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State of Minnesota  
**HOUSE OF REPRESENTATIVES**  
NINETIETH SESSION

**H. F. No. 1508**

02/20/2017 Authored by Lucero, Franson, Gruenhagen, McDonald, Lohmer and others  
The bill was read for the first time and referred to the Committee on Health and Human Services Reform  
03/08/2017 Adoption of Report: Amended and re-referred to the Committee on Civil Law and Data Practices Policy  
03/15/2017 Adoption of Report: Re-referred to the Committee on Health and Human Services Finance

1.1 A bill for an act  
1.2 relating to human services; modifying certain provisions governing child care  
1.3 licensing; requiring reports; amending Minnesota Statutes 2016, sections 13.46,  
1.4 subdivision 4; 65A.30, subdivision 2; 245A.02, subdivision 2b; 245A.06,  
1.5 subdivisions 2, 8; 245A.07, subdivision 5; 256.01, subdivision 2; proposing coding  
1.6 for new law in Minnesota Statutes, chapter 245A.

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

1.8 Section 1. Minnesota Statutes 2016, section 13.46, subdivision 4, is amended to read:

1.9 Subd. 4. **Licensing data.** (a) As used in this subdivision:

1.10 (1) "licensing data" are all data collected, maintained, used, or disseminated by the  
1.11 welfare system pertaining to persons licensed or registered or who apply for licensure or  
1.12 registration or who formerly were licensed or registered under the authority of the  
1.13 commissioner of human services;

1.14 (2) "client" means a person who is receiving services from a licensee or from an applicant  
1.15 for licensure; and

1.16 (3) "personal and personal financial data" are Social Security numbers, identity of and  
1.17 letters of reference, insurance information, reports from the Bureau of Criminal  
1.18 Apprehension, health examination reports, and social/home studies.

1.19 (b)(1)(i) Except as provided in paragraph (c), the following data on applicants, license  
1.20 holders, and former licensees are public: name, address, telephone number of licensees,  
1.21 date of receipt of a completed application, dates of licensure, licensed capacity, type of  
1.22 client preferred, variances granted, record of training and education in child care and child  
1.23 development, type of dwelling, name and relationship of other family members, previous

2.1 license history, class of license, the existence and status of complaints, and the number of  
2.2 serious injuries to or deaths of individuals in the licensed program as reported to the  
2.3 commissioner of human services, the local social services agency, or any other county  
2.4 welfare agency. For purposes of this clause, a serious injury is one that ~~is treated~~ requires  
2.5 treatment by a physician.

2.6 (ii) Except as provided in clause (6), when a correction order, an order to forfeit a fine,  
2.7 an order of license suspension, an order of temporary immediate suspension, an order of  
2.8 license revocation, an order of license denial, or an order of conditional license has been  
2.9 issued, or a complaint is resolved, the following data on current and former licensees and  
2.10 applicants are public: the general nature of the complaint or allegations leading to the  
2.11 temporary immediate suspension; the substance and investigative findings of the licensing  
2.12 or maltreatment complaint, licensing violation, or substantiated maltreatment; the existence  
2.13 of settlement negotiations; the record of informal resolution of a licensing violation; orders  
2.14 of hearing; findings of fact; conclusions of law; specifications of the final correction order,  
2.15 fine, suspension, temporary immediate suspension, revocation, denial, or conditional license  
2.16 contained in the record of licensing action; whether a fine has been paid; and the status of  
2.17 any appeal of these actions.

2.18 (iii) When a license denial under section 245A.05 or a sanction under section 245A.07  
2.19 is based on a determination that a license holder, applicant, or controlling individual is  
2.20 responsible for maltreatment under section 626.556 or 626.557, the identity of the applicant,  
2.21 license holder, or controlling individual as the individual responsible for maltreatment is  
2.22 public data at the time of the issuance of the license denial or sanction.

2.23 (iv) When a license denial under section 245A.05 or a sanction under section 245A.07  
2.24 is based on a determination that a license holder, applicant, or controlling individual is  
2.25 disqualified under chapter 245C, the identity of the license holder, applicant, or controlling  
2.26 individual as the disqualified individual and the reason for the disqualification are public  
2.27 data at the time of the issuance of the licensing sanction or denial. If the applicant, license  
2.28 holder, or controlling individual requests reconsideration of the disqualification and the  
2.29 disqualification is affirmed, the reason for the disqualification and the reason to not set aside  
2.30 the disqualification are public data.

2.31 (2) For applicants who withdraw their application prior to licensure or denial of a license,  
2.32 the following data are public: the name of the applicant, the city and county in which the  
2.33 applicant was seeking licensure, the dates of the commissioner's receipt of the initial  
2.34 application and completed application, the type of license sought, and the date of withdrawal  
2.35 of the application.

3.1 (3) Except as provided in clause (6), for applicants who are denied a license, the following  
3.2 data are public: the name and address of the applicant, the city and county in which the  
3.3 applicant was seeking licensure, the dates of the commissioner's receipt of the initial  
3.4 application and completed application, the type of license sought, the date of denial of the  
3.5 application, the nature of the basis for the denial, the existence of settlement negotiations,  
3.6 the record of informal resolution of a denial, orders of hearings, findings of fact, conclusions  
3.7 of law, specifications of the final order of denial, and the status of any appeal of the denial.

3.8 (4) When maltreatment is substantiated under section 626.556 or 626.557 and the victim  
3.9 and the substantiated perpetrator are affiliated with a program licensed under chapter 245A,  
3.10 the commissioner of human services, local social services agency, or county welfare agency  
3.11 may inform the license holder where the maltreatment occurred of the identity of the  
3.12 substantiated perpetrator and the victim.

3.13 (5) Notwithstanding clause (1), for child foster care, only the name of the license holder  
3.14 and the status of the license are public if the county attorney has requested that data otherwise  
3.15 classified as public data under clause (1) be considered private data based on the best interests  
3.16 of a child in placement in a licensed program.

3.17 (6)(i) This clause applies to providers of family day care or group family day care as  
3.18 defined in Minnesota Rules, part 9502.0315.

3.19 (ii) If an order listed in clause (1), item (ii), or an order of denial listed in clause (3) is  
3.20 issued, data listed in clauses (1), item (ii), and (3), are private data on individuals or nonpublic  
3.21 data until a final decision, final order, or resolution is issued and time for appeal expires.

3.22 (iii) If an order listed in clause (1), item (ii), or an order of denial listed in clause (3) was  
3.23 resolved in favor of the current or former licensees or applicants, the data listed in clauses  
3.24 (1), item (ii), and (3), are private data on individuals or nonpublic data.

3.25 (iv) If an order listed in clause (1), item (ii), or an order of denial listed in clause (3) is  
3.26 partially resolved in favor of the current or former licensees or applicants, data listed in  
3.27 clause (1), item (ii), or (3) that is related to the portion of the order that was resolved in  
3.28 favor of the current or former licensees or applicants are private data on individuals and  
3.29 nonpublic data.

3.30 (c) The following are private data on individuals under section 13.02, subdivision 12,  
3.31 or nonpublic data under section 13.02, subdivision 9: personal and personal financial data  
3.32 on family day care program and family foster care program applicants and licensees and  
3.33 their family members who provide services under the license.

4.1 (d) The following are private data on individuals: the identity of persons who have made  
4.2 reports concerning licensees or applicants that appear in inactive investigative data, and the  
4.3 records of clients or employees of the licensee or applicant for licensure whose records are  
4.4 received by the licensing agency for purposes of review or in anticipation of a contested  
4.5 matter. The names of reporters of complaints or alleged violations of licensing standards  
4.6 under chapters 245A, 245B, 245C, and 245D, and applicable rules and alleged maltreatment  
4.7 under sections 626.556 and 626.557, are confidential data and may be disclosed only as  
4.8 provided in section 626.556, subdivision 11, or 626.557, subdivision 12b.

4.9 (e) Data classified as private, confidential, nonpublic, or protected nonpublic under this  
4.10 subdivision become public data if submitted to a court or administrative law judge as part  
4.11 of a disciplinary proceeding in which there is a public hearing concerning a license which  
4.12 has been suspended, immediately suspended, revoked, or denied.

4.13 (f) Data generated in the course of licensing investigations that relate to an alleged  
4.14 violation of law are investigative data under subdivision 3.

4.15 (g) Data that are not public data collected, maintained, used, or disseminated under this  
4.16 subdivision that relate to or are derived from a report as defined in section 626.556,  
4.17 subdivision 2, or 626.5572, subdivision 18, are subject to the destruction provisions of  
4.18 sections 626.556, subdivision 11c, and 626.557, subdivision 12b.

4.19 (h) Upon request, not public data collected, maintained, used, or disseminated under  
4.20 this subdivision that relate to or are derived from a report of substantiated maltreatment as  
4.21 defined in section 626.556 or 626.557 may be exchanged with the Department of Health  
4.22 for purposes of completing background studies pursuant to section 144.057 and with the  
4.23 Department of Corrections for purposes of completing background studies pursuant to  
4.24 section 241.021.

4.25 (i) Data on individuals collected according to licensing activities under chapters 245A  
4.26 and 245C, data on individuals collected by the commissioner of human services according  
4.27 to investigations under chapters 245A, 245B, 245C, and 245D, and sections 626.556 and  
4.28 626.557 may be shared with the Department of Human Rights, the Department of Health,  
4.29 the Department of Corrections, the ombudsman for mental health and developmental  
4.30 disabilities, and the individual's professional regulatory board when there is reason to believe  
4.31 that laws or standards under the jurisdiction of those agencies may have been violated or  
4.32 the information may otherwise be relevant to the board's regulatory jurisdiction. Background  
4.33 study data on an individual who is the subject of a background study under chapter 245C  
4.34 for a licensed service for which the commissioner of human services is the license holder

5.1 may be shared with the commissioner and the commissioner's delegate by the licensing  
5.2 division. Unless otherwise specified in this chapter, the identity of a reporter of alleged  
5.3 maltreatment or licensing violations may not be disclosed.

5.4 (j) In addition to the notice of determinations required under section 626.556, subdivision  
5.5 10f, if the commissioner or the local social services agency has determined that an individual  
5.6 is a substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined  
5.7 in section 626.556, subdivision 2, and the commissioner or local social services agency  
5.8 knows that the individual is a person responsible for a child's care in another facility, the  
5.9 commissioner or local social services agency shall notify the head of that facility of this  
5.10 determination. The notification must include an explanation of the individual's available  
5.11 appeal rights and the status of any appeal. If a notice is given under this paragraph, the  
5.12 government entity making the notification shall provide a copy of the notice to the individual  
5.13 who is the subject of the notice.

5.14 (k) All not public data collected, maintained, used, or disseminated under this subdivision  
5.15 and subdivision 3 may be exchanged between the Department of Human Services, Licensing  
5.16 Division, and the Department of Corrections for purposes of regulating services for which  
5.17 the Department of Human Services and the Department of Corrections have regulatory  
5.18 authority.

5.19 Sec. 2. Minnesota Statutes 2016, section 65A.30, subdivision 2, is amended to read:

5.20 Subd. 2. **Prohibited underwriting practices.** No insurer shall refuse to renew, or decline  
5.21 to offer or write, homeowner's insurance coverage solely because the property to be covered  
5.22 houses day care services ~~for five or fewer children~~. An insurer may require the purchase of  
5.23 an additional liability or insurance rider as a condition of coverage.

5.24 Sec. 3. Minnesota Statutes 2016, section 245A.02, subdivision 2b, is amended to read:

5.25 Subd. 2b. **Annual or annually.** (a) With the exception of paragraph (b), "annual" or  
5.26 "annually" means prior to or within the same month of the subsequent calendar year.

5.27 (b) For the purposes of section 245A.50, subdivisions 1 to 9, "annual" or "annually"  
5.28 means during a licensing term, beginning with the effective date and ending the day before  
5.29 the annual anniversary or expiration.

5.30 Sec. 4. **[245A.055] NOTIFICATION TO PROVIDER.**

5.31 (a) If the county employee responsible for family child care and group family child care  
5.32 licensing conducts a licensing inspection or conducts a home visit, the employee must

6.1 provide, before departure from the residence or facility, a written or electronic notification  
6.2 to the licensee of any potential licensing violations noted. The notification must include the  
6.3 condition that constitutes the violation, the action that must be taken to correct the violation,  
6.4 and the time allowed to correct the violation. The commissioner shall only issue a licensing  
6.5 violation for a potential licensing violation included in the notification.

6.6 (b) Providing this notification to the licensee does not relieve the county employee from  
6.7 notifying the commissioner of the violation as required by statute and rule.

6.8 Sec. 5. Minnesota Statutes 2016, section 245A.06, subdivision 2, is amended to read:

6.9 Subd. 2. **Reconsideration of correction orders.** (a) If the applicant or license holder  
6.10 believes that the contents of the commissioner's correction order are in error, the applicant  
6.11 or license holder may ask the Department of Human Services to reconsider the parts of the  
6.12 correction order that are alleged to be in error. The request for reconsideration must be made  
6.13 in writing and must be postmarked and sent to the commissioner within 20 calendar days  
6.14 after receipt of the correction order by the applicant or license holder, and:

6.15 (1) specify the parts of the correction order that are alleged to be in error;

6.16 (2) explain why they are in error; and

6.17 (3) include documentation to support the allegation of error.

6.18 (b) A request for reconsideration ~~does not stay~~ stays any provisions or requirements of  
6.19 the correction order pending the outcome of the appeal, including any requirement to post  
6.20 a correction order. The commissioner's disposition of a request for reconsideration is ~~final~~  
6.21 ~~and not~~ subject to appeal under chapter 14.

6.22 (c) By January 1, 2018, and each year thereafter, the Department of Human Services  
6.23 must report data to the chairs and ranking minority members of the legislative committees  
6.24 with jurisdiction over human services policy from the previous year that includes:

6.25 (1) the number of licensed family child care provider appeals of correction orders to the  
6.26 Department of Human Services;

6.27 (2) the number of correction order appeals by family child care providers that the  
6.28 Department of Human Services grants; and

6.29 (3) the number of correction order appeals that the Department of Human Services  
6.30 denies.

7.1 Sec. 6. Minnesota Statutes 2016, section 245A.06, subdivision 8, is amended to read:

7.2 Subd. 8. **Requirement to post correction order.** (a) Except as provided in paragraph  
7.3 (b), for licensed family child care providers and child care centers, upon receipt of any  
7.4 correction order or order of conditional license issued by the commissioner under this  
7.5 section, and notwithstanding a pending request for reconsideration of the correction order  
7.6 or order of conditional license by the license holder, the license holder shall post the  
7.7 correction order or order of conditional license in a place that is conspicuous to the people  
7.8 receiving services and all visitors to the facility for two years. When the correction order  
7.9 or order of conditional license is accompanied by a maltreatment investigation memorandum  
7.10 prepared under section 626.556 or 626.557, the investigation memoranda must be posted  
7.11 with the correction order or order of conditional license.

7.12 (b) For licensed family day care or group family day care as defined in Minnesota Rules,  
7.13 part 9502.0315, if an order listed in section 13.46, subdivision 4, paragraph (b), clause (1),  
7.14 item (ii), or an order of denial listed in section 13.46, subdivision 4, paragraph (b), clause  
7.15 (3), is issued, the provider shall not post the order or order of denial until a final decision,  
7.16 final order, or resolution is issued and time for appeal expires. If the order listed in section  
7.17 13.46, subdivision 4, paragraph (b), clause (1), item (ii), or an order of denial listed in section  
7.18 13.46, subdivision 4, paragraph (b), clause (3), is resolved in favor of the current or former  
7.19 licensees or applicants, the provider shall not post the order or order of denial.

7.20 Sec. 7. Minnesota Statutes 2016, section 245A.07, subdivision 5, is amended to read:

7.21 Subd. 5. **Requirement to post licensing order or fine.** (a) Except as provided in  
7.22 paragraph (b), for licensed family child care providers and child care centers, upon receipt  
7.23 of any order of license suspension, temporary immediate suspension, fine, or revocation  
7.24 issued by the commissioner under this section, and notwithstanding a pending appeal of the  
7.25 order of license suspension, temporary immediate suspension, fine, or revocation by the  
7.26 license holder, the license holder shall post the order of license suspension, temporary  
7.27 immediate suspension, fine, or revocation in a place that is conspicuous to the people  
7.28 receiving services and all visitors to the facility for two years. When the order of license  
7.29 suspension, temporary immediate suspension, fine, or revocation is accompanied by a  
7.30 maltreatment investigation memorandum prepared under section 626.556 or 626.557, the  
7.31 investigation memoranda must be posted with the order of license suspension, temporary  
7.32 immediate suspension, fine, or revocation.

7.33 (b) For licensed family day care or group family day care as defined in Minnesota Rules,  
7.34 part 9502.0315, if an order listed in section 13.46, subdivision 4, paragraph (b), clause (1),

8.1 item (ii), or an order of denial listed in section 13.46, subdivision 4, paragraph (b), clause  
8.2 (3), is issued, the provider shall not post the order or order of denial until a final decision,  
8.3 final order, or resolution is issued and time for appeal expires. If the order listed in section  
8.4 13.46, subdivision 4, paragraph (b), clause (1), item (ii), or an order of denial listed in section  
8.5 13.46, subdivision 4, paragraph (b), clause (3), is resolved in favor of the current or former  
8.6 licensees or applicants, the provider shall not post the order or order of denial.

8.7 **Sec. 8. [245A.55] TRAINING AND CERTIFICATION FOR COUNTY LICENSING**  
8.8 **STAFF ON FAMILY CHILD CARE AND GROUP FAMILY CHILD CARE**  
8.9 **REQUIREMENTS.**

8.10 (a) The commissioner must issue state certification and provide certification training  
8.11 for county-designated family child care licensors responsible for supervising family child  
8.12 care homes licensed under chapter 245A and Minnesota Rules, chapter 9502.

8.13 (b) Within the first two months of employment and before providing oversight and  
8.14 inspection of license holders, county staff who license and inspect family child care and  
8.15 group family child care programs must receive state certification and complete at least eight  
8.16 hours of training on statutes, rules, and department policies related to the licensing and  
8.17 regulation of family child care and group family child care programs. The department must  
8.18 develop the training curriculum to ensure that all county staff who perform licensing and  
8.19 inspection functions receive uniform training. Training must include the following:

8.20 (1) explicit instructions that county staff who license and perform inspections must apply  
8.21 only statutes, rules, and department policies in the performance of staff's duties. Training  
8.22 must reinforce that county staff are prohibited from imposing standards or requirements  
8.23 that are not imposed by statute, rule, or department policy;

8.24 (2) the rights of license holders, including license holders' grievance and appeal rights.  
8.25 Training must include information on the responsibility of the county staff to inform license  
8.26 holders of the license holders' rights, including grievance and appeal rights; and

8.27 (3) the procedure for county staff to seek clarification from the department before issuing  
8.28 a correction order or other notice of violation to a license holder if there is a dispute between  
8.29 the license holder and the county licensor regarding the applicability of a statute or rule to  
8.30 the alleged violation.

8.31 (c) To ensure consistency among all licensing staff, the commissioner must develop a  
8.32 procedure by which the department implements increased training and oversight of county  
8.33 staff who perform licensing functions related to family child care licensing. This procedure

9.1 must ensure that the commissioner conducts at least biennial reviews of county licensing  
9.2 performance.

9.3 (d) Each calendar year, county agency staff who license and regulate family child care  
9.4 providers and group family child care providers and the providers' supervisors must receive  
9.5 notice from the commissioner on new laws enacted or adopted in the previous 12-month  
9.6 period relating to family child care providers and group family child care providers. The  
9.7 commissioner shall provide the notices each year to include information on new laws and  
9.8 disseminate the notices to county agencies and family child care license holders.

9.9 (e) The commissioner is responsible for revoking certification of county child care  
9.10 licensors in the following circumstances:

9.11 (1) any activity that results in criminal charges or a conviction that would result in a  
9.12 background study disqualification of individuals serving Department of Human Services  
9.13 licensed programs;

9.14 (2) the refusal of licensor to follow proper protocol, including but not limited to: refusal  
9.15 to seek clarification on rules and statutes if a dispute arises and attempting to implement or  
9.16 enforce additional rules or statutes beyond what is required by state law; and

9.17 (3) a preponderance of evidence that a licensor engaged in unethical or improper behavior  
9.18 toward a license holder, including harassment, stalking, or violating the rights of a license  
9.19 holder.

9.20 Sec. 9. Minnesota Statutes 2016, section 256.01, subdivision 2, is amended to read:

9.21 Subd. 2. **Specific powers.** Subject to the provisions of section 241.021, subdivision 2,  
9.22 the commissioner of human services shall carry out the specific duties in paragraphs (a)  
9.23 through (bb):

9.24 (a) Administer and supervise all forms of public assistance provided for by state law  
9.25 and other welfare activities or services as are vested in the commissioner. Administration  
9.26 and supervision of human services activities or services includes, but is not limited to,  
9.27 assuring timely and accurate distribution of benefits, completeness of service, and quality  
9.28 program management. In addition to administering and supervising human services activities  
9.29 vested by law in the department, the commissioner shall have the authority to:

9.30 (1) require county agency participation in training and technical assistance programs to  
9.31 promote compliance with statutes, rules, federal laws, regulations, and policies governing  
9.32 human services;

10.1 (2) monitor, on an ongoing basis, the performance of county agencies in the operation  
10.2 and administration of human services, enforce compliance with statutes, rules, federal laws,  
10.3 regulations, and policies governing welfare services and promote excellence of administration  
10.4 and program operation;

10.5 (3) develop a quality control program or other monitoring program to review county  
10.6 performance and accuracy of benefit determinations;

10.7 (4) require county agencies to make an adjustment to the public assistance benefits issued  
10.8 to any individual consistent with federal law and regulation and state law and rule and to  
10.9 issue or recover benefits as appropriate;

10.10 (5) delay or deny payment of all or part of the state and federal share of benefits and  
10.11 administrative reimbursement according to the procedures set forth in section 256.017;

10.12 (6) make contracts with and grants to public and private agencies and organizations,  
10.13 both profit and nonprofit, and individuals, using appropriated funds; and

10.14 (7) enter into contractual agreements with federally recognized Indian tribes with a  
10.15 reservation in Minnesota to the extent necessary for the tribe to operate a federally approved  
10.16 family assistance program or any other program under the supervision of the commissioner.  
10.17 The commissioner shall consult with the affected county or counties in the contractual  
10.18 agreement negotiations, if the county or counties wish to be included, in order to avoid the  
10.19 duplication of county and tribal assistance program services. The commissioner may establish  
10.20 necessary accounts for the purposes of receiving and disbursing funds as necessary for the  
10.21 operation of the programs.

10.22 (b) Inform county agencies and affected license holders, on a timely basis, of changes  
10.23 in statute, rule, federal law, regulation, and policy necessary to county agency administration  
10.24 of the programs. Notification may be completed using electronic means. The commissioner  
10.25 must make notice of changes in statute available to the public online.

10.26 (c) Administer and supervise all child welfare activities; promote the enforcement of  
10.27 laws protecting disabled, dependent, neglected and delinquent children, and children born  
10.28 to mothers who were not married to the children's fathers at the times of the conception nor  
10.29 at the births of the children; license and supervise child-caring and child-placing agencies  
10.30 and institutions; supervise the care of children in boarding and foster homes or in private  
10.31 institutions; and generally perform all functions relating to the field of child welfare now  
10.32 vested in the State Board of Control.

11.1 (d) Administer and supervise all noninstitutional service to persons with disabilities,  
11.2 including persons who have vision impairments, and persons who are deaf, deafblind, and  
11.3 hard-of-hearing or with other disabilities. The commissioner may provide and contract for  
11.4 the care and treatment of qualified indigent children in facilities other than those located  
11.5 and available at state hospitals when it is not feasible to provide the service in state hospitals.

11.6 (e) Assist and actively cooperate with other departments, agencies and institutions, local,  
11.7 state, and federal, by performing services in conformity with the purposes of Laws 1939,  
11.8 chapter 431.

11.9 (f) Act as the agent of and cooperate with the federal government in matters of mutual  
11.10 concern relative to and in conformity with the provisions of Laws 1939, chapter 431,  
11.11 including the administration of any federal funds granted to the state to aid in the performance  
11.12 of any functions of the commissioner as specified in Laws 1939, chapter 431, and including  
11.13 the promulgation of rules making uniformly available medical care benefits to all recipients  
11.14 of public assistance, at such times as the federal government increases its participation in  
11.15 assistance expenditures for medical care to recipients of public assistance, the cost thereof  
11.16 to be borne in the same proportion as are grants of aid to said recipients.

11.17 (g) Establish and maintain any administrative units reasonably necessary for the  
11.18 performance of administrative functions common to all divisions of the department.

11.19 (h) Act as designated guardian of both the estate and the person of all the wards of the  
11.20 state of Minnesota, whether by operation of law or by an order of court, without any further  
11.21 act or proceeding whatever, except as to persons committed as developmentally disabled.  
11.22 For children under the guardianship of the commissioner or a tribe in Minnesota recognized  
11.23 by the Secretary of the Interior whose interests would be best served by adoptive placement,  
11.24 the commissioner may contract with a licensed child-placing agency or a Minnesota tribal  
11.25 social services agency to provide adoption services. A contract with a licensed child-placing  
11.26 agency must be designed to supplement existing county efforts and may not replace existing  
11.27 county programs or tribal social services, unless the replacement is agreed to by the county  
11.28 board and the appropriate exclusive bargaining representative, tribal governing body, or the  
11.29 commissioner has evidence that child placements of the county continue to be substantially  
11.30 below that of other counties. Funds encumbered and obligated under an agreement for a  
11.31 specific child shall remain available until the terms of the agreement are fulfilled or the  
11.32 agreement is terminated.

11.33 (i) Act as coordinating referral and informational center on requests for service for newly  
11.34 arrived immigrants coming to Minnesota.

12.1 (j) The specific enumeration of powers and duties as hereinabove set forth shall in no  
12.2 way be construed to be a limitation upon the general transfer of powers herein contained.

12.3 (k) Establish county, regional, or statewide schedules of maximum fees and charges  
12.4 which may be paid by county agencies for medical, dental, surgical, hospital, nursing and  
12.5 nursing home care and medicine and medical supplies under all programs of medical care  
12.6 provided by the state and for congregate living care under the income maintenance programs.

12.7 (l) Have the authority to conduct and administer experimental projects to test methods  
12.8 and procedures of administering assistance and services to recipients or potential recipients  
12.9 of public welfare. To carry out such experimental projects, it is further provided that the  
12.10 commissioner of human services is authorized to waive the enforcement of existing specific  
12.11 statutory program requirements, rules, and standards in one or more counties. The order  
12.12 establishing the waiver shall provide alternative methods and procedures of administration,  
12.13 shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and  
12.14 in no event shall the duration of a project exceed four years. It is further provided that no  
12.15 order establishing an experimental project as authorized by the provisions of this section  
12.16 shall become effective until the following conditions have been met:

12.17 (1) the secretary of health and human services of the United States has agreed, for the  
12.18 same project, to waive state plan requirements relative to statewide uniformity; and

12.19 (2) a comprehensive plan, including estimated project costs, shall be approved by the  
12.20 Legislative Advisory Commission and filed with the commissioner of administration.

12.21 (m) According to federal requirements, establish procedures to be followed by local  
12.22 welfare boards in creating citizen advisory committees, including procedures for selection  
12.23 of committee members.

12.24 (n) Allocate federal fiscal disallowances or sanctions which are based on quality control  
12.25 error rates for the aid to families with dependent children program formerly codified in  
12.26 sections 256.72 to 256.87, medical assistance, or food stamp program in the following  
12.27 manner:

12.28 (1) one-half of the total amount of the disallowance shall be borne by the county boards  
12.29 responsible for administering the programs. For the medical assistance and the AFDC  
12.30 program formerly codified in sections 256.72 to 256.87, disallowances shall be shared by  
12.31 each county board in the same proportion as that county's expenditures for the sanctioned  
12.32 program are to the total of all counties' expenditures for the AFDC program formerly codified  
12.33 in sections 256.72 to 256.87, and medical assistance programs. For the food stamp program,  
12.34 sanctions shall be shared by each county board, with 50 percent of the sanction being

13.1 distributed to each county in the same proportion as that county's administrative costs for  
13.2 food stamps are to the total of all food stamp administrative costs for all counties, and 50  
13.3 percent of the sanctions being distributed to each county in the same proportion as that  
13.4 county's value of food stamp benefits issued are to the total of all benefits issued for all  
13.5 counties. Each county shall pay its share of the disallowance to the state of Minnesota.  
13.6 When a county fails to pay the amount due hereunder, the commissioner may deduct the  
13.7 amount from reimbursement otherwise due the county, or the attorney general, upon the  
13.8 request of the commissioner, may institute civil action to recover the amount due; and

13.9 (2) notwithstanding the provisions of clause (1), if the disallowance results from knowing  
13.10 noncompliance by one or more counties with a specific program instruction, and that knowing  
13.11 noncompliance is a matter of official county board record, the commissioner may require  
13.12 payment or recover from the county or counties, in the manner prescribed in clause (1), an  
13.13 amount equal to the portion of the total disallowance which resulted from the noncompliance,  
13.14 and may distribute the balance of the disallowance according to clause (1).

13.15 (o) Develop and implement special projects that maximize reimbursements and result  
13.16 in the recovery of money to the state. For the purpose of recovering state money, the  
13.17 commissioner may enter into contracts with third parties. Any recoveries that result from  
13.18 projects or contracts entered into under this paragraph shall be deposited in the state treasury  
13.19 and credited to a special account until the balance in the account reaches \$1,000,000. When  
13.20 the balance in the account exceeds \$1,000,000, the excess shall be transferred and credited  
13.21 to the general fund. All money in the account is appropriated to the commissioner for the  
13.22 purposes of this paragraph.

13.23 (p) Have the authority to establish and enforce the following county reporting  
13.24 requirements:

13.25 (1) the commissioner shall establish fiscal and statistical reporting requirements necessary  
13.26 to account for the expenditure of funds allocated to counties for human services programs.  
13.27 When establishing financial and statistical reporting requirements, the commissioner shall  
13.28 evaluate all reports, in consultation with the counties, to determine if the reports can be  
13.29 simplified or the number of reports can be reduced;

13.30 (2) the county board shall submit monthly or quarterly reports to the department as  
13.31 required by the commissioner. Monthly reports are due no later than 15 working days after  
13.32 the end of the month. Quarterly reports are due no later than 30 calendar days after the end  
13.33 of the quarter, unless the commissioner determines that the deadline must be shortened to  
13.34 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss

14.1 of federal funding. Only reports that are complete, legible, and in the required format shall  
14.2 be accepted by the commissioner;

14.3 (3) if the required reports are not received by the deadlines established in clause (2), the  
14.4 commissioner may delay payments and withhold funds from the county board until the next  
14.5 reporting period. When the report is needed to account for the use of federal funds and the  
14.6 late report results in a reduction in federal funding, the commissioner shall withhold from  
14.7 the county boards with late reports an amount equal to the reduction in federal funding until  
14.8 full federal funding is received;

14.9 (4) a county board that submits reports that are late, illegible, incomplete, or not in the  
14.10 required format for two out of three consecutive reporting periods is considered  
14.11 noncompliant. When a county board is found to be noncompliant, the commissioner shall  
14.12 notify the county board of the reason the county board is considered noncompliant and  
14.13 request that the county board develop a corrective action plan stating how the county board  
14.14 plans to correct the problem. The corrective action plan must be submitted to the  
14.15 commissioner within 45 days after the date the county board received notice of  
14.16 noncompliance;

14.17 (5) the final deadline for fiscal reports or amendments to fiscal reports is one year after  
14.18 the date the report was originally due. If the commissioner does not receive a report by the  
14.19 final deadline, the county board forfeits the funding associated with the report for that  
14.20 reporting period and the county board must repay any funds associated with the report  
14.21 received for that reporting period;

14.22 (6) the commissioner may not delay payments, withhold funds, or require repayment  
14.23 under clause (3) or (5) if the county demonstrates that the commissioner failed to provide  
14.24 appropriate forms, guidelines, and technical assistance to enable the county to comply with  
14.25 the requirements. If the county board disagrees with an action taken by the commissioner  
14.26 under clause (3) or (5), the county board may appeal the action according to sections 14.57  
14.27 to 14.69; and

14.28 (7) counties subject to withholding of funds under clause (3) or forfeiture or repayment  
14.29 of funds under clause (5) shall not reduce or withhold benefits or services to clients to cover  
14.30 costs incurred due to actions taken by the commissioner under clause (3) or (5).

14.31 (q) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal  
14.32 fiscal disallowances or sanctions are based on a statewide random sample in direct proportion  
14.33 to each county's claim for that period.

15.1 (r) Be responsible for ensuring the detection, prevention, investigation, and resolution  
15.2 of fraudulent activities or behavior by applicants, recipients, and other participants in the  
15.3 human services programs administered by the department.

15.4 (s) Require county agencies to identify overpayments, establish claims, and utilize all  
15.5 available and cost-beneficial methodologies to collect and recover these overpayments in  
15.6 the human services programs administered by the department.

15.7 (t) Have the authority to administer the federal drug rebate program for drugs purchased  
15.8 under the medical assistance program as allowed by section 1927 of title XIX of the Social  
15.9 Security Act and according to the terms and conditions of section 1927. Rebates shall be  
15.10 collected for all drugs that have been dispensed or administered in an outpatient setting and  
15.11 that are from manufacturers who have signed a rebate agreement with the United States  
15.12 Department of Health and Human Services.

15.13 (u) Have the authority to administer a supplemental drug rebate program for drugs  
15.14 purchased under the medical assistance program. The commissioner may enter into  
15.15 supplemental rebate contracts with pharmaceutical manufacturers and may require prior  
15.16 authorization for drugs that are from manufacturers that have not signed a supplemental  
15.17 rebate contract. Prior authorization of drugs shall be subject to the provisions of section  
15.18 256B.0625, subdivision 13.

15.19 (v) Operate the department's communication systems account established in Laws 1993,  
15.20 First Special Session chapter 1, article 1, section 2, subdivision 2, to manage shared  
15.21 communication costs necessary for the operation of the programs the commissioner  
15.22 supervises. A communications account may also be established for each regional treatment  
15.23 center which operates communications systems. Each account must be used to manage  
15.24 shared communication costs necessary for the operations of the programs the commissioner  
15.25 supervises. The commissioner may distribute the costs of operating and maintaining  
15.26 communication systems to participants in a manner that reflects actual usage. Costs may  
15.27 include acquisition, licensing, insurance, maintenance, repair, staff time and other costs as  
15.28 determined by the commissioner. Nonprofit organizations and state, county, and local  
15.29 government agencies involved in the operation of programs the commissioner supervises  
15.30 may participate in the use of the department's communications technology and share in the  
15.31 cost of operation. The commissioner may accept on behalf of the state any gift, bequest,  
15.32 devise or personal property of any kind, or money tendered to the state for any lawful  
15.33 purpose pertaining to the communication activities of the department. Any money received  
15.34 for this purpose must be deposited in the department's communication systems accounts.  
15.35 Money collected by the commissioner for the use of communication systems must be

16.1 deposited in the state communication systems account and is appropriated to the  
16.2 commissioner for purposes of this section.

16.3 (w) Receive any federal matching money that is made available through the medical  
16.4 assistance program for the consumer satisfaction survey. Any federal money received for  
16.5 the survey is appropriated to the commissioner for this purpose. The commissioner may  
16.6 expend the federal money received for the consumer satisfaction survey in either year of  
16.7 the biennium.

16.8 (x) Designate community information and referral call centers and incorporate cost  
16.9 reimbursement claims from the designated community information and referral call centers  
16.10 into the federal cost reimbursement claiming processes of the department according to  
16.11 federal law, rule, and regulations. Existing information and referral centers provided by  
16.12 Greater Twin Cities United Way or existing call centers for which Greater Twin Cities  
16.13 United Way has legal authority to represent, shall be included in these designations upon  
16.14 review by the commissioner and assurance that these services are accredited and in  
16.15 compliance with national standards. Any reimbursement is appropriated to the commissioner  
16.16 and all designated information and referral centers shall receive payments according to  
16.17 normal department schedules established by the commissioner upon final approval of  
16.18 allocation methodologies from the United States Department of Health and Human Services  
16.19 Division of Cost Allocation or other appropriate authorities.

16.20 (y) Develop recommended standards for foster care homes that address the components  
16.21 of specialized therapeutic services to be provided by foster care homes with those services.

16.22 (z) Authorize the method of payment to or from the department as part of the human  
16.23 services programs administered by the department. This authorization includes the receipt  
16.24 or disbursement of funds held by the department in a fiduciary capacity as part of the human  
16.25 services programs administered by the department.

16.26 (aa) Designate the agencies that operate the Senior LinkAge Line under section 256.975,  
16.27 subdivision 7, and the Disability Linkage Line under subdivision 24 as the state of Minnesota  
16.28 Aging and Disability Resource Center under United States Code, title 42, section 3001, the  
16.29 Older Americans Act Amendments of 2006, and incorporate cost reimbursement claims  
16.30 from the designated centers into the federal cost reimbursement claiming processes of the  
16.31 department according to federal law, rule, and regulations. Any reimbursement must be  
16.32 appropriated to the commissioner and treated consistent with section 256.011. All Aging  
16.33 and Disability Resource Center designated agencies shall receive payments of grant funding

- 17.1 that supports the activity and generates the federal financial participation according to Board
- 17.2 on Aging administrative granting mechanisms.