

A bill for an act

relating to human services; changing capacity requirements for adult foster homes; amending Minnesota Statutes 2008, section 245A.11, subdivision 2a; repealing Minnesota Rules, part 9555.6165.

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

Section 1. Minnesota Statutes 2008, section 245A.11, subdivision 2a, is amended to read:

Subd. 2a. **Adult foster care license capacity.** (a) An adult foster care license holder may have a maximum license capacity of five ~~if all persons in care are age 55 or over and do not have a serious and persistent mental illness or a developmental disability persons.~~

~~(b) The commissioner may grant variances to paragraph (a) to allow a foster care provider with a licensed capacity of five persons to admit an individual under the age of 55 if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.~~

~~(c) The commissioner may grant variances to paragraph (a) to allow the use of a fifth bed for emergency crisis services for a person with serious and persistent mental illness or a developmental disability, regardless of age, if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.~~

~~(d) Notwithstanding paragraph (a);~~ (b) The commissioner ~~may~~ shall issue an adult foster care license ~~with a capacity of five adults when the capacity is recommended if the adult foster care provider serving more than four persons with serious and persistent mental illness or developmental disability has a recommendation by the county licensing agency of the county in which the facility is located and if the recommendation verifies that:~~

(1) the facility meets the physical environment requirements in the adult foster care licensing rule;

(2) the five-bed living arrangement is specified for each resident in the resident's:

(i) individualized plan of care;

(ii) individual service plan under section 256B.092, subdivision 1b, if required; or

(iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required;

(3) the license holder obtains written and signed informed consent from each resident or resident's legal representative documenting the resident's informed choice to living in the home and that the resident's refusal to consent would not have resulted in service termination; ~~and.~~

~~(4) the facility was licensed for adult foster care before March 1, 2003.~~

~~(c) The commissioner shall not issue a new adult foster care license under paragraph (d) after June 30, 2005. The commissioner shall allow a facility with an adult foster care license issued under paragraph (d) before June 30, 2005, to continue with a capacity of five adults if the license holder continues to comply with the requirements in paragraph (d).~~

Sec. 2. **REPEALER.**

Minnesota Rules, part 9555.6165, is repealed.