

## CHAPTER 214

### EXAMINING AND LICENSING BOARDS

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#### 214.01 DEFINITIONS.

*[For text of subd 1, see M.S.1994]*

**Subd. 2. Health-related licensing board.** "Health-related licensing board" means the board of examiners of nursing home administrators established pursuant to section 144A.19, the board of medical practice created pursuant to section 147.01, the board of nursing created pursuant to section 148.181, the board of chiropractic examiners established pursuant to section 148.02, the board of optometry established pursuant to section 148.52, the board of psychology established pursuant to section 148.90, the social work licensing board pursuant to section 148B.19, the board of marriage and family therapy pursuant to section 148B.30, the office of mental health practice established pursuant to section 148B.61, the chemical dependency counseling licensing advisory council established pursuant to section 148C.02, the board of dietetics and nutrition practice established under section 148.622, the board of dentistry established pursuant to section 150A.02, the board of pharmacy established pursuant to section 151.02, the board of podiatric medicine established pursuant to section 153.02, and the board of veterinary medicine, established pursuant to section 156.01.

**Subd. 3. Non-health-related licensing board.** "Non-health-related licensing board" means the board of teaching established pursuant to section 125.183, the board of barber examiners established pursuant to section 154.22, the board of assessors established pursuant to section 270.41, the board of architecture, engineering, land surveying, landscape architecture, geoscience, and interior design established pursuant to section 326.04, the board of accountancy established pursuant to section 326.17, the board of electricity established pursuant to section 326.241, the private detective and protective agent licensing board established pursuant to section 326.33, the board of boxing established pursuant to section 341.01, and the peace officer standards and training board established pursuant to section 626.841.

**History:** 1995 c 164 s 32; 1995 c 206 s 1

#### 214.04 SERVICES.

**Subdivision 1. Services provided.** The commissioner of administration with respect to the board of electricity, the commissioner of children, families, and learning with respect to the board of teaching, the commissioner of public safety with respect to the board of private detective and protective agent services, and the board of peace officer standards and training, and the commissioner of revenue with respect to the board of assessors, shall provide suitable offices and other space, joint conference and hearing facilities, examination rooms, and the following administrative support services: purchasing service, accounting service, advisory personnel services, consulting services relating to evaluation procedures and techniques, data processing, duplicating, mailing services, automated printing of license renewals, and such other similar services of a housekeeping nature as are generally available to other agencies of state government. Investigative services shall be provided the boards by employees of the office of attorney general. The commissioner of health with respect to the health-related licensing boards shall provide mailing and office supply services and may provide other facilities and services listed in this subdivision at a central location upon request of the health-related licensing boards. The commissioner of commerce with respect to the remaining non-health-related licensing boards shall provide the above facilities and services at a central location for the remaining non-health-related licensing boards. The legal and investigative services for the boards shall be provided by employees of the attorney general assigned to the departments servicing the boards. Notwithstanding the foregoing, the attorney general shall

not be precluded by this section from assigning other attorneys to service a board if necessary in order to insure competent and consistent legal representation. Persons providing legal and investigative services shall to the extent practicable provide the services on a regular basis to the same board or boards.

*[For text of subd 2, see M.S.1994]*

**Subd. 3. Officers; staff.** The executive director of each health-related board and the executive secretary of each non-health-related board shall be the chief administrative officer for the board but shall not be a member of the board. The executive director or executive secretary shall maintain the records of the board, account for all fees received by it, supervise and direct employees servicing the board, and perform other services as directed by the board. The executive directors, executive secretaries, and other employees of the following boards shall be hired by the board, and the executive directors or executive secretaries shall be in the unclassified civil service, except as provided in this subdivision:

- (1) dentistry;
- (2) medical practice;
- (3) nursing;
- (4) pharmacy;
- (5) accountancy;
- (6) architecture, engineering, land surveying, landscape architecture, geoscience, and interior design;
- (7) barber examiners;
- (8) cosmetology;
- (9) electricity;
- (10) teaching;
- (11) peace officer standards and training;
- (12) social work;
- (13) marriage and family therapy; and
- (14) dietetics and nutrition practice.

The executive directors or executive secretaries serving the boards are hired by those boards and are in the unclassified civil service, except for part-time executive directors or executive secretaries, who are not required to be in the unclassified service. Boards not requiring full-time executive directors or executive secretaries may employ them on a part-time basis. To the extent practicable, the sharing of part-time executive directors or executive secretaries by boards being serviced by the same department is encouraged. Persons providing services to those boards not listed in this subdivision, except executive directors or executive secretaries of the boards and employees of the attorney general, are classified civil service employees of the department servicing the board. To the extent practicable, the commissioner shall ensure that staff services are shared by the boards being serviced by the department. If necessary, a board may hire part-time, temporary employees to administer and grade examinations.

*[For text of subd 4, see M.S.1994]*

**History:** 1995 c 206 s 2; 1Sp1995 c 3 art 16 s 13

#### **214.055 FEES TO RECOVER EXPENDITURES.**

A health-related licensing board that is created on or after September 1, 1995, must establish a fee structure which fully recovers its expenditures during a five-year period.

**History:** 1995 c 207 art 9 s 49

#### **214.10 COMPLAINT, INVESTIGATION, AND HEARING.**

*[For text of subds 1 and 2, see M.S.1994]*

**Subd. 2a. Proceedings.** A board shall initiate proceedings to suspend or revoke a license or shall refuse to renew a license of a person licensed by the board who is convicted in a

court of competent jurisdiction of violating section 609.224, subdivision 2, paragraph (c), 609.23, 609.231, 609.2325, 609.233, 609.2335, 609.234, 609.465, 609.466, 609.52, or 609.72, subdivision 3.

*[For text of subd 3, see M.S.1994]*

**Subd. 8. Special requirements for health-related licensing boards.** In addition to the provisions of this section that apply to all examining and licensing boards, the requirements in this subdivision apply to all health-related licensing boards, except the board of veterinary medicine.

(a) If the executive director or consulted board member determines that a communication received alleges a violation of statute or rule that involves sexual contact with a patient or client, the communication shall be forwarded to the designee of the attorney general for an investigation of the facts alleged in the communication. If, after an investigation it is the opinion of the executive director or consulted board member that there is sufficient evidence to justify disciplinary action, the board shall conduct a disciplinary conference or hearing. If, after a hearing or disciplinary conference the board determines that misconduct involving sexual contact with a patient or client occurred, the board shall take disciplinary action. Notwithstanding subdivision 2, a board may not attempt to correct improper activities or redress grievances through education, conciliation, and persuasion, unless in the opinion of the executive director or consulted board member there is insufficient evidence to justify disciplinary action. The board may settle a case by stipulation prior to, or during, a hearing if the stipulation provides for disciplinary action.

(b) In addition to the information required under section 214.07, subdivision 1, each board shall include in its reports to the legislature summaries of each individual case that involved possible sexual contact with a patient or client. The summary must include a description of the alleged misconduct; the general results of the investigation; the nature of board activities relating to that case; the disposition of the case; and the reasons for board decisions concerning the disposition of the case. The information disclosed under this section must not include the name or specific identifying information about any person, agency, or organization.

(c) A board member who has a direct current or former financial connection or professional relationship to a person who is the subject of board disciplinary activities must not participate in board activities relating to that case.

(d) Each health-related licensing board shall establish procedures for exchanging information with other Minnesota state boards, agencies, and departments responsible for regulating health-related occupations, facilities, and programs, and for coordinating investigations involving matters within the jurisdiction of more than one regulatory body. The procedures must provide for the forwarding to other regulatory bodies of all information and evidence, including the results of investigations, that are relevant to matters within that licensing body's regulatory jurisdiction. Each health-related licensing board shall have access to any data of the department of human services relating to a person subject to the jurisdiction of the licensing board. The data shall have the same classification under sections 13.01 to 13.88, the Minnesota government data practices act, in the hands of the agency receiving the data as it had in the hands of the department of human services.

(e) Each health-related licensing board shall establish procedures for exchanging information with other states regarding disciplinary actions against licensees. The procedures must provide for the collection of information from other states about disciplinary actions taken against persons who are licensed to practice in Minnesota or who have applied to be licensed in this state and the dissemination of information to other states regarding disciplinary actions taken in Minnesota. In addition to any authority in chapter 13 permitting the dissemination of data, the board may, in its discretion, disseminate data to other states regardless of its classification under chapter 13. Before transferring any data that is not public, the board shall obtain reasonable assurances from the receiving state that the data will not be made public.

*[For text of subds 9 to 13, see M.S.1994]*

**History:** 1995 c 164 s 33; 1995 c 229 art 4 s 10

**214.101 CHILD SUPPORT; SUSPENSION OF LICENSE.**

Subdivision 1. **Court order; hearing on suspension.** (a) For purposes of this section, "licensing board" means a licensing board or other state agency that issues an occupational license.

(b) If a licensing board receives an order from a court or an administrative law judge or a notice from a public authority responsible for child support enforcement under section 518.551, subdivision 12, dealing with suspension of a license of a person found by the court or the public authority to be in arrears in child support or maintenance payments, or both, the board shall, within 30 days of receipt of the order or public authority notice, suspend the license as directed by the order or notice.

Subd. 2. [Repealed, 1995 c 257 art 1 s 36]

Subd. 3. [Repealed, 1995 c 257 art 1 s 36]

Subd. 4. **Verification of payments.** A board may not issue, reinstate, or renew a license of a person who has been suspended or is the subject of an order or notice under this section until it receives notification from the court, administrative law judge, or public authority that referred the matter to the board confirming that the applicant is not in arrears in either child support or maintenance payments, or confirming that the person is in compliance with a written payment plan regarding both current support and arrearages.

*[For text of subd 5, see M.S.1994]*

**History:** 1995 c 257 art 1 s 12,13

**214.103 HEALTH-RELATED LICENSING BOARDS; COMPLAINT, INVESTIGATION, AND HEARING.**

Subdivision 1. **Application.** For purposes of this section, "board" means "health-related licensing board" and does not include the alcohol and drug counselors licensing advisory council established pursuant to section 148C.02, or the non-health-related licensing boards. Nothing in this section supersedes section 214.10, subdivisions 2a, 3, 8, and 9, as they apply to the health-related licensing boards.

*[For text of subs 2 to 10, see M.S.1994]*

**History:** 1995 c 164 s 34

**214.16 DATA COLLECTION; HEALTH CARE PROVIDER TAX.**

*[For text of subd 1, see M.S.1994]*

Subd. 2. **Board cooperation required.** The board shall assist the commissioner of health in data collection activities required under Laws 1992, chapter 549, article 7, and shall assist the commissioner of revenue in activities related to collection of the health care provider tax required under Laws 1992, chapter 549, article 9. Upon the request of the commissioner or the commissioner of revenue, the board shall make available names and addresses of current licensees and provide other information or assistance as needed.

Subd. 3. **Grounds for disciplinary action.** The board shall take disciplinary action, which may include license revocation, against a regulated person for:

(1) intentional failure to provide the commissioner of health with the data required under chapter 62J;

(2) intentional failure to provide the commissioner of revenue with data on gross revenue and other information required for the commissioner to implement sections 295.50 to 295.58; and

(3) intentional failure to pay the health care provider tax required under section 295.52.

**History:** 1995 c 234 art 5 s 20,21

**214.23 MONITORING.**

Subdivision 1. **Commissioner of health.** The board shall enter into a contract with the commissioner to perform the functions in subdivisions 2 and 3. The contract shall provide that:

(1) unless requested to do otherwise by a regulated person, a board shall refer all regulated persons infected with HIV or HBV to the commissioner;

(2) the commissioner may choose to refer any regulated person who is infected with HIV or HBV as well as all information related thereto to the person's board at any time for any reason, including but not limited to: the degree of cooperation and compliance by the regulated person; the inability to secure information or the medical records of the regulated person; or when the facts may present other possible violations of the regulated persons practices act. Upon request of the regulated person who is infected with HIV or HBV the commissioner shall refer the regulated person and all information related thereto to the person's board. Once the commissioner has referred a regulated person to a board, the board may not thereafter submit it to the commissioner to establish a monitoring plan unless the commissioner of health consents in writing;

(3) a board shall not take action on grounds relating solely to the HIV or HBV status of a regulated person until after referral by the commissioner; and

(4) notwithstanding sections 13.39 and 13.41 and chapters 147, 147A, 148, 150A, 153, and 214, a board shall forward to the commissioner any information on a regulated person who is infected with HIV or HBV that the department of health requests.

*[For text of subs 2 to 4, see M.S.1994]*

**History:** 1995 c 205 art 2 s 7