

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 887

(SENATE AUTHORS: MARTY)

DATE	D-PG	OFFICIAL STATUS
02/28/2013	450	Introduction and first reading Referred to Health, Human Services and Housing
03/05/2013	555a	Comm report: To pass as amended and re-refer to Judiciary
03/13/2013	947a	Comm report: Amended Comm report: No recommendation, re-referred to Commerce
03/14/2013	1017a	Comm report: To pass as amended and re-refer to Judiciary
03/20/2013		Comm report: To pass as amended Second reading

A bill for an act

1.1 relating to health; classifying criminal history record data on Minnesota
1.2 Responds Medical Reserve Corps volunteers; requiring radon education
1.3 disclosure for residential real property; changing provisions for tuberculosis
1.4 standards; changing adverse health events reporting requirements; modifying
1.5 a poison control provision; providing liability coverage for certain volunteer
1.6 medical personnel and permitting agreements to conduct criminal background
1.7 studies; changing provisions for body art establishments and body art technicians;
1.8 defining occupational therapy practitioners; changing provisions for occupational
1.9 therapy; amending prescribing authority for legend drugs; providing penalties;
1.10 amending Minnesota Statutes 2012, sections 13.381, by adding a subdivision;
1.11 144.1501, subdivision 4; 144.50, by adding a subdivision; 144.55, subdivision
1.12 3; 144.56, by adding a subdivision; 144.7065, subdivisions 2, 3, 4, 5, 6, 7, by
1.13 adding a subdivision; 144A.04, by adding a subdivision; 144A.45, by adding a
1.14 subdivision; 144A.752, by adding a subdivision; 144D.08; 145.93, subdivision 3;
1.15 145A.04, by adding a subdivision; 145A.06, subdivision 7; 146B.02, subdivisions
1.16 2, 8; 146B.03, by adding a subdivision; 146B.07, subdivision 5; 148.6402, by
1.17 adding a subdivision; 148.6440; 151.37, subdivision 2; proposing coding for new
1.18 law in Minnesota Statutes, chapters 144; 145A; repealing Minnesota Statutes
1.19 2012, sections 144.1487; 144.1488; 144.1489; 144.1490; 144.1491; 146B.03,
1.20 subdivision 10; 148.7808, subdivision 2; 148.7813; 325F.814; 609.2246.
1.21

1.22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.23 Section 1. Minnesota Statutes 2012, section 13.381, is amended by adding a
1.24 subdivision to read:

1.25 Subd. 14a. **Minnesota Responds Medical Reserve Corps.** Criminal history
1.26 record data on Minnesota Responds Medical Reserve Corps volunteers are classified
1.27 under section 145A.061.

1.28 Sec. 2. Minnesota Statutes 2012, section 144.1501, subdivision 4, is amended to read:

1.29 Subd. 4. **Loan forgiveness.** The commissioner of health may select applicants
1.30 each year for participation in the loan forgiveness program, within the limits of available

2.1 funding. The commissioner shall distribute available funds for loan forgiveness
 2.2 proportionally among the eligible professions according to the vacancy rate for each
 2.3 profession in the required geographic area, facility type, teaching area, patient group,
 2.4 or specialty type specified in subdivision 2. The commissioner shall allocate funds for
 2.5 physician loan forgiveness so that 75 percent of the funds available are used for rural
 2.6 physician loan forgiveness and 25 percent of the funds available are used for underserved
 2.7 urban communities and pediatric psychiatry loan forgiveness. If the commissioner does
 2.8 not receive enough qualified applicants each year to use the entire allocation of funds for
 2.9 any eligible profession, the remaining funds may be allocated proportionally among the
 2.10 other eligible professions according to the vacancy rate for each profession in the required
 2.11 geographic area, patient group, or facility type specified in subdivision 2. Applicants are
 2.12 responsible for securing their own qualified educational loans. The commissioner shall
 2.13 select participants based on their suitability for practice serving the required geographic
 2.14 area or facility type specified in subdivision 2, as indicated by experience or training. The
 2.15 commissioner shall give preference to applicants closest to completing their training.
 2.16 For each year that a participant meets the service obligation required under subdivision
 2.17 3, up to a maximum of four years, the commissioner shall make annual disbursements
 2.18 directly to the participant equivalent to 15 percent of the average educational debt for
 2.19 indebted graduates in their profession in the year closest to the applicant's selection for
 2.20 which information is available, not to exceed the balance of the participant's qualifying
 2.21 educational loans. Before receiving loan repayment disbursements and as requested, the
 2.22 participant must complete and return to the commissioner ~~an affidavit~~ a confirmation of
 2.23 practice form provided by the commissioner verifying that the participant is practicing
 2.24 as required under subdivisions 2 and 3. The participant must provide the commissioner
 2.25 with verification that the full amount of loan repayment disbursement received by the
 2.26 participant has been applied toward the designated loans. After each disbursement,
 2.27 verification must be received by the commissioner and approved before the next loan
 2.28 repayment disbursement is made. Participants who move their practice remain eligible for
 2.29 loan repayment as long as they practice as required under subdivision 2.

2.30 **Sec. 3. [144.496] MINNESOTA RADON AWARENESS ACT.**

2.31 **Subdivision 1. Citation.** This section may be cited as the "Minnesota Radon
 2.32 Awareness Act."

2.33 **Subd. 2. Definitions.** (a) The following terms used in this section have the meanings
 2.34 given them.

3.1 (b) "Buyer" means any individual, partnership, corporation, or trustee entering into
3.2 an agreement to purchase any residential real estate or interest in real property.

3.3 (c) "Mitigation" means measures designed to permanently reduce indoor radon
3.4 concentrations.

3.5 (d) "Radon test" means a measurement of indoor radon concentrations according to
3.6 established industry standards for residential real property.

3.7 (e) "Residential real property" means property occupied as, or intended to be
3.8 occupied as, a single-family residence, including a unit in a common interest community
3.9 as defined in section 515B.1-103, clause (10), regardless of whether the unit is in a
3.10 common interest community not subject to chapter 515B.

3.11 (f) "Seller" means any individual, partnership, corporation, or trustee transferring
3.12 residential real property in return for consideration.

3.13 (g) "Elevated radon concentration" means a radon concentration above the United
3.14 States Environmental Protection Agency's radon action level.

3.15 Subd. 3. **Radon disclosure.** (a) Before signing an agreement to sell or transfer
3.16 residential real property, the seller or transferor shall disclose in writing to the buyer
3.17 or transferee any knowledge the seller or transferor has of radon concentrations in the
3.18 dwelling. The disclosure shall include:

3.19 (1) whether a radon test or tests have occurred on the property;

3.20 (2) the most current records and reports pertaining to radon concentrations within
3.21 the dwelling;

3.22 (3) a description of any radon concentrations, mitigation, or remediation;

3.23 (4) information regarding the radon mitigation system, including system description
3.24 and documentation, if such system has been installed in the dwelling; and

3.25 (5) a radon warning statement meeting the requirements of subdivision 2.

3.26 (b) The seller or transferor shall provide the buyer or transferee the Minnesota
3.27 Department of Health publication entitled "Radon in Real Estate Transactions."

3.28 (c) If any of the requirements of this section occur after the buyer signs an agreement
3.29 to purchase or transfer the residential real property, the seller shall complete the required
3.30 activities prior to signing an agreement to sell or transfer the residential real property
3.31 and allow the buyer an opportunity to review the information and possibly amend the
3.32 agreement without penalty to the buyer.

3.33 Subd. 4. **Radon warning statement.** The radon warning statement must include
3.34 the following language:

3.35 "Radon Warning Statement

4.1 The Minnesota Department of Health strongly recommends that ALL homebuyers
 4.2 have an indoor radon test performed prior to purchase or taking occupancy, and
 4.3 recommends having the radon levels mitigated if elevated radon concentrations are found.
 4.4 Elevated radon concentrations can easily be reduced by a qualified, certified, or licensed,
 4.5 if applicable, radon mitigator.

4.6 Every buyer of any interest in residential real property is notified that the property
 4.7 may present exposure to dangerous levels of indoor radon gas that may place the occupants
 4.8 at risk of developing radon-induced lung cancer. Radon, a Class A human carcinogen, is
 4.9 the leading cause of lung cancer in nonsmokers and the second leading cause overall. The
 4.10 seller of any interest in residential real property is required to provide the buyer with any
 4.11 information on radon test results of the dwelling."

4.12 Subd. 5. **Effective date.** This section is effective January 1, 2014, and applies to an
 4.13 agreement to sell or transfer residential real property executed on or after that date.

4.14 Sec. 4. Minnesota Statutes 2012, section 144.50, is amended by adding a subdivision
 4.15 to read:

4.16 Subd. 8. **Supervised living facility; tuberculosis prevention and control.** (a)
 4.17 A supervised living facility must establish and maintain a comprehensive tuberculosis
 4.18 infection control program according to the most current tuberculosis infection control
 4.19 guidelines issued by the United States Centers for Disease Control and Prevention (CDC),
 4.20 Division of Tuberculosis Elimination, as published in CDC's Morbidity and Mortality
 4.21 Weekly Report (MMWR). This program must include a tuberculosis infection control plan
 4.22 that covers all paid and unpaid employees, contractors, students, and volunteers. The
 4.23 Department of Health shall provide technical assistance regarding implementation of
 4.24 the guidelines.

4.25 (b) Written compliance with this subdivision must be maintained by the supervised
 4.26 living facility.

4.27 Sec. 5. Minnesota Statutes 2012, section 144.55, subdivision 3, is amended to read:

4.28 Subd. 3. **Standards for licensure.** (a) Notwithstanding the provisions of section
 4.29 144.56, for the purpose of hospital licensure, the commissioner of health shall use as
 4.30 minimum standards the hospital certification regulations promulgated pursuant to Title
 4.31 XVIII of the Social Security Act, United States Code, title 42, section 1395, et seq. The
 4.32 commissioner may use as minimum standards changes in the federal hospital certification
 4.33 regulations promulgated after May 7, 1981, if the commissioner finds that such changes

5.1 are reasonably necessary to protect public health and safety. The commissioner shall also
5.2 promulgate in rules additional minimum standards for new construction.

5.3 (b) Each hospital and outpatient surgical center shall establish policies and
5.4 procedures to prevent the transmission of human immunodeficiency virus and hepatitis B
5.5 virus to patients and within the health care setting. The policies and procedures shall be
5.6 developed in conformance with the most recent recommendations issued by the United
5.7 States Department of Health and Human Services, Public Health Service, Centers for
5.8 Disease Control. The commissioner of health shall evaluate a hospital's compliance with
5.9 the policies and procedures according to subdivision 4.

5.10 (c) An outpatient surgical center must establish and maintain a comprehensive
5.11 tuberculosis infection control program according to the most current tuberculosis infection
5.12 control guidelines issued by the United States Centers for Disease Control and Prevention
5.13 (CDC), Division of Tuberculosis Elimination, as published in CDC's Morbidity and
5.14 Mortality Weekly Report (MMWR). This program must include a tuberculosis infection
5.15 control plan that covers all paid and unpaid employees, contractors, students, and
5.16 volunteers. The Department of Health shall provide technical assistance regarding
5.17 implementation of the guidelines.

5.18 (d) Written compliance with this subdivision must be maintained by the outpatient
5.19 surgical center.

5.20 Sec. 6. Minnesota Statutes 2012, section 144.56, is amended by adding a subdivision
5.21 to read:

5.22 Subd. 2c. **Boarding care home; tuberculosis prevention and control.** (a) A
5.23 boarding care home must establish and maintain a comprehensive tuberculosis infection
5.24 control program according to the most current tuberculosis infection control guidelines
5.25 issued by the United States Centers for Disease Control and Prevention (CDC), Division
5.26 of Tuberculosis Elimination, as published in CDC's Morbidity and Mortality Weekly
5.27 Report (MMWR). This program must include a tuberculosis infection control plan that
5.28 covers all paid and unpaid employees, contractors, students, residents, and volunteers.
5.29 The Department of Health shall provide technical assistance regarding implementation of
5.30 the guidelines.

5.31 (b) Written compliance with this subdivision must be maintained by the boarding
5.32 care home.

5.33 Sec. 7. Minnesota Statutes 2012, section 144.7065, subdivision 2, is amended to read:

5.34 Subd. 2. **Surgical events.** Events reportable under this subdivision are:

6.1 (1) surgery or other invasive procedure performed on a wrong body part that is not
6.2 consistent with the documented informed consent for that patient. Reportable events under
6.3 this clause do not include situations requiring prompt action that occur in the course of
6.4 surgery or situations whose urgency precludes obtaining informed consent;

6.5 (2) surgery or other invasive procedure performed on the wrong patient;

6.6 (3) the wrong surgical or other invasive procedure performed on a patient that is
6.7 not consistent with the documented informed consent for that patient. Reportable events
6.8 under this clause do not include situations requiring prompt action that occur in the course
6.9 of surgery or situations whose urgency precludes obtaining informed consent;

6.10 (4) retention of a foreign object in a patient after surgery or other invasive procedure,
6.11 excluding objects intentionally implanted as part of a planned intervention and objects
6.12 present prior to surgery that are intentionally retained; and

6.13 (5) death during or immediately after surgery or other invasive procedure of a
6.14 normal, healthy patient who has no organic, physiologic, biochemical, or psychiatric
6.15 disturbance and for whom the pathologic processes for which the operation is to be
6.16 performed are localized and do not entail a systemic disturbance.

6.17 Sec. 8. Minnesota Statutes 2012, section 144.7065, subdivision 3, is amended to read:

6.18 Subd. 3. **Product or device events.** Events reportable under this subdivision are:

6.19 (1) patient death or serious ~~disability~~ injury associated with the use of contaminated
6.20 drugs, devices, or biologics provided by the facility when the contamination is the result
6.21 of generally detectable contaminants in drugs, devices, or biologics regardless of the
6.22 source of the contamination or the product;

6.23 (2) patient death or serious ~~disability~~ injury associated with the use or function of
6.24 a device in patient care in which the device is used or functions other than as intended.

6.25 "Device" includes, but is not limited to, catheters, drains, and other specialized tubes,
6.26 infusion pumps, and ventilators; and

6.27 (3) patient death or serious ~~disability~~ injury associated with intravascular air
6.28 embolism that occurs while being cared for in a facility, excluding deaths associated with
6.29 neurosurgical procedures known to present a high risk of intravascular air embolism.

6.30 Sec. 9. Minnesota Statutes 2012, section 144.7065, subdivision 4, is amended to read:

6.31 Subd. 4. **Patient protection events.** Events reportable under this subdivision are:

6.32 (1) ~~an infant~~ a patient of any age, who does not have decision-making capacity,
6.33 discharged to the wrong person;

7.1 (2) patient death or serious ~~disability~~ injury associated with patient disappearance,
 7.2 excluding events involving adults who have decision-making capacity; and

7.3 (3) patient suicide ~~or~~, attempted suicide resulting in serious ~~disability~~ injury, or
 7.4 self-harm resulting in serious injury or death while being cared for in a facility due to
 7.5 patient actions after admission to the facility, excluding deaths resulting from self-inflicted
 7.6 injuries that were the reason for admission to the facility.

7.7 Sec. 10. Minnesota Statutes 2012, section 144.7065, subdivision 5, is amended to read:

7.8 Subd. 5. **Care management events.** Events reportable under this subdivision are:

7.9 (1) patient death or serious ~~disability~~ injury associated with a medication error,
 7.10 including, but not limited to, errors involving the wrong drug, the wrong dose, the wrong
 7.11 patient, the wrong time, the wrong rate, the wrong preparation, or the wrong route of
 7.12 administration, excluding reasonable differences in clinical judgment on drug selection
 7.13 and dose;

7.14 (2) patient death or serious ~~disability~~ injury associated with a ~~hemolytic reaction~~
 7.15 ~~due to the administration of ABO/HLA-incompatible~~ unsafe administration of blood
 7.16 or blood products;

7.17 (3) maternal death or serious ~~disability~~ injury associated with labor or delivery in a
 7.18 low-risk pregnancy while being cared for in a facility, including events that occur within
 7.19 42 days postdelivery and excluding deaths from pulmonary or amniotic fluid embolism,
 7.20 acute fatty liver of pregnancy, or cardiomyopathy;

7.21 (4) ~~patient death or serious disability directly related to hypoglycemia, the onset of~~
 7.22 ~~which occurs while the patient is being cared for in a facility~~ death or serious injury of a
 7.23 neonate associated with labor or delivery in a low-risk pregnancy;

7.24 (5) ~~death or serious disability, including kernicterus, associated with failure~~
 7.25 ~~to identify and treat hyperbilirubinemia in neonates during the first 28 days of life.~~

7.26 "Hyperbilirubinemia" means bilirubin levels greater than 30 milligrams per deciliter;

7.27 (6) ~~(5)~~ stage 3 or 4 or unstageable ulcers acquired after admission to a facility,
 7.28 excluding progression from stage 2 to stage 3 if stage 2 was recognized upon admission;

7.29 (7) ~~patient death or serious disability due to spinal manipulative therapy; and~~

7.30 (8) ~~(6)~~ artificial insemination with the wrong donor sperm or wrong egg;

7.31 (7) patient death or serious injury associated with a fall while being cared for in
 7.32 a facility;

7.33 (8) the irretrievable loss of an irreplaceable biological specimen; and

7.34 (9) patient death or serious injury resulting from the failure to follow up or
 7.35 communicate laboratory, pathology, or radiology test results.

8.1 Sec. 11. Minnesota Statutes 2012, section 144.7065, subdivision 6, is amended to read:

8.2 Subd. 6. **Environmental events.** Events reportable under this subdivision are:

8.3 (1) patient death or serious ~~disability~~ injury associated with an electric shock while
8.4 being cared for in a facility, excluding events involving planned treatments such as electric
8.5 countershock;

8.6 (2) any incident in which a line designated for oxygen or other gas to be delivered to
8.7 a patient contains the wrong gas or is contaminated by toxic substances;

8.8 (3) patient death or serious ~~disability~~ injury associated with a burn incurred from any
8.9 source while being cared for in a facility; and

8.10 ~~(4) patient death or serious disability associated with a fall while being cared for in
8.11 a facility; and~~

8.12 ~~(5)~~ (4) patient death or serious ~~disability~~ injury associated with the use or lack of
8.13 restraints or bedrails while being cared for in a facility.

8.14 Sec. 12. Minnesota Statutes 2012, section 144.7065, subdivision 7, is amended to read:

8.15 Subd. 7. **Potential criminal events.** Events reportable under this subdivision are:

8.16 (1) any instance of care ordered by or provided by someone impersonating a
8.17 physician, nurse, pharmacist, or other licensed health care provider;

8.18 (2) abduction of a patient of any age;

8.19 (3) sexual assault on a patient within or on the grounds of a facility; and

8.20 (4) death or ~~significant~~ serious injury of a patient or staff member resulting from a
8.21 physical assault that occurs within or on the grounds of a facility.

8.22 Sec. 13. Minnesota Statutes 2012, section 144.7065, is amended by adding a
8.23 subdivision to read:

8.24 Subd. 7a. **Radiologic events.** Death or serious injury of a patient associated with
8.25 the introduction of a metallic object into the MRI area are reportable events under this
8.26 subdivision.

8.27 Sec. 14. Minnesota Statutes 2012, section 144A.04, is amended by adding a
8.28 subdivision to read:

8.29 Subd. 3b. **Nursing homes; tuberculosis prevention and control.** (a) A nursing
8.30 home provider must establish and maintain a comprehensive tuberculosis infection control
8.31 program according to the most current tuberculosis infection control guidelines issued
8.32 by the United States Centers for Disease Control and Prevention (CDC), Division of
8.33 Tuberculosis Elimination, as published in CDC's Morbidity and Mortality Weekly Report

9.1 (MMWR). This program must include a tuberculosis infection control plan that covers
9.2 all paid and unpaid employees, contractors, students, residents, and volunteers. The
9.3 Department of Health shall provide technical assistance regarding implementation of
9.4 the guidelines.

9.5 (b) Written compliance with this subdivision must be maintained by the nursing home.

9.6 Sec. 15. Minnesota Statutes 2012, section 144A.45, is amended by adding a
9.7 subdivision to read:

9.8 Subd. 6. **Home care providers; tuberculosis prevention and control.** (a) A home
9.9 care provider must establish and maintain a comprehensive tuberculosis infection control
9.10 program according to the most current tuberculosis infection control guidelines issued
9.11 by the United States Centers for Disease Control and Prevention (CDC), Division of
9.12 Tuberculosis Elimination, as published in CDC's Morbidity and Mortality Weekly Report
9.13 (MMWR). This program must include a tuberculosis infection control plan that covers
9.14 all paid and unpaid employees, contractors, students, and volunteers. The Department of
9.15 Health shall provide technical assistance regarding implementation of the guidelines.

9.16 (b) Written compliance with this subdivision must be maintained by the home care
9.17 provider.

9.18 Sec. 16. Minnesota Statutes 2012, section 144A.752, is amended by adding a
9.19 subdivision to read:

9.20 Subd. 5. **Hospice providers; tuberculosis prevention and control.** (a) A hospice
9.21 provider must establish and maintain a comprehensive tuberculosis infection control
9.22 program according to the most current tuberculosis infection control guidelines issued
9.23 by the United States Centers for Disease Control and Prevention (CDC), Division of
9.24 Tuberculosis Elimination, as published in CDC's Morbidity and Mortality Weekly Report
9.25 (MMWR). This program must include a tuberculosis infection control plan that covers
9.26 all paid and unpaid employees, contractors, students, and volunteers. For residential
9.27 hospice facilities, the tuberculosis infection control plan must cover each hospice patient.
9.28 The Department of Health shall provide technical assistance regarding implementation of
9.29 the guidelines.

9.30 (b) Written compliance with this subdivision must be maintained by the hospice
9.31 provider.

9.32 Sec. 17. Minnesota Statutes 2012, section 144D.08, is amended to read:

9.33 **144D.08 UNIFORM CONSUMER INFORMATION GUIDE.**

10.1 All housing with services establishments shall make available to all prospective
 10.2 and current residents information consistent with the uniform format and the required
 10.3 components adopted by the commissioner under section 144G.06. This section does not
 10.4 apply to an establishment registered under section 144D.025 serving the homeless.

10.5 Sec. 18. Minnesota Statutes 2012, section 145.93, subdivision 3, is amended to read:

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

10.12 Sec. 19. Minnesota Statutes 2012, section 145A.04, is amended by adding a
 10.13 subdivision to read:

10.14 Subd. 6d. **Minnesota Responds Medical Reserve Corps; liability coverage.** A
 10.15 Minnesota Responds Medical Reserve Corps volunteer responding to a request for training
 10.16 or assistance at the call of a board of health must be deemed an employee of the jurisdiction
 10.17 for purposes of workers' compensation, tort claim defense, and indemnification.

10.18 Sec. 20. Minnesota Statutes 2012, section 145A.06, subdivision 7, is amended to read:

10.19 Subd. 7. **Commissioner requests for health volunteers.** (a) When the
 10.20 commissioner receives a request for health volunteers from:

- 10.21 (1) a local board of health according to section 145A.04, subdivision 6c;
 10.22 (2) the University of Minnesota Academic Health Center;
 10.23 (3) another state or a territory through the Interstate Emergency Management
 10.24 Assistance Compact authorized under section 192.89;
 10.25 (4) the federal government through ESAR-VHP or another similar program; or
 10.26 (5) a tribal or Canadian government;

10.27 the commissioner shall determine if deployment of Minnesota Responds Medical Reserve
 10.28 Corps volunteers from outside the requesting jurisdiction is in the public interest. If so,
 10.29 the commissioner may ask for Minnesota Responds Medical Reserve Corps volunteers to
 10.30 respond to the request. The commissioner may also ask for Minnesota Responds Medical
 10.31 Reserve Corps volunteers if the commissioner finds that the state needs health volunteers.

10.32 (b) The commissioner may request Minnesota Responds Medical Reserve Corps
 10.33 volunteers to work on the Minnesota Mobile Medical Unit (MMU), or on other mobile

11.1 or temporary units providing emergency patient stabilization, medical transport, or
11.2 ambulatory care. The commissioner may utilize the volunteers for training, mobilization
11.3 or demobilization, inspection, maintenance, repair, or other support functions for the
11.4 MMU facility or for other emergency units, as well as for provision of health care services.

11.5 (c) A volunteer's rights and benefits under this chapter as a Minnesota Responds
11.6 Medical Reserve Corps volunteer is not affected by any vacation leave, pay, or other
11.7 compensation provided by the volunteer's employer during volunteer service requested by
11.8 the commissioner. An employer is not liable for actions of an employee while serving as a
11.9 Minnesota Responds Medical Reserve Corps volunteer.

11.10 (d) If the commissioner matches the request under paragraph (a) with Minnesota
11.11 Responds Medical Reserve Corps volunteers, the commissioner shall facilitate deployment
11.12 of the volunteers from the sending Minnesota Responds Medical Reserve Corps units to
11.13 the receiving jurisdiction. The commissioner shall track volunteer deployments and assist
11.14 sending and receiving jurisdictions in monitoring deployments, and shall coordinate
11.15 efforts with the division of homeland security and emergency management for out-of-state
11.16 deployments through the Interstate Emergency Management Assistance Compact or
11.17 other emergency management compacts.

11.18 (e) Where the commissioner has deployed Minnesota Responds Medical Reserve
11.19 Corps volunteers within or outside the state, the provisions of paragraphs (f) and (g) must
11.20 apply. Where Minnesota Responds Medical Reserve Corps volunteers were deployed
11.21 across jurisdictions by mutual aid or similar agreements prior to a commissioner's call,
11.22 the provisions of paragraphs (f) and (g) must apply retroactively to volunteers deployed
11.23 as of their initial deployment in response to the event or emergency that triggered a
11.24 subsequent commissioner's call.

11.25 (f) (1) A Minnesota Responds Medical Reserve Corps volunteer responding to a
11.26 request for training or assistance at the call of the commissioner must be deemed an
11.27 employee of the state for purposes of workers' compensation and tort claim defense and
11.28 indemnification under section 3.736, without regard to whether the volunteer's activity is
11.29 under the direction and control of the commissioner, the division of homeland security
11.30 and emergency management, the sending jurisdiction, the receiving jurisdiction, or of a
11.31 hospital, alternate care site, or other health care provider treating patients from the public
11.32 health event or emergency.

11.33 (2) For purposes of calculating workers' compensation benefits under chapter 176,
11.34 the daily wage must be the usual wage paid at the time of injury or death for similar services
11.35 performed by paid employees in the community where the volunteer regularly resides, or
11.36 the wage paid to the volunteer in the volunteer's regular employment, whichever is greater.

12.1 (g) The Minnesota Responds Medical Reserve Corps volunteer must receive
 12.2 reimbursement for travel and subsistence expenses during a deployment approved by the
 12.3 commissioner under this subdivision according to reimbursement limits established for
 12.4 paid state employees. Deployment begins when the volunteer leaves on the deployment
 12.5 until the volunteer returns from the deployment, including all travel related to the
 12.6 deployment. The Department of Health shall initially review and pay those expenses to
 12.7 the volunteer. Except as otherwise provided by the Interstate Emergency Management
 12.8 Assistance Compact in section 192.89 or agreements made thereunder, the department
 12.9 shall bill the jurisdiction receiving assistance and that jurisdiction shall reimburse the
 12.10 department for expenses of the volunteers.

12.11 (h) In the event Minnesota Responds Medical Reserve Corps volunteers are
 12.12 deployed outside the state pursuant to the Interstate Emergency Management Assistance
 12.13 Compact, the provisions of the Interstate Emergency Management Assistance Compact
 12.14 must control over any inconsistent provisions in this section.

12.15 (i) When a Minnesota Responds Medical Reserve Corps volunteer makes a claim
 12.16 for workers' compensation arising out of a deployment under this section or out of a
 12.17 training exercise conducted by the commissioner, the volunteer's workers compensation
 12.18 benefits must be determined under section 176.011, subdivision 9, clause (25), even if the
 12.19 volunteer may also qualify under other clauses of section 176.011, subdivision 9.

12.20 Sec. 21. **[145A.061] CRIMINAL BACKGROUND STUDIES.**

12.21 **Subdivision 1. Agreements to conduct criminal background studies.** The
 12.22 commissioner of health may develop agreements to conduct criminal background studies
 12.23 on each person who registers as a volunteer in the Minnesota Responds Medical Reserve
 12.24 Corps and applies for membership in the Minnesota behavioral health or mobile medical
 12.25 teams. The background study is for the purpose of determining the applicant's suitability
 12.26 and eligibility for membership. Each applicant must provide written consent authorizing
 12.27 the Department of Health to obtain the applicant's state criminal background information.

12.28 **Subd. 2. Opportunity to challenge accuracy of report.** Before denying the
 12.29 applicant the opportunity to serve as a health volunteer due to information obtained from a
 12.30 background study, the commissioner shall provide the applicant with the opportunity to
 12.31 complete, or challenge the accuracy of, the criminal justice information reported to the
 12.32 commissioner. The applicant shall have 30 calendar days to correct or complete the record
 12.33 prior to the commissioner taking final action based on the report.

12.34 **Subd. 3. Denial of service.** The commissioner may deny an application from any
 12.35 applicant who has been convicted of any of the following crimes:

13.1 Section 609.185 (murder in the first degree); section 609.19 (murder in the second
13.2 degree); section 609.195 (murder in the third degree); section 609.20 (manslaughter in
13.3 the first degree); section 609.205 (manslaughter in the second degree); section 609.25
13.4 (kidnapping); section 609.2661 (murder of an unborn child in the first degree); section
13.5 609.2662 (murder of an unborn child in the second degree); section 609.2663 (murder of
13.6 an unborn child in the third degree); section 609.342 (criminal sexual conduct in the first
13.7 degree); section 609.343 (criminal sexual conduct in the second degree); section 609.344
13.8 (criminal sexual conduct in the third degree); section 609.345 (criminal sexual conduct in
13.9 the fourth degree); section 609.3451 (criminal sexual conduct in the fifth degree); section
13.10 609.3453 (criminal sexual predatory conduct); section 609.352 (solicitation of children to
13.11 engage in sexual conduct); section 609.352 (communication of sexually explicit materials
13.12 to children); section 609.365 (incest); section 609.377 (felony malicious punishment of
13.13 a child); section 609.378 (felony neglect or endangerment of a child); section 609.561
13.14 (arson in the first degree); section 609.562 (arson in the second degree); section 609.563
13.15 (arson in the third degree); section 609.749, subdivision 3, 4, or 5 (felony stalking); section
13.16 152.021 (controlled substance crimes in the first degree); section 152.022 (controlled
13.17 substance crimes in the second degree); section 152.023 (controlled substance crimes in
13.18 the third degree); section 152.024 (controlled substance crimes in the fourth degree);
13.19 section 152.025 (controlled substance crimes in the fifth degree); section 243.166
13.20 (violation of predatory offender registration law); section 617.23, subdivision 2, clause
13.21 (1), or subdivision 3, clause (1) (indecent exposure involving a minor); section 617.246
13.22 (use of minors in sexual performance); section 617.247 (possession of pornographic
13.23 work involving minors); section 609.221 (assault in the first degree); section 609.222
13.24 (assault in the second degree); section 609.223 (assault in the third degree); section
13.25 609.2231 (assault in the fourth degree); section 609.224 (assault in the fifth degree);
13.26 section 609.2242 (domestic assault); section 609.2247 (domestic assault by strangulation);
13.27 section 609.228 (great bodily harm caused by distribution of drugs); section 609.23
13.28 (mistreatment of persons confined); section 609.231 (mistreatment of residents or
13.29 patients); section 609.2325 (criminal abuse); section 609.233 (criminal neglect); section
13.30 609.2335 (financial exploitation of a vulnerable adult); section 609.234 (failure to report);
13.31 section 609.24 (simple robbery); section 609.245 (aggravated robbery); section 609.255
13.32 (false imprisonment); section 609.322 (solicitation, inducement, and promotion of
13.33 prostitution and sex trafficking); section 609.324, subdivision 1 (hiring or engaging minors
13.34 in prostitution); section 609.465 (presenting false claims to a public officer or body);
13.35 section 609.466 (medical assistance fraud); section 609.52 (felony theft); section 609.82
13.36 (felony fraud in obtaining credit); section 609.527 (felony identity theft); section 609.582

14.1 (felony burglary); section 609.611 (felony insurance fraud); section 609.625 (aggravated
 14.2 forgery); section 609.63 (forgery); section 609.631 (felony check forgery); section 609.66,
 14.3 subdivision 1e (felony drive-by shooting); section 609.71 (felony riot); section 609.713
 14.4 (terroristic threats); section 609.72, subdivision 3 (disorderly conduct by a caregiver against
 14.5 a vulnerable adult); section 609.821 (felony financial transaction card fraud); section
 14.6 609.855, subdivision 4 (shooting at or in a public transit vehicle or facility); or aiding and
 14.7 abetting, attempting, or conspiring to commit any of the offenses in this subdivision.

14.8 Subd. 4. **Conviction.** For purposes of this section, an applicant is considered to
 14.9 have been convicted of a crime if the applicant was convicted, or otherwise found guilty,
 14.10 including by entering an Alford plea; was found guilty but the adjudication of guilt was
 14.11 stayed or withheld; or was convicted but the imposition or execution of a sentence was
 14.12 stayed.

14.13 Subd. 5. **Data practices.** All state criminal history record information or data
 14.14 obtained by the commissioner from the Bureau of Criminal Apprehension is private data
 14.15 on individuals under section 13.02, subdivision 12, and restricted to the exclusive use of
 14.16 commissioner for the purpose of evaluating an applicant's eligibility for participation in
 14.17 the behavioral health or mobile field medical team.

14.18 Subd. 6. **Use of volunteers by commissioner.** The commissioner may deny a
 14.19 volunteer membership on a mobile medical team or behavioral health team for any reason,
 14.20 and is only required to communicate the reason when membership is denied as a result
 14.21 of information received from a criminal background study. The commissioner is exempt
 14.22 from the Criminal Offenders Rehabilitation Act under chapter 364 in the selection of
 14.23 volunteers for any position or activity including the Minnesota Responds Medical Reserve
 14.24 Corps, the Minnesota behavioral health team, and the mobile medical team.

14.25 Sec. 22. Minnesota Statutes 2012, section 146B.02, subdivision 2, is amended to read:

14.26 Subd. 2. **Requirements.** (a) Each application for an initial mobile or fixed-site
 14.27 establishment license and for renewal must be submitted to the commissioner on a form
 14.28 provided by the commissioner accompanied with the applicable fee required under section
 14.29 146B.10. The application must contain:

- 14.30 (1) the name(s) of the owner(s) and operator(s) of the establishment;
- 14.31 (2) the location of the establishment;
- 14.32 (3) verification of compliance with all applicable local and state codes;
- 14.33 (4) a description of the general nature of the business; and
- 14.34 (5) any other relevant information deemed necessary by the commissioner.

15.1 (b) The commissioner shall issue a provisional establishment license effective until
15.2 the commissioner determines after inspection that the applicant has met the requirements
15.3 of this chapter. Upon approval, the commissioner shall issue a body art establishment
15.4 license effective for three years.

15.5 Sec. 23. Minnesota Statutes 2012, section 146B.02, subdivision 8, is amended to read:

15.6 Subd. 8. **Temporary events permit.** (a) An owner or operator of a temporary
15.7 body art establishment shall submit an application for a temporary events permit to the
15.8 commissioner at least 14 days before the start of the event. The application must include
15.9 the specific days and hours of operation. The owner or operator shall comply with the
15.10 requirements of this chapter.

15.11 (b) Applications received less than 14 days prior to the start of the event may be
15.12 processed if the commissioner determines it is possible to conduct the required inspection.

15.13 ~~(b)~~ (c) The temporary events permit must be prominently displayed in a public
15.14 area at the location.

15.15 ~~(e)~~ (d) The temporary events permit, if approved, is valid for the specified dates and
15.16 hours listed on the application. No temporary events permit shall be issued for longer than
15.17 a 21-day period, and may not be extended.

15.18 Sec. 24. Minnesota Statutes 2012, section 146B.03, is amended by adding a
15.19 subdivision to read:

15.20 Subd. 11. **Penalty.** Any person who violates the provisions of subdivision 1 is
15.21 guilty of a gross misdemeanor.

15.22 Sec. 25. Minnesota Statutes 2012, section 146B.07, subdivision 5, is amended to read:

15.23 Subd. 5. **Aftercare.** A technician shall provide each client with verbal and written
15.24 instructions for the care of the tattooed or pierced site upon the completion of the
15.25 procedure. The written instructions must advise the client of the difference between
15.26 normal skin or tissue irritation and infection and to consult a health care professional at
15.27 the first sign upon indication of infection of the skin or tissue.

15.28 Sec. 26. Minnesota Statutes 2012, section 148.6402, is amended by adding a
15.29 subdivision to read:

15.30 Subd. 16a. **Occupational therapy practitioner.** "Occupational therapy
15.31 practitioner" means any individual licensed as either an occupational therapist or
15.32 occupational therapy assistant under sections 148.6401 to 148.6450.

16.1 Sec. 27. Minnesota Statutes 2012, section 148.6440, is amended to read:

16.2 **148.6440 PHYSICAL AGENT MODALITIES.**

16.3 Subdivision 1. **General considerations.** (a) Occupational ~~therapists~~ therapy
16.4 practitioners who intend to use superficial physical agent modalities must comply with the
16.5 requirements in subdivision 3. Occupational ~~therapists~~ therapy practitioners who intend
16.6 to use electrotherapy must comply with the requirements in subdivision 4. Occupational
16.7 ~~therapists~~ therapy practitioners who intend to use ultrasound devices must comply with
16.8 the requirements in subdivision 5. Occupational therapy practitioners who are licensed
16.9 as occupational therapy assistants and who intend to use physical agent modalities must
16.10 also comply with subdivision 6.

16.11 (b) Use of superficial physical agent modalities, electrical stimulation devices, and
16.12 ultrasound devices must be on the order of a physician.

16.13 (c) Prior to any use of any physical agent modality, a ~~licensee~~ an occupational
16.14 therapy practitioner must obtain approval from the commissioner. The commissioner
16.15 shall maintain a roster of persons licensed under sections 148.6401 to 148.6450 who are
16.16 approved to use physical agent modalities.

16.17 (d) ~~Licensees~~ Occupational therapy practitioners are responsible for informing the
16.18 commissioner of any changes in the information required in this section within 30 days
16.19 of any change.

16.20 Subd. 2. **Written documentation required.** (a) An occupational ~~therapist~~
16.21 therapy practitioner must provide to the commissioner documentation verifying that
16.22 the occupational ~~therapist~~ therapy practitioner has met the educational and clinical
16.23 requirements described in subdivisions 3 to 5, depending on the modality or modalities
16.24 to be used. Both theoretical training and clinical application objectives must be met for
16.25 each modality used. Documentation must include the name and address of the individual
16.26 or organization sponsoring the activity; the name and address of the facility at which
16.27 the activity was presented; and a copy of the course, workshop, or seminar description,
16.28 including learning objectives and standards for meeting the objectives. In the case of
16.29 clinical application objectives, teaching methods must be documented, including actual
16.30 supervised practice. Documentation must include a transcript or certificate showing
16.31 successful completion of the coursework. Coursework completed more than two years
16.32 prior to the date of application must be retaken. An occupational ~~therapist~~ therapy
16.33 practitioner who is a certified hand therapist shall document satisfaction of the requirements
16.34 in subdivisions 3 to 5 by submitting to the commissioner a copy of a certificate issued
16.35 by the Hand Therapy Certification Commission. Occupational therapy practitioners are

17.1 prohibited from using physical agent modalities under supervision or independently until
17.2 granted approval as provided in subdivision 7, except under the provisions in paragraph (b).

17.3 (b) If a an occupational therapy practitioner has successfully completed a specific
17.4 course previously reviewed and approved by the commissioner as provided for in
17.5 subdivision 7, and has submitted the written documentation required in paragraph (a)
17.6 within 30 calendar days from the course date, the occupational therapy practitioner
17.7 awaiting written approval from the commissioner may use physical agent modalities
17.8 under the supervision of a licensed occupational therapist practitioner listed on the roster
17.9 of persons approved to use physical agent modalities.

17.10 Subd. 3. **Requirements for use of superficial physical agent modalities.** (a) An
17.11 occupational ~~therapist~~ therapy practitioner may use superficial physical agent modalities
17.12 if the occupational ~~therapist~~ therapy practitioner has received theoretical training and
17.13 clinical application training in the use of superficial physical agent modalities and been
17.14 granted approval as provided in subdivision 7.

17.15 (b) Theoretical training in the use of superficial physical agent modalities must:

17.16 (1) explain the rationale and clinical indications for use of superficial physical agent
17.17 modalities;

17.18 (2) explain the physical properties and principles of the superficial physical agent
17.19 modalities;

17.20 (3) describe the types of heat and cold transference;

17.21 (4) explain the factors affecting tissue response to superficial heat and cold;

17.22 (5) describe the biophysical effects of superficial physical agent modalities in
17.23 normal and abnormal tissue;

17.24 (6) describe the thermal conductivity of tissue, matter, and air;

17.25 (7) explain the advantages and disadvantages of superficial physical agent
17.26 modalities; and

17.27 (8) explain the precautions and contraindications of superficial physical agent
17.28 modalities.

17.29 (c) Clinical application training in the use of superficial physical agent modalities
17.30 must include activities requiring the occupational therapy practitioner to:

17.31 (1) formulate and justify a plan for the use of superficial physical agents for
17.32 treatment appropriate to its use and simulate the treatment;

17.33 (2) evaluate biophysical effects of the superficial physical agents;

17.34 (3) identify when modifications to the treatment plan for use of superficial physical
17.35 agents are needed and propose the modification plan;

18.1 (4) safely and appropriately administer superficial physical agents under the
18.2 supervision of a course instructor or clinical trainer;

18.3 (5) document parameters of treatment, patient response, and recommendations for
18.4 progression of treatment for the superficial physical agents; and

18.5 (6) demonstrate the ability to work competently with superficial physical agents as
18.6 determined by a course instructor or clinical trainer.

18.7 Subd. 4. **Requirements for use of electrotherapy.** (a) An occupational ~~therapist~~
18.8 therapy practitioner may use electrotherapy if the occupational ~~therapist~~ therapy
18.9 practitioner has received theoretical training and clinical application training in the use of
18.10 electrotherapy and been granted approval as provided in subdivision 7.

18.11 (b) Theoretical training in the use of electrotherapy must:

18.12 (1) explain the rationale and clinical indications of electrotherapy, including pain
18.13 control, muscle dysfunction, and tissue healing;

18.14 (2) demonstrate comprehension and understanding of electrotherapeutic terminology
18.15 and biophysical principles, including current, voltage, amplitude, and resistance;

18.16 (3) describe the types of current used for electrical stimulation, including the
18.17 description, modulations, and clinical relevance;

18.18 (4) describe the time-dependent parameters of pulsed and alternating currents,
18.19 including pulse and phase durations and intervals;

18.20 (5) describe the amplitude-dependent characteristics of pulsed and alternating
18.21 currents;

18.22 (6) describe neurophysiology and the properties of excitable tissue;

18.23 (7) describe nerve and muscle response from externally applied electrical
18.24 stimulation, including tissue healing;

18.25 (8) describe the electrotherapeutic effects and the response of nerve, denervated and
18.26 innervated muscle, and other soft tissue; and

18.27 (9) explain the precautions and contraindications of electrotherapy, including
18.28 considerations regarding pathology of nerve and muscle tissue.

18.29 (c) Clinical application training in the use of electrotherapy must include activities
18.30 requiring the occupational therapy practitioner to:

18.31 (1) formulate and justify a plan for the use of electrical stimulation devices for
18.32 treatment appropriate to its use and simulate the treatment;

18.33 (2) evaluate biophysical treatment effects of the electrical stimulation;

18.34 (3) identify when modifications to the treatment plan using electrical stimulation are
18.35 needed and propose the modification plan;

19.1 (4) safely and appropriately administer electrical stimulation under supervision
19.2 of a course instructor or clinical trainer;

19.3 (5) document the parameters of treatment, case example (patient) response, and
19.4 recommendations for progression of treatment for electrical stimulation; and

19.5 (6) demonstrate the ability to work competently with electrical stimulation as
19.6 determined by a course instructor or clinical trainer.

19.7 **Subd. 5. Requirements for use of ultrasound.** (a) An occupational ~~therapist~~
19.8 therapy practitioner may use an ultrasound device if the occupational ~~therapist~~ therapy
19.9 practitioner has received theoretical training and clinical application training in the use of
19.10 ultrasound and been granted approval as provided in subdivision 7.

19.11 (b) The theoretical training in the use of ultrasound must:

19.12 (1) explain the rationale and clinical indications for the use of ultrasound, including
19.13 anticipated physiological responses of the treated area;

19.14 (2) describe the biophysical thermal and nonthermal effects of ultrasound on normal
19.15 and abnormal tissue;

19.16 (3) explain the physical principles of ultrasound, including wavelength, frequency,
19.17 attenuation, velocity, and intensity;

19.18 (4) explain the mechanism and generation of ultrasound and energy transmission
19.19 through physical matter; and

19.20 (5) explain the precautions and contraindications regarding use of ultrasound devices.

19.21 (c) The clinical application training in the use of ultrasound must include activities
19.22 requiring the practitioner to:

19.23 (1) formulate and justify a plan for the use of ultrasound for treatment appropriate to
19.24 its use and stimulate the treatment;

19.25 (2) evaluate biophysical effects of ultrasound;

19.26 (3) identify when modifications to the treatment plan for use of ultrasound are
19.27 needed and propose the modification plan;

19.28 (4) safely and appropriately administer ultrasound under supervision of a course
19.29 instructor or clinical trainer;

19.30 (5) document parameters of treatment, patient response, and recommendations for
19.31 progression of treatment for ultrasound; and

19.32 (6) demonstrate the ability to work competently with ultrasound as determined
19.33 by a course instructor or clinical trainer.

19.34 **Subd. 6. Occupational therapy assistant use of physical agent modalities.** An
19.35 occupational therapy practitioner licensed as an occupational therapy assistant may set
19.36 up and implement treatment using physical agent modalities if the licensed occupational

20.1 therapy assistant meets the requirements of this section, has applied for and received
20.2 written approval from the commissioner to use physical agent modalities as provided in
20.3 subdivision 7, has demonstrated service competency for the particular modality used, and
20.4 works under the direct supervision of an occupational therapy practitioner licensed as an
20.5 occupational therapist who has been granted approval as provided in subdivision 7. An
20.6 occupational therapy practitioner licensed as an occupational therapy assistant who uses
20.7 superficial physical agent modalities must meet the requirements of subdivision 3. An
20.8 occupational therapy practitioner licensed as an occupational therapy assistant who uses
20.9 electrotherapy must meet the requirements of subdivision 4. An occupational therapy
20.10 practitioner licensed as an occupational therapy assistant who uses ultrasound must meet
20.11 the requirements of subdivision 5. An occupational therapy practitioner licensed as an
20.12 occupational therapist may not delegate evaluation, reevaluation, treatment planning, and
20.13 treatment goals for physical agent modalities to an occupational therapy practitioner
20.14 licensed as an occupational therapy assistant.

20.15 Subd. 7. **Approval.** (a) The advisory council shall appoint a committee to review
20.16 documentation under subdivisions 2 to 6 to determine if established educational and
20.17 clinical requirements are met. If, after review of course documentation, the committee
20.18 verifies that a specific course meets the theoretical and clinical requirements in
20.19 subdivisions 2 to 6, the commissioner may approve practitioner applications that include
20.20 the required course documentation evidencing completion of the same course.

20.21 (b) Occupational ~~therapists~~ therapy practitioners shall be advised of the status of
20.22 their request for approval within 30 days. Occupational ~~therapists~~ therapy practitioners
20.23 must provide any additional information requested by the committee that is necessary to
20.24 make a determination regarding approval or denial.

20.25 (c) A determination regarding a request for approval of training under this
20.26 subdivision shall be made in writing to the occupational ~~therapist~~ therapy practitioner. If
20.27 denied, the reason for denial shall be provided.

20.28 (d) ~~A licensee~~ An occupational therapy practitioner who was approved by the
20.29 commissioner as a level two provider prior to July 1, 1999, shall remain on the roster
20.30 maintained by the commissioner in accordance with subdivision 1, paragraph (c).

20.31 (e) To remain on the roster maintained by the commissioner, ~~a licensee~~ an
20.32 occupational therapy practitioner who was approved by the commissioner as a level one
20.33 provider prior to July 1, 1999, must submit to the commissioner documentation of training
20.34 and experience gained using physical agent modalities since the ~~licensee's~~ occupational
20.35 therapy practitioner's approval as a level one provider. The committee appointed under

21.1 paragraph (a) shall review the documentation and make a recommendation to the
21.2 commissioner regarding approval.

21.3 (f) An occupational ~~therapist~~ therapy practitioner who received training in the
21.4 use of physical agent modalities prior to July 1, 1999, but who has not been placed on
21.5 the roster of approved providers may submit to the commissioner documentation of
21.6 training and experience gained using physical agent modalities. The committee appointed
21.7 under paragraph (a) shall review documentation and make a recommendation to the
21.8 commissioner regarding approval.

21.9 Sec. 28. Minnesota Statutes 2012, section 151.37, subdivision 2, is amended to read:

21.10 Subd. 2. **Prescribing and filing.** (a) A licensed practitioner in the course of
21.11 professional practice only, may prescribe, administer, and dispense a legend drug, and may
21.12 cause the same to be administered by a nurse, a physician assistant, or medical student or
21.13 resident under the practitioner's direction and supervision, and may cause a person who
21.14 is an appropriately certified, registered, or licensed health care professional to prescribe,
21.15 dispense, and administer the same within the expressed legal scope of the person's practice
21.16 as defined in Minnesota Statutes. A licensed practitioner may prescribe a legend drug,
21.17 without reference to a specific patient, by directing a nurse, pursuant to section 148.235,
21.18 subdivisions 8 and 9, physician assistant, medical student or resident, or pharmacist
21.19 according to section 151.01, subdivision 27, to adhere to a particular practice guideline or
21.20 protocol when treating patients whose condition falls within such guideline or protocol,
21.21 and when such guideline or protocol specifies the circumstances under which the legend
21.22 drug is to be prescribed and administered. An individual who verbally, electronically, or
21.23 otherwise transmits a written, oral, or electronic order, as an agent of a prescriber, shall
21.24 not be deemed to have prescribed the legend drug. This paragraph applies to a physician
21.25 assistant only if the physician assistant meets the requirements of section 147A.18.

21.26 (b) The commissioner of health, if a licensed practitioner, or a person designated
21.27 by the commissioner who is a licensed practitioner, may prescribe a legend drug to an
21.28 individual or by protocol for mass dispensing purposes where the commissioner finds that
21.29 the conditions triggering section 144.4197 or 144.4198, subdivision 2, paragraph (b), exist.
21.30 The commissioner, if a licensed practitioner, or a designated licensed practitioner, may
21.31 prescribe, dispense, or administer a legend drug or other substance listed in subdivision 10
21.32 to control tuberculosis and other communicable diseases. The commissioner may modify
21.33 state drug labeling requirements, and medical screening criteria and documentation, where
21.34 time is critical and limited labeling and screening are most likely to ensure legend drugs

22.1 reach the maximum number of persons in a timely fashion so as to reduce morbidity
22.2 and mortality.

22.3 (c) A licensed practitioner that dispenses for profit a legend drug that is to be
22.4 administered orally, is ordinarily dispensed by a pharmacist, and is not a vaccine, must
22.5 file with the practitioner's licensing board a statement indicating that the practitioner
22.6 dispenses legend drugs for profit, the general circumstances under which the practitioner
22.7 dispenses for profit, and the types of legend drugs generally dispensed. It is unlawful to
22.8 dispense legend drugs for profit after July 31, 1990, unless the statement has been filed
22.9 with the appropriate licensing board. For purposes of this paragraph, "profit" means (1)
22.10 any amount received by the practitioner in excess of the acquisition cost of a legend drug
22.11 for legend drugs that are purchased in prepackaged form, or (2) any amount received
22.12 by the practitioner in excess of the acquisition cost of a legend drug plus the cost of
22.13 making the drug available if the legend drug requires compounding, packaging, or other
22.14 treatment. The statement filed under this paragraph is public data under section 13.03.
22.15 This paragraph does not apply to a licensed doctor of veterinary medicine or a registered
22.16 pharmacist. Any person other than a licensed practitioner with the authority to prescribe,
22.17 dispense, and administer a legend drug under paragraph (a) shall not dispense for profit.
22.18 To dispense for profit does not include dispensing by a community health clinic when the
22.19 profit from dispensing is used to meet operating expenses.

22.20 (d) A prescription or drug order for the following drugs is not valid, unless it can be
22.21 established that the prescription or order was based on a documented patient evaluation,
22.22 including an examination, adequate to establish a diagnosis and identify underlying
22.23 conditions and contraindications to treatment:

- 22.24 (1) controlled substance drugs listed in section 152.02, subdivisions 3 to 5;
22.25 (2) drugs defined by the Board of Pharmacy as controlled substances under section
22.26 152.02, subdivisions 7, 8, and 12;
22.27 (3) muscle relaxants;
22.28 (4) centrally acting analgesics with opioid activity;
22.29 (5) drugs containing butalbital; or
22.30 (6) phosphodiesterase type 5 inhibitors when used to treat erectile dysfunction.

22.31 (e) For the purposes of paragraph (d), the requirement for an examination shall be
22.32 met if an in-person examination has been completed in any of the following circumstances:

- 22.33 (1) the prescribing practitioner examines the patient at the time the prescription
22.34 or drug order is issued;
22.35 (2) the prescribing practitioner has performed a prior examination of the patient;

23.1 (3) another prescribing practitioner practicing within the same group or clinic as the
23.2 prescribing practitioner has examined the patient;

23.3 (4) a consulting practitioner to whom the prescribing practitioner has referred the
23.4 patient has examined the patient; or

23.5 (5) the referring practitioner has performed an examination in the case of a
23.6 consultant practitioner issuing a prescription or drug order when providing services by
23.7 means of telemedicine.

23.8 (f) Nothing in paragraph (d) or (e) prohibits a licensed practitioner from prescribing
23.9 a drug through the use of a guideline or protocol pursuant to paragraph (a).

23.10 (g) Nothing in this chapter prohibits a licensed practitioner from issuing a
23.11 prescription or dispensing a legend drug in accordance with the Expedited Partner Therapy
23.12 in the Management of Sexually Transmitted Diseases guidance document issued by the
23.13 United States Centers for Disease Control.

23.14 (h) Nothing in paragraph (d) or (e) limits prescription, administration, or dispensing
23.15 of legend drugs through a public health clinic or other distribution mechanism approved
23.16 by the commissioner of health or a board of health in order to prevent, mitigate, or treat
23.17 a pandemic illness, infectious disease outbreak, or intentional or accidental release of a
23.18 biological, chemical, or radiological agent.

23.19 (i) No pharmacist employed by, under contract to, or working for a pharmacy
23.20 licensed under section 151.19, subdivision 1, may dispense a legend drug based on a
23.21 prescription that the pharmacist knows, or would reasonably be expected to know, is not
23.22 valid under paragraph (d).

23.23 (j) No pharmacist employed by, under contract to, or working for a pharmacy
23.24 licensed under section 151.19, subdivision 2, may dispense a legend drug to a resident
23.25 of this state based on a prescription that the pharmacist knows, or would reasonably be
23.26 expected to know, is not valid under paragraph (d).

23.27 (k) Nothing in this chapter prohibits the commissioner of health, if a licensed
23.28 practitioner, or, if not a licensed practitioner, a designee of the commissioner who is
23.29 a licensed practitioner, from prescribing legend drugs for field-delivered therapy in the
23.30 treatment of a communicable disease according to the Centers For Disease Control and
23.31 Prevention Partner Services Guidelines.

23.32 **Sec. 29. REPEALER.**

23.33 (a) Minnesota Statutes 2012, sections 144.1487; 144.1488; 144.1489; 144.1490; and
23.34 144.1491, are repealed.

24.1 (b) Minnesota Statutes 2012, sections 146B.03, subdivision 10; 325F.814; and
24.2 609.2246, are repealed.

24.3 (c) Minnesota Statutes 2012, sections 148.7808, subdivision 2; and 148.7813, are
24.4 repealed.

144.1487 LOAN REPAYMENT PROGRAM FOR HEALTH PROFESSIONALS.

Subdivision 1. **Definition.** (a) For purposes of sections 144.1487 to 144.1492, the following definition applies.

(b) "Health professional shortage area" means an area designated as such by the federal Secretary of Health and Human Services, as provided under Code of Federal Regulations, title 42, part 5, and United States Code, title 42, section 254E.

Subd. 2. **Establishment and purpose.** The commissioner shall establish a National Health Services Corps state loan repayment program authorized by section 388I of the Public Health Service Act, United States Code, title 42, section 254q-1, as amended by Public Law 101-597. The purpose of the program is to assist communities with the recruitment and retention of health professionals in federally designated health professional shortage areas.

144.1488 PROGRAM ADMINISTRATION AND ELIGIBILITY.

Subdivision 1. **Duties of commissioner of health.** The commissioner shall administer the state loan repayment program. The commissioner shall:

(1) ensure that federal funds are used in accordance with program requirements established by the federal National Health Services Corps;

(2) notify potentially eligible loan repayment sites about the program;

(3) develop and disseminate application materials to sites;

(4) review and rank applications using the scoring criteria approved by the federal Department of Health and Human Services as part of the Minnesota Department of Health's National Health Services Corps state loan repayment program application;

(5) select sites that qualify for loan repayment based upon the availability of federal and state funding;

(6) carry out other activities necessary to implement and administer sections 144.1487 to 144.1492;

(7) verify the eligibility of program participants;

(8) sign a contract with each participant that specifies the obligations of the participant and the state;

(9) arrange for loan repayment of qualifying educational loans for program participants;

(10) monitor the obligated service of program participants;

(11) waive or suspend service or payment obligations of participants in appropriate situations;

(12) place participants who fail to meet their obligations in default; and

(13) enforce penalties for default.

Subd. 3. **Eligible loan repayment sites.** Nonprofit private and public entities located in and providing health care services in federally designated primary care health professional shortage areas are eligible to apply for the program. The commissioner shall develop a list of Minnesota health professional shortage areas in greatest need of health care professionals and shall select loan repayment sites from that list. The commissioner shall ensure, to the greatest extent possible, that the geographic distribution of sites within the state reflects the percentage of the population living in rural and urban health professional shortage areas.

Subd. 4. **Eligible health professionals.** (a) To be eligible to apply to the commissioner for the loan repayment program, health professionals must be citizens or nationals of the United States, must not have any unserved obligations for service to a federal, state, or local government, or other entity, must have a current and unrestricted Minnesota license to practice, and must be ready to begin full-time clinical practice upon signing a contract for obligated service.

(b) Eligible providers are those specified by the federal Bureau of Health Professions in the policy information notice for the state's current federal grant application. A health professional selected for participation is not eligible for loan repayment until the health professional has an employment agreement or contract with an eligible loan repayment site and has signed a contract for obligated service with the commissioner.

144.1489 OBLIGATIONS OF PARTICIPANTS.

Subdivision 1. **Contract required.** Before starting the period of obligated service, a participant must sign a contract with the commissioner that specifies the obligations of the participant and the commissioner.

Subd. 2. **Obligated service.** A participant shall agree in the contract to fulfill the period of obligated service by providing primary health care services in full-time clinical practice. The

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service must be provided in a nonprofit private or public entity that is located in and providing services to a federally designated health professional shortage area and that has been designated as an eligible site by the commissioner under the state loan repayment program.

Subd. 3. **Length of service.** Participants must agree to provide obligated service for a minimum of two years. A participant may extend a contract to provide obligated service for a third and fourth year, subject to approval by the commissioner and the availability of federal and state funding.

Subd. 4. **Affidavit of service required.** Before receiving loan repayment, annually thereafter, and as requested by the commissioner, a participant shall submit an affidavit to the commissioner stating that the participant is providing the obligated service and which is signed by a representative of the organizational entity in which the service is provided. Participants must provide written notice to the commissioner within 30 days of: a change in name or address, a decision not to fulfill a service obligation, or cessation of clinical practice.

Subd. 5. **Tax responsibility.** The participant is responsible for reporting on federal income tax returns any amount paid by the state on designated loans, if required to do so under federal law.

Subd. 6. **Nondiscrimination requirements.** Participants are prohibited from charging a higher rate for professional services than the usual and customary rate prevailing in the area where the services are provided. If a patient is unable to pay this charge, a participant shall charge the patient a reduced rate or not charge the patient. Participants must agree not to discriminate on the basis of ability to pay or status as a Medicare or medical assistance enrollee. Participants must agree to accept assignment under the Medicare program and to serve as an enrolled provider under medical assistance.

144.1490 RESPONSIBILITIES OF LOAN REPAYMENT PROGRAM.

Subdivision 1. **Loan repayment.** Subject to the availability of federal and state funds for the loan repayment program, the commissioner shall pay all or part of the qualifying education loans up to \$20,000 annually for each primary care physician participant that fulfills the required service obligation. For purposes of this provision, "qualifying educational loans" are government and commercial loans for actual costs paid for tuition, reasonable education expenses, and reasonable living expenses related to the graduate or undergraduate education of a health care professional.

Subd. 2. **Procedure for loan repayment.** Program participants, at the time of signing a contract, shall designate the qualifying loan or loans for which the commissioner is to make payments. The participant shall submit to the commissioner proof that all payments made by the commissioner have been applied toward the designated qualifying loans. The commissioner shall make payments in accordance with the terms and conditions of the state loan repayment grant agreement or contract, in an amount not to exceed \$20,000 when annualized. If the amount paid by the commissioner is less than \$20,000 during a 12-month period, the commissioner shall pay during the 12th month an additional amount towards a loan or loans designated by the participant, to bring the total paid to \$20,000. The total amount paid by the commissioner must not exceed the amount of principal and accrued interest of the designated loans.

144.1491 FAILURE TO COMPLETE OBLIGATED SERVICE.

Subdivision 1. **Penalties for breach of contract.** A program participant who fails to complete the required years of obligated service shall repay the amount paid, as well as a financial penalty specified by the federal Bureau of Health Professions in the policy information notice for the state's current federal grant application. The commissioner shall report to the appropriate health-related licensing board a participant who fails to complete the service obligation and fails to repay the amount paid or fails to pay any financial penalty owed under this subdivision.

Subd. 2. **Suspension or waiver of obligation.** Payment or service obligations cancel in the event of a participant's death. The commissioner may waive or suspend payment or service obligations in case of total and permanent disability or long-term temporary disability lasting for more than two years. The commissioner shall evaluate all other requests for suspension or waivers on a case-by-case basis.

146B.03 LICENSURE FOR BODY ART TECHNICIANS.

Subd. 10. **Transition period.** Until January 1, 2012, the supervised experience requirement under subdivision 4, clause (4), shall be waived by the commissioner if the applicant submits to the commissioner evidence satisfactory to the commissioner that:

(1) the applicant has performed at least 2,080 hours within the last five years in the body art area in which the applicant is seeking licensure; or

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(2) the applicant completed more than 1,040 hours but less than 2,080 hours within the last five years in the body art area in which the applicant is seeking licensure and has successfully completed at least six hours of coursework provided by one of the following entities: Alliance of Professional Tattooists, Association of Professional Piercers, or Compliance Solutions International.

148.7808 REGISTRATION; REQUIREMENTS.

Subd. 2. **Registration by equivalency.** The board may register by equivalency an applicant who:

(1) submits the application materials and fees required under subdivision 1, clauses (1) to (8) and (10) to (12); and

(2) provides evidence satisfactory to the board of current certification by the National Athletic Trainers Association Board of Certification.

Applicants who were certified by the National Athletic Trainers Association through the "grandfather" process prior to 1971 are exempt from completing subdivision 1, clauses (2) and (9).

148.7813 DISCIPLINARY PROCESS.

Subdivision 1. **Investigation of complaints.** Upon receipt of a complaint or other communication pursuant to section 214.13, subdivision 6, that alleges or implies a violation of sections 148.7801 to 148.7815 by an applicant or registered athletic trainer, the board shall follow the procedures in section 214.10.

Subd. 2. **Grounds for disciplinary action.** The board may impose disciplinary action as described in subdivision 3 against an athletic trainer whom the board, after a hearing under the contested case provisions of chapter 14, determines:

(1) has knowingly made a false statement on a form required by the board for registration or registration renewal;

(2) has provided athletic training services in a manner that falls below the standard of care of the profession;

(3) has violated sections 148.7801 to 148.7815 or the rules adopted under these sections;

(4) is or has been afflicted with any physical, mental, emotional, or other disability, or addiction that, in the opinion of the board, adversely affects the person's ability to practice athletic training;

(5) has failed to cooperate with an investigation by the board;

(6) has been convicted or has pled guilty or nolo contendere to an offense that in the opinion of the board reasonably relates to the practice of athletic training or that bears on the athletic trainer's ability to practice athletic training;

(7) has aided and abetted in any manner a person in violating sections 148.7801 to 148.7815;

(8) has been disciplined by an agency or board of another state while in the practice of athletic training;

(9) has shown dishonest, unethical, or unprofessional conduct while in the practice of athletic training that is likely to deceive, defraud, or harm the public;

(10) has violated a state or federal law, rule, or regulation that in the opinion of the board reasonably relates to the practice of athletic training;

(11) has behaved in a sexual manner or what may reasonably be interpreted by a patient as sexual, or was verbally seductive or sexually demeaning to a patient;

(12) has misused alcohol, drugs, or controlled substances; or

(13) has violated an order issued by the board.

Subd. 3. **Disciplinary actions.** When grounds for disciplinary action exist under subdivision 2, the board may take one or more of the following actions:

(1) deny the right to practice;

(2) revoke the right to practice;

(3) suspend the right to practice;

(4) impose limitations on the practice of the athletic trainer;

(5) impose conditions on the practice of the athletic trainer;

(6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the athletic trainer of any economic advantage gained by reason of the violation charged, or to discourage repeated violations;

(7) censure or reprimand the athletic trainer; or

(8) take any other action justified by the facts of the case.

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Subd. 4. **Reinstatement.** An athletic trainer who has had registration revoked cannot apply for reinstatement. A suspended athletic trainer shall be reinstated upon evidence satisfactory to the board of fulfillment of the terms of suspension. All requirements of section 148.7809 to renew registration, if applicable, must also be met before reinstatement.

325F.814 BODY PIERCING.

Subdivision 1. **Prohibition.** No person may provide body piercing services for a person under the age of 18 without the written consent of a parent or legal guardian. The provider of the services must witness the execution and dating of the consent by the parent or legal guardian.

Subd. 2. **Definition.** For the purposes of this section, "body piercing" means the perforation of any human body part other than an earlobe for the purpose of inserting jewelry or other decoration or for some other nonmedical purpose.

Subd. 3. **Penalties.** (a) A person who violates subdivision 1 is guilty of a misdemeanor.

(b) The public and private remedies in section 8.31 apply to violations of this section.

609.2246 TATTOOS; MINORS.

Subdivision 1. **Requirements.** No person under the age of 18 may receive a tattoo unless the person provides written parental consent to the tattoo. The consent must include both the custodial and noncustodial parents, where applicable.

Subd. 2. **Definition.** For the purposes of this section, "tattoo" means an indelible mark or figure fixed on the body by insertion of pigment under the skin or by production of scars.

Subd. 3. **Penalty.** A person who provides a tattoo to a minor in violation of this section is guilty of a misdemeanor.