

1.1 moves to amend H.F. No. 2294, the delete everything amendment
1.2 (H2294DE2), as follows:

1.3 Page 24, after line 5, insert:

1.4 "Sec. Minnesota Statutes 2010, section 245A.03, is amended by adding a
1.5 subdivision to read:

1.6 **Subd. 6a. Adult foster care homes serving people with mental illness;**
1.7 **certification.** (a) The commissioner of human services shall issue a mental health
1.8 certification for adult foster care homes licensed under this chapter and Minnesota Rules,
1.9 parts 9555.5105 to 9555.6265, that serve people with mental illness where the home is not
1.10 the primary residence of the license holder when a provider is determined to have met
1.11 the requirements under paragraph (b). This certification is voluntary for license holders.
1.12 The certification shall be printed on the license, and identified on the commissioner's
1.13 public Web site.

1.14 (b) The requirements for certification are:

1.15 (1) all staff working in the adult foster care home have received at least seven hours
1.16 of annual training covering all of the following topics:

1.17 (i) mental health diagnoses;

1.18 (ii) mental health crisis response and de-escalation techniques;

1.19 (iii) recovery from mental illness;

1.20 (iv) treatment options including evidence-based practices;

1.21 (v) medications and their side effects;

1.22 (vi) co-occurring substance abuse and health conditions; and

1.23 (vii) community resources; and

1.24 (2) a mental health professional, as defined in section 245.4871, subdivision 27, or a
1.25 mental health practitioner as defined in section 245.4871, subdivision 26, are available
1.26 for consultation and assistance;

1.27 (3) there is a plan and protocol in place to address a mental health crisis; and

2.1 (4) each individual's Individual Placement Agreement identifies who is providing
2.2 clinical services and their contact information, and includes an individual crisis prevention
2.3 and management plan developed with the individual.

2.4 (c) License holders seeking certification under this subdivision must request this
2.5 certification on forms provided by the commissioner and must submit the request to the
2.6 county licensing agency in which the home is located. The county licensing agency must
2.7 forward the request to the commissioner with a county recommendation regarding whether
2.8 the commissioner should issue the certification.

2.9 (d) Ongoing compliance with the certification requirements under paragraph (b)
2.10 shall be reviewed by the county licensing agency at each licensing review. When a county
2.11 licensing agency determines that the requirements of paragraph (b) are not met, the county
2.12 shall inform the commissioner, and the commissioner will remove the certification.

2.13 (e) A denial of the certification or the removal of the certification based on a
2.14 determination that the requirements under paragraph (b) have not been met by the adult
2.15 foster care license holder are not subject to appeal. A license holder that has been denied a
2.16 certification or that has had a certification removed may again request certification when
2.17 the license holder is in compliance with the requirements of paragraph (b)."

2.18 Page 26, after line 13, insert:

2.19 "Sec. Minnesota Statutes 2010, section 245A.11, subdivision 7, is amended to read:

2.20 Subd. 7. **Adult foster care; variance for alternate overnight supervision.** (a) The
2.21 commissioner may grant a variance under section 245A.04, subdivision 9, to rule parts
2.22 requiring a caregiver to be present in an adult foster care home during normal sleeping
2.23 hours to allow for alternative methods of overnight supervision. The commissioner may
2.24 grant the variance if the local county licensing agency recommends the variance and the
2.25 county recommendation includes documentation verifying that:

2.26 (1) the county has approved the license holder's plan for alternative methods of
2.27 providing overnight supervision and determined the plan protects the residents' health,
2.28 safety, and rights;

2.29 (2) the license holder has obtained written and signed informed consent from
2.30 each resident or each resident's legal representative documenting the resident's or legal
2.31 representative's agreement with the alternative method of overnight supervision; and

2.32 (3) the alternative method of providing overnight supervision, which may include
2.33 the use of technology, is specified for each resident in the resident's: (i) individualized
2.34 plan of care; (ii) individual service plan under section 256B.092, subdivision 1b, if
2.35 required; or (iii) individual resident placement agreement under Minnesota Rules, part
2.36 9555.5105, subpart 19, if required.

3.1 (b) To be eligible for a variance under paragraph (a), the adult foster care license
3.2 holder must not have had a ~~licensing action~~ conditional license issued under section
3.3 245A.06, or any other licensing sanction issued under section 245A.07 during the prior 24
3.4 months based on failure to provide adequate supervision, health care services, or resident
3.5 safety in the adult foster care home.

3.6 (c) A license holder requesting a variance under this subdivision to utilize
3.7 technology as a component of a plan for alternative overnight supervision may request
3.8 the commissioner's review in the absence of a county recommendation. Upon receipt of
3.9 such a request from a license holder, the commissioner shall review the variance request
3.10 with the county.

3.11 Sec. Minnesota Statutes 2010, section 245B.07, subdivision 1, is amended to read:

3.12 Subdivision 1. **Consumer data file.** The license holder must maintain the following
3.13 information for each consumer:

3.14 (1) identifying information that includes date of birth, medications, legal
3.15 representative, history, medical, and other individual-specific information, and names and
3.16 telephone numbers of contacts;

3.17 (2) consumer health information, including individual medication administration
3.18 and monitoring information;

3.19 (3) the consumer's individual service plan. When a consumer's case manager does
3.20 not provide a current individual service plan, the license holder shall make a written
3.21 request to the case manager to provide a copy of the individual service plan and inform
3.22 the consumer or the consumer's legal representative of the right to an individual service
3.23 plan and the right to appeal under section 256.045. In the event the case manager fails
3.24 to provide an individual service plan after a written request from the license holder, the
3.25 license holder shall not be sanctioned or penalized financially for not having a current
3.26 individual service plan in the consumer's data file;

3.27 (4) copies of assessments, analyses, summaries, and recommendations;

3.28 (5) progress review reports;

3.29 (6) incidents involving the consumer;

3.30 (7) reports required under section 245B.05, subdivision 7;

3.31 (8) discharge summary, when applicable;

3.32 (9) record of other license holders serving the consumer that includes a contact
3.33 person and telephone numbers, services being provided, services that require coordination
3.34 between two license holders, and name of staff responsible for coordination;

- 4.1 (10) information about verbal aggression directed at the consumer by another
4.2 consumer; and
4.3 (11) information about self-abuse.

4.4 Sec. Minnesota Statutes 2010, section 245C.04, subdivision 6, is amended to read:

4.5 Subd. 6. **Unlicensed home and community-based waiver providers of service to**
4.6 **seniors and individuals with disabilities.** (a) Providers required to initiate background
4.7 studies under section 256B.4912 must initiate a study before the individual begins in a
4.8 position allowing direct contact with persons served by the provider.

4.9 (b) ~~The commissioner shall conduct~~ Except as provided in paragraph (c), the
4.10 providers must initiate a background study annually of an individual required to be studied
4.11 under section 245C.03, subdivision 6.

4.12 (c) After an initial background study under this subdivision is initiated on an
4.13 individual by a provider of both services licensed by the commissioner and the unlicensed
4.14 services under this subdivision, a repeat annual background study is not required if:

4.15 (1) the provider maintains compliance with the requirements of section 245C.07,
4.16 paragraph (a), regarding one individual with one address and telephone number as the
4.17 person to receive sensitive background study information for the multiple programs that
4.18 depend on the same background study, and that the individual who is designated to receive
4.19 the sensitive background information is capable of determining, upon the request of the
4.20 commissioner, whether a background study subject is providing direct contact services
4.21 in one or more of the provider's programs or services and, if so, at which location or
4.22 locations; and

4.23 (2) the individual who is the subject of the background study provides direct
4.24 contact services under the provider's licensed program for at least 40 hours per year so
4.25 the individual will be recognized by a probation officer or corrections agent to prompt
4.26 a report to the commissioner regarding criminal convictions as required under section
4.27 245C.05, subdivision 7.

4.28 Sec. Minnesota Statutes 2010, section 245C.05, subdivision 7, is amended to read:

4.29 Subd. 7. **Probation officer and corrections agent.** (a) A probation officer or
4.30 corrections agent shall notify the commissioner of an individual's conviction if the
4.31 individual is:

4.32 (1) has been affiliated with a program or facility regulated by the Department of
4.33 Human Services or Department of Health, a facility serving children or youth licensed by

5.1 the Department of Corrections, or any type of home care agency or provider of personal
5.2 care assistance services within the preceding year; and

5.3 (2) has been convicted of a crime constituting a disqualification under section
5.4 245C.14.

5.5 (b) For the purpose of this subdivision, "conviction" has the meaning given it
5.6 in section 609.02, subdivision 5.

5.7 (c) The commissioner, in consultation with the commissioner of corrections, shall
5.8 develop forms and information necessary to implement this subdivision and shall provide
5.9 the forms and information to the commissioner of corrections for distribution to local
5.10 probation officers and corrections agents.

5.11 (d) The commissioner shall inform individuals subject to a background study that
5.12 criminal convictions for disqualifying crimes will be reported to the commissioner by the
5.13 corrections system.

5.14 (e) A probation officer, corrections agent, or corrections agency is not civilly or
5.15 criminally liable for disclosing or failing to disclose the information required by this
5.16 subdivision.

5.17 (f) Upon receipt of disqualifying information, the commissioner shall provide the
5.18 notice required under section 245C.17, as appropriate, to agencies on record as having
5.19 initiated a background study or making a request for documentation of the background
5.20 study status of the individual.

5.21 (g) This subdivision does not apply to family child care programs."

5.22 Page 42, after line 31, insert:

5.23 "Sec. Minnesota Statutes 2010, section 256B.092, subdivision 1b, is amended to
5.24 read:

5.25 Subd. 1b. **Individual service plan.** (a) The individual service plan must:

5.26 (1) include the results of the assessment information on the person's need for service,
5.27 including identification of service needs that will be or that are met by the person's
5.28 relatives, friends, and others, as well as community services used by the general public;

5.29 (2) identify the person's preferences for services as stated by the person, the person's
5.30 legal guardian or conservator, or the parent if the person is a minor;

5.31 (3) identify long- and short-range goals for the person;

5.32 (4) identify specific services and the amount and frequency of the services to be
5.33 provided to the person based on assessed needs, preferences, and available resources.

5.34 The individual service plan shall also specify other services the person needs that are
5.35 not available;

6.1 (5) identify the need for an individual program plan to be developed by the provider
6.2 according to the respective state and federal licensing and certification standards, and
6.3 additional assessments to be completed or arranged by the provider after service initiation;

6.4 (6) identify provider responsibilities to implement and make recommendations for
6.5 modification to the individual service plan;

6.6 (7) include notice of the right to request a conciliation conference or a hearing
6.7 under section 256.045;

6.8 (8) be agreed upon and signed by the person, the person's legal guardian
6.9 or conservator, or the parent if the person is a minor, and the authorized county
6.10 representative; and

6.11 (9) be reviewed by a health professional if the person has overriding medical needs
6.12 that impact the delivery of services.

6.13 (b) Service planning formats developed for interagency planning such as transition,
6.14 vocational, and individual family service plans may be substituted for service planning
6.15 formats developed by county agencies.

6.16 (c) Approved, written, and signed changes to a consumer's services that meet the
6.17 criteria in this subdivision shall be an addendum to that consumer's individual service
6.18 plan."

6.19 Page 44, after line 4, insert:

6.20 "Sec. Minnesota Statutes 2011 Supplement, section 256B.097, subdivision 3, is
6.21 amended to read:

6.22 Subd. 3. **State Quality Council.** (a) There is hereby created a State Quality
6.23 Council which must define regional quality councils, and carry out a community-based,
6.24 person-directed quality review component, and a comprehensive system for effective
6.25 incident reporting, investigation, analysis, and follow-up.

6.26 (b) By August 1, 2011, the commissioner of human services shall appoint the
6.27 members of the initial State Quality Council. Members shall include representatives
6.28 from the following groups:

6.29 (1) disability service recipients and their family members;

6.30 (2) during the first two years of the State Quality Council, there must be at least three
6.31 members from the Region 10 stakeholders. As regional quality councils are formed under
6.32 subdivision 4, each regional quality council shall appoint one member;

6.33 (3) disability service providers;

6.34 (4) disability advocacy groups; and

6.35 (5) county human services agencies and staff from the Department of Human
6.36 Services and Ombudsman for Mental Health and Developmental Disabilities.

7.1 (c) Members of the council who do not receive a salary or wages from an employer
7.2 for time spent on council duties may receive a per diem payment when performing council
7.3 duties and functions.

7.4 (d) The State Quality Council shall:

7.5 (1) assist the Department of Human Services in fulfilling federally mandated
7.6 obligations by monitoring disability service quality and quality assurance and
7.7 improvement practices in Minnesota; ~~and~~

7.8 (2) establish state quality improvement priorities with methods for achieving results
7.9 and provide an annual report to the legislative committees with jurisdiction over policy
7.10 and funding of disability services on the outcomes, improvement priorities, and activities
7.11 undertaken by the commission during the previous state fiscal year;

7.12 (3) identify issues pertaining to financial and personal risk that impede Minnesotans
7.13 with disabilities from optimizing choice of community-based services; and

7.14 (4) recommend to the chairs of the legislative committees with jurisdiction over
7.15 human services and civil law by January 15, 2013, statutory and rule changes related to
7.16 the findings under clause (3) that promote individualized service and housing choices
7.17 balanced with appropriate individualized protection.

7.18 (e) The State Quality Council, in partnership with the commissioner, shall:

7.19 (1) approve and direct implementation of the community-based, person-directed
7.20 system established in this section;

7.21 (2) recommend an appropriate method of funding this system, and determine the
7.22 feasibility of the use of Medicaid, licensing fees, as well as other possible funding options;

7.23 (3) approve measurable outcomes in the areas of health and safety, consumer
7.24 evaluation, education and training, providers, and systems;

7.25 (4) establish variable licensure periods not to exceed three years based on outcomes
7.26 achieved; and

7.27 (5) in cooperation with the Quality Assurance Commission, design a transition plan
7.28 for licensed providers from Region 10 into the alternative licensing system by July 1, 2013.

7.29 (f) The State Quality Council shall notify the commissioner of human services that a
7.30 facility, program, or service has been reviewed by quality assurance team members under
7.31 subdivision 4, paragraph (b), clause (13), and qualifies for a license.

7.32 (g) The State Quality Council, in partnership with the commissioner, shall establish
7.33 an ongoing review process for the system. The review shall take into account the
7.34 comprehensive nature of the system which is designed to evaluate the broad spectrum of
7.35 licensed and unlicensed entities that provide services to persons with disabilities. The
7.36 review shall address efficiencies and effectiveness of the system.

8.1 (h) The State Quality Council may recommend to the commissioner certain
 8.2 variances from the standards governing licensure of programs for persons with disabilities
 8.3 in order to improve the quality of services so long as the recommended variances do
 8.4 not adversely affect the health or safety of persons being served or compromise the
 8.5 qualifications of staff to provide services.

8.6 (i) The safety standards, rights, or procedural protections referenced under
 8.7 subdivision 2, paragraph (c), shall not be varied. The State Quality Council may make
 8.8 recommendations to the commissioner or to the legislature in the report required under
 8.9 paragraph (c) regarding alternatives or modifications to the safety standards, rights, or
 8.10 procedural protections referenced under subdivision 2, paragraph (c).

8.11 (j) The State Quality Council may hire staff to perform the duties assigned in this
 8.12 subdivision."

8.13 Page 47, after line 19, insert:

8.14 "Sec. Minnesota Statutes 2011 Supplement, section 256B.49, subdivision 23, is
 8.15 amended to read:

8.16 Subd. 23. **Community-living settings.** "Community-living settings" means a
 8.17 single-family home or apartment where the service recipient or their family owns or rents,
 8.18 ~~as demonstrated by a lease agreement~~, and maintains control over the individual unit: as
 8.19 demonstrated by the lease agreement, or has a plan for transition of a lease from a service
 8.20 provider to the individual. Within two years of signing the initial lease, the service provider
 8.21 shall transfer the lease to the individual. In the event the landlord denies the transfer, the
 8.22 commissioner may approve an exception within sufficient time to ensure the continued
 8.23 occupancy by the individual. Community-living settings are subject to the following:

- 8.24 (1) individuals are not required to receive services;
- 8.25 (2) individuals are not required to have a disability or specific diagnosis to live in the
 8.26 community-living setting unless state or federal funding for housing requires it;
- 8.27 (3) individuals may hire service providers of their choice;
- 8.28 (4) individuals may choose whether to share their household and with whom;
- 8.29 (5) the home or apartment must include living, sleeping, bathing, and cooking areas;
- 8.30 (6) individuals must have lockable access and egress;
- 8.31 (7) individuals must be free to receive visitors and leave the settings at times and for
 8.32 durations of their own choosing;
- 8.33 (8) leases must not reserve the right to assign units or change unit assignments; and
- 8.34 (9) access to the greater community must be easily facilitated based on the
 8.35 individual's needs and preferences."

9.1 Page 48, line 4, after "to" insert "four units plus" and after "the" insert "remaining"
9.2 and after "units" insert "in the building"

9.3 Page 48, after line 23, insert:

9.4 "Sec. Minnesota Statutes 2010, section 256D.44, subdivision 5, is amended to read:

9.5 Subd. 5. **Special needs.** In addition to the state standards of assistance established in
9.6 subdivisions 1 to 4, payments are allowed for the following special needs of recipients of
9.7 Minnesota supplemental aid who are not residents of a nursing home, a regional treatment
9.8 center, or a group residential housing facility.

9.9 (a) The county agency shall pay a monthly allowance for medically prescribed
9.10 diets if the cost of those additional dietary needs cannot be met through some other
9.11 maintenance benefit. The need for special diets or dietary items must be prescribed by
9.12 a licensed physician. Costs for special diets shall be determined as percentages of the
9.13 allotment for a one-person household under the thrifty food plan as defined by the United
9.14 States Department of Agriculture. The types of diets and the percentages of the thrifty
9.15 food plan that are covered are as follows:

9.16 (1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;

9.17 (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent
9.18 of thrifty food plan;

9.19 (3) controlled protein diet, less than 40 grams and requires special products, 125
9.20 percent of thrifty food plan;

9.21 (4) low cholesterol diet, 25 percent of thrifty food plan;

9.22 (5) high residue diet, 20 percent of thrifty food plan;

9.23 (6) pregnancy and lactation diet, 35 percent of thrifty food plan;

9.24 (7) gluten-free diet, 25 percent of thrifty food plan;

9.25 (8) lactose-free diet, 25 percent of thrifty food plan;

9.26 (9) antidumping diet, 15 percent of thrifty food plan;

9.27 (10) hypoglycemic diet, 15 percent of thrifty food plan; or

9.28 (11) ketogenic diet, 25 percent of thrifty food plan.

9.29 (b) Payment for nonrecurring special needs must be allowed for necessary home
9.30 repairs or necessary repairs or replacement of household furniture and appliances using
9.31 the payment standard of the AFDC program in effect on July 16, 1996, for these expenses,
9.32 as long as other funding sources are not available.

9.33 (c) A fee for guardian or conservator service is allowed at a reasonable rate
9.34 negotiated by the county or approved by the court. This rate shall not exceed five percent
9.35 of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the
9.36 guardian or conservator is a member of the county agency staff, no fee is allowed.

10.1 (d) The county agency shall continue to pay a monthly allowance of \$68 for
10.2 restaurant meals for a person who was receiving a restaurant meal allowance on June 1,
10.3 1990, and who eats two or more meals in a restaurant daily. The allowance must continue
10.4 until the person has not received Minnesota supplemental aid for one full calendar month
10.5 or until the person's living arrangement changes and the person no longer meets the criteria
10.6 for the restaurant meal allowance, whichever occurs first.

10.7 (e) A fee of ten percent of the recipient's gross income or \$25, whichever is less,
10.8 is allowed for representative payee services provided by an agency that meets the
10.9 requirements under SSI regulations to charge a fee for representative payee services. This
10.10 special need is available to all recipients of Minnesota supplemental aid regardless of
10.11 their living arrangement.

10.12 (f)(1) Notwithstanding the language in this subdivision, an amount equal to the
10.13 maximum allotment authorized by the federal Food Stamp Program for a single individual
10.14 which is in effect on the first day of July of each year will be added to the standards of
10.15 assistance established in subdivisions 1 to 4 for adults under the age of 65 who qualify
10.16 as shelter needy and are: (i) relocating from an institution, or an adult mental health
10.17 residential treatment program under section 256B.0622; (ii) eligible for the self-directed
10.18 supports option as defined under section 256B.0657, subdivision 2; or (iii) home and
10.19 community-based waiver recipients living in their own home or rented or leased apartment
10.20 which is not owned, operated, or controlled by a provider of service not related by blood
10.21 or marriage, unless allowed under paragraph (g).

10.22 (2) Notwithstanding subdivision 3, paragraph (c), an individual eligible for the
10.23 shelter needy benefit under this paragraph is considered a household of one. An eligible
10.24 individual who receives this benefit prior to age 65 may continue to receive the benefit
10.25 after the age of 65.

10.26 (3) "Shelter needy" means that the assistance unit incurs monthly shelter costs that
10.27 exceed 40 percent of the assistance unit's gross income before the application of this
10.28 special needs standard. "Gross income" for the purposes of this section is the applicant's or
10.29 recipient's income as defined in section 256D.35, subdivision 10, or the standard specified
10.30 in subdivision 3, paragraph (a) or (b), whichever is greater. A recipient of a federal or
10.31 state housing subsidy, that limits shelter costs to a percentage of gross income, shall not be
10.32 considered shelter needy for purposes of this paragraph.

10.33 (g) Notwithstanding this subdivision, to access housing and services as provided
10.34 in paragraph (f), the recipient may choose housing that may be owned, operated, or
10.35 controlled by the recipient's service provider. In a multifamily building ~~of four or more~~
10.36 ~~units, the maximum number of apartments that may be used by recipients of this program~~

11.1 ~~shall be 50 percent of the units in a building. This paragraph expires on June 30, 2012.~~ of
11.2 more than four units, the maximum number of units that may be used by recipients of this
11.3 program shall be 50 percent of the units in the building. When housing is controlled by
11.4 the service provider, the individual may choose their own service provider as provided in
11.5 section 256B.49, subdivision 23, clause (3). When the housing is controlled by the service
11.6 provider, the service provider shall implement a plan with the recipient to transition the
11.7 lease to the recipient's name. Within two years of signing the initial lease, the service
11.8 provider shall transfer the lease entered into under this subdivision to the recipient. In
11.9 the event the landlord denies this transfer, the commissioner may approve an exception
11.10 within sufficient time to ensure the continued occupancy by the recipient. This paragraph
11.11 expires June 30, 2016.

11.12 Sec. **INDEPENDENT LIVING SERVICES BILLING.**

11.13 The commissioner shall allow for daily rate and 15-minute increment billing for
11.14 independent living services under the brain injury (BI) and CADI waivers. If necessary to
11.15 comply with this requirement, the commissioner shall submit a waiver amendment to the
11.16 state plan no later than December 31, 2012."

11.17 Renumber the sections in sequence and correct the internal references

11.18 Amend the title accordingly