

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 3999

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Introduction and first reading
Referred to Health and Human Services Finance and Policy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to health; modifying hospital bed license transfer requirements following
1.3 a hospital closure; establishing monitoring and enforcement of hospital construction
1.4 moratorium exception conditions; amending Minnesota Statutes 2018, sections
1.5 144.55, subdivisions 4, 6; 144.551, by adding a subdivision; Minnesota Statutes
1.6 2019 Supplement, section 144.551, subdivision 1.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2018, section 144.55, subdivision 4, is amended to read:

1.9 Subd. 4. **Routine inspections; presumption.** Any hospital surveyed and accredited
1.10 under the standards of the hospital accreditation program of an approved accrediting
1.11 organization that submits to the commissioner within a reasonable time copies of (a) its
1.12 currently valid accreditation certificate and accreditation letter, together with accompanying
1.13 recommendations and comments and (b) any further recommendations, progress reports
1.14 and correspondence directly related to the accreditation is presumed to comply with
1.15 application requirements of subdivision 1 and the standards requirements of subdivision 3
1.16 and no further routine inspections or accreditation information shall be required by the
1.17 commissioner to determine compliance. Notwithstanding the provisions of sections 144.54
1.18 and 144.653, subdivisions 2 and 4, hospitals shall be inspected only as provided in this
1.19 section. The provisions of section 144.653 relating to the assessment and collection of fines
1.20 shall not apply to any hospital. The commissioner of health shall annually conduct, with
1.21 notice, validation inspections of a selected sample of the number of hospitals accredited by
1.22 an approved accrediting organization, not to exceed ten percent of accredited hospitals, for
1.23 the purpose of determining compliance with the provisions of subdivision 3. If a validation
1.24 survey discloses a failure to comply with subdivision 3, the provisions of section 144.653

2.1 relating to correction orders, reinspections, and notices of noncompliance shall apply. The
 2.2 commissioner shall also conduct any inspection necessary to determine whether hospital
 2.3 construction, addition, or remodeling projects comply with standards for construction
 2.4 promulgated in rules pursuant to subdivision 3. The commissioner shall also conduct any
 2.5 inspections necessary to determine whether a hospital or hospital corporate system continues
 2.6 to satisfy the conditions on which a hospital construction moratorium exception was granted
 2.7 under section 144.551. Pursuant to section 144.653, the commissioner shall inspect any
 2.8 hospital that does not have a currently valid hospital accreditation certificate from an
 2.9 approved accrediting organization. Nothing in this subdivision shall be construed to limit
 2.10 the investigative powers of the Office of Health Facility Complaints as established in sections
 2.11 144A.51 to 144A.54.

2.12 **EFFECTIVE DATE.** This section is effective July 1, 2020.

2.13 Sec. 2. Minnesota Statutes 2018, section 144.55, subdivision 6, is amended to read:

2.14 Subd. 6. **Suspension, revocation, and refusal to renew.** (a) The commissioner may
 2.15 refuse to grant or renew, or may suspend or revoke, a license on any of the following grounds:

2.16 (1) violation of any of the provisions of sections 144.50 to 144.56 or the rules or standards
 2.17 issued pursuant thereto, or Minnesota Rules, chapters 4650 and 4675;

2.18 (2) permitting, aiding, or abetting the commission of any illegal act in the institution;

2.19 (3) conduct or practices detrimental to the welfare of the patient; or

2.20 (4) obtaining or attempting to obtain a license by fraud or misrepresentation; or

2.21 (5) with respect to hospitals and outpatient surgical centers, if the commissioner
 2.22 determines that there is a pattern of conduct that one or more physicians who have a "financial
 2.23 or economic interest," as defined in section 144.6521, subdivision 3, in the hospital or
 2.24 outpatient surgical center, have not provided the notice and disclosure of the financial or
 2.25 economic interest required by section 144.6521.

2.26 (b) The commissioner shall not renew a license for a boarding care bed in a resident
 2.27 room with more than four beds.

2.28 (c) The commissioner shall not renew licenses for hospital beds issued to a hospital or
 2.29 hospital corporate system pursuant to a hospital construction moratorium exception under
 2.30 section 144.551 if the commissioner determines the hospital or hospital corporate system
 2.31 is not satisfying the conditions on which the exception was granted.

3.1 **EFFECTIVE DATE.** This section is effective for license renewals occurring on or after
3.2 July 1, 2020.

3.3 Sec. 3. Minnesota Statutes 2019 Supplement, section 144.551, subdivision 1, is amended
3.4 to read:

3.5 Subdivision 1. **Restricted construction or modification.** (a) The following construction
3.6 or modification may not be commenced:

3.7 (1) any erection, building, alteration, reconstruction, modernization, improvement,
3.8 extension, lease, or other acquisition by or on behalf of a hospital that increases the bed
3.9 capacity of a hospital, relocates hospital beds from one physical facility, complex, or site
3.10 to another, or otherwise results in an increase or redistribution of hospital beds within the
3.11 state; and

3.12 (2) the establishment of a new hospital.

3.13 (b) This section does not apply to:

3.14 (1) construction or relocation within a county by a hospital, clinic, or other health care
3.15 facility that is a national referral center engaged in substantial programs of patient care,
3.16 medical research, and medical education meeting state and national needs that receives more
3.17 than 40 percent of its patients from outside the state of Minnesota;

3.18 (2) a project for construction or modification for which a health care facility held an
3.19 approved certificate of need on May 1, 1984, regardless of the date of expiration of the
3.20 certificate;

3.21 (3) a project for which a certificate of need was denied before July 1, 1990, if a timely
3.22 appeal results in an order reversing the denial;

3.23 (4) a project exempted from certificate of need requirements by Laws 1981, chapter 200,
3.24 section 2;

3.25 (5) a project involving consolidation of pediatric specialty hospital services within the
3.26 Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number
3.27 of pediatric specialty hospital beds among the hospitals being consolidated;

3.28 (6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to
3.29 an existing licensed hospital that will allow for the reconstruction of a new philanthropic,
3.30 pediatric-orthopedic hospital on an existing site and that will not result in a net increase in
3.31 the number of hospital beds. Upon completion of the reconstruction, the licenses of both
3.32 hospitals must be reinstated at the capacity that existed on each site before the relocation;

4.1 (7) the relocation or redistribution of hospital beds within a hospital building or
4.2 identifiable complex of buildings provided the relocation or redistribution does not result
4.3 in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from
4.4 one physical site or complex to another; or (iii) redistribution of hospital beds within the
4.5 state or a region of the state;

4.6 (8) relocation or redistribution of hospital beds within a hospital corporate system that
4.7 involves the transfer of beds from a closed facility site or complex to an existing site or
4.8 complex provided that: (i) no more than 50 percent of the capacity of the closed facility is
4.9 transferred; (ii) the capacity of the site or complex to which the beds are transferred does
4.10 not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal
4.11 health systems agency boundary in place on July 1, 1983; ~~and~~ (iv) the relocation or
4.12 redistribution does not involve the construction of a new hospital building; and (v) the
4.13 transferred beds are used first to replace within the hospital corporate system the total number
4.14 of beds previously used in the closed facility site or complex for behavioral health services,
4.15 mental health services, and substance use disorder services. Only after the hospital corporate
4.16 system has fulfilled the requirements of item (v) may the remainder of the available capacity
4.17 of the closed facility site or complex be transferred for any other purpose;

4.18 (9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice
4.19 County that primarily serves adolescents and that receives more than 70 percent of its
4.20 patients from outside the state of Minnesota;

4.21 (10) a project to replace a hospital or hospitals with a combined licensed capacity of
4.22 130 beds or less if: (i) the new hospital site is located within five miles of the current site;
4.23 and (ii) the total licensed capacity of the replacement hospital, either at the time of
4.24 construction of the initial building or as the result of future expansion, will not exceed 70
4.25 licensed hospital beds, or the combined licensed capacity of the hospitals, whichever is less;

4.26 (11) the relocation of licensed hospital beds from an existing state facility operated by
4.27 the commissioner of human services to a new or existing facility, building, or complex
4.28 operated by the commissioner of human services; from one regional treatment center site
4.29 to another; or from one building or site to a new or existing building or site on the same
4.30 campus;

4.31 (12) the construction or relocation of hospital beds operated by a hospital having a
4.32 statutory obligation to provide hospital and medical services for the indigent that does not
4.33 result in a net increase in the number of hospital beds, notwithstanding section 144.552, 27

5.1 beds, of which 12 serve mental health needs, may be transferred from Hennepin County
5.2 Medical Center to Regions Hospital under this clause;

5.3 (13) a construction project involving the addition of up to 31 new beds in an existing
5.4 nonfederal hospital in Beltrami County;

5.5 (14) a construction project involving the addition of up to eight new beds in an existing
5.6 nonfederal hospital in Otter Tail County with 100 licensed acute care beds;

5.7 (15) a construction project involving the addition of 20 new hospital beds in an existing
5.8 hospital in Carver County serving the southwest suburban metropolitan area;

5.9 (16) a project for the construction or relocation of up to 20 hospital beds for the operation
5.10 of up to two psychiatric facilities or units for children provided that the operation of the
5.11 facilities or units have received the approval of the commissioner of human services;

5.12 (17) a project involving the addition of 14 new hospital beds to be used for rehabilitation
5.13 services in an existing hospital in Itasca County;

5.14 (18) a project to add 20 licensed beds in existing space at a hospital in Hennepin County
5.15 that closed 20 rehabilitation beds in 2002, provided that the beds are used only for
5.16 rehabilitation in the hospital's current rehabilitation building. If the beds are used for another
5.17 purpose or moved to another location, the hospital's licensed capacity is reduced by 20 beds;

5.18 (19) a critical access hospital established under section 144.1483, clause (9), and section
5.19 1820 of the federal Social Security Act, United States Code, title 42, section 1395i-4, that
5.20 delicensed beds since enactment of the Balanced Budget Act of 1997, Public Law 105-33,
5.21 to the extent that the critical access hospital does not seek to exceed the maximum number
5.22 of beds permitted such hospital under federal law;

5.23 (20) notwithstanding section 144.552, a project for the construction of a new hospital
5.24 in the city of Maple Grove with a licensed capacity of up to 300 beds provided that:

5.25 (i) the project, including each hospital or health system that will own or control the entity
5.26 that will hold the new hospital license, is approved by a resolution of the Maple Grove City
5.27 Council as of March 1, 2006;

5.28 (ii) the entity that will hold the new hospital license will be owned or controlled by one
5.29 or more not-for-profit hospitals or health systems that have previously submitted a plan or
5.30 plans for a project in Maple Grove as required under section 144.552, and the plan or plans
5.31 have been found to be in the public interest by the commissioner of health as of April 1,
5.32 2005;

6.1 (iii) the new hospital's initial inpatient services must include, but are not limited to,
6.2 medical and surgical services, obstetrical and gynecological services, intensive care services,
6.3 orthopedic services, pediatric services, noninvasive cardiac diagnostics, behavioral health
6.4 services, and emergency room services;

6.5 (iv) the new hospital:

6.6 (A) will have the ability to provide and staff sufficient new beds to meet the growing
6.7 needs of the Maple Grove service area and the surrounding communities currently being
6.8 served by the hospital or health system that will own or control the entity that will hold the
6.9 new hospital license;

6.10 (B) will provide uncompensated care;

6.11 (C) will provide mental health services, including inpatient beds;

6.12 (D) will be a site for workforce development for a broad spectrum of health-care-related
6.13 occupations and have a commitment to providing clinical training programs for physicians
6.14 and other health care providers;

6.15 (E) will demonstrate a commitment to quality care and patient safety;

6.16 (F) will have an electronic medical records system, including physician order entry;

6.17 (G) will provide a broad range of senior services;

6.18 (H) will provide emergency medical services that will coordinate care with regional
6.19 providers of trauma services and licensed emergency ambulance services in order to enhance
6.20 the continuity of care for emergency medical patients; and

6.21 (I) will be completed by December 31, 2009, unless delayed by circumstances beyond
6.22 the control of the entity holding the new hospital license; and

6.23 (v) as of 30 days following submission of a written plan, the commissioner of health
6.24 has not determined that the hospitals or health systems that will own or control the entity
6.25 that will hold the new hospital license are unable to meet the criteria of this clause;

6.26 (21) a project approved under section 144.553;

6.27 (22) a project for the construction of a hospital with up to 25 beds in Cass County within
6.28 a 20-mile radius of the state Ah-Gwah-Ching facility, provided the hospital's license holder
6.29 is approved by the Cass County Board;

7.1 (23) a project for an acute care hospital in Fergus Falls that will increase the bed capacity
7.2 from 108 to 110 beds by increasing the rehabilitation bed capacity from 14 to 16 and closing
7.3 a separately licensed 13-bed skilled nursing facility;

7.4 (24) notwithstanding section 144.552, a project for the construction and expansion of a
7.5 specialty psychiatric hospital in Hennepin County for up to 50 beds, exclusively for patients
7.6 who are under 21 years of age on the date of admission. The commissioner conducted a
7.7 public interest review of the mental health needs of Minnesota and the Twin Cities
7.8 metropolitan area in 2008. No further public interest review shall be conducted for the
7.9 construction or expansion project under this clause;

7.10 (25) a project for a 16-bed psychiatric hospital in the city of Thief River Falls, if the
7.11 commissioner finds the project is in the public interest after the public interest review
7.12 conducted under section 144.552 is complete;

7.13 (26)(i) a project for a 20-bed psychiatric hospital, within an existing facility in the city
7.14 of Maple Grove, exclusively for patients who are under 21 years of age on the date of
7.15 admission, if the commissioner finds the project is in the public interest after the public
7.16 interest review conducted under section 144.552 is complete;

7.17 (ii) this project shall serve patients in the continuing care benefit program under section
7.18 256.9693. The project may also serve patients not in the continuing care benefit program;
7.19 and

7.20 (iii) if the project ceases to participate in the continuing care benefit program, the
7.21 commissioner must complete a subsequent public interest review under section 144.552. If
7.22 the project is found not to be in the public interest, the license must be terminated six months
7.23 from the date of that finding. If the commissioner of human services terminates the contract
7.24 without cause or reduces per diem payment rates for patients under the continuing care
7.25 benefit program below the rates in effect for services provided on December 31, 2015, the
7.26 project may cease to participate in the continuing care benefit program and continue to
7.27 operate without a subsequent public interest review;

7.28 (27) a project involving the addition of 21 new beds in an existing psychiatric hospital
7.29 in Hennepin County that is exclusively for patients who are under 21 years of age on the
7.30 date of admission; or

7.31 (28) a project to add 55 licensed beds in an existing safety net, level I trauma center
7.32 hospital in Ramsey County as designated under section 383A.91, subdivision 5, of which
7.33 15 beds are to be used for inpatient mental health and 40 are to be used for other services.
7.34 In addition, five unlicensed observation mental health beds shall be added.

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

8.2 Sec. 4. Minnesota Statutes 2018, section 144.551, is amended by adding a subdivision to
8.3 read:

8.4 Subd. 5. **Monitoring.** The commissioner shall monitor the implementation of exceptions
8.5 under this section. Each hospital or hospital corporate system granted an exception under
8.6 this section shall submit to the commissioner each year a report on how the hospital or
8.7 hospital corporate system continues to satisfy the conditions on which the exception was
8.8 granted.

8.9 **EFFECTIVE DATE.** This section is effective July 1, 2020.