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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2851

04/24/2019 Authored by Miller, Munson and Bahr
The bill was read for the first time and referred to the Early Childhood Finance and Policy Division

1.1 A bill for an act
1.2 relating to human services; modifying child care programs that are excluded from
1.3 licensure; amending Minnesota Statutes 2018, section 245A.03, subdivision 2.

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

1.5 Section 1. Minnesota Statutes 2018, section 245A.03, subdivision 2, is amended to read:

1.6 Subd. 2. Exclusion from licensure. (a) This chapter does not apply to:

1.7 (1) residential or nonresidential programs that are provided to a person by an individual
1.8 who is related unless the residential program is a child foster care placement made by a
1.9 local social services agency or a licensed child-placing agency, except as provided in
1.10 subdivision 2a;

1.11 (2) nonresidential programs that are provided by an unrelated individual to persons from
1.12 a single related family;

1.13 (3) residential or nonresidential programs that are provided to adults who do not misuse
1.14 substances or have a substance use disorder, a mental illness, a developmental disability, a
1.15 functional impairment, or a physical disability;

1.16 (4) sheltered workshops or work activity programs that are certified by the commissioner
1.17 of employment and economic development;

1.18 (5) programs operated by a public school for children 33 months or older;

1.19 (6) nonresidential programs primarily for children that provide care or supervision for
1.20 periods of less than three hours a day while the child's parent or legal guardian is in the

2.1 same building as the nonresidential program or present within another building that is
2.2 directly contiguous to the building in which the nonresidential program is located;

2.3 (7) nursing homes or hospitals licensed by the commissioner of health except as specified
2.4 under section 245A.02;

2.5 (8) board and lodge facilities licensed by the commissioner of health that do not provide
2.6 children's residential services under Minnesota Rules, chapter 2960, mental health or chemical
2.7 dependency treatment;

2.8 (9) homes providing programs for persons placed by a county or a licensed agency for
2.9 legal adoption, unless the adoption is not completed within two years;

2.10 (10) programs licensed by the commissioner of corrections;

2.11 (11) recreation programs for children or adults that are operated or approved by a park
2.12 and recreation board whose primary purpose is to provide social and recreational activities;

2.13 (12) programs operated by a school as defined in section 120A.22, subdivision 4; YMCA
2.14 as defined in section 315.44; YWCA as defined in section 315.44; or JCC as defined in
2.15 section 315.51, whose primary purpose is to provide child care or services to school-age
2.16 children;

2.17 (13) Head Start nonresidential programs which operate for less than 45 days in each
2.18 calendar year;

2.19 (14) noncertified boarding care homes unless they provide services for five or more
2.20 persons whose primary diagnosis is mental illness or a developmental disability;

2.21 (15) programs for children such as scouting, boys clubs, girls clubs, and sports and art
2.22 programs, and nonresidential programs for children provided for a cumulative total of less
2.23 than 30 days in any 12-month period;

2.24 (16) residential programs for persons with mental illness, that are located in hospitals;

2.25 (17) the religious instruction of school-age children; Sabbath or Sunday schools; or the
2.26 congregate care of children by a church, congregation, or religious society during the period
2.27 used by the church, congregation, or religious society for its regular worship;

2.28 (18) camps licensed by the commissioner of health under Minnesota Rules, chapter
2.29 4630;

2.30 (19) mental health outpatient services for adults with mental illness or children with
2.31 emotional disturbance;

3.1 (20) residential programs serving school-age children whose sole purpose is cultural or
3.2 educational exchange, until the commissioner adopts appropriate rules;

3.3 (21) community support services programs as defined in section 245.462, subdivision
3.4 6, and family community support services as defined in section 245.4871, subdivision 17;

3.5 (22) the placement of a child by a birth parent or legal guardian in a preadoptive home
3.6 for purposes of adoption as authorized by section 259.47;

3.7 (23) settings registered under chapter 144D which provide home care services licensed
3.8 by the commissioner of health to fewer than seven adults;

3.9 (24) substance use disorder treatment activities of licensed professionals in private
3.10 practice as defined in section 245G.01, subdivision 17;

3.11 (25) consumer-directed community support service funded under the Medicaid waiver
3.12 for persons with developmental disabilities when the individual who provided the service
3.13 is:

3.14 (i) the same individual who is the direct payee of these specific waiver funds or paid by
3.15 a fiscal agent, fiscal intermediary, or employer of record; and

3.16 (ii) not otherwise under the control of a residential or nonresidential program that is
3.17 required to be licensed under this chapter when providing the service;

3.18 (26) a program serving only children who are age 33 months or older, that is operated
3.19 by a nonpublic school, for no more than four hours per day per child, with no more than 20
3.20 children at any one time, and that is accredited by:

3.21 (i) an accrediting agency that is formally recognized by the commissioner of education
3.22 as a nonpublic school accrediting organization; or

3.23 (ii) an accrediting agency that requires background studies and that receives and
3.24 investigates complaints about the services provided.

3.25 A program that asserts its exemption from licensure under item (ii) shall, upon request
3.26 from the commissioner, provide the commissioner with documentation from the accrediting
3.27 agency that verifies: that the accreditation is current; that the accrediting agency investigates
3.28 complaints about services; and that the accrediting agency's standards require background
3.29 studies on all people providing direct contact services;

3.30 (27) a program operated by a nonprofit organization incorporated in Minnesota or another
3.31 state that serves youth in kindergarten through grade 12; provides structured, supervised
3.32 youth development activities; and has learning opportunities take place before or after

4.1 school, on weekends, or during the summer or other seasonal breaks in the school calendar.

4.2 A program exempt under this clause is not eligible for child care assistance under chapter
4.3 119B. A program exempt under this clause must:

4.4 (i) have a director or supervisor on site who is responsible for overseeing written policies
4.5 relating to the management and control of the daily activities of the program, ensuring the
4.6 health and safety of program participants, and supervising staff and volunteers;

4.7 (ii) have obtained written consent from a parent or legal guardian for each youth
4.8 participating in activities at the site; and

4.9 (iii) have provided written notice to a parent or legal guardian for each youth at the site
4.10 that the program is not licensed or supervised by the state of Minnesota and is not eligible
4.11 to receive child care assistance payments;

4.12 (28) a county that is an eligible vendor under section 254B.05 to provide care coordination
4.13 and comprehensive assessment services; ~~or~~

4.14 (29) a recovery community organization that is an eligible vendor under section 254B.05
4.15 to provide peer recovery support services; or

4.16 (30) nonresidential child care programs that are provided to children by an individual
4.17 who is related, and up to two additional children to whom the individual is not related,
4.18 whether or not the children are from a single related family.

4.19 (b) For purposes of paragraph (a), clause (6), a building is directly contiguous to a
4.20 building in which a nonresidential program is located if it shares a common wall with the
4.21 building in which the nonresidential program is located or is attached to that building by
4.22 skyway, tunnel, atrium, or common roof.

4.23 (c) Except for the home and community-based services identified in section 245D.03,
4.24 subdivision 1, nothing in this chapter shall be construed to require licensure for any services
4.25 provided and funded according to an approved federal waiver plan where licensure is
4.26 specifically identified as not being a condition for the services and funding.