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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2914

01/31/2022 Authored by Schultz, Bahner and Pinto
The bill was read for the first time and referred to the Committee on Human Services Finance and Policy
02/07/2022 Adoption of Report: Amended and re-referred to the Committee on Health Finance and Policy
02/15/2022 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to human services; allowing the commissioner of human services to
1.3 reinstate waivers and modifications to certain human services programs; allowing
1.4 out-of-state health care professionals to temporarily provide services in Minnesota
1.5 under out-of-state credentials.

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

1.7 Section 1. **REINSTATEMENT AND EXTENSION OF COVID-19 PROGRAM**
1.8 **WAIVERS AND MODIFICATIONS.**

1.9 The commissioner of human services may reinstate waivers and modifications to human
1.10 services programs as described in this section that were issued by the commissioner pursuant
1.11 to the governor's Executive Order 20-12, including any amendments to the waivers and
1.12 modifications. The waivers and modifications may remain in effect until June 30, 2022,
1.13 except CV03 and CV04 may remain in effect until June 30, 2023, or until the expiration of
1.14 the United States Department of Agriculture's waiver allowing verbal signatures for the
1.15 Supplemental Nutrition Assistance Program, whichever is later. The following waivers and
1.16 modifications to human services programs may be reinstated:

1.17 (1) CV03: allowing oral or written signatures by applicants on applications for public
1.18 assistance programs;

1.19 (2) CV04: allowing oral or written permission from public assistance program participants
1.20 for the Department of Human Services to contact third parties to verify reported information;

1.21 (3) CV11: allowing video conferencing in monthly foster care visits by a child's
1.22 caseworker when: (i) there is a declaration of a federal or state emergency that prohibits or
1.23 strongly discourages person-to-person contact for public health reasons; and (ii) there is a

person in the foster care household with a confirmed or suspected case of COVID-19. For purposes of this clause, "suspected case of COVID-19" means a person who is exhibiting the signs and symptoms of COVID-19 and has either been tested for COVID-19 and is waiting for test results or has not been tested for COVID-19;

(4) CV23: waiving mandatory direct contact supervision requirements to allow case-by-case decisions to permit certain individuals to work without supervision while that individual's background studies are being processed, as permitted under federal law and regulation, and allowing the transition from name and date of birth studies of Minnesota records only, for both existing studies and studies that may be initiated during the transition period, to fingerprint-based background studies to resume on a schedule established by the commissioner and published on the department's website. Waiver provisions permitting the return to background studies of Minnesota records only for providers who are currently transitioned to fingerprint-based studies shall not be reinstated;

(5) CV53: allowing qualified professionals to provide required in-person oversight of personal care assistance workers via two-way interactive telecommunications for all program participants who receive personal care assistance services; and

(6) CV89: allowing program participants to give oral, written, or expressed approval of documents related to long-term services and supports that typically require in-person signatures.

EFFECTIVE DATE. This section is effective the day following final enactment except for clauses (5) and (6), which are effective retroactively from September 1, 2021.

**Sec. 2. REINSTATEMENT AND EXTENSION OF COVID-19 PROGRAM
WAIVERS AND MODIFICATIONS TO THE CHILD CARE ASSISTANCE
PROGRAM.**

(a) The commissioner of human services may reinstate waivers and modifications to the child care assistance program as described in this section. The waivers and modifications shall remain in effect until June 26, 2022. Waiver CV08, allowing a child care assistance program (CCAP) agency to pay child care assistance to a child care provider, may be reinstated when:

(1) children are not attending child care because the child care provider has temporarily closed an entire program due to health concerns related to COVID-19; or

(2) a provider chooses not to charge or reduces fees for privately paying families because of closed or absent days due to health concerns related to COVID-19.

(b) Child care assistance payments during closures related to COVID-19 are limited to up to eight weeks total per child care provider. A child care provider must report any closure to the Department of Human Services child care assistance program staff prior to submitting child care assistance bills for closed dates to a CCAP agency for payment.

EFFECTIVE DATE. This section is effective retroactively from November 1, 2021.

Sec. 3. TEMPORARY MODIFICATIONS OF CHILD CARE CENTER STAFF; DISTRIBUTION REQUIREMENTS.

(a) The commissioner of human services may temporarily suspend child care center staff distribution requirements under Minnesota Rules, part 9503.0040, subpart 2, item D, until June 30, 2022.

(b) A licensed child care center, except as allowed under Minnesota Rules, part 9503.0040, subpart 2, item B, must have at least one person qualified as a teacher on site at all times when a child is in care at the licensed child care center. There must be a staff person who is at least 18 years of age with each group of children, except as allowed under Minnesota Rules, part 9503.0034, subpart 1.

(c) A licensed child care center must have a staff person on site who is responsible for overseeing the operation of the daily activities of the program, ensuring the health and safety of the children, and supervising staff. The on-site staff person is not required to meet the qualifications of a director.

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

Sec. 4. COMMISSIONER OF HUMAN SERVICES; TEMPORARY STAFFING POOL; APPROPRIATION.

(a) The commissioner of human services shall establish a temporary emergency staffing pool for congregate settings experiencing staffing crises. Vendor contracts may include retention bonuses, sign-on bonuses, and payment for hours on call. The commissioner may pay for necessary training, travel, and lodging expenses of the temporary staff. Contracts for temporary staffing executed under this section: (1) should minimize the recruitment away from providers' current workforces; and (2) may not be executed with an individual until at least 30 days since the individual was last employed in Minnesota by one of the types of facilities listed in paragraph (g).

(b) Temporary staff, at the request of the commissioner, may be deployed to long-term care facilities and other congregate care residential facilities and programs experiencing an

4.1 emergency staffing crisis on or after the effective date of this section. Temporary staff must
4.2 be provided at no cost to the facility or program receiving the temporary staff.

4.3 (c) Members of the temporary staffing pool under this section are not state employees.

4.4 (d) The commissioner must coordinate the activities under this section with any other
4.5 impacted state agencies, to appropriately prioritize locations to deploy contracted temporary
4.6 staff.

4.7 (e) The commissioner must give priority for deploying staff to facilities and programs
4.8 with the most significant staffing crises and where, but for this assistance, residents would
4.9 be at significant risk of injury due to the need to transfer to another facility or a hospital for
4.10 adequately staffed care.

4.11 (f) A facility or program may seek onetime assistance per setting from the temporary
4.12 staffing pool only after the facility or program has used all resources available to obtain
4.13 temporary staff but is unable to meet the facility's or program's temporary staffing needs.
4.14 A facility or program may apply for temporary staff for up to 21 days. Applicants must
4.15 submit a proposed plan for ensuring resident safety at the end of that time period.

4.16 (g) Facilities and programs eligible to obtain temporary staff from the temporary staffing
4.17 pool include:

4.18 (1) nursing facilities;

4.19 (2) assisted living facilities;

4.20 (3) intermediate care facilities for persons with developmental disabilities;

4.21 (4) adult foster care or community residential settings;

4.22 (5) licensed substance use disorder treatment facilities;

4.23 (6) unlicensed county-based substance use disorder treatment facilities;

4.24 (7) licensed facilities for adults with mental illness;

4.25 (8) licensed detoxification programs;

4.26 (9) licensed withdrawal management programs;

4.27 (10) licensed children's residential facilities;

4.28 (11) licensed child foster residence settings;

4.29 (12) unlicensed, Tribal-certified facilities that perform functions similar to the licensed
4.30 facilities listed in this paragraph;

- 5.1 (13) boarding care homes;
- 5.2 (14) board and lodging establishments serving people with disabilities or disabling
- 5.3 conditions;
- 5.4 (15) board and lodging establishments with special services;
- 5.5 (16) supervised living facilities;
- 5.6 (17) supportive housing;
- 5.7 (18) sober homes;
- 5.8 (19) community-based halfway houses for people exiting the correctional system;
- 5.9 (20) shelters serving people experiencing homelessness;
- 5.10 (21) drop-in centers for people experiencing homelessness;
- 5.11 (22) homeless outreach services for unsheltered individuals;
- 5.12 (23) shelters for people experiencing domestic violence; and
- 5.13 (24) temporary isolation spaces for people who test positive for COVID-19.
- 5.14 (h) Notwithstanding any other law to the contrary, the commissioner may allocate funding
- 5.15 to maintain, extend, or renew contracts for temporary staffing entered into on or after
- 5.16 September 1, 2020. The commissioner may also allocate funding to enter into new contracts
- 5.17 with eligible entities and may allocate funding for the costs needed for temporary staff
- 5.18 deployed in the temporary staffing pool. The commissioner may use up to 6.5 percent of
- 5.19 this funding for the commissioner's costs related to administration of this program.
- 5.20 (i) The commissioner shall seek all allowable FEMA reimbursement for the costs of this
- 5.21 activity.

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

5.23 **Sec. 5. COMMISSIONER OF HEALTH; TEMPORARY EMERGENCY**

5.24 **AUTHORITY.**

5.25 Subdivision 1. **Temporary emergency authority granted.** The commissioner of health

5.26 is granted temporary emergency authority as described in and limited by this section. The

5.27 temporary emergency authority granted to the commissioner may only be used to grant

5.28 individual or blanket state waivers.

6.1 Subd. 2. **Individual or blanket waivers permitted.** The commissioner may grant
6.2 temporary individual or blanket waivers of requirements in the following statutes and rules
6.3 if none of the waivers adversely affect resident or patient care or quality of the services:

6.4 (1) Minnesota Statutes, chapter 144, for hospitals relating to hospital construction
6.5 moratorium or bed capacity restrictions, except that the commissioner must not grant an
6.6 individual or blanket waiver that will result in construction or other physical alteration of
6.7 a hospital that cannot be removed at the expiration of the waiver;

6.8 (2) Minnesota Statutes, chapters 144 and 144A, and Minnesota Rules, chapter 4658, for
6.9 nursing homes relating to bed moratorium, bed capacity, or layaway and nonlayaway beds,
6.10 including notice requirements for transfers and discharges;

6.11 (3) Minnesota Statutes, chapters 144 and 144A, and Minnesota Rules, chapters 4640
6.12 and 4658, for hospitals and nursing homes relating to licensing fees. On the waiver
6.13 application form, the hospital or nursing home seeking a waiver must attest that the fee
6.14 waiver is needed due to hardship; and

6.15 (4) Minnesota Statutes, chapter 149A, for funeral establishments or morticians to allow
6.16 flexible time periods for holding decedents awaiting final disposition and establishing
6.17 unlicensed staffing standards.

6.18 Subd. 3. **Notice.** (a) No later than 48 hours after an individual waiver or blanket waiver
6.19 under this section goes into effect, the commissioner must provide written notice of the
6.20 waiver to the appropriate ombudsman, if any, and to the chairs and ranking minority members
6.21 of the legislative committees with jurisdiction over the Department of Health.

6.22 (b) A waiver issued or granted under this section must be posted on the Department of
6.23 Health website within 48 hours after being issued or granted and must include a
6.24 plain-language description of the waiver.

6.25 Subd. 4. **Expiration of waivers.** Any waiver granted by this section expires on June 30,
6.26 2022. This subdivision does not apply to nursing home transfer and discharge waivers if
6.27 necessary federal approval is not obtained prior to June 30, 2022.

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

6.29 Sec. 6. **TEMPORARY PRACTICE BY HEALTH CARE PROFESSIONALS FROM**
6.30 **OTHER STATES AND TERRITORIES.**

6.31 Subdivision 1. **Definitions.** (a) The terms defined in this subdivision apply to this section.

6.32 (b) "Credential" means a license, permit, certificate, or registration.

7.1 (c) "Health care employer" means a health care system, hospital, clinic, long-term care
7.2 facility, or other health care entity that provides health care services to patients or residents.

7.3 (d) "Out-of-state health care professional" or "out-of-state professional" means an
7.4 individual who holds an active, unrestricted credential issued by another state or territory
7.5 that authorizes the individual to provide health care services that are substantially the same
7.6 as the services within the scope of practice of a health-related occupation licensed by the
7.7 Board of Medical Practice or Board of Nursing.

7.8 (e) "Telehealth" has the meaning given in Minnesota Statutes, section 62A.673,
7.9 subdivision 2.

7.10 **Subd. 2. Practice in Minnesota by out-of-state health care professionals. (a)**
7.11 Notwithstanding any law to the contrary, an out-of-state health care professional is authorized
7.12 to provide health care services in Minnesota within the scope of the credential held by the
7.13 out-of-state professional without being issued a license by the Board of Medical Practice
7.14 or Board of Nursing if the requirements of this section are met.

7.15 (b) Before providing health care services in Minnesota, an out-of-state health care
7.16 professional must be hired by or enter into a contract with a health care employer in
7.17 Minnesota or be hired by or under contract with another entity to provide health care services
7.18 to a health care employer. Before an out-of-state health care professional begins providing
7.19 health care services for a health care employer, the health care employer must verify that
7.20 the out-of-state professional holds an active, unrestricted, relevant credential to practice
7.21 issued by another state or territory that demonstrates the out-of-state professional has the
7.22 qualifications to provide the health care services to be provided in Minnesota.

7.23 (c) An out-of-state health care professional providing health care services under this
7.24 section must only provide health care services to patients or residents in person and must
7.25 not provide health care services via telehealth.

7.26 (d) A health care employer that assigns an out-of-state health care professional under
7.27 this section to a specific position must not lay off a Minnesota-licensed health care
7.28 professional from that position who is appropriately licensed, qualified, and willing to work
7.29 in that position.

7.30 (e) A health care employer for which an out-of-state health care professional provides
7.31 health care services must notify the out-of-state professional that the out-of-state professional
7.32 is under the jurisdiction of the Board of Medical Practice or Board of Nursing, as applicable,
7.33 when providing health care services in Minnesota.

8.1 Subd. 3. **Report from health care employer.** (a) A health care employer for which an
8.2 out-of-state health care professional provides health care services under this section must
8.3 submit a report to the commissioner of health that includes:

8.4 (1) the number of out-of-state professionals providing health care services for the health
8.5 care employer, specifying position type and license type; and

8.6 (2) for each out-of-state professional, the date on which the out-of-state professional
8.7 began providing health care services for the health care employer and the date on which the
8.8 out-of-state professional's work with the health care employer will end, if known.

8.9 (b) A health care employer must submit a report under this subdivision no later than 30
8.10 days after the out-of-state professional began providing services for the health care employer
8.11 and must submit updated reports to include any additional out-of-state professionals that
8.12 begin providing services for the employer.

8.13 Subd. 4. **Credential from another state.** The credential held by an out-of-state health
8.14 care professional providing services under this section has the same force and effect as if
8.15 issued in Minnesota.

8.16 Subd. 5. **Authority of Board of Medical Practice or Board of Nursing.** An out-of-state
8.17 health care professional providing services under this section who would otherwise be
8.18 required to obtain a license from the Board of Medical Practice to provide those services
8.19 must submit to the jurisdiction of the Board of Medical Practice. An out-of-state health care
8.20 professional providing services under this section who would otherwise be required to obtain
8.21 a license from the Board of Nursing to provide those services must submit to the jurisdiction
8.22 of the Board of Nursing. The Board of Medical Practice or Board of Nursing may limit or
8.23 revoke the authorization under this section to provide services for any out-of-state health
8.24 care professional under that board's jurisdiction. Upon a revocation of authorization, the
8.25 out-of-state health care professional must immediately cease providing health care services
8.26 in Minnesota.

8.27 Subd. 6. **Minnesota licensure.** After this section expires, an out-of-state health care
8.28 professional who wishes to provide health care services in Minnesota must obtain an
8.29 applicable license from the Board of Medical Practice or Board of Nursing as otherwise
8.30 required by Minnesota law and must apply for work with a health care employer in Minnesota
8.31 as a new applicant.

8.32 Subd. 7. **Expiration.** Subdivisions 2 to 5 expire 60 days following final enactment.

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