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S.F. No. 4399 – Human Services Omnibus Policy (as amended by the A-3)

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ARTICLE 1 – DISABILITY SERVICES

Section 1 amends **144G.45, subdivision 3 – Local laws apply**, by exempting licensed assisted living facilities from local rental licensing regulations.

Section 2 amends **245A.11, subdivision 2 – Permitted single-family residential use**, by exempting certain residential program settings licensed under chapter 245D from local rental licensing regulations.

Section 3 amends **245D.071, subdivision 3 – Assessments and initial service planning**, by clarifying the timelines for the initial planning meeting for the provision of 245D licensed services to people with disabilities by making the language in paragraph (b) consistent with the existing language in paragraph (c). Under the clarified language, the service provider must hold an initial planning meeting before providing 45 days of service or within 60 days of service initiation, whichever is shorter.

Section 4 amends **245D.071, subdivision 4 – Service outcomes and supports**, by making a conforming change related to the term used to refer to the initial planning meeting.

Section 5 amends **245D.081, subdivision 2 – Coordination and evaluation of individual service delivery**, by modifying the minimal educational requirements for the designated staff person of a 245D licensed service provider who is tasked with coordinating the delivery and evaluation of the services provided by removing the requirement that the staff person's educational background be in a field related to human services. The licensed provider must still ensure that the designated staff person has the required competencies to coordinate and evaluate the provided services. This section also removes the requirement that the designated staff person's four years of experience providing direct care had been full-time and removes the requirement that the four years of experience was supervised by a person meeting the requirements of a designated staff person.

Section 6 amends **245D.081, subdivision 3 – Program management and oversight**, by modifying the required qualification for the designated manager of the services provided by a chapter 245D licensed provider by removing the requirement that the designated manager’s three years of supervisory experience have been in a program providing direct support services. *Note:* the modifications of the minimal educational requirements for designated service coordinator apply to designated managers under this section.

Section 7 amends **245D.09, subdivision 3 - Staff qualifications**, by permitting staff under the age of 18 to administer medications provided the chapter 245D licensed provider documents that the staff person is competent to do so.

Section 8 amends **245D.091, subdivision 3 – Positive support analyst qualifications**, by clarifying in paragraph (a) that a positive support analyst needs to meet only one of the specified qualifications in paragraph (a) and allowing an individual with a baccalaureate degree in nursing or higher to meet the required qualifications under paragraph (a). The amendment to paragraph (b) modifies the required supervised experience for a positive support analyst by reverting the requirements of clause (1) to the standard as it existed prior to July 1, 2019.

Section 9 amends **245D.091, subdivision 4 – Positive support specialist qualification**, by clarifying that a positive support specialist needs to meet only one of the specified qualifications in paragraph (a), and allows an individual with an associate’s degree in nursing or higher to meet the required qualifications under paragraph (a).

Section 10 amends **245D.10, subdivision 1 – Policy and procedure requirements**, by requiring all license holders to use the same form to report waiver service suspensions and terminations.

Section 11 amends **256B.057, subdivision 9 – Employed persons with disabilities**, by removing the requirement that an MA-EPD premium be redetermined every six- months, and instead requires a redetermination only when an enrollee reports a change in income or household size and by extending from 10 to 30 days the time in which an enrollee must report a change in income or household size.

Section 12 amends **256B.0911, subdivision 24 – Remote reassessments**, by permitting two consecutive remote assessments for PCA and CFSS.

Section 13 amends **256B.4905, subdivision 12 – Informed choice and technology prioritization in implementation for disability waiver services**, by requiring the commissioner to ensure that individuals receiving disability waiver services are offered assistive technology and remote supports prior to being offered services that utilize staff.

Section 14 amends **256B.4914, subdivision 4 – Data collection for rate determination**, by requiring lead agencies to use a common form to collect rate setting data from service providers.

Section 15 amends **256B.85, subdivision 2 – Definitions**, by removing from the definition of activities of daily living under the activity of eating a reference to “assistance with ... applying orthotics required for ... transfers.”

Section 16 amends **256B.85, subdivision 6 – Community first services and supports service delivery plan**, by replacing a requirement that CFSS service delivery plans be approved by the consultation services provider when the participant has no case manager or care coordinator with a requirement that the lead agency approve the CFSS service delivery plan.

Section 17 amends **256B.85, subdivision 6a – Person-centered planning process**, by correcting a cross-reference to the Code of Federal Regulations.

Section 18 amends **256B.85, subdivision 11 – Agency-provider model**, by replacing a requirement that goods purchased under CFSS and the budget to do so be approved by the consultation services provider when the participant has no case manager or care coordinator with a requirement that the lead agency approve the goods and budget.

Section 19 amends **256B.85, subdivision 13a – Financial management services**, by providing for an exception to the requirement that CFSS financial management service providers provide at least 30 days' notice prior to terminating FMS services.

Section 20 amends **256B.85, subdivision 17 – Consultation services duties**, by removing the authority of consultation service providers from approving CFSS service delivery plans for a participant without a case manager or care coordinator. Other sections of this article transfer this authority to the lead agency.

Section 21 adds **256B.85, subdivision 18b – Worker training and development services; remote visits**, which allows worker training and development services to be provided remotely to certain recipients of CFSS.

Section 22 amends **256B.85, subdivision 20 – Participant protections**, by making a conforming change relating to the transfer of authority to approve CFSS service delivery plans from consultation service providers to lead agencies.

ARTICLE 2 - DEAF, DEAFBLIND AND HARD-OF-HEARING SERVICES

Section 1 amends **256C.21 – DEAF, DEAFBLIND, AND HARD-OF-HEARING SERVICES ACT; CITATION**, by making conforming changes.

Section 2 amends **256C.23, subdivision 1a – Culturally affirmative**, by modifying the definition of “culturally affirmative” to include services that are designed and delivered with the context of identify and communication of the persons receiving services.

Section 3 adds **256C.23, subdivision 1b – Linguistically affirmative**, which defines “linguistically affirmative” as a description of services designed and delivered with the context of the language and communication experiences of the person receiving services.

Section 4 amends **256C.23, subdivision 2 – Deaf**, by modernizing the definition of “deaf.”

Section 5 amends **256C.23, subdivision 2a – Hard-of-hearing**, by modernizing the definition of “hard-of-hearing.”

Section 6 amends **256C.23, subdivision 2b – Deafblind**, by modernizing the definition of “deafblind.”

Section 7 amends **256C.23, subdivision 2c – Interpreting services**, by modernizing the definition of “interpreting services.”

Section 8 amends **256C.23, subdivision 6 – Real-time captioning**, by making a technical grammatical change.

Section 9 amends **256C.23, subdivision 7 – Family and community intervener**, by modernizing the definition of “intervener.”

Section 10 amends **256C.233, subdivision 1 – Deaf, DeafBlind, and Hard of Hearing State Services**, by updating the duties of the Deaf, DeafBlind and Hard of Hearing State Services Division and by requiring the commissioner of commerce to participate in the interagency activities of the Division.

Section 11 amends **256C.233, subdivision 2 – Responsibilities**, by making conforming changes to the duties of the Deaf, DeafBlind and Hard of Hearing State Services Division and deleting a mandated biennial report to the legislature.

Section 12 amends **256C.24, subdivision 1 – Location**, by making conforming changes.

Section 13 amends **256C.24, subdivision 2 – Responsibilities**, by updating the duties of the six regional service centers established by the Deaf, DeafBlind and Hard of Hearing State Services Division.

Section 14 amends **256C.24, subdivision 3 – Advisory committee**, by modifying the membership of the eight regional advisory committees of the Deaf, DeafBlind and Hard of Hearing State Services Division to include parents of children who are deafblind, by clarifying the length of tenure of committee members, and removing the requirement that Division staff be assigned as nonvoting members.

Section 15 amends **256C.26 - EMPLOYMENT SERVICES**, by making conforming changes.

Section 16 amends **256C.261 SERVICES FOR PERSONS WHO ARE DEAFBLIND**, by increasing flexibility in use of grant funds for services to persons who are deafblind and making conforming changes.

Section 17 amends **256C.28, subdivision 1 – Membership**, by modifying the membership of the Commission on the Deaf, Deafblind, and Hard of Hearing. The Commission is the principal state agency tasked with advocating on behalf of Minnesotans who are deaf, deafblind, and hard-of-hearing by working to ensure those persons have equal access to the services, programs, and opportunities available to others. The amendments to paragraph (a) modify the composition of the 18 voting members of the Commission by increasing by three the number of at-large members and reducing by three the number representing the eight existing regional advisory committees. The amendments to paragraph (a) also add five additional non-voting, ex-officio members representing the departments of Education, Health, Human Rights, DEED, and Human Services, and grant the Commission authority to appoint additional non-voting, ex-officio members representing additional agencies of state government. The amendments to paragraph (b) modify the maximum length of tenure for voting members on the Commission to allow any length of a partial term plus the existing limit of 3 full 4-year terms.

ARTICLE 3 – AGING SERVICES

Section 1 amends **144A.20, subdivision 4 - Assisted living director qualifications; ongoing training**, by reducing for six months to 30 days the time in which an individual must apply for an assisted living director’s license after being hired, by eliminating the option to be licensed as an assisted living director prior to completing all required training, by clarifying that licensed nursing

administrators must be licensed as such in Minnesota to qualify for an assisted living director's license, and by striking obsolete language.

Section 2 amends **144G.08, subdivision 7 - Assisted living facility**, by modifying the definition of assisted living facility to specify settings subject to licensure include any setting that markets or holds itself out as assisted living or memory care.

Section 3 amends **144G.30, subdivision 5 - Correction orders**, by requiring assisted living facilities to publicly post and provide copies upon request of the facility's most recent plan of correction.

Section 4 amends **256.975, subdivision 7e - Long-term care options counseling at critical care transitions**, by simplifying the requirements and procedures related to providing long-term care options counseling to prospective assisted living residents and hospital patients at risk of nursing home placement.

Section 5 amends **256R.08, subdivision 1 - Reporting of financial statements**, by requiring nursing facility owners and operators to report related-party transactions on annual cost reports submitted to DHS.

Section 6 adds **256R.08, subdivision 5 - Notice of costs associated with leases, rent, and use of land or other real property by nursing homes**, which requires nursing facilities to annually report their costs associated with leases, rent, and use of land or other real property.

Section 7 amends **325F.722, subdivision 1 - Definitions**, by adding a definition of "assisted living services" and "subsidized assisted living contract" to the statute governing consumer protections settings exempt from assisted living licensure.

Sections 8 to 20 and 22 require settings that are exempt from assisted living facility licensure to comply with consumer protections drawn directly from the assisted living facility licensing chapter, 144G.

Section 8 adds **325F.722, subdivision 10 - Responsibility for housing and services**, which requires settings exempted from assisted living facility licensure to be directly responsible to the resident for all housing and service-related matters provided, irrespective of a management contract.

Section 9 adds **325F.722, subdivision 11 - Facility restrictions**, which prohibits settings exempted from assisted living facility licensure and their staff from accepting a power-of-attorney for a resident, accepting appointments as a guardian or conservator of a resident, borrowing money from a resident, or serving as a resident's representative.

Section 10 adds **325F.722, subdivision 12 - Handling residents' finances and property**, which requires settings exempted from assisted living facility licensure that accepts deposits of resident funds or manages the day-to-day management of resident funds to comply with the requirements related to these activities specified in 144G.

Section 11 adds **325F.722, subdivision 13 - Contract requirements**, which requires settings exempted from assisted living facility licensure to comply with all the contract requirements that apply to licensed assisted living facilities, except for the inclusion in the contract of information about the facilities license (because the exempt setting is not licensed).

Section 12 adds **325F.722, subdivision 14 – Contract terminations**, which requires settings exempted from assisted living facility licensure to comply with all the contract termination requirements that apply to licensed assisted living facilities.

Section 13 adds **325F.722, subdivision 15 – Nonrenewal of housing**, which requires settings exempted from assisted living facility licensure to comply with all the nonrenewal of housing requirements that apply to licensed assisted living facilities.

Section 14 adds **325F.722, subdivision 16 – Appeals of contract terminations**, which establishes a contract termination appeal process similar to the process that applies to assisted living contract termination appeals, except the resident appeals directly to the Office of Administrative hearings and the administrative law judge issues the final order, not the commissioner of health.

Section 15 adds **325F.722, subdivision 17 – Coordinated moves**, which requires settings exempted from assisted living facility licensure to comply with all the coordinated move requirements that apply to licensed assisted living facilities.

Section 16 adds **325F.722, subdivision 18 – Transfer of resident within the facility**, which requires settings exempted from assisted living facility licensure to comply with all the transfer requirements that apply to licensed assisted living facilities.

Section 17 adds **325F.722, subdivision 19 – Planned closure**, which requires settings exempted from assisted living facility licensure to comply with all the planned closure requirements that apply to licensed assisted living facilities, except the exempt setting is not required to notify the commissioner of health of a planned closure, nor receive approval of its closure plan from the commissioner.

Section 18 adds **325F.722, subdivision 20 – Subsidized assisted living bill of rights**, which specifies that all rights granted residents of licensed assisted living facilities under the assisted living bill of rights are also granted to residents of exempt settings.

Section 19 adds **325F.722, subdivision 21 – Retaliation prohibited**, which requires settings exempted from assisted living facility licensure to comply with all the ant-retaliation requirements that apply to licensed assisted living facilities.

Section 20 adds **325F.722, subdivision 22 – Notice of legal and advocacy services**, which requires settings exempted from assisted living facility licensure to comply with all the requirements that the setting provide residents with the contact information of advocacy and legal service providers and the Ombudsman of Long-term care and the Ombudsman of Mental Health and Developmental Disabilities.

Section 21 is a **REPEALER**, which repeals sections related to long-term care options counseling rendered duplicative by proposals in the bill.

Section 22 is a **REPEALER**, which repeals language related to contract requirements and service termination protections that are replaced with new language proposed in the bill. This repealer also removes the language that requires a state agency to resolve any violation of the consumer protections afforded residents of settings exempted from assisted living facility licensure prior to seeking enforcement actions against the setting and removes the prohibition against a private right of action to enforce the consumer protections.

Section 23 is a **REPEALER**, which repeal statutes requiring studies on nursing facility rates.

ARTICLE 4 - SUBSTANCE USE DISORDER SERVICES

Section 1 amends **148F.025, subdivision 2 - Education requirements for licensure**, by expanding the eligible education requirements to permit individuals that received a master's degree from a school or educational program accredited as in alcohol and drug counseling to be licensed as an alcohol and drug counselor, even if the individual did not receive a bachelor's degree meeting the requirements of licensure.

Section 2 amends **245F.02, subdivision 17 - Peer recovery support services**, by inserting a cross reference to a description of peer recovery support services.

Section 3 amends **245F.02, subdivision 21 - Recovery peer**, by clarifying in the definition of recovery peer that a recovery peer must be qualified as such.

Section 4 amends **245F.08, subdivision 3 - Peer recovery support services**, by inserting a cross reference to a description of peer recovery support services and qualified providers.

Section 5 amends **245F.15, subdivision 7 - Recovery peer qualifications**, by inserting a cross reference to the qualifications for a recovery peer and the scope of practice of a recovery peer.

Section 6 amends **245G.031, subdivision 2 - Qualifying accreditation; determination of same and similar standards**, by expanding the definition of accrediting body for the purposes of alternative licensing inspections of substance use disorder treatment facilities to include the Commission on Accreditation of Rehabilitation Facilities and ASAM Level of Care Certification Program.

Section 7 adds **245G.04, subdivision 3 - Opioid educational material**, which requires a licensed substance use disorder treatment facility to provide educational materials approved by the commissioner to any client identified as having opioid use issues.

Section 8 amends **245G.05, subdivision 3 - Comprehensive assessment requirements**, by strikes language rendered duplicative by other sections of this article.

Section 9 amends **245G.09, subdivision 3 - Contents**, by making a conforming change.

Section 10 amends **245G.11, subdivision 10 - Student interns and former students**, by allowing 50 percent limit on treatment staff in a licensed substance use disorder treatment facility to be student interns or former students.

Section 11 amends **245G.22, subdivision 2 - Definitions**, by modifying the definition of practitioner for the purposes of licensed opioid treatment programs by removing the language permitting an advanced practice registered nurse or a physician assistant to be a practitioner if a variance was issued.

Section 12 amends **245G.22, subdivision 6 - Criteria for unsupervised use**, by modifying the criteria for unsupervised use to conform to recent federal regulatory changes.

Section 13 amends **245G.22, subdivision 17 - Policies and procedures**, by making conforming changes and by eliminating the limit on the number of clients a counselor in an opioid treatment program may supervise.

Section 14 amends **254A.19, subdivision 3 - Comprehensive assessments**, by specifying the requirements of assessments for substance use disorder treatment services reimbursed by the behavioral health fund when provided by licensed professionals, a county, or hospitals, federally qualified health centers, and rural health clinics.

Section 15 amends **254B.04, subdivision 6 - Local agency to determine client financial eligibility**, by requiring local agencies to use only forms prescribed by the commissioner to determine client eligibility for services funded by the behavioral health fund unless the lead agency has a reasonable basis for believing the information submitted on the form is false.

Section 16 adds **254B.04, subdivision 6a - Span of eligibility**, which relocates language relating to the span of eligibility for behavioral health fund eligibility and clarifies the start of a span of eligibility.

Section 17 amends **254B.05, subdivision 1 - Licensure or certification required**, by specifying that a recovery community organization must be certified or accredited by one of the named entities.

Section 18 amends **254B.05, subdivision 5 - Rate requirements**, by correcting a cross reference and establishing as an eligible vendor for behavioral health funding any licensed opioid treatment program licensed under chapter 245G or by a Tribe.

Section 19 amends **254B.181, subdivision 1 - Requirements**, by specifying that a sober home maintain its required supply of an opiate antagonist in a conspicuous location and allow residents to use legally prescribed and dispensed opioid use disorder treatment medications and other medications to treat co-occurring conditions.

Section 20 amends **254B.19, subdivision 1 - Level of care requirements**, by modifying some of the ASAM levels of care.

Section 21 amends **256B.0759, subdivision 2 - Provider participation**, by modifying an existing exemption from the SUD demonstration project for certain hospitals.

Section 22 amends **256B.0759, subdivision 4 - Provider payment rates**, by updating cross references that were inadvertently omitted from 2023 legislation.

Section 23 is a **REPEALER**, which repeals the high does requirements and the requirements for the unsupervised use of methadone hydrochloride by clients of opioid treatment programs.

ARTICLE 5 – DIRECT CARE AND TREATMENT

Sections 1 to 17 amend **246.71 to 246.722 – BLOOD-BORNE PATHOGENS; STATE OPERATED PROGRAMS EMPLOYEES**, by explicitly expanding the statutory provisions governing employee exposure to blood-borne pathogens in direct care and treatments secure facilities to employee exposures in all direct care and treatment programs.

Section 18 amends **Laws 2023, chapter 61, article 8, section 13, subdivision 2 – Membership**, by correcting the name of a member of the Task Force on Priority Admissions to State-Operated Treatment Programs.

ARTICLE 6 – MISCELLANEOUS

Section 1 amends **254A.03, subdivision 1 - Alcohol and Other Drug Abuse Section**, by eliminating language related to an expired requirement that DHS submit to the legislature a report describing public substance use disorder services and recommending ways to increase coordination of services and decrease service duplication and costs.

Section 2 amends **256B.4914, subdivision 10 - Evaluation of information and data**, by eliminating language related to an expired mandated legislative report on costs of delivering disability waiver services and the component values used to set rates.

Section 3 amends **256B.4914, subdivision 10a - Reporting and analysis of cost data**, by eliminating language related to an expired mandated legislative report on recommendations related to component values and inflationary factor adjustments under DWRS.

Section 4 amends **256B.69, subdivision 5k - Actuarial soundness**, by eliminating language related to an expired annual mandated legislative report on how managed care rates meet the requirements for actuarial soundness.

Section 5 amends **256C.233, subdivision 2 – Responsibilities**, by eliminating language related to an expired biennial mandated legislative report on regional service centers operated by the Deaf, Deafblind, and Hard of Hearing Services Division.

Section 6 amends **402A.16, subdivision 2 – Duties**, by eliminating language related to an expired annual mandated legislative report from the Human Services Performance Council on the performance of counties and service delivery authorities.

Section 7 is a **REPEALER**, which repeals expired mandated legislative reports on behavioral health crisis facilities grants; the status of programs serving people with disabilities; the dedicated funds and accounts; interagency agreements and intra-agency transfers; grants related to integrated care for high-risk pregnant women; and the homeless youth act.