

HOUSE RESEARCH

Bill Summary

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Article 1: Health Care

Overview

This article contains provisions related to a range of health policy issues, including but not limited to: electronic prescribing, pharmacy audits, medical transportation, nursing facilities, and autism.

- 1 Requirements for electronic prescribing.** Amends § 62J.497, subd. 2. Extends until January 1, 2016, the effective date of e-prescribing requirements for providers and prescribers who practice at clinics with two or fewer physicians.
- 2 Pharmacy audit integrity program.** Adds § 151.60. Establishes the pharmacy audit integrity program to provide standards for audits of pharmacy records.
- 3 Definitions.** Adds § 151.61. Defines the following terms: audit contractor, entity, insurance company, managed care company, pharmacy benefits manager, state agency health program, and third-party payer. "Entity" is defined as a managed care company, insurance company, third-party payer, pharmacy benefits manager (PBM), or any other organization that represents these companies, groups, or organizations. "State agency health program" is defined as any program sponsored or administered by an agency of the state, except for Medicaid.
- 4 Pharmacy benefit manager contract.** Adds § 151.62. (a) Provides that a PBM contract that is modified by that entity is not effective without the written consent of the pharmacy. Requires the pharmacy to receive a copy of the proposed changes or renewal and requires the PBM to disclose all material changes.

(b) Requires amendments or changes of existing contracts to be disclosed to the pharmacy at least 120 days prior to the effective date of the proposed change.
- 5 Procedures for conducting and reporting an audit.** Adds § 151.63. Specifies procedures that an entity conducting a pharmacy audit must follow and specifies related requirements for audits.

- 6 Audit information and reports.** Adds § 151.64. Requires preliminary audit reports to be delivered to the pharmacy within 30 days of conclusion of the audit, and requires the pharmacy to have at least 30 days to provide documentation to address any discrepancies. Requires the final audit report to be delivered to the pharmacy within 90 days of receipt of the preliminary audit report or final appeal. Prohibits chargebacks, recoupment, or other penalties from being assessed until the appeals process has been exhausted and the final report issued. Requires an entity to remit money related to underpayments within 30 days after the appeals process has been exhausted and the final report issued. Unless superseded by state or federal law, prohibits audit information from being shared. Allows auditors to have access to previous audit reports only if conducted by the same auditing entity.
- 7 Disclosures to plan sponsor.** Adds § 151.65. Requires an auditing entity to provide a copy of the final report to the plan sponsor whose claims were included in the audit. Requires money to be returned to the plan sponsor and co-payments returned directly to the patient.
- 8 Applicability of other laws and regulations.** Adds § 151.66. Provides that sections 151.60 to 151.66 do not apply to any investigative audit that involves fraud, willful misrepresentation, or abuse. Lists specific circumstances under which those sections do not apply.
- 9 Level of need determination.** Amends § 256B.04, subd. 14a. Limits charges and payments for level of need determinations for nonemergency medical transportation to \$25. Exempts from level of need determinations special transportation services to persons who need a stretcher-accessible vehicle from a hospital, if the services are ordered by specified health care professionals according to Medicare guidelines. Exempts level of need determinations for persons transported to a nursing facility.
- 10 Transportation costs.** Amends § 256B.0625, subd. 17. Requires the most direct route for purposes of reimbursement to special transportation providers to be determined by commercially available mileage software.
- 11 Additional local share of certain nursing facility costs.** Amends § 256B.19, subd. 1e. Clarifies the start date of the additional local share of certain nursing facility costs. Makes this section effective the day following final enactment.
- 12 Alternative to phase-in for publicly owned nursing facilities.** Amends § 256B.441, subd. 55a. Clarifies the start date of operating payment rate adjustments under this provision. Clarifies the due date of applications to the commissioner from eligible nursing facilities that wish to participate under this provision. Removes language making participation under this subdivision irrevocable. Makes this section effective the day following final enactment.
- 13 Nonemergency medical transportation single administrative structure proposal.** (a) Requires the commissioner of human services to develop a proposal to create a single administrative structure for providing nonemergency medical transportation services to MA fee-for-service recipients. Requires the proposal to consolidate access and special transportation services into one administrative structure, with the goal of standardizing eligibility determination processes, scheduling arrangements, billing procedures, data collection, and oversight mechanisms.
- (b) Requires the commissioner, in developing the proposal, to:
- (1) examine the current responsibilities of the counties and DHS and consider any cost-shifting if responsibilities are changed;
 - (2) identify key performance measures to assess the cost effectiveness of medical nonemergency transportation, including a process to collect, audit, and report data;
 - (3) develop a statewide complaint system for recipients;

- (4) establish a standardized billing process;
 - (5) establish a process for public input;
 - (6) establish eligibility criteria, including the frequency of eligibility assessments and the length of the eligibility period;
 - (7) develop a reimbursement method to compensate volunteers for no-load miles; and
 - (8) establish criteria to maximize the use of public transportation.
- (c) Requires the commissioner to consult with the nonemergency medical transportation advisory council when developing the proposal.
- (d) Requires the commissioner to establish the nonemergency medical transportation advisory council, and specifies membership and governance.
- (e) Requires the commissioner to submit the proposal and draft legislation to the chairs and ranking minority members of the legislative committees with jurisdiction over health care policy and finance, by January 15, 2012.

14 Recovery from broker. If deemed appropriate after a review by the Attorney General, requires the commissioner of human services, in cooperation with the commissioner of management and budget, to recover from any broker of nonemergency medical transportation services overpayments for administrative services. Requires recoveries to be based on the findings of the Office of Legislative Auditor's report on nonemergency transportation.

15 Minnesota Autism Spectrum Disorder Task Force.

Subd. 1. Members. (a) Specifies the membership of the Autism Spectrum Disorder Task Force. (b) Requires that appointments be made by September 1, 2011 and that the first meeting be convened by the majority leader of the senate by October 1, 2011. Directs the task force to elect a chair at its first meeting and to meet at least six times per year. (c) Directs the Legislative Coordinating Commission to provide meeting space and various state agencies to provide assistance to the task force.

Subd. 2. Duties. (a) Requires the task force to develop a statewide strategic plan for autism spectrum disorder (ASD) to improve awareness, early diagnosis and intervention, and to ensure delivery of treatment and services to persons diagnosed with ASD.

(b) Requires the task force to coordinate existing efforts relating to ASD at certain state agencies, and other organizations,

Subd. 3. Report. Requires the task force to submit its strategic plan to the legislature by January 15, 2013, provide assistance with the implementation of the plan as approved by the legislature, and submit annual progress reports by January 15, 2014, and 2015.

Subd. 4. Expiration. States that this task force expires June 30, 2015, unless extended by law.

Provides a section effective date of July 1, 2011, and sunsets the section June 30, 2015.

Article 2: Human Services

Overview

This article contains provisions related to a range of human services issues, including but not limited to: detoxification services, day care facilities, the MFIP program, reciprocal child support enforcement agreements, and family stabilization services.

- 1 **Interstate contracts, mental health, chemical health, detoxification services.** Amends § 245.50.
 - Subd. 1. Definitions.** Adds "detoxification facility" to the definition of "receiving agency" and "detoxification" to the list of services provided by receiving agencies and to the reasons a sending agency may refer an individual to a bordering state.
 - Subd. 2. Purpose and authority.** Adds detoxification as a service that can be provided across state lines in facilities closer to the homes of individuals than facilities in the individual's home state.
 - Subd. 3. Exceptions.** No changes.
 - Subd. 4. Contracts.** No changes.
 - Subd. 5. Special contracts; bordering states.** Grants recognition and reciprocity to valid court orders entered in the sending or receiving for detoxification services. Adds that this section applies to detoxification services that are unrelated to treatment whether the services are provided on an involuntary or voluntary basis.
- 2 **Permitted single-family residential use.** Amends § 245A.14, subdivision 1. Strikes language that includes group family child care facilities with a capacity of 14 or fewer children as a permitted single-family residential use.

Adds paragraph (b) which provides that family day care and group family day care facilities are a permitted single-family residential use of property only if operated by the homeowner and the homeowner is the primary provider of care and residence in the home.
- 3 **Special family day care homes.** Amends § 245A.14, subdivision 4. Strikes language that permits a license holder, who is the primary provider of care, to operate a family day care or group family day care in a dwelling located on a residential lot that is not the license holder's residence.
- 4 **Contracting for performance.** Amends § 256.0112, by adding subdivision 9. Permits a local agency to negotiate a supplemental contract with an approved vendor of social services to augment the lead agency contract. Provides that additional provisions shall be designed to encourage successful, timely, and cost-effective outcomes for clients. Allows incentive payments, penalties, reporting of performance, and other conditions. This contract cannot be less than the contract established by the lead agency. States that this contract is binding only on the provider and local agency, not on the lead agency or any other county.
- 5 **Work activity.** Amends § 256J.49, subd. 13. Modifies the definition of "work activity" under the MFIP program to prohibit activities done for political purposes from being included.
- 6 **Purpose.** Amends § 256J.575, subd. 1. Modifies the purpose of the MFIP family stabilization services program.
- 7 **Universal participation.** Amends § 256J.575, subd. 4. Makes a conforming cross-reference change.
- 8 **Services.** Amends § 256J.575, subd. 5. Removes requirements that family stabilization services be provided through a case management model, removes a requirement that the county establish a family stabilization plan for each participating family, removes a list of items that are currently required to be included in the family stabilization plan, and removes requirements for periodic review

of the family stabilization plan.

- 9 Cooperation with services requirements.** Amends § 256J.575, subd. 6. Modifies the requirements family stabilization service participants must meet. Requires these participants to meet the same requirements as participants in the MFIP program.
- 10 Sanctions.** Amends § 256J.575, subd. 7. Modifies family stabilization services sanctions and aligns the sanctions and participant requirements with the MFIP program.
- 11 Reciprocal agreement; child support enforcement.** Requires the commissioner of human services to initiate procedures to enter into a child support enforcement reciprocal agreement with Bermuda under authority granted by federal law.
- Makes this section effective upon Bermuda's acceptance and agreement to enforce Minnesota child support orders. Provides an expiration date of December 31, 2012, if Bermuda declines to enforce Minnesota orders.
- 12 Repealer.** Repeals Minnesota Statutes, section 256J.575, subd. 2 (family stabilization services definitions).

Article 3: Licensing

Overview

This article prohibits granting or renewing a license for a health professional who has been convicted of specified felony level criminal sexual conduct offenses. It makes technical changes to practice acts related to nursing, professional counseling, social work, and dentistry.

- 1 Conviction of a felony-level criminal sexual conduct offense.** Amends § 148.10, subd. 7. Provides that the Board of Chiropractic Examiners shall not grant or renew a license to practice to any person convicted on or after August 1, 2011, of one of the enumerated felony-level sexual offenses.
- 2 Registration; failure to register; reregistration; verification.** Amends § 148.231. Strikes obsolete language and references to administrative rules.
- 3 General requirements.** Amends § 148B.5301, subd. 1. Strikes obsolete language.
- 4 Conversion from licensed professional counselor to licensed professional clinical counselor.** Amends § 148B.5301, subd. 3. Extends the conversion date from August 1, 2011, to August 1, 2013.
- 5 Conversion to licensed professional clinical counselor after August 1, 2013.** Amends § 148B.5301, subd. 4. Makes a conforming change to reflect the change in the conversion date made in section 8.
- 6 Continuing education.** Amends § 148B.54, subd. 2. Adds that each licensee in the first four years of licensure must complete 40 hours of continuing education. Permits graduate course hours, successfully completed, in the first four years of licensure to apply both to the graduate credit requirement and the continuing education requirement.
- 7 Relicensure following termination.** Amends § 148.54, subd. 3. Allows an individual whose license was terminated and who can demonstrate completion of graduate credit requirements to be exempt from continuing education requirements in order to get the license reinstated. Provides that this section does not apply to individuals whose licenses have been canceled.
- 8 Students and other persons not currently licensed in another jurisdiction.** Amends § 148E.060, subd. 1. Makes a technical change. Adds that a temporary license to practice social work expires after six months.

Provides this section is effective August 1, 2011.

- 9** **Emergency situations and persons currently licensed in another jurisdiction.** Amends § 148E.060, subd. 2. Makes a technical change. Adds that a temporary license to practice social work expires after six months.

Provides this section is effective August 1, 2011.

- 10** **Programs in candidacy status.** Amends § 148E.060, by adding subd. 2b. Paragraph (a) permits the board to issue a temporary license to practice social work to an applicant from a social work program in candidacy status if the applicant has complied with all licensure requirements.

Paragraph (b) provides that the temporary permit expires after 12 months, but may be extended at the board's discretion.

Provides this section is effective August 1, 2011.

- 11** **Teachers.** Amends § 148E.060, subd. 3. Provides that a temporary social work license issued to teachers expires after 12 months.

Provides an August 1, 2011, effective date.

- 12** **Temporary license term.** Amends § 148E.060, subd. 5. Makes conforming changes.

Provides an August 1, 2011, effective date.

- 13** **Requirements of supervisors.** Amends § 148E.120. Modifies the requirements for alternate supervisors. In subdivision 2:

Paragraph (a) allows the board to approve a qualified licensed mental health professional to provide up to 25 percent of the required hours of supervision to become licensed as a social worker.

Paragraph (b) provides the conditions under which the board can approve an alternate supervisor to provide up to 100 percent of the required supervision hours.

Paragraph (c) lays out the requirements the supervisee must meet in order to receive approval for an alternate supervisor.

Provides an effective date of August 1, 2011.

- 14** **Licenses required.** Amends § 149A.50, subd. 1. Provides that a funeral establishment license is not required for direct sale to consumers of caskets, urns, or other such funeral goods.

- 15** **Generally.** Amends § 150A.02, subd. 1. Requires one board member who is a licensed dentist to be involved with the education, employment or utilization of a dental therapist or advanced dental therapist.

- 16** **Specialty dentists.** Amends § 150A.06, subd. 1c. Makes a technical change.

- 17** **Waiver of examination.** Amends § 150A.06, subd. 3. Makes technical changes.

- 18** **Licensure by credentials.** Amends § 150A.06, subd. 4. Adds a requirement that a dentist or dental therapist who is applying for licensure based on performance rather than examination to have passed all components of the National Board of Dental Examinations.

- 19** **Display of name and certificates.** Amends § 150A.06, subd. 6. Allows the board to permit a licensee to display a wallet-sized license and renewal certificate only at nonprimary practice locations.

- 20** **Current address, change of address.** Amends § 150A.09, subd. 3. Requires licensees to provide their email address to the board.
- 21** **Use of dental assistants.** Amends § 150A.105, subd. 7. Makes technical changes.
- 22** **General.** Amends § 150A.106, subd. 1. Clarifies that when applying for a license a dental therapist must pay a fee.
- 23** **Immunity.** Amends § 150A.14. Adds a cross-reference to the new language on criminal history record checks. Adds that members of the board and consultants retained by the board are considered state employees for purposes of tort claim indemnification.
- 24** **Health-related boards.** Amends § 214.09, by adding subd. 5. Prohibits current members of a board from seeking a paid employment position with that board.
- 25** **Health-related licensing boards; complaint, investigation, and hearing.** Amends § 214.103.

Subd. 1. Application. No changes made in this subdivision.

Subd. 1a. Notifications and resolution. Paragraph (a) provides that within 14 days of receipt of a complaint, the board must notify the complainant of receipt of the complaint and a written description of the review process. Requires the board to contact the complainant at least every 120 days of the status of the complaint.

Paragraph (b) requires the board, within 60 days of receipt of the complaint, to notify the licensee of the substance of the complaint, the laws that have allegedly been violated, the sections of professional rules that have allegedly been violated, and whether an investigation is being conducted.

Paragraph (c) requires the board to notify the licensee at least every 120 days of the status of the complaint.

Paragraph (d) provides that the board is not required to make notifications to the licensee if the notice would compromise the investigation or the notice cannot reasonably be accomplished within the time frames.

Paragraph (e) requires the board to resolve or dismiss a complaint within one year unless this cannot reasonably be accomplished and is not in the public interest.

Paragraph (f) provides that the board's failure to comply with the above paragraphs does not deprive the board of jurisdiction to complete the investigation or take action against a licensee.

Subd. 2. Receipt of complaint. Requires complainants to state the complaint in writing or authorize transcription of an oral complaint.

Subd. 3. Referral to other agencies. Permits government agencies to coordinate and conduct joint investigations when a complaint involves more than one agency.

Subd. 4. Role of the attorney general. No changes.

Subd. 5. Investigation by the attorney general. Adds that when the designee of the attorney general completes an investigation, the designee shall forward the report to the executive director of the board with recommendations for further consideration or dismissal.

Subd. 6. Attempts at resolution. Adds that neither the executive director nor any member of the board's staff shall be a voting member on a disciplinary review panel. Strikes the provision that a contested case hearing can be initiated by the executive director if attempts at resolution

are not satisfactory to the executive director.

Subd. 7. Contested case hearing. Requires the concurrence of a second board member in order for the executive director to initiate a contested case hearing when there is a determination that resolution of a complaint is not in the public interest.

Subd. 8. Dismissal and reopening of a complaint. Adds that the board cannot reopen a dismissed complaint unless it receives newly discovered information that was not available during the initial investigation or the board receives a new complaint that indicates a pattern of behavior or conduct.

Subd. 9. Information to complainant. No change.

Subd. 10. Prohibited participation by board member. No change.

26 Conviction of felony-level criminal sexual conduct offense. Creates § 214.107.

Subd. 1. Applicability. Provides that this section applies to all health-related licensing boards, except medical practice and chiropractic, and also applies to the Board of Barber Examiners, the Board of Cosmetologist Examiners, and speech-language pathologists and audiologists, hearing instrument dispensers, and occupational therapists and occupational therapy assistants (professions credentialed by the Minnesota Department of Health). The Board of Medical Practice and Board of Chiropractic Examiners already have statutes in place which prohibit granting a license to an individual who has been convicted of specified felony-level criminal sexual conduct crimes.

Subd. 2. Issuing and renewing a credential to practice. Paragraph (a) provides that a credentialing authority shall not issue or renew a credential to practice to any person convicted on, or after August 1, 2011, of any of the provisions of sections 609.342, subdivision 1 (criminal sexual conduct in the first degree), 609.343, subdivision 1 (criminal sexual conduct in the second degree), 609.344, subdivision 1, paragraphs (c) to (o) (criminal sexual conduct in the third degree), or 609.345, subdivision 1, paragraphs (b) to (o) (criminal sexual conduct in the fourth degree).

Paragraph (b) prohibits a credentialing authority from granting a credential to an individual who has been convicted in any other state or country on, or after August 1, 2011, of an offense where the elements are substantially similar to the offenses listed in paragraph (a).

Paragraph (c) provides for automatic revocation of a credential if a person is convicted of a crime listed in paragraph (a).

Paragraph (d) provides that denial or revocation of a license under this section is exempt from the provisions of chapter 364 (Criminal offenders; rehabilitation).

Paragraph (e) defines conviction.

Paragraph (f) establishes the conditions under which a credentialing authority can establish criteria to grant or renew a credential of an individual who has been convicted of an offense listed in paragraph (a). Prohibits a credentialing authority from granting or renewing a license if the victim of the offense was a patient or client at the time of the offense.

Provides an effective date of August 1, 2011.

27 Health-related licensing boards; licensee guidance. Creates § 214.108. Allows a board to offer guidance to licensees about the application of laws and rules the board enforces. Provides that this guidance is not binding on any court or other adjudicatory body.

- 28** **Exceptions.** Amends § 364.09. Adds that this section does not apply to individuals whose credential has been denied or revoked in accordance with section 214.107.
- Adds that this section does not apply to individuals whose license to practice nursing has been denied or revoked pursuant to section 148.192.
- Provides that this section is effective for credentials issued or renewed on, or after August 1, 2011.
- 29** **Effective date.** Amends Laws 2010, chapter 349, section 1, by making a change to the effective date language so that the section applies to licenses issued or renewed on, or after August 1, 2010.
- 30** **Effective date.** Amends Laws 2010, chapter 349, section 2, by making a change to the effective date language so that the section applies to licenses issued or renewed on, or after August 1, 2010.
- 31** **Working group; psychiatric medications.** Paragraph (a) instructs the commissioner of health to convene a working group composed of the executive directors of specified health boards and professional associations to make recommendations on collaborative agreements between psychiatrists and mental health professionals for administration and management of psychiatric medications.
- Paragraph (b) places responsibility on the executive directors to set agendas, convene subsequent meetings, and issue a report to the legislature.
- Paragraph (c) excludes the working group from the provisions of section 15.059.
- 32** **Report.** (a) Requires the executive directors of the health related licensing boards to issue a report to the legislature with recommendations for the use of nondisciplinary cease and desist letters. Requires the report to be issued by December 15, 2011.
- (b) Requires the executive directs of the health related licensing boards to issue a report with recommendations for taking administrative action against licensees whose records do not meet the standard of professional practice, but don't create a risk of client harm. Requires the report to be issued to the legislature no later than December 15, 2011.
- 33** **Revisor's instruction.** Instructs the Revisor to include in each practice act regulated by a credentialing authority listed in section 31 a statement of notification that all applicants for a credential and individuals renewing a credential are subject to the provisions of section 214.107.