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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2556

- 03/03/2014 Authored by Newton; Murphy, M., and Hausman
The bill was read for the first time and referred to the Committee on State Government Finance and Veterans Affairs
03/12/2014 Adoption of Report: Re-referred to the Committee on Health and Human Services Policy
03/20/2014 Adoption of Report: Re-referred to the Committee on Health and Human Services Finance
03/26/2014 Adoption of Report: Re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to veterans; veterans housing and long-term care; providing exemptions
1.3 for certain moratoriums on new residential facilities; providing grants for
1.4 housing needs assessments for veterans; appropriating money; amending
1.5 Minnesota Statutes 2012, section 256I.04, subdivision 3; Minnesota Statutes
1.6 2013 Supplement, section 245A.03, subdivision 7.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2013 Supplement, section 245A.03, subdivision 7,
1.9 is amended to read:

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

- 1.19 (1) foster care settings that are required to be registered under chapter 144D;
1.20 (2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or
1.21 community residential setting licenses replacing adult foster care licenses in existence on
1.22 December 31, 2013, and determined to be needed by the commissioner under paragraph (b);
1.23 (3) new foster care licenses or community residential setting licenses determined to
1.24 be needed by the commissioner under paragraph (b) for the closure of a nursing facility,
1.25 ICF/DD, or regional treatment center; restructuring of state-operated services that limits

2.1 the capacity of state-operated facilities; or allowing movement to the community for
2.2 people who no longer require the level of care provided in state-operated facilities as
2.3 provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

2.4 (4) new foster care licenses or community residential setting licenses determined
2.5 to be needed by the commissioner under paragraph (b) for persons requiring hospital
2.6 level care; ~~or~~

2.7 (5) new foster care licenses or community residential setting licenses determined to
2.8 be needed by the commissioner for the transition of people from personal care assistance
2.9 to the home and community-based services; or

2.10 (6) new foster care licenses or community residential setting licenses determined
2.11 to be needed by the commissioner for the care of disabled veterans or veterans requiring
2.12 nursing home level care in veteran exclusive homes.

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

2.19 (c) When an adult resident served by the program moves out of a foster home
2.20 that is not the primary residence of the license holder according to section 256B.49,
2.21 subdivision 15, paragraph (f), or the adult community residential setting, the county
2.22 shall immediately inform the Department of Human Services Licensing Division. The
2.23 department shall decrease the statewide licensed capacity for adult foster care settings
2.24 where the physical location is not the primary residence of the license holder, or for adult
2.25 community residential settings, if the voluntary changes described in paragraph (e) are
2.26 not sufficient to meet the savings required by reductions in licensed bed capacity under
2.27 Laws 2011, First Special Session chapter 9, article 7, sections 1 and 40, paragraph (f),
2.28 and maintain statewide long-term care residential services capacity within budgetary
2.29 limits. Implementation of the statewide licensed capacity reduction shall begin on July
2.30 1, 2013. The commissioner shall delicense up to 128 beds by June 30, 2014, using the
2.31 needs determination process. Under this paragraph, the commissioner has the authority
2.32 to reduce unused licensed capacity of a current foster care program, or the community
2.33 residential settings, to accomplish the consolidation or closure of settings. Under this
2.34 paragraph, the commissioner has the authority to manage statewide capacity, including
2.35 adjusting the capacity available to each county and adjusting statewide available capacity,

3.1 to meet the statewide needs identified through the process in paragraph (e). A decreased
3.2 licensed capacity according to this paragraph is not subject to 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 Sec. 2. Minnesota Statutes 2012, section 256I.04, subdivision 3, is amended to read:

4.11 Subd. 3. **Moratorium on development of group residential housing beds.** (a)
4.12 County agencies shall not enter into agreements for new group residential housing beds
4.13 with total rates in excess of the MSA equivalent rate except:

4.14 (1) for group residential housing establishments licensed under Minnesota Rules,
4.15 parts 9525.0215 to 9525.0355, provided the facility is needed to meet the census reduction
4.16 targets for persons with developmental disabilities at regional treatment centers;

4.17 (2) to ensure compliance with the federal Omnibus Budget Reconciliation Act
4.18 alternative disposition plan requirements for inappropriately placed persons with
4.19 developmental disabilities or mental illness;

4.20 (3) up to 80 beds in a single, specialized facility located in Hennepin County that will
4.21 provide housing for chronic inebriates who are repetitive users of detoxification centers
4.22 and are refused placement in emergency shelters because of their state of intoxication,
4.23 and planning for the specialized facility must have been initiated before July 1, 1991,
4.24 in anticipation of receiving a grant from the Housing Finance Agency under section
4.25 462A.05, subdivision 20a, paragraph (b);

4.26 (4) notwithstanding the provisions of subdivision 2a, for up to 190 supportive
4.27 housing units in Anoka, Dakota, Hennepin, or Ramsey County for homeless adults with a
4.28 mental illness, a history of substance abuse, or human immunodeficiency virus or acquired
4.29 immunodeficiency syndrome. For purposes of this section, "homeless adult" means a
4.30 person who is living on the street or in a shelter or discharged from a regional treatment
4.31 center, community hospital, or residential treatment program and has no appropriate
4.32 housing available and lacks the resources and support necessary to access appropriate
4.33 housing. At least 70 percent of the supportive housing units must serve homeless adults
4.34 with mental illness, substance abuse problems, or human immunodeficiency virus or
4.35 acquired immunodeficiency syndrome who are about to be or, within the previous six

5.1 months, has been discharged from a regional treatment center, or a state-contracted
5.2 psychiatric bed in a community hospital, or a residential mental health or chemical
5.3 dependency treatment program. If a person meets the requirements of subdivision 1,
5.4 paragraph (a), and receives a federal or state housing subsidy, the group residential housing
5.5 rate for that person is limited to the supplementary rate under section 256I.05, subdivision
5.6 1a, and is determined by subtracting the amount of the person's countable income that
5.7 exceeds the MSA equivalent rate from the group residential housing supplementary rate.
5.8 A resident in a demonstration project site who no longer participates in the demonstration
5.9 program shall retain eligibility for a group residential housing payment in an amount
5.10 determined under section 256I.06, subdivision 8, using the MSA equivalent rate. Service
5.11 funding under section 256I.05, subdivision 1a, will end June 30, 1997, if federal matching
5.12 funds are available and the services can be provided through a managed care entity. If
5.13 federal matching funds are not available, then service funding will continue under section
5.14 256I.05, subdivision 1a;

5.15 (5) for group residential housing beds in settings meeting the requirements of
5.16 subdivision 2a, clauses (1) and (3), which are used exclusively for recipients receiving
5.17 home and community-based waiver services under sections 256B.0915, 256B.092,
5.18 subdivision 5, 256B.093, and 256B.49, and who resided in a nursing facility for the six
5.19 months immediately prior to the month of entry into the group residential housing setting.
5.20 The group residential housing rate for these beds must be set so that the monthly group
5.21 residential housing payment for an individual occupying the bed when combined with the
5.22 nonfederal share of services delivered under the waiver for that person does not exceed the
5.23 nonfederal share of the monthly medical assistance payment made for the person to the
5.24 nursing facility in which the person resided prior to entry into the group residential housing
5.25 establishment. The rate may not exceed the MSA equivalent rate plus \$426.37 for any case;

5.26 (6) for an additional two beds, resulting in a total of 32 beds, for a facility located in
5.27 Hennepin County providing services for recovering and chemically dependent men that
5.28 has had a group residential housing contract with the county and has been licensed as a
5.29 board and lodge facility with special services since 1980;

5.30 (7) for a group residential housing provider located in the city of St. Cloud, or a county
5.31 contiguous to the city of St. Cloud, that operates a 40-bed facility, that received financing
5.32 through the Minnesota Housing Finance Agency Ending Long-Term Homelessness
5.33 Initiative and serves chemically dependent clientele, providing 24-hour-a-day supervision;

5.34 (8) for a new 65-bed facility in Crow Wing County that will serve chemically
5.35 dependent persons, operated by a group residential housing provider that currently
5.36 operates a 304-bed facility in Minneapolis, and a 44-bed facility in Duluth;

6.1 (9) for a group residential housing provider that operates two ten-bed facilities, one
 6.2 located in Hennepin County and one located in Ramsey County, that provide community
 6.3 support and 24-hour-a-day supervision to serve the mental health needs of individuals
 6.4 who have chronically lived unsheltered; ~~and~~

6.5 (10) for a group residential facility in Hennepin County with a capacity of up to 48
 6.6 beds that has been licensed since 1978 as a board and lodging facility and that until August
 6.7 1, 2007, operated as a licensed chemical dependency treatment program; and

6.8 (11) for a group residential housing provider operating a facility of up to 45 beds,
 6.9 providing services to veterans as a board and lodging facility with supportive services or
 6.10 licensed chemical dependency treatment program.

6.11 (b) A county agency may enter into a group residential housing agreement for beds
 6.12 with rates in excess of the MSA equivalent rate in addition to those currently covered
 6.13 under a group residential housing agreement if the additional beds are only a replacement
 6.14 of beds with rates in excess of the MSA equivalent rate which have been made available
 6.15 due to closure of a setting, a change of licensure or certification which removes the beds
 6.16 from group residential housing payment, or as a result of the downsizing of a group
 6.17 residential housing setting. The transfer of available beds from one county to another can
 6.18 only occur by the agreement of both counties.

6.19 Sec. 3. **VETERANS HOUSING SURVEY GRANTS.**

6.20 \$250,000 in fiscal year 2015 is appropriated from the general fund to the
 6.21 commissioner of administration for up to five grants to conduct a housing needs
 6.22 assessment for veterans in a community. The grants may be awarded to any government
 6.23 or nongovernmental organization. The assessment, which may be a study or a survey,
 6.24 may examine the need for scattered site housing for veterans and their families who are
 6.25 homeless or in danger of homelessness or for housing that addresses the health care needs
 6.26 of disabled or aging veterans. The assessment must be started no later than July 30, 2015,
 6.27 and completed no later than July 30, 2016. The commissioner of administration must
 6.28 provide copies of any completed assessment to the legislative committees with jurisdiction
 6.29 over housing and veterans affairs no later than January 1, 2017.