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State of Minnesota
HOUSE OF REPRESENTATIVES
First Division Engrossment

NINETY-SECOND SESSION

H. F. No. 1299

02/18/2021 Authored by Frederick
The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

Division Action

02/19/2021 *Referred by Chair to the Behavioral Health Policy Division*
03/17/2021 *Returned to the Committee on Human Services Finance and Policy as Amended*

- 1.1 A bill for an act
- 1.2 relating to human services; repealing chemical dependency treatment administrative
- 1.3 rule provisions; requiring applicants to notify local human services agency of intent
- 1.4 to open new treatment program; amending Minnesota Statutes 2020, sections
- 1.5 245A.043, subdivision 3; 245F.04, subdivision 2; 245G.03, subdivision 2; repealing
- 1.6 Minnesota Rules, parts 9530.6800; 9530.6810.
- 1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.8 Section 1. Minnesota Statutes 2020, section 245A.043, subdivision 3, is amended to read:
- 1.9 Subd. 3. **Change of ownership process.** (a) When a change in ownership is proposed
- 1.10 and the party intends to assume operation without an interruption in service longer than 60
- 1.11 days after acquiring the program or service, the license holder must provide the commissioner
- 1.12 with written notice of the proposed change on a form provided by the commissioner at least
- 1.13 60 days before the anticipated date of the change in ownership. For purposes of this
- 1.14 subdivision and subdivision 4, "party" means the party that intends to operate the service
- 1.15 or program.
- 1.16 (b) The party must submit a license application under this chapter on the form and in
- 1.17 the manner prescribed by the commissioner at least 30 days before the change in ownership
- 1.18 is complete, and must include documentation to support the upcoming change. The party
- 1.19 must comply with background study requirements under chapter 245C and shall pay the
- 1.20 application fee required under section 245A.10. ~~A party that intends to assume operation~~
- 1.21 ~~without an interruption in service longer than 60 days after acquiring the program or service~~
- 1.22 ~~is exempt from the requirements of Minnesota Rules, part 9530.6800.~~
- 1.23 (c) The commissioner may streamline application procedures when the party is an existing
- 1.24 license holder under this chapter and is acquiring a program licensed under this chapter or

2.1 service in the same service class as one or more licensed programs or services the party
2.2 operates and those licenses are in substantial compliance. For purposes of this subdivision,
2.3 "substantial compliance" means within the previous 12 months the commissioner did not
2.4 (1) issue a sanction under section 245A.07 against a license held by the party, or (2) make
2.5 a license held by the party conditional according to section 245A.06.

2.6 (d) Except when a temporary change in ownership license is issued pursuant to
2.7 subdivision 4, the existing license holder is solely responsible for operating the program
2.8 according to applicable laws and rules until a license under this chapter is issued to the
2.9 party.

2.10 (e) If a licensing inspection of the program or service was conducted within the previous
2.11 12 months and the existing license holder's license record demonstrates substantial
2.12 compliance with the applicable licensing requirements, the commissioner may waive the
2.13 party's inspection required by section 245A.04, subdivision 4. The party must submit to the
2.14 commissioner (1) proof that the premises was inspected by a fire marshal or that the fire
2.15 marshal deemed that an inspection was not warranted, and (2) proof that the premises was
2.16 inspected for compliance with the building code or that no inspection was deemed warranted.

2.17 (f) If the party is seeking a license for a program or service that has an outstanding action
2.18 under section 245A.06 or 245A.07, the party must submit a letter as part of the application
2.19 process identifying how the party has or will come into full compliance with the licensing
2.20 requirements.

2.21 (g) The commissioner shall evaluate the party's application according to section 245A.04,
2.22 subdivision 6. If the commissioner determines that the party has remedied or demonstrates
2.23 the ability to remedy the outstanding actions under section 245A.06 or 245A.07 and has
2.24 determined that the program otherwise complies with all applicable laws and rules, the
2.25 commissioner shall issue a license or conditional license under this chapter. The conditional
2.26 license remains in effect until the commissioner determines that the grounds for the action
2.27 are corrected or no longer exist.

2.28 (h) The commissioner may deny an application as provided in section 245A.05. An
2.29 applicant whose application was denied by the commissioner may appeal the denial according
2.30 to section 245A.05.

2.31 (i) This subdivision does not apply to a licensed program or service located in a home
2.32 where the license holder resides.

3.1 Sec. 2. Minnesota Statutes 2020, section 245F.04, subdivision 2, is amended to read:

3.2 Subd. 2. **Contents of application.** Prior to the issuance of a license, an applicant must
3.3 submit, on forms provided by the commissioner, documentation demonstrating the following:

3.4 (1) compliance with this section;

3.5 (2) compliance with applicable building, fire, and safety codes; health rules; zoning
3.6 ordinances; and other applicable rules and regulations or documentation that a waiver has
3.7 been granted. The granting of a waiver does not constitute modification of any requirement
3.8 of this section; and

3.9 ~~(3) completion of an assessment of need for a new or expanded program as required by~~
3.10 ~~Minnesota Rules, part 9530.6800; and~~

3.11 ~~(4)~~ insurance coverage, including bonding, sufficient to cover all patient funds, property,
3.12 and interests.

3.13 Sec. 3. Minnesota Statutes 2020, section 245G.03, subdivision 2, is amended to read:

3.14 Subd. 2. **Application.** (a) Before the commissioner issues a license, an applicant must
3.15 submit, on forms provided by the commissioner, any documents the commissioner requires.

3.16 (b) At least 60 days prior to submitting an application for licensure under this chapter,
3.17 the applicant must notify the county human services director in writing of its intent to open
3.18 a new treatment program.

3.19 Sec. 4. **REPEALER.**

3.20 Minnesota Rules, parts 9530.6800; and 9530.6810, are repealed.

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

9530.6800 ASSESSMENT OF NEED FOR TREATMENT PROGRAMS.

Subpart 1. **Assessment of need required for licensure.** Before a license or a provisional license may be issued, the need for the chemical dependency treatment or rehabilitation program must be determined by the commissioner. Need for an additional or expanded chemical dependency treatment program must be determined, in part, based on the recommendation of the county board of commissioners of the county in which the program will be located and the documentation submitted by the applicant at the time of application.

If the county board fails to submit a statement to the commissioner within 60 days of the county board's receipt of the written request from an applicant, as required under part 9530.6810, the commissioner shall determine the need for the applicant's proposed chemical dependency treatment program based on the documentation submitted by the applicant at the time of application.

Subp. 2. **Documentation of need requirements.** An applicant for licensure under parts 9530.2500 to 9530.4000 and Minnesota Statutes, chapter 245G, must submit the documentation in items A and B to the commissioner with the application for licensure:

A. The applicant must submit documentation that it has requested the county board of commissioners of the county in which the chemical dependency treatment program will be located to submit to the commissioner both a written statement that supports or does not support the need for the program and documentation of the rationale used by the county board to make its determination.

B. The applicant must submit a plan for attracting an adequate number of clients to maintain its proposed program capacity, including:

- (1) a description of the geographic area to be served;
- (2) a description of the target population to be served;
- (3) documentation that the capacity or program designs of existing programs are not sufficient to meet the service needs of the chemically abusing or chemically dependent target population if that information is available to the applicant;
- (4) a list of referral sources, with an estimation as to the number of clients the referral source will refer to the applicant's program in the first year of operation; and
- (5) any other information available to the applicant that supports the need for new or expanded chemical dependency treatment capacity.

9530.6810 COUNTY BOARD RESPONSIBILITY TO REVIEW PROGRAM NEED.

When an applicant for licensure under parts 9530.2500 to 9530.4000 or Minnesota Statutes, chapter 245G, requests a written statement of support for a proposed chemical dependency treatment program from the county board of commissioners of the county in which the proposed program is to be located, the county board, or the county board's designated representative, shall submit a statement to the commissioner that either supports or does not support the need for the applicant's program. The county board's statement must be submitted in accordance with items A and B:

A. the statement must be submitted within 60 days of the county board's receipt of a written request from the applicant for licensure; and

B. the statement must include the rationale used by the county board to make its determination.