

1.1 A bill for an act

1.2 relating to human services; modifying the procedure for sanctions; modifying

1.3 background studies conducted by the Department of Human Services; modifying

1.4 definitions; modifying applications and application process; modifying license

1.5 fees; modifying commissioner of health access to recipient medical records;

1.6 modifying notice requirements for monetary recovery and sanctions; modifying

1.7 administrative reconsideration process; modifying licensing data; modifying when

1.8 email addresses are made public; prohibiting prone restraints in licensed or certified

1.9 facilities; amending Minnesota Statutes 2022, sections 13.46, subdivision 4; 62V.05,

1.10 subdivision 4a; 122A.18, subdivision 8; 245A.02, subdivisions 5a, 10b; 245A.04,

1.11 subdivisions 1, 7; 245A.041, by adding a subdivision; 245A.07, subdivisions 2a,

1.12 3; 245A.10, subdivisions 3, 4; 245A.16, subdivision 1; 245C.02, subdivisions 6a,

1.13 11c, by adding subdivisions; 245C.03, subdivisions 1, 1a, 4, 5, 5a; 245C.031,

1.14 subdivisions 1, 4; 245C.05, subdivisions 1, 5a, by adding a subdivision; 245C.07;

1.15 245C.08, subdivision 1; 245C.10, subdivision 4; 245C.30, subdivision 2; 245C.31,

1.16 subdivision 1; 245C.33, subdivision 4; 245H.13, subdivision 9; 245I.20, subdivision

1.17 10; 256.9685, subdivisions 1a, 1b; 256.9686, by adding a subdivision; 256B.04,

1.18 subdivision 15; 256B.064; 256B.27, subdivision 3; 524.5-118, subdivision 2a;

1.19 proposing coding for new law in Minnesota Statutes, chapter 245A; repealing

1.20 Minnesota Statutes 2022, sections 245A.22; 245C.02, subdivision 9; 245C.301;

1.21 256.9685, subdivisions 1c, 1d; Minnesota Rules, parts 9505.0505, subpart 18;

1.22 9505.0520, subpart 9b.

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

1.24 Section 1. Minnesota Statutes 2022, section 13.46, subdivision 4, is amended to read:

1.25 Subd. 4. **Licensing data.** (a) As used in this subdivision:

1.26 (1) "licensing data" are all data collected, maintained, used, or disseminated by the

1.27 welfare system pertaining to persons licensed or registered or who apply for licensure or

1.28 registration or who formerly were licensed or registered under the authority of the

1.29 commissioner of human services. "Licensing data" includes data pertaining to persons or

1.30 government entities certified under chapter 245H or section 245I.20. "License holder"

2.1 includes "certification holder" under section 245H.01, subdivision 4, and a person or
2.2 government entity issued a certification under section 245I.20;

2.3 (2) "client" means a person who is receiving services from a licensee or from an applicant
2.4 for licensure; and

2.5 (3) "personal and personal financial data" are Social Security numbers, identity of and
2.6 letters of reference, insurance information, reports from the Bureau of Criminal
2.7 Apprehension, health examination reports, and social/home studies.

2.8 (b)(1)(i) Except as provided in paragraph (c), the following data on applicants, license
2.9 holders, and former licensees are public: name, address, telephone number of licensees, the
2.10 public email address provided by nonfamily foster care license holder, date of receipt of a
2.11 completed application, dates of licensure, licensed capacity, type of client preferred, variances
2.12 granted, record of training and education in child care and child development, type of
2.13 dwelling, name and relationship of other family members, previous license history, class
2.14 of license, the existence and status of complaints, and the number of serious injuries to or
2.15 deaths of individuals in the licensed program as reported to the commissioner of human
2.16 services, the local social services agency, or any other county welfare agency. For purposes
2.17 of this clause, a serious injury is one that is treated by a physician.

2.18 (ii) Except as provided in item (v), when a correction order, an order to forfeit a fine,
2.19 an order of license suspension, an order of temporary immediate suspension, an order of
2.20 license revocation, an order of license denial, or an order of conditional license has been
2.21 issued, or a complaint is resolved, the following data on current and former licensees and
2.22 applicants are public: the general nature of the complaint or allegations leading to the
2.23 temporary immediate suspension; the substance and investigative findings of the licensing
2.24 or maltreatment complaint, licensing violation, or substantiated maltreatment; the existence
2.25 of settlement negotiations; the record of informal resolution of a licensing violation; orders
2.26 of hearing; findings of fact; conclusions of law; specifications of the final correction order,
2.27 fine, suspension, temporary immediate suspension, revocation, denial, or conditional license
2.28 contained in the record of licensing action; whether a fine has been paid; and the status of
2.29 any appeal of these actions.

2.30 (iii) When a license denial under section 245A.05 or a sanction under section 245A.07
2.31 is based on a determination that a license holder, applicant, or controlling individual is
2.32 responsible for maltreatment under section 626.557 or chapter 260E, the identity of the
2.33 applicant, license holder, or controlling individual as the individual responsible for
2.34 maltreatment is public data at the time of the issuance of the license denial or sanction.

3.1 (iv) When a license denial under section 245A.05 or a sanction under section 245A.07
3.2 is based on a determination that a license holder, applicant, or controlling individual is
3.3 disqualified under chapter 245C, the identity of the license holder, applicant, or controlling
3.4 individual as the disqualified individual and the reason for the disqualification are public
3.5 data at the time of the issuance of the licensing sanction or denial. If the applicant, license
3.6 holder, or controlling individual requests reconsideration of the disqualification and the
3.7 disqualification is affirmed, the reason for the disqualification and the reason to not set aside
3.8 the disqualification are public data.

3.9 (v) A correction order or fine issued to a child care provider for a licensing violation is
3.10 private data on individuals under section 13.02, subdivision 12, or nonpublic data under
3.11 section 13.02, subdivision 9, if the correction order or fine is seven years old or older.

3.12 (2) For applicants who withdraw their application prior to licensure or denial of a license,
3.13 the following data are public: the name of the applicant, the city and county in which the
3.14 applicant was seeking licensure, the dates of the commissioner's receipt of the initial
3.15 application and completed application, the type of license sought, and the date of withdrawal
3.16 of the application.

3.17 (3) For applicants who are denied a license, the following data are public: the name and
3.18 address of the applicant, the city and county in which the applicant was seeking licensure,
3.19 the dates of the commissioner's receipt of the initial application and completed application,
3.20 the type of license sought, the date of denial of the application, the nature of the basis for
3.21 the denial, the existence of settlement negotiations, the record of informal resolution of a
3.22 denial, orders of hearings, findings of fact, conclusions of law, specifications of the final
3.23 order of denial, and the status of any appeal of the denial.

3.24 (4) When maltreatment is substantiated under section 626.557 or chapter 260E and the
3.25 victim and the substantiated perpetrator are affiliated with a program licensed under chapter
3.26 245A, the commissioner of human services, local social services agency, or county welfare
3.27 agency may inform the license holder where the maltreatment occurred of the identity of
3.28 the substantiated perpetrator and the victim.

3.29 (5) Notwithstanding clause (1), for child foster care, only the name of the license holder
3.30 and the status of the license are public if the county attorney has requested that data otherwise
3.31 classified as public data under clause (1) be considered private data based on the best interests
3.32 of a child in placement in a licensed program.

3.33 (c) The following are private data on individuals under section 13.02, subdivision 12,
3.34 or nonpublic data under section 13.02, subdivision 9: personal and personal financial data

4.1 on family day care program and family foster care program applicants and licensees and
4.2 their family members who provide services under the license.

4.3 (d) The following are private data on individuals: the identity of persons who have made
4.4 reports concerning licensees or applicants that appear in inactive investigative data, and the
4.5 records of clients or employees of the licensee or applicant for licensure whose records are
4.6 received by the licensing agency for purposes of review or in anticipation of a contested
4.7 matter. The names of reporters of complaints or alleged violations of licensing standards
4.8 under chapters 245A, 245B, 245C, and 245D, and applicable rules and alleged maltreatment
4.9 under section 626.557 and chapter 260E, are confidential data and may be disclosed only
4.10 as provided in section 260E.21, subdivision 4; 260E.35; or 626.557, subdivision 12b.

4.11 (e) Data classified as private, confidential, nonpublic, or protected nonpublic under this
4.12 subdivision become public data if submitted to a court or administrative law judge as part
4.13 of a disciplinary proceeding in which there is a public hearing concerning a license which
4.14 has been suspended, immediately suspended, revoked, or denied.

4.15 (f) Data generated in the course of licensing investigations that relate to an alleged
4.16 violation of law are investigative data under subdivision 3.

4.17 (g) Data that are not public data collected, maintained, used, or disseminated under this
4.18 subdivision that relate to or are derived from a report as defined in section 260E.03, or
4.19 626.5572, subdivision 18, are subject to the destruction provisions of sections 260E.35,
4.20 subdivision 6, and 626.557, subdivision 12b.

4.21 (h) Upon request, not public data collected, maintained, used, or disseminated under
4.22 this subdivision that relate to or are derived from a report of substantiated maltreatment as
4.23 defined in section 626.557 or chapter 260E may be exchanged with the Department of
4.24 Health for purposes of completing background studies pursuant to section 144.057 and with
4.25 the Department of Corrections for purposes of completing background studies pursuant to
4.26 section 241.021.

4.27 (i) Data on individuals collected according to licensing activities under chapters 245A
4.28 and 245C, data on individuals collected by the commissioner of human services according
4.29 to investigations under section 626.557 and chapters 245A, 245B, 245C, 245D, and 260E
4.30 may be shared with the Department of Human Rights, the Department of Health, the
4.31 Department of Corrections, the ombudsman for mental health and developmental disabilities,
4.32 and the individual's professional regulatory board when there is reason to believe that laws
4.33 or standards under the jurisdiction of those agencies may have been violated or the
4.34 information may otherwise be relevant to the board's regulatory jurisdiction. Background

5.1 study data on an individual who is the subject of a background study under chapter 245C
5.2 for a licensed service for which the commissioner of human services is the license holder
5.3 may be shared with the commissioner and the commissioner's delegate by the licensing
5.4 division. Unless otherwise specified in this chapter, the identity of a reporter of alleged
5.5 maltreatment or licensing violations may not be disclosed.

5.6 (j) In addition to the notice of determinations required under sections 260E.24,
5.7 subdivisions 5 and 7, and 260E.30, subdivision 6, paragraphs (b), (c), (d), (e), and (f), if the
5.8 commissioner or the local social services agency has determined that an individual is a
5.9 substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined in
5.10 section 260E.03, and the commissioner or local social services agency knows that the
5.11 individual is a person responsible for a child's care in another facility, the commissioner or
5.12 local social services agency shall notify the head of that facility of this determination. The
5.13 notification must include an explanation of the individual's available appeal rights and the
5.14 status of any appeal. If a notice is given under this paragraph, the government entity making
5.15 the notification shall provide a copy of the notice to the individual who is the subject of the
5.16 notice.

5.17 (k) All not public data collected, maintained, used, or disseminated under this subdivision
5.18 and subdivision 3 may be exchanged between the Department of Human Services, Licensing
5.19 Division, and the Department of Corrections for purposes of regulating services for which
5.20 the Department of Human Services and the Department of Corrections have regulatory
5.21 authority.

5.22 Sec. 2. Minnesota Statutes 2022, section 62V.05, subdivision 4a, is amended to read:

5.23 Subd. 4a. **Background study required.** (a) The board must initiate background studies
5.24 under section 245C.031 of:

5.25 (1) each navigator;

5.26 (2) each in-person assister; and

5.27 (3) each certified application counselor.

5.28 (b) The board may initiate the background studies required by paragraph (a) using the
5.29 online NETStudy 2.0 system operated by the commissioner of human services.

5.30 (c) The board shall not permit any individual to provide any service or function listed
5.31 in paragraph (a) until ~~the board has received notification from the commissioner of human~~
5.32 ~~services indicating that the individual:~~

6.1 (1) the board has evaluated any notification received from the commissioner of human
6.2 services indicating the individual's potential disqualifications and has determined that the
6.3 individual is not disqualified under chapter 245C; or

6.4 (2) the board has determined that the individual is disqualified; but has ~~received~~ granted
6.5 a set aside from the board of that disqualification according to sections 245C.22 and 245C.23.

6.6 (d) The board or its delegate shall review a reconsideration request of an individual in
6.7 paragraph (a), including granting a set aside, according to the procedures and criteria in
6.8 chapter 245C. The board shall notify the individual and the Department of Human Services
6.9 of the board's decision.

6.10 Sec. 3. Minnesota Statutes 2022, section 122A.18, subdivision 8, is amended to read:

6.11 Subd. 8. **Background studies.** (a) The Professional Educator Licensing and Standards
6.12 Board and the Board of School Administrators must initiate criminal history background
6.13 studies of all first-time applicants for educator and administrator licenses under their
6.14 jurisdiction. Applicants must include with their licensure applications:

6.15 (1) an executed criminal history consent form, including fingerprints; and

6.16 (2) payment to conduct the background study. The Professional Educator Licensing and
6.17 Standards Board must deposit payments received under this subdivision in an account in
6.18 the special revenue fund. Amounts in the account are annually appropriated to the
6.19 Professional Educator Licensing and Standards Board to pay for the costs of background
6.20 studies on applicants for licensure.

6.21 (b) The background study for all first-time ~~teaching~~ applicants for educator licenses
6.22 must include a review of information from the Bureau of Criminal Apprehension, including
6.23 criminal history data as defined in section 13.87, and must also include a review of the
6.24 national criminal records repository. The superintendent of the Bureau of Criminal
6.25 Apprehension is authorized to exchange fingerprints with the Federal Bureau of Investigation
6.26 for purposes of the criminal history check.

6.27 (c) The Professional Educator Licensing and Standards Board may initiate criminal
6.28 history background studies through the commissioner of human services according to section
6.29 245C.031 to obtain background study data required under this chapter.

7.1 Sec. 4. Minnesota Statutes 2022, section 245A.02, subdivision 5a, is amended to read:

7.2 Subd. 5a. **Controlling individual.** (a) "Controlling individual" means an owner of a
7.3 program or service provider licensed under this chapter and the following individuals, if
7.4 applicable:

7.5 (1) each officer of the organization, including the chief executive officer and chief
7.6 financial officer;

7.7 (2) the individual designated as the authorized agent under section 245A.04, subdivision
7.8 1, paragraph (b);

7.9 (3) the individual designated as the compliance officer under section 256B.04, subdivision
7.10 21, paragraph (g);

7.11 (4) each managerial official whose responsibilities include the direction of the
7.12 management or policies of a program; ~~and~~

7.13 (5) the individual designated as the primary provider of care for a special family child
7.14 care program under section 245A.14, subdivision 4, paragraph (i); and

7.15 (6) the president and treasurer of the board of directors of a nonprofit corporation.

7.16 (b) Controlling individual does not include:

7.17 (1) a bank, savings bank, trust company, savings association, credit union, industrial
7.18 loan and thrift company, investment banking firm, or insurance company unless the entity
7.19 operates a program directly or through a subsidiary;

7.20 (2) an individual who is a state or federal official, or state or federal employee, or a
7.21 member or employee of the governing body of a political subdivision of the state or federal
7.22 government that operates one or more programs, unless the individual is also an officer,
7.23 owner, or managerial official of the program, receives remuneration from the program, or
7.24 owns any of the beneficial interests not excluded in this subdivision;

7.25 (3) an individual who owns less than five percent of the outstanding common shares of
7.26 a corporation:

7.27 (i) whose securities are exempt under section 80A.45, clause (6); or

7.28 (ii) whose transactions are exempt under section 80A.46, clause (2);

7.29 (4) an individual who is a member of an organization exempt from taxation under section
7.30 290.05, unless the individual is also an officer, owner, or managerial official of the program
7.31 or owns any of the beneficial interests not excluded in this subdivision. This clause does

8.1 not exclude from the definition of controlling individual an organization that is exempt from
8.2 taxation; or

8.3 (5) an employee stock ownership plan trust, or a participant or board member of an
8.4 employee stock ownership plan, unless the participant or board member is a controlling
8.5 individual according to paragraph (a).

8.6 (c) For purposes of this subdivision, "managerial official" means an individual who has
8.7 the decision-making authority related to the operation of the program, and the responsibility
8.8 for the ongoing management of or direction of the policies, services, or employees of the
8.9 program. A site director who has no ownership interest in the program is not considered to
8.10 be a managerial official for purposes of this definition.

8.11 Sec. 5. Minnesota Statutes 2022, section 245A.02, subdivision 10b, is amended to read:

8.12 Subd. 10b. **Owner.** "Owner" means an individual or organization that has a direct or
8.13 indirect ownership interest of five percent or more in a program licensed under this chapter.
8.14 For purposes of this subdivision, "direct ownership interest" means the possession of equity
8.15 in capital, stock, or profits of an organization, and "indirect ownership interest" means a
8.16 direct ownership interest in an entity that has a direct or indirect ownership interest in a
8.17 licensed program. For purposes of this chapter, "~~owner of a nonprofit corporation" means~~
8.18 ~~the president and treasurer of the board of directors or, for an entity owned by an employee~~
8.19 ~~stock ownership plan;~~" means the president and treasurer of the entity. A government entity
8.20 or nonprofit corporation that is issued a license under this chapter shall be designated the
8.21 owner.

8.22 Sec. 6. Minnesota Statutes 2022, section 245A.04, subdivision 1, is amended to read:

8.23 Subdivision 1. **Application for licensure.** (a) An individual, organization, or government
8.24 entity that is subject to licensure under section 245A.03 must apply for a license. The
8.25 application must be made on the forms and in the manner prescribed by the commissioner.
8.26 The commissioner shall provide the applicant with instruction in completing the application
8.27 and provide information about the rules and requirements of other state agencies that affect
8.28 the applicant. An applicant seeking licensure in Minnesota with headquarters outside of
8.29 Minnesota must have a program office located within 30 miles of the Minnesota border.
8.30 An applicant who intends to buy or otherwise acquire a program or services licensed under
8.31 this chapter that is owned by another license holder must apply for a license under this
8.32 chapter and comply with the application procedures in this section and section ~~245A.03~~
8.33 245A.043.

9.1 The commissioner shall act on the application within 90 working days after a complete
9.2 application and any required reports have been received from other state agencies or
9.3 departments, counties, municipalities, or other political subdivisions. The commissioner
9.4 shall not consider an application to be complete until the commissioner receives all of the
9.5 required information.

9.6 When the commissioner receives an application for initial licensure that is incomplete
9.7 because the applicant failed to submit required documents or that is substantially deficient
9.8 because the documents submitted do not meet licensing requirements, the commissioner
9.9 shall provide the applicant written notice that the application is incomplete or substantially
9.10 deficient. In the written notice to the applicant the commissioner shall identify documents
9.11 that are missing or deficient and give the applicant 45 days to resubmit a second application
9.12 that is substantially complete. An applicant's failure to submit a substantially complete
9.13 application after receiving notice from the commissioner is a basis for license denial under
9.14 section 245A.05.

9.15 (b) An application for licensure must identify all controlling individuals as defined in
9.16 section 245A.02, subdivision 5a, and must designate one individual to be the authorized
9.17 agent. The application must be signed by the authorized agent and must include the authorized
9.18 agent's first, middle, and last name; mailing address; and email address. By submitting an
9.19 application for licensure, the authorized agent consents to electronic communication with
9.20 the commissioner throughout the application process. The authorized agent must be
9.21 authorized to accept service on behalf of all of the controlling individuals. A government
9.22 entity that holds multiple licenses under this chapter may designate one authorized agent
9.23 for all licenses issued under this chapter or may designate a different authorized agent for
9.24 each license. Service on the authorized agent is service on all of the controlling individuals.
9.25 It is not a defense to any action arising under this chapter that service was not made on each
9.26 controlling individual. The designation of a controlling individual as the authorized agent
9.27 under this paragraph does not affect the legal responsibility of any other controlling individual
9.28 under this chapter.

9.29 (c) An applicant or license holder must have a policy that prohibits license holders,
9.30 employees, subcontractors, and volunteers, when directly responsible for persons served
9.31 by the program, from abusing prescription medication or being in any manner under the
9.32 influence of a chemical that impairs the individual's ability to provide services or care. The
9.33 license holder must train employees, subcontractors, and volunteers about the program's
9.34 drug and alcohol policy.

10.1 (d) An applicant and license holder must have a program grievance procedure that permits
10.2 persons served by the program and their authorized representatives to bring a grievance to
10.3 the highest level of authority in the program.

10.4 (e) The commissioner may limit communication during the application process to the
10.5 authorized agent or the controlling individuals identified on the license application and for
10.6 whom a background study was initiated under chapter 245C. The commissioner may require
10.7 the applicant, except for child foster care, to demonstrate competence in the applicable
10.8 licensing requirements by successfully completing a written examination. The commissioner
10.9 may develop a prescribed written examination format.

10.10 (f) When an applicant is an individual, the applicant must provide:

10.11 (1) the applicant's taxpayer identification numbers including the Social Security number
10.12 or Minnesota tax identification number, and federal employer identification number if the
10.13 applicant has employees;

10.14 (2) at the request of the commissioner, a copy of the most recent filing with the secretary
10.15 of state that includes the complete business name, if any;

10.16 (3) if doing business under a different name, the doing business as (DBA) name, as
10.17 registered with the secretary of state;

10.18 (4) if applicable, the applicant's National Provider Identifier (NPI) number and Unique
10.19 Minnesota Provider Identifier (UMPI) number; and

10.20 (5) at the request of the commissioner, the notarized signature of the applicant or
10.21 authorized agent; and

10.22 (6) except for family foster care providers, an email address that will be made public
10.23 subject to the requirements under section 13.46, subdivision 4, paragraph (b), clause (1),
10.24 item (i).

10.25 (g) When an applicant is an organization, the applicant must provide:

10.26 (1) the applicant's taxpayer identification numbers including the Minnesota tax
10.27 identification number and federal employer identification number;

10.28 (2) at the request of the commissioner, a copy of the most recent filing with the secretary
10.29 of state that includes the complete business name, and if doing business under a different
10.30 name, the doing business as (DBA) name, as registered with the secretary of state;

10.31 (3) the first, middle, and last name, and address for all individuals who will be controlling
10.32 individuals, including all officers, owners, and managerial officials as defined in section

11.1 245A.02, subdivision 5a, and the date that the background study was initiated by the applicant
11.2 for each controlling individual;

11.3 (4) if applicable, the applicant's NPI number and UMPI number;

11.4 (5) the documents that created the organization and that determine the organization's
11.5 internal governance and the relations among the persons that own the organization, have
11.6 an interest in the organization, or are members of the organization, in each case as provided
11.7 or authorized by the organization's governing statute, which may include a partnership
11.8 agreement, bylaws, articles of organization, organizational chart, and operating agreement,
11.9 or comparable documents as provided in the organization's governing statute; ~~and~~

11.10 (6) the notarized signature of the applicant or authorized agent; and

11.11 (7) an email address that will be made public subject to the requirements under section
11.12 13.46, subdivision 4, paragraph (b), clause (1), item (i).

11.13 (h) When the applicant is a government entity, the applicant must provide:

11.14 (1) the name of the government agency, political subdivision, or other unit of government
11.15 seeking the license and the name of the program or services that will be licensed;

11.16 (2) the applicant's taxpayer identification numbers including the Minnesota tax
11.17 identification number and federal employer identification number;

11.18 (3) a letter signed by the manager, administrator, or other executive of the government
11.19 entity authorizing the submission of the license application; and

11.20 (4) if applicable, the applicant's NPI number and UMPI number; and

11.21 (5) an email address that will be made public subject to the requirements under section
11.22 13.46, subdivision 4, paragraph (b), clause (1), item (i).

11.23 (i) At the time of application for licensure or renewal of a license under this chapter, the
11.24 applicant or license holder must acknowledge on the form provided by the commissioner
11.25 if the applicant or license holder elects to receive any public funding reimbursement from
11.26 the commissioner for services provided under the license that:

11.27 (1) the applicant's or license holder's compliance with the provider enrollment agreement
11.28 or registration requirements for receipt of public funding may be monitored by the
11.29 commissioner as part of a licensing investigation or licensing inspection; and

11.30 (2) noncompliance with the provider enrollment agreement or registration requirements
11.31 for receipt of public funding that is identified through a licensing investigation or licensing

12.1 inspection, or noncompliance with a licensing requirement that is a basis of enrollment for
 12.2 reimbursement for a service, may result in:

12.3 (i) a correction order or a conditional license under section 245A.06, or sanctions under
 12.4 section 245A.07;

12.5 (ii) nonpayment of claims submitted by the license holder for public program
 12.6 reimbursement;

12.7 (iii) recovery of payments made for the service;

12.8 (iv) disenrollment in the public payment program; or

12.9 (v) other administrative, civil, or criminal penalties as provided by law.

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

12.11 Sec. 7. Minnesota Statutes 2022, section 245A.04, subdivision 7, is amended to read:

12.12 Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines that
 12.13 the program complies with all applicable rules and laws, the commissioner shall issue a
 12.14 license consistent with this section or, if applicable, a temporary change of ownership license
 12.15 under section 245A.043. At minimum, the license shall state:

12.16 (1) the name of the license holder;

12.17 (2) the address of the program;

12.18 (3) the effective date and expiration date of the license;

12.19 (4) the type of license;

12.20 (5) the maximum number and ages of persons that may receive services from the program;

12.21 ~~and~~

12.22 (6) any special conditions of licensure; and

12.23 (7) the public email address of the program.

12.24 (b) The commissioner may issue a license for a period not to exceed two years if:

12.25 (1) the commissioner is unable to conduct the ~~evaluation or~~ observation required by
 12.26 subdivision 4, paragraph (a), clause ~~(4)~~ (3), because the program is not yet operational;

12.27 (2) certain records and documents are not available because persons are not yet receiving
 12.28 services from the program; and

12.29 (3) the applicant complies with applicable laws and rules in all other respects.

13.1 (c) A decision by the commissioner to issue a license does not guarantee that any person
13.2 or persons will be placed or cared for in the licensed program.

13.3 (d) Except as provided in paragraphs (f) and (g), the commissioner shall not issue or
13.4 reissue a license if the applicant, license holder, or controlling individual has:

13.5 (1) been disqualified and the disqualification was not set aside and no variance has been
13.6 granted;

13.7 (2) been denied a license under this chapter, within the past two years;

13.8 (3) had a license issued under this chapter revoked within the past five years;

13.9 (4) an outstanding debt related to a license fee, licensing fine, or settlement agreement
13.10 for which payment is delinquent; or

13.11 (5) failed to submit the information required of an applicant under subdivision 1,
13.12 paragraph (f) ~~or~~ (g), or (h), after being requested by the commissioner.

13.13 When a license issued under this chapter is revoked under clause (1) or (3), the license
13.14 holder and controlling individual may not hold any license under chapter 245A for five
13.15 years following the revocation, and other licenses held by the applicant, license holder, or
13.16 controlling individual shall also be revoked.

13.17 (e) The commissioner shall not issue or reissue a license under this chapter if an individual
13.18 living in the household where the services will be provided as specified under section
13.19 245C.03, subdivision 1, has been disqualified and the disqualification has not been set aside
13.20 and no variance has been granted.

13.21 (f) Pursuant to section 245A.07, subdivision 1, paragraph (b), when a license issued
13.22 under this chapter has been suspended or revoked and the suspension or revocation is under
13.23 appeal, the program may continue to operate pending a final order from the commissioner.
13.24 If the license under suspension or revocation will expire before a final order is issued, a
13.25 temporary provisional license may be issued provided any applicable license fee is paid
13.26 before the temporary provisional license is issued.

13.27 (g) Notwithstanding paragraph (f), when a revocation is based on the disqualification
13.28 of a controlling individual or license holder, and the controlling individual or license holder
13.29 is ordered under section 245C.17 to be immediately removed from direct contact with
13.30 persons receiving services or is ordered to be under continuous, direct supervision when
13.31 providing direct contact services, the program may continue to operate only if the program
13.32 complies with the order and submits documentation demonstrating compliance with the
13.33 order. If the disqualified individual fails to submit a timely request for reconsideration, or

14.1 if the disqualification is not set aside and no variance is granted, the order to immediately
14.2 remove the individual from direct contact or to be under continuous, direct supervision
14.3 remains in effect pending the outcome of a hearing and final order from the commissioner.

14.4 (h) For purposes of reimbursement for meals only, under the Child and Adult Care Food
14.5 Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A, part 226,
14.6 relocation within the same county by a licensed family day care provider, shall be considered
14.7 an extension of the license for a period of no more than 30 calendar days or until the new
14.8 license is issued, whichever occurs first, provided the county agency has determined the
14.9 family day care provider meets licensure requirements at the new location.

14.10 (i) Unless otherwise specified by statute, all licenses issued under this chapter expire at
14.11 12:01 a.m. on the day after the expiration date stated on the license. A license holder must
14.12 apply for and be granted a new license to operate the program or the program must not be
14.13 operated after the expiration date.

14.14 (j) The commissioner shall not issue or reissue a license under this chapter if it has been
14.15 determined that a tribal licensing authority has established jurisdiction to license the program
14.16 or service.

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

14.18 Sec. 8. Minnesota Statutes 2022, section 245A.041, is amended by adding a subdivision
14.19 to read:

14.20 **Subd. 6. First date of direct contact; documentation requirements.** Except for family
14.21 child care, family foster care for children, and family adult day services that the license
14.22 holder provides in the license holder's residence, license holders must document the first
14.23 date that a background study subject has direct contact, as defined in section 245C.02,
14.24 subdivision 11, with a person served by the license holder's program. Unless this chapter
14.25 otherwise requires, if the license holder does not maintain the documentation required by
14.26 this subdivision in the license holder's personnel files, the license holder must provide the
14.27 documentation to the commissioner upon the commissioner's request.

14.28 **EFFECTIVE DATE.** This section is effective January 1, 2024.

14.29 Sec. 9. Minnesota Statutes 2022, section 245A.07, subdivision 2a, is amended to read:

14.30 Subd. 2a. **Immediate suspension expedited hearing.** (a) Within five working days of
14.31 receipt of the license holder's timely appeal, the commissioner shall request assignment of
14.32 an administrative law judge. The request must include a proposed date, time, and place of

15.1 a hearing. A hearing must be conducted by an administrative law judge within 30 calendar
15.2 days of the request for assignment, unless an extension is requested by either party and
15.3 granted by the administrative law judge for good cause. The commissioner shall issue a
15.4 notice of hearing by certified mail or personal service at least ten working days before the
15.5 hearing. The scope of the hearing shall be limited solely to the issue of whether the temporary
15.6 immediate suspension should remain in effect pending the commissioner's final order under
15.7 section 245A.08, regarding a licensing sanction issued under subdivision 3 following the
15.8 immediate suspension. For suspensions under subdivision 2, paragraph (a), clause (1), the
15.9 burden of proof in expedited hearings under this subdivision shall be limited to the
15.10 commissioner's demonstration that reasonable cause exists to believe that the license holder's
15.11 actions or failure to comply with applicable law or rule poses, or the actions of other
15.12 individuals or conditions in the program poses an imminent risk of harm to the health, safety,
15.13 or rights of persons served by the program. "Reasonable cause" means there exist specific
15.14 articulable facts or circumstances which provide the commissioner with a reasonable
15.15 suspicion that there is an imminent risk of harm to the health, safety, or rights of persons
15.16 served by the program. When the commissioner has determined there is reasonable cause
15.17 to order the temporary immediate suspension of a license based on a violation of safe sleep
15.18 requirements, as defined in section 245A.1435, the commissioner is not required to
15.19 demonstrate that an infant died or was injured as a result of the safe sleep violations. For
15.20 suspensions under subdivision 2, paragraph (a), clause (2), the burden of proof in expedited
15.21 hearings under this subdivision shall be limited to the commissioner's demonstration by a
15.22 preponderance of the evidence that, since the license was revoked, the license holder
15.23 committed additional violations of law or rule which may adversely affect the health or
15.24 safety of persons served by the program.

15.25 (b) The administrative law judge shall issue findings of fact, conclusions, and a
15.26 recommendation within ten working days from the date of hearing. The parties shall have
15.27 ten calendar days to submit exceptions to the administrative law judge's report. The record
15.28 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
15.29 final order shall be issued within ten working days from the close of the record. When an
15.30 appeal of a temporary immediate suspension is withdrawn or dismissed, the commissioner
15.31 shall issue a final order affirming the temporary immediate suspension within ten calendar
15.32 days of the commissioner's receipt of the withdrawal or dismissal. Within 90 calendar days
15.33 after an immediate suspension has been issued and the license holder has not submitted a
15.34 timely appeal under subdivision 2, paragraph (b), or within 90 calendar days after a final
15.35 order affirming an immediate suspension, the commissioner shall ~~make a determination~~
15.36 regarding determine:

16.1 (1) whether a final licensing sanction shall be issued under subdivision 3, paragraph (a),
16.2 clauses (1) to (5). The license holder shall continue to be prohibited from operation of the
16.3 program during this 90-day period; or

16.4 (2) whether the outcome of related, ongoing investigations or judicial proceedings are
16.5 necessary to determine if a final licensing sanction under subdivision 3, paragraph (a),
16.6 clauses (1) to (5), will be issued, and persons served by the program remain at an imminent
16.7 risk of harm during the investigation period or proceedings. If so, the commissioner shall
16.8 issue a suspension order under subdivision 3, paragraph (a), clause (6).

16.9 (c) When the final order under paragraph (b) affirms an immediate suspension or the
16.10 license holder does not submit a timely appeal of the immediate suspension, and a final
16.11 licensing sanction is issued under subdivision 3 and the license holder appeals that sanction,
16.12 the license holder continues to be prohibited from operation of the program pending a final
16.13 commissioner's order under section 245A.08, subdivision 5, regarding the final licensing
16.14 sanction.

16.15 (d) The license holder shall continue to be prohibited from operation of the program
16.16 while a suspension order issued under paragraph (b), clause (2), remains in effect.

16.17 ~~(d)~~ (e) For suspensions under subdivision 2, paragraph (a), clause (3), the burden of
16.18 proof in expedited hearings under this subdivision shall be limited to the commissioner's
16.19 demonstration by a preponderance of the evidence that a criminal complaint and warrant
16.20 or summons was issued for the license holder that was not dismissed, and that the criminal
16.21 charge is an offense that involves fraud or theft against a program administered by the
16.22 commissioner.

16.23 Sec. 10. Minnesota Statutes 2022, section 245A.07, subdivision 3, is amended to read:

16.24 Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend
16.25 or revoke a license, or impose a fine if:

16.26 (1) a license holder fails to comply fully with applicable laws or rules including but not
16.27 limited to the requirements of this chapter and chapter 245C;

16.28 (2) a license holder, a controlling individual, or an individual living in the household
16.29 where the licensed services are provided or is otherwise subject to a background study has
16.30 been disqualified and the disqualification was not set aside and no variance has been granted;

16.31 (3) a license holder knowingly withholds relevant information from or gives false or
16.32 misleading information to the commissioner in connection with an application for a license,

17.1 in connection with the background study status of an individual, during an investigation,
17.2 or regarding compliance with applicable laws or rules;

17.3 (4) a license holder is excluded from any program administered by the commissioner
17.4 under section 245.095; ~~or~~

17.5 (5) revocation is required under section 245A.04, subdivision 7, paragraph (d); or

17.6 (6) suspension is necessary under subdivision 2a, paragraph (b), clause (2).

17.7 A license holder who has had a license issued under this chapter suspended, revoked,
17.8 or has been ordered to pay a fine must be given notice of the action by certified mail or
17.9 personal service. If mailed, the notice must be mailed to the address shown on the application
17.10 or the last known address of the license holder. The notice must state in plain language the
17.11 reasons the license was suspended or revoked, or a fine was ordered.

17.12 (b) If the license was suspended or revoked, the notice must inform the license holder
17.13 of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts
17.14 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking
17.15 a license. The appeal of an order suspending or revoking a license must be made in writing
17.16 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
17.17 the commissioner within ten calendar days after the license holder receives notice that the
17.18 license has been suspended or revoked. If a request is made by personal service, it must be
17.19 received by the commissioner within ten calendar days after the license holder received the
17.20 order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a
17.21 timely appeal of an order suspending or revoking a license, the license holder may continue
17.22 to operate the program as provided in section 245A.04, subdivision 7, paragraphs (f) and
17.23 (g), until the commissioner issues a final order on the suspension or revocation.

17.24 (c)(1) If the license holder was ordered to pay a fine, the notice must inform the license
17.25 holder of the responsibility for payment of fines and the right to a contested case hearing
17.26 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an
17.27 order to pay a fine must be made in writing by certified mail or personal service. If mailed,
17.28 the appeal must be postmarked and sent to the commissioner within ten calendar days after
17.29 the license holder receives notice that the fine has been ordered. If a request is made by
17.30 personal service, it must be received by the commissioner within ten calendar days after
17.31 the license holder received the order.

17.32 (2) The license holder shall pay the fines assessed on or before the payment date specified.
17.33 If the license holder fails to fully comply with the order, the commissioner may issue a
17.34 second fine or suspend the license until the license holder complies. If the license holder

18.1 receives state funds, the state, county, or municipal agencies or departments responsible for
18.2 administering the funds shall withhold payments and recover any payments made while the
18.3 license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine
18.4 until the commissioner issues a final order.

18.5 (3) A license holder shall promptly notify the commissioner of human services, in writing,
18.6 when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the
18.7 commissioner determines that a violation has not been corrected as indicated by the order
18.8 to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify
18.9 the license holder by certified mail or personal service that a second fine has been assessed.
18.10 The license holder may appeal the second fine as provided under this subdivision.

18.11 (4) Fines shall be assessed as follows:

18.12 (i) the license holder shall forfeit \$1,000 for each determination of maltreatment of a
18.13 child under chapter 260E or the maltreatment of a vulnerable adult under section 626.557
18.14 for which the license holder is determined responsible for the maltreatment under section
18.15 260E.30, subdivision 4, paragraphs (a) and (b), or 626.557, subdivision 9c, paragraph (c);

18.16 (ii) if the commissioner determines that a determination of maltreatment for which the
18.17 license holder is responsible is the result of maltreatment that meets the definition of serious
18.18 maltreatment as defined in section 245C.02, subdivision 18, the license holder shall forfeit
18.19 \$5,000;

18.20 (iii) for a program that operates out of the license holder's home and a program licensed
18.21 under Minnesota Rules, parts 9502.0300 to 9502.0445, the fine assessed against the license
18.22 holder shall not exceed \$1,000 for each determination of maltreatment;

18.23 (iv) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule
18.24 governing matters of health, safety, or supervision, including but not limited to the provision
18.25 of adequate staff-to-child or adult ratios, and failure to comply with background study
18.26 requirements under chapter 245C; and

18.27 (v) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule
18.28 other than those subject to a \$5,000, \$1,000, or \$200 fine in items (i) to (iv).

18.29 For purposes of this section, "occurrence" means each violation identified in the
18.30 commissioner's fine order. Fines assessed against a license holder that holds a license to
18.31 provide home and community-based services, as identified in section 245D.03, subdivision
18.32 1, and a community residential setting or day services facility license under chapter 245D
18.33 where the services are provided, may be assessed against both licenses for the same

19.1 occurrence, but the combined amount of the fines shall not exceed the amount specified in
19.2 this clause for that occurrence.

19.3 (5) When a fine has been assessed, the license holder may not avoid payment by closing,
19.4 selling, or otherwise transferring the licensed program to a third party. In such an event, the
19.5 license holder will be personally liable for payment. In the case of a corporation, each
19.6 controlling individual is personally and jointly liable for payment.

19.7 (d) Except for background study violations involving the failure to comply with an order
19.8 to immediately remove an individual or an order to provide continuous, direct supervision,
19.9 the commissioner shall not issue a fine under paragraph (c) relating to a background study
19.10 violation to a license holder who self-corrects a background study violation before the
19.11 commissioner discovers the violation. A license holder who has previously exercised the
19.12 provisions of this paragraph to avoid a fine for a background study violation may not avoid
19.13 a fine for a subsequent background study violation unless at least 365 days have passed
19.14 since the license holder self-corrected the earlier background study violation.

19.15 Sec. 11. Minnesota Statutes 2022, section 245A.10, subdivision 3, is amended to read:

19.16 Subd. 3. **Application fee for initial license or certification.** (a) For fees required under
19.17 subdivision 1, an applicant for an initial license or certification issued by the commissioner
19.18 shall submit a \$500 application fee with each new application required under this subdivision.
19.19 An applicant for an initial day services facility license under chapter 245D shall submit a
19.20 \$250 application fee with each new application. The application fee shall not be prorated,
19.21 is nonrefundable, and is in lieu of the annual license or certification fee that expires on
19.22 December 31. The commissioner shall not process an application until the application fee
19.23 is paid.

19.24 (b) Except as provided in clauses (1) ~~to (3)~~ and (2), an applicant shall apply for a license
19.25 to provide services at a specific location.

19.26 (1) For a license to provide home and community-based services to persons with
19.27 disabilities or age 65 and older under chapter 245D, an applicant shall submit an application
19.28 to provide services statewide. Notwithstanding paragraph (a), applications received by the
19.29 commissioner between July 1, 2013, and December 31, 2013, for licensure of services
19.30 provided under chapter 245D must include an application fee that is equal to the annual
19.31 license renewal fee under subdivision 4, paragraph (b), or \$500, whichever is less.
19.32 Applications received by the commissioner after January 1, 2014, must include the application
19.33 fee required under paragraph (a). Applicants who meet the modified application criteria
19.34 identified in section 245A.042, subdivision 2, are exempt from paying an application fee.

20.1 ~~(2) For a license to provide independent living assistance for youth under section 245A.22,~~
 20.2 ~~an applicant shall submit a single application to provide services statewide.~~

20.3 ~~(3)~~ (2) For a license for a private agency to provide foster care or adoption services under
 20.4 Minnesota Rules, parts 9545.0755 to 9545.0845, an applicant shall submit a single application
 20.5 to provide services statewide.

20.6 (c) The initial application fee charged under this subdivision does not include the
 20.7 temporary license surcharge under section 16E.22.

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

20.9 Sec. 12. Minnesota Statutes 2022, section 245A.10, subdivision 4, is amended to read:

20.10 Subd. 4. **License or certification fee for certain programs.** (a) Child care centers shall
 20.11 pay an annual nonrefundable license fee based on the following schedule:

Licensed Capacity	Child Care Center License Fee
1 to 24 persons	\$200
25 to 49 persons	\$300
50 to 74 persons	\$400
75 to 99 persons	\$500
100 to 124 persons	\$600
125 to 149 persons	\$700
150 to 174 persons	\$800
175 to 199 persons	\$900
200 to 224 persons	\$1,000
225 or more persons	\$1,100

20.24 (b)(1) A program licensed to provide one or more of the home and community-based
 20.25 services and supports identified under chapter 245D to persons with disabilities or age 65
 20.26 and older, shall pay an annual nonrefundable license fee based on revenues derived from
 20.27 the provision of services that would require licensure under chapter 245D during the calendar
 20.28 year immediately preceding the year in which the license fee is paid, according to the
 20.29 following schedule:

License Holder Annual Revenue	License Fee
less than or equal to \$10,000	\$200
greater than \$10,000 but less than or equal to \$25,000	\$300
greater than \$25,000 but less than or equal to \$50,000	\$400

21.1	greater than \$50,000 but less than or	
21.2	equal to \$100,000	\$500
21.3	greater than \$100,000 but less than or	
21.4	equal to \$150,000	\$600
21.5	greater than \$150,000 but less than or	
21.6	equal to \$200,000	\$800
21.7	greater than \$200,000 but less than or	
21.8	equal to \$250,000	\$1,000
21.9	greater than \$250,000 but less than or	
21.10	equal to \$300,000	\$1,200
21.11	greater than \$300,000 but less than or	
21.12	equal to \$350,000	\$1,400
21.13	greater than \$350,000 but less than or	
21.14	equal to \$400,000	\$1,600
21.15	greater than \$400,000 but less than or	
21.16	equal to \$450,000	\$1,800
21.17	greater than \$450,000 but less than or	
21.18	equal to \$500,000	\$2,000
21.19	greater than \$500,000 but less than or	
21.20	equal to \$600,000	\$2,250
21.21	greater than \$600,000 but less than or	
21.22	equal to \$700,000	\$2,500
21.23	greater than \$700,000 but less than or	
21.24	equal to \$800,000	\$2,750
21.25	greater than \$800,000 but less than or	
21.26	equal to \$900,000	\$3,000
21.27	greater than \$900,000 but less than or	
21.28	equal to \$1,000,000	\$3,250
21.29	greater than \$1,000,000 but less than or	
21.30	equal to \$1,250,000	\$3,500
21.31	greater than \$1,250,000 but less than or	
21.32	equal to \$1,500,000	\$3,750
21.33	greater than \$1,500,000 but less than or	
21.34	equal to \$1,750,000	\$4,000
21.35	greater than \$1,750,000 but less than or	
21.36	equal to \$2,000,000	\$4,250
21.37	greater than \$2,000,000 but less than or	
21.38	equal to \$2,500,000	\$4,500
21.39	greater than \$2,500,000 but less than or	
21.40	equal to \$3,000,000	\$4,750
21.41	greater than \$3,000,000 but less than or	
21.42	equal to \$3,500,000	\$5,000
21.43	greater than \$3,500,000 but less than or	
21.44	equal to \$4,000,000	\$5,500
21.45	greater than \$4,000,000 but less than or	
21.46	equal to \$4,500,000	\$6,000

22.1	greater than \$4,500,000 but less than or	
22.2	equal to \$5,000,000	\$6,500
22.3	greater than \$5,000,000 but less than or	
22.4	equal to \$7,500,000	\$7,000
22.5	greater than \$7,500,000 but less than or	
22.6	equal to \$10,000,000	\$8,500
22.7	greater than \$10,000,000 but less than or	
22.8	equal to \$12,500,000	\$10,000
22.9	greater than \$12,500,000 but less than or	
22.10	equal to \$15,000,000	\$14,000
22.11	greater than \$15,000,000	\$18,000

22.12 (2) If requested, the license holder shall provide the commissioner information to verify
 22.13 the license holder's annual revenues or other information as needed, including copies of
 22.14 documents submitted to the Department of Revenue.

22.15 (3) At each annual renewal, a license holder may elect to pay the highest renewal fee,
 22.16 and not provide annual revenue information to the commissioner.

22.17 (4) A license holder that knowingly provides the commissioner incorrect revenue amounts
 22.18 for the purpose of paying a lower license fee shall be subject to a civil penalty in the amount
 22.19 of double the fee the provider should have paid.

22.20 (5) Notwithstanding clause (1), a license holder providing services under one or more
 22.21 licenses under chapter 245B that are in effect on May 15, 2013, shall pay an annual license
 22.22 fee for calendar years 2014, 2015, and 2016, equal to the total license fees paid by the license
 22.23 holder for all licenses held under chapter 245B for calendar year 2013. For calendar year
 22.24 2017 and thereafter, the license holder shall pay an annual license fee according to clause
 22.25 (1).

22.26 (c) A substance use disorder treatment program licensed under chapter 245G, to provide
 22.27 substance use disorder treatment shall pay an annual nonrefundable license fee based on
 22.28 the following schedule:

22.29	Licensed Capacity	License Fee
22.30	1 to 24 persons	\$600
22.31	25 to 49 persons	\$800
22.32	50 to 74 persons	\$1,000
22.33	75 to 99 persons	\$1,200
22.34	100 or more persons	\$1,400

23.1 (d) A detoxification program licensed under Minnesota Rules, parts 9530.6510 to
 23.2 9530.6590, or a withdrawal management program licensed under chapter 245F shall pay
 23.3 an annual nonrefundable license fee based on the following schedule:

23.4	Licensed Capacity	License Fee
23.5	1 to 24 persons	\$760
23.6	25 to 49 persons	\$960
23.7	50 or more persons	\$1,160

23.8 A detoxification program that also operates a withdrawal management program at the same
 23.9 location shall only pay one fee based upon the licensed capacity of the program with the
 23.10 higher overall capacity.

23.11 (e) Except for child foster care, a residential facility licensed under Minnesota Rules,
 23.12 chapter 2960, to serve children shall pay an annual nonrefundable license fee based on the
 23.13 following schedule:

23.14	Licensed Capacity	License Fee
23.15	1 to 24 persons	\$1,000
23.16	25 to 49 persons	\$1,100
23.17	50 to 74 persons	\$1,200
23.18	75 to 99 persons	\$1,300
23.19	100 or more persons	\$1,400

23.20 (f) A residential facility licensed under section 245I.23 or Minnesota Rules, parts
 23.21 9520.0500 to 9520.0670, to serve persons with mental illness shall pay an annual
 23.22 nonrefundable license fee based on the following schedule:

23.23	Licensed Capacity	License Fee
23.24	1 to 24 persons	\$2,525
23.25	25 or more persons	\$2,725

23.26 (g) A residential facility licensed under Minnesota Rules, parts 9570.2000 to 9570.3400,
 23.27 to serve persons with physical disabilities shall pay an annual nonrefundable license fee
 23.28 based on the following schedule:

23.29	Licensed Capacity	License Fee
23.30	1 to 24 persons	\$450
23.31	25 to 49 persons	\$650
23.32	50 to 74 persons	\$850
23.33	75 to 99 persons	\$1,050
23.34	100 or more persons	\$1,250

24.1 ~~(h)~~ A program licensed to provide independent living assistance for youth under section
 24.2 245A.22 shall pay an annual nonrefundable license fee of \$1,500.

24.3 ~~(h)~~ (h) A private agency licensed to provide foster care and adoption services under
 24.4 Minnesota Rules, parts 9545.0755 to 9545.0845, shall pay an annual nonrefundable license
 24.5 fee of \$875.

24.6 ~~(i)~~ (i) A program licensed as an adult day care center licensed under Minnesota Rules,
 24.7 parts 9555.9600 to 9555.9730, shall pay an annual nonrefundable license fee based on the
 24.8 following schedule:

24.9	Licensed Capacity	License Fee
24.10	1 to 24 persons	\$500
24.11	25 to 49 persons	\$700
24.12	50 to 74 persons	\$900
24.13	75 to 99 persons	\$1,100
24.14	100 or more persons	\$1,300

24.15 ~~(j)~~ (j) A program licensed to provide treatment services to persons with sexual
 24.16 psychopathic personalities or sexually dangerous persons under Minnesota Rules, parts
 24.17 9515.3000 to 9515.3110, shall pay an annual nonrefundable license fee of \$20,000.

24.18 ~~(k)~~ (k) A mental health clinic certified under section 245I.20 shall pay an annual
 24.19 nonrefundable certification fee of \$1,550. If the mental health clinic provides services at a
 24.20 primary location with satellite facilities, the satellite facilities shall be certified with the
 24.21 primary location without an additional charge.

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

24.23 Sec. 13. Minnesota Statutes 2022, section 245A.16, subdivision 1, is amended to read:

24.24 Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private
 24.25 agencies that have been designated or licensed by the commissioner to perform licensing
 24.26 functions and activities under section 245A.04 ~~and background studies for family child care~~
 24.27 ~~under chapter 245C~~; to recommend denial of applicants under section 245A.05; to issue
 24.28 correction orders, to issue variances, and recommend a conditional license under section
 24.29 245A.06; or to recommend suspending or revoking a license or issuing a fine under section
 24.30 245A.07, shall comply with rules and directives of the commissioner governing those
 24.31 functions and with this section. The following variances are excluded from the delegation
 24.32 of variance authority and may be issued only by the commissioner:

25.1 (1) dual licensure of family child care and child foster care, dual licensure of child and
25.2 adult foster care, and adult foster care and family child care;

25.3 (2) adult foster care maximum capacity;

25.4 (3) adult foster care minimum age requirement;

25.5 (4) child foster care maximum age requirement;

25.6 (5) variances regarding disqualified individuals ~~except that, before the implementation~~
25.7 ~~of NETStudy 2.0, county agencies may issue variances under section 245C.30 regarding~~
25.8 ~~disqualified individuals when the county is responsible for conducting a consolidated~~
25.9 ~~reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and~~
25.10 ~~(b), of a county maltreatment determination and a disqualification based on serious or~~
25.11 ~~recurring maltreatment;~~

25.12 (6) the required presence of a caregiver in the adult foster care residence during normal
25.13 sleeping hours;

25.14 (7) variances to requirements relating to chemical use problems of a license holder or a
25.15 household member of a license holder; and

25.16 (8) variances to section 245A.53 for a time-limited period. If the commissioner grants
25.17 a variance under this clause, the license holder must provide notice of the variance to all
25.18 parents and guardians of the children in care.

25.19 Except as provided in section 245A.14, subdivision 4, paragraph (e), a county agency must
25.20 not grant a license holder a variance to exceed the maximum allowable family child care
25.21 license capacity of 14 children.

25.22 (b) A county agency that has been designated by the commissioner to issue family child
25.23 care variances must:

25.24 (1) publish the county agency's policies and criteria for issuing variances on the county's
25.25 public website and update the policies as necessary; and

25.26 (2) annually distribute the county agency's policies and criteria for issuing variances to
25.27 all family child care license holders in the county.

25.28 ~~(c) Before the implementation of NETStudy 2.0, county agencies must report information~~
25.29 ~~about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision~~
25.30 ~~2, paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the~~
25.31 ~~commissioner at least monthly in a format prescribed by the commissioner.~~

26.1 ~~(d)~~ (c) For family child care programs, the commissioner shall require a county agency
26.2 to conduct one unannounced licensing review at least annually.

26.3 ~~(e)~~ (d) For family adult day services programs, the commissioner may authorize licensing
26.4 reviews every two years after a licensee has had at least one annual review.

26.5 ~~(f)~~ (e) A license issued under this section may be issued for up to two years.

26.6 ~~(g)~~ (f) During implementation of chapter 245D, the commissioner shall consider:

26.7 (1) the role of counties in quality assurance;

26.8 (2) the duties of county licensing staff; and

26.9 (3) the possible use of joint powers agreements, according to section 471.59, with counties
26.10 through which some licensing duties under chapter 245D may be delegated by the
26.11 commissioner to the counties.

26.12 Any consideration related to this paragraph must meet all of the requirements of the corrective
26.13 action plan ordered by the federal Centers for Medicare and Medicaid Services.

26.14 ~~(h)~~ (g) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or
26.15 successor provisions; and section 245D.061 or successor provisions, for family child foster
26.16 care programs providing out-of-home respite, as identified in section 245D.03, subdivision
26.17 1, paragraph (b), clause (1), is excluded from the delegation of authority to county and
26.18 private agencies.

26.19 ~~(i)~~ (h) A county agency shall report to the commissioner, in a manner prescribed by the
26.20 commissioner, the following information for a licensed family child care program:

26.21 (1) the results of each licensing review completed, including the date of the review, and
26.22 any licensing correction order issued;

26.23 (2) any death, serious injury, or determination of substantiated maltreatment; and

26.24 (3) any fires that require the service of a fire department within 48 hours of the fire. The
26.25 information under this clause must also be reported to the state fire marshal within two
26.26 business days of receiving notice from a licensed family child care provider.

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

26.28 Sec. 14. **[245A.211] PRONE RESTRAINT PROHIBITION.**

26.29 **Subdivision 1. Applicability.** This section applies to all programs licensed or certified
26.30 **under this chapter, chapters 245D, 245F, 245G, 245H, and sections 245I.20 and 245I.23.**

27.1 The requirements in this section are in addition to any applicable requirements for the use
27.2 of holds or restraints for each license or certification type.

27.3 Subd. 2. **Definitions.** (a) "Mechanical restraint" means a restraint device that limits the
27.4 voluntary movement of a person or the person's limbs.

27.5 (b) "Prone restraint" means a restraint that places a person in a face-down position with
27.6 the person's chest in contact with the floor or other surface.

27.7 (c) "Restraint" means a physical hold, physical restraint, manual restraint, restraint
27.8 equipment, or mechanical restraint that holds a person immobile or limits the voluntary
27.9 movement of a person or the person's limbs.

27.10 Subd. 3. **Prone restraint prohibition.** (a) A license or certification holder must not use
27.11 a prone restraint on any person receiving services in a program, except in the instances
27.12 allowed by paragraphs (b) to (d).

27.13 (b) If a person rolls into a prone position during the use of a restraint, the person must
27.14 be restored to a nonprone position as quickly as possible.

27.15 (c) If the applicable licensing requirements allow a program to use mechanical restraints,
27.16 a person may be briefly held in a prone restraint for the purpose of applying mechanical
27.17 restraints if the person is restored to a nonprone position as quickly as possible.

27.18 (d) If the applicable licensing requirements allow a program to use seclusion, a person
27.19 may be briefly held in a prone restraint to allow staff to safely exit a seclusion room.

27.20 Subd. 4. **Contraindicated physical restraints.** A license or certification holder must
27.21 not implement a restraint on a person receiving services in a program in a way that is
27.22 contraindicated for any of the person's known medical or psychological conditions. Prior
27.23 to using restraints on a person, the license or certification holder must assess and document
27.24 a determination of any medical or psychological conditions that restraints are contraindicated
27.25 for and the type of restraints that will not be used on the person based on this determination.

27.26 Sec. 15. Minnesota Statutes 2022, section 245C.02, subdivision 6a, is amended to read:

27.27 Subd. 6a. **Child care background study subject.** (a) "Child care background study
27.28 subject" means an individual who is affiliated with a licensed child care center, certified
27.29 license-exempt child care center, licensed family child care program, or legal nonlicensed
27.30 child care provider authorized under chapter 119B, and who is:

27.31 (1) employed by a child care provider for compensation;

27.32 (2) assisting in the care of a child for a child care provider;

- 28.1 (3) a person applying for licensure, certification, or enrollment;
- 28.2 (4) a controlling individual as defined in section 245A.02, subdivision 5a;
- 28.3 (5) an individual 13 years of age or older who lives in the household where the licensed
28.4 program will be provided and who is not receiving licensed services from the program;
- 28.5 (6) an individual ten to 12 years of age who lives in the household where the licensed
28.6 services will be provided when the commissioner has reasonable cause as defined in section
28.7 245C.02, subdivision 15;
- 28.8 (7) an individual who, without providing direct contact services at a licensed program,
28.9 certified program, or program authorized under chapter 119B, may have unsupervised access
28.10 to a child receiving services from a program when the commissioner has reasonable cause
28.11 as defined in section 245C.02, subdivision 15; or
- 28.12 (8) a volunteer, contractor providing services for hire in the program, prospective
28.13 employee, or other individual who has unsupervised physical access to a child served by a
28.14 program and who is not under supervision by an individual listed in clause (1) or (5),
28.15 regardless of whether the individual provides program services.
- 28.16 (b) Notwithstanding paragraph (a), an individual who is providing services that are not
28.17 part of the child care program is not required to have a background study if:
- 28.18 (1) the child receiving services is signed out of the child care program for the duration
28.19 that the services are provided;
- 28.20 (2) the licensed child care center, certified license-exempt child care center, licensed
28.21 family child care program, or legal nonlicensed child care provider authorized under chapter
28.22 119B has obtained advanced written permission from the parent authorizing the child to
28.23 receive the services, which is maintained in the child's record;
- 28.24 (3) the licensed child care center, certified license-exempt child care center, licensed
28.25 family child care program, or legal nonlicensed child care provider authorized under chapter
28.26 119B maintains documentation on site that identifies the individual service provider and
28.27 the services being provided; and
- 28.28 (4) the licensed child care center, certified license-exempt child care center, licensed
28.29 family child care program, or legal nonlicensed child care provider authorized under chapter
28.30 119B ensures that the service provider does not have unsupervised access to a child not
28.31 receiving the provider's services.

29.1 Sec. 16. Minnesota Statutes 2022, section 245C.02, subdivision 11c, is amended to read:

29.2 Subd. 11c. **Entity.** "Entity" means any program, organization, license holder, government
29.3 agency, or agency initiating required to initiate a background study.

29.4 Sec. 17. Minnesota Statutes 2022, section 245C.02, is amended by adding a subdivision
29.5 to read:

29.6 Subd. 11f. **Employee.** "Employee" means an individual who provides services or seeks
29.7 to provide services for the entity with which they are required to be affiliated in NETStudy
29.8 2.0 and who is subject to oversight by the entity, which includes but is not limited to
29.9 continuous, direct supervision by the entity and being subject to immediate removal from
29.10 providing direct care services by the entity when required.

29.11 Sec. 18. Minnesota Statutes 2022, section 245C.02, is amended by adding a subdivision
29.12 to read:

29.13 Subd. 22. **Volunteer.** "Volunteer" means an individual who provides or seeks to provide
29.14 services for an entity without direct compensation for services provided, is required to be
29.15 affiliated in NETStudy 2.0 and is subject to oversight by the entity, including but not limited
29.16 to continuous, direct supervision and immediate removal from providing direct care services
29.17 when required.

29.18 Sec. 19. Minnesota Statutes 2022, section 245C.03, subdivision 1, is amended to read:

29.19 Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a background
29.20 study on:

29.21 (1) the person or persons applying for a license;

29.22 (2) an individual age 13 and over living in the household where the licensed program
29.23 will be provided who is not receiving licensed services from the program;

29.24 (3) current or prospective employees ~~or contractors~~ of the applicant who will have direct
29.25 contact with persons served by the facility, agency, or program;

29.26 (4) volunteers or student volunteers who will have direct contact with persons served
29.27 by the program to provide program services if the contact is not under the continuous, direct
29.28 supervision by an individual listed in clause (1) or (3);

29.29 (5) an individual age ten to 12 living in the household where the licensed services will
29.30 be provided when the commissioner has reasonable cause as defined in section 245C.02,
29.31 subdivision 15;

30.1 (6) an individual who, without providing direct contact services at a licensed program,
30.2 may have unsupervised access to children or vulnerable adults receiving services from a
30.3 program, when the commissioner has reasonable cause as defined in section 245C.02,
30.4 subdivision 15;

30.5 (7) all controlling individuals as defined in section 245A.02, subdivision 5a;

30.6 (8) notwithstanding the other requirements in this subdivision, child care background
30.7 study subjects as defined in section 245C.02, subdivision 6a; and

30.8 (9) notwithstanding clause (3), for children's residential facilities and foster residence
30.9 settings, any adult working in the facility, whether or not the individual will have direct
30.10 contact with persons served by the facility.

30.11 (b) For child foster care when the license holder resides in the home where foster care
30.12 services are provided, a short-term substitute caregiver providing direct contact services for
30.13 a child for less than 72 hours of continuous care is not required to receive a background
30.14 study under this chapter.

30.15 (c) This subdivision applies to the following programs that must be licensed under
30.16 chapter 245A:

30.17 (1) adult foster care;

30.18 (2) child foster care;

30.19 (3) children's residential facilities;

30.20 (4) family child care;

30.21 (5) licensed child care centers;

30.22 (6) licensed home and community-based services under chapter 245D;

30.23 (7) residential mental health programs for adults;

30.24 (8) substance use disorder treatment programs under chapter 245G;

30.25 (9) withdrawal management programs under chapter 245F;

30.26 (10) adult day care centers;

30.27 (11) family adult day services;

30.28 ~~(12) independent living assistance for youth;~~

30.29 ~~(13)~~ (12) detoxification programs;

30.30 ~~(14)~~ (13) community residential settings; and

31.1 ~~(15)~~(14) intensive residential treatment services and residential crisis stabilization under
31.2 chapter 245I.

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

31.4 Sec. 20. Minnesota Statutes 2022, section 245C.03, subdivision 1a, is amended to read:

31.5 Subd. 1a. **Procedure.** (a) Individuals and organizations that are required under this
31.6 section to have or initiate background studies shall comply with the requirements of this
31.7 chapter.

31.8 (b) All studies conducted under this section shall be conducted according to sections
31.9 299C.60 to 299C.64, including the consent and self-disclosure required in section 299C.62,
31.10 subdivision 2. This requirement does not apply to subdivisions 1, paragraph (c), clauses (2)
31.11 to (5), and 6a.

31.12 Sec. 21. Minnesota Statutes 2022, section 245C.03, subdivision 4, is amended to read:

31.13 Subd. 4. **Personnel pool agencies; temporary personnel agencies; educational**
31.14 **programs; professional services agencies.** (a) The commissioner also may conduct studies
31.15 on individuals specified in subdivision 1, paragraph (a), clauses (3) and (4), when the studies
31.16 are initiated by:

31.17 (1) personnel pool agencies;

31.18 (2) temporary personnel agencies;

31.19 (3) educational programs that train individuals by providing direct contact services in
31.20 licensed programs; and

31.21 (4) professional services agencies that are not licensed and ~~which contract~~ that work
31.22 with licensed programs to provide direct contact services or individuals who provide direct
31.23 contact services.

31.24 (b) Personnel pool agencies, temporary personnel agencies, and professional services
31.25 agencies must employ the individuals providing direct care services for children, people
31.26 with disabilities, or the elderly. Individuals must be affiliated in NETStudy 2.0 and subject
31.27 to oversight by the entity, which includes but is not limited to continuous, direct supervision
31.28 by the entity and being subject to immediate removal from providing direct care services
31.29 by the entity when required.

32.1 Sec. 22. Minnesota Statutes 2022, section 245C.03, subdivision 5, is amended to read:

32.2 Subd. 5. **Other state agencies.** The commissioner shall conduct background studies on
32.3 applicants and license holders under the jurisdiction of other state agencies who are required
32.4 in other statutory sections to initiate background studies under this chapter, including the
32.5 applicant's or license holder's employees, ~~contractors~~, and volunteers when required under
32.6 other statutory sections.

32.7 Sec. 23. Minnesota Statutes 2022, section 245C.03, subdivision 5a, is amended to read:

32.8 Subd. 5a. **Facilities serving children or adults licensed or regulated by the**
32.9 **Department of Health.** (a) Except as specified in paragraph (b), the commissioner shall
32.10 conduct background studies of:

32.11 (1) individuals providing services who have direct contact, as defined under section
32.12 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes,
32.13 outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and
32.14 home care agencies licensed under chapter 144A; assisted living facilities and assisted living
32.15 facilities with dementia care licensed under chapter 144G; and board and lodging
32.16 establishments that are registered to provide supportive or health supervision services under
32.17 section 157.17;

32.18 (2) individuals specified in subdivision 2 who provide direct contact services in a nursing
32.19 home or a home care agency licensed under chapter 144A; an assisted living facility or
32.20 assisted living facility with dementia care licensed under chapter 144G; or a boarding care
32.21 home licensed under sections 144.50 to 144.58. If the individual undergoing a study resides
32.22 outside of Minnesota, the study must include a check for substantiated findings of
32.23 maltreatment of adults and children in the individual's state of residence when the state
32.24 makes the information available;

32.25 (3) all other employees in assisted living facilities or assisted living facilities with
32.26 dementia care licensed under chapter 144G, nursing homes licensed under chapter 144A,
32.27 and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of
32.28 an individual in this section shall disqualify the individual from positions allowing direct
32.29 contact with or access to patients or residents receiving services. "Access" means physical
32.30 access to a client or the client's personal property without continuous, direct supervision as
32.31 defined in section 245C.02, subdivision 8, when the employee's employment responsibilities
32.32 do not include providing direct contact services;

33.1 (4) individuals employed by a supplemental nursing services agency, as defined under
33.2 section 144A.70, who are providing services in health care facilities;

33.3 (5) controlling persons of a supplemental nursing services agency, as defined by section
33.4 144A.70; and

33.5 (6) license applicants, owners, managerial officials, and controlling individuals who are
33.6 required under section 144A.476, subdivision 1, or 144G.13, subdivision 1, to undergo a
33.7 background study under this chapter, regardless of the licensure status of the license applicant,
33.8 owner, managerial official, or controlling individual.

33.9 (b) ~~The commissioner of human services shall not conduct~~ An entity shall not initiate a
33.10 background study on any individual identified in paragraph (a), clauses (1) to (5), if the
33.11 individual has a valid license issued by a health-related licensing board as defined in section
33.12 214.01, subdivision 2, and has completed the criminal background check as required in
33.13 section 214.075. An entity that is affiliated with individuals who meet the requirements of
33.14 this paragraph must separate those individuals from the entity's roster for NETStudy 2.0.
33.15 The Department of Human Services is not liable for conducting background studies that
33.16 have been submitted or not removed from the roster in violation of this provision.

33.17 (c) If a facility or program is licensed by the Department of Human Services and the
33.18 Department of Health and is subject to the background study provisions of this chapter, the
33.19 Department of Human Services is solely responsible for the background studies of individuals
33.20 in the jointly licensed program.

33.21 (d) The commissioner of health shall review and make decisions regarding reconsideration
33.22 requests, including whether to grant variances, according to the procedures and criteria in
33.23 this chapter. The commissioner of health shall inform the requesting individual and the
33.24 Department of Human Services of the commissioner of health's decision regarding the
33.25 reconsideration. The commissioner of health's decision to grant or deny a reconsideration
33.26 of a disqualification is a final administrative agency action.

33.27 Sec. 24. Minnesota Statutes 2022, section 245C.031, subdivision 1, is amended to read:

33.28 Subdivision 1. **Alternative background studies.** (a) The commissioner shall conduct
33.29 an alternative background study of individuals listed in this section.

33.30 (b) Notwithstanding other sections of this chapter, all alternative background studies
33.31 except subdivision 12 shall be conducted according to this section and with sections 299C.60
33.32 to 299C.64, including the consent and self-disclosure required in section 299C.62, subdivision
33.33 2.

34.1 (c) All terms in this section shall have the definitions provided in section 245C.02.

34.2 (d) The entity that submits an alternative background study request under this section
34.3 shall submit the request to the commissioner according to section 245C.05.

34.4 (e) The commissioner shall comply with the destruction requirements in section 245C.051.

34.5 (f) Background studies conducted under this section are subject to the provisions of
34.6 section 245C.32.

34.7 (g) The commissioner shall forward all information that the commissioner receives under
34.8 section 245C.08 to the entity that submitted the alternative background study request under
34.9 subdivision 2. The commissioner shall not make any eligibility determinations regarding
34.10 background studies conducted under this section.

34.11 Sec. 25. Minnesota Statutes 2022, section 245C.031, subdivision 4, is amended to read:

34.12 Subd. 4. **Applicants, licensees, and other occupations regulated by the commissioner**
34.13 **of health.** The commissioner shall conduct an alternative background study, including a
34.14 check of state data, and a national criminal history records check of the following individuals.
34.15 For studies under this section, the following persons shall complete a consent form and
34.16 criminal history disclosure form:

34.17 (1) An applicant for initial licensure, temporary licensure, or relicensure after a lapse in
34.18 licensure as an audiologist or speech-language pathologist or an applicant for initial
34.19 certification as a hearing instrument dispenser who must submit to a background study
34.20 under section 144.0572.

34.21 (2) An applicant for a renewal license or certificate as an audiologist, speech-language
34.22 pathologist, or hearing instrument dispenser who was licensed or obtained a certificate
34.23 before January 1, 2018.

34.24 Sec. 26. Minnesota Statutes 2022, section 245C.05, subdivision 1, is amended to read:

34.25 Subdivision 1. **Individual studied.** (a) The individual who is the subject of the
34.26 background study must provide the applicant, license holder, or other entity under section
34.27 245C.04 with sufficient information to ensure an accurate study, including:

34.28 (1) the individual's first, middle, and last name and all other names by which the
34.29 individual has been known;

34.30 (2) current home address, city, and state of residence;

34.31 (3) current zip code;

35.1 (4) sex;

35.2 (5) date of birth;

35.3 (6) driver's license number or state identification number or, for those without a driver's
35.4 license or state identification card, an acceptable form of identification as determined by
35.5 the commissioner; and

35.6 (7) upon implementation of NETStudy 2.0, the home address, city, county, and state of
35.7 residence for the past five years.

35.8 (b) Every subject of a background study conducted or initiated by counties or private
35.9 agencies under this chapter must also provide the home address, city, county, and state of
35.10 residence for the past five years.

35.11 (c) Every subject of a background study related to private agency adoptions or related
35.12 to child foster care licensed through a private agency, who is 18 years of age or older, shall
35.13 also provide the commissioner a signed consent for the release of any information received
35.14 from national crime information databases to the private agency that initiated the background
35.15 study.

35.16 (d) The subject of a background study who is 18 years of age or older shall provide
35.17 fingerprints and a photograph as required in subdivision 5. The subject of a background
35.18 study who is 17 years of age or younger shall provide fingerprints and a photograph only
35.19 as required in subdivision 5a.

35.20 (e) The subject of a background study shall submit a completed criminal and maltreatment
35.21 history records check consent form and criminal history disclosure form for applicable
35.22 national and state level record checks.

35.23 Sec. 27. Minnesota Statutes 2022, section 245C.05, subdivision 5a, is amended to read:

35.24 Subd. 5a. **Background study requirements for minors.** (a) A background study
35.25 completed under this chapter on a subject who is required to be studied under section
35.26 245C.03, subdivision 1, and is 17 years of age or younger shall be completed by the
35.27 commissioner for:

35.28 (1) a legal nonlicensed child care provider authorized under chapter 119B;

35.29 (2) a licensed family child care program; or

35.30 (3) a licensed foster care home.

36.1 (b) The subject shall submit to the commissioner only the information under subdivision
36.2 1, paragraph (a).

36.3 (c) Notwithstanding paragraph (b), a subject who is 17 years of age or younger is required
36.4 to submit fingerprints and a photograph, and the commissioner shall conduct a national
36.5 criminal history record check must provide the commissioner with a set of the background
36.6 study subject's classifiable fingerprints and photograph, if:

36.7 (1) the commissioner has reasonable cause to require a national criminal history record
36.8 check defined in section 245C.02, subdivision 15a; or

36.9 (2) under paragraph (a), clauses (1) and (2), the subject is employed by the provider or
36.10 supervises children served by the program.

36.11 ~~(d) A subject who is 17 years of age or younger is required to submit~~
36.12 ~~non-fingerprint-based data according to section 245C.08, subdivision 1, paragraph (a),~~
36.13 ~~clause (6), item (iii), and the commissioner shall conduct the check if:~~

36.14 ~~(1) the commissioner has reasonable cause to require a national criminal history record~~
36.15 ~~check defined in section 245C.02, subdivision 15a; or~~

36.16 ~~(2) the subject is employed by the provider or supervises children served by the program~~
36.17 ~~under paragraph (a), clauses (1) and (2).~~

36.18 Sec. 28. Minnesota Statutes 2022, section 245C.05, is amended by adding a subdivision
36.19 to read:

36.20 Subd. 8. **Study submitted.** The entity with which the background study subject is seeking
36.21 affiliation shall initiate the background study in the NETStudy 2.0 system.

36.22 Sec. 29. Minnesota Statutes 2022, section 245C.07, is amended to read:

36.23 **245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.**

36.24 (a) Subject to the conditions in paragraph (d), when a license holder, applicant, or other
36.25 entity owns multiple programs or services that are licensed by the Department of Human
36.26 Services, Department of Health, or Department of Corrections, only one background study
36.27 is required for an individual who provides direct contact services in one or more of the
36.28 licensed programs or services if:

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

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

37.5 (b) When a license holder maintains background study compliance for multiple licensed
37.6 programs according to paragraph (a), and one or more of the licensed programs closes, the
37.7 license holder shall immediately notify the commissioner which staff must be transferred
37.8 to an active license so that the background studies can be electronically paired with the
37.9 license holder's active program.

37.10 (c) When a background study is being initiated by a licensed program or service or a
37.11 foster care provider that is also licensed under chapter 144G, a study subject affiliated with
37.12 multiple licensed programs or services may attach to the background study form a cover
37.13 letter indicating the additional names of the programs or services, addresses, and background
37.14 study identification numbers.

37.15 When the commissioner receives a notice, the commissioner shall notify each program
37.16 or service identified by the background study subject of the study results.

37.17 The background study notice the commissioner sends to the subsequent agencies shall
37.18 satisfy those programs' or services' responsibilities for initiating a background study on that
37.19 individual.

37.20 (d) If a background study was conducted on an individual related to child foster care
37.21 and the requirements under paragraph (a) are met, the background study is transferable
37.22 across all licensed programs. If a background study was conducted on an individual under
37.23 a license other than child foster care and the requirements under paragraph (a) are met, the
37.24 background study is transferable to all licensed programs except child foster care.

37.25 (e) The provisions of this section that allow a single background study in one or more
37.26 licensed programs or services do not apply to background studies submitted by adoption
37.27 agencies, supplemental nursing services agencies, personnel pool agencies, educational
37.28 programs, professional services agencies, temporary personnel agencies, and unlicensed
37.29 personal care provider organizations.

37.30 (f) For an entity operating under NETStudy 2.0, the entity's active roster must be the
37.31 system used to document when a background study subject is affiliated with multiple entities.
37.32 For a background study to be transferable:

38.1 (1) the background study subject must be on and moving to a roster for which the person
38.2 designated to receive sensitive background study information is the same; and

38.3 (2) the same entity must own or legally control both the roster from which the transfer
38.4 is occurring and the roster to which the transfer is occurring. For an entity that holds or
38.5 controls multiple licenses, or unlicensed personal care provider organizations, there must
38.6 be a common highest level entity that has a legally identifiable structure that can be verified
38.7 through records available from the secretary of state.

38.8 Sec. 30. Minnesota Statutes 2022, section 245C.08, subdivision 1, is amended to read:

38.9 Subdivision 1. **Background studies conducted by Department of Human Services.** (a)
38.10 For a background study conducted by the Department of Human Services, the commissioner
38.11 shall review:

38.12 (1) information related to names of substantiated perpetrators of maltreatment of
38.13 vulnerable adults that has been received by the commissioner as required under section
38.14 626.557, subdivision 9c, paragraph (j);

38.15 (2) the commissioner's records relating to the maltreatment of minors in licensed
38.16 programs, and from findings of maltreatment of minors as indicated through the social
38.17 service information system;

38.18 (3) information from juvenile courts as required in subdivision 4 for individuals listed
38.19 in section 245C.03, subdivision 1, paragraph (a), when there is reasonable cause;

38.20 (4) information from the Bureau of Criminal Apprehension, including information
38.21 regarding a background study subject's registration in Minnesota as a predatory offender
38.22 under section 243.166;

38.23 (5) except as provided in clause (6), information received as a result of submission of
38.24 fingerprints for a national criminal history record check, as defined in section 245C.02,
38.25 subdivision 13c, when the commissioner has reasonable cause for a national criminal history
38.26 record check as defined under section 245C.02, subdivision 15a, or as required under section
38.27 144.057, subdivision 1, clause (2);

38.28 (6) for a background study related to a child foster family setting application for licensure,
38.29 foster residence settings, children's residential facilities, a transfer of permanent legal and
38.30 physical custody of a child under sections 260C.503 to 260C.515, or adoptions, and for a
38.31 background study required for family child care, certified license-exempt child care, child
38.32 care centers, and legal nonlicensed child care authorized under chapter 119B, the
38.33 commissioner shall also review:

39.1 (i) information from the child abuse and neglect registry for any state in which the
39.2 background study subject has resided for the past five years;

39.3 (ii) when the background study subject is 18 years of age or older, or a minor under
39.4 section 245C.05, subdivision 5a, paragraph (c), information received following submission
39.5 of fingerprints for a national criminal history record check; and

39.6 (iii) when the background study subject is 18 years of age or older or a minor under
39.7 section 245C.05, subdivision 5a, ~~paragraph (d)~~, for licensed family child care, certified
39.8 license-exempt child care, licensed child care centers, and legal nonlicensed child care
39.9 authorized under chapter 119B, information obtained using non-fingerprint-based data
39.10 including information from the criminal and sex offender registries for any state in which
39.11 the background study subject resided for the past five years and information from the national
39.12 crime information database and the national sex offender registry; and

39.13 (7) for a background study required for family child care, certified license-exempt child
39.14 care centers, licensed child care centers, and legal nonlicensed child care authorized under
39.15 chapter 119B, the background study shall also include, to the extent practicable, a name
39.16 and date-of-birth search of the National Sex Offender Public website.

39.17 (b) Notwithstanding expungement by a court, the commissioner may consider information
39.18 obtained under paragraph (a), clauses (3) and (4), unless the commissioner received notice
39.19 of the petition for expungement and the court order for expungement is directed specifically
39.20 to the commissioner.

39.21 (c) The commissioner shall also review criminal case information received according
39.22 to section 245C.04, subdivision 4a, from the Minnesota court information system that relates
39.23 to individuals who have already been studied under this chapter and who remain affiliated
39.24 with the agency that initiated the background study.

39.25 (d) When the commissioner has reasonable cause to believe that the identity of a
39.26 background study subject is uncertain, the commissioner may require the subject to provide
39.27 a set of classifiable fingerprints for purposes of completing a fingerprint-based record check
39.28 with the Bureau of Criminal Apprehension. Fingerprints collected under this paragraph
39.29 shall not be saved by the commissioner after they have been used to verify the identity of
39.30 the background study subject against the particular criminal record in question.

39.31 (e) The commissioner may inform the entity that initiated a background study under
39.32 NETStudy 2.0 of the status of processing of the subject's fingerprints.

40.1 Sec. 31. Minnesota Statutes 2022, section 245C.10, subdivision 4, is amended to read:

40.2 Subd. 4. **Temporary personnel agencies, personnel pool agencies, educational**
40.3 **programs, and professional services agencies.** The commissioner shall recover the cost
40.4 of the background studies initiated by temporary personnel agencies, personnel pool agencies,
40.5 educational programs, and professional services agencies that initiate background studies
40.6 under section 245C.03, subdivision 4, through a fee of no more than \$42 per study charged
40.7 to the agency. The fees collected under this subdivision are appropriated to the commissioner
40.8 for the purpose of conducting background studies.

40.9 Sec. 32. Minnesota Statutes 2022, section 245C.30, subdivision 2, is amended to read:

40.10 Subd. 2. **Disclosure of reason for disqualification.** (a) The commissioner may not grant
40.11 a variance for a disqualified individual unless the applicant, license-exempt child care center
40.12 certification holder, or license holder requests the variance and the disqualified individual
40.13 provides written consent for the commissioner to disclose to the applicant, license-exempt
40.14 child care center certification holder, or license holder the reason for the disqualification.

40.15 (b) This subdivision does not apply to programs licensed to provide family child care
40.16 for children, foster care for children in the provider's own home, or foster care or day care
40.17 services for adults in the provider's own home. ~~When the commissioner grants a variance~~
40.18 ~~for a disqualified individual in connection with a license to provide the services specified~~
40.19 ~~in this paragraph, the disqualified individual's consent is not required to disclose the reason~~
40.20 ~~for the disqualification to the license holder in the variance issued under subdivision 1,~~
40.21 ~~provided that the commissioner may not disclose the reason for the disqualification if the~~
40.22 ~~disqualification is based on a felony-level conviction for a drug-related offense within the~~
40.23 ~~past five years.~~

40.24 Sec. 33. Minnesota Statutes 2022, section 245C.31, subdivision 1, is amended to read:

40.25 Subdivision 1. **Board determines disciplinary or corrective action.** ~~(a)~~ The
40.26 commissioner shall notify a health-related licensing board as defined in section 214.01,
40.27 subdivision 2, if the commissioner determines that an individual who is licensed by the
40.28 health-related licensing board and who is included on the board's roster list provided in
40.29 accordance with subdivision 3a is responsible for substantiated maltreatment under section
40.30 626.557 or chapter 260E, in accordance with subdivision 2. Upon receiving notification,
40.31 the health-related licensing board shall make a determination as to whether to impose
40.32 disciplinary or corrective action under chapter 214.

41.1 ~~(b) This section does not apply to a background study of an individual regulated by a~~
41.2 ~~health-related licensing board if the individual's study is related to child foster care, adult~~
41.3 ~~foster care, or family child care licensure.~~

41.4 Sec. 34. Minnesota Statutes 2022, section 245C.33, subdivision 4, is amended to read:

41.5 Subd. 4. **Information commissioner reviews.** (a) The commissioner shall review the
41.6 following information regarding the background study subject:

41.7 (1) the information under section 245C.08, subdivisions 1, 3, and 4;

41.8 (2) information from the child abuse and neglect registry for any state in which the
41.9 subject has resided for the past five years; and

41.10 (3) information from national crime information databases, when required under section
41.11 245C.08.

41.12 (b) The commissioner shall provide any information collected under this subdivision to
41.13 the county or private agency that initiated the background study. The commissioner shall
41.14 also provide the agency:

41.15 ~~(1) with a~~ notice whether the information collected shows that the subject of the
41.16 background study has a conviction listed in United States Code, title 42, section
41.17 671(a)(20)(A); ~~and.~~

41.18 ~~(2) for background studies conducted under subdivision 1, paragraph (a), the date of all~~
41.19 ~~adoption-related background studies completed on the subject by the commissioner after~~
41.20 ~~June 30, 2007, and the name of the county or private agency that initiated the adoption-related~~
41.21 ~~background study.~~

41.22 Sec. 35. Minnesota Statutes 2022, section 245H.13, subdivision 9, is amended to read:

41.23 Subd. 9. **Behavior guidance.** The certified center must ensure that staff and volunteers
41.24 use positive behavior guidance and do not subject children to:

41.25 (1) corporal punishment, including but not limited to rough handling, shoving, hair
41.26 pulling, ear pulling, shaking, slapping, kicking, biting, pinching, hitting, and spanking;

41.27 (2) humiliation;

41.28 (3) abusive language;

41.29 (4) the use of mechanical restraints, including tying;

- 42.1 (5) the use of physical restraints other than to physically hold a child when containment
42.2 is necessary to protect a child or others from harm; ~~or~~
42.3 (6) prone restraints, as prohibited by section 245A.211; or
42.4 ~~(6)~~ (7) the withholding or forcing of food and other basic needs.

42.5 Sec. 36. Minnesota Statutes 2022, section 245I.20, subdivision 10, is amended to read:

42.6 Subd. 10. **Application procedures.** (a) The applicant for certification must submit any
42.7 documents that the commissioner requires on forms approved by the commissioner.

42.8 (b) Upon submitting an application for certification, an applicant must pay the application
42.9 fee required by section 245A.10, subdivision 3.

42.10 (c) The commissioner must act on an application within 90 working days of receiving
42.11 a completed application.

42.12 (d) When the commissioner receives an application for initial certification that is
42.13 incomplete because the applicant failed to submit required documents or is deficient because
42.14 the submitted documents do not meet certification requirements, the commissioner must
42.15 provide the applicant with written notice that the application is incomplete or deficient. In
42.16 the notice, the commissioner must identify the particular documents that are missing or
42.17 deficient and give the applicant 45 days to submit a second application that is complete. An
42.18 applicant's failure to submit a complete application within 45 days after receiving notice
42.19 from the commissioner is a basis for certification denial.

42.20 (e) The commissioner must give notice of a denial to an applicant when the commissioner
42.21 has made the decision to deny the certification application. In the notice of denial, the
42.22 commissioner must state the reasons for the denial in plain language. The commissioner
42.23 must send or deliver the notice of denial to an applicant by certified mail or personal service.
42.24 In the notice of denial, the commissioner must state the reasons that the commissioner denied
42.25 the application and must inform the applicant of the applicant's right to request a contested
42.26 case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The
42.27 applicant may appeal the denial by notifying the commissioner in writing by certified mail
42.28 or personal service. If mailed, the appeal must be postmarked and sent to the commissioner
42.29 within 20 calendar days after the applicant received the notice of denial. If an applicant
42.30 delivers an appeal by personal service, the commissioner must receive the appeal within 20
42.31 calendar days after the applicant received the notice of denial.

43.1 (f) The commissioner may require the applicant or certification holder to provide an
43.2 email address for the certification holder that will be made public subject to the requirements
43.3 under section 13.46, subdivision 4, paragraph (b), clause (1), item (i).

43.4 Sec. 37. Minnesota Statutes 2022, section 256.9685, subdivision 1a, is amended to read:

43.5 Subd. 1a. **Administrative reconsideration.** Notwithstanding section 256B.04,
43.6 subdivision 15, the commissioner shall establish an administrative reconsideration process
43.7 for appeals of inpatient hospital services determined to be medically unnecessary. A
43.8 physician, advanced practice registered nurse, physician assistant, or hospital may request
43.9 a reconsideration of the decision that inpatient hospital services are not medically necessary
43.10 by submitting a written request for review to the commissioner within 30 calendar days
43.11 after receiving the date of the notice of the decision was mailed. The request for
43.12 reconsideration process shall take place prior to the procedures of subdivision 1b and shall
43.13 be conducted be reviewed by the at least one medical review agent that is independent of
43.14 the case under reconsideration. The medical review agent shall make a recommendation to
43.15 the commissioner. The commissioner's decision on reconsideration is final and not subject
43.16 to appeal under chapter 14.

43.17 Sec. 38. Minnesota Statutes 2022, section 256.9685, subdivision 1b, is amended to read:

43.18 Subd. 1b. **Appeal of reconsideration.** ~~Notwithstanding section 256B.72, the~~
43.19 ~~commissioner may recover inpatient hospital payments for services that have been determined~~
43.20 ~~to be medically unnecessary after the reconsideration and determinations. A physician,~~
43.21 ~~advanced practice registered nurse, physician assistant, or hospital may appeal the result of~~
43.22 ~~the reconsideration process by submitting a written request for review to the commissioner~~
43.23 ~~within 30 days after receiving notice of the action. The commissioner shall review the~~
43.24 ~~medical record and information submitted during the reconsideration process and the medical~~
43.25 ~~review agent's basis for the determination that the services were not medically necessary~~
43.26 ~~for inpatient hospital services. The commissioner shall issue an order upholding or reversing~~
43.27 ~~the decision of the reconsideration process based on the review.~~ The commissioner's decision
43.28 under subdivision 1a is appealable by petition for writ of certiorari under chapter 606.

43.29 Sec. 39. Minnesota Statutes 2022, section 256.9686, is amended by adding a subdivision
43.30 to read:

43.31 Subd. 7a. **Medical review agent.** "Medical review agent" means the representative of
43.32 the commissioner who is authorized by the commissioner to administer medical record
43.33 reviews; conduct administrative reconsiderations as defined by section 256.9685, subdivision

44.1 1a; and perform other functions as stipulated in the terms of the agent's contract with the
44.2 department. Medical records reviews and administrative reconsiderations will be performed
44.3 by medical professionals within their scope of expertise, including but not limited to
44.4 physicians, physician assistants, advanced practice registered nurses, and registered nurses.
44.5 The medical professional performing the review or reconsideration must be on staff with
44.6 the medical review agent, in good standing, and licensed to practice in the state where the
44.7 medical professional resides.

44.8 Sec. 40. Minnesota Statutes 2022, section 256B.04, subdivision 15, is amended to read:

44.9 Subd. 15. **Utilization review.** (a) Establish on a statewide basis a new program to
44.10 safeguard against unnecessary or inappropriate use of medical assistance services, against
44.11 excess payments, against unnecessary or inappropriate hospital admissions or lengths of
44.12 stay, and against underutilization of services in prepaid health plans, long-term care facilities
44.13 or any health care delivery system subject to fixed rate reimbursement. In implementing
44.14 the program, the state agency shall utilize both prepayment and postpayment review systems
44.15 to determine if utilization is reasonable and necessary. The determination of whether services
44.16 are reasonable and necessary shall be made by the commissioner in consultation with a
44.17 professional services advisory group or health care consultant appointed by the commissioner.

44.18 (b) Contracts entered into for purposes of meeting the requirements of this subdivision
44.19 shall not be subject to the set-aside provisions of chapter 16C.

44.20 (c) A recipient aggrieved by the commissioner's termination of services or denial of
44.21 future services may appeal pursuant to section 256.045. Unless otherwise provided by law,
44.22 a vendor aggrieved by the commissioner's determination that services provided were not
44.23 reasonable or necessary may appeal pursuant to the contested case procedures of chapter
44.24 14. To appeal, the vendor shall notify the commissioner in writing within 30 days of receiving
44.25 the commissioner's notice. The appeal request shall specify each disputed item, the reason
44.26 for the dispute, an estimate of the dollar amount involved for each disputed item, the
44.27 computation that the vendor believes is correct, the authority in statute or rule upon which
44.28 the vendor relies for each disputed item, the name and address of the person or firm with
44.29 whom contacts may be made regarding the appeal, and other information required by the
44.30 commissioner.

44.31 (d) The commissioner may select providers to provide case management services to
44.32 recipients who use health care services inappropriately or to recipients who are eligible for
44.33 other managed care projects. The providers shall be selected based upon criteria that may
44.34 include a comparison with a peer group of providers related to the quality, quantity, or cost

45.1 of health care services delivered or a review of sanctions previously imposed by health care
45.2 services programs or the provider's professional licensing board.

45.3 Sec. 41. Minnesota Statutes 2022, section 256B.064, is amended to read:

45.4 **256B.064 SANCTIONS; MONETARY RECOVERY.**

45.5 Subdivision 1. **Terminating payments to ineligible vendors individuals or entities.** The
45.6 commissioner may terminate payments under this chapter to any person or facility that,
45.7 under applicable federal law or regulation, has been determined to be ineligible for payments
45.8 under title XIX of the Social Security Act.

45.9 Subd. 1a. **Grounds for sanctions ~~against vendors~~.** (a) The commissioner may impose
45.10 sanctions against ~~a vendor of medical care~~ any individual or entity that receives payments
45.11 from medical assistance or provides goods or services for which payment is made from
45.12 medical assistance for any of the following: (1) fraud, theft, or abuse in connection with the
45.13 provision of ~~medical care~~ goods and services to recipients of public assistance for which
45.14 payment is made from medical assistance; (2) a pattern of presentment of false or duplicate
45.15 claims or claims for services not medically necessary; (3) a pattern of making false statements
45.16 of material facts for the purpose of obtaining greater compensation than that to which the
45.17 ~~vendor~~ individual or entity is legally entitled; (4) suspension or termination as a Medicare
45.18 vendor; (5) refusal to grant the state agency access during regular business hours to examine
45.19 all records necessary to disclose the extent of services provided to program recipients and
45.20 appropriateness of claims for payment; (6) failure to repay an overpayment or a fine finally
45.21 established under this section; (7) failure to correct errors in the maintenance of health
45.22 service or financial records for which a fine was imposed or after issuance of a warning by
45.23 the commissioner; and (8) any reason for which ~~a vendor~~ an individual or entity could be
45.24 excluded from participation in the Medicare program under section 1128, 1128A, or
45.25 1866(b)(2) of the Social Security Act. For the purposes of this section, goods or services
45.26 for which payment is made from medical assistance includes but is not limited to care and
45.27 services identified in section 256B.0625 or provided pursuant to any federally approved
45.28 waiver.

45.29 (b) The commissioner may impose sanctions against a pharmacy provider for failure to
45.30 respond to a cost of dispensing survey under section 256B.0625, subdivision 13e, paragraph
45.31 (h).

45.32 Subd. 1b. **Sanctions available.** The commissioner may impose the following sanctions
45.33 for the conduct described in subdivision 1a: suspension or withholding of payments to a
45.34 ~~vendor~~ an individual or entity and suspending or terminating participation in the program,

46.1 or imposition of a fine under subdivision 2, paragraph (f). When imposing sanctions under
46.2 this section, the commissioner shall consider the nature, chronicity, or severity of the conduct
46.3 and the effect of the conduct on the health and safety of persons served by the ~~vendor~~
46.4 individual or entity. The commissioner shall suspend ~~a vendor's~~ an individual's or entity's
46.5 participation in the program for a minimum of five years if the ~~vendor~~ individual or entity
46.6 is convicted of a crime, received a stay of adjudication, or entered a court-ordered diversion
46.7 program for an offense related to a provision of a health service under medical assistance,
46.8 including a federally approved waiver, or health care fraud. Regardless of imposition of
46.9 sanctions, the commissioner may make a referral to the appropriate state licensing board.

46.10 Subd. 1c. **Grounds for and methods of monetary recovery.** (a) The commissioner
46.11 may obtain monetary recovery from ~~a vendor who~~ an individual or entity that has been
46.12 improperly paid by the department either as a result of conduct described in subdivision 1a
46.13 or as a result of ~~a vendor or department~~ an error by the individual or entity submitting the
46.14 claim or by the department, regardless of whether the error was intentional. Patterns need
46.15 not be proven as a precondition to monetary recovery of erroneous or false claims, duplicate
46.16 claims, claims for services not medically necessary, or claims based on false statements.

46.17 (b) The commissioner may obtain monetary recovery using methods including but not
46.18 limited to the following: assessing and recovering money improperly paid and debiting from
46.19 future payments any money improperly paid. The commissioner shall charge interest on
46.20 money to be recovered if the recovery is to be made by installment payments or debits,
46.21 except when the monetary recovery is of an overpayment that resulted from a department
46.22 error. The interest charged shall be the rate established by the commissioner of revenue
46.23 under section 270C.40.

46.24 Subd. 1d. **Investigative costs.** The commissioner may seek recovery of investigative
46.25 costs from any ~~vendor of medical care or services who~~ individual or entity that willfully
46.26 submits a claim for reimbursement for services that the ~~vendor~~ individual or entity knows,
46.27 or reasonably should have known, is a false representation and that results in the payment
46.28 of public funds for which the ~~vendor~~ individual or entity is ineligible. Billing errors that
46.29 result in unintentional overcharges shall not be grounds for investigative cost recoupment.

46.30 Subd. 2. **Imposition of monetary recovery and sanctions.** (a) The commissioner shall
46.31 determine any monetary amounts to be recovered and sanctions to be imposed upon ~~a vendor~~
46.32 ~~of medical care~~ an individual or entity under this section. Except as provided in paragraphs
46.33 (b) and (d), neither a monetary recovery nor a sanction will be imposed by the commissioner
46.34 without prior notice and an opportunity for a hearing, according to chapter 14, on the
46.35 commissioner's proposed action, provided that the commissioner may suspend or reduce

47.1 payment to ~~a vendor of medical care~~ an individual or entity, except a nursing home or
47.2 convalescent care facility, after notice and prior to the hearing if in the commissioner's
47.3 opinion that action is necessary to protect the public welfare and the interests of the program.

47.4 (b) Except when the commissioner finds good cause not to suspend payments under
47.5 Code of Federal Regulations, title 42, section 455.23 (e) or (f), the commissioner shall
47.6 withhold or reduce payments to ~~a vendor of medical care~~ an individual or entity without
47.7 providing advance notice of such withholding or reduction if either of the following occurs:

47.8 (1) the ~~vendor~~ individual or entity is convicted of a crime involving the conduct described
47.9 in subdivision 1a; or

47.10 (2) the commissioner determines there is a credible allegation of fraud for which an
47.11 investigation is pending under the program. Allegations are considered credible when they
47.12 have an indicium of reliability and the state agency has reviewed all allegations, facts, and
47.13 evidence carefully and acts judiciously on a case-by-case basis. A credible allegation of
47.14 fraud is an allegation which has been verified by the state, from any source, including but
47.15 not limited to:

47.16 (i) fraud hotline complaints;

47.17 (ii) claims data mining; and

47.18 (iii) patterns identified through provider audits, civil false claims cases, and law
47.19 enforcement investigations.

47.20 ~~Allegations are considered to be credible when they have an indicia of reliability and~~
47.21 ~~the state agency has reviewed all allegations, facts, and evidence carefully and acts~~
47.22 ~~judiciously on a case-by-case basis.~~

47.23 (c) The commissioner must send notice of the withholding or reduction of payments
47.24 under paragraph (b) within five days of taking such action unless requested in writing by a
47.25 law enforcement agency to temporarily withhold the notice. The notice must:

47.26 (1) state that payments are being withheld according to paragraph (b);

47.27 (2) set forth the general allegations as to the nature of the withholding action, but need
47.28 not disclose any specific information concerning an ongoing investigation;

47.29 (3) except in the case of a conviction for conduct described in subdivision 1a, state that
47.30 the withholding is for a temporary period and cite the circumstances under which withholding
47.31 will be terminated;

47.32 (4) identify the types of claims to which the withholding applies; and

48.1 (5) inform the ~~vendor~~ individual or entity of the right to submit written evidence for
48.2 consideration by the commissioner.

48.3 (d) The withholding or reduction of payments will not continue after the commissioner
48.4 determines there is insufficient evidence of fraud by the ~~vendor~~ individual or entity, or after
48.5 legal proceedings relating to the alleged fraud are completed, unless the commissioner has
48.6 sent notice of intention to impose monetary recovery or sanctions under paragraph (a). Upon
48.7 conviction for a crime related to the provision, management, or administration of a health
48.8 service under medical assistance, a payment held pursuant to this section by the commissioner
48.9 or a managed care organization that contracts with the commissioner under section 256B.035
48.10 is forfeited to the commissioner or managed care organization, regardless of the amount
48.11 charged in the criminal complaint or the amount of criminal restitution ordered.

48.12 ~~(d)~~ (e) The commissioner shall suspend or terminate a ~~vendor's~~ an individual's or entity's
48.13 participation in the program without providing advance notice and an opportunity for a
48.14 hearing when the suspension or termination is required because of the ~~vendor's~~ individual's
48.15 or entity's exclusion from participation in Medicare. Within five days of taking such action,
48.16 the commissioner must send notice of the suspension or termination. The notice must:

48.17 (1) state that suspension or termination is the result of the ~~vendor's~~ individual's or entity's
48.18 exclusion from Medicare;

48.19 (2) identify the effective date of the suspension or termination; and

48.20 (3) inform the ~~vendor~~ individual or entity of the need to be reinstated to Medicare before
48.21 reapplying for participation in the program.

48.22 ~~(e)~~ (f) Upon receipt of a notice under paragraph (a) that a monetary recovery or sanction
48.23 is to be imposed, a ~~vendor~~ an individual or entity may request a contested case, as defined
48.24 in section 14.02, subdivision 3, by filing with the commissioner a written request of appeal.
48.25 The appeal request must be received by the commissioner no later than 30 days after the
48.26 date the notification of monetary recovery or sanction was mailed to the ~~vendor~~ individual
48.27 or entity. The appeal request must specify:

48.28 (1) each disputed item, the reason for the dispute, and an estimate of the dollar amount
48.29 involved for each disputed item;

48.30 (2) the computation that the ~~vendor~~ individual or entity believes is correct;

48.31 (3) the authority in statute or rule upon which the ~~vendor~~ individual or entity relies for
48.32 each disputed item;

49.1 (4) the name and address of the person or entity with whom contacts may be made
49.2 regarding the appeal; and

49.3 (5) other information required by the commissioner.

49.4 ~~(f)~~ (g) The commissioner may order ~~a vendor~~ an individual or entity to forfeit a fine for
49.5 failure to fully document services according to standards in this chapter and Minnesota
49.6 Rules, chapter 9505. The commissioner may assess fines if specific required components
49.7 of documentation are missing. The fine for incomplete documentation shall equal 20 percent
49.8 of the amount paid on the claims for reimbursement submitted by the ~~vendor~~ individual or
49.9 entity, or up to \$5,000, whichever is less. If the commissioner determines that ~~a vendor~~ an
49.10 individual or entity repeatedly violated this chapter, chapter 254B or 245G, or Minnesota
49.11 Rules, chapter 9505, related to the provision of services to program recipients and the
49.12 submission of claims for payment, the commissioner may order ~~a vendor~~ an individual or
49.13 entity to forfeit a fine based on the nature, severity, and chronicity of the violations, in an
49.14 amount of up to \$5,000 or 20 percent of the value of the claims, whichever is greater. The
49.15 commissioner may issue fines under this paragraph in place of or in addition to full monetary
49.16 recovery of the value of the claims submitted under subdivision 1c.

49.17 ~~(g)~~ (h) The ~~vendor~~ individual or entity shall pay the fine assessed on or before the
49.18 payment date specified. If the ~~vendor~~ individual or entity fails to pay the fine, the
49.19 commissioner may withhold or reduce payments and recover the amount of the fine. A
49.20 timely appeal shall stay payment of the fine until the commissioner issues a final order.

49.21 Subd. 3. **Vendor Mandates on prohibited payments.** (a) The commissioner shall
49.22 maintain and publish a list of each excluded individual and entity that was convicted of a
49.23 crime related to the provision, management, or administration of a medical assistance health
49.24 service, or suspended or terminated under subdivision 2. Medical assistance payments cannot
49.25 be made by ~~a vendor~~ an individual or entity for items or services furnished either directly
49.26 or indirectly by an excluded individual or entity, or at the direction of excluded individuals
49.27 or entities.

49.28 (b) The ~~vendor~~ entity must check the exclusion list on a monthly basis and document
49.29 the date and time the exclusion list was checked and the name and title of the person who
49.30 checked the exclusion list. The ~~vendor~~ entity must immediately terminate payments to an
49.31 individual or entity on the exclusion list.

49.32 (c) ~~A vendor's~~ An entity's requirement to check the exclusion list and to terminate
49.33 payments to individuals or entities on the exclusion list applies to each individual or entity

50.1 on the exclusion list, even if the named individual or entity is not responsible for direct
50.2 patient care or direct submission of a claim to medical assistance.

50.3 (d) ~~A vendor~~ An entity that pays medical assistance program funds to an individual or
50.4 entity on the exclusion list must refund any payment related to either items or services
50.5 rendered by an individual or entity on the exclusion list from the date the individual or entity
50.6 is first paid or the date the individual or entity is placed on the exclusion list, whichever is
50.7 later, and ~~a vendor~~ an entity may be subject to:

50.8 (1) sanctions under subdivision 2;

50.9 (2) a civil monetary penalty of up to \$25,000 for each determination by the department
50.10 that the vendor employed or contracted with an individual or entity on the exclusion list;
50.11 and

50.12 (3) other fines or penalties allowed by law.

50.13 Subd. 4. **Notice.** (a) The department shall serve the notice required under subdivision 2
50.14 ~~shall be served~~ by certified mail at the address submitted to the department by the ~~vendor~~
50.15 individual or entity. Service is complete upon mailing. ~~The commissioner shall place an~~
50.16 ~~affidavit of the certified mailing in the vendor's file as an indication of the address and the~~
50.17 ~~date of mailing.~~

50.18 (b) The department shall give notice in writing to a recipient placed in the Minnesota
50.19 restricted recipient program under section 256B.0646 and Minnesota Rules, part 9505.2200.
50.20 The department shall send the notice ~~shall be sent~~ by first class mail to the recipient's current
50.21 address on file with the department. A recipient placed in the Minnesota restricted recipient
50.22 program may contest the placement by submitting a written request for a hearing to the
50.23 department within 90 days of the notice being mailed.

50.24 Subd. 5. **Immunity; good faith reporters.** (a) A person who makes a good faith report
50.25 is immune from any civil or criminal liability that might otherwise arise from reporting or
50.26 participating in the investigation. Nothing in this subdivision affects ~~a vendor's~~ an individual's
50.27 or entity's responsibility for an overpayment established under this subdivision.

50.28 (b) A person employed by a lead investigative agency who is conducting or supervising
50.29 an investigation or enforcing the law according to the applicable law or rule is immune from
50.30 any civil or criminal liability that might otherwise arise from the person's actions, if the
50.31 person is acting in good faith and exercising due care.

50.32 (c) For purposes of this subdivision, "person" includes a natural person or any form of
50.33 a business or legal entity.

51.1 (d) After an investigation is complete, the reporter's name must be kept confidential.
51.2 The subject of the report may compel disclosure of the reporter's name only with the consent
51.3 of the reporter or upon a written finding by a district court that the report was false and there
51.4 is evidence that the report was made in bad faith. This subdivision does not alter disclosure
51.5 responsibilities or obligations under the Rules of Criminal Procedure, except that when the
51.6 identity of the reporter is relevant to a criminal prosecution the district court shall conduct
51.7 an in-camera review before determining whether to order disclosure of the reporter's identity.

51.8 Sec. 42. Minnesota Statutes 2022, section 256B.27, subdivision 3, is amended to read:

51.9 Subd. 3. **Access to medical records.** The commissioner of human services, with the
51.10 written consent of the recipient, on file with the local welfare agency, shall be allowed
51.11 access in the manner and within the time prescribed by the commissioner to all personal
51.12 medical records of medical assistance recipients solely for the purposes of investigating
51.13 whether or not: (a) a vendor of medical care has submitted a claim for reimbursement, a
51.14 cost report or a rate application which is duplicative, erroneous, or false in whole or in part,
51.15 or which results in the vendor obtaining greater compensation than the vendor is legally
51.16 entitled to; or (b) the medical care was medically necessary. When the commissioner is
51.17 investigating a possible overpayment of Medicaid funds, the commissioner must be given
51.18 immediate access without prior notice to the vendor's office during regular business hours
51.19 and to documentation and records related to services provided and submission of claims
51.20 for services provided. The department shall document in writing the need for immediate
51.21 access to records related to a specific investigation. Denying the commissioner access to
51.22 records is cause for the vendor's immediate suspension of payment or termination according
51.23 to section 256B.064. All providers receiving medical assistance payments must make those
51.24 records available immediately to the commissioner upon request. Any records not provided
51.25 to the commissioner at the date and time of the request are inadmissible if offered as evidence
51.26 by the provider in any proceeding to contest sanctions against or monetary recovery from
51.27 the provider. The determination of provision of services not medically necessary shall be
51.28 made by the commissioner. Notwithstanding any other law to the contrary, a vendor of
51.29 medical care shall not be subject to any civil or criminal liability for providing access to
51.30 medical records to the commissioner of human services pursuant to this section.

51.31 Sec. 43. Minnesota Statutes 2022, section 524.5-118, subdivision 2a, is amended to read:

51.32 Subd. 2a. **Procedure; state licensing agency data.** (a) The court shall request the
51.33 commissioner of human services to provide the court within 25 working days of receipt of
51.34 the request with licensing agency data for licenses directly related to the responsibilities of

52.1 a professional fiduciary if the study subject indicates current or prior affiliation from the
52.2 following agencies in Minnesota:

52.3 (1) Lawyers Responsibility Board;

52.4 (2) State Board of Accountancy;

52.5 (3) Board of Social Work;

52.6 (4) Board of Psychology;

52.7 (5) Board of Nursing;

52.8 (6) Board of Medical Practice;

52.9 ~~(7) Department of Education;~~

52.10 ~~(8)~~ (7) Department of Commerce;

52.11 ~~(9)~~ (8) Board of Chiropractic Examiners;

52.12 ~~(10)~~ (9) Board of Dentistry;

52.13 ~~(11)~~ (10) Board of Marriage and Family Therapy;

52.14 ~~(12)~~ (11) Department of Human Services;

52.15 ~~(13)~~ (12) Peace Officer Standards and Training (POST) Board; and

52.16 ~~(14)~~ (13) Professional Educator Licensing and Standards Board.

52.17 (b) The commissioner shall enter into agreements with these agencies to provide the
52.18 commissioner with electronic access to the relevant licensing data, and to provide the
52.19 commissioner with a quarterly list of new sanctions issued by the agency.

52.20 (c) The commissioner shall provide to the court the electronically available data
52.21 maintained in the agency's database, including whether the proposed guardian or conservator
52.22 is or has been licensed by the agency, and if the licensing agency database indicates a
52.23 disciplinary action or a sanction against the individual's license, including a condition,
52.24 suspension, revocation, or cancellation.

52.25 (d) If the proposed guardian or conservator has resided in a state other than Minnesota
52.26 in the previous ten years, licensing agency data under this section shall also include the
52.27 licensing agency data from any other state where the proposed guardian or conservator
52.28 reported to have resided during the previous ten years if the study subject indicates current
52.29 or prior affiliation. If the proposed guardian or conservator has or has had a professional
52.30 license in another state that is directly related to the responsibilities of a professional fiduciary

53.1 from one of the agencies listed under paragraph (a), state licensing agency data shall also
53.2 include data from the relevant licensing agency of that state.

53.3 (e) The commissioner is not required to repeat a search for Minnesota or out-of-state
53.4 licensing data on an individual if the commissioner has provided this information to the
53.5 court within the prior five years.

53.6 (f) The commissioner shall review the information in paragraph (c) at least once every
53.7 four months to determine if an individual who has been studied within the previous five
53.8 years:

53.9 (1) has new disciplinary action or sanction against the individual's license; or

53.10 (2) did not disclose a prior or current affiliation with a Minnesota licensing agency.

53.11 (g) If the commissioner's review in paragraph (f) identifies new information, the
53.12 commissioner shall provide any new information to the court.

53.13 Sec. 44. **REVISOR INSTRUCTION.**

53.14 The revisor of statutes shall renumber the subdivisions in Minnesota Statutes, section
53.15 245C.02, in alphabetical order and correct any cross-reference changes that result.

53.16 Sec. 45. **REPEALER.**

53.17 (a) Minnesota Statutes 2022, sections 245A.22; 245C.02, subdivision 9; 245C.301; and
53.18 256.9685, subdivisions 1c and 1d, are repealed

53.19 (b) Minnesota Rules, parts 9505.0505, subpart 18; and 9505.0520, subpart 9b, are
53.20 repealed.

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