

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 2740

(SENATE AUTHORS: ABELER, Utke, Benson and Duckworth)

DATE	D-PG	OFFICIAL STATUS
02/03/2022	4870	Introduction and first reading
		Referred to Health and Human Services Finance and Policy
02/10/2022	4974	Authors added Duckworth

1.1 A bill for an act

1.2 relating to health; temporarily permitting retired nurses and out-of-state nurses to

1.3 practice in certain long-term care settings; temporarily modifying training

1.4 requirements for direct care staff in certain long-term care settings; establishing a

1.5 temporary voluntary correction program for nursing homes.

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

1.7 Section 1. TEMPORARY LICENSURE PRIVILEGES FOR NURSES FROM ANY

1.8 STATE.

1.9 (a) Notwithstanding Minnesota Statutes, sections 148.171 to 148.285, a registered or

1.10 practical nurse who holds a current license, certificate, or registration in good standing

1.11 issued by a state of the United States or the District of Columbia to practice practical or

1.12 professional nursing shall be authorized to practice professional or practical nursing in

1.13 Minnesota without being issued a license by the Board of Nursing if:

1.14 (1) the nurse is employed by a licensed nursing facility or licensed assisted living facility;

1.15 (2) the licensure standards of the jurisdiction that issued the license, certification, or

1.16 registration are substantially the same as Minnesota licensure standards;

1.17 (3) no state or jurisdiction has taken any adverse action against the nurse's license,

1.18 certification, or registration;

1.19 (4) the nurse is not participating in an alternative or diversion program; and

1.20 (5) the nurse has not been denied a license to practice nursing in Minnesota.

1.21 (b) Within ten days of employment by the facility, a nurse who is practicing nursing

1.22 under the authority of this section must report the employment to the Board of Nursing on

2.1 a form provided by the board. The nurse must provide the board a copy of the license,
2.2 certification, or registration issued by another state or the District of Columbia.

2.3 (c) A nurse who practices nursing in Minnesota under the authority of this section has
2.4 the same obligations as if the nurse were licensed in Minnesota and is subject to the laws
2.5 and rules of Minnesota and the regulatory authority of the Board of Nursing, including all
2.6 forms of disciplinary actions permitted under Minnesota Statutes, section 148.262,
2.7 subdivision 1, and corrective action permitted under Minnesota Statutes, section 214.103,
2.8 subdivision 6. The board may revoke a nurse's authorization to practice under this section
2.9 at the board's discretion.

2.10 (d) Any authorization to practice granted under this section is valid for one year and is
2.11 not renewable.

2.12 (e) This section expires March 31, 2023.

2.13 **Sec. 2. TEMPORARY PERMIT FOR LAPSED NURSING LICENSES.**

2.14 (a) The Board of Nursing shall issue a temporary permit to practice professional or
2.15 practical nursing to any nurse whose license to practice issued under Minnesota Statutes,
2.16 sections 148.171 to 148.285, has lapsed after January 1, 2020, and who desires to resume
2.17 the practice of professional or practical nursing at a licensed nursing facility or licensed
2.18 assisted living facility. The nurse shall submit an application for a temporary permit to the
2.19 board that includes the name and location of the facility where the nurse is or will be
2.20 employed. The board shall issue the temporary permit to practice professional or practical
2.21 nursing upon the receipt of the application. The applicant is not required to pay any fee
2.22 under Minnesota Statutes, section 148.243, for the temporary permit or meet any other
2.23 requirements if at the time the nurse's license lapsed the license was in good standing and
2.24 the nurse was not the subject of any pending investigation or disciplinary action and was
2.25 not disqualified to practice in any way.

2.26 (b) Any temporary permit issued under this section is valid for a period of one year and
2.27 is not renewable.

2.28 (c) This section expires March 31, 2023.

2.29 **Sec. 3. TEMPORARY NURSE AIDE TRAINING.**

2.30 (a) A person who registers, completes, and passes the American Health Care Association's
2.31 eight-hour online temporary nurse aide training course may be employed by a licensed
2.32 nursing facility as a temporary nursing assistant. Nursing facilities must maintain

3.1 documentation that an employed temporary nursing assistant completed the required training
3.2 program.

3.3 (b) Whenever providing or assisting in the provision of nursing or nursing-related
3.4 services, a temporary nursing assistant employed under the authority of this section must
3.5 be directly supervised by a certified nursing assistant, licensed practical nurse, or registered
3.6 nurse. If, during employment, the temporary nursing assistant meets the requirements for
3.7 employment as a nursing assistant that existed prior to enactment of this section, the
3.8 supervision described in this section is no longer required.

3.9 (c) This section expires four months after the expiration of the blanket federal waiver
3.10 of the nurse aides training and certification requirements under Code of Federal Regulations,
3.11 title 42, section 483.35(d), by the Centers for Medicare and Medicaid Services as authorized
3.12 by section 1135 of the Social Security Act.

3.13 **Sec. 4. TEMPORARY ASSISTED LIVING STAFF TRAINING REQUIREMENTS.**

3.14 (a) Notwithstanding Minnesota Statutes, section 144G.60, subdivision 4, paragraphs (a)
3.15 and (b), a person who registers, completes, and passes the American Health Care
3.16 Association's eight-hour online temporary nurse aide training course may be employed by
3.17 a licensed assisted living facility to provide assisted living services or perform delegated
3.18 nursing tasks. Assisted living facilities must maintain documentation that a person employed
3.19 under the authority of this section to provide assisted living services or perform delegated
3.20 nursing tasks completed the required training program.

3.21 (b) Whenever providing assisted living services, a person employed under the authority
3.22 of this section must be directly supervised by another employee who meets the requirements
3.23 of Minnesota Statutes, section 144G.60, subdivision 4, paragraph (a). If, during employment,
3.24 the person meets the requirements of Minnesota Statutes, section 144G.60, subdivision 4,
3.25 paragraph (a), the supervision described in this paragraph is no longer required.

3.26 (c) Whenever performing delegated nursing tasks, a person employed under the authority
3.27 of this section must be directly supervised by another employee who meets the requirements
3.28 of Minnesota Statutes, section 144G.60, subdivision 4, paragraph (b). If, during employment,
3.29 the person meets the requirements of Minnesota Statutes, section 144G.60, subdivision 4,
3.30 paragraph (b), the supervision described in this paragraph is no longer required.

3.31 (d) This section expires four months after the expiration of the blanket federal waiver
3.32 of the nurse aides training and certification requirements under Code of Federal Regulations,

4.1 title 42, section 483.35(d), by the Centers for Medicare and Medicaid Services as authorized
4.2 by section 1135 of the Social Security Act.

4.3 **Sec. 5. TEMPORARY NURSING FACILITY VOLUNTARY CORRECTION**
4.4 **PROGRAM.**

4.5 (a) Between the date on which this section becomes effective and June 30, 2023, a
4.6 licensed nursing facility may submit to the commissioner a formal request for technical
4.7 assistance and available resources to correct the facility's failures to comply with state
4.8 licensing and federal certification standards that result from acute staffing shortages related
4.9 to the COVID-19 pandemic.

4.10 (b) Within 48 hours of receipt of a formal request under paragraph (a), the commissioner
4.11 must complete a voluntary correction program intake form and assign to the facility a specific
4.12 employee of the Department of Health who must act as the primary point of contact for the
4.13 facility participating in the voluntary correction program. A department employee assigned
4.14 to a facility must not be a nursing home health surveyor or an Office of Health Facility
4.15 Complaints investigator. The commissioner must not assign current surveyors or investigators
4.16 to offer technical assistance to facilities participating in the voluntary correction program.

4.17 (c) The commissioner must not initiate a survey or other regulatory action in response
4.18 to a request submitted under paragraph (a). The commissioner must not regard the mere
4.19 fact that a facility submitted a request under paragraph (a) as justification to exercise the
4.20 commissioner's discretion under Minnesota Statutes, section 144A.10, subdivision 2, to
4.21 devote more resources for inspections of the facility outside of the regular schedule of
4.22 licensing and certification inspections.

4.23 (d) While a facility is participating in the voluntary correction program, the commissioner
4.24 must not initiate a survey, revisit of any type, or otherwise deploy surveyors or investigators
4.25 to the facility except as provided in paragraph (f).

4.26 (e) No facility may participate in the voluntary correction program longer than one
4.27 month.

4.28 (f) Nothing in paragraph (c) or (d) prohibits the commissioner from conducting an on-site
4.29 investigation of alleged maltreatment of a vulnerable adult or of a complaint triaged as
4.30 immediate jeopardy.

4.31 (g) The commissioner must ensure that department staff providing technical assistance
4.32 to a facility participating in the voluntary correction program do not communicate information
4.33 about the facility directly to any surveyor or investigator, including that the facility is a

5.1 participant in the program. Nothing in this paragraph prohibits anyone from filing a complaint
5.2 with the Office of Health Facility Complaints.

5.3 Sec. 6. **EFFECTIVE DATE.**

5.4 Sections 1 to 5 are effective the day following final enactment.