

1.1 Senator moves to amend S.F. No. 3451 as follows:

1.2 Page 1, before line 18, insert:

1.3 "Section 1. Minnesota Statutes 2022, section 245A.02, is amended by adding a subdivision
1.4 to read:

1.5 Subd. 4b. **Child with severe emotional disturbance.** "Child with severe emotional
1.6 disturbance" has the meaning given in section 245.4871, subdivision 6.

1.7 Sec. 2. Minnesota Statutes 2022, section 245A.02, is amended by adding a subdivision to
1.8 read:

1.9 Subd. 4c. **Clinical supervision.** "Clinical supervision" means the oversight responsibility
1.10 in a children's residential facility for the planning, development, implementation, and
1.11 evaluation of clinical services, admissions, intake assessment, individual treatment plans,
1.12 delivery of treatment services, resident progress in treatment, case management, discharge
1.13 planning, and staff development and evaluation.

1.14 Sec. 3. Minnesota Statutes 2022, section 245A.02, is amended by adding a subdivision to
1.15 read:

1.16 Subd. 4d. **Clinical supervisor.** "Clinical supervisor" means the person designated as
1.17 responsible for clinical supervision in a children's residential facility.

1.18 Sec. 4. Minnesota Statutes 2022, section 245A.02, is amended by adding a subdivision to
1.19 read:

1.20 Subd. 7c. **Individual treatment plan.** "Individual treatment plan" has the meaning given
1.21 in section 245.4871, subdivision 21.

1.22 Sec. 5. Minnesota Statutes 2022, section 245A.02, is amended by adding a subdivision to
1.23 read:

1.24 Subd. 9a. **Mental health professional.** "Mental health professional" has the meaning
1.25 given in section 245I.02, subdivision 27.

1.26 Sec. 6. **[245A.80] RESIDENTIAL MENTAL HEALTH TREATMENT FOR**
1.27 **CHILDREN WITH SEVERE EMOTIONAL DISTURBANCE; CERTIFICATION.**

1.28 Sections 245A.80 to 245A.82 establish standards that a residential treatment program
1.29 serving children with severe emotional disturbance must meet to qualify for certification,

2.1 and must be read in conjunction with Minnesota Rules, chapter 2960, and other applicable
2.2 statutes and rules.

2.3 Sec. 7. **[245A.81] RESIDENTIAL MENTAL HEALTH TREATMENT FOR**
2.4 **CHILDREN WITH SEVERE EMOTIONAL DISTURBANCE; SUPERVISION.**

2.5 Subdivision 1. **Mental health professional consultation.** (a) The license holder must
2.6 ensure that the children's residential mental health treatment program employs or contracts
2.7 with a mental health professional qualified under section 245I.04, subdivision 2, to provide
2.8 consultation relating to the planning, development, implementation, and evaluation of
2.9 program services.

2.10 (b) The license holder must ensure that the mental health professional can be reached
2.11 for consultation about a mental health emergency, at least by telephone, within 30 minutes.

2.12 Subd. 2. **Staff supervision.** A mental health professional qualified under section 245I.04,
2.13 subdivision 2, must provide at least weekly face-to-face clinical supervision to staff providing
2.14 children's residential mental health treatment program services to a resident. The mental
2.15 health professional:

2.16 (1) must provide clinical supervision of staff either individually or as a group. Staff who
2.17 do not participate in the weekly meeting must participate in an ancillary meeting during
2.18 each week in which they work. During the ancillary meeting, the information that was shared
2.19 at the most recent weekly team meeting must be verbally reviewed, including revisions to
2.20 the residents' plans of care and other information that was exchanged. The ancillary meeting
2.21 may be conducted by the clinical supervisor or a mental health practitioner that participated
2.22 in the weekly meeting. The license holder must maintain documentation of the ancillary
2.23 meetings, including the names of staff who attended;

2.24 (2) must document the supervision of staff;

2.25 (3) must advise the facility director about the planning, development, and implementation
2.26 of staff development and evaluation; and

2.27 (4) may provide consultation instead of supervision to other mental health professionals
2.28 under contract or employed by the license holder to provide program services to a resident.

2.29 Subd. 3. **Treatment supervision.** A mental health professional qualified under section
2.30 245I.04, subdivision 2, must:

(1) supervise the diagnostic assessment, defined in section 245I.02, subdivision 14, of each resident in the facility and the development of each resident's individual treatment plan;

(2) document involvement in the treatment planning process by signing the individual treatment plan;

(3) supervise the implementation of the individual treatment plan and the ongoing documentation and evaluation of each resident's progress, including the quarterly progress review; and

(4) document on a monthly basis a review of all the program services provided for the resident in the preceding weeks.

Sec. 8. [245A.82] RESIDENTIAL MENTAL HEALTH TREATMENT FOR CHILDREN WITH SEVERE EMOTIONAL DISTURBANCE; PSYCHOTROPIC MEDICATIONS.

Subdivision 1. Definitions. (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Medical professional" means a person who is licensed by a Minnesota health-related licensing board as a physician, advanced practice registered nurse, or physician assistant to practice in Minnesota and is practicing within the scope of the person's license.

(c) "Prescribing practitioner" means a person who is licensed by a Minnesota health-related licensing board as a physician, advanced practice registered nurse, or physician assistant and is authorized to prescribe psychotropic medications.

(d) "Psychotropic medication" means a medication prescribed to treat mental illness and associated behaviors or to control or alter behavior. Psychotropic medications include antipsychotic or neuroleptic medications, and antidepressant, antianxiety, antimania, stimulant, and sedative or hypnotic medications. Other miscellaneous classes of medication are considered to be psychotropic medication when they are specifically prescribed to treat a mental illness or to alter behavior based on a resident's diagnosis.

Subd. 2. Conditions for use of psychotropic medications. (a) The license holder for a residential treatment program serving children with severe emotional disturbance must ensure that the requirements of this subdivision are met when psychotropic medications are administered to a resident in the license holder's facility.

(b) Use of a psychotropic medication must be included in the resident's individual treatment plan and must be based on the prescribing practitioner's diagnosis and the diagnostic and functional assessments defined in section 245.4871.

(c) In the resident's individual treatment plan, the license holder must:

(1) describe in observable and measurable terms the behaviors that the psychotropic medication is to alleviate; and

(2) document data collection methods the license holder must use to monitor and measure changes in the symptoms and behaviors to be alleviated by the psychotropic medication.

(d) Psychotropic medication must not be administered as punishment, for staff convenience, as a substitute for a behavioral or therapeutic program, or in quantities that interfere with learning or other goals of the individual treatment plan.

Subd. 3. **Monitoring side effects.** (a) If a resident is prescribed psychotropic medication, the license holder must have the prescribing practitioner or a pharmacist list possible side effects.

(b) Under the direction of a medical professional, the license holder must monitor a resident for side effects and document any side effects in the resident's individual treatment plan at least weekly for the first four weeks after the resident begins taking a new psychotropic medication or a significantly increased or decreased dose of a currently used psychotropic medication, and at least monthly thereafter. Minor increases or decreases in the dose of a currently used psychotropic medication need not be monitored as frequently as a new medication or a significant increase or decrease of a currently used psychotropic medication. In addition to appropriate physical or laboratory assessments as determined by the directing medical professional, standardized checklists or rating scales, or scales developed for a specific drug or drug class, must be used as monitoring tools. The license holder must provide the assessments to the directing medical professional for review.

Subd. 4. **Consultation.** A medical professional must provide consultation and review of the license holder's administration of psychotropic medications at least weekly. The consulting medical professional must review the license holder's compliance with subdivisions 5 and 6.

Subd. 5. **Psychotropic medication review.** (a) If a resident is prescribed a psychotropic medication, the license holder must conduct and document a psychotropic medication review as frequently as required by the resident's directing medical professional, but at least monthly for the first six months and at least quarterly thereafter.

(b) The license holder must document the information required by the resident's directing medical professional and must provide the required information to the medical professional for review.

Subd. 6. **Informed consent.** (a) The license holder must obtain informed consent before any nonemergency administration of psychotropic medication prescribed by the program's licensed medical professional. To the extent possible, the resident must be informed and involved in the decision making.

(b) The license holder must obtain informed consent either orally or in writing before the nonemergency administration of psychotropic medication. If the license holder obtains oral informed consent, the license holder must document:

(1) an explanation of why the license holder could not initially obtain written informed consent;

(2) that the oral consent was witnessed, and the name of the witness;

(3) oral and written communication of all information required under paragraph (g); and

(4) an explanation and assurance that the license holder is immediately sending written informed consent material to the resident's parent or legal representative, that the oral consent expires in one month, and that the medication must be discontinued one month from the date of the oral or telephone consent if written consent is not received.

(c) The license holder must renew informed consent in writing for any psychotropic medication at least annually.

(d) The license holder must obtain informed consent from an individual authorized to give consent. The following individuals are authorized to consent:

(1) a resident's legal representative or conservator, if the resident has a legal representative or conservator authorized by a court to give consent for the resident;

(2) at least one of the resident's parents. If the resident's parents are divorced or legally separated, the parent with legal custody of the resident must consent, unless the separation or marriage dissolution decree otherwise delegates authority to give consent for the resident;

(3) the county representative designated to act as a legal representative on behalf of the commissioner, if the commissioner is the resident's legal representative; or

(4) the resident, under section 144.432, if the resident is an emancipated minor under section 144.341, or the resident has been married or borne a child.

(e) The license holder is not required to obtain informed consent in an emergency situation in which the program's licensed medical professional determines that the psychotropic medication is needed to prevent serious and immediate physical harm to the individual or others. In the event of the emergency use of psychotropic medication, the license holder must:

(1) inform and document that the individual authorized to consent was informed orally and in writing within 24 hours or on the first working day after the emergency use of the medication;

(2) document the specific behaviors constituting the emergency, the circumstances of the emergency behaviors, the alternatives considered and attempted, and the results of the use of the emergency psychotropic medication; and

(3) arrange for an interdisciplinary team review of the individual treatment plan within seven days of the emergency to determine what actions, if any, are required in light of the emergency. If a psychotropic medication continues to be required, the license holder must seek a court order according to section 253B.092, subdivision 3.

(f) The license holder must obtain informed consent within 30 days to continue the use of psychotropic medication for a resident admitted with prescribed psychotropic medication.

(g) The license holder must provide the following information orally and in writing, in nontechnical language, to the resident's parent, the resident's legal representative, and, to the extent possible, to the resident:

(1) the diagnosis and level of severity of symptoms and behaviors for which the psychotropic medication is prescribed;

(2) the expected benefits of the medication, including the level to which the medication is expected to change the symptoms and behavior and an indication of the method used to determine the expected benefits;

(3) the pharmacological and nonpharmacological treatment options available and the course of the condition with and without the treatment options;

(4) specific information about the psychotropic medication to be used, including the generic and commonly known brand name, the route of administration, the estimated duration of therapy, and the proposed dose with the possible dosage range or maximum dose;

(5) the more frequent and less frequent or rare but serious risks and side effects of the psychotropic medication, including how the risks and possible side effects must be managed;

(6) an explanation that consent may be refused or withdrawn at any time and that the consent is time-limited and automatically expires as described in paragraph (f); and

(7) the names, addresses, and telephone numbers of appropriate professionals to contact if questions or concerns arise.

Subd. 7. Refusal of routine administration of psychotropic medication. (a) If the person authorized to consent under subdivision 6, paragraph (d), refuses consent for a routine administration of psychotropic medication, the medication must not be administered to the resident. If the authorized individual refuses to renew consent, the psychotropic medication for which consent had previously been given must be discontinued according to a written plan as expediently as possible, taking into account withdrawal side effects. The license holder must obtain a court order to override the refusal to consent.

(b) A license holder must not discharge a resident because of a refusal to consent to the use of a specific psychotropic medication. A decision to discharge a resident must be reached only after the alternatives to the specific psychotropic medication have been attempted and only after an administrative review of the proposed discharge has occurred. If the refusal to consent to the routine administration of a psychotropic medication results in an emergency situation, then the requirements of subdivision 6, paragraph (e), must be met when psychotropic medication will be administered to a resident.

Sec. 9. Minnesota Statutes 2022, section 245I.02, subdivision 17, is amended to read:

Subd. 17. Functional assessment. "Functional assessment" means the assessment of a client's current level of functioning relative to functioning that is appropriate for someone the client's age. ~~For a client five years of age or younger, a functional assessment is the Early Childhood Service Intensity Instrument (ESCH). For a client six to 17 years of age, a functional assessment is the Child and Adolescent Service Intensity Instrument (CASH). For a client 18 years of age or older, a functional assessment is the functional assessment described in section 245I.10, subdivision 9.~~

Sec. 10. Minnesota Statutes 2022, section 245I.02, subdivision 19, is amended to read:

Subd. 19. Level of care assessment. "Level of care assessment" means the level of care decision support tool appropriate to the client's age. ~~For a client five years of age or younger, a level of care assessment is the Early Childhood Service Intensity Instrument (ESCH). For a client six to 17 years of age, a level of care assessment is the Child and Adolescent Service Intensity Instrument (CASH). For a client 18 years of age or older, a level of care assessment~~

8.1 ~~is the Level of Care Utilization System for Psychiatric and Addiction Services (LOCUS)~~
8.2 ~~or another tool authorized by the commissioner."~~

8.3 Page 2, line 19, strike "180" and insert "365"

8.4 Page 5, after line 23, insert:

8.5 "Sec. 17. Minnesota Statutes 2023 Supplement, section 256B.0943, subdivision 1, is
8.6 amended to read:

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

8.9 (b) "Children's therapeutic services and supports" means the flexible package of mental
8.10 health services for children who require varying therapeutic and rehabilitative levels of
8.11 intervention to treat a diagnosed emotional disturbance, as defined in section 245.4871,
8.12 subdivision 15, or a diagnosed mental illness, as defined in section 245.462, subdivision
8.13 20. The services are time-limited interventions that are delivered using various treatment
8.14 modalities and combinations of services designed to reach treatment outcomes identified
8.15 in the individual treatment plan.

8.16 (c) "Clinical trainee" means a staff person who is qualified according to section 245I.04,
8.17 subdivision 6.

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

8.19 (e) "Culturally competent provider" means a provider who understands and can utilize
8.20 to a client's benefit the client's culture when providing services to the client. A provider
8.21 may be culturally competent because the provider is of the same cultural or ethnic group
8.22 as the client or the provider has developed the knowledge and skills through training and
8.23 experience to provide services to culturally diverse clients.

8.24 (f) "Day treatment program" for children means a site-based structured mental health
8.25 program consisting of psychotherapy for three or more individuals and individual or group
8.26 skills training provided by a team, under the treatment supervision of a mental health
8.27 professional.

8.28 (g) "Direct service time" means the time that a mental health professional, clinical trainee,
8.29 mental health practitioner, or mental health behavioral aide spends face-to-face with a client
8.30 and the client's family or providing covered services through telehealth as defined under
8.31 section 256B.0625, subdivision 3b. Direct service time includes time in which the provider
8.32 obtains a client's history, develops a client's treatment plan, records individual treatment

9.1 outcomes, or provides service components of children's therapeutic services and supports.
9.2 Direct service time does not include time doing work before and after providing direct
9.3 services, including scheduling or maintaining clinical records.

9.4 (h) "Direction of mental health behavioral aide" means the activities of a mental health
9.5 professional, clinical trainee, or mental health practitioner in guiding the mental health
9.6 behavioral aide in providing services to a client. The direction of a mental health behavioral
9.7 aide must be based on the client's individual treatment plan and meet the requirements in
9.8 subdivision 6, paragraph (b), clause (7).

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

9.10 (j) "Individual treatment plan" means the plan described in section 245I.10, subdivisions
9.11 7 and 8.

9.12 (k) "Mental health behavioral aide services" means medically necessary one-on-one
9.13 activities performed by a mental health behavioral aide qualified according to section
9.14 245I.04, subdivision 16, to assist a child retain or generalize psychosocial skills as previously
9.15 trained by a mental health professional, clinical trainee, or mental health practitioner and
9.16 as described in the child's individual treatment plan and individual behavior plan. Activities
9.17 involve working directly with the child or child's family as provided in subdivision 9,
9.18 paragraph (b), clause (4).

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

9.21 (m) "Mental health practitioner" means a staff person who is qualified according to
9.22 section 245I.04, subdivision 4.

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

9.25 (o) "Mental health service plan development" includes:

9.26 (1) development and revision of a child's individual treatment plan; and

9.27 (2) administering and reporting the standardized outcome measurements in section
9.28 245I.10, subdivision 6, paragraph (d), clauses (3) and (4), and other standardized outcome
9.29 measurements approved by the commissioner, as periodically needed to evaluate the
9.30 effectiveness of treatment.

9.31 (p) "Mental illness," for persons at least age 18 but under age 21, has the meaning given
9.32 in section 245.462, subdivision 20, paragraph (a).

10.1 (q) "Psychotherapy" means the treatment described in section 256B.0671, subdivision
10.2 11.

10.3 (r) "Rehabilitative services" or "psychiatric rehabilitation services" means interventions
10.4 to: (1) restore a child or adolescent to an age-appropriate developmental trajectory that had
10.5 been disrupted by a psychiatric illness; or (2) enable the child to self-monitor, compensate
10.6 for, cope with, counteract, or replace psychosocial skills deficits or maladaptive skills
10.7 acquired over the course of a psychiatric illness. Psychiatric rehabilitation services for
10.8 children combine coordinated psychotherapy to address internal psychological, emotional,
10.9 and intellectual processing deficits, and skills training to restore personal and social
10.10 functioning. Psychiatric rehabilitation services establish a progressive series of goals with
10.11 each achievement building upon a prior achievement.

10.12 (s) "Skills training" means individual, family, or group training, delivered by or under
10.13 the supervision of a mental health professional, designed to facilitate the acquisition of
10.14 psychosocial skills that are medically necessary to rehabilitate the child to an age-appropriate
10.15 developmental trajectory heretofore disrupted by a psychiatric illness or to enable the child
10.16 to self-monitor, compensate for, cope with, counteract, or replace skills deficits or
10.17 maladaptive skills acquired over the course of a psychiatric illness. Skills training is subject
10.18 to the service delivery requirements under subdivision 9, paragraph (b), clause (2).

10.19 (t) "Standard diagnostic assessment" means the assessment described in section 245I.10,
10.20 subdivision 6.

10.21 (u) "Treatment supervision" means the supervision described in section 245I.06.

10.22 (v) "Transition to community living services" means services described in section
10.23 256B.0623, subdivision 2, paragraph (c), that maintain continuity of contact between the
10.24 children's therapeutic services and supports provider and the client and that facilitate
10.25 discharge from a hospital, juvenile detention, or residential treatment setting and support
10.26 family and community integration. Transition to community living services is not intended
10.27 to provide other types of services within children's therapeutic services and supports.

10.28 Sec. 18. Minnesota Statutes 2022, section 256B.0943, subdivision 2, is amended to read:

10.29 Subd. 2. **Covered service components of children's therapeutic services and**
10.30 **supports.** (a) Subject to federal approval, medical assistance covers medically necessary
10.31 children's therapeutic services and supports when the services are provided by an eligible
10.32 provider entity certified under and meeting the standards in this section. The provider entity

- 11.1 must make reasonable and good faith efforts to report individual client outcomes to the
11.2 commissioner, using instruments and protocols approved by the commissioner.
- 11.3 (b) The service components of children's therapeutic services and supports are:
- 11.4 (1) patient and/or family psychotherapy, family psychotherapy, psychotherapy for crisis,
11.5 and group psychotherapy;
- 11.6 (2) individual, family, or group skills training provided by a mental health professional,
11.7 clinical trainee, or mental health practitioner;
- 11.8 (3) crisis planning;
- 11.9 (4) mental health behavioral aide services;
- 11.10 (5) direction of a mental health behavioral aide;
- 11.11 (6) mental health service plan development; ~~and~~
- 11.12 (7) children's day treatment; and
- 11.13 (8) transition to community living services."
- 11.14 Page 9, after line 23, insert:
- 11.15 "Sec. 21. **REPEALER.**
- 11.16 Minnesota Rules, parts 2960.0620; and 2960.0630, are repealed."
- 11.17 Renumber the sections in sequence and correct the internal references
- 11.18 Amend the title accordingly