

1.1 Senator ..... moves to amend S.F. No. 4165 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "ARTICLE 1  
1.4 CHILDREN AND FAMILY SERVICES

1.5 Section 1. Minnesota Statutes 2020, section 145.4716, is amended by adding a subdivision  
1.6 to read:

1.7 Subd. 4. **Funding.** Funds appropriated for this section shall not be used for any activity  
1.8 other than the authorized activities under this section, and the commissioner shall not create  
1.9 additional eligibility criteria or restrictions on the funds. The commissioner must prioritize  
1.10 providing trauma-informed, culturally inclusive services for sexually exploited youth or  
1.11 youth at risk of sexual exploitation under this section.

1.12 Sec. 2. Minnesota Statutes 2020, section 256E.35, subdivision 1, is amended to read:

1.13 Subdivision 1. **Establishment.** The Minnesota family assets for independence initiative  
1.14 is established to provide incentives for low-income families to accrue assets for education,  
1.15 housing, vehicles, emergencies, and economic development purposes.

1.16 Sec. 3. Minnesota Statutes 2020, section 256E.35, subdivision 2, is amended to read:

1.17 Subd. 2. **Definitions.** (a) The definitions in this subdivision apply to this section.

1.18 (b) "Eligible educational institution" means the following:

1.19 (1) an institution of higher education described in section 101 or 102 of the Higher  
1.20 Education Act of 1965; or

1.21 (2) an area vocational education school, as defined in subparagraph (C) or (D) of United  
1.22 States Code, title 20, chapter 44, section 2302 (3) (the Carl D. Perkins Vocational and  
1.23 Applied Technology Education Act), which is located within any state, as defined in United  
1.24 States Code, title 20, chapter 44, section 2302 (30). This clause is applicable only to the  
1.25 extent section 2302 is in effect on August 1, 2008.

1.26 (c) "Family asset account" means a savings account opened by a household participating  
1.27 in the Minnesota family assets for independence initiative.

1.28 (d) "Fiduciary organization" means:

1.29 (1) a community action agency that has obtained recognition under section 256E.31;

2.1 (2) a federal community development credit union ~~servicing the seven-county metropolitan~~  
2.2 ~~area; or~~

2.3 (3) a women-oriented economic development agency ~~servicing the seven-county~~  
2.4 ~~metropolitan area;~~

2.5 (4) a federally recognized Tribal nation; or

2.6 (5) a nonprofit organization, as defined under section 501(c)(3) of the Internal Revenue  
2.7 Code.

2.8 (e) "Financial coach" means a person who:

2.9 (1) has completed an intensive financial literacy training workshop that includes  
2.10 curriculum on budgeting to increase savings, debt reduction and asset building, building a  
2.11 good credit rating, and consumer protection;

2.12 (2) participates in ongoing statewide family assets for independence in Minnesota (FAIM)  
2.13 network training meetings under FAIM program supervision; and

2.14 (3) provides financial coaching to program participants under subdivision 4a.

2.15 (f) "Financial institution" means a bank, bank and trust, savings bank, savings association,  
2.16 or credit union, the deposits of which are insured by the Federal Deposit Insurance  
2.17 Corporation or the National Credit Union Administration.

2.18 (g) "Household" means all individuals who share use of a dwelling unit as primary  
2.19 quarters for living and eating separate from other individuals.

2.20 (h) "Permissible use" means:

2.21 (1) postsecondary educational expenses at an eligible educational institution as defined  
2.22 in paragraph (b), including books, supplies, and equipment required for courses of instruction;

2.23 (2) acquisition costs of acquiring, constructing, or reconstructing a residence, including  
2.24 any usual or reasonable settlement, financing, or other closing costs;

2.25 (3) business capitalization expenses for expenditures on capital, plant, equipment, working  
2.26 capital, and inventory expenses of a legitimate business pursuant to a business plan approved  
2.27 by the fiduciary organization;

2.28 (4) acquisition costs of a principal residence within the meaning of section 1034 of the  
2.29 Internal Revenue Code of 1986 which do not exceed 100 percent of the average area purchase  
2.30 price applicable to the residence determined according to section 143(e)(2) and (3) of the  
2.31 Internal Revenue Code of 1986; ~~and~~

- 3.1 (5) acquisition costs of a personal vehicle only if approved by the fiduciary organization;
- 3.2 (6) contribution to an emergency savings account; and
- 3.3 (7) contribution to a Minnesota 529 savings plan.

3.4 Sec. 4. Minnesota Statutes 2020, section 256E.35, subdivision 4a, is amended to read:

3.5 Subd. 4a. **Financial coaching.** A financial coach shall provide the following to program  
3.6 participants:

3.7 (1) financial education relating to budgeting, debt reduction, asset-specific training,  
3.8 credit building, and financial stability activities;

3.9 (2) asset-specific training related to buying a home or vehicle, acquiring postsecondary  
3.10 education, ~~or~~ starting or expanding a small business, saving for emergencies, or saving for  
3.11 a child's education; and

3.12 (3) financial stability education and training to improve and sustain financial security.

3.13 Sec. 5. Minnesota Statutes 2020, section 256E.35, subdivision 6, is amended to read:

3.14 Subd. 6. **Withdrawal; matching; permissible uses.** (a) To receive a match, a  
3.15 participating household must transfer funds withdrawn from a family asset account to its  
3.16 matching fund custodial account held by the fiscal agent, according to the family asset  
3.17 agreement. The fiscal agent must determine if the match request is for a permissible use  
3.18 consistent with the household's family asset agreement.

3.19 (b) The fiscal agent must ensure the household's custodial account contains the applicable  
3.20 matching funds to match the balance in the household's account, including interest, on at  
3.21 least a quarterly basis and at the time of an approved withdrawal. Matches must be a  
3.22 contribution of \$3 from state grant or TANF funds for every \$1 of funds withdrawn from  
3.23 the family asset account not to exceed a \$6,000 lifetime limit.

3.24 (c) Notwithstanding paragraph (b), if funds are appropriated for the Federal Assets for  
3.25 Independence Act of 1998, and a participating fiduciary organization is awarded a grant  
3.26 under that act, participating households with that fiduciary organization must be provided  
3.27 matches as follows:

3.28 (1) from state grant and TANF funds, a matching contribution of \$1.50 for every \$1 of  
3.29 funds withdrawn from the family asset account not to exceed a ~~\$3,000~~ \$4,500 lifetime limit;  
3.30 and

4.1 (2) from nonstate funds, a matching contribution of not less than \$1.50 for every \$1 of  
4.2 funds withdrawn from the family asset account not to exceed a ~~\$3,000~~ \$4,500 lifetime limit.

4.3 (d) Upon receipt of transferred custodial account funds, the fiscal agent must make a  
4.4 direct payment to the vendor of the goods or services for the permissible use.

4.5 Sec. 6. Minnesota Statutes 2020, section 256E.35, subdivision 7, is amended to read:

4.6 Subd. 7. **Program reporting.** The fiscal agent on behalf of each fiduciary organization  
4.7 participating in a family assets for independence initiative must report quarterly to the  
4.8 commissioner of human services identifying the participants with accounts, the number of  
4.9 accounts, the amount of savings and matches for each participant's account, the uses of the  
4.10 account, and the number of businesses, homes, vehicles, and educational services paid for  
4.11 with money from the account, and the amount of contributions to Minnesota 529 savings  
4.12 plans and emergency savings accounts, as well as other information that may be required  
4.13 for the commissioner to administer the program and meet federal TANF reporting  
4.14 requirements.

4.15 Sec. 7. Minnesota Statutes 2020, section 256K.45, subdivision 6, is amended to read:

4.16 Subd. 6. **Funding.** Funds appropriated for this section may be expended on programs  
4.17 described under subdivisions 3 to 5 and 8, technical assistance, and capacity building to  
4.18 meet the greatest need on a statewide basis. The commissioner will provide outreach,  
4.19 technical assistance, and program development support to increase capacity to new and  
4.20 existing service providers to better meet needs statewide, particularly in areas where services  
4.21 for homeless youth have not been established, especially in greater Minnesota.

4.22 Sec. 8. Minnesota Statutes 2020, section 256K.45, is amended by adding a subdivision to  
4.23 read:

4.24 Subd. 7. **Awarding of grants.** (a) Grants awarded under this section shall not be used  
4.25 for any activity other than the authorized activities under this section, and the commissioner  
4.26 shall not create additional eligibility criteria or restrictions on the grant money.

4.27 (b) Grants shall be awarded under this section only after a review of the grant recipient's  
4.28 application materials, including past performance and utilization of grant money. The  
4.29 commissioner shall not reduce an existing grant award amount unless the commissioner  
4.30 first determines that the grant recipient has failed to meet performance measures or has used  
4.31 grant money improperly.

5.1 (c) For grants awarded pursuant to a two-year grant contract, the commissioner shall  
5.2 permit grant recipients to carry over any unexpended amount from the first contract year  
5.3 to the second contract year.

5.4 Sec. 9. Minnesota Statutes 2020, section 256K.45, is amended by adding a subdivision to  
5.5 read:

5.6 Subd. 8. **Provider repair or improvement grants.** (a) Providers that serve homeless  
5.7 youth under this section may apply for a grant of up to \$100,000 under this subdivision to  
5.8 make minor or mechanical repairs or improvements to a facility providing services to  
5.9 homeless youth or youth at risk of homelessness.

5.10 (b) Grant applications under this subdivision must include a description of the repairs  
5.11 or improvements and the estimated cost of the repairs or improvements.

5.12 (c) Grantees under this subdivision cannot receive grant funds under this subdivision  
5.13 for two consecutive years.

5.14 Sec. 10. Minnesota Statutes 2020, section 256P.02, is amended by adding a subdivision  
5.15 to read:

5.16 Subd. 4. **Account exception.** Family asset accounts under section 256E.35 and individual  
5.17 development accounts authorized under the Assets for Independence Act, Title IV of the  
5.18 Community Opportunities, Accountability, and Training and Educational Services Human  
5.19 Services Reauthorization Act of 1998, Public Law 105-285, shall be excluded when  
5.20 determining the equity value of personal property.

5.21 Sec. 11. Minnesota Statutes 2020, section 256P.04, subdivision 11, is amended to read:

5.22 **Subd. 11. Participant's completion of household report form.** (a) When a participant  
5.23 is required to complete a household report form, the following paragraphs apply.

5.24 (b) If the agency receives an incomplete household report form, the agency must  
5.25 immediately ~~return the incomplete form and clearly state what the participant must do for~~  
5.26 ~~the form to be complete~~ contact the participant by phone or in writing to acquire the necessary  
5.27 information to complete the form.

5.28 (c) The automated eligibility system must send a notice of proposed termination of  
5.29 assistance to the participant if a complete household report form is not received by the  
5.30 agency. The automated notice must be mailed to the participant by approximately the 16th  
5.31 of the month. When a participant submits an incomplete form on or after the date a notice

6.1 of proposed termination has been sent, the termination is valid unless the participant submits  
6.2 a complete form before the end of the month.

6.3 (d) The submission of a household report form is considered to have continued the  
6.4 participant's application for assistance if a complete household report form is received within  
6.5 a calendar month after the month in which the form was due. Assistance shall be paid for  
6.6 the period beginning with the first day of that calendar month.

6.7 (e) An agency must allow good cause exemptions for a participant required to complete  
6.8 a household report form when any of the following factors cause a participant to fail to  
6.9 submit a completed household report form before the end of the month in which the form  
6.10 is due:

6.11 (1) an employer delays completion of employment verification;

6.12 (2) the agency does not help a participant complete the household report form when the  
6.13 participant asks for help;

6.14 (3) a participant does not receive a household report form due to a mistake on the part  
6.15 of the department or the agency or a reported change in address;

6.16 (4) a participant is ill or physically or mentally incapacitated; or

6.17 (5) some other circumstance occurs that a participant could not avoid with reasonable  
6.18 care which prevents the participant from providing a completed household report form  
6.19 before the end of the month in which the form is due.

6.20 Sec. 12. Minnesota Statutes 2021 Supplement, section 256P.06, subdivision 3, is amended  
6.21 to read:

6.22 Subd. 3. **Income inclusions.** The following must be included in determining the income  
6.23 of an assistance unit:

6.24 (1) earned income; and

6.25 (2) unearned income, which includes:

6.26 (i) interest and dividends from investments and savings;

6.27 (ii) capital gains as defined by the Internal Revenue Service from any sale of real property;

6.28 (iii) proceeds from rent and contract for deed payments in excess of the principal and  
6.29 interest portion owed on property;

6.30 (iv) income from trusts, excluding special needs and supplemental needs trusts;

- 7.1 (v) interest income from loans made by the participant or household;
- 7.2 (vi) cash prizes and winnings;
- 7.3 (vii) unemployment insurance income that is received by an adult member of the  
7.4 assistance unit unless the individual receiving unemployment insurance income is:
- 7.5 (A) 18 years of age and enrolled in a secondary school; or
- 7.6 (B) 18 or 19 years of age, a caregiver, and is enrolled in school at least half-time;
- 7.7 (viii) retirement, survivors, and disability insurance payments;
- 7.8 (ix) nonrecurring income over \$60 per quarter unless the nonrecurring income is: (A)  
7.9 from tax refunds, tax rebates, or tax credits; (B) a reimbursement, rebate, award, grant, or  
7.10 refund of personal or real property or costs or losses incurred when these payments are  
7.11 made by: a public agency; a court; solicitations through public appeal; a federal, state, or  
7.12 local unit of government; or a disaster assistance organization; (C) provided as an in-kind  
7.13 benefit; or (D) earmarked and used for the purpose for which it was intended, subject to  
7.14 verification requirements under section 256P.04;
- 7.15 (x) retirement benefits;
- 7.16 (xi) cash assistance benefits, as defined by each program in chapters 119B, 256D, 256I,  
7.17 and 256J;
- 7.18 (xii) Tribal per capita payments unless excluded by federal and state law;
- 7.19 ~~(xiii) income and payments from service and rehabilitation programs that meet or exceed~~  
7.20 ~~the state's minimum wage rate;~~
- 7.21 ~~(xiv)~~ (xiii) income from members of the United States armed forces unless excluded  
7.22 from income taxes according to federal or state law;
- 7.23 ~~(xv)~~ (xiv) all child support payments for programs under chapters 119B, 256D, and 256I;
- 7.24 ~~(xvi)~~ (xv) the amount of child support received that exceeds \$100 for assistance units  
7.25 with one child and \$200 for assistance units with two or more children for programs under  
7.26 chapter 256J;
- 7.27 ~~(xvii)~~ (xvi) spousal support; and
- 7.28 ~~(xviii)~~ (xvii) workers' compensation.

8.1 Sec. 13. Minnesota Statutes 2020, section 268.19, subdivision 1, is amended to read:

8.2 Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered from  
8.3 any person under the administration of the Minnesota Unemployment Insurance Law are  
8.4 private data on individuals or nonpublic data not on individuals as defined in section 13.02,  
8.5 subdivisions 9 and 12, and may not be disclosed except according to a district court order  
8.6 or section 13.05. A subpoena is not considered a district court order. These data may be  
8.7 disseminated to and used by the following agencies without the consent of the subject of  
8.8 the data:

8.9 (1) state and federal agencies specifically authorized access to the data by state or federal  
8.10 law;

8.11 (2) any agency of any other state or any federal agency charged with the administration  
8.12 of an unemployment insurance program;

8.13 (3) any agency responsible for the maintenance of a system of public employment offices  
8.14 for the purpose of assisting individuals in obtaining employment;

8.15 (4) the public authority responsible for child support in Minnesota or any other state in  
8.16 accordance with section 256.978;

8.17 (5) human rights agencies within Minnesota that have enforcement powers;

8.18 (6) the Department of Revenue to the extent necessary for its duties under Minnesota  
8.19 laws;

8.20 (7) public and private agencies responsible for administering publicly financed assistance  
8.21 programs for the purpose of monitoring the eligibility of the program's recipients;

8.22 (8) the Department of Labor and Industry and the Commerce Fraud Bureau in the  
8.23 Department of Commerce for uses consistent with the administration of their duties under  
8.24 Minnesota law;

8.25 (9) the Department of Human Services and the Office of Inspector General and its agents  
8.26 within the Department of Human Services, including county fraud investigators, for  
8.27 investigations related to recipient or provider fraud and employees of providers when the  
8.28 provider is suspected of committing public assistance fraud;

8.29 (10) local and state welfare agencies for monitoring the eligibility of the data subject  
8.30 for assistance programs, or for any employment or training program administered by those  
8.31 agencies, whether alone, in combination with another welfare agency, or in conjunction  
8.32 with the department or to monitor and evaluate the statewide Minnesota family investment



9.1 program and other cash assistance programs, the Supplemental Nutrition Assistance Program,  
9.2 and the Supplemental Nutrition Assistance Program Employment and Training program by  
9.3 providing data on recipients and former recipients of Supplemental Nutrition Assistance  
9.4 Program (SNAP) benefits, cash assistance under chapter 256, 256D, 256J, or 256K, child  
9.5 care assistance under chapter 119B, or medical programs under chapter 256B or 256L or  
9.6 formerly codified under chapter 256D;

9.7 (11) local and state welfare agencies for the purpose of identifying employment, wages,  
9.8 and other information to assist in the collection of an overpayment debt in an assistance  
9.9 program;

9.10 (12) local, state, and federal law enforcement agencies for the purpose of ascertaining  
9.11 the last known address and employment location of an individual who is the subject of a  
9.12 criminal investigation;

9.13 (13) the United States Immigration and Customs Enforcement has access to data on  
9.14 specific individuals and specific employers provided the specific individual or specific  
9.15 employer is the subject of an investigation by that agency;

9.16 (14) the Department of Health for the purposes of epidemiologic investigations;

9.17 (15) the Department of Corrections for the purposes of case planning and internal research  
9.18 for preprobation, probation, and postprobation employment tracking of offenders sentenced  
9.19 to probation and preconfinement and postconfinement employment tracking of committed  
9.20 offenders;

9.21 (16) the state auditor to the extent necessary to conduct audits of job opportunity building  
9.22 zones as required under section 469.3201; and

9.23 (17) the Office of Higher Education for purposes of supporting program improvement,  
9.24 system evaluation, and research initiatives including the Statewide Longitudinal Education  
9.25 Data System.

9.26 (b) Data on individuals and employers that are collected, maintained, or used by the  
9.27 department in an investigation under section 268.182 are confidential as to data on individuals  
9.28 and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3  
9.29 and 13, and must not be disclosed except under statute or district court order or to a party  
9.30 named in a criminal proceeding, administrative or judicial, for preparation of a defense.

9.31 (c) Data gathered by the department in the administration of the Minnesota unemployment  
9.32 insurance program must not be made the subject or the basis for any suit in any civil  
9.33 proceedings, administrative or judicial, unless the action is initiated by the department.

10.1 Sec. 14. Laws 2021, First Special Session chapter 8, article 6, section 1, subdivision 7, is  
10.2 amended to read:

10.3 Subd. 7. **Report.** (a) No later than February 1, 2022, the task force shall submit an initial  
10.4 report to the chairs and ranking minority members of the house of representatives and senate  
10.5 committees and divisions with jurisdiction over housing and preventing homelessness on  
10.6 its findings and recommendations.

10.7 (b) No later than ~~August 31~~ December 15, 2022, the task force shall submit a final report  
10.8 to the chairs and ranking minority members of the house of representatives and senate  
10.9 committees and divisions with jurisdiction over housing and preventing homelessness on  
10.10 its findings and recommendations.

10.11 Sec. 15. **DIRECTION TO COMMISSIONER; PAPERWORK REDUCTION FOR**  
10.12 **CHILD PROTECTION CASES.**

10.13 By January 15, 2024, the commissioner of human services must consult with counties,  
10.14 local social services agencies, and Minnesota's Tribal governments, on its continuing efforts  
10.15 to make department operations more efficient and effective by streamlining and minimizing  
10.16 required paperwork for child protection cases. The consultation with the counties, local  
10.17 social services agencies, and Minnesota's Tribal governments should include a discussion  
10.18 of a proposed timeline to implement the improvements and of procedures for soliciting and  
10.19 incorporating ongoing input from counties and Minnesota's Tribal governments regarding  
10.20 implementation of improvements to maximize benefits and utility for children in placement,  
10.21 foster care providers, Tribes, counties, and private child placing agencies.

10.22 **ARTICLE 2**  
10.23 **BEHAVIORAL HEALTH**

10.24 Section 1. Minnesota Statutes 2021 Supplement, section 15.01, is amended to read:

10.25 **15.01 DEPARTMENTS OF THE STATE.**

10.26 The following agencies are designated as the departments of the state government: the  
10.27 Department of Administration; the Department of Agriculture; the Department of Behavioral  
10.28 Health; the Department of Commerce; the Department of Corrections; the Department of  
10.29 Education; the Department of Employment and Economic Development; the Department  
10.30 of Health; the Department of Human Rights; the Department of Information Technology  
10.31 Services; the Department of Iron Range Resources and Rehabilitation; the Department of  
10.32 Labor and Industry; the Department of Management and Budget; the Department of Military

11.1 Affairs; the Department of Natural Resources; the Department of Public Safety; the  
11.2 Department of Human Services; the Department of Revenue; the Department of  
11.3 Transportation; the Department of Veterans Affairs; and their successor departments.

11.4 **EFFECTIVE DATE.** This section is effective July 1, 2022.

11.5 Sec. 2. Minnesota Statutes 2021 Supplement, section 15.06, subdivision 1, is amended to  
11.6 read:

11.7 Subdivision 1. **Applicability.** This section applies to the following departments or  
11.8 agencies: the Departments of Administration, Agriculture, Behavioral Health, Commerce,  
11.9 Corrections, Education, Employment and Economic Development, Health, Human Rights,  
11.10 Labor and Industry, Management and Budget, Natural Resources, Public Safety, Human  
11.11 Services, Revenue, Transportation, and Veterans Affairs; the Housing Finance and Pollution  
11.12 Control Agencies; the Office of Commissioner of Iron Range Resources and Rehabilitation;  
11.13 the Department of Information Technology Services; the Bureau of Mediation Services;  
11.14 and their successor departments and agencies. The heads of the foregoing departments or  
11.15 agencies are "commissioners."

11.16 **EFFECTIVE DATE.** This section is effective July 1, 2022.

11.17 Sec. 3. Minnesota Statutes 2020, section 15A.0815, subdivision 2, is amended to read:

11.18 Subd. 2. **Group I salary limits.** The salary for a position listed in this subdivision shall  
11.19 not exceed 133 percent of the salary of the governor. This limit must be adjusted annually  
11.20 on January 1. The new limit must equal the limit for the prior year increased by the percentage  
11.21 increase, if any, in the Consumer Price Index for all urban consumers from October of the  
11.22 second prior year to October of the immediately prior year. The commissioner of management  
11.23 and budget must publish the limit on the department's website. This subdivision applies to  
11.24 the following positions:

11.25 Commissioner of administration;

11.26 Commissioner of agriculture;

11.27 Commissioner of behavioral health;

11.28 Commissioner of education;

11.29 Commissioner of commerce;

11.30 Commissioner of corrections;

11.31 Commissioner of health;

- 12.1 Commissioner, Minnesota Office of Higher Education;
- 12.2 Commissioner, Housing Finance Agency;
- 12.3 Commissioner of human rights;
- 12.4 Commissioner of human services;
- 12.5 Commissioner of labor and industry;
- 12.6 Commissioner of management and budget;
- 12.7 Commissioner of natural resources;
- 12.8 Commissioner, Pollution Control Agency;
- 12.9 Commissioner of public safety;
- 12.10 Commissioner of revenue;
- 12.11 Commissioner of employment and economic development;
- 12.12 Commissioner of transportation; and
- 12.13 Commissioner of veterans affairs.

12.14 **EFFECTIVE DATE.** This section is effective July 1, 2022.

12.15 Sec. 4. Minnesota Statutes 2021 Supplement, section 43A.08, subdivision 1a, is amended  
12.16 to read:

12.17 Subd. 1a. **Additional unclassified positions.** Appointing authorities for the following  
12.18 agencies may designate additional unclassified positions according to this subdivision: the  
12.19 Departments of Administration; Agriculture; Behavioral Health; Commerce; Corrections;  
12.20 Education; Employment and Economic Development; Explore Minnesota Tourism;  
12.21 Management and Budget; Health; Human Rights; Labor and Industry; Natural Resources;  
12.22 Public Safety; Human Services; Revenue; Transportation; and Veterans Affairs; the Housing  
12.23 Finance and Pollution Control Agencies; the State Lottery; the State Board of Investment;  
12.24 the Office of Administrative Hearings; the Department of Information Technology Services;  
12.25 the Offices of the Attorney General, Secretary of State, and State Auditor; the Minnesota  
12.26 State Colleges and Universities; the Minnesota Office of Higher Education; the Perpich  
12.27 Center for Arts Education; and the Minnesota Zoological Board.

12.28 A position designated by an appointing authority according to this subdivision must  
12.29 meet the following standards and criteria:

13.1 (1) the designation of the position would not be contrary to other law relating specifically  
13.2 to that agency;

13.3 (2) the person occupying the position would report directly to the agency head or deputy  
13.4 agency head and would be designated as part of the agency head's management team;

13.5 (3) the duties of the position would involve significant discretion and substantial  
13.6 involvement in the development, interpretation, and implementation of agency policy;

13.7 (4) the duties of the position would not require primarily personnel, accounting, or other  
13.8 technical expertise where continuity in the position would be important;

13.9 (5) there would be a need for the person occupying the position to be accountable to,  
13.10 loyal to, and compatible with, the governor and the agency head, the employing statutory  
13.11 board or commission, or the employing constitutional officer;

13.12 (6) the position would be at the level of division or bureau director or assistant to the  
13.13 agency head; and

13.14 (7) the commissioner has approved the designation as being consistent with the standards  
13.15 and criteria in this subdivision.

13.16 **EFFECTIVE DATE.** This section is effective July 1, 2022.

13.17 Sec. 5. Minnesota Statutes 2021 Supplement, section 62A.673, subdivision 2, is amended  
13.18 to read:

13.19 Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision  
13.20 have the meanings given.

13.21 (b) "Distant site" means a site at which a health care provider is located while providing  
13.22 health care services or consultations by means of telehealth.

13.23 (c) "Health care provider" means a health care professional who is licensed or registered  
13.24 by the state to perform health care services within the provider's scope of practice and in  
13.25 accordance with state law. A health care provider includes a mental health professional ~~as~~  
13.26 ~~defined under section 245.462, subdivision 18, or 245.4871, subdivision 27~~ 245I.04,  
13.27 subdivision 2; a mental health practitioner ~~as defined under section 245.462, subdivision~~  
13.28 ~~17, or 245.4871, subdivision 26~~ 245I.04, subdivision 4; a clinical trainee under section  
13.29 245I.04, subdivision 6; a treatment coordinator under section 245G.11, subdivision 7; an  
13.30 alcohol and drug counselor under section 245G.11, subdivision 5; and a recovery peer under  
13.31 section 245G.11, subdivision 8.

13.32 (d) "Health carrier" has the meaning given in section 62A.011, subdivision 2.

14.1 (e) "Health plan" has the meaning given in section 62A.011, subdivision 3. Health plan  
14.2 includes dental plans as defined in section 62Q.76, subdivision 3, but does not include dental  
14.3 plans that provide indemnity-based benefits, regardless of expenses incurred, and are designed  
14.4 to pay benefits directly to the policy holder.

14.5 (f) "Originating site" means a site at which a patient is located at the time health care  
14.6 services are provided to the patient by means of telehealth. For purposes of store-and-forward  
14.7 technology, the originating site also means the location at which a health care provider  
14.8 transfers or transmits information to the distant site.

14.9 (g) "Store-and-forward technology" means the asynchronous electronic transfer or  
14.10 transmission of a patient's medical information or data from an originating site to a distant  
14.11 site for the purposes of diagnostic and therapeutic assistance in the care of a patient.

14.12 (h) "Telehealth" means the delivery of health care services or consultations through the  
14.13 use of real time two-way interactive audio and visual communications to provide or support  
14.14 health care delivery and facilitate the assessment, diagnosis, consultation, treatment,  
14.15 education, and care management of a patient's health care. Telehealth includes the application  
14.16 of secure video conferencing, store-and-forward technology, and synchronous interactions  
14.17 between a patient located at an originating site and a health care provider located at a distant  
14.18 site. Until July 1, 2023, telehealth also includes audio-only communication between a health  
14.19 care provider and a patient in accordance with subdivision 6, paragraph (b). Telehealth does  
14.20 not include communication between health care providers that consists solely of a telephone  
14.21 conversation, e-mail, or facsimile transmission. Telehealth does not include communication  
14.22 between a health care provider and a patient that consists solely of an e-mail or facsimile  
14.23 transmission. Telehealth does not include telemonitoring services as defined in paragraph  
14.24 (i).

14.25 (i) "Telemonitoring services" means the remote monitoring of clinical data related to  
14.26 the enrollee's vital signs or biometric data by a monitoring device or equipment that transmits  
14.27 the data electronically to a health care provider for analysis. Telemonitoring is intended to  
14.28 collect an enrollee's health-related data for the purpose of assisting a health care provider  
14.29 in assessing and monitoring the enrollee's medical condition or status.

14.30 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
14.31 whichever is later. The commissioner of human services shall notify the revisor of statutes  
14.32 when federal approval is obtained.

15.1 Sec. 6. Minnesota Statutes 2021 Supplement, section 148F.11, subdivision 1, is amended  
15.2 to read:

15.3 Subdivision 1. **Other professionals.** (a) Nothing in this chapter prevents members of  
15.4 other professions or occupations from performing functions for which they are qualified or  
15.5 licensed. This exception includes, but is not limited to: licensed physicians; registered nurses;  
15.6 licensed practical nurses; licensed psychologists and licensed psychological practitioners;  
15.7 members of the clergy provided such services are provided within the scope of regular  
15.8 ministries; American Indian medicine men and women; licensed attorneys; probation officers;  
15.9 licensed marriage and family therapists; licensed social workers; social workers employed  
15.10 by city, county, or state agencies; licensed professional counselors; licensed professional  
15.11 clinical counselors; licensed school counselors; registered occupational therapists or  
15.12 occupational therapy assistants; Upper Midwest Indian Council on Addictive Disorders  
15.13 (UMICAD) certified counselors when providing services to Native American people; city,  
15.14 county, or state employees when providing assessments or case management under Minnesota  
15.15 Rules, chapter 9530; and ~~individuals defined in section 256B.0623, subdivision 5, clauses~~  
15.16 ~~(4) to (6),~~ staff persons providing co-occurring substance use disorder treatment in adult  
15.17 mental health rehabilitative programs certified or licensed by the Department of Human  
15.18 Services under section 245I.23, 256B.0622, or 256B.0623.

15.19 (b) Nothing in this chapter prohibits technicians and resident managers in programs  
15.20 licensed by the Department of Human Services from discharging their duties as provided  
15.21 in Minnesota Rules, chapter 9530.

15.22 (c) Any person who is exempt from licensure under this section must not use a title  
15.23 incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug  
15.24 counselor" or otherwise hold himself or herself out to the public by any title or description  
15.25 stating or implying that he or she is engaged in the practice of alcohol and drug counseling,  
15.26 or that he or she is licensed to engage in the practice of alcohol and drug counseling, unless  
15.27 that person is also licensed as an alcohol and drug counselor. Persons engaged in the practice  
15.28 of alcohol and drug counseling are not exempt from the board's jurisdiction solely by the  
15.29 use of one of the titles in paragraph (a).

15.30 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
15.31 whichever is later. The commissioner of human services shall notify the revisor of statutes  
15.32 when federal approval is obtained.

16.1 Sec. 7. Minnesota Statutes 2021 Supplement, section 245.467, subdivision 2, is amended  
16.2 to read:

16.3 Subd. 2. **Diagnostic assessment.** ~~Providers~~ A provider of services governed by this  
16.4 section must complete a diagnostic assessment of a client according to the standards of  
16.5 section 245I.10, ~~subdivisions 4 to 6.~~

16.6 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
16.7 whichever is later. The commissioner of human services shall notify the revisor of statutes  
16.8 when federal approval is obtained.

16.9 Sec. 8. Minnesota Statutes 2021 Supplement, section 245.467, subdivision 3, is amended  
16.10 to read:

16.11 Subd. 3. **Individual treatment plans.** ~~Providers~~ A provider of services governed by  
16.12 this section must complete an individual treatment plan for a client according to the standards  
16.13 of section 245I.10, subdivisions 7 and 8.

16.14 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
16.15 whichever is later. The commissioner of human services shall notify the revisor of statutes  
16.16 when federal approval is obtained.

16.17 Sec. 9. Minnesota Statutes 2021 Supplement, section 245.4871, subdivision 21, is amended  
16.18 to read:

16.19 Subd. 21. **Individual treatment plan.** (a) "Individual treatment plan" means the  
16.20 formulation of planned services that are responsive to the needs and goals of a client. An  
16.21 individual treatment plan must be completed according to section 245I.10, subdivisions 7  
16.22 and 8.

16.23 (b) A children's residential facility licensed under Minnesota Rules, chapter 2960, is  
16.24 exempt from the requirements of section 245I.10, subdivisions 7 and 8. Instead, the individual  
16.25 treatment plan must:

16.26 (1) include a written plan of intervention, treatment, and services for a child with an  
16.27 emotional disturbance that the service provider develops under the clinical supervision of  
16.28 a mental health professional on the basis of a diagnostic assessment;

16.29 (2) be developed in conjunction with the family unless clinically inappropriate; and



17.1 (3) identify goals and objectives of treatment, treatment strategy, a schedule for  
17.2 accomplishing treatment goals and objectives, and the individuals responsible for providing  
17.3 treatment to the child with an emotional disturbance.

17.4 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
17.5 whichever is later. The commissioner of human services shall notify the revisor of statutes  
17.6 when federal approval is obtained.

17.7 Sec. 10. Minnesota Statutes 2021 Supplement, section 245.4876, subdivision 2, is amended  
17.8 to read:

17.9 Subd. 2. **Diagnostic assessment. Providers** A provider of services governed by this  
17.10 section ~~shall~~ must complete a diagnostic assessment of a client according to the standards  
17.11 of section 245I.10, ~~subdivisions 4 to 6.~~ Notwithstanding the required timelines for completing  
17.12 a diagnostic assessment in section 245I.10, a children's residential facility licensed under  
17.13 Minnesota Rules, chapter 2960, that provides mental health services to children must, within  
17.14 ten days of the client's admission: (1) complete the client's diagnostic assessment; or (2)  
17.15 review and update the client's diagnostic assessment with a summary of the child's current  
17.16 mental health status and service needs if a diagnostic assessment is available that was  
17.17 completed within 180 days preceding admission and the client's mental health status has  
17.18 not changed markedly since the diagnostic assessment.

17.19 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
17.20 whichever is later. The commissioner of human services shall notify the revisor of statutes  
17.21 when federal approval is obtained.

17.22 Sec. 11. Minnesota Statutes 2021 Supplement, section 245.4876, subdivision 3, is amended  
17.23 to read:

17.24 Subd. 3. **Individual treatment plans. Providers** A provider of services governed by  
17.25 this section ~~shall~~ must complete an individual treatment plan for a client according to the  
17.26 standards of section 245I.10, subdivisions 7 and 8. A children's residential facility licensed  
17.27 according to Minnesota Rules, chapter 2960, is exempt from the requirements in section  
17.28 245I.10, subdivisions 7 and 8. Instead, the facility must involve the child and the child's  
17.29 family in all phases of developing and implementing the individual treatment plan to the  
17.30 extent appropriate and must review the individual treatment plan every 90 days after intake.

17.31 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
17.32 whichever is later. The commissioner of human services shall notify the revisor of statutes  
17.33 when federal approval is obtained.

18.1 Sec. 12. Minnesota Statutes 2021 Supplement, section 245.735, subdivision 3, is amended  
18.2 to read:

18.3 Subd. 3. **Certified community behavioral health clinics.** (a) The commissioner shall  
18.4 establish a state certification process for certified community behavioral health clinics  
18.5 (CCBHCs) that satisfy all federal requirements necessary for CCBHCs certified under this  
18.6 section to be eligible for reimbursement under medical assistance, without service area  
18.7 limits based on geographic area or region. The commissioner shall consult with CCBHC  
18.8 stakeholders before establishing and implementing changes in the certification process and  
18.9 requirements. Entities that choose to be CCBHCs must:

18.10 (1) comply with state licensing requirements and other requirements issued by the  
18.11 commissioner;

18.12 (2) employ or contract for clinic staff who have backgrounds in diverse disciplines,  
18.13 including licensed mental health professionals and licensed alcohol and drug counselors,  
18.14 and staff who are culturally and linguistically trained to meet the needs of the population  
18.15 the clinic serves;

18.16 (3) ensure that clinic services are available and accessible to individuals and families of  
18.17 all ages and genders and that crisis management services are available 24 hours per day;

18.18 (4) establish fees for clinic services for individuals who are not enrolled in medical  
18.19 assistance using a sliding fee scale that ensures that services to patients are not denied or  
18.20 limited due to an individual's inability to pay for services;

18.21 (5) comply with quality assurance reporting requirements and other reporting  
18.22 requirements, including any required reporting of encounter data, clinical outcomes data,  
18.23 and quality data;

18.24 (6) provide crisis mental health and substance use services, withdrawal management  
18.25 services, emergency crisis intervention services, and stabilization services through existing  
18.26 mobile crisis services; screening, assessment, and diagnosis services, including risk  
18.27 assessments and level of care determinations; person- and family-centered treatment planning;  
18.28 outpatient mental health and substance use services; targeted case management; psychiatric  
18.29 rehabilitation services; peer support and counselor services and family support services;  
18.30 and intensive community-based mental health services, including mental health services  
18.31 for members of the armed forces and veterans. CCBHCs must directly provide the majority  
18.32 of these services to enrollees, but may coordinate some services with another entity through  
18.33 a collaboration or agreement, pursuant to paragraph (b);

19.1 (7) provide coordination of care across settings and providers to ensure seamless  
19.2 transitions for individuals being served across the full spectrum of health services, including  
19.3 acute, chronic, and behavioral needs. Care coordination may be accomplished through  
19.4 partnerships or formal contracts with:

19.5 (i) counties, health plans, pharmacists, pharmacies, rural health clinics, federally qualified  
19.6 health centers, inpatient psychiatric facilities, substance use and detoxification facilities, or  
19.7 community-based mental health providers; and

19.8 (ii) other community services, supports, and providers, including schools, child welfare  
19.9 agencies, juvenile and criminal justice agencies, Indian health services clinics, tribally  
19.10 licensed health care and mental health facilities, urban Indian health clinics, Department of  
19.11 Veterans Affairs medical centers, outpatient clinics, drop-in centers, acute care hospitals,  
19.12 and hospital outpatient clinics;

19.13 (8) be certified as a mental health ~~clinics~~ clinic under section ~~245.69, subdivision 2~~  
19.14 245I.20;

19.15 (9) comply with standards established by the commissioner relating to CCBHC  
19.16 screenings, assessments, and evaluations;

19.17 (10) be licensed to provide substance use disorder treatment under chapter 245G;

19.18 (11) be certified to provide children's therapeutic services and supports under section  
19.19 256B.0943;

19.20 (12) be certified to provide adult rehabilitative mental health services under section  
19.21 256B.0623;

19.22 (13) be enrolled to provide mental health crisis response services under ~~sections~~ section  
19.23 256B.0624 and 256B.0944;

19.24 (14) be enrolled to provide mental health targeted case management under section  
19.25 256B.0625, subdivision 20;

19.26 (15) comply with standards relating to mental health case management in Minnesota  
19.27 Rules, parts 9520.0900 to 9520.0926;

19.28 (16) provide services that comply with the evidence-based practices described in  
19.29 paragraph (e); and

19.30 (17) comply with standards relating to peer services under sections 256B.0615,  
19.31 256B.0616, and 245G.07, subdivision 1, paragraph (a), clause (5), as applicable when peer  
19.32 services are provided.

20.1 (b) If a certified CCBHC is unable to provide one or more of the services listed in  
20.2 paragraph (a), clauses (6) to (17), the CCBHC may contract with another entity that has the  
20.3 required authority to provide that service and that meets the following criteria as a designated  
20.4 collaborating organization:

20.5 (1) the entity has a formal agreement with the CCBHC to furnish one or more of the  
20.6 services under paragraph (a), clause (6);

20.7 (2) the entity provides assurances that it will provide services according to CCBHC  
20.8 service standards and provider requirements;

20.9 (3) the entity agrees that the CCBHC is responsible for coordinating care and has clinical  
20.10 and financial responsibility for the services that the entity provides under the agreement;  
20.11 and

20.12 (4) the entity meets any additional requirements issued by the commissioner.

20.13 (c) Notwithstanding any other law that requires a county contract or other form of county  
20.14 approval for certain services listed in paragraph (a), clause (6), a clinic that otherwise meets  
20.15 CCBHC requirements may receive the prospective payment under section 256B.0625,  
20.16 subdivision 5m, for those services without a county contract or county approval. As part of  
20.17 the certification process in paragraph (a), the commissioner shall require a letter of support  
20.18 from the CCBHC's host county confirming that the CCBHC and the county or counties it  
20.19 serves have an ongoing relationship to facilitate access and continuity of care, especially  
20.20 for individuals who are uninsured or who may go on and off medical assistance.

20.21 (d) When the standards listed in paragraph (a) or other applicable standards conflict or  
20.22 address similar issues in duplicative or incompatible ways, the commissioner may grant  
20.23 variances to state requirements if the variances do not conflict with federal requirements  
20.24 for services reimbursed under medical assistance. If standards overlap, the commissioner  
20.25 may substitute all or a part of a licensure or certification that is substantially the same as  
20.26 another licensure or certification. The commissioner shall consult with stakeholders, as  
20.27 described in subdivision 4, before granting variances under this provision. For the CCBHC  
20.28 that is certified but not approved for prospective payment under section 256B.0625,  
20.29 subdivision 5m, the commissioner may grant a variance under this paragraph if the variance  
20.30 does not increase the state share of costs.

20.31 (e) The commissioner shall issue a list of required evidence-based practices to be  
20.32 delivered by CCBHCs, and may also provide a list of recommended evidence-based practices.  
20.33 The commissioner may update the list to reflect advances in outcomes research and medical  
20.34 services for persons living with mental illnesses or substance use disorders. The commissioner

21.1 shall take into consideration the adequacy of evidence to support the efficacy of the practice,  
21.2 the quality of workforce available, and the current availability of the practice in the state.  
21.3 At least 30 days before issuing the initial list and any revisions, the commissioner shall  
21.4 provide stakeholders with an opportunity to comment.

21.5 (f) The commissioner shall recertify CCBHCs at least every three years. The  
21.6 commissioner shall establish a process for decertification and shall require corrective action,  
21.7 medical assistance repayment, or decertification of a CCBHC that no longer meets the  
21.8 requirements in this section or that fails to meet the standards provided by the commissioner  
21.9 in the application and certification process.

21.10 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
21.11 whichever is later. The commissioner of human services shall notify the revisor of statutes  
21.12 when federal approval is obtained.

21.13 Sec. 13. Minnesota Statutes 2021 Supplement, section 245I.02, subdivision 19, is amended  
21.14 to read:

21.15 Subd. 19. **Level of care assessment.** "Level of care assessment" means the level of care  
21.16 decision support tool appropriate to the client's age. For a client five years of age or younger,  
21.17 a level of care assessment is the Early Childhood Service Intensity Instrument (ESCII). For  
21.18 a client six to 17 years of age, a level of care assessment is the Child and Adolescent Service  
21.19 Intensity Instrument (CASII). For a client 18 years of age or older, a level of care assessment  
21.20 is the Level of Care Utilization System for Psychiatric and Addiction Services (LOCUS)  
21.21 or another tool authorized by the commissioner.

21.22 Sec. 14. Minnesota Statutes 2021 Supplement, section 245I.02, subdivision 36, is amended  
21.23 to read:

21.24 Subd. 36. **Staff person.** "Staff person" means an individual who works under a license  
21.25 holder's direction or under a contract with a license holder. Staff person includes an intern,  
21.26 consultant, contractor, individual who works part-time, and an individual who does not  
21.27 provide direct contact services to clients but does have physical access to clients. Staff  
21.28 person includes a volunteer who provides treatment services to a client or a volunteer whom  
21.29 the license holder regards as a staff person for the purpose of meeting staffing or service  
21.30 delivery requirements. A staff person must be 18 years of age or older.

22.1 Sec. 15. Minnesota Statutes 2021 Supplement, section 245I.03, subdivision 9, is amended  
22.2 to read:

22.3 Subd. 9. **Volunteers.** A If a licence holder uses volunteers, the license holder must have  
22.4 policies and procedures for using volunteers, including when a the license holder must  
22.5 submit a background study for a volunteer, and the specific tasks that a volunteer may  
22.6 perform.

22.7 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
22.8 whichever is later. The commissioner of human services shall notify the revisor of statutes  
22.9 when federal approval is obtained.

22.10 Sec. 16. Minnesota Statutes 2021 Supplement, section 245I.04, subdivision 4, is amended  
22.11 to read:

22.12 Subd. 4. **Mental health practitioner qualifications.** (a) An individual who is qualified  
22.13 in at least one of the ways described in paragraph (b) to (d) may serve as a mental health  
22.14 practitioner.

22.15 (b) An individual is qualified as a mental health practitioner through relevant coursework  
22.16 if the individual completes at least 30 semester hours or 45 quarter hours in behavioral  
22.17 sciences or related fields and:

22.18 (1) has at least 2,000 hours of experience providing services to individuals with:

22.19 (i) a mental illness or a substance use disorder; or

22.20 (ii) a traumatic brain injury or a developmental disability, and completes the additional  
22.21 training described in section 245I.05, subdivision 3, paragraph (c), before providing direct  
22.22 contact services to a client;

22.23 (2) is fluent in the non-English language of the ethnic group to which at least 50 percent  
22.24 of the individual's clients belong, and completes the additional training described in section  
22.25 245I.05, subdivision 3, paragraph (c), before providing direct contact services to a client;

22.26 (3) is working in a day treatment program under section 256B.0671, subdivision 3, or  
22.27 256B.0943; ~~or~~

22.28 (4) has completed a practicum or internship that (i) required direct interaction with adult  
22.29 clients or child clients, and (ii) was focused on behavioral sciences or related fields; or

22.30 (5) is in the process of completing a practicum or internship as part of a formal  
22.31 undergraduate or graduate training program in social work, psychology, or counseling.

23.1 (c) An individual is qualified as a mental health practitioner through work experience  
23.2 if the individual:

23.3 (1) has at least 4,000 hours of experience in the delivery of services to individuals with:

23.4 (i) a mental illness or a substance use disorder; or

23.5 (ii) a traumatic brain injury or a developmental disability, and completes the additional  
23.6 training described in section 245I.05, subdivision 3, paragraph (c), before providing direct  
23.7 contact services to clients; or

23.8 (2) receives treatment supervision at least once per week until meeting the requirement  
23.9 in clause (1) of 4,000 hours of experience and has at least 2,000 hours of experience providing  
23.10 services to individuals with:

23.11 (i) a mental illness or a substance use disorder; or

23.12 (ii) a traumatic brain injury or a developmental disability, and completes the additional  
23.13 training described in section 245I.05, subdivision 3, paragraph (c), before providing direct  
23.14 contact services to clients.

23.15 (d) An individual is qualified as a mental health practitioner if the individual has a  
23.16 master's or other graduate degree in behavioral sciences or related fields.

23.17 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
23.18 whichever is later. The commissioner of human services shall notify the revisor of statutes  
23.19 when federal approval is obtained.

23.20 Sec. 17. Minnesota Statutes 2021 Supplement, section 245I.05, subdivision 3, is amended  
23.21 to read:

23.22 Subd. 3. **Initial training.** (a) A staff person must receive training about:

23.23 (1) vulnerable adult maltreatment under section 245A.65, subdivision 3; and

23.24 (2) the maltreatment of minor reporting requirements and definitions in chapter 260E  
23.25 within 72 hours of first providing direct contact services to a client.

23.26 (b) Before providing direct contact services to a client, a staff person must receive training  
23.27 about:

23.28 (1) client rights and protections under section 245I.12;

23.29 (2) the Minnesota Health Records Act, including client confidentiality, family engagement  
23.30 under section 144.294, and client privacy;

24.1 (3) emergency procedures that the staff person must follow when responding to a fire,  
24.2 inclement weather, a report of a missing person, and a behavioral or medical emergency;

24.3 (4) specific activities and job functions for which the staff person is responsible, including  
24.4 the license holder's program policies and procedures applicable to the staff person's position;

24.5 (5) professional boundaries that the staff person must maintain; and

24.6 (6) specific needs of each client to whom the staff person will be providing direct contact  
24.7 services, including each client's developmental status, cognitive functioning, and physical  
24.8 and mental abilities.

24.9 (c) Before providing direct contact services to a client, a mental health rehabilitation  
24.10 worker, mental health behavioral aide, or mental health practitioner ~~qualified under~~ required  
24.11 to receive the training according to section 245I.04, subdivision 4, must receive 30 hours  
24.12 of training about:

24.13 (1) mental illnesses;

24.14 (2) client recovery and resiliency;

24.15 (3) mental health de-escalation techniques;

24.16 (4) co-occurring mental illness and substance use disorders; and

24.17 (5) psychotropic medications and medication side effects.

24.18 (d) Within 90 days of first providing direct contact services to an adult client, a clinical  
24.19 trainee, mental health practitioner, mental health certified peer specialist, or mental health  
24.20 rehabilitation worker must receive training about:

24.21 (1) trauma-informed care and secondary trauma;

24.22 (2) person-centered individual treatment plans, including seeking partnerships with  
24.23 family and other natural supports;

24.24 (3) co-occurring substance use disorders; and

24.25 (4) culturally responsive treatment practices.

24.26 (e) Within 90 days of first providing direct contact services to a child client, a clinical  
24.27 trainee, mental health practitioner, mental health certified family peer specialist, mental  
24.28 health certified peer specialist, or mental health behavioral aide must receive training about  
24.29 the topics in clauses (1) to (5). This training must address the developmental characteristics  
24.30 of each child served by the license holder and address the needs of each child in the context  
24.31 of the child's family, support system, and culture. Training topics must include:



25.1 (1) trauma-informed care and secondary trauma, including adverse childhood experiences  
25.2 (ACEs);

25.3 (2) family-centered treatment plan development, including seeking partnership with a  
25.4 child client's family and other natural supports;

25.5 (3) mental illness and co-occurring substance use disorders in family systems;

25.6 (4) culturally responsive treatment practices; and

25.7 (5) child development, including cognitive functioning, and physical and mental abilities.

25.8 (f) For a mental health behavioral aide, the training under paragraph (e) must include  
25.9 parent team training using a curriculum approved by the commissioner.

25.10 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
25.11 whichever is later. The commissioner of human services shall notify the revisor of statutes  
25.12 when federal approval is obtained.

25.13 Sec. 18. Minnesota Statutes 2021 Supplement, section 245I.08, subdivision 4, is amended  
25.14 to read:

25.15 Subd. 4. **Progress notes.** A license holder must use a progress note to document each  
25.16 occurrence of a mental health service that a staff person provides to a client. A progress  
25.17 note must include the following:

25.18 (1) the type of service;

25.19 (2) the date of service;

25.20 (3) the start and stop time of the service unless the license holder is licensed as a  
25.21 residential program;

25.22 (4) the location of the service;

25.23 (5) the scope of the service, including: (i) the targeted goal and objective; (ii) the  
25.24 intervention that the staff person provided to the client and the methods that the staff person  
25.25 used; (iii) the client's response to the intervention; (iv) the staff person's plan to take future  
25.26 actions, including changes in treatment that the staff person will implement if the intervention  
25.27 was ineffective; and (v) the service modality;

25.28 (6) the signature, ~~printed name,~~ and credentials of the staff person who provided the  
25.29 service to the client;

25.30 (7) the mental health provider travel documentation required by section 256B.0625, if  
25.31 applicable; and

26.1 (8) significant observations by the staff person, if applicable, including: (i) the client's  
26.2 current risk factors; (ii) emergency interventions by staff persons; (iii) consultations with  
26.3 or referrals to other professionals, family, or significant others; and (iv) changes in the  
26.4 client's mental or physical symptoms.

26.5 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
26.6 whichever is later. The commissioner of human services shall notify the revisor of statutes  
26.7 when federal approval is obtained.

26.8 Sec. 19. Minnesota Statutes 2021 Supplement, section 245I.09, subdivision 2, is amended  
26.9 to read:

26.10 Subd. 2. **Record retention.** A license holder must retain client records of a discharged  
26.11 client for a minimum of five years from the date of the client's discharge. A license holder  
26.12 who ceases to provide treatment services to a client closes a program must retain the a  
26.13 client's records for a minimum of five years from the date that the license holder stopped  
26.14 providing services to the client and must notify the commissioner of the location of the  
26.15 client records and the name of the individual responsible for storing and maintaining the  
26.16 client records.

26.17 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
26.18 whichever is later. The commissioner of human services shall notify the revisor of statutes  
26.19 when federal approval is obtained.

26.20 Sec. 20. Minnesota Statutes 2021 Supplement, section 245I.10, subdivision 2, is amended  
26.21 to read:

26.22 Subd. 2. **Generally.** (a) A license holder must use a client's diagnostic assessment or  
26.23 crisis assessment to determine a client's eligibility for mental health services, except as  
26.24 provided in this section.

26.25 (b) Prior to completing a client's initial diagnostic assessment, a license holder may  
26.26 provide a client with the following services:

26.27 (1) an explanation of findings;

26.28 (2) neuropsychological testing, neuropsychological assessment, and psychological  
26.29 testing;

26.30 (3) any combination of psychotherapy sessions, family psychotherapy sessions, and  
26.31 family psychoeducation sessions not to exceed three sessions;

27.1 (4) crisis assessment services according to section 256B.0624; and

27.2 (5) ten days of intensive residential treatment services according to the assessment and  
27.3 treatment planning standards in section ~~245.23~~ 245I.23, subdivision 7.

27.4 (c) Based on the client's needs that a crisis assessment identifies under section 256B.0624,  
27.5 a license holder may provide a client with the following services:

27.6 (1) crisis intervention and stabilization services under section 245I.23 or 256B.0624;  
27.7 and

27.8 (2) any combination of psychotherapy sessions, group psychotherapy sessions, family  
27.9 psychotherapy sessions, and family psychoeducation sessions not to exceed ten sessions  
27.10 within a 12-month period without prior authorization.

27.11 (d) Based on the client's needs in the client's brief diagnostic assessment, a license holder  
27.12 may provide a client with any combination of psychotherapy sessions, group psychotherapy  
27.13 sessions, family psychotherapy sessions, and family psychoeducation sessions not to exceed  
27.14 ten sessions within a 12-month period without prior authorization for any new client or for  
27.15 an existing client who the license holder projects will need fewer than ten sessions during  
27.16 the next 12 months.

27.17 (e) Based on the client's needs that a hospital's medical history and presentation  
27.18 examination identifies, a license holder may provide a client with:

27.19 (1) any combination of psychotherapy sessions, group psychotherapy sessions, family  
27.20 psychotherapy sessions, and family psychoeducation sessions not to exceed ten sessions  
27.21 within a 12-month period without prior authorization for any new client or for an existing  
27.22 client who the license holder projects will need fewer than ten sessions during the next 12  
27.23 months; and

27.24 (2) up to five days of day treatment services or partial hospitalization.

27.25 (f) A license holder must complete a new standard diagnostic assessment of a client:

27.26 (1) when the client requires services of a greater number or intensity than the services  
27.27 that paragraphs (b) to (e) describe;

27.28 (2) at least annually following the client's initial diagnostic assessment if the client needs  
27.29 additional mental health services and the client does not meet the criteria for a brief  
27.30 assessment;

27.31 (3) when the client's mental health condition has changed markedly since the client's  
27.32 most recent diagnostic assessment; or

28.1 (4) when the client's current mental health condition does not meet the criteria of the  
28.2 client's current diagnosis.

28.3 (g) For an existing client, the license holder must ensure that a new standard diagnostic  
28.4 assessment includes a written update containing all significant new or changed information  
28.5 about the client, and an update regarding what information has not significantly changed,  
28.6 including a discussion with the client about changes in the client's life situation, functioning,  
28.7 presenting problems, and progress with achieving treatment goals since the client's last  
28.8 diagnostic assessment was completed.

28.9 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
28.10 whichever is later. The commissioner of human services shall notify the revisor of statutes  
28.11 when federal approval is obtained.

28.12 Sec. 21. Minnesota Statutes 2021 Supplement, section 245I.10, subdivision 6, is amended  
28.13 to read:

28.14 Subd. 6. **Standard diagnostic assessment; required elements.** (a) Only a mental health  
28.15 professional or a clinical trainee may complete a standard diagnostic assessment of a client.  
28.16 A standard diagnostic assessment of a client must include a face-to-face interview with a  
28.17 client and a written evaluation of the client. The assessor must complete a client's standard  
28.18 diagnostic assessment within the client's cultural context.

28.19 (b) When completing a standard diagnostic assessment of a client, the assessor must  
28.20 gather and document information about the client's current life situation, including the  
28.21 following information:

28.22 (1) the client's age;

28.23 (2) the client's current living situation, including the client's housing status and household  
28.24 members;

28.25 (3) the status of the client's basic needs;

28.26 (4) the client's education level and employment status;

28.27 (5) the client's current medications;

28.28 (6) any immediate risks to the client's health and safety;

28.29 (7) the client's perceptions of the client's condition;

28.30 (8) the client's description of the client's symptoms, including the reason for the client's  
28.31 referral;

29.1 (9) the client's history of mental health treatment; and

29.2 (10) cultural influences on the client.

29.3 (c) If the assessor cannot obtain the information that this ~~subdivision~~ paragraph requires  
29.4 without retraumatizing the client or harming the client's willingness to engage in treatment,  
29.5 the assessor must identify which topics will require further assessment during the course  
29.6 of the client's treatment. The assessor must gather and document information related to the  
29.7 following topics:

29.8 (1) the client's relationship with the client's family and other significant personal  
29.9 relationships, including the client's evaluation of the quality of each relationship;

29.10 (2) the client's strengths and resources, including the extent and quality of the client's  
29.11 social networks;

29.12 (3) important developmental incidents in the client's life;

29.13 (4) maltreatment, trauma, potential brain injuries, and abuse that the client has suffered;

29.14 (5) the client's history of or exposure to alcohol and drug usage and treatment; and

29.15 (6) the client's health history and the client's family health history, including the client's  
29.16 physical, chemical, and mental health history.

29.17 (d) When completing a standard diagnostic assessment of a client, an assessor must use  
29.18 a recognized diagnostic framework.

29.19 (1) When completing a standard diagnostic assessment of a client who is five years of  
29.20 age or younger, the assessor must use the current edition of the DC: 0-5 Diagnostic  
29.21 Classification of Mental Health and Development Disorders of Infancy and Early Childhood  
29.22 published by Zero to Three.

29.23 (2) When completing a standard diagnostic assessment of a client who is six years of  
29.24 age or older, the assessor must use the current edition of the Diagnostic and Statistical  
29.25 Manual of Mental Disorders published by the American Psychiatric Association.

29.26 (3) When completing a standard diagnostic assessment of a client who is five years of  
29.27 age or younger, an assessor must administer the Early Childhood Service Intensity Instrument  
29.28 (ECSII) to the client and include the results in the client's assessment.

29.29 (4) When completing a standard diagnostic assessment of a client who is six to 17 years  
29.30 of age, an assessor must administer the Child and Adolescent Service Intensity Instrument  
29.31 (CASII) to the client and include the results in the client's assessment.

30.1 (5) When completing a standard diagnostic assessment of a client who is 18 years of  
30.2 age or older, an assessor must use either (i) the CAGE-AID Questionnaire or (ii) the criteria  
30.3 in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders  
30.4 published by the American Psychiatric Association to screen and assess the client for a  
30.5 substance use disorder.

30.6 (e) When completing a standard diagnostic assessment of a client, the assessor must  
30.7 include and document the following components of the assessment:

30.8 (1) the client's mental status examination;

30.9 (2) the client's baseline measurements; symptoms; behavior; skills; abilities; resources;  
30.10 vulnerabilities; safety needs, including client information that supports the assessor's findings  
30.11 after applying a recognized diagnostic framework from paragraph (d); and any differential  
30.12 diagnosis of the client;

30.13 (3) an explanation of: (i) how the assessor diagnosed the client using the information  
30.14 from the client's interview, assessment, psychological testing, and collateral information  
30.15 about the client; (ii) the client's needs; (iii) the client's risk factors; (iv) the client's strengths;  
30.16 and (v) the client's responsivity factors.

30.17 (f) When completing a standard diagnostic assessment of a client, the assessor must  
30.18 consult the client and the client's family about which services that the client and the family  
30.19 prefer to treat the client. The assessor must make referrals for the client as to services required  
30.20 by law.

30.21 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
30.22 whichever is later. The commissioner of human services shall notify the revisor of statutes  
30.23 when federal approval is obtained.

30.24 Sec. 22. Minnesota Statutes 2021 Supplement, section 245I.20, subdivision 5, is amended  
30.25 to read:

30.26 Subd. 5. **Treatment supervision specified.** (a) A mental health professional must remain  
30.27 responsible for each client's case. The certification holder must document the name of the  
30.28 mental health professional responsible for each case and the dates that the mental health  
30.29 professional is responsible for the client's case from beginning date to end date. The  
30.30 certification holder must assign each client's case for assessment, diagnosis, and treatment  
30.31 services to a treatment team member who is competent in the assigned clinical service, the  
30.32 recommended treatment strategy, and in treating the client's characteristics.

31.1 (b) Treatment supervision of mental health practitioners and clinical trainees required  
31.2 by section 245I.06 must include case reviews as described in this paragraph. Every two  
31.3 months, a mental health professional must complete and document a case review of each  
31.4 client assigned to the mental health professional when the client is receiving clinical services  
31.5 from a mental health practitioner or clinical trainee. The case review must include a  
31.6 consultation process that thoroughly examines the client's condition and treatment, including:  
31.7 (1) a review of the client's reason for seeking treatment, diagnoses and assessments, and  
31.8 the individual treatment plan; (2) a review of the appropriateness, duration, and outcome  
31.9 of treatment provided to the client; and (3) treatment recommendations.

31.10 Sec. 23. Minnesota Statutes 2021 Supplement, section 245I.23, subdivision 22, is amended  
31.11 to read:

31.12 Subd. 22. **Additional policy and procedure requirements.** (a) In addition to the policies  
31.13 and procedures in section 245I.03, the license holder must establish, enforce, and maintain  
31.14 the policies and procedures in this subdivision.

31.15 (b) The license holder must have policies and procedures for receiving referrals and  
31.16 making admissions determinations about referred persons under subdivisions ~~14 to 16~~ 15  
31.17 to 17.

31.18 (c) The license holder must have policies and procedures for discharging clients under  
31.19 subdivision ~~17~~ 18. In the policies and procedures, the license holder must identify the staff  
31.20 persons who are authorized to discharge clients from the program.

31.21 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
31.22 whichever is later. The commissioner of human services shall notify the revisor of statutes  
31.23 when federal approval is obtained.

31.24 Sec. 24. Minnesota Statutes 2021 Supplement, section 254B.05, subdivision 5, is amended  
31.25 to read:

31.26 Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for substance  
31.27 use disorder services and service enhancements funded under this chapter.

31.28 (b) Eligible substance use disorder treatment services include:

31.29 (1) outpatient treatment services that are licensed according to sections 245G.01 to  
31.30 245G.17, or applicable tribal license;

31.31 (2) comprehensive assessments provided according to sections 245.4863, paragraph (a),  
31.32 and 245G.05;

- 32.1 (3) care coordination services provided according to section 245G.07, subdivision 1,  
32.2 paragraph (a), clause (5);
- 32.3 (4) peer recovery support services provided according to section 245G.07, subdivision  
32.4 2, clause (8);
- 32.5 (5) on July 1, 2019, or upon federal approval, whichever is later, withdrawal management  
32.6 services provided according to chapter 245F;
- 32.7 (6) medication-assisted therapy services that are licensed according to sections 245G.01  
32.8 to 245G.17 and 245G.22, or applicable tribal license;
- 32.9 (7) medication-assisted therapy plus enhanced treatment services that meet the  
32.10 requirements of clause (6) and provide nine hours of clinical services each week;
- 32.11 (8) high, medium, and low intensity residential treatment services that are licensed  
32.12 according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license which  
32.13 provide, respectively, 30, 15, and five hours of clinical services each week;
- 32.14 (9) hospital-based treatment services that are licensed according to sections 245G.01 to  
32.15 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to  
32.16 144.56;
- 32.17 (10) adolescent treatment programs that are licensed as outpatient treatment programs  
32.18 according to sections 245G.01 to 245G.18 or as residential treatment programs according  
32.19 to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to 2960.0490, or  
32.20 applicable tribal license;
- 32.21 (11) high-intensity residential treatment services that are licensed according to sections  
32.22 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide 30 hours of  
32.23 clinical services each week provided by a state-operated vendor or to clients who have been  
32.24 civilly committed to the commissioner, present the most complex and difficult care needs,  
32.25 and are a potential threat to the community; and
- 32.26 (12) room and board facilities that meet the requirements of subdivision 1a.
- 32.27 (c) The commissioner shall establish higher rates for programs that meet the requirements  
32.28 of paragraph (b) and one of the following additional requirements:
- 32.29 (1) programs that serve parents with their children if the program:
- 32.30 (i) provides on-site child care during the hours of treatment activity that:
- 32.31 (A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter  
32.32 9503; or



- 33.1 (B) meets the licensure exclusion criteria of section 245A.03, subdivision 2, paragraph  
33.2 (a), clause (6), and meets the requirements under section 245G.19, subdivision 4; or
- 33.3 (ii) arranges for off-site child care during hours of treatment activity at a facility that is  
33.4 licensed under chapter 245A as:
- 33.5 (A) a child care center under Minnesota Rules, chapter 9503; or
- 33.6 (B) a family child care home under Minnesota Rules, chapter 9502;
- 33.7 (2) culturally specific or culturally responsive programs as defined in section 254B.01,  
33.8 subdivision 4a;
- 33.9 (3) disability responsive programs as defined in section 254B.01, subdivision 4b;
- 33.10 (4) programs that offer medical services delivered by appropriately credentialed health  
33.11 care staff in an amount equal to two hours per client per week if the medical needs of the  
33.12 client and the nature and provision of any medical services provided are documented in the  
33.13 client file; or
- 33.14 (5) programs that offer services to individuals with co-occurring mental health and  
33.15 chemical dependency problems if:
- 33.16 (i) the program meets the co-occurring requirements in section 245G.20;
- 33.17 (ii) 25 percent of the counseling staff are licensed mental health professionals, ~~as defined~~  
33.18 ~~in section 245.462, subdivision 18, clauses (1) to (6)~~ under section 245I.04, subdivision 2,  
33.19 or are students or licensing candidates under the supervision of a licensed alcohol and drug  
33.20 counselor supervisor and ~~licensed~~ licensed mental health professional under section 245I.04,  
33.21 subdivision 2, except that no more than 50 percent of the mental health staff may be students  
33.22 or licensing candidates with time documented to be directly related to provisions of  
33.23 co-occurring services;
- 33.24 (iii) clients scoring positive on a standardized mental health screen receive a mental  
33.25 health diagnostic assessment within ten days of admission;
- 33.26 (iv) the program has standards for multidisciplinary case review that include a monthly  
33.27 review for each client that, at a minimum, includes a licensed mental health professional  
33.28 and licensed alcohol and drug counselor, and their involvement in the review is documented;
- 33.29 (v) family education is offered that addresses mental health and substance abuse disorders  
33.30 and the interaction between the two; and
- 33.31 (vi) co-occurring counseling staff shall receive eight hours of co-occurring disorder  
33.32 training annually.

34.1 (d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program  
34.2 that provides arrangements for off-site child care must maintain current documentation at  
34.3 the chemical dependency facility of the child care provider's current licensure to provide  
34.4 child care services. Programs that provide child care according to paragraph (c), clause (1),  
34.5 must be deemed in compliance with the licensing requirements in section 245G.19.

34.6 (e) Adolescent residential programs that meet the requirements of Minnesota Rules,  
34.7 parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the requirements  
34.8 in paragraph (c), clause (4), items (i) to (iv).

34.9 (f) Subject to federal approval, substance use disorder services that are otherwise covered  
34.10 as direct face-to-face services may be provided via telehealth as defined in section 256B.0625,  
34.11 subdivision 3b. The use of telehealth to deliver services must be medically appropriate to  
34.12 the condition and needs of the person being served. Reimbursement shall be at the same  
34.13 rates and under the same conditions that would otherwise apply to direct face-to-face services.

34.14 (g) For the purpose of reimbursement under this section, substance use disorder treatment  
34.15 services provided in a group setting without a group participant maximum or maximum  
34.16 client to staff ratio under chapter 245G shall not exceed a client to staff ratio of 48 to one.  
34.17 At least one of the attending staff must meet the qualifications as established under this  
34.18 chapter for the type of treatment service provided. A recovery peer may not be included as  
34.19 part of the staff ratio.

34.20 (h) Payment for outpatient substance use disorder services that are licensed according  
34.21 to sections 245G.01 to 245G.17 is limited to six hours per day or 30 hours per week unless  
34.22 prior authorization of a greater number of hours is obtained from the commissioner.

34.23 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
34.24 whichever is later. The commissioner of human services shall notify the revisor of statutes  
34.25 when federal approval is obtained.

34.26 Sec. 25. Minnesota Statutes 2021 Supplement, section 256B.0622, subdivision 2, is  
34.27 amended to read:

34.28 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the  
34.29 meanings given them.

34.30 (b) "ACT team" means the group of interdisciplinary mental health staff who work as  
34.31 a team to provide assertive community treatment.

34.32 (c) "Assertive community treatment" means intensive nonresidential treatment and  
34.33 rehabilitative mental health services provided according to the assertive community treatment

35.1 model. Assertive community treatment provides a single, fixed point of responsibility for  
35.2 treatment, rehabilitation, and support needs for clients. Services are offered 24 hours per  
35.3 day, seven days per week, in a community-based setting.

35.4 (d) "Individual treatment plan" means a plan described by section 245I.10, subdivisions  
35.5 7 and 8.

35.6 (e) "Crisis assessment and intervention" means ~~mental health~~ mobile crisis response  
35.7 services ~~as defined in~~ under section 256B.0624, ~~subdivision 2~~.

35.8 (f) "Individual treatment team" means a minimum of three members of the ACT team  
35.9 who are responsible for consistently carrying out most of a client's assertive community  
35.10 treatment services.

35.11 (g) "Primary team member" means the person who leads and coordinates the activities  
35.12 of the individual treatment team and is the individual treatment team member who has  
35.13 primary responsibility for establishing and maintaining a therapeutic relationship with the  
35.14 client on a continuing basis.

35.15 (h) "Certified rehabilitation specialist" means a staff person who is qualified according  
35.16 to section 245I.04, subdivision 8.

35.17 (i) "Clinical trainee" means a staff person who is qualified according to section 245I.04,  
35.18 subdivision 6.

35.19 (j) "Mental health certified peer specialist" means a staff person who is qualified  
35.20 according to section 245I.04, subdivision 10.

35.21 (k) "Mental health practitioner" means a staff person who is qualified according to section  
35.22 245I.04, subdivision 4.

35.23 (l) "Mental health professional" means a staff person who is qualified according to  
35.24 section 245I.04, subdivision 2.

35.25 (m) "Mental health rehabilitation worker" means a staff person who is qualified according  
35.26 to section 245I.04, subdivision 14.

35.27 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
35.28 whichever is later. The commissioner of human services shall notify the revisor of statutes  
35.29 when federal approval is obtained.

36.1 Sec. 26. Minnesota Statutes 2021 Supplement, section 256B.0671, subdivision 6, is  
36.2 amended to read:

36.3 Subd. 6. **Dialectical behavior therapy.** (a) Subject to federal approval, medical assistance  
36.4 covers intensive mental health outpatient treatment for dialectical behavior therapy for  
36.5 adults. A dialectical behavior therapy provider must make reasonable and good faith efforts  
36.6 to report individual client outcomes to the commissioner using instruments and protocols  
36.7 that are approved by the commissioner.

36.8 (b) "Dialectical behavior therapy" means an evidence-based treatment approach that a  
36.9 mental health professional or clinical trainee provides to a client or a group of clients in an  
36.10 intensive outpatient treatment program using a combination of individualized rehabilitative  
36.11 and psychotherapeutic interventions. A dialectical behavior therapy program involves:  
36.12 individual dialectical behavior therapy, group skills training, telephone coaching, and team  
36.13 consultation meetings.

36.14 (c) To be eligible for dialectical behavior therapy, a client must:

36.15 ~~(1) be 18 years of age or older;~~

36.16 ~~(2)~~ (1) have mental health needs that available community-based services cannot meet  
36.17 or that the client must receive concurrently with other community-based services;

36.18 ~~(3)~~ (2) have either:

36.19 (i) a diagnosis of borderline personality disorder; or

36.20 (ii) multiple mental health diagnoses, exhibit behaviors characterized by impulsivity or  
36.21 intentional self-harm, and be at significant risk of death, morbidity, disability, or severe  
36.22 dysfunction in multiple areas of the client's life;

36.23 ~~(4)~~ (3) be cognitively capable of participating in dialectical behavior therapy as an  
36.24 intensive therapy program and be able and willing to follow program policies and rules to  
36.25 ensure the safety of the client and others; and

36.26 ~~(5)~~ (4) be at significant risk of one or more of the following if the client does not receive  
36.27 dialectical behavior therapy:

36.28 (i) having a mental health crisis;

36.29 (ii) requiring a more restrictive setting such as hospitalization;

36.30 (iii) decompensating; or

36.31 (iv) engaging in intentional self-harm behavior.

37.1 (d) Individual dialectical behavior therapy combines individualized rehabilitative and  
37.2 psychotherapeutic interventions to treat a client's suicidal and other dysfunctional behaviors  
37.3 and to reinforce a client's use of adaptive skillful behaviors. A mental health professional  
37.4 or clinical trainee must provide individual dialectical behavior therapy to a client. A mental  
37.5 health professional or clinical trainee providing dialectical behavior therapy to a client must:

37.6 (1) identify, prioritize, and sequence the client's behavioral targets;

37.7 (2) treat the client's behavioral targets;

37.8 (3) assist the client in applying dialectical behavior therapy skills to the client's natural  
37.9 environment through telephone coaching outside of treatment sessions;

37.10 (4) measure the client's progress toward dialectical behavior therapy targets;

37.11 (5) help the client manage mental health crises and life-threatening behaviors; and

37.12 (6) help the client learn and apply effective behaviors when working with other treatment  
37.13 providers.

37.14 (e) Group skills training combines individualized psychotherapeutic and psychiatric  
37.15 rehabilitative interventions conducted in a group setting to reduce the client's suicidal and  
37.16 other dysfunctional coping behaviors and restore function. Group skills training must teach  
37.17 the client adaptive skills in the following areas: (1) mindfulness; (2) interpersonal  
37.18 effectiveness; (3) emotional regulation; and (4) distress tolerance.

37.19 (f) Group skills training must be provided by two mental health professionals or by a  
37.20 mental health professional co-facilitating with a clinical trainee or a mental health practitioner.  
37.21 Individual skills training must be provided by a mental health professional, a clinical trainee,  
37.22 or a mental health practitioner.

37.23 (g) Before a program provides dialectical behavior therapy to a client, the commissioner  
37.24 must certify the program as a dialectical behavior therapy provider. To qualify for  
37.25 certification as a dialectical behavior therapy provider, a provider must:

37.26 (1) allow the commissioner to inspect the provider's program;

37.27 (2) provide evidence to the commissioner that the program's policies, procedures, and  
37.28 practices meet the requirements of this subdivision and chapter 245I;

37.29 (3) be enrolled as a MHCP provider; and

37.30 (4) have a manual that outlines the program's policies, procedures, and practices that  
37.31 meet the requirements of this subdivision.

38.1 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
38.2 whichever is later. The commissioner of human services shall notify the revisor of statutes  
38.3 when federal approval is obtained.

38.4 Sec. 27. Minnesota Statutes 2020, section 256B.0757, subdivision 1, is amended to read:

38.5 Subdivision 1. **Provision of coverage.** (a) The commissioner shall provide medical  
38.6 assistance coverage of behavioral health home services for eligible individuals with chronic  
38.7 conditions who select a designated provider as the individual's behavioral health home.

38.8 (b) The commissioner shall implement this section in compliance with the requirements  
38.9 of the state option to provide behavioral health homes for enrollees with chronic conditions,  
38.10 as provided under the Patient Protection and Affordable Care Act, Public Law 111-148,  
38.11 sections 2703 and 3502. Terms used in this section have the meaning provided in that act.

38.12 (c) The commissioner shall establish behavioral health homes to serve populations with  
38.13 serious mental illness who meet the eligibility requirements described under subdivision 2.  
38.14 The behavioral health home services provided by behavioral health homes shall focus on  
38.15 both the behavioral and the physical health of these populations.

38.16 Sec. 28. Minnesota Statutes 2020, section 256B.0757, subdivision 2, is amended to read:

38.17 Subd. 2. **Eligible individual.** (a) The commissioner may elect to develop behavioral  
38.18 health home models in accordance with United States Code, title 42, section 1396w-4.

38.19 (b) An individual is eligible for behavioral health home services under this section if  
38.20 the individual is eligible for medical assistance under this chapter and has a condition that  
38.21 meets the definition of mental illness as described in section 245.462, subdivision 20,  
38.22 paragraph (a), or emotional disturbance as defined in section 245.4871, subdivision 15,  
38.23 clause (2). The commissioner shall establish criteria for determining continued eligibility.

38.24 Sec. 29. Minnesota Statutes 2020, section 256B.0757, subdivision 3, is amended to read:

38.25 Subd. 3. **Behavioral health home services.** (a) Behavioral health home services means  
38.26 comprehensive and timely high-quality services that are provided by a behavioral health  
38.27 home. These services include:

38.28 (1) comprehensive care management;

38.29 (2) care coordination and health promotion;

38.30 (3) comprehensive transitional care, including appropriate follow-up, from inpatient to  
38.31 other settings;

- 39.1 (4) patient and family support, including authorized representatives;
- 39.2 (5) referral to community and social support services, if relevant; and
- 39.3 (6) use of health information technology to link services, as feasible and appropriate.

39.4 (b) The commissioner shall maximize the number and type of services included in this  
39.5 subdivision to the extent permissible under federal law, including physician, outpatient,  
39.6 mental health treatment, and rehabilitation services necessary for comprehensive transitional  
39.7 care following hospitalization.

39.8 Sec. 30. Minnesota Statutes 2020, section 256B.0757, subdivision 4, is amended to read:

39.9 Subd. 4. **Designated provider.** Behavioral health home services are voluntary and an  
39.10 eligible individual may choose any designated provider. The commissioner shall establish  
39.11 designated providers to serve as behavioral health homes and provide the services described  
39.12 in subdivision 3 to individuals eligible under subdivision 2. The commissioner shall apply  
39.13 for grants as provided under section 3502 of the Patient Protection and Affordable Care Act  
39.14 to establish behavioral health homes and provide capitated payments to designated providers.  
39.15 For purposes of this section, "designated provider" means a provider, clinical practice or  
39.16 clinical group practice, rural clinic, community health center, community mental health  
39.17 center, or any other entity that is determined by the commissioner to be qualified to be a  
39.18 behavioral health home for eligible individuals. This determination must be based on  
39.19 documentation evidencing that the designated provider has the systems and infrastructure  
39.20 in place to provide behavioral health home services and satisfies the qualification standards  
39.21 established by the commissioner in consultation with stakeholders and approved by the  
39.22 Centers for Medicare and Medicaid Services.

39.23 Sec. 31. Minnesota Statutes 2020, section 256B.0757, subdivision 5, is amended to read:

39.24 Subd. 5. **Payments.** The commissioner shall make payments to each designated provider  
39.25 for the provision of behavioral health home services described in subdivision 3 to each  
39.26 eligible individual under subdivision 2 that selects the behavioral health home as a provider.

39.27 Sec. 32. Minnesota Statutes 2020, section 256B.0757, subdivision 8, is amended to read:

39.28 Subd. 8. **Evaluation and continued development.** (a) For continued certification under  
39.29 this section, behavioral health homes must meet process, outcome, and quality standards  
39.30 developed and specified by the commissioner. The commissioner shall collect data from  
39.31 behavioral health homes as necessary to monitor compliance with certification standards.

40.1 (b) The commissioner may contract with a private entity to evaluate patient and family  
40.2 experiences, health care utilization, and costs.

40.3 (c) The commissioner shall utilize findings from the implementation of behavioral health  
40.4 homes to determine populations to serve under subsequent health home models for individuals  
40.5 with chronic conditions.

40.6 Sec. 33. Minnesota Statutes 2021 Supplement, section 256B.0946, subdivision 1, is  
40.7 amended to read:

40.8 Subdivision 1. **Required covered service components.** (a) Subject to federal approval,  
40.9 medical assistance covers medically necessary intensive treatment services when the services  
40.10 are provided by a provider entity certified under and meeting the standards in this section.  
40.11 The provider entity must make reasonable and good faith efforts to report individual client  
40.12 outcomes to the commissioner, using instruments and protocols approved by the  
40.13 commissioner.

40.14 (b) Intensive treatment services to children with mental illness residing in foster family  
40.15 settings that comprise specific required service components provided in clauses (1) to (6)  
40.16 are reimbursed by medical assistance when they meet the following standards:

40.17 (1) psychotherapy provided by a mental health professional or a clinical trainee;

40.18 (2) crisis planning;

40.19 (3) individual, family, and group psychoeducation services provided by a mental health  
40.20 professional or a clinical trainee;

40.21 (4) clinical care consultation provided by a mental health professional or a clinical  
40.22 trainee;

40.23 (5) individual treatment plan development as defined in ~~Minnesota Rules, part 9505.0371,~~  
40.24 ~~subpart 7~~ section 245I.10, subdivisions 7 and 8; and

40.25 (6) service delivery payment requirements as provided under subdivision 4.

40.26 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
40.27 whichever is later. The commissioner of human services shall notify the revisor of statutes  
40.28 when federal approval is obtained.



41.1 Sec. 34. Minnesota Statutes 2021 Supplement, section 256B.0947, subdivision 2, is  
41.2 amended to read:

41.3 Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings  
41.4 given them.

41.5 (a) "Intensive nonresidential rehabilitative mental health services" means child  
41.6 rehabilitative mental health services as defined in section 256B.0943, except that these  
41.7 services are provided by a multidisciplinary staff using a total team approach consistent  
41.8 with assertive community treatment, as adapted for youth, and are directed to recipients  
41.9 who are eight years of age or older and under 26 years of age who require intensive services  
41.10 to prevent admission to an inpatient psychiatric hospital or placement in a residential  
41.11 treatment facility or who require intensive services to step down from inpatient or residential  
41.12 care to community-based care.

41.13 (b) "Co-occurring mental illness and substance use disorder" means a dual diagnosis of  
41.14 at least one form of mental illness and at least one substance use disorder. Substance use  
41.15 disorders include alcohol or drug abuse or dependence, excluding nicotine use.

41.16 (c) "Standard diagnostic assessment" means the assessment described in section 245I.10,  
41.17 subdivision 6.

41.18 (d) "Medication education services" means services provided individually or in groups,  
41.19 which focus on:

41.20 (1) educating the client and client's family or significant nonfamilial supporters about  
41.21 mental illness and symptoms;

41.22 (2) the role and effects of medications in treating symptoms of mental illness; and

41.23 (3) the side effects of medications.

41.24 Medication education is coordinated with medication management services and does not  
41.25 duplicate it. Medication education services are provided by physicians, pharmacists, or  
41.26 registered nurses with certification in psychiatric and mental health care.

41.27 (e) "Mental health professional" means a staff person who is qualified according to  
41.28 section 245I.04, subdivision 2.

41.29 (f) "Provider agency" means a for-profit or nonprofit organization established to  
41.30 administer an assertive community treatment for youth team.

41.31 (g) "Substance use disorders" means one or more of the disorders defined in the diagnostic  
41.32 and statistical manual of mental disorders, current edition.

42.1 (h) "Transition services" means:

42.2 (1) activities, materials, consultation, and coordination that ensures continuity of the  
42.3 client's care in advance of and in preparation for the client's move from one stage of care  
42.4 or life to another by maintaining contact with the client and assisting the client to establish  
42.5 provider relationships;

42.6 (2) providing the client with knowledge and skills needed posttransition;

42.7 (3) establishing communication between sending and receiving entities;

42.8 (4) supporting a client's request for service authorization and enrollment; and

42.9 (5) establishing and enforcing procedures and schedules.

42.10 ~~A youth's transition from the children's mental health system and services to the adult~~  
42.11 ~~mental health system and services and return to the client's home and entry or re-entry into~~  
42.12 ~~community-based mental health services following discharge from an out-of-home placement~~  
42.13 ~~or inpatient hospital stay.~~

42.14 (i) "Treatment team" means all staff who provide services to recipients under this section.

42.15 (j) "Family peer specialist" means a staff person who is qualified under section  
42.16 256B.0616.

42.17 Sec. 35. Minnesota Statutes 2021 Supplement, section 256B.0947, subdivision 6, is  
42.18 amended to read:

42.19 Subd. 6. **Service standards.** The standards in this subdivision apply to intensive  
42.20 nonresidential rehabilitative mental health services.

42.21 (a) The treatment team must use team treatment, not an individual treatment model.

42.22 (b) Services must be available at times that meet client needs.

42.23 (c) Services must be age-appropriate and meet the specific needs of the client.

42.24 (d) The level of care assessment as defined in section 245I.02, subdivision 19, and  
42.25 functional assessment as defined in section 245I.02, subdivision 17, must be updated at  
42.26 least every ~~90 days~~ six months or prior to discharge from the service, whichever comes  
42.27 first.

42.28 (e) The treatment team must complete an individual treatment plan for each client,  
42.29 according to section 245I.10, subdivisions 7 and 8, and the individual treatment plan must:

43.1 (1) be completed in consultation with the client's current therapist and key providers and  
43.2 provide for ongoing consultation with the client's current therapist to ensure therapeutic  
43.3 continuity and to facilitate the client's return to the community. For clients under the age of  
43.4 18, the treatment team must consult with parents and guardians in developing the treatment  
43.5 plan;

43.6 (2) if a need for substance use disorder treatment is indicated by validated assessment:

43.7 (i) identify goals, objectives, and strategies of substance use disorder treatment;

43.8 (ii) develop a schedule for accomplishing substance use disorder treatment goals and  
43.9 objectives; and

43.10 (iii) identify the individuals responsible for providing substance use disorder treatment  
43.11 services and supports; and

43.12 (3) provide for the client's transition out of intensive nonresidential rehabilitative mental  
43.13 health services by defining the team's actions to assist the client and subsequent providers  
43.14 in the transition to less intensive or "stepped down" services; ~~and.~~

43.15 ~~(4) notwithstanding section 245I.10, subdivision 8, be reviewed at least every 90 days~~  
43.16 ~~and revised to document treatment progress or, if progress is not documented, to document~~  
43.17 ~~changes in treatment.~~

43.18 (f) The treatment team shall actively and assertively engage the client's family members  
43.19 and significant others by establishing communication and collaboration with the family and  
43.20 significant others and educating the family and significant others about the client's mental  
43.21 illness, symptom management, and the family's role in treatment, unless the team knows or  
43.22 has reason to suspect that the client has suffered or faces a threat of suffering any physical  
43.23 or mental injury, abuse, or neglect from a family member or significant other.

43.24 (g) For a client age 18 or older, the treatment team may disclose to a family member,  
43.25 other relative, or a close personal friend of the client, or other person identified by the client,  
43.26 the protected health information directly relevant to such person's involvement with the  
43.27 client's care, as provided in Code of Federal Regulations, title 45, part 164.502(b). If the  
43.28 client is present, the treatment team shall obtain the client's agreement, provide the client  
43.29 with an opportunity to object, or reasonably infer from the circumstances, based on the  
43.30 exercise of professional judgment, that the client does not object. If the client is not present  
43.31 or is unable, by incapacity or emergency circumstances, to agree or object, the treatment  
43.32 team may, in the exercise of professional judgment, determine whether the disclosure is in  
43.33 the best interests of the client and, if so, disclose only the protected health information that

44.1 is directly relevant to the family member's, relative's, friend's, or client-identified person's  
44.2 involvement with the client's health care. The client may orally agree or object to the  
44.3 disclosure and may prohibit or restrict disclosure to specific individuals.

44.4 (h) The treatment team shall provide interventions to promote positive interpersonal  
44.5 relationships.

44.6 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
44.7 whichever is later. The commissioner of human services shall notify the revisor of statutes  
44.8 when federal approval is obtained.

44.9 Sec. 36. Minnesota Statutes 2021 Supplement, section 256P.01, subdivision 6a, is amended  
44.10 to read:

44.11 Subd. 6a. **Qualified professional.** (a) For illness, injury, or incapacity, a "qualified  
44.12 professional" means a licensed physician, physician assistant, advanced practice registered  
44.13 nurse, physical therapist, occupational therapist, or licensed chiropractor, according to their  
44.14 scope of practice.

44.15 (b) For developmental disability, learning disability, and intelligence testing, a "qualified  
44.16 professional" means a licensed physician, physician assistant, advanced practice registered  
44.17 nurse, licensed independent clinical social worker, licensed psychologist, certified school  
44.18 psychologist, or certified psychometrist working under the supervision of a licensed  
44.19 psychologist.

44.20 (c) For mental health, a "qualified professional" means a licensed physician, advanced  
44.21 practice registered nurse, or qualified mental health professional under section 245I.04,  
44.22 subdivision 2.

44.23 (d) For substance use disorder, a "qualified professional" means a licensed physician, a  
44.24 qualified mental health professional under section ~~245.462, subdivision 18, clauses (1) to~~  
44.25 ~~(6)~~ 245I.04, subdivision 2, or an individual as defined in section 245G.11, subdivision 3,  
44.26 4, or 5.

44.27 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
44.28 whichever is later. The commissioner of human services shall notify the revisor of statutes  
44.29 when federal approval is obtained.

44.30 Sec. 37. **[256T.01] DEPARTMENT OF BEHAVIORAL HEALTH.**

44.31 The Department of Behavioral Health is created. The governor shall appoint the  
44.32 commissioner of behavioral health under section 15.06. The commissioner shall administer:

45.1 (1) the behavioral health services under medical assistance program under chapters 256  
45.2 and 256B;

45.3 (2) the behavioral health services under MinnesotaCare program under chapter 256L;

45.4 (3) mental health and chemical dependency services under chapters 245, 245G, 253C,  
45.5 254A, and 254B; and

45.6 (4) behavioral health quality, behavioral health analysis, behavioral health economics,  
45.7 and related data collection initiatives under chapters 62J, 62U, and 144.

45.8 **EFFECTIVE DATE.** This section is effective July 1, 2022.

45.9 **Sec. 38. [256T.02] TRANSFER OF DUTIES.**

45.10 (a) Section 15.039 applies to the transfer of duties required by this chapter.

45.11 (b) The commissioner of administration, with the approval of the governor, may issue  
45.12 reorganization orders under section 16B.37 as necessary to carry out the transfer of duties  
45.13 required by this chapter. The provision of section 16B.37, subdivision 1, stating that transfers  
45.14 under section 16B.37 may be made only to an agency that has been in existence for at least  
45.15 one year does not apply to transfers to an agency created by this chapter.

45.16 (c) The initial salary for the commissioner of behavioral health is the same as the salary  
45.17 for the commissioner of health. The salary may be changed in the manner specified in section  
45.18 15A.0815.

45.19 (d) For an employee affected by the transfer of duties required by this chapter, the  
45.20 seniority accrued by the employee at the employee's former agency transfers to the employee's  
45.21 new agency.

45.22 (e) The commissioner of management and budget must ensure that the aggregate cost  
45.23 for the commissioner of behavioral health is not more than the aggregate cost during the  
45.24 transition of creating the Department of Behavioral Health as it currently exists under the  
45.25 Department of Human Services and the Department of Health immediately before the  
45.26 effective date of this chapter, excluding any appropriation made during this legislative  
45.27 session.

45.28 **EFFECTIVE DATE.** This section is effective July 1, 2022.

46.1 Sec. 39. REVISOR INSTRUCTION.

46.2 (a) In Minnesota Statutes, the revisor of statutes shall change the term "chemical  
46.3 dependency" or similar terms to "substance use disorder." The revisor may make grammatical  
46.4 changes related to the term change.

46.5 (b) The revisor of statutes, in consultation with staff from the House Research  
46.6 Department; House Fiscal Analysis; the Office of Senate Counsel, Research, and Fiscal  
46.7 Analysis; and the respective departments shall prepare legislation for introduction in the  
46.8 2023 legislative session proposing the statutory changes needed to implement the transfers  
46.9 of duties required by this act.

46.10 EFFECTIVE DATE. Paragraph (b) is effective July 1, 2022.

46.11 Sec. 40. REPEALER.

46.12 (a) Minnesota Statutes 2020, sections 254A.04; and 254B.14, subdivisions 1, 2, 3, 4,  
46.13 and 6, are repealed.

46.14 (b) Minnesota Statutes 2021 Supplement, section 254B.14, subdivision 5, is repealed.

46.15 **ARTICLE 3**46.16 **COMMUNITY SUPPORTS**

46.17 Section 1. Minnesota Statutes 2021 Supplement, section 245A.03, subdivision 7, is  
46.18 amended to read:

46.19 Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license  
46.20 for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult  
46.21 foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter  
46.22 for a physical location that will not be the primary residence of the license holder for the  
46.23 entire period of licensure. If a family child foster care home or family adult foster care home  
46.24 license is issued during this moratorium, and the license holder changes the license holder's  
46.25 primary residence away from the physical location of the foster care license, the  
46.26 commissioner shall revoke the license according to section 245A.07. The commissioner  
46.27 shall not issue an initial license for a community residential setting licensed under chapter  
46.28 245D. When approving an exception under this paragraph, the commissioner shall consider  
46.29 the resource need determination process in paragraph (h), the availability of foster care  
46.30 licensed beds in the geographic area in which the licensee seeks to operate, the results of a  
46.31 person's choices during their annual assessment and service plan review, and the

47.1 recommendation of the local county board. The determination by the commissioner is final  
47.2 and not subject to appeal. Exceptions to the moratorium include:

47.3 (1) foster care settings where at least 80 percent of the residents are 55 years of age or  
47.4 older;

47.5 (2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or  
47.6 community residential setting licenses replacing adult foster care licenses in existence on  
47.7 December 31, 2013, and determined to be needed by the commissioner under paragraph  
47.8 (b);

47.9 (3) new foster care licenses or community residential setting licenses determined to be  
47.10 needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD,  
47.11 or regional treatment center; restructuring of state-operated services that limits the capacity  
47.12 of state-operated facilities; or allowing movement to the community for people who no  
47.13 longer require the level of care provided in state-operated facilities as provided under section  
47.14 256B.092, subdivision 13, or 256B.49, subdivision 24;

47.15 (4) new foster care licenses or community residential setting licenses determined to be  
47.16 needed by the commissioner under paragraph (b) for persons requiring hospital level care;  
47.17 or

47.18 ~~(5) new foster care licenses or community residential setting licenses for people receiving~~  
47.19 ~~services under chapter 245D and residing in an unlicensed setting before May 1, 2017, and~~  
47.20 ~~for which a license is required. This exception does not apply to people living in their own~~  
47.21 ~~home. For purposes of this clause, there is a presumption that a foster care or community~~  
47.22 ~~residential setting license is required for services provided to three or more people in a~~  
47.23 ~~dwelling unit when the setting is controlled by the provider. A license holder subject to this~~  
47.24 ~~exception may rebut the presumption that a license is required by seeking a reconsideration~~  
47.25 ~~of the commissioner's determination. The commissioner's disposition of a request for~~  
47.26 ~~reconsideration is final and not subject to appeal under chapter 14. The exception is available~~  
47.27 ~~until June 30, 2018. This exception is available when:~~

47.28 ~~(i) the person's case manager provided the person with information about the choice of~~  
47.29 ~~service, service provider, and location of service, including in the person's home, to help~~  
47.30 ~~the person make an informed choice; and~~

47.31 ~~(ii) the person's services provided in the licensed foster care or community residential~~  
47.32 ~~setting are less than or equal to the cost of the person's services delivered in the unlicensed~~  
47.33 ~~setting as determined by the lead agency; or~~

48.1 ~~(6)~~ (5) new foster care licenses or community residential setting licenses for people  
48.2 receiving customized living or 24-hour customized living services under the brain injury  
48.3 or community access for disability inclusion waiver plans under section 256B.49 and residing  
48.4 in the customized living setting before July 1, 2022, for which a license is required. A  
48.5 customized living service provider subject to this exception may rebut the presumption that  
48.6 a license is required by seeking a reconsideration of the commissioner's determination. The  
48.7 commissioner's disposition of a request for reconsideration is final and not subject to appeal  
48.8 under chapter 14. The exception is available until June 30, 2023. This exception is available  
48.9 when:

48.10 (i) the person's customized living services are provided in a customized living service  
48.11 setting serving four or fewer people under the brain injury or community access for disability  
48.12 inclusion waiver plans under section 256B.49 in a single-family home operational on or  
48.13 before June 30, 2021. Operational is defined in section 256B.49, subdivision 28;

48.14 (ii) the person's case manager provided the person with information about the choice of  
48.15 service, service provider, and location of service, including in the person's home, to help  
48.16 the person make an informed choice; and

48.17 (iii) the person's services provided in the licensed foster care or community residential  
48.18 setting are less than or equal to the cost of the person's services delivered in the customized  
48.19 living setting as determined by the lead agency.

48.20 (b) The commissioner shall determine the need for newly licensed foster care homes or  
48.21 community residential settings as defined under this subdivision. As part of the determination,  
48.22 the commissioner shall consider the availability of foster care capacity in the area in which  
48.23 the licensee seeks to operate, and the recommendation of the local county board. The  
48.24 determination by the commissioner must be final. A determination of need is not required  
48.25 for a change in ownership at the same address.

48.26 (c) When an adult resident served by the program moves out of a foster home that is not  
48.27 the primary residence of the license holder according to section 256B.49, subdivision 15,  
48.28 paragraph (f), or the adult community residential setting, the county shall immediately  
48.29 inform the Department of Human Services Licensing Division. The department may decrease  
48.30 the statewide licensed capacity for adult foster care settings.

48.31 (d) Residential settings that would otherwise be subject to the decreased license capacity  
48.32 established in paragraph (c) shall be exempt if the license holder's beds are occupied by  
48.33 residents whose primary diagnosis is mental illness and the license holder is certified under  
48.34 the requirements in subdivision 6a or section 245D.33.



49.1 (e) A resource need determination process, managed at the state level, using the available  
49.2 reports required by section 144A.351, and other data and information shall be used to  
49.3 determine where the reduced capacity determined under section 256B.493 will be  
49.4 implemented. The commissioner shall consult with the stakeholders described in section  
49.5 144A.351, and employ a variety of methods to improve the state's capacity to meet the  
49.6 informed decisions of those people who want to move out of corporate foster care or  
49.7 community residential settings, long-term service needs within budgetary limits, including  
49.8 seeking proposals from service providers or lead agencies to change service type, capacity,  
49.9 or location to improve services, increase the independence of residents, and better meet  
49.10 needs identified by the long-term services and supports reports and statewide data and  
49.11 information.

49.12 (f) At the time of application and reapplication for licensure, the applicant and the license  
49.13 holder that are subject to the moratorium or an exclusion established in paragraph (a) are  
49.14 required to inform the commissioner whether the physical location where the foster care  
49.15 will be provided is or will be the primary residence of the license holder for the entire period  
49.16 of licensure. If the primary residence of the applicant or license holder changes, the applicant  
49.17 or license holder must notify the commissioner immediately. The commissioner shall print  
49.18 on the foster care license certificate whether or not the physical location is the primary  
49.19 residence of the license holder.

49.20 (g) License holders of foster care homes identified under paragraph (f) that are not the  
49.21 primary residence of the license holder and that also provide services in the foster care home  
49.22 that are covered by a federally approved home and community-based services waiver, as  
49.23 authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human  
49.24 services licensing division that the license holder provides or intends to provide these  
49.25 waiver-funded services.

49.26 (h) The commissioner may adjust capacity to address needs identified in section  
49.27 144A.351. Under this authority, the commissioner may approve new licensed settings or  
49.28 delicense existing settings. Delicensing of settings will be accomplished through a process  
49.29 identified in section 256B.493. Annually, by August 1, the commissioner shall provide  
49.30 information and data on capacity of licensed long-term services and supports, actions taken  
49.31 under the subdivision to manage statewide long-term services and supports resources, and  
49.32 any recommendations for change to the legislative committees with jurisdiction over the  
49.33 health and human services budget.

49.34 (i) The commissioner must notify a license holder when its corporate foster care or  
49.35 community residential setting licensed beds are reduced under this section. The notice of

50.1 reduction of licensed beds must be in writing and delivered to the license holder by certified  
 50.2 mail or personal service. The notice must state why the licensed beds are reduced and must  
 50.3 inform the license holder of its right to request reconsideration by the commissioner. The  
 50.4 license holder's request for reconsideration must be in writing. If mailed, the request for  
 50.5 reconsideration must be postmarked and sent to the commissioner within 20 calendar days  
 50.6 after the license holder's receipt of the notice of reduction of licensed beds. If a request for  
 50.7 reconsideration is made by personal service, it must be received by the commissioner within  
 50.8 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

50.9 (j) The commissioner shall not issue an initial license for children's residential treatment  
 50.10 services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter  
 50.11 for a program that Centers for Medicare and Medicaid Services would consider an institution  
 50.12 for mental diseases. Facilities that serve only private pay clients are exempt from the  
 50.13 moratorium described in this paragraph. The commissioner has the authority to manage  
 50.14 existing statewide capacity for children's residential treatment services subject to the  
 50.15 moratorium under this paragraph and may issue an initial license for such facilities if the  
 50.16 initial license would not increase the statewide capacity for children's residential treatment  
 50.17 services subject to the moratorium under this paragraph.

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

50.19 Sec. 2. Minnesota Statutes 2020, section 245A.11, subdivision 2, is amended to read:

50.20 Subd. 2. **Permitted single-family residential use.** (a) Residential programs with a  
 50.21 licensed capacity of six or fewer persons shall be considered a permitted single-family  
 50.22 residential use of property for the purposes of zoning and other land use regulations, except  
 50.23 that a residential program whose primary purpose is to treat juveniles who have violated  
 50.24 criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis  
 50.25 of conduct in violation of criminal statutes relating to sex offenses shall not be considered  
 50.26 a permitted use. This exception shall not apply to residential programs licensed before July  
 50.27 1, 1995. Programs otherwise allowed under this subdivision shall not be prohibited by  
 50.28 operation of restrictive covenants or similar restrictions, regardless of when entered into,  
 50.29 which cannot be met because of the nature of the licensed program, including provisions  
 50.30 which require the home's occupants be related, and that the home must be occupied by the  
 50.31 owner, or similar provisions.

50.32 (b) Unless otherwise provided in any town, municipal, or county zoning regulation, a  
 50.33 licensed residential program in an intermediate care facility for persons with developmental  
 50.34 disabilities with a licensed capacity of seven to eight persons shall be considered a permitted

51.1 single-family residential use of property for the purposes of zoning and other land use  
 51.2 regulations. A town, municipal, or county zoning authority may require a conditional use  
 51.3 or special use permit to assure proper maintenance and operation of the residential program.  
 51.4 Conditions imposed on the residential program must not be more restrictive than those  
 51.5 imposed on other conditional uses or special uses of residential property in the same zones,  
 51.6 unless the additional conditions are necessary to protect the health and safety of the persons  
 51.7 being served by the program.

51.8 Sec. 3. Minnesota Statutes 2020, section 245A.11, subdivision 2a, is amended to read:

51.9 Subd. 2a. **Adult foster care and community residential setting license capacity.** (a)

51.10 The commissioner shall issue adult foster care and community residential setting licenses  
 51.11 with a maximum licensed capacity of four beds, including nonstaff roomers and boarders,  
 51.12 except that the commissioner may issue a license with a capacity of ~~five~~ up to six beds,  
 51.13 including roomers and boarders, according to paragraphs (b) to ~~(g)~~ (f).

51.14 (b) The license holder may have a maximum license capacity of ~~five~~ six if all persons  
 51.15 in care are age 55 or over and do not have a serious and persistent mental illness or a  
 51.16 developmental disability.

51.17 (c) The commissioner may grant variances to paragraph (b) to allow a facility with a  
 51.18 licensed capacity of up to ~~five~~ six persons to admit an individual under the age of 55 if the  
 51.19 variance complies with section 245A.04, subdivision 9, and approval of the variance is  
 51.20 recommended by the county in which the licensed facility is located.

51.21 (d) The commissioner may grant variances to paragraph (a) to allow the use of an  
 51.22 additional bed, up to five, for emergency crisis services for a person with serious and  
 51.23 persistent mental illness or a developmental disability, regardless of age, if the variance  
 51.24 complies with section 245A.04, subdivision 9, and approval of the variance is recommended  
 51.25 by the county in which the licensed facility is located.

51.26 (e) The commissioner may grant a variance to paragraph (b) to allow for the use of an  
 51.27 additional bed, up to ~~five~~ six, for respite services, as defined in section 245A.02, for persons  
 51.28 with disabilities, regardless of age, if the variance complies with sections 245A.03,  
 51.29 subdivision 7, and 245A.04, subdivision 9, and approval of the variance is recommended  
 51.30 by the county in which the licensed facility is located. Respite care may be provided under  
 51.31 the following conditions:

51.32 (1) staffing ratios cannot be reduced below the approved level for the individuals being  
 51.33 served in the home on a permanent basis;

52.1 (2) no more than two different individuals can be accepted for respite services in any  
 52.2 calendar month and the total respite days may not exceed 120 days per program in any  
 52.3 calendar year;

52.4 (3) the person receiving respite services must have his or her own bedroom, which could  
 52.5 be used for alternative purposes when not used as a respite bedroom, and cannot be the  
 52.6 room of another person who lives in the facility; and

52.7 (4) individuals living in the facility must be notified when the variance is approved. The  
 52.8 provider must give 60 days' notice in writing to the residents and their legal representatives  
 52.9 prior to accepting the first respite placement. Notice must be given to residents at least two  
 52.10 days prior to service initiation, or as soon as the license holder is able if they receive notice  
 52.11 of the need for respite less than two days prior to initiation, each time a respite client will  
 52.12 be served, unless the requirement for this notice is waived by the resident or legal guardian.

52.13 (f) The commissioner ~~may issue~~ shall increase the licensed capacity of an adult foster  
 52.14 care or community residential setting license with up to a capacity of five six adults if the  
 52.15 fifth or sixth bed does not increase the overall statewide capacity of licensed adult foster  
 52.16 care or community residential setting beds in homes that are not the primary residence of  
 52.17 the license holder, as identified in a plan submitted to the commissioner by the county, when  
 52.18 the capacity is recommended by the county licensing agency of the county in which the  
 52.19 facility is located and if the recommendation verifies that:

52.20 (1) the facility meets the physical environment requirements in the adult foster care  
 52.21 licensing rule or the community residential settings requirements in chapter 245D;

52.22 (2) the five-bed or six-bed living arrangement is specified for each resident in the  
 52.23 resident's:

52.24 (i) individualized plan of care;

52.25 (ii) individual service plan under section 256B.092, subdivision 1b, if required; or

52.26 (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105,  
 52.27 subpart 19, if required; and

52.28 (3) the license holder obtains written and signed informed consent from each resident  
 52.29 or resident's legal representative documenting the resident's informed choice to remain  
 52.30 living in the home and that the resident's refusal to consent would not have resulted in  
 52.31 service termination; ~~and~~

52.32 ~~(4) the facility was licensed for adult foster care before March 1, 2016.~~

53.1 ~~(g) The commissioner shall not issue a new adult foster care license under paragraph (f)~~  
 53.2 ~~after December 31, 2020.~~ The commissioner shall allow a facility with an adult foster care  
 53.3 ~~license issued under paragraph (f) before December 31, 2020,~~ to continue with a an increased  
 53.4 capacity of five adults if the license holder continues to comply with the requirements in  
 53.5 this paragraph (f).

53.6 Sec. 4. Minnesota Statutes 2020, section 245A.11, is amended by adding a subdivision to  
 53.7 read:

53.8 Subd. 2c. Residential programs in intermediate care facilities; license  
 53.9 capacity. Notwithstanding subdivision 4 and section 252.28, subdivision 3, for a licensed  
 53.10 residential program in an intermediate care facility for persons with developmental disabilities  
 53.11 located in a single-family home and in a town, municipal, or county zoning authority that  
 53.12 will permit a licensed capacity of seven or eight persons in a single-family home, the  
 53.13 commissioner may increase the licensed capacity of the program to seven or eight. If the  
 53.14 licensed capacity of a residential program in an intermediate care facility for persons with  
 53.15 developmental disabilities is increased under this subdivision, the capacity of the license  
 53.16 may remain at the increased number of persons.

53.17 Sec. 5. Minnesota Statutes 2020, section 245D.10, subdivision 3a, is amended to read:

53.18 Subd. 3a. **Service termination.** (a) The license holder must establish policies and  
 53.19 procedures for service termination that promote continuity of care and service coordination  
 53.20 with the person and the case manager and with other licensed caregivers, if any, who also  
 53.21 provide support to the person. The policy must include the requirements specified in  
 53.22 paragraphs (b) to (f).

53.23 (b) The license holder must permit each person to remain in the program or to continue  
 53.24 receiving services and must not terminate services unless:

53.25 (1) the termination is necessary for the person's welfare and the facility provider cannot  
 53.26 meet the person's needs;

53.27 (2) the safety of the person or others ~~in the program~~ is endangered and positive support  
 53.28 strategies were attempted and have not achieved and effectively maintained safety for the  
 53.29 person or others;

53.30 (3) the health of the person or others ~~in the program~~ would otherwise be endangered;

53.31 (4) the program provider has not been paid for services;

53.32 (5) the program provider ceases to operate;

54.1 (6) the person has been terminated by the lead agency from waiver eligibility; or

54.2 (7) for state-operated community-based services, the person no longer demonstrates  
54.3 complex behavioral needs that cannot be met by private community-based providers  
54.4 identified in section 252.50, subdivision 5, paragraph (a), clause (1).

54.5 (c) Prior to giving notice of service termination, the license holder must document actions  
54.6 taken to minimize or eliminate the need for termination. Action taken by the license holder  
54.7 must include, at a minimum:

54.8 (1) consultation with the person's support team or expanded support team to identify  
54.9 and resolve issues leading to issuance of the termination notice;

54.10 (2) a request to the case manager for intervention services identified in section 245D.03,  
54.11 subdivision 1, paragraph (c), clause (1), or other professional consultation or intervention  
54.12 services to support the person in the program. This requirement does not apply to notices  
54.13 of service termination issued under paragraph (b), clauses (4) and (7); and

54.14 (3) for state-operated community-based services terminating services under paragraph  
54.15 (b), clause (7), the state-operated community-based services must engage in consultation  
54.16 with the person's support team or expanded support team to:

54.17 (i) identify that the person no longer demonstrates complex behavioral needs that cannot  
54.18 be met by private community-based providers identified in section 252.50, subdivision 5,  
54.19 paragraph (a), clause (1);

54.20 (ii) provide notice of intent to issue a termination of services to the lead agency when a  
54.21 finding has been made that a person no longer demonstrates complex behavioral needs that  
54.22 cannot be met by private community-based providers identified in section 252.50, subdivision  
54.23 5, paragraph (a), clause (1);

54.24 (iii) assist the lead agency and case manager in developing a person-centered transition  
54.25 plan to a private community-based provider to ensure continuity of care; and

54.26 (iv) coordinate with the lead agency to ensure the private community-based service  
54.27 provider is able to meet the person's needs and criteria established in a person's  
54.28 person-centered transition plan.

54.29 If, based on the best interests of the person, the circumstances at the time of the notice were  
54.30 such that the license holder was unable to take the action specified in clauses (1) and (2),  
54.31 the license holder must document the specific circumstances and the reason for being unable  
54.32 to do so.

55.1 (d) The notice of service termination must meet the following requirements:

55.2 (1) the license holder must notify the person or the person's legal representative and the  
55.3 case manager in writing of the intended service termination. If the service termination is  
55.4 from residential supports and services as defined in section 245D.03, subdivision 1, paragraph  
55.5 (c), clause (3), the license holder must also notify the commissioner in writing; and

55.6 (2) the notice must include:

55.7 (i) the reason for the action;

55.8 (ii) except for a service termination under paragraph (b), clause (5), a summary of actions  
55.9 taken to minimize or eliminate the need for service termination or temporary service  
55.10 suspension as required under paragraph (c), and why these measures failed to prevent the  
55.11 termination or suspension;

55.12 (iii) the person's right to appeal the termination of services under section 256.045,  
55.13 subdivision 3, paragraph (a); and

55.14 (iv) the person's right to seek a temporary order staying the termination of services  
55.15 according to the procedures in section 256.045, subdivision 4a or 6, paragraph (c).

55.16 (e) Notice of the proposed termination of service, including those situations that began  
55.17 with a temporary service suspension, must be given at least 90 days prior to termination of  
55.18 services under paragraph (b), clause (7), 60 days prior to termination when a license holder  
55.19 is providing intensive supports and services identified in section 245D.03, subdivision 1,  
55.20 paragraph (c), and 30 days prior to termination for all other services licensed under this  
55.21 chapter. This notice may be given in conjunction with a notice of temporary service  
55.22 suspension under subdivision 3.

55.23 (f) During the service termination notice period, the license holder must:

55.24 (1) work with the support team or expanded support team to develop reasonable  
55.25 alternatives to protect the person and others and to support continuity of care;

55.26 (2) provide information requested by the person or case manager; and

55.27 (3) maintain information about the service termination, including the written notice of  
55.28 intended service termination, in the service recipient record.

55.29 (g) For notices issued under paragraph (b), clause (7), the lead agency shall provide  
55.30 notice to the commissioner and state-operated services at least 30 days before the conclusion  
55.31 of the 90-day termination period, if an appropriate alternative provider cannot be secured.  
55.32 Upon receipt of this notice, the commissioner and state-operated services shall reassess

56.1 whether a private community-based service can meet the person's needs. If the commissioner  
 56.2 determines that a private provider can meet the person's needs, state-operated services shall,  
 56.3 if necessary, extend notice of service termination until placement can be made. If the  
 56.4 commissioner determines that a private provider cannot meet the person's needs,  
 56.5 state-operated services shall rescind the notice of service termination and re-engage with  
 56.6 the lead agency in service planning for the person.

56.7 (h) For state-operated community-based services, the license holder shall prioritize the  
 56.8 capacity created within the existing service site by the termination of services under paragraph  
 56.9 (b), clause (7), to serve persons described in section 252.50, subdivision 5, paragraph (a),  
 56.10 clause (1).

56.11 Sec. 6. Minnesota Statutes 2020, section 245D.12, is amended to read:

56.12 **245D.12 INTEGRATED COMMUNITY SUPPORTS; SETTING CAPACITY**  
 56.13 **REPORT.**

56.14 (a) The license holder providing integrated community support, as defined in section  
 56.15 245D.03, subdivision 1, paragraph (c), clause (8), must submit a setting capacity report to  
 56.16 the commissioner to ensure the identified location of service delivery meets the criteria of  
 56.17 the home and community-based service requirements as specified in section 256B.492.

56.18 (b) The license holder shall provide the setting capacity report on the forms and in the  
 56.19 manner prescribed by the commissioner. The report must include:

56.20 (1) the address of the multifamily housing building where the license holder delivers  
 56.21 integrated community supports and owns, leases, or has a direct or indirect financial  
 56.22 relationship with the property owner;

56.23 (2) the total number of living units in the multifamily housing building described in  
 56.24 clause (1) where integrated community supports are delivered;

56.25 (3) the total number of living units in the multifamily housing building described in  
 56.26 clause (1), including the living units identified in clause (2); ~~and~~

56.27 (4) the total number of people who could reside in the living units in the multifamily  
 56.28 housing building described in clause (2) and receive integrated community supports; and

56.29 ~~(4)~~ (5) the percentage of living units that are controlled by the license holder in the  
 56.30 multifamily housing building by dividing clause (2) by clause (3).

56.31 (c) Only one license holder may deliver integrated community supports at the address  
 56.32 of the multifamily housing building.



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

57.2 Sec. 7. Minnesota Statutes 2020, section 256.01, is amended by adding a subdivision to  
57.3 read:

57.4 Subd. 12b. **Department of Human Services systemic critical incident review team.** (a)

57.5 The commissioner may establish a Department of Human Services systemic critical incident  
57.6 review team to review critical incidents reported as required under section 626.557 for

57.7 which the Department of Human Services is responsible under section 626.5572, subdivision

57.8 13; chapter 245D; or Minnesota Rules, chapter 9544. When reviewing a critical incident,

57.9 the systemic critical incident review team shall identify systemic influences to the incident

57.10 rather than determining the culpability of any actors involved in the incident. The systemic

57.11 critical incident review may assess the entire critical incident process from the point of an

57.12 entity reporting the critical incident through the ongoing case management process.

57.13 Department staff shall lead and conduct the reviews and may utilize county staff as reviewers.

57.14 The systemic critical incident review process may include but is not limited to:

57.15 (1) data collection about the incident and actors involved. Data may include the critical

57.16 incident report under review; previous incident reports pertaining to the person receiving

57.17 services; the service provider's policies and procedures applicable to the incident; the

57.18 coordinated service and support plan as defined in section 245D.02, subdivision 4b, for the

57.19 person receiving services; or an interview of an actor involved in the critical incident or the

57.20 review of the critical incident. Actors may include:

57.21 (i) staff of the provider agency;

57.22 (ii) lead agency staff administering home and community-based services delivered by

57.23 the provider;

57.24 (iii) Department of Human Services staff with oversight of home and community-based

57.25 services;

57.26 (iv) Department of Health staff with oversight of home and community-based services;

57.27 (v) members of the community including advocates, legal representatives, health care

57.28 providers, pharmacy staff, or others with knowledge of the incident or the actors in the

57.29 incident; and

57.30 (vi) staff from the office of the ombudsman for mental health and developmental

57.31 disabilities;

58.1 (2) systemic mapping of the critical incident. The team conducting the systemic mapping  
58.2 of the incident may include any actors identified in clause (1), designated representatives  
58.3 of other provider agencies, regional teams, and representatives of the local regional quality  
58.4 council identified in section 256B.097; and

58.5 (3) analysis of the case for systemic influences.

58.6 Data collected by the critical incident review team shall be aggregated and provided to  
58.7 regional teams, participating regional quality councils, and the commissioner. The regional  
58.8 teams and quality councils shall analyze the data and make recommendations to the  
58.9 commissioner regarding systemic changes that would decrease the number and severity of  
58.10 critical incidents in the future or improve the quality of the home and community-based  
58.11 service system.

58.12 (b) Cases selected for the systemic critical incident review process shall be selected by  
58.13 a selection committee among the following critical incident categories:

58.14 (1) cases of caregiver neglect identified in section 626.5572, subdivision 17;

58.15 (2) cases involving financial exploitation identified in section 626.5572, subdivision 9;

58.16 (3) incidents identified in section 245D.02, subdivision 11;

58.17 (4) incidents identified in Minnesota Rules, part 9544.0110; and

58.18 (5) service terminations reported to the department in accordance with section 245D.10,  
58.19 subdivision 3a.

58.20 (c) The systemic critical incident review under this section shall not replace the process  
58.21 for screening or investigating cases of alleged maltreatment of an adult under section 626.557.  
58.22 The department may select cases for systemic critical incident review, under the jurisdiction  
58.23 of the commissioner, reported for suspected maltreatment and closed following initial or  
58.24 final disposition.

58.25 (d) A member of the systemic critical incident review team shall not disclose what  
58.26 transpired during the review, except to carry out the duties of the review. The proceedings  
58.27 and records of the review team are protected nonpublic data as defined in section 13.02,  
58.28 subdivision 13, and are not subject to discovery or introduction into evidence in a civil or  
58.29 criminal action against a professional, the state, or a county agency arising out of the matters  
58.30 that the team is reviewing. Information, documents, and records otherwise available from  
58.31 other sources are not immune from discovery or use in a civil or criminal action solely  
58.32 because the information, documents, and records were assessed or presented during  
58.33 proceedings of the review team. A person who presented information before the systemic

59.1 critical incident review team or who is a member of the team shall not be prevented from  
59.2 testifying about matters within the person's knowledge. In a civil or criminal proceeding, a  
59.3 person shall not be questioned about the person's presentation of information to the review  
59.4 team or opinions formed by the person as a result of the review.

59.5 Sec. 8. Minnesota Statutes 2020, section 256.0112, is amended by adding a subdivision  
59.6 to read:

59.7 Subd. 11. **Contracts for case management services.** (a) Any contract between a local  
59.8 agency and a private agency for the purchase of case management services must include  
59.9 provisions requiring a process to evaluate the performance of individual case managers  
59.10 including service recipient input during revaluations under section 256B.0911. As a part of  
59.11 this process, the private agency must also have a process by which a service recipient can  
59.12 request and be offered a different case manager.

59.13 (b) Any contract between a local agency and a private agency for the purchase of case  
59.14 management services must include provisions stating that continued use of individual case  
59.15 managers who have received substandard performance evaluations to provide case  
59.16 management services to medical assistance enrollees constitutes materially deficient quality  
59.17 of service and is a breach of the contract. Such a contract must also include provisions  
59.18 authorizing the local agency to enforce appropriate remedies and sanctions for materially  
59.19 deficient quality of service resulting from continued use of individual case managers who  
59.20 have received substandard performance reviews.

59.21 **EFFECTIVE DATE.** This section is effective for all new contracts between a local  
59.22 agency and a private agency for the purchase of case management services entered into on  
59.23 or after August 1, 2022. All current contracts between a local agency and a private agency  
59.24 for the purchase of case management services must be updated by July 31, 2023, to reflect  
59.25 the new requirements under this section.

59.26 Sec. 9. Minnesota Statutes 2020, section 256.045, subdivision 3, is amended to read:

59.27 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

59.28 (1) any person applying for, receiving or having received public assistance, medical  
59.29 care, or a program of social services granted by the state agency or a county agency or the  
59.30 federal Food and Nutrition Act whose application for assistance is denied, not acted upon  
59.31 with reasonable promptness, or whose assistance is suspended, reduced, terminated, or  
59.32 claimed to have been incorrectly paid;

60.1 (2) any patient or relative aggrieved by an order of the commissioner under section  
60.2 252.27;

60.3 (3) a party aggrieved by a ruling of a prepaid health plan;

60.4 (4) except as provided under chapter 245C, any individual or facility determined by a  
60.5 lead investigative agency to have maltreated a vulnerable adult under section 626.557 after  
60.6 they have exercised their right to administrative reconsideration under section 626.557;

60.7 (5) any person whose claim for foster care payment according to a placement of the  
60.8 child resulting from a child protection assessment under chapter 260E is denied or not acted  
60.9 upon with reasonable promptness, regardless of funding source;

60.10 (6) any person to whom a right of appeal according to this section is given by other  
60.11 provision of law;

60.12 (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver  
60.13 under section 256B.15;

60.14 (8) an applicant aggrieved by an adverse decision to an application or redetermination  
60.15 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

60.16 (9) except as provided under chapter 245A, an individual or facility determined to have  
60.17 maltreated a minor under chapter 260E, after the individual or facility has exercised the  
60.18 right to administrative reconsideration under chapter 260E;

60.19 (10) except as provided under chapter 245C, an individual disqualified under sections  
60.20 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,  
60.21 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the  
60.22 individual has committed an act or acts that meet the definition of any of the crimes listed  
60.23 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section  
60.24 260E.06, subdivision 1, or 626.557, subdivision 3. Hearings regarding a maltreatment  
60.25 determination under clause (4) or (9) and a disqualification under this clause in which the  
60.26 basis for a disqualification is serious or recurring maltreatment, shall be consolidated into  
60.27 a single fair hearing. In such cases, the scope of review by the human services judge shall  
60.28 include both the maltreatment determination and the disqualification. The failure to exercise  
60.29 the right to an administrative reconsideration shall not be a bar to a hearing under this section  
60.30 if federal law provides an individual the right to a hearing to dispute a finding of  
60.31 maltreatment;

60.32 (11) any person with an outstanding debt resulting from receipt of public assistance,  
60.33 medical care, or the federal Food and Nutrition Act who is contesting a setoff claim by the

61.1 Department of Human Services or a county agency. The scope of the appeal is the validity  
61.2 of the claimant agency's intention to request a setoff of a refund under chapter 270A against  
61.3 the debt;

61.4 (12) a person issued a notice of service termination under section 245D.10, subdivision  
61.5 3a, ~~from~~ by a licensed provider of any residential supports and or services as defined listed  
61.6 in section 245D.03, subdivision 1, ~~paragraph~~ paragraphs (b) and (c), ~~clause (3)~~, that is not  
61.7 otherwise subject to appeal under subdivision 4a;

61.8 (13) an individual disability waiver recipient based on a denial of a request for a rate  
61.9 exception under section 256B.4914; or

61.10 (14) a person issued a notice of service termination under section 245A.11, subdivision  
61.11 11, that is not otherwise subject to appeal under subdivision 4a.

61.12 (b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10),  
61.13 is the only administrative appeal to the final agency determination specifically, including  
61.14 a challenge to the accuracy and completeness of data under section 13.04. Hearings requested  
61.15 under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or  
61.16 after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged  
61.17 to have maltreated a resident prior to October 1, 1995, shall be held as a contested case  
61.18 proceeding under the provisions of chapter 14. Hearings requested under paragraph (a),  
61.19 clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A  
61.20 hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only  
61.21 available when there is no district court action pending. If such action is filed in district  
61.22 court while an administrative review is pending that arises out of some or all of the events  
61.23 or circumstances on which the appeal is based, the administrative review must be suspended  
61.24 until the judicial actions are completed. If the district court proceedings are completed,  
61.25 dismissed, or overturned, the matter may be considered in an administrative hearing.

61.26 (c) For purposes of this section, bargaining unit grievance procedures are not an  
61.27 administrative appeal.

61.28 (d) The scope of hearings involving claims to foster care payments under paragraph (a),  
61.29 clause (5), shall be limited to the issue of whether the county is legally responsible for a  
61.30 child's placement under court order or voluntary placement agreement and, if so, the correct  
61.31 amount of foster care payment to be made on the child's behalf and shall not include review  
61.32 of the propriety of the county's child protection determination or child placement decision.

61.33 (e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to  
61.34 whether the proposed termination of services is authorized under section 245D.10,

62.1 subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements  
62.2 of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a,  
62.3 paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of  
62.4 termination of services, the scope of the hearing shall also include whether the case  
62.5 management provider has finalized arrangements for a residential facility, a program, or  
62.6 services that will meet the assessed needs of the recipient by the effective date of the service  
62.7 termination.

62.8 (f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor  
62.9 under contract with a county agency to provide social services is not a party and may not  
62.10 request a hearing under this section, except if assisting a recipient as provided in subdivision  
62.11 4.

62.12 (g) An applicant or recipient is not entitled to receive social services beyond the services  
62.13 prescribed under chapter 256M or other social services the person is eligible for under state  
62.14 law.

62.15 (h) The commissioner may summarily affirm the county or state agency's proposed  
62.16 action without a hearing when the sole issue is an automatic change due to a change in state  
62.17 or federal law.

62.18 (i) Unless federal or Minnesota law specifies a different time frame in which to file an  
62.19 appeal, an individual or organization specified in this section may contest the specified  
62.20 action, decision, or final disposition before the state agency by submitting a written request  
62.21 for a hearing to the state agency within 30 days after receiving written notice of the action,  
62.22 decision, or final disposition, or within 90 days of such written notice if the applicant,  
62.23 recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision  
62.24 13, why the request was not submitted within the 30-day time limit. The individual filing  
62.25 the appeal has the burden of proving good cause by a preponderance of the evidence.

62.26 Sec. 10. Minnesota Statutes 2021 Supplement, section 256B.0625, subdivision 3b, is  
62.27 amended to read:

62.28 Subd. 3b. **Telehealth services.** (a) Medical assistance covers medically necessary services  
62.29 and consultations delivered by a health care provider through telehealth in the same manner  
62.30 as if the service or consultation was delivered through in-person contact. Services or  
62.31 consultations delivered through telehealth shall be paid at the full allowable rate.

63.1 (b) The commissioner may establish criteria that a health care provider must attest to in  
63.2 order to demonstrate the safety or efficacy of delivering a particular service through  
63.3 telehealth. The attestation may include that the health care provider:

63.4 (1) has identified the categories or types of services the health care provider will provide  
63.5 through telehealth;

63.6 (2) has written policies and procedures specific to services delivered through telehealth  
63.7 that are regularly reviewed and updated;

63.8 (3) has policies and procedures that adequately address patient safety before, during,  
63.9 and after the service is delivered through telehealth;

63.10 (4) has established protocols addressing how and when to discontinue telehealth services;  
63.11 and

63.12 (5) has an established quality assurance process related to delivering services through  
63.13 telehealth.

63.14 (c) As a condition of payment, a licensed health care provider must document each  
63.15 occurrence of a health service delivered through telehealth to a medical assistance enrollee.  
63.16 Health care service records for services delivered through telehealth must meet the  
63.17 requirements set forth in Minnesota Rules, part 9505.2175, subparts 1 and 2, and must  
63.18 document:

63.19 (1) the type of service delivered through telehealth;

63.20 (2) the time the service began and the time the service ended, including an a.m. and p.m.  
63.21 designation;

63.22 (3) the health care provider's basis for determining that telehealth is an appropriate and  
63.23 effective means for delivering the service to the enrollee;

63.24 (4) the mode of transmission used to deliver the service through telehealth and records  
63.25 evidencing that a particular mode of transmission was utilized;

63.26 (5) the location of the originating site and the distant site;

63.27 (6) if the claim for payment is based on a physician's consultation with another physician  
63.28 through telehealth, the written opinion from the consulting physician providing the telehealth  
63.29 consultation; and

63.30 (7) compliance with the criteria attested to by the health care provider in accordance  
63.31 with paragraph (b).

64.1 (d) Telehealth visits, as described in this subdivision provided through audio and visual  
64.2 communication, or accessible video-based platforms may be used to satisfy the face-to-face  
64.3 requirement for reimbursement under the payment methods that apply to a federally qualified  
64.4 health center, rural health clinic, Indian health service, 638 tribal clinic, and certified  
64.5 community behavioral health clinic, if the service would have otherwise qualified for  
64.6 payment if performed in person.

64.7 ~~(e) For mental health services or assessments delivered through telehealth that are based~~  
64.8 ~~on an individual treatment plan, the provider may document the client's verbal approval or~~  
64.9 ~~electronic written approval of the treatment plan or change in the treatment plan in lieu of~~  
64.10 ~~the client's signature in accordance with Minnesota Rules, part 9505.0371.~~

64.11 ~~(f)~~ (e) For purposes of this subdivision, unless otherwise covered under this chapter:

64.12 (1) "telehealth" means the delivery of health care services or consultations through the  
64.13 use of real-time two-way interactive audio and visual communication to provide or support  
64.14 health care delivery and facilitate the assessment, diagnosis, consultation, treatment,  
64.15 education, and care management of a patient's health care. Telehealth includes the application  
64.16 of secure video conferencing, store-and-forward technology, and synchronous interactions  
64.17 between a patient located at an originating site and a health care provider located at a distant  
64.18 site. Telehealth does not include communication between health care providers, or between  
64.19 a health care provider and a patient that consists solely of an audio-only communication,  
64.20 e-mail, or facsimile transmission or as specified by law;

64.21 (2) "health care provider" means a health care provider as defined under section 62A.673,  
64.22 a community paramedic as defined under section 144E.001, subdivision 5f, a community  
64.23 health worker who meets the criteria under subdivision 49, paragraph (a), a mental health  
64.24 certified peer specialist under section ~~256B.0615~~, subdivision 5 245I.04, subdivision 10, a  
64.25 mental health certified family peer specialist under section ~~256B.0616~~, subdivision 5 245I.04,  
64.26 subdivision 12, a mental health rehabilitation worker under section ~~256B.0623~~, subdivision  
64.27 5, paragraph (a), clause (4), and paragraph (b) 245I.04, subdivision 14, a mental health  
64.28 behavioral aide under section ~~256B.0943~~, subdivision 7, paragraph (b), clause (3) 245I.04,  
64.29 subdivision 16, a treatment coordinator under section 245G.11, subdivision 7, an alcohol  
64.30 and drug counselor under section 245G.11, subdivision 5, a recovery peer under section  
64.31 245G.11, subdivision 8; and

64.32 (3) "originating site," "distant site," and "store-and-forward technology" have the  
64.33 meanings given in section 62A.673, subdivision 2.



65.1 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,  
65.2 whichever is later. The commissioner of human services shall notify the revisor of statutes  
65.3 when federal approval is obtained.

65.4 Sec. 11. Minnesota Statutes 2020, section 256B.0659, subdivision 19, is amended to read:

65.5 Subd. 19. **Personal care assistance choice option; qualifications; duties.** (a) Under  
65.6 personal care assistance choice, the recipient or responsible party shall:

65.7 (1) recruit, hire, schedule, and terminate personal care assistants according to the terms  
65.8 of the written agreement required under subdivision 20, paragraph (a);

65.9 (2) develop a personal care assistance care plan based on the assessed needs and  
65.10 addressing the health and safety of the recipient with the assistance of a qualified professional  
65.11 as needed;

65.12 (3) orient and train the personal care assistant with assistance as needed from the qualified  
65.13 professional;

65.14 (4) ~~effective January 1, 2010,~~ supervise and evaluate the personal care assistant with the  
65.15 qualified professional, who is required to visit the recipient at least every 180 days;

65.16 (5) monitor and verify in writing and report to the personal care assistance choice agency  
65.17 the number of hours worked by the personal care assistant and the qualified professional;

65.18 (6) engage in an annual ~~face-to-face~~ reassessment as required in subdivision 3a to  
65.19 determine continuing eligibility and service authorization; and

65.20 (7) use the same personal care assistance choice provider agency if shared personal  
65.21 assistance care is being used.

65.22 (b) The personal care assistance choice provider agency shall:

65.23 (1) meet all personal care assistance provider agency standards;

65.24 (2) enter into a written agreement with the recipient, responsible party, and personal  
65.25 care assistants;

65.26 (3) not be related as a parent, child, sibling, or spouse to the recipient or the personal  
65.27 care assistant; and

65.28 (4) ensure arm's-length transactions without undue influence or coercion with the recipient  
65.29 and personal care assistant.

65.30 (c) The duties of the personal care assistance choice provider agency are to:

66.1 (1) be the employer of the personal care assistant and the qualified professional for  
66.2 employment law and related regulations including, but not limited to, purchasing and  
66.3 maintaining workers' compensation, unemployment insurance, surety and fidelity bonds,  
66.4 and liability insurance, and submit any or all necessary documentation including, but not  
66.5 limited to, workers' compensation, unemployment insurance, and labor market data required  
66.6 under section 256B.4912, subdivision 1a;

66.7 (2) bill the medical assistance program for personal care assistance services and qualified  
66.8 professional services;

66.9 (3) request and complete background studies that comply with the requirements for  
66.10 personal care assistants and qualified professionals;

66.11 (4) pay the personal care assistant and qualified professional based on actual hours of  
66.12 services provided;

66.13 (5) withhold and pay all applicable federal and state taxes;

66.14 (6) verify and keep records of hours worked by the personal care assistant and qualified  
66.15 professional;

66.16 (7) make the arrangements and pay taxes and other benefits, if any, and comply with  
66.17 any legal requirements for a Minnesota employer;

66.18 (8) enroll in the medical assistance program as a personal care assistance choice agency;  
66.19 and

66.20 (9) enter into a written agreement as specified in subdivision 20 before services are  
66.21 provided.

66.22 Sec. 12. Minnesota Statutes 2021 Supplement, section 256B.0911, subdivision 3a, is  
66.23 amended to read:

66.24 Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services  
66.25 planning, or other assistance intended to support community-based living, including persons  
66.26 who need assessment ~~in order~~ to determine waiver or alternative care program eligibility,  
66.27 must be visited by a long-term care consultation team within 20 calendar days after the date  
66.28 on which an assessment was requested or recommended. Upon statewide implementation  
66.29 of subdivisions 2b, 2c, and 5, this requirement also applies to an assessment of a person  
66.30 requesting personal care assistance services. The commissioner shall provide at least a  
66.31 90-day notice to lead agencies prior to the effective date of this requirement. Assessments  
66.32 must be conducted according to paragraphs (b) to (r).

67.1 (b) Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall use certified  
67.2 assessors to conduct the assessment. For a person with complex health care needs, a public  
67.3 health or registered nurse from the team must be consulted.

67.4 (c) The MnCHOICES assessment provided by the commissioner to lead agencies must  
67.5 be used to complete a comprehensive, conversation-based, person-centered assessment.  
67.6 The assessment must include the health, psychological, functional, environmental, and  
67.7 social needs of the individual necessary to develop a person-centered community support  
67.8 plan that meets the individual's needs and preferences.

67.9 (d) Except as provided in paragraph (r), the assessment must be conducted by a certified  
67.10 assessor in a face-to-face conversational interview with the person being assessed. The  
67.11 person's legal representative must provide input during the assessment process and may do  
67.12 so remotely if requested. At the request of the person, other individuals may participate in  
67.13 the assessment to provide information on the needs, strengths, and preferences of the person  
67.14 necessary to develop a community support plan that ensures the person's health and safety.  
67.15 Except for legal representatives or family members invited by the person, persons  
67.16 participating in the assessment may not be a provider of service or have any financial interest  
67.17 in the provision of services. For persons who are to be assessed for ~~elderly waiver~~ customized  
67.18 living services under chapter 256S or section 256B.49 or adult day services under chapter  
67.19 256S, with the permission of the person being assessed or the person's designated or legal  
67.20 representative, the client's current or proposed provider of services may submit a copy of  
67.21 the provider's nursing assessment or written report outlining its recommendations regarding  
67.22 the client's care needs. The person conducting the assessment must notify the provider of  
67.23 the date by which this information is to be submitted. This information shall be provided  
67.24 to the person conducting the assessment prior to the assessment. The certified assessor must  
67.25 consider the content of the submitted nursing assessment or report prior to finalizing the  
67.26 person's assessment or reassessment. For a person who is to be assessed for waiver services  
67.27 under section 256B.092 or 256B.49, with the permission of the person being assessed or  
67.28 the person's designated legal representative, the person's current provider of services may  
67.29 submit a written report outlining recommendations regarding the person's care needs the  
67.30 person completed in consultation with someone who is known to the person and has  
67.31 interaction with the person on a regular basis. The provider must submit the report at least  
67.32 60 days before the end of the person's current service agreement. The certified assessor  
67.33 must consider the content of the submitted report prior to finalizing the person's assessment  
67.34 or reassessment.

68.1 (e) The certified assessor and the individual responsible for developing the coordinated  
68.2 service and support plan must complete the community support plan and the coordinated  
68.3 service and support plan no more than 60 calendar days from the assessment visit. The  
68.4 person or the person's legal representative must be provided with a written community  
68.5 support plan within the timelines established by the commissioner, regardless of whether  
68.6 the person is eligible for Minnesota health care programs.

68.7 (f) For a person being assessed for elderly waiver services under chapter 256S or  
68.8 customized living services under section 256B.49, a provider who submitted information  
68.9 under paragraph (d) shall receive the final written community support plan when available  
68.10 and the Residential Services Workbook or customized living tool.

68.11 (g) The written community support plan must include:

68.12 (1) a summary of assessed needs as defined in paragraphs (c) and (d);

68.13 (2) the individual's options and choices to meet identified needs, including:

68.14 (i) all available options for case management services and providers;

68.15 (ii) all available options for employment services, settings, and providers;

68.16 (iii) all available options for living arrangements;

68.17 (iv) all available options for self-directed services and supports, including self-directed  
68.18 budget options; and

68.19 (v) service provided in a non-disability-specific setting;

68.20 (3) identification of health and safety risks and how those risks will be addressed,  
68.21 including personal risk management strategies;

68.22 (4) referral information; and

68.23 (5) informal caregiver supports, if applicable.

68.24 For a person determined eligible for state plan home care under subdivision 1a, paragraph  
68.25 (b), clause (1), the person or person's representative must also receive a copy of the home  
68.26 care service plan developed by the certified assessor.

68.27 (h) A person may request assistance in identifying community supports without  
68.28 participating in a complete assessment. Upon a request for assistance identifying community  
68.29 support, the person must be transferred or referred to long-term care options counseling  
68.30 services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for  
68.31 telephone assistance and follow up.

- 69.1 (i) The person has the right to make the final decision:
- 69.2 (1) between institutional placement and community placement after the recommendations  
69.3 have been provided, except as provided in section 256.975, subdivision 7a, paragraph (d);
- 69.4 (2) between community placement in a setting controlled by a provider and living  
69.5 independently in a setting not controlled by a provider;
- 69.6 (3) between day services and employment services; and
- 69.7 (4) regarding available options for self-directed services and supports, including  
69.8 self-directed funding options.
- 69.9 (j) The lead agency must give the person receiving long-term care consultation services  
69.10 or the person's legal representative, materials, and forms supplied by the commissioner  
69.11 containing the following information:
- 69.12 (1) written recommendations for community-based services and consumer-directed  
69.13 options;
- 69.14 (2) documentation that the most cost-effective alternatives available were offered to the  
69.15 individual. For purposes of this clause, "cost-effective" means community services and  
69.16 living arrangements that cost the same as or less than institutional care. For an individual  
69.17 found to meet eligibility criteria for home and community-based service programs under  
69.18 chapter 256S or section 256B.49, "cost-effectiveness" has the meaning found in the federally  
69.19 approved waiver plan for each program;
- 69.20 (3) the need for and purpose of preadmission screening conducted by long-term care  
69.21 options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects  
69.22 nursing facility placement. If the individual selects nursing facility placement, the lead  
69.23 agency shall forward information needed to complete the level of care determinations and  
69.24 screening for developmental disability and mental illness collected during the assessment  
69.25 to the long-term care options counselor using forms provided by the commissioner;
- 69.26 (4) the role of long-term care consultation assessment and support planning in eligibility  
69.27 determination for waiver and alternative care programs, and state plan home care, case  
69.28 management, and other services as defined in subdivision 1a, paragraphs (a), clause (6),  
69.29 and (b);
- 69.30 (5) information about Minnesota health care programs;
- 69.31 (6) the person's freedom to accept or reject the recommendations of the team;

70.1 (7) the person's right to confidentiality under the Minnesota Government Data Practices  
70.2 Act, chapter 13;

70.3 (8) the certified assessor's decision regarding the person's need for institutional level of  
70.4 care as determined under criteria established in subdivision 4e and the certified assessor's  
70.5 decision regarding eligibility for all services and programs as defined in subdivision 1a,  
70.6 paragraphs (a), clause (6), and (b);

70.7 (9) the person's right to appeal the certified assessor's decision regarding eligibility for  
70.8 all services and programs as defined in subdivision 1a, paragraphs (a), clauses (6), (7), and  
70.9 (8), and (b), and incorporating the decision regarding the need for institutional level of care  
70.10 or the lead agency's final decisions regarding public programs eligibility according to section  
70.11 256.045, subdivision 3. The certified assessor must verbally communicate this appeal right  
70.12 to the person and must visually point out where in the document the right to appeal is stated;  
70.13 and

70.14 (10) documentation that available options for employment services, independent living,  
70.15 and self-directed services and supports were described to the individual.

70.16 (k) An assessment that is completed as part of an eligibility determination for multiple  
70.17 programs for the alternative care, elderly waiver, developmental disabilities, community  
70.18 access for disability inclusion, community alternative care, and brain injury waiver programs  
70.19 under chapter 256S and sections 256B.0913, 256B.092, and 256B.49 is valid to establish  
70.20 service eligibility for no more than 60 calendar days after the date of the assessment.

70.21 (l) The effective eligibility start date for programs in paragraph (k) can never be prior  
70.22 to the date of assessment. If an assessment was completed more than 60 days before the  
70.23 effective waiver or alternative care program eligibility start date, assessment and support  
70.24 plan information must be updated and documented in the department's Medicaid Management  
70.25 Information System (MMIS). Notwithstanding retroactive medical assistance coverage of  
70.26 state plan services, the effective date of eligibility for programs included in paragraph (k)  
70.27 cannot be prior to the date the most recent updated assessment is completed.

70.28 (m) If an eligibility update is completed within 90 days of the previous assessment and  
70.29 documented in the department's Medicaid Management Information System (MMIS), the  
70.30 effective date of eligibility for programs included in paragraph (k) is the date of the previous  
70.31 face-to-face assessment when all other eligibility requirements are met.

70.32 (n) If a person who receives home and community-based waiver services under section  
70.33 256B.0913, 256B.092, or 256B.49 or chapter 256S temporarily enters for 121 days or fewer  
70.34 a hospital, institution of mental disease, nursing facility, intensive residential treatment

71.1 services program, transitional care unit, or inpatient substance use disorder treatment setting,  
71.2 the person may return to the community with home and community-based waiver services  
71.3 under the same waiver, without requiring an assessment or reassessment under this section,  
71.4 unless the person's annual reassessment is otherwise due. Nothing in this paragraph shall  
71.5 change annual long-term care consultation reassessment requirements, payment for  
71.6 institutional or treatment services, medical assistance financial eligibility, or any other law.

71.7 (o) At the time of reassessment, the certified assessor shall assess each person receiving  
71.8 waiver residential supports and services currently residing in a community residential setting,  
71.9 licensed adult foster care home that is either not the primary residence of the license holder  
71.10 or in which the license holder is not the primary caregiver, family adult foster care residence,  
71.11 customized living setting, or supervised living facility to determine if that person would  
71.12 prefer to be served in a community-living setting as defined in section 256B.49, subdivision  
71.13 23, in a setting not controlled by a provider, or to receive integrated community supports  
71.14 as described in section 245D.03, subdivision 1, paragraph (c), clause (8). The certified  
71.15 assessor shall offer the person, through a person-centered planning process, the option to  
71.16 receive alternative housing and service options.

71.17 (p) At the time of reassessment, the certified assessor shall assess each person receiving  
71.18 waiver day services to determine if that person would prefer to receive employment services  
71.19 as described in section 245D.03, subdivision 1, paragraph (c), clauses (5) to (7). The certified  
71.20 assessor shall describe to the person through a person-centered planning process the option  
71.21 to receive employment services.

71.22 (q) At the time of reassessment, the certified assessor shall assess each person receiving  
71.23 non-self-directed waiver services to determine if that person would prefer an available  
71.24 service and setting option that would permit self-directed services and supports. The certified  
71.25 assessor shall describe to the person through a person-centered planning process the option  
71.26 to receive self-directed services and supports.

71.27 (r) All assessments performed according to this subdivision must be face-to-face unless  
71.28 the assessment is a reassessment meeting the requirements of this paragraph. Remote  
71.29 reassessments conducted by interactive video or telephone may substitute for face-to-face  
71.30 reassessments. For services provided by the developmental disabilities waiver under section  
71.31 256B.092, and the community access for disability inclusion, community alternative care,  
71.32 and brain injury waiver programs under section 256B.49, remote reassessments may be  
71.33 substituted for two consecutive reassessments if followed by a face-to-face reassessment.  
71.34 For services provided by alternative care under section 256B.0913, essential community  
71.35 supports under section 256B.0922, and the elderly waiver under chapter 256S, remote

72.1 reassessments may be substituted for one reassessment if followed by a face-to-face  
72.2 reassessment. A remote reassessment is permitted only if the person being reassessed, or  
72.3 the person's legal representative, ~~and the lead agency case manager both agree that there is~~  
72.4 ~~no change in the person's condition, there is no need for a change in service, and that a~~  
72.5 ~~remote reassessment is appropriate~~ provide informed choice for a remote assessment. The  
72.6 person being reassessed, or the person's legal representative, has the right to refuse a remote  
72.7 reassessment at any time. During a remote reassessment, if the certified assessor determines  
72.8 a face-to-face reassessment is necessary in order to complete the assessment, the lead agency  
72.9 shall schedule a face-to-face reassessment. All other requirements of a face-to-face  
72.10 reassessment shall apply to a remote reassessment, including updates to a person's support  
72.11 plan.

72.12 Sec. 13. Minnesota Statutes 2021 Supplement, section 256B.0911, subdivision 3f, is  
72.13 amended to read:

72.14 Subd. 3f. **Long-term care reassessments and community support plan updates.** (a)  
72.15 Prior to a reassessment, the certified assessor must review the person's most recent  
72.16 assessment. Reassessments must be tailored using the professional judgment of the assessor  
72.17 to the person's known needs, strengths, preferences, and circumstances. Reassessments  
72.18 provide information to support the person's informed choice and opportunities to express  
72.19 choice regarding activities that contribute to quality of life, as well as information and  
72.20 opportunity to identify goals related to desired employment, community activities, and  
72.21 preferred living environment. Reassessments require a review of the most recent assessment,  
72.22 review of the current coordinated service and support plan's effectiveness, monitoring of  
72.23 services, and the development of an updated person-centered community support plan.  
72.24 Reassessments must verify continued eligibility, offer alternatives as warranted, and provide  
72.25 an opportunity for quality assurance of service delivery, including an opportunity to provide  
72.26 a confidential performance assessment of the person's case manager. Reassessments must  
72.27 be conducted annually or as required by federal and state laws and rules. For reassessments,  
72.28 the certified assessor and the individual responsible for developing the coordinated service  
72.29 and support plan must ensure the continuity of care for the person receiving services and  
72.30 complete the updated community support plan and the updated coordinated service and  
72.31 support plan no more than 60 days from the reassessment visit.

72.32 (b) The commissioner shall develop mechanisms for providers and case managers to  
72.33 share information with the assessor to facilitate a reassessment and support planning process  
72.34 tailored to the person's current needs and preferences.



73.1 Sec. 14. Minnesota Statutes 2021 Supplement, section 256B.0949, subdivision 2, is  
73.2 amended to read:

73.3 Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given in this  
73.4 subdivision.

73.5 (b) "Advanced certification" means a person who has completed advanced certification  
73.6 in an approved modality under subdivision 13, paragraph (b).

73.7 ~~(b)~~ (c) "Agency" means the legal entity that is enrolled with Minnesota health care  
73.8 programs as a medical assistance provider according to Minnesota Rules, part 9505.0195,  
73.9 to provide EIDBI services and that has the legal responsibility to ensure that its employees  
73.10 or contractors carry out the responsibilities defined in this section. Agency includes a licensed  
73.11 individual professional who practices independently and acts as an agency.

73.12 ~~(e)~~ (d) "Autism spectrum disorder or a related condition" or "ASD or a related condition"  
73.13 means either autism spectrum disorder (ASD) as defined in the current version of the  
73.14 Diagnostic and Statistical Manual of Mental Disorders (DSM) or a condition that is found  
73.15 to be closely related to ASD, as identified under the current version of the DSM, and meets  
73.16 all of the following criteria:

73.17 (1) is severe and chronic;

73.18 (2) results in impairment of adaptive behavior and function similar to that of a person  
73.19 with ASD;

73.20 (3) requires treatment or services similar to those required for a person with ASD; and

73.21 (4) results in substantial functional limitations in three core developmental deficits of  
73.22 ASD: social or interpersonal interaction; functional communication, including nonverbal  
73.23 or social communication; and restrictive or repetitive behaviors or hyperreactivity or  
73.24 hyporeactivity to sensory input; and may include deficits or a high level of support in one  
73.25 or more of the following domains:

73.26 (i) behavioral challenges and self-regulation;

73.27 (ii) cognition;

73.28 (iii) learning and play;

73.29 (iv) self-care; or

73.30 (v) safety.

73.31 ~~(d)~~ (e) "Person" means a person under 21 years of age.

74.1 ~~(e)~~ (f) "Clinical supervision" means the overall responsibility for the control and direction  
74.2 of EIDBI service delivery, including individual treatment planning, staff supervision,  
74.3 individual treatment plan progress monitoring, and treatment review for each person. Clinical  
74.4 supervision is provided by a qualified supervising professional (QSP) who takes full  
74.5 professional responsibility for the service provided by each supervisee.

74.6 ~~(f)~~ (g) "Commissioner" means the commissioner of human services, unless otherwise  
74.7 specified.

74.8 ~~(g)~~ (h) "Comprehensive multidisciplinary evaluation" or "CMDE" means a comprehensive  
74.9 evaluation of a person to determine medical necessity for EIDBI services based on the  
74.10 requirements in subdivision 5.

74.11 ~~(h)~~ (i) "Department" means the Department of Human Services, unless otherwise  
74.12 specified.

74.13 ~~(i)~~ (j) "Early intensive developmental and behavioral intervention benefit" or "EIDBI  
74.14 benefit" means a variety of individualized, intensive treatment modalities approved and  
74.15 published by the commissioner that are based in behavioral and developmental science  
74.16 consistent with best practices on effectiveness.

74.17 ~~(j)~~ (k) "Generalizable goals" means results or gains that are observed during a variety  
74.18 of activities over time with different people, such as providers, family members, other adults,  
74.19 and people, and in different environments including, but not limited to, clinics, homes,  
74.20 schools, and the community.

74.21 ~~(k)~~ (l) "Incident" means when any of the following occur:

74.22 (1) an illness, accident, or injury that requires first aid treatment;

74.23 (2) a bump or blow to the head; or

74.24 (3) an unusual or unexpected event that jeopardizes the safety of a person or staff,  
74.25 including a person leaving the agency unattended.

74.26 ~~(l)~~ (m) "Individual treatment plan" or "ITP" means the person-centered, individualized  
74.27 written plan of care that integrates and coordinates person and family information from the  
74.28 CMDE for a person who meets medical necessity for the EIDBI benefit. An individual  
74.29 treatment plan must meet the standards in subdivision 6.

74.30 ~~(m)~~ (n) "Legal representative" means the parent of a child who is under 18 years of age,  
74.31 a court-appointed guardian, or other representative with legal authority to make decisions  
74.32 about service for a person. For the purpose of this subdivision, "other representative with

75.1 legal authority to make decisions" includes a health care agent or an attorney-in-fact  
75.2 authorized through a health care directive or power of attorney.

75.3 ~~(n)~~ (o) "Mental health professional" means a staff person who is qualified according to  
75.4 section 245I.04, subdivision 2.

75.5 ~~(o)~~ (p) "Person-centered" means a service that both responds to the identified needs,  
75.6 interests, values, preferences, and desired outcomes of the person or the person's legal  
75.7 representative and respects the person's history, dignity, and cultural background and allows  
75.8 inclusion and participation in the person's community.

75.9 ~~(p)~~ (q) "Qualified EIDBI provider" means a person who is a QSP or a level I, level II,  
75.10 or level III treatment provider.

75.11 Sec. 15. Minnesota Statutes 2021 Supplement, section 256B.0949, subdivision 13, is  
75.12 amended to read:

75.13 Subd. 13. **Covered services.** (a) The services described in paragraphs (b) to (l) are  
75.14 eligible for reimbursement by medical assistance under this section. Services must be  
75.15 provided by a qualified EIDBI provider and supervised by a QSP. An EIDBI service must  
75.16 address the person's medically necessary treatment goals and must be targeted to develop,  
75.17 enhance, or maintain the individual developmental skills of a person with ASD or a related  
75.18 condition to improve functional communication, including nonverbal or social  
75.19 communication, social or interpersonal interaction, restrictive or repetitive behaviors,  
75.20 hyperreactivity or hyporeactivity to sensory input, behavioral challenges and self-regulation,  
75.21 cognition, learning and play, self-care, and safety.

75.22 (b) EIDBI treatment must be delivered consistent with the standards of an approved  
75.23 modality, as published by the commissioner. EIDBI modalities include:

75.24 (1) applied behavior analysis (ABA);

75.25 (2) developmental individual-difference relationship-based model (DIR/Floortime);

75.26 (3) early start Denver model (ESDM);

75.27 (4) PLAY project;

75.28 (5) relationship development intervention (RDI); or

75.29 (6) additional modalities not listed in clauses (1) to (5) upon approval by the  
75.30 commissioner.

76.1 (c) An EIDBI provider may use one or more of the EIDBI modalities in paragraph (b),  
76.2 clauses (1) to (5), as the primary modality for treatment as a covered service, or several  
76.3 EIDBI modalities in combination as the primary modality of treatment, as approved by the  
76.4 commissioner. An EIDBI provider that identifies and provides assurance of qualifications  
76.5 for a single specific treatment modality, including an EIDBI provider with advanced  
76.6 certification overseeing implementation, must document the required qualifications to meet  
76.7 fidelity to the specific model in a manner determined by the commissioner.

76.8 (d) Each qualified EIDBI provider must identify and provide assurance of qualifications  
76.9 for professional licensure certification, or training in evidence-based treatment methods,  
76.10 and must document the required qualifications outlined in subdivision 15 in a manner  
76.11 determined by the commissioner.

76.12 (e) CMDE is a comprehensive evaluation of the person's developmental status to  
76.13 determine medical necessity for EIDBI services and meets the requirements of subdivision  
76.14 5. The services must be provided by a qualified CMDE provider.

76.15 (f) EIDBI intervention observation and direction is the clinical direction and oversight  
76.16 of EIDBI services by the QSP, level I treatment provider, or level II treatment provider,  
76.17 including developmental and behavioral techniques, progress measurement, data collection,  
76.18 function of behaviors, and generalization of acquired skills for the direct benefit of a person.  
76.19 EIDBI intervention observation and direction informs any modification of the current  
76.20 treatment protocol to support the outcomes outlined in the ITP.

76.21 (g) Intervention is medically necessary direct treatment provided to a person with ASD  
76.22 or a related condition as outlined in their ITP. All intervention services must be provided  
76.23 under the direction of a QSP. Intervention may take place across multiple settings. The  
76.24 frequency and intensity of intervention services are provided based on the number of  
76.25 treatment goals, person and family or caregiver preferences, and other factors. Intervention  
76.26 services may be provided individually or in a group. Intervention with a higher provider  
76.27 ratio may occur when deemed medically necessary through the person's ITP.

76.28 (1) Individual intervention is treatment by protocol administered by a single qualified  
76.29 EIDBI provider delivered to one person.

76.30 (2) Group intervention is treatment by protocol provided by one or more qualified EIDBI  
76.31 providers, delivered to at least two people who receive EIDBI services.

76.32 (3) Higher provider ratio intervention is treatment with protocol modification provided  
76.33 by two or more qualified EIDBI providers delivered to one person in an environment that  
76.34 meets the person's needs and under the direction of the QSP or level I provider.

77.1 (h) ITP development and ITP progress monitoring is development of the initial, annual,  
 77.2 and progress monitoring of an ITP. ITP development and ITP progress monitoring documents  
 77.3 provide oversight and ongoing evaluation of a person's treatment and progress on targeted  
 77.4 goals and objectives and integrate and coordinate the person's and the person's legal  
 77.5 representative's information from the CMDE and ITP progress monitoring. This service  
 77.6 must be reviewed and completed by the QSP, and may include input from a level I provider  
 77.7 or a level II provider.

77.8 (i) Family caregiver training and counseling is specialized training and education for a  
 77.9 family or primary caregiver to understand the person's developmental status and help with  
 77.10 the person's needs and development. This service must be provided by the QSP, level I  
 77.11 provider, or level II provider.

77.12 (j) A coordinated care conference is a voluntary meeting with the person and the person's  
 77.13 family to review the CMDE or ITP progress monitoring and to integrate and coordinate  
 77.14 services across providers and service-delivery systems to develop the ITP. This service  
 77.15 ~~must be provided by the QSP and~~ may include the CMDE provider ~~or~~, QSP, a level I  
 77.16 provider, or a level II provider.

77.17 (k) Travel time is allowable billing for traveling to and from the person's home, school,  
 77.18 a community setting, or place of service outside of an EIDBI center, clinic, or office from  
 77.19 a specified location to provide in-person EIDBI intervention, observation and direction, or  
 77.20 family caregiver training and counseling. The person's ITP must specify the reasons the  
 77.21 provider must travel to the person.

77.22 (l) Medical assistance covers medically necessary EIDBI services and consultations  
 77.23 ~~delivered by a licensed health care provider~~ via telehealth, as defined under section  
 77.24 256B.0625, subdivision 3b, in the same manner as if the service or consultation was delivered  
 77.25 in person.

77.26 Sec. 16. Minnesota Statutes 2020, section 256B.49, subdivision 23, is amended to read:

77.27 Subd. 23. **Community-living settings.** (a) For the purposes of this chapter,  
 77.28 "community-living settings" means a single-family home or multifamily dwelling unit where  
 77.29 a service recipient or a service recipient's family owns or rents, and maintains control over  
 77.30 the individual unit as demonstrated by a lease agreement. Community-living settings does  
 77.31 not include a home or dwelling unit that the service provider owns, operates, or leases or  
 77.32 in which the service provider has a direct or indirect financial interest.

78.1 (b) To ensure a service recipient or the service recipient's family maintains control over  
78.2 the home or dwelling unit, community-living settings are subject to the following  
78.3 requirements:

78.4 (1) service recipients must not be required to receive services or share services;

78.5 (2) service recipients must not be required to have a disability or specific diagnosis to  
78.6 live in the community-living setting;

78.7 (3) service recipients may hire service providers of their choice;

78.8 (4) service recipients may choose whether to share their household and with whom;

78.9 (5) the home or multifamily dwelling unit must include living, sleeping, bathing, and  
78.10 cooking areas;

78.11 (6) service recipients must have lockable access and egress;

78.12 (7) service recipients must be free to receive visitors and leave the settings at times and  
78.13 for durations of their own choosing;

78.14 (8) leases must comply with chapter 504B;

78.15 (9) landlords must not charge different rents to tenants who are receiving home and  
78.16 community-based services; and

78.17 (10) access to the greater community must be easily facilitated based on the service  
78.18 recipient's needs and preferences.

78.19 (c) Nothing in this section prohibits a service recipient from having another person or  
78.20 entity not affiliated with the service provider cosign a lease. Nothing in this section prohibits  
78.21 a service recipient, during any period in which a service provider has cosigned the service  
78.22 recipient's lease, from modifying services with an existing cosigning service provider and,  
78.23 subject to the approval of the landlord, maintaining a lease cosigned by the service provider.  
78.24 Nothing in this section prohibits a service recipient, during any period in which a service  
78.25 provider has cosigned the service recipient's lease, from terminating services with the  
78.26 cosigning service provider, receiving services from a new service provider, and, subject to  
78.27 the approval of the landlord, maintaining a lease cosigned by the new service provider.

78.28 (d) A lease cosigned by a service provider meets the requirements of paragraph (a) if  
78.29 the service recipient and service provider develop and implement a transition plan which  
78.30 must provide that, within two years of cosigning the initial lease, the service provider shall  
78.31 transfer the lease to the service recipient and other cosigners, if any.

79.1 (e) In the event the landlord has not approved the transfer of the lease within two years  
79.2 of the service provider cosigning the initial lease, the service provider must submit a  
79.3 time-limited extension request to the commissioner of human services to continue the  
79.4 cosigned lease arrangement. The extension request must include:

79.5 (1) the reason the landlord denied the transfer;

79.6 (2) the plan to overcome the denial to transfer the lease;

79.7 (3) the length of time needed to successfully transfer the lease, not to exceed an additional  
79.8 two years;

79.9 (4) a description of how the transition plan was followed, what occurred that led to the  
79.10 landlord denying the transfer, and what changes in circumstances or condition, if any, the  
79.11 service recipient experienced; and

79.12 (5) a revised transition plan to transfer the cosigned lease between the service provider  
79.13 and the service recipient to the service recipient.

79.14 The commissioner must approve an extension within sufficient time to ensure the continued  
79.15 occupancy by the service recipient.

79.16 (f) In the event the landlord has not approved the transfer of the lease within the timelines  
79.17 of any approved time-limited extension request, the service provider must submit another  
79.18 time-limited extension request to the commissioner of human services to continue the  
79.19 cosigned lease arrangement. A time-limited extension request submitted under this paragraph  
79.20 must include the same information required for an initial time-limited extension request  
79.21 under paragraph (e). The commissioner must approve an extension within sufficient time  
79.22 to ensure the continued occupancy by the service recipient.

79.23 (g) The commissioner may grant a service recipient no more than three additional  
79.24 time-limited extensions under paragraph (f).

79.25 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,  
79.26 whichever is later. The commissioner of human services shall notify the revisor of statutes  
79.27 when federal approval is obtained.

79.28 Sec. 17. Minnesota Statutes 2020, section 256G.02, subdivision 6, is amended to read:

79.29 Subd. 6. **Excluded time.** "Excluded time" means:

79.30 (1) any period an applicant spends in a hospital, sanitarium, nursing home, shelter other  
79.31 than an emergency shelter, halfway house, foster home, community residential setting  
79.32 licensed under chapter 245D, semi-independent living domicile or services program,

80.1 residential facility offering care, board and lodging facility or other institution for the  
 80.2 hospitalization or care of human beings, as defined in section 144.50, 144A.01, or 245A.02,  
 80.3 subdivision 14; maternity home, battered women's shelter, or correctional facility; or any  
 80.4 facility based on an emergency hold under section 253B.05, subdivisions 1 and 2;

80.5 (2) any period an applicant spends on a placement basis in a training and habilitation  
 80.6 program, including: a rehabilitation facility or work or employment program as defined in  
 80.7 section 268A.01; semi-independent living services provided under section 252.275, and  
 80.8 chapter 245D; or day training and habilitation programs ~~and~~;

80.9 (3) any period an applicant is receiving assisted living services, integrated community  
 80.10 supports, or day support services; and

80.11 ~~(3)~~ (4) any placement for a person with an indeterminate commitment, including  
 80.12 independent living.

80.13 Sec. 18. Minnesota Statutes 2020, section 256I.04, subdivision 3, is amended to read:

80.14 Subd. 3. **Moratorium on development of housing support beds.** (a) Agencies shall  
 80.15 not enter into agreements for new housing support beds with total rates in excess of the  
 80.16 MSA equivalent rate except:

80.17 (1) for establishments licensed under chapter 245D provided the facility is needed to  
 80.18 meet the census reduction targets for persons with developmental disabilities at regional  
 80.19 treatment centers;

80.20 (2) up to 80 beds in a single, specialized facility located in Hennepin County that will  
 80.21 provide housing for chronic inebriates who are repetitive users of detoxification centers and  
 80.22 are refused placement in emergency shelters because of their state of intoxication, and  
 80.23 planning for the specialized facility must have been initiated before July 1, 1991, in  
 80.24 anticipation of receiving a grant from the Housing Finance Agency under section 462A.05,  
 80.25 subdivision 20a, paragraph (b);

80.26 (3) notwithstanding the provisions of subdivision 2a, for up to 226 supportive housing  
 80.27 units in Anoka, Carver, Dakota, Hennepin, or Ramsey, Scott, or Washington County for  
 80.28 homeless adults with a disability, including but not limited to mental illness, a history of  
 80.29 substance abuse, or human immunodeficiency virus or acquired immunodeficiency syndrome.  
 80.30 For purposes of this ~~section~~ clause, "homeless adult" means (i) a person who is living on  
 80.31 the street or in a shelter or (ii) discharged from a regional treatment center, community  
 80.32 hospital, or residential treatment program and has no appropriate housing available and  
 80.33 lacks the resources and support necessary to access appropriate housing. ~~At least 70 percent~~



81.1 ~~of the supportive housing units must serve homeless adults with mental illness, substance~~  
81.2 ~~abuse problems, or human immunodeficiency virus or acquired immunodeficiency syndrome~~  
81.3 ~~who are about to be or, within the previous six months, have been discharged from a regional~~  
81.4 ~~treatment center, or a state-contracted psychiatric bed in a community hospital, or a residential~~  
81.5 ~~mental health or chemical dependency treatment program.~~ If a person meets the requirements  
81.6 of subdivision 1, paragraph (a) or (b), and receives a federal or state housing subsidy, the  
81.7 housing support rate for that person is limited to the supplementary rate under section  
81.8 256I.05, subdivision 1a, ~~and is determined by subtracting the amount of the person's~~  
81.9 ~~countable income that exceeds the MSA equivalent rate from the housing support~~  
81.10 ~~supplementary service rate.~~ A resident in a demonstration project site who no longer  
81.11 participates in the demonstration program shall retain eligibility for a housing support  
81.12 payment in an amount determined under section 256I.06, subdivision 8, using the MSA  
81.13 equivalent rate. ~~Service funding under section 256I.05, subdivision 1a, will end June 30,~~  
81.14 ~~1997, if federal matching funds are available and the services can be provided through a~~  
81.15 ~~managed care entity. If federal matching funds are not available, then service funding will~~  
81.16 ~~continue under section 256I.05, subdivision 1a;~~

81.17 (4) for an additional two beds, resulting in a total of 32 beds, for a facility located in  
81.18 Hennepin County providing services for recovering and chemically dependent men that has  
81.19 had a housing support contract with the county and has been licensed as a board and lodge  
81.20 facility with special services since 1980;

81.21 (5) for a housing support provider located in the city of St. Cloud, or a county contiguous  
81.22 to the city of St. Cloud, that operates a 40-bed facility, that received financing through the  
81.23 Minnesota Housing Finance Agency Ending Long-Term Homelessness Initiative and serves  
81.24 chemically dependent clientele, providing 24-hour-a-day supervision;

81.25 (6) for a new 65-bed facility in Crow Wing County that will serve chemically dependent  
81.26 persons, operated by a housing support provider that currently operates a 304-bed facility  
81.27 in Minneapolis, and a 44-bed facility in Duluth;

81.28 (7) for a housing support provider that operates two ten-bed facilities, one located in  
81.29 Hennepin County and one located in Ramsey County, that provide community support and  
81.30 24-hour-a-day supervision to serve the mental health needs of individuals who have  
81.31 chronically lived unsheltered; and

81.32 (8) for a facility authorized for recipients of housing support in Hennepin County with  
81.33 a capacity of up to 48 beds that has been licensed since 1978 as a board and lodging facility  
81.34 and that until August 1, 2007, operated as a licensed chemical dependency treatment program.

82.1 (b) An agency may enter into a housing support agreement for beds with rates in excess  
82.2 of the MSA equivalent rate in addition to those currently covered under a housing support  
82.3 agreement if the additional beds are only a replacement of beds with rates in excess of the  
82.4 MSA equivalent rate which have been made available due to closure of a setting, a change  
82.5 of licensure or certification which removes the beds from housing support payment, or as  
82.6 a result of the downsizing of a setting authorized for recipients of housing support. The  
82.7 transfer of available beds from one agency to another can only occur by the agreement of  
82.8 both agencies.

82.9 Sec. 19. Minnesota Statutes 2020, section 256K.26, subdivision 2, is amended to read:

82.10 Subd. 2. **Implementation.** The commissioner, in consultation with the commissioners  
82.11 of the Department of Corrections and the Minnesota Housing Finance Agency, counties,  
82.12 Tribes, providers and funders of supportive housing and services, shall develop application  
82.13 requirements and make funds available according to this section, with the goal of providing  
82.14 maximum flexibility in program design.

82.15 Sec. 20. Minnesota Statutes 2020, section 256K.26, subdivision 6, is amended to read:

82.16 Subd. 6. **Outcomes.** Projects will be selected to further the following outcomes:

82.17 (1) reduce the number of Minnesota individuals and families that experience long-term  
82.18 homelessness;

82.19 (2) increase the number of housing opportunities with supportive services;

82.20 (3) develop integrated, cost-effective service models that address the multiple barriers  
82.21 to obtaining housing stability faced by people experiencing long-term homelessness,  
82.22 including abuse, neglect, chemical dependency, disability, chronic health problems, or other  
82.23 factors including ethnicity and race that may result in poor outcomes or service disparities;

82.24 (4) encourage partnerships among counties, Tribes, community agencies, schools, and  
82.25 other providers so that the service delivery system is seamless for people experiencing  
82.26 long-term homelessness;

82.27 (5) increase employability, self-sufficiency, and other social outcomes for individuals  
82.28 and families experiencing long-term homelessness; and

82.29 (6) reduce inappropriate use of emergency health care, shelter, ~~chemical dependency~~  
82.30 substance use disorder treatment, foster care, child protection, corrections, and similar  
82.31 services used by people experiencing long-term homelessness.

83.1 Sec. 21. Minnesota Statutes 2020, section 256K.26, subdivision 7, is amended to read:

83.2 Subd. 7. **Eligible services.** Services eligible for funding under this section are all services  
83.3 needed to maintain households in permanent supportive housing, as determined by the  
83.4 ~~county or counties~~ or Tribes administering the project or projects.

83.5 Sec. 22. Minnesota Statutes 2020, section 256Q.06, is amended by adding a subdivision  
83.6 to read:

83.7 Subd. 6. **Account creation.** If an eligible individual is unable to establish the eligible  
83.8 individual's own ABLE account, an ABLE account may be established on behalf of the  
83.9 eligible individual by the eligible individual's agent under a power of attorney or, if none,  
83.10 by the eligible individual's conservator or legal guardian, spouse, parent, sibling, or  
83.11 grandparent or a representative payee appointed for the eligible individual by the Social  
83.12 Security Administration, in that order.

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

83.14 Sec. 23. Laws 2020, First Special Session chapter 7, section 1, subdivision 1, as amended  
83.15 by Laws 2021, First Special Session chapter 7, article 2, section 71, is amended to read:

83.16 Subdivision 1. **Waivers and modifications; federal funding extension.** When the  
83.17 peacetime emergency declared by the governor in response to the COVID-19 outbreak  
83.18 expires, is terminated, or is rescinded by the proper authority, the following waivers and  
83.19 modifications to human services programs issued by the commissioner of human services  
83.20 pursuant to Executive Orders 20-11 and 20-12 ~~that are required to comply with federal law~~  
83.21 may remain in effect for the time period set out in applicable federal law or for the time  
83.22 period set out in any applicable federally approved waiver or state plan amendment,  
83.23 whichever is later:

83.24 (1) CV15: allowing telephone or video visits for waiver programs;

83.25 (2) CV17: preserving health care coverage for Medical Assistance and MinnesotaCare;

83.26 (3) CV18: implementation of federal changes to the Supplemental Nutrition Assistance  
83.27 Program;

83.28 (4) CV20: eliminating cost-sharing for COVID-19 diagnosis and treatment;

83.29 (5) CV24: allowing telephone or video use for targeted case management visits;

83.30 (6) CV30: expanding telemedicine in health care, mental health, and substance use  
83.31 disorder settings;

- 84.1 (7) CV37: implementation of federal changes to the Supplemental Nutrition Assistance  
84.2 Program;
- 84.3 (8) CV39: implementation of federal changes to the Supplemental Nutrition Assistance  
84.4 Program;
- 84.5 (9) CV42: implementation of federal changes to the Supplemental Nutrition Assistance  
84.6 Program;
- 84.7 (10) CV43: expanding remote home and community-based waiver services;
- 84.8 (11) CV44: allowing remote delivery of adult day services;
- 84.9 (12) CV59: modifying eligibility period for the federally funded Refugee Cash Assistance  
84.10 Program;
- 84.11 (13) CV60: modifying eligibility period for the federally funded Refugee Social Services  
84.12 Program; and
- 84.13 (14) CV109: providing 15 percent increase for Minnesota Food Assistance Program and  
84.14 Minnesota Family Investment Program maximum food benefits.

84.15 Sec. 24. Laws 2022, chapter 33, section 1, subdivision 8, is amended to read:

84.16 Subd. 8. **Unit-based services with programming; component values and calculation**  
84.17 **of payment rates.** (a) For the purpose of this section, unit-based services with programming  
84.18 include employment exploration services, employment development services, employment  
84.19 support services, individualized home supports with family training, individualized home  
84.20 supports with training, and positive support services provided to an individual outside of  
84.21 any service plan for a day program or residential support service.

84.22 (b) Component values for unit-based services with programming are:

84.23 (1) competitive workforce factor: 4.7 percent;

84.24 (2) supervisory span of control ratio: 11 percent;

84.25 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;

84.26 (4) employee-related cost ratio: 23.6 percent;

84.27 (5) program plan support ratio: 15.5 percent;

84.28 (6) client programming and support ratio: 4.7 percent, updated as specified in subdivision  
84.29 5b;

84.30 (7) general administrative support ratio: 13.25 percent;

85.1 (8) program-related expense ratio: 6.1 percent; and

85.2 (9) absence and utilization factor ratio: 3.9 percent.

85.3 (c) For all services except for individualized home supports with training, a unit of  
85.4 service for unit-based services with programming is 15 minutes. For individualized home  
85.5 supports with training, 15 minute units of service must be used for fewer than six hours  
85.6 spent providing direct service in a calendar day, and hour units of service must be used for  
85.7 six or more consecutive hours spent providing direct service in a calendar day. For  
85.8 individualized home supports with training, any portion of an hour in excess of six hours,  
85.9 within allowable Medicaid rules, during which an individual receives direct service is billable  
85.10 as an hour.

85.11 (d) Payments for unit-based services with programming must be calculated as follows,  
85.12 unless the services are reimbursed separately as part of a residential support services or day  
85.13 program payment rate:

85.14 (1) determine the number of units of service to meet a recipient's needs;

85.15 (2) determine the appropriate hourly staff wage rates derived by the commissioner as  
85.16 provided in subdivisions 5 and 5a;

85.17 (3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the  
85.18 product of one plus the competitive workforce factor;

85.19 (4) for a recipient requiring customization for deaf and hard-of-hearing language  
85.20 accessibility under subdivision 12, add the customization rate provided in subdivision 12  
85.21 to the result of clause (3);

85.22 (5) multiply the number of direct staffing hours by the appropriate staff wage;

85.23 (6) multiply the number of direct staffing hours by the product of the supervisory span  
85.24 of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);

85.25 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the  
85.26 employee vacation, sick, and training allowance ratio. This is defined as the direct staffing  
85.27 rate;

85.28 (8) for program plan support, multiply the result of clause (7) by one plus the program  
85.29 plan support ratio;

85.30 (9) for employee-related expenses, multiply the result of clause (8) by one plus the  
85.31 employee-related cost ratio;

86.1 (10) for client programming and supports, multiply the result of clause (9) by one plus  
86.2 the client programming and support ratio;

86.3 (11) this is the subtotal rate;

86.4 (12) sum the standard general administrative support ratio, the program-related expense  
86.5 ratio, and the absence and utilization factor ratio;

86.6 (13) divide the result of clause (11) by one minus the result of clause (12). This is the  
86.7 total payment amount;

86.8 (14) for services provided in a shared manner, divide the total payment in clause (13)  
86.9 as follows:

86.10 (i) for employment exploration services, divide by the number of service recipients, not  
86.11 to exceed five;

86.12 (ii) for employment support services, divide by the number of service recipients, not to  
86.13 exceed six; and

86.14 (iii) for individualized home supports with training and individualized home supports  
86.15 with family training, divide by the number of service recipients, not to exceed two; and

86.16 (15) adjust the result of clause (14) by a factor to be determined by the commissioner  
86.17 to adjust for regional differences in the cost of providing services.

86.18 **Sec. 25. TEMPORARY TELEPHONE-ONLY TELEHEALTH AUTHORIZATION.**

86.19 Beginning July 1, 2021, and until the COVID-19 federal public health emergency ends  
86.20 or July 1, 2023, whichever is earlier, telehealth visits, as described in Minnesota Statutes,  
86.21 section 256B.0625, subdivision 3b, provided through telephone may satisfy the face-to-face  
86.22 requirements for reimbursement under the payment methods that apply to a federally qualified  
86.23 health center, rural health clinic, Indian health service, 638 tribal clinic, and certified  
86.24 community behavioral health clinic, if the service would have otherwise qualified for  
86.25 payment if performed in person.

86.26 **EFFECTIVE DATE.** This section is effective retroactively from July 1, 2021, and  
86.27 expires when the COVID-19 federal public health emergency ends or July 1, 2023, whichever  
86.28 is earlier. The commissioner of human services shall notify the revisor of statutes when this  
86.29 section expires.

87.1 **ARTICLE 4**  
87.2 **LICENSING**

87.3 Section 1. Minnesota Statutes 2020, section 245A.11, subdivision 7, is amended to read:

87.4 Subd. 7. **Adult foster care; variance for alternate overnight supervision.** (a) The  
87.5 commissioner may grant a variance under section 245A.04, subdivision 9, to rule parts  
87.6 requiring a caregiver to be present in an adult foster care home during normal sleeping hours  
87.7 to allow for alternative methods of overnight supervision. The commissioner may grant the  
87.8 variance if the local county licensing agency recommends the variance and the county  
87.9 recommendation includes documentation verifying that:

87.10 (1) the county has approved the license holder's plan for alternative methods of providing  
87.11 overnight supervision and determined the plan protects the residents' health, safety, and  
87.12 rights;

87.13 (2) the license holder has obtained written and signed informed consent from each  
87.14 resident or each resident's legal representative documenting the resident's or legal  
87.15 representative's agreement with the alternative method of overnight supervision; and

87.16 (3) the alternative method of providing overnight supervision, which may include the  
87.17 use of technology, is specified for each resident in the resident's: (i) individualized plan of  
87.18 care; (ii) individual service plan under section 256B.092, subdivision 1b, if required; or (iii)  
87.19 individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart  
87.20 19, if required.

87.21 (b) To be eligible for a variance under paragraph (a), the adult foster care license holder  
87.22 must not have had a conditional license issued under section 245A.06, or any other licensing  
87.23 sanction issued under section 245A.07 during the prior 24 months based on failure to provide  
87.24 adequate supervision, health care services, or resident safety in the adult foster care home.

87.25 (c) A license holder requesting a variance under this subdivision to utilize technology  
87.26 as a component of a plan for alternative overnight supervision may request the commissioner's  
87.27 review in the absence of a county recommendation. Upon receipt of such a request from a  
87.28 license holder, the commissioner shall review the variance request with the county.

87.29 (d) ~~A variance granted by the commissioner according to this subdivision before January~~  
87.30 ~~1, 2014, to a license holder for an adult foster care home must transfer with the license when~~  
87.31 ~~the license converts to a community residential setting license under chapter 245D. The~~  
87.32 ~~terms and conditions of the variance remain in effect as approved at the time the variance~~

88.1 ~~was granted.~~ The variance requirements under this subdivision for alternate overnight  
88.2 supervision do not apply to community residential settings licensed under chapter 245D.

88.3 Sec. 2. Minnesota Statutes 2020, section 245A.11, subdivision 7a, is amended to read:

88.4 Subd. 7a. **Alternate overnight supervision technology; adult foster care and**  
88.5 **community residential setting licenses.** (a) The commissioner may grant an applicant or  
88.6 license holder an adult foster care ~~or community residential setting~~ license for a residence  
88.7 that does not have a caregiver in the residence during normal sleeping hours as required  
88.8 under Minnesota Rules, part 9555.5105, subpart 37, item B, or section 245D.02, subdivision  
88.9 33b, but uses monitoring technology to alert the license holder when an incident occurs that  
88.10 may jeopardize the health, safety, or rights of a foster care recipient. The applicant or license  
88.11 holder must comply with all other requirements under Minnesota Rules, parts 9555.5105  
88.12 to 9555.6265, ~~or applicable requirements under chapter 245D,~~ and the requirements under  
88.13 this subdivision. The license printed by the commissioner must state in bold and large font:

88.14 (1) that the facility is under electronic monitoring; and

88.15 (2) the telephone number of the county's common entry point for making reports of  
88.16 suspected maltreatment of vulnerable adults under section 626.557, subdivision 9.

88.17 (b) Applications for a license under this section must be submitted directly to the  
88.18 Department of Human Services licensing division. The licensing division must immediately  
88.19 notify the county licensing agency. The licensing division must collaborate with the county  
88.20 licensing agency in the review of the application and the licensing of the program.

88.21 (c) Before a license is issued by the commissioner, and for the duration of the license,  
88.22 the applicant or license holder must establish, maintain, and document the implementation  
88.23 of written policies and procedures addressing the requirements in paragraphs (d) through  
88.24 (f).

88.25 (d) The applicant or license holder must have policies and procedures that:

88.26 (1) establish characteristics of target populations that will be admitted into the home,  
88.27 and characteristics of populations that will not be accepted into the home;

88.28 (2) explain the discharge process when a resident served by the program requires  
88.29 overnight supervision or other services that cannot be provided by the license holder due  
88.30 to the limited hours that the license holder is on site;

88.31 (3) describe the types of events to which the program will respond with a physical  
88.32 presence when those events occur in the home during time when staff are not on site, and



89.1 how the license holder's response plan meets the requirements in paragraph (e), clause (1)  
89.2 or (2);

89.3 (4) establish a process for documenting a review of the implementation and effectiveness  
89.4 of the response protocol for the response required under paragraph (e), clause (1) or (2).

89.5 The documentation must include:

89.6 (i) a description of the triggering incident;

89.7 (ii) the date and time of the triggering incident;

89.8 (iii) the time of the response or responses under paragraph (e), clause (1) or (2);

89.9 (iv) whether the response met the resident's needs;

89.10 (v) whether the existing policies and response protocols were followed; and

89.11 (vi) whether the existing policies and protocols are adequate or need modification.

89.12 When no physical presence response is completed for a three-month period, the license  
89.13 holder's written policies and procedures must require a physical presence response drill to  
89.14 be conducted for which the effectiveness of the response protocol under paragraph (e),  
89.15 clause (1) or (2), will be reviewed and documented as required under this clause; and

89.16 (5) establish that emergency and nonemergency phone numbers are posted in a prominent  
89.17 location in a common area of the home where they can be easily observed by a person  
89.18 responding to an incident who is not otherwise affiliated with the home.

89.19 (e) The license holder must document and include in the license application which  
89.20 response alternative under clause (1) or (2) is in place for responding to situations that  
89.21 present a serious risk to the health, safety, or rights of residents served by the program:

89.22 (1) response alternative (1) requires only the technology to provide an electronic  
89.23 notification or alert to the license holder that an event is underway that requires a response.  
89.24 Under this alternative, no more than ten minutes will pass before the license holder will be  
89.25 physically present on site to respond to the situation; or

89.26 (2) response alternative (2) requires the electronic notification and alert system under  
89.27 alternative (1), but more than ten minutes may pass before the license holder is present on  
89.28 site to respond to the situation. Under alternative (2), all of the following conditions are  
89.29 met:

89.30 (i) the license holder has a written description of the interactive technological applications  
89.31 that will assist the license holder in communicating with and assessing the needs related to  
89.32 the care, health, and safety of the foster care recipients. This interactive technology must

90.1 permit the license holder to remotely assess the well being of the resident served by the  
90.2 program without requiring the initiation of the foster care recipient. Requiring the foster  
90.3 care recipient to initiate a telephone call does not meet this requirement;

90.4 (ii) the license holder documents how the remote license holder is qualified and capable  
90.5 of meeting the needs of the foster care recipients and assessing foster care recipients' needs  
90.6 under item (i) during the absence of the license holder on site;

90.7 (iii) the license holder maintains written procedures to dispatch emergency response  
90.8 personnel to the site in the event of an identified emergency; and

90.9 (iv) each resident's individualized plan of care, coordinated service and support plan  
90.10 under sections 256B.0913, subdivision 8; 256B.092, subdivision 1b; 256B.49, subdivision  
90.11 15; and 256S.10, if required, or individual resident placement agreement under Minnesota  
90.12 Rules, part 9555.5105, subpart 19, if required, identifies the maximum response time, which  
90.13 may be greater than ten minutes, for the license holder to be on site for that resident.

90.14 (f) Each resident's placement agreement, individual service agreement, and plan must  
90.15 clearly state that the adult foster care ~~or community residential setting~~ license category is  
90.16 a program without the presence of a caregiver in the residence during normal sleeping hours;  
90.17 the protocols in place for responding to situations that present a serious risk to the health,  
90.18 safety, or rights of residents served by the program under paragraph (e), clause (1) or (2);  
90.19 and a signed informed consent from each resident served by the program or the person's  
90.20 legal representative documenting the person's or legal representative's agreement with  
90.21 placement in the program. If electronic monitoring technology is used in the home, the  
90.22 informed consent form must also explain the following:

90.23 (1) how any electronic monitoring is incorporated into the alternative supervision system;

90.24 (2) the backup system for any electronic monitoring in times of electrical outages or  
90.25 other equipment malfunctions;

90.26 (3) how the caregivers or direct support staff are trained on the use of the technology;

90.27 (4) the event types and license holder response times established under paragraph (e);

90.28 (5) how the license holder protects each resident's privacy related to electronic monitoring  
90.29 and related to any electronically recorded data generated by the monitoring system. A  
90.30 resident served by the program may not be removed from a program under this subdivision  
90.31 for failure to consent to electronic monitoring. The consent form must explain where and  
90.32 how the electronically recorded data is stored, with whom it will be shared, and how long  
90.33 it is retained; and

91.1 (6) the risks and benefits of the alternative overnight supervision system.

91.2 The written explanations under clauses (1) to (6) may be accomplished through  
91.3 cross-references to other policies and procedures as long as they are explained to the person  
91.4 giving consent, and the person giving consent is offered a copy.

91.5 (g) Nothing in this section requires the applicant or license holder to develop or maintain  
91.6 separate or duplicative policies, procedures, documentation, consent forms, or individual  
91.7 plans that may be required for other licensing standards, if the requirements of this section  
91.8 are incorporated into those documents.

91.9 (h) The commissioner may grant variances to the requirements of this section according  
91.10 to section 245A.04, subdivision 9.

91.11 (i) For the purposes of paragraphs (d) through (h), "license holder" has the meaning  
91.12 under section 245A.02, subdivision 9, and additionally includes all staff, volunteers, and  
91.13 contractors affiliated with the license holder.

91.14 (j) For the purposes of paragraph (e), the terms "assess" and "assessing" mean to remotely  
91.15 determine what action the license holder needs to take to protect the well-being of the foster  
91.16 care recipient.

91.17 (k) The commissioner shall evaluate license applications using the requirements in  
91.18 paragraphs (d) to (f). The commissioner shall provide detailed application forms, including  
91.19 a checklist of criteria needed for approval.

91.20 (l) To be eligible for a license under paragraph (a), the adult foster care ~~or community~~  
91.21 ~~residential setting~~ license holder must not have had a conditional license issued under section  
91.22 245A.06 or any licensing sanction under section 245A.07 during the prior 24 months based  
91.23 on failure to provide adequate supervision, health care services, or resident safety in the  
91.24 adult foster care home ~~or community residential setting~~.

91.25 (m) The commissioner shall review an application for an alternative overnight supervision  
91.26 license within 60 days of receipt of the application. When the commissioner receives an  
91.27 application that is incomplete because the applicant failed to submit required documents or  
91.28 that is substantially deficient because the documents submitted do not meet licensing  
91.29 requirements, the commissioner shall provide the applicant written notice that the application  
91.30 is incomplete or substantially deficient. In the written notice to the applicant, the  
91.31 commissioner shall identify documents that are missing or deficient and give the applicant  
91.32 45 days to resubmit a second application that is substantially complete. An applicant's failure  
91.33 to submit a substantially complete application after receiving notice from the commissioner

92.1 is a basis for license denial under section 245A.05. The commissioner shall complete  
92.2 subsequent review within 30 days.

92.3 (n) Once the application is considered complete under paragraph (m), the commissioner  
92.4 will approve or deny an application for an alternative overnight supervision license within  
92.5 60 days.

92.6 (o) For the purposes of this subdivision, "supervision" means:

92.7 (1) oversight by a caregiver or direct support staff as specified in the individual resident's  
92.8 place agreement or coordinated service and support plan and awareness of the resident's  
92.9 needs and activities; and

92.10 (2) the presence of a caregiver or direct support staff in a residence during normal sleeping  
92.11 hours, unless a determination has been made and documented in the individual's coordinated  
92.12 service and support plan that the individual does not require the presence of a caregiver or  
92.13 direct support staff during normal sleeping hours.

92.14 Sec. 3. Minnesota Statutes 2020, section 245C.04, subdivision 1, is amended to read:

92.15 Subdivision 1. **Licensed programs; other child care programs.** (a) The commissioner  
92.16 shall conduct a background study of an individual required to be studied under section  
92.17 245C.03, subdivision 1, at least upon application for initial license for all license types.

92.18 (b) The commissioner shall conduct a background study of an individual required to be  
92.19 studied under section 245C.03, subdivision 1, including a child care background study  
92.20 subject as defined in section 245C.02, subdivision 6a, in a family child care program, licensed  
92.21 child care center, certified license-exempt child care center, or legal nonlicensed child care  
92.22 provider, on a schedule determined by the commissioner. Except as provided in section  
92.23 245C.05, subdivision 5a, a child care background study must include submission of  
92.24 fingerprints for a national criminal history record check and a review of the information  
92.25 under section 245C.08. A background study for a child care program must be repeated  
92.26 within five years from the most recent study conducted under this paragraph.

92.27 (c) At reapplication for a family child care license:

92.28 (1) for a background study affiliated with a licensed family child care center or legal  
92.29 nonlicensed child care provider, the individual shall provide information required under  
92.30 section 245C.05, subdivision 1, paragraphs (a), (b), and (d), to the county agency, and be  
92.31 fingerprinted and photographed under section 245C.05, subdivision 5;

93.1 (2) the county agency shall verify the information received under clause (1) and forward  
93.2 the information to the commissioner to complete the background study; and

93.3 (3) the background study conducted by the commissioner under this paragraph must  
93.4 include a review of the information required under section 245C.08.

93.5 (d) The commissioner is not required to conduct a study of an individual at the time of  
93.6 reapplication for a license if the individual's background study was completed by the  
93.7 commissioner of human services and the following conditions are met:

93.8 (1) a study of the individual was conducted either at the time of initial licensure or when  
93.9 the individual became affiliated with the license holder;

93.10 (2) the individual has been continuously affiliated with the license holder since the last  
93.11 study was conducted; and

93.12 (3) the last study of the individual was conducted on or after October 1, 1995.

93.13 (e) The commissioner of human services shall conduct a background study of an  
93.14 individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6),  
93.15 who is newly affiliated with a child foster family setting license holder:

93.16 (1) the county or private agency shall collect and forward to the commissioner the  
93.17 information required under section 245C.05, subdivisions 1 and 5, when the child foster  
93.18 family setting applicant or license holder resides in the home where child foster care services  
93.19 are provided; and

93.20 (2) the background study conducted by the commissioner of human services under this  
93.21 paragraph must include a review of the information required under section 245C.08,  
93.22 subdivisions 1, 3, and 4.

93.23 (f) The commissioner shall conduct a background study of an individual specified under  
93.24 section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated  
93.25 with an adult foster care or family adult day services and with a family child care license  
93.26 holder or a legal nonlicensed child care provider authorized under chapter 119B and:

93.27 (1) except as provided in section 245C.05, subdivision 5a, the county shall collect and  
93.28 forward to the commissioner the information required under section 245C.05, subdivision  
93.29 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a), (b), and (d), for background  
93.30 studies conducted by the commissioner for all family adult day services, for adult foster  
93.31 care when the adult foster care license holder resides in the adult foster care residence, and  
93.32 for family child care and legal nonlicensed child care authorized under chapter 119B;

94.1 (2) the license holder shall collect and forward to the commissioner the information  
94.2 required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs  
94.3 (a) and (b), for background studies conducted by the commissioner for adult foster care  
94.4 when the license holder does not reside in the adult foster care residence; and

94.5 (3) the background study conducted by the commissioner under this paragraph must  
94.6 include a review of the information required under section 245C.08, subdivision 1, paragraph  
94.7 (a), and subdivisions 3 and 4.

94.8 (g) Applicants for licensure, license holders, and other entities as provided in this chapter  
94.9 must submit completed background study requests to the commissioner using the electronic  
94.10 system known as NETStudy before individuals specified in section 245C.03, subdivision  
94.11 1, begin positions allowing direct contact in any licensed program.

94.12 (h) For an individual who is not on the entity's active roster, the entity must initiate a  
94.13 new background study through NETStudy when:

94.14 (1) an individual returns to a position requiring a background study following an absence  
94.15 of 120 or more consecutive days; or

94.16 (2) a program that discontinued providing licensed direct contact services for 120 or  
94.17 more consecutive days begins to provide direct contact licensed services again.

94.18 The license holder shall maintain a copy of the notification provided to the commissioner  
94.19 under this paragraph in the program's files. If the individual's disqualification was previously  
94.20 set aside for the license holder's program and the new background study results in no new  
94.21 information that indicates the individual may pose a risk of harm to persons receiving  
94.22 services from the license holder, the previous set-aside shall remain in effect.

94.23 (i) For purposes of this section, a physician licensed under chapter 147 or advanced  
94.24 practice registered nurse licensed under chapter 148 is considered to be continuously affiliated  
94.25 upon the license holder's receipt from the commissioner of health or human services of the  
94.26 physician's or advanced practice registered nurse's background study results.

94.27 (j) For purposes of family child care, a substitute caregiver must receive repeat  
94.28 background studies at the time of each license renewal.

94.29 (k) A repeat background study at the time of license renewal is not required if the family  
94.30 child care substitute caregiver's background study was completed by the commissioner on  
94.31 or after October 1, 2017, and the substitute caregiver is on the license holder's active roster  
94.32 in NETStudy 2.0.

95.1 (l) Before and after school programs authorized under chapter 119B, are exempt from  
95.2 the background study requirements under section 123B.03, for an employee for whom a  
95.3 background study under this chapter has been completed.

95.4 (m) Upon request of the license holder, the commissioner of human services shall conduct  
95.5 a background study of an individual specified under section 245C.03, subdivision 1,  
95.6 paragraph (a), clauses (2) to (6), who is newly affiliated with a home and community-based  
95.7 service provider licensed under chapter 245D and certified to provide children's out-of-home  
95.8 respite under section 245D.34. The license holder shall collect and forward to the  
95.9 commissioner all the information described under section 245C.05, subdivisions 1 and 5.  
95.10 The background study conducted by the commissioner of human services under this  
95.11 paragraph must include a review of all the information described under section 245C.08,  
95.12 subdivisions 1, 3, and 4.

95.13 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,  
95.14 whichever is later. The commissioner of human services shall notify the revisor of statutes  
95.15 when federal approval is obtained.

95.16 Sec. 4. Minnesota Statutes 2021 Supplement, section 245C.05, subdivision 5, is amended  
95.17 to read:

95.18 Subd. 5. **Fingerprints and photograph.** (a) Notwithstanding paragraph (b), for  
95.19 background studies conducted by the commissioner for certified children's out-of-home  
95.20 respite, child foster care, children's residential facilities, adoptions, or a transfer of permanent  
95.21 legal and physical custody of a child, the subject of the background study, who is 18 years  
95.22 of age or older, shall provide the commissioner with a set of classifiable fingerprints obtained  
95.23 from an authorized agency for a national criminal history record check.

95.24 (b) For background studies initiated on or after the implementation of NETStudy 2.0,  
95.25 except as provided under subdivision 5a, every subject of a background study must provide  
95.26 the commissioner with a set of the background study subject's classifiable fingerprints and  
95.27 photograph. The photograph and fingerprints must be recorded at the same time by the  
95.28 authorized fingerprint collection vendor or vendors and sent to the commissioner through  
95.29 the commissioner's secure data system described in section 245C.32, subdivision 1a,  
95.30 paragraph (b).

95.31 (c) The fingerprints shall be submitted by the commissioner to the Bureau of Criminal  
95.32 Apprehension and, when specifically required by law, submitted to the Federal Bureau of  
95.33 Investigation for a national criminal history record check.

96.1 (d) The fingerprints must not be retained by the Department of Public Safety, Bureau  
96.2 of Criminal Apprehension, or the commissioner. The Federal Bureau of Investigation will  
96.3 not retain background study subjects' fingerprints.

96.4 (e) The authorized fingerprint collection vendor or vendors shall, for purposes of verifying  
96.5 the identity of the background study subject, be able to view the identifying information  
96.6 entered into NETStudy 2.0 by the entity that initiated the background study, but shall not  
96.7 retain the subject's fingerprints, photograph, or information from NETStudy 2.0. The  
96.8 authorized fingerprint collection vendor or vendors shall retain no more than the name and  
96.9 date and time the subject's fingerprints were recorded and sent, only as necessary for auditing  
96.10 and billing activities.

96.11 (f) For any background study conducted under this chapter, the subject shall provide the  
96.12 commissioner with a set of classifiable fingerprints when the commissioner has reasonable  
96.13 cause to require a national criminal history record check as defined in section 245C.02,  
96.14 subdivision 15a.

96.15 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,  
96.16 whichever is later. The commissioner of human services shall notify the revisor of statutes  
96.17 when federal approval is obtained.

96.18 Sec. 5. **[245D.34] CHILDREN'S OUT-OF-HOME RESPITE CERTIFICATION**  
96.19 **STANDARDS.**

96.20 Subdivision 1. **Certification.** (a) The commissioner of human services shall issue a  
96.21 children's out-of-home respite certification for services licensed under this chapter when a  
96.22 license holder is determined to have met the requirements under this section. This certification  
96.23 is voluntary for license holders. The certification shall be printed on the license and identified  
96.24 on the commissioner's public website.

96.25 (b) A license holder seeking certification under this section must request this certification  
96.26 on forms and in the manner prescribed by the commissioner.

96.27 (c) If a commissioner finds that a license holder has failed to comply with the certification  
96.28 requirements under this section, the commissioner may issue a correction order and an order  
96.29 of conditional license in accordance with section 245A.06 or may issue a sanction in  
96.30 accordance with section 245A.07, including and up to removal of the certification.

96.31 (d) A denial of the certification or the removal of the certification based on a  
96.32 determination that the requirements of this section have not been met is not subject to appeal.  
96.33 A license holder that has been denied a certification or that has had a certification removed



97.1 may again request certification when the license holder is in compliance with the  
 97.2 requirements of this section.

97.3 Subd. 2. **Certification requirements.** The requirements for certification under this  
 97.4 section are:

97.5 (1) the license holder maintains a current roster of staff who meet the background study  
 97.6 requirements under section 245C.04, subdivision 1, paragraph (m);

97.7 (2) the license holder assigns only individuals on the roster described in clause (1) to  
 97.8 provide out-of-home respite to a minor in an unlicensed service site;

97.9 (3) the case manager has verified and documented in the person's coordinated service  
 97.10 and support plan that any proposed unlicensed service site is appropriate to meet the person's  
 97.11 unique assessed needs; and

97.12 (4) when providing out-of-home respite to a minor at an unlicensed service site, the  
 97.13 service site the license holder uses is identified and approved by the case manager in the  
 97.14 person's coordinated service and support plan.

97.15 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,  
 97.16 whichever is later. The commissioner of human services shall notify the revisor of statutes  
 97.17 when federal approval is obtained."

97.18 Delete the title and insert:

97.19 "A bill for an act

97.20 relating to the operation of state government; modifying human services provisions  
 97.21 in children and family services, behavioral health, community supports, and  
 97.22 licensing; amending Minnesota Statutes 2020, sections 15A.0815, subdivision 2;  
 97.23 145.4716, by adding a subdivision; 245A.11, subdivisions 2, 2a, 7, 7a, by adding  
 97.24 a subdivision; 245C.04, subdivision 1; 245D.10, subdivision 3a; 245D.12; 256.01,  
 97.25 by adding a subdivision; 256.0112, by adding a subdivision; 256.045, subdivision  
 97.26 3; 256B.0659, subdivision 19; 256B.0757, subdivisions 1, 2, 3, 4, 5, 8; 256B.49,  
 97.27 subdivision 23; 256E.35, subdivisions 1, 2, 4a, 6, 7; 256G.02, subdivision 6;  
 97.28 256I.04, subdivision 3; 256K.26, subdivisions 2, 6, 7; 256K.45, subdivision 6, by  
 97.29 adding subdivisions; 256P.02, by adding a subdivision; 256P.04, subdivision 11;  
 97.30 256Q.06, by adding a subdivision; 268.19, subdivision 1; Minnesota Statutes 2021  
 97.31 Supplement, sections 15.01; 15.06, subdivision 1; 43A.08, subdivision 1a; 62A.673,  
 97.32 subdivision 2; 148F.11, subdivision 1; 245.467, subdivisions 2, 3; 245.4871,  
 97.33 subdivision 21; 245.4876, subdivisions 2, 3; 245.735, subdivision 3; 245A.03,  
 97.34 subdivision 7; 245C.05, subdivision 5; 245I.02, subdivisions 19, 36; 245I.03,  
 97.35 subdivision 9; 245I.04, subdivision 4; 245I.05, subdivision 3; 245I.08, subdivision  
 97.36 4; 245I.09, subdivision 2; 245I.10, subdivisions 2, 6; 245I.20, subdivision 5;  
 97.37 245I.23, subdivision 22; 254B.05, subdivision 5; 256B.0622, subdivision 2;  
 97.38 256B.0625, subdivision 3b; 256B.0671, subdivision 6; 256B.0911, subdivisions  
 97.39 3a, 3f; 256B.0946, subdivision 1; 256B.0947, subdivisions 2, 6; 256B.0949,  
 97.40 subdivisions 2, 13; 256P.01, subdivision 6a; 256P.06, subdivision 3; Laws 2020,  
 97.41 First Special Session chapter 7, section 1, subdivision 1, as amended; Laws 2021,  
 97.42 First Special Session chapter 8, article 6, section 1, subdivision 7; Laws 2022,

98.1 chapter 33, section 1, subdivision 8; proposing coding for new law in Minnesota  
98.2 Statutes, chapter 245D; proposing coding for new law as Minnesota Statutes,  
98.3 chapter 256T; repealing Minnesota Statutes 2020, sections 254A.04; 254B.14,  
98.4 subdivisions 1, 2, 3, 4, 6; Minnesota Statutes 2021 Supplement, section 254B.14,  
98.5 subdivision 5."