

HOUSE RESEARCH

Bill Summary

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Overview

This bill modifies requirements related to the commissioner taking action against a license.

Section

1 **Correction orders and conditional licenses for programs licensed to provide home and community-based services.** Amends § 245A.06, by adding subdivision 1a. Paragraph (a) states that this subdivision applies to programs licensed to provide home and community-based services.

Paragraph (b) provides that if a license holder has a license to operate more than one site, conditions imposed under this section shall be specific to the site at which the violations occurred.

Paragraph (c) provides that if the license holder holds more than one license, conditions imposed under this section shall be specific to the program at which the violations occurred and shall not apply to other licenses if the programs are operated in substantial compliance with applicable laws and rules.

Paragraph (d) limits the commissioner's authority to issue a conditional license to circumstances in which the nature of the violations are chronic and severe, and constitute a pattern of noncompliance that pose a risk to the persons served by the program or constitute a pattern of serious maltreatment.

Section

Paragraph (e) establishes the procedures that must be taken before the commissioner can issue a conditional license.

Paragraph (f) prohibits the commissioner from issuing a conditional license if the license holder has corrected the violations.

Paragraph (g) instructs the commissioner to offer the license holder a settlement hearing before issuing final sanctions.

- 2** **Revocation and suspension of licenses for home and community-based services programs; authority to stay revocation.** Amends § 245A.07, by adding subdivision 4a. Paragraph (a) states that this subdivision applies to programs licensed to provide home and community-based services.

Paragraph (b) provides that the commissioner must issue a conditional license before revoking a license unless the license holder is subject to an order for temporary immediate suspension or suspension.

Paragraph (c) allows the commissioner to stay the revocation, suspension, or nonrenewal of a license for other sites operated by an organization or controlling individual even though the license of a program operated by the same organization or controlling individual has been revoked, suspended, or not renewed. Instructs the commissioner to consider the compliance history of each site operated by the license holder and the ability of the license holder to operate the other programs in compliance with applicable laws and rules.

- 3** **Burden of proof.** Amends § 245A.08, subd. 3. Places the burden of proof on the commissioner to substantiate allegations that the license holder failed to substantially comply with applicable law or rule. Requires the commissioner to present sworn affidavits or testimony. Provides that reliance on unsworn statements or reports does not meet the initial burden of proof. States that if the commissioner proves that reasonable cause exists to impose a licensing sanction, the burden shifts to the license holder to show that the license holder is currently in substantial compliance with the laws or rules.
- 4** **Judicial review.** Amends § 245A.08, by adding subdivision 6. Requires the court to conduct a de novo review of the record to determine whether the commissioner's choice of sanction is supported by the evidence and is commensurate with the violation.
- 5** **Data management.** Amends § 626.557, subd. 12b, by adding paragraph (k). Provides that a public report of substantiated maltreatment may not disclose an injury or death unless the investigative agency shows that the maltreatment is the proximate cause of the injury or death.
- 6** **Neglect.** Amends 626.5572, subdivision 17. Prohibits a finding of substantiated neglect against a facility that is in compliance with laws and rules relevant to the event under investigation.