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ARTICLE 7  
REGULATION OF SUPPLEMENTAL  
NURSING SERVICES AGENCIES

Section 1. Minnesota Statutes 2000, section 144.057, is amended to read:

144.057 [BACKGROUND STUDIES ON LICENSEES AND SUPPLEMENTAL NURSING SERVICES AGENCY PERSONNEL.]

Subdivision 1. [BACKGROUND STUDIES REQUIRED.] The commissioner of health shall contract with the commissioner of human services to conduct background studies of:

(1) individuals providing services which have direct contact, as defined under section 245A.04, subdivision 3, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and home care agencies licensed under chapter 144A; residential care homes licensed under chapter 144B, and board and lodging establishments that are registered to provide supportive or health supervision services under section 157.17; ~~and~~

(2) beginning July 1, 1999, all other employees in nursing homes licensed under chapter 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of an individual in this section shall disqualify the individual from positions allowing direct contact or access to patients or residents receiving services;

(3) individuals employed by a supplemental nursing services agency, as defined under section 144A.70, who are providing services in health care facilities; and

(4) controlling persons of a supplemental nursing services agency, as defined under section 144A.70.

If a facility or program is licensed by the department of human services and subject to the background study provisions of chapter 245A and is also licensed by the department of health, the department of human services is solely responsible for the background studies of individuals in the jointly licensed programs.

Subd. 2. [RESPONSIBILITIES OF DEPARTMENT OF HUMAN SERVICES.] The department of human services shall conduct the background studies required by subdivision 1 in compliance with the provisions of chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. For the purpose of this section, the term "residential program" shall include all facilities described in subdivision 1. The department of human services shall provide necessary forms and instructions, shall conduct the necessary background studies of individuals, and shall provide notification of the results of the studies to the facilities, supplemental nursing services agencies, individuals, and the commissioner of health. Individuals shall be disqualified under the provisions of chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. If an individual is disqualified, the department of human services shall notify the facility, the supplemental nursing services agency, and the individual and shall inform the individual of the right to request a reconsideration of the disqualification by submitting the request to the department of health.

Subd. 3. [RECONSIDERATIONS.] The commissioner of health shall review and decide reconsideration requests, including the

379.34 granting of variances, in accordance with the procedures and  
379.35 criteria contained in chapter 245A and Minnesota Rules, parts  
379.36 9543.3000 to 9543.3090. The commissioner's decision shall be  
380.1 provided to the individual and to the department of human  
380.2 services. The commissioner's decision to grant or deny a  
380.3 reconsideration of disqualification is the final administrative  
380.4 agency action, except for the provisions under section 245A.04,  
380.5 subdivisions 3b, paragraphs (e) and (f); and 3c, paragraph (a).  
380.6 **[EFFECTIVE DATE.]** This subdivision is effective January 1,  
380.7 2002.  
380.8 Subd. 4. [RESPONSIBILITIES OF FACILITIES AND AGENCIES.]  
380.9 Facilities and agencies described in subdivision 1 shall be  
380.10 responsible for cooperating with the departments in implementing  
380.11 the provisions of this section. The responsibilities imposed on  
380.12 applicants and licensees under chapter 245A and Minnesota Rules,  
380.13 parts 9543.3000 to 9543.3090, shall apply to these  
380.14 facilities and supplemental nursing services agencies. The  
380.15 provision of section 245A.04, subdivision 3, paragraph (e),  
380.16 shall apply to applicants, licensees, registrants, or an  
380.17 individual's refusal to cooperate with the completion of the  
380.18 background studies. Supplemental nursing services agencies  
380.19 subject to the registration requirements in section 144A.71 must  
380.20 maintain records verifying compliance with the background study  
380.21 requirements under this section.  
380.22 Sec. 2. [144A.70] [REGISTRATION OF SUPPLEMENTAL NURSING  
380.23 SERVICES AGENCIES; DEFINITIONS.]  
380.24 Subdivision 1. [SCOPE.] As used in sections 144A.70 to  
380.25 144A.74, the terms defined in this section have the meanings  
380.26 given them.  
380.27 Subd. 2. [COMMISSIONER.] "Commissioner" means the  
380.28 commissioner of health.  
380.29 Subd. 3. [CONTROLLING PERSON.] "Controlling person" means  
380.30 a business entity, officer, program administrator, or director  
380.31 whose responsibilities include the direction of the management  
380.32 or policies of a supplemental nursing services agency.  
380.33 Controlling person also means an individual who, directly or  
380.34 indirectly, beneficially owns an interest in a corporation,  
380.35 partnership, or other business association that is a controlling  
380.36 person.  
381.1 Subd. 4. [HEALTH CARE FACILITY.] "Health care facility"  
381.2 means a hospital, boarding care home, or outpatient surgical  
381.3 center licensed under sections 144.50 to 144.58; a nursing home  
381.4 or home care agency licensed under this chapter; a housing with  
381.5 services establishment registered under chapter 144D; or a board  
381.6 and lodging establishment that is registered to provide  
381.7 supportive or health supervision services under section 157.17.  
381.8 Subd. 5. [PERSON.] "Person" includes an individual, firm,  
381.9 corporation, partnership, or association.  
381.10 Subd. 6. [SUPPLEMENTAL NURSING SERVICES  
381.11 AGENCY.] "Supplemental nursing services agency" means a person,  
381.12 firm, corporation, partnership, or association engaged for hire  
381.13 in the business of providing or procuring temporary employment  
381.14 in health care facilities for nurses, nursing assistants, nurse  
381.15 aides, and orderlies. Supplemental nursing services agency does  
381.16 not include an individual who only engages in providing the  
381.17 individual's services on a temporary basis to health care  
381.18 facilities. Supplemental nursing services agency also does not

381.19 include any nursing service agency that is limited to providing  
381.20 temporary nursing personnel solely to one or more health care  
381.21 facilities owned or operated by the same person, firm,  
381.22 corporation, or partnership.

381.23 Sec. 3. [144A.71] [SUPPLEMENTAL NURSING SERVICES AGENCY  
381.24 REGISTRATION.]

381.25 Subdivision 1. [DUTY TO REGISTER.] A person who operates a  
381.26 supplemental nursing services agency shall register the agency  
381.27 with the commissioner. Each separate location of the business  
381.28 of a supplemental nursing services agency shall register the  
381.29 agency with the commissioner. Each separate location of the  
381.30 business of a supplemental nursing services agency shall have a  
381.31 separate registration.

381.32 Subd. 2. [APPLICATION INFORMATION AND FEE.] The  
381.33 commissioner shall establish forms and procedures for processing  
381.34 each supplemental nursing services agency registration  
381.35 application. An application for a supplemental nursing services  
381.36 agency registration must include at least the following:

382.1 (1) the names and addresses of the owner or owners of the  
382.2 supplemental nursing services agency;

382.3 (2) if the owner is a corporation, copies of its articles  
382.4 of incorporation and current bylaws, together with the names and  
382.5 addresses of its officers and directors;

382.6 (3) any other relevant information that the commissioner  
382.7 determines is necessary to properly evaluate an application for  
382.8 registration; and

382.9 (4) the annual registration fee for a supplemental nursing  
382.10 services agency, which is \$891.

382.11 Subd. 3. [REGISTRATION NOT TRANSFERABLE.] A registration  
382.12 issued by the commissioner according to this section is  
382.13 effective for a period of one year from the date of its issuance  
382.14 unless the registration is revoked or suspended under section  
382.15 144A.72, subdivision 2, or unless the supplemental nursing  
382.16 services agency is sold or ownership or management is  
382.17 transferred. When a supplemental nursing services agency is  
382.18 sold or ownership or management is transferred, the registration  
382.19 of the agency must be voided and the new owner or operator may  
382.20 apply for a new registration.

382.21 Sec. 4. [144A.72] [REGISTRATION REQUIREMENTS; PENALTIES.]

382.22 Subdivision 1. [MINIMUM CRITERIA.] The commissioner shall  
382.23 require that, as a condition of registration:

382.24 (1) the supplemental nursing services agency shall document  
382.25 that each temporary employee provided to health care facilities  
382.26 currently meets the minimum licensing, training, and continuing  
382.27 education standards for the position in which the employee will  
382.28 be working;

382.29 (2) the supplemental nursing services agency shall comply  
382.30 with all pertinent requirements relating to the health and other  
382.31 qualifications of personnel employed in health care facilities;

382.32 (3) the supplemental nursing services agency must not  
382.33 restrict in any manner the employment opportunities of its  
382.34 employees;

382.35 (4) the supplemental nursing services agency, when  
382.36 supplying temporary employees to a health care facility, and  
383.1 when requested by the facility to do so, shall agree that at  
383.2 least 30 percent of the total personnel hours supplied are  
383.3 during night, holiday, or weekend shifts;

383.4 (5) the supplemental nursing services agency shall carry  
383.5 medical malpractice insurance to insure against the loss,  
383.6 damage, or expense incident to a claim arising out of the death  
383.7 or injury of any person as the result of negligence or  
383.8 malpractice in the provision of health care services by the  
383.9 supplemental nursing services agency or by any employee of the  
383.10 agency; and

383.11 (6) the supplemental nursing services agency must not, in  
383.12 any contract with any employee or health care facility, require  
383.13 the payment of liquidated damages, employment fees, or other  
383.14 compensation should the employee be hired as a permanent  
383.15 employee of a health care facility.

383.16 Subd. 2. [PENALTIES.] A pattern of failure to comply with  
383.17 this section shall subject the supplemental nursing services  
383.18 agency to revocation or nonrenewal of its registration.  
383.19 Violations of section 144A.74 are subject to a fine equal to 200  
383.20 percent of the amount billed or received in excess of the  
383.21 maximum permitted under that section.

383.22 Sec. 5. [144A.73] [COMPLAINT SYSTEM.]

383.23 The commissioner shall establish a system for reporting  
383.24 complaints against a supplemental nursing services agency or its  
383.25 employees. Complaints may be made by any member of the public.  
383.26 Written complaints must be forwarded to the employer of each  
383.27 person against whom a complaint is made. The employer shall  
383.28 promptly report to the commissioner any corrective action taken.

383.29 Sec. 6. [144A.74] [MAXIMUM CHARGES.]

383.30 A supplemental nursing services agency must not bill or  
383.31 receive payments from a nursing home licensed under this chapter  
383.32 at a rate higher than 150 percent of the weighted average wage  
383.33 rate for the applicable employee classification for the  
383.34 geographic group to which the nursing home is assigned under  
383.35 Minnesota Rules, part 9549.0052. The weighted average wage  
383.36 rates must be determined by the commissioner of human services  
384.1 and reported to the commissioner of health on an annual basis.  
384.2 Facilities shall provide information necessary to determine  
384.3 weighted average wage rates to the commissioner of human  
384.4 services in a format requested by the commissioner. The maximum  
384.5 rate must include all charges for administrative fees, contract  
384.6 fees, or other special charges in addition to the hourly rates  
384.7 for the temporary nursing pool personnel supplied to a nursing  
384.8 home.