

# HOUSE RESEARCH

## Bill Summary

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### Section

#### **Article 1: Department of Human Services Licensing**

This article makes various changes to the Human Services Licensing Act and the licensing standards for programs serving persons with mental retardation or related conditions.

- 1** **Background study of the applicant; definitions.** Amends § 245A.04, subd. 3. Clarifies when the commissioner of human services may require the subject of a background study to provide classifiable fingerprints obtained from an authorized law enforcement agency.
- 2** **Reconsideration of disqualification.** Amends § 245A.04, subd. 3b. (b) Clarifies that, if the commissioner sets aside a background study subject's disqualification, the disqualified individual remains disqualified but may hold a license or have direct contact or access to persons receiving services. Provides that the disqualification set aside is limited solely to the licensed program, applicant, or agency unless otherwise specified. Also clarifies that the commissioner may rescind a previous disqualification set aside based on new information that the individual may pose a risk of harm to persons served by the licensed program.
  - (e) Clarifies that, if an individual is disqualified for a determination of substantiated maltreatment of children or adults, the person may request a fair hearing if the commissioner does not set aside the disqualification. Also clarifies that, if a person is disqualified for the conviction or admission to certain crimes, the commissioner's reconsideration decision is the final agency determination for purposes of appeal.
- 3** **Regulatory methods.** Amends § 245A.09, subd. 7. Provides that the commissioner may

implement alternative methods of regulation of licensed programs when the standards of another government agency or accreditation body require the same standards, methods, or alternative methods to achieve substantially the same intended outcomes as the licensing standards. Specifies that, if the commissioner accepts accreditation as documentation of compliance with licensing standards, the commissioner must continue to investigate complaints and take licensing actions for noncompliance with the standards. Also clarifies that the commissioner may conduct routine inspections of licensed programs biennially.

**4 Fees.** Amends § 245A.10. Provides that a county agency may charge a fee to an applicant or license holder in an amount not to exceed \$100 to cover the county agency's costs in evaluating applications and inspecting licensed family child care programs.

**5 Adult foster care license capacity.** Amends § 245A.11, subd. 2a. Provides that the commissioner may issue an adult foster care license with a capacity of five adults when recommended by the county licensing agency and if:

- ▶ the facility meets the physical environment requirements in the adult foster care rule;
- ▶ the five-bed living arrangement is specified for each resident in the resident's individualized plan of care, individual service plan, or individual resident placement agreement;
- ▶ the license holder obtains the resident's informed consent; and
- ▶ the facility was licensed for adult foster care before March 1, 2003.

Also prohibits the commissioner from issuing a new adult foster care license with a capacity of five adults after June 30, 2005. Requires the commissioner to allow a facility licensed under this section to continue with a capacity of five adults if the license holder continues to comply with the licensing requirements.

**6 Adult foster care; variance for alternate overnight supervision.** Amends § 245A.11, by adding subd. 7. Permits the commissioner to grant a variance to the licensing rule requiring a caregiver to be present in an adult foster care home during normal sleeping hours to allow a license holder to provide alternative methods of overnight supervision. Requires that the county licensing agency recommends the variance and that:

- ▶ the county has approved license holder's alternative plan and the plan protects residents' health, safety, and rights;
- ▶ the license holder has obtained informed consent from each resident; and
- ▶ the alternative method of providing overnight supervision is specified for each resident in the resident's individualized plan of care, individual services plan, or individual resident placement agreement.

Also requires that the license holder not have had a licensing action during the prior 24 months for failure to provide adequate supervision, health care services, or resident safety in the adult foster care home.

**7 Relationship to other standards governing services for persons with mental retardation or related conditions.** Amends § 245B.03, subd. 2. Makes residential service sites licensed for home and community-based waived services for four or fewer adults exempt from the program abuse and individual abuse prevention plan requirements. Also specifies that residential service sites licensed for home and community-based waived services for four or fewer children are exempt from certain licensing rules governing family foster care homes related to advance agency approval of supervision plans; the health of other persons living in

the foster home; training requirements for foster care providers; data privacy; certain records requirements; and special services home requirements.

- 8 **Continuity of care.** Amends § 245B.03, by adding subd. 3. Specifies licensing standards for license holders when a consumer changes service to the same type of service provided under a different license held by the same license holder. Exempts the license holder from requirements related to initial risk management plans; service support plans; and providing consumers written policies and procedures. Also exempts a license holder from certain staff orientation requirements when a direct service staff person begins providing service under one or more licenses other than the license for which the staff person initially received staff orientation. Requires the staff person to receive orientation at new service locations. Also requires that, for consumers the staff person has not previously served, the staff person must review the consumer's service and risk management plans and medication administration.
- 9 **Service-related rights.** Amends § 245B.04, subd. 2. Modifies the consumer's service-related rights. Provides that notification of changes to charges for services be provided to consumers upon request.
- 10 **Risk management plan.** Amends § 245B.06, subd. 2. Modifies the license holder's duties related to developing, documenting, and implementing consumers' risk management plans. Exempts the license holder from certain requirements governing maltreatment of vulnerable adults if the license holder meets the requirements of this section. Specifies requirements for what the risk management plan must address and how the license holder must assess a consumer's vulnerability. Specifies risk management plan requirements for license holders jointly providing services. Also requires that, before or upon initiating services, a license holder must develop an initial risk management plan. Requires the license holder to review the initial risk management plan at the meeting held 45 days after initiating service, revise the plan if necessary, and document the consumer or consumer's legal representative's approval of the plan. After plan approval, requires the license holder to review the plan at least annually and update the plan, if necessary. Requires the license holder to document completion of the annual review and the consumer or consumer's legal representative's approval of any plan changes.
- 11 **Progress reviews.** Amends § 245B.06, subd. 5. Removes requirement that a license holder provide quarterly written progress reports on consumers under public guardianship.
- 12 **Staff training.** Amends § 245B.07, subd. 6. Provides that direct service staff who have worked for a license holder for at least 30 hours per week for 24 months or more to annually complete hours of training equal to 1 percent of the number of hours the staff person worked.
- 13 **Availability of current written policies and procedures.** Amends § 245B.07, subd. 9. Specifies requirements related to a license holder providing all consumers or a consumer's legal representative and case manager with a copy and explanation of revisions to policies and procedures that affect consumers' service-related or protection-related rights, giving notice of revised policies and procedures, and informing employees before implementing revisions to policies and procedures.
- 14 **Alternative methods of determining compliance.** Amends § 245B.08, subd. 1. Corrects cross-reference.

## Article 2: Continuing Care

This article contains the Department of Human Services continuing care policy provisions that modify relocation service coordination, adult rehabilitative mental health, MA home care, long term care consultation, nursing facility rate changes, and tribal elderly waivers.

- 1 **1 Relocation targeted case management provider qualifications.** Amends § 256B.0621, subd. 4. Makes technical changes.
- 2 **Definitions.** Amends § 256B.0623, subd. 2. Allows physician's assistants to provide medication education services.
- 3 **Provider entity standards.** Amends § 256B.0623, subd. 4. Clarifies certification and recertification of adult rehabilitative mental health providers. Changes recertification from every two years to every three years. Strikes language requiring the commissioner to develop statewide procedures for provider certification.
- 4 **Qualifications of provider staff.** Amends § 256B.0623, subd. 5. Modifies a component of the definition of mental health rehabilitation worker requiring fluency in the non-English language or competency in the culture of the ethnic group to which at least 20 percent (reduced from 50 percent) of the mental health rehabilitation worker's clients belong.
- 5 **Required training and supervision.** Amends § 256B.0623, subd. 6. Allows clinical supervision to be provided by a full- or part-time qualified professional employed by or under contract with the provider entity. Allows clinical supervision to be provided by interactive videoconferencing according to procedures developed by the commissioner.
- 6 **Diagnostic assessment.** Amends § 256B.0623, subd. 8. Until June 30, 2005, allows a diagnostic assessment that reflects the recipient's current status and has been completed within the past three years preceding admission to be accepted for initial implementation of adult rehabilitative mental health services.
- 7 **Personal care.** Amends § 256B.0625, subd. 19c. Includes licensed social workers in the definition of "qualified professional."
- 8 **Definition.** Amends § 256B.0627, subd. 1. Modifies the definition of "responsible party." Requires responsible parties to be accessible to the recipient and the personal care assistant when personal care services are being provided, monitor the services at least weekly, be identified at the time of assessment, and be listed on the recipient's service agreement and care plan. Allows responsible parties to delegate the responsibility to another adult who is not the personal care assistant. Strikes the requirement of the responsible party to reside with a recipient of personal care assistant services.
- 9 **Personal care assistant services.** Amends § 256B.0627, subd. 4. Strikes services provided by parents of adult recipients, adult children, or siblings of the recipient from the list of services that are not eligible for payment. Makes technical changes.
- 10 **Flexible use of personal care assistant hours.** Amends § 256B.0627, subd. 9. Strikes language requiring the recipient or responsible party to determine whether flexible use is an appropriate option based on the needs and preferences of the recipient or responsible party. Strikes references to developing a written month-to-month plan of the projected use of services. Strikes language allowing the recipient or responsible party to revoke the authorization for flexible use of hours. Strikes language requiring the commissioner to deny, revoke, or suspend authorization to use authorized hours flexibly if certain requirements have not been met.
- 11 **Preadmission screening of individuals under 65 years of age.** Amends § 256B.0911, subd. 4d. Modifies the timelines when a county must complete the face-to-face LTCC assessment for persons age 21 through 64, from 20 working days to 40 calendar days. Provides consistency with federal regulations and eases LTCC administration for counties.
- 12 **Tribal management of elderly waiver.** Amends § 256B.0915, by adding a subd. Allows DHS and the White Earth Reservation to pilot tribal management, including the provision of case management, of the Elderly Waiver program and tribal assessment for PCA services. The pilot will allow DHS and White Earth to design the administrative infrastructure needed in order for tribes to expand their prerogative in the provision of health care to include long-term care.
- 13 **Notice to residents.** Amends § 256B.47, subd. 2. Clarifies language requiring advance

notice to nursing facility residents of increases in their per diem rates. The purpose of this change is to clarify that notice may not be retroactive.

### Article 3: Miscellaneous

- 1 1 **Detoxification.** Amends § 253B.05, by adding subd. 5. Provides that a treatment facility may release a person who was intoxicated in public from an emergency hold without meeting certain notice requirements under the civil commitment act.
- 2 **Designation of areas to receive metropolitan rates.** Amends § 256B.431, by adding subd. 38. (a) For rate years beginning on or after July 1, 2003, classifies nursing facilities located in areas designated as metropolitan areas by the federal Office of Management and Budget as metro, in order to determine nursing facility rate increases and to establish rates for the new nursing facility reimbursement system.  
  
(b) Provides that paragraph (a) applies only if designation as a metro facility would result in a facility receiving a higher level of reimbursement than it would otherwise receive.  
  
Provides a July 1, 2003 effective date.
- 3 **Medical assistance for mental health services provided in out-of-home placement settings.** Requires the commissioner of human services to develop a plan to secure medical assistance funding for mental health related services provided in out-of-home placement settings. Specifies what the plan must include. Requires the commissioner to submit the plan to the legislature by January 15, 2004.
- 4 **Assessment of a doula services health benefit mandate.** Requires the commissioner of health to complete an assessment of statutorily requiring health plans that offer maternity benefits to provide coverage for doula services. Requires the commissioner to submit a report to the legislature by January 15, 2004.