

1.1 A bill for an act

1.2 relating to human services; making changes to licensing provisions; modifying
1.3 license disqualifications and background study requirements; making other
1.4 changes to programs and services licensed by the Department of Human Services;
1.5 amending Minnesota Statutes 2008, sections 157.16, by adding a subdivision;
1.6 245.4871, subdivision 10; 245A.03, subdivision 2, by adding a subdivision;
1.7 245A.04, subdivisions 5, 7; 245A.05; 245A.07, subdivisions 1, 3; 245A.10,
1.8 subdivisions 2, 3; 245A.11, by adding subdivisions; 245A.1435; 245A.144;
1.9 245A.1444; 245A.16, subdivisions 1, 3; 245A.40, subdivision 5; 245A.50,
1.10 subdivision 5; 245C.03, subdivision 1; 245C.04, subdivision 1; 245C.05,
1.11 subdivision 4, by adding a subdivision; 245C.07; 245C.08, subdivision 2;
1.12 245C.10, by adding a subdivision; 245C.13, subdivision 2; 245C.15, subdivisions
1.13 1, 2, 3, 4; 245C.17, by adding a subdivision; 245C.20; 245C.21, subdivision
1.14 1a; 245C.23, subdivision 2; 245C.24, subdivisions 2, 3; 245C.25; 245C.27,
1.15 subdivision 1; 256.045, subdivisions 3, 3b; 256B.0943, subdivisions 4, 6, 9;
1.16 256D.44, subdivision 5; 626.556, subdivisions 2, 10e, 10f; 626.557, subdivision
1.17 9c; 626.5572, subdivision 13; proposing coding for new law in Minnesota
1.18 Statutes, chapters 245B; 256; repealing Minnesota Statutes 2008, section
1.19 245C.10, subdivision 1; Minnesota Rules, part 9555.6125, subpart 4, item B.

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

1.21 Section 1. Minnesota Statutes 2008, section 157.16, is amended by adding a
1.22 subdivision to read:

1.23 Subd. 5. Exemption for certain establishments. This section does not apply to
1.24 group residential facilities of ten or fewer beds licensed by the commissioner of human
1.25 services under Minnesota Rules, chapter 2960, provided the facility employs or contracts
1.26 with a certified food manager under Minnesota Rules, part 4626.2015.

1.27 Sec. 2. Minnesota Statutes 2008, section 245.4871, subdivision 10, is amended to read:

2.1 Subd. 10. **Day treatment services.** "Day treatment," "day treatment services," or
2.2 "day treatment program" means a structured program of treatment and care provided to a
2.3 child in:

2.4 (1) an outpatient hospital accredited by the Joint Commission on Accreditation of
2.5 Health Organizations and licensed under sections 144.50 to 144.55;

2.6 (2) a community mental health center under section 245.62;

2.7 (3) an entity that is under contract with the county board to operate a program that
2.8 meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts
2.9 9505.0170 to 9505.0475; or

2.10 (4) an entity that operates a program that meets the requirements of section
2.11 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475, that is
2.12 under contract with an entity that is under contract with a county board.

2.13 Day treatment consists of group psychotherapy and other intensive therapeutic
2.14 services that are provided for a minimum ~~three-hour~~ two-hour time block by a
2.15 multidisciplinary staff under the clinical supervision of a mental health professional.

2.16 Day treatment may include education and consultation provided to families and
2.17 other individuals as an extension of the treatment process. The services are aimed at
2.18 stabilizing the child's mental health status, and developing and improving the child's daily
2.19 independent living and socialization skills. Day treatment services are distinguished from
2.20 day care by their structured therapeutic program of psychotherapy services. Day treatment
2.21 services are not a part of inpatient hospital or residential treatment services. ~~Day treatment~~
2.22 ~~services for a child are an integrated set of education, therapy, and family interventions.~~

2.23 A day treatment service must be available to a child ~~at least five days~~ up to 15 hours
2.24 a week throughout the year and must be coordinated with, integrated with, or part of an
2.25 education program offered by the child's school.

2.26 Sec. 3. Minnesota Statutes 2008, section 245A.03, subdivision 2, is amended to read:

2.27 Subd. 2. **Exclusion from licensure.** (a) This chapter does not apply to:

2.28 (1) residential or nonresidential programs that are provided to a person by an
2.29 individual who is related unless the residential program is a child foster care placement
2.30 made by a local social services agency or a licensed child-placing agency, except as
2.31 provided in subdivision 2a;

2.32 (2) nonresidential programs that are provided by an unrelated individual to persons
2.33 from a single related family;

- 3.1 (3) residential or nonresidential programs that are provided to adults who do
3.2 not abuse chemicals or who do not have a chemical dependency, a mental illness, a
3.3 developmental disability, a functional impairment, or a physical disability;
- 3.4 (4) sheltered workshops or work activity programs that are certified by the
3.5 commissioner of economic security;
- 3.6 (5) programs operated by a public school for children 33 months or older;
- 3.7 (6) nonresidential programs primarily for children that provide care or supervision
3.8 for periods of less than three hours a day while the child's parent or legal guardian is in
3.9 the same building as the nonresidential program or present within another building that is
3.10 directly contiguous to the building in which the nonresidential program is located;
- 3.11 (7) nursing homes or hospitals licensed by the commissioner of health except as
3.12 specified under section 245A.02;
- 3.13 (8) board and lodge facilities licensed by the commissioner of health that provide
3.14 services for five or more persons whose primary diagnosis is mental illness that do not
3.15 provide intensive residential treatment;
- 3.16 (9) homes providing programs for persons placed by a county or a licensed agency
3.17 for legal adoption, unless the adoption is not completed within two years;
- 3.18 (10) programs licensed by the commissioner of corrections;
- 3.19 (11) recreation programs for children or adults that are operated or approved by a
3.20 park and recreation board whose primary purpose is to provide social and recreational
3.21 activities;
- 3.22 (12) programs operated by a school as defined in section 120A.22, subdivision
3.23 4; YMCA as defined in section 315.44; YWCA as defined in section 315.44; or JCC as
3.24 defined in section 315.51, whose primary purpose is to provide child care to school-age
3.25 children;
- 3.26 (13) Head Start nonresidential programs which operate for less than 45 days in
3.27 each calendar year;
- 3.28 (14) noncertified boarding care homes unless they provide services for five or more
3.29 persons whose primary diagnosis is mental illness or a developmental disability;
- 3.30 (15) programs for children such as scouting, boys clubs, girls clubs, and sports and
3.31 art programs, and nonresidential programs for children provided for a cumulative total of
3.32 less than 30 days in any 12-month period;
- 3.33 (16) residential programs for persons with mental illness, that are located in hospitals;
- 3.34 (17) the religious instruction of school-age children; Sabbath or Sunday schools; or
3.35 the congregate care of children by a church, congregation, or religious society during the
3.36 period used by the church, congregation, or religious society for its regular worship;

4.1 (18) camps licensed by the commissioner of health under Minnesota Rules, chapter
4.2 4630;

4.3 (19) mental health outpatient services for adults with mental illness or children
4.4 with emotional disturbance;

4.5 (20) residential programs serving school-age children whose sole purpose is cultural
4.6 or educational exchange, until the commissioner adopts appropriate rules;

4.7 (21) unrelated individuals who provide out-of-home respite care services to persons
4.8 with developmental disabilities from a single related family for no more than 90 days in a
4.9 12-month period and the respite care services are for the temporary relief of the person's
4.10 family or legal representative;

4.11 (22) respite care services provided as a home and community-based service to a
4.12 person with a developmental disability, in the person's primary residence;

4.13 (23) community support services programs as defined in section 245.462, subdivision
4.14 6, and family community support services as defined in section 245.4871, subdivision 17;

4.15 (24) the placement of a child by a birth parent or legal guardian in a preadoptive
4.16 home for purposes of adoption as authorized by section 259.47;

4.17 (25) settings registered under chapter 144D which provide home care services
4.18 licensed by the commissioner of health to fewer than seven adults; ~~or~~

4.19 (26) chemical dependency or substance abuse treatment activities of licensed
4.20 professionals in private practice as defined in Minnesota Rules, part 9530.6405, subpart
4.21 15, when the treatment activities are not paid for by the consolidated chemical dependency
4.22 treatment fund;

4.23 (27) consumer-directed community support service funded under the Medicaid
4.24 waiver for persons with developmental disabilities when the individual who provided
4.25 the service is:

4.26 (i) the same individual who is the direct payee of these specific waiver funds or paid
4.27 by a fiscal agent, fiscal intermediary, or employer of record; and

4.28 (ii) not otherwise under the control of a residential or nonresidential program that is
4.29 required to be licensed under this chapter when providing the service; or

4.30 (28) a program serving only children who are age 33 months or older, that is
4.31 operated by a nonpublic school, for no more than four hours per day per child, with no
4.32 more than 20 children at any one time, and that is accredited by:

4.33 (i) an accrediting agency that is formally recognized by the commissioner of
4.34 education as a nonpublic school accrediting organization; or

4.35 (ii) an accrediting agency that requires background studies and that receives and
4.36 investigates complaints about the services provided.

5.1 A program that asserts its exemption from licensure under item (ii) shall, upon
5.2 request from the commissioner, provide the commissioner with documentation from the
5.3 accrediting agency that verifies: that the accreditation is current; that the accrediting
5.4 agency investigates complaints about services; and that the accrediting agency's standards
5.5 require background studies on all people providing direct contact services.

5.6 (b) For purposes of paragraph (a), clause (6), a building is directly contiguous to a
5.7 building in which a nonresidential program is located if it shares a common wall with the
5.8 building in which the nonresidential program is located or is attached to that building by
5.9 skyway, tunnel, atrium, or common roof.

5.10 (c) Nothing in this chapter shall be construed to require licensure for any services
5.11 provided and funded according to an approved federal waiver plan where licensure is
5.12 specifically identified as not being a condition for the services and funding.

5.13 Sec. 4. Minnesota Statutes 2008, section 245A.03, is amended by adding a subdivision
5.14 to read:

5.15 Subd. 7. **Excluded providers seeking licensure.** Nothing in this section shall
5.16 prohibit a program that is excluded from licensure under subdivision 2, paragraph (a),
5.17 clause (28), from seeking licensure. The commissioner shall ensure that any application
5.18 received from such an excluded provider is processed in the same manner as all other
5.19 applications for child care center licensure.

5.20 Sec. 5. Minnesota Statutes 2008, section 245A.04, subdivision 5, is amended to read:

5.21 **Subd. 5. Commissioner's right of access.** When the commissioner is exercising the
5.22 powers conferred by this chapter and ~~section~~ sections 245.69, 626.556, and 626.557, the
5.23 commissioner must be given access to the physical plant and grounds where the program
5.24 is provided, documents and records, including records maintained in electronic format,
5.25 persons served by the program, and staff whenever the program is in operation and the
5.26 information is relevant to inspections or investigations conducted by the commissioner.
5.27 The commissioner must be given access without prior notice and as often as the
5.28 commissioner considers necessary if the commissioner is conducting an investigation of
5.29 allegations of maltreatment or other violation of applicable laws or rules. In conducting
5.30 inspections, the commissioner may request and shall receive assistance from other state,
5.31 county, and municipal governmental agencies and departments. The applicant or license
5.32 holder shall allow the commissioner to photocopy, photograph, and make audio and video
5.33 tape recordings during the inspection of the program at the commissioner's expense. The

6.1 commissioner shall obtain a court order or the consent of the subject of the records or the
6.2 parents or legal guardian of the subject before photocopying hospital medical records.

6.3 Persons served by the program have the right to refuse to consent to be interviewed,
6.4 photographed, or audio or videotaped. Failure or refusal of an applicant or license holder
6.5 to fully comply with this subdivision is reasonable cause for the commissioner to deny the
6.6 application or immediately suspend or revoke the license.

6.7 Sec. 6. Minnesota Statutes 2008, section 245A.04, subdivision 7, is amended to read:

6.8 Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines
6.9 that the program complies with all applicable rules and laws, the commissioner shall issue
6.10 a license. At minimum, the license shall state:

6.11 (1) the name of the license holder;

6.12 (2) the address of the program;

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

6.14 (4) the type of license;

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

6.17 (6) any special conditions of licensure.

6.18 (b) The commissioner may issue an initial license for a period not to exceed two
6.19 years if:

6.20 (1) the commissioner is unable to conduct the evaluation or observation required
6.21 by subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet
6.22 operational;

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

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

6.26 (c) A decision by the commissioner to issue a license does not guarantee that any
6.27 person or persons will be placed or cared for in the licensed program. A license shall not
6.28 be transferable to another individual, corporation, partnership, voluntary association, other
6.29 organization, or controlling individual or to another location.

6.30 (d) A license holder must notify the commissioner and obtain the commissioner's
6.31 approval before making any changes that would alter the license information listed under
6.32 paragraph (a).

6.33 (e) The commissioner shall not issue or reissue a license if the applicant, license
6.34 holder, or controlling individual has:

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

7.3 (2) has been denied a license within the past two years; ~~or~~

7.4 (3) had a license revoked within the past five years; or

7.5 (4) has an outstanding debt related to a license fee, licensing fine, or settlement
7.6 agreement for which payment is delinquent.

7.7 When a license is revoked under clause (1) or (3), the license holder and controlling
7.8 individual may not hold any license under chapter 245A or 245B for five years following
7.9 the revocation, and other licenses held by the applicant, license holder, or controlling
7.10 individual shall also be revoked.

7.11 (f) The commissioner shall not issue a license if an individual living in the household
7.12 where the licensed services will be provided as specified under section 245C.03,
7.13 subdivision 1, has been disqualified and the disqualification has not been set aside and no
7.14 variance has been granted.

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

7.21 (h) Unless otherwise specified by statute, all licenses expire at 12:01 a.m. on the
7.22 day after the expiration date stated on the license. A license holder must apply for and
7.23 be granted a new license to operate the program or the program must not be operated
7.24 after the expiration date.

7.25 Sec. 7. Minnesota Statutes 2008, section 245A.05, is amended to read:

7.26 **245A.05 DENIAL OF APPLICATION.**

7.27 (a) The commissioner may deny a license if an applicant or controlling individual:
7.28 (1) fails to comply with applicable laws or rules; or; (2) knowingly withholds relevant
7.29 information from or gives false or misleading information to the commissioner in
7.30 connection with an application for a license or during an investigation; (3) has a
7.31 disqualification which has not been set aside under section 245C.22 and no variance has
7.32 been granted; or (4) has an individual required to have a background study under section
7.33 245C.03, subdivision 1, paragraph (a), clause (2) or (6), that has a disqualification which
7.34 has not been set aside under section 245C.22 and no variance has been granted.

8.1 **(b)** An applicant whose application has been denied by the commissioner must
8.2 be given notice of the denial. Notice must be given by certified mail or personal
8.3 service. The notice must state the reasons the application was denied and must inform
8.4 the applicant of the right to a contested case hearing under chapter 14 and Minnesota
8.5 Rules, parts 1400.8505 to 1400.8612. The applicant may appeal the denial by notifying
8.6 the commissioner in writing by certified mail or personal service ~~within 20 calendar~~
8.7 ~~days after receiving notice that the application was denied.~~ If mailed, the appeal must be
8.8 postmarked and sent to the commissioner within 20 calendar days after the applicant
8.9 received the notice of denial. If an appeal request is made by personal service, it must
8.10 be received by the commissioner within 20 calendar days after the applicant received the
8.11 notice of denial. Section 245A.08 applies to hearings held to appeal the commissioner's
8.12 denial of an application.

8.13 Sec. 8. Minnesota Statutes 2008, section 245A.07, subdivision 1, is amended to read:

8.14 Subdivision 1. **Sanctions; appeals; license.** (a) In addition to making a license
8.15 conditional under section 245A.06, the commissioner may ~~propose to~~ suspend or revoke
8.16 the license, impose a fine, or secure an injunction against the continuing operation of the
8.17 program of a license holder who does not comply with applicable law or rule. When
8.18 applying sanctions authorized under this section, the commissioner shall consider the
8.19 nature, chronicity, or severity of the violation of law or rule and the effect of the violation
8.20 on the health, safety, or rights of persons served by the program.

8.21 (b) If a license holder appeals the suspension or revocation of a license and the
8.22 license holder continues to operate the program pending a final order on the appeal, and
8.23 the license expires during this time period, the commissioner shall issue the license holder
8.24 a temporary provisional license. The temporary provisional license is effective on the date
8.25 issued and expires on the date that a final order is issued. Unless otherwise specified by
8.26 the commissioner, variances in effect on the date of the license sanction under appeal
8.27 continue under the temporary provisional license. If a license holder fails to comply
8.28 with applicable law or rule while operating under a temporary provisional license, the
8.29 commissioner may impose sanctions under this section and section 245A.06, and may
8.30 terminate any prior variance. If the license holder prevails on the appeal and the effective
8.31 period of the previous license has expired, a new license shall be issued to the license
8.32 holder upon payment of any fee required under section 245A.10. The effective date of the
8.33 new license shall be retroactive to the date the license would have shown had no sanction
8.34 been initiated. The expiration date shall be the expiration date of that license had no
8.35 license sanction been initiated.

9.1 (c) If a license holder is under investigation and the license is due to expire
9.2 before completion of the investigation, the program shall be issued a new license upon
9.3 completion of the reapplication requirements. Upon completion of the investigation, a
9.4 licensing sanction may be imposed against the new license under this section, section
9.5 245A.06, or 245A.08.

9.6 (d) Failure to reapply or closure of a license by the license holder prior to the
9.7 completion of any investigation shall not preclude the commissioner from issuing a
9.8 licensing sanction under this section, section 245A.06, or 245A.08 at the conclusion
9.9 of the investigation.

9.10 Sec. 9. Minnesota Statutes 2008, section 245A.07, subdivision 3, is amended to read:

9.11 Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may
9.12 suspend or revoke a license, or impose a fine if a license holder fails to comply fully with
9.13 applicable laws or rules, if a license holder, a controlling individual, or an individual
9.14 living in the household where the licensed services are provided or is otherwise subject
9.15 to a background study has a disqualification which has not been set aside under section
9.16 245C.22, or if a license holder knowingly withholds relevant information from or gives
9.17 false or misleading information to the commissioner in connection with an application
9.18 for a license, in connection with the background study status of an individual, during an
9.19 investigation, or regarding compliance with applicable laws or rules. A license holder
9.20 who has had a license suspended, revoked, or has been ordered to pay a fine must be
9.21 given notice of the action by certified mail or personal service. If mailed, the notice
9.22 must be mailed to the address shown on the application or the last known address of the
9.23 license holder. The notice must state the reasons the license was suspended, revoked, or
9.24 a fine was ordered.

9.25 (b) If the license was suspended or revoked, the notice must inform the license
9.26 holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts
9.27 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking
9.28 a license. The appeal of an order suspending or revoking a license must be made in writing
9.29 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
9.30 the commissioner within ten calendar days after the license holder receives notice that the
9.31 license has been suspended or revoked. If a request is made by personal service, it must be
9.32 received by the commissioner within ten calendar days after the license holder received
9.33 the order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits
9.34 a timely appeal of an order suspending or revoking a license ~~shall stay the suspension or~~

10.1 ~~revocation~~, the license holder may continue to operate until the commissioner issues a
10.2 final order on the suspension or revocation.

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

10.11 (2) The license holder shall pay the fines assessed on or before the payment date
10.12 specified. If the license holder fails to fully comply with the order, the commissioner
10.13 may issue a second fine or suspend the license until the license holder complies. If the
10.14 license holder receives state funds, the state, county, or municipal agencies or departments
10.15 responsible for administering the funds shall withhold payments and recover any payments
10.16 made while the license is suspended for failure to pay a fine. A timely appeal shall stay
10.17 payment of the fine until the commissioner issues a final order.

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

10.25 (4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for
10.26 each determination of maltreatment of a child under section 626.556 or the maltreatment
10.27 of a vulnerable adult under section 626.557 for which the license holder is determined
10.28 responsible for the maltreatment under section 626.556, subdivision 10e, paragraph (i),
10.29 or 626.557, subdivision 9c, paragraph (c); the license holder shall forfeit \$200 for each
10.30 occurrence of a violation of law or rule governing matters of health, safety, or supervision,
10.31 including but not limited to the provision of adequate staff-to-child or adult ratios, and
10.32 failure to ~~submit a~~ comply with background study requirements under chapter 245C; and
10.33 the license holder shall forfeit \$100 for each occurrence of a violation of law or rule
10.34 other than those subject to a \$1,000 or \$200 fine above. For purposes of this section,
10.35 "occurrence" means each violation identified in the commissioner's fine order. Fines
10.36 assessed against a license holder that holds a license to provide the residential-based

11.1 habilitation services, as defined under section 245B.02, subdivision 20, and a license to
11.2 provide foster care, may be assessed against both licenses for the same occurrence, but
11.3 the combined amount of the fines shall not exceed the amount specified in this clause
11.4 for that occurrence.

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

11.9 Sec. 10. Minnesota Statutes 2008, section 245A.10, subdivision 2, is amended to read:

11.10 Subd. 2. **County fees for background studies and licensing inspections.** (a) For
11.11 purposes of family and group family child care licensing under this chapter, a county
11.12 agency may charge a fee to an applicant or license holder to recover the actual cost of
11.13 background studies, but in any case not to exceed \$100 annually. A county agency may
11.14 also charge a license fee to an applicant or license holder not to exceed \$50 for a one-year
11.15 license or \$100 for a two-year license.

11.16 (b) A county agency may charge a fee to a legal nonlicensed child care provider or
11.17 applicant for authorization to recover the actual cost of background studies completed
11.18 under section 119B.125, but in any case not to exceed \$100 annually.

11.19 (c) Counties may elect to reduce or waive the fees in paragraph (a) or (b):

11.20 (1) in cases of financial hardship;

11.21 (2) if the county has a shortage of providers in the county's area;

11.22 (3) for new providers; or

11.23 (4) for providers who have attained at least 16 hours of training before seeking
11.24 initial licensure.

11.25 (d) Counties may allow providers to pay the applicant fees in paragraph (a) or (b) on
11.26 an installment basis for up to one year. If the provider is receiving child care assistance
11.27 payments from the state, the provider may have the fees under paragraph (a) or (b)
11.28 deducted from the child care assistance payments for up to one year and the state shall
11.29 reimburse the county for the county fees collected in this manner.

11.30 (e) For purposes of adult foster care and child foster care licensing under this
11.31 chapter, a county agency may charge a fee to a corporate applicant or corporate license
11.32 holder to recover ~~the actual cost of background studies. A county agency may also charge~~
11.33 ~~a fee to a corporate applicant or corporate license holder to recover~~ the actual cost of
11.34 licensing inspections, not to exceed \$500 annually.

12.1 (f) Counties may elect to reduce or waive the fees in paragraph (e) under the
12.2 following circumstances:

12.3 (1) in cases of financial hardship;

12.4 (2) if the county has a shortage of providers in the county's area; or

12.5 (3) for new providers.

12.6 Sec. 11. Minnesota Statutes 2008, section 245A.10, subdivision 3, is amended to read:

12.7 Subd. 3. **Application fee for initial license or certification.** (a) For fees required
12.8 under subdivision 1, an applicant for an initial license or certification issued by the
12.9 commissioner shall submit a \$500 application fee with each new application required
12.10 under this subdivision. The application fee shall not be prorated, is nonrefundable, and
12.11 is in lieu of the annual license or certification fee that expires on December 31. The
12.12 commissioner shall not process an application until the application fee is paid.

12.13 (b) Except as provided in clauses (1) to (3), an applicant shall apply for a license
12.14 to provide services at a specific location.

12.15 (1) For a license to provide ~~waivered~~ residential-based habilitation services to
12.16 persons with developmental disabilities ~~or related conditions~~ under chapter 245B, an
12.17 applicant shall submit an application for each county in which the ~~waivered~~ services will
12.18 be provided. Upon licensure, the license holder may provide services to persons in that
12.19 county plus no more than three persons at any one time in each of up to ten additional
12.20 counties. A license holder in one county may not provide services under the home and
12.21 community-based waiver for persons with developmental disabilities to more than three
12.22 people in a second county without holding a separate license for that second county.
12.23 Applicants or licensees providing services under this clause to not more than three persons
12.24 remain subject to the inspection fees established in section 245A.10, subdivision 2, for
12.25 each location. The license issued by the commissioner must state the name of each
12.26 additional county where services are being provided to persons with developmental
12.27 disabilities. A license holder must notify the commissioner before making any changes
12.28 that would alter the license information listed under section 245A.04, subdivision 7,
12.29 paragraph (a), including any additional counties where persons with developmental
12.30 disabilities are being served.

12.31 (2) For a license to provide supported employment, crisis respite, or
12.32 semi-independent living services to persons with developmental disabilities ~~or related~~
12.33 ~~conditions~~ under chapter 245B, an applicant shall submit a single application to provide
12.34 services statewide.

13.1 (3) For a license to provide independent living assistance for youth under section
13.2 245A.22, an applicant shall submit a single application to provide services statewide.

13.3 Sec. 12. Minnesota Statutes 2008, section 245A.11, is amended by adding a
13.4 subdivision to read:

13.5 Subd. 7a. **Alternate overnight supervision technology; adult foster care license.**

13.6 (a) The commissioner may grant an applicant or license holder an adult foster care license
13.7 for a residence that does not have a caregiver in the residence during normal sleeping
13.8 hours as required under Minnesota Rules, part 9555.5105, subpart 37, item B, but uses
13.9 monitoring technology to alert the license holder when an incident occurs that may
13.10 jeopardize the health, safety, or rights of a foster care recipient. The applicant or license
13.11 holder must comply with all other requirements under Minnesota Rules, parts 9555.5105
13.12 to 9555.6265, and the requirements under this subdivision and subdivision 7b. The license
13.13 printed by the commissioner must state in bold and large font:

13.14 (1) that the facility is under electronic monitoring; and

13.15 (2) the telephone number of the county's common entry point for making reports of
13.16 suspected maltreatment of vulnerable adults under section 626.557, subdivision 9.

13.17 (b) Applications for a license under this section must be submitted directly to
13.18 the Department of Human Services licensing division. The licensing division must
13.19 immediately notify the host county and lead county contract agency and the host county
13.20 licensing agency. The licensing division must collaborate with the county licensing
13.21 agency in the review of the application and the licensing of the program.

13.22 (c) Before a license is issued by the commissioner, and for the duration of the
13.23 license, the applicant or license holder must establish, maintain, and document the
13.24 implementation of written policies and procedures addressing the requirements in
13.25 paragraphs (d) through (f).

13.26 (d) The applicant or license holder must have policies and procedures that:

13.27 (1) establish characteristics of target populations that will be admitted into the home,
13.28 and characteristics of populations that will not be accepted into the home;

13.29 (2) explain the discharge process when a foster care recipient requires overnight
13.30 supervision or other services that cannot be provided by the license holder due to the
13.31 limited hours that the license holder is on-site;

13.32 (3) describe the types of events to which the program will respond with a physical
13.33 presence when those events occur in the home during time when staff are not on-site, and
13.34 how the license holder's response plan meets the requirements in paragraph (e), clause
13.35 (1) or (2);

14.1 (4) establish a process for documenting a review of the implementation and
14.2 effectiveness of the response protocol for the response required under paragraph (e),
14.3 clause (1) or (2). The documentation must include:

- 14.4 (i) a description of the triggering incident;
- 14.5 (ii) the date and time of the triggering incident;
- 14.6 (iii) the time of the response or responses under paragraph (e), clause (1) or (2);
- 14.7 (iv) whether the response met the resident's needs;
- 14.8 (v) whether the existing policies and response protocols were followed; and
- 14.9 (vi) whether the existing policies and protocols are adequate or need modification.

14.10 When no physical presence response is completed for a three-month period, the
14.11 license holder's written policies and procedures must require a physical presence response
14.12 drill be to conducted for which the effectiveness of the response protocol under paragraph
14.13 (e), clause (1) or (2), will be reviewed and documented as required under this clause; and

14.14 (5) establish that emergency and nonemergency phone numbers are posted in a
14.15 prominent location in a common area of the home where they can be easily observed by a
14.16 person responding to an incident who is not otherwise affiliated with the home.

14.17 (e) The license holder must document and include in the license application which
14.18 response alternative under clause (1) or (2) is in place for responding to situations that
14.19 present a serious risk to the health, safety, or rights of people receiving foster care services
14.20 in the home:

14.21 (1) response alternative (1) requires only the technology to provide an electronic
14.22 notification or alert to the license holder that an event is underway that requires a response.
14.23 Under this alternative, no more than ten minutes will pass before the license holder will be
14.24 physically present on-site to respond to the situation; or

14.25 (2) response alternative (2) requires the electronic notification and alert system
14.26 under alternative (1), but more than ten minutes may pass before the license holder is
14.27 present on-site to respond to the situation. Under alternative (2), all of the following
14.28 conditions are met:

14.29 (i) the license holder has a written description of the interactive technological
14.30 applications that will assist the licenser holder in communicating with and assessing the
14.31 needs related to care, health, and safety of the foster care recipients. This interactive
14.32 technology must permit the license holder to remotely assess the well being of the foster
14.33 care recipient without requiring the initiation of the foster care recipient. Requiring the
14.34 foster care recipient to initiate a telephone call does not meet this requirement;

15.1 (ii) the license holder documents how the remote license holder is qualified and
15.2 capable of meeting the needs of the foster care recipients and assessing foster care
15.3 recipients' needs under item (i) during the absence of the license holder on-site;

15.4 (iii) the license holder maintains written procedures to dispatch emergency response
15.5 personnel to the site in the event of an identified emergency; and

15.6 (iv) each foster care recipient's individualized plan of care, individual service plan
15.7 under section 256B.092, subdivision 1b, if required, or individual resident placement
15.8 agreement under Minnesota Rules, part 9555.5105, subpart 19, if required, identifies the
15.9 maximum response time, which may be greater than ten minutes, for the license holder
15.10 to be on-site for that foster care recipient.

15.11 (f) All placement agreements, individual service agreements, and plans applicable
15.12 to the foster care recipient must clearly state that the adult foster care license category is
15.13 a program without the presence of a caregiver in the residence during normal sleeping
15.14 hours; the protocols in place for responding to situations that present a serious risk to
15.15 health, safety, or rights of foster care recipients under paragraph (e), clause (1) or (2); and a
15.16 signed informed consent from each foster care recipient or the person's legal representative
15.17 documenting the person's or legal representative's agreement with placement in the
15.18 program. If electronic monitoring technology is used in the home, the informed consent
15.19 form must also explain the following:

15.20 (1) how any electronic monitoring is incorporated into the alternative supervision
15.21 system;

15.22 (2) the backup system for any electronic monitoring in times of electrical outages or
15.23 other equipment malfunctions;

15.24 (3) how the license holder is trained on the use of the technology;

15.25 (4) the event types and license holder response times established under paragraph (e);

15.26 (5) how the license holder protects the foster care recipient's privacy related to
15.27 electronic monitoring and related to any electronically recorded data generated by the
15.28 monitoring system. A foster care recipient may not be removed from a program under
15.29 this subdivision for failure to consent to electronic monitoring. The consent form must
15.30 explain where and how the electronically recorded data is stored, with whom it will be
15.31 shared, and how long it is retained; and

15.32 (6) the risks and benefits of the alternative overnight supervision system.

15.33 The written explanations under clauses (1) to (6) may be accomplished through
15.34 cross-references to other policies and procedures as long as they are explained to the
15.35 person giving consent, and the person giving consent is offered a copy.

16.1 (g) Nothing in this section requires the applicant or license holder to develop or
16.2 maintain separate or duplicative polices, procedures, documentation, consent forms, or
16.3 individual plans that may be required for other licensing standards, if the requirements of
16.4 this section are incorporated into those documents.

16.5 (h) The commissioner may grant variances to the requirements of this section
16.6 according to section 245A.04, subdivision 9.

16.7 (i) For the purposes of paragraphs (d) through (h), license holder has the meaning
16.8 under section 245A.2, subdivision 9, and additionally includes all staff, volunteers, and
16.9 contractors affiliated with the license holder.

16.10 (j) For the purposes of paragraph (e), the terms "assess" and "assessing" mean to
16.11 remotely determine what action the license holder needs to take to protect the well-being
16.12 of the foster care recipient.

16.13 Sec. 13. Minnesota Statutes 2008, section 245A.11, is amended by adding a
16.14 subdivision to read:

16.15 Subd. 7b. **Adult foster care data privacy and security.** (a) An adult foster
16.16 care license holder who creates, collects, records, maintains, stores, or discloses any
16.17 individually identifiable recipient data, whether in an electronic or any other format,
16.18 must comply with the privacy and security provisions of applicable privacy laws and
16.19 regulations, including:

16.20 (1) the federal Health Insurance Portability and Accountability Act of 1996
16.21 (HIPAA), Public Law 104-1; and the HIPAA Privacy Rule, Code of Federal Regulations,
16.22 title 45, part 160 and subparts A and E of part 164; and

16.23 (2) the Minnesota Government Data Practices Act as codified in chapter 13.

16.24 (b) For purposes of licensure, the license holder shall be monitored for compliance
16.25 with the following data privacy and security provisions:

16.26 (1) the license holder must control access to data on foster care recipients according
16.27 to the definitions of public and private data on individuals under section 13.02;
16.28 classification of the data on individuals as private under section 13.46, subdivision 2;
16.29 and control over the collection, storage, use, access, protection, and contracting related
16.30 to data according to section 13.05, in which the license holder is assigned the duties
16.31 of a government entity;

16.32 (2) the license holder must provide each foster care recipient with a notice that
16.33 meets the requirements under section 13.04, in which the license holder is assigned the
16.34 duties of the government entity, and that meets the requirements of Code of Federal
16.35 Regulations, title 45, part 164.52. The notice shall describe the purpose for collection of

17.1 the data, and to whom and why it may be disclosed pursuant to law. The notice must
17.2 inform the recipient that the license holder uses electronic monitoring and, if applicable,
17.3 that recording technology is used;

17.4 (3) the license holder must not install monitoring cameras in bathrooms;

17.5 (4) electronic monitoring cameras must not be concealed from the foster care
17.6 recipients; and

17.7 (5) electronic video and audio recordings of foster care recipients shall not be stored
17.8 by the license holder for more than five days.

17.9 (c) The commissioner shall develop, and make available to license holders and
17.10 county licensing workers, a checklist of the data privacy provisions to be monitored
17.11 for purposes of licensure.

17.12 Sec. 14. Minnesota Statutes 2008, section 245A.1435, is amended to read:

17.13 **245A.1435 REDUCTION OF RISK OF SUDDEN INFANT DEATH**
17.14 **SYNDROME IN LICENSED PROGRAMS.**

17.15 (a) When a license holder is placing an infant to sleep, the license holder must place
17.16 the infant on the infant's back, unless the license holder has documentation from the
17.17 infant's parent directing an alternative sleeping position for the infant, ~~and~~. The parent
17.18 directive must be on a form approved by the commissioner and must include a statement
17.19 that the parent or legal guardian has read the information provided by the Minnesota
17.20 Sudden Infant Death Center, related to the risk of SIDS and the importance of placing an
17.21 infant or child on the back to sleep to reduce the risk of SIDS.

17.22 (b) The license holder must place the infant in a crib ~~with~~ directly on a firm mattress

17.23 with a fitted crib sheet that fits tightly on the mattress and overlaps the mattress so it cannot
17.24 be dislodged by pulling on the corner of the sheet. The license holder must not place
17.25 pillows, quilts, comforters, sheepskin, pillow-like stuffed toys, or other soft products in
17.26 the crib with the infant. The requirements of this section apply to license holders serving
17.27 infants up to and including 12 months of age. Licensed child care providers must meet the
17.28 crib requirements under section 245A.146.

17.29 Sec. 15. Minnesota Statutes 2008, section 245A.144, is amended to read:

17.30 **245A.144 SUDDEN INFANT DEATH AND SHAKEN BABY SYNDROME**
17.31 **FOR CHILD FOSTER CARE PROVIDERS.**

17.32 (a) Licensed child foster care providers that care for infants or children through five
17.33 years of age must document that before staff persons and caregivers assist in the care of
17.34 infants or children through five years of age, they are instructed on the standards in section

18.1 245A.1435 and receive training on reducing the risk of sudden infant death syndrome and
18.2 shaken baby syndrome for infants and young children. This section does not apply to
18.3 emergency relative foster care under section 245A.035. The training on reducing the risk
18.4 of sudden infant death syndrome and shaken baby syndrome may be provided as:

18.5 (1) orientation training to child foster care providers, who care for infants or children
18.6 through five years of age, under Minnesota Rules, part 2960.3070, subpart 1; or

18.7 (2) in-service training to child foster care providers, who care for infants or children
18.8 through five years of age, under Minnesota Rules, part 2960.3070, subpart 2.

18.9 (b) Training required under this section must be at least one hour in length and must
18.10 be completed at least once every five years. At a minimum, the training must address the
18.11 risk factors related to sudden infant death syndrome and shaken baby syndrome, means
18.12 of reducing the risk of sudden infant death syndrome and shaken baby syndrome, and
18.13 license holder communication with parents regarding reducing the risk of sudden infant
18.14 death syndrome and shaken baby syndrome.

18.15 (c) Training for child foster care providers must be approved by the county licensing
18.16 agency and fulfills, in part, training required under Minnesota Rules, part 2960.3070.

18.17 Sec. 16. Minnesota Statutes 2008, section 245A.1444, is amended to read:

18.18 **245A.1444 TRAINING ON RISK OF SUDDEN INFANT DEATH SYNDROME**
18.19 **AND SHAKEN BABY SYNDROME BY OTHER PROGRAMS.**

18.20 A licensed chemical dependency treatment program that serves clients with infants
18.21 or children through five years of age who sleep at the program and a licensed children's
18.22 residential facility that serves infants or children through five years of age must document
18.23 that before program staff persons or volunteers assist in the care of infants or children
18.24 through five years of age, they are instructed on the standards in section 245A.1435 and
18.25 receive training on reducing the risk of sudden infant death syndrome and shaken baby
18.26 syndrome. The training conducted under this section may be used to fulfill training
18.27 requirements under Minnesota Rules, parts 2960.0100, subpart 3; and 9530.6490, subpart
18.28 4, item B.

18.29 This section does not apply to child care centers or family child care programs
18.30 governed by sections 245A.40 and 245A.50.

18.31 Sec. 17. Minnesota Statutes 2008, section 245A.16, subdivision 1, is amended to read:

18.32 Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and
18.33 private agencies that have been designated or licensed by the commissioner to perform
18.34 licensing functions and activities under section 245A.04 and background studies for

19.1 ~~adult foster care, family adult day services, and family child care~~, under chapter 245C; to
19.2 recommend denial of applicants under section 245A.05; to issue correction orders, to issue
19.3 variances, and recommend a conditional license under section 245A.06, or to recommend
19.4 suspending or revoking a license or issuing a fine under section 245A.07, shall comply
19.5 with rules and directives of the commissioner governing those functions and with this
19.6 section. The following variances are excluded from the delegation of variance authority
19.7 and may be issued only by the commissioner:

19.8 (1) dual licensure of family child care and child foster care, dual licensure of child
19.9 and adult foster care, and adult foster care and family child care;

19.10 (2) adult foster care maximum capacity;

19.11 (3) adult foster care minimum age requirement;

19.12 (4) child foster care maximum age requirement;

19.13 (5) variances regarding disqualified individuals except that county agencies may
19.14 issue variances under section 245C.30 regarding disqualified individuals when the county
19.15 is responsible for conducting a consolidated reconsideration according to sections 245C.25
19.16 and 245C.27, subdivision 2, clauses (a) and (b), of a county maltreatment determination
19.17 and a disqualification based on serious or recurring maltreatment; and

19.18 (6) the required presence of a caregiver in the adult foster care residence during
19.19 normal sleeping hours.

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

19.23 (b) County agencies must report information about disqualification reconsiderations
19.24 under sections 245C.25 and 245C.27, subdivision 2, paragraphs (a) and (b), and variances
19.25 granted under paragraph (a), clause (5), to the commissioner at least monthly in a format
19.26 prescribed by the commissioner.

19.27 (c) For family day care programs, the commissioner may authorize licensing reviews
19.28 every two years after a licensee has had at least one annual review.

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

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

19.32 Sec. 18. Minnesota Statutes 2008, section 245A.16, subdivision 3, is amended to read:

19.33 Subd. 3. **Recommendations to commissioner.** The county or private agency
19.34 shall not make recommendations to the commissioner regarding licensure without first
19.35 conducting an inspection, and for ~~adult foster care, family adult day services, and family~~

20.1 child care, a background study of the applicant under chapter 245C. The county or private
20.2 agency must forward its recommendation to the commissioner regarding the appropriate
20.3 licensing action within 20 working days of receipt of a completed application.

20.4 Sec. 19. Minnesota Statutes 2008, section 245A.40, subdivision 5, is amended to read:

20.5 Subd. 5. **Sudden infant death syndrome and shaken baby syndrome training.**

20.6 (a) License holders must document that before staff persons care for infants, they are
20.7 instructed on the standards in section 245A.1435 and receive training on reducing the risk
20.8 of sudden infant death syndrome ~~and~~. In addition, license holders must document that
20.9 before staff persons care for infants or children under school age, they receive training on
20.10 the risk of shaken baby syndrome. The training in this subdivision may be provided as
20.11 orientation training under subdivision 1 and in-service training under subdivision 7.

20.12 (b) Sudden infant death syndrome reduction training required under this subdivision
20.13 must be at least ~~one~~ one-half hour in length and must be completed at least once every
20.14 five years. At a minimum, the training must address the risk factors related to sudden
20.15 infant death syndrome ~~and shaken baby syndrome~~, means of reducing the risk of sudden
20.16 infant death syndrome ~~and shaken baby syndrome~~ in child care, and license holder
20.17 communication with parents regarding reducing the risk of sudden infant death syndrome
20.18 and shaken baby syndrome.

20.19 (c) Shaken baby syndrome training under this subdivision must be at least one-half
20.20 hour in length, and must be completed at least once every five years. At a minimum, the
20.21 training must address the risk factors related to shaken baby syndrome for infants and
20.22 young children, means to reduce the risk of shaken baby syndrome in child care, and
20.23 license holder communication with parents regarding reducing the risk of shaken baby
20.24 syndrome.

20.25 ~~(e)~~ (d) The commissioner shall make available for viewing a video presentation on
20.26 the dangers associated with shaking infants and young children. The video presentation
20.27 must be part of the orientation and annual in-service training of licensed child care ~~centers~~
20.28 center staff persons caring for children under school age. The commissioner shall provide
20.29 to child care providers and interested individuals, at cost, copies of a video approved by
20.30 the commissioner of health under section 144.574 on the dangers associated with shaking
20.31 infants and young children.

20.32 Sec. 20. Minnesota Statutes 2008, section 245A.50, subdivision 5, is amended to read:

20.33 Subd. 5. **Sudden infant death syndrome and shaken baby syndrome training.**

20.34 (a) License holders must document that before staff persons, caregivers, and helpers

21.1 assist in the care of infants, they are instructed on the standards in section 245A.1435 and
21.2 receive training on reducing the risk of sudden infant death syndrome ~~and~~. In addition,
21.3 license holders must document that before staff persons, caregivers, and helpers assist in
21.4 the care of infants and children under school age, they receive training on reducing the
21.5 risk of shaken baby syndrome. The training in this subdivision may be provided as initial
21.6 training under subdivision 1 or ongoing training under subdivision 7.

21.7 (b) Sudden infant death syndrome reduction training required under this subdivision
21.8 must be at least ~~one~~ one-half hour in length and must be completed at least once every
21.9 five years. At a minimum, the training must address the risk factors related to sudden
21.10 infant death syndrome ~~and shaken baby syndrome~~, means of reducing the risk of sudden
21.11 infant death syndrome ~~and shaken baby syndrome~~ in child care, and license holder
21.12 communication with parents regarding reducing the risk of sudden infant death syndrome
21.13 ~~and shaken baby syndrome~~.

21.14 (c) Shaken baby syndrome training required under this subdivision must be at
21.15 least one-half hour in length and must be completed at least once every five years. At a
21.16 minimum, the training must address the risk factors related to shaken baby syndrome,
21.17 means of reducing the risk of shaken baby syndrome in child care, and license holder
21.18 communication with parents regarding reducing the risk of shaken baby syndrome.

21.19 (d) Training for family and group family child care providers must be approved
21.20 by the county licensing agency.

21.21 ~~(d)~~ (e) The commissioner shall make available for viewing by all licensed child care
21.22 providers a video presentation on the dangers associated with shaking infants and young
21.23 children. The video presentation shall be part of the initial and ongoing annual training
21.24 of licensed child care providers caring for children under school age. The commissioner
21.25 shall provide to child care providers and interested individuals, at cost, copies of a video
21.26 approved by the commissioner of health under section 144.574 on the dangers associated
21.27 with shaking infants and young children.

21.28 Sec. 21. **[245B.031] ACCREDITATION, ALTERNATIVE INSPECTION, AND**
21.29 **DEEMED COMPLIANCE.**

21.30 Subdivision 1. Day training and habilitation or supported employment services
21.31 **programs; alternative inspection status.** (a) A license holder providing day training and
21.32 habilitation services or supported employment services according to this chapter, with a
21.33 three-year accreditation from the Commission on Rehabilitation Facilities, that has had at
21.34 least one on-site inspection by the commissioner following issuance of the initial license
21.35 may request alternative inspection status under this section.

22.1 (b) The request for alternative inspection status must be made in the manner
22.2 prescribed by the commissioner, and must include:

22.3 (1) a copy of the license holder's application to the Commission on Rehabilitation
22.4 Facilities for accreditation;

22.5 (2) the most recent Commission on Rehabilitation Facilities accreditation survey
22.6 report; and

22.7 (3) the most recent letter confirming the three-year accreditation and approval of the
22.8 license holder's quality improvement plan.

22.9 Based on the request and the accompanying materials, the commissioner may
22.10 approve alternative inspection status.

22.11 (c) Following approval of alternative inspection status, the commissioner may
22.12 terminate the alternative inspection status or deny a subsequent alternative inspection
22.13 status if the commissioner determines that any of the following conditions have occurred
22.14 after approval of the alternative inspection process:

22.15 (1) the license holder has not maintained full three-year accreditation;

22.16 (2) the commissioner has substantiated maltreatment for which the license holder or
22.17 facility is determined to be responsible during the three-year accreditation period; and

22.18 (3) during the three-year accreditation period, the license holder has been issued
22.19 an order for conditional license, a fine, suspension, or license revocation that has not
22.20 been reversed upon appeal.

22.21 (d) The commissioner's decision that the conditions for approval for the alternative
22.22 licensing inspection status have not been met is final and not subject to appeal under the
22.23 provisions of chapter 14.

22.24 **Subd. 2. Programs with three-year accreditation, exempt from certain statutes.**

22.25 (a) A license holder approved for alternative inspection status under this section is exempt
22.26 from the requirements under:

22.27 (1) section 245B.04;

22.28 (2) section 245B.05, subdivisions 5 and 6;

22.29 (3) section 245B.06, subdivisions 1, 3, 4, 5, and 6; and

22.30 (4) section 245B.07, subdivisions 1, 4, and 6.

22.31 (b) Upon receipt of a complaint regarding a requirement under paragraph (a), the
22.32 commissioner shall refer the complaint to the Commission on Rehabilitation Facilities for
22.33 possible follow-up.

22.34 **Subd. 3. Programs with three-year accreditation, deemed to be in compliance**
22.35 **with nonexempt licensing requirements. (a) License holders approved for alternative**

23.1 inspection status under this section are required to maintain compliance with all licensing
23.2 standards from which they are not exempt under subdivision 2, paragraph (a).

23.3 (b) License holders approved for alternative inspection status under this section shall
23.4 be deemed to be in compliance with all nonexempt statutes, and the commissioner shall
23.5 not perform routine licensing inspections.

23.6 (c) Upon receipt of a complaint regarding the services of a license holder approved
23.7 for alternative inspection under this section that is not related to a licensing requirement
23.8 from which the license holder is exempt under subdivision 2, the commissioner shall
23.9 investigate the complaint and may take any action as provided under section 245A.06 or
23.10 245A.07.

23.11 Subd. 4. **Investigations of alleged maltreatment of minors or vulnerable adults.**
23.12 Nothing in this section changes the commissioner's responsibilities to investigate alleged
23.13 or suspected maltreatment of a minor under section 626.556 or vulnerable adult under
23.14 section 626.557.

23.15 Subd. 5. **Commissioner request to the Commission on Rehabilitation Facilities**
23.16 **to expand accreditation survey.** The commissioner shall submit a request to the
23.17 Commission on Rehabilitation Facilities to routinely inspect for compliance with standards
23.18 that are similar to the following nonexempt licensing requirements:

23.19 (1) section 245A.54;

23.20 (2) section 245A.66;

23.21 (3) section 245B.05, subdivisions 1, 2, and 7;

23.22 (4) section 245B.055;

23.23 (5) section 245B.06, subdivisions 2, 7, 9, and 10;

23.24 (6) section 245B.07, subdivisions 2, 5, and 8, paragraph (a), clause (7);

23.25 (7) section 245C.04, subdivision 19.1 1, paragraph (f);

23.26 (8) section 245C.07;

23.27 (9) section 245C.13, subdivision 2;

23.28 (10) section 245C.20; and

23.29 (11) Minnesota Rules, parts 9525.2700 to 9525.2810.

23.30 Sec. 22. Minnesota Statutes 2008, section 245C.03, subdivision 1, is amended to read:

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

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

23.34 (2) an individual age 13 and over living in the household where the licensed
23.35 program will be provided;

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

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

24.6 (5) an individual age ten to 12 living in the household where the licensed services
24.7 will be provided when the commissioner has reasonable cause;

24.8 (6) an individual who, without providing direct contact services at a licensed
24.9 program, may have unsupervised access to children or vulnerable adults receiving services
24.10 from a program, when the commissioner has reasonable cause; and

24.11 (7) all managerial officials as defined under section 245A.02, subdivision 5a.

24.12 (b) For family child foster care settings, a short-term substitute caregiver providing
24.13 direct contact services for a child for less than 72 hours of continuous care is not required
24.14 to receive a background study under this chapter.

24.15 Sec. 23. Minnesota Statutes 2008, section 245C.04, subdivision 1, is amended to read:

24.16 Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a
24.17 background study of an individual required to be studied under section 245C.03,
24.18 subdivision 1, at least upon application for initial license for all license types.

24.19 (b) The commissioner shall conduct a background study of an individual required to
24.20 be studied under section 245C.03, subdivision 1, at reapplication for a license for ~~adult~~
24.21 ~~foster care, family adult day services, and family child care.~~

24.22 (c) The commissioner is not required to conduct a study of an individual at the time
24.23 of reapplication for a license if the individual's background study was completed by the
24.24 commissioner of human services for an adult foster care license holder that is also:

24.25 (1) registered under chapter 144D; or

24.26 (2) licensed to provide home and community-based services to people with
24.27 disabilities at the foster care location and the license holder does not reside in the foster
24.28 care residence; and

24.29 (3) the following conditions are met:

24.30 (i) a study of the individual was conducted either at the time of initial licensure or
24.31 when the individual became affiliated with the license holder;

24.32 (ii) the individual has been continuously affiliated with the license holder since
24.33 the last study was conducted; and

24.34 (iii) the last study of the individual was conducted on or after October 1, 1995.

25.1 (d) From July 1, 2007, to June 30, 2009, the commissioner of human services shall
25.2 conduct a study of an individual required to be studied under section 245C.03, at the
25.3 time of reapplication for a child foster care license. The county or private agency shall
25.4 collect and forward to the commissioner the information required under section 245C.05,
25.5 subdivisions 1, paragraphs (a) and (b), and 5, paragraphs (a) and (b). The background
25.6 study conducted by the commissioner of human services under this paragraph must
25.7 include a review of the information required under section 245C.08, subdivisions 1,
25.8 paragraph (a), clauses (1) to (5), 3, and 4.

25.9 (e) The commissioner of human services shall conduct a background study of an
25.10 individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2)
25.11 to (6), who is newly affiliated with a child foster care license holder. The county or
25.12 private agency shall collect and forward to the commissioner the information required
25.13 under section 245C.05, subdivisions 1 and 5. The background study conducted by the
25.14 commissioner of human services under this paragraph must include a review of the
25.15 information required under section 245C.08, subdivisions 1, 3, and 4.

25.16 (f) Applicants for licensure, license holders, and other entities as provided in this
25.17 chapter must submit completed background study forms to the commissioner before
25.18 individuals specified in section 245C.03, subdivision 1, begin positions allowing direct
25.19 contact in any licensed program.

25.20 (g) For purposes of this section, a physician licensed under chapter 147 is considered
25.21 to be continuously affiliated upon the license holder's receipt from the commissioner of
25.22 health or human services of the physician's background study results.

25.23 (h) A license holder must provide the commissioner notice through the
25.24 commissioner's online background study system or through a letter mailed to the
25.25 commissioner when:

25.26 (1) an individual returns to a position requiring a background study following an
25.27 absence of 45 or more consecutive days; or

25.28 (2) a program, which discontinued providing licensed direct contact services for 45
25.29 or more consecutive days, again begins to provide direct contact licensed services.

25.30 The license holder shall maintain a copy of the notification provided to the
25.31 commissioner under this paragraph in the program's files.

25.32 (i) From January 1, 2010, to December 31, 2012, unless otherwise specified in
25.33 paragraph (c), the commissioner shall conduct a study of an individual required to be
25.34 studied under section 245C.03 at the time of reapplication for an adult foster care or
25.35 family adult day services license:

26.1 (1) the county shall collect and forward to the commissioner the information
26.2 required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5,
26.3 paragraphs (a) and (b), for background studies conducted by the commissioner for adult
26.4 foster care and family adult day services when the license holder resides in the adult foster
26.5 care or family adult day services residence;

26.6 (2) the license holder shall collect and forward to the commissioner the information
26.7 required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs
26.8 (a) and (b), for background studies conducted by the commissioner for adult foster care
26.9 when the license holder does not reside in the adult foster care residence; and

26.10 (3) the background study conducted by the commissioner under this paragraph
26.11 must include a review of the information required under section 245C.08, subdivision 1,
26.12 paragraph (a), clauses (1) to (5), and subdivisions 3 and 4.

26.13 (j) The commissioner shall conduct a background study of an individual specified
26.14 under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly
26.15 affiliated with an adult foster care or family adult day services license holder:

26.16 (1) the county shall collect and forward to the commissioner the information
26.17 required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5,
26.18 paragraphs (a) and (b), for background studies conducted by the commissioner for adult
26.19 foster care and family adult day services when the license holder resides in the adult foster
26.20 care or family adult day services residence;

26.21 (2) the license holder shall collect and forward to the commissioner the information
26.22 required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs
26.23 (a) and (b), for background studies conducted by the commissioner for adult foster care
26.24 when the license holder does not reside in the adult foster care residence; and

26.25 (3) the background study conducted by the commissioner under this paragraph
26.26 must include a review of the information required under section 245C.08, subdivision 1,
26.27 paragraph (a), and subdivisions 3 and 4.

26.28 Sec. 24. Minnesota Statutes 2008, section 245C.05, is amended by adding a
26.29 subdivision to read:

26.30 Subd. 2b. **County agency to collect and forward information to the**
26.31 **commissioner.** For background studies related to adult foster care and family adult
26.32 day services when the license holder resides in the adult foster care or family adult
26.33 day services residence, the county agency must collect the information required under
26.34 subdivision 1 and forward it to the commissioner.

27.1 Sec. 25. Minnesota Statutes 2008, section 245C.05, subdivision 4, is amended to read:

27.2 Subd. 4. **Electronic transmission.** For background studies conducted by the
27.3 Department of Human Services, the commissioner shall implement a system for the
27.4 electronic transmission of:

27.5 (1) background study information to the commissioner;

27.6 (2) background study results to the license holder; ~~and~~

27.7 (3) background study results to county and private agencies for background studies
27.8 conducted by the commissioner for child foster care; and

27.9 (4) background study results to county agencies for background studies conducted
27.10 by the commissioner for adult foster care and family adult day services.

27.11 Sec. 26. Minnesota Statutes 2008, section 245C.07, is amended to read:

27.12 **245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.**

27.13 (a) When a license holder, applicant, or other entity owns multiple programs or
27.14 services that are licensed by the Department of Human Services, Department of Health, or
27.15 Department of Corrections, only one background study is required for an individual who
27.16 provides direct contact services in one or more of the licensed programs or services if:

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

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

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

27.29 ~~(b)~~ (c) When a background study is being initiated by a licensed program or service
27.30 or a foster care provider that is also registered under chapter 144D, a study subject
27.31 affiliated with multiple licensed programs or services may attach to the background study
27.32 form a cover letter indicating the additional names of the programs or services, addresses,
27.33 and background study identification numbers.

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

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

28.4 Sec. 27. Minnesota Statutes 2008, section 245C.08, subdivision 2, is amended to read:

28.5 Subd. 2. **Background studies conducted by a county agency.** (a) For a background
28.6 study conducted by a county agency for ~~adult foster care, family adult day services, and~~
28.7 family child care services, the commissioner shall review:

28.8 (1) information from the county agency's record of substantiated maltreatment
28.9 of adults and the maltreatment of minors;

28.10 (2) information from juvenile courts as required in subdivision 4 for individuals
28.11 listed in section 245C.03, subdivision 1, clauses (2), (5), and (6); and

28.12 (3) information from the Bureau of Criminal Apprehension.

28.13 (b) If the individual has resided in the county for less than five years, the study shall
28.14 include the records specified under paragraph (a) for the previous county or counties of
28.15 residence for the past five years.

28.16 (c) Notwithstanding expungement by a court, the county agency may consider
28.17 information obtained under paragraph (a), clause (3), unless the commissioner received
28.18 notice of the petition for expungement and the court order for expungement is directed
28.19 specifically to the commissioner.

28.20 Sec. 28. Minnesota Statutes 2008, section 245C.10, is amended by adding a
28.21 subdivision to read:

28.22 Subd. 5. **Adult foster care services.** The commissioner shall recover the cost of
28.23 background studies required under section 245C.03, subdivision 1, for the purposes of
28.24 adult foster care and family adult day services licensing, through a fee of no more than
28.25 \$20 per study charged to the license holder. The fees collected under this subdivision are
28.26 appropriated to the commissioner for the purpose of conducting background studies.

28.27 Sec. 29. Minnesota Statutes 2008, section 245C.13, subdivision 2, is amended to read:

28.28 Subd. 2. **Direct contact pending completion of background study.** The subject
28.29 of a background study may not perform any activity requiring a background study under
28.30 paragraph (b) until the commissioner has issued one of the notices under paragraph (a).

28.31 (a) Notices from the commissioner required prior to activity under paragraph (b)
28.32 include:

28.33 (1) a notice of the study results under section 245C.17 stating that:

- 29.1 (i) the individual is not disqualified; or
- 29.2 (ii) more time is needed to complete the study but the individual is not required to be
- 29.3 removed from direct contact or access to people receiving services prior to completion
- 29.4 of the study as provided under section 245C.17, subdivision 1, paragraph (b) or (c). The
- 29.5 notice that more time is needed to complete the study must also indicate whether the
- 29.6 individual is required to be under continuous direct supervision prior to completion of the
- 29.7 background study;
- 29.8 (2) a notice that a disqualification has been set aside under section 245C.23; or
- 29.9 (3) a notice that a variance has been granted related to the individual under section
- 29.10 245C.30.
- 29.11 (b) Activities prohibited prior to receipt of notice under paragraph (a) include:
- 29.12 (1) being issued a license;
- 29.13 (2) living in the household where the licensed program will be provided;
- 29.14 (3) providing direct contact services to persons served by a program unless the
- 29.15 subject is under continuous direct supervision; or
- 29.16 (4) having access to persons receiving services if the background study was
- 29.17 completed under section 144.057, subdivision 1, or 245C.03, subdivision 1, paragraph (a),
- 29.18 clause (2), (5), or (6), unless the subject is under continuous direct supervision.

29.19 Sec. 30. Minnesota Statutes 2008, section 245C.15, subdivision 1, is amended to read:

29.20 Subdivision 1. **Permanent disqualification.** (a) An individual is disqualified under

29.21 section 245C.14 if: (1) regardless of how much time has passed since the discharge of the

29.22 sentence imposed, if any, for the offense; and (2) unless otherwise specified, regardless

29.23 of the level of the offense, the individual has committed any of the following offenses:

29.24 sections 243.166 (violation of predatory offender registration law); 609.185 (murder in the

29.25 first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree);

29.26 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); a

29.27 felony offense under 609.221 or 609.222 (assault in the first or second degree); a felony

29.28 offense under sections 609.2242 and 609.2243 (domestic assault), spousal abuse, child

29.29 abuse or neglect, or a crime against children; 609.2247 (domestic assault by strangulation);

29.30 609.228 (great bodily harm caused by distribution of drugs); 609.245 (aggravated

29.31 robbery); 609.25 (kidnapping); 609.2661 (murder of an unborn child in the first degree);

29.32 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an

29.33 unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of

29.34 prostitution); 609.324, subdivision 1 (other prohibited acts); 609.342 (criminal sexual

29.35 conduct in the first degree); 609.343 (criminal sexual conduct in the second degree);

30.1 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct
30.2 in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453
30.3 (criminal sexual predatory conduct); 609.352 (solicitation of children to engage in sexual
30.4 conduct); 609.365 (incest); a felony offense under 609.377 (malicious punishment of a
30.5 child); a felony offense under 609.378 (neglect or endangerment of a child); 609.561
30.6 (arson in the first degree); 609.66, subdivision 1e (drive-by shooting); 609.749, subdivision
30.7 3, 4, or 5 (felony-level harassment; stalking); 609.855, subdivision 5 (shooting at or in a
30.8 public transit vehicle or facility); 617.23, subdivision 2, clause (1), or subdivision 3, clause
30.9 (1) (indecent exposure involving a minor); 617.246 (use of minors in sexual performance
30.10 prohibited); or 617.247 (possession of pictorial representations of minors). An individual
30.11 also is disqualified under section 245C.14 regardless of how much time has passed since
30.12 the involuntary termination of the individual's parental rights under section 260C.301.

30.13 (b) An individual's aiding and abetting, attempt, or conspiracy to commit any of the
30.14 offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes,
30.15 permanently disqualifies the individual under section 245C.14.

30.16 (c) An individual's offense in any other state or country, where the elements of the
30.17 offense are substantially similar to any of the offenses listed in paragraph (a), permanently
30.18 disqualifies the individual under section 245C.14.

30.19 (d) When a disqualification is based on a judicial determination other than a
30.20 conviction, the disqualification period begins from the date of the court order. When a
30.21 disqualification is based on an admission, the disqualification period begins from the
30.22 date of an admission in court. When a disqualification is based on an Alford Plea, the
30.23 disqualification period begins from the date the Alford Plea is entered in court. When
30.24 a disqualification is based on a preponderance of evidence of a disqualifying act, the
30.25 disqualification date begins from the date of the dismissal, the date of discharge of the
30.26 sentence imposed for a conviction for a disqualifying crime of similar elements, or the
30.27 date of the incident, whichever occurs last.

30.28 (e) If the individual studied commits one of the offenses listed in paragraph (a) that
30.29 is specified as a felony-level only offense, but the sentence or level of offense is a gross
30.30 misdemeanor or misdemeanor, the individual is disqualified, but the disqualification
30.31 look-back period for the offense is the period applicable to gross misdemeanor or
30.32 misdemeanor offenses.

30.33 Sec. 31. Minnesota Statutes 2008, section 245C.15, subdivision 2, is amended to read:

30.34 Subd. 2. **15-year disqualification.** (a) An individual is disqualified under section
30.35 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed,

31.1 if any, for the offense; and (2) the individual has committed a felony-level violation
31.2 of any of the following offenses: sections 256.98 (wrongfully obtaining assistance);
31.3 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph
31.4 (c) (federal Food Stamp Program fraud); 609.165 (felon ineligible to possess firearm);
31.5 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.223 or 609.2231
31.6 (assault in the third or fourth degree); repeat offenses under 609.224 (assault in the fifth
31.7 degree); 609.229 (crimes committed for benefit of a gang); 609.2325 (criminal abuse of a
31.8 vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.235 (use of
31.9 drugs to injure or facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment);
31.10 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter
31.11 of an unborn child in the second degree); 609.267 (assault of an unborn child in the first
31.12 degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury
31.13 or death of an unborn child in the commission of a crime); 609.27 (coercion); 609.275
31.14 (attempt to coerce); 609.466 (medical assistance fraud); 609.495 (aiding an offender);
31.15 609.498, subdivision 1 or 1b (aggravated first-degree or first-degree tampering with a
31.16 witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.525 (bringing
31.17 stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property);
31.18 609.535 (issuance of dishonored checks); 609.562 (arson in the second degree);
31.19 609.563 (arson in the third degree); 609.582 (burglary); 609.59 (possession of burglary
31.20 tools); 609.611 (insurance fraud); 609.625 (aggravated forgery); 609.63 (forgery);
31.21 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by
31.22 false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled
31.23 shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); 609.82
31.24 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent
31.25 exposure), not involving a minor; repeat offenses under 617.241 (obscene materials and
31.26 performances; distribution and exhibition prohibited; penalty); 624.713 (certain persons
31.27 not to possess firearms); chapter 152 (drugs; controlled substance); or a felony-level
31.28 conviction involving alcohol or drug use.

31.29 (b) An individual is disqualified under section 245C.14 if less than 15 years has
31.30 passed since the individual's aiding and abetting, attempt, or conspiracy to commit any
31.31 of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota
31.32 Statutes.

31.33 (c) For foster care and family child care an individual is disqualified under section
31.34 245C.14 if less than 15 years has passed since the individual's voluntary termination of
31.35 the individual's parental rights under section 260C.301, subdivision 1, paragraph (b), or
31.36 260C.301, subdivision 3.

32.1 (d) An individual is disqualified under section 245C.14 if less than 15 years has
32.2 passed since the discharge of the sentence imposed for an offense in any other state or
32.3 country, the elements of which are substantially similar to the elements of the offenses
32.4 listed in paragraph (a).

32.5 (e) If the individual studied commits one of the offenses listed in paragraph (a), but
32.6 the sentence or level of offense is a gross misdemeanor or misdemeanor, the individual
32.7 is disqualified but the disqualification look-back period for the offense is the period
32.8 applicable to the gross misdemeanor or misdemeanor disposition.

32.9 (f) When a disqualification is based on a judicial determination other than a
32.10 conviction, the disqualification period begins from the date of the court order. When a
32.11 disqualification is based on an admission, the disqualification period begins from the
32.12 date of an admission in court. When a disqualification is based on an Alford Plea, the
32.13 disqualification period begins from the date the Alford Plea is entered in court. When
32.14 a disqualification is based on a preponderance of evidence of a disqualifying act, the
32.15 disqualification date begins from the date of the dismissal, the date of discharge of the
32.16 sentence imposed for a conviction for a disqualifying crime of similar elements, or the
32.17 date of the incident, whichever occurs last.

32.18 Sec. 32. Minnesota Statutes 2008, section 245C.15, subdivision 3, is amended to read:

32.19 Subd. 3. **Ten-year disqualification.** (a) An individual is disqualified under section
32.20 245C.14 if: (1) less than ten years have passed since the discharge of the sentence imposed,
32.21 if any, for the offense; and (2) the individual has committed a gross misdemeanor-level
32.22 violation of any of the following offenses: sections 256.98 (wrongfully obtaining
32.23 assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10,
32.24 paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide
32.25 and injury); 609.221 or 609.222 (assault in the first or second degree); 609.223 or
32.26 609.2231 (assault in the third or fourth degree); 609.224 (assault in the fifth degree);
32.27 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a
32.28 vulnerable adult); 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment of
32.29 persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal
32.30 abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335
32.31 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a
32.32 vulnerable adult); 609.265 (abduction); 609.275 (attempt to coerce); 609.324, subdivision
32.33 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house);
32.34 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child);
32.35 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into

33.1 Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance
33.2 of dishonored checks); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611
33.3 (insurance fraud); 609.631 (check forgery; offering a forged check); 609.66 (dangerous
33.4 weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly conduct against a vulnerable
33.5 adult); repeat offenses under 609.746 (interference with privacy); 609.749, subdivision 2
33.6 (harassment; stalking); 609.82 (fraud in obtaining credit); 609.821 (financial transaction
33.7 card fraud); 617.23 (indecent exposure), not involving a minor; 617.241 (obscene
33.8 materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful
33.9 materials; dissemination and display to minors prohibited); or violation of an order for
33.10 protection under section 518B.01, subdivision 14.

33.11 (b) An individual is disqualified under section 245C.14 if less than ten years has
33.12 passed since the individual's aiding and abetting, attempt, or conspiracy to commit any
33.13 of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota
33.14 Statutes.

33.15 (c) An individual is disqualified under section 245C.14 if less than ten years has
33.16 passed since the discharge of the sentence imposed for an offense in any other state or
33.17 country, the elements of which are substantially similar to the elements of any of the
33.18 offenses listed in paragraph (a).

33.19 (d) If the individual studied commits one of the offenses listed in paragraph (a), but
33.20 the sentence or level of offense is a misdemeanor disposition, the individual is disqualified
33.21 but the disqualification lookback period for the offense is the period applicable to
33.22 misdemeanors.

33.23 (e) When a disqualification is based on a judicial determination other than a
33.24 conviction, the disqualification period begins from the date of the court order. When a
33.25 disqualification is based on an admission, the disqualification period begins from the
33.26 date of an admission in court. When a disqualification is based on an Alford Plea, the
33.27 disqualification period begins from the date the Alford Plea is entered in court. When
33.28 a disqualification is based on a preponderance of evidence of a disqualifying act, the
33.29 disqualification date begins from the date of the dismissal, the date of discharge of the
33.30 sentence imposed for a conviction for a disqualifying crime of similar elements, or the
33.31 date of the incident, whichever occurs last.

33.32 Sec. 33. Minnesota Statutes 2008, section 245C.15, subdivision 4, is amended to read:

33.33 Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under
33.34 section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence
33.35 imposed, if any, for the offense; and (2) the individual has committed a misdemeanor-level

34.1 violation of any of the following offenses: sections 256.98 (wrongfully obtaining
34.2 assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10,
34.3 paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide
34.4 and injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree);
34.5 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224
34.6 (assault in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation
34.7 of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult);
34.8 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation
34.9 of an order for protection under 609.3232 (protective order authorized; procedures;
34.10 penalties); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen
34.11 goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property);
34.12 609.535 (issuance of dishonored checks); 609.611 (insurance fraud); 609.66 (dangerous
34.13 weapons); 609.665 (spring guns); 609.746 (interference with privacy); 609.79 (obscene or
34.14 harassing telephone calls); 609.795 (letter, telegram, or package; opening; harassment);
34.15 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23
34.16 (indecent exposure), not involving a minor; 617.293 (harmful materials; dissemination
34.17 and display to minors prohibited); or violation of an order for protection under section
34.18 518B.01 (Domestic Abuse Act).

34.19 (b) An individual is disqualified under section 245C.14 if less than seven years has
34.20 passed since a determination or disposition of the individual's:

34.21 (1) failure to make required reports under section 626.556, subdivision 3, or
34.22 626.557, subdivision 3, for incidents in which: (i) the final disposition under section
34.23 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was
34.24 recurring or serious; or

34.25 (2) substantiated serious or recurring maltreatment of a minor under section 626.556,
34.26 a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other
34.27 state, the elements of which are substantially similar to the elements of maltreatment under
34.28 section 626.556 or 626.557 for which: (i) there is a preponderance of evidence that the
34.29 maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

34.30 (c) An individual is disqualified under section 245C.14 if less than seven years has
34.31 passed since the individual's aiding and abetting, attempt, or conspiracy to commit any
34.32 of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in
34.33 Minnesota Statutes.

34.34 (d) An individual is disqualified under section 245C.14 if less than seven years has
34.35 passed since the discharge of the sentence imposed for an offense in any other state or

35.1 country, the elements of which are substantially similar to the elements of any of the
35.2 offenses listed in paragraphs (a) and (b).

35.3 (e) When a disqualification is based on a judicial determination other than a
35.4 conviction, the disqualification period begins from the date of the court order. When a
35.5 disqualification is based on an admission, the disqualification period begins from the
35.6 date of an admission in court. When a disqualification is based on an Alford Plea, the
35.7 disqualification period begins from the date the Alford Plea is entered in court. When
35.8 a disqualification is based on a preponderance of evidence of a disqualifying act, the
35.9 disqualification date begins from the date of the dismissal, the date of discharge of the
35.10 sentence imposed for a conviction for a disqualifying crime of similar elements, or the
35.11 date of the incident, whichever occurs last.

35.12 (f) An individual is disqualified under section 245C.14 if less than seven years has
35.13 passed since the individual was disqualified under section 256.98, subdivision 8.

35.14 Sec. 34. Minnesota Statutes 2008, section 245C.17, is amended by adding a
35.15 subdivision to read:

35.16 Subd. 6. Notice to county agency. For studies on individuals related to a license
35.17 to provide adult foster care and family adult day services, the commissioner shall also
35.18 provide a notice of the background study results to the county agency that initiated the
35.19 background study.

35.20 Sec. 35. Minnesota Statutes 2008, section 245C.20, is amended to read:

35.21 **245C.20 LICENSE HOLDER RECORD KEEPING.**

35.22 A licensed program shall document the date the program initiates a background
35.23 study under this chapter in the program's personnel files. When a background study is
35.24 completed under this chapter, a licensed program shall maintain a notice that the study
35.25 was undertaken and completed in the program's personnel files. Except when background
35.26 studies are initiated through the commissioner's online system, if a licensed program
35.27 has not received a response from the commissioner under section 245C.17 within 45
35.28 days of initiation of the background study request, the licensed program must contact the
35.29 commissioner human services licensing division to inquire about the status of the study. If
35.30 a license holder initiates a background study under the commissioner's online system, but
35.31 the background study subject's name does not appear in the list of active or recent studies
35.32 initiated by that license holder, the license holder must either contact the human services
35.33 licensing division or resubmit the background study information online for that individual.

36.1 Sec. 36. Minnesota Statutes 2008, section 245C.21, subdivision 1a, is amended to read:

36.2 Subd. 1a. **Submission of reconsideration request to county or private agency.** (a)

36.3 For disqualifications related to studies conducted by county agencies for family child care,
36.4 and for disqualifications related to studies conducted by the commissioner for child foster
36.5 care, adult foster care, and family adult day services, the individual shall submit the request
36.6 for reconsideration to the county ~~or private~~ agency that initiated the background study.

36.7 (b) For disqualifications related to studies conducted by the commissioner for child
36.8 foster care, the individual shall submit the request for reconsideration to the private agency
36.9 that initiated the background study.

36.10 (c) A reconsideration request shall be submitted within 30 days of the individual's
36.11 receipt of the disqualification notice or the time frames specified in subdivision 2,
36.12 whichever time frame is shorter.

36.13 ~~(e)~~ (d) The county or private agency shall forward the individual's request for
36.14 reconsideration and provide the commissioner with a recommendation whether to set aside
36.15 the individual's disqualification.

36.16 Sec. 37. Minnesota Statutes 2008, section 245C.23, subdivision 2, is amended to read:

36.17 Subd. 2. **Commissioner's notice of disqualification that is not set aside.** (a) The
36.18 commissioner shall notify the license holder of the disqualification and order the license
36.19 holder to immediately remove the individual from any position allowing direct contact
36.20 with persons receiving services from the license holder if:

36.21 (1) the individual studied does not submit a timely request for reconsideration
36.22 under section 245C.21;

36.23 (2) the individual submits a timely request for reconsideration, but the commissioner
36.24 does not set aside the disqualification for that license holder under section 245C.22;

36.25 (3) an individual who has a right to request a hearing under sections 245C.27 and
36.26 256.045, or 245C.28 and chapter 14 for a disqualification that has not been set aside, does
36.27 not request a hearing within the specified time; or

36.28 (4) an individual submitted a timely request for a hearing under sections 245C.27
36.29 and 256.045, or 245C.28 and chapter 14, but the commissioner does not set aside the
36.30 disqualification under section 245A.08, subdivision 5, or 256.045.

36.31 (b) If the commissioner does not set aside the disqualification under section 245C.22,
36.32 and the license holder was previously ordered under section 245C.17 to immediately
36.33 remove the disqualified individual from direct contact with persons receiving services or
36.34 to ensure that the individual is under continuous, direct supervision when providing direct

37.1 contact services, the order remains in effect pending the outcome of a hearing under
37.2 sections 245C.27 and 256.045, or 245C.28 and chapter 14.

37.3 (c) For background studies related to child foster care, the commissioner shall
37.4 also notify the county or private agency that initiated the study of the results of the
37.5 reconsideration.

37.6 (d) For background studies related to adult foster care and family adult day services,
37.7 the commissioner shall also notify the county that initiated the study of the results of
37.8 the reconsideration.

37.9 Sec. 38. Minnesota Statutes 2008, section 245C.24, subdivision 2, is amended to read:

37.10 Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in
37.11 paragraph (b), the commissioner may not set aside the disqualification of any individual
37.12 disqualified pursuant to this chapter, regardless of how much time has passed, if the
37.13 individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

37.14 (b) For an individual in the chemical dependency or corrections field who was
37.15 disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose
37.16 disqualification was set aside prior to July 1, 2005, the commissioner must consider
37.17 granting a variance pursuant to section 245C.30 for the license holder for a program
37.18 dealing primarily with adults. A request for reconsideration evaluated under this paragraph
37.19 must include a letter of recommendation from the license holder that was subject to the
37.20 prior set-aside decision addressing the individual's quality of care to children or vulnerable
37.21 adults and the circumstances of the individual's departure from that service.

37.22 (c) When a licensed foster care provider adopts an individual who had received
37.23 foster care services from the provider for over six months, and the adopted individual is
37.24 required to receive a background study under section 245C.03, subdivision 1, paragraph
37.25 (a), clause (2) or (6), the commissioner may grant a variance to the license holder under
37.26 section 245C.30 to permit the adopted individual with a permanent disqualification
37.27 to remain affiliated with the license holder under the conditions of the variance when
37.28 the variance is recommended by the county of responsibility for each of the remaining
37.29 individuals in placement in the home and the licensing agency for the home.

37.30 Sec. 39. Minnesota Statutes 2008, section 245C.24, subdivision 3, is amended to read:

37.31 Subd. 3. **Ten-year bar to set aside disqualification.** (a) The commissioner may
37.32 not set aside the disqualification of an individual in connection with a license to provide
37.33 family child care for children, foster care for children in the provider's home, or foster
37.34 care or day care services for adults in the provider's home if: (1) less than ten years

38.1 has passed since the discharge of the sentence imposed, if any, for the offense; or (2)
38.2 when disqualified based on a preponderance of evidence determination under section
38.3 245C.14, subdivision 1, paragraph (a), clause (2), or an admission under section 245C.14,
38.4 subdivision 1, paragraph (a), clause (1), and less than ten years has passed since the
38.5 individual committed the act or admitted to committing the act, whichever is later; and
38.6 (3) the individual has committed a violation of any of the following offenses: sections
38.7 609.165 (felon ineligible to possess firearm); criminal vehicular homicide or criminal
38.8 vehicular operation causing death under 609.21 (criminal vehicular homicide and injury);
38.9 609.215 (aiding suicide or aiding attempted suicide); felony violations under 609.223 or
38.10 609.2231 (assault in the third or fourth degree); 609.229 (crimes committed for benefit
38.11 of a gang); 609.713 (terroristic threats); 609.235 (use of drugs to injure or to facilitate
38.12 crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.562 (arson in the
38.13 second degree); 609.71 (riot); 609.498, subdivision 1 or 1b (aggravated first-degree or
38.14 first-degree tampering with a witness); burglary in the first or second degree under 609.582
38.15 (burglary); 609.66 (dangerous weapon); 609.665 (spring guns); 609.67 (machine guns
38.16 and short-barreled shotguns); 609.749, subdivision 2 (gross misdemeanor harassment;
38.17 stalking); 152.021 or 152.022 (controlled substance crime in the first or second degree);
38.18 152.023, subdivision 1, clause (3) or (4) or subdivision 2, clause (4) (controlled substance
38.19 crime in the third degree); 152.024, subdivision 1, clause (2), (3), or (4) (controlled
38.20 substance crime in the fourth degree); 609.224, subdivision 2, paragraph (c) (fifth-degree
38.21 assault by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons
38.22 confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a
38.23 vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial
38.24 exploitation of a vulnerable adult); 609.234 (failure to report); 609.265 (abduction);
38.25 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree);
38.26 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree);
38.27 609.268 (injury or death of an unborn child in the commission of a crime); repeat offenses
38.28 under 617.23 (indecent exposure); 617.293 (disseminating or displaying harmful material
38.29 to minors); a felony-level conviction involving alcohol or drug use, a gross misdemeanor
38.30 offense under 609.324, subdivision 1 (other prohibited acts); a gross misdemeanor offense
38.31 under 609.378 (neglect or endangerment of a child); a gross misdemeanor offense under
38.32 609.377 (malicious punishment of a child); 609.72, subdivision 3 (disorderly conduct
38.33 against a vulnerable adult); or 624.713 (certain persons not to possess firearms).

38.34 (b) The commissioner may not set aside the disqualification of an individual if
38.35 less than ten years have passed since the individual's aiding and abetting, attempt, or

39.1 conspiracy to commit any of the offenses listed in paragraph (a) as each of these offenses
39.2 is defined in Minnesota Statutes.

39.3 (c) The commissioner may not set aside the disqualification of an individual if less
39.4 than ten years have passed since the discharge of the sentence imposed for an offense in
39.5 any other state or country, the elements of which are substantially similar to the elements
39.6 of any of the offenses listed in paragraph (a).

39.7 Sec. 40. Minnesota Statutes 2008, section 245C.25, is amended to read:

39.8 **245C.25 CONSOLIDATED RECONSIDERATION OF MALTREATMENT**
39.9 **DETERMINATION AND DISQUALIFICATION.**

39.10 (a) If an individual is disqualified on the basis of a determination of maltreatment
39.11 under section 626.556 or 626.557, which was serious or recurring, and the individual
39.12 requests reconsideration of the maltreatment determination under section 626.556,
39.13 subdivision 10i, or 626.557, subdivision 9d, and also requests reconsideration of
39.14 the disqualification under section 245C.21, the commissioner shall consolidate the
39.15 reconsideration of the maltreatment determination and the disqualification into a single
39.16 reconsideration.

39.17 (b) For maltreatment and disqualification determinations made by county agencies,
39.18 the county agency shall conduct the consolidated reconsideration. If the county agency
39.19 has disqualified an individual on multiple bases, one of which is a county maltreatment
39.20 determination for which the individual has a right to request reconsideration, the county
39.21 shall conduct the reconsideration of all disqualifications.

39.22 (c) If the county has previously conducted a consolidated reconsideration under
39.23 paragraph (b) of a maltreatment determination and a disqualification based on serious or
39.24 recurring maltreatment, and the county subsequently disqualifies the individual based
39.25 on that determination, the county shall conduct the reconsideration of the subsequent
39.26 disqualification. The scope of the subsequent disqualification shall be limited to whether
39.27 the individual poses a risk of harm in accordance with section 245C.22, subdivision 4. If
39.28 the commissioner subsequently disqualifies the individual in connection with a child foster
39.29 care license based on the county's previous maltreatment determination, the commissioner
39.30 shall conduct the reconsideration of the subsequent disqualification.

39.31 Sec. 41. Minnesota Statutes 2008, section 245C.27, subdivision 1, is amended to read:

39.32 Subdivision 1. **Fair hearing when disqualification is not set aside.** (a) If the
39.33 commissioner does not set aside a disqualification of an individual under section
39.34 245C.22 who is disqualified on the basis of a preponderance of evidence that the

40.1 individual committed an act or acts that meet the definition of any of the crimes listed in
40.2 section 245C.15; for a determination under section 626.556 or 626.557 of substantiated
40.3 maltreatment that was serious or recurring under section 245C.15; or for failure to make
40.4 required reports under section 626.556, subdivision 3; or 626.557, subdivision 3, pursuant
40.5 to section 245C.15, subdivision 4, paragraph (b), clause (1), the individual may request
40.6 a fair hearing under section 256.045, unless the disqualification is deemed conclusive
40.7 under section 245C.29.

40.8 (b) The fair hearing is the only administrative appeal of the final agency
40.9 determination for purposes of appeal by the disqualified individual. The disqualified
40.10 individual does not have the right to challenge the accuracy and completeness of data
40.11 under section 13.04.

40.12 (c) Except as provided under paragraph (e), if the individual was disqualified
40.13 based on a conviction ~~or of~~, admission to, or Alford Plea to any crimes listed in section
40.14 245C.15, subdivisions 1 to 4, or for a disqualification under section 256.98, subdivision
40.15 8, the reconsideration decision under section 245C.22 is the final agency determination
40.16 for purposes of appeal by the disqualified individual and is not subject to a hearing under
40.17 section 256.045. If the individual was disqualified based on a judicial determination, that
40.18 determination is treated the same as a conviction for purposes of appeal.

40.19 (d) This subdivision does not apply to a public employee's appeal of a disqualification
40.20 under section 245C.28, subdivision 3.

40.21 (e) Notwithstanding paragraph (c), if the commissioner does not set aside a
40.22 disqualification of an individual who was disqualified based on both a preponderance
40.23 of evidence and a conviction or admission, the individual may request a fair hearing
40.24 under section 256.045, unless the disqualifications are deemed conclusive under section
40.25 245C.29. The scope of the hearing conducted under section 256.045 with regard to the
40.26 disqualification based on a conviction or admission shall be limited solely to whether the
40.27 individual poses a risk of harm, according to section 256.045, subdivision 3b. In this case,
40.28 the reconsideration decision under section 245C.22 is not the final agency decision for
40.29 purposes of appeal by the disqualified individual.

40.30 Sec. 42. Minnesota Statutes 2008, section 256.045, subdivision 3, is amended to read:

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

40.33 (1) any person applying for, receiving or having received public assistance, medical
40.34 care, or a program of social services granted by the state agency or a county agency or
40.35 the federal Food Stamp Act whose application for assistance is denied, not acted upon

41.1 with reasonable promptness, or whose assistance is suspended, reduced, terminated, or
41.2 claimed to have been incorrectly paid;

41.3 (2) any patient or relative aggrieved by an order of the commissioner under section
41.4 252.27;

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

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

41.9 (5) any person whose claim for foster care payment according to a placement of the
41.10 child resulting from a child protection assessment under section 626.556 is denied or not
41.11 acted upon with reasonable promptness, regardless of funding source;

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

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

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

41.18 (9) except as provided under chapter 245A, an individual or facility determined
41.19 to have maltreated a minor under section 626.556, after the individual or facility has
41.20 exercised the right to administrative reconsideration under section 626.556; or

41.21 (10) except as provided under chapter 245C, an individual disqualified under
41.22 sections 245C.14 and 245C.15, which has not been set aside under sections 245C.22
41.23 and 245C.23, on the basis of serious or recurring maltreatment; a preponderance of the
41.24 evidence that the individual has committed an act or acts that meet the definition of any of
41.25 the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports
41.26 required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings
41.27 regarding a maltreatment determination under clause (4) or (9) and a disqualification under
41.28 this clause in which the basis for a disqualification is serious or recurring maltreatment,
41.29 which has not been set aside under sections 245C.22 and 245C.23, shall be consolidated
41.30 into a single fair hearing. In such cases, the scope of review by the human services referee
41.31 shall include both the maltreatment determination and the disqualification. The failure to
41.32 exercise the right to an administrative reconsideration shall not be a bar to a hearing under
41.33 this section if federal law provides an individual the right to a hearing to dispute a finding
41.34 of maltreatment. Individuals and organizations specified in this section may contest the
41.35 specified action, decision, or final disposition before the state agency by submitting a
41.36 written request for a hearing to the state agency within 30 days after receiving written

42.1 notice of the action, decision, or final disposition, or within 90 days of such written notice
42.2 if the applicant, recipient, patient, or relative shows good cause why the request was
42.3 not submitted within the 30-day time limit.

42.4 (b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or
42.5 (10), is the only administrative appeal to the final agency determination specifically,
42.6 including a challenge to the accuracy and completeness of data under section 13.04.
42.7 Hearings requested under paragraph (a), clause (4), apply only to incidents of maltreatment
42.8 that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing
42.9 homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a
42.10 contested case proceeding under the provisions of chapter 14. Hearings requested under
42.11 paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after
42.12 July 1, 1997. A hearing for an individual or facility under paragraph (a), clause (9), is
42.13 only available when there is no juvenile court or adult criminal action pending. If such
42.14 action is filed in either court while an administrative review is pending, the administrative
42.15 review must be suspended until the judicial actions are completed. If the juvenile court
42.16 action or criminal charge is dismissed or the criminal action overturned, the matter may be
42.17 considered in an administrative hearing.

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

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

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

42.30 (f) An applicant or recipient is not entitled to receive social services beyond the
42.31 services prescribed under chapter 256M or other social services the person is eligible
42.32 for under state law.

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

43.1 Sec. 43. Minnesota Statutes 2008, section 256.045, subdivision 3b, is amended to read:

43.2 Subd. 3b. **Standard of evidence for maltreatment and disqualification hearings.**

43.3 (a) The state human services referee shall determine that maltreatment has occurred if a
43.4 preponderance of evidence exists to support the final disposition under sections 626.556
43.5 and 626.557. For purposes of hearings regarding disqualification, the state human services
43.6 referee shall affirm the proposed disqualification in an appeal under subdivision 3,
43.7 paragraph (a), clause (9), if a preponderance of the evidence shows the individual has:

43.8 (1) committed maltreatment under section 626.556 or 626.557, which is serious or
43.9 recurring;

43.10 (2) committed an act or acts meeting the definition of any of the crimes listed in
43.11 section 245C.15, subdivisions 1 to 4; or

43.12 (3) failed to make required reports under section 626.556 or 626.557, for incidents
43.13 in which the final disposition under section 626.556 or 626.557 was substantiated
43.14 maltreatment that was serious or recurring.

43.15 (b) If the disqualification is affirmed, the state human services referee shall
43.16 determine whether the individual poses a risk of harm in accordance with the requirements
43.17 of section ~~245C.16~~ 245C.22, and whether the disqualification should be set aside or not set
43.18 aside. In determining whether the disqualification should be set aside, the human services
43.19 referee shall consider all of the characteristics that cause the individual to be disqualified,
43.20 including those characteristics that were not subject to review under paragraph (a), in
43.21 order to determine whether the individual poses a risk of harm. A decision to set aside
43.22 a disqualification that is the subject of the hearing constitutes a determination that the
43.23 individual does not pose a risk of harm and that the individual may provide direct contact
43.24 services in the individual program specified in the set aside. If a determination that the
43.25 information relied upon to disqualify an individual was correct and is conclusive under
43.26 section 245C.29, and the individual is subsequently disqualified under section 245C.14,
43.27 the individual has a right to again request reconsideration on the risk of harm under section
43.28 245C.21. Subsequent determinations regarding risk of harm are not subject to another
43.29 hearing under this section.

43.30 (c) The state human services referee shall recommend an order to the commissioner
43.31 of health, education, or human services, as applicable, who shall issue a final order. The
43.32 commissioner shall affirm, reverse, or modify the final disposition. Any order of the
43.33 commissioner issued in accordance with this subdivision is conclusive upon the parties
43.34 unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal
43.35 under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.46,

44.1 the commissioner's determination as to maltreatment is conclusive, as provided under
44.2 section 245C.29.

44.3 Sec. 44. **[256.364] LICENSE; PERMIT.**

44.4 Notwithstanding any law to the contrary, a municipality shall not require a massage
44.5 therapist to obtain a license or permit when the therapist is working for or an employee of
44.6 a medical professional licensed under chapter 147 or 148.

44.7 Sec. 45. Minnesota Statutes 2008, section 256B.0943, subdivision 4, is amended to
44.8 read:

44.9 Subd. 4. **Provider entity certification.** (a) Effective July 1, 2003, the commissioner
44.10 shall establish an initial provider entity application and certification process and
44.11 recertification process to determine whether a provider entity has an administrative
44.12 and clinical infrastructure that meets the requirements in subdivisions 5 and 6. The
44.13 commissioner shall recertify a provider entity at least every three years. The commissioner
44.14 shall establish a process for decertification of a provider entity that no longer meets the
44.15 requirements in this section. The county, tribe, and the commissioner shall be mutually
44.16 responsible and accountable for the county's, tribe's, and state's part of the certification,
44.17 recertification, and decertification processes.

44.18 (b) For purposes of this section, a provider entity must be:

44.19 (1) an Indian health services facility or a facility owned and operated by a tribe or
44.20 tribal organization operating as a 638 facility under Public Law 93-638 certified by the
44.21 state;

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

44.23 (3) a noncounty entity ~~recommended for certification by the provider's host county~~
44.24 ~~and~~ certified by the state.

44.25 Sec. 46. Minnesota Statutes 2008, section 256B.0943, subdivision 6, is amended to
44.26 read:

44.27 Subd. 6. **Provider entity clinical infrastructure requirements.** (a) To be
44.28 an eligible provider entity under this section, a provider entity must have a clinical
44.29 infrastructure that utilizes diagnostic assessment, an individualized treatment plan,
44.30 service delivery, and individual treatment plan review that are culturally competent,
44.31 child-centered, and family-driven to achieve maximum benefit for the client. The provider
44.32 entity must review, and update as necessary, the clinical policies and procedures every

45.1 three years and must distribute the policies and procedures to staff initially and upon
45.2 each subsequent update.

45.3 (b) The clinical infrastructure written policies and procedures must include policies
45.4 and procedures for:

45.5 (1) providing or obtaining a client's diagnostic assessment that identifies acute and
45.6 chronic clinical disorders, co-occurring medical conditions, sources of psychological
45.7 and environmental problems, ~~and~~ including a functional assessment. The functional
45.8 assessment component must clearly summarize the client's individual strengths and needs;

45.9 (2) developing an individual treatment plan that is:

45.10 (i) based on the information in the client's diagnostic assessment;

45.11 (ii) developed no later than the end of the first psychotherapy session after the
45.12 completion of the client's diagnostic assessment by the mental health professional who
45.13 provides the client's psychotherapy;

45.14 (iii) developed through a child-centered, family-driven planning process that
45.15 identifies service needs and individualized, planned, and culturally appropriate
45.16 interventions that contain specific treatment goals and objectives for the client and the
45.17 client's family or foster family;

45.18 (iv) reviewed at least once every 90 days and revised, if necessary; and

45.19 (v) signed by the client or, if appropriate, by the client's parent or other person
45.20 authorized by statute to consent to mental health services for the client;

45.21 (3) developing an individual behavior plan that documents services to be provided
45.22 by the mental health behavioral aide. The individual behavior plan must include:

45.23 (i) detailed instructions on the service to be provided;

45.24 (ii) time allocated to each service;

45.25 (iii) methods of documenting the child's behavior;

45.26 (iv) methods of monitoring the child's progress in reaching objectives; and

45.27 (v) goals to increase or decrease targeted behavior as identified in the individual
45.28 treatment plan;

45.29 (4) clinical supervision of the mental health practitioner and mental health behavioral
45.30 aide. A mental health professional must document the clinical supervision the professional
45.31 provides by cosigning individual treatment plans and making entries in the client's record
45.32 on supervisory activities. Clinical supervision does not include the authority to make or
45.33 terminate court-ordered placements of the child. A clinical supervisor must be available
45.34 for urgent consultation as required by the individual client's needs or the situation. Clinical
45.35 supervision may occur individually or in a small group to discuss treatment and review
45.36 progress toward goals. The focus of clinical supervision must be the client's treatment

46.1 needs and progress and the mental health practitioner's or behavioral aide's ability to
46.2 provide services;

46.3 (4a) CTSS certified provider entities providing day treatment programs must meet
46.4 the conditions in items (i) to (iii):

46.5 (i) the supervisor must be present and available on the premises more than 50
46.6 percent of the time in a five-working-day period during which the supervisee is providing
46.7 a mental health service;

46.8 (ii) the diagnosis and the client's individual treatment plan or a change in the
46.9 diagnosis or individual treatment plan must be made by or reviewed, approved, and signed
46.10 by the supervisor; and

46.11 (iii) every 30 days, the supervisor must review and sign the record ~~of~~ indicating the
46.12 supervisor has reviewed the client's care for all activities in the preceding 30-day period;

46.13 (4b) for all other services provided under CTSS, clinical supervision standards
46.14 provided in items (i) to (iii) must be used:

46.15 (i) medical assistance shall reimburse a mental health practitioner who maintains a
46.16 consulting relationship with a mental health professional who accepts full professional
46.17 responsibility ~~and is present on site for at least one observation during the first 12 hours~~
46.18 ~~in which the mental health practitioner provides the individual, family, or group skills~~
46.19 ~~training to the child or the child's family;~~

46.20 (ii) ~~thereafter~~, the mental health professional is required to be present on site for
46.21 observation as clinically appropriate when the mental health practitioner is providing
46.22 individual, family, or group skills training to the child or the child's family; and

46.23 (iii) when conducted, the observation must be a minimum of one clinical unit. The
46.24 on-site presence of the mental health professional must be documented in the child's record
46.25 and signed by the mental health professional who accepts full professional responsibility;

46.26 (5) providing direction to a mental health behavioral aide. For entities that employ
46.27 mental health behavioral aides, the clinical supervisor must be employed by the provider
46.28 entity or other certified children's therapeutic supports and services provider entity to
46.29 ensure necessary and appropriate oversight for the client's treatment and continuity
46.30 of care. The mental health professional or mental health practitioner giving direction
46.31 must begin with the goals on the individualized treatment plan, and instruct the mental
46.32 health behavioral aide on how to construct therapeutic activities and interventions that
46.33 will lead to goal attainment. The professional or practitioner giving direction must also
46.34 instruct the mental health behavioral aide about the client's diagnosis, functional status,
46.35 and other characteristics that are likely to affect service delivery. Direction must also
46.36 include determining that the mental health behavioral aide has the skills to interact with

47.1 the client and the client's family in ways that convey personal and cultural respect and
47.2 that the aide actively solicits information relevant to treatment from the family. The aide
47.3 must be able to clearly explain the activities the aide is doing with the client and the
47.4 activities' relationship to treatment goals. Direction is more didactic than is supervision
47.5 and requires the professional or practitioner providing it to continuously evaluate the
47.6 mental health behavioral aide's ability to carry out the activities of the individualized
47.7 treatment plan and the individualized behavior plan. When providing direction, the
47.8 professional or practitioner must:

47.9 (i) review progress notes prepared by the mental health behavioral aide for accuracy
47.10 and consistency with diagnostic assessment, treatment plan, and behavior goals and the
47.11 professional or practitioner must approve and sign the progress notes;

47.12 (ii) identify changes in treatment strategies, revise the individual behavior plan,
47.13 and communicate treatment instructions and methodologies as appropriate to ensure
47.14 that treatment is implemented correctly;

47.15 (iii) demonstrate family-friendly behaviors that support healthy collaboration among
47.16 the child, the child's family, and providers as treatment is planned and implemented;

47.17 (iv) ensure that the mental health behavioral aide is able to effectively communicate
47.18 with the child, the child's family, and the provider; and

47.19 (v) record the results of any evaluation and corrective actions taken to modify the
47.20 work of the mental health behavioral aide;

47.21 (6) providing service delivery that implements the individual treatment plan and
47.22 meets the requirements under subdivision 9; and

47.23 (7) individual treatment plan review. The review must determine the extent to which
47.24 the services have met the goals and objectives in the previous treatment plan. The review
47.25 must assess the client's progress and ensure that services and treatment goals continue to
47.26 be necessary and appropriate to the client and the client's family or foster family. Revision
47.27 of the individual treatment plan does not require a new diagnostic assessment unless the
47.28 client's mental health status has changed markedly. The updated treatment plan must be
47.29 signed by the client, if appropriate, and by the client's parent or other person authorized by
47.30 statute to give consent to the mental health services for the child.

47.31 Sec. 47. Minnesota Statutes 2008, section 256B.0943, subdivision 9, is amended to
47.32 read:

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

48.1 (1) each individual provider's caseload size permits the provider to deliver services
48.2 to both clients with severe, complex needs and clients with less intensive needs. The
48.3 provider's caseload size should reasonably enable the provider to play an active role in
48.4 service planning, monitoring, and delivering services to meet the client's and client's
48.5 family's needs, as specified in each client's individual treatment plan;

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

48.9 (3) a day treatment program is provided to a group of clients by a multidisciplinary
48.10 team under the clinical supervision of a mental health professional. The day treatment
48.11 program must be provided in and by: (i) an outpatient hospital accredited by the Joint
48.12 Commission on Accreditation of Health Organizations and licensed under sections
48.13 144.50 to 144.55; (ii) a community mental health center under section 245.62; and (iii)
48.14 an entity that is under contract with the county board to operate a program that meets
48.15 the requirements of sections 245.4712, subdivision 2, and 245.4884, subdivision 2,
48.16 and Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must
48.17 stabilize the client's mental health status while developing and improving the client's
48.18 independent living and socialization skills. The goal of the day treatment program must
48.19 be to reduce or relieve the effects of mental illness and provide training to enable the
48.20 client to live in the community. The program must be available at least one day a week
48.21 for a ~~three-hour~~ two-hour time block. The ~~three-hour~~ two-hour time block must include
48.22 at least one hour, ~~but no more than two hours,~~ of individual or group psychotherapy.
48.23 ~~The remainder of the three-hour time block may include recreation therapy, socialization~~
48.24 ~~therapy, or independent living skills therapy, but only if the therapies are included in the~~
48.25 ~~client's individual treatment plan~~ The structured treatment program may include individual
48.26 or group psychotherapy and recreation therapy, socialization therapy, or independent
48.27 living skills therapy, if included in the client's individual treatment plan. Day treatment
48.28 programs are not part of inpatient or residential treatment services; and

48.29 (4) a preschool program is a structured treatment program offered to a child who
48.30 is at least 33 months old, but who has not yet reached the first day of kindergarten, by a
48.31 preschool multidisciplinary team in a day program licensed under Minnesota Rules, parts
48.32 9503.0005 to 9503.0175. The program must be available at least one day a week for a
48.33 minimum two-hour time block. The structured treatment program may include individual
48.34 or group psychotherapy and recreation therapy, socialization therapy, or independent
48.35 living skills therapy, if included in the client's individual treatment plan.

49.1 (b) A provider entity must deliver the service components of children's therapeutic
49.2 services and supports in compliance with the following requirements:

49.3 (1) individual, family, and group psychotherapy must be delivered as specified in
49.4 Minnesota Rules, part 9505.0323;

49.5 (2) individual, family, or group skills training must be provided by a mental health
49.6 professional or a mental health practitioner who has a consulting relationship with a
49.7 mental health professional who accepts full professional responsibility for the training;

49.8 (3) crisis assistance must be time-limited and designed to resolve or stabilize crisis
49.9 through arrangements for direct intervention and support services to the child and the
49.10 child's family. Crisis assistance must utilize resources designed to address abrupt or
49.11 substantial changes in the functioning of the child or the child's family as evidenced by
49.12 a sudden change in behavior with negative consequences for well being, a loss of usual
49.13 coping mechanisms, or the presentation of danger to self or others;

49.14 (4) medically necessary services that are provided by a mental health behavioral
49.15 aide must be designed to improve the functioning of the child and support the family in
49.16 activities of daily and community living. A mental health behavioral aide must document
49.17 the delivery of services in written progress notes. The mental health behavioral aide
49.18 must implement goals in the treatment plan for the child's emotional disturbance that
49.19 allow the child to acquire developmentally and therapeutically appropriate daily living
49.20 skills, social skills, and leisure and recreational skills through targeted activities. These
49.21 activities may include:

49.22 (i) assisting a child as needed with skills development in dressing, eating, and
49.23 toileting;

49.24 (ii) assisting, monitoring, and guiding the child to complete tasks, including
49.25 facilitating the child's participation in medical appointments;

49.26 (iii) observing the child and intervening to redirect the child's inappropriate behavior;

49.27 (iv) assisting the child in using age-appropriate self-management skills as related
49.28 to the child's emotional disorder or mental illness, including problem solving, decision
49.29 making, communication, conflict resolution, anger management, social skills, and
49.30 recreational skills;

49.31 (v) implementing deescalation techniques as recommended by the mental health
49.32 professional;

49.33 (vi) implementing any other mental health service that the mental health professional
49.34 has approved as being within the scope of the behavioral aide's duties; or

50.1 (vii) assisting the parents to develop and use parenting skills that help the child
50.2 achieve the goals outlined in the child's individual treatment plan or individual behavioral
50.3 plan. Parenting skills must be directed exclusively to the child's treatment; and

50.4 (5) direction of a mental health behavioral aide must include the following:

50.5 (i) a total of one hour of on-site observation by a mental health professional during
50.6 the first 12 hours of service provided to a child;

50.7 (ii) ongoing on-site observation by a mental health professional or mental health
50.8 practitioner for at least a total of one hour during every 40 hours of service provided
50.9 to a child; and

50.10 (iii) immediate accessibility of the mental health professional or mental health
50.11 practitioner to the mental health behavioral aide during service provision.

50.12 Sec. 48. Minnesota Statutes 2008, section 256D.44, subdivision 5, is amended to read:

50.13 Subd. 5. **Special needs.** In addition to the state standards of assistance established in
50.14 subdivisions 1 to 4, payments are allowed for the following special needs of recipients of
50.15 Minnesota supplemental aid who are not residents of a nursing home, a regional treatment
50.16 center, or a group residential housing facility.

50.17 (a) The county agency shall pay a monthly allowance for medically prescribed
50.18 diets if the cost of those additional dietary needs cannot be met through some other
50.19 maintenance benefit. The need for special diets or dietary items must be prescribed by
50.20 a licensed physician. Costs for special diets shall be determined as percentages of the
50.21 allotment for a one-person household under the thrifty food plan as defined by the United
50.22 States Department of Agriculture. The types of diets and the percentages of the thrifty
50.23 food plan that are covered are as follows:

50.24 (1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;

50.25 (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent
50.26 of thrifty food plan;

50.27 (3) controlled protein diet, less than 40 grams and requires special products, 125
50.28 percent of thrifty food plan;

50.29 (4) low cholesterol diet, 25 percent of thrifty food plan;

50.30 (5) high residue diet, 20 percent of thrifty food plan;

50.31 (6) pregnancy and lactation diet, 35 percent of thrifty food plan;

50.32 (7) gluten-free diet, 25 percent of thrifty food plan;

50.33 (8) lactose-free diet, 25 percent of thrifty food plan;

50.34 (9) antidumping diet, 15 percent of thrifty food plan;

50.35 (10) hypoglycemic diet, 15 percent of thrifty food plan; or

51.1 (11) ketogenic diet, 25 percent of thrifty food plan.

51.2 (b) Payment for nonrecurring special needs must be allowed for necessary home
51.3 repairs or necessary repairs or replacement of household furniture and appliances using
51.4 the payment standard of the AFDC program in effect on July 16, 1996, for these expenses,
51.5 as long as other funding sources are not available.

51.6 (c) A fee for guardian or conservator service is allowed at a reasonable rate
51.7 negotiated by the county or approved by the court. This rate shall not exceed five percent
51.8 of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the
51.9 guardian or conservator is a member of the county agency staff, no fee is allowed.

51.10 (d) The county agency shall continue to pay a monthly allowance of \$68 for
51.11 restaurant meals for a person who was receiving a restaurant meal allowance on June 1,
51.12 1990, and who eats two or more meals in a restaurant daily. The allowance must continue
51.13 until the person has not received Minnesota supplemental aid for one full calendar month
51.14 or until the person's living arrangement changes and the person no longer meets the criteria
51.15 for the restaurant meal allowance, whichever occurs first.

51.16 (e) A fee of ten percent of the recipient's gross income or \$25, whichever is less,
51.17 is allowed for representative payee services provided by an agency that meets the
51.18 requirements under SSI regulations to charge a fee for representative payee services. This
51.19 special need is available to all recipients of Minnesota supplemental aid regardless of
51.20 their living arrangement.

51.21 (f)(1) Notwithstanding the language in this subdivision, an amount equal to the
51.22 maximum allotment authorized by the federal Food Stamp Program for a single individual
51.23 which is in effect on the first day of July of each year will be added to the standards of
51.24 assistance established in subdivisions 1 to 4 for adults under the age of 65 who qualify
51.25 as shelter needy and are: (i) relocating from an institution, or an adult mental health
51.26 residential treatment program under section 256B.0622; (ii) eligible for the self-directed
51.27 supports option as defined under section 256B.0657, subdivision 2; or (iii) home and
51.28 community-based waiver recipients living in their own home or rented or leased apartment
51.29 which is not owned, operated, or controlled by a provider of service not related by blood
51.30 or marriage.

51.31 (2) Notwithstanding subdivision 3, paragraph (c), an individual eligible for the
51.32 shelter needy benefit under this paragraph is considered a household of one. An eligible
51.33 individual who receives this benefit prior to age 65 may continue to receive the benefit
51.34 after the age of 65.

51.35 (3) "Shelter needy" means that the assistance unit incurs monthly shelter costs that
51.36 exceed 40 percent of the assistance unit's gross income before the application of this

52.1 special needs standard. "Gross income" for the purposes of this section is the applicant's or
52.2 recipient's income as defined in section 256D.35, subdivision 10, or the standard specified
52.3 in subdivision 3, paragraph (a) or (b), whichever is greater. A recipient of a federal or
52.4 state housing subsidy, that limits shelter costs to a percentage of gross income, shall not be
52.5 considered shelter needy for purposes of this paragraph.

52.6 (g) Notwithstanding this subdivision, to access housing and services as provided in
52.7 paragraph (f), the recipient may choose housing that may or may not be owned, operated,
52.8 or controlled by the recipient's service provider if the housing is located in a multifamily
52.9 building of six or more units. The maximum number of units that may be used by
52.10 recipients of this program shall be 50 percent of the units in a building. The department
52.11 shall develop an exception process to the 50 percent maximum. This paragraph expires
52.12 on June 30, 2011.

52.13 Sec. 49. Minnesota Statutes 2008, section 626.556, subdivision 2, is amended to read:

52.14 Subd. 2. **Definitions.** As used in this section, the following terms have the meanings
52.15 given them unless the specific content indicates otherwise:

52.16 (a) "Family assessment" means a comprehensive assessment of child safety, risk
52.17 of subsequent child maltreatment, and family strengths and needs that is applied to a
52.18 child maltreatment report that does not allege substantial child endangerment. Family
52.19 assessment does not include a determination as to whether child maltreatment occurred
52.20 but does determine the need for services to address the safety of family members and the
52.21 risk of subsequent maltreatment.

52.22 (b) "Investigation" means fact gathering related to the current safety of a child
52.23 and the risk of subsequent maltreatment that determines whether child maltreatment
52.24 occurred and whether child protective services are needed. An investigation must be used
52.25 when reports involve substantial child endangerment, and for reports of maltreatment in
52.26 facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to
52.27 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and
52.28 13, and 124D.10; or in a nonlicensed personal care provider association as defined in
52.29 sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

52.30 (c) "Substantial child endangerment" means a person responsible for a child's care,
52.31 and in the case of sexual abuse includes a person who has a significant relationship to the
52.32 child as defined in section 609.341, or a person in a position of authority as defined in
52.33 section 609.341, who by act or omission commits or attempts to commit an act against a
52.34 child under their care that constitutes any of the following:

52.35 (1) egregious harm as defined in section 260C.007, subdivision 14;

- 53.1 (2) sexual abuse as defined in paragraph (d);
- 53.2 (3) abandonment under section 260C.301, subdivision 2;
- 53.3 (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the
- 53.4 child's physical or mental health, including a growth delay, which may be referred to as
- 53.5 failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- 53.6 (5) murder in the first, second, or third degree under section 609.185, 609.19, or
- 53.7 609.195;
- 53.8 (6) manslaughter in the first or second degree under section 609.20 or 609.205;
- 53.9 (7) assault in the first, second, or third degree under section 609.221, 609.222, or
- 53.10 609.223;
- 53.11 (8) solicitation, inducement, and promotion of prostitution under section 609.322;
- 53.12 (9) criminal sexual conduct under sections 609.342 to 609.3451;
- 53.13 (10) solicitation of children to engage in sexual conduct under section 609.352;
- 53.14 (11) malicious punishment or neglect or endangerment of a child under section
- 53.15 609.377 or 609.378;
- 53.16 (12) use of a minor in sexual performance under section 617.246; or
- 53.17 (13) parental behavior, status, or condition which mandates that the county attorney
- 53.18 file a termination of parental rights petition under section 260C.301, subdivision 3,
- 53.19 paragraph (a).
- 53.20 (d) "Sexual abuse" means the subjection of a child by a person responsible for the
- 53.21 child's care, by a person who has a significant relationship to the child, as defined in
- 53.22 section 609.341, or by a person in a position of authority, as defined in section 609.341,
- 53.23 subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual
- 53.24 conduct in the first degree), 609.343 (criminal sexual conduct in the second degree),
- 53.25 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct
- 53.26 in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual
- 53.27 abuse also includes any act which involves a minor which constitutes a violation of
- 53.28 prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes
- 53.29 threatened sexual abuse.
- 53.30 (e) "Person responsible for the child's care" means (1) an individual functioning
- 53.31 within the family unit and having responsibilities for the care of the child such as a
- 53.32 parent, guardian, or other person having similar care responsibilities, or (2) an individual
- 53.33 functioning outside the family unit and having responsibilities for the care of the child
- 53.34 such as a teacher, school administrator, other school employees or agents, or other lawful
- 53.35 custodian of a child having either full-time or short-term care responsibilities including,

54.1 but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching,
54.2 and coaching.

54.3 (f) "Neglect" means the commission or omission of any of the acts specified under
54.4 clauses (1) to (9), other than by accidental means:

54.5 (1) failure by a person responsible for a child's care to supply a child with necessary
54.6 food, clothing, shelter, health, medical, or other care required for the child's physical or
54.7 mental health when reasonably able to do so;

54.8 (2) failure to protect a child from conditions or actions that seriously endanger the
54.9 child's physical or mental health when reasonably able to do so, including a growth delay,
54.10 which may be referred to as a failure to thrive, that has been diagnosed by a physician and
54.11 is due to parental neglect;

54.12 (3) failure to provide for necessary supervision or child care arrangements
54.13 appropriate for a child after considering factors as the child's age, mental ability, physical
54.14 condition, length of absence, or environment, when the child is unable to care for the
54.15 child's own basic needs or safety, or the basic needs or safety of another child in their care;

54.16 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
54.17 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
54.18 child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

54.19 (5) nothing in this section shall be construed to mean that a child is neglected solely
54.20 because the child's parent, guardian, or other person responsible for the child's care in
54.21 good faith selects and depends upon spiritual means or prayer for treatment or care of
54.22 disease or remedial care of the child in lieu of medical care; except that a parent, guardian,
54.23 or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report
54.24 if a lack of medical care may cause serious danger to the child's health. This section does
54.25 not impose upon persons, not otherwise legally responsible for providing a child with
54.26 necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

54.27 (6) prenatal exposure to a controlled substance, as defined in section 253B.02,
54.28 subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal
54.29 symptoms in the child at birth, results of a toxicology test performed on the mother at
54.30 delivery or the child at birth, or medical effects or developmental delays during the child's
54.31 first year of life that medically indicate prenatal exposure to a controlled substance;

54.32 (7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

54.33 (8) chronic and severe use of alcohol or a controlled substance by a parent or
54.34 person responsible for the care of the child that adversely affects the child's basic needs
54.35 and safety; or

55.1 (9) emotional harm from a pattern of behavior which contributes to impaired
55.2 emotional functioning of the child which may be demonstrated by a substantial and
55.3 observable effect in the child's behavior, emotional response, or cognition that is not
55.4 within the normal range for the child's age and stage of development, with due regard to
55.5 the child's culture.

55.6 (g) "Physical abuse" means any physical injury, mental injury, or threatened injury,
55.7 inflicted by a person responsible for the child's care on a child other than by accidental
55.8 means, or any physical or mental injury that cannot reasonably be explained by the child's
55.9 history of injuries, or any aversive or deprivation procedures, or regulated interventions,
55.10 that have not been authorized under section 121A.67 or 245.825.

55.11 Abuse does not include reasonable and moderate physical discipline of a child
55.12 administered by a parent or legal guardian which does not result in an injury. Abuse does
55.13 not include the use of reasonable force by a teacher, principal, or school employee as
55.14 allowed by section 121A.582. Actions which are not reasonable and moderate include,
55.15 but are not limited to, any of the following that are done in anger or without regard to the
55.16 safety of the child:

55.17 (1) throwing, kicking, burning, biting, or cutting a child;

55.18 (2) striking a child with a closed fist;

55.19 (3) shaking a child under age three;

55.20 (4) striking or other actions which result in any nonaccidental injury to a child
55.21 under 18 months of age;

55.22 (5) unreasonable interference with a child's breathing;

55.23 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

55.24 (7) striking a child under age one on the face or head;

55.25 (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
55.26 substances which were not prescribed for the child by a practitioner, in order to control or
55.27 punish the child; or other substances that substantially affect the child's behavior, motor
55.28 coordination, or judgment or that results in sickness or internal injury, or subjects the
55.29 child to medical procedures that would be unnecessary if the child were not exposed
55.30 to the substances;

55.31 (9) unreasonable physical confinement or restraint not permitted under section
55.32 609.379, including but not limited to tying, caging, or chaining; or

55.33 (10) in a school facility or school zone, an act by a person responsible for the child's
55.34 care that is a violation under section 121A.58.

56.1 (h) "Report" means any report received by the local welfare agency, police
56.2 department, county sheriff, or agency responsible for assessing or investigating
56.3 maltreatment pursuant to this section.

56.4 (i) "Facility" means:

56.5 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
56.6 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
56.7 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;

56.8 (2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and
56.9 124D.10; or

56.10 (3) a nonlicensed personal care provider organization as defined in sections 256B.04,
56.11 subdivision 16, and 256B.0625, subdivision 19a.

56.12 (j) "Operator" means an operator or agency as defined in section 245A.02.

56.13 (k) "Commissioner" means the commissioner of human services.

56.14 (l) "Practice of social services," for the purposes of subdivision 3, includes but is
56.15 not limited to employee assistance counseling and the provision of guardian ad litem and
56.16 parenting time expeditor services.

56.17 (m) "Mental injury" means an injury to the psychological capacity or emotional
56.18 stability of a child as evidenced by an observable or substantial impairment in the child's
56.19 ability to function within a normal range of performance and behavior with due regard to
56.20 the child's culture.

56.21 (n) "Threatened injury" means a statement, overt act, condition, or status that
56.22 represents a substantial risk of physical or sexual abuse or mental injury. Threatened
56.23 injury includes, but is not limited to, exposing a child to a person responsible for the
56.24 child's care, as defined in paragraph (e), clause (1), who has:

56.25 (1) subjected a child to, or failed to protect a child from, an overt act or condition
56.26 that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a
56.27 similar law of another jurisdiction;

56.28 (2) been found to be palpably unfit under section 260C.301, paragraph (b), clause
56.29 (4), or a similar law of another jurisdiction;

56.30 (3) committed an act that has resulted in an involuntary termination of parental rights
56.31 under section 260C.301, or a similar law of another jurisdiction; or

56.32 (4) committed an act that has resulted in the involuntary transfer of permanent legal
56.33 and physical custody of a child to a relative under section 260C.201, subdivision 11,
56.34 paragraph (d), clause (1), or a similar law of another jurisdiction.

56.35 (o) Persons who conduct assessments or investigations under this section shall take
56.36 into account accepted child-rearing practices of the culture in which a child participates

57.1 and accepted teacher discipline practices, which are not injurious to the child's health,
57.2 welfare, and safety.

57.3 (p) "Accidental" means a sudden, not reasonably foreseeable, and unexpected
57.4 occurrence or event which:

57.5 (1) is not likely to occur and could not have been prevented by exercise of due
57.6 care; and

57.7 (2) if occurring while a child is receiving services from a facility, happens when the
57.8 facility and the employee or person providing services in the facility are in compliance
57.9 with the laws and rules relevant to the occurrence of event.

57.10 Sec. 50. Minnesota Statutes 2008, section 626.556, subdivision 10e, is amended to
57.11 read:

57.12 Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family
57.13 assessment or the investigation within 45 days of the receipt of a report. The conclusion of
57.14 the assessment or investigation may be extended to permit the completion of a criminal
57.15 investigation or the receipt of expert information requested within 45 days of the receipt
57.16 of the report.

57.17 (b) After conducting a family assessment, the local welfare agency shall determine
57.18 whether services are needed to address the safety of the child and other family members
57.19 and the risk of subsequent maltreatment.

57.20 (c) After conducting an investigation, the local welfare agency shall make two
57.21 determinations: first, whether maltreatment has occurred; and second, whether child
57.22 protective services are needed.

57.23 (d) If the commissioner of education conducts an assessment or investigation,
57.24 the commissioner shall determine whether maltreatment occurred and what corrective
57.25 or protective action was taken by the school facility. If a determination is made that
57.26 maltreatment has occurred, the commissioner shall report to the employer, the school
57.27 board, and any appropriate licensing entity the determination that maltreatment occurred
57.28 and what corrective or protective action was taken by the school facility. In all other cases,
57.29 the commissioner shall inform the school board or employer that a report was received,
57.30 the subject of the report, the date of the initial report, the category of maltreatment alleged
57.31 as defined in paragraph (f), the fact that maltreatment was not determined, and a summary
57.32 of the specific reasons for the determination.

57.33 (e) When maltreatment is determined in an investigation involving a facility,
57.34 the investigating agency shall also determine whether the facility or individual was
57.35 responsible, or whether both the facility and the individual were responsible for the

58.1 maltreatment using the mitigating factors in paragraph (i). Determinations under this
58.2 subdivision must be made based on a preponderance of the evidence and are private data
58.3 on individuals or nonpublic data as maintained by the commissioner of education.

58.4 (f) For the purposes of this subdivision, "maltreatment" means any of the following
58.5 acts or omissions:

58.6 (1) physical abuse as defined in subdivision 2, paragraph (g);

58.7 (2) neglect as defined in subdivision 2, paragraph (f);

58.8 (3) sexual abuse as defined in subdivision 2, paragraph (d);

58.9 (4) mental injury as defined in subdivision 2, paragraph (m); or

58.10 (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (i).

58.11 (g) For the purposes of this subdivision, a determination that child protective
58.12 services are needed means that the local welfare agency has documented conditions
58.13 during the assessment or investigation sufficient to cause a child protection worker, as
58.14 defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of
58.15 maltreatment if protective intervention is not provided and that the individuals responsible
58.16 for the child's care have not taken or are not likely to take actions to protect the child
58.17 from maltreatment or risk of maltreatment.

58.18 (h) This subdivision does not mean that maltreatment has occurred solely because
58.19 the child's parent, guardian, or other person responsible for the child's care in good faith
58.20 selects and depends upon spiritual means or prayer for treatment or care of disease
58.21 or remedial care of the child, in lieu of medical care. However, if lack of medical care
58.22 may result in serious danger to the child's health, the local welfare agency may ensure
58.23 that necessary medical services are provided to the child.

58.24 (i) When determining whether the facility or individual is the responsible party, or
58.25 whether both the facility and the individual are responsible for determined maltreatment in
58.26 a facility, the investigating agency shall consider at least the following mitigating factors:

58.27 (1) whether the actions of the facility or the individual caregivers were according to,
58.28 and followed the terms of, an erroneous physician order, prescription, individual care plan,
58.29 or directive; however, this is not a mitigating factor when the facility or caregiver was
58.30 responsible for the issuance of the erroneous order, prescription, individual care plan, or
58.31 directive or knew or should have known of the errors and took no reasonable measures to
58.32 correct the defect before administering care;

58.33 (2) comparative responsibility between the facility, other caregivers, and
58.34 requirements placed upon an employee, including the facility's compliance with related
58.35 regulatory standards and the adequacy of facility policies and procedures, facility training,

59.1 an individual's participation in the training, the caregiver's supervision, and facility staffing
59.2 levels and the scope of the individual employee's authority and discretion; and

59.3 (3) whether the facility or individual followed professional standards in exercising
59.4 professional judgment.

59.5 (j) Notwithstanding paragraph (i), when maltreatment is determined to have been
59.6 committed by an individual who is also the facility license holder, both the individual and
59.7 the facility must be determined responsible for the maltreatment, and both the background
59.8 study disqualification standards under section 245C.15, subdivision 4, and the licensing
59.9 actions under sections 245A.06 or 245A.07 apply.

59.10 (k) Individual counties may implement more detailed definitions or criteria that
59.11 indicate which allegations to investigate, as long as a county's policies are consistent
59.12 with the definitions in the statutes and rules and are approved by the county board. Each
59.13 local welfare agency shall periodically inform mandated reporters under subdivision 3
59.14 who work in the county of the definitions of maltreatment in the statutes and rules and any
59.15 additional definitions or criteria that have been approved by the county board.

59.16 Sec. 51. Minnesota Statutes 2008, section 626.556, subdivision 10f, is amended to read:

59.17 Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion
59.18 of a family assessment, the local welfare agency shall notify the parent or guardian
59.19 of the child of the need for services to address child safety concerns or significant risk
59.20 of subsequent child maltreatment. The local welfare agency and the family may also
59.21 jointly agree that family support and family preservation services are needed. Within ten
59.22 working days of the conclusion of an investigation, the local welfare agency or agency
59.23 responsible for assessing or investigating the report shall notify the parent or guardian
59.24 of the child, the person determined to be maltreating the child, and if applicable, the
59.25 director of the facility, of the determination and a summary of the specific reasons for
59.26 the determination. When the investigation involves a child foster care setting that is
59.27 monitored by a private licensing agency under section 245A.16, the local welfare agency
59.28 responsible for assessing or investigating the report shall notify the private licensing
59.29 agency of the determination and shall provide a summary of the specific reasons for
59.30 the determination. The notice to the private licensing agency must include identifying
59.31 private data, but not the identity of the reporter of maltreatment. The notice must also
59.32 include a certification that the information collection procedures under subdivision 10,
59.33 paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to
59.34 obtain access to other private data on the subject collected, created, or maintained under
59.35 this section. In addition, the notice shall include the length of time that the records will be

60.1 kept under subdivision 11c. The investigating agency shall notify the parent or guardian
60.2 of the child who is the subject of the report, and any person or facility determined to
60.3 have maltreated a child, of their appeal or review rights under this section or section
60.4 256.022. The notice must also state that a finding of maltreatment may result in denial of a
60.5 license application or background study disqualification under chapter 245C related to
60.6 employment or services that are licensed by the Department of Human Services under
60.7 chapter 245A, the Department of Health under chapter 144 or 144A, the Department of
60.8 Corrections under section 241.021, and from providing services related to an unlicensed
60.9 personal care provider organization under chapter 256B.

60.10 Sec. 52. Minnesota Statutes 2008, section 626.557, subdivision 9c, is amended to read:

60.11 Subd. 9c. **Lead agency; notifications, dispositions, determinations.** (a) Upon
60.12 request of the reporter, the lead agency shall notify the reporter that it has received the
60.13 report, and provide information on the initial disposition of the report within five business
60.14 days of receipt of the report, provided that the notification will not endanger the vulnerable
60.15 adult or hamper the investigation.

60.16 (b) Upon conclusion of every investigation it conducts, the lead agency shall make a
60.17 final disposition as defined in section 626.5572, subdivision 8.

60.18 (c) When determining whether the facility or individual is the responsible party for
60.19 substantiated maltreatment or whether both the facility and the individual are responsible
60.20 for substantiated maltreatment, the lead agency shall consider at least the following
60.21 mitigating factors:

60.22 (1) whether the actions of the facility or the individual caregivers were in accordance
60.23 with, and followed the terms of, an erroneous physician order, prescription, resident
60.24 care plan, or directive. This is not a mitigating factor when the facility or caregiver is
60.25 responsible for the issuance of the erroneous order, prescription, plan, or directive or
60.26 knows or should have known of the errors and took no reasonable measures to correct the
60.27 defect before administering care;

60.28 (2) the comparative responsibility between the facility, other caregivers, and
60.29 requirements placed upon the employee, including but not limited to, the facility's
60.30 compliance with related regulatory standards and factors such as the adequacy of facility
60.31 policies and procedures, the adequacy of facility training, the adequacy of an individual's
60.32 participation in the training, the adequacy of caregiver supervision, the adequacy of facility
60.33 staffing levels, and a consideration of the scope of the individual employee's authority; and

60.34 (3) whether the facility or individual followed professional standards in exercising
60.35 professional judgment.

61.1 (d) When substantiated maltreatment is determined to have been committed by
61.2 an individual who is also the facility license holder, both the individual and the facility
61.3 must be determined responsible for the maltreatment, and both the background study
61.4 disqualification standards under section 245C.15, subdivision 4, and the licensing actions
61.5 under section 245A.06 or 245A.06 apply.

61.6 (e) The lead agency shall complete its final disposition within 60 calendar days. If
61.7 the lead agency is unable to complete its final disposition within 60 calendar days, the lead
61.8 agency shall notify the following persons provided that the notification will not endanger
61.9 the vulnerable adult or hamper the investigation: (1) the vulnerable adult or the vulnerable
61.10 adult's legal guardian, when known, if the lead agency knows them to be aware of the
61.11 investigation; and (2) the facility, where applicable. The notice shall contain the reason for
61.12 the delay and the projected completion date. If the lead agency is unable to complete its
61.13 final disposition by a subsequent projected completion date, the lead agency shall again
61.14 notify the vulnerable adult or the vulnerable adult's legal guardian, when known if the lead
61.15 agency knows them to be aware of the investigation, and the facility, where applicable,
61.16 of the reason for the delay and the revised projected completion date provided that the
61.17 notification will not endanger the vulnerable adult or hamper the investigation. A lead
61.18 agency's inability to complete the final disposition within 60 calendar days or by any
61.19 projected completion date does not invalidate the final disposition.

61.20 ~~(e)~~ (f) Within ten calendar days of completing the final disposition, the lead agency
61.21 shall provide a copy of the public investigation memorandum under subdivision 12b,
61.22 paragraph (b), clause (1), when required to be completed under this section, to the
61.23 following persons: (1) the vulnerable adult, or the vulnerable adult's legal guardian, if
61.24 known unless the lead agency knows that the notification would endanger the well-being
61.25 of the vulnerable adult; (2) the reporter, if the reporter requested notification when making
61.26 the report, provided this notification would not endanger the well-being of the vulnerable
61.27 adult; (3) the alleged perpetrator, if known; (4) the facility; and (5) the ombudsman for
61.28 long-term care, or the ombudsman for mental health and developmental disabilities, as
61.29 appropriate.

61.30 ~~(f)~~ (g) The lead agency shall notify the vulnerable adult who is the subject of
61.31 the report or the vulnerable adult's legal guardian, if known, and any person or facility
61.32 determined to have maltreated a vulnerable adult, of their appeal or review rights under
61.33 this section or section 256.021.

61.34 ~~(g)~~ (h) The lead agency shall routinely provide investigation memoranda for
61.35 substantiated reports to the appropriate licensing boards. These reports must include
61.36 the names of substantiated perpetrators. The lead agency may not provide investigative

62.1 memoranda for inconclusive or false reports to the appropriate licensing boards unless the
62.2 lead agency's investigation gives reason to believe that there may have been a violation of
62.3 the applicable professional practice laws. If the investigation memorandum is provided
62.4 to a licensing board, the subject of the investigation memorandum shall be notified and
62.5 receive a summary of the investigative findings.

62.6 ~~(h)~~ (i) In order to avoid duplication, licensing boards shall consider the findings of
62.7 the lead agency in their investigations if they choose to investigate. This does not preclude
62.8 licensing boards from considering other information.

62.9 ~~(i)~~ (j) The lead agency must provide to the commissioner of human services its final
62.10 dispositions, including the names of all substantiated perpetrators. The commissioner of
62.11 human services shall establish records to retain the names of substantiated perpetrators.

62.12 Sec. 53. Minnesota Statutes 2008, section 626.5572, subdivision 13, is amended to
62.13 read:

62.14 Subd. 13. **Lead agency.** "Lead agency" is the primary administrative agency
62.15 responsible for investigating reports made under section 626.557.

62.16 (a) The Department of Health is the lead agency for the facilities which are licensed
62.17 or are required to be licensed as hospitals, home care providers, nursing homes, residential
62.18 care homes, ~~or~~ boarding care homes, or residential facilities that are also federally certified
62.19 as intermediate care facilities that serve people with developmental disabilities.

62.20 (b) The Department of Human Services is the lead agency for the programs licensed
62.21 or required to be licensed as adult day care, adult foster care, programs for people with
62.22 developmental disabilities, mental health programs, or chemical health programs, ~~or~~
62.23 ~~personal care provider organizations.~~

62.24 (c) The county social service agency or its designee is the lead agency for all
62.25 other reports.

62.26 Sec. 54. **COMMON SERVICE MENU FOR HOME AND COMMUNITY-BASED**
62.27 **WAIVER PROGRAMS.**

62.28 The commissioner of human services shall confer with representatives of recipients,
62.29 advocacy groups, counties, providers, and health plans to develop and update a common
62.30 service menu for home and community-based waiver programs. The commissioner may
62.31 consult with existing stakeholder groups convened under the commissioner's authority to
62.32 meet all or some of the requirements of this section.

63.1 Sec. 55. **INTERMEDIATE CARE FACILITIES FOR PERSONS WITH**
63.2 **DEVELOPMENTAL DISABILITIES REPORT.**

63.3 The commissioner of human services shall consult with providers and advocates of
63.4 intermediate care facilities for persons with developmental disabilities to monitor progress
63.5 made in response to the commissioner's December 15, 2008, report to the legislature
63.6 regarding intermediate care facilities for persons with developmental disabilities.

63.7 Sec. 56. **HOUSING OPTIONS.**

63.8 The commissioner of human services, in consultation with the commissioner of
63.9 administration and the Minnesota Housing Finance Agency, and representatives of
63.10 counties, residents' advocacy groups, consumers of housing services, and provider
63.11 agencies shall explore ways to maximize the availability and affordability of housing
63.12 choices available to persons with disabilities or who need care assistance due to other
63.13 health challenges. A goal shall also be to minimize state physical plant costs in order to
63.14 serve more persons with appropriate program and care support. Consideration shall be
63.15 given to:

63.16 (1) improved access to rent subsidies;

63.17 (2) use of cooperatives, land trusts, and other limited equity ownership models;

63.18 (3) whether a public equity housing fund should be established that would maintain
63.19 the state's interest, to the extent paid from state funds, including group residential housing
63.20 and Minnesota supplemental aid shelter-needy funds in provider-owned housing, so that
63.21 when sold, the state would recover its share for a public equity fund to be used for future
63.22 public needs under this chapter;

63.23 (4) the desirability of the state acquiring an ownership interest or promoting the
63.24 use of publicly owned housing;

63.25 (5) promoting more choices in the market for accessible housing that meets the
63.26 needs of persons with physical challenges; and

63.27 (6) what consumer ownership models, if any, are appropriate.

63.28 The commissioner shall provide a written report on the findings of the evaluation of
63.29 housing options to the chairs and ranking minority members of the house of representatives
63.30 and senate standing committees with jurisdiction over health and human services policy
63.31 and funding by December 15, 2010. This report shall replace the November 1, 2010,
63.32 annual report by the commissioner required in Minnesota Statutes, sections 256B.0916,
63.33 subdivision 7, and 256B.49, subdivision 21.

63.34 Sec. 57. **REVISOR'S INSTRUCTION.**

64.1 In Minnesota Statutes, the revisor of statutes shall correct the internal cross-reference
64.2 to "section 245C.03, subdivision 1, clauses (3) and (4)" in section 245C.03, subdivision 4,
64.3 by inserting "paragraph (a)," after "subdivision 1,". The revisor of statutes shall correct
64.4 the internal cross-reference to "section 245C.03, subdivision 1, clauses (2), (5), and (6)" in
64.5 section 245C.14, subdivision 2, by inserting "paragraph (a)," after "subdivision 1,".

64.6 Sec. 58. **REPEALER.**

64.7 (a) Minnesota Statutes 2008, section 245C.10, subdivision 1, is repealed.

64.8 (b) Minnesota Rules, part 9555.6125, subpart 4, item B, is repealed.