

1.1 CONFERENCE COMMITTEE REPORT ON H. F. No. 1276

1.2 A bill for an act

1.3 relating to health and human services; relieving counties of certain mandates;
1.4 making changes to residential treatment facilities; county payment of
1.5 cremation, burial, and funeral expenses; child welfare provisions; health plan
1.6 audits; nursing facilities; home health aides; inspections of day training and
1.7 habilitation facilities; changing certain health care provisions relating to school
1.8 districts, charter schools, and local governments; amending Minnesota Statutes
1.9 2008, sections 62Q.37, subdivision 3; 144A.04, subdivision 11, by adding a
1.10 subdivision; 144A.43, by adding a subdivision; 144A.45, subdivision 1, by
1.11 adding a subdivision; 245.4882, subdivision 1; 245.4885, subdivisions 1, 1a;
1.12 256.935, subdivision 1; 256.962, subdivisions 6, 7; 256B.0945, subdivisions
1.13 1, 4; 256F.13, subdivision 1; 260C.212, subdivisions 4a, 11; 261.035; 471.61,
1.14 subdivision 1; proposing coding for new law in Minnesota Statutes, chapter
1.15 245B; repealing Minnesota Rules, part 4668.0110, subpart 5.

1.16 May 18, 2009

1.17 The Honorable Margaret Anderson Kelliher
1.18 Speaker of the House of Representatives

1.19 The Honorable James P. Metzen
1.20 President of the Senate

1.21 We, the undersigned conferees for H. F. No. 1276 report that we have agreed upon
1.22 the items in dispute and recommend as follows:

1.23 That the Senate recede from its amendment and that H. F. No. 1276 be further
1.24 amended as follows:

1.25 Delete everything after the enacting clause and insert:

1.26 "ARTICLE 1
1.27 HUMAN SERVICES

1.28 Section 1. Minnesota Statutes 2008, section 245.4882, subdivision 1, is amended to
1.29 read:

1.30 Subdivision 1. **Availability of residential treatment services.** County boards
1.31 must provide or contract for enough residential treatment services to meet the needs of
1.32 each child with severe emotional disturbance residing in the county and needing this

2.1 level of care. Length of stay is based on the child's residential treatment need and shall
2.2 be subject to the six-month review process established in section 260C.212, ~~subdivisions~~
2.3 ~~7 and 9~~ subdivision 7, and for children in voluntary placement for treatment, the court
2.4 review process in section 260D.06. Services must be appropriate to the child's age and
2.5 treatment needs and must be made available as close to the county as possible. Residential
2.6 treatment must be designed to:

- 2.7 (1) prevent placement in settings that are more intensive, costly, or restrictive than
- 2.8 necessary and appropriate to meet the child's needs;
- 2.9 (2) help the child improve family living and social interaction skills;
- 2.10 (3) help the child gain the necessary skills to return to the community;
- 2.11 (4) stabilize crisis admissions; and
- 2.12 (5) work with families throughout the placement to improve the ability of the
- 2.13 families to care for children with severe emotional disturbance in the home.

2.14 Sec. 2. Minnesota Statutes 2008, section 245.4885, subdivision 1, is amended to read:

2.15 Subdivision 1. **Admission criteria.** ~~The county board shall, (a) Prior to admission,~~
2.16 ~~except in the case of emergency admission, determine the needed level of care for all~~
2.17 ~~children referred for treatment of severe emotional disturbance in a treatment foster care~~
2.18 ~~setting, residential treatment facility, or informally admitted to a regional treatment center~~
2.19 shall undergo an assessment to determine the appropriate level of care if public funds are
2.20 used to pay for the services. The county board shall also determine the needed level of
2.21 care for all children admitted to an acute care hospital for treatment of severe emotional
2.22 disturbance if public funds other than reimbursement under chapters 256B and 256D
2.23 are used to pay for the services.

2.24 (b) The county board shall determine the appropriate level of care when
2.25 county-controlled funds are used to pay for the services. When the child is enrolled in
2.26 a prepaid health program under section 256B.69, the enrolled child's contracted health
2.27 plan must determine the appropriate level of care. When more than one entity bears
2.28 responsibility for coverage, the entities shall coordinate level of care determination
2.29 activities to the extent possible.

2.30 (c) The level of care determination shall determine whether the proposed treatment:
2.31 (1) is necessary;
2.32 (2) is appropriate to the child's individual treatment needs;
2.33 (3) cannot be effectively provided in the child's home; and
2.34 (4) provides a length of stay as short as possible consistent with the individual
2.35 child's need.

3.1 (d) When a level of care determination is conducted, the ~~county board~~ responsible
3.2 entity may not determine that referral or admission to a treatment foster care setting,
3.3 or residential treatment facility, or acute care hospital is not appropriate solely because
3.4 services were not first provided to the child in a less restrictive setting and the child failed
3.5 to make progress toward or meet treatment goals in the less restrictive setting. The level
3.6 of care determination must be based on a diagnostic assessment that includes a functional
3.7 assessment which evaluates family, school, and community living situations; and an
3.8 assessment of the child's need for care out of the home using a validated tool which
3.9 assesses a child's functional status and assigns an appropriate level of care. The validated
3.10 tool must be approved by the commissioner of human services. If a diagnostic assessment
3.11 including a functional assessment has been completed by a mental health professional
3.12 within the past 180 days, a new diagnostic assessment need not be completed unless in the
3.13 opinion of the current treating mental health professional the child's mental health status
3.14 has changed markedly since the assessment was completed. The child's parent shall be
3.15 notified if an assessment will not be completed and of the reasons. A copy of the notice
3.16 shall be placed in the child's file. Recommendations developed as part of the level of care
3.17 determination process shall include specific community services needed by the child and,
3.18 if appropriate, the child's family, and shall indicate whether or not these services are
3.19 available and accessible to the child and family.

3.20 (e) During the level of care determination process, the child, child's family, or child's
3.21 legal representative, as appropriate, must be informed of the child's eligibility for case
3.22 management services and family community support services and that an individual
3.23 family community support plan is being developed by the case manager, if assigned.

3.24 (f) The level of care determination shall comply with section 260C.212. ~~Wherever~~
3.25 ~~possible,~~ The parent shall be consulted in the process, unless clinically ~~inappropriate~~
3.26 detrimental to the child.

3.27 (g) The level of care determination, and placement decision, and recommendations
3.28 for mental health services must be documented in the child's record.

3.29 ~~An alternate review process may be approved by the commissioner if the county~~
3.30 ~~board demonstrates that an alternate review process has been established by the county~~
3.31 ~~board and the times of review, persons responsible for the review, and review criteria are~~
3.32 ~~comparable to the standards in clauses (1) to (4).~~

3.33 Sec. 3. Minnesota Statutes 2008, section 245.4885, subdivision 1a, is amended to read:

3.34 Subd. 1a. **Emergency admission.** Effective July 1, 2006, if a child is admitted to
3.35 a treatment foster care setting, residential treatment facility, or acute care hospital for

4.1 emergency treatment or held for emergency care by a regional treatment center under
4.2 section 253B.05, subdivision 1, the level of care determination must occur within ~~three~~
4.3 five working days of admission.

4.4 Sec. 4. Minnesota Statutes 2008, section 256.935, subdivision 1, is amended to read:

4.5 Subdivision 1. **Cremation, burial, and funeral expenses.** On the death of any
4.6 person receiving public assistance through MFIP, the county agency shall ~~pay~~ attempt to
4.7 contact the decedent's spouse or next of kin. If the agency is not able to contact a spouse or
4.8 next of kin and the personal preferences of the decedent or the practices of the decedent's
4.9 faith tradition are not known, the agency shall pay for cremation of the person's remains
4.10 and their burial or interment if the spouse or next of kin does not want to take possession
4.11 of the ashes. If the county agency contacts the decedent's spouse or next of kin and it is
4.12 determined that cremation is not in accordance with the decedent's personal preferences or
4.13 the practices of the decedent's faith tradition or the personal preferences of the decedent's
4.14 spouse or the decedent's next of kin, the county agency shall pay an amount for funeral
4.15 expenses including the transportation of the body into or out of the community in which
4.16 the deceased resided not exceeding the amount paid for comparable services under section
4.17 261.035 plus actual cemetery charges. No cremation, burial, or funeral expenses shall
4.18 be paid if the estate of the deceased is sufficient to pay such expenses or if the spouse,
4.19 who was legally responsible for the support of the deceased while living, is able to pay
4.20 such expenses; ~~provided, that the additional payment or donation of the cost of cemetery~~
4.21 ~~lot, interment, religious service, or for the transportation of the body into or out of the~~
4.22 ~~community in which the deceased resided, shall not limit payment by the county agency~~
4.23 ~~as herein authorized.~~ Freedom of choice in the selection of a funeral director shall be
4.24 granted to persons lawfully authorized to make arrangements for the cremation or burial
4.25 of any such deceased recipient. In determining the sufficiency of such estate, due regard
4.26 shall be had for the nature and marketability of the assets of the estate. The county agency
4.27 may grant cremation, burial, or funeral expenses where the sale would cause undue loss to
4.28 the estate. Any amount paid for cremation, burial, or funeral expenses shall be a prior
4.29 claim against the estate, as provided in section 524.3-805, and any amount recovered
4.30 shall be reimbursed to the agency which paid the expenses. The commissioner shall
4.31 specify requirements for reports, including fiscal reports, according to section 256.01,
4.32 subdivision 2, paragraph ~~(17)~~ (q). The state shall pay the entire amount of county
4.33 agency expenditures. Benefits shall be issued to recipients by the state or county subject
4.34 to provisions of section 256.017.

5.1 Sec. 5. Minnesota Statutes 2008, section 256B.0945, subdivision 1, is amended to read:

5.2 Subdivision 1. **Residential services; provider qualifications.** Counties must
5.3 arrange to provide residential services for children with severe emotional disturbance
5.4 according to sections 245.4882, 245.4885, and this section. Services must be provided
5.5 by a facility that is licensed according to section 245.4882 and administrative rules
5.6 promulgated thereunder, and under contract with the county. Eligible service costs may be
5.7 claimed for a facility that is located in a state that borders Minnesota if:

5.8 (1) the facility is the closest facility to the child's home, providing the appropriate
5.9 level of care; and

5.10 (2) the commissioner of human services has completed an inspection of the
5.11 out-of-state program according to the interagency agreement with the commissioner of
5.12 corrections under section 260B.198, subdivision 11, paragraph (b), and the program has
5.13 been certified by the commissioner of corrections under section 260B.198, subdivision
5.14 11, paragraph (a), to substantially meet the standards applicable to children's residential
5.15 mental health treatment programs under Minnesota Rules, chapter 2960. Nothing in
5.16 this section requires the commissioner of human services to enforce the background
5.17 study requirements under chapter 245C or the requirements related to prevention and
5.18 investigation of alleged maltreatment under section 626.556 or 626.557. Complaints
5.19 received by the commissioner of human services must be referred to the out-of-state
5.20 licensing authority for possible follow-up.

5.21 Sec. 6. Minnesota Statutes 2008, section 256B.0945, subdivision 4, is amended to read:

5.22 Subd. 4. **Payment rates.** (a) Notwithstanding sections 256B.19 and 256B.041,
5.23 payments to counties for residential services provided by a residential facility shall only
5.24 be made of federal earnings for services provided under this section, and the nonfederal
5.25 share of costs for services provided under this section shall be paid by the county from
5.26 sources other than federal funds or funds used to match other federal funds. Payment to
5.27 counties for services provided according to this section shall be a proportion of the per
5.28 day contract rate that relates to rehabilitative mental health services and shall not include
5.29 payment for costs or services that are billed to the IV-E program as room and board.

5.30 (b) Per diem rates paid to providers under this section by prepaid plans shall be
5.31 the proportion of the per-day contract rate that relates to rehabilitative mental health
5.32 services and shall not include payment for group foster care costs or services that are
5.33 billed to the county of financial responsibility. Services provided in facilities located in
5.34 bordering states are eligible for reimbursement on a fee-for-service basis only as described
5.35 in paragraph (a) and are not covered under prepaid health plans.

6.1 (c) The commissioner shall set aside a portion not to exceed five percent of the
6.2 federal funds earned for county expenditures under this section to cover the state costs of
6.3 administering this section. Any unexpended funds from the set-aside shall be distributed
6.4 to the counties in proportion to their earnings under this section.

6.5 Sec. 7. Minnesota Statutes 2008, section 256F.13, subdivision 1, is amended to read:

6.6 Subdivision 1. **Federal revenue enhancement.** (a) The commissioner of human
6.7 services may enter into an agreement with one or more family services collaboratives
6.8 to enhance federal reimbursement under title IV-E of the Social Security Act and
6.9 federal administrative reimbursement under title XIX of the Social Security Act. The
6.10 commissioner may contract with the Department of Education for purposes of transferring
6.11 the federal reimbursement to the commissioner of education to be distributed to the
6.12 collaboratives according to clause (2). The commissioner shall have the following
6.13 authority and responsibilities regarding family services collaboratives:

6.14 (1) the commissioner shall submit amendments to state plans and seek waivers as
6.15 necessary to implement the provisions of this section;

6.16 (2) the commissioner shall pay the federal reimbursement earned under this
6.17 subdivision to each collaborative based on their earnings. Payments to collaboratives for
6.18 expenditures under this subdivision will only be made of federal earnings from services
6.19 provided by the collaborative;

6.20 (3) the commissioner shall review expenditures of family services collaboratives
6.21 using reports specified in the agreement with the collaborative to ensure that the base level
6.22 of expenditures is continued and new federal reimbursement is used to expand education,
6.23 social, health, or health-related services to young children and their families;

6.24 (4) the commissioner may reduce, suspend, or eliminate a family services
6.25 collaborative's obligations to continue the base level of expenditures or expansion of
6.26 services if the commissioner determines that one or more of the following conditions
6.27 apply:

6.28 (i) imposition of levy limits that significantly reduce available funds for social,
6.29 health, or health-related services to families and children;

6.30 (ii) reduction in the net tax capacity of the taxable property eligible to be taxed by
6.31 the lead county or subcontractor that significantly reduces available funds for education,
6.32 social, health, or health-related services to families and children;

6.33 (iii) reduction in the number of children under age 19 in the county, collaborative
6.34 service delivery area, subcontractor's district, or catchment area when compared to the

7.1 number in the base year using the most recent data provided by the State Demographer's
7.2 Office; or

7.3 (iv) termination of the federal revenue earned under the family services collaborative
7.4 agreement;

7.5 (5) the commissioner shall not use the federal reimbursement earned under this
7.6 subdivision in determining the allocation or distribution of other funds to counties or
7.7 collaboratives;

7.8 (6) the commissioner may suspend, reduce, or terminate the federal reimbursement
7.9 to a provider that does not meet the reporting or other requirements of this subdivision;

7.10 (7) the commissioner shall recover from the family services collaborative any federal
7.11 fiscal disallowances or sanctions for audit exceptions directly attributable to the family
7.12 services collaborative's actions in the integrated fund, or the proportional share if federal
7.13 fiscal disallowances or sanctions are based on a statewide random sample; and

7.14 (8) the commissioner shall establish criteria for the family services collaborative
7.15 for the accounting and financial management system that will support claims for federal
7.16 reimbursement.

7.17 (b) The family services collaborative shall have the following authority and
7.18 responsibilities regarding federal revenue enhancement:

7.19 (1) the family services collaborative shall be the party with which the commissioner
7.20 contracts. A lead county shall be designated as the fiscal agency for reporting, claiming,
7.21 and receiving payments;

7.22 (2) the family services collaboratives may enter into subcontracts with other
7.23 counties, school districts, special education cooperatives, municipalities, and other public
7.24 and nonprofit entities for purposes of identifying and claiming eligible expenditures to
7.25 enhance federal reimbursement, or to expand education, social, health, or health-related
7.26 services to families and children;

7.27 ~~(3) the family services collaborative must continue the base level of expenditures for~~
7.28 ~~education, social, health, or health-related services to families and children from any state,~~
7.29 ~~county, federal, or other public or private funding source which, in the absence of the new~~
7.30 ~~federal reimbursement earned under this subdivision, would have been available for those~~
7.31 ~~services, except as provided in paragraph (a), clause (4). The base year for purposes of this~~
7.32 ~~subdivision shall be the four-quarter calendar year ending at least two calendar quarters~~
7.33 ~~before the first calendar quarter in which the new federal reimbursement is earned;~~

7.34 ~~(4)~~ the family services collaborative must use all new federal reimbursement
7.35 resulting from federal revenue enhancement to expand expenditures for education, social,

8.1 health, or health-related services to families and children beyond the base level, except
8.2 as provided in paragraph (a), clause (4);

8.3 ~~(5)~~ (4) the family services collaborative must ensure that expenditures submitted
8.4 for federal reimbursement are not made from federal funds or funds used to match other
8.5 federal funds. Notwithstanding section 256B.19, subdivision 1, for the purposes of family
8.6 services collaborative expenditures under agreement with the department, the nonfederal
8.7 share of costs shall be provided by the family services collaborative from sources other
8.8 than federal funds or funds used to match other federal funds;

8.9 ~~(6)~~ (5) the family services collaborative must develop and maintain an accounting
8.10 and financial management system adequate to support all claims for federal reimbursement,
8.11 including a clear audit trail and any provisions specified in the agreement; and

8.12 ~~(7)~~ (6) the family services collaborative shall submit an annual report to the
8.13 commissioner as specified in the agreement.

8.14 Sec. 8. Minnesota Statutes 2008, section 260C.212, subdivision 4a, is amended to read:

8.15 Subd. 4a. **Monthly caseworker visits.** (a) Every child in foster care or on a
8.16 trial home visit shall be visited by the child's caseworker or another person who has
8.17 responsibility for visitation of the child on a monthly basis, with the majority of visits
8.18 occurring in the child's residence. For the purposes of this section, the following
8.19 definitions apply:

8.20 (1) "visit" is defined as a face-to-face contact between a child and the child's
8.21 caseworker;

8.22 (2) "visited on a monthly basis" is defined as at least one visit per calendar month;

8.23 (3) "the child's caseworker" is defined as the person who has responsibility for
8.24 managing the child's foster care placement case as assigned by the responsible social
8.25 service agency; and

8.26 (4) "the child's residence" is defined as the home where the child is residing, and
8.27 can include the foster home, child care institution, or the home from which the child was
8.28 removed if the child is on a trial home visit.

8.29 (b) Caseworker visits shall be of sufficient substance and duration to address issues
8.30 pertinent to case planning and service delivery to ensure the safety, permanency, and
8.31 well-being of the child.

8.32 Sec. 9. Minnesota Statutes 2008, section 260C.212, subdivision 11, is amended to read:

9.1 Subd. 11. **Rules; family and group foster care.** ~~The commissioner shall revise~~
9.2 ~~Minnesota Rules, parts 9545.0010 to 9545.0260, the rules setting standards for family and~~
9.3 ~~group family foster care.~~ The commissioner shall:

9.4 (1) require that, as a condition of licensure, foster care providers attend training on
9.5 understanding and validating the cultural heritage of all children in their care, and on the
9.6 importance of the Indian Child Welfare Act, United States Code, title 25, sections 1901 to
9.7 1923, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835; ~~and~~

9.8 (2) review and, where necessary, revise foster care rules to reflect sensitivity to
9.9 cultural diversity and differing lifestyles. Specifically, the commissioner shall examine
9.10 whether space and other requirements discriminate against single-parent, minority, or
9.11 low-income families who may be able to provide quality foster care reflecting the values
9.12 of their own respective cultures; and

9.13 (3) relieve relative foster care providers of the requirements promulgated as a result
9.14 of clauses (1) and (2) when the safety of the child is not jeopardized and as allowed
9.15 under federal law.

9.16 Sec. 10. Minnesota Statutes 2008, section 261.035, is amended to read:

9.17 **261.035 CREMATION, BURIAL, AND FUNERALS AT EXPENSE OF**
9.18 **COUNTY.**

9.19 When a person dies in any county without apparent means to provide for that person's
9.20 funeral or final disposition, the county board shall first investigate to determine whether
9.21 that person had contracted for any prepaid funeral arrangements. If prepaid arrangements
9.22 have been made, the county shall authorize arrangements to be implemented in accord
9.23 with the instructions of the deceased. If it is determined that the person did not leave
9.24 sufficient means to defray the necessary expenses of a funeral and final disposition, nor
9.25 any spouse of sufficient ability to procure the burial, the county board shall provide pay for
9.26 a funeral and final disposition cremation of the person's remains to be made at the expense
9.27 of the county. and the person's burial or interment if the spouse or next of kin does not
9.28 want to take possession of the ashes. If it is determined that cremation is not in accordance
9.29 with the decedent's personal preferences or the known practices of the decedent's faith
9.30 tradition or the personal preferences of the decedent's spouse or the decedent's next of
9.31 kin, the county board shall provide for a burial and funeral. Any burial, funeral, and final
9.32 disposition provided at the expense of the county shall be in accordance with religious and
9.33 moral beliefs of the decedent or personal preferences or known practices of the decedent's
9.34 faith tradition or the personal preferences of the decedent's spouse or the decedent's next of
9.35 kin. If neither the wishes of the decedent are not known, nor the practices of the decedent's

10.1 faith tradition are known, and the county has no information about the existence of or
10.2 location of any next of kin, the county ~~may determine the method of final disposition~~ may
10.3 provide for cremation of the person's remains and burial or interment.

10.4 **ARTICLE 2**

10.5 **HEALTH CARE AND EDUCATION**

10.6 Section 1. Minnesota Statutes 2008, section 62Q.37, subdivision 3, is amended to read:

10.7 Subd. 3. **Audits.** (a) The commissioner may conduct routine audits and
10.8 investigations as prescribed under the commissioner's respective state authorizing statutes.
10.9 If a nationally recognized independent organization has conducted an audit of the health
10.10 plan company using audit procedures that are comparable to or more stringent than the
10.11 commissioner's audit procedures:

10.12 (1) the commissioner ~~may~~ shall accept the independent audit, including standards
10.13 and audit practices, and require no further audit if the results of the independent audit
10.14 show that the performance standard being audited meets or exceeds state standards;

10.15 (2) the commissioner may accept the independent audit and limit further auditing
10.16 if the results of the independent audit show that the performance standard being audited
10.17 partially meets state standards;

10.18 (3) the health plan company must demonstrate to the commissioner that the
10.19 nationally recognized independent organization that conducted the audit is qualified and
10.20 that the results of the audit demonstrate that the particular performance standard partially
10.21 or fully meets state standards; and

10.22 (4) if the commissioner has partially or fully accepted an independent audit of the
10.23 performance standard, the commissioner may use the finding of a deficiency with regard
10.24 to statutes or rules by an independent audit as the basis for a targeted audit or enforcement
10.25 action.

10.26 (b) If a health plan company has formally delegated activities that are required
10.27 under either state law or contract to another organization that has undergone an audit by
10.28 a nationally recognized independent organization, that health plan company may use
10.29 the nationally recognized accrediting body's determination on its own behalf under this
10.30 section.

10.31 Sec. 2. Minnesota Statutes 2008, section 144A.04, subdivision 11, is amended to read:

10.32 Subd. 11. **Incontinent residents.** Notwithstanding Minnesota Rules, part
10.33 4658.0520, an incontinent resident must be ~~checked according to a specific time interval~~
10.34 ~~written in the resident's~~ treated according to the comprehensive assessment and care plan.

11.1 ~~The resident's attending physician must authorize in writing any interval longer than~~
11.2 ~~two hours unless the resident, if competent, or a family member or legally appointed~~
11.3 ~~conservator, guardian, or health care agent of a resident who is not competent, agrees in~~
11.4 ~~writing to waive physician involvement in determining this interval, and this waiver~~
11.5 ~~is documented in the resident's care plan.~~

11.6 Sec. 3. Minnesota Statutes 2008, section 144A.04, is amended by adding a subdivision
11.7 to read:

11.8 Subd. 12. **Resident positioning.** Notwithstanding Minnesota Rules, part 4658.0525,
11.9 subpart 4, the position of residents unable to change their own position must be changed
11.10 based on the comprehensive assessment and care plan.

11.11 Sec. 4. Minnesota Statutes 2008, section 144A.43, is amended by adding a subdivision
11.12 to read:

11.13 Subd. 5. **Medication reminder.** "Medication reminder" means providing a verbal
11.14 or visual reminder to a client to take medication. This includes bringing the medication
11.15 to the client and providing liquids or nutrition to accompany medication that a client is
11.16 self-administering.

11.17 Sec. 5. Minnesota Statutes 2008, section 144A.45, subdivision 1, is amended to read:

11.18 Subdivision 1. **Rules.** The commissioner shall adopt rules for the regulation of
11.19 home care providers pursuant to sections 144A.43 to 144A.47. The rules shall include
11.20 the following:

11.21 (1) provisions to assure, to the extent possible, the health, safety and well-being, and
11.22 appropriate treatment of persons who receive home care services;

11.23 (2) requirements that home care providers furnish the commissioner with specified
11.24 information necessary to implement sections 144A.43 to 144A.47;

11.25 (3) standards of training of home care provider personnel, which may vary according
11.26 to the nature of the services provided or the health status of the consumer;

11.27 (4) standards for medication management which may vary according to the nature of
11.28 the services provided, the setting in which the services are provided, or the status of the
11.29 consumer. Medication management includes the central storage, handling, distribution,
11.30 and administration of medications;

11.31 (5) standards for supervision of home care services requiring supervision by a
11.32 registered nurse or other appropriate health care professional which must occur on site
11.33 at least every 62 days, or more frequently if indicated by a clinical assessment, and in

12.1 accordance with sections 148.171 to 148.285 and rules adopted thereunder, except that,
12.2 ~~notwithstanding the provisions of Minnesota Rules, part 4668.0110, subpart 5, item B,~~
12.3 ~~supervision of a person performing home care aide tasks for a class B licensee providing~~
12.4 ~~paraprofessional services must occur only every 180 days, or more frequently if indicated~~
12.5 ~~by a clinical assessment~~ does not require nursing supervision;

12.6 (6) standards for client evaluation or assessment which may vary according to the
12.7 nature of the services provided or the status of the consumer;

12.8 (7) requirements for the involvement of a consumer's physician, the documentation
12.9 of physicians' orders, if required, and the consumer's treatment plan, and the maintenance
12.10 of accurate, current clinical records;

12.11 (8) the establishment of different classes of licenses for different types of providers
12.12 and different standards and requirements for different kinds of home care services; and

12.13 (9) operating procedures required to implement the home care bill of rights.

12.14 Sec. 6. Minnesota Statutes 2008, section 144A.45, is amended by adding a subdivision
12.15 to read:

12.16 Subd. 1b. **Home health aide qualifications.** Notwithstanding the provisions of
12.17 Minnesota Rules, part 4668.0100, subpart 5, a person may perform home health aide tasks
12.18 if the person maintains current registration as a nursing assistant on the Minnesota nursing
12.19 assistant registry. Maintaining current registration on the Minnesota nursing assistant
12.20 registry satisfies the documentation requirements of Minnesota Rules, part 4668.0110,
12.21 subpart 3.

12.22 Sec. 7. Minnesota Statutes 2008, section 147C.10, subdivision 2, as amended by Laws
12.23 2009, chapter 142, article 2, section 3, is amended to read:

12.24 Subd. 2. **Other health care practitioners.** (a) Nothing in this chapter shall prohibit
12.25 the practice of any profession or occupation licensed or registered by the state by any
12.26 person duly licensed or registered to practice the profession or occupation or to perform
12.27 any act that falls within the scope of practice of the profession or occupation.

12.28 (b) Nothing in this chapter shall be construed to require a respiratory care license for:

12.29 (1) a student enrolled in a respiratory therapy or polysomnography technology
12.30 education program accredited by the Commission on Accreditation of Allied Health
12.31 Education Programs, its successor organization, or another nationally recognized
12.32 accrediting organization;

12.33 (2) a respiratory therapist as a member of the United States armed forces while
12.34 performing duties incident to that duty;

13.1 (3) an individual employed by a durable medical equipment provider or a home
13.2 medical equipment provider who delivers, sets up, instructs the patient on the use of, or
13.3 maintains respiratory care equipment, but does not perform assessment, education, or
13.4 evaluation of the patient;

13.5 (4) self-care by a patient or gratuitous care by a friend or relative who does not
13.6 purport to be a licensed respiratory therapist; or

13.7 (5) an individual employed in a sleep lab or center as a polysomnographic
13.8 technologist under the supervision of a licensed physician.

13.9 Sec. 8. **[245B.031] ACCREDITATION, ALTERNATIVE INSPECTION, AND**
13.10 **DEEMED COMPLIANCE.**

13.11 **Subdivision 1. Day training and habilitation or supported employment services**
13.12 **programs; alternative inspection status.** (a) A license holder providing day training and
13.13 habilitation services or supported employment services according to this chapter, with a
13.14 three-year accreditation from the Commission on Rehabilitation Facilities, that has had at
13.15 least one on-site inspection by the commissioner following issuance of the initial license,
13.16 may request alternative inspection status under this section.

13.17 (b) The request for alternative inspection status must be made in the manner
13.18 prescribed by the commissioner, and must include:

13.19 (1) a copy of the license holder's application to the Commission on Rehabilitation
13.20 Facilities for accreditation;

13.21 (2) the most recent Commission on Rehabilitation Facilities accreditation survey
13.22 report; and

13.23 (3) the most recent letter confirming the three-year accreditation and approval of the
13.24 license holder's quality improvement plan.

13.25 Based on the request and the accompanying materials, the commissioner may
13.26 approve alternative inspection status.

13.27 (c) Following approval of alternative inspection status, the commissioner may
13.28 terminate the alternative inspection status or deny a subsequent alternative inspection
13.29 status if the commissioner determines that any of the following conditions have occurred
13.30 after approval of the alternative inspection process:

13.31 (1) the license holder has not maintained full three-year accreditation;

13.32 (2) the commissioner has substantiated maltreatment for which the license holder or
13.33 facility is determined to be responsible during the three-year accreditation period; and

14.1 (3) during the three-year accreditation period, the license holder has been issued
14.2 an order for conditional license, a fine, suspension, or license revocation that has not
14.3 been reversed upon appeal.

14.4 (d) The commissioner's decision that the conditions for approval for the alternative
14.5 licensing inspection status have not been met is final and not subject to appeal under the
14.6 provisions of chapter 14.

14.7 Subd. 2. **Programs exempt from certain statutes.** (a) A license holder approved
14.8 for alternative inspection status under this section is exempt from the requirements under:

14.9 (1) section 245B.04;

14.10 (2) section 245B.05, subdivisions 5 and 6;

14.11 (3) section 245B.06, subdivisions 1, 3, 4, 5, and 6; and

14.12 (4) section 245B.07, subdivisions 1, 4, and 6.

14.13 (b) Upon receipt of a complaint regarding a requirement under paragraph (a), the
14.14 commissioner shall refer the complaint to the Commission on Rehabilitation Facilities for
14.15 possible follow-up.

14.16 Subd. 3. **Programs deemed to be in compliance with nonexempt licensing**
14.17 **requirements.** (a) License holders approved for alternative inspection status under this
14.18 section are required to maintain compliance with all licensing standards from which they
14.19 are not exempt under subdivision 2, paragraph (a).

14.20 (b) License holders approved for alternative inspection status under this section shall
14.21 be deemed to be in compliance with all nonexempt statutes, and the commissioner shall
14.22 not perform routine licensing inspections.

14.23 (c) Upon receipt of a complaint regarding the services of a license holder approved
14.24 for alternative inspection under this section that is not related to a licensing requirement
14.25 from which the license holder is exempt under subdivision 2, the commissioner shall
14.26 investigate the complaint and may take any action as provided under section 245A.06 or
14.27 245A.07.

14.28 Subd. 4. **Investigations of alleged maltreatment of minors or vulnerable adults.**
14.29 Nothing in this section changes the commissioner's responsibilities to investigate alleged
14.30 or suspected maltreatment of a minor under section 626.556 or vulnerable adult under
14.31 section 626.557.

14.32 Subd. 5. **Request to Commission on Rehabilitation Facilities to expand**
14.33 **accreditation survey.** The commissioner shall submit a request to the Commission on
14.34 Rehabilitation Facilities to routinely inspect for compliance with standards that are similar
14.35 to the following nonexempt licensing requirements:

- 15.1 (1) section 245A.54;
- 15.2 (2) section 245A.66;
- 15.3 (3) section 245B.05, subdivisions 1, 2, and 7;
- 15.4 (4) section 245B.055;
- 15.5 (5) section 245B.06, subdivisions 2, 7, 9, and 10;
- 15.6 (6) section 245B.07, subdivisions 2, 5, and 8, paragraph (a), clause (7);
- 15.7 (7) section 245C.04, subdivision 1, paragraph (f);
- 15.8 (8) section 245C.07;
- 15.9 (9) section 245C.13, subdivision 2;
- 15.10 (10) section 245C.20; and
- 15.11 (11) Minnesota Rules, parts 9525.2700 to 9525.2810.

15.12 Sec. 9. Minnesota Statutes 2008, section 256.962, subdivision 6, is amended to read:

15.13 Subd. 6. **School districts and charter schools.** (a) At the beginning of each school
15.14 year, a school district or charter school shall provide information to each student on the
15.15 availability of health care coverage through the Minnesota health care programs.

15.16 ~~(b) For each child who is determined to be eligible for the free and reduced-price
15.17 school lunch program, the district shall provide the child's family with information on how
15.18 to obtain an application for the Minnesota health care programs and application assistance.~~

15.19 ~~(c)~~ (e) A school district or charter school shall also ensure that applications and
15.20 information on application assistance are available at early childhood education sites and
15.21 public schools located within the district's jurisdiction.

15.22 ~~(d) Each district shall designate an enrollment specialist to provide application
15.23 assistance and follow-up services with families who have indicated an interest in receiving
15.24 information or an application for the Minnesota health care program. A district is eligible
15.25 for the application assistance bonus described in subdivision 5.~~

15.26 ~~(e) Each~~ (c) If a school district or charter school maintains a district Web site, the
15.27 school district or charter school shall provide on ~~their~~ its Web site a link to information on
15.28 how to obtain an application and application assistance.

15.29 Sec. 10. Minnesota Statutes 2008, section 260B.171, subdivision 3, is amended to read:

15.30 Subd. 3. **Disposition order; copy to school.** (a) If a juvenile is enrolled in school,
15.31 the juvenile's probation officer shall ~~transmit a~~ ensure that either a mailed notice or an
15.32 electronic copy of the court's disposition order be transmitted to the superintendent of the
15.33 juvenile's school district or the chief administrative officer of the juvenile's school if the

16.1 juvenile has been adjudicated delinquent for committing an act on the school's property
16.2 or an act:

16.3 (1) that would be a violation of section 609.185 (first-degree murder); 609.19
16.4 (second-degree murder); 609.195 (third-degree murder); 609.20 (first-degree
16.5 manslaughter); 609.205 (second-degree manslaughter); 609.21 (criminal vehicular
16.6 homicide and injury); 609.221 (first-degree assault); 609.222 (second-degree assault);
16.7 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.224 (fifth-degree
16.8 assault); 609.2242 (domestic assault); 609.24 (simple robbery); 609.245 (aggravated
16.9 robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.342 (first-degree
16.10 criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344
16.11 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct);
16.12 609.3451 (fifth-degree criminal sexual conduct); 609.498 (tampering with a witness);
16.13 609.561 (first-degree arson); 609.582, subdivision 1 or 2 (burglary); 609.713 (terroristic
16.14 threats); or 609.749 (harassment and stalking), if committed by an adult;

16.15 (2) that would be a violation of section 152.021 (first-degree controlled substance
16.16 crime); 152.022 (second-degree controlled substance crime); 152.023 (third-degree
16.17 controlled substance crime); 152.024 (fourth-degree controlled substance crime); 152.025
16.18 (fifth-degree controlled substance crime); 152.0261 (importing a controlled substance);
16.19 152.0262 (possession of substances with intent to manufacture methamphetamine); or
16.20 152.027 (other controlled substance offenses), if committed by an adult; or

16.21 (3) that involved the possession or use of a dangerous weapon as defined in section
16.22 609.02, subdivision 6.

16.23 When a disposition order is transmitted under this subdivision, the probation officer
16.24 shall notify the juvenile's parent or legal guardian that the disposition order has been
16.25 shared with the juvenile's school.

16.26 (b) In addition, the juvenile's probation officer may transmit a copy of the court's
16.27 disposition order to the superintendent of the juvenile's school district or the chief
16.28 administrative officer of the juvenile's school if the juvenile has been adjudicated
16.29 delinquent for offenses not listed in paragraph (a) and placed on probation. The probation
16.30 officer shall notify the superintendent or chief administrative officer when the juvenile is
16.31 discharged from probation.

16.32 (c) The disposition order must be accompanied by a notice to the school that the
16.33 school may obtain additional information from the juvenile's probation officer with the
16.34 consent of the juvenile or the juvenile's parents, as applicable. The disposition order must
16.35 be maintained, shared, or released only as provided in section 121A.75.

17.1 (d) The juvenile's probation officer shall maintain a record of disposition orders
17.2 released under this subdivision and the basis for the release.

17.3 (e) No later than September 1, 2002, the criminal and juvenile justice information
17.4 policy group, in consultation with representatives of probation officers and educators, shall
17.5 prepare standard forms for use by juvenile probation officers in forwarding information
17.6 to schools under this subdivision and in maintaining a record of the information that is
17.7 released. The group shall provide a copy of any forms or procedures developed under this
17.8 paragraph to the legislature by January 15, 2003.

17.9 (f) As used in this subdivision, "school" means a charter school or a school as
17.10 defined in section 120A.22, subdivision 4, except a home school.

17.11 Sec. 11. Minnesota Statutes 2008, section 471.61, subdivision 1, is amended to read:

17.12 Subdivision 1. **Officers, employees.** A county, municipal corporation, town, school
17.13 district, county extension committee, other political subdivision or other body corporate
17.14 and politic of this state, other than the state or any department of the state, through its
17.15 governing body, and any two or more subdivisions acting jointly through their governing
17.16 bodies, may insure or protect its or their officers and employees, and their dependents, or
17.17 any class or classes of officers, employees, or dependents, under a policy or policies or
17.18 contract or contracts of group insurance or benefits covering life, health, and accident, in
17.19 the case of employees, and medical and surgical benefits and hospitalization insurance
17.20 or benefits for both employees and dependents or dependents of an employee whose
17.21 death was due to causes arising out of and in the course of employment, or any one or
17.22 more of those forms of insurance or protection. A governmental unit, including county
17.23 extension committees and those paying their employees, may pay all or any part of
17.24 the premiums or charges on the insurance or protection. A payment is deemed to be
17.25 additional compensation paid to the officers or employees, but for purposes of determining
17.26 contributions or benefits under a public pension or retirement system it is not deemed
17.27 to be additional compensation. One or more governmental units may determine that
17.28 a person is an officer or employee if the person receives income from the governmental
17.29 subdivisions without regard to the manner of election or appointment, including but not
17.30 limited to employees of county historical societies that receive funding from the county
17.31 and employees of the Minnesota Inter-county Association. The appropriate officer of
17.32 the governmental unit, or those disbursing county extension funds, shall deduct from
17.33 the salary or wages of each officer and employee who elects to become insured or so
17.34 protected, on the officer's or employee's written order, all or part of the officer's or

18.1 employee's share of premiums or charges and remit the share or portion to the insurer or
18.2 company issuing the policy or contract.

18.3 A governmental unit, other than a school district, that pays all or part of the premiums
18.4 or charges is authorized to levy and collect a tax, if necessary, in the next annual tax levy
18.5 for the purpose of providing the necessary money for the payment of the premiums or
18.6 charges, and the sums levied and appropriated are not, in the event the sum exceeds the
18.7 maximum sum allowed by the charter of a municipal corporation, considered part of
18.8 the cost of government of the governmental unit as defined in any levy or expenditure
18.9 limitation; provided at least 50 percent of the cost of benefits on dependents must be
18.10 contributed by the employee or be paid by levies within existing charter tax limitations.

18.11 The word "dependents" as used in this subdivision means spouse and minor
18.12 unmarried children under the age of 18 years actually dependent upon the employee.

18.13 Notwithstanding any law to the contrary, a political subdivision described in this
18.14 subdivision may provide health benefits to its employees, dependents, and any class
18.15 or classes of officers, employers, or dependents through negotiated contributions to
18.16 self-funded multiemployer health and welfare funds.

18.17 **EFFECTIVE DATE.** This section is effective the day following final enactment;
18.18 applies to contributions made before, on, or after that date; and is intended as a clarification
18.19 of existing law.

18.20 Sec. 12. **REPEALER.**

18.21 Minnesota Rules, part 4668.0110, subpart 5, is repealed."

18.22 Delete the title and insert:

18.23 "A bill for an act

18.24 relating to local government; relieving counties of certain health and human
18.25 services mandates; making changes to residential treatment facilities; county
18.26 payment of cremation, burial, and funeral expenses; child welfare provisions;
18.27 health plan audits; nursing facilities; home health aides; inspections of day
18.28 training and habilitation facilities; changing certain health care provisions
18.29 relating to school districts, charter schools, and local governments; amending
18.30 Minnesota Statutes 2008, sections 62Q.37, subdivision 3; 144A.04, subdivision
18.31 11, by adding a subdivision; 144A.43, by adding a subdivision; 144A.45,
18.32 subdivision 1, by adding a subdivision; 147C.10, subdivision 2, as amended;
18.33 245.4882, subdivision 1; 245.4885, subdivisions 1, 1a; 256.935, subdivision 1;
18.34 256.962, subdivision 6; 256B.0945, subdivisions 1, 4; 256F.13, subdivision
18.35 1; 260B.171, subdivision 3; 260C.212, subdivisions 4a, 11; 261.035; 471.61,
18.36 subdivision 1; proposing coding for new law in Minnesota Statutes, chapter
18.37 245B; repealing Minnesota Rules, part 4668.0110, subpart 5."

19.1 We request the adoption of this report and repassage of the bill.

19.2 House Conferees: (Signed)

19.3

19.4 Kim Norton

.....

Patti Fritz

19.5

19.6 Matt Dean

19.7 Senate Conferees: (Signed)

19.8

19.9 Ann Lynch

.....

Ann H. Rest

19.10

19.11 David Hann