

1.1 Senator moves to amend the delete-everything amendment (SCS4165A-2)
1.2 to S.F. No. 4165 as follows:

1.3 Page 31, after line 23, insert:

1.4 "Section 1. [245I.40] CHILDREN'S THERAPEUTIC SERVICES AND SUPPORTS.

1.5 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
1.6 the meanings given them.

1.7 (b) "Care consultation" means consultative activities and communications between
1.8 mental health care providers and primary care clinical care providers, families, school
1.9 support staff, and clients. Care consultation may include psychiatric consultation with
1.10 primary care practitioners and mental health clinical care consultation.

1.11 (c) "Care coordination" means the activities required to coordinate care across settings
1.12 and providers for the people served to ensure seamless transitions across the full spectrum
1.13 of health services. Care coordination includes documenting a plan of care for medical care,
1.14 behavioral health, and social services and supports in the integrated treatment plan, assisting
1.15 with obtaining appointments, confirming that clients attend appointments, developing a
1.16 crisis plan, tracking medication, and implementing care coordination agreements with
1.17 external providers. Care coordination may include psychiatric consultation with primary
1.18 care practitioners and mental health clinical care consultation.

1.19 (d) "Children's therapeutic services and supports" means the flexible package of mental
1.20 health services for children who require varying therapeutic and rehabilitative levels of
1.21 intervention to treat a diagnosed emotional disturbance, as defined in section 245.4871,
1.22 subdivision 15, or a diagnosed mental illness, as defined in section 245.462, subdivision
1.23 20. The services are time-limited interventions that are delivered using various treatment
1.24 modalities and combinations of services designed to reach treatment outcomes identified
1.25 in the individual treatment plan.

1.26 (e) "Clinical trainee" means a staff person who is qualified according to section 245I.04,
1.27 subdivision 6.

1.28 (f) "Crisis planning" has the meaning given in section 245.4871, subdivision 9a.

1.29 (g) "Culturally competent provider" means a provider who understands and can utilize
1.30 to a client's benefit the client's culture when providing services to the client. A provider
1.31 may be culturally competent because the provider is of the same cultural or ethnic group
1.32 as the client or the provider has developed the knowledge and skills through training and
1.33 experience to provide services to culturally diverse clients.

2.1 (h) "Day treatment program" for children means a site-based structured mental health
2.2 program consisting of psychotherapy for three or more individuals and individual or group
2.3 skills training provided by a team, under the treatment supervision of a mental health
2.4 professional.

2.5 (i) "Standard diagnostic assessment" means the assessment described in section 245I.10,
2.6 subdivision 6.

2.7 (j) "Direct service time" means the time that a mental health professional, clinical trainee,
2.8 mental health practitioner, or mental health behavioral aide spends face-to-face with a client
2.9 and the client's family or providing covered services through telehealth as defined under
2.10 section 256B.0625, subdivision 3b. Direct service time includes time in which the provider
2.11 obtains a client's history, develops a client's treatment plan, records individual treatment
2.12 outcomes, or provides service components of children's therapeutic services and supports.
2.13 Direct service time does not include time doing work before and after providing direct
2.14 services, including scheduling or maintaining clinical records.

2.15 (k) "Emotional disturbance" has the meaning given in section 245.4871, subdivision 15.

2.16 (l) "Individual treatment plan" means the plan described in section 245I.10, subdivisions
2.17 7 and 8.

2.18 (m) "Mental health behavioral aide services" means medically necessary one-on-one
2.19 activities performed by a mental health behavioral aide qualified according to section
2.20 245I.04, subdivision 16, to assist a child to retain or generalize psychosocial skills as
2.21 previously trained by a mental health professional, clinical trainee, or mental health
2.22 practitioner and as described in the child's individual treatment plan and individual behavior
2.23 plan. Activities involve working directly with the child or child's family as provided in
2.24 subdivision 8, paragraph (b), clause (4).

2.25 (n) "Mental health certified family peer specialist" means a staff person who is qualified
2.26 according to section 245I.04, subdivision 12.

2.27 (o) "Mental health practitioner" means a staff person who is qualified according to section
2.28 245I.04, subdivision 4.

2.29 (p) "Mental health professional" means a staff person who is qualified according to
2.30 section 245I.04, subdivision 2.

2.31 (q) "Mental health service plan development" includes:

2.32 (1) developing and revising a child's individual treatment plan, including care consultation
2.33 and care coordination services; and

3.1 (2) administering and reporting the standardized outcome measurements in section
3.2 245I.10, subdivision 6, paragraph (d), clauses (3) and (4), and other standardized outcome
3.3 measurements approved by the commissioner, as periodically needed to evaluate the
3.4 effectiveness of treatment.

3.5 (r) For persons at least age 18 but under age 21, "mental illness" has the meaning given
3.6 in section 245.462, subdivision 20, paragraph (a).

3.7 (s) "Psychotherapy" means the treatment described in section 256B.0671, subdivision
3.8 11.

3.9 (t) "Rehabilitative services" or "psychiatric rehabilitation services" means interventions
3.10 to:

3.11 (1) restore a child or adolescent to an age-appropriate developmental trajectory that had
3.12 been disrupted by a psychiatric illness; or

3.13 (2) enable the child to self-monitor, compensate for, cope with, counteract, or replace
3.14 psychosocial skills deficits or maladaptive skills acquired over the course of a psychiatric
3.15 illness.

3.16 Psychiatric rehabilitation services for children combine coordinated psychotherapy to address
3.17 internal psychological, emotional, and intellectual processing deficits, and skills training to
3.18 restore personal and social functioning. Psychiatric rehabilitation services establish a
3.19 progressive series of goals with each achievement building upon a prior achievement.

3.20 (u) "Skills training" means individual, family, or group training, delivered by or under
3.21 the supervision of a mental health professional, designed to facilitate the acquisition of
3.22 psychosocial skills that are medically necessary to rehabilitate the child to an age-appropriate
3.23 developmental trajectory heretofore disrupted by a psychiatric illness or to enable the child
3.24 to self-monitor, compensate for, cope with, counteract, or replace skills deficits or
3.25 maladaptive skills acquired over the course of a psychiatric illness. Skills training is subject
3.26 to the service delivery requirements under subdivision 8, paragraph (b), clause (2).

3.27 (v) "Treatment supervision" means the supervision described in section 245I.06.

3.28 **Subd. 2. Covered service components of children's therapeutic services and**
3.29 **supports.** (a) Subject to federal approval, medical assistance covers medically necessary
3.30 children's therapeutic services and supports when the services are provided by an eligible
3.31 provider entity certified under and meeting the standards in this section. The provider entity
3.32 must make reasonable and good faith efforts to report individual client outcomes to the
3.33 commissioner, using instruments and protocols approved by the commissioner.

4.1 (b) The service components of children's therapeutic services and supports are:

4.2 (1) patient and/or family psychotherapy, family psychotherapy, psychotherapy for crisis,
4.3 and group psychotherapy;

4.4 (2) individual, family, or group skills training provided by a mental health professional,
4.5 clinical trainee, or mental health practitioner;

4.6 (3) crisis planning;

4.7 (4) mental health behavioral aide services;

4.8 (5) direction of a mental health behavioral aide;

4.9 (6) mental health service plan development;

4.10 (7) children's day treatment;

4.11 (8) care coordination;

4.12 (9) care consultation;

4.13 (10) travel to and from a client's location; and

4.14 (11) individual treatment plan development.

4.15 Subd. 3. **Determination of client eligibility.** (a) Children's therapeutic services and
4.16 supports include development and rehabilitative services that support a child's developmental
4.17 treatment needs.

4.18 (b) A client's eligibility to receive children's therapeutic services and supports under this
4.19 section shall be determined based on a standard diagnostic assessment by a mental health
4.20 professional or a clinical trainee that is performed within one year before the initial start of
4.21 service. The standard diagnostic assessment must:

4.22 (1) determine whether a child under age 18 has a diagnosis of emotional disturbance or,
4.23 if the person is between the ages of 18 and 21, whether the person has a mental illness;

4.24 (2) document children's therapeutic services and supports as medically necessary to
4.25 address an identified disability, functional impairment, and the individual client's needs and
4.26 goals; and

4.27 (3) be used in the development of the individual treatment plan.

4.28 (c) Notwithstanding paragraph (b), a client may be determined to be eligible for day
4.29 treatment under this section based on a hospital's medical history and presentation
4.30 examination of the client.

5.1 Subd. 4. **Provider entity certification.** (a) The commissioner shall establish an initial
5.2 provider entity application and certification process and recertification process to determine
5.3 whether a provider entity has an administrative and clinical infrastructure that meets the
5.4 requirements in subdivisions 5 and 6. A provider entity must be certified for the three core
5.5 rehabilitation services of psychotherapy, skills training, and crisis planning. The
5.6 commissioner shall recertify a provider entity every three years, allowing up to a six-month
5.7 grace period for recertification after the certification anniversary. The commissioner may
5.8 approve a recertification extension, in the interest of sustaining services, when a certain
5.9 date for recertification is identified. The commissioner shall establish a process for
5.10 decertification of a provider entity and shall require corrective action, medical assistance
5.11 repayment, or decertification of a provider entity that no longer meets the requirements in
5.12 this section or that fails to meet the clinical quality standards or administrative standards
5.13 provided by the commissioner in the application and certification process.

5.14 (b) The commissioner must provide the following to providers for the certification,
5.15 recertification, and decertification processes:

5.16 (1) a structured listing of required provider certification criteria;

5.17 (2) a formal written letter with a determination of certification, recertification, or
5.18 decertification, signed by the commissioner or the appropriate division director; and

5.19 (3) a formal written communication outlining the process for necessary corrective action
5.20 and follow-up by the commissioner, if applicable.

5.21 (c) For purposes of this section, a provider entity must meet the standards in this section
5.22 and this chapter, as required under section 245I.011, subdivision 5, and be:

5.23 (1) an Indian health services facility or a facility owned and operated by a Tribe or Tribal
5.24 organization operating as a 638 facility under Public Law 93-638, certified by the state;

5.25 (2) a county-operated entity certified by the state; or

5.26 (3) a noncounty entity certified by the state.

5.27 Subd. 5. **Provider entity clinical infrastructure requirements.** (a) To be an eligible
5.28 provider entity under this section, a provider entity must have a clinical infrastructure that
5.29 utilizes diagnostic assessment, individual treatment plans, service delivery, and individual
5.30 treatment plan review that are culturally competent, child-centered, and family-driven to
5.31 achieve maximum benefit for the client. The provider entity must review, and update as
5.32 necessary, the clinical policies and procedures every three years, must distribute the policies

6.1 and procedures to staff initially and upon each subsequent update, and must train staff
6.2 accordingly.

6.3 (b) The clinical infrastructure written policies and procedures must include policies and
6.4 procedures for meeting the requirements in this subdivision:

6.5 (1) providing or obtaining a client's standard diagnostic assessment, including a standard
6.6 diagnostic assessment. When required components of the standard diagnostic assessment
6.7 are not provided in an outside or independent assessment or cannot be attained immediately,
6.8 the provider entity must determine the missing information within 30 days and amend the
6.9 child's standard diagnostic assessment or incorporate the information into the child's
6.10 individual treatment plan;

6.11 (2) developing an individual treatment plan;

6.12 (3) providing treatment supervision plans for staff according to section 245I.06. Treatment
6.13 supervision does not include the authority to make or terminate court-ordered placements
6.14 of the child. A treatment supervisor must be available for urgent consultation as required
6.15 by the individual client's needs or the situation;

6.16 (4) requiring a mental health professional to determine the level of supervision for a
6.17 behavioral health aide, and to document and sign the supervision determination in the
6.18 behavioral health aide's supervision plan;

6.19 (5) ensuring the immediate accessibility of a mental health professional, clinical trainee,
6.20 or mental health practitioner to the behavioral aide during service delivery;

6.21 (6) providing service delivery that implements the individual treatment plan and meets
6.22 the requirements under subdivision 8; and

6.23 (7) individual treatment plan review. The review must determine the extent to which
6.24 the services have met each of the goals and objectives in the treatment plan. The review
6.25 must assess the client's progress and ensure that services and treatment goals continue to
6.26 be necessary and appropriate to the client and the client's family or foster family.

6.27 Subd. 6. **Background studies.** The requirements for background studies under section
6.28 245I.011, subdivision 4, paragraph (d), may be met by a children's therapeutic services and
6.29 supports services agency through the commissioner's NETStudy system as provided under
6.30 sections 245C.03, subdivision 7, and 245C.10, subdivision 8.

6.31 Subd. 7. **Provider entity administrative infrastructure requirements.** (a) An eligible
6.32 provider entity shall demonstrate the availability, by means of employment or contract, of

7.1 at least one backup mental health professional in the event of the primary mental health
7.2 professional's absence.

7.3 (b) In addition to the policies and procedures required under section 245I.03, the policies
7.4 and procedures must include:

7.5 (1) fiscal procedures, including internal fiscal control practices and a process for collecting
7.6 revenue that is compliant with federal and state laws; and

7.7 (2) a client-specific treatment outcomes measurement system, including baseline
7.8 measures, to measure a client's progress toward achieving mental health rehabilitation goals.

7.9 (c) A provider entity that uses a restrictive procedure with a client must meet the
7.10 requirements of section 245.8261.

7.11 Subd. 8. **Qualifications of individual and team providers.** (a) An individual or team
7.12 provider working within the scope of the provider's practice or qualifications may provide
7.13 service components of children's therapeutic services and supports that are identified as
7.14 medically necessary in a client's individual treatment plan.

7.15 (b) An individual provider must be qualified as a:

7.16 (1) mental health professional;

7.17 (2) clinical trainee;

7.18 (3) mental health practitioner;

7.19 (4) mental health certified family peer specialist; or

7.20 (5) mental health behavioral aide.

7.21 (c) A day treatment team must include one mental health professional or clinical trainee.

7.22 Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a certified
7.23 provider entity must ensure that:

7.24 (1) the provider's caseload size should reasonably enable the provider to play an active
7.25 role in service planning, monitoring, and delivering services to meet the client's and client's
7.26 family's needs, as specified in each client's individual treatment plan;

7.27 (2) site-based programs, including day treatment programs, provide staffing and facilities
7.28 to ensure the client's health, safety, and protection of rights, and that the programs are able
7.29 to implement each client's individual treatment plan; and

7.30 (3) a day treatment program is provided to a group of clients by a team under the treatment
7.31 supervision of a mental health professional. The day treatment program must be provided

8.1 in and by (i) an outpatient hospital accredited by the Joint Commission on Accreditation of
8.2 Health Organizations and licensed under sections 144.50 to 144.55; (ii) a community mental
8.3 health center under section 245.62; or (iii) an entity that is certified under subdivision 4 to
8.4 operate a program that meets the requirements of section 245.4884, subdivision 2, and
8.5 Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must stabilize
8.6 the client's mental health status while developing and improving the client's independent
8.7 living and socialization skills. The goal of the day treatment program must be to reduce or
8.8 relieve the effects of mental illness and provide training to enable the client to live in the
8.9 community. The remainder of the structured treatment program may include patient and/or
8.10 family or group psychotherapy, and individual or group skills training, if included in the
8.11 client's individual treatment plan. Day treatment programs are not part of inpatient or
8.12 residential treatment services. When a day treatment group that meets the minimum group
8.13 size requirement temporarily falls below the minimum group size because of a member's
8.14 temporary absence, medical assistance covers a group session conducted for the group
8.15 members in attendance. A day treatment program may provide fewer than the minimally
8.16 required hours for a particular child during a billing period in which the child is transitioning
8.17 into, or out of, the program.

8.18 (b) To be eligible for medical assistance payment, a provider entity must deliver the
8.19 service components of children's therapeutic services and supports in compliance with the
8.20 following requirements:

8.21 (1) psychotherapy to address the child's underlying mental health disorder must be
8.22 documented as part of the child's ongoing treatment. A provider must deliver, or arrange
8.23 for, medically necessary psychotherapy, unless the child's parent or caregiver chooses not
8.24 to receive it or the provider determines that psychotherapy is no longer medically necessary.
8.25 When a provider determines that psychotherapy is no longer medically necessary, the
8.26 provider must update required documentation, including but not limited to the individual
8.27 treatment plan, the child's medical record, or other authorizations, to include the
8.28 determination. When a provider determines that a child needs psychotherapy but
8.29 psychotherapy cannot be delivered due to a shortage of licensed mental health professionals
8.30 in the child's community, the provider must document the lack of access in the child's
8.31 medical record;

8.32 (2) individual, family, or group skills training is subject to the following requirements:

8.33 (i) a mental health professional, clinical trainee, or mental health practitioner shall provide
8.34 skills training;

9.1 (ii) skills training delivered to a child or the child's family must be targeted to the specific
9.2 deficits or maladaptations of the child's mental health disorder and must be prescribed in
9.3 the child's individual treatment plan;

9.4 (iii) group skills training may be provided to multiple recipients who, because of the
9.5 nature of their emotional, behavioral, or social dysfunction, can derive mutual benefit from
9.6 interaction in a group setting, which must be staffed as follows:

9.7 (A) one mental health professional, clinical trainee, or mental health practitioner must
9.8 work with a group of three to eight clients; or

9.9 (B) any combination of two mental health professionals, clinical trainees, or mental
9.10 health practitioners must work with a group of nine to 12 clients;

9.11 (iv) a mental health professional, clinical trainee, or mental health practitioner must have
9.12 taught the psychosocial skill before a mental health behavioral aide may practice that skill
9.13 with the client; and

9.14 (v) for group skills training, when a skills group that meets the minimum group size
9.15 requirement temporarily falls below the minimum group size because of a group member's
9.16 temporary absence, the provider may conduct the session for the group members in
9.17 attendance;

9.18 (3) crisis planning to a child and family must include development of a written plan that
9.19 anticipates the particular factors specific to the child that may precipitate a psychiatric crisis
9.20 for the child in the near future. The written plan must document actions that the family
9.21 should be prepared to take to resolve or stabilize a crisis, such as advance arrangements for
9.22 direct intervention and support services to the child and the child's family. Crisis planning
9.23 must include preparing resources designed to address abrupt or substantial changes in the
9.24 functioning of the child or the child's family when sudden change in behavior or a loss of
9.25 usual coping mechanisms is observed, or the child begins to present a danger to self or
9.26 others;

9.27 (4) mental health behavioral aide services must be medically necessary treatment services,
9.28 identified in the child's individual treatment plan. To be eligible for medical assistance
9.29 payment, mental health behavioral aide services must be delivered to a child who has been
9.30 diagnosed with an emotional disturbance or a mental illness, as provided in subdivision 1,
9.31 paragraph (m). The mental health behavioral aide must document the delivery of services
9.32 in written progress notes. Progress notes must reflect implementation of the treatment
9.33 strategies, as performed by the mental health behavioral aide and the child's responses to
9.34 the treatment strategies; and

10.1 (5) mental health service plan development must be performed in consultation with the
10.2 child's family and, when appropriate, with other key participants in the child's life by the
10.3 child's treating mental health professional or clinical trainee or by a mental health practitioner
10.4 and approved by the treating mental health professional. Treatment plan drafting consists
10.5 of development, review, and revision by face-to-face or electronic communication. The
10.6 provider must document events, including the time spent with the family and other key
10.7 participants in the child's life to approve the individual treatment plan. Medical assistance
10.8 covers service plan development before completion of the child's individual treatment plan.
10.9 Service plan development is covered only if a treatment plan is completed for the child. If
10.10 upon review it is determined that a treatment plan was not completed for the child, the
10.11 commissioner shall recover the payment for the service plan development.

10.12 Subd. 10. **Documentation and billing.** (a) A provider entity must document the services
10.13 it provides under this section. The provider entity must ensure that documentation complies
10.14 with Minnesota Rules, parts 9505.2175 and 9505.2197. Services billed under this section
10.15 that are not documented according to this subdivision shall be subject to monetary recovery
10.16 by the commissioner. Billing for covered service components under subdivision 2, paragraph
10.17 (b), must not include anything other than direct service time.

10.18 (b) Required documentation must be completed for each individual provider and service
10.19 modality, for each day a child receives a service under paragraph (b).

10.20 Subd. 11. **Excluded services.** The following services are not eligible for medical
10.21 assistance payment as children's therapeutic services and supports:

10.22 (1) service components of children's therapeutic services and supports simultaneously
10.23 provided by more than one provider entity unless prior authorization is obtained;

10.24 (2) treatment by multiple providers within the same agency at the same clock time;

10.25 (3) children's therapeutic services and supports provided in violation of medical assistance
10.26 policy in Minnesota Rules, part 9505.0220;

10.27 (4) mental health behavioral aide services provided by a personal care assistant who is
10.28 not qualified as a mental health behavioral aide and employed by a certified children's
10.29 therapeutic services and supports provider entity;

10.30 (5) service components of CTSS that are the responsibility of a residential or program
10.31 license holder, including foster care providers under the terms of a service agreement or
10.32 administrative rules governing licensure; and

11.1 (6) adjunctive activities that may be offered by a provider entity but are not otherwise
11.2 covered by medical assistance, including a service that is primarily recreation-oriented or
11.3 that is provided in a setting that is not medically supervised. This includes sports activities,
11.4 exercise groups, activities such as craft hours, leisure time, social hours, meal or snack time,
11.5 trips to community activities, and tours.

11.6 Subd. 12. **Exception to excluded services.** Notwithstanding subdivision 10, up to 15
11.7 hours of children's therapeutic services and supports provided within a six-month period to
11.8 a child with severe emotional disturbance who is residing in a hospital; a residential treatment
11.9 facility licensed under Minnesota Rules, parts 2960.0580 to 2960.0690; a psychiatric
11.10 residential treatment facility under section 256B.0625, subdivision 45a; a regional treatment
11.11 center; or other institutional group setting or who is participating in a program of partial
11.12 hospitalization are eligible for medical assistance payment if part of the discharge plan.

11.13 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
11.14 whichever is later. The commissioner of human services shall not submit a state plan
11.15 amendment to implement this section until an appropriation is enacted to cover the cost of
11.16 implementing this section. The commissioner of human services shall notify the revisor of
11.17 statutes when federal approval is obtained."

11.18 Page 46, after line 9, insert:

11.19 "(c) The revisor of statutes shall make necessary cross-reference changes and remove
11.20 statutory cross-references in Minnesota Statutes to conform with the repealer in section 41,
11.21 paragraphs (c) and (d). The revisor may make technical and other necessary changes to
11.22 language and sentence structure to preserve the meaning of the text."

11.23 Page 46, delete section 40 and insert:

11.24 "Sec. 41. **REPEALER.**

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

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

11.28 (c) Minnesota Statutes 2020, section 256B.0943, subdivisions 8, 8a, 10, 12, and 13, are
11.29 repealed.

11.30 (d) Minnesota Statutes 2021 Supplement, section 256B.0943, subdivisions 1, 2, 3, 4, 5,
11.31 5a, 6, 7, 9, and 11, are repealed.

- 12.1 **EFFECTIVE DATE.** Paragraphs (c) and (d) are effective July 1, 2023, or upon federal
- 12.2 approval, whichever is later. The commissioner of human services shall notify the revisor
- 12.3 of statutes when federal approval is obtained."
- 12.4 Renumber the sections in sequence and correct the internal references
- 12.5 Amend the title accordingly