

1.1 moves to amend H.F. No. 2150, the delete everything amendment
1.2 (A14-0976), as follows:

1.3 Page 84, after line 13, insert:

1.4 "Sec. Minnesota Statutes 2013 Supplement, section 245A.03, subdivision 7,
1.5 is amended to read:

1.6 Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial
1.7 license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340,
1.8 or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under
1.9 this chapter for a physical location that will not be the primary residence of the license
1.10 holder for the entire period of licensure. If a license is issued during this moratorium, and
1.11 the license holder changes the license holder's primary residence away from the physical
1.12 location of the foster care license, the commissioner shall revoke the license according
1.13 to section 245A.07. The commissioner shall not issue an initial license for a community
1.14 residential setting licensed under chapter 245D. Exceptions to the moratorium include:

- 1.15 (1) foster care settings that are required to be registered under chapter 144D;
- 1.16 (2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or
1.17 community residential setting licenses replacing adult foster care licenses in existence on
1.18 December 31, 2013, and determined to be needed by the commissioner under paragraph (b);
- 1.19 (3) new foster care licenses or community residential setting licenses determined to
1.20 be needed by the commissioner under paragraph (b) for the closure of a nursing facility,
1.21 ICF/DD, or regional treatment center; restructuring of state-operated services that limits
1.22 the capacity of state-operated facilities; or allowing movement to the community for
1.23 people who no longer require the level of care provided in state-operated facilities as
1.24 provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;
- 1.25 (4) new foster care licenses or community residential setting licenses determined
1.26 to be needed by the commissioner under paragraph (b) for persons requiring hospital
1.27 level care; or

2.1 (5) new foster care licenses or community residential setting licenses determined to
2.2 be needed by the commissioner for the transition of people from personal care assistance
2.3 to the home and community-based services.

2.4 (b) The commissioner shall determine the need for newly licensed foster care
2.5 homes or community residential settings as defined under this subdivision. As part of the
2.6 determination, the commissioner shall consider the availability of foster care capacity in
2.7 the area in which the licensee seeks to operate, and the recommendation of the local
2.8 county board. The determination by the commissioner must be final. A determination of
2.9 need is not required for a change in ownership at the same address.

2.10 (c) When an adult resident served by the program moves out of a foster home
2.11 that is not the primary residence of the license holder according to section 256B.49,
2.12 subdivision 15, paragraph (f), or the adult community residential setting, the county
2.13 shall immediately inform the Department of Human Services Licensing Division. The
2.14 department shall decrease the statewide licensed capacity for adult foster care settings
2.15 where the physical location is not the primary residence of the license holder, or for adult
2.16 community residential settings, if the voluntary changes described in paragraph (e) are
2.17 not sufficient to meet the savings required by reductions in licensed bed capacity under
2.18 Laws 2011, First Special Session chapter 9, article 7, sections 1 and 40, paragraph (f),
2.19 and maintain statewide long-term care residential services capacity within budgetary
2.20 limits. Implementation of the statewide licensed capacity reduction shall begin on July
2.21 1, 2013. The commissioner shall delicense up to 128 beds by June 30, 2014, using the
2.22 needs determination process. Prior to any involuntary reduction of licensed capacity, the
2.23 commissioner shall consult with lead agencies and license holders to determine which
2.24 adult foster care settings where the physical location is not the primary residence of the
2.25 license holder, or community residential settings, are licensed for up to five beds but have
2.26 operated at less than full capacity for 12 or more months as of March 1, 2014. The settings
2.27 that meet these criteria shall be the first to be considered for any involuntary decrease
2.28 in statewide licensed capacity, up to a maximum of 35 beds. If more than 35 beds are
2.29 identified that meet these criteria, the commissioner shall prioritize the selection of those
2.30 beds to be closed based on the length of time the beds have been vacant. The longer a bed
2.31 has been vacant, the higher priority it must be given for closure. Under this paragraph,
2.32 the commissioner has the authority to reduce unused licensed capacity of a current foster
2.33 care program, or the community residential settings, to accomplish the consolidation or
2.34 closure of settings. Under this paragraph, the commissioner has the authority to manage
2.35 statewide capacity, including adjusting the capacity available to each county and adjusting
2.36 statewide available capacity, to meet the statewide needs identified through the process in

3.1 paragraph (e). A decreased licensed capacity according to this paragraph is not subject to
3.2 appeal under this chapter.

3.3 (d) Residential settings that would otherwise be subject to the decreased license
3.4 capacity established in paragraph (c) shall be exempt under the following circumstances:

3.5 (1) until August 1, 2013, the license holder's beds occupied by residents whose
3.6 primary diagnosis is mental illness and the license holder is:

3.7 (i) a provider of assertive community treatment (ACT) or adult rehabilitative mental
3.8 health services (ARMHS) as defined in section 256B.0623;

3.9 (ii) a mental health center certified under Minnesota Rules, parts 9520.0750 to
3.10 9520.0870;

3.11 (iii) a mental health clinic certified under Minnesota Rules, parts 9520.0750 to
3.12 9520.0870; or

3.13 (iv) a provider of intensive residential treatment services (IRTS) licensed under
3.14 Minnesota Rules, parts 9520.0500 to 9520.0670; or

3.15 (2) the license holder's beds occupied by residents whose primary diagnosis is
3.16 mental illness and the license holder is certified under the requirements in subdivision 6a
3.17 or section 245D.33.

3.18 (e) A resource need determination process, managed at the state level, using the
3.19 available reports required by section 144A.351, and other data and information shall
3.20 be used to determine where the reduced capacity required under paragraph (c) will be
3.21 implemented. The commissioner shall consult with the stakeholders described in section
3.22 144A.351, and employ a variety of methods to improve the state's capacity to meet
3.23 long-term care service needs within budgetary limits, including seeking proposals from
3.24 service providers or lead agencies to change service type, capacity, or location to improve
3.25 services, increase the independence of residents, and better meet needs identified by the
3.26 long-term care services reports and statewide data and information. By February 1, 2013,
3.27 and August 1, 2014, and each following year, the commissioner shall provide information
3.28 and data on the overall capacity of licensed long-term care services, actions taken under
3.29 this subdivision to manage statewide long-term care services and supports resources, and
3.30 any recommendations for change to the legislative committees with jurisdiction over
3.31 health and human services budget.

3.32 (f) At the time of application and reapplication for licensure, the applicant and the
3.33 license holder that are subject to the moratorium or an exclusion established in paragraph
3.34 (a) are required to inform the commissioner whether the physical location where the foster
3.35 care will be provided is or will be the primary residence of the license holder for the entire
3.36 period of licensure. If the primary residence of the applicant or license holder changes, the

4.1 applicant or license holder must notify the commissioner immediately. The commissioner
4.2 shall print on the foster care license certificate whether or not the physical location is the
4.3 primary residence of the license holder.

4.4 (g) License holders of foster care homes identified under paragraph (f) that are not
4.5 the primary residence of the license holder and that also provide services in the foster care
4.6 home that are covered by a federally approved home and community-based services
4.7 waiver, as authorized under section 256B.0915, 256B.092, or 256B.49, must inform the
4.8 human services licensing division that the license holder provides or intends to provide
4.9 these waiver-funded services."

4.10 Renumber the sections in sequence and correct the internal references

4.11 Amend the title accordingly