

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 3288

(SENATE AUTHORS: DAHMS)

DATE	D-PG	OFFICIAL STATUS
02/21/2022	5073	Introduction and first reading Referred to Commerce and Consumer Protection Finance and Policy
03/24/2022	5620	Comm report: To pass
05/12/2022	5626	Second reading Special Order: Amended Third reading Passed

- 1.1 A bill for an act
- 1.2 relating to commerce; modifying provisions governing continuing education
- 1.3 requirements for licensees; amending Minnesota Statutes 2020, sections 45.25,
- 1.4 subdivisions 12, 13, by adding subdivisions; 45.31, subdivisions 2, 3; proposing
- 1.5 coding for new law in Minnesota Statutes, chapter 45; repealing Minnesota Statutes
- 1.6 2020, section 45.25, subdivisions 2a, 14.
- 1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.8 Section 1. Minnesota Statutes 2020, section 45.25, is amended by adding a subdivision
- 1.9 to read:
- 1.10 Subd. 8a. **Live course.** "Live course" means any learning experience that is actively led
- 1.11 by an instructor, either online or in a classroom setting, that offers person-to-person, real-time
- 1.12 feedback. A live course offered online must:
- 1.13 (1) specify the minimum system requirements;
- 1.14 (2) provide encryption that ensures that all personal information, including the student's
- 1.15 name, address, and credit card number, cannot be read as it passes across the Internet;
- 1.16 (3) include technology to guarantee seat time;
- 1.17 (4) include the ability for the student to get technical support within a reasonable amount
- 1.18 of time;
- 1.19 (5) include a statement that the student's information will not be sold or distributed to
- 1.20 any third party without the prior written consent of the student. Taking the course does not
- 1.21 constitute consent; and
- 1.22 (6) include a process to authenticate the student's identity.

2.1 Sec. 2. Minnesota Statutes 2020, section 45.25, is amended by adding a subdivision to
2.2 read:

2.3 Subd. 9a. **On-demand course.** "On-demand course" means a learning experience that
2.4 enables a student to review learning material at a time and location that is convenient for
2.5 the student. On-demand course includes, but is not limited to, asynchronous online courses,
2.6 text-based courses, and other courses not offered live that include prerecorded videos, class
2.7 recordings, documents, or other learning activities.

2.8 Sec. 3. Minnesota Statutes 2020, section 45.25, subdivision 12, is amended to read:

2.9 Subd. 12. **Proctor.** (a) "Proctor" means a disinterested third party with no conflict of
2.10 interest person who (1) verifies a student's identity, and (2) processes an affidavit testifying
2.11 that the student received no outside assistance with the course or examination.

2.12 (b) A proctor must be 18 years of age or older. A proctor must not have a financial or
2.13 other conflict of interest with respect to a student's successful completion of the course or
2.14 the examination. A proctor must not be:

2.15 (1) a relative of the student;

2.16 (2) the student's supervisor at work;

2.17 (3) a person the student supervises at work; or

2.18 (4) a student who is completing the same course.

2.19 Sec. 4. Minnesota Statutes 2020, section 45.25, subdivision 13, is amended to read:

2.20 Subd. 13. **Professional designation.** "Professional designation" means a written,
2.21 proctored, and graded examination, the passage of which leads to a bona fide an
2.22 industry-recognized professional designation used by licensees a licensee after completing
2.23 a series of courses and passing a graded, proctored examination.

2.24 Sec. 5. [45.301] ON-DEMAND CONTINUING EDUCATION; REQUIREMENTS.

2.25 Subdivision 1. **On-demand course requirements.** An on-demand continuing education
2.26 course offered online must:

2.27 (1) specify the minimum system requirements;

2.28 (2) provide encryption that ensures that all personal information, including the student's
2.29 name, address, and credit card number, cannot be read as it passes across the Internet;

2.30 (3) include technology to guarantee seat time;

- 3.1 (4) include a high level of interactivity;
- 3.2 (5) include graphics that reinforce the content;
- 3.3 (6) include the ability for the student to contact an instructor within a reasonable amount
3.4 of time;
- 3.5 (7) include the ability for the student to get technical support within a reasonable amount
3.6 of time;
- 3.7 (8) include a statement that the student's information will not be sold or distributed to
3.8 any third party without prior written consent of the student. Taking the course does not
3.9 constitute consent;
- 3.10 (9) be available 24 hours a day, seven days a week, excluding minimal down time for
3.11 updating and administration;
- 3.12 (10) provide viewing access to the online course at all times to the commissioner,
3.13 excluding minimal down time for updating and administration;
- 3.14 (11) include a process to authenticate the student's identity;
- 3.15 (12) inform the student and the commissioner how long after its purchase a course will
3.16 be accessible;
- 3.17 (13) inform the student that license education credit will not be awarded for taking the
3.18 course after it loses its status as an approved course;
- 3.19 (14) provide clear instructions on how to navigate through the course;
- 3.20 (15) provide automatic bookmarking at any point in the course;
- 3.21 (16) provide questions after each unit or chapter that must be answered before the student
3.22 can proceed to the next unit or chapter;
- 3.23 (17) include a reinforcement response when a quiz question is answered correctly;
- 3.24 (18) include a response when a quiz question is answered incorrectly;
- 3.25 (19) include a final examination;
- 3.26 (20) allow the student to go back and review any unit at any time, except during the final
3.27 examination;
- 3.28 (21) provide a course evaluation at the end of the course. At a minimum, the evaluation
3.29 must ask the student to report any difficulties caused by the online education delivery
3.30 method; and

4.1 (22) provide a completion certificate when the course and exam have been completed
 4.2 and the provider has verified the completion. Electronic certificates are sufficient.

4.3 Subd. 2. **Final examination.** The final examination must be either an encrypted online
 4.4 examination or a paper examination that is monitored by a proctor who certifies that the
 4.5 student took the examination. The student must not be allowed to review the course content
 4.6 once the examination has begun.

4.7 Sec. 6. Minnesota Statutes 2020, section 45.31, subdivision 2, is amended to read:

4.8 Subd. 2. **Approval.** ~~(a) The commissioner must approve as a coordinator a person~~
 4.9 ~~meeting one or more of the following criteria: at least three years of full-time experience~~
 4.10 ~~in the administration of an education program during the five-year period immediately~~
 4.11 ~~before the date of application, or a degree in education plus two years experience during~~
 4.12 ~~the immediately preceding five-year period in one of the regulated industries for which~~
 4.13 ~~courses are being approved, or a minimum of five years experience within the previous six~~
 4.14 ~~years in the regulated industry for which courses are held. A person applying for approval~~
 4.15 ~~as a course coordinator must:~~

4.16 (1) be qualified or have experience in the applicable subject matter of courses offered
 4.17 by the education provider or have experience in the administration of an education program;
 4.18 and

4.19 (2) make available upon request such records and data required by the commissioner to
 4.20 administer the provisions and further the purposes of this chapter.

4.21 (b) Coordinator approval may not be transferred to an individual who has not already
 4.22 been approved as an additional coordinator for the applicable license type for the providership
 4.23 in question. An individual must be approved as a coordinator by the commissioner before
 4.24 acting on behalf of an approved education provider.

4.25 Sec. 7. Minnesota Statutes 2020, section 45.31, subdivision 3, is amended to read:

4.26 Subd. 3. **Responsibilities.** ~~A coordinator~~ An education provider is responsible for:

4.27 (1) assuring compliance with all laws and rules relating to educational offerings governed
 4.28 by the commissioner;

4.29 (2) assuring that students are provided with current and accurate information relating to
 4.30 the laws and rules governing their licensed activity;

5.1 (3) supervising and evaluating courses and instructors. Supervision includes assuring,
5.2 especially when a course will be taught by more than one instructor, that all areas of the
5.3 curriculum are addressed without redundancy and that continuity is present throughout the
5.4 entire course;

5.5 (4) ensuring that instructors are qualified to teach the course offering;

5.6 (5) furnishing the commissioner, upon request, with copies of course and instructor
5.7 evaluations and qualifications of instructors. Evaluations must be completed by students
5.8 and coordinators;

5.9 (6) investigating complaints related to course offerings and instructors and forwarding
5.10 a copy of the written complaints to the Department of Commerce;

5.11 (7) maintaining accurate records relating to course offerings, instructors, tests taken by
5.12 students, and student attendance for a period of three years from the date on which the
5.13 course was completed. These records must be made available to the commissioner upon
5.14 request. In the event that an education provider ceases operation for any reason, the
5.15 coordinator is responsible for maintaining the records or providing a custodian for the
5.16 records acceptable to the commissioner. The coordinator must notify the commissioner of
5.17 the name and address of that person. In order to be acceptable to the commissioner, custodians
5.18 must agree to make copies of acknowledgments available to students at a reasonable fee.
5.19 Under no circumstances will the commissioner act as custodian of the records;

5.20 (8) ensuring that the coordinator is available to instructors and students throughout course
5.21 offerings and providing to the students and instructor the name of the coordinator and a
5.22 telephone number at which the coordinator can be reached;

5.23 (9) attending workshops or instructional programs as reasonably required by the
5.24 commissioner;

5.25 (10) providing course completion certificates within ten days of, but not before,
5.26 completion of the entire course. Course completion certificates must be completed in their
5.27 entirety. It is not necessary to provide a written course completion certificate if the course
5.28 completion certificate has been electronically delivered to the department or its designated
5.29 licensing contractor. A coordinator may require payment of the course tuition as a condition
5.30 for receiving the course completion certificate;

5.31 (11) notifying the commissioner immediately of any change in an application for the
5.32 course, coordinator, or instructor approval application; and

6.1 (12) in conjunction with the instructor, assuring and certifying attendance of students
6.2 enrolled in courses.

6.3 Sec. 8. **REVISOR INSTRUCTION.**

6.4 (a) The revisor of statutes shall change the term "self-study course" with "on-demand
6.5 course" wherever it appears in Minnesota Statutes, chapter 45. The revisor shall also make
6.6 grammatical changes related to the change in term.

6.7 (a) The revisor of statutes shall change the term "classroom course" with "live course"
6.8 wherever it appears in Minnesota Statutes, chapter 45. The revisor shall also make
6.9 grammatical changes related to the change in term.

6.10 Sec. 9. **REPEALER.**

6.11 Minnesota Statutes 2020, section 45.25, subdivisions 2a and 14, are repealed.

APPENDIX
Repealed Minnesota Statutes: S3288-1

45.25 DEFINITIONS.

Subd. 2a. **Classroom course.** "Classroom course" means an educational process based on live or real-time instruction including, but not limited to:

- (1) a course in which there is no geographic separation of instructor and learner;
- (2) a course taught live that is concurrently simulcast to remote locations and where each location is monitored by a proctor; and
- (3) a course taught live that is concurrently simulcast to individual students online and that includes a process to authenticate the student's identity and technology to guarantee seat time.

Subd. 14. **Self-study course.** "Self-study course" means a distance learning course that is not entirely taught by the instructor live via the Internet, video, or other electronic means.