

STATE OF MINNESOTA
EXECUTIVE DEPARTMENT



MARK DAYTON
GOVERNOR

Waiver

Pursuant to Minnesota Statutes, Section 14.127, Subdivision 4(e)

I, Mark Dayton, Governor of the State of Minnesota, by virtue of the power vested in me by the Constitution and applicable statutes, do hereby issue this Waiver:

Whereas, the State of Minnesota is committed to improving the quality of life of persons with disabilities of all ages and persons age 65 and older;

Whereas, the State of Minnesota recognizes that improving the quality of life of such persons requires the use of positive supports and the implementation of the principles of the most integrated setting and person-centered planning, in accordance with the settlement agreement and subsequent court orders in *Jensen, et al. v. Minnesota Department of Human Services, et al.*, United States District Court File No. 09-CV-1775, and the court decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999);

Whereas, the Minnesota Department of Human Services is adopting Minnesota Rules, Chapter 9544 to govern use of positive support strategies, safety interventions, and emergency use of manual restraint in services licensed by the Minnesota Department of Human Services;

Whereas, Minnesota Rules, Chapter 9544 is expected to take effect on August 31, 2015;

Whereas, pursuant to Minnesota Statutes, section 14.127, the Minnesota Department of Human Services determined that the cost of complying with Minnesota Rules, Chapter 9544 in the first year after the rule takes effect would not exceed \$25,000 for a small business or a small city;

Whereas, the Administrative Law Judge assigned to review the rulemaking pursuant to Minnesota Statutes, Chapter 14 disapproved the agency's cost determination under Minnesota Statutes, section 14.127;

Whereas, the Administrative Law Judge's disapproval of the agency's cost determination triggers the application of Minnesota Statutes, section 14.127, subdivision 3, which enables a small business or a small city to claim a temporary exemption from Minnesota Rules, Chapter 9544 until the Minnesota Legislature enacts a law approving the rules;

Whereas, Minnesota Statutes, section 14.127, subdivision 4, grants the governor authority to issue a waiver of the application of Minnesota Statutes, section 14.127, subdivision 3;

Whereas, the State of Minnesota recognizes that claims of temporary exemptions from Minnesota Rules, Chapter 9544 would undermine the purpose of the rule and the commitment of the State of Minnesota to improving the quality of life of persons with disabilities of all ages and persons age 65 and older;

Now, Therefore, I hereby waive application of Minnesota Statutes, section 14.127, subdivision 3, to Minnesota Rules, Chapter 9544. This waiver is effective August 31, 2015 and shall remain in effect for one year.

In Testimony Whereof, I have set my hand on this 26th day of June, 2015.



Mark Dayton
Governor