



# 2012 Legislative Summary

## Health and Human Services Omnibus Finance Bill (HF2294\*/SF2093)

### *Article 1 – Health Care*

**HMO/CBP Reporting Requirement Merger.** The departments of Health, Human Services (DHS) and Commerce are required to merge reporting requirements around health maintenance organizations (HMOs) and county-based purchasers’ provider networks. This was recommended reform in the joint MDH/DHS/Commerce report “Regulatory Simplification and Reduction of Provider Reporting and Data Submission Requirements.”

**Repealer.** This provision repeals three MDH reports recommended for elimination in the joint MDH/DHS/Commerce report “Regulatory Simplification and Reduction of Provider Reporting and Data Submission Requirements.” They are Summary of complaints and grievances (MN Rules 4685.2000); Medical necessity denials and appeals (MS 62M.09, subdivision 9); and Salary reports (MS 62Q.64).

### *Article 2 – Department of Health*

#### **Community-based Health Care Coverage**

**Program.** A joint project between MDH, DHS and the Lt. Governor’s office to update requirements with the Duluth, Alexandria and Portico project. The law change removes DHS’ role and changes reporting from quarterly to annual.

#### **Naturally Treated Swimming Pools Exemption.**

This new law creates an exemption from requirements of public swimming pools for “naturally treated swimming pools,” defined as artificial pools which use a chemical free filtration system for maintaining water quality. The pools are still subject to MDH authority in the event of a public health outbreak. Webber Lake in Minneapolis will be the first naturally treated swimming pool in the country. (Provision also passed in HF2627\*/SF2208.)

#### **Advanced Diagnostic Imaging Accreditation.**

This new law requires providers of advanced diagnostic imaging to seek accreditation and report their accreditation status to MDH. MDH already collects similar information from advanced diagnostic imaging providers and will add onto existing reporting. (Provision also passed in HF2276\*/SF1811)

**Patient Payment for Medical Records.** This law changes how a patient pays for requested medical records from per page to a flat fee.

**Unauthorized Access of Health Records.** This provision changes current law to make a person liable to a patient for the intentional, unauthorized access to a patient’s health records.

**Radiation Facility Moratorium.** This law creates an exception to the current radiation facility construction moratorium to allow for the relocation of a radiation therapy machine from a hospital in Maplewood to a hospital in Woodbury. Additionally, after August 1, 2014, a facility may

only be constructed if the entity constructing the radiation therapy facility is controlled by or under common control with a licensed hospital and the new facility is located at least seven miles from an existing radiation therapy facility.

**WIC Postpartum Depression Education and Information.** This law requires postpartum depression education and information is available at WIC sites.

**HHS Regulatory Responsibilities.** This provision requires MDH and DHS to update and link website information between the two departments in certain areas where regulation overlaps. Additionally, Minnesota Management and Budget (MMB) will facilitate a report on how MDH and DHS administer health and human services regulations. The report is an expanded evaluation recommended in the joint MDH/DHS report “Evaluation of Health and Human Services Regulatory Responsibilities.” The report is due August 1, 2013.

**Unauthorized Access of Health Records.** This provision requires a study and report on unauthorized access to patient health records and recommendations to safeguards to patient privacy. The report is due February 15, 2013.

**Sexual Violence.** MDH is required to routinely report to the public and legislature, within available federal appropriations, CDC statistics on sexual violence prevalence.

**Home Health Care Inspection/Oversight Reporting.** MDH is required to produce a report on ways to improve the inspection and regulatory system surrounding home health care. The report is due February 1, 2013.

**Health and Commerce Regulatory Responsibilities.** This provision requires a report on recommendations to maximize administrative efficiency in the regulation of HMOs, county-based purchasers, and other insurance carriers jointly regulated by MDH and the department of Commerce. The report is due February 15, 2013.

**Radiation Therapy Facilities Capacity.** MDH is tasked with studying the current treatment capacity of existing radiation facilities, the present need for radiation therapy services, and the projected need for radiation therapy services in the future. The report is due March 15, 2013. (Provision also passed in HF383/SF248\*)

**Gillette MERC Distribution.** \$300,000 is distributed to Gillette Children's Specialty Hospital in FY13 because of underpayment due to a reporting mistake by Gillette.

### *Article 4 – Continuing Care*

**Electronic Health Record Loan Program Eligibility Expansion.** This law change adds nursing homes and elderly waiver facilities that participate in medical assistance to the list of facilities to which the program must prioritize assistance.

**Nursing Home Moratorium Exemption.** This provision allows the commissioner to approve moratorium exception projects to improve nursing facilities throughout the state. The state share of medical assistance costs of the projects may not exceed \$1 million.

**Long-term Care Services and Support Study.** This provision broadens the membership of the group which contributes to the biennial report

regarding long-term care services needs around the state. The next report is due August 15, 2013.

**Critical Access Nursing Facilities.** This new law sets the process required for DHS, in consultation with MDH, to designate certain nursing facilities as critical access nursing facilities.

**Ombudsman for Long-term Care Workgroup.** The provision requires the Ombudsman of Long-term Care to convene a workgroup which includes MDH to study discriminatory treatment in assisted living settings.

**Repealer.** This provision repeals Minnesota Rules, part 4640.0800. This removes a duplicative state rule for hospitals, who will continue to follow the Medicare standard.

### *Article 6 - Appropriations*

**Autism Study.** \$200,000 is appropriated to MDH to partner with the University of Minnesota to conduct a qualitative study on aspects of Autism Spectrum Disorders in the Somali community.

**HHS Regulatory Responsibilities.** \$36,000 is appropriated for MDH and DHS to upgrade and link website information between the two departments and \$100,000 is appropriated to MDH for transfer to MMB to facilitate the report outlined in Article 2.

**Nursing Home Moratorium Exemption.** \$8,000 is appropriated to MDH to administer the process for selecting moratorium exception projects to improve nursing facilities outlined in Article 4.

**Unauthorized Access of Health Records.** \$20,000 is appropriated to MDH to conduct the study outlined in Article 2.

**Radiation Therapy Facilities Capacity.** \$137,000 is appropriated to MDH to conduct the study outlined in Article 2. (Provision also passed in HF383/SF248\*)

### **Health and Human Services Omnibus Policy Bill (HF2627\*/SF2208)**

#### *Article 1 – Health Care*

**E-prescribing Requirements.** This change in law creates an exemption from electronic prescribing (e-prescribing) requirements for any clinic with two or fewer physicians if the clinic is making good faith efforts to comply with requirements for interoperable electronic health records (EHRs). The exemption expires January 1, 2015.

**Electronic Claims and Eligibility Transactions.** This change in law clarifies requirements for the exchange of standard acknowledgments (receipts of routine business transactions) between health care providers, payers, and clearinghouses. In particular it clarifies requirements for acknowledgments related to prescription drug transactions.

#### *Article 4 – Department of Health*

**Naturally Treated Swimming Pools Exemption.** This new law creates an exemption from requirements of public swimming pools for “naturally treated swimming pools,” defined as artificial pools which use a chemical free filtration system for maintaining water quality. The pools are still subject to MDH authority in the event of a public health outbreak. Webber Lake in Minneapolis will be the first naturally treated swimming pool in the country. (Provision also passed in HF2294\*/SF2093.)

### **Hospital Community Benefit Requirements Repeal & Provider Peer Grouping Modifications (HF2237/SF1809\*)**

#### **Hospital Community Benefit Requirements**

**Repeal.** Section 1 of the law repeals a portion of legislation adopted in 2011 (1<sup>st</sup> Sp. Sess., Ch. 9, Article 10, Sec. 4) requiring the Commissioner of Health, in consultation with nonprofit hospitals and health plans, to develop an implementation plan to incorporate evidence-based strategies from the statewide health improvement program (SHIP) into hospital community benefit plans and health maintenance organization collaboration plans. Also repealed is the requirement for the Commissioner to convene an advisory board to determine priority needs for health improvement investments that would review and approve hospital community benefit plans and health maintenance organization collaboration plans (MS 144.699 and MS 62Q.075). Lastly, the law eliminates the requirement for MMB to include forecast estimates from the savings to state health programs resulting from MDH's Statewide Health Improvement Program.

**Provider Peer Grouping Modifications.** Section 2 of the law changes the Department's calculation of health care provider cost and quality and the provider peer grouping (PPG) program under MS 62U.04. The Commissioner is required to convene an advisory group to consider and make recommendations on various issues related to PPG methodology. Another workgroup will make recommendations related to the data shared with providers in order to verify PPG results. The law change provides longer timelines for providers to review confidential PPG results prior to public release (from 90 to 120 days), and increase from 30 to 60 days the timeline for filing an appeal. Lastly, the requirement that health plans and DHS use PPG results to design products has been made

permissive. MDH is required to conduct the new work within existing appropriations.

### **Sunset Advisory Commission Bill (HF2555\*/SF2304)**

**OCAP Sunset Extension.** MDH's Office of Unlicensed Complementary and Alternative Health Care Practice (OCAP) was reviewed by the Sunset Advisory Commission because it is defined as a health-related licensing board under MS 214.01. The new law continues operations for all health-related licensing boards, including OCAP. The boards will have their next sunset review in 2018 as part of the Sunset Advisory Commission's Group 4.

**Department of Health Review.** The new law requires the Sunset Advisory Commission during its review of MDH in 2013 and 2014 to include an analysis of the extent to which health occupations should be licensed by the department of health and the extent to which health occupations should be licensed by health-related licensing boards.

#### **Medical Practice Act Study.**

The Commissioner of Health must convene a 15 member working group to evaluate the Minnesota Medical Practice Act to ensure the Act effectively protects citizens of the state and allows for transparency. The report of the working group and draft legislation modifying the practice act are due by January 1, 2013. The Board of Medical Practice will pay to MDH the costs of convening the workgroup.

**Background Checks Report.** This provision requires the health-related licensing boards and the Commissioner of Health to jointly study and make recommendations for establishing uniform background check requirements for applicants and

regulated individuals. The report and draft legislation are due by January 15, 2013.

### **Disciplinary Action Reporting Obligations.**

This provision requires the health-related licensing boards and the Commissioner of Health to jointly study and make recommendations for consistent reporting requirements for institutions, professional societies, other licensed professionals, courts, insurers, or other entities to report conduct that constitutes grounds for disciplinary action. The report and draft legislation are due by January 15, 2013.

**Fee Compliance Report.** This provision requires each health-related licensing boards and the Commissioner of Health to report the degree to which fees imposed comply with MS 144.122. MDH already complies with these requirements in its handling of fees for its programs. The report is due by January 15, 2013.

**Use of Fees.** The law restricts the use of fees. The Commissioner of Health is required to use fees collected from occupational therapy practitioners, speech-language pathologists, and audiologists only for the purposes of administering licensing, and to use fees collected from hearing instrument dispensers only for the purposes of administering certification. MDH already meets these requirements.

**Fees to Recover Expenditures.** The law requires the Commissioner of Health to propose or adjust fees according to MS 16A.1283 and 16A.1285. MDH has not adjusted fees for several years, but has always complied with Ch. 16A.

**Web Site Disciplinary Information.** This law requires MDH to post on its web site information about practitioner convictions, malpractice

judgments and any disciplinary corrective action. MDH already provides information on its websites about practitioner disciplinary actions and will add the information about criminal convictions and malpractice judgments.

**Primary Business Address Information.** This law requires MDH to require applicants to provide the individual's primary business address at the time of initial application and all subsequent renewals. MDH already requires this information on both initial and renewal applications.

### **Health Professional Loan Forgiveness Program Modification Regarding Designated Rural Areas (HF2587/SF2360\*)**

This law corrects an unintended consequence of a law change from 2011. The 2011 Special Session Health and Human Services Omnibus bill narrowed the definition of a rural area for certain occupations eligible for the health professional education loan forgiveness program. The change inadvertently excluded several applicants who had been conditionally accepted into the program and who had secured jobs in areas that became ineligible due to the new definition.

This bill amends the effective date of the definition change so it no longer applies to those conditionally accepted applicants. This allows MDH to complete its commitment to those health professionals who sought employment in good faith under the previous rural definition.

### **Advisory Inspections (Environment and Natural Resources Omnibus Bill – HF2164\*/SF1830)**

This new law (Sec. 1) creates a voluntary advisory inspection process. If a regulated party is subject to an inspection that could result in a fine or penalty, the regulated party may voluntarily request once per

year an advisory inspection. The advisory inspection allows for discovery of violations and correction of violations without penalty. The advisory inspection ends and a regular inspection begins if serious violations are discovered.

MDH may collect a fee for conducting an advisory inspection, but MDH must report certain information to the legislature before hiring additional staff. Agencies are allowed to forego advisory inspections requests if staff resources are limited.

Exemptions to advisory inspections that apply specifically to programs within MDH: 1) inspections of hospitals, nursing homes, outpatient surgical centers, supervised living facilities, board and lodging with special services, home care, housing with services and assisted living settings, hospice and supplemental nursing services agencies; and 2) examinations of health maintenance organizations (HMOs) or county-based purchasers (CBPs).

**Bonding Bill (HF1752\*/SF1463)**

\$706,000 is provided to the Department of Administration to design and install an emergency power system for the shared Agriculture and Health Lab Building.

**Positive Alternatives Grant Eligibility (HF2676\*/2330)**

This law changes the time regarding eligibility to apply for Positive Alternative grant program. For an organization's to be eligible its alternatives to abortion program needs to have been in existence from one year as of 2011. This change is retroactive to February 1, 2012.

**College Immunization Records Modification (Higher Education Omnibus Bill – HF2065/SF1573\*)**

This change in law (Sec. 2) updates the definition of student for who is required to have a statement of immunization on file with a postsecondary institution prior to enrolling.

**Radiation Therapy Facility Construction Moratorium Extension (HF383/SF248\*)**

MDH is tasked with studying the current treatment capacity of existing radiation facilities, the present need for radiation therapy services, and the projected need for radiation therapy services in the future. \$137,000 is appropriated to MDH to conduct the study. The report is due March 15, 2013. (Provision also passed in HF2294\*/SF2093)

**Advanced Diagnostic Imaging Accreditation Requirement (HF2276\*/SF1811)**

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### **State Agency Rulemaking Regulation (HF2169/SF1922\*)**

This law adds new rulemaking requirements to MS Ch. 14, the Administrative Procedure Act (“APA”):

- By January 15 of each year, agencies are required to submit 1) their current rulemaking docket and 2) official rulemaking records for any newly adopted rules to the legislature;
- When adopting rules, agencies must send the Legislative Coordinating Commission and the pertinent legislative committees the notice of intent to adopt rules and a copy of the statement of need and reasonableness, (“SONAR”);
- Agencies must include an eighth factor regulatory-analysis to the SONAR: “an assessment of the cumulative effect of the rule with other federal and state regulations.”

### **Electronic Prescribing Of Controlled Substances Authorization (HF2532\*/SF2128)**

This law updates MS 152.11 to be consistent with requirements now established in federal law allowing for the electronic prescribing for controlled substances.