

1.1 moves to amend H.F. No. 2555, the fourth engrossment, as follows:

1.2 Page 5, line 5, after the period insert "The commissioner, in consultation with the
1.3 commissioner of Management and Budget and small agencies, shall evaluate small
1.4 agencies' needs for administrative support services. If the commissioner provides
1.5 administrative support services to a small agency, the commissioner must enter into a
1.6 service level agreement with the agency, specifying the services to be provided and the
1.7 costs and anticipated outcomes of the services."

1.8 Page 5, line 7, delete "the Capitol Area"

1.9 Page 5, line 8, delete "Architectural and Planning Board, the Amateur Sports
1.10 Commission,"

1.11 Page 5, delete lines 10 to 12 and insert:

1.12 "(c) The commissioner of administration may assess agencies for services it provides
1.13 under this section. The amounts assessed are appropriated to the commissioner."

1.14 Page 5, line 15, after the period, insert "The agencies served retain the ownership
1.15 and responsibility for spending decisions and for ongoing implementation of appropriate
1.16 business operations."

1.17 Page 6, after line 25, insert:

1.18 "Sec. Minnesota Statutes 2010, section 148.261, subdivision 1, is amended to read:

1.19 Subdivision 1. **Grounds listed.** The board may deny, revoke, suspend, limit, or
1.20 condition the license and registration of any person to practice professional, advanced
1.21 practice registered, or practical nursing under sections 148.171 to 148.285, or to otherwise
1.22 discipline a licensee or applicant as described in section 148.262. The following are
1.23 grounds for disciplinary action:

1.24 (1) Failure to demonstrate the qualifications or satisfy the requirements for a license
1.25 contained in sections 148.171 to 148.285 or rules of the board. In the case of a person
1.26 applying for a license, the burden of proof is upon the applicant to demonstrate the
1.27 qualifications or satisfaction of the requirements.

2.1 (2) Employing fraud or deceit in procuring or attempting to procure a permit, license,
2.2 or registration certificate to practice professional or practical nursing or attempting to
2.3 subvert the licensing examination process. Conduct that subverts or attempts to subvert
2.4 the licensing examination process includes, but is not limited to:

2.5 (i) conduct that violates the security of the examination materials, such as removing
2.6 examination materials from the examination room or having unauthorized possession of
2.7 any portion of a future, current, or previously administered licensing examination;

2.8 (ii) conduct that violates the standard of test administration, such as communicating
2.9 with another examinee during administration of the examination, copying another
2.10 examinee's answers, permitting another examinee to copy one's answers, or possessing
2.11 unauthorized materials; or

2.12 (iii) impersonating an examinee or permitting an impersonator to take the
2.13 examination on one's own behalf.

2.14 (3) Conviction ~~during the previous five years~~ of a felony or gross misdemeanor
2.15 reasonably related to the practice of professional, advanced practice registered, or practical
2.16 nursing. Conviction as used in this subdivision includes a conviction of an offense that if
2.17 committed in this state would be considered a felony or gross misdemeanor without regard
2.18 to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is
2.19 made or returned but the adjudication of guilt is either withheld or not entered.

2.20 (4) Revocation, suspension, limitation, conditioning, or other disciplinary action
2.21 against the person's professional or practical nursing license or advanced practice
2.22 registered nursing credential, in another state, territory, or country; failure to report to the
2.23 board that charges regarding the person's nursing license or other credential are pending in
2.24 another state, territory, or country; or having been refused a license or other credential by
2.25 another state, territory, or country.

2.26 (5) Failure to or inability to perform professional or practical nursing as defined in
2.27 section 148.171, subdivision 14 or 15, with reasonable skill and safety, including failure
2.28 of a registered nurse to supervise or a licensed practical nurse to monitor adequately the
2.29 performance of acts by any person working at the nurse's direction.

2.30 (6) Engaging in unprofessional conduct, including, but not limited to, a departure
2.31 from or failure to conform to board rules of professional or practical nursing practice that
2.32 interpret the statutory definition of professional or practical nursing as well as provide
2.33 criteria for violations of the statutes, or, if no rule exists, to the minimal standards of
2.34 acceptable and prevailing professional or practical nursing practice, or any nursing
2.35 practice that may create unnecessary danger to a patient's life, health, or safety. Actual
2.36 injury to a patient need not be established under this clause.

3.1 (7) Failure of an advanced practice registered nurse to practice with reasonable
3.2 skill and safety or departure from or failure to conform to standards of acceptable and
3.3 prevailing advanced practice registered nursing.

3.4 (8) Delegating or accepting the delegation of a nursing function or a prescribed
3.5 health care function when the delegation or acceptance could reasonably be expected to
3.6 result in unsafe or ineffective patient care.

3.7 (9) Actual or potential inability to practice nursing with reasonable skill and safety
3.8 to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or
3.9 as a result of any mental or physical condition.

3.10 (10) Adjudication as mentally incompetent, mentally ill, a chemically dependent
3.11 person, or a person dangerous to the public by a court of competent jurisdiction, within or
3.12 without this state.

3.13 (11) Engaging in any unethical conduct, including, but not limited to, conduct likely
3.14 to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard
3.15 for the health, welfare, or safety of a patient. Actual injury need not be established under
3.16 this clause.

3.17 (12) Engaging in conduct with a patient that is sexual or may reasonably be
3.18 interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually
3.19 demeaning to a patient, or engaging in sexual exploitation of a patient or former patient.

3.20 (13) Obtaining money, property, or services from a patient, other than reasonable
3.21 fees for services provided to the patient, through the use of undue influence, harassment,
3.22 duress, deception, or fraud.

3.23 (14) Revealing a privileged communication from or relating to a patient except when
3.24 otherwise required or permitted by law.

3.25 (15) Engaging in abusive or fraudulent billing practices, including violations of
3.26 federal Medicare and Medicaid laws or state medical assistance laws.

3.27 (16) Improper management of patient records, including failure to maintain adequate
3.28 patient records, to comply with a patient's request made pursuant to sections 144.291 to
3.29 144.298, or to furnish a patient record or report required by law.

3.30 (17) Knowingly aiding, assisting, advising, or allowing an unlicensed person to
3.31 engage in the unlawful practice of professional, advanced practice registered, or practical
3.32 nursing.

3.33 (18) Violating a rule adopted by the board, an order of the board, or a state or federal
3.34 law relating to the practice of professional, advanced practice registered, or practical
3.35 nursing, or a state or federal narcotics or controlled substance law.

4.1 (19) Knowingly providing false or misleading information that is directly related
4.2 to the care of that patient unless done for an accepted therapeutic purpose such as the
4.3 administration of a placebo.

4.4 (20) Aiding suicide or aiding attempted suicide in violation of section 609.215 as
4.5 established by any of the following:

4.6 (i) a copy of the record of criminal conviction or plea of guilty for a felony in
4.7 violation of section 609.215, subdivision 1 or 2;

4.8 (ii) a copy of the record of a judgment of contempt of court for violating an
4.9 injunction issued under section 609.215, subdivision 4;

4.10 (iii) a copy of the record of a judgment assessing damages under section 609.215,
4.11 subdivision 5; or

4.12 (iv) a finding by the board that the person violated section 609.215, subdivision
4.13 1 or 2. The board shall investigate any complaint of a violation of section 609.215,
4.14 subdivision 1 or 2.

4.15 (21) Practicing outside the scope of practice authorized by section 148.171,
4.16 subdivision 5, 10, 11, 13, 14, 15, or 21.

4.17 (22) Practicing outside the specific field of nursing practice for which an advanced
4.18 practice registered nurse is certified unless the practice is authorized under section 148.284.

4.19 (23) Making a false statement or knowingly providing false information to the
4.20 board, failing to make reports as required by section 148.263, or failing to cooperate with
4.21 an investigation of the board as required by section 148.265.

4.22 (24) Engaging in false, fraudulent, deceptive, or misleading advertising.

4.23 (25) Failure to inform the board of the person's certification status as a nurse
4.24 anesthetist, nurse-midwife, nurse practitioner, or clinical nurse specialist.

4.25 (26) Engaging in clinical nurse specialist practice, nurse-midwife practice, nurse
4.26 practitioner practice, or registered nurse anesthetist practice without current certification
4.27 by a national nurse certification organization acceptable to the board, except during the
4.28 period between completion of an advanced practice registered nurse course of study and
4.29 certification, not to exceed six months or as authorized by the board.

4.30 (27) Engaging in conduct that is prohibited under section 145.412.

4.31 (28) Failing to report employment to the board as required by section 148.211,
4.32 subdivision 2a, or knowingly aiding, assisting, advising, or allowing a person to fail to
4.33 report as required by section 148.211, subdivision 2a."

4.34 Page 8, delete sections 17 and 18, and insert:

4.35 "Sec. 17. Minnesota Statutes 2010, section 214.06, subdivision 1, is amended to read:

5.1 Subdivision 1. ~~Fee adjustment~~ **Fees to recover expenditures.** ~~Notwithstanding~~
5.2 ~~any law to the contrary, the commissioner of health as authorized by section 214.13, all~~
5.3 ~~health-related licensing boards and all non-health-related licensing boards shall by rule,~~
5.4 ~~with the approval of the commissioner of management and budget, adjust, as needed,~~
5.5 ~~any fee which the commissioner of health or the board is empowered to assess. The~~
5.6 commissioner of health as authorized by section 214.13 and all health-related licensing
5.7 boards and non-health-related licensing boards shall propose or adjust any fee according
5.8 to section 16A.1283. As provided in section 16A.1285, the ~~adjustment~~ fees shall be
5.9 an amount sufficient so that the total fees collected by each board will be based on
5.10 anticipated expenditures, including expenditures for the programs authorized by sections
5.11 214.10, 214.103, 214.11, 214.17 to 214.24, 214.28 to 214.37, and 214.40, except that a
5.12 health-related licensing board may have anticipated expenditures in excess of anticipated
5.13 revenues in a biennium by using accumulated surplus revenues from fees collected by
5.14 that board in previous bienniums. A health-related licensing board may accumulate up
5.15 to six months of operating funds, and then must reduce fees. A health-related licensing
5.16 board shall not spend more money than the amount appropriated by the legislature
5.17 for a biennium. For members of an occupation registered after July 1, 1984, by the
5.18 commissioner of health under the provisions of section 214.13, the fee established must
5.19 include an amount necessary to recover, over a five-year period, the commissioner's
5.20 direct expenditures for adoption of the rules providing for registration of members of the
5.21 occupation. All fees received shall be deposited in the state treasury.

5.22 Sec. 18. Minnesota Statutes 2010, section 214.06, subdivision 1a, is amended to read:

5.23 Subd. 1a. **Health occupations licensing account.** (a) Fees received by the
5.24 commissioner of health or health-related licensing boards must be credited to the health
5.25 occupations licensing account in the state government special revenue fund. The
5.26 commissioner of management and budget shall ensure that the revenues and expenditures
5.27 of each health-related licensing board are tracked separately in the health occupations
5.28 licensing account.

5.29 (b) The fees collected must be used only by the boards identified in section
5.30 214.01, subdivision 2, and the commissioner of health, as the regulator for occupational
5.31 therapy practitioners, speech-language pathologists, audiologists, and hearing instrument
5.32 dispensers, and only for the purposes of the programs they administer. The legislature
5.33 must not transfer money generated by these fees from the state government special
5.34 revenue fund to the general fund."

5.35 Page 9, delete sections 20 and 21 and insert:

6.1 **"Sec. 20. [214.072] HEALTH-RELATED LICENSING BOARDS; WEB SITE.**

6.2 (a) Each health-related licensing board, as defined in section 214.01, subdivision 2,
6.3 and the commissioner of health, as the regulator for occupational therapy practitioners,
6.4 speech-language pathologists, audiologists, and hearing instrument dispensers, are
6.5 required to post on its public Web site the name and business address of each regulated
6.6 individual who has:

6.7 (1) a conviction during the previous ten years of a felony or gross misdemeanor.
6.8 Conviction includes a conviction of an offense that if committed in this state would be
6.9 considered a felony or gross misdemeanor without regard to its designation elsewhere,
6.10 or a criminal proceeding where a finding or verdict of guilt is made or returned but the
6.11 adjudication of guilt is either withheld or not entered;

6.12 (2) a malpractice judgment entered against the regulated individual in any state
6.13 or jurisdiction within the past ten years and malpractice settlements entered against
6.14 the regulated individual in any state or jurisdiction if there have been more than three
6.15 within the past ten years. Information describing the judgments and settlements shall be
6.16 developed by the boards, shall be stated in plain English, and shall ensure the public
6.17 understands the context of the action involving the licensee; or

6.18 (3) any disciplinary or corrective action or restriction of privileges taken against the
6.19 individual's license by a licensing board in this state or in any other state or jurisdiction.
6.20 The Web site shall identify the basis for disciplinary action, the type of disciplinary action
6.21 taken, and whether the action was taken by a licensing board in this or another state or
6.22 the federal government.

6.23 (b) Each board and the commissioner of health must post in-state information
6.24 required in paragraph (a) no later than January 1, 2013. Information from other states and
6.25 jurisdictions must be posted no later than July 1, 2013.

6.26 **EFFECTIVE DATE. This section is effective the day following final enactment.**

6.27 **Sec. 21. [214.073] HEALTH-RELATED LICENSING BOARDS; AUTHORITY.**

6.28 (a) Each health-related licensing board, as defined in section 214.01, subdivision 2,
6.29 and the commissioner of health, as the regulator for occupational therapy practitioners,
6.30 speech-language pathologists, audiologists, and hearing instrument dispensers, shall
6.31 require an applicant on or after August 1, 2012, to provide the individual's primary
6.32 business address at the time of initial application and all subsequent renewals.

6.33 (b) Each health-related licensing board, as defined in section 214.01, subdivision 2,
6.34 and the commissioner of health, as the regulator for occupational therapy practitioners,
6.35 speech-language pathologists, audiologists, and hearing instrument dispensers, shall have

7.1 the authority to conduct criminal background checks on all applicants, at the expense of
 7.2 the individual. The boards and the commissioner shall establish a protocol for conducting
 7.3 criminal background checks no later than January 1, 2013. This protocol must be effective
 7.4 January 1, 2014, and require the applicant to:

7.5 (1) submit a full set of fingerprints to the board or its designee in a form and manner
 7.6 specified by the board; and

7.7 (2) provide consent authorizing the board to obtain the individual's state and national
 7.8 criminal history record information for the purpose of determining the individual's
 7.9 suitability for a receiving a credential to practice.

7.10 (c) The health-related licensing boards and the commissioner of health shall study
 7.11 the value of implementing a requirement for criminal background checks for existing
 7.12 regulated individuals, how to utilize criminal background checks that have already been
 7.13 performed on these individuals, and how to implement any new requirements in the most
 7.14 cost effective way possible.

7.15 (d) Each health-related licensing board, as defined in section 214.01, subdivision 2,
 7.16 and the commissioner of health, as the regulator for occupational therapy practitioners,
 7.17 speech-language pathologists, audiologists, and hearing instrument dispensers, shall
 7.18 submit legislation for consideration in 2013 to require institutions, professional societies,
 7.19 other licensed professionals, and insurers and other entities to report conduct constituting
 7.20 grounds for disciplinary action to the respective regulatory entity. Each board and the
 7.21 commissioner must include penalties that may be imposed for failure to report. Boards
 7.22 with reporting obligations in statutes are exempt from this paragraph.

7.23 **EFFECTIVE DATE.** This section is effective the day following final enactment."

7.24 Page 10, after line 18, insert:

7.25 "Sec. **[214.0732] REQUIREMENT FOR CRIMINAL BACKGROUND**
 7.26 **CHECK.**

7.27 Subdivision 1. **Applicants.** Each health-related licensing board, as defined in section
 7.28 214.01, subdivision 2, and the commissioner of health, as regulator for occupational
 7.29 therapy practitioners, speech-language pathologists, audiologists, and hearing instrument
 7.30 dispensers, shall complete a fingerprint-based criminal background check on each
 7.31 applicant for initial licensure or other credential prior to granting a credential to practice.
 7.32 Each applicant must:

7.33 (1) submit a full set of fingerprints to the commissioner or board or its designee in a
 7.34 form and manner specified by the commissioner or board; and

8.1 (2) provide consent authorizing the board or commissioner to obtain the applicant's
8.2 state and national criminal history record information for the purpose of determining the
8.3 applicant's suitability and eligibility for a credential to practice.

8.4 Subd. 2. **Fees.** The applicant shall be responsible for all fees associated with
8.5 preparation of the fingerprints and the criminal background check and are not refundable.

8.6 Subd. 3. **Refusal to consent.** The boards and the commissioner of health shall
8.7 not issue a credential to practice to any applicant who refuses to consent to a criminal
8.8 background check or fails to submit fingerprints within 90 days after the application is
8.9 submitted. Any fees paid by the applicant to a board or commissioner shall be forfeited
8.10 if the applicant refuses to consent to the criminal background check or fails to submit
8.11 fingerprints.

8.12 Subd. 4. **Submission of fingerprints.** A board or its designee and the commissioner
8.13 of health shall submit applicant fingerprints to the Minnesota Bureau of Criminal
8.14 Apprehension (BCA). The BCA shall perform a check for state criminal justice
8.15 information and shall forward the applicant's fingerprints to the Federal Bureau of
8.16 Investigation to perform a check for national criminal justice information regarding the
8.17 applicant. The BCA shall report to the board or the commissioner the results of the state
8.18 and national background checks.

8.19 Subd. 5. **Alternative to fingerprint-based background check.** A board or the
8.20 commissioner of health may require an alternative method of criminal history check
8.21 for an applicant who has submitted at least three sets of fingerprints under this section
8.22 that cannot be read.

8.23 Subd. 6. **Opportunity to challenge accuracy of report.** Prior to taking disciplinary
8.24 action against an applicant based on a criminal conviction, a board or the commissioner
8.25 of health shall provide the applicant with the opportunity to complete, or challenge the
8.26 accuracy of, the criminal justice information reported to the board or commissioner. The
8.27 applicant shall have 30 calendar days following notice from a board or the commissioner
8.28 of the intent to take disciplinary action on a license to request an opportunity to correct or
8.29 complete the record prior to a board or the commissioner taking disciplinary action based
8.30 on the report. The applicant shall be allowed up to 180 days to challenge the accuracy or
8.31 completeness of the report with the agency that is responsible for the record.

8.32 Subd. 7. **Disciplinary action.** A board or the commissioner of health shall review
8.33 each criminal history report and determine whether the criminal convictions, if any, relate
8.34 to the practice of the regulated profession or occupation. If the criminal convictions are
8.35 found to relate to the profession or occupation, the regulating board or commissioner

9.1 may take any disciplinary action allowed by the respective practice act and pursuant
9.2 to sections 214.10 and 214.103.

9.3 Subd. 8. **Factors to be considered.** In determining whether an applicant is suitable
9.4 to receive a credential to practice, a board or the commissioner of health shall consider:

9.5 (1) the number of crimes for which the applicant has been convicted;

9.6 (2) the nature and seriousness of the crimes and vulnerability of the victims of the
9.7 crimes, including whether the commission of the crimes involved the abuse of trust or the
9.8 exploitation of a unique position or knowledge;

9.9 (3) the relationship between the crimes and the practice of the applicable profession
9.10 or occupation;

9.11 (4) the age of the applicant at the time the crimes were committed;

9.12 (5) the amount of time that has elapsed since the crimes occurred;

9.13 (6) steps taken by the applicant to address substance abuse or mental or physical
9.14 health issues present at the time of the crimes or subsequent to the crimes;

9.15 (7) evidence of the applicant's work history;

9.16 (8) whether the applicant has successfully completed the terms of any sentence
9.17 imposed; and

9.18 (9) any other evidence demonstrating the applicant does not pose a risk of harm to
9.19 the health or safety of the public.

9.20 Subd. 9. **Conviction.** For purposes of this section, an applicant is considered to
9.21 have been convicted of a crime if the applicant has pleaded guilty or nolo contendere,
9.22 been found guilty, or entered an Alford plea to any offense by any court in the state of
9.23 Minnesota or similar offense in another state or United States territory or federal court.
9.24 An applicant is considered to have been convicted of a crime if the applicant has been
9.25 convicted or found guilty but adjudication was withheld. A board or the commissioner of
9.26 health may consider public records from a juvenile delinquency proceeding where there
9.27 has been a judicial determination that the elements of the offense occurred.

9.28 Subd. 10. **Data practices.** Fingerprints and all criminal history record information
9.29 obtained by the boards or the commissioner of health is private data on individuals under
9.30 section 13.02, subdivision 12, and restricted to the exclusive use of the board and its
9.31 members and staff, the commissioner, investigative staff, agents, and attorneys for the
9.32 purpose of evaluating an applicant's eligibility or qualifications to practice. The boards and
9.33 the commissioner shall maintain fingerprints and the criminal history records information
9.34 in a secure manner and comply with all applicable state and federal requirements.

9.35 Subd. 11. **Instructions to the boards; plan.** The boards and the commissioner
9.36 of health shall collaborate with the commissioner of human services and the BCA to

10.1 conduct a study on the practicability of completing criminal background checks of all
10.2 credentialed individuals who received their credential to practice before the effective date
10.3 of this section. This plan shall be developed no later than 2015 and may be contingent
10.4 upon the BCA's implementation of a system in which any new crimes that an applicant
10.5 or credentialed individual commits after an initial background check are flagged in
10.6 the BCA database and reported to the board or commissioner. The plan will include
10.7 recommendations for any necessary statutory changes and shall seek to minimize
10.8 duplication of requirements for background studies.

10.9 **EFFECTIVE DATE.** This section is effective July 1, 2013, or as soon as the
10.10 necessary agency interagency infrastructure and related business processes are operational,
10.11 whichever is later."

10.12 Page 11, line 20, delete everything before "shall" and insert "(a) The commissioner
10.13 of health shall contract with Management and Analysis Development at Minnesota
10.14 Management and Budget to"

10.15 Page 12, line 5, after the period insert "The cost of the contract under paragraph (a)
10.16 must be paid from the operating funds of the Board of Medical Practice."

10.17 Page 12, delete section 29

10.18 Page 13, after line 17, insert:

10.19 "Sec. 30. **APPROPRIATION.**

10.20 \$127,000 is appropriated to the Legislative Coordinating Commission from the
10.21 general fund for the fiscal year ending June 30, 2013, to provide staff services or to enter
10.22 into contracts to assist the Sunset Advisory Commission. The general fund budget base
10.23 for the Legislative Coordinating Commission, as established in Laws 2011, First Special
10.24 Session chapter 10, article 1, section 2, and as increased by the appropriation in this
10.25 section, is increased by an additional \$33,000 per year."

10.26 Renumber the sections in sequence and correct the internal references

10.27 Amend the title accordingly