and child health task force under section 145.881, subdivision 2, and rules adopted by the commissioner; differences must be explained in detail;
- (3) a budget and justification for the amount of grant funds requested;
- (4) a description of the target population served by the qualified program and estimates of the number of low income or high risk patients the program is expected to serve;
- (5) the name or names of the person or persons who shall have primary responsibility for the administration and delivery of services of the qualified program; and
- (6) the reporting and accounting procedures to be followed by the qualified agency to enable the commissioner to evaluate the activities of the qualified program.

Subd. 2. **Additional requirements for community boards of health.** Applications by community health boards as defined in section 145A.02, subdivision 5, under section 145.882, subdivision 3, must also contain a summary of the process used to develop the local program, including evidence that the community health board notified local public and private providers of the availability of funding through the community health board for maternal and child health services; a list of all public and private agency requests for grants submitted to the community health board indicating which requests were included in the grant application; and an explanation of how priorities were established for selecting the requests to be included in the grant application. The community health board shall include, with the grant application, a written statement of the criteria to be applied to public and private agency requests for funding.

History: 1983 c 312 art 4 s 5; 1Sp1985 c 14 art 19 s 22; 1987 c 309 s 24

145.886 GRANT REVIEW PROCESS.

Primary review of all grant applications shall be conducted by the department of health technical staff. All technically completed applications will be forwarded for secondary review to the advisory task force. The commissioner shall award grants under section 145.885 and this section only after receiving the comments and recommendation of the advisory task force on completed grant applications.

History: 1983 c 312 art 4 s 6; 1Sp1985 c 14 art 19 s 23

145.888 LIMITATIONS.

Grants awarded to qualified programs under this section and sections 145.885 and 145.886 shall not exceed 75 percent of the estimated annual cost of the qualified program for the fiscal year for which the grant is awarded.

History: 1983 c 312 art 4 s 7

145.889 RULES.

The commissioner may adopt emergency and permanent rules for the efficient administration of sections 145.881 to 145.886 and 145.888. The emergency rules need not be adopted in compliance with chapter 14 and shall be effective for 360 days or until the permanent rules are adopted, whichever occurs first. The emergency rules shall be effective upon adoption by the commissioner and shall be published in the State Register as soon thereafter as possible.

History: 1983 c 312 art 4 s 8; 1984 c 640 s 32

145.891 CITATION.

Sections 145.891 to 145.897 shall be known as the "maternal and child nutrition act of 1975."

History: 1975 c 346 s 1

145.892 DEFINITIONS.

Subdivision 1. For purposes of sections 145.891 to 145.897, the terms defined in this section have the meanings given them.

Subd. 2. "Local health agency" means the community health services agency or any public or private nonprofit organization which enters into a contract with the commissioner of health pursuant to sections 145.891 to 145.897.

Subd. 3. "Pregnant woman" means an individual determined by a licensed physician, midwife, or appropriately trained registered nurse to have one or more fetuses in utero.

Subd. 4. "Lactating woman" means any breast feeding individual who presents competent evidence of having been delivered of a surviving child within the 12 months immediately preceding the filing of an application for nutritional supplements.

Subd. 5. "Infant" means an individual under one year of age.

Subd. 6. "Child" means an individual one to five years of age.

Subd. 7. "Nutritional risk" means individuals with any of the following characteristics:

(a) For pregnant and lactating women:

(i) Known inadequate nutritional patterns;

(ii) Anemia;

(iii) History of prematurity or miscarriage; or

(iv) Inadequate patterns of growth (underweight, obesity, or stunting).

(b) For infants and children:

(i) Low birth weight;

(ii) Deficient patterns of growth;

(iii) Anemia; or

(iv) Known inadequate nutritional patterns.

Subd. 8. "Low birth weight" means a birth weight of less than 2,500 grams.

Subd. 9. "Nutritional supplements" means any food authorized by the commissioner to be made available under this program.

Subd. 10. "Commissioner" means the commissioner of health or a representative.

History: 1975 c 346 s 2; 1977 c 305 s 45; 1978 c 762 s 4; 1986 c 404 s 7; 1986 c 444

145.893 NUTRITIONAL SUPPLEMENT PROGRAM.

Subdivision 1. **Vouchers.** An eligible individual shall receive vouchers for the purchase of specified nutritional supplements in type and quantity approved by the commissioner. Alternate forms of delivery may be developed by the commissioner in appropriate cases.

Subd. 2. **Eligibility.** An individual shall be eligible for nutritional supplements who is not receiving a similar supplement under any federal, state, or local program and

- (a) Is pregnant or lactating; or
- (b) Is an infant or a child; and
- (c) Is eligible for or a recipient of any form of public assistance authorized by law and is certified by the local health agency to be a nutritional risk; or
- (d) Is certified by the local health agency to be a nutritional risk and is without sufficient resources to purchase necessary nutritional supplements.

Subd. 3. **Cessation.** Eligibility for nutritional supplements shall cease upon certification by the local health agency that the individual is no longer a nutritional risk, but in no case later than:

- (a) For lactating women, 12 months after the birth of a surviving child; and
- (b) For children, at five years of age.

History: 1975 c 346 s 3; 1977 c 305 s 45; 1978 c 762 s 5

145.894 STATE COMMISSIONER OF HEALTH; DUTIES, RESPONSIBILITIES.

The commissioner of health shall:

- (a) develop a comprehensive state plan for the delivery of nutritional supplements to pregnant and lactating women, infants, and children;
- (b) contract with existing local public or private nonprofit organizations for the administration of the nutritional supplement program;
- (c) develop and implement a public education program promoting the provisions of sections 145.891 to 145.897, and provide for the delivery of individual and family nutrition education and counseling at project sites. The education programs must include a campaign to promote breast feeding;
- (d) develop in cooperation with other agencies and vendors a uniform state voucher system for the delivery of nutritional supplements;
- (e) authorize local health agencies to issue vouchers bimonthly to some or all eligible individuals served by the agency, provided the agency demonstrates that the federal minimum requirements for providing nutrition education will continue to be met and that the quality of nutrition education and health services provided by the agency will not be adversely impacted;
- (f) investigate and implement a system to reduce the cost of nutritional supplements and maintain ongoing negotiations with nonparticipating manufacturers and suppliers to maximize cost savings;
- (g) develop, analyze, and evaluate the health aspects of the nutritional supplement program and establish nutritional guidelines for the program;
- (h) apply for, administer, and annually expend at least 99 percent of available federal or private funds;
- (i) aggressively market services to eligible individuals by conducting ongoing outreach activities and by coordinating with and providing marketing materials and technical assistance to local human services and community service agencies and nonprofit service providers;
- (j) determine, on July 1 of each year, the number of pregnant women participating in each special supplemental food program for women, infants, and children (W.I.C.) and, in 1986, 1987, and 1988, at the commissioner's discretion, designate a different food program deliverer if the current deliverer fails to increase the participation of pregnant women in the program by at least ten percent over the previous year's participation rate;
- (k) promulgate all rules necessary to carry out the provisions of sections 145.891 to 145.897;
- (l) report to the legislature by November 15 of every year on the expenditures and activities under sections 145.891 to 145.897 of the state and local health agencies for the preceding fiscal year; and

(m) ensure that any state appropriation to supplement the federal program is spent consistent with federal requirements.

History: 1975 c 346 s 4; 1977 c 305 s 45; 1985 c 248 s 70; 1986 c 404 s 8; 1988 c 689 art 2 s 45; 1989 c 282 art 1 s 17; 1990 c 568 art 3 s 5

145.895 DEPARTMENT OF HUMAN SERVICES.

The commissioner of human services shall cooperate with the commissioner of health in identifying eligible individuals. The commissioner of human services shall provide a procedure for the notification of pregnant or lactating women, infants and children receiving any form of public assistance of eligibility for benefits under this program.

History: 1975 c 346 s 5; 1977 c 305 s 45; 1984 c 654 art 5 s 58

145.896 PROGRAM NOT A SUBSTITUTE OR REPLACEMENT.

This program shall not be a replacement or substitute for any other local, state, or federal program administered through the departments of health or human services, nor shall the value of the nutritional supplements be included in eligibility determination for other assistance programs.

History: 1975 c 346 s 6; 1984 c 654 art 5 s 58

145.897 VOUCHERS.

Vouchers issued pursuant to sections 145.891 to 145.897 shall be only for the purchase of those foods determined by the commissioner to be desirable nutritional supplements for pregnant and lactating women, infants and children. These foods shall include, but not be limited to, iron fortified infant formula, vegetable or fruit juices, cereal, milk, cheese, and eggs.

History: 1975 c 346 s 7; 1977 c 305 s 45

145.898 SUDDEN INFANT DEATH.

The department of health shall develop uniform investigative guidelines and protocols for coroners and medical examiners conducting death investigations and autopsies of children under two years of age.

History: 1989 c 282 art 2 s 36

145.90 FETAL, INFANT, AND MATERNAL DEATH STUDIES.

Subdivision 1. Purpose. The commissioner of health may conduct fetal, infant, and maternal death studies in order to assist the planning, implementation, and evaluation of medical, health, and welfare service systems, and to improve pregnancy outcomes and reduce the numbers of preventable fetal, infant, and maternal deaths in Minnesota.

Subd. 2. Access to data. (a) Until July 1, 1997, the commissioner of health has access to medical data as defined in section 13.42, subdivision 1, paragraph (b), medical examiner data as defined in section 13.83, subdivision 1, and health records created, maintained, or stored by providers as defined in section 144.335, subdivision 1, paragraph (b), without the consent of the subject of the data, and without the consent of the parent, spouse, other guardian, or legal representative of the subject of the data, when the subject of the data is:

- (1) a fetus that showed no signs of life at the time of delivery, was 20 or more weeks of gestation at the time of delivery, and was not delivered by an induced abortion;
- (2) a liveborn infant that died within the first two years of life;
- (3) a woman who died during a pregnancy or within 12 months of a fetal death, a live birth, or other termination of a pregnancy; or
- (4) the biological mother of a fetus or infant as described in clause (1) or (2).

The commissioner only has access to medical data and health records related to

MINNESOTA STATUTES 1994

deaths or stillbirths that occur on or after July 1, 1994. With respect to data under clause (4), the commissioner only has access to medical data and health records that contain information that bears upon the pregnancy and the outcome of the pregnancy.

(b) The provider or responsible authority that creates, maintains, or stores the data shall furnish the data upon the request of the commissioner. The provider or responsible authority may charge a fee for providing data, not to exceed the actual cost of retrieving and duplicating the data.

(c) The commissioner shall make a good faith reasonable effort to notify the subject of the data, or the parent, spouse, other guardian, or legal representative of the subject of the data, before collecting data on the subject. For purposes of this paragraph, "reasonable effort" includes:

(1) one visit by a public health nurse to the last known address of the data subject, or the parent, spouse, or guardian; and

(2) if the public health nurse is unable to contact the data subject, or the parent, spouse, or guardian, one notice by certified mail to the last known address of the data subject, or the parent, spouse, or guardian.

(d) The commissioner does not have access to coroner or medical examiner data that are part of an active investigation as described in section 13.83.

Subd. 3. Management of records. After the commissioner has collected all data about a subject of a fetal, infant, or maternal death study needed to perform the study, the data from source records obtained under subdivision 2, other than data identifying the subject, must be transferred to separate records to be maintained by the commissioner. Notwithstanding section 138.17, after the data have been transferred, all source records obtained under subdivision 2 in the hands of the commissioner must be destroyed.

Subd. 4. Classification of data. Data provided to or created by the commissioner for the purpose of carrying out fetal, infant, or maternal death studies, including identifying information on individual providers or patients, are classified as private data on individuals or nonpublic data on deceased individuals, as defined in section 13.02, with the following exceptions:

(1) summary data created by the commissioner, as defined in section 13.02, subdivision 19; and

(2) data provided by the commissioner of human services, which retains the classification it held when in the hands of the commissioner of human services.

History: 1994 c 618 art 1 s 22

COMMUNITY HEALTH SERVICES

145.911 [Repealed, 1987 c 309 s 27]

145.912 Subdivision 1. [Repealed, 1987 c 309 s 27]

Subd. 2. [Repealed, 1987 c 309 s 27]

Subd. 3. [Repealed, 1987 c 309 s 27]

Subd. 4. [Repealed, 1987 c 309 s 27]

Subd. 5. [Repealed, 1987 c 309 s 27]

Subd. 6. [Repealed, 1987 c 309 s 27]

Subd. 7. [Repealed, 1987 c 309 s 27]

Subd. 8. [Repealed, 1987 c 309 s 27]

Subd. 9. [Renumbered 145.925 subd 1a]

Subd. 10. [Repealed, 1987 c 309 s 27]

Subd. 11. [Repealed, 1987 c 309 s 27]

Subd. 12. [Repealed, 1987 c 309 s 27]

Subd. 13. [Repealed, 1987 c 309 s 27]

Subd. 14. [Repealed, 1987 c 309 s 27]

- Subd. 15. [Repealed, 1987 c 309 s 27]
- Subd. 16. [Repealed, 1Sp1985 c 9 art 2 s 104]
- Subd. 17. [Repealed, 1Sp1985 c 9 art 2 s 104]
- Subd. 18. [Repealed, 1Sp1985 c 9 art 2 s 104]
- Subd. 19. [Repealed, 1987 c 309 s 27]
- Subd. 20. [Repealed, 1987 c 309 s 27]
- 145.913** [Repealed, 1987 c 309 s 27]
- 145.914** [Repealed, 1987 c 309 s 27]
- 145.915** [Repealed, 1987 c 309 s 27]
- 145.916** [Repealed, 1987 c 309 s 27]
- 145.917** [Repealed, 1987 c 309 s 27]
- 145.918** [Repealed, 1987 c 309 s 27]
- 145.919** [Repealed, 1987 c 309 s 27]
- 145.92** [Repealed, 1987 c 309 s 27]
- 145.921** [Renumbered 145A.13]
- 145.922** [Repealed, 1987 c 309 s 27]
- 145.923** [Renumbered 145A.14 subd 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: 1987 c 309 s 24; 1988 c 689 art 2 s 46; 1991 c 292 art 2 s 31

145.9245 GRANTS FOR CASE MANAGEMENT SERVICES FOR AIDS INFECTED PERSONS.

The commissioner may award special grants to community health boards as defined in section 145A.02, subdivision 5, or nonprofit corporations for the development, implementation, and evaluation of case management services for individuals infected with the human immunodeficiency virus to assist in preventing transmission of the human immunodeficiency virus to others.

History: 1989 c 282 art 2 s 37

145.925 FAMILY PLANNING GRANTS.

Subdivision 1. **Eligible organizations; purpose.** The commissioner of health may make special grants to cities, counties, groups of cities or counties, or nonprofit corporations to provide pre-pregnancy family planning services.

Subd. 1a. **Family planning services; defined.** "Family planning services" means counseling by trained personnel regarding family planning; distribution of information relating to family planning, referral to licensed physicians or local health agencies for consultation, examination, medical treatment, genetic counseling, and prescriptions for the purpose of family planning; and the distribution of family planning products, such as charts, thermometers, drugs, medical preparations, and contraceptive devices. For purposes of sections 145A.01 to 145A.14, family planning shall mean voluntary action by individuals to prevent or aid conception but does not include the performance, or make referrals for encouragement of voluntary termination of pregnancy.

Subd. 2. **Prohibition.** The commissioner shall not make special grants pursuant to this section to any nonprofit corporation which performs abortions. No state funds shall be used under contract from a grantee to any nonprofit corporation which performs abortions. This provision shall not apply to hospitals licensed pursuant to sections 144.50 to 144.56, or health maintenance organizations certified pursuant to chapter 62D.

Subd. 3. **Minors.** No funds provided by grants made pursuant to this section shall be used to support any family planning services for any unemancipated minor in any elementary or secondary school building.

Subd. 4. **Parental notification.** Except as provided in sections 144.341 and 144.342, any person employed to provide family planning services who is paid in whole or in part from funds provided under this section who advises an abortion or sterilization to any unemancipated minor shall, following such a recommendation, so notify the parent or guardian of the reasons for such an action.

Subd. 5. **Rules.** The commissioner of health shall promulgate rules for approval of plans and budgets of prospective grant recipients, for the submission of annual financial and statistical reports, and the maintenance of statements of source and application of funds by grant recipients. The commissioner of health may not require that any home rule charter or statutory city or county apply for or receive grants under this subdivision as a condition for the receipt of any state or federal funds unrelated to family planning services.

Subd. 6. **Public services; individual and employee rights.** The request of any person for family planning services or the refusal to accept any service shall in no way affect the right of the person to receive public assistance, public health services, or any other public service. Nothing in this section shall abridge the right of the individual to make decisions concerning family planning, nor shall any individual be required to state a reason for refusing any offer of family planning services.

Any employee of the agencies engaged in the administration of the provisions of this section may refuse to accept the duty of offering family planning services to the extent that the duty is contrary to personal beliefs. A refusal shall not be grounds for dismissal, suspension, demotion, or any other discrimination in employment. The directors or supervisors of the agencies shall reassign the duties of employees in order to carry out the provisions of this section.

All information gathered by any agency, entity, or individual conducting programs in family planning is private data on individuals within the meaning of section 13.02, subdivision 12.

Subd. 7. **Family planning services; information required.** A grant recipient shall inform any person requesting counseling on family planning methods or procedures of:

- (1) Any methods or procedures which may be followed, including identification of any which are experimental or any which may pose a health hazard to the person;
- (2) A description of any attendant discomforts or risks which might reasonably be expected;
- (3) A fair explanation of the likely results, should a method fail;
- (4) A description of any benefits which might reasonably be expected of any method;
- (5) A disclosure of appropriate alternative methods or procedures;

(6) An offer to answer any inquiries concerning methods of procedures; and

(7) An instruction that the person is free either to decline commencement of any method or procedure or to withdraw consent to a method or procedure at any reasonable time.

Subd. 8. Coercion; penalty. Any person who receives compensation for services under any program receiving financial assistance under this section, who coerces or endeavors to coerce any person to undergo an abortion or sterilization procedure by threatening the person with the loss of or disqualification for the receipt of any benefit or service under a program receiving state or federal financial assistance shall be guilty of a misdemeanor.

Subd. 9. Rules; regional funding. 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: 1976 c 9 s 2; 1977 c 305 s 45; 1978 c 775 s 1; 1981 c 311 s 39; 1981 c 356 s 176; 1982 c 545 s 24; 1983 c 289 s 115 subd 1; 1Sp1985 c 9 art 2 s 16; 1986 c 444; 1987 c 309 s 25; 1991 c 199 art 2 s 1; 1991 c 292 art 2 s 32

145.926 [Repealed, 1993 c 224 art 4 s 45]

145.9265 FETAL ALCOHOL SYNDROME AND EFFECTS AND DRUG-EXPOSED INFANT PREVENTION.

The commissioner of health, in coordination with the commissioner of education and the commissioner of human services, shall design and implement a coordinated prevention effort to reduce the rates of fetal alcohol syndrome and fetal alcohol effects, and reduce the number of drug-exposed infants. The commissioner shall:

(1) conduct research to determine the most effective methods of preventing fetal alcohol syndrome, fetal alcohol effects, and drug-exposed infants and to determine the best methods for collecting information on the incidence and prevalence of these problems in Minnesota;

(2) provide training on effective prevention methods to health care professionals and human services workers; and

(3) operate a statewide media campaign focused on reducing the incidence of fetal alcohol syndrome and fetal alcohol effects, and reducing the number of drug-exposed infants.

History: 1992 c 571 art 10 s 8

145.927 BONE MARROW DONOR EDUCATION.

The commissioner of health shall educate residents of the state about:

(1) the need for bone marrow donors;

(2) the procedures required to become registered as a potential bone marrow donor, including the procedures for determining the person's tissue type; and

(3) the medical procedures a donor must undergo to donate bone marrow and the attendant risks of the procedure.

The commissioner shall make special efforts to educate and recruit minority populations to volunteer as potential bone marrow donors. Means of communication may

include use of press, radio, and television, and placement of educational materials in appropriate health care facilities, blood banks, and state and local agencies. The commissioner of health, in conjunction with the commissioner of public safety, shall make educational materials available at all places where drivers' licenses are issued or renewed.

History: 1990 c 536 s 1

POISON CONTROL SYSTEM

145.93 MINNESOTA POISON INFORMATION CENTERS; ESTABLISHMENT.

Subdivision 1. Purpose. The legislature finds that the needs of citizens of the state for information relating to the prompt identification and appropriate home management or referral of cases of human poisoning are best served by establishment of a single integrated poison control system, consisting of one or more regional poison information centers organized to provide statewide information and education services to the public and to health professionals.

Subd. 2. [Repealed, 1993 c 337 s 20]

Subd. 3. Grant award; designation; payments under grant. Each odd-numbered year the commissioner shall solicit applications for the poison information centers by giving reasonable public notice of the availability of money appropriated or otherwise available. The commissioner shall select from among the nonprofit corporations or units of government the applicants that best fulfill the criteria specified in subdivision 4. The grant shall be paid to the grantees quarterly beginning on July 1.

Subd. 4. Selection criteria. In selecting grantees under this section, the commissioner of health shall determine that the following criteria are met:

(a) whether the applicant can demonstrate the ability to provide appropriate and adequate telephone poison information services to the general public and to health professionals 24 hours a day at no direct cost to users and in a manner that appropriately utilizes "911" emergency telephone services developed pursuant to chapter 403;

(b) whether the applicant can demonstrate the ability to provide adequate medical direction as well as the toxicological and related professional and technical resources needed for poison information services;

(c) whether the applicant can demonstrate the ability to provide appropriate public education and professional education services;

(d) whether the applicant can demonstrate the ability to provide poison information services in a financially sound and cost-effective manner; and

(e) whether the applicant can demonstrate the ability to cooperate with interested health professionals throughout the state to provide poison information in a coordinated fashion.

Subd. 5. [Repealed, 1985 c 223 s 5]

Subd. 6. Reports; monitoring; termination. The grantees selected shall report quarterly to the commissioner of health, on a form provided by the commissioner, information about fiscal performance and status. Grantees shall also report annually information about programmatic status and performance. All relevant records and the performance of the grantee shall be monitored by the commissioner for purposes of assuring that the grantee continues to fulfill the criteria specified in subdivision 4. Should the commissioner at any time find that a grantee is not continuing to fulfill the criteria specified in subdivision 4, the commissioner may terminate the grant upon 30 days notice.

History: 1980 c 577 s 1; 1983 c 260 s 32,33; 1985 c 223 s 1-4; 1989 c 209 art 2 s 1

HAZARDOUS SUBSTANCE EXPOSURE

145.94 EXPOSURE TO HAZARDOUS SUBSTANCE.

Subdivision 1. **Site inspection.** To determine hazardous substance exposure to the community, the commissioner of health may enter the premises of any employer as defined in section 182.651, subdivision 7, including the University of Minnesota, to investigate the actual, suspected, or potential release of a hazardous substance if there is evidence or risk of exposure to the community. Before entering the commissioner shall present to the employer a statement of the reason, nature, and scope of the investigation at a particular location. As part of the investigation, and upon request to the employer, the commissioner must be allowed access to information required under the employee right-to-know act to determine if there are existing or potential health hazards to the community from the release of any hazardous substance originating in the workplace of the employer.

Subd. 2. **Disclosure of information.** The commissioner may disclose to individuals or to the community, information including data made nonpublic by law, relating to the hazardous properties and health hazards of hazardous substances released from a workplace if the commissioner finds:

- (1) evidence that a person requesting the information may have suffered or is likely to suffer illness or injury from exposure to a hazardous substance; or
- (2) evidence of a community health risk and if the commissioner seeks to have the employer cease an activity which results in release of a hazardous substance.

Nonpublic data obtained under subdivision 1 is subject to handling, use, and storage according to established standards to prevent unauthorized use or disclosure. If the nonpublic data is required for the diagnosis, treatment, or prevention of illness or injury, a personal physician may be provided with this information if the physician agrees to preserve the confidentiality of the information, except for patient health records subject to section 144.335. After the disclosure of any hazardous substance information relating to a particular workplace, the commissioner shall advise the employer of the information disclosed, the date of the disclosure, and the person who received the information.

History: 1986 c 456 s 1; 1Sp1986 c 3 art 2 s 9

145.95 MS 1980 [Expired]

HILL-BURTON PROGRAM

145.97 HILL-BURTON PROGRAM; RULES.

The commissioner of health may promulgate emergency rules under sections 14.29 to 14.36 to implement and enforce the provisions of United States Code, title 42, section 291c(e), 291e(b)(3), 300s(3), 300s-1(b)(1)(K), or 300s-6, and the provisions of regulations promulgated by the United States Secretary of Health and Human Services pursuant to United States Code, title 42, section 291c(e) or 300s(3), known as the Hill-Burton program. The commissioner shall maintain records on the number and nature of complaints received and any actions taken to implement or enforce the Hill-Burton laws and rules.

History: 1981 c 360 art 2 s 8; 1982 c 424 s 130; 1984 c 640 s 32

145.98 COUNCIL ON HEALTH PROMOTION AND WELLNESS.

Subdivision 1. **Creation; membership.** The commissioner of health may appoint an advisory task force on health promotion and wellness. Members of the task force shall be experienced or interested in health promotion and wellness. There shall be at least one member from each congressional district. The task force shall expire, and the terms, compensation, and removal of members shall be governed by section 15.059.

Subd. 2. [Repealed, 1983 c 260 s 68]

MINNESOTA STATUTES 1994

145.98 PUBLIC HEALTH PROVISIONS

948

Subd. 3. Powers. The task force may solicit, receive, and disburse funds made available for health promotion and wellness.

Subd. 4. [Repealed, 1983 c 260 s 68]

History: 1982 c 453 s 1; 1983 c 260 s 34,35