

2.1 (b) The commissioner shall determine the need for newly licensed foster care homes
2.2 as defined under this subdivision. As part of the determination, the commissioner shall
2.3 consider the availability of foster care capacity in the area in which the licensee seeks to
2.4 operate, and the recommendation of the local county board. The determination by the
2.5 commissioner must be final. A determination of need is not required for a change in
2.6 ownership at the same address.

2.7 (c) Residential settings that would otherwise be subject to the moratorium established
2.8 in paragraph (a), that are in the process of receiving an adult or child foster care license as
2.9 of July 1, 2009, shall be allowed to continue to complete the process of receiving an adult
2.10 or child foster care license. For this paragraph, all of the following conditions must be met
2.11 to be considered in the process of receiving an adult or child foster care license:

2.12 (1) participants have made decisions to move into the residential setting, including
2.13 documentation in each participant's care plan;

2.14 (2) the provider has purchased housing or has made a financial investment in the
2.15 property;

2.16 (3) the lead agency has approved the plans, including costs for the residential setting
2.17 for each individual;

2.18 (4) the completion of the licensing process, including all necessary inspections, is
2.19 the only remaining component prior to being able to provide services; and

2.20 (5) the needs of the individuals cannot be met within the existing capacity in that
2.21 county.

2.22 To qualify for the process under this paragraph, the lead agency must submit
2.23 documentation to the commissioner by August 1, 2009, that all of the above criteria are
2.24 met.

2.25 (d) The commissioner shall study the effects of the license moratorium under this
2.26 subdivision and shall report back to the legislature by January 15, 2011. This study shall
2.27 include, but is not limited to the following:

2.28 (1) the overall capacity and utilization of foster care beds where the physical location
2.29 is not the primary residence of the license holder prior to and after implementation
2.30 of the moratorium;

2.31 (2) the overall capacity and utilization of foster care beds where the physical
2.32 location is the primary residence of the license holder prior to and after implementation
2.33 of the moratorium; and

2.34 (3) the number of licensed and occupied ICF/MR beds prior to and after
2.35 implementation of the moratorium.

3.1 (e) In addition to the moratorium exceptions under paragraph (a), the commissioner
3.2 shall issue up to three foster care licenses to a single not-for-profit agency that is
3.3 established to develop services for persons with severe autism to provide residential
3.4 services for persons up to age 25 with autism who are in need of continuous, 24 hour,
3.5 on-site supervision by a caregiver, if all licensing requirements are met. The license holder
3.6 may contract with other agencies for the provision of these services. This paragraph does
3.7 not change any eligibility requirements related to public funding for autism services.