

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 1750
Version: Second engrossment

DATE: March 27, 2009

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Subject: DHS licensing

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Overview

This article amends the human services licensing act, background study act, reporting maltreatment of minors act, and reporting maltreatment of vulnerable adults act.

Section

- 1 Exemption for certain establishments.** Amends §157.16, by adding subd. 5. Exempts DHS licensed group residential facilities with ten or fewer beds from licensure requirements when the facility employs or contracts with a certified food manager.
- 2 Day treatment services.** Amends §245.4871, subd. 10. Changes the requirement from a minimum of a three hour time block for therapeutic services, to a two hour time block. Requires day treatment services to be available up to 15 hours per week; current law requires at least five days a week.
- 3 Exclusion from licensure.** Amends § 245A.03, subd. 2.
 - Adds an exemption for chemical dependency or substance abuse treatment activities of licensed professionals in private practice when the services are not paid from the consolidated chemical dependency treatment fund.
 - Adds an exemption for programs operated by a YMCA, YWCA, or JCC whose primary purpose is to provide child care to school age children.
 - Adds an exemption for accredited programs serving children age 33 months or older that are operated by a nonpublic school for no more than 4 hours per day per child with no more than 20 children present at any one time.
- 4 Excluded providers seeking licensure.** Amends §245A.03, by adding subd. 7. Adds that any accredited nonpublic school program serving children age 33 months or older is not prohibited from seeking licensure.

- 5 Commissioner's right of access.** Amends § 245A.04, subd. 5. Clarifies that the commissioner has access to a program's electronic records. Adds that the commissioner has the right of access when exercising powers under sections 626.556 and 626.557, related to investigation of maltreatment of children and vulnerable adults.
- 6 Grant of license; license extension.** Amends § 245A.04, subd. 7. Adds to the paragraph prohibiting the grant of a license under certain circumstances, that the commissioner shall not reissue a license under these circumstances.
- Also adds that a license cannot be issued or reissued if no variance has been granted if an applicant, license holder, or controlling individual has been disqualified and the disqualification not set aside. States that a license cannot be issued or reissued if the applicant, license holder, or controlling individual has an outstanding debt related to a license fee, licensing fine, or settlement agreement with delinquent payments.
- Provides that in specified circumstances a licensing holder and controlling individual are barred from holding any license under chapter 245A or 245B for five years.
- 7 Denial of application.** Amends § 245A.05. Permits the commissioner to deny a license if an applicant or controlling individual fails to comply with applicable laws or rules, knowingly withholds information or provides false information, has a disqualification that has not been set aside and no variance has been granted, or is required to have a background study and has a disqualification that has not been set aside and no variance has been granted.
- Specifies that if an individual wishes to appeal the commissioner's license denial, the written notification to the commissioner, if mailed, must be postmarked within 20 calendar days of receipt of the denial, or if hand delivered, must be received by the commissioner within 20 calendar days of receipt of the denial.
- 8 Sanctions; appeals; license.** Amends § 245A.07, subd. 1. Permits the commissioner to suspend or revoke a license if a license holder does not comply with applicable law or rule.
- 9 License suspension, revocation, or fine.** Amends § 245A.07, subd. 3. Permits a license holder to continue operating a program when the license holder has submitted a timely appeal of an order suspending or revoking a license until a final order has been entered.
- 10 Alternate overnight supervision; adult foster care license.** Amends § 245A.11, by adding subd. 8. Paragraph (a) permits the commissioner to grant an adult foster care license to a provider who does not have a caregiver in residence during sleeping hours, but has monitoring technology to alert the license holder of an emergency.
- Paragraph (b) requires the license holder to establish and implement specified policies and procedures.
- Paragraph (c) lists the policies and procedures that must be implemented.
- Paragraph (d) requires the license holder to document what form of emergency response will be used.
- Paragraph (e) requires that all placement agreements, individual service agreements, and plans applicable to foster care provide specified information related to the absence of a

caregiver during normal sleeping hours.

Paragraph (f) requires the lead county contract to specify that the foster care service does not have on site overnight human supervision present.

- 11 Reduction of risk of sudden infant death syndrome in licensed programs.** Amends § 245A.1435. Adds that the provisions of this section apply to license holders serving infants up to and including 12 months of age.
- 12 Sudden infant death and shaken baby syndrome for child foster care providers.** Amends § 245A.144. Adds that this required training is to address reducing the risk of sudden infant death and shaken baby syndrome in infants and young children through five years of age.
- 13 Training on risk of sudden infant death syndrome and shaken baby syndrome by other programs.** Amends § 245A.1444. Adds that this required training is to address reducing the risk of sudden infant death and shaken baby syndrome in infants and young children through five years of age. This section applies to licensed chemical dependency programs that serve clients with young children who sleep at the program, and licensed children's residential facilities.
- 14 Delegation of authority to counties.** Amends § 245A.16, subd. 1. Denies a county agency the authority to grant a variance for a family child care provider to exceed the license capacity of 14 children. There is a very limited exception to this prohibition in section 245A.14, subd. 4, para. (e).
- 15 Sudden infant death syndrome and shaken baby syndrome training.** Amends § 245A.40, subd. 5. Adds that this required training for child care center employees is to address reducing the risk of sudden infant death and shaken baby syndrome in infants and young children under school age. Requires training for sudden infant death syndrome be provided at least once every five years and be of at least one-half hour in length. Provides the same requirement for shaken baby syndrome.
- 16 Sudden infant death syndrome and shaken baby syndrome training.** Amends § 245A.50, subd. 5. Clarifies that this is part of initial and ongoing annual training. Requires training for sudden infant death syndrome be provided at least once every five years and be of at least one-half hour in length. Provides the same requirement for shaken baby syndrome.
- 17 Licensed programs.** Amends § 245C.03, subd. 1. Adds three categories of individuals who must have a background study:
- Former employees who are rehired to provide direct contact services following a lay off or termination of employment;
 - An individual who has had a background study but has not provided direct contact services for more than 45 consecutive days must have a new background study before returning to a position of providing direct contact services; and
 - An individual whose background study was completed under a license that is now closed must have a new background study initiated by the facility with an active license.

- 18 Licensed programs.** Amends § 245C.04, subd. 1. Requires a license holder to notify the commissioner when an individual returns to a position requiring a background study following an absence of 45 or more days, or when a program that had been providing licensed services and discontinues service for 45 or more days, resumes providing services.
- 19 Study subject affiliated with multiple facilities.** Amends § 245C.07. Requires a license holder who has multiple licensed programs to notify the commissioner if a program closes, and to inform the commissioner the names of staff who will be transferred to one of the open programs.
- 20 Direct contact pending completion of background study.** Amends § 245C.13, subd. 2. Provides that if the commissioner needs more time to complete the background study on an applicant, the notice that more time is needed must also indicate whether the applicant needs to be under continuous direct supervision prior to completion of the study.
- 21 Permanent disqualification.** Amends § 245C.15, subd. 1. Adds that if a disqualification is based on an *Alford* plea, the disqualification period begins on the date the plea is entered. An *Alford* plea is a form of a guilty plea in which the defendant asserts innocence but acknowledges on the record that the prosecutor could present enough evidence to prove guilt.
- 22 15-year disqualification.** Amends § 245C.15, subd. 2. Adds a violation of section 609.495 (aiding an offender) to the list of 15-year disqualifying offenses.
- Adds that if a disqualification is based on an *Alford* plea, the disqualification period begins on the date the plea is entered. An *Alford* plea is a form of a guilty plea in which the defendant asserts innocence but acknowledges on the record that the prosecutor could present enough evidence to prove guilt.
- 23 Ten-year disqualification.** Amends § 245C.15, subd. 3. Adds that if a disqualification is based on an *Alford* plea, the disqualification period begins on the date the plea is entered. An *Alford* plea is a form of a guilty plea in which the defendant asserts innocence but acknowledges on the record that the prosecutor could present enough evidence to prove guilt.
- 24 Seven-year disqualification.** Amends § 245C.15, subd. 4. Adds that if a disqualification is based on an *Alford* plea, the disqualification period begins on the date the plea is entered. An *Alford* plea is a form of a guilty plea in which the defendant asserts innocence but acknowledges on the record that the prosecutor could present enough evidence to prove guilt.
- 25 Permanent bar to set aside a disqualification.** Amends § 245C.24, subd. 2. Adds paragraph (c). This paragraph allows the commissioner to grant a variance to a foster parent who has adopted a foster child who has a disqualifying offense, when this is recommended by the county of responsibility for each of the remaining foster children in the home and the licensing agency for the home.
- 26 Ten-year bar to set aside disqualification.** Amends § 245C.24, subd. 3. Adds criminal vehicular operation causing death to the list of offenses for which the commissioner cannot set aside the disqualification of an individual in connection with a license to provide family child care, child foster care in the provider's home, or adult foster care or day care services

in the provider's home.

- 27 Consolidated reconsideration of maltreatment determination and disqualification.** Amends § 245C.25. Adds that if the commissioner disqualifies an individual in connection with a child foster care license based on a county's maltreatment determination, the commissioner shall conduct the reconsideration of the disqualification.
- 28 Fair hearing when disqualification is not set aside.** Amends § 245C.27, subd. 1. Adds disqualification based on an *Alford* plea.
- 29 State agency hearings.** Amends § 256.045, subd. 3. Adds two statutory references for clarification.
- 30 Standard of evidence for maltreatment and disqualification hearings.** Amends § 256.045, subd. 3b. Corrects a cross-reference.
- 31 License; permit.** Adds § 256.364. Prohibits a municipality from requiring a massage therapist to obtain a license or permit when the therapist is working for or an employee of a licensed medical professional.
- 32 Provider entity certification.** Amends § 256B.0943, subd. 4. Strikes the requirement that a noncounty provider entity must be recommended for certification by the provider's host county. Certification under this amendment would be entirely a state duty.
- 33 Provider entity clinical infrastructure requirements.** Amends § 256B.0943, subd. 6. Provides clarification of provider documentation requirements. Strikes a requirement that for a mental health practitioner's services to be reimbursed by medical assistance, a mental health professional must be present to observe at least one session with the practitioner and child or family during the first 12 hours of treatment.
- 34 Service delivery criteria.** Amends § 256B.0943, subd. 9. Requires a day treatment program to be available at least one day a week for a two hour time block. Current law requires a three hour time block.
- 35 Definitions.** Amends § 626.556, subd. 2. Amends paragraph (f), the definition of "neglect" to provide that the commission or omission of any of the specified acts, other than by accidental means, is considered neglect.
- 36 Determinations.** Amends § 626.556, subd. 10e. Adds that when substantiated maltreatment has been committed by an individual who is also the facility license holder, then both the individual and the facility must be determined responsible for the maltreatment and sanctions against the individual and facility can be imposed.
- 37 Notice of determinations.** Amends § 626.556, subd. 10f. Requires the local welfare agency that conducts an assessment or investigation involving a child foster care setting to notify the agency that has licensed the foster home of the results of the assessment or investigation and the reasons for the results. This notification can include private data, but cannot include the identity of the reporter.
- 38 Lead agency; notifications, dispositions, determinations.** Amends § 626.557, subd. 9c. Adds that when substantiated maltreatment has been committed by an individual who is also the facility license holder, then both the individual and the facility must be determined

responsible for the maltreatment and sanctions against the individual and facility can be imposed.

- 39** **Lead agency.** Amends § 626.5572, subd. 13. Paragraph (a) states that the Department of Health is the lead agency for investigating reports of maltreatment of vulnerable adults in specified facilities. Adds to this list, residential facilities that are also federally certified as ICF/MR facilities.

Paragraph (b) states that the Department of Human Services is the lead agency for investigation reports of maltreatment of vulnerable adults in specified programs. Strikes personal care provider organizations from the list of programs.

Makes no changes to paragraph (c) that requires the county social service agency to be the lead agency for all other reports.

- 40** **Revisor's instruction.** Instructs the revisor to correct internal cross references.

- 41** **Repealer.** Repeals section 245C.10, subd. 1 (Subject of background study. This subdivision provides that subjects of background studies cannot be assessed a fee for the study.)