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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1522

02/21/2019 Authored by Edelson, Zerwas, Bahner, Baker, Acomb and others
The bill was read for the first time and referred to the Committee on Health and Human Services Policy
03/14/2019 Adoption of Report: Re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to health; modifying licensing requirements for prescribed pediatric
1.3 extended care (PPEC) centers; phasing in licensing of PPEC centers; establishing
1.4 PPEC basic services as services covered by medical assistance and setting medical
1.5 assistance reimbursement rates; amending Minnesota Statutes 2018, sections
1.6 144.057, subdivision 1; 144H.01, subdivision 5; 144H.04, subdivision 1, by adding
1.7 a subdivision; 144H.06; 144H.07, subdivisions 1, 2; 144H.08, subdivision 2;
1.8 144H.11, subdivisions 2, 3, 4; 256B.0625, by adding a subdivision; proposing
1.9 coding for new law in Minnesota Statutes, chapter 256B; repealing Minnesota
1.10 Statutes 2018, section 144H.08, subdivision 1.

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

1.12 Section 1. Minnesota Statutes 2018, section 144.057, subdivision 1, is amended to read:

1.13 Subdivision 1. Background studies required. The commissioner of health shall contract
1.14 with the commissioner of human services to conduct background studies of:

1.15 (1) individuals providing services which have direct contact, as defined under section
1.16 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes,
1.17 outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and
1.18 home care agencies licensed under chapter 144A; residential care homes licensed under
1.19 chapter 144B, and board and lodging establishments that are registered to provide supportive
1.20 or health supervision services under section 157.17;

1.21 (2) individuals specified in section 245C.03, subdivision 1, who perform direct contact
1.22 services in a nursing home or a home care agency licensed under chapter 144A or a boarding
1.23 care home licensed under sections 144.50 to 144.58. If the individual under study resides
1.24 outside Minnesota, the study must include a check for substantiated findings of maltreatment
1.25 of adults and children in the individual's state of residence when the information is made

2.1 available by that state, and must include a check of the National Crime Information Center
2.2 database;

2.3 (3) beginning July 1, 1999, all other employees in nursing homes licensed under chapter
2.4 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification
2.5 of an individual in this section shall disqualify the individual from positions allowing direct
2.6 contact or access to patients or residents receiving services. "Access" means physical access
2.7 to a client or the client's personal property without continuous, direct supervision as defined
2.8 in section 245C.02, subdivision 8, when the employee's employment responsibilities do not
2.9 include providing direct contact services;

2.10 (4) individuals employed by a supplemental nursing services agency, as defined under
2.11 section 144A.70, who are providing services in health care facilities; ~~and~~

2.12 (5) controlling persons of a supplemental nursing services agency, as defined under
2.13 section 144A.70.; and

2.14 (6) individuals providing services who have direct contact, as defined under section
2.15 245C.02, subdivision 11, with medically complex or technologically dependent children at
2.16 a PPEC center licensed under chapter 144H.

2.17 If a facility or program is licensed by the Department of Human Services and subject to
2.18 the background study provisions of chapter 245C and is also licensed by the Department
2.19 of Health, the Department of Human Services is solely responsible for the background
2.20 studies of individuals in the jointly licensed programs.

2.21 **EFFECTIVE DATE.** This section is effective August 1, 2019.

2.22 Sec. 2. Minnesota Statutes 2018, section 144H.01, subdivision 5, is amended to read:

2.23 Subd. 5. **Medically complex or technologically dependent child.** "Medically complex
2.24 or technologically dependent child" means a child under 21 years of age who, ~~because of~~
2.25 ~~a medical condition, requires continuous therapeutic interventions or skilled nursing~~
2.26 ~~supervision which must be prescribed by a licensed physician and administered by, or under~~
2.27 ~~the direct supervision of, a licensed registered nurse.;~~

2.28 (1) needs skilled assessment and intervention multiple times during a 24-hour period to
2.29 maintain health and prevent deterioration of health status;

2.30 (2) has both predictable health needs and the potential for changes in condition that
2.31 could lead to rapid deterioration or life-threatening episodes;

3.1 (3) requires a 24-hour plan of care, including a backup plan to reasonably ensure health
 3.2 and safety in the community; and

3.3 (4) is expected to require frequent or continuous care in a hospital without the provision
 3.4 of services in the child's home or a community setting.

3.5 **EFFECTIVE DATE.** This section is effective August 1, 2019.

3.6 Sec. 3. Minnesota Statutes 2018, section 144H.04, subdivision 1, is amended to read:

3.7 Subdivision 1. **Licenses.** A person seeking licensure for a PPEC center must submit a
 3.8 completed application for licensure to the commissioner, in a form and manner determined
 3.9 by the commissioner. The applicant must also submit the application fee, in the amount
 3.10 specified in section 144H.05, subdivision 1. ~~Effective January 1, 2018,~~ Beginning July 1,
 3.11 2020, the commissioner shall issue a license for a PPEC center if the commissioner
 3.12 determines that the applicant and center meet the requirements of this chapter and rules that
 3.13 apply to PPEC centers. A license issued under this subdivision is valid for two years.

3.14 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2018.

3.15 Sec. 4. Minnesota Statutes 2018, section 144H.04, is amended by adding a subdivision to
 3.16 read:

3.17 Subd. 1a. **Licensure phase-in.** (a) The commissioner shall phase in licensure of PPEC
 3.18 centers by issuing prior to June 30, 2022, no more than two licenses to applicants the
 3.19 commissioner determines meet the requirements of this chapter. A license issued under this
 3.20 subdivision is valid until June 30, 2022.

3.21 (b) This subdivision expires July 1, 2022.

3.22 **EFFECTIVE DATE.** This section is effective upon the effective date of section 12.

3.23 Sec. 5. Minnesota Statutes 2018, section 144H.06, is amended to read:

3.24 **144H.06 APPLICATION OF RULES FOR HOSPICE SERVICES AND**
 3.25 **RESIDENTIAL HOSPICE FACILITIES.**

3.26 Minnesota Rules, chapter 4664, shall apply to PPEC centers licensed under this chapter,
 3.27 except that the following parts, subparts, and items, ~~and subitems~~ do not apply:

3.28 (1) Minnesota Rules, part 4664.0003, subparts 2, 6, 7, 11, 12, 13, 14, and 38;

3.29 (2) Minnesota Rules, part 4664.0008;

4.1 (3) Minnesota Rules, part 4664.0010, subparts 3; 4, ~~items A, subitem (6), and item B;~~
4.2 and 8;

4.3 (4) Minnesota Rules, part 4664.0020, subpart 13;

4.4 (5) Minnesota Rules, part 4664.0370, subpart 1;

4.5 (6) Minnesota Rules, part 4664.0390, subpart 1, items A, C, and E;

4.6 (7) Minnesota Rules, part 4664.0420;

4.7 (8) Minnesota Rules, part 4664.0425, subparts 3, item A; 4; and 6;

4.8 (9) Minnesota Rules, part 4664.0430, subparts 3, 4, 5, 7, 8, 9, 10, 11, and 12;

4.9 (10) Minnesota Rules, part 4664.0490; and

4.10 (11) Minnesota Rules, part 4664.0520.

4.11 **EFFECTIVE DATE.** This section is effective August 1, 2019.

4.12 Sec. 6. Minnesota Statutes 2018, section 144H.07, subdivision 1, is amended to read:

4.13 Subdivision 1. **Services.** A PPEC center must provide basic services to medically complex
4.14 or technologically dependent children, based on a protocol of care established for each child.
4.15 A PPEC center may provide services up to ~~14~~ 12.5 hours a day and up to six days a week
4.16 with hours of operation during normal waking hours.

4.17 **EFFECTIVE DATE.** This section is effective August 1, 2019.

4.18 Sec. 7. Minnesota Statutes 2018, section 144H.07, subdivision 2, is amended to read:

4.19 Subd. 2. **Limitations.** A PPEC center must comply with the following standards related
4.20 to services:

4.21 (1) a child is prohibited from attending a PPEC center for more than ~~14~~ 12.5 hours within
4.22 a 24-hour period;

4.23 (2) a PPEC center is prohibited from providing services other than those provided to
4.24 medically complex or technologically dependent children; and

4.25 (3) the maximum capacity for medically complex or technologically dependent children
4.26 at a center shall not exceed 45 children.

4.27 **EFFECTIVE DATE.** This section is effective August 1, 2019.

5.1 Sec. 8. Minnesota Statutes 2018, section 144H.08, subdivision 2, is amended to read:

5.2 Subd. 2. ~~Duties of administrator~~ **Administrators.** (a) The center administrator is
5.3 responsible and accountable for overall management of the center. The administrator must:

5.4 (1) designate in writing a person to be responsible for the center when the administrator
5.5 is absent from the center for more than 24 hours;

5.6 (2) maintain the following written records, in a place and form and using a system that
5.7 allows for inspection of the records by the commissioner during normal business hours:

5.8 (i) a daily census record, which indicates the number of children currently receiving
5.9 services at the center;

5.10 (ii) a record of all accidents or unusual incidents involving any child or staff member
5.11 that caused, or had the potential to cause, injury or harm to a person at the center or to center
5.12 property;

5.13 (iii) copies of all current agreements with providers of supportive services or contracted
5.14 services;

5.15 (iv) copies of all current agreements with consultants employed by the center,
5.16 documentation of each consultant's visits, and written, dated reports; and

5.17 (v) a personnel record for each employee, which must include an application for
5.18 employment, references, employment history for the preceding five years, and copies of all
5.19 performance evaluations;

5.20 (3) develop and maintain a current job description for each employee;

5.21 (4) provide necessary qualified personnel and ancillary services to ensure the health,
5.22 safety, and proper care for each child; and

5.23 (5) develop and implement infection control policies that comply with rules adopted by
5.24 the commissioner regarding infection control.

5.25 (b) In order to serve as an administrator of a PPEC center, an individual must have at
5.26 least two years of experience in the past five years caring for or managing the care of
5.27 medically complex or technologically dependent individuals.

5.28 **EFFECTIVE DATE.** This section is effective August 1, 2019.

5.29 Sec. 9. Minnesota Statutes 2018, section 144H.11, subdivision 2, is amended to read:

5.30 Subd. 2. **Registered nurses.** A registered nurse employed by a PPEC center must be a
5.31 registered nurse licensed in Minnesota, and hold a current certification in cardiopulmonary

6.1 resuscitation, ~~and have experience in the previous 24 months in being responsible for the~~
 6.2 ~~care of acutely ill or chronically ill children.~~

6.3 **EFFECTIVE DATE.** This section is effective August 1, 2019.

6.4 Sec. 10. Minnesota Statutes 2018, section 144H.11, subdivision 3, is amended to read:

6.5 Subd. 3. **Licensed practical nurses.** A licensed practical nurse employed by a PPEC
 6.6 center must be supervised by a registered nurse and must be a licensed practical nurse
 6.7 licensed in Minnesota, ~~have at least two years of experience in pediatrics,~~ and hold a current
 6.8 certification in cardiopulmonary resuscitation.

6.9 **EFFECTIVE DATE.** This section is effective August 1, 2019.

6.10 Sec. 11. Minnesota Statutes 2018, section 144H.11, subdivision 4, is amended to read:

6.11 Subd. 4. **Other direct care personnel.** (a) Direct care personnel governed by this
 6.12 subdivision may include nursing assistants and or individuals with training and experience
 6.13 in the field of education, social services, or child care.

6.14 (b) All direct care personnel employed by a PPEC center must work under the supervision
 6.15 of a registered nurse and are responsible for providing direct care to children at the center.
 6.16 Direct care personnel must have extensive, documented education and skills training in
 6.17 providing care to infants and toddlers, provide employment references documenting skill
 6.18 in the care of infants and children, and hold a current certification in cardiopulmonary
 6.19 resuscitation.

6.20 **EFFECTIVE DATE.** This section is effective August 1, 2019.

6.21 Sec. 12. Minnesota Statutes 2018, section 256B.0625, is amended by adding a subdivision
 6.22 to read:

6.23 Subd. 66. **Prescribed pediatric extended care (PPEC) center basic services.** Medical
 6.24 assistance covers PPEC center basic services as defined under section 144H.01, subdivision
 6.25 2. PPEC basic services shall be reimbursed according to section 256B.86.

6.26 **EFFECTIVE DATE.** This section is effective July 1, 2020, or upon federal approval,
 6.27 whichever occurs later. The commissioner of human services shall notify the commissioner
 6.28 of health and the revisor of statutes when federal approval is obtained.

7.1 Sec. 13. **[256B.86] PRESCRIBED PEDIATRIC EXTENDED CARE (PPEC) CENTER**
 7.2 **SERVICES.**

7.3 Subdivision 1. Reimbursement rates. The daily per-child payment rates for PPEC basic
 7.4 services covered by medical assistance and provided at PPEC centers licensed under chapter
 7.5 144H are:

7.6 (1) for intense complexity: \$550 for four or more hours and \$275 for less than four hours;

7.7 (2) for high complexity: \$450 for four or more hours and \$225 for less than four hours;

7.8 and

7.9 (3) for moderate complexity: \$400 for four or more hours and \$200 for less than four
 7.10 hours.

7.11 Subd. 2. Determination of complexity level. Complexity level shall be determined
 7.12 based on the level of nursing intervention required for each child using an assessment tool
 7.13 approved by the commissioner.

7.14 EFFECTIVE DATE. This section is effective July 1, 2020, or upon federal approval,
 7.15 whichever occurs later. The commissioner of human services shall notify the revisor of
 7.16 statutes when federal approval is obtained.

7.17 Sec. 14. **DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES;**
 7.18 **QUALITY MEASURES FOR PRESCRIBED PEDIATRIC EXTENDED CARE**
 7.19 **(PPEC) CENTERS.**

7.20 The commissioner of human services, in consultation with PPEC centers licensed prior
 7.21 to June 30, 2022, shall develop quality measures for PPEC centers, procedures for PPEC
 7.22 centers to report quality measures to the commissioner, and methods for the commissioner
 7.23 to make the results of the quality measures available to the public.

7.24 EFFECTIVE DATE. This section is effective upon the effective date of section 12.

7.25 Sec. 15. **DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES;**
 7.26 **PRESCRIBED PEDIATRIC EXTENDED CARE.**

7.27 No later than October 15, 2019, the commissioner of human services shall submit to the
 7.28 federal Centers for Medicare and Medicaid Services any medical assistance state plan
 7.29 amendments necessary to cover PPEC center basic services according to Minnesota Statutes,
 7.30 sections 256B.0625, subdivision 66, and 256B.86.

7.31 EFFECTIVE DATE. This section is effective the day following final enactment.

8.1 Sec. 16. **REPEALER.**

8.2 Minnesota Statutes 2018, section 144H.08, subdivision 1, is repealed.

8.3 **EFFECTIVE DATE.** This section is effective August 1, 2019.

144H.08 ADMINISTRATION AND MANAGEMENT.

Subdivision 1. **Duties of owner.** (a) The owner of a PPEC center shall have full legal authority and responsibility for the operation of the center. A PPEC center must be organized according to a written table of organization, describing the lines of authority and communication to the child care level. The organizational structure must be designed to ensure an integrated continuum of services for the children served.

(b) The owner must designate one person as a center administrator, who is responsible and accountable for overall management of the center.