

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **2379**

02/20/2012 Authored by Gottwalt, Abeler, Loeffler and Anderson, D.,

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

03/19/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on Health and Human Services Finance

1.1 A bill for an act
1.2 relating to human services; providing an exemption from a licensing moratorium;
1.3 establishing certification requirements; amending Minnesota Statutes 2010,
1.4 section 245A.03, by adding a subdivision; Minnesota Statutes 2011 Supplement,
1.5 section 245A.03, subdivision 7.

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

1.7 Section 1. Minnesota Statutes 2010, section 245A.03, is amended by adding a
1.8 subdivision to read:

1.9 Subd. 6a. **Adult foster care homes serving people with mental illness;**
1.10 **certification.** (a) The commissioner of human services shall issue a mental health
1.11 certification for adult foster care homes licensed under this chapter and Minnesota Rules,
1.12 parts 9555.5105 to 9555.6265, that serve people with mental illness where the home is not
1.13 the primary residence of the license holder when a provider is determined to have met
1.14 the requirements under paragraph (b). The certification shall be printed on the license,
1.15 and identified on the commissioner's public Web site. This certification is voluntary for
1.16 license holders.

1.17 (b) The requirements for certification are:

1.18 (1) all staff working in the adult foster care home have received at least seven hours
1.19 of annual training covering all of the following topics:

1.20 (i) mental health diagnoses;

1.21 (ii) mental health crisis response and de-escalation techniques;

1.22 (iii) recovery from mental illness;

1.23 (iv) treatment options including evidence-based practices;

1.24 (v) medications and their side effects;

1.25 (vi) co-occurring substance abuse and health conditions; and

2.1 (vii) community resources; and

2.2 (2) a mental health professional, as defined in section 245.4871, subdivision 27, or
2.3 a mental health practitioner as defined in section 245.4871, subdivision 26, is available
2.4 for consultation and assistance;

2.5 (3) there is a plan and protocol in place to address a mental health crisis; and

2.6 (4) each individual's Individual Placement Agreement identifies who is providing
2.7 clinical services and their contact information, and includes an individual crisis prevention
2.8 and management plan developed with the individual.

2.9 (c) License holders seeking certification under this subdivision must request this
2.10 certification on forms provided by the commissioner and must submit the request to the
2.11 county licensing agency in which the home is located. The county licensing agency must
2.12 forward the request to the commissioner with a county recommendation regarding whether
2.13 the commissioner should issue the certification.

2.14 (d) Ongoing compliance with the certification requirements under paragraph (b)
2.15 shall be reviewed by the county licensing agency at each licensing review. When a county
2.16 licensing agency determines that the requirements of paragraph (b) are not met, the county
2.17 shall inform the commissioner and the commissioner will remove the certification.

2.18 (e) A denial of the certification or the removal of the certification based on a
2.19 determination that the requirements under paragraph (b) have not been met by the adult
2.20 foster care license holder are not subject to appeal. A license holder that has been denied a
2.21 certification or that has had a certification removed may again request certification when
2.22 the license holder is in compliance with the requirements of paragraph (b).

2.23 Sec. 2. Minnesota Statutes 2011 Supplement, section 245A.03, subdivision 7, is
2.24 amended to read:

2.25 Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an
2.26 initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to
2.27 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to
2.28 9555.6265, under this chapter for a physical location that will not be the primary residence
2.29 of the license holder for the entire period of licensure. If a license is issued during this
2.30 moratorium, and the license holder changes the license holder's primary residence away
2.31 from the physical location of the foster care license, the commissioner shall revoke the
2.32 license according to section 245A.07. Exceptions to the moratorium include:

2.33 (1) foster care settings that are required to be registered under chapter 144D;

2.34 (2) foster care licenses replacing foster care licenses in existence on May 15, 2009,
2.35 and determined to be needed by the commissioner under paragraph (b);

3.1 (3) new foster care licenses determined to be needed by the commissioner under
3.2 paragraph (b) for the closure of a nursing facility, ICF/MR, or regional treatment center, or
3.3 restructuring of state-operated services that limits the capacity of state-operated facilities;

3.4 (4) new foster care licenses determined to be needed by the commissioner under
3.5 paragraph (b) for persons requiring hospital level care; or

3.6 (5) new foster care licenses determined to be needed by the commissioner for the
3.7 transition of people from personal care assistance to the home and community-based
3.8 services.

3.9 (b) The commissioner shall determine the need for newly licensed foster care homes
3.10 as defined under this subdivision. As part of the determination, the commissioner shall
3.11 consider the availability of foster care capacity in the area in which the licensee seeks to
3.12 operate, and the recommendation of the local county board. The determination by the
3.13 commissioner must be final. A determination of need is not required for a change in
3.14 ownership at the same address.

3.15 (c) Residential settings that would otherwise be subject to the moratorium established
3.16 in paragraph (a), that are in the process of receiving an adult or child foster care license as
3.17 of July 1, 2009, shall be allowed to continue to complete the process of receiving an adult
3.18 or child foster care license. For this paragraph, all of the following conditions must be met
3.19 to be considered in the process of receiving an adult or child foster care license:

3.20 (1) participants have made decisions to move into the residential setting, including
3.21 documentation in each participant's care plan;

3.22 (2) the provider has purchased housing or has made a financial investment in the
3.23 property;

3.24 (3) the lead agency has approved the plans, including costs for the residential setting
3.25 for each individual;

3.26 (4) the completion of the licensing process, including all necessary inspections, is
3.27 the only remaining component prior to being able to provide services; and

3.28 (5) the needs of the individuals cannot be met within the existing capacity in that
3.29 county.

3.30 To qualify for the process under this paragraph, the lead agency must submit
3.31 documentation to the commissioner by August 1, 2009, that all of the above criteria are
3.32 met.

3.33 (d) The commissioner shall study the effects of the license moratorium under this
3.34 subdivision and shall report back to the legislature by January 15, 2011. This study shall
3.35 include, but is not limited to the following:

4.1 (1) the overall capacity and utilization of foster care beds where the physical location
4.2 is not the primary residence of the license holder prior to and after implementation
4.3 of the moratorium;

4.4 (2) the overall capacity and utilization of foster care beds where the physical
4.5 location is the primary residence of the license holder prior to and after implementation
4.6 of the moratorium; and

4.7 (3) the number of licensed and occupied ICF/MR beds prior to and after
4.8 implementation of the moratorium.

4.9 (e) When a foster care recipient moves out of a foster home that is not the primary
4.10 residence of the license holder according to section 256B.49, subdivision 15, paragraph
4.11 (f), the county shall immediately inform the Department of Human Services Licensing
4.12 Division, and the department shall immediately decrease the licensed capacity for the
4.13 home. A decreased licensed capacity according to this paragraph is not subject to appeal
4.14 under this chapter.

4.15 (f) Residential settings that would otherwise be subject to the decreased license
4.16 capacity established in paragraph (e) shall be exempt under the following circumstances:

4.17 (1) the license holder is:

4.18 (i) a provider of assertive community treatment (ACT) or adult rehabilitative mental
4.19 health services (ARMHS) as defined in section 256B.0623;

4.20 (ii) a mental health center certified under Minnesota Rules, parts 9520.0750 to
4.21 9520.0870;

4.22 (iii) a mental health clinic certified under Minnesota Rules, parts 9520.0750 to
4.23 9520.0870; or

4.24 (iv) a provider of intensive residential treatment services (IRTS) licensed under
4.25 Minnesota Rules, parts 9520.0500 to 9520.0670; or

4.26 (2) the license holder is certified under the requirements in subdivision 6a.