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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3173

- 02/11/2020 Authored by Wazlawik and Pryor  
The bill was read for the first time and referred to the Early Childhood Finance and Policy Division
- 03/09/2020 Adoption of Report: Placed on the General Register  
Read for the Second Time
- 04/28/2020 Referred to the Chief Clerk for Comparison with S. F. No. 3197
- 04/30/2020 Postponed Indefinitely

1.1 A bill for an act

1.2 relating to family child care licensing; requiring county agencies to publish and

1.3 distribute information about variances; amending Minnesota Statutes 2019

1.4 Supplement, section 245A.16, subdivision 1.

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

1.6 Section 1. Minnesota Statutes 2019 Supplement, section 245A.16, subdivision 1, is

1.7 amended to read:

1.8 Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private

1.9 agencies that have been designated or licensed by the commissioner to perform licensing

1.10 functions and activities under section 245A.04 and background studies for family child care

1.11 under chapter 245C; to recommend denial of applicants under section 245A.05; to issue

1.12 correction orders, to issue variances, and recommend a conditional license under section

1.13 245A.06; or to recommend suspending or revoking a license or issuing a fine under section

1.14 245A.07, shall comply with rules and directives of the commissioner governing those

1.15 functions and with this section. The following variances are excluded from the delegation

1.16 of variance authority and may be issued only by the commissioner:

- 1.17 (1) dual licensure of family child care and child foster care, dual licensure of child and
- 1.18 adult foster care, and adult foster care and family child care;
- 1.19 (2) adult foster care maximum capacity;
- 1.20 (3) adult foster care minimum age requirement;
- 1.21 (4) child foster care maximum age requirement;

2.1 (5) variances regarding disqualified individuals except that, before the implementation  
 2.2 of NETStudy 2.0, county agencies may issue variances under section 245C.30 regarding  
 2.3 disqualified individuals when the county is responsible for conducting a consolidated  
 2.4 reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and  
 2.5 (b), of a county maltreatment determination and a disqualification based on serious or  
 2.6 recurring maltreatment;

2.7 (6) the required presence of a caregiver in the adult foster care residence during normal  
 2.8 sleeping hours;

2.9 (7) variances to requirements relating to chemical use problems of a license holder or a  
 2.10 household member of a license holder; and

2.11 (8) variances to section 245A.53 for a time-limited period. If the commissioner grants  
 2.12 a variance under this clause, the license holder must provide notice of the variance to all  
 2.13 parents and guardians of the children in care.

2.14 Except as provided in section 245A.14, subdivision 4, paragraph (e), a county agency must  
 2.15 not grant a license holder a variance to exceed the maximum allowable family child care  
 2.16 license capacity of 14 children.

2.17 (b) A county agency that has been designated by the commissioner to issue family child  
 2.18 care variances must:

2.19 (1) publish the county agency's policies and criteria for issuing variances on the county's  
 2.20 public website and update the policies as necessary; and

2.21 (2) annually distribute the county agency's policies and criteria for issuing variances to  
 2.22 all family child care license holders in the county.

2.23 ~~(b)~~ (c) Before the implementation of NETStudy 2.0, county agencies must report  
 2.24 information about disqualification reconsiderations under sections 245C.25 and 245C.27,  
 2.25 subdivision 2, paragraphs (a) and (b), and variances granted under paragraph (a), clause  
 2.26 (5), to the commissioner at least monthly in a format prescribed by the commissioner.

2.27 ~~(e)~~ (d) For family child care programs, the commissioner shall require a county agency  
 2.28 to conduct one unannounced licensing review at least annually.

2.29 ~~(d)~~ (e) For family adult day services programs, the commissioner may authorize licensing  
 2.30 reviews every two years after a licensee has had at least one annual review.

2.31 ~~(e)~~ (f) A license issued under this section may be issued for up to two years.

2.32 ~~(f)~~ (g) During implementation of chapter 245D, the commissioner shall consider:

- 3.1 (1) the role of counties in quality assurance;
- 3.2 (2) the duties of county licensing staff; and
- 3.3 (3) the possible use of joint powers agreements, according to section 471.59, with counties
- 3.4 through which some licensing duties under chapter 245D may be delegated by the
- 3.5 commissioner to the counties.

3.6 Any consideration related to this paragraph must meet all of the requirements of the corrective

3.7 action plan ordered by the federal Centers for Medicare and Medicaid Services.

3.8 ~~(g)~~ (h) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or

3.9 successor provisions; and section 245D.061 or successor provisions, for family child foster

3.10 care programs providing out-of-home respite, as identified in section 245D.03, subdivision

3.11 1, paragraph (b), clause (1), is excluded from the delegation of authority to county and

3.12 private agencies.

3.13 ~~(h)~~ (i) A county agency shall report to the commissioner, in a manner prescribed by the

3.14 commissioner, the following information for a licensed family child care program:

3.15 (1) the results of each licensing review completed, including the date of the review, and

3.16 any licensing correction order issued;

3.17 (2) any death, serious injury, or determination of substantiated maltreatment; and

3.18 (3) any fires that require the service of a fire department within 48 hours of the fire. The

3.19 information under this clause must also be reported to the state fire marshal within two

3.20 business days of receiving notice from a licensed family child care provider.