

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1521

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DATE	D-PG	OFFICIAL STATUS
03/09/2015	610	Introduction and first reading Referred to Health, Human Services and Housing
03/16/2015	881a	Comm report: To pass as amended and re-refer to Judiciary
03/25/2015		Comm report: To pass as amended Second reading

A bill for an act

1.1
 1.2 relating to health; modifying requirements for the license of health professionals;
 1.3 amending Minnesota Statutes 2014, sections 148.271; 214.077; 214.10,
 1.4 subdivisions 2, 2a; 214.32, subdivision 6.

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

1.6 Section 1. Minnesota Statutes 2014, section 148.271, is amended to read:

1.7 **148.271 EXEMPTIONS.**

1.8 The provisions of sections 148.171 to 148.285 shall not prohibit:

1.9 (1) The furnishing of nursing assistance in an emergency.

1.10 (2) The practice of advanced practice, professional, or practical nursing by any
 1.11 legally qualified advanced practice, registered, or licensed practical nurse of another state
 1.12 who is employed by the United States government or any bureau, division, or agency
 1.13 thereof while in the discharge of official duties.

1.14 (3) The practice of any profession or occupation licensed by the state, other than
 1.15 advanced practice, professional, or practical nursing, by any person duly licensed to
 1.16 practice the profession or occupation, or the performance by a person of any acts properly
 1.17 coming within the scope of the profession, occupation, or license.

1.18 (4) The provision of a nursing or nursing-related service by an unlicensed assistive
 1.19 person who has been delegated or assigned the specific function and is supervised by a
 1.20 registered nurse or monitored by a licensed practical nurse.

1.21 (5) The care of the sick with or without compensation when done in a nursing home
 1.22 covered by the provisions of section 144A.09, subdivision 1.

1.23 (6) Professional nursing practice or advanced practice registered nursing practice by
 1.24 a registered nurse or practical nursing practice by a licensed practical nurse licensed in

2.1 another state or territory who is in Minnesota as a student enrolled in a formal, structured
 2.2 course of study, such as a course leading to a higher degree, certification in a nursing
 2.3 specialty, or to enhance skills in a clinical field, while the student is practicing in the course.

2.4 (7) Professional or practical nursing practice by a student practicing under the
 2.5 supervision of an instructor while the student is enrolled in a nursing program approved by
 2.6 the board under section 148.251.

2.7 (8) Advanced practice registered nursing as defined in section 148.171, subdivisions
 2.8 5, 10, 11, 13, and 21, by a registered nurse who is licensed and currently registered in
 2.9 Minnesota or another United States jurisdiction and who is enrolled as a student in a
 2.10 formal graduate education program leading to eligibility for certification and licensure
 2.11 as an advanced practice registered nurse.

2.12 (9) Professional nursing practice or advanced practice registered nursing practice by
 2.13 a registered nurse or advanced practice registered nurse licensed in another state, territory,
 2.14 or jurisdiction who is in Minnesota temporarily:

2.15 (i) providing continuing or in-service education;

2.16 (ii) serving as a guest lecturer;

2.17 (iii) presenting at a conference; or

2.18 (iv) teaching didactic content via distance education to a student located in

2.19 Minnesota who is enrolled in a formal, structured course of study, such as a course leading
 2.20 to a higher degree or certification in a nursing specialty.

2.21 Sec. 2. Minnesota Statutes 2014, section 214.077, is amended to read:

2.22 **214.077 TEMPORARY LICENSE SUSPENSION; IMMINENT RISK OF**
 2.23 **SERIOUS HARM.**

2.24 (a) Notwithstanding any provision of a health-related professional practice act,
 2.25 when a health-related licensing board receives a complaint regarding a regulated person
 2.26 and has probable cause to believe that the regulated person has violated a statute or rule
 2.27 that the health-related licensing board is empowered to enforce, and continued practice
 2.28 by the regulated person presents an imminent risk of serious harm, the health-related
 2.29 licensing board shall issue an order temporarily suspend ~~suspending~~ the regulated person's
 2.30 ~~professional license~~ authority to practice. The temporary suspension order shall ~~take~~
 2.31 ~~effect upon written notice to the regulated person and shall~~ specify the reason for the
 2.32 suspension, including the statute or rule alleged to have been violated. The temporary
 2.33 suspension order shall take effect upon personal service on the regulated person or the
 2.34 regulated person's attorney, or upon the third calendar day after the order is served by first

3.1 class mail to the most recent address provided to the health-related licensing board for the
 3.2 regulated person or the regulated person's attorney.

3.3 (b) The temporary suspension shall remain in effect until the appropriate
 3.4 health-related licensing board or the commissioner completes an investigation, holds a
 3.5 contested case hearing pursuant to the Administrative Procedure Act, and issues a final
 3.6 order in the matter after a hearing as provided for in this section.

3.7 (c) At the time it issues the temporary suspension notice order, the appropriate
 3.8 health-related licensing board shall schedule a disciplinary contested case hearing, on the
 3.9 merits of whether discipline is warranted, to be held before the licensing board or pursuant
 3.10 to the Administrative Procedure Act. The regulated person shall be provided with at least
 3.11 ten days' notice of any contested case hearing held pursuant to this section. The contested
 3.12 case hearing shall be scheduled to begin no later than 30 days after issuance the effective
 3.13 service of the temporary suspension order.

3.14 (d) The administrative law judge presiding over the contested case hearing shall
 3.15 issue a report and recommendation to the health-related licensing board no later than 30
 3.16 days after the final day of the contested case hearing. The health-related licensing board
 3.17 shall issue a final order pursuant to sections 14.61 and 14.62 within 30 days of receipt
 3.18 of the administrative law judge's report and recommendations. Except as provided in
 3.19 paragraph (e), if the health-related licensing board has not issued a final order pursuant to
 3.20 sections 14.61 and 14.62 within 30 days of receipt of the administrative law judge's report
 3.21 and recommendations, the temporary suspension shall be lifted.

3.22 ~~(d)~~ (e) ~~If the board has not completed its investigation and issued a final order within~~
 3.23 ~~30 days, the temporary suspension shall be lifted, unless the regulated person requests a~~
 3.24 ~~delay in the disciplinary proceedings for any reason, upon which the temporary suspension~~
 3.25 ~~shall remain in place until the completion of the investigation.~~ the regulated person
 3.26 requests a delay in the contested case proceedings provided for in paragraphs (c) and (d)
 3.27 for any reason, the temporary suspension shall remain in effect until the health-related
 3.28 licensing board issues a final order pursuant to sections 14.61 and 14.62.

3.29 Sec. 3. Minnesota Statutes 2014, section 214.10, subdivision 2, is amended to read:

3.30 Subd. 2. **Investigation and hearing.** The designee of the attorney general providing
 3.31 legal services to a board shall evaluate the communications forwarded by the board or its
 3.32 members or staff. If the communication alleges a violation of statute or rule which the
 3.33 board is to enforce, the designee is empowered to investigate the facts alleged in the
 3.34 communication. In the process of evaluation and investigation, the designee shall consult
 3.35 with or seek the assistance of the executive director, executive secretary, or, if the board

4.1 determines, a member of the board who has been appointed by the board to assist the
4.2 designee. The designee may also consult with or seek the assistance of any other qualified
4.3 persons who are not members of the board who the designee believes will materially aid
4.4 in the process of evaluation or investigation. The executive director, executive secretary,
4.5 or the consulted board member may attempt to correct improper activities and redress
4.6 grievances through education, conference, conciliation and persuasion, and in these
4.7 attempts may be assisted by the designee of the attorney general. If the attempts at
4.8 correction or redress do not produce satisfactory results in the opinion of the executive
4.9 director, executive secretary, or the consulted board member, or if after investigation the
4.10 designee providing legal services to the board, the executive director, executive secretary,
4.11 or the consulted board member believes that the communication and the investigation
4.12 suggest illegal or unauthorized activities warranting board action, the person having the
4.13 belief shall inform the executive director or executive secretary of the board who shall
4.14 schedule a ~~disciplinary~~ contested case hearing in accordance with chapter 14. Before
4.15 directing the holding of a ~~disciplinary~~ contested case hearing, the executive director,
4.16 executive secretary, or the designee of the attorney general shall have considered the
4.17 recommendations of the consulted board member. Before scheduling a ~~disciplinary~~
4.18 contested case hearing, the executive director or executive secretary must have received
4.19 a verified written complaint from the complaining party. A board member who was
4.20 consulted during the course of an investigation may participate at the hearing but may not
4.21 vote on any matter pertaining to the case. The executive director or executive secretary
4.22 of the board shall promptly inform the complaining party of the final disposition of the
4.23 complaint. Nothing in this section shall preclude the board from scheduling, on its own
4.24 motion, a ~~disciplinary~~ contested case hearing based upon the findings or report of the
4.25 board's executive director or executive secretary, a board member or the designee of the
4.26 attorney general assigned to the board. Nothing in this section shall preclude a member of
4.27 the board, executive director, or executive secretary from initiating a complaint.

4.28 Sec. 4. Minnesota Statutes 2014, section 214.10, subdivision 2a, is amended to read:

4.29 Subd. 2a. **Proceedings.** A board shall initiate proceedings to suspend or revoke
4.30 a license or shall refuse to renew a license of a person licensed by the board who is
4.31 convicted in a court of competent jurisdiction of violating section ~~609.224, subdivision 2~~
4.32 609.2231, subdivision 8, paragraph (c), 609.23, 609.231, 609.2325, 609.233, 609.2335,
4.33 609.234, 609.465, 609.466, ~~609.52~~, or 609.72, subdivision 3.

4.34 Sec. 5. Minnesota Statutes 2014, section 214.32, subdivision 6, is amended to read:

5.1 Subd. 6. **Duties of a participating board.** Upon receiving a report from the
5.2 program manager in accordance with section 214.33, subdivision 3, ~~that a regulated~~
5.3 ~~person has been discharged from the program due to noncompliance based on allegations~~
5.4 ~~that the regulated person has engaged in conduct that might cause risk to the public,~~
5.5 ~~when~~ and if the participating health-related licensing board has probable cause to believe
5.6 continued practice by the regulated person presents an imminent risk of serious harm, the
5.7 health-related licensing board shall temporarily suspend the regulated person's professional
5.8 license until the completion of a disciplinary investigation. The board must complete the
5.9 disciplinary investigation within 30 days of receipt of the report from the program. If the
5.10 investigation is not completed by the board within 30 days, the temporary suspension shall
5.11 be lifted, unless the regulated person requests a delay in the disciplinary proceedings
5.12 for any reason, upon which the temporary suspension shall remain in place until the
5.13 completion of the investigation proceed pursuant to the requirements in section 214.077.