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Senate
State of Minnesota

S.F. No. 3209 - Adoption Advisory Task Force

Author: Senator Ann H. Rest

Prepared by: Joan White, Senate Counsel (651/296-3814)

Date: March 24, 2006

S.F. 3209 establishes the adoption advisory task force.

Subdivision 1 creates the task force to study and make recommendations regarding content, reorganization, and recodification of statutes and rules related to adoption. The task force is composed of 17 members, listed in this subdivision, approved by the commissioner of human services.

Subdivision 2 specifies that members of the task force do not receive per diem, but must receive reimbursement for expenses.

Subdivision 3 lists the duties of the task force. The task force is required to meet on a regular basis.

JW:mvm

Senators Rest, Lourey, Wergin and Kiscaden introduced–

S.F. No. 3209: Referred to the Committee on Health and Family Security.

A bill for an act

relating to human services; creating an adoption advisory task force and requiring a report.

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

Section 1. **ADOPTION ADVISORY TASK FORCE.**

Subdivision 1. **Creation; membership.** An adoption advisory task force is created to study and make recommendations regarding content, reorganization, and recodification of statutes and rules related to adoption. The task force is composed of 17 members appointed by the commissioner of human services as follows:

(1) the commissioner of health, or the commissioner's designee;

(2) an attorney who practices adoption law;

(3) a representative from the Minnesota Supreme Court Adoption Rules Committee;

(4) a representative from three private social service agencies that perform adoptions;

(5) a private practitioner who provides postadoption search and reunification services;

(6) a Department of Human Services staff member whose primary responsibility is adoption and related services;

(7) a representative of a social service agency providing adoption services for minority families;

(8) an enrolled tribal member with expertise in the Indian Child Welfare Act;

(9) a representative from Minnesota Citizens Concerned for Life;

(10) an adoptive parent;

(11) an adopted person identified by an adoption advocacy group;

(12) two birth parents identified by a birth parent advocacy group;

(13) a member of the Minnesota House of Representatives; and

(14) a member of the Minnesota Senate.

The commissioner of human services, or the commissioner's designee, shall chair the task force.

Subd. 2. **Expenses.** Members shall not receive a per diem, but shall receive reimbursement for expenses as provided in section 15.091, subdivision 6.

Subd. 3. **Duties; report.** The task force shall meet on a regular basis to perform the following duties:

(a) review and report on whether the existing adoption and birth record statutes and rules need to be rewritten to reflect best practice guidelines as reported to the legislature in 2006;

(b) review and report on whether existing adoption and birth record statutes and rules need to be recodified; and

(c) propose legislation to implement statutory changes in content and reorganization of adoption and birth record statutes. The task force shall submit a written report with its findings and recommendations to the house and senate committees having jurisdiction over adoption by January 10, 2007.

Senator ..... moves to amend S.F. No. 3209 as follows:

Page 1, line 21, delete everything after "(9)" and insert "two representatives of county social service agencies;"

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S.F. No. 3059 - DHS Continuing Care Policy Bill (The A-1 Delete-Everything Amendment)

Author: Senator Linda Berglin

Prepared by: David Giel, Senate Research (296-7178)

Date: March 29, 2006

S.F. No. 3059 modifies the frequency of nursing facility rate adjustments to reflect resident assessments, clarifies language governing payment for certain nursing facility building projects, and modifies related language.

Section 1 (144.0724, subdivision 3) corrects a misspelling in the nursing facility resident classification statute.

Section 2 (144.0724, subdivision 4) requires the use of all quarterly resident assessments to adjust reimbursement rates, beginning October 1, 2006. Under current law, only every other quarterly assessment is used for ratesetting purposes.

Section 3 (144A.071, subdivision 1a) updates terminology in the definition of "completion date" used in the nursing home moratorium law.

Section 4 (256B.434, subdivision 4) deletes language adopted in 2005 that allows nursing facilities reimbursed under the alternative payment system to be reimbursed for certain building projects. This deleted language is replaced by section 5.

Section 5 (256B.434, subdivision 4f) establishes construction project rate adjustments effective October 1, 2006, for facilities reimbursed under the alternative payment system. This section clarifies timing issues that were created in the language adopted in 2005 and generally puts into the alternative payment system the reimbursement methodology for building projects that is used in the cost-based "Rule 50" rate system.

Section 6 (256B.438, subdivision 4) requires the Commissioner of Human Services to rebase nursing facility payment rates in a facility-specific budget-neutral manner to account for the resident assessment schedule changes in section 2.

DG:rdr

Senator Berglin introduced–

S.F. No. 3059: Referred to the Committee on Health and Family Security.

A bill for an act

relating to human services; making changes to continuing care provisions and elderly and disabled services; amending Minnesota Statutes 2004, sections 144.0724, subdivisions 3, 4; 256B.434, by adding a subdivision; 256B.438, subdivision 4; Minnesota Statutes 2005 Supplement, sections 144A.071, subdivision 1a; 256B.434, subdivision 4.

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

Section 1. Minnesota Statutes 2004, section 144.0724, subdivision 3, is amended to read:

Subd. 3. **Resident reimbursement classifications.** (a) Resident reimbursement classifications shall be based on the minimum data set, version 2.0 assessment instrument, or its successor version mandated by the Centers for Medicare and Medicaid Services that nursing facilities are required to complete for all residents. The commissioner of health shall establish resident classes according to the 34 group, resource utilization groups, version III or RUG-III model. Resident classes must be established based on the individual items on the minimum data set and must be completed according to the facility manual for case mix classification issued by the Minnesota Department of Health. The facility manual for case mix classification shall be drafted by the Minnesota Department of Health and presented to the chairs of health and human services legislative committees by December 31, 2001.

(b) Each resident must be classified based on the information from the minimum data set according to general domains in clauses (1) to (7):

(1) extensive services where a resident requires intravenous feeding or medications, suctioning, or tracheostomy care, or is on a ventilator or respirator;

(2) rehabilitation where a resident requires physical, occupational, or speech therapy;

(3) special care where a resident has cerebral palsy; quadriplegia; multiple sclerosis; pressure ulcers; ulcers; fever with vomiting, weight loss, pneumonia, or dehydration; surgical wounds with treatment; or tube feeding and aphasia; or is receiving radiation therapy;

(4) clinically complex status where a resident has tube feeding, burns, coma, septicemia, pneumonia, internal bleeding, chemotherapy, dialysis, oxygen, transfusions, foot infections or lesions with treatment, ~~heiplegia/hemiparesis~~ hemiplegia/hemiparesis, physician visits or order changes, or diabetes with injections and order changes;

(5) impaired cognition where a resident has poor cognitive performance;

(6) behavior problems where a resident exhibits wandering or socially inappropriate or disruptive behavior, has hallucinations or delusions, is physically or verbally abusive toward others, or resists care, unless the resident's other condition would place the resident in other categories; and

(7) reduced physical functioning where a resident has no special clinical conditions.

(c) The commissioner of health shall establish resident classification according to a 34 group model based on the information on the minimum data set and within the general domains listed in paragraph (b), clauses (1) to (7). Detailed descriptions of each resource utilization group shall be defined in the facility manual for case mix classification issued by the Minnesota Department of Health. The 34 groups are described as follows:

(1) SE3: requires four or five extensive services;

(2) SE2: requires two or three extensive services;

(3) SE1: requires one extensive service;

(4) RAD: requires rehabilitation services and is dependent in activity of daily living (ADL) at a count of 17 or 18;

(5) RAC: requires rehabilitation services and ADL count is 14 to 16;

(6) RAB: requires rehabilitation services and ADL count is ten to 13;

(7) RAA: requires rehabilitation services and ADL count is four to nine;

(8) SSC: requires special care and ADL count is 17 or 18;

(9) SSB: requires special care and ADL count is 15 or 16;

(10) SSA: requires special care and ADL count is seven to 14;

(11) CC2: clinically complex with depression and ADL count is 17 or 18;

(12) CC1: clinically complex with no depression and ADL count is 17 or 18;

(13) CB2: clinically complex with depression and ADL count is 12 to 16;

(14) CB1: clinically complex with no depression and ADL count is 12 to 16;

(15) CA2: clinically complex with depression and ADL count is four to 11;

(16) CA1: clinically complex with no depression and ADL count is four to 11;

(17) IB2: impaired cognition with nursing rehabilitation and ADL count is six to ten;

(18) IB1: impaired cognition with no nursing rehabilitation and ADL count is six to ten;

(19) IA2: impaired cognition with nursing rehabilitation and ADL count is four or five;

(20) IA1: impaired cognition with no nursing rehabilitation and ADL count is four or five;

(21) BB2: behavior problems with nursing rehabilitation and ADL count is six to ten;

(22) BB1: behavior problems with no nursing rehabilitation and ADL count is six to ten;

(23) BA2: behavior problems with nursing rehabilitation and ADL count is four to five;

(24) BA1: behavior problems with no nursing rehabilitation and ADL count is four to five;

(25) PE2: reduced physical functioning with nursing rehabilitation and ADL count is 16 to 18;

(26) PE1: reduced physical functioning with no nursing rehabilitation and ADL count is 16 to 18;

(27) PD2: reduced physical functioning with nursing rehabilitation and ADL count is 11 to 15;

(28) PD1: reduced physical functioning with no nursing rehabilitation and ADL count is 11 to 15;

(29) PC2: reduced physical functioning with nursing rehabilitation and ADL count is nine or ten;

(30) PC1: reduced physical functioning with no nursing rehabilitation and ADL count is nine or ten;

(31) PB2: reduced physical functioning with nursing rehabilitation and ADL count is six to eight;

(32) PB1: reduced physical functioning with no nursing rehabilitation and ADL count is six to eight;

(33) PA2: reduced physical functioning with nursing rehabilitation and ADL count is four or five; and

(34) PA1: reduced physical functioning with no nursing rehabilitation and ADL count is four or five.

Sec. 2. Minnesota Statutes 2004, section 144.0724, subdivision 4, is amended to read:

Subd. 4. **Resident assessment schedule.** (a) A facility must conduct and electronically submit to the commissioner of health case mix assessments that conform with the assessment schedule defined by Code of Federal Regulations, title 42, section 483.20, and published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, in the Long Term Care Assessment Instrument User's Manual, version 2.0, October 1995, and subsequent clarifications made in the Long-Term Care Assessment Instrument Questions and Answers, version 2.0, August 1996. The commissioner of health may substitute successor manuals or question and answer documents published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, to replace or supplement the current version of the manual or document.

(b) The assessments used to determine a case mix classification for reimbursement include the following:

(1) a new admission assessment must be completed by day 14 following admission;

(2) an annual assessment must be completed within 366 days of the last comprehensive assessment;

(3) a significant change assessment must be completed within 14 days of the identification of a significant change; and

(4) ~~the second~~ quarterly ~~assessment following either a new admission assessment, an annual assessment, or a significant change assessment~~ assessments beginning October 1, 2006. Each quarterly assessment must be completed within 92 days of the previous assessment.

Sec. 3. Minnesota Statutes 2005 Supplement, section 144A.071, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** For purposes of sections 144A.071 to 144A.073, the following terms have the meanings given them:

(a) "Attached fixtures" has the meaning given in Minnesota Rules, part 9549.0020, subpart 6.

(b) "Buildings" has the meaning given in Minnesota Rules, part 9549.0020, subpart 7.

(c) "Capital assets" has the meaning given in section 256B.421, subdivision 16.

(d) "Commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed,

stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were applied for.

(e) "Completion date" means the date on which ~~a certificate of occupancy~~ clearance for the construction project is issued ~~for a construction project~~, or if a ~~certificate of occupancy~~ clearance for the construction project is not required, the date on which the construction project ~~is~~ assets are available for facility use.

(f) "Construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules.

(g) "Construction project" means:

(1) a capital asset addition to, or replacement of a nursing home or certified boarding care home that results in new space or the remodeling of or renovations to existing facility space; and

(2) the remodeling or renovation of existing facility space the use of which is modified as a result of the project described in clause (1). This existing space and the project described in clause (1) must be used for the functions as designated on the construction plans on completion of the project described in clause (1) for a period of not less than 24 months.

(h) "Depreciation guidelines" means the most recent publication of "The Estimated Useful Lives of Depreciable Hospital Assets," issued by the American Hospital Association, 840 North Lake Shore Drive, Chicago, Illinois, 60611.

(i) "New licensed" or "new certified beds" means:

(1) newly constructed beds in a facility or the construction of a new facility that would increase the total number of licensed nursing home beds or certified boarding care or nursing home beds in the state; or

(2) newly licensed nursing home beds or newly certified boarding care or nursing home beds that result from remodeling of the facility that involves relocation of beds but does not result in an increase in the total number of beds, except when the project involves the upgrade of boarding care beds to nursing home beds, as defined in section 144A.073, subdivision 1. "Remodeling" includes any of the type of conversion, renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1.

(j) "Project construction costs" means the cost of the following items that have a completion date within 12 months before or after the completion date of the project described in item (g), clause (1):

(1) facility capital asset additions;

(2) replacements;

(3) renovations;

(4) remodeling projects;

(5) construction site preparation costs;

(6) related soft costs; and

(7) the cost of new technology implemented as part of the construction project and depreciable equipment directly identified to the project, if the construction costs for clauses (1) to (6) exceed the threshold for additions and replacements stated in section 256B.431, subdivision 16. Technology and depreciable equipment shall be included in the project construction costs unless a written election is made by the facility, to not include it in the facility's appraised value for purposes of Minnesota Rules, part 9549.0020, subpart 5. Debt incurred for purchase of technology and depreciable equipment shall be included as allowable debt for purposes of Minnesota Rules, part 9549.0060, subpart 5, items A and C, unless the written election is to not include it. Any new technology and depreciable equipment included in the project construction costs that the facility elects not to include in its appraised value and allowable debt shall be treated as provided in section 256B.431, subdivision 17, paragraph (b). Written election under this paragraph must be included in the facility's request for the rate change related to the project, and this election may not be changed.

(k) "Technology" means information systems or devices that make documentation, charting, and staff time more efficient or encourage and allow for care through alternative settings including, but not limited to, touch screens, monitors, hand-helds, swipe cards, motion detectors, pagers, telemedicine, medication dispensers, and equipment to monitor vital signs and self-injections, and to observe skin and other conditions.

Sec. 4. Minnesota Statutes 2005 Supplement, section 256B.434, subdivision 4, is amended to read:

Subd. 4. **Alternate rates for nursing facilities.** (a) For nursing facilities which have their payment rates determined under this section rather than section 256B.431, the commissioner shall establish a rate under this subdivision. The nursing facility must enter into a written contract with the commissioner.

(b) A nursing facility's case mix payment rate for the first rate year of a facility's contract under this section is the payment rate the facility would have received under section 256B.431.

(c) A nursing facility's case mix payment rates for the second and subsequent years of a facility's contract under this section are the previous rate year's contract payment rates plus an inflation adjustment and, for facilities reimbursed under this section or

section 256B.431, an adjustment to include the cost of any increase in Health Department licensing fees for the facility taking effect on or after July 1, 2001. The index for the inflation adjustment must be based on the change in the Consumer Price Index-All Items (United States City average) (CPI-U) forecasted by the commissioner of finance's national economic consultant, as forecasted in the fourth quarter of the calendar year preceding the rate year. The inflation adjustment must be based on the 12-month period from the midpoint of the previous rate year to the midpoint of the rate year for which the rate is being determined. For the rate years beginning on July 1, 1999, July 1, 2000, July 1, 2001, July 1, 2002, July 1, 2003, July 1, 2004, July 1, 2005, July 1, 2006, July 1, 2007, and July 1, 2008, this paragraph shall apply only to the property-related payment rate, except that adjustments to include the cost of any increase in Health Department licensing fees taking effect on or after July 1, 2001, shall be provided. Beginning in 2005, adjustment to the property payment rate under this section and section 256B.431 shall be effective on October 1. In determining the amount of the property-related payment rate adjustment under this paragraph, the commissioner shall determine the proportion of the facility's rates that are property-related based on the facility's most recent cost report. ~~Beginning October 1, 2006, facilities reimbursed under this section shall be allowed to receive a property rate adjustment for building projects under section 144A.071, subdivision 2.~~

Sec. 5. Minnesota Statutes 2004, section 256B.434, is amended by adding a subdivision to read:

Subd. 4f. **Construction project rate adjustments effective October 1, 2006.** (a) Effective October 1, 2006, facilities reimbursed under this section may receive a property rate adjustment for construction projects under section 144A.071, subdivision 2, clause (a). Except as otherwise provided in this subdivision, the rate calculation methods and principles in section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, shall be used to calculate rate adjustments for allowable construction projects under this subdivision and section 144A.073. Facilities completing construction projects between October 1, 2005, and September 1, 2006, are eligible to have a property rate adjustment effective October 1, 2006. Facilities completing projects after September 1, 2006, are eligible for a property rate adjustment effective on the first of the month following the completion date.

Notwithstanding subdivision 18, as of July 14, 2005, facilities with rates set under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, that commenced a construction project on or after October 1, 2004, and do not have a contract under subdivision 3 by September 30, 2006, are eligible to request a rate adjustment under

section 256B.431, subdivision 10, through September 30, 2006. If the request results in the commissioner determining a rate adjustment is allowable, the rate adjustment is effective on the first of the month following project completion. These facilities shall be allowed to accumulate construction project costs for the period October 1, 2004, to September 30, 2006.

Facilities shall be allowed construction project rate adjustments no sooner than 12 months after completing a previous construction project. Facilities must request the rate adjustment according to section 256B.431, subdivision 10.

Capacity days shall be computed according to Minnesota Rules, part 9549.0060, subpart 11. For rate calculations under this section, the number of licensed beds in the nursing facility shall be the number existing after the construction project is completed and the number of days in the nursing facility's reporting period shall be 365.

(b) The value of assets to be recognized for a total replacement project as defined in section 256B.431, subdivision 17d, shall be computed as described in clause (1). The value of assets to be recognized for all other projects shall be computed as described in clause (2):

(1) Replacement-cost-new limits under section 256B.431, subdivision 17e, and the number of beds allowed under subdivision 3a, paragraph (c), shall be used to compute the maximum amount of assets allowable in a facility's property rate calculation. If a facility's current request for a rate adjustment results from the completion of a construction project that was previously approved under section 144A.073, the assets to be used in the rate calculation cannot exceed the lesser of the amount determined under sections 144A.071, subdivision 2, and 144A.073, subdivision 3b, or the actual allowable costs of the construction project. A current request that is not the result of a project under section 144A.073 cannot exceed the limit under section 144A.071, subdivision 2, paragraph (a). Applicable credits must be deducted from the cost of the construction project.

(2) (i) Replacement-cost-new limits under section 256B.431, subdivision 17e, and the number of beds allowed under section 256B.431, subdivision 3a, paragraph (c), shall be used to compute the maximum amount of assets allowable in a facility's property rate calculation.

(ii) The value of a facility's assets to be compared to the amount in item (i) begins with the total appraised value from the last rate notice a facility received when its rates were set under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080. This value shall be indexed by the factor in section 256B.431, subdivision 3f, paragraph (a), for each rate year the facility received an inflation factor on its property-related rate when its rates were set under this section. The value of assets listed as previous capital

additions, capital additions, and special projects on the facility's base year rate notice and the value of assets related to a construction project for which the facility received a rate adjustment when its rates were determined under this section shall be added to the indexed appraised value.

(iii) The maximum amount of assets to be recognized in computing a facility's rate adjustment after a project is completed is the lesser of the aggregate replacement-cost-new limit computed in (i) minus the assets recognized in (ii) or the actual allowable costs of the construction project.

(iv) If a facility's current request for a rate adjustment results from the completion of a construction project that was previously approved under section 144A.073, the assets to be added to the rate calculation cannot exceed the lesser of the amount determined under sections 144A.071, subdivision 2, and 144A.073, subdivision 3b, or the actual allowable costs of the construction project. A current request that is not the result of a project under section 144A.073 cannot exceed the limit stated in section 144A.071, subdivision 2, paragraph (a). Assets disposed of as a result of a construction project and applicable credits must be deducted from the cost of the construction project.

(c) For construction projects approved under section 144A.073, allowable debt shall be the lesser of:

(1) the lesser of the limit stated in section 144A.071, subdivision 2, for such construction projects or the capital assets purchased; or

(2) the lesser of the debt taken out to finance the project or the replacement-cost-new limit in paragraph (b), clause (1), less previously existing capital debt.

(d) For construction projects that were not approved under section 144A.073, allowable debt is limited to the lesser of the threshold in section 144A.071, subdivision 2, for such construction projects or the amount in paragraph (b), clause (1), less previously existing capital debt. Amounts of debt taken out that exceed the costs of a construction project shall not be allowed regardless of the use of the funds.

For all construction projects being recognized, interest expense and average debt shall be computed based on the first 12 months following project completion. "Previously existing capital debt" means capital debt recognized on the last rate determined under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, and the amount of debt recognized for a construction project for which the facility received a rate adjustment when its rates were determined under this section.

For a total replacement project as defined in section 256B.431, subdivision 17d, the value of previously existing capital debt is not deducted in paragraph (c), clause (2).

(e) In addition to the interest expense allowed from the application of paragraph (c), the amounts allowed under section 256B.431, subdivision 17a, paragraph (a), clauses (2) and (3), will be added to interest expense.

(f) The equity portion of the construction project shall be computed as the allowable assets in paragraph (b), less the average debt in paragraph (c). The equity portion must be multiplied by 5.66 percent and the allowable interest expense in paragraph (c) must be added. This sum must be divided by 95 percent of capacity days to compute the construction project rate adjustment.

(g) For projects that are not a total replacement of a nursing facility, the amount in paragraph (f) is adjusted for nonreimbursable areas and then added to the current property-related per diem of the facility.

(h) For projects that are a total replacement of a nursing facility, the amount in paragraph (f) becomes the new property-related per diem after being adjusted for nonreimbursable areas. Any amounts existing in a facility's rate before the effective date of the construction project for equity incentives under section 256B.431, subdivision 16; capital repairs and replacements under section 256B.431, subdivision 15; or refinancing incentives under section 256B.431, subdivision 19, shall be removed from the facility's rates.

(i) No additional equipment allowance is allowed under Minnesota Rules, part 9549.0060, subpart 10, as the result of construction projects under this section. Allowable equipment shall be included in the construction project costs.

(j) Capital assets purchased after the completion date of a construction project shall be counted as construction project costs for any future rate adjustment request made by a facility under section 144A.071, subdivision 2, clause (a), if they are purchased within 24 months of the completion of the future construction project.

(k) In subsequent rate years, the property-related rate for a facility that results from the application of this subdivision shall be the amount inflated in subdivision 4.

(l) Construction projects are eligible for an equity incentive under section 256B.431, subdivision 16. When computing the equity incentive for a construction project under this subdivision, only the allowable costs and allowable debt related to the construction project shall be used. The equity incentive shall not be a part of the property-related per diem and not inflated under subdivision 4.

The definitions in sections 144A.071 and 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, apply to the terms used in this subdivision.

Sec. 6. Minnesota Statutes 2004, section 256B.438, subdivision 4, is amended to read:

Subd. 4. **Resident assessment schedule.** (a) Nursing facilities shall conduct and submit case mix assessments according to the schedule established by the commissioner of health under section 144.0724, subdivisions 4 and 5.

(b) The resident reimbursement classifications established under section 144.0724, subdivision 3, shall be effective the day of admission for new admission assessments. The effective date for significant change assessments shall be the assessment reference date. The effective date for annual and ~~second~~ quarterly assessments shall be the first day of the month following assessment reference date.

(c) Effective October 1, 2006, the commissioner shall rebase payment rates to account for the change in resident assessment schedule in section 144.0724, subdivision 4, paragraph (b), clause (4), in a facility specific budget neutral manner, according to subdivision 7, paragraph (b).

Senator ..... moves to amend S.F. No. 3059 as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 144.0724, subdivision 3, is amended to read:

Subd. 3. **Resident reimbursement classifications.** (a) Resident reimbursement classifications shall be based on the minimum data set, version 2.0 assessment instrument, or its successor version mandated by the Centers for Medicare and Medicaid Services that nursing facilities are required to complete for all residents. The commissioner of health shall establish resident classes according to the 34 group, resource utilization groups, version III or RUG-III model. Resident classes must be established based on the individual items on the minimum data set and must be completed according to the facility manual for case mix classification issued by the Minnesota Department of Health. The facility manual for case mix classification shall be drafted by the Minnesota Department of Health and presented to the chairs of health and human services legislative committees by December 31, 2001.

(b) Each resident must be classified based on the information from the minimum data set according to general domains in clauses (1) to (7):

(1) extensive services where a resident requires intravenous feeding or medications, suctioning, or tracheostomy care, or is on a ventilator or respirator;

(2) rehabilitation where a resident requires physical, occupational, or speech therapy;

(3) special care where a resident has cerebral palsy; quadriplegia; multiple sclerosis; pressure ulcers; ulcers; fever with vomiting, weight loss, pneumonia, or dehydration; surgical wounds with treatment; or tube feeding and aphasia; or is receiving radiation therapy;

(4) clinically complex status where a resident has tube feeding, burns, coma, septicemia, pneumonia, internal bleeding, chemotherapy, dialysis, oxygen, transfusions, foot infections or lesions with treatment, ~~heiplegia/hemiparesis~~ hemiplegia/hemiparesis, physician visits or order changes, or diabetes with injections and order changes;

(5) impaired cognition where a resident has poor cognitive performance;

(6) behavior problems where a resident exhibits wandering or socially inappropriate or disruptive behavior, has hallucinations or delusions, is physically or verbally abusive toward others, or resists care, unless the resident's other condition would place the resident in other categories; and

(7) reduced physical functioning where a resident has no special clinical conditions.

(c) The commissioner of health shall establish resident classification according to a 34 group model based on the information on the minimum data set and within the general

domains listed in paragraph (b), clauses (1) to (7). Detailed descriptions of each resource utilization group shall be defined in the facility manual for case mix classification issued by the Minnesota Department of Health. The 34 groups are described as follows:

(1) SE3: requires four or five extensive services;

(2) SE2: requires two or three extensive services;

(3) SE1: requires one extensive service;

(4) RAD: requires rehabilitation services and is dependent in activity of daily living (ADL) at a count of 17 or 18;

(5) RAC: requires rehabilitation services and ADL count is 14 to 16;

(6) RAB: requires rehabilitation services and ADL count is ten to 13;

(7) RAA: requires rehabilitation services and ADL count is four to nine;

(8) SSC: requires special care and ADL count is 17 or 18;

(9) SSB: requires special care and ADL count is 15 or 16;

(10) SSA: requires special care and ADL count is seven to 14;

(11) CC2: clinically complex with depression and ADL count is 17 or 18;

(12) CC1: clinically complex with no depression and ADL count is 17 or 18;

(13) CB2: clinically complex with depression and ADL count is 12 to 16;

(14) CB1: clinically complex with no depression and ADL count is 12 to 16;

(15) CA2: clinically complex with depression and ADL count is four to 11;

(16) CA1: clinically complex with no depression and ADL count is four to 11;

(17) IB2: impaired cognition with nursing rehabilitation and ADL count is six to ten;

(18) IB1: impaired cognition with no nursing rehabilitation and ADL count is six to ten;

(19) IA2: impaired cognition with nursing rehabilitation and ADL count is four or five;

(20) IA1: impaired cognition with no nursing rehabilitation and ADL count is four or five;

(21) BB2: behavior problems with nursing rehabilitation and ADL count is six to ten;

(22) BB1: behavior problems with no nursing rehabilitation and ADL count is six to ten;

(23) BA2: behavior problems with nursing rehabilitation and ADL count is four to five;

(24) BA1: behavior problems with no nursing rehabilitation and ADL count is four to five;

(25) PE2: reduced physical functioning with nursing rehabilitation and ADL count is 16 to 18;

(26) PE1: reduced physical functioning with no nursing rehabilitation and ADL count is 16 to 18;

(27) PD2: reduced physical functioning with nursing rehabilitation and ADL count is 11 to 15;

(28) PD1: reduced physical functioning with no nursing rehabilitation and ADL count is 11 to 15;

(29) PC2: reduced physical functioning with nursing rehabilitation and ADL count is nine or ten;

(30) PC1: reduced physical functioning with no nursing rehabilitation and ADL count is nine or ten;

(31) PB2: reduced physical functioning with nursing rehabilitation and ADL count is six to eight;

(32) PB1: reduced physical functioning with no nursing rehabilitation and ADL count is six to eight;

(33) PA2: reduced physical functioning with nursing rehabilitation and ADL count is four or five; and

(34) PA1: reduced physical functioning with no nursing rehabilitation and ADL count is four or five.

Sec. 2. Minnesota Statutes 2004, section 144.0724, subdivision 4, is amended to read:

Subd. 4. **Resident assessment schedule.** (a) A facility must conduct and electronically submit to the commissioner of health case mix assessments that conform with the assessment schedule defined by Code of Federal Regulations, title 42, section 483.20, and published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, in the Long Term Care Assessment Instrument User's Manual, version 2.0, October 1995, and subsequent clarifications made in the Long-Term Care Assessment Instrument Questions and Answers, version 2.0, August 1996. The commissioner of health may substitute successor manuals or question and answer documents published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, to replace or supplement the current version of the manual or document.

(b) The assessments used to determine a case mix classification for reimbursement include the following:

(1) a new admission assessment must be completed by day 14 following admission;

(2) an annual assessment must be completed within 366 days of the last comprehensive assessment;

(3) a significant change assessment must be completed within 14 days of the identification of a significant change; and

(4) the second quarterly assessment following either a new admission assessment, an annual assessment, or a significant change assessment, and all quarterly assessments beginning October 1, 2006. Each quarterly assessment must be completed within 92 days of the previous assessment.

Sec. 3. Minnesota Statutes 2005 Supplement, section 144A.071, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** For purposes of sections 144A.071 to 144A.073, the following terms have the meanings given them:

(a) "Attached fixtures" has the meaning given in Minnesota Rules, part 9549.0020, subpart 6.

(b) "Buildings" has the meaning given in Minnesota Rules, part 9549.0020, subpart 7.

(c) "Capital assets" has the meaning given in section 256B.421, subdivision 16.

(d) "Commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were applied for.

(e) "Completion date" means the date on which ~~a certificate of occupancy~~ clearance for the construction project is issued ~~for a construction project~~, or if a ~~certificate of occupancy~~ clearance for the construction project is not required, the date on which the construction project ~~is~~ assets are available for facility use.

(f) "Construction" ~~means~~ means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules.

(g) "Construction project" means:

(1) a capital asset addition to, or replacement of a nursing home or certified boarding care home that results in new space or the remodeling of or renovations to existing facility space; and

(2) the remodeling or renovation of existing facility space the use of which is modified as a result of the project described in clause (1). This existing space and the project described in clause (1) must be used for the functions as designated on the construction plans on completion of the project described in clause (1) for a period of not less than 24 months.

(h) "Depreciation guidelines" means the most recent publication of "The Estimated Useful Lives of Depreciable Hospital Assets," issued by the American Hospital Association, 840 North Lake Shore Drive, Chicago, Illinois, 60611.

(i) "New licensed" or "new certified beds" means:

(1) newly constructed beds in a facility or the construction of a new facility that would increase the total number of licensed nursing home beds or certified boarding care or nursing home beds in the state; or

(2) newly licensed nursing home beds or newly certified boarding care or nursing home beds that result from remodeling of the facility that involves relocation of beds but does not result in an increase in the total number of beds, except when the project involves the upgrade of boarding care beds to nursing home beds, as defined in section 144A.073, subdivision 1. "Remodeling" includes any of the type of conversion, renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1.

(j) "Project construction costs" means the cost of the following items that have a completion date within 12 months before or after the completion date of the project described in item (g), clause (1):

(1) facility capital asset additions;

(2) replacements;

(3) renovations;

(4) remodeling projects;

(5) construction site preparation costs;

(6) related soft costs; and

(7) the cost of new technology implemented as part of the construction project and depreciable equipment directly identified to the project, if the construction costs for clauses (1) to (6) exceed the threshold for additions and replacements stated in section 256B.431, subdivision 16. Technology and depreciable equipment shall be included in the project construction costs unless a written election is made by the facility, to not include it in the facility's appraised value for purposes of Minnesota Rules, part 9549.0020, subpart 5. Debt incurred for purchase of technology and depreciable equipment shall be included as allowable debt for purposes of Minnesota Rules, part 9549.0060, subpart 5, items A and C, unless the written election is to not include it. Any new technology and depreciable equipment included in the project construction costs that the facility elects not to include in its appraised value and allowable debt shall be treated as provided in section 256B.431, subdivision 17, paragraph (b). Written election under this paragraph must be included in the facility's request for the rate change related to the project, and this election may not be changed.

(k) "Technology" means information systems or devices that make documentation, charting, and staff time more efficient or encourage and allow for care through alternative settings including, but not limited to, touch screens, monitors, hand-helds, swipe cards, motion detectors, pagers, telemedicine, medication dispensers, and equipment to monitor vital signs and self-injections, and to observe skin and other conditions.

Sec. 4. Minnesota Statutes 2005 Supplement, section 256B.434, subdivision 4, is amended to read:

Subd. 4. **Alternate rates for nursing facilities.** (a) For nursing facilities which have their payment rates determined under this section rather than section 256B.431, the commissioner shall establish a rate under this subdivision. The nursing facility must enter into a written contract with the commissioner.

(b) A nursing facility's case mix payment rate for the first rate year of a facility's contract under this section is the payment rate the facility would have received under section 256B.431.

(c) A nursing facility's case mix payment rates for the second and subsequent years of a facility's contract under this section are the previous rate year's contract payment rates plus an inflation adjustment and, for facilities reimbursed under this section or section 256B.431, an adjustment to include the cost of any increase in Health Department licensing fees for the facility taking effect on or after July 1, 2001. The index for the inflation adjustment must be based on the change in the Consumer Price Index-All Items (United States City average) (CPI-U) forecasted by the commissioner of finance's national economic consultant, as forecasted in the fourth quarter of the calendar year preceding the rate year. The inflation adjustment must be based on the 12-month period from the midpoint of the previous rate year to the midpoint of the rate year for which the rate is being determined. For the rate years beginning on July 1, 1999, July 1, 2000, July 1, 2001, July 1, 2002, July 1, 2003, July 1, 2004, July 1, 2005, July 1, 2006, July 1, 2007, and July 1, 2008, this paragraph shall apply only to the property-related payment rate, except that adjustments to include the cost of any increase in Health Department licensing fees taking effect on or after July 1, 2001, shall be provided. Beginning in 2005, adjustment to the property payment rate under this section and section 256B.431 shall be effective on October 1. In determining the amount of the property-related payment rate adjustment under this paragraph, the commissioner shall determine the proportion of the facility's rates that are property-related based on the facility's most recent cost report. ~~Beginning October 1, 2006, facilities reimbursed under this section shall be allowed to receive a property rate adjustment for building projects under section 144A.071, subdivision 2.~~

Sec. 5. Minnesota Statutes 2004, section 256B.434, is amended by adding a subdivision to read:

Subd. 4f. **Construction project rate adjustments effective October 1, 2006.** (a) Effective October 1, 2006, facilities reimbursed under this section may receive a property rate adjustment for construction projects exceeding the threshold in section 256B.431, subdivision 16, and below the threshold in section 144A.071, subdivision 2, clause (a). For these projects, capital assets purchased shall be counted as construction project costs for a rate adjustment request made by a facility if they are:

(1) purchased within 24 months of the completion of the construction project;

(2) purchased after the completion date of any prior construction project; and

(3) not purchased prior to July 14, 2005.

Except as otherwise provided in this subdivision, the definitions, rate calculation methods, and principles in sections 144A.071 and 256B.431, and Minnesota Rules, parts 9549.0010 to 9549.0080, shall be used to calculate rate adjustments for allowable construction projects under this subdivision and section 144A.073. Facilities completing construction projects between October 1, 2005, and October 1, 2006, are eligible to have a property rate adjustment effective October 1, 2006. Facilities completing projects after October 1, 2006, are eligible for a property rate adjustment effective on the first of the month following the completion date.

(b) Notwithstanding subdivision 18, as of July 14, 2005, facilities with rates set under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, that commenced a construction project on or after October 1, 2004, and do not have a contract under subdivision 3 by September 30, 2006, are eligible to request a rate adjustment under section 256B.431, subdivision 10, through September 30, 2006. If the request results in the commissioner determining a rate adjustment is allowable, the rate adjustment is effective on the first of the month following project completion. These facilities shall be allowed to accumulate construction project costs for the period October 1, 2004, to September 30, 2006.

(c) Facilities shall be allowed construction project rate adjustments no sooner than 12 months after completing a previous construction project. Facilities must request the rate adjustment according to section 256B.431, subdivision 10.

(d) Capacity days shall be computed according to Minnesota Rules, part 9549.0060, subpart 11. For rate calculations under this section, the number of licensed beds in the nursing facility shall be the number existing after the construction project is completed and the number of days in the nursing facility's reporting period shall be 365.

(e) The value of assets to be recognized for a total replacement project as defined in section 256B.431, subdivision 17d, shall be computed as described in clause (1). The value of assets to be recognized for all other projects shall be computed as described in clause (2):

(1) Replacement-cost-new limits under section 256B.431, subdivision 17e, and the number of beds allowed under subdivision 3a, paragraph (c), shall be used to compute the maximum amount of assets allowable in a facility's property rate calculation. If a facility's current request for a rate adjustment results from the completion of a construction project that was previously approved under section 144A.073, the assets to be used in the rate calculation cannot exceed the lesser of the amount determined under sections 144A.071, subdivision 2, and 144A.073, subdivision 3b, or the actual allowable costs of the construction project. A current request that is not the result of a project under section 144A.073 cannot exceed the limit under section 144A.071, subdivision 2, paragraph (a). Applicable credits must be deducted from the cost of the construction project.

(2) (i) Replacement-cost-new limits under section 256B.431, subdivision 17e, and the number of beds allowed under section 256B.431, subdivision 3a, paragraph (c), shall be used to compute the maximum amount of assets allowable in a facility's property rate calculation.

(ii) The value of a facility's assets to be compared to the amount in item (i) begins with the total appraised value from the last rate notice a facility received when its rates were set under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080. This value shall be indexed by the factor in section 256B.431, subdivision 3f, paragraph (a), for each rate year the facility received an inflation factor on its property-related rate when its rates were set under this section. The value of assets listed as previous capital additions, capital additions, and special projects on the facility's base year rate notice and the value of assets related to a construction project for which the facility received a rate adjustment when its rates were determined under this section shall be added to the indexed appraised value.

(iii) The maximum amount of assets to be recognized in computing a facility's rate adjustment after a project is completed is the lesser of the aggregate replacement-cost-new limit computed in (i) minus the assets recognized in (ii) or the actual allowable costs of the construction project.

(iv) If a facility's current request for a rate adjustment results from the completion of a construction project that was previously approved under section 144A.073, the assets to be added to the rate calculation cannot exceed the lesser of the amount determined under sections 144A.071, subdivision 2, and 144A.073, subdivision 3b, or the actual allowable

costs of the construction project. A current request that is not the result of a project under section 144A.073 cannot exceed the limit stated in section 144A.071, subdivision 2, paragraph (a). Assets disposed of as a result of a construction project and applicable credits must be deducted from the cost of the construction project.

(f) For construction projects approved under section 144A.073, allowable debt may never exceed the lesser of the cost of the assets purchased, the threshold limit in section 144A.071, subdivision 2, or the replacement-cost-new limit less previously existing capital debt.

(g) For construction projects that were not approved under section 144A.073, allowable debt is limited to the lesser of the threshold in section 144A.071, subdivision 2, for such construction projects or the applicable limit in paragraph (e), clause (1) or (2), less previously existing capital debt. Amounts of debt taken out that exceed the costs of a construction project shall not be allowed regardless of the use of the funds.

For all construction projects being recognized, interest expense and average debt shall be computed based on the first 12 months following project completion. "Previously existing capital debt" means capital debt recognized on the last rate determined under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, and the amount of debt recognized for a construction project for which the facility received a rate adjustment when its rates were determined under this section.

For a total replacement project as defined in section 256B.431, subdivision 17d, the value of previously existing capital debt shall be zero.

(h) In addition to the interest expense allowed from the application of paragraph (f), the amounts allowed under section 256B.431, subdivision 17a, paragraph (a), clauses (2) and (3), will be added to interest expense.

(i) The equity portion of the construction project shall be computed as the allowable assets in paragraph (e), less the average debt in paragraph (f). The equity portion must be multiplied by 5.66 percent and the allowable interest expense in paragraph (f) must be added. This sum must be divided by 95 percent of capacity days to compute the construction project rate adjustment.

(j) For projects that are not a total replacement of a nursing facility, the amount in paragraph (i) is adjusted for nonreimbursable areas and then added to the current property-related per diem of the facility.

(k) For projects that are a total replacement of a nursing facility, the amount in paragraph (i) becomes the new property-related per diem after being adjusted for nonreimbursable areas. Any amounts existing in a facility's rate before the effective date of the construction project for equity incentives under section 256B.431, subdivision 16;

capital repairs and replacements under section 256B.431, subdivision 15; or refinancing incentives under section 256B.431, subdivision 19, shall be removed from the facility's rates.

(l) No additional equipment allowance is allowed under Minnesota Rules, part 9549.0060, subpart 10, as the result of construction projects under this section. Allowable equipment shall be included in the construction project costs.

(m) Capital assets purchased after the completion date of a construction project shall be counted as construction project costs for any future rate adjustment request made by a facility under section 144A.071, subdivision 2, clause (a), if they are purchased within 24 months of the completion of the future construction project.

(n) In subsequent rate years, the property-related rate for a facility that results from the application of this subdivision shall be the amount inflated in subdivision 4.

(o) Construction projects are eligible for an equity incentive under section 256B.431, subdivision 16. When computing the equity incentive for a construction project under this subdivision, only the allowable costs and allowable debt related to the construction project shall be used. The equity incentive shall not be a part of the property-related per diem and not inflated under subdivision 4.

Sec. 6. Minnesota Statutes 2004, section 256B.438, subdivision 4, is amended to read:

Subd. 4. **Resident assessment schedule.** (a) Nursing facilities shall conduct and submit case mix assessments according to the schedule established by the commissioner of health under section 144.0724, subdivisions 4 and 5.

(b) The resident reimbursement classifications established under section 144.0724, subdivision 3, shall be effective the day of admission for new admission assessments. The effective date for significant change assessments shall be the assessment reference date. The effective date for annual and ~~second~~ quarterly assessments shall be the first day of the month following assessment reference date.

(c) Effective October 1, 2006, the commissioner shall rebase payment rates to account for the change in resident assessment schedule in section 144.0724, subdivision 4, paragraph (b), clause (4), in a facility specific budget neutral manner, according to subdivision 7, paragraph (b)."

Amend the title accordingly

Senator ..... moves to amend the delete-everything amendment (SCS3059A-1) to S.F. No. 3059 as follows:

Page 10, after line 17 insert:"

(p) At the time of completion of a building project resulting in a rate increase under this subdivision or section 144A.073, a facility may change its single-bed election for use in calculating capacity days under Minnesota Rules, part 9549.0060, subpart 11. The facility shall notify the commissioner of its desire to change its single-bed election at the time the final cost of the project is submitted to the commissioner, and the change in the election shall be effective the same date as the rate increase related to the building project."

Senator ..... moves to amend the delete-everything amendment (SCS3059A-1) to S.F. No. 3059 as follows:

Page 6, after line 5 insert:

"Sec. 4. Minnesota Statutes 2004, section 181.9413, is amended to read:

181.9413 SICK ~~OR INJURED CHILD CARE~~ LEAVE BENEFITS; USE TO CARE FOR CERTAIN RELATIVES.

(a) An employee may use personal sick leave benefits provided by the employer for absences due to an illness of or injury to the employee's child, spouse, sibling, parent, grandparent, stepparent, or other dependant residing in the employee's household for such reasonable periods as the employee's attendance ~~with the child~~ may be necessary, on the same terms upon which the employee is able to use sick leave benefits for the employee's own illness or injury. This section applies only to personal sick leave benefits payable to the employee from the employer's general assets.

(b) For purposes of this section, "personal sick leave benefits" means time accrued and available to an employee to be used as a result of absence from work due to personal illness or injury, but does not include short-term or long-term disability or other salary continuation benefits.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to sick leave used on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Minnesota Department of Human Services
LEGISLATIVE BACKGROUND INFORMATION **2006**

S.F. # 3059 Senator Berglin **H.F. # 3481 Representative Samuelson**

Continuing Care Policy Bill

Section 1, 2, and 6. Nursing Facility Case Mix Classification Changes

(Amends MN Statutes section 144.0724 subd. 3 and 4, 256B.438 subd. 4):

Background

In 2002 a new case mix classification system was implemented in Minnesota nursing facilities. The purpose of the case mix classification system is to establish a payment rate for nursing facility residents. Residents are assessed quarterly. The assessment protocol requires nursing facilities to use assessment information every six months to reestablish a resident's rate.

Nature and Impact of Proposed Changes

The proposed language will require the state to use each quarterly assessment for the purposes of establishing a payment rate for residents.

The change will have the greatest impact on residents receiving certain therapies in a hospital setting and transferring directly to a nursing facility. The residents generally have a higher case mix level that results in a higher payment rate. However, the residents generally stabilize and improve within the first 45 – 90 days. The current system requires residents to pay the higher rate for an additional 90+ days because the current protocol is to only recognize assessments every six months for the purposes of establishing case mix classification and a payment rate.

These changes will address the most common complaint from consumers about the accuracy and responsiveness of the case mix system by making the system more responsive to changes in residents' conditions.

Section 3, 4, and 5. Nursing Facility Building Projects

(Amends MN Statutes section 144.071 subd. 1a, 256B.434 subd. 4 and adding subd. 4f.):

Background:

The 2005 Legislature passed legislation that allows certain nursing facilities to conduct building improvement projects annually and receive reimbursement for the project in their property rates. Beginning October 1, 2006, Alternative Payment System (APS) nursing facilities may pay for building improvement projects under this provision. Traditionally, APS facilities have received their historical rate plus any additional adjustment provided by the legislature. Therefore, there has been no need for statute to instruct the Department on how to calculate a rate for these facilities.

Nature and Impact of Proposed Changes:

The proposed change will establish in statute the current policy for setting Alternative Payment System (APS) nursing facility rates and to clarify implementation policies for building projects.

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Greg TaBelle (651) 431-2262, threshold projects

Date: March 14, 2006

Patty Cullen

The Long-Term Care IMPERATIVE

A Minnesota Collaboration for Changes in Older Adult Services

Concerns with S.F. 3059 (Berglin)/H.F. 3481 (Samuelson)

SF 3059/ HF 3481, the Department of Human Services (DHS) continuing care policy bill includes two separate public policy issues: modifying the resident assessment schedule for case mix classification for reimbursement on a "facility specific budget neutral manner"; and providing for construction project rate adjustments for alterative payment demonstration projects for nursing facilities. We support the construction project language but oppose the resident assessment language in sections 1, 2 and 6 for the following reasons:

1. During the summer the DHS Negotiating Committee spent a great deal of time discussing the issue of frequency of assessments as well as the need to implement the new case mix classification weights which had been developed. (see background paragraph below on the new weights issue) The consensus of the group was that both needed to be done, and should be done simultaneously to avoid multiple disruptions in systems and to ensure the least amount of financial hardship to facilities. In the February 2006 report by DHS to the Legislature on New Payment System Development, there were two recommendations in this area: Consider adopting case mix quarterly reviews **AND** consider adopting new case mix indices. It is very important to other stakeholders that the new weights be adopted and we are concerned that if the issues are separated apart, there will be no incentive for the state to implement these weights.

2. Moving to quarterly case mix payments, even with the "budget neutral" manner language is NOT without costs to nursing facilities. ALL nursing facilities will incur administrative expenses for the conversion of their software systems and the detailed reporting that will be required for the budget neutral calculations. SOME facilities will see losses in revenues because of the mechanism DHS will use to match up past and current resident mix. By budget neutral, it means budget neutral to a previous period, not the date of the law implementation. So, facilities that may have recently increased the number of residents receiving their post-hospitalization sub-acute services will experience financial losses.

3. We question the fiscal note for this proposal. In the past when this proposal (to move to using all quarterly assessments) was brought forward, there was a state fiscal note because a relatively high percentage of residents pay privately in the first two quarters of their nursing facility stay, so "savings" from the privately paying residents as a result of the proposed change would be "made up" to the facilities through medical assistance reimbursements.

Background on New Weights

Between 1985 and 2002, nursing facility reimbursement in Minnesota included an adjustment based on resident acuity. This case mix system classified residents on a scale of A through K based on their acuity and need for assistance with activities of daily living (ADLs). In 2002,

Minnesota converted to a case mix system that utilizes 34 Resource Utilization Groups or RUGS, which is the federal case mix system used under Medicare. One of the major concerns with using the RUGS system was that the behavior classifications were not weighted heavily enough. In 2001, the Minnesota Legislature funded a staff time study designed to lead to new RUGS weights for Minnesota that would more accurately reflect the costs of providing care to residents in certain classifications. The Department of Human Services (DHS) contracted with the University of Minnesota to design and conduct the staff time study. They gathered the staff time data from facilities in the summer of 2003 and released their report in July, 2004. The study showed that in general, the behavior classes were "under weighted" compared to more clinically complex conditions. The result was a new and more accurate set of RUGS weights that have yet to be implemented. In other words, we continue to use weights that do not accurately reflect the staff time and costs for the care of residents in Minnesota nursing facilities.

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State of Minnesota

S.F. No. 3173 - Occupational Licensing (Delete-Everything Amendment)

Author: Senator Sheila M. Kiscaden

Prepared by: Katie Cavanor, Senate Counsel (651/296-3801) KTC

Date: March 30, 2006

S.F. No. 3173 modifies provisions related to speech-language pathologists and audiologists; hearing instrument dispensers; and occupational therapists.

Sections 1 to 6 deal with speech-language pathologists and audiologists.

Section 1 (148.515, subdivision 2) clarifies that the graduate coursework required for a license must be from an institution that meets current requirements.

Section 2 (148.515, subdivision 6) states that an applicant for an audiologist license who has a temporary license may only dispense hearing aids under the supervision of a licensed audiologist who dispenses hearing aids.

Section 3 (148.5175) permits a temporary license to be issued without the applicant applying for licensure.

Section 4 (148.518) adds another avenue to apply for a license that has lapsed by allowing the applicant to apply for renewal and submit documentation that a qualifying score on the examination was obtained within one year of the application date for license renewal.

Section 5 (148.5193, subdivision 1) makes corrective changes to rule references.

Section 6 (148.5195) requires the commissioner to contract with the health professional services program to provide to practitioners. Clarifies that the commissioner still has authority to discipline practitioners who violate the relevant sections.

Sections 7 to 11 deal with occupational therapists.

Section 7 (148.6440, subd 7) authorizes the commissioner to approve a practitioner's application indicating course completion after the advisory committee verifies that a specific course meets theoretical and clinical requirements.

Section 8 (148.6443, subdivision 2) requires that a continuing education activity be conducted by a sponsor approved by the American Occupational Therapy Association in order to qualify as a continuing education activity.

Section 9 (148.6443, subdivision 3), paragraph (b), requires that a minimum of one-half of the required contact hours be directly related to the occupational therapy practice with the remaining hours related to occupational therapy practice, the delivery of occupational therapy services, or to the practitioner's current professional role.

> **Paragraph (d)** permits a licensee to obtain a maximum of six contact hours for supervising occupational therapist or occupational therapy assistant students; teaching or participating in courses related to leisure activities, recreational activities or hobbies if the practitioner uses these interventions within the practitioner's current practice or employment; and engaging in research activities or outcome studies that are associated with grants, studies, or publications in books or journals.
>
> **Paragraph (e)** permits a licensee to obtain a maximum of two contact hours in a two-year period for continuing education in payment systems, including covered services, coding, documentation, and billing.

Section 10 (148.6443, subdivision 4) makes a conforming change.

Section 11 (148.6448, subdivision 6) requires the commissioner to contract with the health professional services program to provide to practitioners. Clarifies that the commissioner still has authority to discipline practitioners who violate the relevant sections.

Sections 12 to 14 deal with hearing aid dispensers.

Section 12 (153A.13, subdivision 4) clarifies that the definition of hearing instrument dispensing includes the activities regardless of whether the person conducting the activities has a monetary interest in the sale of hearing instruments to the consumer.

Section 13 (153A.14, subdivision 4c) removes the requirement that a person who has dispensed hearing instruments in another jurisdiction must apply for certification as a hearing instrument dispenser in order to dispense as a trainee.

Section 14 (153A.15, subdivision 5) requires the commissioner to contract with the health professional services program to provide to practitioners. Clarifies that the commissioner still has authority to discipline practitioners who violate the relevant sections.

KC:ph

Senator Kiscaden introduced–

S.F. No. 3173: Referred to the Committee on Health and Family Security.

A bill for an act

relating to health; modifying provisions for health occupations and professionals; clarifying a definition for hearing instrument dispensing; granting the commissioner authority to contract with the health professionals services program to access diversion and monitoring services; amending Minnesota Statutes 2004, sections 148.515, subdivision 2; 148.5175; 148.518; 148.5193, subdivision 1; 148.5195, by adding a subdivision; 148.6440, subdivision 7; 148.6443, subdivisions 2, 3, 4; 148.6448, by adding a subdivision; 153A.13, subdivision 4; 153A.15, by adding a subdivision; Minnesota Statutes 2005 Supplement, section 148.515, subdivision 6.

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

Section 1. Minnesota Statutes 2004, section 148.515, subdivision 2, is amended to read:

Subd. 2. **Master's or doctoral degree required.** (a) An applicant must possess a master's or doctoral degree that meets the requirements of paragraph (b). If completing a doctoral program in which a master's degree has not been conferred, an applicant must submit a transcript showing completion of course work equivalent to, or exceeding, a master's degree that meets the requirement of paragraph (b).

(b) All of the applicant's graduate coursework and clinical practicum required in the professional area for which licensure is sought must have been initiated and completed at an institution whose program meets the current requirements and was accredited by the Educational Standards Board of the Council on Academic Accreditation in Audiology and Speech-Language Pathology, a body recognized by the United States Department of Education, or an equivalent as determined by the commissioner, in the area for which licensure is sought.

Sec. 2. Minnesota Statutes 2005 Supplement, section 148.515, subdivision 6, is amended to read:

Subd. 6. **Dispensing audiologist examination requirements.** (a) Audiologists are exempt from the written examination requirement in section 153A.14, subdivision 2h, paragraph (a), clause (1).

(b) After July 31, 2005, all applicants for audiologist licensure under sections 148.512 to 148.5198 must achieve a passing score on the practical tests of proficiency described in section 153A.14, subdivision 2h, paragraph (a), clause (2), within the time period described in section 153A.14, subdivision 2h, paragraph (c).

(c) In order to dispense hearing aids as a sole proprietor, member of a partnership, or for a limited liability company, corporation, or any other entity organized for profit, a licensee who obtained audiologist licensure under sections 148.512 to 148.5198, before August 1, 2005, and who is not certified to dispense hearing aids under chapter 153A, must achieve a passing score on the practical tests of proficiency described in section 153A.14, subdivision 2h, paragraph (a), clause (2), within the time period described in section 153A.14, subdivision 2h, paragraph (c). All other audiologist licensees who obtained licensure before August 1, 2005, are exempt from the practical tests.

(d) An applicant for an audiology license who obtains a temporary license under section 148.5175 may dispense hearing aids only under supervision of a licensed audiologist who dispenses hearing aids.

Sec. 3. Minnesota Statutes 2004, section 148.5175, is amended to read:

148.5175 TEMPORARY LICENSURE.

(a) The commissioner shall issue temporary licensure as a speech-language pathologist, an audiologist, or both, to an applicant ~~who has applied for licensure under section 148.515, 148.516, 148.517, or 148.518 and~~ who:

(1) submits a signed and dated affidavit stating that the applicant is not the subject of a disciplinary action or past disciplinary action in this or another jurisdiction and is not disqualified on the basis of section 148.5195, subdivision 3; and

(2) either:

(i) provides a copy of a current credential as a speech-language pathologist, an audiologist, or both, held in the District of Columbia or a state or territory of the United States; or

(ii) provides a copy of a current certificate of clinical competence issued by the American Speech-Language-Hearing Association or board certification in audiology by the American Board of Audiology.

(b) A temporary license issued to a person under this subdivision expires 90 days after it is issued or on the date the commissioner grants or denies licensure, whichever occurs first.

(c) Upon application, a temporary license shall be renewed once to a person who is able to demonstrate good cause for failure to meet the requirements for licensure within the initial temporary licensure period and who is not the subject of a disciplinary action or disqualified on the basis of section 148.5195, subdivision 3.

Sec. 4. Minnesota Statutes 2004, section 148.518, is amended to read:

148.518 LICENSURE FOLLOWING LAPSE OF LICENSURE STATUS.

For an applicant whose licensure status has lapsed, the applicant must:

(1) apply for licensure renewal according to section 148.5191 and document compliance with the continuing education requirements of section 148.5193 since the applicant's license lapsed;

(2) fulfill the requirements of section 148.517;

(3) apply for renewal according to section 148.5191, provide evidence to the commissioner that the applicant holds a current and unrestricted credential for the practice of speech-language pathology from the Minnesota Board of Teaching or for the practice of speech-language pathology or audiology in another jurisdiction that has requirements equivalent to or higher than those in effect for Minnesota, and provide evidence of compliance with Minnesota Board of Teaching or that jurisdiction's continuing education requirements; ~~or~~

(4) apply for renewal according to section 148.5191 and submit verified documentation of successful completion of 160 hours of supervised practice approved by the commissioner. To participate in a supervised practice, the applicant shall first apply and obtain temporary licensing according to section 148.5161~~.~~; or

(5) apply for renewal according to section 148.5191 and provide documentation of obtaining a qualifying score on the examination described in section 148.515, subdivision 4, within one year of the application date for license renewal.

Sec. 5. Minnesota Statutes 2004, section 148.5193, subdivision 1, is amended to read:

Subdivision 1. **Number of contact hours required.** (a) An applicant for licensure renewal must meet the requirements for continuing education stipulated by the American Speech-Language-Hearing Association or the American Board of Audiology, or satisfy the requirements described in paragraphs (b) to (e).

(b) Within one month following expiration of a license, an applicant for licensure renewal as either a speech-language pathologist or an audiologist must provide evidence to the commissioner of a minimum of 30 contact hours of continuing education obtained within the two years immediately preceding licensure expiration. A minimum of 20 contact hours of continuing education must be directly related to the licensee's area of licensure. Ten contact hours of continuing education may be in areas generally related to the licensee's area of licensure. Licensees who are issued licenses for a period of less than two years shall prorate the number of contact hours required for licensure renewal based on the number of months licensed during the biennial licensure period. Licensees shall receive contact hours for continuing education activities only for the biennial licensure period in which the continuing education activity was performed.

(c) An applicant for licensure renewal as both a speech-language pathologist and an audiologist must attest to and document completion of a minimum of 36 contact hours of continuing education offered by a continuing education sponsor within the two years immediately preceding licensure renewal. A minimum of 15 contact hours must be received in the area of speech-language pathology and a minimum of 15 contact hours must be received in the area of audiology. Six contact hours of continuing education may be in areas generally related to the licensee's areas of licensure. Licensees who are issued licenses for a period of less than two years shall prorate the number of contact hours required for licensure renewal based on the number of months licensed during the biennial licensure period. Licensees shall receive contact hours for continuing education activities only for the biennial licensure period in which the continuing education activity was performed.

(d) If the licensee is licensed by the Board of Teaching:

(1) activities that are approved in the categories of Minnesota Rules, part ~~8700.1000~~ 8710.7200, subpart 3, items A and B, and that relate to speech-language pathology, shall be considered:

(i) offered by a sponsor of continuing education; and

(ii) directly related to speech-language pathology;

(2) activities that are approved in the categories of Minnesota Rules, part ~~8700.1000~~ 8710.7200, subpart 3, shall be considered:

(i) offered by a sponsor of continuing education; and

(ii) generally related to speech-language pathology; and

(3) one clock hour as defined in Minnesota Rules, part ~~8700.1000~~ 8710.7200, subpart 1, is equivalent to 1.0 contact hours of continuing education.

(e) Contact hours may not be accumulated in advance and transferred to a future continuing education period.

Sec. 6. Minnesota Statutes 2004, section 148.5195, is amended by adding a subdivision to read:

Subd. 7. **Authority to contract.** The commissioner shall contract with the health professionals services program as authorized by sections 214.31 to 214.37 to provide these services to practitioners under this chapter. The health professionals services program does not affect the commissioner's authority to discipline violations of chapter 214.

Sec. 7. Minnesota Statutes 2004, section 148.6440, subdivision 7, is amended to read:

Subd. 7. **Approval.** (a) The advisory council shall appoint a committee to review documentation under subdivisions 2 to 6 to determine if established educational and clinical requirements are met. If, after review of course documentation, the committee verifies that a specific course meets the theoretical and clinical requirements in subdivisions 2 to 6, the commissioner may approve practitioner applications that include the required course documentation evidencing completion of the same course.

(b) Occupational therapists shall be advised of the status of their request for approval within 30 days. Occupational therapists must provide any additional information requested by the committee that is necessary to make a determination regarding approval or denial.

(c) A determination regarding a request for approval of training under this subdivision shall be made in writing to the occupational therapist. If denied, the reason for denial shall be provided.

(d) A licensee who was approved by the commissioner as a level two provider prior to July 1, 1999, shall remain on the roster maintained by the commissioner in accordance with subdivision 1, paragraph (c).

(e) To remain on the roster maintained by the commissioner, a licensee who was approved by the commissioner as a level one provider prior to July 1, 1999, must submit to the commissioner documentation of training and experience gained using physical agent modalities since the licensee's approval as a level one provider. The committee appointed under paragraph (a) shall review the documentation and make a recommendation to the commissioner regarding approval.

(f) An occupational therapist who received training in the use of physical agent modalities prior to July 1, 1999, but who has not been placed on the roster of approved providers may submit to the commissioner documentation of training and experience gained using physical agent modalities. The committee appointed under paragraph (a)

shall review documentation and make a recommendation to the commissioner regarding approval.

Sec. 8. Minnesota Statutes 2004, section 148.6443, subdivision 2, is amended to read:

Subd. 2. **Standards for determining qualified continuing education activities.** Except as provided in subdivision 3, paragraph (f), in order to qualify as a continuing education activity, the activity must:

(1) constitute an organized program of learning;

(2) reasonably be expected to advance the knowledge and skills of the occupational therapy practitioner;

(3) pertain to subjects that directly relate to the practice of occupational therapy;

(4) be conducted by a sponsor approved by the American Occupational Therapy Association or by individuals who have education, training, and experience by reason of which the individuals should be considered experts on the subject matter of the activity; and

(5) be presented by a sponsor who has a mechanism to verify participation and maintains attendance records for three years.

Sec. 9. Minnesota Statutes 2004, section 148.6443, subdivision 3, is amended to read:

Subd. 3. **Activities qualifying for continuing education contact hours.** (a) The activities in this subdivision qualify for continuing education contact hours if they meet all other requirements of this section.

(b) A minimum of one-half of the required contact hours must be directly related to the occupational therapy practice. The remaining contact hours may be related to occupational therapy practice, the delivery of occupational therapy services, or to the practitioner's current professional role.

(c) A licensee may obtain an unlimited number of contact hours in any two-year continuing education period through participation in the following:

(1) attendance at educational programs of annual conferences, lectures, panel discussions, workshops, in-service training, seminars, and symposiums;

(2) successful completion of college or university courses. The licensee must obtain a grade of at least a "C" or a pass in a pass or fail course in order to receive the following continuing education credits:

(i) one semester credit equals 14 contact hours;

(ii) one trimester credit equals 12 contact hours; and

(iii) one quarter credit equals ten contact hours; ~~and~~

(3) successful completion of home study courses that require the participant to demonstrate the participant's knowledge following completion of the course.

~~(c)~~ (d) A licensee may obtain a maximum of six contact hours in any two-year continuing education period for:

(1) teaching continuing education courses that meet the requirements of this section. A licensee is entitled to earn a maximum of two contact hours as preparation time for each contact hour of presentation time. Contact hours may be claimed only once for teaching the same course in any two-year continuing education period. A course schedule or brochure must be maintained for audit;

(2) supervising occupational therapist or occupational therapy assistant students. A licensee may earn one contact hour for every eight hours of student supervision. Licensees must maintain a log indicating the name of each student supervised and the hours each student was supervised. Contact hours obtained by student supervision must be obtained by supervising students from an occupational therapy education program accredited by the Accreditation Council for Occupational Therapy Education;

(3) teaching or participating in courses related to leisure activities, recreational activities, or hobbies if the practitioner uses these interventions within the petitioner's current practice or employment; and

(4) engaging in research activities or outcome studies that are associated with grants, postgraduate studies, or publications in professional journals or books.

~~(d)~~ (e) A licensee may obtain a maximum of two contact hours in any two-year continuing education period for continuing education activities in the following areas:

(1) business-related topics: marketing, time management, administration, risk management, government regulations, techniques for training professionals, computer skills, payment systems, including covered services, coding, documentation, billing, and similar topics;

(2) personal skill topics: career burnout, communication skills, human relations, and similar topics; and

(3) training that is obtained in conjunction with a licensee's employment, occurs during a licensee's normal workday, and does not include subject matter specific to the fundamentals of occupational therapy.

~~(e) An occupational therapy practitioner that utilizes leisure activities, recreational activities, or hobbies as part of occupational therapy services in the practitioner's current work setting may obtain a maximum of six contact hours in any two-year continuing education period for participation in courses teaching these activities.~~

~~(f) A licensee may obtain a maximum of six contact hours in any two-year continuing education period for supervision of occupational therapist or occupational therapy assistant students. A licensee may earn one contact hour for every eight hours of student supervision. Licensees must maintain a log indicating the name of each student supervised and the hours each student was supervised. Contact hours obtained by student supervision must be obtained by supervising students from an occupational therapy education program accredited by the Accreditation Council for Occupational Therapy Education.~~

Sec. 10. Minnesota Statutes 2004, section 148.6443, subdivision 4, is amended to read:

Subd. 4. **Activities not qualifying for continuing education contact hours.** No credit shall be granted for the following activities: hospital rounds, entertainment or recreational activities, employment orientation sessions, holding an office or serving as an organizational delegate, meetings for the purpose of making policy; and noneducational association meetings~~, training related to payment systems, including covered services, coding, and billing~~.

Sec. 11. Minnesota Statutes 2004, section 148.6448, is amended by adding a subdivision to read:

Subd. 6. **Authority to contract.** The commissioner shall contract with the health professionals services program as authorized by sections 214.31 to 214.37 to provide these services to practitioners under this chapter. The health professionals services program does not affect the commissioner's authority to discipline violations of chapter 214.

Sec. 12. Minnesota Statutes 2004, section 153A.13, subdivision 4, is amended to read:

Subd. 4. **Hearing instrument dispensing.** "Hearing instrument dispensing" means making ear mold impressions, prescribing, or recommending a hearing instrument, assisting the consumer in instrument selection, selling hearing instruments at retail, or testing human hearing in connection with these activities ~~when~~ regardless of whether the person conducting these activities has a monetary interest in the sale of hearing instruments to the consumer.

Sec. 13. Minnesota Statutes 2004, section 153A.15, is amended by adding a subdivision to read:

Subd. 5. **Authority to contract.** The commissioner shall contract with the health professionals services program as authorized by sections 214.31 to 214.37 to provide these

services to practitioners under this chapter. The health professionals services program does not affect the commissioner's authority to discipline violations of chapter 214.

Senator ..... moves to amend S.F. No. 3173 as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 148.515, subdivision 2, is amended to read:

Subd. 2. **Master's or doctoral degree required.** (a) An applicant must possess a master's or doctoral degree that meets the requirements of paragraph (b). If completing a doctoral program in which a master's degree has not been conferred, an applicant must submit a transcript showing completion of course work equivalent to, or exceeding, a master's degree that meets the requirement of paragraph (b).

(b) All of the applicant's graduate coursework and clinical practicum required in the professional area for which licensure is sought must have been initiated and completed at an institution whose program meets the current requirements and was accredited by the Educational Standards Board of the Council on Academic Accreditation in Audiology and Speech-Language Pathology, a body recognized by the United States Department of Education, or an equivalent as determined by the commissioner, in the area for which licensure is sought.

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

Sec. 2. Minnesota Statutes 2005 Supplement, section 148.515, subdivision 6, is amended to read:

Subd. 6. **Dispensing audiologist examination requirements.** (a) Audiologists are exempt from the written examination requirement in section 153A.14, subdivision 2h, paragraph (a), clause (1).

(b) After July 31, 2005, all applicants for audiologist licensure under sections 148.512 to 148.5198 must achieve a passing score on the practical tests of proficiency described in section 153A.14, subdivision 2h, paragraph (a), clause (2), within the time period described in section 153A.14, subdivision 2h, paragraph (c).

(c) In order to dispense hearing aids as a sole proprietor, member of a partnership, or for a limited liability company, corporation, or any other entity organized for profit, a licensee who obtained audiologist licensure under sections 148.512 to 148.5198, before August 1, 2005, and who is not certified to dispense hearing aids under chapter 153A, must achieve a passing score on the practical tests of proficiency described in section 153A.14, subdivision 2h, paragraph (a), clause (2), within the time period described in section 153A.14, subdivision 2h, paragraph (c). All other audiologist licensees who obtained licensure before August 1, 2005, are exempt from the practical tests.

(d) An applicant for an audiology license who obtains a temporary license under section 148.5175 may dispense hearing aids only under supervision of a licensed audiologist who dispenses hearing aids.

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

Sec. 3. Minnesota Statutes 2004, section 148.5175, is amended to read:

148.5175 TEMPORARY LICENSURE.

(a) The commissioner shall issue temporary licensure as a speech-language pathologist, an audiologist, or both, to an applicant ~~who has applied for licensure under section 148.515, 148.516, 148.517, or 148.518 and~~ who:

(1) submits a signed and dated affidavit stating that the applicant is not the subject of a disciplinary action or past disciplinary action in this or another jurisdiction and is not disqualified on the basis of section 148.5195, subdivision 3; and

(2) either:

(i) provides a copy of a current credential as a speech-language pathologist, an audiologist, or both, held in the District of Columbia or a state or territory of the United States; or

(ii) provides a copy of a current certificate of clinical competence issued by the American Speech-Language-Hearing Association or board certification in audiology by the American Board of Audiology.

(b) A temporary license issued to a person under this subdivision expires 90 days after it is issued or on the date the commissioner grants or denies licensure, whichever occurs first.

(c) Upon application, a temporary license shall be renewed once to a person who is able to demonstrate good cause for failure to meet the requirements for licensure within the initial temporary licensure period and who is not the subject of a disciplinary action or disqualified on the basis of section 148.5195, subdivision 3.

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

Sec. 4. Minnesota Statutes 2004, section 148.518, is amended to read:

148.518 LICENSURE FOLLOWING LAPSE OF LICENSURE STATUS.

For an applicant whose licensure status has lapsed, the applicant must:

(1) apply for licensure renewal according to section 148.5191 and document compliance with the continuing education requirements of section 148.5193 since the applicant's license lapsed;

(2) fulfill the requirements of section 148.517;

(3) apply for renewal according to section 148.5191, provide evidence to the commissioner that the applicant holds a current and unrestricted credential for the practice of speech-language pathology from the Minnesota Board of Teaching or for the practice of speech-language pathology or audiology in another jurisdiction that has requirements equivalent to or higher than those in effect for Minnesota, and provide evidence of compliance with Minnesota Board of Teaching or that jurisdiction's continuing education requirements; ~~or~~

(4) apply for renewal according to section 148.5191 and submit verified documentation of successful completion of 160 hours of supervised practice approved by the commissioner. To participate in a supervised practice, the applicant shall first apply and obtain temporary licensing according to section 148.5161~~.~~; or

(5) apply for renewal according to section 148.5191 and provide documentation of obtaining a qualifying score on the examination described in section 148.515, subdivision 4, within one year of the application date for license renewal.

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

Sec. 5. Minnesota Statutes 2004, section 148.5193, subdivision 1, is amended to read:

Subdivision 1. **Number of contact hours required.** (a) An applicant for licensure renewal must meet the requirements for continuing education stipulated by the American Speech-Language-Hearing Association or the American Board of Audiology, or satisfy the requirements described in paragraphs (b) to (e).

(b) Within one month following expiration of a license, an applicant for licensure renewal as either a speech-language pathologist or an audiologist must provide evidence to the commissioner of a minimum of 30 contact hours of continuing education obtained within the two years immediately preceding licensure expiration. A minimum of 20 contact hours of continuing education must be directly related to the licensee's area of licensure. Ten contact hours of continuing education may be in areas generally related to the licensee's area of licensure. Licensees who are issued licenses for a period of less than two years shall prorate the number of contact hours required for licensure renewal based on the number of months licensed during the biennial licensure period. Licensees shall receive contact hours for continuing education activities only for the biennial licensure period in which the continuing education activity was performed.

(c) An applicant for licensure renewal as both a speech-language pathologist and an audiologist must attest to and document completion of a minimum of 36 contact hours of continuing education offered by a continuing education sponsor within the two years immediately preceding licensure renewal. A minimum of 15 contact hours must be

received in the area of speech-language pathology and a minimum of 15 contact hours must be received in the area of audiology. Six contact hours of continuing education may be in areas generally related to the licensee's areas of licensure. Licensees who are issued licenses for a period of less than two years shall prorate the number of contact hours required for licensure renewal based on the number of months licensed during the biennial licensure period. Licensees shall receive contact hours for continuing education activities only for the biennial licensure period in which the continuing education activity was performed.

(d) If the licensee is licensed by the Board of Teaching:

(1) activities that are approved in the categories of Minnesota Rules, part ~~8700.1000~~ 8710.7200, subpart 3, items A and B, and that relate to speech-language pathology, shall be considered:

(i) offered by a sponsor of continuing education; and

(ii) directly related to speech-language pathology;

(2) activities that are approved in the categories of Minnesota Rules, part ~~8700.1000~~ 8710.7200, subpart 3, shall be considered:

(i) offered by a sponsor of continuing education; and

(ii) generally related to speech-language pathology; and

(3) one clock hour as defined in Minnesota Rules, part ~~8700.1000~~ 8710.7200, subpart 1, is equivalent to 1.0 contact hours of continuing education.

(e) Contact hours may not be accumulated in advance and transferred to a future continuing education period.

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

Sec. 6. Minnesota Statutes 2004, section 148.5195, is amended by adding a subdivision to read:

Subd. 7. **Authority to contract.** The commissioner shall contract with the health professionals services program as authorized by sections 214.31 to 214.37 to provide these services to practitioners under this chapter. The health professionals services program does not affect the commissioner's authority to discipline violations of sections 148.511 to 148.5198.

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

Sec. 7. Minnesota Statutes 2004, section 148.6440, subdivision 7, is amended to read:

Subd. 7. **Approval.** (a) The advisory council shall appoint a committee to review documentation under subdivisions 2 to 6 to determine if established educational and clinical requirements are met. If, after review of course documentation, the committee

verifies that a specific course meets the theoretical and clinical requirements in subdivisions 2 to 6, the commissioner may approve practitioner applications that include the required course documentation evidencing completion of the same course.

(b) Occupational therapists shall be advised of the status of their request for approval within 30 days. Occupational therapists must provide any additional information requested by the committee that is necessary to make a determination regarding approval or denial.

(c) A determination regarding a request for approval of training under this subdivision shall be made in writing to the occupational therapist. If denied, the reason for denial shall be provided.

(d) A licensee who was approved by the commissioner as a level two provider prior to July 1, 1999, shall remain on the roster maintained by the commissioner in accordance with subdivision 1, paragraph (c).

(e) To remain on the roster maintained by the commissioner, a licensee who was approved by the commissioner as a level one provider prior to July 1, 1999, must submit to the commissioner documentation of training and experience gained using physical agent modalities since the licensee's approval as a level one provider. The committee appointed under paragraph (a) shall review the documentation and make a recommendation to the commissioner regarding approval.

(f) An occupational therapist who received training in the use of physical agent modalities prior to July 1, 1999, but who has not been placed on the roster of approved providers may submit to the commissioner documentation of training and experience gained using physical agent modalities. The committee appointed under paragraph (a) shall review documentation and make a recommendation to the commissioner regarding approval.

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

Sec. 8. Minnesota Statutes 2004, section 148.6443, subdivision 2, is amended to read:

Subd. 2. **Standards for determining qualified continuing education activities.** Except as provided in subdivision 3, paragraph (f), in order to qualify as a continuing education activity, the activity must:

(1) constitute an organized program of learning;

(2) reasonably be expected to advance the knowledge and skills of the occupational therapy practitioner;

(3) pertain to subjects that directly relate to the practice of occupational therapy;

(4) be conducted by a sponsor approved by the American Occupational Therapy Association or by individuals who have education, training, and experience by reason of

which the individuals should be considered experts on the subject matter of the activity; and

(5) be presented by a sponsor who has a mechanism to verify participation and maintains attendance records for three years.

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

Sec. 9. Minnesota Statutes 2004, section 148.6443, subdivision 3, is amended to read:

Subd. 3. **Activities qualifying for continuing education contact hours.** (a) The activities in this subdivision qualify for continuing education contact hours if they meet all other requirements of this section.

(b) A minimum of one-half of the required contact hours must be directly related to the occupational therapy practice. The remaining contact hours may be related to occupational therapy practice, the delivery of occupational therapy services, or to the practitioner's current professional role.

(c) A licensee may obtain an unlimited number of contact hours in any two-year continuing education period through participation in the following:

(1) attendance at educational programs of annual conferences, lectures, panel discussions, workshops, in-service training, seminars, and symposiums;

(2) successful completion of college or university courses. The licensee must obtain a grade of at least a "C" or a pass in a pass or fail course in order to receive the following continuing education credits:

(i) one semester credit equals 14 contact hours;

(ii) one trimester credit equals 12 contact hours; and

(iii) one quarter credit equals ten contact hours; ~~and~~

(3) successful completion of home study courses that require the participant to demonstrate the participant's knowledge following completion of the course.

~~(c)~~ (d) A licensee may obtain a maximum of six contact hours in any two-year continuing education period for:

(1) teaching continuing education courses that meet the requirements of this section. A licensee is entitled to earn a maximum of two contact hours as preparation time for each contact hour of presentation time. Contact hours may be claimed only once for teaching the same course in any two-year continuing education period. A course schedule or brochure must be maintained for audit~~.~~;

(2) supervising occupational therapist or occupational therapy assistant students. A licensee may earn one contact hour for every eight hours of student supervision. Licensees must maintain a log indicating the name of each student supervised and the hours each

student was supervised. Contact hours obtained by student supervision must be obtained by supervising students from an occupational therapy education program accredited by the Accreditation Council for Occupational Therapy Education;

(3) teaching or participating in courses related to leisure activities, recreational activities, or hobbies if the practitioner uses these interventions within the practitioner's current practice or employment; and

(4) engaging in research activities or outcome studies that are associated with grants, postgraduate studies, or publications in professional journals or books.

~~(d)~~ (e) A licensee may obtain a maximum of two contact hours in any two-year continuing education period for continuing education activities in the following areas:

(1) business-related topics: marketing, time management, administration, risk management, government regulations, techniques for training professionals, computer skills, payment systems, including covered services, coding, documentation, billing, and similar topics;

(2) personal skill topics: career burnout, communication skills, human relations, and similar topics; and

(3) training that is obtained in conjunction with a licensee's employment, occurs during a licensee's normal workday, and does not include subject matter specific to the fundamentals of occupational therapy.

~~(e) An occupational therapy practitioner that utilizes leisure activities, recreational activities, or hobbies as part of occupational therapy services in the practitioner's current work setting may obtain a maximum of six contact hours in any two-year continuing education period for participation in courses teaching these activities.~~

~~(f) A licensee may obtain a maximum of six contact hours in any two-year continuing education period for supervision of occupational therapist or occupational therapy assistant students. A licensee may earn one contact hour for every eight hours of student supervision. Licensees must maintain a log indicating the name of each student supervised and the hours each student was supervised. Contact hours obtained by student supervision must be obtained by supervising students from an occupational therapy education program accredited by the Accreditation Council for Occupational Therapy Education.~~

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

Sec. 10. Minnesota Statutes 2004, section 148.6443, subdivision 4, is amended to read:

Subd. 4. **Activities not qualifying for continuing education contact hours.** No credit shall be granted for the following activities: hospital rounds, entertainment or recreational activities, employment orientation sessions, holding an office or serving as an

organizational delegate, meetings for the purpose of making policy~~;~~ and noneducational association meetings~~, training related to payment systems, including covered services, coding, and billing~~.

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

Sec. 11. Minnesota Statutes 2004, section 148.6448, is amended by adding a subdivision to read:

Subd. 6. **Authority to contract.** The commissioner shall contract with the health professionals services program as authorized by sections 214.31 to 214.37 to provide these services to practitioners under this chapter. The health professionals services program does not affect the commissioner's authority to discipline violations of sections 148.6401 to 148.6450.

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

Sec. 12. Minnesota Statutes 2004, section 153A.13, subdivision 4, is amended to read:

Subd. 4. **Hearing instrument dispensing.** "Hearing instrument dispensing" means making ear mold impressions, prescribing, or recommending a hearing instrument, assisting the consumer in instrument selection, selling hearing instruments at retail, or testing human hearing in connection with these activities ~~when~~ regardless of whether the person conducting these activities has a monetary interest in the sale of hearing instruments to the consumer.

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

Sec. 13. Minnesota Statutes 2005 Supplement, section 153A.14, subdivision 4c, is amended to read:

Subd. 4c. **Reciprocity.** (a) A person ~~applying for certification as a hearing instrument dispenser under subdivision 1~~ who has dispensed hearing instruments in another jurisdiction may dispense hearing instruments as a trainee under indirect supervision if the person:

(1) satisfies the provisions of subdivision 4a, paragraph (a);

(2) submits a signed and dated affidavit stating that the applicant is not the subject of a disciplinary action or past disciplinary action in this or another jurisdiction and is not disqualified on the basis of section 153A.15, subdivision 1; and

(3) provides a copy of a current credential as a hearing instrument dispenser held in the District of Columbia or a state or territory of the United States.

(b) A person becoming a trainee under this subdivision who fails to take and pass the practical examination described in subdivision 2h, paragraph (a), clause (2), when next offered must cease dispensing hearing instruments unless under direct supervision.

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

Sec. 14. Minnesota Statutes 2004, section 153A.15, is amended by adding a subdivision to read:

Subd. 5. **Authority to contract.** The commissioner shall contract with the health professionals services program as authorized by sections 214.31 to 214.37 to provide these services to practitioners under this chapter. The health professionals services program does not affect the commissioner's authority to discipline violations of chapter 153A.

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

Correct the title numbers accordingly

Senator Wergin moves to amend S.F. No. 3173 as follows:

Page 1, after line 11, insert:

"Section 1. Minnesota Statutes 2004, section 148.284, is amended to read:

148.284 CERTIFICATION OF ADVANCED PRACTICE REGISTERED NURSES.

(a) No person shall practice advanced practice registered nursing or use any title, abbreviation, or other designation tending to imply that the person is an advanced practice registered nurse, clinical nurse specialist, nurse anesthetist, nurse-midwife, or nurse practitioner unless the person is certified for such advanced practice registered nursing by a national nurse certification organization.

(b) Paragraphs (a) and (e) do not apply to an advanced practice registered nurse who is within six months after completion of an advanced practice registered nurse course of study and is awaiting certification, provided that the person has not previously failed the certification examination.

(c) An advanced practice registered nurse who has completed a formal course of study as an advanced practice registered nurse and has been certified by a national nurse certification organization prior to January 1, 1999, may continue to practice in the field of nursing in which the advanced practice registered nurse is practicing as of July 1, 1999, regardless of the type of certification held if the advanced practice registered nurse is not eligible for the proper certification.

(d) Prior to July 1, 2007, a clinical nurse specialist may petition the board for waiver from the certification requirement in paragraph (a) if the clinical nurse specialist is academically prepared as a clinical nurse specialist in a specialty area for which there is no certification within the clinical nurse specialist role and specialty or a related specialty. The board may determine that an available certification as a clinical nurse specialist in a related specialty must be obtained in lieu of the specific specialty or subspecialty. The petitioner must be academically prepared as a clinical nurse specialist in a specific field of clinical nurse specialist practice with a master's degree in nursing that included clinical experience in the clinical specialty and must have 1,000 hours of supervised clinical experience in the clinical specialty for which the individual was academically prepared with a minimum of 500 hours of supervised clinical practice after graduation. The board may grant a nonrenewable permit for no longer than 12 months for the supervised postgraduate clinical experience. The board may renew the waiver for three-year periods provided the clinical nurse specialist continues to be ineligible for certification as a clinical nurse specialist by an organization acceptable to the board.

(e)(1) An advanced practice registered nurse who practices advanced practice registered nursing without current certification or current waiver of certification as a clinical nurse specialist, nurse midwife, nurse practitioner, or registered nurse anesthetist, ~~or practices with current certification but fails to notify the board of current certification,~~ shall pay a penalty fee of $200 for the first month or part of a month and an additional $100 for each subsequent month or parts of months of practice~~.~~;

(2) an advanced practice registered nurse who practices advanced practice registered nursing with current certification but fails to notify the board of current certification shall pay ~~have~~ a penalty fee imposed by the board in an amount described in clause (1) up to a maximum amount of $1,000; and

(3) the amount of the penalty fee shall be calculated from the first day the advanced practice registered nurse practiced without current advanced practice registered nurse certification or current waiver of certification to the date of last practice or from the first day the advanced practice registered nurse practiced without the current status on file with the board until the day the current certification is filed with the board."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

S.F. No. 2917, as introduced - 84th Legislative Session (2005-2006) Posted on Mar 08, 2006

A bill for an act

relating to health occupations; requiring the issuance of a social worker license under certain circumstances.

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

Section 1. **EXCEPTION TO SOCIAL WORK LICENSURE REQUIREMENTS.**

Notwithstanding the requirements of Minnesota Statutes, sections 148D.001 to 148D.290, the Board of Social Work shall issue a license to practice as a licensed social worker under Minnesota Statutes, chapter 148D, to an applicant who:

(1) meets the requirements described in Minnesota Statutes, section 148D.055, subdivision 2, paragraph (a), clauses (1), (3), (4), (5), and (6);

(2) is currently licensed as a school social worker by the Board of Teaching under Minnesota Statutes, chapter 122A; and

(3) has been engaged in the practice of social work in an elementary, middle, or secondary school, for the preceding 15 years.

The board must accept applications under this section until August 1, 2006.

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

Please direct all comments concerning issues or legislation to your House Member or State Senator.

For Legislative Staff or for directions to the Capitol, visit the Contact Us page.

General questions or comments.

Senator Berglin moves to amend S.F. No. 3173 as follows:

Page 8, after line 20, insert:

"Sec. 12. Minnesota Statutes 2004, section 150A.06, subdivision 2d, is amended to read:

Subd. 2d. **Volunteer and retired dentists, dental hygienists, and registered dental assistants ~~continuing education and professional development waiver~~.** (a) ~~The board shall grant a waiver to the continuing education requirements under this chapter for a licensed dentist, licensed dental hygienist, or registered dental assistant who documents to the satisfaction of the board that the dentist, dental hygienist, or registered dental assistant has retired from active practice in the state and limits the provision of dental care services to those offered without compensation in a public health, community, or tribal clinic or a nonprofit organization that provides services to the indigent or to recipients of medical assistance, general assistance medical care, or MinnesotaCare programs.~~ The board shall grant a limited part-time practice authorization to a retired dentist, dental hygienist, or dental assistant who documents to the satisfaction of the board that the dentist, dental hygienist, or registered dental assistant has retired in good standing from active practice in the state and limits the provision of dental care services to those offered without compensation in a public health, community, or tribal clinic or a nonprofit organization that provides services to the indigent or to recipients of medical assistance, general assistance medical care, or MinnesotaCare programs.

(b) The board may require written documentation from the volunteer and retired dentist, dental hygienist, or registered dental assistant prior to granting this ~~waiver~~ authorization.

(c) The board shall require the volunteer and retired dentist, dental hygienist, or registered dental assistant to meet the following requirements:

(1) a licensee or registrant seeking a ~~waiver~~ authorization under this subdivision must complete and document at least five hours of approved courses in infection control, medical emergencies, and medical management for the continuing education cycle; ~~and~~

(2) provide documentation of certification in advanced or basic cardiac life support recognized by the American Heart Association, the American Red Cross, or an equivalent entity;

(3) must work under the indirect supervision of a licensed dentist; and

(4) meet the requirements of this chapter that pertain to the dentistry performed with the exception of the licensing and continuing education requirements."

Renumber the sections in sequence and correct the internal references

2.1 Amend the title accordingly

Senate Counsel, Research, and Fiscal Analysis

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State of Minnesota

H.F. No. 3132 - Foreign Medical School Graduates

Author: Senator Sheila M. Kiscaden

Prepared by: Katie Cavanor, Senate Counsel (651/296-3801) KC

Date: March 29, 2006

H.F. No. 3132 changes the words "must" to "may" and "required" to "allowed" in order to give a foreign medical school graduate the option of using the Federation of State Medical Boards' Federation Credentials Verification Service rather than requiring the graduate to use the service.

KC:ph

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FOURTH
SESSION

HOUSE FILE NO. 3132

March 2, 2006
Authored by Bradley, Huntley and Cox
The bill was read for the first time and referred to the Committee on Health Policy and Finance
March 9, 2006
To Pass and placed on the Consent Calendar
Read Second Time

A bill for an act

relating to health occupations; permitting certain foreign medical school graduates to use a credentials verification service; amending Minnesota Statutes 2004, section 147.037, subdivision 1.

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

Section 1. Minnesota Statutes 2004, section 147.037, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** The board shall issue a license to practice medicine to any person who satisfies the requirements in paragraphs (a) to (g).

(a) The applicant shall satisfy all the requirements established in section 147.02, subdivision 1, paragraphs (a), (e), (f), (g), and (h).

(b) The applicant shall present evidence satisfactory to the board that the applicant is a graduate of a medical or osteopathic school approved by the board as equivalent to accredited United States or Canadian schools based upon its faculty, curriculum, facilities, accreditation, or other relevant data. If the applicant is a graduate of a medical or osteopathic program that is not accredited by the Liaison Committee for Medical Education or the American Osteopathic Association, the applicant ~~must~~ may use the Federation of State Medical Boards' Federation Credentials Verification Service (FCVS) or its successor. If the applicant uses this service as ~~required~~ allowed under this paragraph, the physician application fee may be less than $200 but must not exceed the cost of administering this paragraph.

(c) The applicant shall present evidence satisfactory to the board that the applicant has been awarded a certificate by the Educational Council for Foreign Medical Graduates, and the applicant has a working ability in the English language sufficient to communicate with patients and physicians and to engage in the practice of medicine.

(d) The applicant shall present evidence satisfactory to the board of the completion of two years of graduate, clinical medical training in a program located in the United States, its territories, or Canada and accredited by a national accrediting organization approved by the board. This requirement does not apply:

(1) to an applicant who is admitted as a permanent immigrant to the United States on or before October 1, 1991, as a person of exceptional ability in the sciences according to Code of Federal Regulations, title 20, section 656.22(d);

(2) to an applicant holding a valid license to practice medicine in another country and issued a permanent immigrant visa after October 1, 1991, as a person of extraordinary ability in the field of science or as an outstanding professor or researcher according to Code of Federal Regulations, title 8, section 204.5(h) and (i), or a temporary nonimmigrant visa as a person of extraordinary ability in the field of science according to Code of Federal Regulations, title 8, section 214.2(o),

provided that a person under clause (1) or (2) is admitted pursuant to rules of the United States Department of Labor; or

(3) to an applicant who is licensed in another state, has practiced five years without disciplinary action in the United States, its territories, or Canada, has completed one year of the graduate, clinical medical training required by this paragraph, and has passed the Special Purpose Examination of the Federation of State Medical Boards within three attempts in the 24 months before licensing.

(e) The applicant must:

(1) have passed an examination prepared and graded by the Federation of State Medical Boards, the United States Medical Licensing Examination program in accordance with section 147.02, subdivision 1, paragraph (c), clause (2), or the Medical Council of Canada; and

(2) have a current license from the equivalent licensing agency in another state or country and, if the examination in clause (1) was passed more than ten years ago, either:

(i) pass the Special Purpose Examination of the Federation of State Medical Boards with a score of 75 or better within three attempts; or

(ii) have a current certification by a specialty board of the American Board of Medical Specialties, of the American Osteopathic Association Bureau of Professional Education, of the Royal College of Physicians and Surgeons of Canada, or of the College of Family Physicians of Canada.

(f) The applicant must not be under license suspension or revocation by the licensing board of the state or jurisdiction in which the conduct that caused the suspension or revocation occurred.

(g) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action other than as specified in paragraph (f). If an applicant does not satisfy the requirements stated in this paragraph, the board may issue a license only on the applicant's showing that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

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

Senator ..... moves to amend S.F. No. 3173 as follows:

Page 1, after line 11, insert:

"Section 1. Minnesota Statutes 2004, section 147.02, subdivision 1, is amended to read:

Subdivision 1. **United States or Canadian medical school graduates.** The board shall issue a license to practice medicine to a person who meets the requirements in paragraphs (a) to (h).

(a) An applicant for a license shall file a written application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a medical or osteopathic school located in the United States, its territories or Canada, and approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant data, or is currently enrolled in the final year of study at the school.

(c) The applicant must have passed an examination as described in clause (1) or (2).

(1) The applicant must have passed a comprehensive examination for initial licensure prepared and graded by the National Board of Medical Examiners or the Federation of State Medical Boards. The board shall by rule determine what constitutes a passing score in the examination.

(2) The applicant taking the United States Medical Licensing Examination (USMLE) must have passed steps one, two, and three ~~within a seven-year period. This seven-year period begins when the applicant first passes either step one or two, as applicable. Applicants actively enrolled in or graduated from accredited MD/PhD, MD/JD, MD/MBA, or MD/MPH dual degree programs or osteopathic equivalents must have passed each of steps one, two, and three within three attempts in seven years plus the time taken to obtain the non-MD degree or ten years, whichever occurs first~~. Step three must be passed within five years of passing step two, or before the end of residency training. The applicant must pass each of steps one, two, and three with passing scores as recommended by the USMLE program within three attempts. The applicant taking combinations of Federation of State Medical Boards, National Board of Medical Examiners, and USMLE may be accepted only if the combination is approved by the board as comparable to existing comparable examination sequences and all examinations are completed prior to the year 2000.

(d) The applicant shall present evidence satisfactory to the board of the completion of one year of graduate, clinical medical training in a program accredited by a national accrediting organization approved by the board or other graduate training approved

in advance by the board as meeting standards similar to those of a national accrediting organization.

(e) The applicant shall make arrangements with the executive director to appear in person before the board or its designated representative to show that the applicant satisfies the requirements of this section. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.

(f) The applicant shall pay a fee established by the board by rule. The fee may not be refunded. Upon application or notice of license renewal, the board must provide notice to the applicant and to the person whose license is scheduled to be issued or renewed of any additional fees, surcharges, or other costs which the person is obligated to pay as a condition of licensure. The notice must:

(1) state the dollar amount of the additional costs; and

(2) clearly identify to the applicant the payment schedule of additional costs.

(g) The applicant must not be under license suspension or revocation by the licensing board of the state or jurisdiction in which the conduct that caused the suspension or revocation occurred.

(h) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action other than as specified in paragraph (g). If the applicant does not satisfy the requirements stated in this paragraph, the board may issue a license only on the applicant's showing that the public will be protected through issuance of a license with conditions and limitations the board considers appropriate."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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H.F. No. 2745 - Board of Medical Practice

Author: Senator Steve Kelley

Prepared by: Katie Cavanor, Senate Counsel (651/296-3801) KC

Date: March 29, 2006

H.F. No. 2745 modifies provisions for medical licenses related to reciprocity and comprehensive examinations.

Section 1 (147.02, subdivision 1) expands the list of organizations offering comprehensive examinations that an applicant who is not currently licensed in another state or Canada must pass for licensure to include the National Board of Medical Examiners, the Medical Council of Canada, or an appropriate state board that the board determines appropriate. This section also requires applicants who passed the required examination more than ten years ago to pass a special purpose examination with a specified score or have a current certification by a specified specialty board.

Section 2 (147.03, subdivision 1) adds the College of Family Physicians of Canada to a list of specialty boards from which applicants may have a certification for purposes of meeting the requirements for licensure based on reciprocity.

KC:ph

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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-FOURTH
SESSION

HOUSE FILE NO. 2745

March 1, 2006
Authored by Abeler, Huntley and Bradley
The bill was read for the first time and referred to the Committee on Health Policy and Finance
March 9, 2006
To Pass and placed on the Consent Calendar
Read Second Time

A bill for an act

relating to occupations and professions; modifying provisions for medical licenses; amending Minnesota Statutes 2004, sections 147.02, subdivision 1; 147.03, subdivision 1.

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

Section 1. Minnesota Statutes 2004, section 147.02, subdivision 1, is amended to read:

Subdivision 1. **United States or Canadian medical school graduates.** The board shall issue a license to practice medicine to a person not currently licensed in another state or Canada and who meets the requirements in paragraphs (a) to ~~(h)~~ (i).

(a) An applicant for a license shall file a written application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a medical or osteopathic school located in the United States, its territories or Canada, and approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant data, or is currently enrolled in the final year of study at the school.

(c) The applicant must have passed an examination as described in clause (1) or (2).

(1) The applicant must have passed a comprehensive examination for initial licensure prepared and graded by the National Board of Medical Examiners ~~or~~, the Federation of State Medical Boards, the National Board of Medical Examiners, the Medical Council of Canada, or the appropriate state board that the board determines acceptable. The board shall by rule determine what constitutes a passing score in the examination.

(2) The applicant taking the United States Medical Licensing Examination (USMLE) must have passed steps one, two, and three within a seven-year period. This seven-year period begins when the applicant first passes either step one or two, as applicable. Applicants actively enrolled in or graduated from accredited MD/PhD, MD/JD, MD/MBA, or MD/MPH dual degree programs or osteopathic equivalents must have passed each of steps one, two, and three within three attempts in seven years plus the time taken to obtain the non-MD degree or ten years, whichever occurs first. The applicant must pass each of steps one, two, and three with passing scores as recommended by the USMLE program within three attempts. The applicant taking combinations of Federation of State Medical Boards, National Board of Medical Examiners, and USMLE may be accepted only if the combination is approved by the board as comparable to existing comparable examination sequences and all examinations are completed prior to the year 2000.

(d) The applicant shall present evidence satisfactory to the board of the completion of one year of graduate, clinical medical training in a program accredited by a national accrediting organization approved by the board or other graduate training approved in advance by the board as meeting standards similar to those of a national accrediting organization.

(e) The applicant shall make arrangements with the executive director to appear in person before the board or its designated representative to show that the applicant satisfies the requirements of this section. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.

(f) The applicant shall pay a fee established by the board by rule. The fee may not be refunded. Upon application or notice of license renewal, the board must provide notice to the applicant and to the person whose license is scheduled to be issued or renewed of any additional fees, surcharges, or other costs which the person is obligated to pay as a condition of licensure. The notice must:

(1) state the dollar amount of the additional costs; and

(2) clearly identify to the applicant the payment schedule of additional costs.

(g) The applicant must not be under license suspension or revocation by the licensing board of the state or jurisdiction in which the conduct that caused the suspension or revocation occurred.

(h) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action other than as specified in paragraph (g). If the applicant does not satisfy the requirements stated in this paragraph, the board may issue a license only on the applicant's showing that the public will be

protected through issuance of a license with conditions and limitations the board considers appropriate.

(i) If the examination in paragraph (c) was passed more than ten years ago, the applicant must either:

(1) pass the special purpose examination of the Federation of State Medical Boards with a score of 75 or better within three attempts; or

(2) have a current certification by a specialty board of the American Board of Medical Specialties, of the American Osteopathic Association Bureau of Professional Education, the Royal College of Physicians and Surgeons of Canada, or of the College of Family Physicians of Canada.

Sec. 2. Minnesota Statutes 2004, section 147.03, subdivision 1, is amended to read:

Subdivision 1. **Endorsement; reciprocity.** (a) The board may issue a license to practice medicine to any person who satisfies the requirements in paragraphs (b) to (f).

(b) The applicant shall satisfy all the requirements established in section 147.02, subdivision 1, paragraphs (a), (b), (d), (e), and (f).

(c) The applicant shall:

(1) have passed an examination prepared and graded by the Federation of State Medical Boards, the National Board of Medical Examiners, or the United States Medical Licensing Examination program in accordance with section 147.02, subdivision 1, paragraph (c), clause (2); the National Board of Osteopathic Examiners; or the Medical Council of Canada; and

(2) have a current license from the equivalent licensing agency in another state or Canada and, if the examination in clause (1) was passed more than ten years ago, either:

(i) pass the Special Purpose Examination of the Federation of State Medical Boards with a score of 75 or better within three attempts; or

(ii) have a current certification by a specialty board of the American Board of Medical Specialties, of the American Osteopathic Association Bureau of Professional Education, ~~or of~~ the Royal College of Physicians and Surgeons of Canada, or of the College of Family Physicians of Canada.

(d) The applicant shall pay a fee established by the board by rule. The fee may not be refunded.

(e) The applicant must not be under license suspension or revocation by the licensing board of the state or jurisdiction in which the conduct that caused the suspension or revocation occurred.

(f) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action other than as specified in paragraph (e). If an applicant does not satisfy the requirements stated in this paragraph, the board may issue a license only on the applicant's showing that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

(g) Upon the request of an applicant, the board may conduct the final interview of the applicant by teleconference.

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S.F. No. 3457 - Board of Medical Practice

Author: Senator Becky Lourey

Prepared by: Katie Cavanor, Senate Counsel (651/296-3801) KC

Date: March 30, 2006

S.F. No. 3457 creates an exemption to the requirement that an applicant taking the Medical Licensing Examination pass steps one, two, and three within a seven-year period. This exemption would allow an applicant who has been mobilized into active military service during the process of taking this examination to pass steps one, two, and three within a ten-year period, beginning when the applicant first passes either step one or two, as applicable. Proof of military service must be submitted to the board. This section is effective retroactively from December 1, 2005.

KC:ph

Senators Lourey and Vickerman introduced–

S.F. No. 3457: Referred to the Committee on Health and Family Security.

A bill for an act

relating to health occupations; modifying Board of Medical Practice examination provision; amending Minnesota Statutes 2004, section 147.02, by adding a subdivision.

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

Section 1. Minnesota Statutes 2004, section 147.02, is amended by adding a subdivision to read:

Subd. 1a. **Examination extension; active military service.** Notwithstanding subdivision 1, paragraph (c), clause (2), an applicant who is mobilized into active military service during the process of taking the United States Medical Licensing Examination, but before passage of all steps, must have passed steps one, two, and three within a ten-year period. This ten-year period begins when the applicant first passes either step one or two, as applicable. Proof of active military service must be submitted to the board on the forms and according to the timelines of the board.

EFFECTIVE DATE. This section is effective retroactively from December 1, 2005.

Senator ..... moves to amend S.F. No. 3457 as follows:

Page 1, line 10, after "service" insert ", as defined in section 197.447, "

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S.F. No. 3521 - Secured Treatment Facilities

Author: Senator Becky Lourey

Prepared by: Joan White, Senate Counsel (651/296-3814)

Date: March 28, 2006

Section 1 amends the corrections chapter of law by making it a felony, with up to a 10 year imprisonment, for a person to bring, send, or in any manner cause to be introduced into a state-operated secure facility, grounds, or land controlled by the facility, intoxicating or alcoholic liquor or malt beverage without consent of the CEO.

Section 2 amends the public institutions chapter of law by authorizing the commissioner to enter into or approve a service contract for medical services at state-operated service facilities without first determining that there is no current state employee that is able and available to perform the services for which the commissioner is contracting.

Sections 3 and 4 modify the criminal code related to individuals who escape when being held due to a civil commitment process. Section 4 increases the sentence from imprisonment for not more than one year and one day or a fine of $3,000, or both, to imprisonment for not more than five years or a fine of $10,000, or both.

JW:mvm

Senator Lourey introduced–

S.F. No. 3521: Referred to the Committee on Health and Family Security.

A bill for an act

relating to human services; modifying policies for secured treatment facilities; providing for criminal penalties for possession of contraband; allowing for the entering of service contracts; modifying escape from custody provisions; providing sentencing provisions; amending Minnesota Statutes 2004, sections 243.55, subdivision 1; 246.014; Minnesota Statutes 2005 Supplement, section 609.485, subdivisions 2, 4.

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

Section 1. Minnesota Statutes 2004, section 243.55, subdivision 1, is amended to read:

Subdivision 1. **Contraband; bringing into correctional facility; felony.** Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or state hospital, or within or upon the grounds belonging to or land or controlled by any such facility or hospital, or is found in possession of any controlled substance as defined in section 152.01, subdivision 4, or any firearms, weapons or explosives of any kind, without the consent of the chief executive officer thereof, shall be guilty of a felony and, upon conviction thereof, punished by imprisonment for a term of not more than ten years. Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or within or upon the grounds belonging to or land controlled by the facility, or is found in the possession of any intoxicating or alcoholic liquor or malt beverage of any kind without the consent of the chief executive officer thereof, shall be guilty of a gross misdemeanor. Any person who brings, sends, or in any manner causes to be introduced into any state-operated secure treatment facility, as defined in section 253B.02, subdivision 18a, within or upon the grounds belonging to or land controlled by the facility, or is found in the possession of any intoxicating or alcoholic liquor or malt beverage without the consent of the chief executive officer thereof, shall

be guilty of a felony and, upon conviction thereof, punished by imprisonment for a term of not more than ten years. The provisions of this section shall not apply to physicians carrying drugs or introducing any of the above described liquors into such facilities for use in the practice of their profession; nor to sheriffs or other peace officers carrying revolvers or firearms as such officers in the discharge of duties.

Sec. 2. Minnesota Statutes 2004, section 246.014, is amended to read:

246.014 SERVICES.

The measure of services established and prescribed by section 246.012, are:

(a) The commissioner of human services shall develop and maintain state-operated services in a manner consistent with sections 245.461, 245.487, and 253.28, and chapters 252, 254A, and 254B. State-operated services shall be provided in coordination with counties and other vendors. State-operated services shall include regional treatment centers, specialized inpatient or outpatient treatment programs, enterprise services, community-based services and programs, community preparation services, consultative services, and other services consistent with the mission of the Department of Human Services. These services shall include crisis beds, waivered homes, intermediate care facilities, and day training and habilitation facilities. The administrative structure of state-operated services must be statewide in character. The state-operated services staff may deliver services at any location throughout the state.

(b) The commissioner of human services shall create and maintain forensic services programs. Forensic services shall be provided in coordination with counties and other vendors. Forensic services shall include specialized inpatient programs at secure treatment facilities as defined in section 253B.02, subdivision 18a, consultative services, aftercare services, community-based services and programs, transition services, or other services consistent with the mission of the Department of Human Services.

(c) Community preparation services as identified in paragraphs (a) and (b) are defined as specialized inpatient or outpatient services or programs operated outside of a secure environment but are administered by a secured treatment facility.

(d) The commissioner of human services may establish policies and procedures which govern the operation of the services and programs under the direct administrative authority of the commissioner.

(e) Notwithstanding sections 16C.08, 16C.09, 43A.047, or other law to the contrary, the commissioner of human services may enter into or approve a service contract for medical services at state-operated service facilities without determining that no current state employee is able and available to perform the services called for by the contract.

Sec. 3. Minnesota Statutes 2005 Supplement, section 609.485, subdivision 2, is amended to read:

Subd. 2. **Acts prohibited.** Whoever does any of the following may be sentenced as provided in subdivision 4:

(1) escapes while held pursuant to a lawful arrest, in lawful custody on a charge or conviction of a crime, or while held in lawful custody on an allegation or adjudication of a delinquent act;

(2) transfers to another, who is in lawful custody on a charge or conviction of a crime, or introduces into an institution in which the latter is confined, anything usable in making such escape, with intent that it shall be so used;

(3) having another in lawful custody on a charge or conviction of a crime, intentionally permits the other to escape;

(4) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a. Notwithstanding section 609.17, no person may be charged with or convicted of an attempt to commit a violation of this clause;

(5) escapes while in or under the supervision of a facility designated under section 253B.18, subdivision 1, pursuant to a court hold or commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10; or

(6) escapes while on pass status or provisional discharge according to section 253B.18.

For purposes of clause (1), "escapes while held in lawful custody" includes absconding from electronic monitoring or absconding after removing an electronic monitoring device from the person's body.

Sec. 4. Minnesota Statutes 2005 Supplement, section 609.485, subdivision 4, is amended to read:

Subd. 4. **Sentence.** (a) Except as otherwise provided in subdivision 3a, whoever violates this section may be sentenced as follows:

(1) if the person who escapes is in lawful custody for a felony, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;

(2) if the person who escapes is in lawful custody after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a, ~~or pursuant to a court commitment order under section~~

~~253B.185 or Minnesota Statutes 1992, section 526.10,~~ to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both;

(3) if the person who escapes is in lawful custody for a gross misdemeanor or misdemeanor, or if the person who escapes is in lawful custody on an allegation or adjudication of a delinquent act, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both; or

(4) if the person who escapes is under civil commitment under ~~sections~~ section 253B.18 ~~and 253B.185~~, to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both~~.~~; or

(5) if the person who escapes is under a court hold, civil commitment, or supervision under section 253B.185 or Minnesota Statutes 1992, section 526.10, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

(b) If the escape was a violation of subdivision 2, clause (1), (2), or (3), and was effected by violence or threat of violence against a person, the sentence may be increased to not more than twice those permitted in paragraph (a), clauses (1) and (3).

(c) Unless a concurrent term is specified by the court, a sentence under this section shall be consecutive to any sentence previously imposed or which may be imposed for any crime or offense for which the person was in custody when the person escaped.

(d) Notwithstanding paragraph (c), if a person who was committed to the commissioner of corrections under section 260B.198 escapes from the custody of the commissioner while 18 years of age, the person's sentence under this section shall commence on the person's 19th birthday or on the person's date of discharge by the commissioner of corrections, whichever occurs first. However, if the person described in this clause is convicted under this section after becoming 19 years old and after having been discharged by the commissioner, the person's sentence shall commence upon imposition by the sentencing court.

(e) Notwithstanding paragraph (c), if a person who is in lawful custody on an allegation or adjudication of a delinquent act while 18 years of age escapes from a local juvenile correctional facility, the person's sentence under this section begins on the person's 19th birthday or on the person's date of discharge from the jurisdiction of the juvenile court, whichever occurs first. However, if the person described in this paragraph is convicted after becoming 19 years old and after discharge from the jurisdiction of the juvenile court, the person's sentence begins upon imposition by the sentencing court.

(f) Notwithstanding paragraph (a), any person who escapes or absconds from electronic monitoring or removes an electric monitoring device from the person's body is guilty of a crime and shall be sentenced to imprisonment for not more than one year or to

a payment of a fine of not more than $3,000, or both. A person in lawful custody for a violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.21, 609.221, 609.222, 609.223, 609.2231, 609.342, 609.343, 609.344, 609.345, or 609.3451 who escapes or absconds from electronic monitoring or removes an electronic monitoring device while under sentence may be sentenced to imprisonment for not more than five years or to a payment of a fine of not more than $10,000, or both.

Senator ..... moves to amend S.F. No. 3521 as follows:

Page 2, delete section 2

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

S. # 3521 H.F. # 3620

TITLE: Secured treatment facilities policies modified, contraband possession criminal penalties provided, service contract entrance authorized, custody escape provisions modified, and sentencing provisions established.

BACKGROUND: This proposal includes various policy initiatives for the State Operated Services (SOS) creating additional safety and security protections for staff, patients, and the general public. These initiatives are also expected to be programmatic improvements by creating mechanisms that are intended to encourage performance in the treatment programs, discourage non-performance and enhance SOS ability to deliver services to all the populations it serves.

PROBLEM WITH CURRENT SYSTEM/PROBLEM TO BE ADDRESSED:

Section 1:

Problem:

Presently, the penalty for introducing or possessing alcohol on the grounds of the Minnesota Sex Offender Treatment Program is a gross misdemeanor. The introduction, possession, and use of such substance compromises the progress patients make in treatment and the safety of staff, other residents, and the public.

Impact of theChange:

Amends M.S. § 243.55 by increasing penalties from a misdemeanor to a felony level for individuals who introduce or are found in possession of alcohol on the grounds of the Minnesota Sex Offender Treatment Program.

Section 2:

Problem:

Presently, State-Operated Services is only able to bill for select physician services. In addition, State-Operated Services is experiencing difficulties recruiting and retaining physicians within the current system. Also, a high degree of collaboration between physicians is unable to be realized.

Impact of the Change:

Amends M.S. § 246.014 by allowing State-Operated Services to enter into or approve a service contract for medical services delivered at SOS facilities. This enhances SOS's ability to bill for services provided, recruit and retain physicians, creates a high degree of collaboration between physicians and creates additional flexibility necessary to deliver high quality services to consumers.

ctions 3 and 4:

oblem:

Individuals who are served by the Minnesota Sex Offender Program are dangerous and present a threat to the safety of the public. Under current law, if one of these residents escape they are sentenced to a year and a day and/or a fine of $3,000. If the resident escaped from the custody of law enforcement (including Corrections) he would be sentenced to a felony level offense.

Impact of the Change:

Amends M.S. §609.485 by increasing penalties to five years or a fine of $10,000 or both for individuals under the custody of the Minnesota Sex Offender Program who escape from the Minnesota Sex Offender Program.

Senator Lourey introduced–

S.F. No. 3523: Referred to the Committee on Health and Family Security.

A bill for an act

relating to human services; making technical changes; modifying commissioner's duties, county board duties, education programs, safety requirements, licensing requirements, disqualification provisions, chemical dependency care, agency appeals and hearings, day treatment services, alternative care funding, clinical infrastructures, property costs, co-payments and coinsurance, adoption provisions, children in need of protection; amending Minnesota Statutes 2004, sections 144.225, subdivision 2b; 245A.04, subdivision 11; 254A.03, subdivision 3; 254A.16, subdivision 2; 254B.02, subdivisions 1, 5; 254B.03, subdivisions 1, 3; 254B.06, subdivision 3; 256.0451, subdivisions 1, 3, 11, 19; 256B.0625, subdivision 23; 256B.0913, subdivision 1; 256B.0943, subdivisions 9, 11; 256B.431, subdivisions 1, 3f, 17e; 260B.157, subdivision 1; Minnesota Statutes 2005 Supplement, sections 245.4874; 245A.14, subdivision 12; 245A.18, subdivision 2; 245C.07; 245C.13, subdivision 2; 245C.15, subdivisions 2, 3; 245C.22, subdivision 7; 245C.24, subdivision 3; 256.046, subdivision 1; 256B.0625, subdivision 13c; 256B.0913, subdivision 4; 256B.0943, subdivisions 6, 12; 256L.03, subdivision 5; 259.67, subdivision 4; 260.012; 626.556, subdivision 2; Laws 2005, chapter 98, article 3, section 25; repealing Minnesota Statutes 2004, sections 252.21; 252.22; 252.23; 252.24, subdivisions 1, 2, 3, 4; 252.25; 252.261; 254A.02, subdivisions 7, 9, 12, 14, 15, 16; 254A.085; 254A.086; 254A.12; 254A.14, subdivisions 1, 2, 3; 254A.15; 254A.16, subdivision 5; 254A.175; 254A.18; Minnesota Statutes 2005 Supplement, section 252.24, subdivision 5; Minnesota Rules, part 9503.0035, subpart 2.

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

Section 1. Minnesota Statutes 2004, section 144.225, subdivision 2b, is amended to read:

Subd. 2b. **Commissioner of health; duties.** Notwithstanding the designation of certain of this data as confidential under subdivision 2 or private under subdivision 2a, the commissioner shall give the commissioner of human services access to birth record data and data contained in recognitions of parentage prepared according to section 257.75 necessary to enable the commissioner of human services to identify a child who is subject

to threatened injury, as defined in section 626.556, subdivision 2, paragraph ~~(l)~~ (n), by a person responsible for the child's care, as defined in section 626.556, subdivision 2, paragraph ~~(b), clause (1)~~ (e). The commissioner shall be given access to all data included on official birth records.

Sec. 2. Minnesota Statutes 2005 Supplement, section 245.4874, is amended to read:

245.4874 DUTIES OF COUNTY BOARD.

(a) The county board must:

(1) develop a system of affordable and locally available children's mental health services according to sections 245.487 to 245.4887;

(2) establish a mechanism providing for interagency coordination as specified in section 245.4875, subdivision 6;

(3) consider the assessment of unmet needs in the county as reported by the local children's mental health advisory council under section 245.4875, subdivision 5, paragraph (b), clause (3). The county shall provide, upon request of the local children's mental health advisory council, readily available data to assist in the determination of unmet needs;

(4) assure that parents and providers in the county receive information about how to gain access to services provided according to sections 245.487 to 245.4887;

(5) coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies to improve the availability of mental health services to children and the cost-effectiveness of their delivery;

(6) assure that mental health services delivered according to sections 245.487 to 245.4887 are delivered expeditiously and are appropriate to the child's diagnostic assessment and individual treatment plan;

(7) provide the community with information about predictors and symptoms of emotional disturbances and how to access children's mental health services according to sections 245.4877 and 245.4878;

(8) provide for case management services to each child with severe emotional disturbance according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions 1, 3, and 5;

(9) provide for screening of each child under section 245.4885 upon admission to a residential treatment facility, acute care hospital inpatient treatment, or informal admission to a regional treatment center;

(10) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4887;

(11) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract to the county to provide mental health services are qualified under section 245.4871;

(12) assure that children's mental health services are coordinated with adult mental health services specified in sections 245.461 to 245.486 so that a continuum of mental health services is available to serve persons with mental illness, regardless of the person's age;

(13) assure that culturally informed mental health consultants are used as necessary to assist the county board in assessing and providing appropriate treatment for children of cultural or racial minority heritage; and

(14) consistent with section 245.486, arrange for or provide a children's mental health screening to a child receiving child protective services or a child in out-of-home placement, a child for whom parental rights have been terminated, a child found to be delinquent, and a child found to have committed a juvenile petty offense for the third or subsequent time, unless a screening or diagnostic assessment has been performed within the previous 180 days, or the child is currently under the care of a mental health professional. The court or county agency must notify a parent or guardian whose parental rights have not been terminated of the potential mental health screening and the option to prevent the screening by notifying the court or county agency in writing. The screening shall be conducted with a screening instrument approved by the commissioner of human services according to criteria that are updated and issued annually to ensure that approved screening instruments are valid and useful for child welfare and juvenile justice populations, and shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer or local social services agency staff person who is trained in the use of the screening instrument. Training in the use of the instrument shall include training in the administration of the instrument, the interpretation of its validity given the child's current circumstances, the state and federal data practices laws and confidentiality standards, the parental consent requirement, and providing respect for families and cultural values. If the screen indicates a need for assessment, the child's family, or if the family lacks mental health insurance, the local social services agency, in consultation with the child's family, shall have conducted a diagnostic assessment, including a functional assessment, as defined in section 245.4871. The administration of the screening shall safeguard the privacy of children receiving the screening and their

families and shall comply with the Minnesota Government Data Practices Act, chapter 13, and the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Screening results shall be considered private data and the commissioner shall not collect individual screening results.

(b) When the county board refers clients to providers of children's therapeutic services and supports under section 256B.0943, the county board must clearly identify the desired services components not covered under section 256B.0943 and identify the reimbursement source for those requested services, the method of payment, and the payment rate to the provider.

Sec. 3. Minnesota Statutes 2004, section 245A.04, subdivision 11, is amended to read:

Subd. 11. **Education program; additional requirement.** (a) The education program offered in a residential or nonresidential program, except for child care, foster care, or services for adults, must be approved by the commissioner of education before the commissioner of human services may grant a license to the program.

(b) A residential program licensed by the commissioner of human services under Minnesota Rules, parts ~~9545.0905 to 9545.1125 or 9545.1400 to 9545.1480,~~ 2960.0010 to 2960.0710, may serve persons through the age of 19 when:

(1) the admission is necessary for a person to complete a secondary school program or its equivalent, or it is necessary to facilitate a transition period after completing the secondary school program or its equivalent for up to four months in order for the resident to obtain other living arrangements;

(2) the facility develops policies, procedures, and plans required under section 245A.65;

(3) the facility documents an assessment of the 18- or 19-year-old person's risk of victimizing children residing in the facility, and develops necessary risk reduction measures, including sleeping arrangements, to minimize any risk of harm to children; and

(4) notwithstanding the license holder's target population age range, whenever persons age 18 or 19 years old are receiving residential services, the age difference among residents may not exceed five years.

(c) Nothing in this paragraph precludes the license holder from seeking other variances under subdivision 9.

Sec. 4. Minnesota Statutes 2005 Supplement, section 245A.14, subdivision 12, is amended to read:

Subd. 12. **First aid training requirements.** (a) ~~Notwithstanding Minnesota Rules, part 9503.0035, subpart 2,~~ When children are present in a family child care home governed by Minnesota Rules, parts 9502.0315 to 9502.0445, ~~or a child care center governed by Minnesota Rules, parts 9503.0005 to 9503.0170,~~ at least one staff person must be present in the ~~center or~~ home who has been trained in first aid. The first aid training must have been provided by an individual approved to provide first aid instruction. First aid training may be less than eight hours and persons qualified to provide first aid training shall include individuals approved as first aid instructors.

(b) All teachers and assistant teachers in a child care center governed by Minnesota Rules, parts 9503.0005 to 9503.0170, and at least one staff person during field trips and when transporting children in care must satisfactorily complete first aid training within 90 days of the start of work, unless the training has been completed within the previous three years. The first aid training must be repeated at least every three years; documented in the person's personnel record and indicated on the center's staffing chart; and provided by an individual approved as a first aid instructor. This training may be less than eight hours.

Sec. 5. Minnesota Statutes 2005 Supplement, section 245A.18, subdivision 2, is amended to read:

Subd. 2. **Child passenger restraint systems; training requirement.** (a) Family and group family child care, child care centers, child foster care, and other programs licensed by the Department of Human Services that serve a child or children under nine years of age must document training that fulfills the requirements in this subdivision. This section does not apply to emergency relative foster care licenses issued under section 245A.035.

(b) Before a license holder, staff person, caregiver, or helper transports a child or children under age nine in a motor vehicle, the person transporting the child must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles. Training completed under this section may be used to meet initial or ongoing training under the following:

(1) Minnesota Rules, part 2960.3070, subparts 1 and 2;

(2) Minnesota Rules, part 9502.0385, subparts 2 and 3; and

(3) Minnesota Rules, part 9503.0035, subparts 1 and 4.

(c) Training required under this section must be at least one hour in length, completed at orientation or initial training, and repeated at least once every five years. At a minimum, the training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(d) Training under paragraph (c) must be provided by individuals who are certified and approved by the Department of Public Safety, Office of Traffic Safety. License holders may obtain a list of certified and approved trainers through the Department of Public Safety Web site or by contacting the agency.

(e) Beginning July 1, 2006, the training required under this section must be obtained prior to licensure. For all providers licensed prior to July 1, 2006, the training required in this subdivision must be obtained by December 31, 2007.

Sec. 6. Minnesota Statutes 2005 Supplement, section 245C.07, is amended to read:

245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.

(a) When a license holder owns multiple facilities ~~that are licensed by the Department of Human Services~~, only one background study is required for an individual who provides direct contact services in one or more of the licensed facilities if:

(1) the license holder designates one individual with one address and telephone number as the person to receive sensitive background study information for the multiple licensed programs that depend on the same background study; and

(2) the individual designated to receive the sensitive background study information is capable of determining, upon request of the department, whether a background study subject is providing direct contact services in one or more of the license holder's programs and, if so, at which location or locations.

(b) When a background study is being initiated by a licensed facility or a foster care provider that is also registered under chapter 144D, a study subject affiliated with multiple licensed facilities may attach to the background study form a cover letter indicating the additional facilities' names, addresses, and background study identification numbers.

When the commissioner receives a notice, the commissioner shall notify each facility identified by the background study subject of the study results.

The background study notice the commissioner sends to the subsequent agencies shall satisfy those facilities' responsibilities for initiating a background study on that individual.

Sec. 7. Minnesota Statutes 2005 Supplement, section 245C.13, subdivision 2, is amended to read:

Subd. 2. **Direct contact pending completion of background study.** The subject of a background study may not perform any activity requiring a background study under paragraph (b) until the commissioner has issued one of the notices under paragraph (a).

(a) Notices from the commissioner required prior to activity under paragraph (b) include:

(1) a notice of the study results under section 245C.17 stating that:

(i) the individual is not disqualified; or

(ii) more time is needed to complete the study but the individual is not required to be removed from direct contact or access to people receiving services prior to completion of the study as provided under section ~~245A.17~~ 245C.17, subdivision 1, ~~paragraph~~ paragraphs (b) or (c);

(2) a notice that a disqualification has been set aside under section 245C.23; or

(3) a notice that a variance has been granted related to the individual under section 245C.30.

(b) Activities prohibited prior to receipt of notice under paragraph (a) include:

(1) being issued a license;

(2) living in the household where the licensed program will be provided;

(3) providing direct contact services to persons served by a program unless the subject is under continuous direct supervision; or

(4) having access to persons receiving services if the background study was completed under section 144.057, subdivision 1, or 245C.03, subdivision 1, paragraph (a), clause (2), (5), or (6), unless the subject is under continuous direct supervision.

Sec. 8. Minnesota Statutes 2005 Supplement, section 245C.15, subdivision 2, is amended to read:

Subd. 2. **15-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a felony-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.165 (felon ineligible to possess firearm); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.223 or 609.2231 (assault in the third or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); 609.2325 (criminal abuse of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a

crime); 609.27 (coercion); 609.275 (attempt to coerce); ~~repeat offenses under 609.3451 (criminal sexual conduct in the fifth degree);~~ 609.466 (medical assistance fraud); 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.562 (arson in the second degree); 609.563 (arson in the third degree); 609.582 (burglary); 609.611 (insurance fraud); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); repeat offenses under 617.23 (indecent exposure; penalties); repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); chapter 152 (drugs; controlled substance); or a felony-level conviction involving alcohol or drug use.

(b) An individual is disqualified under section 245C.14 if less than 15 years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) For foster care and family child care an individual is disqualified under section 245C.14 if less than 15 years has passed since the individual's voluntary termination of the individual's parental rights under section 260C.301, subdivision 1, paragraph (b), or 260C.301, subdivision 3.

(d) An individual is disqualified under section 245C.14 if less than 15 years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses listed in paragraph (a).

(e) If the individual studied is convicted of one of the felonies listed in paragraph (a), but the sentence is a gross misdemeanor or misdemeanor disposition, the individual is disqualified but the disqualification lookback period for the conviction is the period applicable to the gross misdemeanor or misdemeanor disposition.

(f) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the

date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

Sec. 9. Minnesota Statutes 2005 Supplement, section 245C.15, subdivision 3, is amended to read:

Subd. 3. **Ten-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than ten years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a gross misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.224 (assault in the fifth degree); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.265 (abduction); 609.275 (attempt to coerce); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); ~~609.3451 (criminal sexual conduct in the fifth degree);~~ 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); ~~609.446~~ 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.582 (burglary); 609.611 (insurance fraud); 609.631 (check forgery; offering a forged check); 609.66 (dangerous weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); repeat offenses under 609.746 (interference with privacy); 609.749, subdivision 2 (harassment; stalking); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); repeat offenses under 617.23 (indecent exposure); 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under section 518B.01, subdivision 14.

(b) An individual is disqualified under section 245C.14 if less than ten years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) An individual is disqualified under section 245C.14 if less than ten years has passed since the discharge of the sentence imposed for an offense in any other state or

country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

(d) If the defendant is convicted of one of the gross misdemeanors listed in paragraph (a), but the sentence is a misdemeanor disposition, the individual is disqualified but the disqualification lookback period for the conviction is the period applicable to misdemeanors.

(e) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

Sec. 10. Minnesota Statutes 2005 Supplement, section 245C.22, subdivision 7, is amended to read:

Subd. 7. **Classification of certain data.** (a) Notwithstanding section 13.46, upon setting aside a disqualification under this section, the identity of the disqualified individual who received the set aside and the individual's disqualifying characteristics are public data if the set aside was:

(1) for any disqualifying characteristic under section 245C.15, when the set aside relates to a child care center or a family child care provider licensed under chapter 245A; or

(2) for a disqualifying characteristic under section 245C.15, subdivision 2.

(b) Notwithstanding section 13.46, upon granting a variance to a license holder under section 245C.30, the identity of the disqualified individual who is the subject of the variance, the individual's disqualifying characteristics under section 245C.15, and the terms of the variance are public data, when the variance:

(1) is issued to a child care center or a family child care provider licensed under chapter 245A; or

(2) relates to an individual with a disqualifying characteristic under section 245C.15, subdivision 2.

(c) The identity of a disqualified individual and the reason for disqualification remain private data when:

(1) a disqualification is not set aside and no variance is granted;

(2) the data are not public under paragraph (a) or (b);

(3) the disqualification is rescinded because the information relied upon to disqualify the individual is incorrect; or

(4) the disqualification relates to a license to provide relative child foster care. As used in this clause, "relative" has the meaning given it under section 260C.007, subdivision 27.

(d) Licensed family ~~day~~ child care providers and child care centers must ~~notify~~ provide parents ~~considering enrollment of a child or parents of a child attending the family day care or child care center if the program employs or has living in the home any individual who is the subject of either a set aside or variance~~ notice as required under section 245C.301.

Sec. 11. Minnesota Statutes 2005 Supplement, section 245C.24, subdivision 3, is amended to read:

Subd. 3. **Ten-year bar to set aside disqualification.** (a) The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home if: (1) less than ten years has passed since the discharge of the sentence imposed, if any, for the offense; or (2) when disqualified based on a preponderance of evidence determination under section ~~245A.14~~ 245C.14, subdivision 1, paragraph (a), clause (2), or an admission under section ~~245A.14~~ 245C.14, subdivision 1, paragraph (a), clause (1), and less than ten years has passed since the individual committed the act or admitted to committing the act, whichever is later; and (3) the individual has committed a violation of any of the following offenses: sections 609.165 (felon ineligible to possess firearm); criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury); 609.215 (aiding suicide or aiding attempted suicide); felony violations under 609.223 or 609.2231 (assault in the third or fourth degree); 609.713 (terroristic threats); 609.235 (use of drugs to injure or to facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.562 (arson in the second degree); 609.71 (riot); 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness); burglary in the first or second degree under 609.582 (burglary); 609.66 (dangerous weapon); 609.665 (spring guns); 609.67 (machine guns and short-barreled shotguns); 609.749, subdivision 2 (gross misdemeanor harassment; stalking); 152.021 or 152.022 (controlled substance crime in the first or second degree); 152.023, subdivision 1, clause (3) or (4) or subdivision 2, clause (4) (controlled substance crime in the third degree); 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree); 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a

caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report); 609.265 (abduction); 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree); 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree); 609.268 (injury or death of an unborn child in the commission of a crime); 617.293 (disseminating or displaying harmful material to minors); a felony-level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts); a gross misdemeanor offense under 609.378 (neglect or endangerment of a child); a gross misdemeanor offense under 609.377 (malicious punishment of a child); or 609.72, subdivision 3 (disorderly conduct against a vulnerable adult).

(b) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a) as each of these offenses is defined in Minnesota Statutes.

(c) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

Sec. 12. Minnesota Statutes 2004, section 254A.03, subdivision 3, is amended to read:

Subd. 3. **Rules for chemical dependency care.** The commissioner of human services shall establish by rule criteria to be used in determining the appropriate level of chemical dependency care~~, whether outpatient, inpatient or short-term treatment programs,~~ for each recipient of public assistance seeking treatment for alcohol or other drug dependency and abuse problems. ~~The criteria shall address, at least, the family relationship, past treatment history, medical or physical problems, arrest record, and employment situation.~~

Sec. 13. Minnesota Statutes 2004, section 254A.16, subdivision 2, is amended to read:

Subd. 2. **Program and service guidelines.** (a) The commissioner shall provide program and service guidelines and technical assistance to the county boards in carrying out services authorized under ~~sections~~ section 254A.08~~, 254A.12, 254A.14, and their responsibilities under chapter 256E~~.

(b) The commissioner shall recommend to the governor means of improving the efficiency and effectiveness of comprehensive program services in the state and maximizing the use of nongovernmental funds for providing comprehensive programs.

Sec. 14. Minnesota Statutes 2004, section 254B.02, subdivision 1, is amended to read:

Subdivision 1. **Chemical dependency treatment allocation.** The chemical dependency funds appropriated for allocation shall be placed in a special revenue account. The commissioner shall annually transfer funds from the chemical dependency fund to pay for operation of the drug and alcohol abuse normative evaluation system and to pay for all costs incurred by adding two positions for licensing of chemical dependency treatment and rehabilitation programs located in hospitals for which funds are not otherwise appropriated. ~~For each year of the biennium ending June 30, 1999, the commissioner shall allocate funds to the American Indian chemical dependency tribal account for treatment of American Indians by eligible vendors under section 254B.05, equal to the amount allocated in fiscal year 1997.~~ Six percent of the remaining money must be reserved for treatment of American Indians by eligible vendors under section 254B.09. The commissioner shall annually divide the money available in the chemical dependency fund that is not held in reserve by counties from a previous allocation, or allocated to the American Indian chemical dependency tribal account. Six percent of the remaining money must be reserved for the nonreservation American Indian chemical dependency allocation for treatment of American Indians by eligible vendors under section 254B.05, subdivision 1. The remainder of the money must be allocated among the counties according to the following formula, using state demographer data and other data sources determined by the commissioner:

(a) For purposes of this formula, American Indians and children under age 14 are subtracted from the population of each county to determine the restricted population.

(b) The amount of chemical dependency fund expenditures for entitled persons for services not covered by prepaid plans governed by section 256B.69 in the previous year is divided by the amount of chemical dependency fund expenditures for entitled persons for all services to determine the proportion of exempt service expenditures for each county.

(c) The prepaid plan months of eligibility is multiplied by the proportion of exempt service expenditures to determine the adjusted prepaid plan months of eligibility for each county.

(d) The adjusted prepaid plan months of eligibility is added to the number of restricted population fee for service months of eligibility for the Minnesota family

investment program, general assistance, and medical assistance and divided by the county restricted population to determine county per capita months of covered service eligibility.

(e) The number of adjusted prepaid plan months of eligibility for the state is added to the number of fee for service months of eligibility for the Minnesota family investment program, general assistance, and medical assistance for the state restricted population and divided by the state restricted population to determine state per capita months of covered service eligibility.

(f) The county per capita months of covered service eligibility is divided by the state per capita months of covered service eligibility to determine the county welfare caseload factor.

(g) The median married couple income for the most recent three-year period available for the state is divided by the median married couple income for the same period for each county to determine the income factor for each county.

(h) The county restricted population is multiplied by the sum of the county welfare caseload factor and the county income factor to determine the adjusted population.

(i) $15,000 shall be allocated to each county.

(j) The remaining funds shall be allocated proportional to the county adjusted population.

Sec. 15. Minnesota Statutes 2004, section 254B.02, subdivision 5, is amended to read:

Subd. 5. **Administrative adjustment.** The commissioner may make payments to local agencies from money allocated under this section to support administrative activities under sections 254B.03 and 254B.04. The administrative payment must not exceed five percent of the first $50,000, four percent of the next $50,000, and three percent of the remaining payments for services from the allocation. ~~Twenty-five percent of the administrative allowance shall be advanced at the beginning of each quarter, based on the payments for services made in the most recent quarter for which data is available. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the administrative allowance for any succeeding quarter.~~

Sec. 16. Minnesota Statutes 2004, section 254B.03, subdivision 1, is amended to read:

Subdivision 1. **Local agency duties.** (a) Every local agency shall provide chemical dependency services to persons residing within its jurisdiction who meet criteria established by the commissioner for placement in a chemical dependency residential or nonresidential treatment service. Chemical dependency money must be administered

by the local agencies according to law and rules adopted by the commissioner under sections 14.001 to 14.69.

(b) In order to contain costs, the county board shall, with the approval of the commissioner of human services, select eligible vendors of chemical dependency services who can provide economical and appropriate treatment. Unless the local agency is a social services department directly administered by a county or human services board, the local agency shall not be an eligible vendor under section 254B.05. The commissioner may approve proposals from county boards to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. If a county implements a demonstration or experimental medical services funding plan, the commissioner shall transfer the money as appropriate. If a county selects a vendor located in another state, the county shall ensure that the vendor is in compliance with the rules governing licensure of programs located in the state.

~~(c) The calendar year 2002 rate for vendors may not increase more than three percent above the rate approved in effect on January 1, 2001. The calendar year 2003 rate for vendors may not increase more than three percent above the rate in effect on January 1, 2002. The calendar years 2004 and 2005 rates may not exceed the rate in effect on January 1, 2003.~~

~~(d)~~ (c) A culturally specific vendor that provides assessments under a variance under Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons not covered by the variance.

Sec. 17. Minnesota Statutes 2004, section 254B.03, subdivision 3, is amended to read:

Subd. 3. **Local agencies to pay state for county share.** ~~Local agencies shall submit invoices to the state on forms supplied by the commissioner and according to procedures established by the commissioner.~~ Local agencies shall pay the state for the county share of the ~~invoiced~~ services authorized by the local agency. ~~Payments shall be made at the beginning of each month for services provided in the previous month. The commissioner shall bill the county monthly for services, based on the most recent month for which expenditure information is available. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the estimate for any succeeding month.~~

Sec. 18. Minnesota Statutes 2004, section 254B.06, subdivision 3, is amended to read:

Subd. 3. **Payment; denial.** The commissioner shall pay eligible vendors for placements made by local agencies under section 254B.03, subdivision 1, and placements

by tribal designated agencies according to section 254B.09. The commissioner may reduce or deny payment of the state share when services are not provided according to the placement criteria established by the commissioner. The commissioner may pay for all or a portion of improper county chemical dependency placements and bill the county for the entire payment made when the placement did not comply with criteria established by the commissioner. The commissioner may make payments to vendors and charge the county 100 percent of the payments if documentation of a county approved placement is received more than 30 working days, exclusive of weekends and holidays, after the date services began~~; or if the county approved invoice is received by the commissioner more than 120 days after the last date of service provided. The commissioner shall not pay vendors until private insurance company claims have been settled~~.

Sec. 19. Minnesota Statutes 2004, section 256.0451, subdivision 1, is amended to read:

Subdivision 1. **Scope.** The requirements in this section apply to all fair hearings and appeals under section 256.045, subdivision 3, paragraph (a), clauses (1), (2), (3), (5), (6), ~~and~~ (7), and (8). Except as provided in subdivisions 3 and 19, the requirements under this section apply to fair hearings and appeals under section 256.045, subdivision 3, paragraph (a), clauses (4), ~~(8);~~ (9), and ~~(9)~~ (10).

The term "person" is used in this section to mean an individual who, on behalf of themselves or their household, is appealing or disputing or challenging an action, a decision, or a failure to act, by an agency in the human services system. When a person involved in a proceeding under this section is represented by an attorney or by an authorized representative, the term "person" also refers to the person's attorney or authorized representative. Any notice sent to the person involved in the hearing must also be sent to the person's attorney or authorized representative.

The term "agency" includes the county human services agency, the state human services agency, and, where applicable, any entity involved under a contract, subcontract, grant, or subgrant with the state agency or with a county agency, that provides or operates programs or services in which appeals are governed by section 256.045.

Sec. 20. Minnesota Statutes 2004, section 256.0451, subdivision 3, is amended to read:

Subd. 3. **Agency appeal summary.** (a) Except in fair hearings and appeals under section 256.045, subdivision 3, paragraph (a), clauses (4), ~~(8);~~ (9), and ~~(9)~~ (10), the agency involved in an appeal must prepare a state agency appeal summary for each fair hearing appeal. The state agency appeal summary shall be mailed or otherwise delivered to the person who is involved in the appeal at least three working days before the date of the

hearing. The state agency appeal summary must also be mailed or otherwise delivered to the department's Appeals Office at least three working days before the date of the fair hearing appeal.

(b) In addition, the appeals referee shall confirm that the state agency appeal summary is mailed or otherwise delivered to the person involved in the appeal as required under paragraph (a). The person involved in the fair hearing should be provided, through the state agency appeal summary or other reasonable methods, appropriate information about the procedures for the fair hearing and an adequate opportunity to prepare. These requirements apply equally to the state agency or an entity under contract when involved in the appeal.

(c) The contents of the state agency appeal summary must be adequate to inform the person involved in the appeal of the evidence on which the agency relies and the legal basis for the agency's action or determination.

Sec. 21. Minnesota Statutes 2004, section 256.0451, subdivision 11, is amended to read:

Subd. 11. **Hearing facilities and equipment.** The appeals referee shall conduct the hearing in the county where the person involved resides, unless an alternate location is mutually agreed upon before the hearing, or unless the person has agreed to a hearing by telephone. Hearings under section 256.045, subdivision 3, paragraph (a), clauses (4), ~~(8);~~ (9), and ~~(9)~~ (10), must be conducted in the county where the determination was made, unless an alternate location is mutually agreed upon before the hearing. The hearing room shall be of sufficient size and layout to adequately accommodate both the number of individuals participating in the hearing and any identified special needs of any individual participating in the hearing. The appeals referee shall ensure that all communication and recording equipment that is necessary to conduct the hearing and to create an adequate record is present and functioning properly. If any necessary communication or recording equipment fails or ceases to operate effectively, the appeals referee shall take any steps necessary, including stopping or adjourning the hearing, until the necessary equipment is present and functioning properly. All reasonable efforts shall be undertaken to prevent and avoid any delay in the hearing process caused by defective communication or recording equipment.

Sec. 22. Minnesota Statutes 2004, section 256.0451, subdivision 19, is amended to read:

Subd. 19. **Developing the record.** The appeals referee shall accept all evidence, except evidence privileged by law, that is commonly accepted by reasonable people in the conduct of their affairs as having probative value on the issues to be addressed at the hearing. Except in fair hearings and appeals under section 256.045, subdivision 3, paragraph (a), clauses (4), ~~(8);~~ (9), and ~~(9)~~ (10), in cases involving medical issues such as a diagnosis, a physician's report, or a review team's decision, the appeals referee shall consider whether it is necessary to have a medical assessment other than that of the individual making the original decision. When necessary, the appeals referee shall require an additional assessment be obtained at agency expense and made part of the hearing record. The appeals referee shall ensure for all cases that the record is sufficiently complete to make a fair and accurate decision.

Sec. 23. Minnesota Statutes 2005 Supplement, section 256.046, subdivision 1, is amended to read:

Subdivision 1. **Hearing authority.** A local agency must initiate an administrative fraud disqualification hearing for individuals, including child care providers caring for children receiving child care assistance, accused of wrongfully obtaining assistance or intentional program violations, in lieu of a criminal action when it has not been pursued, in the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, MFIP, the diversionary work program, child care assistance programs, general assistance, family general assistance program formerly codified in section 256D.05, subdivision 1, clause (15), Minnesota supplemental aid, food stamp programs, general assistance medical care, MinnesotaCare for adults without children, and upon federal approval, all categories of medical assistance and remaining categories of MinnesotaCare except for children through age 18. The Department of Human Services, in lieu of a local agency, may initiate an administrative fraud disqualification hearing when the state agency is directly responsible for administration of the health care program for which benefits were wrongfully obtained. The hearing is subject to the requirements of section 256.045 and the requirements in Code of Federal Regulations, title 7, section 273.16, for the food stamp program ~~and title 45, section 235.112, as of September 30, 1995, for,~~ the cash grant, medical care programs, and child care assistance under chapter 119B.

Sec. 24. Minnesota Statutes 2005 Supplement, section 256B.0625, subdivision 13c, is amended to read:

Subd. 13c. **Formulary committee.** The commissioner, after receiving recommendations from professional medical associations and professional pharmacy

associations, and consumer groups shall designate a Formulary Committee to carry out duties as described in subdivisions 13 to 13g. The Formulary Committee shall be comprised of four licensed physicians actively engaged in the practice of medicine in Minnesota one of whom must be actively engaged in the treatment of persons with mental illness; at least three licensed pharmacists actively engaged in the practice of pharmacy in Minnesota; and one consumer representative; the remainder to be made up of health care professionals who are licensed in their field and have recognized knowledge in the clinically appropriate prescribing, dispensing, and monitoring of covered outpatient drugs. Members of the Formulary Committee shall not be employed by the Department of Human Services, but the committee shall be staffed by an employee of the department who shall serve as an ex officio, nonvoting member of the ~~board~~ committee. The department's medical director shall also serve as an ex officio, nonvoting member for the committee. Committee members shall serve three-year terms and may be reappointed by the commissioner. The Formulary Committee shall meet at least quarterly. The commissioner may require more frequent Formulary Committee meetings as needed. An honorarium of $100 per meeting and reimbursement for mileage shall be paid to each committee member in attendance.

Sec. 25. Minnesota Statutes 2004, section 256B.0625, subdivision 23, is amended to read:

Subd. 23. **Day treatment services.** Medical assistance covers day treatment services as specified in sections 245.462, subdivision 8, and 245.4871, subdivision 10, that are provided under contract with the county board. Notwithstanding Minnesota Rules, part 9505.0323, subpart 15, the commissioner may set authorization thresholds for day treatment for adults according to section 256B.0625, subdivision 25. Notwithstanding Minnesota Rules, part 9505.0323, subpart 15, effective July 1, 2004, medical assistance covers day treatment services for children as specified under section 256B.0943.

Sec. 26. Minnesota Statutes 2004, section 256B.0913, subdivision 1, is amended to read:

Subdivision 1. **Purpose and goals.** The purpose of the alternative care program is to provide funding for home ~~and community-based~~ services for elderly persons, in order to limit nursing facility placements. The program is designed to support elderly persons in their desire to remain in the community as independently and as long as possible and to support informal caregivers in their efforts to provide care for elderly people. Further, the goals of the program are:

(1) to contain medical assistance expenditures by funding care in the community; and

(2) to maintain the moratorium on new construction of nursing home beds.

Sec. 27. Minnesota Statutes 2005 Supplement, section 256B.0913, subdivision 4, is amended to read:

Subd. 4. **Eligibility for funding for services for nonmedical assistance recipients.** (a) Funding for services under the alternative care program is available to persons who meet the following criteria:

(1) the person has been determined by a community assessment under section 256B.0911 to be a person who would require the level of care provided in a nursing facility, but for the provision of services under the alternative care program;

(2) the person is age 65 or older;

(3) the person would be eligible for medical assistance within 135 days of admission to a nursing facility;

(4) the person is not ineligible for the medical assistance program due to an asset transfer penalty;

(5) the person needs services that are not funded through other state or federal funding;

(6) the monthly cost of the alternative care services funded by the program for this person does not exceed 75 percent of the monthly limit described under section 256B.0915, subdivision 3a. This monthly limit does not prohibit the alternative care client from payment for additional services, but in no case may the cost of additional services purchased under this section exceed the difference between the client's monthly service limit defined under section 256B.0915, subdivision 3, and the alternative care program monthly service limit defined in this paragraph. If medical supplies and equipment or environmental modifications are or will be purchased for an alternative care services recipient, the costs may be prorated on a monthly basis for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's other alternative care services exceeds the monthly limit established in this paragraph, the annual cost of the alternative care services shall be determined. In this event, the annual cost of alternative care services shall not exceed 12 times the monthly limit described in this paragraph; and

(7) the person is making timely payments of the assessed monthly fee.

A person is ineligible if payment of the fee is over 60 days past due, unless the person agrees to:

(i) the appointment of a representative payee;

(ii) automatic payment from a financial account;

(iii) the establishment of greater family involvement in the financial management of payments; or

(iv) another method acceptable to the county to ensure prompt fee payments.

The county shall extend the client's eligibility as necessary while making arrangements to facilitate payment of past-due amounts and future premium payments. Following disenrollment due to nonpayment of a monthly fee, eligibility shall not be reinstated for a period of 30 days.

(b) Alternative care funding under this subdivision is not available for a person who is a medical assistance recipient or who would be eligible for medical assistance without a spenddown or waiver obligation. A person whose initial application for medical assistance and the elderly waiver program is being processed may be served under the alternative care program for a period up to 60 days. If the individual is found to be eligible for medical assistance, medical assistance must be billed for services payable under the federally approved elderly waiver plan and delivered from the date the individual was found eligible for the federally approved elderly waiver plan. Notwithstanding this provision, alternative care funds may not be used to pay for any service the cost of which: (i) is payable by medical assistance; (ii) is used by a recipient to meet a waiver obligation; or (iii) is used to pay a medical assistance income spenddown for a person who is eligible to participate in the federally approved elderly waiver program under the special income standard provision.

(c) Alternative care funding is not available for a person who resides in a licensed nursing home, certified boarding care home, hospital, or intermediate care facility, except for case management services which are provided in support of the discharge planning process for a nursing home resident or certified boarding care home resident to assist with a relocation process ~~to a community-based setting~~.

(d) Alternative care funding is not available for a person whose income is greater than the maintenance needs allowance under section 256B.0915, subdivision 1d, but equal to or less than 120 percent of the federal poverty guideline effective July 1 in the year for which alternative care eligibility is determined, who would be eligible for the elderly waiver with a waiver obligation.

Sec. 28. Minnesota Statutes 2005 Supplement, section 256B.0943, subdivision 6, is amended to read:

Subd. 6. **Provider entity clinical infrastructure requirements.** (a) To be an eligible provider entity under this section, a provider entity must have a clinical infrastructure that utilizes diagnostic assessment, an individualized treatment plan,

service delivery, and individual treatment plan review that are culturally competent, child-centered, and family-driven to achieve maximum benefit for the client. The provider entity must review and update the clinical policies and procedures every three years and must distribute the policies and procedures to staff initially and upon each subsequent update.

(b) The clinical infrastructure written policies and procedures must include policies and procedures for:

(1) providing or obtaining a client's diagnostic assessment that identifies acute and chronic clinical disorders, co-occurring medical conditions, sources of psychological and environmental problems, and a functional assessment. The functional assessment must clearly summarize the client's individual strengths and needs;

(2) developing an individual treatment plan that is:

(i) based on the information in the client's diagnostic assessment;

(ii) developed no later than the end of the first psychotherapy session after the completion of the client's diagnostic assessment by the mental health professional who provides the client's psychotherapy;

(iii) developed through a child-centered, family-driven planning process that identifies service needs and individualized, planned, and culturally appropriate interventions that contain specific treatment goals and objectives for the client and the client's family or foster family;

(iv) reviewed at least once every 90 days and revised, if necessary; and

(v) signed by the client or, if appropriate, by the client's parent or other person authorized by statute to consent to mental health services for the client;

(3) developing an individual behavior plan that documents services to be provided by the mental health behavioral aide. The individual behavior plan must include:

(i) detailed instructions on the service to be provided;

(ii) time allocated to each service;

(iii) methods of documenting the child's behavior;

(iv) methods of monitoring the child's progress in reaching objectives; and

(v) goals to increase or decrease targeted behavior as identified in the individual treatment plan;

(4) clinical supervision of the mental health practitioner and mental health behavioral aide. A mental health professional must document the clinical supervision the professional provides by cosigning individual treatment plans and making entries in the client's record on supervisory activities. Clinical supervision does not include the authority to make or terminate court-ordered placements of the child. A clinical supervisor

must be available for urgent consultation as required by the individual client's needs or the situation. Clinical supervision may occur individually or in a small group to discuss treatment and review progress toward goals. The focus of clinical supervision must be the client's treatment needs and progress and the mental health practitioner's or behavioral aide's ability to provide services;

(4a) CTSS certified provider entities providing day treatment programs must meet the conditions in items (i) to (iii):

(i) the ~~provider~~ supervisor must be present and available on the premises more than 50 percent of the time in a five-working-day period during which the supervisee is providing a mental health service;

(ii) the diagnosis and the client's individual treatment plan or a change in the diagnosis or individual treatment plan must be made by or reviewed, approved, and signed by the ~~provider~~ supervisor; and

(iii) every 30 days, the supervisor must review and sign the record of the client's care for all activities in the preceding 30-day period;

(4b) for all other services provided under CTSS, clinical supervision standards provided in items (i) to (iii) must be used:

(i) medical assistance shall reimburse a mental health practitioner who maintains a consulting relationship with a mental health professional who accepts full professional responsibility and is present on site for at least one observation during the first 12 hours in which the mental health practitioner provides the individual, family, or group skills training to the child or the child's family;

(ii) thereafter, the mental health professional is required to be present on site for observation as clinically appropriate when the mental health practitioner is providing individual, family, or group skills training to the child or the child's family; and

(iii) the observation must be a minimum of one clinical unit. The on-site presence of the mental health professional must be documented in the child's record and signed by the mental health professional who accepts full professional responsibility;

(5) providing direction to a mental health behavioral aide. For entities that employ mental health behavioral aides, the clinical supervisor must be employed by the provider entity or other certified children's therapeutic supports and services provider entity to ensure necessary and appropriate oversight for the client's treatment and continuity of care. The mental health professional or mental health practitioner giving direction must begin with the goals on the individualized treatment plan, and instruct the mental health behavioral aide on how to construct therapeutic activities and interventions that will lead to goal attainment. The professional or practitioner giving direction must also instruct

the mental health behavioral aide about the client's diagnosis, functional status, and other characteristics that are likely to affect service delivery. Direction must also include determining that the mental health behavioral aide has the skills to interact with the client and the client's family in ways that convey personal and cultural respect and that the aide actively solicits information relevant to treatment from the family. The aide must be able to clearly explain the activities the aide is doing with the client and the activities' relationship to treatment goals. Direction is more didactic than is supervision and requires the professional or practitioner providing it to continuously evaluate the mental health behavioral aide's ability to carry out the activities of the individualized treatment plan and the individualized behavior plan. When providing direction, the professional or practitioner must:

(i) review progress notes prepared by the mental health behavioral aide for accuracy and consistency with diagnostic assessment, treatment plan, and behavior goals and the professional or practitioner must approve and sign the progress notes;

(ii) identify changes in treatment strategies, revise the individual behavior plan, and communicate treatment instructions and methodologies as appropriate to ensure that treatment is implemented correctly;

(iii) demonstrate family-friendly behaviors that support healthy collaboration among the child, the child's family, and providers as treatment is planned and implemented;

(iv) ensure that the mental health behavioral aide is able to effectively communicate with the child, the child's family, and the provider; and

(v) record the results of any evaluation and corrective actions taken to modify the work of the mental health behavioral aide;

(6) providing service delivery that implements the individual treatment plan and meets the requirements under subdivision 9; and

(7) individual treatment plan review. The review must determine the extent to which the services have met the goals and objectives in the previous treatment plan. The review must assess the client's progress and ensure that services and treatment goals continue to be necessary and appropriate to the client and the client's family or foster family. Revision of the individual treatment plan does not require a new diagnostic assessment unless the client's mental health status has changed markedly. The updated treatment plan must be signed by the client, if appropriate, and by the client's parent or other person authorized by statute to give consent to the mental health services for the child.

Sec. 29. Minnesota Statutes 2004, section 256B.0943, subdivision 9, is amended to read:

Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a certified provider entity must ensure that:

(1) each individual provider's caseload size permits the provider to deliver services to both clients with severe, complex needs and clients with less intensive needs. The provider's caseload size should reasonably enable the provider to play an active role in service planning, monitoring, and delivering services to meet the client's and client's family's needs, as specified in each client's individual treatment plan;

(2) site-based programs, including day treatment and preschool programs, provide staffing and facilities to ensure the client's health, safety, and protection of rights, and that the programs are able to implement each client's individual treatment plan;

(3) a day treatment program is provided to a group of clients by a multidisciplinary team under the clinical supervision of a mental health professional. The day treatment program must be provided in and by: (i) an outpatient hospital accredited by the Joint Commission on Accreditation of Health Organizations and licensed under sections 144.50 to 144.55;

(ii) a community mental health center under section 245.62; and

(iii) an entity that is under contract with the county board to operate a program that meets the requirements of sections 245.4712, subdivision 2, and 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must stabilize the client's mental health status while developing and improving the client's independent living and socialization skills. The goal of the day treatment program must be to reduce or relieve the effects of mental illness and provide training to enable the client to live in the community. The program must be available at least one day a week for a ~~minimum~~ three-hour time block. The three-hour time block must include at least one hour, but no more than two hours, of individual or group psychotherapy. The remainder of the three-hour time block may include recreation therapy, socialization therapy, or independent living skills therapy, but only if the therapies are included in the client's individual treatment plan. Day treatment programs are not part of inpatient or residential treatment services; and

(4) a preschool program is a structured treatment program offered to a child who is at least 33 months old, but who has not yet reached the first day of kindergarten, by a preschool multidisciplinary team in a day program licensed under Minnesota Rules, parts 9503.0005 to 9503.0175. The program must be available at least one day a week for a minimum two-hour time block. The structured treatment program may include individual or group psychotherapy and recreation therapy, socialization therapy, or independent living skills therapy, if included in the client's individual treatment plan.

(b) A provider entity must deliver the service components of children's therapeutic services and supports in compliance with the following requirements:

(1) individual, family, and group psychotherapy must be delivered as specified in Minnesota Rules, part 9505.0323;

(2) individual, family, or group skills training must be provided by a mental health professional or a mental health practitioner who has a consulting relationship with a mental health professional who accepts full professional responsibility for the training;

(3) crisis assistance must be time-limited and designed to resolve or stabilize crisis through arrangements for direct intervention and support services to the child and the child's family. Crisis assistance must utilize resources designed to address abrupt or substantial changes in the functioning of the child or the child's family as evidenced by a sudden change in behavior with negative consequences for well being, a loss of usual coping mechanisms, or the presentation of danger to self or others;

(4) medically necessary services that are provided by a mental health behavioral aide must be designed to improve the functioning of the child and support the family in activities of daily and community living. A mental health behavioral aide must document the delivery of services in written progress notes. The mental health behavioral aide must implement goals in the treatment plan for the child's emotional disturbance that allow the child to acquire developmentally and therapeutically appropriate daily living skills, social skills, and leisure and recreational skills through targeted activities. These activities may include:

(i) assisting a child as needed with skills development in dressing, eating, and toileting;

(ii) assisting, monitoring, and guiding the child to complete tasks, including facilitating the child's participation in medical appointments;

(iii) observing the child and intervening to redirect the child's inappropriate behavior;

(iv) assisting the child in using age-appropriate self-management skills as related to the child's emotional disorder or mental illness, including problem solving, decision making, communication, conflict resolution, anger management, social skills, and recreational skills;

(v) implementing deescalation techniques as recommended by the mental health professional;

(vi) implementing any other mental health service that the mental health professional has approved as being within the scope of the behavioral aide's duties; or

(vii) assisting the parents to develop and use parenting skills that help the child achieve the goals outlined in the child's individual treatment plan or individual behavioral plan. Parenting skills must be directed exclusively to the child's treatment; and

(5) direction of a mental health behavioral aide must include the following:

(i) a total of one hour of on-site observation by a mental health professional during the first 12 hours of service provided to a child;

(ii) ongoing on-site observation by a mental health professional or mental health practitioner for at least a total of one hour during every 40 hours of service provided to a child; and

(iii) immediate accessibility of the mental health professional or mental health practitioner to the mental health behavioral aide during service provision.

Sec. 30. Minnesota Statutes 2004, section 256B.0943, subdivision 11, is amended to read:

Subd. 11. **Documentation and billing.** (a) A provider entity must document the services it provides under this section. The provider entity must ensure that the entity's documentation standards meet the requirements of federal and state laws. Services billed under this section that are not documented according to this subdivision shall be subject to monetary recovery by the commissioner. <u>The provider entity may not bill for anything other than direct service time.</u>

(b) An individual mental health provider must promptly document the following in a client's record after providing services to the client:

(1) each occurrence of the client's mental health service, including the date, type, length, and scope of the service;

(2) the name of the person who gave the service;

(3) contact made with other persons interested in the client, including representatives of the courts, corrections systems, or schools. The provider must document the name and date of each contact;

(4) any contact made with the client's other mental health providers, case manager, family members, primary caregiver, legal representative, or the reason the provider did not contact the client's family members, primary caregiver, or legal representative, if applicable; and

(5) required clinical supervision, as appropriate.

Sec. 31. Minnesota Statutes 2005 Supplement, section 256B.0943, subdivision 12, is amended to read:

Subd. 12. **Excluded services.** The following services are not eligible for medical assistance payment as children's therapeutic services and supports:

(1) service components of children's therapeutic services and supports simultaneously provided by more than one provider entity unless prior authorization is obtained;

(2) children's therapeutic services and supports provided in violation of medical assistance policy in Minnesota Rules, part 9505.0220;

(3) mental health behavioral aide services provided by a personal care assistant who is not qualified as a mental health behavioral aide and employed by a certified children's therapeutic services and supports provider entity;

(4) service components of CTSS that are the responsibility of a residential or program license holder, including foster care providers under the terms of a service agreement or administrative rules governing licensure; and

(5) adjunctive activities that may be offered by a provider entity but are not otherwise covered by medical assistance, including:

(i) a service that is primarily recreation oriented or that is provided in a setting that is not medically supervised. This includes sports activities, exercise groups, activities such as craft hours, leisure time, social hours, meal or snack time, trips to community activities, and tours;

(ii) a social or educational service that does not have or cannot reasonably be expected to have a therapeutic outcome related to the client's emotional disturbance;

(iii) consultation with other providers or service agency staff about the care or progress of a client;

(iv) prevention or education programs provided to the community; and

(v) treatment for clients with primary diagnoses of alcohol or other drug abuse~~.~~;

(6) activities that are not direct service time.

Sec. 32. Minnesota Statutes 2004, section 256B.431, subdivision 1, is amended to read:

Subdivision 1. **In general.** The commissioner shall determine prospective payment rates for resident care costs. For rates established on or after July 1, 1985, the commissioner shall develop procedures for determining operating cost payment rates that take into account the mix of resident needs, geographic location, and other factors as determined by the commissioner. The commissioner shall consider whether the fact that a facility is attached to a hospital or has an average length of stay of 180 days or less should be taken into account in determining rates. The commissioner shall consider the use of the standard metropolitan statistical areas when developing groups by geographic location.

The commissioner shall provide notice to each nursing facility on or before ~~May 1~~ August 15 of the rates effective for the following rate year except that if legislation is pending on ~~May 1~~ August 15 that may affect rates for nursing facilities, the commissioner shall set the rates after the legislation is enacted and provide notice to each facility as soon as possible.

Compensation for top management personnel shall continue to be categorized as a general and administrative cost and is subject to any limits imposed on that cost category.

Sec. 33. Minnesota Statutes 2004, section 256B.431, subdivision 3f, is amended to read:

Subd. 3f. **Property costs after July 1, 1988.** (a) **Investment per bed limit.** For the rate year beginning July 1, 1988, the replacement-cost-new per bed limit must be $32,571 per licensed bed in multiple bedrooms and $48,857 per licensed bed in a single bedroom. For the rate year beginning July 1, 1989, the replacement-cost-new per bed limit for a single bedroom must be $49,907 adjusted according to Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1). Beginning January 1, 1990, the replacement-cost-new per bed limits must be adjusted annually as specified in Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1). Beginning January 1, 1991, the replacement-cost-new per bed limits will be adjusted annually as specified in Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1), except that the index utilized will be the Bureau of ~~the Census: Composite fixed-weighted price index as published in the C30 Report, Value of New Construction Put in Place~~ Economic Analysis: Price Indexes for Private Fixed Investments in Structures; Special Care.

(b) **Rental factor.** For the rate year beginning July 1, 1988, the commissioner shall increase the rental factor as established in Minnesota Rules, part 9549.0060, subpart 8, item A, by 6.2 percent rounded to the nearest 100th percent for the purpose of reimbursing nursing facilities for soft costs and entrepreneurial profits not included in the cost valuation services used by the state's contracted appraisers. For rate years beginning on or after July 1, 1989, the rental factor is the amount determined under this paragraph for the rate year beginning July 1, 1988.

(c) **Occupancy factor.** For rate years beginning on or after July 1, 1988, in order to determine property-related payment rates under Minnesota Rules, part 9549.0060, for all nursing facilities except those whose average length of stay in a skilled level of care within a nursing facility is 180 days or less, the commissioner shall use 95 percent of capacity days. For a nursing facility whose average length of stay in a skilled level of care within a nursing facility is 180 days or less, the commissioner shall use the greater of

resident days or 80 percent of capacity days but in no event shall the divisor exceed 95 percent of capacity days.

(d) **Equipment allowance.** For rate years beginning on July 1, 1988, and July 1, 1989, the commissioner shall add ten cents per resident per day to each nursing facility's property-related payment rate. The ten-cent property-related payment rate increase is not cumulative from rate year to rate year. For the rate year beginning July 1, 1990, the commissioner shall increase each nursing facility's equipment allowance as established in Minnesota Rules, part 9549.0060, subpart 10, by ten cents per resident per day. For rate years beginning on or after July 1, 1991, the adjusted equipment allowance must be adjusted annually for inflation as in Minnesota Rules, part 9549.0060, subpart 10, item E. For the rate period beginning October 1, 1992, the equipment allowance for each nursing facility shall be increased by 28 percent. For rate years beginning after June 30, 1993, the allowance must be adjusted annually for inflation.

(e) **Post chapter 199 related-organization debts and interest expense.** For rate years beginning on or after July 1, 1990, Minnesota Rules, part 9549.0060, subpart 5, item E, shall not apply to outstanding related organization debt incurred prior to May 23, 1983, provided that the debt was an allowable debt under Minnesota Rules, parts 9510.0010 to 9510.0480, the debt is subject to repayment through annual principal payments, and the nursing facility demonstrates to the commissioner's satisfaction that the interest rate on the debt was less than market interest rates for similar arm's-length transactions at the time the debt was incurred. If the debt was incurred due to a sale between family members, the nursing facility must also demonstrate that the seller no longer participates in the management or operation of the nursing facility. Debts meeting the conditions of this paragraph are subject to all other provisions of Minnesota Rules, parts 9549.0010 to 9549.0080.

(f) **Building capital allowance for nursing facilities with operating leases.** For rate years beginning on or after July 1, 1990, a nursing facility with operating lease costs incurred for the nursing facility's buildings shall receive its building capital allowance computed in accordance with Minnesota Rules, part 9549.0060, subpart 8. If an operating lease provides that the lessee's rent is adjusted to recognize improvements made by the lessor and related debt, the costs for capital improvements and related debt shall be allowed in the computation of the lessee's building capital allowance, provided that reimbursement for these costs under an operating lease shall not exceed the rate otherwise paid.

Sec. 34. Minnesota Statutes 2004, section 256B.431, subdivision 17e, is amended to read:

Subd. 17e. **Replacement-costs-new per bed limit effective July 1, 2001.** Notwithstanding Minnesota Rules, part 9549.0060, subpart 11, item C, subitem (2), for a total replacement, as defined in ~~paragraph (f)~~ subdivision 17d, authorized under section 144A.071 or 144A.073 after July 1, 1999, or any building project that is a relocation, renovation, upgrading, or conversion completed on or after July 1, 2001, the replacement-costs-new per bed limit shall be $74,280 per licensed bed in multiple-bed rooms, $92,850 per licensed bed in semiprivate rooms with a fixed partition separating the resident beds, and $111,420 per licensed bed in single rooms. Minnesota Rules, part 9549.0060, subpart 11, item C, subitem (2), does not apply. These amounts must be adjusted annually as specified in subdivision 3f, paragraph (a), beginning January 1, 2000.

Sec. 35. Minnesota Statutes 2005 Supplement, section 256L.03, subdivision 5, is amended to read:

Subd. 5. **Co-payments and coinsurance.** (a) Except as provided in paragraphs (b) and (c), the MinnesotaCare benefit plan shall include the following co-payments and coinsurance requirements for all enrollees:

(1) ten percent of the paid charges for inpatient hospital services for adult enrollees, subject to an annual inpatient out-of-pocket maximum of $1,000 per individual and $3,000 per family;

(2) $3 per prescription for adult enrollees;

(3) $25 for eyeglasses for adult enrollees;

(4) $3 per nonpreventive visit. For purposes of this subdivision, a "visit" means an episode of service which is required because of a recipient's symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting by a physician or physician ancillary, chiropractor, podiatrist, nurse midwife, advanced practice nurse, audiologist, optician, or optometrist;

(5) $6 for nonemergency visits to a hospital-based emergency room; and

(6) 50 percent of the fee-for-service rate for adult dental care services other than preventive care services for persons eligible under section 256L.04, subdivisions 1 to 7, with income equal to or less than 175 percent of the federal poverty guidelines.

(b) Paragraph (a), clause (1), does not apply to parents and relative caretakers of children under the age of 21 in households with family income equal to or less than 175 percent of the federal poverty guidelines. Paragraph (a), clause (1), does not apply to parents and relative caretakers of children under the age of 21 in households with family income greater than 175 percent of the federal poverty guidelines for inpatient hospital admissions occurring on or after January 1, 2001.

(c) Paragraph (a), clauses (1) to ~~(4)~~ (6), do not apply to pregnant women and children under the age of 21.

(d) Adult enrollees with family gross income that exceeds 175 percent of the federal poverty guidelines and who are not pregnant shall be financially responsible for the coinsurance amount, if applicable, and amounts which exceed the $10,000 inpatient hospital benefit limit.

(e) When a MinnesotaCare enrollee becomes a member of a prepaid health plan, or changes from one prepaid health plan to another during a calendar year, any charges submitted towards the $10,000 annual inpatient benefit limit, and any out-of-pocket expenses incurred by the enrollee for inpatient services, that were submitted or incurred prior to enrollment, or prior to the change in health plans, shall be disregarded.

Sec. 36. Minnesota Statutes 2005 Supplement, section 259.67, subdivision 4, is amended to read:

Subd. 4. **Eligibility conditions.** (a) The placing agency shall use the AFDC requirements as specified in federal law as of July 16, 1996, when determining the child's eligibility for adoption assistance under title IV-E of the Social Security Act. If the child does not qualify, the placing agency shall certify a child as eligible for state funded adoption assistance only if the following criteria are met:

(1) Due to the child's characteristics or circumstances it would be difficult to provide the child an adoptive home without adoption assistance.

(2)(i) A placement agency has made reasonable efforts to place the child for adoption without adoption assistance, but has been unsuccessful; or

(ii) the child's licensed foster parents desire to adopt the child and it is determined by the placing agency that the adoption is in the best interest of the child.

(3)(i) The child has been a ward of the commissioner, a Minnesota-licensed child-placing agency, or a tribal social service agency of Minnesota recognized by the Secretary of the Interior~~.~~; or

(ii) the child is adopted according to tribal law without a termination of parental rights or relinquishment, provided that the tribe has documented the valid reason why the child cannot or should not be returned to the home of the child's parent. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state.

(b) For purposes of this subdivision, the characteristics or circumstances that may be considered in determining whether a child is a child with special needs under United

States Code, title 42, chapter 7, subchapter IV, part E, or meets the requirements of paragraph (a), clause (1), are the following:

(1) The child is a member of a sibling group to be placed as one unit in which at least one sibling is older than 15 months of age or is described in clause (2) or (3).

(2) The child has documented physical, mental, emotional, or behavioral disabilities.

(3) The child has a high risk of developing physical, mental, emotional, or behavioral disabilities.

~~(4) The child is adopted according to tribal law without a termination of parental rights or relinquishment, provided that the tribe has documented the valid reason why the child cannot or should not be returned to the home of the child's parent.~~

(c) When a child's eligibility for adoption assistance is based upon the high risk of developing physical, mental, emotional, or behavioral disabilities, payments shall not be made under the adoption assistance agreement unless and until the potential disability manifests itself as documented by an appropriate health care professional.

Sec. 37. Minnesota Statutes 2005 Supplement, section 260.012, is amended to read:

260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.

(a) Once a child alleged to be in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate services, by the social services agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, and ~~when a child cannot be reunified with the parent or guardian from whom the child was removed,~~ the court must ensure that the responsible social services agency makes reasonable efforts to finalize an alternative permanent plan for the child as provided in paragraph ~~(c)~~(e). In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's best interests, health, and safety must be of paramount concern. Reasonable efforts to prevent placement and for rehabilitation and reunification are always required except upon a determination by the court that a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been terminated involuntarily;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the parent's custodial rights to another child have been involuntarily transferred to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction; or

(5) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable under the circumstances.

(b) When the court makes one of the prima facie determinations under paragraph (a), either permanency pleadings under section 260C.201, subdivision 11, or a termination of parental rights petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under section 260C.201, subdivision 11, must be held within 30 days of this determination.

(c) In the case of an Indian child, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social services agency must provide active efforts as required under United States Code, title 25, section 1911(d).

(d) "Reasonable efforts to prevent placement" means:

(1) the agency has made reasonable efforts to prevent the placement of the child in foster care; or

(2) given the particular circumstances of the child and family at the time of the child's removal, there are no services or efforts available which could allow the child to safely remain in the home.

(e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence by the responsible social services agency to:

(1) reunify the child with the parent or guardian from whom the child was removed;

(2) assess a noncustodial parent's ability to provide day-to-day care for the child and, where appropriate, provide services necessary to enable the noncustodial parent to safely provide the care, as required by section 260C.212, subdivision 4;

(3) conduct a relative search as required under section 260C.212, subdivision 5; and

(4) when the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child, preferably through adoption or transfer of permanent legal and physical custody of the child.

(f) Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the

needs of the child and the child's family. Services may include those provided by the responsible social services agency and other culturally appropriate services available in the community. At each stage of the proceedings where the court is required to review the appropriateness of the responsible social services agency's reasonable efforts as described in paragraphs (a), (d), and (e), the social services agency has the burden of demonstrating that:

(1) it has made reasonable efforts to prevent placement of the child in foster care;

(2) it has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time;

(3) it has made reasonable efforts to finalize an alternative permanent home for the child; or

(4) reasonable efforts to prevent placement and to reunify the child with the parent or guardian are not required. The agency may meet this burden by stating facts in a sworn petition filed under section 260C.141, by filing an affidavit summarizing the agency's reasonable efforts or facts the agency believes demonstrate there is no need for reasonable efforts to reunify the parent and child, or through testimony or a certified report required under juvenile court rules.

(g) Once the court determines that reasonable efforts for reunification are not required because the court has made one of the prima facie determinations under paragraph (a), the court may only require reasonable efforts for reunification after a hearing according to section 260C.163, where the court finds there is not clear and convincing evidence of the facts upon which the court based its prima facie determination. In this case when there is clear and convincing evidence that the child is in need of protection or services, the court may find the child in need of protection or services and order any of the dispositions available under section 260C.201, subdivision 1. Reunification of a surviving child with a parent is not required if the parent has been convicted of:

(1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the surviving child; or

(3) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent.

(h) The juvenile court, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 shall make findings and conclusions as to the provision of

reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

(1) relevant to the safety and protection of the child;

(2) adequate to meet the needs of the child and family;

(3) culturally appropriate;

(4) available and accessible;

(5) consistent and timely; and

(6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(i) This section does not prevent out-of-home placement for treatment of a child with a mental disability when the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program.

(j) If continuation of reasonable efforts to prevent placement or reunify the child with the parent or guardian from whom the child was removed is determined by the court to be inconsistent with the permanent plan for the child or upon the court making one of the prima facie determinations under paragraph (a), reasonable efforts must be made to place the child in a timely manner in a safe and permanent home and to complete whatever steps are necessary to legally finalize the permanent placement of the child.

(k) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts to prevent placement or to reunify the child with the parent or guardian from whom the child was removed. When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraph (a), the agency shall disclose its decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses its decision to proceed on both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under both plans.

Sec. 38. Minnesota Statutes 2004, section 260B.157, subdivision 1, is amended to read:

Subdivision 1. **Investigation.** Upon request of the court the local social services agency or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260B.101 and shall report its findings to the court. The court may order any minor coming

within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the court.

The court shall ~~have~~ order a chemical use assessment conducted when a child is (1) found to be delinquent for violating a provision of chapter 152, or for committing a felony-level violation of a provision of chapter 609 if the probation officer determines that alcohol or drug use was a contributing factor in the commission of the offense, or (2) alleged to be delinquent for violating a provision of chapter 152, if the child is being held in custody under a detention order. The assessor's qualifications and the assessment criteria shall comply with Minnesota Rules, parts 9530.6600 to 9530.6655. If funds under chapter 254B are to be used to pay for the recommended treatment, the assessment and placement must comply with all provisions of Minnesota Rules, parts 9530.6600 to 9530.6655 and 9530.7000 to 9530.7030. The commissioner of human services shall reimburse the court for the cost of the chemical use assessment, up to a maximum of $100.

The court shall ~~have~~ order a children's mental health screening conducted when a child is found to be delinquent. The screening shall be conducted with a screening instrument approved by the commissioner of human services and shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer who is trained in the use of the screening instrument. If the screening indicates a need for assessment, the local social services agency, in consultation with the child's family, shall have a diagnostic assessment conducted, including a functional assessment, as defined in section 245.4871.

With the consent of the commissioner of corrections and agreement of the county to pay the costs thereof, the court may, by order, place a minor coming within its jurisdiction in an institution maintained by the commissioner for the detention, diagnosis, custody and treatment of persons adjudicated to be delinquent, in order that the condition of the minor be given due consideration in the disposition of the case. Any funds received under the provisions of this subdivision shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received. The funds are available for use by the commissioner of corrections during that period and are hereby appropriated annually to the commissioner of corrections as reimbursement of the costs of providing these services to the juvenile courts.

Sec. 39. Minnesota Statutes 2005 Supplement, section 626.556, subdivision 2, is amended to read:

Subd. 2. **Definitions.** As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege substantial child endangerment. Family assessment does not include a determination as to whether child maltreatment occurred but does determine the need for services to address the safety of family members and the risk of subsequent maltreatment.

(b) "Investigation" means fact gathering related to the current safety of a child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed. An investigation must be used when reports involve substantial child endangerment, and for reports of maltreatment in facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10; or in a nonlicensed personal care provider association as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(c) "Substantial child endangerment" means a person responsible for a child's care, and in the case of sexual abuse also includes a person who has a significant relationship to the child as defined in section 609.341, or a person in a position of authority as defined in section 609.341, who by act or omission commits or attempts to commit an act against a child under their care that constitutes any of the following:

(1) egregious harm as defined in section 260C.007, subdivision 14;

(2) sexual abuse as defined in paragraph (d);

(3) abandonment under section 260C.301, subdivision 2;

(4) neglect as defined in paragraph (f), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(5) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

(6) manslaughter in the first or second degree under section 609.20 or 609.205;

(7) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;

(8) solicitation, inducement, and promotion of prostitution under section 609.322;

(9) criminal sexual conduct under sections 609.342 to 609.3451;

(10) solicitation of children to engage in sexual conduct under section 609.352;

(11) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;

(12) use of a minor in sexual performance under section 617.246; or

(13) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.301, subdivision 3, paragraph (a).

(d) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(e) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(f) "Neglect" means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;

(7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(g) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 121A.67 or 245.825. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

(1) throwing, kicking, burning, biting, or cutting a child;

(2) striking a child with a closed fist;

(3) shaking a child under age three;

(4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;

(5) unreasonable interference with a child's breathing;

(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

(7) striking a child under age one on the face or head;

(8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;

(9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or

(10) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

(h) "Report" means any report received by the local welfare agency, police department, county sheriff, or agency responsible for assessing or investigating maltreatment pursuant to this section.

(i) "Facility" means a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B; or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(j) "Operator" means an operator or agency as defined in section 245A.02.

(k) "Commissioner" means the commissioner of human services.

(l) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

(m) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(n) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened

injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (e), clause (1), who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;

(2) been found to be palpably unfit under section 260C.301, paragraph (b), clause (4), or a similar law of another jurisdiction;

(3) committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or

(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar law of another jurisdiction.

(o) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates and accepted teacher discipline practices, which are not injurious to the child's health, welfare, and safety.

Sec. 40. Laws 2005, chapter 98, article 3, section 25, is amended to read:

Sec. 25. **REPEALER.**

Minnesota Statutes 2004, sections 245.713, ~~subdivisions 2 and~~ subdivision 4; 245.716; and 626.5551, subdivision 4, are repealed.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2005.

Sec. 41. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall correct internal cross-references to sections that are affected by sections 40 and 42, the repealer sections in this bill. The revisor may make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 42. **REPEALER.**

(a) Minnesota Statutes 2004, sections 252.21; 252.22; 252.23; 252.24, subdivisions 1, 2, 3, and 4; 252.25; 252.261; 254A.02, subdivisions 7, 9, 12, 14, 15, and 16; 254A.085; 254A.086; 254A.12; 254A.14, subdivisions 1, 2, and 3; 254A.15; 254A.16, subdivision 5; 254A.175; and 254A.18, are repealed.

(b) Minnesota Statutes 2005 Supplement, section 252.24, subdivision 5, and Minnesota Rules, part 9503.0035, subpart 2, are repealed.

252.21 COUNTY BOARDS MAY MAKE GRANTS FOR DEVELOPMENTAL ACHIEVEMENT CENTER SERVICES FOR CHILDREN WITH MENTAL RETARDATION OR RELATED CONDITIONS.

In order to assist county boards in carrying out responsibilities for the provision of daytime developmental achievement center services for eligible children, the county board or boards are hereby authorized to make grants, within the limits of the money appropriated, to developmental achievement centers for services to children with mental retardation or related conditions. In order to fulfill its responsibilities to children with mental retardation or related conditions as required by sections 125A.03 to 125A.48, and 125A.65, a county board may, beginning January 1, 1983, contract with developmental achievement centers or other providers.

252.22 APPLICANTS FOR ASSISTANCE; TAX LEVY.

Any city, town, governmental entity, nonprofit corporation, or any combination thereof, may apply to the county board for assistance in establishing and operating a developmental achievement center and program for children with mental retardation or related conditions. Application for such assistance shall be on forms supplied by the board. Each applicant shall annually submit to the board its plan and budget for the next fiscal year. No applicant shall be eligible for a grant hereunder unless its plan and budget have been approved by the board.

Any city, town, or county is authorized, at the discretion of its governing body, to make grants from special tax revenues or from its general revenue fund to any nonprofit organization, governmental or corporate, within or outside its jurisdiction, that has established a developmental achievement center for children with mental retardation or related conditions. Nothing contained herein shall in any way preclude the use of funds available for this purpose under any existing statute or charter provision relating to cities, towns, and counties.

252.23 ELIGIBILITY REQUIREMENTS.

A developmental achievement center shall:

(1) provide developmental services to children with mental retardation or related conditions who can benefit from the program of services; and

(2) comply with all rules duly adopted by the commissioner of human services.

252.24 DUTIES OF COUNTY BOARDS.

Subdivision 1. **Selection of developmental achievement centers.** The county board shall administer developmental achievement services. The county board shall ensure that transportation is provided for children who fulfill the eligibility requirements of section 252.23, clause (1), utilizing the most efficient and reasonable means available. The county board may contract for developmental achievement services and transportation from a center which is licensed under the provisions of sections 245A.01 to 245A.16, 252.28, and 257.175, and in the board's opinion, best provides daytime developmental achievement services for children with mental retardation or related conditions within the appropriation and resources made available for this purpose. Daytime developmental achievement services administered by the county board shall comply with standards established by the commissioner pursuant to subdivision 2 and applicable federal regulations.

Subd. 2. **Supervision of projects; promulgation of rules.** The commissioner of human services shall closely supervise any developmental achievement center receiving a grant under sections 252.21 to 252.25. The commissioner shall promulgate rules in the manner provided by law as necessary to carry out the purposes of sections 252.21 to 252.25, including but not limited to rules pertaining to facilities for housing developmental achievement centers, administration of centers, and eligibility requirements for admission and participation in activities of the center.

Subd. 3. **Payment procedure.** The board at the beginning of each year, shall allocate available money for developmental achievement services for disbursement during the year to those centers that have been selected to receive grants and whose plans and budgets have been approved. The board shall, from time to time during the fiscal year, review the budgets, expenditures and programs of the various centers and if it determines that any amount of funds are not needed for any particular center to which they were allocated, it may, after 30 days' notice, withdraw such funds as are unencumbered and reallocate them to other centers. It may withdraw

all funds from any center upon 90 days' notice whose program is not being administered in accordance with its approved plan and budget.

Subd. 4. **Fees.** The county board may, with the approval of the commissioner, establish a schedule of fees for daytime developmental achievement services. No child, or family of a child, with mental retardation or a related condition shall be denied daytime developmental achievement services because of an inability to pay such a fee.

Subd. 5. **Developmental achievement centers: salary adjustment per diem.** The commissioner shall approve a two percent increase in the payment rates for day training and habilitation services vendors effective July 1, 1991. All revenue generated shall be used by vendors to increase salaries, fringe benefits, and payroll taxes by at least three percent for personnel below top management. County boards shall amend contracts with vendors to require that all revenue generated by this provision is expended on salary increases to staff below top management. County boards shall verify in writing to the commissioner that each vendor has complied with this requirement. If a county board determines that a vendor has not complied with this requirement for a specific contract period, the county board shall reduce the vendor's payment rates for the next contract period to reflect the amount of money not spent appropriately. The commissioner shall modify reporting requirements for vendors and counties as necessary to monitor compliance with this provision.

252.25 BOARD OF DIRECTORS.

Every city, town, governmental entity, nonprofit corporation, or combination thereof, establishing a developmental achievement center for children with mental retardation or related conditions shall, before it comes under the terms of sections 252.21 to 252.25, appoint a board of directors for the center program. When any city or town singly establishes such a center, such board shall be appointed by the chief executive officer of the city or the chair of the governing board of the town. When any combination of cities, towns, or nonprofit corporations, establishes such a center, the chief executive officers of the cities or nonprofit corporations and the chair of the governing bodies of the towns shall appoint the board of directors. If a nonprofit corporation singly establishes such a center, its chief executive officer shall appoint the board of directors of the center. Membership on a board of directors while not mandatory, should be representative of local health, education and welfare departments, medical societies, mental health centers, associations concerned with mental retardation and related conditions, civic groups, and the general public. Nothing in sections 252.21 to 252.25 shall be construed to preclude the appointment of elected or appointed public officials or members of the board of directors of the sponsoring nonprofit corporation to such board of directors, or public schools from administering programs under their present administrative structure.

252.261 EXISTENCE.

Any daytime activity center in existence on September 1, 1977, shall be deemed to be a developmental achievement center for the purposes of sections 252.21 to 252.25.

254A.02 DEFINITIONS.

Subd. 7. **Intoxicated person.** "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol, or other drugs.

Subd. 9. **Program director.** "Program director" means the director of any approved treatment program responsible under Laws 1973, chapter 572 for the examination, treatment or making of recommendations with respect to care and treatment of any person subject to the provisions of Laws 1973, chapter 572.

Subd. 12. **Area mental health board or area board.** "Area mental health board" or "area board" means a board established pursuant to sections 245.61 to 245.69.

Subd. 14. **Youth.** "Youth" means any person 18 years of age or under.

Subd. 15. **Underserved populations.** "Underserved populations" means identifiable groups of significant numbers which do not have available to them sufficient programs and services designed to meet their special alcoholism and chemical dependency needs.

Subd. 16. **Affected employee.** "Affected employee" means an employee whose job performance is substantially affected by chemical dependency.

254A.085 HENNEPIN COUNTY PILOT ALTERNATIVE FOR CHEMICAL DEPENDENCY SERVICES.

The commissioner of human services shall grant variances from the requirements of Minnesota Rules, parts 9530.4100 to 9530.4450, and the commissioner of health shall grant variances from the requirements of Minnesota Rules, parts 4665.0100 to 4665.9900, that are consistent with the provisions of this section and do not compromise the health or safety of the clients, to establish a nonmedical detoxification pilot program in Hennepin County. The program shall be designed to provide care in a secure shelter for persons diverted or referred from detoxification facilities, so as to prevent chronic recidivism and ensure appropriate treatment referrals for persons who are chemically dependent. For purposes of this section, a "secure shelter" is a facility licensed by the commissioner of human services under Minnesota Rules, parts 9530.4100 to 9530.4450, and this section, and by the commissioner of health as a supervised living facility to provide care for chemically dependent persons. A secure shelter is considered a treatment facility under section 253B.02, subdivision 19. The secure facility authorized by this section shall be licensed by the commissioner of human services only after the county has entered into a contract for the detoxification program authorized by section 254A.086.

The pilot program established under this section must have standards for using video and advocacy group members for monitoring and surveillance to ensure the safety of clients and staff. In addition, in hiring staff, the program must ensure that the criminal background check requirements of Minnesota Rules, part 9543.3040, are met; and the commissioner of human services must ensure compliance with chapter 245C. The program administrator and all staff of a secure shelter who observe or have personal knowledge of violations of section 626.556 or 626.557 must report to the Office of the Ombudsman for Mental Health and Mental Retardation within 24 hours of its occurrence, any serious injury, as defined in section 245.91, subdivision 6, or the death of a person admitted to the shelter. The ombudsman shall acknowledge in writing the receipt of all reports made to the ombudsman's office under this section. Acknowledgment must be mailed to the facility and to the county social service agency within five working days of the day the report was made. In addition, the program administrator and staff of the facility must comply with all of the requirements of section 626.557, the Vulnerable Adults Act. If the program administrator does not suspend the alleged perpetrator during the pendency of the investigation, reasons for not doing so must be given to the ombudsman in writing.

The licenseholder, in coordination with the commissioner of human services, shall keep detailed records of admissions, length of stay, client outcomes according to standards set by the commissioner, discharge destinations, referrals, and costs of the program. The commissioner of human services shall report to the legislature by February 15, 1996, on the operation of the program and shall include recommendations on whether such a program has been shown to be an effective, safe, and cost-efficient way to serve clients.

254A.086 CULTURALLY TARGETED DETOXIFICATION PROGRAM.

The commissioner of human services shall provide technical assistance to enable development of a special program designed to provide culturally targeted detoxification services in accordance with section 254A.08, subdivision 2. The program must meet the standards of Minnesota Rules, parts 9530.4100 to 9530.4450, as they apply to detoxification programs. The program established under this section must have standards for using video and advocacy group members for monitoring and surveillance to ensure the safety of clients and staff. In addition, in hiring staff, the program must ensure that the criminal background check requirements of Minnesota Rules, part 9543.3040, are met; and the commissioner of human services must ensure compliance with chapter 245C. The program administrator and all staff of the facility must report to the Office of the Ombudsman for Mental Health and Mental Retardation within 24 hours of its occurrence, any serious injury, as defined in section 245.91, subdivision 6, or the death of a person admitted to the shelter. The ombudsman shall acknowledge in writing the receipt of all reports made to the ombudsman's office under this section. Acknowledgment must be mailed to the facility and to the county social service agency within five working days of the day the report was made. In addition, the program administrator and staff of the facility must comply with all of the requirements of section 626.557, the Vulnerable Adults Act. The program shall be designed with a community outreach component and shall provide services to clients in a safe environment and in a culturally specific manner.

254A.12 AFFECTED EMPLOYEES.

County boards may enter into one or more purchase of service agreements to provide services to employers to develop personnel practices for prevention of alcoholism and other

chemical dependency, and to assist affected employees in gaining access to care through identification and referral services.

254A.14 SERVICES TO YOUTH AND OTHER UNDERSERVED POPULATIONS.

Subdivision 1. **Identification.** County boards may enter into one or more purchase of service agreements to provide services related to the prevention of chemical dependency to persons and groups which have responsibility for, and access to, youth and other underserved populations. The boards may also enter into purchase of service agreements to assist youth and other underserved populations in gaining access to care.

Subd. 2. **Treatment facilities.** If, as a result of programs authorized under subdivision 1, significant numbers of persons are identified for whom treatment and aftercare programs are not available, county boards may request funds from the commissioner to develop treatment and aftercare capabilities.

Subd. 3. **Grants for treatment of high-risk youth.** The commissioner of human services shall award grants on a pilot project basis to develop culturally specific chemical dependency treatment programs for minority and other high-risk youth, including those enrolled in area learning centers, those presently in residential chemical dependency treatment, and youth currently under commitment to the commissioner of corrections or detained under chapter 260. Proposals submitted under this section shall include an outline of the treatment program components, a description of the target population to be served, and a protocol for evaluating the program outcomes.

254A.15 AFFIRMATIVE OUTREACH.

The commissioner shall design and implement a plan of affirmative outreach to encourage utilization of the services authorized in sections 254A.031, 254A.12, and 254A.14. The plan may include purchase of services by the commissioner to carry out the plan.

254A.16 RESPONSIBILITIES OF THE COMMISSIONER.

Subd. 5. **Professional standards.** The commissioner may by rule adopt any or all of the standards for chemical dependency professionals established by the Institute for Chemical Dependency Professionals of Minnesota, Inc., when professional standards are necessary in the regulation of chemical dependency programs, treatment facilities, or services or whenever the commissioner may require individuals involved in providing chemical dependency treatment to be qualified and have demonstrated competence in assessment and treatment skills. The commissioner may also by rule provide that persons certified by the Institute for Chemical Dependency Professionals of Minnesota, Inc., are deemed competent to perform the functions of chemical dependency professionals.

254A.175 CHEMICAL DEPENDENCY TREATMENT MODELS FOR FAMILIES WITH POTENTIAL CHILD PROTECTION PROBLEMS.

The commissioner shall explore and experiment with different chemical dependency service models for parents with children who are found to be in need of chemical dependency treatment pursuant to an assessment under section 626.556, subdivision 10, or a case plan under section 260C.201, subdivision 6, or 260C.212. The commissioner shall tailor services to better serve this high-risk population, which may include long-term treatment that allows the children to stay with the parent at the treatment facility.

254A.18 STATE CHEMICAL HEALTH INDEX MODEL.

The commissioner of human services, in consultation with the Chemical Abuse Prevention Resource Council, shall develop and test a chemical health index model to help assess the state's chemical health and coordinate state policy and programs relating to chemical abuse prevention and treatment. The chemical health index model shall assess a variety of factors known to affect the use and abuse of chemicals in different parts of the state including, but not limited to, demographic factors, risk factors, health care utilization, drug-related crime, productivity, resource availability, and overall health.

Senator ..... moves to amend S.F. No. 3523 as follows:

Page 5, after line 15, insert:

"Sec. 5. Minnesota Statutes 2005 Supplement, section 245A.146, subdivision 4, is amended to read:

Subd. 4. **Crib safety standards and inspection.** (a) On at least a monthly basis, the license holder shall perform safety inspections of every crib used by or that is accessible to any child in care, and must document the following:

(1) no corner posts extend more than 1/16 of an inch;

(2) no spaces between side slats exceed 2.375 inches;

(3) no mattress supports can be easily dislodged from any point of the crib;

(4) no cutout designs are present on end panels;

(5) no heights of the rail and end panel are less than 26 inches when measured from the top of the rail or panel in the highest position to the top of the mattress support in its lowest position;

(6) no heights of the rail and end panel are less than nine inches when measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position;

(7) no screws, bolts, or hardware are loose or not secured, and there is no use of woodscrews in components that are designed to be assembled and disassembled by the crib owner;

(8) no sharp edges, points, or rough surfaces are present;

(9) no wood surfaces are rough, splintered, split, or cracked;

(10) no tears in mesh of fabric sides in non-full-size cribs;

(11) no mattress pads in non-full-size mesh or fabric cribs exceed one inch; and

(12) no unacceptable gaps between the mattress and any sides of the crib are present as follows:

(i) when the noncompressed mattress is centered in the non-full-size crib, at any of the adjustable mattress support positions, the gap between the perimeter of the mattress and the perimeter of the crib cannot be greater than 1/2 inch at any point. When the mattress is placed against the perimeter of the crib, the resulting gap cannot be greater that one inch at any point; and

(ii) when the noncompressed mattress is centered in the full-size crib, at any of the adjustable mattress support positions, the gap between the perimeter of the mattress and the perimeter of the crib cannot be greater than 11/16 inch at any point. When the mattress is placed against the perimeter of the crib, the resulting gap cannot be greater that 1-3/8 inch at any point.

(b) Upon discovery of any unsafe condition identified by the license holder during the safety inspection required under paragraph (a), the license holder shall immediately remove the crib from use and ensure that the crib is not accessible to children in care, and as soon as practicable, but not more than two business days after the inspection, remove the crib from the area where child care services are routinely provided for necessary repairs or to destroy the crib.

(c) Documentation of the inspections and actions taken with unsafe cribs required in paragraphs (a) and (b) shall be maintained on site by the license holder and made available to parents of children in care and the commissioner."

Page 5, after line 30, insert:"

For all providers licensed prior to July 1, 2006, the training required in this subdivision must be obtained by December 31, 2007."

Page 6, delete lines 5 to 7

Page 16, after line 11, insert:

"Sec. 20. Minnesota Statutes 2004, section 256.045, subdivision 3b, is amended to read:

Subd. 3b. **Standard of evidence for maltreatment and disqualification hearings.** (a) The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under sections 626.556 and 626.557. For purposes of hearings regarding disqualification, the state human services referee shall affirm the proposed disqualification in an appeal under subdivision 3, paragraph (a), clause (9), if a preponderance of the evidence shows the individual has:

(1) committed maltreatment under section 626.556 or 626.557, which is serious or recurring;

(2) committed an act or acts meeting the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or

(3) failed to make required reports under section 626.556 or 626.557, for incidents in which the final disposition under section 626.556 or 626.557 was substantiated maltreatment that was serious or recurring.

(b) If the disqualification is affirmed, the state human services referee shall determine whether the individual poses a risk of harm in accordance with the requirements of section 245C.16, and whether the disqualification should be set aside or not set aside. In determining whether the disqualification should be set aside, the human services referee shall consider all of the characteristics that cause the individual to be disqualified, including those characteristics that were not subject to review under paragraph (a), in

order to determine whether the individual poses a risk of harm. A decision to set aside a disqualification that is the subject of the hearing constitutes a determination that the individual does not pose a risk of harm and that the individual may provide direct contact services in the individual program specified in the set aside. If a determination that the information relied upon to disqualify an individual was correct and is conclusive under section 245C.29, and the individual is subsequently disqualified under section 245C.14, the individual has a right to again request reconsideration on the risk of harm under section 245C.21. Subsequent determinations regarding risk of harm are not subject to another hearing under this section.

(c) The state human services referee shall recommend an order to the commissioner of health, education, corrections or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's determination as to maltreatment is conclusive, as provided under section 245C.29. "

Pages 19 to 21, delete sections 26 and 27

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Minnesota Department of Human Services
LEGISLATIVE OVERVIEW - TECHNICAL BILL 2006

S.F. # 3523 **H.F. # 3618**

TITLE: Department of Human Services Technical Bill

The Department of Human Services (DHS) technical bill makes technical clarifications and removes obsolete references to provide internal consistency within statute and improve program administration. The bill reflects technical changes in statute covering five major business areas in DHS: Chemical & Mental Health, Continuing Care, Health Care, Child Welfare and Licensing. Below is a brief summary of changes for each area.

Child Welfare
Child Welfare provisions corrects contradictory language, incorrect placement and identification of cites and removes an obsolete reference.

Chemical & Mental Health
Chemical & Mental Health provisions include a general clean-up of chemical dependency program statutes. Most of the sections remove obsolete language, clarify existing statutes or policy. The sections relating to mental health program statutes restore a provision inadvertently repealed in last year's technical bill and clarify statutes in order to better support program integrity efforts in children's mental health services.

Continuing Care
Continuing Care provisions related to nursing homes correct cross references, update conforming language from 2005 legislative session, and identify the current index to be used for rate setting purposes. Also, repeals obsolete language in day training and habilitation statutes related to children.

Health Care
Health Care provisions correct references to "formulary committee" to correctly read as "committee" rather than "board. The bill also clarifies new co-payments added in 2005 do not apply to pregnant women and children under 21, a federally exempted group for the new co-pays.

Licensing
Licensing provisions are primarily a general clean-up of language expeditiously drafted at the end of the 2005 session. The technical fixes include cross references, adding an effective date, deleting duplicative language, and language adjustments that assure greater consistency between new 2005 policy and additional corresponding statute sections. The provisions also address obsolete rule references and provide technical clarity that one employer who holds both an MDH and a DHS license has the same background study options as an employer who has multiple DHS licenses.

Minnesota Department of Human Services
LEGISLATIVE BACKGROUND INFORMATION **2006**

S.F. # 3523 **H.F. # 3618**

TITLE: Department of Human Services Technical Bill

BACKGROUND: Amendments to correct technical errors in Minnesota statute related to DHS administered programs and operations.

PROBLEM WITH CURRENT SYSTEM/PROBLEM TO BE ADDRESSED:

Chemical & Mental Health

Restore Mental Health Block Grant Allocation

Laws 2005, Chapter 98, Article 3 - An error in last year's DHS technical bill repealed all of MS section 245.713 when only subdivision 4 was obsolete and intended to be repealed. Subdivision 2 was current and contained provisions governing the allocation of federal Community Mental Health Block Grant funds. This restores the language that existed in MS 245.713, subd. 2.

Chemical Dependency Fund: Repeal Obsolete Language and make technical corrections

- M.S. 254A.02 repeals definitions of terms not used in that section
- M.S. 245A.03 removed obsolete service descriptions
- M.S. 254A.085 & 254.086 removes statutes authorizing long discontinued grant programs
- M.S. 254A.12, 254A.14, 254A.15, 254A.16, 254A.175 & 254A.18 removes obsolete language
- M.S. 254B.02, subd. 1 clarifies allocation formula currently in statute
- M.S. 254B.02, subd. 5, 254B.03, subd. 3, & 254B.06 removes language made obsolete when CCDTF was converted to MMIS payment system
- M.S. 254B.03, subd. 1 removes obsolete rate COLA language

Mental Health Statutes Technical Clarifications

- M.S. 245.4874 clarifies that children in the child welfare and juvenile justice systems may be exempt from mental health screening if they have had a recent diagnostic assessment
- M.S. 256B.0943, subd. 6 clarifies clinical supervision standards for children's mental health services governed by that section.
- M.S. 256B.0943, subd. 9 clarifies requirements for day treatment programs
- M.S. 256B.0943, subd. 11 makes clear that provider may only submit claims for direct services
- M.S. 256B.0625, subd. 23 states that statute is primary over conflicting rule.
- M.S. 260B.157, subd.1 clarifies the mechanism by which courts conduct chemical use assessments and mental health screening of children found to be delinquent.

Continuing Care

Nursing Facility technical changes

M.S. 256B.431, subd. 3 clarifies the current index used for rate setting M.S. 256B.431, subd. 17 corrects a cross referencing M.S. 256B.431 subd. 1 corrects drafting error by adjusting the date when nursing facilities must provide private pay residents with advanced notice of rate changes. This is in response to the 2005 legislature changing the rate year for nursing facilities.

Day training and habilitation technical changes

Deletes obsolete state statute section related to children in DT&H settings. Day training and habilitation settings only serve adults 18 years of age and older. Repeals M.S. 2005 chapters 252.21, 252.22, 252.23, 252.24, 252.25, and 252.261.

Health Care

- M.S. 256B.0625, subdivision 13c: changes a reference in the formulary committee by striking the term "board" and substituting the term "committee" which is the correct designation of this group.
- M.S. 256L.03, subdivision 5c: amends MinnesotaCare co-payments to state that the copayments listed in (1) to (6) do not apply to pregnant women and children. Two new copay were added in 2005 and the federally required exemption for pregnant women and children under 21 apply to those new copays.

Child Welfare

- M.S. 144.225 corrects reference under Commissioner of Health duties to share information with DHS.
- M. S. 256.046 eliminates an obsolete reference to AFDC in administrative fraud disqualification hearings.
- M.S. 259.67 corrects the placement of a provision in the adoption assistance program: from M.S.253.67 4(a)(4) to 259.67(6)(4).
- M.S. 260.012 corrects a Title IV-E Reasonable Efforts Requirement to clear up contradictions.
- M.S. 626.556 clarifies an unintended expansion of the definition of substantial child endangerment.

Licensing

- M.S. 245A.04, subd. 11 deletes obsolete rule references and replaces them with a reference to parts 2960.0010 to 2960.0171 (Children's Residential Facilities). It also clarifies this subdivision only applies to DHS programs, not DOC as well.
- M.S. 245A.14, subd. 12 corrects 2005 language inadvertently lowering the first aid training requirements for child care centers. M.S. 245A.14, subd. 12 corrects this by restating the rule requirement for child care centers. The rule part is then repealed in the repealer section.
- M.S. 245A.18, subd. 2 clarifies that child passenger restraint training does not apply to emergency relative foster care and adds a new paragraph (e) that requires child passenger restraint training be completed before an initial license is issued after July 2006, but allows current license holders additional time to complete the training (by December 31, 2007).
- M.S. 245C.07 broadens the scope of the current provision only requiring one background study for license holders who own multiple facilities.
- M.S. 245C.13, subd, 2 corrects a typographical error in a cross reference.
- M.S. 245C.15, subd. 2 deletes references to criminal sexual conduct in the fifth degree from the 15 year disqualification. This makes language consistent with M.S. 245C.15, subd 1 which makes such crimes a permanent disqualification.
- M.S. 245C.15, subd. 3 deletes references to criminal sexual conduct in the fifth degree from the 10 year disqualification. This makes language consistent with M.S. 245C.15, subd 1 which makes such crimes a permanent disqualification. This amendment also corrects a cross-reference to medical assistance fraud. Adds theft crimes 609.82 (fraud in obtaining credit) and 609.821 (financial transaction card fraud) inadvertently left out of subd. 3, but included in subd. 2 & subd. 4.
- M.S. 245C.22, subd. 7 - Laws 2005, Chapter 136 amended M.S. section 245C.22, which classified certain data a public or private and required family child care providers and child care centers to notify parents if the program employees or has living in the home any individual who is the subject of either a set aside or variance. Laws 2005, First Special Session, Chapter 4 adopted essentially the same requirement but codified it under a new section 245C.301. There is a sequential order to chapter 245C which is preserved by retaining 245C.301 and modifying section 245C.22, subd. 7, paragraph (d) as proposed.
- M.S. 245C.24, subd. 3 corrects two typographical errors.
- M.S. 256.045, subd. 3 clarifies the Dept. of Corrections (DOC) as the agency to which reconsiderations of background study disqualifications related to certain DOC programs are to be sent.
- M.S. 256.0451 corrects cross referencing errors to 256.045.

NATURE AND IMPACT OF PROPOSED CHANGES:

The proposed changes are technical changes necessary to provide internal consistency within Minnesota statutes and improve program administration.

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