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 CHAPTER 326—S.F.No.899

[Coded in Part]

*An act relating to nursing homes; clarifying requirements for administration and inspections; changing certain provisions governing the training of nursing assistants; changing provisions for reimbursement of expenses for interest on capital indebtedness; deleting certain provisions and adding new provisions on investment allowance; requiring the state agency to establish certain standards; exempting certain homes from certain requirements; amending Minnesota Statutes 1976, Sections 144.652, Subdivision 2; 144A.04, Subdivision 3; 144A.05; 144A.10, Subdivisions 2 and 5; 144A.61, Subdivisions 2, 3 and 6; 144A.611, Subdivision 1; 241.10, by adding a subdivision; 256B.27, by adding a subdivision; 256B.43, by adding subdivisions; 256B.44, Subdivision 3; 256B.45; 256B.47, Subdivisions 1 and 2; 256B.48, Subdivision 1; repealing Minnesota Statutes 1976, Section 144A.61, Subdivision 5.*

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

Section 1. Minnesota Statutes 1976, Section 144.652, Subdivision 2, is amended to read:

**Subd. 2. NURSING HOMES; ADMINISTRATION AND INSPECTION.** A substantial violation of the rights of any resident as defined in section 144.651, shall be grounds for issuance of a correction order pursuant to section 144.653 or 144A.10. The issuance of a correction order shall not preclude private action by or on behalf of a resident to enforce his rights.

Sec. 2. Minnesota Statutes 1976, Section 144A.04, Subdivision 3, is amended to read:

Subd. 3. The facility must meet the minimum health, sanitation, safety and comfort standards prescribed by the rules of the board of health with respect to the construction, equipment, maintenance and operation of a nursing home. The board of health may temporarily waive compliance with one or more of the standards if it determines that:

(a) Temporary noncompliance with the standard will not create an imminent risk of harm to a nursing home resident; and

(b) A controlling person on behalf of all other controlling persons:

(1) Has entered into a contract to obtain the materials or labor necessary to meet the standard set by the board of health, but the supplier or other contractor has failed to perform the terms of the contract and the inability of the nursing home to meet the standard is due solely to that failure; or

(2) Is otherwise making a diligent good faith effort to meet the standard.

The board of health shall allow, by rule, a nursing home to provide fewer hours of  
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nursing care to intermediate care residents of a nursing home than required by the present rules of the board if the board determines that the needs of the residents of the home will be adequately met by a lesser amount of nursing care.

Sec. 3. Minnesota Statutes 1976, Section 144A.05, is amended to read:

144A.05 **LICENSE RENEWAL.** Unless the license expires in accordance with section 144A.06 or is suspended or revoked in accordance with section 144A.11, a nursing home license shall remain effective for a period of one year from the date of its issuance. The board of health by rule shall establish forms and procedures for the processing of license renewals. The board of health shall approve a license renewal application if the facility continues to satisfy the requirements, standards and conditions prescribed by sections 144A.01 to 144A.17 and the rules promulgated thereunder. Except as provided in section 144A.08, a facility shall not be required to submit with each application for a license renewal additional copies of the architectural and engineering plans and specifications of the facility. Before approving a license renewal, the board of health shall determine that the facility's most recent balance sheet and its most recent statement of revenues and expenses, as audited by the state auditor, by a certified public accountant licensed by this state or by a public accountant as defined in section 412.222, have been received by the department of public welfare. ~~Neither statement may be dated more than three months prior to the date of expiration of the license.~~

Sec. 4. Minnesota Statutes 1976, Section 144A.10, Subdivision 2, is amended to read:

Subd. 2. **INSPECTIONS.** The board of health shall annually inspect each nursing home to assure compliance with sections 144A.01 to 144A.17 and the rules promulgated thereunder. The annual inspection shall be a full inspection of the nursing home. If upon a reinspection provided for in subdivision 5 the representative of the board of health finds one or more uncorrected violations, a second inspection of the facility shall be conducted ~~during the remainder of its license year.~~ The second inspection need not be a full inspection. No prior notice shall be given of an inspection conducted pursuant to this subdivision. Any employee of the board of health who willfully gives or causes to be given any advance notice of an inspection required or authorized by this subdivision shall be subject to suspension or dismissal in accordance with chapter 43. An inspection required by a federal rule or statute may be conducted in conjunction with or subsequent to any other inspection. Any inspection required by this subdivision ~~shall~~ may be in addition to or in conjunction with the reinspections required by subdivision 5. Nothing in this subdivision shall be construed to prohibit the board of health from making more than one unannounced inspection of any nursing home during its license year. The board of health shall coordinate its inspections of nursing homes with inspections by other state and local agencies.

Sec. 5. Minnesota Statutes 1976, Section 144A.10, Subdivision 5, is amended to read:

Subd. 5. **REINSPECTIONS.** A nursing home issued a correction order under this section shall be reinspected at the end of the period allowed for correction. The  
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reinspection may be made in conjunction with the next annual inspection or any other scheduled inspection. If upon reinspection the representative of the board of health determines that the facility has not corrected a violation identified in the correction order, a notice of noncompliance with the correction order shall be mailed by certified mail to the nursing home. The notice shall specify the violations not corrected and the fines assessed in accordance with subdivision 6.

Sec. 6. Minnesota Statutes 1976, Section 144A.61, Subdivision 2, is amended to read:

Subd. 2. **NURSING ASSISTANTS.** For the purposes of sections 144A.61 and 144A.611 "nursing assistant" means a nursing home employee, including a nurse's aide or an orderly, who is assigned by the director of nursing to provide or assist in the provision of direct patient care services under the supervision of a registered nurse. ~~The board of nursing commissioner of education~~ may, by rule, establish categories of nursing assistants who are not required to comply with the educational requirements of sections 144A.61 and 144A.611.

Sec. 7. Minnesota Statutes 1976, Section 144A.61, Subdivision 3, is amended to read:

Subd. 3. **CURRICULA.** The commissioner of education shall develop curricula which may be used for nursing assistant training programs for employees of nursing homes. The curricula, as ~~approved~~ reviewed and evaluated by the board of nursing, shall be utilized by all facilities, institutions, or programs offering nursing assistant training programs.

Sec. 8. Minnesota Statutes 1976, Section 144A.61, Subdivision 6, is amended to read:

Subd. 6. **TRAINING PROGRAM.** Each nursing assistant hired to work in a nursing home on or after July 1, ~~1977~~ 1978, shall have successfully completed an approved nursing assistant training program or shall be enrolled in the first available approved training program which is scheduled to commence within 60 days of the date of the assistant's employment. Approved training programs shall be offered at the location most reasonably accessible to the enrollees in each class.

Sec. 9. Minnesota Statutes 1976, Section 144A.611, Subdivision 1, is amended to read:

**144A.611 REIMBURSABLE EXPENSES PAYABLE TO NURSING ASSISTANTS.** Subdivision 1. **NURSING HOMES.** The actual costs of tuition and reasonable expenses for that approved program deemed by the ~~board of nursing commissioner of education~~ to be minimally necessary to protect the health and welfare of nursing home residents, which are paid to nursing home assistants pursuant to subdivision 2, shall be a reimbursable expense for nursing homes under the provisions of chapter 256B and the rules promulgated thereunder.

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Sec. 10. Minnesota Statutes 1976, Section 214.10, is amended by adding a subdivision to read:

Subd. 2a. 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 sections 609.23, 609.231, 609.465, 609.466, 609.52, or 626.555.

Sec. 11. Minnesota Statutes 1976, Section 256B.27, is amended by adding a subdivision to read:

Subd. 2a. The commissioner shall audit cost reports of each nursing home qualifying as a vendor of medical assistance at least once every three years.

Sec. 12. Minnesota Statutes 1976, Section 256B.43, is amended by adding subdivisions to read:

Subd. 5. Depreciation shall be allowed for all governmentally owned nursing homes regardless of the source of funds used to construct or expand the facility. The provisions of this subdivision shall apply to all cost reports submitted on or after November 1, 1972.

Subd. 6. The state agency shall by rule establish a separate depreciation allowance for land improvements, equipment and vehicles.

Sec. 13. Minnesota Statutes 1976, Section 256B.44, Subdivision 3, is amended to read:

Subd. 3. A proprietary nursing home which pays interest on capital indebtedness at an interest rate in excess of nine percent may be reimbursed for ~~one-half~~ of its interest expenses in excess of the nine percent up to 12 percent if (1) the proceeds of the indebtedness are used for the purchase or operation of the nursing home and (2) the interest rate is not in excess of what a borrower would have had to pay in an arms-length transaction at the time the loan was made.

Sec. 14. Minnesota Statutes 1976, Section 256B.45, is amended to read:

256B.45 INVESTMENT ALLOWANCE. Subdivision 1. The state agency shall by rule establish an investment allowance for nursing homes. For the fiscal year beginning July 1, 1977, the allowance for proprietary homes shall be nine percent of the original value of the facility for depreciation purposes. For the fiscal year beginning July 1, 1977, the allowance for nonproprietary homes shall be two percent of the original value of the facility for depreciation purposes. Beginning in ~~1977~~ 1978 the state agency shall, no later than May 1 of each year, conduct a public hearing pursuant to the rule making provisions of chapter 15 to determine the percentages to be used in the following fiscal year. There shall be no other cost of capital or profit allowance for proprietary homes.

Subd. 2. The owner of a nursing home or the state agency may request a new appraisal of the facility not more often than every seven years. If a new appraisal is made,

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the new appraised value less depreciation, computed on the basis of the value established pursuant to this subdivision, shall become the new basis for that nursing home's investment allowance. The appraiser shall be selected and the appraisal undertaken in accordance with the provisions of section 256B.43, subdivision 3. The basis for depreciation shall continue to be the original value of the facility established pursuant to section 256B.43 For each year after the year in which the nursing home was originally purchased in which there is no transfer of ownership of a nursing home, the investment allowance shall be increased by one percent of the original investment allowance, but the increases shall be limited to a maximum of 25 percent of the original investment allowance.

Subd. 3. The seven year period used for the purposes of subdivision 2 shall commence with the date of purchase. The state agency or the owner of any nursing home purchased before January 1, 1977, may request an appraisal on July 1, 1977 or seven years after the date of purchase, whichever occurs later in time.

Subd. 4 ~~3~~. If a nursing home is operated on a lease basis, the state agency shall not recognize as an allowable cost any rental fee in excess of the total amount it would pay to the owner of the facility as interest, investment allowance and depreciation allowance. A lease entered into before April 13, 1976 is not subject to this subdivision until the date of the next renewal.

Sec. 15. Minnesota Statutes 1976, Section 256B.47, Subdivision 1, is amended to read:

256B.47 **RATE LIMITS.** Subdivision 1. The state agency shall by rule establish separate overall limitations on the costs for items which directly relate to the provision of patient care to residents of nursing homes and those which do not directly relate to the provision of care. The state agency may also by rule, establish limitations for specific cost categories which do not directly relate to the provision of patient care. The state agency shall reimburse nursing homes for the costs of nursing care in excess of any state agency limits on hours of nursing care if the board of health issues a correction order pursuant to section 144A.10, subdivision 4, directing the nursing home to provide the additional nursing care. All costs determined otherwise allowable shall be subject to these limitations. ~~The categorical limits on patient care related items may be hourly limits based on the needs of the residents of the nursing home up to maximum limits established by the state agency.~~

Sec. 16. Minnesota Statutes 1976, Section 256B.47, Subdivision 2, is amended to read:

Subd. 2. The following costs shall not be recognized as allowable to the extent that these costs cannot be demonstrated by the nursing home to the state agency to be directly related to the provision of patient care: (1) political contributions; (2) salaries or expenses of a lobbyist, as defined in section 10A.01, subdivision 11, for lobbying activities; (3) advertising designed to encourage potential residents to select a particular nursing home; (4) assessments levied by the health department for uncorrected violations; (5) legal fees for unsuccessful challenges to decisions by state agencies; and (6) dues paid to a nursing

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home or hospital association. The state agency shall promulgate rules establishing standards which shall distinguish between any patient-care related components and nonpatient-care related components of these costs, where applicable. For purposes of these rules, the state agency shall exercise emergency powers and establish emergency rules pursuant to section 15.0412, subdivision 5, before September 1, 1977. The state agency shall by rule exclude the costs of any other items which it determines are not directly related to the provision of patient care.

Sec. 17. Minnesota Statutes 1976, Section 256B.48, Subdivision 1, is amended to read:

256B.48 **CONDITIONS FOR PARTICIPATION.** Subdivision 1. No nursing home shall be eligible to receive medical assistance payments unless it agrees in writing that it will refrain from:

(a) Charging nonmedical assistance residents rates for similar services which exceed by more than ten percent those rates which are approved by the state agency for medical assistance recipients; For nursing homes charging nonmedical assistance residents rates less than ten percent more than those rates which are approved by the state agency for medical assistance recipients, the maximum differential in rates between nonmedical assistance residents and medical assistance recipients shall not exceed that differential which was in effect on April 13, 1976. If a nursing home has exceeded this differential since April 13, 1976, it shall return the amount collected in excess of the allowable differential stated by this subdivision to the nonmedical assistant resident, or that person's representative, by July 1, 1977. Effective July 1, 1978, no nursing home shall be eligible for medical assistance if it charges nonmedical assistance recipients rates for similar services which exceed those which are approved by the state agency for medical assistance recipients; provided, however, that the nursing home may (1) charge nonmedical assistance residents a higher rate for a private room, and (2) charge for special services which are not included in the daily rate if medical assistance patients are charged separately at the same rate for the same services in addition to the daily rate paid by the state agency;

(b) Requiring an applicant for admission to the home, or the guardian or conservator of the applicant, as a condition of admission, to pay an admission fee in excess of \$100, loan any money to the nursing home, or promise to leave all or part of the applicant's estate to the home; and

(c) Requiring any resident of the nursing home to utilize a vendor of health care services who is a licensed physician or pharmacist chosen by the nursing home.

The prohibitions set forth in clause (b) shall not apply to a ~~nonproprietary~~ retirement home with more than 325 beds including at least 150 licensed nursing home beds and which contains an identifiable unit of fewer than 20 percent of the total number of facility beds to provide nursing care to the residents of the home;

(1) is owned and operated by an organization tax-exempt under section 290.05, subdivision 1, clause (i); and

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(2) at the time of admission places all of the applicant's assets which are required to be assigned to the home in a trust account from which only expenses for the cost of care of the applicant may be deducted; and

(3) agrees in writing at the time of admission to the home to permit the applicant, or his guardian, or conservator, to examine the records relating to the individual's trust account upon request, and to receive an audited statement of the expenditures from his individual account upon request; and

(4) agrees in writing at the time of admission to the home to permit the applicant to withdraw from the home at any time and to receive, upon withdrawal, all of the unexpended funds remaining in his individual trust account; and

(5) was in compliance with provisions (1) to (4) as of June 30, 1976.

Sec. 18. **REPEALER.** Minnesota Statutes 1976, Section 144A.61, Subdivision 5, is hereby repealed.

Approved May 27, 1977.

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CHAPTER 327—S.F.No.932

*An act relating to motor vehicles; registration and taxation; increasing filing fees for certain applications; reducing fees for duplicate plates under certain circumstances; amending Minnesota Statutes 1976, Sections 168.29; and 168.33, Subdivisions 2 and 7.*

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

Section 1. Minnesota Statutes 1976, Section 168.29, is amended to read:

**168.29 MOTOR VEHICLES; REGISTRATION AND TAXATION; DUPLICATE PLATES.** In the event of the defacement, loss or destruction of any number plates, the registrar, upon receiving and filing a sworn statement of the vehicle owner, setting forth the circumstances of the defacement, loss, destruction or theft of the number plates, together with any defaced plates and the payment of the fee of \$3 shall issue a new set of plates, provided that if the \$3 fee exceeds the annual tax, the fee shall be the same as the annual tax. The registrar shall then note on his records the issue of such new number plates and shall proceed in such manner as he may deem advisable to cancel and call in the original plates so as to insure against their use on another motor vehicle. Duplicate registration certificates plainly marked as duplicates may be issued in like cases upon the payment of a 50 cent fee.

Sec. 2. Minnesota Statutes 1976, Section 168.33, Subdivision 2, is amended to read:

Subd. 2. **POWERS.** The registrar shall have the power to appoint, hire and discharge and fix the compensation of the necessary employees, in the manner provided

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