

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 3178

(SENATE AUTHORS: WIKLUND)

DATE	D-PG	OFFICIAL STATUS
02/17/2022	5042	Introduction and first reading Referred to Aging and Long-Term Care Policy See HF4065

1.1 A bill for an act

1.2 relating to the operation of state government; modifying human services provisions

1.3 in continuing care for older adults, children and family services, community

1.4 supports, health care, program operations, and direct care and treatment; amending

1.5 Minnesota Statutes 2020, sections 62J.2930, subdivision 3; 245A.02, subdivision

1.6 5a; 245A.04, subdivision 4; 245A.07, subdivisions 2a, 3; 245A.14, subdivision

1.7 14; 245A.1435; 245A.1443; 245A.146, subdivision 3; 245D.12; 245F.15,

1.8 subdivision 1; 245F.16, subdivision 1; 245G.01, subdivisions 4, 17; 245G.06,

1.9 subdivision 3, by adding subdivisions; 245G.08, subdivision 5; 245G.09,

1.10 subdivision 3; 245G.11, subdivisions 1, 10; 245G.13, subdivision 1; 245G.20;

1.11 245G.22, subdivision 7; 245H.05; 246.131; 253B.18, subdivision 6; 256.01, by

1.12 adding a subdivision; 256B.055, subdivision 2; 256B.056, subdivisions 3c, 11;

1.13 256B.0595, subdivision 1; 256B.0659, subdivision 19; 256B.77, subdivision 13;

1.14 256K.26, subdivisions 6, 7; 256P.04, subdivision 11; 256Q.06, by adding a

1.15 subdivision; 260.012; 260C.007, by adding a subdivision; 260C.151, subdivision

1.16 6; 260C.152, subdivision 5; 260C.175, subdivision 2; 260C.176, subdivision 2;

1.17 260C.178, subdivision 1; 260C.181, subdivision 2; 260C.193, subdivision 3;

1.18 260C.201, subdivisions 1, 2; 260C.202; 260C.203; 260C.204; 260C.221; 260C.607,

1.19 subdivisions 2, 5; 260C.613, subdivisions 1, 5; 268.19, subdivision 1; 501C.1206;

1.20 Minnesota Statutes 2021 Supplement, sections 62A.673, subdivision 2; 148F.11,

1.21 subdivision 1; 245.467, subdivisions 2, 3; 245.4871, subdivision 21; 245.4876,

1.22 subdivisions 2, 3; 245.735, subdivision 3; 245A.03, subdivision 7; 245A.14,

1.23 subdivision 4; 245I.04, subdivision 4; 245I.05, subdivision 3; 245I.10, subdivisions

1.24 2, 6; 254B.05, subdivision 5; 256B.0622, subdivision 2; 256B.0625, subdivision

1.25 3b; 256B.0671, subdivision 6; 256B.0911, subdivision 3a; 256B.0946, subdivision

1.26 1; 256B.0947, subdivision 6; 256B.0949, subdivisions 2, 13; 256P.01, subdivision

1.27 6a; 256P.06, subdivision 3; 260C.212, subdivisions 1, 2; 260C.605, subdivision

1.28 1; 260C.607, subdivision 6; Laws 2009, chapter 79, article 13, section 3, subdivision

1.29 10, as amended; Laws 2020, First Special Session chapter 7, section 1, subdivision

1.30 1, as amended; proposing coding for new law in Minnesota Statutes, chapters

1.31 245A; 256B; repealing Minnesota Statutes 2020, sections 245F.15, subdivision 2;

1.32 245G.11, subdivision 2; 246.0136; 252.025, subdivision 7; 252.035; 254A.04;

1.33 254B.14, subdivisions 1, 2, 3, 4, 6; 256B.057, subdivision 7; 256B.69, subdivision

1.34 20; Minnesota Statutes 2021 Supplement, section 254B.14, subdivision 5;

1.35 Minnesota Rules, parts 2960.0460, subpart 2; 9530.6565, subpart 2.

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

2.2 **ARTICLE 1**
2.3 **CONTINUING CARE FOR OLDER ADULTS**

2.4 Section 1. Minnesota Statutes 2020, section 245A.14, subdivision 14, is amended to read:

2.5 Subd. 14. **Attendance records for publicly funded services.** (a) A child care center
2.6 licensed under this chapter and according to Minnesota Rules, chapter 9503, must maintain
2.7 documentation of actual attendance for each child receiving care for which the license holder
2.8 is reimbursed by a governmental program. The records must be accessible to the
2.9 commissioner during the program's hours of operation, they must be completed on the actual
2.10 day of attendance, and they must include:

- 2.11 (1) the first and last name of the child;
2.12 (2) the time of day that the child was dropped off; and
2.13 (3) the time of day that the child was picked up.

2.14 (b) A family child care provider licensed under this chapter and according to Minnesota
2.15 Rules, chapter 9502, must maintain documentation of actual attendance for each child
2.16 receiving care for which the license holder is reimbursed for the care of that child by a
2.17 governmental program. The records must be accessible to the commissioner during the
2.18 program's hours of operation, they must be completed on the actual day of attendance, and
2.19 they must include:

- 2.20 (1) the first and last name of the child;
2.21 (2) the time of day that the child was dropped off; and
2.22 (3) the time of day that the child was picked up.

2.23 (c) An adult day services program licensed under this chapter and according to Minnesota
2.24 Rules, parts 9555.5105 to 9555.6265, must maintain documentation of actual attendance
2.25 for each adult day service recipient for which the license holder is reimbursed by a
2.26 governmental program. The records must be accessible to the commissioner during the
2.27 program's hours of operation, they must be completed on the actual day of attendance, and
2.28 they must include:

- 2.29 (1) the first, middle, and last name of the recipient;
2.30 (2) the time of day that the recipient was dropped off; and
2.31 (3) the time of day that the recipient was picked up.

3.1 (d) ~~The commissioner shall not issue a correction for attendance record errors that occur~~
3.2 ~~before August 1, 2013.~~ Adult day services programs licensed under this chapter that are
3.3 designated for remote adult day services must maintain documentation of actual participation
3.4 for each adult day service recipient for whom the license holder is reimbursed by a
3.5 governmental program. The records must be accessible to the commissioner during the
3.6 program's hours of operation, be completed on the actual day service is provided, and include
3.7 the:

3.8 (1) first, middle, and last name of the recipient;

3.9 (2) time of day the remote services started;

3.10 (3) time of day that the remote services ended; and

3.11 (4) means by which the remote services were provided, through audio remote services
3.12 or through video remote services.

3.13 **EFFECTIVE DATE.** This section is effective January 1, 2023.

3.14 **Sec. 2. [245A.70] REMOTE ADULT DAY SERVICES.**

3.15 (a) For the purposes of sections 245A.70 to 245A.75, the following terms have the
3.16 meanings given.

3.17 (b) "Adult day care" and "adult day services" have the meanings given in section 245A.02,
3.18 subdivision 2a.

3.19 (c) "Remote adult day services" means an individualized and coordinated set of services
3.20 provided via live two-way communication by an adult day care or adult day services center.

3.21 (d) "Live two-way communication" means real-time audio or video transmission of
3.22 information between a participant and an actively involved staff member.

3.23 **Sec. 3. [245A.71] APPLICABILITY AND SCOPE.**

3.24 Subdivision 1. **Licensing requirements.** Adult day care centers or adult day services
3.25 centers that provide remote adult day services must be licensed under this chapter and
3.26 comply with the requirements in this section.

3.27 Subd. 2. **Standards for licensure.** License holders seeking to provide remote adult day
3.28 services must submit a request in the manner prescribed by the commissioner. Remote adult
3.29 day services must not be delivered until approved by the commissioner. The designation to
3.30 provide remote services is voluntary for license holders. Upon approval, the designation of

4.1 approval for remote adult day services shall be printed on the center's license, and identified
4.2 on the commissioner's public website.

4.3 Subd. 3. **Federal requirements.** Adult day care centers or adult day services centers
4.4 that provide remote adult day services to participants receiving alternative care under section
4.5 256B.0913, essential community supports under section 256B.0922, or home and
4.6 community-based services waivers under chapter 256S or section 256B.092 or 256B.49
4.7 must comply with federally approved waiver plans.

4.8 Subd. 4. **Service limitations.** Remote adult day services must be provided during the
4.9 days and hours of in-person services specified on the license of the adult day care center or
4.10 family adult day services center.

4.11 **Sec. 4. [245A.72] RECORD REQUIREMENTS.**

4.12 Adult day centers and adult day services centers providing remote adult day services
4.13 must comply with participant record requirements set forth in Minnesota Rules, part
4.14 9555.9660. The center must document how remote services will help a participant reach
4.15 the short- and long-term objectives in the participant's plan of care.

4.16 **Sec. 5. [245A.73] REMOTE ADULT DAY SERVICES STAFF.**

4.17 Subdivision 1. **Staff ratios.** (a) A staff person who provides remote adult day services
4.18 without two-way interactive video must only provide services to one participant at a time.

4.19 (b) A staff person who provides remote adult day services through two-way interactive
4.20 video must not provide services to more than eight participants at one time.

4.21 Subd. 2. **Staff training.** A center licensed under section 245A.71 must document training
4.22 provided to each staff person regarding the provision of remote services in the staff person's
4.23 record. The training must be provided prior to a staff person delivering remote adult day
4.24 services without supervision. The training must include:

4.25 (1) how to use the equipment, technology, and devices required to provide remote adult
4.26 day services via live two-way communication;

4.27 (2) orientation and training on each participant's plan of care as directly related to remote
4.28 adult day services; and

4.29 (3) direct observation by a manager or supervisor of the staff person while providing
4.30 supervised remote service delivery sufficient to assess staff competency.

5.1 Sec. 6. **[245A.74] INDIVIDUAL SERVICE PLANNING.**

5.2 Subdivision 1. **Eligibility.** (a) A person must be eligible for and receiving in-person
5.3 adult day services to receive remote adult day services from the same provider. The same
5.4 provider must deliver both in-person adult day services and remote adult day services to a
5.5 participant.

5.6 (b) The license holder must update the participant's plan of care according to Minnesota
5.7 Rules, part 9555.9700.

5.8 (c) For a participant who chooses to receive remote adult day services, the license holder
5.9 must document in the plan of care the participant's proposed schedule and frequency for
5.10 the participant receiving both in-person and remote services. The license holder must also
5.11 document in the participant's plan of care that remote services:

5.12 (1) are chosen as a service delivery method by the participant or legal representative;

5.13 (2) meet the participant's assessed needs;

5.14 (3) are provided within the scope of adult day services; and

5.15 (4) help the participant achieve identified short and long-term objectives specific to the
5.16 provision of remote adult day services.

5.17 Subd. 2. **Participant daily service limitations.** In a 24-hour period, a participant may
5.18 receive:

5.19 (1) a combination of in-person adult day services and remote adult day services on the
5.20 same day but not at the same time;

5.21 (2) a combination of in-person and remote adult day services that does not exceed 12
5.22 hours in total; and

5.23 (3) up to six hours of remote adult day service.

5.24 Subd. 3. **Minimum in-person requirement.** A participant who receives remote services
5.25 must receive services in-person as assigned in the participant's plan of care at least quarterly.

5.26 Sec. 7. **[245A.75] SERVICE AND PROGRAM REQUIREMENTS.**

5.27 Remote adult day services must be in the scope of adult day services provided in
5.28 Minnesota Rules, part 9555.9710, subparts 3 to 7.

5.29 **EFFECTIVE DATE.** This section is effective January 1, 2023.

6.1 **ARTICLE 2**6.2 **CHILDREN AND FAMILY SERVICES**

6.3 Section 1. Minnesota Statutes 2020, section 256P.04, subdivision 11, is amended to read:

6.4 Subd. 11. **Participant's completion of household report form.** (a) When a participant
6.5 is required to complete a household report form, the following paragraphs apply.

6.6 (b) If the agency receives an incomplete household report form, the agency must
6.7 immediately ~~return the incomplete form and clearly state what the participant must do for~~
6.8 ~~the form to be complete~~ contact the participant by phone or in writing to acquire the necessary
6.9 information to complete the form.

6.10 (c) The automated eligibility system must send a notice of proposed termination of
6.11 assistance to the participant if a complete household report form is not received by the
6.12 agency. The automated notice must be mailed to the participant by approximately the 16th
6.13 of the month. When a participant submits an incomplete form on or after the date a notice
6.14 of proposed termination has been sent, the termination is valid unless the participant submits
6.15 a complete form before the end of the month.

6.16 (d) The submission of a household report form is considered to have continued the
6.17 participant's application for assistance if a complete household report form is received within
6.18 a calendar month after the month in which the form was due. Assistance shall be paid for
6.19 the period beginning with the first day of that calendar month.

6.20 (e) An agency must allow good cause exemptions for a participant required to complete
6.21 a household report form when any of the following factors cause a participant to fail to
6.22 submit a completed household report form before the end of the month in which the form
6.23 is due:

6.24 (1) an employer delays completion of employment verification;

6.25 (2) the agency does not help a participant complete the household report form when the
6.26 participant asks for help;

6.27 (3) a participant does not receive a household report form due to a mistake on the part
6.28 of the department or the agency or a reported change in address;

6.29 (4) a participant is ill or physically or mentally incapacitated; or

6.30 (5) some other circumstance occurs that a participant could not avoid with reasonable
6.31 care which prevents the participant from providing a completed household report form
6.32 before the end of the month in which the form is due.

7.1 Sec. 2. Minnesota Statutes 2021 Supplement, section 256P.06, subdivision 3, is amended
7.2 to read:

7.3 Subd. 3. **Income inclusions.** The following must be included in determining the income
7.4 of an assistance unit:

7.5 (1) earned income; and

7.6 (2) unearned income, which includes:

7.7 (i) interest and dividends from investments and savings;

7.8 (ii) capital gains as defined by the Internal Revenue Service from any sale of real property;

7.9 (iii) proceeds from rent and contract for deed payments in excess of the principal and
7.10 interest portion owed on property;

7.11 (iv) income from trusts, excluding special needs and supplemental needs trusts;

7.12 (v) interest income from loans made by the participant or household;

7.13 (vi) cash prizes and winnings;

7.14 (vii) unemployment insurance income that is received by an adult member of the
7.15 assistance unit unless the individual receiving unemployment insurance income is:

7.16 (A) 18 years of age and enrolled in a secondary school; or

7.17 (B) 18 or 19 years of age, a caregiver, and is enrolled in school at least half-time;

7.18 (viii) retirement, survivors, and disability insurance payments;

7.19 (ix) nonrecurring income over \$60 per quarter unless the nonrecurring income is: (A)
7.20 from tax refunds, tax rebates, or tax credits; (B) a reimbursement, rebate, award, grant, or
7.21 refund of personal or real property or costs or losses incurred when these payments are
7.22 made by: a public agency; a court; solicitations through public appeal; a federal, state, or
7.23 local unit of government; or a disaster assistance organization; (C) provided as an in-kind
7.24 benefit; or (D) earmarked and used for the purpose for which it was intended, subject to
7.25 verification requirements under section 256P.04;

7.26 (x) retirement benefits;

7.27 (xi) cash assistance benefits, as defined by each program in chapters 119B, 256D, 256I,
7.28 and 256J;

7.29 (xii) Tribal per capita payments unless excluded by federal and state law;

8.1 ~~(xiii) income and payments from service and rehabilitation programs that meet or exceed~~
 8.2 ~~the state's minimum wage rate;~~

8.3 ~~(xiv)~~ (xiii) income from members of the United States armed forces unless excluded
 8.4 from income taxes according to federal or state law;

8.5 ~~(xv)~~ (xiv) all child support payments for programs under chapters 119B, 256D, and 256I;

8.6 ~~(xvi)~~ (xv) the amount of child support received that exceeds \$100 for assistance units
 8.7 with one child and \$200 for assistance units with two or more children for programs under
 8.8 chapter 256J;

8.9 ~~(xvii)~~ (xvi) spousal support; and

8.10 ~~(xviii)~~ (xvii) workers' compensation.

8.11 Sec. 3. Minnesota Statutes 2020, section 260.012, is amended to read:

8.12 **260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY**
 8.13 **REUNIFICATION; REASONABLE EFFORTS.**

8.14 (a) Once a child alleged to be in need of protection or services is under the court's
 8.15 jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate
 8.16 services and actions, by the social services agency are made to prevent placement or to
 8.17 eliminate the need for removal and to reunite the child with the child's family at the earliest
 8.18 possible time, and the court must ensure that the responsible social services agency makes
 8.19 reasonable efforts to finalize an alternative permanent plan for the child as provided in
 8.20 paragraph (e). In determining reasonable efforts to be made with respect to a child and in
 8.21 making those reasonable efforts, the child's best interests, health, and safety must be of
 8.22 paramount concern. Reasonable efforts to prevent placement and for rehabilitation and
 8.23 reunification are always required except upon a determination by the court that a petition
 8.24 has been filed stating a prima facie case that:

8.25 (1) the parent has subjected a child to egregious harm as defined in section 260C.007,
 8.26 subdivision 14;

8.27 (2) the parental rights of the parent to another child have been terminated involuntarily;

8.28 (3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph
 8.29 (a), clause (2);

8.30 (4) the parent's custodial rights to another child have been involuntarily transferred to a
 8.31 relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d),
 8.32 clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction;

9.1 (5) the parent has committed sexual abuse as defined in section 260E.03, against the
9.2 child or another child of the parent;

9.3 (6) the parent has committed an offense that requires registration as a predatory offender
9.4 under section 243.166, subdivision 1b, paragraph (a) or (b); or

9.5 (7) the provision of services or further services for the purpose of reunification is futile
9.6 and therefore unreasonable under the circumstances.

9.7 (b) When the court makes one of the prima facie determinations under paragraph (a),
9.8 either permanency pleadings under section 260C.505, or a termination of parental rights
9.9 petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under
9.10 sections 260C.503 to 260C.521 must be held within 30 days of this determination.

9.11 (c) In the case of an Indian child, in proceedings under sections 260B.178, 260C.178,
9.12 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, the juvenile court
9.13 must make findings and conclusions consistent with the Indian Child Welfare Act of 1978,
9.14 United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In
9.15 cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section
9.16 1901, the responsible social services agency must provide active efforts as required under
9.17 United States Code, title 25, section 1911(d).

9.18 (d) "Reasonable efforts to prevent placement" means:

9.19 (1) the agency has made reasonable efforts to prevent the placement of the child in foster
9.20 care by working with the family to develop and implement a safety plan that is individualized
9.21 to the needs of the child and the child's family and may include support persons from the
9.22 child's extended family, kin network, and community; or

9.23 (2) the agency has demonstrated to the court that, given the particular circumstances of
9.24 the child and family at the time of the child's removal, there are no services or efforts
9.25 available ~~which~~ that could allow the child to safely remain in the home.

9.26 (e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence
9.27 by the responsible social services agency to:

9.28 (1) reunify the child with the parent or guardian from whom the child was removed;

9.29 (2) assess a noncustodial parent's ability to provide day-to-day care for the child and,
9.30 where appropriate, provide services necessary to enable the noncustodial parent to safely
9.31 provide the care, as required by section 260C.219;

10.1 (3) conduct a relative search to identify and provide notice to adult relatives, and engage
10.2 relatives in case planning and permanency planning, as required under section 260C.221;

10.3 (4) consider placing the child with relatives and important friends in the order specified
10.4 in section 260C.212, subdivision 2, paragraph (a);

10.5 ~~(4)~~ (5) place siblings removed from their home in the same home for foster care or
10.6 adoption, or transfer permanent legal and physical custody to a relative. Visitation between
10.7 siblings who are not in the same foster care, adoption, or custodial placement or facility
10.8 shall be consistent with section 260C.212, subdivision 2; and

10.9 ~~(5)~~ (6) when the child cannot return to the parent or guardian from whom the child was
10.10 removed, to plan for and finalize a safe and legally permanent alternative home for the child,
10.11 and considers permanent alternative homes for the child inside or outside of the state,
10.12 preferably with a relative or important friend in the order specified in section 260C.212,
10.13 subdivision 2, paragraph (a), through adoption or transfer of permanent legal and physical
10.14 custody of the child.

10.15 (f) Reasonable efforts are made upon the exercise of due diligence by the responsible
10.16 social services agency to use culturally appropriate and available services to meet the
10.17 individualized needs of the child and the child's family. Services may include those provided
10.18 by the responsible social services agency and other culturally appropriate services available
10.19 in the community. The responsible social services agency must select services for a child
10.20 and the child's family by collaborating with the child's family and, if appropriate, the child.
10.21 At each stage of the proceedings ~~where~~ when the court is required to review the
10.22 appropriateness of the responsible social services agency's reasonable efforts as described
10.23 in paragraphs (a), (d), and (e), the social services agency has the burden of demonstrating
10.24 that:

10.25 (1) ~~the agency~~ has made reasonable efforts to prevent placement of the child in foster
10.26 care, including that the agency considered or established a safety plan according to paragraph
10.27 (d), clause (1);

10.28 (2) ~~the agency~~ has made reasonable efforts to eliminate the need for removal of the
10.29 child from the child's home and to reunify the child with the child's family at the earliest
10.30 possible time;

10.31 (3) the agency has made reasonable efforts to finalize a permanent plan for the child
10.32 pursuant to paragraph (e);

11.1 ~~(3) it~~ (4) the agency has made reasonable efforts to finalize an alternative permanent
 11.2 home for the child, and ~~considers~~ considered permanent alternative homes for the child
 11.3 ~~inside or outside~~ in or out of the state, preferably with a relative or important friend in the
 11.4 order specified in section 260C.212, subdivision 2, paragraph (a); or

11.5 ~~(4)~~ (5) reasonable efforts to prevent placement and to reunify the child with the parent
 11.6 or guardian are not required. The agency may meet this burden by stating facts in a sworn
 11.7 petition filed under section 260C.141, by filing an affidavit summarizing the agency's
 11.8 reasonable efforts or facts that the agency believes demonstrate that there is no need for
 11.9 reasonable efforts to reunify the parent and child, or through testimony or a certified report
 11.10 required under juvenile court rules.

11.11 (g) Once the court determines that reasonable efforts for reunification are not required
 11.12 because the court has made one of the prima facie determinations under paragraph (a), the
 11.13 court may only require the agency to make reasonable efforts for reunification after a hearing
 11.14 according to section 260C.163, ~~where~~ if the court finds that there is not clear and convincing
 11.15 evidence of the facts upon which the court based ~~its~~ the court's prima facie determination.
 11.16 ~~In this case when~~ If there is clear and convincing evidence that the child is in need of
 11.17 protection or services, the court may find the child in need of protection or services and
 11.18 order any of the dispositions available under section 260C.201, subdivision 1. Reunification
 11.19 of a child with a parent is not required if the parent has been convicted of:

11.20 (1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185
 11.21 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

11.22 (2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the child;

11.23 (3) a violation of, or an attempt or conspiracy to commit a violation of, United States
 11.24 Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

11.25 (4) committing sexual abuse as defined in section 260E.03, against the child or another
 11.26 child of the parent; or

11.27 (5) an offense that requires registration as a predatory offender under section 243.166,
 11.28 subdivision 1b, paragraph (a) or (b).

11.29 (h) The juvenile court, in proceedings under sections 260B.178, 260C.178, 260C.201,
 11.30 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, shall make findings and
 11.31 conclusions as to the provision of reasonable efforts. When determining whether reasonable
 11.32 efforts have been made by the agency, the court shall consider whether services to the child
 11.33 and family were:

- 12.1 (1) selected in collaboration with the child's family and, if appropriate, the child;
- 12.2 (2) tailored to the individualized needs of the child and child's family;
- 12.3 ~~(1)~~ (3) relevant to the safety and, protection, and well-being of the child;
- 12.4 ~~(2)~~ (4) adequate to meet the individualized needs of the child and family;
- 12.5 ~~(3)~~ (5) culturally appropriate;
- 12.6 ~~(4)~~ (6) available and accessible;
- 12.7 ~~(5)~~ (7) consistent and timely; and
- 12.8 ~~(6)~~ (8) realistic under the circumstances.

12.9 In the alternative, the court may determine that the provision of services or further services
 12.10 for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances
 12.11 or that reasonable efforts are not required as provided in paragraph (a).

12.12 (i) This section does not prevent out-of-home placement for the treatment of a child with
 12.13 a mental disability when it is determined to be medically necessary as a result of the child's
 12.14 diagnostic assessment or the child's individual treatment plan indicates that appropriate and
 12.15 necessary treatment cannot be effectively provided outside of a residential or inpatient
 12.16 treatment program and the level or intensity of supervision and treatment cannot be
 12.17 effectively and safely provided in the child's home or community and it is determined that
 12.18 a residential treatment setting is the least restrictive setting that is appropriate to the needs
 12.19 of the child.

12.20 (j) If continuation of reasonable efforts to prevent placement or reunify the child with
 12.21 the parent or guardian from whom the child was removed is determined by the court to be
 12.22 inconsistent with the permanent plan for the child or upon the court making one of the prima
 12.23 facie determinations under paragraph (a), reasonable efforts must be made to place the child
 12.24 in a timely manner in a safe and permanent home and to complete whatever steps are
 12.25 necessary to legally finalize the permanent placement of the child.

12.26 (k) Reasonable efforts to place a child for adoption or in another permanent placement
 12.27 may be made concurrently with reasonable efforts to prevent placement or to reunify the
 12.28 child with the parent or guardian from whom the child was removed. When the responsible
 12.29 social services agency decides to concurrently make reasonable efforts for both reunification
 12.30 and permanent placement away from the parent under paragraph (a), the agency shall disclose
 12.31 ~~its~~ the agency's decision and both plans for concurrent reasonable efforts to all parties and
 12.32 the court. When the agency discloses ~~its~~ the agency's decision to proceed ~~on~~ with both plans

13.1 for reunification and permanent placement away from the parent, the court's review of the
13.2 agency's reasonable efforts shall include the agency's efforts under both plans.

13.3 Sec. 4. Minnesota Statutes 2020, section 260C.007, is amended by adding a subdivision
13.4 to read:

13.5 Subd. 21b. **Kin.** "Kin" means a person who has a psychological, cultural, or emotional
13.6 relationship with a child or a child's family, whose relationship was established prior to the
13.7 agency's involvement with the child or the child's family, but who does not have a legal,
13.8 biological, or marital connection to the child or the child's family.

13.9 Sec. 5. Minnesota Statutes 2020, section 260C.151, subdivision 6, is amended to read:

13.10 Subd. 6. **Immediate custody.** If the court makes individualized, explicit findings, based
13.11 on the notarized petition or sworn affidavit, that there are reasonable grounds to believe
13.12 that the child is in surroundings or conditions which that endanger the child's health, safety,
13.13 or welfare that require that responsibility for the child's care and custody be immediately
13.14 assumed by the responsible social services agency and that continuation of the child in the
13.15 custody of the parent or guardian is contrary to the child's welfare, the court may order that
13.16 the officer serving the summons take the child into immediate custody for placement of the
13.17 child in foster care, preferably with a relative or important friend. In ordering that
13.18 responsibility for the care, custody, and control of the child be assumed by the responsible
13.19 social services agency, the court is ordering emergency protective care as that term is defined
13.20 in the juvenile court rules.

13.21 Sec. 6. Minnesota Statutes 2020, section 260C.152, subdivision 5, is amended to read:

13.22 Subd. 5. **Notice to foster parents and preadoptive parents and relatives.** The foster
13.23 parents, if any, of a child and any preadoptive parent or relative providing care for the child
13.24 must be provided notice of and a right to be heard in any review or hearing to be held with
13.25 respect to the child. Any other relative may also request, and must be granted, a notice and
13.26 the opportunity right to be heard under this section. This subdivision does not require that
13.27 a foster parent, preadoptive parent, or relative providing care for the child be made a party
13.28 to a review or hearing solely on the basis of the notice and right to be heard.

13.29 Sec. 7. Minnesota Statutes 2020, section 260C.175, subdivision 2, is amended to read:

13.30 Subd. 2. **Notice to parent or custodian and child; emergency placement with relative**
13.31 **or designated caregiver.** ~~Whenever~~ (a) At the time that a peace officer takes a child into

14.1 custody for relative placement or shelter care ~~or relative placement~~ pursuant to subdivision
14.2 1, section 260C.151, subdivision 5, or section 260C.154, the officer shall notify the child's
14.3 parent or custodian and the child, if appropriate, that under section 260C.181, subdivision
14.4 2, the parent or custodian, or the child, if the child is reasonably able to express a preference,
14.5 may request that to place the child be placed with a relative or a designated caregiver under
14.6 chapter 257A instead of in a shelter care facility. Immediately following this notification,
14.7 the officer shall ask the parent or custodian, or the child, if appropriate, if the parent,
14.8 custodian, or child would like to make this request. A peace officer shall make this
14.9 notification and inquiry:

14.10 (1) at the time that the officer takes the child into custody; and

14.11 (2) before placing the child in a shelter facility.

14.12 If a parent or custodian is not physically present at the time that a peace officer removes a
14.13 child from a residence, the officer shall notify the child's parent or custodian as soon as
14.14 possible after the child's placement. The officer shall consider a child's placement request
14.15 prior to considering a parent's or custodian's placement request. When considering a parent's,
14.16 custodian's, or child's placement request, the child's physical and emotional safety and
14.17 well-being shall be the officer's paramount considerations.

14.18 (b) If, at the time of notification, the parent or custodian, or child, if appropriate, requests
14.19 to place the child with a specific relative or designated caregiver under chapter 257A, the
14.20 officer shall obtain the name and physical location of the relative or designated caregiver.
14.21 If the peace officer determines that there is a safety risk to the child in the home of the
14.22 relative or designated caregiver, the officer shall take the child to the home of a different
14.23 relative or designated caregiver, if available. If no placement with a relative or designated
14.24 caregiver is available, the police officer shall take the child to a shelter care facility.

14.25 (c) The officer also shall give the parent or custodian of the child a list of names,
14.26 addresses, and telephone numbers of social services agencies that offer child welfare services.
14.27 If the parent or custodian was not present when the child was removed from the residence,
14.28 the list shall be left with an adult on the premises or left in a conspicuous place on the
14.29 premises if no adult is present. If the officer has reason to believe the parent or custodian
14.30 is not able to read and understand English, the officer must provide a list that is written in
14.31 the language of the parent or custodian. The list shall be prepared by the commissioner of
14.32 human services. The commissioner shall prepare lists for each county and provide each
14.33 county with copies of the list without charge. The list shall be reviewed annually by the
14.34 commissioner and updated if it is no longer accurate. Neither the commissioner nor any

15.1 peace officer or the officer's employer shall be liable to any person for mistakes or omissions
15.2 in the list. The list does not constitute a promise that any agency listed will ~~in fact~~ assist the
15.3 parent or custodian.

15.4 Sec. 8. Minnesota Statutes 2020, section 260C.176, subdivision 2, is amended to read:

15.5 Subd. 2. **Reasons for detention.** (a) If the child is not released as provided in subdivision
15.6 1, the person taking the child into custody shall notify the court as soon as possible of the
15.7 detention of the child and the reasons for detention.

15.8 (b) No child taken into custody and placed in a relative's home or shelter care facility
15.9 ~~or relative's home~~ by a peace officer pursuant to section 260C.175, subdivision 1, clause
15.10 (1) or (2), item (ii), may be held in custody longer than 72 hours, excluding Saturdays,
15.11 Sundays and holidays, unless a petition has been filed and the judge or referee determines
15.12 pursuant to section 260C.178 that the child shall remain in custody or unless the court has
15.13 made a finding of domestic abuse perpetrated by a minor after a hearing under Laws 1997,
15.14 chapter 239, article 10, sections 2 to 26, in which case the court may extend the period of
15.15 detention for an additional seven days, within which time the social services agency shall
15.16 conduct an assessment and shall provide recommendations to the court regarding voluntary
15.17 services or file a child in need of protection or services petition.

15.18 Sec. 9. Minnesota Statutes 2020, section 260C.178, subdivision 1, is amended to read:

15.19 Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody
15.20 under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a
15.21 hearing within 72 hours of the time that the child was taken into custody, excluding
15.22 Saturdays, Sundays, and holidays, to determine whether the child should continue to be in
15.23 custody.

15.24 (b) Unless there is reason to believe that the child would endanger self or others or not
15.25 return for a court hearing, or that the child's health or welfare would be immediately
15.26 endangered, the child shall be released to the custody of a parent, guardian, custodian, or
15.27 other suitable person, subject to reasonable conditions of release including, but not limited
15.28 to, a requirement that the child undergo a chemical use assessment as provided in section
15.29 260C.157, subdivision 1.

15.30 (c) If the court determines that there is reason to believe that the child would endanger
15.31 self or others or not return for a court hearing, or that the child's health or welfare would be
15.32 immediately endangered if returned to the care of the parent or guardian who has custody
15.33 and from whom the child was removed, the court shall order the child:

16.1 (1) to be placed in the care of the child's noncustodial parent and order the noncustodial
 16.2 parent to comply with any conditions that the court determines appropriate to ensure the
 16.3 safety and care of the child, including requiring the noncustodial parent to cooperate with
 16.4 paternity establishment proceedings if the noncustodial parent has not been adjudicated the
 16.5 child's father; or

16.6 (2) into foster care as defined in section 260C.007, subdivision 18, under the legal
 16.7 responsibility of the responsible social services agency or responsible probation or corrections
 16.8 agency for the purposes of protective care as that term is used in the juvenile court rules or
 16.9 into the home of a noncustodial parent and order the noncustodial parent to comply with
 16.10 any conditions the court determines to be appropriate to the safety and care of the child,
 16.11 including cooperating with paternity establishment proceedings in the case of a man who
 16.12 has not been adjudicated the child's father. The court shall not give the responsible social
 16.13 services legal custody and order a trial home visit at any time prior to adjudication and
 16.14 disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may order
 16.15 the child returned to the care of the parent or guardian who has custody and from whom the
 16.16 child was removed and order the parent or guardian to comply with any conditions the court
 16.17 determines to be appropriate to meet the safety, health, and welfare of the child.

16.18 (d) In determining whether the child's health or welfare would be immediately
 16.19 endangered, the court shall consider whether the child would reside with a perpetrator of
 16.20 domestic child abuse.

16.21 (e) The court, before determining whether a child should be placed in or continue in
 16.22 foster care under the protective care of the responsible agency, shall also make a
 16.23 determination, consistent with section 260.012 as to whether reasonable efforts were made
 16.24 to prevent placement or whether reasonable efforts to prevent placement are not required.
 16.25 In the case of an Indian child, the court shall determine whether active efforts, according
 16.26 to section 260.762 and the Indian Child Welfare Act of 1978, United States Code, title 25,
 16.27 section 1912(d), were made to prevent placement. The court shall enter a finding that the
 16.28 responsible social services agency has made reasonable efforts to prevent placement when
 16.29 the agency establishes either:

16.30 (1) that ~~it~~ the agency has actually provided services or made efforts in an attempt to
 16.31 prevent the child's removal but that such services or efforts have not proven sufficient to
 16.32 permit the child to safely remain in the home; or

16.33 (2) that there are no services or other efforts that could be made at the time of the hearing
 16.34 that could safely permit the child to remain home or to return home. The court shall not

17.1 make a reasonable efforts determination under this clause unless the court is satisfied that
 17.2 the agency has sufficiently demonstrated to the court that there were no services or other
 17.3 efforts that the agency was able to provide at the time of the hearing enabling the child to
 17.4 safely remain home or to safely return home. When reasonable efforts to prevent placement
 17.5 are required and there are services or other efforts that could be ordered ~~which~~ that would
 17.6 permit the child to safely return home, the court shall order the child returned to the care of
 17.7 the parent or guardian and the services or efforts put in place to ensure the child's safety.
 17.8 When the court makes a prima facie determination that one of the circumstances under
 17.9 paragraph (g) exists, the court shall determine that reasonable efforts to prevent placement
 17.10 and to return the child to the care of the parent or guardian are not required.

17.11 (f) If the court finds the social services agency's preventive or reunification efforts have
 17.12 not been reasonable but further preventive or reunification efforts could not permit the child
 17.13 to safely remain at home, the court may nevertheless authorize or continue the removal of
 17.14 the child.

17.15 ~~(f)~~ (g) The court may not order or continue the foster care placement of the child unless
 17.16 the court makes explicit, individualized findings that continued custody of the child by the
 17.17 parent or guardian would be contrary to the welfare of the child and that placement is in the
 17.18 best interest of the child.

17.19 ~~(g)~~ (h) At the emergency removal hearing, or at any time during the course of the
 17.20 proceeding, and upon notice and request of the county attorney, the court shall determine
 17.21 whether a petition has been filed stating a prima facie case that:

17.22 (1) the parent has subjected a child to egregious harm as defined in section 260C.007,
 17.23 subdivision 14;

17.24 (2) the parental rights of the parent to another child have been involuntarily terminated;

17.25 (3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph
 17.26 (a), clause (2);

17.27 (4) the parents' custodial rights to another child have been involuntarily transferred to a
 17.28 relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (e),
 17.29 clause (1); section 260C.515, subdivision 4; or a similar law of another jurisdiction;

17.30 (5) the parent has committed sexual abuse as defined in section 260E.03, against the
 17.31 child or another child of the parent;

17.32 (6) the parent has committed an offense that requires registration as a predatory offender
 17.33 under section 243.166, subdivision 1b, paragraph (a) or (b); or

18.1 (7) the provision of services or further services for the purpose of reunification is futile
18.2 and therefore unreasonable.

18.3 ~~(h)~~ (i) When a petition to terminate parental rights is required under section 260C.301,
18.4 subdivision 4, or 260C.503, subdivision 2, but the county attorney has determined not to
18.5 proceed with a termination of parental rights petition, and has instead filed a petition to
18.6 transfer permanent legal and physical custody to a relative under section 260C.507, the
18.7 court shall schedule a permanency hearing within 30 days of the filing of the petition.

18.8 ~~(i)~~ (j) If the county attorney has filed a petition under section 260C.307, the court shall
18.9 schedule a trial under section 260C.163 within 90 days of the filing of the petition except
18.10 when the county attorney determines that the criminal case shall proceed to trial first under
18.11 section 260C.503, subdivision 2, paragraph (c).

18.12 ~~(j)~~ (k) If the court determines the child should be ordered into foster care and the child's
18.13 parent refuses to give information to the responsible social services agency regarding the
18.14 child's father or relatives of the child, the court may order the parent to disclose the names,
18.15 addresses, telephone numbers, and other identifying information to the responsible social
18.16 services agency for the purpose of complying with sections 260C.150, 260C.151, 260C.212,
18.17 260C.215, 260C.219, and 260C.221.

18.18 ~~(k)~~ (l) If a child ordered into foster care has siblings, whether full, half, or step, who are
18.19 also ordered into foster care, the court shall inquire of the responsible social services agency
18.20 of the efforts to place the children together as required by section 260C.212, subdivision 2,
18.21 paragraph (d), if placement together is in each child's best interests, unless a child is in
18.22 placement for treatment or a child is placed with a previously noncustodial parent who is
18.23 not a parent to all siblings. If the children are not placed together at the time of the hearing,
18.24 the court shall inquire at each subsequent hearing of the agency's reasonable efforts to place
18.25 the siblings together, as required under section 260.012. If any sibling is not placed with
18.26 another sibling or siblings, the agency must develop a plan to facilitate visitation or ongoing
18.27 contact among the siblings as required under section 260C.212, subdivision 1, unless it is
18.28 contrary to the safety or well-being of any of the siblings to do so.

18.29 ~~(l)~~ (m) When the court has ordered the child ~~into~~ to be placed in the care of a noncustodial
18.30 parent or in foster care or into the home of a noncustodial parent, the court may order a
18.31 chemical dependency evaluation, mental health evaluation, medical examination, and
18.32 parenting assessment for the parent as necessary to support the development of a plan for
18.33 reunification required under subdivision 7 and section 260C.212, subdivision 1, or the child
18.34 protective services plan under section 260E.26, and Minnesota Rules, part 9560.0228.

19.1 Sec. 10. Minnesota Statutes 2020, section 260C.181, subdivision 2, is amended to read:

19.2 Subd. 2. **Least restrictive setting.** Notwithstanding the provisions of subdivision 1, if
19.3 the child had been taken into custody pursuant to section 260C.175, subdivision 1, clause
19.4 (1) or (2), item (ii), and is not alleged to be delinquent, the child shall be detained in the
19.5 least restrictive setting consistent with the child's health and welfare and in closest proximity
19.6 to the child's family as possible. Placement may be with a child's relative, a designated
19.7 caregiver under chapter 257A, or if no placement is available with a relative or designated
19.8 caregiver, in a shelter care facility. The placing officer shall comply with this section and
19.9 shall document why a less restrictive setting will or will not be in the best interests of the
19.10 child for placement purposes.

19.11 Sec. 11. Minnesota Statutes 2020, section 260C.193, subdivision 3, is amended to read:

19.12 Subd. 3. **Best interests of the child.** (a) The policy of the state is to ensure that the best
19.13 interests of children in foster care, who experience a transfer of permanent legal and physical
19.14 custody to a relative under section 260C.515, subdivision 4, or adoption under this chapter,
19.15 are met by:

19.16 (1) considering placement of a child with relatives and important friends in the order
19.17 specified in section 260C.212, subdivision 2, paragraph (a); and

19.18 (2) requiring individualized determinations under section 260C.212, subdivision 2,
19.19 paragraph (b), of the needs of the child and of how the selected home will serve the needs
19.20 of the child.

19.21 (b) No later than three months after a child is ordered to be removed from the care of a
19.22 parent in the hearing required under section 260C.202, the court shall review and enter
19.23 findings regarding whether the responsible social services agency made:

19.24 (1) diligent efforts to identify ~~and~~, search for, notify, and engage relatives as required
19.25 under section 260C.221; and

19.26 (2) a placement consistent with section 260C.212, subdivision 2, that is based on an
19.27 individualized determination as required under section 260C.212, subdivision 2, of the
19.28 child's needs to select a home that meets the needs of the child.

19.29 (c) If the court finds that the agency has not made diligent efforts as required under
19.30 section 260C.221, ~~and~~ the court shall order the agency to make reasonable efforts. If there
19.31 is a relative who qualifies to be licensed to provide family foster care under chapter 245A,
19.32 the court may order the child to be placed with the relative consistent with the child's best
19.33 interests.

20.1 (d) If the agency's diligent efforts under section 260C.221 are found by the court to be
20.2 sufficient, the court shall order the agency to continue to appropriately engage relatives who
20.3 responded to the notice under section 260C.221 in placement and case planning decisions
20.4 and to appropriately engage relatives who subsequently come to the agency's attention. A
20.5 court's finding that the agency has made diligent efforts under this paragraph does not relieve
20.6 the agency of the duty to continue searching for relatives and engaging and considering
20.7 relatives who respond to the notice under section 260C.221 in child placement and case
20.8 planning decisions.

20.9 (e) If the child's birth parent ~~or parents~~ explicitly ~~request~~ requests that a specific relative
20.10 or important friend not be considered for placement of the child, the court shall honor that
20.11 request if it is consistent with the best interests of the child and consistent with the
20.12 requirements of section 260C.221. The court shall not waive relative search, notice, and
20.13 consideration requirements, unless section 260C.139 applies. If the child's birth parent ~~or~~
20.14 ~~parents express~~ expresses a preference for placing the child in a foster or adoptive home of
20.15 the same or a similar religious background ~~to~~ as that of the birth parent or parents, the court
20.16 shall order placement of the child with an individual who meets the birth parent's religious
20.17 preference.

20.18 (f) Placement of a child ~~cannot~~ must not be delayed or denied based on race, color, or
20.19 national origin of the foster parent or the child.

20.20 (g) Whenever possible, siblings requiring foster care placement ~~should~~ shall be placed
20.21 together unless it is determined not to be in the best interests of one or more of the siblings
20.22 after weighing the benefits of separate placement against the benefits of sibling connections
20.23 for each sibling. The agency shall consider section 260C.008 when making this determination.
20.24 If siblings were not placed together according to section 260C.212, subdivision 2, paragraph
20.25 (d), the responsible social services agency shall report to the court the efforts made to place
20.26 the siblings together and why the efforts were not successful. If the court is not satisfied
20.27 that the agency has made reasonable efforts to place siblings together, the court must order
20.28 the agency to make further reasonable efforts. If siblings are not placed together, the court
20.29 shall order the responsible social services agency to implement the plan for visitation among
20.30 siblings required as part of the out-of-home placement plan under section 260C.212.

20.31 (h) This subdivision does not affect the Indian Child Welfare Act, United States Code,
20.32 title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections
20.33 260.751 to 260.835.

21.1 Sec. 12. Minnesota Statutes 2020, section 260C.201, subdivision 1, is amended to read:

21.2 Subdivision 1. **Dispositions.** (a) If the court finds that the child is in need of protection
21.3 or services or neglected and in foster care, ~~the court~~ shall enter an order making any of
21.4 the following dispositions of the case:

21.5 (1) place the child under the protective supervision of the responsible social services
21.6 agency or child-placing agency in the home of a parent of the child under conditions
21.7 prescribed by the court directed to the correction of the child's need for protection or services:

21.8 (i) the court may order the child into the home of a parent who does not otherwise have
21.9 legal custody of the child, however, an order under this section does not confer legal custody
21.10 on that parent;

21.11 (ii) if the court orders the child into the home of a father who is not adjudicated, the
21.12 father must cooperate with paternity establishment proceedings regarding the child in the
21.13 appropriate jurisdiction as one of the conditions prescribed by the court for the child to
21.14 continue in the father's home; and

21.15 (iii) the court may order the child into the home of a noncustodial parent with conditions
21.16 and may also order both the noncustodial and the custodial parent to comply with the
21.17 requirements of a case plan under subdivision 2; or

21.18 (2) transfer legal custody to one of the following:

21.19 (i) a child-placing agency; or

21.20 (ii) the responsible social services agency. In making a foster care placement ~~for~~ of a
21.21 child whose custody has been transferred under this subdivision, the agency shall make an
21.22 individualized determination of how the placement is in the child's best interests using the
21.23 placement consideration order for relatives, and the best interest factors in section 260C.212,
21.24 subdivision 2, ~~paragraph (b)~~, and may include a child colocated with a parent in a licensed
21.25 residential family-based substance use disorder treatment program under section 260C.190;
21.26 or

21.27 (3) order a trial home visit without modifying the transfer of legal custody to the
21.28 responsible social services agency under clause (2). Trial home visit means the child is
21.29 returned to the care of the parent or guardian from whom the child was removed for a period
21.30 not to exceed six months. During the period of the trial home visit, the responsible social
21.31 services agency:

22.1 (i) shall continue to have legal custody of the child, which means that the agency may
22.2 see the child in the parent's home, at school, in a child care facility, or other setting as the
22.3 agency deems necessary and appropriate;

22.4 (ii) shall continue to have the ability to access information under section 260C.208;

22.5 (iii) shall continue to provide appropriate services to both the parent and the child during
22.6 the period of the trial home visit;

22.7 (iv) without previous court order or authorization, may terminate the trial home visit in
22.8 order to protect the child's health, safety, or welfare and may remove the child to foster care;

22.9 (v) shall advise the court and parties within three days of the termination of the trial
22.10 home visit when a visit is terminated by the responsible social services agency without a
22.11 court order; and

22.12 (vi) shall prepare a report for the court when the trial home visit is terminated whether
22.13 by the agency or court order ~~which~~ that describes the child's circumstances during the trial
22.14 home visit and recommends appropriate orders, if any, for the court to enter to provide for
22.15 the child's safety and stability. In the event a trial home visit is terminated by the agency
22.16 by removing the child to foster care without prior court order or authorization, the court
22.17 shall conduct a hearing within ten days of receiving notice of the termination of the trial
22.18 home visit by the agency and shall order disposition under this subdivision or commence
22.19 permanency proceedings under sections 260C.503 to 260C.515. The time period for the
22.20 hearing may be extended by the court for good cause shown and if it is in the best interests
22.21 of the child as long as the total time the child spends in foster care without a permanency
22.22 hearing does not exceed 12 months;

22.23 (4) if the child has been adjudicated as a child in need of protection or services because
22.24 the child is in need of special services or care to treat or ameliorate a physical or mental
22.25 disability or emotional disturbance as defined in section 245.4871, subdivision 15, the court
22.26 may order the child's parent, guardian, or custodian to provide it. The court may order the
22.27 child's health plan company to provide mental health services to the child. Section 62Q.535
22.28 applies to an order for mental health services directed to the child's health plan company.
22.29 If the health plan, parent, guardian, or custodian fails or is unable to provide this treatment
22.30 or care, the court may order it provided. Absent specific written findings by the court that
22.31 the child's disability is the result of abuse or neglect by the child's parent or guardian, the
22.32 court shall not transfer legal custody of the child for the purpose of obtaining special
22.33 treatment or care solely because the parent is unable to provide the treatment or care. If the
22.34 court's order for mental health treatment is based on a diagnosis made by a treatment

23.1 professional, the court may order that the diagnosing professional not provide the treatment
23.2 to the child if it finds that such an order is in the child's best interests; or

23.3 (5) if the court believes that the child has sufficient maturity and judgment and that it is
23.4 in the best interests of the child, the court may order a child 16 years old or older to be
23.5 allowed to live independently, either alone or with others as approved by the court under
23.6 supervision the court considers appropriate, if the county board, after consultation with the
23.7 court, has specifically authorized this dispositional alternative for a child.

23.8 (b) If the child was adjudicated in need of protection or services because the child is a
23.9 runaway or habitual truant, the court may order any of the following dispositions in addition
23.10 to or as alternatives to the dispositions authorized under paragraph (a):

23.11 (1) counsel the child or the child's parents, guardian, or custodian;

23.12 (2) place the child under the supervision of a probation officer or other suitable person
23.13 in the child's own home under conditions prescribed by the court, including reasonable rules
23.14 for the child's conduct and the conduct of the parents, guardian, or custodian, designed for
23.15 the physical, mental, and moral well-being and behavior of the child;

23.16 (3) subject to the court's supervision, transfer legal custody of the child to one of the
23.17 following:

23.18 (i) a reputable person of good moral character. No person may receive custody of two
23.19 or more unrelated children unless licensed to operate a residential program under sections
23.20 245A.01 to 245A.16; or

23.21 (ii) a county probation officer for placement in a group foster home established under
23.22 the direction of the juvenile court and licensed pursuant to section 241.021;

23.23 (4) require the child to pay a fine of up to \$100. The court shall order payment of the
23.24 fine in a manner that will not impose undue financial hardship upon the child;

23.25 (5) require the child to participate in a community service project;

23.26 (6) order the child to undergo a chemical dependency evaluation and, if warranted by
23.27 the evaluation, order participation by the child in a drug awareness program or an inpatient
23.28 or outpatient chemical dependency treatment program;

23.29 (7) if the court believes that it is in the best interests of the child or of public safety that
23.30 the child's driver's license or instruction permit be canceled, the court may order the
23.31 commissioner of public safety to cancel the child's license or permit for any period up to
23.32 the child's 18th birthday. If the child does not have a driver's license or permit, the court

24.1 may order a denial of driving privileges for any period up to the child's 18th birthday. The
24.2 court shall forward an order issued under this clause to the commissioner, who shall cancel
24.3 the license or permit or deny driving privileges without a hearing for the period specified
24.4 by the court. At any time before the expiration of the period of cancellation or denial, the
24.5 court may, for good cause, order the commissioner of public safety to allow the child to
24.6 apply for a license or permit, and the commissioner shall so authorize;

24.7 (8) order that the child's parent or legal guardian deliver the child to school at the
24.8 beginning of each school day for a period of time specified by the court; or

24.9 (9) require the child to perform any other activities or participate in any other treatment
24.10 programs deemed appropriate by the court.

24.11 To the extent practicable, the court shall enter a disposition order the same day it makes
24.12 a finding that a child is in need of protection or services or neglected and in foster care, but
24.13 in no event more than 15 days after the finding unless the court finds that the best interests
24.14 of the child will be served by granting a delay. If the child was under eight years of age at
24.15 the time the petition was filed, the disposition order must be entered within ten days of the
24.16 finding and the court may not grant a delay unless good cause is shown and the court finds
24.17 the best interests of the child will be served by the delay.

24.18 (c) If a child who is 14 years of age or older is adjudicated in need of protection or
24.19 services because the child is a habitual truant and truancy procedures involving the child
24.20 were previously dealt with by a school attendance review board or county attorney mediation
24.21 program under section 260A.06 or 260A.07, the court shall order a cancellation or denial
24.22 of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th
24.23 birthday.

24.24 (d) In the case of a child adjudicated in need of protection or services because the child
24.25 has committed domestic abuse and been ordered excluded from the child's parent's home,
24.26 the court shall dismiss jurisdiction if the court, at any time, finds the parent is able or willing
24.27 to provide an alternative safe living arrangement for the child, as defined in Laws 1997,
24.28 chapter 239, article 10, section 2.

24.29 (e) When a parent has complied with a case plan ordered under subdivision 6 and the
24.30 child is in the care of the parent, the court may order the responsible social services agency
24.31 to monitor the parent's continued ability to maintain the child safely in the home under such
24.32 terms and conditions as the court determines appropriate under the circumstances.

25.1 Sec. 13. Minnesota Statutes 2020, section 260C.201, subdivision 2, is amended to read:

25.2 Subd. 2. **Written findings.** (a) Any order for a disposition authorized under this section
25.3 shall contain written findings of fact to support the disposition and case plan ordered and
25.4 shall also set forth in writing the following information:

25.5 (1) why the best interests and safety of the child are served by the disposition and case
25.6 plan ordered;

25.7 (2) what alternative dispositions or services under the case plan were considered by the
25.8 court and why such dispositions or services were not appropriate in the instant case;

25.9 (3) when legal custody of the child is transferred, the appropriateness of the particular
25.10 placement made or to be made by the placing agency using the relative and sibling placement
25.11 considerations and best interest factors in section 260C.212, subdivision 2, ~~paragraph (b)~~,
25.12 or the appropriateness of a child colocated with a parent in a licensed residential family-based
25.13 substance use disorder treatment program under section 260C.190;

25.14 (4) whether reasonable efforts to finalize the permanent plan for the child consistent
25.15 with section 260.012 were made including reasonable efforts:

25.16 (i) to prevent the child's placement and to reunify the child with the parent or guardian
25.17 from whom the child was removed at the earliest time consistent with the child's safety.
25.18 The court's findings must include a brief description of what preventive and reunification
25.19 efforts were made and why further efforts could not have prevented or eliminated the
25.20 necessity of removal or that reasonable efforts were not required under section 260.012 or
25.21 260C.178, subdivision 1;

25.22 (ii) to identify and locate any noncustodial or nonresident parent of the child and to
25.23 assess such parent's ability to provide day-to-day care of the child, and, where appropriate,
25.24 provide services necessary to enable the noncustodial or nonresident parent to safely provide
25.25 day-to-day care of the child as required under section 260C.219, unless such services are
25.26 not required under section 260.012 or 260C.178, subdivision 1; The court's findings must
25.27 include a description of the agency's efforts to:

25.28 (A) identify and locate the child's noncustodial or nonresident parent;

25.29 (B) assess the parent's ability to provide day-to-day care of the child; and

25.30 (C) if appropriate, provide services necessary to enable the noncustodial or nonresident
25.31 parent to safely provide the child's day-to-day care, including efforts to engage the
25.32 noncustodial or nonresident parent in assuming care and responsibility of the child;

26.1 (iii) to make the diligent search for relatives and provide the notices required under
26.2 section 260C.221; a finding made pursuant to a hearing under section 260C.202 that the
26.3 agency has made diligent efforts to conduct a relative search and has appropriately engaged
26.4 relatives who responded to the notice under section 260C.221 and other relatives, who came
26.5 to the attention of the agency after notice under section 260C.221 was sent, in placement
26.6 and case planning decisions fulfills the requirement of this item;

26.7 (iv) to identify and make a foster care placement of the child, considering the order in
26.8 section 260C.212, subdivision 2, paragraph (a), in the home of an unlicensed relative,
26.9 according to the requirements of section 245A.035, a licensed relative, or other licensed
26.10 foster care provider, who will commit to being the permanent legal parent or custodian for
26.11 the child in the event reunification cannot occur, but who will actively support the
26.12 reunification plan for the child. If the court finds that the agency has not appropriately
26.13 considered relatives and important friends for placement of the child, the court shall order
26.14 the agency to comply with section 260C.212, subdivision 2, paragraph (a). The court may
26.15 order the agency to continue considering relatives and important friends for placement of
26.16 the child regardless of the child's current placement setting; and

26.17 (v) to place siblings together in the same home or to ensure visitation is occurring when
26.18 siblings are separated in foster care placement and visitation is in the siblings' best interests
26.19 under section 260C.212, subdivision 2, paragraph (d); and

26.20 (5) if the child has been adjudicated as a child in need of protection or services because
26.21 the child is in need of special services or care to treat or ameliorate a mental disability or
26.22 emotional disturbance as defined in section 245.4871, subdivision 15, the written findings
26.23 shall also set forth:

26.24 (i) whether the child has mental health needs that must be addressed by the case plan;

26.25 (ii) what consideration was given to the diagnostic and functional assessments performed
26.26 by the child's mental health professional and to health and mental health care professionals'
26.27 treatment recommendations;

26.28 (iii) what consideration was given to the requests or preferences of the child's parent or
26.29 guardian with regard to the child's interventions, services, or treatment; and

26.30 (iv) what consideration was given to the cultural appropriateness of the child's treatment
26.31 or services.

26.32 (b) If the court finds that the social services agency's preventive or reunification efforts
26.33 have not been reasonable but that further preventive or reunification efforts could not permit

27.1 the child to safely remain at home, the court may nevertheless authorize or continue the
27.2 removal of the child.

27.3 (c) If the child has been identified by the responsible social services agency as the subject
27.4 of concurrent permanency planning, the court shall review the reasonable efforts of the
27.5 agency to develop a permanency plan for the child that includes a primary plan ~~which~~ that
27.6 is for reunification with the child's parent or guardian and a secondary plan ~~which~~ that is
27.7 for an alternative, legally permanent home for the child in the event reunification cannot
27.8 be achieved in a timely manner.

27.9 Sec. 14. Minnesota Statutes 2020, section 260C.202, is amended to read:

27.10 **260C.202 COURT REVIEW OF FOSTER CARE.**

27.11 (a) If the court orders a child placed in foster care, the court shall review the out-of-home
27.12 placement plan and the child's placement at least every 90 days as required in juvenile court
27.13 rules to determine whether continued out-of-home placement is necessary and appropriate
27.14 or whether the child should be returned home. This review is not required if the court has
27.15 returned the child home, ordered the child permanently placed away from the parent under
27.16 sections 260C.503 to 260C.521, or terminated rights under section 260C.301. Court review
27.17 for a child permanently placed away from a parent, including where the child is under
27.18 guardianship of the commissioner, shall be governed by section 260C.607. When a child
27.19 is placed in a qualified residential treatment program setting as defined in section 260C.007,
27.20 subdivision 26d, the responsible social services agency must submit evidence to the court
27.21 as specified in section 260C.712.

27.22 (b) No later than three months after the child's placement in foster care, the court shall
27.23 review agency efforts to search for and notify relatives pursuant to section 260C.221, and
27.24 order that the agency's efforts begin immediately, or continue, if the agency has failed to
27.25 perform, or has not adequately performed, the duties under that section. The court must
27.26 order the agency to continue to appropriately engage relatives who responded to the notice
27.27 under section 260C.221 in placement and case planning decisions and to consider relatives
27.28 for foster care placement unless the court has ruled out a specific relative for foster care
27.29 placement. Notwithstanding a court's finding that the agency has made reasonable efforts
27.30 to search for and notify relatives under section 260C.221, the court may order the agency
27.31 to continue making reasonable efforts to search for, notify, engage ~~other,~~ and consider
27.32 relatives who came to the agency's attention after sending the initial notice under section
27.33 260C.221 was sent.

28.1 (c) The court shall review the out-of-home placement plan and may modify the plan as
28.2 provided under section 260C.201, subdivisions 6 and 7.

28.3 (d) When the court ~~orders transfer of~~ transfers the custody of a child to a responsible
28.4 social services agency resulting in foster care or protective supervision with a noncustodial
28.5 parent under subdivision 1, the court shall notify the parents of the provisions of sections
28.6 260C.204 and 260C.503 to 260C.521, as required under juvenile court rules.

28.7 (e) When a child remains in or returns to foster care pursuant to section 260C.451 and
28.8 the court has jurisdiction pursuant to section 260C.193, subdivision 6, paragraph (c), the
28.9 court shall at least annually conduct the review required under section 260C.203.

28.10 Sec. 15. Minnesota Statutes 2020, section 260C.203, is amended to read:

28.11 **260C.203 ADMINISTRATIVE OR COURT REVIEW OF PLACEMENTS.**

28.12 (a) Unless the court is conducting the reviews required under section 260C.202, there
28.13 shall be an administrative review of the out-of-home placement plan of each child placed
28.14 in foster care no later than 180 days after the initial placement of the child in foster care
28.15 and at least every six months thereafter if the child is not returned to the home of the parent
28.16 or parents within that time. The out-of-home placement plan must be monitored and updated
28.17 by the responsible social services agency at each administrative review. The administrative
28.18 review shall be conducted by the responsible social services agency using a panel of
28.19 appropriate persons at least one of whom is not responsible for the case management of, or
28.20 the delivery of services to, either the child or the parents who are the subject of the review.
28.21 The administrative review shall be open to participation by the parent or guardian of the
28.22 child and the child, as appropriate.

28.23 (b) As an alternative to the administrative review required in paragraph (a), the court
28.24 may, as part of any hearing required under the Minnesota Rules of Juvenile Protection
28.25 Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant
28.26 to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party
28.27 requesting review of the out-of-home placement plan shall give parties to the proceeding
28.28 notice of the request to review and update the out-of-home placement plan. A court review
28.29 conducted pursuant to section 260C.141, subdivision 2; 260C.193; 260C.201, subdivision
28.30 1; 260C.202; 260C.204; 260C.317; or 260D.06 shall satisfy the requirement for the review
28.31 so long as the other requirements of this section are met.

28.32 (c) As appropriate to the stage of the proceedings and relevant court orders, the
28.33 responsible social services agency or the court shall review:

- 29.1 (1) the safety, permanency needs, and well-being of the child;
- 29.2 (2) the continuing necessity for and appropriateness of the placement, including whether
- 29.3 the placement is consistent with the child's best interests and other placement considerations,
- 29.4 including relative and sibling placement considerations under section 260C.212, subdivision
- 29.5 2;
- 29.6 (3) the extent of compliance with the out-of-home placement plan required under section
- 29.7 260C.212, subdivisions 1 and 1a, including services and resources that the agency has
- 29.8 provided to the child and child's parents, services and resources that other agencies and
- 29.9 individuals have provided to the child and child's parents, and whether the out-of-home
- 29.10 placement plan is individualized to the needs of the child and child's parents;
- 29.11 (4) the extent of progress that has been made toward alleviating or mitigating the causes
- 29.12 necessitating placement in foster care;
- 29.13 (5) the projected date by which the child may be returned to and safely maintained in
- 29.14 the home or placed permanently away from the care of the parent or parents or guardian;
- 29.15 and
- 29.16 (6) the appropriateness of the services provided to the child.
- 29.17 (d) When a child is age 14 or older:
- 29.18 (1) in addition to any administrative review conducted by the responsible social services
- 29.19 agency, at the in-court review required under section 260C.317, subdivision 3, clause (3),
- 29.20 or 260C.515, subdivision 5 or 6, the court shall review the independent living plan required
- 29.21 under section 260C.212, subdivision 1, paragraph (c), clause (12), and the provision of
- 29.22 services to the child related to the well-being of the child as the child prepares to leave foster
- 29.23 care. The review shall include the actual plans related to each item in the plan necessary to
- 29.24 the child's future safety and well-being when the child is no longer in foster care; and
- 29.25 (2) consistent with the requirements of the independent living plan, the court shall review
- 29.26 progress toward or accomplishment of the following goals:
- 29.27 (i) the child has obtained a high school diploma or its equivalent;
- 29.28 (ii) the child has completed a driver's education course or has demonstrated the ability
- 29.29 to use public transportation in the child's community;
- 29.30 (iii) the child is employed or enrolled in postsecondary education;
- 29.31 (iv) the child has applied for and obtained postsecondary education financial aid for
- 29.32 which the child is eligible;

30.1 (v) the child has health care coverage and health care providers to meet the child's
30.2 physical and mental health needs;

30.3 (vi) the child has applied for and obtained disability income assistance for which the
30.4 child is eligible;

30.5 (vii) the child has obtained affordable housing with necessary supports, which does not
30.6 include a homeless shelter;

30.7 (viii) the child has saved sufficient funds to pay for the first month's rent and a damage
30.8 deposit;

30.9 (ix) the child has an alternative affordable housing plan, which does not include a
30.10 homeless shelter, if the original housing plan is unworkable;

30.11 (x) the child, if male, has registered for the Selective Service; and

30.12 (xi) the child has a permanent connection to a caring adult.

30.13 Sec. 16. Minnesota Statutes 2020, section 260C.204, is amended to read:

30.14 **260C.204 PERMANENCY PROGRESS REVIEW FOR CHILDREN IN FOSTER**
30.15 **CARE FOR SIX MONTHS.**

30.16 (a) When a child continues in placement out of the home of the parent or guardian from
30.17 whom the child was removed, no later than six months after the child's placement the court
30.18 shall conduct a permanency progress hearing to review:

30.19 (1) the progress of the case, the parent's progress on the case plan or out-of-home
30.20 placement plan, whichever is applicable;

30.21 (2) the agency's reasonable, or in the case of an Indian child, active efforts for
30.22 reunification and its provision of services;

30.23 (3) the agency's reasonable efforts to finalize the permanent plan for the child under
30.24 section 260.012, paragraph (e), and to make a placement as required under section 260C.212,
30.25 subdivision 2, in a home that will commit to being the legally permanent family for the
30.26 child in the event the child cannot return home according to the timelines in this section;
30.27 and

30.28 (4) in the case of an Indian child, active efforts to prevent the breakup of the Indian
30.29 family and to make a placement according to the placement preferences under United States
30.30 Code, title 25, chapter 21, section 1915.

31.1 (b) When a child is placed in a qualified residential treatment program setting as defined
31.2 in section 260C.007, subdivision 26d, the responsible social services agency must submit
31.3 evidence to the court as specified in section 260C.712.

31.4 (c) The court shall ensure that notice of the hearing is sent to any relative who:

31.5 (1) responded to the agency's notice provided under section 260C.221, indicating an
31.6 interest in participating in planning for the child or being a permanency resource for the
31.7 child and who has kept the court apprised of the relative's address; or

31.8 (2) asked to be notified of court proceedings regarding the child as is permitted in section
31.9 260C.152, subdivision 5.

31.10 (d)(1) If the parent or guardian has maintained contact with the child and is complying
31.11 with the court-ordered out-of-home placement plan, and if the child would benefit from
31.12 reunification with the parent, the court may either:

31.13 (i) return the child home, if the conditions ~~which~~ that led to the out-of-home placement
31.14 have been sufficiently mitigated that it is safe and in the child's best interests to return home;
31.15 or

31.16 (ii) continue the matter up to a total of six additional months. If the child has not returned
31.17 home by the end of the additional six months, the court must conduct a hearing according
31.18 to sections 260C.503 to 260C.521.

31.19 (2) If the court determines that the parent or guardian is not complying, is not making
31.20 progress with or engaging with services in the out-of-home placement plan, or is not
31.21 maintaining regular contact with the child as outlined in the visitation plan required as part
31.22 of the out-of-home placement plan under section 260C.212, the court may order the
31.23 responsible social services agency:

31.24 (i) to develop a plan for legally permanent placement of the child away from the parent;

31.25 (ii) to consider, identify, recruit, and support one or more permanency resources from
31.26 the child's relatives and foster parent, consistent with section 260C.212, subdivision 2,
31.27 paragraph (a), to be the legally permanent home in the event the child cannot be returned
31.28 to the parent. Any relative or the child's foster parent may ask the court to order the agency
31.29 to consider them for permanent placement of the child in the event the child cannot be
31.30 returned to the parent. A relative or foster parent who wants to be considered under this
31.31 item shall cooperate with the background study required under section 245C.08, if the
31.32 individual has not already done so, and with the home study process required under chapter
31.33 245A for providing child foster care and for adoption under section 259.41. The home study

32.1 referred to in this item shall be a single-home study in the form required by the commissioner
 32.2 of human services or similar study required by the individual's state of residence when the
 32.3 subject of the study is not a resident of Minnesota. The court may order the responsible
 32.4 social services agency to make a referral under the Interstate Compact on the Placement of
 32.5 Children when necessary to obtain a home study for an individual who wants to be considered
 32.6 for transfer of permanent legal and physical custody or adoption of the child; and

32.7 (iii) to file a petition to support an order for the legally permanent placement plan.

32.8 (e) Following the review under this section:

32.9 (1) if the court has either returned the child home or continued the matter up to a total
 32.10 of six additional months, the agency shall continue to provide services to support the child's
 32.11 return home or to make reasonable efforts to achieve reunification of the child and the parent
 32.12 as ordered by the court under an approved case plan;

32.13 (2) if the court orders the agency to develop a plan for the transfer of permanent legal
 32.14 and physical custody of the child to a relative, a petition supporting the plan shall be filed
 32.15 in juvenile court within 30 days of the hearing required under this section and a trial on the
 32.16 petition held within 60 days of the filing of the pleadings; or

32.17 (3) if the court orders the agency to file a termination of parental rights, unless the county
 32.18 attorney can show cause why a termination of parental rights petition should not be filed,
 32.19 a petition for termination of parental rights shall be filed in juvenile court within 30 days
 32.20 of the hearing required under this section and a trial on the petition held within 60 days of
 32.21 the filing of the petition.

32.22 Sec. 17. Minnesota Statutes 2021 Supplement, section 260C.212, subdivision 1, is amended
 32.23 to read:

32.24 Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan shall
 32.25 be prepared within 30 days after any child is placed in foster care by court order or a
 32.26 voluntary placement agreement between the responsible social services agency and the
 32.27 child's parent pursuant to section 260C.227 or chapter 260D.

32.28 (b) An out-of-home placement plan means a written document ~~which~~ individualized to
 32.29 the needs of the child and the child's parents or guardians that is prepared by the responsible
 32.30 social services agency jointly with the parent or parents or guardian of the child the child's
 32.31 parents or guardians and in consultation with the child's guardian ad litem; ² the child's tribe,
 32.32 if the child is an Indian child; ² the child's foster parent or representative of the foster care
 32.33 facility; ² and, ~~where~~ when appropriate, the child. When a child is age 14 or older, the child

33.1 may include two other individuals on the team preparing the child's out-of-home placement
33.2 plan. The child may select one member of the case planning team to be designated as the
33.3 child's advisor and to advocate with respect to the application of the reasonable and prudent
33.4 parenting standards. The responsible social services agency may reject an individual selected
33.5 by the child if the agency has good cause to believe that the individual would not act in the
33.6 best interest of the child. For a child in voluntary foster care for treatment under chapter
33.7 260D, preparation of the out-of-home placement plan shall additionally include the child's
33.8 mental health treatment provider. For a child 18 years of age or older, the responsible social
33.9 services agency shall involve the child and the child's parents as appropriate. As appropriate,
33.10 the plan shall be:

33.11 (1) submitted to the court for approval under section 260C.178, subdivision 7;

33.12 (2) ordered by the court, either as presented or modified after hearing, under section
33.13 260C.178, subdivision 7, or 260C.201, subdivision 6; and

33.14 (3) signed by the parent or parents or guardian of the child, the child's guardian ad litem,
33.15 a representative of the child's tribe, the responsible social services agency, and, if possible,
33.16 the child.

33.17 (c) The out-of-home placement plan shall be explained by the responsible social services
33.18 agency to all persons involved in ~~its~~ the plan's implementation, including the child who has
33.19 signed the plan, and shall set forth:

33.20 (1) a description of the foster care home or facility selected, including how the agency
33.21 considered relatives and important friends for placement; how the out-of-home placement
33.22 plan is designed to achieve a safe placement for the child in the least restrictive, most
33.23 family-like, setting available which that is in close proximity to the home of the parent or
33.24 child's parents or guardian of the child guardians when the case plan goal is reunification;
33.25 and how the placement is consistent with the best interests and special needs of the child
33.26 according to the factors under subdivision 2, paragraph (b);

33.27 (2) the specific reasons for the placement of the child in foster care, and when
33.28 reunification is the plan, a description of the problems or conditions in the home of the
33.29 parent or parents ~~which~~ that necessitated removal of the child from home and the changes
33.30 the parent or parents must make for the child to safely return home;

33.31 (3) a description of the services offered and provided to prevent removal of the child
33.32 from the home and to reunify the family including:

34.1 (i) the specific actions to be taken by the parent or parents of the child to eliminate or
34.2 correct the problems or conditions identified in clause (2), and the time period during which
34.3 the actions are to be taken; and

34.4 (ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made to
34.5 achieve a safe and stable home for the child including social and other supportive services
34.6 to be provided or offered to the parent or parents or guardian of the child, the child, and the
34.7 residential facility during the period the child is in the residential facility;

34.8 (4) a description of any services or resources that were requested by the child or the
34.9 child's parent, guardian, foster parent, or custodian since the date of the child's placement
34.10 in the residential facility, and whether those services or resources were provided and if not,
34.11 the basis for the denial of the services or resources;

34.12 (5) the visitation plan for the parent or parents or guardian, other relatives as defined in
34.13 section 260C.007, subdivision 26b or 27, and siblings of the child if the siblings are not
34.14 placed together in foster care, and whether visitation is consistent with the best interest of
34.15 the child, during the period the child is in foster care;

34.16 (6) when a child cannot return to or be in the care of either parent, documentation of
34.17 steps to finalize adoption as the permanency plan for the child through reasonable efforts
34.18 to place the child for adoption pursuant to section 260C.605. At a minimum, the
34.19 documentation must include consideration of whether adoption is in the best interests of
34.20 the child; and child-specific recruitment efforts such as a relative search, consideration of
34.21 relatives for adoptive placement, and the use of state, regional, and national adoption
34.22 exchanges to facilitate orderly and timely placements in and outside of the state. A copy of
34.23 this documentation shall be provided to the court in the review required under section
34.24 260C.317, subdivision 3, paragraph (b);

34.25 (7) when a child cannot return to or be in the care of either parent, documentation of
34.26 steps to finalize the transfer of permanent legal and physical custody to a relative as the
34.27 permanency plan for the child. This documentation must support the requirements of the
34.28 kinship placement agreement under section 256N.22 and must include the reasonable efforts
34.29 used to determine that it is not appropriate for the child to return home or be adopted, and
34.30 reasons why permanent placement with a relative through a Northstar kinship assistance
34.31 arrangement is in the child's best interest; how the child meets the eligibility requirements
34.32 for Northstar kinship assistance payments; agency efforts to discuss adoption with the child's
34.33 relative foster parent and reasons why the relative foster parent chose not to pursue adoption,
34.34 if applicable; and agency efforts to discuss with the child's parent or parents the permanent

35.1 transfer of permanent legal and physical custody or the reasons why these efforts were not
35.2 made;

35.3 (8) efforts to ensure the child's educational stability while in foster care for a child who
35.4 attained the minimum age for compulsory school attendance under state law and is enrolled
35.5 full time in elementary or secondary school, or instructed in elementary or secondary
35.6 education at home, or instructed in an independent study elementary or secondary program,
35.7 or incapable of attending school on a full-time basis due to a medical condition that is
35.8 documented and supported by regularly updated information in the child's case plan.

35.9 Educational stability efforts include:

35.10 (i) efforts to ensure that the child remains in the same school in which the child was
35.11 enrolled prior to placement or upon the child's move from one placement to another, including
35.12 efforts to work with the local education authorities to ensure the child's educational stability
35.13 and attendance; or

35.14 (ii) if it is not in the child's best interest to remain in the same school that the child was
35.15 enrolled in prior to placement or move from one placement to another, efforts to ensure
35.16 immediate and appropriate enrollment for the child in a new school;

35.17 (9) the educational records of the child including the most recent information available
35.18 regarding:

35.19 (i) the names and addresses of the child's educational providers;

35.20 (ii) the child's grade level performance;

35.21 (iii) the child's school record;

35.22 (iv) a statement about how the child's placement in foster care takes into account
35.23 proximity to the school in which the child is enrolled at the time of placement; and

35.24 (v) any other relevant educational information;

35.25 (10) the efforts by the responsible social services agency to ensure the oversight and
35.26 continuity of health care services for the foster child, including:

35.27 (i) the plan to schedule the child's initial health screens;

35.28 (ii) how the child's known medical problems and identified needs from the screens,
35.29 including any known communicable diseases, as defined in section 144.4172, subdivision
35.30 2, shall be monitored and treated while the child is in foster care;

35.31 (iii) how the child's medical information shall be updated and shared, including the
35.32 child's immunizations;

- 36.1 (iv) who is responsible to coordinate and respond to the child's health care needs,
36.2 including the role of the parent, the agency, and the foster parent;
- 36.3 (v) who is responsible for oversight of the child's prescription medications;
- 36.4 (vi) how physicians or other appropriate medical and nonmedical professionals shall be
36.5 consulted and involved in assessing the health and well-being of the child and determine
36.6 the appropriate medical treatment for the child; and
- 36.7 (vii) the responsibility to ensure that the child has access to medical care through either
36.8 medical insurance or medical assistance;
- 36.9 (11) the health records of the child including information available regarding:
- 36.10 (i) the names and addresses of the child's health care and dental care providers;
- 36.11 (ii) a record of the child's immunizations;
- 36.12 (iii) the child's known medical problems, including any known communicable diseases
36.13 as defined in section 144.4172, subdivision 2;
- 36.14 (iv) the child's medications; and
- 36.15 (v) any other relevant health care information such as the child's eligibility for medical
36.16 insurance or medical assistance;
- 36.17 (12) an independent living plan for a child 14 years of age or older, developed in
36.18 consultation with the child. The child may select one member of the case planning team to
36.19 be designated as the child's advisor and to advocate with respect to the application of the
36.20 reasonable and prudent parenting standards in subdivision 14. The plan should include, but
36.21 not be limited to, the following objectives:
- 36.22 (i) educational, vocational, or employment planning;
- 36.23 (ii) health care planning and medical coverage;
- 36.24 (iii) transportation including, where appropriate, assisting the child in obtaining a driver's
36.25 license;
- 36.26 (iv) money management, including the responsibility of the responsible social services
36.27 agency to ensure that the child annually receives, at no cost to the child, a consumer report
36.28 as defined under section 13C.001 and assistance in interpreting and resolving any inaccuracies
36.29 in the report;
- 36.30 (v) planning for housing;
- 36.31 (vi) social and recreational skills;

37.1 (vii) establishing and maintaining connections with the child's family and community;
37.2 and

37.3 (viii) regular opportunities to engage in age-appropriate or developmentally appropriate
37.4 activities typical for the child's age group, taking into consideration the capacities of the
37.5 individual child;

37.6 (13) for a child in voluntary foster care for treatment under chapter 260D, diagnostic
37.7 and assessment information, specific services relating to meeting the mental health care
37.8 needs of the child, and treatment outcomes;

37.9 (14) for a child 14 years of age or older, a signed acknowledgment that describes the
37.10 child's rights regarding education, health care, visitation, safety and protection from
37.11 exploitation, and court participation; receipt of the documents identified in section 260C.452;
37.12 and receipt of an annual credit report. The acknowledgment shall state that the rights were
37.13 explained in an age-appropriate manner to the child; and

37.14 (15) for a child placed in a qualified residential treatment program, the plan must include
37.15 the requirements in section 260C.708.

37.16 (d) The parent or parents or guardian and the child each shall have the right to legal
37.17 counsel in the preparation of the case plan and shall be informed of the right at the time of
37.18 placement of the child. The child shall also have the right to a guardian ad litem. If unable
37.19 to employ counsel from their own resources, the court shall appoint counsel upon the request
37.20 of the parent or parents or the child or the child's legal guardian. The parent or parents may
37.21 also receive assistance from any person or social services agency in preparation of the case
37.22 plan.

37.23 (e) After the plan has been agreed upon by the parties involved or approved or ordered
37.24 by the court, the foster parents shall be fully informed of the provisions of the case plan and
37.25 shall be provided a copy of the plan.

37.26 (f) Upon the child's discharge from foster care, the responsible social services agency
37.27 must provide the child's parent, adoptive parent, or permanent legal and physical custodian,
37.28 and the child, if the child is 14 years of age or older, with a current copy of the child's health
37.29 and education record. If a child meets the conditions in subdivision 15, paragraph (b), the
37.30 agency must also provide the child with the child's social and medical history. The responsible
37.31 social services agency may give a copy of the child's health and education record and social
37.32 and medical history to a child who is younger than 14 years of age, if it is appropriate and
37.33 if subdivision 15, paragraph (b), applies.

38.1 Sec. 18. Minnesota Statutes 2021 Supplement, section 260C.212, subdivision 2, is amended
38.2 to read:

38.3 Subd. 2. **Placement decisions based on best interests of the child.** (a) The policy of
38.4 the state of Minnesota is to ensure that the child's best interests are met by requiring an
38.5 individualized determination of the needs of the child in consideration of paragraphs (a) to
38.6 (f), and of how the selected placement will serve the current and future needs of the child
38.7 being placed. The authorized child-placing agency shall place a child, released by court
38.8 order or by voluntary release by the parent or parents, in a family foster home selected by
38.9 considering placement with relatives, kin, and important friends in the following order:

38.10 (1) with an individual who is related to the child by blood, marriage, or adoption,
38.11 including the legal parent, guardian, or custodian of the child's ~~siblings~~ sibling; ~~or~~

38.12 (2) with an individual who meets the definition of kin under section 260C.007, subdivision
38.13 21b; or

38.14 ~~(2)~~ (3) with an individual who is an important friend with whom the child has resided
38.15 or had significant contact.

38.16 For an Indian child, the agency shall follow the order of placement preferences in the Indian
38.17 Child Welfare Act of 1978, United States Code, title 25, section 1915.

38.18 (b) Among the factors the agency shall consider in determining the current and future
38.19 needs of the child are the following:

38.20 (1) the child's current functioning and behaviors;

38.21 (2) the medical needs of the child;

38.22 (3) the educational needs of the child;

38.23 (4) the developmental needs of the child;

38.24 (5) the child's history and past experience;

38.25 (6) the child's religious and cultural needs;

38.26 (7) the child's connection with a community, school, and faith community;

38.27 (8) the child's interests and talents;

38.28 (9) the child's ~~relationship to current caretakers,~~ past, present, and future relationships
38.29 with parents, siblings, and relatives, and other caretakers;

39.1 (10) the reasonable preference of the child, if the court, or the child-placing agency in
39.2 the case of a voluntary placement, deems the child to be of sufficient age to express
39.3 preferences; and

39.4 (11) for an Indian child, the best interests of an Indian child as defined in section 260.755,
39.5 subdivision 2a.

39.6 When placing a child in foster care or in a permanent placement based on an individualized
39.7 determination of the child's needs, the agency must not use one factor in this paragraph to
39.8 the exclusion of all others, and the agency shall consider that the factors in paragraph (b)
39.9 may be interrelated.

39.10 (c) Placement of a child cannot be delayed or denied based on race, color, or national
39.11 origin of the foster parent or the child.

39.12 (d) Siblings should be placed together for foster care and adoption at the earliest possible
39.13 time unless it is documented that a joint placement would be contrary to the safety or
39.14 well-being of any of the siblings or unless it is not possible after reasonable efforts by the
39.15 responsible social services agency. In cases where siblings cannot be placed together, the
39.16 agency is required to provide frequent visitation or other ongoing interaction between
39.17 siblings unless the agency documents that the interaction would be contrary to the safety
39.18 or well-being of any of the siblings.

39.19 (e) Except for emergency placement as provided for in section 245A.035, the following
39.20 requirements must be satisfied before the approval of a foster or adoptive placement in a
39.21 related or unrelated home: (1) a completed background study under section 245C.08; and
39.22 (2) a completed review of the written home study required under section 260C.215,
39.23 subdivision 4, clause (5), or 260C.611, to assess the capacity of the prospective foster or
39.24 adoptive parent to ensure the placement will meet the needs of the individual child.

39.25 (f) The agency must determine whether colocation with a parent who is receiving services
39.26 in a licensed residential family-based substance use disorder treatment program is in the
39.27 child's best interests according to paragraph (b) and include that determination in the child's
39.28 case plan under subdivision 1. The agency may consider additional factors not identified
39.29 in paragraph (b). The agency's determination must be documented in the child's case plan
39.30 before the child is colocated with a parent.

39.31 (g) The agency must establish a juvenile treatment screening team under section 260C.157
39.32 to determine whether it is necessary and appropriate to recommend placing a child in a
39.33 qualified residential treatment program, as defined in section 260C.007, subdivision 26d.

40.1 Sec. 19. Minnesota Statutes 2020, section 260C.221, is amended to read:

40.2 **260C.221 RELATIVE SEARCH AND ENGAGEMENT; PLACEMENT**
40.3 **CONSIDERATION.**

40.4 Subdivision 1. Relative search requirements. (a) The responsible social services agency
40.5 shall exercise due diligence to identify and notify adult relatives and current caregivers of
40.6 a child's sibling, prior to placement or within 30 days after the child's removal from the
40.7 parent, regardless of whether a child is placed in a relative's home, as required under
40.8 subdivision 2. ~~The county agency shall consider placement with a relative under this section~~
40.9 ~~without delay and whenever the child must move from or be returned to foster care.~~ The
40.10 relative search required by this section shall be comprehensive in scope. ~~After a finding~~
40.11 ~~that the agency has made reasonable efforts to conduct the relative search under this~~
40.12 ~~paragraph, the agency has the continuing responsibility to appropriately involve relatives,~~
40.13 ~~who have responded to the notice required under this paragraph, in planning for the child~~
40.14 ~~and to continue to consider relatives according to the requirements of section 260C.212,~~
40.15 ~~subdivision 2.~~ At any time during the course of juvenile protection proceedings, the court
40.16 may order the agency to reopen its search for relatives when it is in the child's best interest
40.17 to do so.

40.18 (b) The relative search required by this section shall include both maternal and paternal
40.19 adult relatives of the child; all adult grandparents; all legal parents, guardians, or custodians
40.20 of the child's siblings; and any other adult relatives suggested by the child's parents, subject
40.21 to the exceptions due to family violence in subdivision 5, paragraph (e) (b). The search shall
40.22 also include getting information from the child in an age-appropriate manner about who the
40.23 child considers to be family members and important friends with whom the child has resided
40.24 or had significant contact. The search may also include kin as suggested by the child, the
40.25 child's parents, or other family members. The relative search required under this section
40.26 must fulfill the agency's duties under the Indian Child Welfare Act regarding active efforts
40.27 to prevent the breakup of the Indian family under United States Code, title 25, section
40.28 1912(d), and to meet placement preferences under United States Code, title 25, section
40.29 1915.

40.30 (c) The responsible social services agency has a continuing responsibility to search for
40.31 and identify relatives of a child and send the notice to relatives that is required under
40.32 subdivision 2, unless the court has relieved the agency of this duty under subdivision 5,
40.33 paragraph (e).

41.1 Subd. 2. Relative notice requirements. (a) The agency may provide oral or written
 41.2 notice to a child's relatives. In the child's case record, the agency must document providing
 41.3 the required notice to each of the child's relatives. The responsible social services agency
 41.4 must notify relatives ~~must be notified~~, and may notify kin:

41.5 (1) of the need for a foster home for the child, the option to become a placement resource
 41.6 for the child, the order of placement that the agency will consider under section 260C.212,
 41.7 subdivision 2, paragraph (a), and the possibility of the need for a permanent placement for
 41.8 the child;

41.9 (2) of their responsibility to keep the responsible social services agency and the court
 41.10 informed of their current address in order to receive notice in the event that a permanent
 41.11 placement is sought for the child and to receive notice of the permanency progress review
 41.12 hearing under section 260C.204. A relative who fails to provide a current address to the
 41.13 responsible social services agency and the court forfeits the right to receive notice of the
 41.14 possibility of permanent placement and of the permanency progress review hearing under
 41.15 section 260C.204, until the relative provides a current address to the responsible social
 41.16 services agency and the court. A decision by a relative not to be identified as a potential
 41.17 permanent placement resource or participate in planning for the child ~~at the beginning of~~
 41.18 ~~the case~~ shall not affect whether the relative is considered for placement of, or as a
 41.19 permanency resource for, the child with that relative later at any time in the case, and shall
 41.20 not be a basis for the court to rule out the relative as the child's placement or permanency
 41.21 resource;

41.22 (3) that the relative may participate in the care and planning for the child, as specified
 41.23 in subdivision 3, including that the opportunity for such participation may be lost by failing
 41.24 to respond to the notice sent under this subdivision. ~~"Participate in the care and planning"~~
 41.25 ~~includes, but is not limited to, participation in case planning for the parent and child,~~
 41.26 ~~identifying the strengths and needs of the parent and child, supervising visits, providing~~
 41.27 ~~respite and vacation visits for the child, providing transportation to appointments, suggesting~~
 41.28 ~~other relatives who might be able to help support the case plan, and to the extent possible,~~
 41.29 ~~helping to maintain the child's familiar and regular activities and contact with friends and~~
 41.30 ~~relatives;~~

41.31 (4) of the family foster care licensing and adoption home study requirements, including
 41.32 how to complete an application and how to request a variance from licensing standards that
 41.33 do not present a safety or health risk to the child in the home under section 245A.04 and
 41.34 supports that are available for relatives and children who reside in a family foster home;
 41.35 ~~and~~

42.1 (5) of the relatives' right to ask to be notified of any court proceedings regarding the
42.2 child, to attend the hearings, and of a relative's right or opportunity to be heard by the court
42.3 as required under section 260C.152, subdivision 5;

42.4 (6) that regardless of the relative's response to the notice sent under this subdivision, the
42.5 agency is required to establish permanency for a child, including planning for alternative
42.6 permanency options if the agency's reunification efforts fail or are not required; and

42.7 (7) that by responding to the notice, a relative may receive information about participating
42.8 in a child's family and permanency team if the child is placed in a qualified residential
42.9 treatment program as defined in section 260C.007, subdivision 26d.

42.10 (b) The responsible social services agency shall send the notice required under paragraph
42.11 (a) to relatives who become known to the responsible social services agency, except for
42.12 relatives that the agency does not contact due to safety reasons under subdivision 5, paragraph
42.13 (b). The responsible social services agency shall continue to send notice to relatives
42.14 notwithstanding a court's finding that the agency has made reasonable efforts to conduct a
42.15 relative search. The responsible social services agency shall notify relatives who become
42.16 known to the agency after an adoption placement agreement has been fully executed under
42.17 section 260C.613, subdivision 1, of their options under section 260C.607, subdivision 6.

42.18 Subd. 3. **Relative engagement requirements.** (a) A relative who responds to the notice
42.19 under subdivision 2 has the right to participate in care and planning for a child. Care and
42.20 planning for a child includes but is not limited to:

42.21 (1) participating in case planning for the child and child's parent, including identifying
42.22 services and resources that meet the individualized needs of the child and child's parent. A
42.23 relative's participation in case planning may be in person, via phone call, or by electronic
42.24 means, and shall not be limited based on the relative's prior inconsistent or nonexistent
42.25 participation;

42.26 (2) identifying the strengths and needs of the child and child's parent;

42.27 (3) asking the responsible social services agency to consider the relative for placement
42.28 of the child according to subdivision 4;

42.29 (4) acting as a support person for the child, the child's parents, and the child's current
42.30 caregiver;

42.31 (5) supervising visits;

42.32 (6) providing respite care for the child and having vacation visits with the child;

43.1 (7) providing transportation;

43.2 (8) suggesting other relatives who may be able to participate in the case plan or that the
43.3 agency may consider for placement of the child. The agency shall send a notice to each
43.4 relative identified by other relatives according to subdivision 2, paragraph (b), unless a
43.5 relative received this notice earlier in the case;

43.6 (9) helping to maintain the child's familiar and regular activities and contact with the
43.7 child's friends and relatives, including providing supervision of the child at family gatherings
43.8 and events; and

43.9 (10) participating in the child's family and permanency team if the child is placed in a
43.10 qualified residential treatment program as defined in section 260C.007, subdivision 26d.

43.11 (b) The responsible social services agency shall make reasonable efforts to contact and
43.12 engage relatives who respond to the notice required under this section. Upon a request by
43.13 a relative or another party to the proceeding, the court may conduct a review of the agency's
43.14 reasonable efforts to contact and engage relatives who respond to the notice. If the court
43.15 finds that the agency did not make reasonable efforts to contact and engage relatives who
43.16 respond to the notice, the court may order the agency to make reasonable efforts to contact
43.17 and engage relatives who respond to the notice in care and planning for the child.

43.18 Subd. 4. **Placement considerations.** (a) The responsible social services agency shall
43.19 consider placing a child with a relative under this section without delay and when the child:

43.20 (1) enters foster care;

43.21 (2) must be moved from the child's current foster setting;

43.22 (3) must be permanently placed away from the child's parent; or

43.23 (4) returns to foster care after permanency has been achieved for the child.

43.24 (b) The agency shall consider placing a child with relatives and kin:

43.25 (1) in the order specified in section 260C.212, subdivision 2, paragraph (a); and

43.26 (2) based on the child's best interests using the factors in section 260C.212, subdivision
43.27 2.

43.28 (c) The agency shall document how the agency considered relatives and kin in the child's
43.29 out-of-home placement plan as required under section 260C.212, subdivision 1, paragraph
43.30 (c), clause (1).

44.1 (d) Any relative who requests to be a placement option for a child in foster care has the
 44.2 right to be considered for placement of the child according to section 260C.212, subdivision
 44.3 2, paragraph (a), unless the court finds that placing the child with a specific relative would
 44.4 endanger the child, sibling, parent, guardian, or any other family member under subdivision
 44.5 5, paragraph (b).

44.6 (e) When adoption is the responsible social services agency's permanency goal for the
 44.7 child, the agency shall consider adoptive placement of the child with a relative in the order
 44.8 specified under section 260C.212, subdivision 2, paragraph (a).

44.9 **Subd. 5. Data disclosure; court review.** ~~(e)~~ (a) A responsible social services agency
 44.10 may disclose private data, as defined in section 13.02 and chapter 260E, to relatives of the
 44.11 child for the purpose of locating and assessing a suitable placement and may use any
 44.12 reasonable means of identifying and locating relatives including the Internet or other
 44.13 electronic means of conducting a search. The agency shall disclose data that is necessary
 44.14 to facilitate possible placement with relatives and to ensure that the relative is informed of
 44.15 the needs of the child so the relative can participate in planning for the child and be supportive
 44.16 of services to the child and family.

44.17 (b) If the child's parent refuses to give the responsible social services agency information
 44.18 sufficient to identify the maternal and paternal relatives of the child, the agency shall ask
 44.19 the juvenile court to order the parent to provide the necessary information and shall use
 44.20 other resources to identify the child's maternal and paternal relatives. If a parent makes an
 44.21 explicit request that a specific relative not be contacted or considered for placement due to
 44.22 safety reasons, including past family or domestic violence, the agency shall bring the parent's
 44.23 request to the attention of the court to determine whether the parent's request is consistent
 44.24 with the best interests of the child ~~and~~. The agency shall not contact the specific relative
 44.25 when the juvenile court finds that contacting or placing the child with the specific relative
 44.26 would endanger the parent, guardian, child, sibling, or any family member. A court shall
 44.27 not waive or relieve the responsible social services agency of reasonable efforts to:

44.28 (1) conduct a relative search;

44.29 (2) notify relatives;

44.30 (3) contact and engage relatives in case planning; and

44.31 (4) consider relatives for placement of the child, unless section 260C.139 applies.

45.1 (c) Notwithstanding chapter 13, the agency shall disclose data to the court about particular
 45.2 relatives that the agency has identified, contacted, or considered for the child's placement
 45.3 for the court to review the agency's due diligence.

45.4 (d) At a regularly scheduled hearing not later than three months after the child's placement
 45.5 in foster care and as required in ~~section~~ sections 260C.193 and 260C.202, the agency shall
 45.6 report to the court:

45.7 (1) ~~its~~ the agency's efforts to identify maternal and paternal relatives of the child and to
 45.8 engage the relatives in providing support for the child and family, and document that the
 45.9 relatives have been provided the notice required under ~~paragraph (a)~~ subdivision 2; and

45.10 (2) ~~its~~ the agency's decision regarding placing the child with a relative as required under
 45.11 section 260C.212, subdivision 2, ~~and to ask~~. If the responsible social services agency decides
 45.12 that relative placement is not in the child's best interests at the time of the hearing, the agency
 45.13 shall inform the court of the agency's decision, including:

45.14 (i) why the agency decided against relative placement of the child; and

45.15 (ii) the agency's efforts to engage relatives to visit or maintain contact with the child in
 45.16 order as required under subdivision 3 to support family connections for the child, when
 45.17 placement with a relative is not possible or appropriate.

45.18 ~~(e) Notwithstanding chapter 13, the agency shall disclose data about particular relatives~~
 45.19 ~~identified, searched for, and contacted for the purposes of the court's review of the agency's~~
 45.20 ~~due diligence.~~

45.21 ~~(f)~~ (e) When the court is satisfied that the agency has exercised due diligence to identify
 45.22 relatives and provide the notice required in ~~paragraph (a)~~ subdivision 2, the court may find
 45.23 that the agency made reasonable efforts have been made to conduct a relative search to
 45.24 identify and provide notice to adult relatives as required under section 260.012, paragraph
 45.25 (e), clause (3). A finding under this paragraph does not relieve the responsible social services
 45.26 agency of the ongoing duty to contact, engage, and consider relatives under this section.
 45.27 The agency has the continuing responsibility to:

45.28 (1) involve relatives who respond to the notice in planning for the child; and

45.29 (2) continue considering relatives for the child's placement while taking the child's short-
 45.30 and long-term permanency goals into consideration, according to the requirements of section
 45.31 260C.212, subdivision 2.

45.32 (f) At any time during the course of juvenile protection proceedings, the court may order
 45.33 the agency to reopen the search for relatives when it is in the child's best interests. The court

46.1 may not use a finding made under this paragraph as a basis for the court to rule out any
46.2 relative from being a foster care or permanent placement option for the child.

46.3 (g) If the court is not satisfied that the agency has exercised due diligence to identify
46.4 relatives and provide the notice required in ~~paragraph (a)~~ subdivision 2, the court may order
46.5 the agency to continue its search and notice efforts and to report back to the court.

46.6 ~~(g) When the placing agency determines that permanent placement proceedings are~~
46.7 ~~necessary because there is a likelihood that the child will not return to a parent's care, the~~
46.8 ~~agency must send the notice provided in paragraph (h), may ask the court to modify the~~
46.9 ~~duty of the agency to send the notice required in paragraph (h), or may ask the court to~~
46.10 ~~completely relieve the agency of the requirements of paragraph (h). The relative notification~~
46.11 ~~requirements of paragraph (h) do not apply when the child is placed with an appropriate~~
46.12 ~~relative or a foster home that has committed to adopting the child or taking permanent legal~~
46.13 ~~and physical custody of the child and the agency approves of that foster home for permanent~~
46.14 ~~placement of the child. The actions ordered by the court under this section must be consistent~~
46.15 ~~with the best interests, safety, permanency, and welfare of the child.~~

46.16 (h) ~~Unless required under the Indian Child Welfare Act or relieved of this duty by the~~
46.17 ~~court under paragraph (f),~~ When the agency determines that it is necessary to prepare for
46.18 permanent placement determination proceedings, or in anticipation of filing a termination
46.19 of parental rights petition, the agency shall send notice to ~~the~~ relatives who responded to a
46.20 notice under this section sent at any time during the case, any adult with whom the child is
46.21 currently residing, any adult with whom the child has resided for one year or longer in the
46.22 past, and any adults who have maintained a relationship or exercised visitation with the
46.23 child as identified in the agency case plan. The notice must state that a permanent home is
46.24 sought for the child and that the individuals receiving the notice may indicate to the agency
46.25 their interest in providing a permanent home. The notice must state that within 30 days of
46.26 receipt of the notice an individual receiving the notice must indicate to the agency the
46.27 individual's interest in providing a permanent home for the child or that the individual may
46.28 lose the opportunity to be considered for a permanent placement. A relative's failure to
46.29 respond or timely respond to the notice is not a basis for ruling out the relative from being
46.30 a permanent placement option for the child, nor is it a basis to delay permanency for the
46.31 child.

47.1 Sec. 20. Minnesota Statutes 2021 Supplement, section 260C.605, subdivision 1, is amended
47.2 to read:

47.3 Subdivision 1. **Requirements.** (a) Reasonable efforts to finalize the adoption of a child
47.4 under the guardianship of the commissioner shall be made by the responsible social services
47.5 agency responsible for permanency planning for the child.

47.6 (b) Reasonable efforts to make a placement in a home according to the placement
47.7 considerations under section 260C.212, subdivision 2, with a relative or foster parent who
47.8 will commit to being the permanent resource for the child in the event the child cannot be
47.9 reunified with a parent are required under section 260.012 and may be made concurrently
47.10 with reasonable, or if the child is an Indian child, active efforts to reunify the child with the
47.11 parent.

47.12 (c) Reasonable efforts under paragraph (b) must begin as soon as possible when the
47.13 child is in foster care under this chapter, but not later than the hearing required under section
47.14 260C.204.

47.15 (d) Reasonable efforts to finalize the adoption of the child include:

47.16 (1) considering the child's preference for an adoptive family;

47.17 ~~(1)~~ (2) using age-appropriate engagement strategies to plan for adoption with the child;

47.18 ~~(2)~~ (3) identifying an appropriate prospective adoptive parent for the child by updating
47.19 the child's identified needs using the factors in section 260C.212, subdivision 2;

47.20 ~~(3)~~ (4) making an adoptive placement that meets the child's needs by:

47.21 (i) completing or updating the relative search required under section 260C.221 and giving
47.22 notice of the need for an adoptive home for the child to:

47.23 (A) relatives who have kept the agency or the court apprised of their whereabouts ~~and~~
47.24 ~~who have indicated an interest in adopting the child;~~ or

47.25 (B) relatives of the child who are located in an updated search;

47.26 (ii) an updated search is required whenever:

47.27 (A) there is no identified prospective adoptive placement for the child notwithstanding
47.28 a finding by the court that the agency made diligent efforts under section 260C.221, in a
47.29 hearing required under section 260C.202;

47.30 (B) the child is removed from the home of an adopting parent; or

48.1 (C) the court determines that a relative search by the agency is in the best interests of
48.2 the child;

48.3 (iii) engaging the child's relatives or current or former foster parent and the child's
48.4 relatives identified as an adoptive resource during the search conducted under section
48.5 260C.221, parents to commit to being the prospective adoptive parent of the child, and
48.6 considering the child's relatives, kin, and important friends for adoptive placement of the
48.7 child in the order specified under section 260C.212, subdivision 2, paragraph (a); or

48.8 (iv) when there is no identified prospective adoptive parent:

48.9 (A) registering the child on the state adoption exchange as required in section 259.75
48.10 unless the agency documents to the court an exception to placing the child on the state
48.11 adoption exchange reported to the commissioner;

48.12 (B) reviewing all families with approved adoption home studies associated with the
48.13 responsible social services agency;

48.14 (C) presenting the child to adoption agencies and adoption personnel who may assist
48.15 with finding an adoptive home for the child;

48.16 (D) using newspapers and other media to promote the particular child;

48.17 (E) using a private agency under grant contract with the commissioner to provide adoption
48.18 services for intensive child-specific recruitment efforts; and

48.19 (F) making any other efforts or using any other resources reasonably calculated to identify
48.20 a prospective adoption parent for the child;

48.21 ~~(4)~~ (5) updating and completing the social and medical history required under sections
48.22 260C.212, subdivision 15, and 260C.609;

48.23 ~~(5)~~ (6) making, and keeping updated, appropriate referrals required by section 260.851,
48.24 the Interstate Compact on the Placement of Children;

48.25 ~~(6)~~ (7) giving notice regarding the responsibilities of an adoptive parent to any prospective
48.26 adoptive parent as required under section 259.35;

48.27 ~~(7)~~ (8) offering the adopting parent the opportunity to apply for or decline adoption
48.28 assistance under chapter 256N;

48.29 ~~(8)~~ (9) certifying the child for adoption assistance, assessing the amount of adoption
48.30 assistance, and ascertaining the status of the commissioner's decision on the level of payment
48.31 if the adopting parent has applied for adoption assistance;

49.1 ~~(9)~~ (10) placing the child with siblings. If the child is not placed with siblings, the agency
 49.2 must document reasonable efforts to place the siblings together, as well as the reason for
 49.3 separation. The agency may not cease reasonable efforts to place siblings together for final
 49.4 adoption until the court finds further reasonable efforts would be futile or that placement
 49.5 together for purposes of adoption is not in the best interests of one of the siblings; and

49.6 ~~(10)~~ (11) working with the adopting parent to file a petition to adopt the child and with
 49.7 the court administrator to obtain a timely hearing to finalize the adoption.

49.8 Sec. 21. Minnesota Statutes 2020, section 260C.607, subdivision 2, is amended to read:

49.9 Subd. 2. **Notice.** Notice of review hearings shall be given by the court to:

49.10 (1) the responsible social services agency;

49.11 (2) the child, if the child is age ten and older;

49.12 (3) the child's guardian ad litem;

49.13 (4) counsel appointed for the child pursuant to section 260C.163, subdivision 3;

49.14 (5) relatives of the child who have kept the court informed of their whereabouts as
 49.15 required in section 260C.221 and who have responded to the agency's notice under section
 49.16 260C.221, ~~indicating a willingness to provide an adoptive home for the child unless the~~
 49.17 ~~relative has been previously ruled out by the court as a suitable foster parent or permanency~~
 49.18 ~~resource for the child;~~

49.19 (6) the current foster or adopting parent of the child;

49.20 (7) any foster or adopting parents of siblings of the child; and

49.21 (8) the Indian child's tribe.

49.22 Sec. 22. Minnesota Statutes 2020, section 260C.607, subdivision 5, is amended to read:

49.23 Subd. 5. **Required placement by responsible social services agency.** (a) No petition
 49.24 for adoption shall be filed for a child under the guardianship of the commissioner unless
 49.25 the child sought to be adopted has been placed for adoption with the adopting parent by the
 49.26 responsible social services agency as required under section 260C.613, subdivision 1. The
 49.27 court may order the agency to make an adoptive placement using standards and procedures
 49.28 under subdivision 6.

49.29 (b) Any relative or the child's foster parent who believes the responsible agency has not
 49.30 reasonably considered the relative's or foster parent's request to be considered for adoptive

50.1 placement as required under section 260C.212, subdivision 2, and who wants to be considered
50.2 for adoptive placement of the child shall bring a request for consideration to the attention
50.3 of the court during a review required under this section. The child's guardian ad litem and
50.4 the child may also bring a request for a relative or the child's foster parent to be considered
50.5 for adoptive placement. After hearing from the agency, the court may order the agency to
50.6 take appropriate action regarding the relative's or foster parent's request for consideration
50.7 under section 260C.212, subdivision 2, paragraph (b).

50.8 Sec. 23. Minnesota Statutes 2021 Supplement, section 260C.607, subdivision 6, is amended
50.9 to read:

50.10 Subd. 6. **Motion and hearing to order adoptive placement.** (a) At any time after the
50.11 district court orders the child under the guardianship of the commissioner of human services,
50.12 but not later than 30 days after receiving notice required under section 260C.613, subdivision
50.13 1, paragraph (c), that the agency has made an adoptive placement, a relative or the child's
50.14 foster parent may file a motion for an order for adoptive placement of a child who is under
50.15 the guardianship of the commissioner if the relative or the child's foster parent:

50.16 (1) has or shows evidence that the relative or the child's foster parent is in the process
50.17 of obtaining an adoption home study under section 259.41 or 260C.611 approving the
50.18 relative or foster parent for adoption and has been a resident of Minnesota for at least six
50.19 months before filing the motion; the court may waive the residency requirement for the
50.20 moving party if there is a reasonable basis to do so; or

50.21 (2) is not a resident of Minnesota, but has or shows evidence that the relative or the
50.22 child's foster parent is in the process of obtaining an approved adoption home study by an
50.23 agency licensed or approved to complete an adoption home study in the state of the
50.24 individual's residence and. If the relative or foster parent has an approved adoption home
50.25 study, the moving party must file the study is filed with the motion for adoptive placement.
50.26 If the relative or foster parent is in the process of obtaining an approved adoption home
50.27 study, the moving party must file the documentation of efforts with the motion for adoptive
50.28 placement.

50.29 (b) The motion shall be filed with the court conducting reviews of the child's progress
50.30 toward adoption under this section. The motion and supporting documents must make a
50.31 prima facie showing that the agency has been unreasonable in failing to make the requested
50.32 adoptive placement. The motion must be served according to the requirements for motions
50.33 under the Minnesota Rules of Juvenile Protection Procedure and shall be made on all
50.34 individuals and entities listed in subdivision 2.

51.1 (c) If the motion and supporting documents do not make a prima facie showing for the
51.2 court to determine whether the agency has been unreasonable in failing to make the requested
51.3 adoptive placement, the court shall dismiss the motion. If the court determines a prima facie
51.4 basis is made, the court shall set the matter for evidentiary hearing.

51.5 (d) At the evidentiary hearing, the responsible social services agency shall proceed first
51.6 with evidence about the reason for not making the adoptive placement proposed by the
51.7 moving party. When the agency presents evidence regarding the child's current relationship
51.8 with the identified adoptive placement resource, the court must consider the agency's efforts
51.9 to support the child's relationship with the moving party consistent with section 260C.221.
51.10 The moving party then has the burden of proving by a preponderance of the evidence that
51.11 the agency has been unreasonable in failing to make the adoptive placement.

51.12 (e) When determining whether the agency was unreasonable in failing to make the
51.13 adoptive placement, the court shall consider placement decision factors under section
51.14 260C.212, subdivision 2, and the adoptive placement decision factors in section 260C.613,
51.15 subdivision 1, paragraph (b).

51.16 ~~(e)~~ (f) At the conclusion of the evidentiary hearing, if the court finds that the agency has
51.17 been unreasonable in failing to make the adoptive placement and that the ~~relative or the~~
51.18 ~~child's foster parent~~ moving party is the most suitable adoptive home to meet the child's
51.19 needs using the factors in section 260C.212, subdivision 2, paragraph (b), the court may:

51.20 (1) order the responsible social services agency to make an adoptive placement in the
51.21 home of the ~~relative or the child's foster parent.~~ moving party if the moving party has an
51.22 approved adoption home study; or

51.23 (2) order the responsible social services agency to place the child in the home of the
51.24 moving party upon approval of an adoption home study. The agency must promote and
51.25 support the child's ongoing visitation and contact with the moving party until the child is
51.26 placed in the moving party's home. The agency must provide an update to the court after
51.27 90 days, including progress and any barriers encountered. If the moving party does not have
51.28 an approved adoption home study within 180 days, the moving party and the agency must
51.29 inform the court of any barriers to obtaining the approved adoption home study during a
51.30 review hearing under this section. If the court finds that the moving party is unable to obtain
51.31 an approved adoption home study, the court must dismiss the order for adoptive placement
51.32 under this subdivision and order the agency to continue making reasonable efforts to finalize
51.33 the adoption of the child as required under section 260C.605.

52.1 ~~(f)~~ (g) If, in order to ensure that a timely adoption may occur, the court orders the
52.2 responsible social services agency to make an adoptive placement under this subdivision,
52.3 the agency shall:

52.4 (1) make reasonable efforts to obtain a fully executed adoption placement agreement,
52.5 including assisting the moving party with the adoption home study process;

52.6 (2) work with the moving party regarding eligibility for adoption assistance as required
52.7 under chapter 256N; and

52.8 (3) if the moving party is not a resident of Minnesota, timely refer the matter for approval
52.9 of the adoptive placement through the Interstate Compact on the Placement of Children.

52.10 ~~(g)~~ (h) Denial or granting of a motion for an order for adoptive placement after an
52.11 evidentiary hearing is an order which may be appealed by the responsible social services
52.12 agency, the moving party, the child, when age ten or over, the child's guardian ad litem,
52.13 and any individual who had a fully executed adoption placement agreement regarding the
52.14 child at the time the motion was filed if the court's order has the effect of terminating the
52.15 adoption placement agreement. An appeal shall be conducted according to the requirements
52.16 of the Rules of Juvenile Protection Procedure.

52.17 Sec. 24. Minnesota Statutes 2020, section 260C.613, subdivision 1, is amended to read:

52.18 Subdivision 1. **Adoptive placement decisions.** (a) The responsible social services agency
52.19 has exclusive authority to make an adoptive placement of a child under the guardianship of
52.20 the commissioner. The child shall be considered placed for adoption when the adopting
52.21 parent, the agency, and the commissioner have fully executed an adoption placement
52.22 agreement on the form prescribed by the commissioner.

52.23 (b) The responsible social services agency shall use an individualized determination of
52.24 the child's current and future needs, pursuant to section 260C.212, subdivision 2, paragraph
52.25 (b), to determine the most suitable adopting parent for the child in the child's best interests.
52.26 The responsible social services agency must consider adoptive placement of the child with
52.27 relatives, kin, and important friends in the order specified in section 260C.212, subdivision
52.28 2, paragraph (a).

52.29 (c) The responsible social services agency shall notify the court and parties entitled to
52.30 notice under section 260C.607, subdivision 2, when there is a fully executed adoption
52.31 placement agreement for the child.

52.32 (d) In the event an adoption placement agreement terminates, the responsible social
52.33 services agency shall notify the court, the parties entitled to notice under section 260C.607,

53.1 subdivision 2, and the commissioner that the agreement and the adoptive placement have
53.2 terminated.

53.3 Sec. 25. Minnesota Statutes 2020, section 260C.613, subdivision 5, is amended to read:

53.4 Subd. 5. **Required record keeping.** The responsible social services agency shall
53.5 document, in the records required to be kept under section 259.79, the reasons for the
53.6 adoptive placement decision regarding the child, including the individualized determination
53.7 of the child's needs based on the factors in section 260C.212, subdivision 2, paragraph (b);
53.8 the agency's consideration of relatives, kin, and important friends in the order specified in
53.9 section 260C.212, subdivision 2, paragraph (a); and the assessment of how the selected
53.10 adoptive placement meets the identified needs of the child. The responsible social services
53.11 agency shall retain in the records required to be kept under section 259.79, copies of all
53.12 out-of-home placement plans made since the child was ordered under guardianship of the
53.13 commissioner and all court orders from reviews conducted pursuant to section 260C.607.

53.14 Sec. 26. Minnesota Statutes 2020, section 268.19, subdivision 1, is amended to read:

53.15 Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered from
53.16 any person under the administration of the Minnesota Unemployment Insurance Law are
53.17 private data on individuals or nonpublic data not on individuals as defined in section 13.02,
53.18 subdivisions 9 and 12, and may not be disclosed except according to a district court order
53.19 or section 13.05. A subpoena is not considered a district court order. These data may be
53.20 disseminated to and used by the following agencies without the consent of the subject of
53.21 the data:

53.22 (1) state and federal agencies specifically authorized access to the data by state or federal
53.23 law;

53.24 (2) any agency of any other state or any federal agency charged with the administration
53.25 of an unemployment insurance program;

53.26 (3) any agency responsible for the maintenance of a system of public employment offices
53.27 for the purpose of assisting individuals in obtaining employment;

53.28 (4) the public authority responsible for child support in Minnesota or any other state in
53.29 accordance with section 256.978;

53.30 (5) human rights agencies within Minnesota that have enforcement powers;

53.31 (6) the Department of Revenue to the extent necessary for its duties under Minnesota
53.32 laws;

54.1 (7) public and private agencies responsible for administering publicly financed assistance
54.2 programs for the purpose of monitoring the eligibility of the program's recipients;

54.3 (8) the Department of Labor and Industry and the Commerce Fraud Bureau in the
54.4 Department of Commerce for uses consistent with the administration of their duties under
54.5 Minnesota law;

54.6 (9) the Department of Human Services and the Office of Inspector General and its agents
54.7 within the Department of Human Services, including county fraud investigators, for
54.8 investigations related to recipient or provider fraud and employees of providers when the
54.9 provider is suspected of committing public assistance fraud;

54.10 (10) local and state welfare agencies for monitoring the eligibility of the data subject
54.11 for assistance programs, or for any employment or training program administered by those
54.12 agencies, whether alone, in combination with another welfare agency, or in conjunction
54.13 with the department or to monitor and evaluate the statewide Minnesota family investment
54.14 program and other cash assistance programs, the Supplemental Nutrition Assistance Program,
54.15 and the Supplemental Nutrition Assistance Program Employment and Training program by
54.16 providing data on recipients and former recipients of Supplemental Nutrition Assistance
54.17 Program (SNAP) benefits, cash assistance under chapter 256, 256D, 256J, or 256K, child
54.18 care assistance under chapter 119B, or medical programs under chapter 256B or 256L or
54.19 formerly codified under chapter 256D;

54.20 (11) local and state welfare agencies for the purpose of identifying employment, wages,
54.21 and other information to assist in the collection of an overpayment debt in an assistance
54.22 program;

54.23 (12) local, state, and federal law enforcement agencies for the purpose of ascertaining
54.24 the last known address and employment location of an individual who is the subject of a
54.25 criminal investigation;

54.26 (13) the United States Immigration and Customs Enforcement has access to data on
54.27 specific individuals and specific employers provided the specific individual or specific
54.28 employer is the subject of an investigation by that agency;

54.29 (14) the Department of Health for the purposes of epidemiologic investigations;

54.30 (15) the Department of Corrections for the purposes of case planning and internal research
54.31 for preprobation, probation, and postprobation employment tracking of offenders sentenced
54.32 to probation and preconfinement and postconfinement employment tracking of committed
54.33 offenders;

55.1 (16) the state auditor to the extent necessary to conduct audits of job opportunity building
55.2 zones as required under section 469.3201; and

55.3 (17) the Office of Higher Education for purposes of supporting program improvement,
55.4 system evaluation, and research initiatives including the Statewide Longitudinal Education
55.5 Data System.

55.6 (b) Data on individuals and employers that are collected, maintained, or used by the
55.7 department in an investigation under section 268.182 are confidential as to data on individuals
55.8 and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3
55.9 and 13, and must not be disclosed except under statute or district court order or to a party
55.10 named in a criminal proceeding, administrative or judicial, for preparation of a defense.

55.11 (c) Data gathered by the department in the administration of the Minnesota unemployment
55.12 insurance program must not be made the subject or the basis for any suit in any civil
55.13 proceedings, administrative or judicial, unless the action is initiated by the department.

55.14 ARTICLE 3

55.15 COMMUNITY SUPPORTS

55.16 Section 1. Minnesota Statutes 2021 Supplement, section 62A.673, subdivision 2, is
55.17 amended to read:

55.18 Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision
55.19 have the meanings given.

55.20 (b) "Distant site" means a site at which a health care provider is located while providing
55.21 health care services or consultations by means of telehealth.

55.22 (c) "Health care provider" means a health care professional who is licensed or registered
55.23 by the state to perform health care services within the provider's scope of practice and in
55.24 accordance with state law. A health care provider includes a mental health professional as
55.25 ~~defined under section 245.462, subdivision 18, or 245.4871, subdivision 27~~ 245I.04,
55.26 subdivision 2; a mental health practitioner as ~~defined under section 245.462, subdivision~~
55.27 ~~17, or 245.4871, subdivision 26~~ 245I.04, subdivision 4; a clinical trainee under section
55.28 245I.04, subdivision 6; a treatment coordinator under section 245G.11, subdivision 7; an
55.29 alcohol and drug counselor under section 245G.11, subdivision 5; and a recovery peer under
55.30 section 245G.11, subdivision 8.

55.31 (d) "Health carrier" has the meaning given in section 62A.011, subdivision 2.

56.1 (e) "Health plan" has the meaning given in section 62A.011, subdivision 3. Health plan
56.2 includes dental plans as defined in section 62Q.76, subdivision 3, but does not include dental
56.3 plans that provide indemnity-based benefits, regardless of expenses incurred, and are designed
56.4 to pay benefits directly to the policy holder.

56.5 (f) "Originating site" means a site at which a patient is located at the time health care
56.6 services are provided to the patient by means of telehealth. For purposes of store-and-forward
56.7 technology, the originating site also means the location at which a health care provider
56.8 transfers or transmits information to the distant site.

56.9 (g) "Store-and-forward technology" means the asynchronous electronic transfer or
56.10 transmission of a patient's medical information or data from an originating site to a distant
56.11 site for the purposes of diagnostic and therapeutic assistance in the care of a patient.

56.12 (h) "Telehealth" means the delivery of health care services or consultations through the
56.13 use of real time two-way interactive audio and visual communications to provide or support
56.14 health care delivery and facilitate the assessment, diagnosis, consultation, treatment,
56.15 education, and care management of a patient's health care. Telehealth includes the application
56.16 of secure video conferencing, store-and-forward technology, and synchronous interactions
56.17 between a patient located at an originating site and a health care provider located at a distant
56.18 site. Until July 1, 2023, telehealth also includes audio-only communication between a health
56.19 care provider and a patient in accordance with subdivision 6, paragraph (b). Telehealth does
56.20 not include communication between health care providers that consists solely of a telephone
56.21 conversation, e-mail, or facsimile transmission. Telehealth does not include communication
56.22 between a health care provider and a patient that consists solely of an e-mail or facsimile
56.23 transmission. Telehealth does not include telemonitoring services as defined in paragraph
56.24 (i).

56.25 (i) "Telemonitoring services" means the remote monitoring of clinical data related to
56.26 the enrollee's vital signs or biometric data by a monitoring device or equipment that transmits
56.27 the data electronically to a health care provider for analysis. Telemonitoring is intended to
56.28 collect an enrollee's health-related data for the purpose of assisting a health care provider
56.29 in assessing and monitoring the enrollee's medical condition or status.

56.30 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
56.31 whichever is later. The commissioner of human services shall notify the revisor of statutes
56.32 when federal approval is obtained.

57.1 Sec. 2. Minnesota Statutes 2021 Supplement, section 148F.11, subdivision 1, is amended
57.2 to read:

57.3 Subdivision 1. **Other professionals.** (a) Nothing in this chapter prevents members of
57.4 other professions or occupations from performing functions for which they are qualified or
57.5 licensed. This exception includes, but is not limited to: licensed physicians; registered nurses;
57.6 licensed practical nurses; licensed psychologists and licensed psychological practitioners;
57.7 members of the clergy provided such services are provided within the scope of regular
57.8 ministries; American Indian medicine men and women; licensed attorneys; probation officers;
57.9 licensed marriage and family therapists; licensed social workers; social workers employed
57.10 by city, county, or state agencies; licensed professional counselors; licensed professional
57.11 clinical counselors; licensed school counselors; registered occupational therapists or
57.12 occupational therapy assistants; Upper Midwest Indian Council on Addictive Disorders
57.13 (UMICAD) certified counselors when providing services to Native American people; city,
57.14 county, or state employees when providing assessments or case management under Minnesota
57.15 Rules, chapter 9530; and ~~individuals defined in section 256B.0623, subdivision 5, clauses~~
57.16 ~~(4) to (6),~~ staff persons providing co-occurring substance use disorder treatment in adult
57.17 mental health rehabilitative programs certified or licensed by the Department of Human
57.18 Services under section 245I.23, 256B.0622, or 256B.0623.

57.19 (b) Nothing in this chapter prohibits technicians and resident managers in programs
57.20 licensed by the Department of Human Services from discharging their duties as provided
57.21 in Minnesota Rules, chapter 9530.

57.22 (c) Any person who is exempt from licensure under this section must not use a title
57.23 incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug
57.24 counselor" or otherwise hold himself or herself out to the public by any title or description
57.25 stating or implying that he or she is engaged in the practice of alcohol and drug counseling,
57.26 or that he or she is licensed to engage in the practice of alcohol and drug counseling, unless
57.27 that person is also licensed as an alcohol and drug counselor. Persons engaged in the practice
57.28 of alcohol and drug counseling are not exempt from the board's jurisdiction solely by the
57.29 use of one of the titles in paragraph (a).

57.30 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
57.31 whichever is later. The commissioner of human services shall notify the revisor of statutes
57.32 when federal approval is obtained.

58.1 Sec. 3. Minnesota Statutes 2021 Supplement, section 245.467, subdivision 2, is amended
58.2 to read:

58.3 Subd. 2. **Diagnostic assessment.** ~~Providers~~ A provider of services governed by this
58.4 section must complete a diagnostic assessment of a client according to the standards of
58.5 section 245I.10, ~~subdivisions 4 to 6.~~

58.6 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
58.7 whichever is later. The commissioner of human services shall notify the revisor of statutes
58.8 when federal approval is obtained.

58.9 Sec. 4. Minnesota Statutes 2021 Supplement, section 245.467, subdivision 3, is amended
58.10 to read:

58.11 Subd. 3. **Individual treatment plans.** ~~Providers~~ A provider of services governed by
58.12 this section must complete an individual treatment plan for a client according to the standards
58.13 of section 245I.10, subdivisions 7 and 8.

58.14 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
58.15 whichever is later. The commissioner of human services shall notify the revisor of statutes
58.16 when federal approval is obtained.

58.17 Sec. 5. Minnesota Statutes 2021 Supplement, section 245.4871, subdivision 21, is amended
58.18 to read:

58.19 Subd. 21. **Individual treatment plan.** (a) "Individual treatment plan" means the
58.20 formulation of planned services that are responsive to the needs and goals of a client. An
58.21 individual treatment plan must be completed according to section 245I.10, subdivisions 7
58.22 and 8.

58.23 (b) A children's residential facility licensed under Minnesota Rules, chapter 2960, is
58.24 exempt from the requirements of section 245I.10, subdivisions 7 and 8. Instead, the individual
58.25 treatment plan must:

58.26 (1) include a written plan of intervention, treatment, and services for a child with an
58.27 emotional disturbance that the service provider develops under the clinical supervision of
58.28 a mental health professional on the basis of a diagnostic assessment;

58.29 (2) be developed in conjunction with the family unless clinically inappropriate; and

59.1 (3) identify goals and objectives of treatment, treatment strategy, a schedule for
59.2 accomplishing treatment goals and objectives, and the individuals responsible for providing
59.3 treatment to the child with an emotional disturbance.

59.4 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
59.5 whichever is later. The commissioner of human services shall notify the revisor of statutes
59.6 when federal approval is obtained.

59.7 Sec. 6. Minnesota Statutes 2021 Supplement, section 245.4876, subdivision 2, is amended
59.8 to read:

59.9 Subd. 2. **Diagnostic assessment. Providers** A provider of services governed by this
59.10 section shall must complete a diagnostic assessment of a client according to the standards
59.11 of section 245I.10, subdivisions 4 to 6. Notwithstanding the required timelines for completing
59.12 a diagnostic assessment in section 245I.10, a children's residential facility licensed under
59.13 Minnesota Rules, chapter 2960, that provides mental health services to children must, within
59.14 ten days of the client's admission: (1) complete the client's diagnostic assessment; or (2)
59.15 review and update the client's diagnostic assessment with a summary of the child's current
59.16 mental health status and service needs if a diagnostic assessment is available that was
59.17 completed within 180 days preceding admission and the client's mental health status has
59.18 not changed markedly since the diagnostic assessment.

59.19 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
59.20 whichever is later. The commissioner of human services shall notify the revisor of statutes
59.21 when federal approval is obtained.

59.22 Sec. 7. Minnesota Statutes 2021 Supplement, section 245.4876, subdivision 3, is amended
59.23 to read:

59.24 Subd. 3. **Individual treatment plans. Providers** A provider of services governed by
59.25 this section shall must complete an individual treatment plan for a client according to the
59.26 standards of section 245I.10, subdivisions 7 and 8. A children's residential facility licensed
59.27 according to Minnesota Rules, chapter 2960, is exempt from the requirements in section
59.28 245I.10, subdivisions 7 and 8. Instead, the facility must involve the child and the child's
59.29 family in all phases of developing and implementing the individual treatment plan to the
59.30 extent appropriate and must review the individual treatment plan every 90 days after intake.

59.31 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
59.32 whichever is later. The commissioner of human services shall notify the revisor of statutes
59.33 when federal approval is obtained.

60.1 Sec. 8. Minnesota Statutes 2021 Supplement, section 245.735, subdivision 3, is amended
60.2 to read:

60.3 Subd. 3. **Certified community behavioral health clinics.** (a) The commissioner shall
60.4 establish a state certification process for certified community behavioral health clinics
60.5 (CCBHCs) that satisfy all federal requirements necessary for CCBHCs certified under this
60.6 section to be eligible for reimbursement under medical assistance, without service area
60.7 limits based on geographic area or region. The commissioner shall consult with CCBHC
60.8 stakeholders before establishing and implementing changes in the certification process and
60.9 requirements. Entities that choose to be CCBHCs must:

60.10 (1) comply with state licensing requirements and other requirements issued by the
60.11 commissioner;

60.12 (2) employ or contract for clinic staff who have backgrounds in diverse disciplines,
60.13 including licensed mental health professionals and licensed alcohol and drug counselors,
60.14 and staff who are culturally and linguistically trained to meet the needs of the population
60.15 the clinic serves;

60.16 (3) ensure that clinic services are available and accessible to individuals and families of
60.17 all ages and genders and that crisis management services are available 24 hours per day;

60.18 (4) establish fees for clinic services for individuals who are not enrolled in medical
60.19 assistance using a sliding fee scale that ensures that services to patients are not denied or
60.20 limited due to an individual's inability to pay for services;

60.21 (5) comply with quality assurance reporting requirements and other reporting
60.22 requirements, including any required reporting of encounter data, clinical outcomes data,
60.23 and quality data;

60.24 (6) provide crisis mental health and substance use services, withdrawal management
60.25 services, emergency crisis intervention services, and stabilization services through existing
60.26 mobile crisis services; screening, assessment, and diagnosis services, including risk
60.27 assessments and level of care determinations; person- and family-centered treatment planning;
60.28 outpatient mental health and substance use services; targeted case management; psychiatric
60.29 rehabilitation services; peer support and counselor services and family support services;
60.30 and intensive community-based mental health services, including mental health services
60.31 for members of the armed forces and veterans. CCBHCs must directly provide the majority
60.32 of these services to enrollees, but may coordinate some services with another entity through
60.33 a collaboration or agreement, pursuant to paragraph (b);

61.1 (7) provide coordination of care across settings and providers to ensure seamless
61.2 transitions for individuals being served across the full spectrum of health services, including
61.3 acute, chronic, and behavioral needs. Care coordination may be accomplished through
61.4 partnerships or formal contracts with:

61.5 (i) counties, health plans, pharmacists, pharmacies, rural health clinics, federally qualified
61.6 health centers, inpatient psychiatric facilities, substance use and detoxification facilities, or
61.7 community-based mental health providers; and

61.8 (ii) other community services, supports, and providers, including schools, child welfare
61.9 agencies, juvenile and criminal justice agencies, Indian health services clinics, tribally
61.10 licensed health care and mental health facilities, urban Indian health clinics, Department of
61.11 Veterans Affairs medical centers, outpatient clinics, drop-in centers, acute care hospitals,
61.12 and hospital outpatient clinics;

61.13 (8) be certified as a mental health ~~clinics~~ clinic under section ~~245.69, subdivision 2~~
61.14 245I.20;

61.15 (9) comply with standards established by the commissioner relating to CCBHC
61.16 screenings, assessments, and evaluations;

61.17 (10) be licensed to provide substance use disorder treatment under chapter 245G;

61.18 (11) be certified to provide children's therapeutic services and supports under section
61.19 256B.0943;

61.20 (12) be certified to provide adult rehabilitative mental health services under section
61.21 256B.0623;

61.22 (13) be enrolled to provide mental health crisis response services under ~~sections~~ section
61.23 256B.0624 and 256B.0944;

61.24 (14) be enrolled to provide mental health targeted case management under section
61.25 256B.0625, subdivision 20;

61.26 (15) comply with standards relating to mental health case management in Minnesota
61.27 Rules, parts 9520.0900 to 9520.0926;

61.28 (16) provide services that comply with the evidence-based practices described in
61.29 paragraph (e); and

61.30 (17) comply with standards relating to peer services under sections 256B.0615,
61.31 256B.0616, and 245G.07, subdivision 1, paragraph (a), clause (5), as applicable when peer
61.32 services are provided.

62.1 (b) If a certified CCBHC is unable to provide one or more of the services listed in
62.2 paragraph (a), clauses (6) to (17), the CCBHC may contract with another entity that has the
62.3 required authority to provide that service and that meets the following criteria as a designated
62.4 collaborating organization:

62.5 (1) the entity has a formal agreement with the CCBHC to furnish one or more of the
62.6 services under paragraph (a), clause (6);

62.7 (2) the entity provides assurances that it will provide services according to CCBHC
62.8 service standards and provider requirements;

62.9 (3) the entity agrees that the CCBHC is responsible for coordinating care and has clinical
62.10 and financial responsibility for the services that the entity provides under the agreement;
62.11 and

62.12 (4) the entity meets any additional requirements issued by the commissioner.

62.13 (c) Notwithstanding any other law that requires a county contract or other form of county
62.14 approval for certain services listed in paragraph (a), clause (6), a clinic that otherwise meets
62.15 CCBHC requirements may receive the prospective payment under section 256B.0625,
62.16 subdivision 5m, for those services without a county contract or county approval. As part of
62.17 the certification process in paragraph (a), the commissioner shall require a letter of support
62.18 from the CCBHC's host county confirming that the CCBHC and the county or counties it
62.19 serves have an ongoing relationship to facilitate access and continuity of care, especially
62.20 for individuals who are uninsured or who may go on and off medical assistance.

62.21 (d) When the standards listed in paragraph (a) or other applicable standards conflict or
62.22 address similar issues in duplicative or incompatible ways, the commissioner may grant
62.23 variances to state requirements if the variances do not conflict with federal requirements
62.24 for services reimbursed under medical assistance. If standards overlap, the commissioner
62.25 may substitute all or a part of a licensure or certification that is substantially the same as
62.26 another licensure or certification. The commissioner shall consult with stakeholders, as
62.27 described in subdivision 4, before granting variances under this provision. For the CCBHC
62.28 that is certified but not approved for prospective payment under section 256B.0625,
62.29 subdivision 5m, the commissioner may grant a variance under this paragraph if the variance
62.30 does not increase the state share of costs.

62.31 (e) The commissioner shall issue a list of required evidence-based practices to be
62.32 delivered by CCBHCs, and may also provide a list of recommended evidence-based practices.
62.33 The commissioner may update the list to reflect advances in outcomes research and medical
62.34 services for persons living with mental illnesses or substance use disorders. The commissioner

63.1 shall take into consideration the adequacy of evidence to support the efficacy of the practice,
63.2 the quality of workforce available, and the current availability of the practice in the state.
63.3 At least 30 days before issuing the initial list and any revisions, the commissioner shall
63.4 provide stakeholders with an opportunity to comment.

63.5 (f) The commissioner shall recertify CCBHCs at least every three years. The
63.6 commissioner shall establish a process for decertification and shall require corrective action,
63.7 medical assistance repayment, or decertification of a CCBHC that no longer meets the
63.8 requirements in this section or that fails to meet the standards provided by the commissioner
63.9 in the application and certification process.

63.10 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
63.11 whichever is later. The commissioner of human services shall notify the revisor of statutes
63.12 when federal approval is obtained.

63.13 Sec. 9. Minnesota Statutes 2021 Supplement, section 245A.03, subdivision 7, is amended
63.14 to read:

63.15 Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license
63.16 for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult
63.17 foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter
63.18 for a physical location that will not be the primary residence of the license holder for the
63.19 entire period of licensure. If a family child foster care home or family adult foster care home
63.20 license is issued during this moratorium, and the license holder changes the license holder's
63.21 primary residence away from the physical location of the foster care license, the
63.22 commissioner shall revoke the license according to section 245A.07. The commissioner
63.23 shall not issue an initial license for a community residential setting licensed under chapter
63.24 245D. When approving an exception under this paragraph, the commissioner shall consider
63.25 the resource need determination process in paragraph (h), the availability of foster care
63.26 licensed beds in the geographic area in which the licensee seeks to operate, the results of a
63.27 person's choices during their annual assessment and service plan review, and the
63.28 recommendation of the local county board. The determination by the commissioner is final
63.29 and not subject to appeal. Exceptions to the moratorium include:

63.30 (1) foster care settings where at least 80 percent of the residents are 55 years of age or
63.31 older;

63.32 (2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or
63.33 community residential setting licenses replacing adult foster care licenses in existence on

64.1 December 31, 2013, and determined to be needed by the commissioner under paragraph
64.2 (b);

64.3 (3) new foster care licenses or community residential setting licenses determined to be
64.4 needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD,
64.5 or regional treatment center; restructuring of state-operated services that limits the capacity
64.6 of state-operated facilities; or allowing movement to the community for people who no
64.7 longer require the level of care provided in state-operated facilities as provided under section
64.8 256B.092, subdivision 13, or 256B.49, subdivision 24;

64.9 (4) new foster care licenses or community residential setting licenses determined to be
64.10 needed by the commissioner under paragraph (b) for persons requiring hospital level care;
64.11 or

64.12 ~~(5) new foster care licenses or community residential setting licenses for people receiving~~
64.13 ~~services under chapter 245D and residing in an unlicensed setting before May 1, 2017, and~~
64.14 ~~for which a license is required. This exception does not apply to people living in their own~~
64.15 ~~home. For purposes of this clause, there is a presumption that a foster care or community~~
64.16 ~~residential setting license is required for services provided to three or more people in a~~
64.17 ~~dwelling unit when the setting is controlled by the provider. A license holder subject to this~~
64.18 ~~exception may rebut the presumption that a license is required by seeking a reconsideration~~
64.19 ~~of the commissioner's determination. The commissioner's disposition of a request for~~
64.20 ~~reconsideration is final and not subject to appeal under chapter 14. The exception is available~~
64.21 ~~until June 30, 2018. This exception is available when:~~

64.22 ~~(i) the person's case manager provided the person with information about the choice of~~
64.23 ~~service, service provider, and location of service, including in the person's home, to help~~
64.24 ~~the person make an informed choice; and~~

64.25 ~~(ii) the person's services provided in the licensed foster care or community residential~~
64.26 ~~setting are less than or equal to the cost of the person's services delivered in the unlicensed~~
64.27 ~~setting as determined by the lead agency; or~~

64.28 ~~(6)~~ (5) new foster care licenses or community residential setting licenses for people
64.29 receiving customized living or 24-hour customized living services under the brain injury
64.30 or community access for disability inclusion waiver plans under section 256B.49 and residing
64.31 in the customized living setting before July 1, 2022, for which a license is required. A
64.32 customized living service provider subject to this exception may rebut the presumption that
64.33 a license is required by seeking a reconsideration of the commissioner's determination. The
64.34 commissioner's disposition of a request for reconsideration is final and not subject to appeal

65.1 under chapter 14. The exception is available until June 30, 2023. This exception is available
65.2 when:

65.3 (i) the person's customized living services are provided in a customized living service
65.4 setting serving four or fewer people under the brain injury or community access for disability
65.5 inclusion waiver plans under section 256B.49 in a single-family home operational on or
65.6 before June 30, 2021. Operational is defined in section 256B.49, subdivision 28;

65.7 (ii) the person's case manager provided the person with information about the choice of
65.8 service, service provider, and location of service, including in the person's home, to help
65.9 the person make an informed choice; and

65.10 (iii) the person's services provided in the licensed foster care or community residential
65.11 setting are less than or equal to the cost of the person's services delivered in the customized
65.12 living setting as determined by the lead agency.

65.13 (b) The commissioner shall determine the need for newly licensed foster care homes or
65.14 community residential settings as defined under this subdivision. As part of the determination,
65.15 the commissioner shall consider the availability of foster care capacity in the area in which
65.16 the licensee seeks to operate, and the recommendation of the local county board. The
65.17 determination by the commissioner must be final. A determination of need is not required
65.18 for a change in ownership at the same address.

65.19 (c) When an adult resident served by the program moves out of a foster home that is not
65.20 the primary residence of the license holder according to section 256B.49, subdivision 15,
65.21 paragraph (f), or the adult community residential setting, the county shall immediately
65.22 inform the Department of Human Services Licensing Division. The department may decrease
65.23 the statewide licensed capacity for adult foster care settings.

65.24 (d) Residential settings that would otherwise be subject to the decreased license capacity
65.25 established in paragraph (c) shall be exempt if the license holder's beds are occupied by
65.26 residents whose primary diagnosis is mental illness and the license holder is certified under
65.27 the requirements in subdivision 6a or section 245D.33.

65.28 (e) A resource need determination process, managed at the state level, using the available
65.29 reports required by section 144A.351, and other data and information shall be used to
65.30 determine where the reduced capacity determined under section 256B.493 will be
65.31 implemented. The commissioner shall consult with the stakeholders described in section
65.32 144A.351, and employ a variety of methods to improve the state's capacity to meet the
65.33 informed decisions of those people who want to move out of corporate foster care or
65.34 community residential settings, long-term service needs within budgetary limits, including

66.1 seeking proposals from service providers or lead agencies to change service type, capacity,
66.2 or location to improve services, increase the independence of residents, and better meet
66.3 needs identified by the long-term services and supports reports and statewide data and
66.4 information.

66.5 (f) At the time of application and reapplication for licensure, the applicant and the license
66.6 holder that are subject to the moratorium or an exclusion established in paragraph (a) are
66.7 required to inform the commissioner whether the physical location where the foster care
66.8 will be provided is or will be the primary residence of the license holder for the entire period
66.9 of licensure. If the primary residence of the applicant or license holder changes, the applicant
66.10 or license holder must notify the commissioner immediately. The commissioner shall print
66.11 on the foster care license certificate whether or not the physical location is the primary
66.12 residence of the license holder.

66.13 (g) License holders of foster care homes identified under paragraph (f) that are not the
66.14 primary residence of the license holder and that also provide services in the foster care home
66.15 that are covered by a federally approved home and community-based services waiver, as
66.16 authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human
66.17 services licensing division that the license holder provides or intends to provide these
66.18 waiver-funded services.

66.19 (h) The commissioner may adjust capacity to address needs identified in section
66.20 144A.351. Under this authority, the commissioner may approve new licensed settings or
66.21 delicense existing settings. Delicensing of settings will be accomplished through a process
66.22 identified in section 256B.493. Annually, by August 1, the commissioner shall provide
66.23 information and data on capacity of licensed long-term services and supports, actions taken
66.24 under the subdivision to manage statewide long-term services and supports resources, and
66.25 any recommendations for change to the legislative committees with jurisdiction over the
66.26 health and human services budget.

66.27 (i) The commissioner must notify a license holder when its corporate foster care or
66.28 community residential setting licensed beds are reduced under this section. The notice of
66.29 reduction of licensed beds must be in writing and delivered to the license holder by certified
66.30 mail or personal service. The notice must state why the licensed beds are reduced and must
66.31 inform the license holder of its right to request reconsideration by the commissioner. The
66.32 license holder's request for reconsideration must be in writing. If mailed, the request for
66.33 reconsideration must be postmarked and sent to the commissioner within 20 calendar days
66.34 after the license holder's receipt of the notice of reduction of licensed beds. If a request for

67.1 reconsideration is made by personal service, it must be received by the commissioner within
67.2 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

67.3 (j) The commissioner shall not issue an initial license for children's residential treatment
67.4 services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter
67.5 for a program that Centers for Medicare and Medicaid Services would consider an institution
67.6 for mental diseases. Facilities that serve only private pay clients are exempt from the
67.7 moratorium described in this paragraph. The commissioner has the authority to manage
67.8 existing statewide capacity for children's residential treatment services subject to the
67.9 moratorium under this paragraph and may issue an initial license for such facilities if the
67.10 initial license would not increase the statewide capacity for children's residential treatment
67.11 services subject to the moratorium under this paragraph.

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

67.13 Sec. 10. Minnesota Statutes 2020, section 245D.12, is amended to read:

67.14 **245D.12 INTEGRATED COMMUNITY SUPPORTS; SETTING CAPACITY**
67.15 **REPORT.**

67.16 (a) The license holder providing integrated community support, as defined in section
67.17 245D.03, subdivision 1, paragraph (c), clause (8), must submit a setting capacity report to
67.18 the commissioner to ensure the identified location of service delivery meets the criteria of
67.19 the home and community-based service requirements as specified in section 256B.492.

67.20 (b) The license holder shall provide the setting capacity report on the forms and in the
67.21 manner prescribed by the commissioner. The report must include:

67.22 (1) the address of the multifamily housing building where the license holder delivers
67.23 integrated community supports and owns, leases, or has a direct or indirect financial
67.24 relationship with the property owner;

67.25 (2) the total number of living units in the multifamily housing building described in
67.26 clause (1) where integrated community supports are delivered;

67.27 (3) the total number of living units in the multifamily housing building described in
67.28 clause (1), including the living units identified in clause (2); ~~and~~

67.29 (4) the total number of people who could reside in the living units in the multifamily
67.30 housing building described in clause (2) and receive integrated community supports; and

67.31 ~~(4)~~ (5) the percentage of living units that are controlled by the license holder in the
67.32 multifamily housing building by dividing clause (2) by clause (3).

68.1 (c) Only one license holder may deliver integrated community supports at the address
68.2 of the multifamily housing building.

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

68.4 Sec. 11. Minnesota Statutes 2021 Supplement, section 245I.04, subdivision 4, is amended
68.5 to read:

68.6 Subd. 4. **Mental health practitioner qualifications.** (a) An individual who is qualified
68.7 in at least one of the ways described in paragraph (b) to (d) may serve as a mental health
68.8 practitioner.

68.9 (b) An individual is qualified as a mental health practitioner through relevant coursework
68.10 if the individual completes at least 30 semester hours or 45 quarter hours in behavioral
68.11 sciences or related fields and:

68.12 (1) has at least 2,000 hours of experience providing services to individuals with:

68.13 (i) a mental illness or a substance use disorder; or

68.14 (ii) a traumatic brain injury or a developmental disability, and completes the additional
68.15 training described in section 245I.05, subdivision 3, paragraph (c), before providing direct
68.16 contact services to a client;

68.17 (2) is fluent in the non-English language of the ethnic group to which at least 50 percent
68.18 of the individual's clients belong, and completes the additional training described in section
68.19 245I.05, subdivision 3, paragraph (c), before providing direct contact services to a client;

68.20 (3) is working in a day treatment program under section 256B.0671, subdivision 3, or
68.21 256B.0943; ~~or~~

68.22 (4) has completed a practicum or internship that (i) required direct interaction with adult
68.23 clients or child clients, and (ii) was focused on behavioral sciences or related fields; or

68.24 (5) is in the process of completing a practicum or internship as part of a formal
68.25 undergraduate or graduate training program in social work, psychology, or counseling.

68.26 (c) An individual is qualified as a mental health practitioner through work experience
68.27 if the individual:

68.28 (1) has at least 4,000 hours of experience in the delivery of services to individuals with:

68.29 (i) a mental illness or a substance use disorder; or

69.1 (ii) a traumatic brain injury or a developmental disability, and completes the additional
69.2 training described in section 245I.05, subdivision 3, paragraph (c), before providing direct
69.3 contact services to clients; or

69.4 (2) receives treatment supervision at least once per week until meeting the requirement
69.5 in clause (1) of 4,000 hours of experience and has at least 2,000 hours of experience providing
69.6 services to individuals with:

69.7 (i) a mental illness or a substance use disorder; or

69.8 (ii) a traumatic brain injury or a developmental disability, and completes the additional
69.9 training described in section 245I.05, subdivision 3, paragraph (c), before providing direct
69.10 contact services to clients.

69.11 (d) An individual is qualified as a mental health practitioner if the individual has a
69.12 master's or other graduate degree in behavioral sciences or related fields.

69.13 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
69.14 whichever is later. The commissioner of human services shall notify the revisor of statutes
69.15 when federal approval is obtained.

69.16 Sec. 12. Minnesota Statutes 2021 Supplement, section 245I.05, subdivision 3, is amended
69.17 to read:

69.18 Subd. 3. **Initial training.** (a) A staff person must receive training about:

69.19 (1) vulnerable adult maltreatment under section 245A.65, subdivision 3; and

69.20 (2) the maltreatment of minor reporting requirements and definitions in chapter 260E
69.21 within 72 hours of first providing direct contact services to a client.

69.22 (b) Before providing direct contact services to a client, a staff person must receive training
69.23 about:

69.24 (1) client rights and protections under section 245I.12;

69.25 (2) the Minnesota Health Records Act, including client confidentiality, family engagement
69.26 under section 144.294, and client privacy;

69.27 (3) emergency procedures that the staff person must follow when responding to a fire,
69.28 inclement weather, a report of a missing person, and a behavioral or medical emergency;

69.29 (4) specific activities and job functions for which the staff person is responsible, including
69.30 the license holder's program policies and procedures applicable to the staff person's position;

69.31 (5) professional boundaries that the staff person must maintain; and

70.1 (6) specific needs of each client to whom the staff person will be providing direct contact
70.2 services, including each client's developmental status, cognitive functioning, and physical
70.3 and mental abilities.

70.4 (c) Before providing direct contact services to a client, a mental health rehabilitation
70.5 worker, mental health behavioral aide, or mental health practitioner ~~qualified~~ required under
70.6 section 245I.04, subdivision 4, must receive 30 hours of training about:

70.7 (1) mental illnesses;

70.8 (2) client recovery and resiliency;

70.9 (3) mental health de-escalation techniques;

70.10 (4) co-occurring mental illness and substance use disorders; and

70.11 (5) psychotropic medications and medication side effects.

70.12 (d) Within 90 days of first providing direct contact services to an adult client, a clinical
70.13 trainee, mental health practitioner, mental health certified peer specialist, or mental health
70.14 rehabilitation worker must receive training about:

70.15 (1) trauma-informed care and secondary trauma;

70.16 (2) person-centered individual treatment plans, including seeking partnerships with
70.17 family and other natural supports;

70.18 (3) co-occurring substance use disorders; and

70.19 (4) culturally responsive treatment practices.

70.20 (e) Within 90 days of first providing direct contact services to a child client, a clinical
70.21 trainee, mental health practitioner, mental health certified family peer specialist, mental
70.22 health certified peer specialist, or mental health behavioral aide must receive training about
70.23 the topics in clauses (1) to (5). This training must address the developmental characteristics
70.24 of each child served by the license holder and address the needs of each child in the context
70.25 of the child's family, support system, and culture. Training topics must include:

70.26 (1) trauma-informed care and secondary trauma, including adverse childhood experiences
70.27 (ACEs);

70.28 (2) family-centered treatment plan development, including seeking partnership with a
70.29 child client's family and other natural supports;

70.30 (3) mental illness and co-occurring substance use disorders in family systems;

70.31 (4) culturally responsive treatment practices; and

71.1 (5) child development, including cognitive functioning, and physical and mental abilities.

71.2 (f) For a mental health behavioral aide, the training under paragraph (e) must include
71.3 parent team training using a curriculum approved by the commissioner.

71.4 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
71.5 whichever is later. The commissioner of human services shall notify the revisor of statutes
71.6 when federal approval is obtained.

71.7 Sec. 13. Minnesota Statutes 2021 Supplement, section 245I.10, subdivision 2, is amended
71.8 to read:

71.9 Subd. 2. **Generally.** (a) A license holder must use a client's diagnostic assessment or
71.10 crisis assessment to determine a client's eligibility for mental health services, except as
71.11 provided in this section.

71.12 (b) Prior to completing a client's initial diagnostic assessment, a license holder may
71.13 provide a client with the following services:

71.14 (1) an explanation of findings;

71.15 (2) neuropsychological testing, neuropsychological assessment, and psychological
71.16 testing;

71.17 (3) any combination of psychotherapy sessions, family psychotherapy sessions, and
71.18 family psychoeducation sessions not to exceed three sessions;

71.19 (4) crisis assessment services according to section 256B.0624; and

71.20 (5) ten days of intensive residential treatment services according to the assessment and
71.21 treatment planning standards in section ~~245.23~~ 245I.23, subdivision 7.

71.22 (c) Based on the client's needs that a crisis assessment identifies under section 256B.0624,
71.23 a license holder may provide a client with the following services:

71.24 (1) crisis intervention and stabilization services under section 245I.23 or 256B.0624;
71.25 and

71.26 (2) any combination of psychotherapy sessions, group psychotherapy sessions, family
71.27 psychotherapy sessions, and family psychoeducation sessions not to exceed ten sessions
71.28 within a 12-month period without prior authorization.

71.29 (d) Based on the client's needs in the client's brief diagnostic assessment, a license holder
71.30 may provide a client with any combination of psychotherapy sessions, group psychotherapy
71.31 sessions, family psychotherapy sessions, and family psychoeducation sessions not to exceed

72.1 ten sessions within a 12-month period without prior authorization for any new client or for
72.2 an existing client who the license holder projects will need fewer than ten sessions during
72.3 the next 12 months.

72.4 (e) Based on the client's needs that a hospital's medical history and presentation
72.5 examination identifies, a license holder may provide a client with:

72.6 (1) any combination of psychotherapy sessions, group psychotherapy sessions, family
72.7 psychotherapy sessions, and family psychoeducation sessions not to exceed ten sessions
72.8 within a 12-month period without prior authorization for any new client or for an existing
72.9 client who the license holder projects will need fewer than ten sessions during the next 12
72.10 months; and

72.11 (2) up to five days of day treatment services or partial hospitalization.

72.12 (f) A license holder must complete a new standard diagnostic assessment of a client:

72.13 (1) when the client requires services of a greater number or intensity than the services
72.14 that paragraphs (b) to (e) describe;

72.15 (2) at least annually following the client's initial diagnostic assessment if the client needs
72.16 additional mental health services and the client does not meet the criteria for a brief
72.17 assessment;

72.18 (3) when the client's mental health condition has changed markedly since the client's
72.19 most recent diagnostic assessment; or

72.20 (4) when the client's current mental health condition does not meet the criteria of the
72.21 client's current diagnosis.

72.22 (g) For an existing client, the license holder must ensure that a new standard diagnostic
72.23 assessment includes a written update containing all significant new or changed information
72.24 about the client, and an update regarding what information has not significantly changed,
72.25 including a discussion with the client about changes in the client's life situation, functioning,
72.26 presenting problems, and progress with achieving treatment goals since the client's last
72.27 diagnostic assessment was completed.

72.28 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
72.29 whichever is later. The commissioner of human services shall notify the revisor of statutes
72.30 when federal approval is obtained.

73.1 Sec. 14. Minnesota Statutes 2021 Supplement, section 245I.10, subdivision 6, is amended
73.2 to read:

73.3 Subd. 6. **Standard diagnostic assessment; required elements.** (a) Only a mental health
73.4 professional or a clinical trainee may complete a standard diagnostic assessment of a client.
73.5 A standard diagnostic assessment of a client must include a face-to-face interview with a
73.6 client and a written evaluation of the client. The assessor must complete a client's standard
73.7 diagnostic assessment within the client's cultural context.

73.8 (b) When completing a standard diagnostic assessment of a client, the assessor must
73.9 gather and document information about the client's current life situation, including the
73.10 following information:

73.11 (1) the client's age;

73.12 (2) the client's current living situation, including the client's housing status and household
73.13 members;

73.14 (3) the status of the client's basic needs;

73.15 (4) the client's education level and employment status;

73.16 (5) the client's current medications;

73.17 (6) any immediate risks to the client's health and safety;

73.18 (7) the client's perceptions of the client's condition;

73.19 (8) the client's description of the client's symptoms, including the reason for the client's
73.20 referral;

73.21 (9) the client's history of mental health treatment; and

73.22 (10) cultural influences on the client.

73.23 (c) If the assessor cannot obtain the information that this ~~subdivision~~ paragraph requires
73.24 without retraumatizing the client or harming the client's willingness to engage in treatment,
73.25 the assessor must identify which topics will require further assessment during the course
73.26 of the client's treatment. The assessor must gather and document information related to the
73.27 following topics:

73.28 (1) the client's relationship with the client's family and other significant personal
73.29 relationships, including the client's evaluation of the quality of each relationship;

73.30 (2) the client's strengths and resources, including the extent and quality of the client's
73.31 social networks;

- 74.1 (3) important developmental incidents in the client's life;
- 74.2 (4) maltreatment, trauma, potential brain injuries, and abuse that the client has suffered;
- 74.3 (5) the client's history of or exposure to alcohol and drug usage and treatment; and
- 74.4 (6) the client's health history and the client's family health history, including the client's
- 74.5 physical, chemical, and mental health history.

74.6 (d) When completing a standard diagnostic assessment of a client, an assessor must use

74.7 a recognized diagnostic framework.

74.8 (1) When completing a standard diagnostic assessment of a client who is five years of

74.9 age or younger, the assessor must use the current edition of the DC: 0-5 Diagnostic

74.10 Classification of Mental Health and Development Disorders of Infancy and Early Childhood

74.11 published by Zero to Three.

74.12 (2) When completing a standard diagnostic assessment of a client who is six years of

74.13 age or older, the assessor must use the current edition of the Diagnostic and Statistical

74.14 Manual of Mental Disorders published by the American Psychiatric Association.

74.15 (3) When completing a standard diagnostic assessment of a client who is five years of

74.16 age or younger, an assessor must administer the Early Childhood Service Intensity Instrument

74.17 (ECSII) to the client and include the results in the client's assessment.

74.18 (4) When completing a standard diagnostic assessment of a client who is six to 17 years

74.19 of age, an assessor must administer the Child and Adolescent Service Intensity Instrument

74.20 (CASII) to the client and include the results in the client's assessment.

74.21 (5) When completing a standard diagnostic assessment of a client who is 18 years of

74.22 age or older, an assessor must use either (i) the CAGE-AID Questionnaire or (ii) the criteria

74.23 in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders

74.24 published by the American Psychiatric Association to screen and assess the client for a

74.25 substance use disorder.

74.26 (e) When completing a standard diagnostic assessment of a client, the assessor must

74.27 include and document the following components of the assessment:

74.28 (1) the client's mental status examination;

74.29 (2) the client's baseline measurements; symptoms; behavior; skills; abilities; resources;

74.30 vulnerabilities; safety needs, including client information that supports the assessor's findings

74.31 after applying a recognized diagnostic framework from paragraph (d); and any differential

74.32 diagnosis of the client;

75.1 (3) an explanation of: (i) how the assessor diagnosed the client using the information
75.2 from the client's interview, assessment, psychological testing, and collateral information
75.3 about the client; (ii) the client's needs; (iii) the client's risk factors; (iv) the client's strengths;
75.4 and (v) the client's responsivity factors.

75.5 (f) When completing a standard diagnostic assessment of a client, the assessor must
75.6 consult the client and the client's family about which services that the client and the family
75.7 prefer to treat the client. The assessor must make referrals for the client as to services required
75.8 by law.

75.9 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
75.10 whichever is later. The commissioner of human services shall notify the revisor of statutes
75.11 when federal approval is obtained.

75.12 Sec. 15. Minnesota Statutes 2021 Supplement, section 254B.05, subdivision 5, is amended
75.13 to read:

75.14 Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for substance
75.15 use disorder services and service enhancements funded under this chapter.

75.16 (b) Eligible substance use disorder treatment services include:

75.17 (1) outpatient treatment services that are licensed according to sections 245G.01 to
75.18 245G.17, or applicable tribal license;

75.19 (2) comprehensive assessments provided according to sections 245.4863, paragraph (a),
75.20 and 245G.05;

75.21 (3) care coordination services provided according to section 245G.07, subdivision 1,
75.22 paragraph (a), clause (5);

75.23 (4) peer recovery support services provided according to section 245G.07, subdivision
75.24 2, clause (8);

75.25 (5) on July 1, 2019, or upon federal approval, whichever is later, withdrawal management
75.26 services provided according to chapter 245F;

75.27 (6) medication-assisted therapy services that are licensed according to sections 245G.01
75.28 to 245G.17 and 245G.22, or applicable tribal license;

75.29 (7) medication-assisted therapy plus enhanced treatment services that meet the
75.30 requirements of clause (6) and provide nine hours of clinical services each week;

76.1 (8) high, medium, and low intensity residential treatment services that are licensed
76.2 according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license which
76.3 provide, respectively, 30, 15, and five hours of clinical services each week;

76.4 (9) hospital-based treatment services that are licensed according to sections 245G.01 to
76.5 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to
76.6 144.56;

76.7 (10) adolescent treatment programs that are licensed as outpatient treatment programs
76.8 according to sections 245G.01 to 245G.18 or as residential treatment programs according
76.9 to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to 2960.0490, or
76.10 applicable tribal license;

76.11 (11) high-intensity residential treatment services that are licensed according to sections
76.12 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide 30 hours of
76.13 clinical services each week provided by a state-operated vendor or to clients who have been
76.14 civilly committed to the commissioner, present the most complex and difficult care needs,
76.15 and are a potential threat to the community; and

76.16 (12) room and board facilities that meet the requirements of subdivision 1a.

76.17 (c) The commissioner shall establish higher rates for programs that meet the requirements
76.18 of paragraph (b) and one of the following additional requirements:

76.19 (1) programs that serve parents with their children if the program:

76.20 (i) provides on-site child care during the hours of treatment activity that:

76.21 (A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter
76.22 9503; or

76.23 (B) meets the licensure exclusion criteria of section 245A.03, subdivision 2, paragraph
76.24 (a), clause (6), and meets the requirements under section 245G.19, subdivision 4; or

76.25 (ii) arranges for off-site child care during hours of treatment activity at a facility that is
76.26 licensed under chapter 245A as:

76.27 (A) a child care center under Minnesota Rules, chapter 9503; or

76.28 (B) a family child care home under Minnesota Rules, chapter 9502;

76.29 (2) culturally specific or culturally responsive programs as defined in section 254B.01,
76.30 subdivision 4a;

76.31 (3) disability responsive programs as defined in section 254B.01, subdivision 4b;

77.1 (4) programs that offer medical services delivered by appropriately credentialed health
77.2 care staff in an amount equal to two hours per client per week if the medical needs of the
77.3 client and the nature and provision of any medical services provided are documented in the
77.4 client file; or

77.5 (5) programs that offer services to individuals with co-occurring mental health and
77.6 chemical dependency problems if:

77.7 (i) the program meets the co-occurring requirements in section 245G.20;

77.8 (ii) 25 percent of the counseling staff are licensed mental health professionals, ~~as defined~~
77.9 ~~in section 245.462, subdivision 18, clauses (1) to (6)~~ under section 245I.04, subdivision 2,
77.10 or are students or licensing candidates under the supervision of a licensed alcohol and drug
77.11 counselor supervisor and ~~licensed~~ licensed mental health professional under section 245I.04,
77.12 subdivision 2, except that no more than 50 percent of the mental health staff may be students
77.13 or licensing candidates with time documented to be directly related to provisions of
77.14 co-occurring services;

77.15 (iii) clients scoring positive on a standardized mental health screen receive a mental
77.16 health diagnostic assessment within ten days of admission;

77.17 (iv) the program has standards for multidisciplinary case review that include a monthly
77.18 review for each client that, at a minimum, includes a licensed mental health professional
77.19 and licensed alcohol and drug counselor, and their involvement in the review is documented;

77.20 (v) family education is offered that addresses mental health and substance abuse disorders
77.21 and the interaction between the two; and

77.22 (vi) co-occurring counseling staff shall receive eight hours of co-occurring disorder
77.23 training annually.

77.24 (d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program
77.25 that provides arrangements for off-site child care must maintain current documentation at
77.26 the chemical dependency facility of the child care provider's current licensure to provide
77.27 child care services. Programs that provide child care according to paragraph (c), clause (1),
77.28 must be deemed in compliance with the licensing requirements in section 245G.19.

77.29 (e) Adolescent residential programs that meet the requirements of Minnesota Rules,
77.30 parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the requirements
77.31 in paragraph (c), clause (4), items (i) to (iv).

77.32 (f) Subject to federal approval, substance use disorder services that are otherwise covered
77.33 as direct face-to-face services may be provided via telehealth as defined in section 256B.0625,

78.1 subdivision 3b. The use of telehealth to deliver services must be medically appropriate to
78.2 the condition and needs of the person being served. Reimbursement shall be at the same
78.3 rates and under the same conditions that would otherwise apply to direct face-to-face services.

78.4 (g) For the purpose of reimbursement under this section, substance use disorder treatment
78.5 services provided in a group setting without a group participant maximum or maximum
78.6 client to staff ratio under chapter 245G shall not exceed a client to staff ratio of 48 to one.
78.7 At least one of the attending staff must meet the qualifications as established under this
78.8 chapter for the type of treatment service provided. A recovery peer may not be included as
78.9 part of the staff ratio.

78.10 (h) Payment for outpatient substance use disorder services that are licensed according
78.11 to sections 245G.01 to 245G.17 is limited to six hours per day or 30 hours per week unless
78.12 prior authorization of a greater number of hours is obtained from the commissioner.

78.13 EFFECTIVE DATE. This section is effective July 1, 2022, or upon federal approval,
78.14 whichever is later. The commissioner of human services shall notify the revisor of statutes
78.15 when federal approval is obtained.

78.16 Sec. 16. Minnesota Statutes 2020, section 256.01, is amended by adding a subdivision to
78.17 read:

78.18 Subd. 12b. Department of Human Services systemic critical incident review team. (a)
78.19 The commissioner may establish a Department of Human Services systemic critical incident
78.20 review team to review critical incidents reported as required under section 626.557 for
78.21 which the Department of Human Services is responsible under section 626.5572, subdivision
78.22 13; chapter 245D; or Minnesota Rules, chapter 9544. When reviewing a critical incident,
78.23 the systemic critical incident review team shall identify systemic influences to the incident
78.24 rather than determining the culpability of any actors involved in the incident. The systemic
78.25 critical incident review may assess the entire critical incident process from the point of an
78.26 entity reporting the critical incident through the ongoing case management process.
78.27 Department staff shall lead and conduct the reviews and may utilize county staff as reviewers.
78.28 The systemic critical incident review process may include but is not limited to:

78.29 (1) data collection about the incident and actors involved. Data may include the critical
78.30 incident report under review; previous incident reports pertaining to the person receiving
78.31 services; the service provider's policies and procedures applicable to the incident; the
78.32 coordinated service and support plan as defined in section 245D.02, subdivision 4b, for the
78.33 person receiving services; or an interview of an actor involved in the critical incident or the
78.34 review of the critical incident. Actors may include:

- 79.1 (i) staff of the provider agency;
- 79.2 (ii) lead agency staff administering home and community-based services delivered by
79.3 the provider;
- 79.4 (iii) Department of Human Services staff with oversight of home and community-based
79.5 services;
- 79.6 (iv) Department of Health staff with oversight of home and community-based services;
- 79.7 (v) members of the community including advocates, legal representatives, health care
79.8 providers, pharmacy staff, or others with knowledge of the incident or the actors in the
79.9 incident; and
- 79.10 (vi) staff from the office of the ombudsman for mental health and developmental
79.11 disabilities;
- 79.12 (2) systemic mapping of the critical incident. The team conducting the systemic mapping
79.13 of the incident may include any actors identified in clause (1), designated representatives
79.14 of other provider agencies, regional teams, and representatives of the local regional quality
79.15 council identified in section 256B.097; and
- 79.16 (3) analysis of the case for systemic influences.
- 79.17 Data collected by the critical incident review team shall be aggregated and provided to
79.18 regional teams, participating regional quality councils, and the commissioner. The regional
79.19 teams and quality councils shall analyze the data and make recommendations to the
79.20 commissioner regarding systemic changes that would decrease the number and severity of
79.21 critical incidents in the future or improve the quality of the home and community-based
79.22 service system.
- 79.23 (b) Cases selected for the systemic critical incident review process shall be selected by
79.24 a selection committee among the following critical incident categories:
- 79.25 (1) cases of caregiver neglect identified in section 626.5572, subdivision 17;
- 79.26 (2) cases involving financial exploitation identified in section 626.5572, subdivision 9;
- 79.27 (3) incidents identified in section 245D.02, subdivision 11;
- 79.28 (4) incidents identified in Minnesota Rules, part 9544.0110; and
- 79.29 (5) service terminations reported to the department in accordance with section 245D.10,
79.30 subdivision 3a.

80.1 (c) The systemic critical incident review under this section shall not replace the process
80.2 for screening or investigating cases of alleged maltreatment of an adult under section 626.557.
80.3 The department may select cases for systemic critical incident review, under the jurisdiction
80.4 of the commissioner, reported for suspected maltreatment and closed following initial or
80.5 final disposition.

80.6 (d) A member of the systemic critical incident review team shall not disclose what
80.7 transpired during the review, except to carry out the duties of the review. The proceedings
80.8 and records of the review team are protected nonpublic data as defined in section 13.02,
80.9 subdivision 13, and are not subject to discovery or introduction into evidence in a civil or
80.10 criminal action against a professional, the state, or a county agency arising out of the matters
80.11 that the team is reviewing. Information, documents, and records otherwise available from
80.12 other sources are not immune from discovery or use in a civil or criminal action solely
80.13 because the information, documents, and records were assessed or presented during
80.14 proceedings of the review team. A person who presented information before the systemic
80.15 critical incident review team or who is a member of the team shall not be prevented from
80.16 testifying about matters within the person's knowledge. In a civil or criminal proceeding, a
80.17 person shall not be questioned about the person's presentation of information to the review
80.18 team or opinions formed by the person as a result of the review.

80.19 Sec. 17. Minnesota Statutes 2021 Supplement, section 256B.0622, subdivision 2, is
80.20 amended to read:

80.21 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the
80.22 meanings given them.

80.23 (b) "ACT team" means the group of interdisciplinary mental health staff who work as
80.24 a team to provide assertive community treatment.

80.25 (c) "Assertive community treatment" means intensive nonresidential treatment and
80.26 rehabilitative mental health services provided according to the assertive community treatment
80.27 model. Assertive community treatment provides a single, fixed point of responsibility for
80.28 treatment, rehabilitation, and support needs for clients. Services are offered 24 hours per
80.29 day, seven days per week, in a community-based setting.

80.30 (d) "Individual treatment plan" means a plan described by section 245I.10, subdivisions
80.31 7 and 8.

80.32 (e) "Crisis assessment and intervention" means ~~mental health~~ mobile crisis response
80.33 ~~services as defined in~~ services ~~under~~ section 256B.0624, ~~subdivision 2.~~

81.1 (f) "Individual treatment team" means a minimum of three members of the ACT team
81.2 who are responsible for consistently carrying out most of a client's assertive community
81.3 treatment services.

81.4 (g) "Primary team member" means the person who leads and coordinates the activities
81.5 of the individual treatment team and is the individual treatment team member who has
81.6 primary responsibility for establishing and maintaining a therapeutic relationship with the
81.7 client on a continuing basis.

81.8 (h) "Certified rehabilitation specialist" means a staff person who is qualified according
81.9 to section 245I.04, subdivision 8.

81.10 (i) "Clinical trainee" means a staff person who is qualified according to section 245I.04,
81.11 subdivision 6.

81.12 (j) "Mental health certified peer specialist" means a staff person who is qualified
81.13 according to section 245I.04, subdivision 10.

81.14 (k) "Mental health practitioner" means a staff person who is qualified according to section
81.15 245I.04, subdivision 4.

81.16 (l) "Mental health professional" means a staff person who is qualified according to
81.17 section 245I.04, subdivision 2.

81.18 (m) "Mental health rehabilitation worker" means a staff person who is qualified according
81.19 to section 245I.04, subdivision 14.

81.20 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
81.21 whichever is later. The commissioner of human services shall notify the revisor of statutes
81.22 when federal approval is obtained.

81.23 Sec. 18. Minnesota Statutes 2021 Supplement, section 256B.0625, subdivision 3b, is
81.24 amended to read:

81.25 Subd. 3b. **Telehealth services.** (a) Medical assistance covers medically necessary services
81.26 and consultations delivered by a health care provider through telehealth in the same manner
81.27 as if the service or consultation was delivered through in-person contact. Services or
81.28 consultations delivered through telehealth shall be paid at the full allowable rate.

81.29 (b) The commissioner may establish criteria that a health care provider must attest to in
81.30 order to demonstrate the safety or efficacy of delivering a particular service through
81.31 telehealth. The attestation may include that the health care provider:

82.1 (1) has identified the categories or types of services the health care provider will provide
82.2 through telehealth;

82.3 (2) has written policies and procedures specific to services delivered through telehealth
82.4 that are regularly reviewed and updated;

82.5 (3) has policies and procedures that adequately address patient safety before, during,
82.6 and after the service is delivered through telehealth;

82.7 (4) has established protocols addressing how and when to discontinue telehealth services;
82.8 and

82.9 (5) has an established quality assurance process related to delivering services through
82.10 telehealth.

82.11 (c) As a condition of payment, a licensed health care provider must document each
82.12 occurrence of a health service delivered through telehealth to a medical assistance enrollee.
82.13 Health care service records for services delivered through telehealth must meet the
82.14 requirements set forth in Minnesota Rules, part 9505.2175, subparts 1 and 2, and must
82.15 document:

82.16 (1) the type of service delivered through telehealth;

82.17 (2) the time the service began and the time the service ended, including an a.m. and p.m.
82.18 designation;

82.19 (3) the health care provider's basis for determining that telehealth is an appropriate and
82.20 effective means for delivering the service to the enrollee;

82.21 (4) the mode of transmission used to deliver the service through telehealth and records
82.22 evidencing that a particular mode of transmission was utilized;

82.23 (5) the location of the originating site and the distant site;

82.24 (6) if the claim for payment is based on a physician's consultation with another physician
82.25 through telehealth, the written opinion from the consulting physician providing the telehealth
82.26 consultation; and

82.27 (7) compliance with the criteria attested to by the health care provider in accordance
82.28 with paragraph (b).

82.29 (d) Telehealth visits, as described in this subdivision provided through audio and visual
82.30 communication, or accessible video-based platforms may ~~be used to~~ satisfy the face-to-face
82.31 requirement for reimbursement under the payment methods that apply to a federally qualified
82.32 health center, rural health clinic, Indian health service, 638 tribal clinic, and certified

83.1 community behavioral health clinic, if the service would have otherwise qualified for
 83.2 payment if performed in person. Beginning July 1, 2021, visits provided through telephone
 83.3 may satisfy the face-to-face requirement for reimbursement under these payment methods
 83.4 if the service would have otherwise qualified for payment if performed in person until the
 83.5 COVID-19 federal public health emergency ends or July 1, 2023, whichever is earlier.

83.6 ~~(e) For mental health services or assessments delivered through telehealth that are based~~
 83.7 ~~on an individual treatment plan, the provider may document the client's verbal approval or~~
 83.8 ~~electronic written approval of the treatment plan or change in the treatment plan in lieu of~~
 83.9 ~~the client's signature in accordance with Minnesota Rules, part 9505.0371.~~

83.10 ~~(f)~~ (e) For purposes of this subdivision, unless otherwise covered under this chapter:

83.11 (1) "telehealth" means the delivery of health care services or consultations through the
 83.12 use of real-time two-way interactive audio and visual communication to provide or support
 83.13 health care delivery and facilitate the assessment, diagnosis, consultation, treatment,
 83.14 education, and care management of a patient's health care. Telehealth includes the application
 83.15 of secure video conferencing, store-and-forward technology, and synchronous interactions
 83.16 between a patient located at an originating site and a health care provider located at a distant
 83.17 site. Telehealth does not include communication between health care providers, or between
 83.18 a health care provider and a patient that consists solely of an audio-only communication,
 83.19 e-mail, or facsimile transmission or as specified by law;

83.20 (2) "health care provider" means a health care provider as defined under section 62A.673,
 83.21 a community paramedic as defined under section 144E.001, subdivision 5f, a community
 83.22 health worker who meets the criteria under subdivision 49, paragraph (a), a mental health
 83.23 certified peer specialist under section ~~256B.0615~~, subdivision 5 245I.04, subdivision 10, a
 83.24 mental health certified family peer specialist under section ~~256B.0616~~, subdivision 5 245I.04,
 83.25 subdivision 12, a mental health rehabilitation worker under section ~~256B.0623~~, subdivision
 83.26 ~~5, paragraph (a), clause (4), and paragraph (b) 245I.04~~, subdivision 14, a mental health
 83.27 behavioral aide under section ~~256B.0943~~, subdivision 7, paragraph (b), clause (3) 245I.04,
 83.28 subdivision 16, a treatment coordinator under section 245G.11, subdivision 7, an alcohol
 83.29 and drug counselor under section 245G.11, subdivision 5, a recovery peer under section
 83.30 245G.11, subdivision 8; and

83.31 (3) "originating site," "distant site," and "store-and-forward technology" have the
 83.32 meanings given in section 62A.673, subdivision 2.

83.33 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
 83.34 whichever is later, except that the amendment to paragraph (d) is effective retroactively

84.1 from July 1, 2021, and expires when the COVID-19 federal public health emergency ends
 84.2 or July 1, 2023, whichever is sooner. The commissioner of human services shall notify the
 84.3 revisor of statutes when federal approval is obtained and when the amendments to paragraph
 84.4 (d) expire.

84.5 Sec. 19. Minnesota Statutes 2020, section 256B.0659, subdivision 19, is amended to read:

84.6 Subd. 19. **Personal care assistance choice option; qualifications; duties.** (a) Under
 84.7 personal care assistance choice, the recipient or responsible party shall:

84.8 (1) recruit, hire, schedule, and terminate personal care assistants according to the terms
 84.9 of the written agreement required under subdivision 20, paragraph (a);

84.10 (2) develop a personal care assistance care plan based on the assessed needs and
 84.11 addressing the health and safety of the recipient with the assistance of a qualified professional
 84.12 as needed;

84.13 (3) orient and train the personal care assistant with assistance as needed from the qualified
 84.14 professional;

84.15 (4) ~~effective January 1, 2010,~~ supervise and evaluate the personal care assistant with the
 84.16 qualified professional, who is required to visit the recipient at least every 180 days;

84.17 (5) monitor and verify in writing and report to the personal care assistance choice agency
 84.18 the number of hours worked by the personal care assistant and the qualified professional;

84.19 (6) engage in an annual ~~face-to-face~~ reassessment as required in subdivision 3a to
 84.20 determine continuing eligibility and service authorization; and

84.21 (7) use the same personal care assistance choice provider agency if shared personal
 84.22 assistance care is being used.

84.23 (b) The personal care assistance choice provider agency shall:

84.24 (1) meet all personal care assistance provider agency standards;

84.25 (2) enter into a written agreement with the recipient, responsible party, and personal
 84.26 care assistants;

84.27 (3) not be related as a parent, child, sibling, or spouse to the recipient or the personal
 84.28 care assistant; and

84.29 (4) ensure arm's-length transactions without undue influence or coercion with the recipient
 84.30 and personal care assistant.

84.31 (c) The duties of the personal care assistance choice provider agency are to:

85.1 (1) be the employer of the personal care assistant and the qualified professional for
85.2 employment law and related regulations including, but not limited to, purchasing and
85.3 maintaining workers' compensation, unemployment insurance, surety and fidelity bonds,
85.4 and liability insurance, and submit any or all necessary documentation including, but not
85.5 limited to, workers' compensation, unemployment insurance, and labor market data required
85.6 under section 256B.4912, subdivision 1a;

85.7 (2) bill the medical assistance program for personal care assistance services and qualified
85.8 professional services;

85.9 (3) request and complete background studies that comply with the requirements for
85.10 personal care assistants and qualified professionals;

85.11 (4) pay the personal care assistant and qualified professional based on actual hours of
85.12 services provided;

85.13 (5) withhold and pay all applicable federal and state taxes;

85.14 (6) verify and keep records of hours worked by the personal care assistant and qualified
85.15 professional;

85.16 (7) make the arrangements and pay taxes and other benefits, if any, and comply with
85.17 any legal requirements for a Minnesota employer;

85.18 (8) enroll in the medical assistance program as a personal care assistance choice agency;
85.19 and

85.20 (9) enter into a written agreement as specified in subdivision 20 before services are
85.21 provided.

85.22 Sec. 20. Minnesota Statutes 2021 Supplement, section 256B.0671, subdivision 6, is
85.23 amended to read:

85.24 Subd. 6. **Dialectical behavior therapy.** (a) Subject to federal approval, medical assistance
85.25 covers intensive mental health outpatient treatment for dialectical behavior therapy for
85.26 adults. A dialectical behavior therapy provider must make reasonable and good faith efforts
85.27 to report individual client outcomes to the commissioner using instruments and protocols
85.28 that are approved by the commissioner.

85.29 (b) "Dialectical behavior therapy" means an evidence-based treatment approach that a
85.30 mental health professional or clinical trainee provides to a client or a group of clients in an
85.31 intensive outpatient treatment program using a combination of individualized rehabilitative
85.32 and psychotherapeutic interventions. A dialectical behavior therapy program involves:

86.1 individual dialectical behavior therapy, group skills training, telephone coaching, and team
86.2 consultation meetings.

86.3 (c) To be eligible for dialectical behavior therapy, a client must:

86.4 ~~(1) be 18 years of age or older;~~

86.5 ~~(2)~~ (1) have mental health needs that available community-based services cannot meet
86.6 or that the client must receive concurrently with other community-based services;

86.7 ~~(3)~~ (2) have either:

86.8 (i) a diagnosis of borderline personality disorder; or

86.9 (ii) multiple mental health diagnoses, exhibit behaviors characterized by impulsivity or
86.10 intentional self-harm, and be at significant risk of death, morbidity, disability, or severe
86.11 dysfunction in multiple areas of the client's life;

86.12 ~~(4)~~ (3) be cognitively capable of participating in dialectical behavior therapy as an
86.13 intensive therapy program and be able and willing to follow program policies and rules to
86.14 ensure the safety of the client and others; and

86.15 ~~(5)~~ (4) be at significant risk of one or more of the following if the client does not receive
86.16 dialectical behavior therapy:

86.17 (i) having a mental health crisis;

86.18 (ii) requiring a more restrictive setting such as hospitalization;

86.19 (iii) decompensating; or

86.20 (iv) engaging in intentional self-harm behavior.

86.21 (d) Individual dialectical behavior therapy combines individualized rehabilitative and
86.22 psychotherapeutic interventions to treat a client's suicidal and other dysfunctional behaviors
86.23 and to reinforce a client's use of adaptive skillful behaviors. A mental health professional
86.24 or clinical trainee must provide individual dialectical behavior therapy to a client. A mental
86.25 health professional or clinical trainee providing dialectical behavior therapy to a client must:

86.26 (1) identify, prioritize, and sequence the client's behavioral targets;

86.27 (2) treat the client's behavioral targets;

86.28 (3) assist the client in applying dialectical behavior therapy skills to the client's natural
86.29 environment through telephone coaching outside of treatment sessions;

86.30 (4) measure the client's progress toward dialectical behavior therapy targets;

87.1 (5) help the client manage mental health crises and life-threatening behaviors; and

87.2 (6) help the client learn and apply effective behaviors when working with other treatment
87.3 providers.

87.4 (e) Group skills training combines individualized psychotherapeutic and psychiatric
87.5 rehabilitative interventions conducted in a group setting to reduce the client's suicidal and
87.6 other dysfunctional coping behaviors and restore function. Group skills training must teach
87.7 the client adaptive skills in the following areas: (1) mindfulness; (2) interpersonal
87.8 effectiveness; (3) emotional regulation; and (4) distress tolerance.

87.9 (f) Group skills training must be provided by two mental health professionals or by a
87.10 mental health professional co-facilitating with a clinical trainee or a mental health practitioner.
87.11 Individual skills training must be provided by a mental health professional, a clinical trainee,
87.12 or a mental health practitioner.

87.13 (g) Before a program provides dialectical behavior therapy to a client, the commissioner
87.14 must certify the program as a dialectical behavior therapy provider. To qualify for
87.15 certification as a dialectical behavior therapy provider, a provider must:

87.16 (1) allow the commissioner to inspect the provider's program;

87.17 (2) provide evidence to the commissioner that the program's policies, procedures, and
87.18 practices meet the requirements of this subdivision and chapter 245I;

87.19 (3) be enrolled as a MHCP provider; and

87.20 (4) have a manual that outlines the program's policies, procedures, and practices that
87.21 meet the requirements of this subdivision.

87.22 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
87.23 whichever is later. The commissioner of human services shall notify the revisor of statutes
87.24 when federal approval is obtained.

87.25 Sec. 21. Minnesota Statutes 2021 Supplement, section 256B.0911, subdivision 3a, is
87.26 amended to read:

87.27 Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services
87.28 planning, or other assistance intended to support community-based living, including persons
87.29 who need assessment ~~in order~~ to determine waiver or alternative care program eligibility,
87.30 must be visited by a long-term care consultation team within 20 calendar days after the date
87.31 on which an assessment was requested or recommended. Upon statewide implementation
87.32 of subdivisions 2b, 2c, and 5, this requirement also applies to an assessment of a person

88.1 requesting personal care assistance services. The commissioner shall provide at least a
88.2 90-day notice to lead agencies prior to the effective date of this requirement. Assessments
88.3 must be conducted according to paragraphs (b) to (r).

88.4 (b) Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall use certified
88.5 assessors to conduct the assessment. For a person with complex health care needs, a public
88.6 health or registered nurse from the team must be consulted.

88.7 (c) The MnCHOICES assessment provided by the commissioner to lead agencies must
88.8 be used to complete a comprehensive, conversation-based, person-centered assessment.
88.9 The assessment must include the health, psychological, functional, environmental, and
88.10 social needs of the individual necessary to develop a person-centered community support
88.11 plan that meets the individual's needs and preferences.

88.12 (d) Except as provided in paragraph (r), the assessment must be conducted by a certified
88.13 assessor in a face-to-face conversational interview with the person being assessed. The
88.14 person's legal representative must provide input during the assessment process and may do
88.15 so remotely if requested. At the request of the person, other individuals may participate in
88.16 the assessment to provide information on the needs, strengths, and preferences of the person
88.17 necessary to develop a community support plan that ensures the person's health and safety.
88.18 Except for legal representatives or family members invited by the person, persons
88.19 participating in the assessment may not be a provider of service or have any financial interest
88.20 in the provision of services. For persons who are to be assessed for elderly waiver customized
88.21 living or adult day services under chapter 256S, with the permission of the person being
88.22 assessed or the person's designated or legal representative, the client's current or proposed
88.23 provider of services may submit a copy of the provider's nursing assessment or written
88.24 report outlining its recommendations regarding the client's care needs. The person conducting
88.25 the assessment must notify the provider of the date by which this information is to be
88.26 submitted. This information shall be provided to the person conducting the assessment prior
88.27 to the assessment. For a person who is to be assessed for waiver services under section
88.28 256B.092 or 256B.49, with the permission of the person being assessed or the person's
88.29 designated legal representative, the person's current provider of services may submit a
88.30 written report outlining recommendations regarding the person's care needs the person
88.31 completed in consultation with someone who is known to the person and has interaction
88.32 with the person on a regular basis. The provider must submit the report at least 60 days
88.33 before the end of the person's current service agreement. The certified assessor must consider
88.34 the content of the submitted report prior to finalizing the person's assessment or reassessment.

89.1 (e) The certified assessor and the individual responsible for developing the coordinated
89.2 service and support plan must complete the community support plan and the coordinated
89.3 service and support plan no more than 60 calendar days from the assessment visit. The
89.4 person or the person's legal representative must be provided with a written community
89.5 support plan within the timelines established by the commissioner, regardless of whether
89.6 the person is eligible for Minnesota health care programs.

89.7 (f) For a person being assessed for elderly waiver services under chapter 256S, a provider
89.8 who submitted information under paragraph (d) shall receive the final written community
89.9 support plan when available and the Residential Services Workbook.

89.10 (g) The written community support plan must include:

89.11 (1) a summary of assessed needs as defined in paragraphs (c) and (d);

89.12 (2) the individual's options and choices to meet identified needs, including:

89.13 (i) all available options for case management services and providers;

89.14 (ii) all available options for employment services, settings, and providers;

89.15 (iii) all available options for living arrangements;

89.16 (iv) all available options for self-directed services and supports, including self-directed
89.17 budget options; and

89.18 (v) service provided in a non-disability-specific setting;

89.19 (3) identification of health and safety risks and how those risks will be addressed,
89.20 including personal risk management strategies;

89.21 (4) referral information; and

89.22 (5) informal caregiver supports, if applicable.

89.23 For a person determined eligible for state plan home care under subdivision 1a, paragraph
89.24 (b), clause (1), the person or person's representative must also receive a copy of the home
89.25 care service plan developed by the certified assessor.

89.26 (h) A person may request assistance in identifying community supports without
89.27 participating in a complete assessment. Upon a request for assistance identifying community
89.28 support, the person must be transferred or referred to long-term care options counseling
89.29 services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for
89.30 telephone assistance and follow up.

89.31 (i) The person has the right to make the final decision:

90.1 (1) between institutional placement and community placement after the recommendations
90.2 have been provided, except as provided in section 256.975, subdivision 7a, paragraph (d);

90.3 (2) between community placement in a setting controlled by a provider and living
90.4 independently in a setting not controlled by a provider;

90.5 (3) between day services and employment services; and

90.6 (4) regarding available options for self-directed services and supports, including
90.7 self-directed funding options.

90.8 (j) The lead agency must give the person receiving long-term care consultation services
90.9 or the person's legal representative, materials, and forms supplied by the commissioner
90.10 containing the following information:

90.11 (1) written recommendations for community-based services and consumer-directed
90.12 options;

90.13 (2) documentation that the most cost-effective alternatives available were offered to the
90.14 individual. For purposes of this clause, "cost-effective" means community services and
90.15 living arrangements that cost the same as or less than institutional care. For an individual
90.16 found to meet eligibility criteria for home and community-based service programs under
90.17 chapter 256S or section 256B.49, "cost-effectiveness" has the meaning found in the federally
90.18 approved waiver plan for each program;

90.19 (3) the need for and purpose of preadmission screening conducted by long-term care
90.20 options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects
90.21 nursing facility placement. If the individual selects nursing facility placement, the lead
90.22 agency shall forward information needed to complete the level of care determinations and
90.23 screening for developmental disability and mental illness collected during the assessment
90.24 to the long-term care options counselor using forms provided by the commissioner;

90.25 (4) the role of long-term care consultation assessment and support planning in eligibility
90.26 determination for waiver and alternative care programs, and state plan home care, case
90.27 management, and other services as defined in subdivision 1a, paragraphs (a), clause (6),
90.28 and (b);

90.29 (5) information about Minnesota health care programs;

90.30 (6) the person's freedom to accept or reject the recommendations of the team;

90.31 (7) the person's right to confidentiality under the Minnesota Government Data Practices
90.32 Act, chapter 13;

91.1 (8) the certified assessor's decision regarding the person's need for institutional level of
91.2 care as determined under criteria established in subdivision 4e and the certified assessor's
91.3 decision regarding eligibility for all services and programs as defined in subdivision 1a,
91.4 paragraphs (a), clause (6), and (b);

91.5 (9) the person's right to appeal the certified assessor's decision regarding eligibility for
91.6 all services and programs as defined in subdivision 1a, paragraphs (a), clauses (6), (7), and
91.7 (8), and (b), and incorporating the decision regarding the need for institutional level of care
91.8 or the lead agency's final decisions regarding public programs eligibility according to section
91.9 256.045, subdivision 3. The certified assessor must verbally communicate this appeal right
91.10 to the person and must visually point out where in the document the right to appeal is stated;
91.11 and

91.12 (10) documentation that available options for employment services, independent living,
91.13 and self-directed services and supports were described to the individual.

91.14 (k) An assessment that is completed as part of an eligibility determination for multiple
91.15 programs for the alternative care, elderly waiver, developmental disabilities, community
91.16 access for disability inclusion, community alternative care, and brain injury waiver programs
91.17 under chapter 256S and sections 256B.0913, 256B.092, and 256B.49 is valid to establish
91.18 service eligibility for no more than 60 calendar days after the date of the assessment.

91.19 (l) The effective eligibility start date for programs in paragraph (k) can never be prior
91.20 to the date of assessment. If an assessment was completed more than 60 days before the
91.21 effective waiver or alternative care program eligibility start date, assessment and support
91.22 plan information must be updated and documented in the department's Medicaid Management
91.23 Information System (MMIS). Notwithstanding retroactive medical assistance coverage of
91.24 state plan services, the effective date of eligibility for programs included in paragraph (k)
91.25 cannot be prior to the date the most recent updated assessment is completed.

91.26 (m) If an eligibility update is completed within 90 days of the previous assessment and
91.27 documented in the department's Medicaid Management Information System (MMIS), the
91.28 effective date of eligibility for programs included in paragraph (k) is the date of the previous
91.29 face-to-face assessment when all other eligibility requirements are met.

91.30 (n) If a person who receives home and community-based waiver services under section
91.31 256B.0913, 256B.092, or 256B.49 or chapter 256S temporarily enters for 121 days or fewer
91.32 a hospital, institution of mental disease, nursing facility, intensive residential treatment
91.33 services program, transitional care unit, or inpatient substance use disorder treatment setting,
91.34 the person may return to the community with home and community-based waiver services

92.1 under the same waiver, without requiring an assessment or reassessment under this section,
 92.2 unless the person's annual reassessment is otherwise due. Nothing in this paragraph shall
 92.3 change annual long-term care consultation reassessment requirements, payment for
 92.4 institutional or treatment services, medical assistance financial eligibility, or any other law.

92.5 (o) At the time of reassessment, the certified assessor shall assess each person receiving
 92.6 waiver residential supports and services currently residing in a community residential setting,
 92.7 licensed adult foster care home that is either not the primary residence of the license holder
 92.8 or in which the license holder is not the primary caregiver, family adult foster care residence,
 92.9 customized living setting, or supervised living facility to determine if that person would
 92.10 prefer to be served in a community-living setting as defined in section 256B.49, subdivision
 92.11 23, in a setting not controlled by a provider, or to receive integrated community supports
 92.12 as described in section 245D.03, subdivision 1, paragraph (c), clause (8). The certified
 92.13 assessor shall offer the person, through a person-centered planning process, the option to
 92.14 receive alternative housing and service options.

92.15 (p) At the time of reassessment, the certified assessor shall assess each person receiving
 92.16 waiver day services to determine if that person would prefer to receive employment services
 92.17 as described in section 245D.03, subdivision 1, paragraph (c), clauses (5) to (7). The certified
 92.18 assessor shall describe to the person through a person-centered planning process the option
 92.19 to receive employment services.

92.20 (q) At the time of reassessment, the certified assessor shall assess each person receiving
 92.21 non-self-directed waiver services to determine if that person would prefer an available
 92.22 service and setting option that would permit self-directed services and supports. The certified
 92.23 assessor shall describe to the person through a person-centered planning process the option
 92.24 to receive self-directed services and supports.

92.25 (r) All assessments performed according to this subdivision must be face-to-face unless
 92.26 the assessment is a reassessment meeting the requirements of this paragraph. Remote
 92.27 reassessments conducted by interactive video or telephone may substitute for face-to-face
 92.28 reassessments. For services provided by the developmental disabilities waiver under section
 92.29 256B.092, and the community access for disability inclusion, community alternative care,
 92.30 and brain injury waiver programs under section 256B.49, remote reassessments may be
 92.31 substituted for two consecutive reassessments if followed by a face-to-face reassessment.
 92.32 For services provided by alternative care under section 256B.0913, essential community
 92.33 supports under section 256B.0922, and the elderly waiver under chapter 256S, remote
 92.34 reassessments may be substituted for one reassessment if followed by a face-to-face
 92.35 reassessment. A remote reassessment is permitted only if the person being reassessed, or

93.1 ~~the person's legal representative, and the lead agency case manager both agree that there is~~
 93.2 ~~no change in the person's condition, there is no need for a change in service, and that a~~
 93.3 ~~remote reassessment is appropriate~~ and the person's legal representative provide informed
 93.4 choice for a remote assessment. The person being reassessed, or the person's legal
 93.5 representative, has the right to refuse a remote reassessment at any time. During a remote
 93.6 reassessment, if the certified assessor determines a face-to-face reassessment is necessary
 93.7 ~~in order~~ to complete the assessment, the lead agency shall schedule a face-to-face
 93.8 reassessment. All other requirements of a face-to-face reassessment shall apply to a remote
 93.9 reassessment, including updates to a person's support plan.

93.10 Sec. 22. Minnesota Statutes 2021 Supplement, section 256B.0946, subdivision 1, is
 93.11 amended to read:

93.12 Subdivision 1. **Required covered service components.** (a) Subject to federal approval,
 93.13 medical assistance covers medically necessary intensive treatment services when the services
 93.14 are provided by a provider entity certified under and meeting the standards in this section.
 93.15 The provider entity must make reasonable and good faith efforts to report individual client
 93.16 outcomes to the commissioner, using instruments and protocols approved by the
 93.17 commissioner.

93.18 (b) Intensive treatment services to children with mental illness residing in foster family
 93.19 settings that comprise specific required service components provided in clauses (1) to (6)
 93.20 are reimbursed by medical assistance when they meet the following standards:

93.21 (1) psychotherapy provided by a mental health professional or a clinical trainee;

93.22 (2) crisis planning;

93.23 (3) individual, family, and group psychoeducation services provided by a mental health
 93.24 professional or a clinical trainee;

93.25 (4) clinical care consultation provided by a mental health professional or a clinical
 93.26 trainee;

93.27 (5) individual treatment plan development as defined in ~~Minnesota Rules, part 9505.0371,~~
 93.28 ~~subpart 7~~ section 245I.10, subdivisions 7 and 8; and

93.29 (6) service delivery payment requirements as provided under subdivision 4.

93.30 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
 93.31 whichever is later. The commissioner of human services shall notify the revisor of statutes
 93.32 when federal approval is obtained.

94.1 Sec. 23. Minnesota Statutes 2021 Supplement, section 256B.0947, subdivision 6, is
94.2 amended to read:

94.3 Subd. 6. **Service standards.** The standards in this subdivision apply to intensive
94.4 nonresidential rehabilitative mental health services.

94.5 (a) The treatment team must use team treatment, not an individual treatment model.

94.6 (b) Services must be available at times that meet client needs.

94.7 (c) Services must be age-appropriate and meet the specific needs of the client.

94.8 (d) The level of care assessment as defined in section 245I.02, subdivision 19, and
94.9 functional assessment as defined in section 245I.02, subdivision 17, must be updated at
94.10 least every ~~90 days~~ six months or prior to discharge from the service, whichever comes
94.11 first.

94.12 (e) The treatment team must complete an individual treatment plan for each client,
94.13 according to section 245I.10, subdivisions 7 and 8, and the individual treatment plan must:

94.14 (1) be completed in consultation with the client's current therapist and key providers and
94.15 provide for ongoing consultation with the client's current therapist to ensure therapeutic
94.16 continuity and to facilitate the client's return to the community. For clients under the age of
94.17 18, the treatment team must consult with parents and guardians in developing the treatment
94.18 plan;

94.19 (2) if a need for substance use disorder treatment is indicated by validated assessment:

94.20 (i) identify goals, objectives, and strategies of substance use disorder treatment;

94.21 (ii) develop a schedule for accomplishing substance use disorder treatment goals and
94.22 objectives; and

94.23 (iii) identify the individuals responsible for providing substance use disorder treatment
94.24 services and supports; and

94.25 (3) provide for the client's transition out of intensive nonresidential rehabilitative mental
94.26 health services by defining the team's actions to assist the client and subsequent providers
94.27 in the transition to less intensive or "stepped down" services; ~~and.~~

94.28 ~~(4) notwithstanding section 245I.10, subdivision 8, be reviewed at least every 90 days~~
94.29 ~~and revised to document treatment progress or, if progress is not documented, to document~~
94.30 ~~changes in treatment.~~

95.1 (f) The treatment team shall actively and assertively engage the client's family members
95.2 and significant others by establishing communication and collaboration with the family and
95.3 significant others and educating the family and significant others about the client's mental
95.4 illness, symptom management, and the family's role in treatment, unless the team knows or
95.5 has reason to suspect that the client has suffered or faces a threat of suffering any physical
95.6 or mental injury, abuse, or neglect from a family member or significant other.

95.7 (g) For a client age 18 or older, the treatment team may disclose to a family member,
95.8 other relative, or a close personal friend of the client, or other person identified by the client,
95.9 the protected health information directly relevant to such person's involvement with the
95.10 client's care, as provided in Code of Federal Regulations, title 45, part 164.502(b). If the
95.11 client is present, the treatment team shall obtain the client's agreement, provide the client
95.12 with an opportunity to object, or reasonably infer from the circumstances, based on the
95.13 exercise of professional judgment, that the client does not object. If the client is not present
95.14 or is unable, by incapacity or emergency circumstances, to agree or object, the treatment
95.15 team may, in the exercise of professional judgment, determine whether the disclosure is in
95.16 the best interests of the client and, if so, disclose only the protected health information that
95.17 is directly relevant to the family member's, relative's, friend's, or client-identified person's
95.18 involvement with the client's health care. The client may orally agree or object to the
95.19 disclosure and may prohibit or restrict disclosure to specific individuals.

95.20 (h) The treatment team shall provide interventions to promote positive interpersonal
95.21 relationships.

95.22 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
95.23 whichever is later. The commissioner of human services shall notify the revisor of statutes
95.24 when federal approval is obtained.

95.25 Sec. 24. Minnesota Statutes 2021 Supplement, section 256B.0949, subdivision 2, is
95.26 amended to read:

95.27 Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given in this
95.28 subdivision.

95.29 (b) "Agency" means the legal entity that is enrolled with Minnesota health care programs
95.30 as a medical assistance provider according to Minnesota Rules, part 9505.0195, to provide
95.31 EIDBI services and that has the legal responsibility to ensure that its employees or contractors
95.32 carry out the responsibilities defined in this section. Agency includes a licensed individual
95.33 professional who practices independently and acts as an agency.

96.1 (c) "Autism spectrum disorder or a related condition" or "ASD or a related condition"
96.2 means either autism spectrum disorder (ASD) as defined in the current version of the
96.3 Diagnostic and Statistical Manual of Mental Disorders (DSM) or a condition that is found
96.4 to be closely related to ASD, as identified under the current version of the DSM, and meets
96.5 all of the following criteria:

96.6 (1) is severe and chronic;

96.7 (2) results in impairment of adaptive behavior and function similar to that of a person
96.8 with ASD;

96.9 (3) requires treatment or services similar to those required for a person with ASD; and

96.10 (4) results in substantial functional limitations in three core developmental deficits of
96.11 ASD: social or interpersonal interaction; functional communication, including nonverbal
96.12 or social communication; and restrictive or repetitive behaviors or hyperreactivity or
96.13 hyporeactivity to sensory input; and may include deficits or a high level of support in one
96.14 or more of the following domains:

96.15 (i) behavioral challenges and self-regulation;

96.16 (ii) cognition;

96.17 (iii) learning and play;

96.18 (iv) self-care; or

96.19 (v) safety.

96.20 (d) "Person" means a person under 21 years of age.

96.21 (e) "Clinical supervision" means the overall responsibility for the control and direction
96.22 of EIDBI service delivery, including individual treatment planning, staff supervision,
96.23 individual treatment plan progress monitoring, and treatment review for each person. Clinical
96.24 supervision is provided by a qualified supervising professional (QSP) who takes full
96.25 professional responsibility for the service provided by each supervisee.

96.26 (f) "Commissioner" means the commissioner of human services, unless otherwise
96.27 specified.

96.28 (g) "Comprehensive multidisciplinary evaluation" or "CMDE" means a comprehensive
96.29 evaluation of a person to determine medical necessity for EIDBI services based on the
96.30 requirements in subdivision 5.

96.31 (h) "Department" means the Department of Human Services, unless otherwise specified.

97.1 (i) "Early intensive developmental and behavioral intervention benefit" or "EIDBI
97.2 benefit" means a variety of individualized, intensive treatment modalities approved and
97.3 published by the commissioner that are based in behavioral and developmental science
97.4 consistent with best practices on effectiveness.

97.5 (j) "Generalizable goals" means results or gains that are observed during a variety of
97.6 activities over time with different people, such as providers, family members, other adults,
97.7 and people, and in different environments including, but not limited to, clinics, homes,
97.8 schools, and the community.

97.9 (k) "Incident" means when any of the following occur:

97.10 (1) an illness, accident, or injury that requires first aid treatment;

97.11 (2) a bump or blow to the head; or

97.12 (3) an unusual or unexpected event that jeopardizes the safety of a person or staff,
97.13 including a person leaving the agency unattended.

97.14 (l) "Individual treatment plan" or "ITP" means the person-centered, individualized written
97.15 plan of care that integrates and coordinates person and family information from the CMDE
97.16 for a person who meets medical necessity for the EIDBI benefit. An individual treatment
97.17 plan must meet the standards in subdivision 6.

97.18 (m) "Legal representative" means the parent of a child who is under 18 years of age, a
97.19 court-appointed guardian, or other representative with legal authority to make decisions
97.20 about service for a person. For the purpose of this subdivision, "other representative with
97.21 legal authority to make decisions" includes a health care agent or an attorney-in-fact
97.22 authorized through a health care directive or power of attorney.

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

97.25 (o) "Person-centered" means a service that both responds to the identified needs, interests,
97.26 values, preferences, and desired outcomes of the person or the person's legal representative
97.27 and respects the person's history, dignity, and cultural background and allows inclusion and
97.28 participation in the person's community.

97.29 (p) "Qualified EIDBI provider" means a person who is a QSP or a level I, level II, or
97.30 level III treatment provider.

97.31 (q) "Advanced certification" means a person who has completed advanced certification
97.32 in an approved modality under subdivision 13, paragraph (b).

98.1 Sec. 25. Minnesota Statutes 2021 Supplement, section 256B.0949, subdivision 13, is
98.2 amended to read:

98.3 Subd. 13. **Covered services.** (a) The services described in paragraphs (b) to (l) are
98.4 eligible for reimbursement by medical assistance under this section. Services must be
98.5 provided by a qualified EIDBI provider and supervised by a QSP. An EIDBI service must
98.6 address the person's medically necessary treatment goals and must be targeted to develop,
98.7 enhance, or maintain the individual developmental skills of a person with ASD or a related
98.8 condition to improve functional communication, including nonverbal or social
98.9 communication, social or interpersonal interaction, restrictive or repetitive behaviors,
98.10 hyperreactivity or hyporeactivity to sensory input, behavioral challenges and self-regulation,
98.11 cognition, learning and play, self-care, and safety.

98.12 (b) EIDBI treatment must be delivered consistent with the standards of an approved
98.13 modality, as published by the commissioner. EIDBI modalities include:

98.14 (1) applied behavior analysis (ABA);

98.15 (2) developmental individual-difference relationship-based model (DIR/Floortime);

98.16 (3) early start Denver model (ESDM);

98.17 (4) PLAY project;

98.18 (5) relationship development intervention (RDI); or

98.19 (6) additional modalities not listed in clauses (1) to (5) upon approval by the
98.20 commissioner.

98.21 (c) An EIDBI provider may use one or more of the EIDBI modalities in paragraph (b),
98.22 clauses (1) to (5), as the primary modality for treatment as a covered service, or several
98.23 EIDBI modalities in combination as the primary modality of treatment, as approved by the
98.24 commissioner. An EIDBI provider that identifies and provides assurance of qualifications
98.25 for a single specific treatment modality, including an EIDBI provider with advanced
98.26 certification overseeing implementation, must document the required qualifications to meet
98.27 fidelity to the specific model in a manner determined by the commissioner.

98.28 (d) Each qualified EIDBI provider must identify and provide assurance of qualifications
98.29 for professional licensure certification, or training in evidence-based treatment methods,
98.30 and must document the required qualifications outlined in subdivision 15 in a manner
98.31 determined by the commissioner.

99.1 (e) CMDE is a comprehensive evaluation of the person's developmental status to
99.2 determine medical necessity for EIDBI services and meets the requirements of subdivision
99.3 5. The services must be provided by a qualified CMDE provider.

99.4 (f) EIDBI intervention observation and direction is the clinical direction and oversight
99.5 of EIDBI services by the QSP, level I treatment provider, or level II treatment provider,
99.6 including developmental and behavioral techniques, progress measurement, data collection,
99.7 function of behaviors, and generalization of acquired skills for the direct benefit of a person.
99.8 EIDBI intervention observation and direction informs any modification of the current
99.9 treatment protocol to support the outcomes outlined in the ITP.

99.10 (g) Intervention is medically necessary direct treatment provided to a person with ASD
99.11 or a related condition as outlined in their ITP. All intervention services must be provided
99.12 under the direction of a QSP. Intervention may take place across multiple settings. The
99.13 frequency and intensity of intervention services are provided based on the number of
99.14 treatment goals, person and family or caregiver preferences, and other factors. Intervention
99.15 services may be provided individually or in a group. Intervention with a higher provider
99.16 ratio may occur when deemed medically necessary through the person's ITP.

99.17 (1) Individual intervention is treatment by protocol administered by a single qualified
99.18 EIDBI provider delivered to one person.

99.19 (2) Group intervention is treatment by protocol provided by one or more qualified EIDBI
99.20 providers, delivered to at least two people who receive EIDBI services.

99.21 (3) Higher provider ratio intervention is treatment with protocol modification provided
99.22 by two or more qualified EIDBI providers delivered to one person in an environment that
99.23 meets the person's needs and under the direction of the QSP or level I provider.

99.24 (h) ITP development and ITP progress monitoring is development of the initial, annual,
99.25 and progress monitoring of an ITP. ITP development and ITP progress monitoring documents
99.26 provide oversight and ongoing evaluation of a person's treatment and progress on targeted
99.27 goals and objectives and integrate and coordinate the person's and the person's legal
99.28 representative's information from the CMDE and ITP progress monitoring. This service
99.29 must be reviewed and completed by the QSP, and may include input from a level I provider
99.30 or a level II provider.

99.31 (i) Family caregiver training and counseling is specialized training and education for a
99.32 family or primary caregiver to understand the person's developmental status and help with
99.33 the person's needs and development. This service must be provided by the QSP, level I
99.34 provider, or level II provider.

100.1 (j) A coordinated care conference is a voluntary meeting with the person and the person's
 100.2 family to review the CMDE or ITP progress monitoring and to integrate and coordinate
 100.3 services across providers and service-delivery systems to develop the ITP. This service
 100.4 ~~must be provided by the QSP and~~ may include the CMDE provider ~~or, QSP,~~ a level I
 100.5 provider, or a level II provider.

100.6 (k) Travel time is allowable billing for traveling to and from the person's home, school,
 100.7 a community setting, or place of service outside of an EIDBI center, clinic, or office from
 100.8 a specified location to provide in-person EIDBI intervention, observation and direction, or
 100.9 family caregiver training and counseling. The person's ITP must specify the reasons the
 100.10 provider must travel to the person.

100.11 (l) Medical assistance covers medically necessary EIDBI services and consultations
 100.12 ~~delivered by a licensed health care provider~~ via telehealth, as defined under section
 100.13 256B.0625, subdivision 3b, in the same manner as if the service or consultation was delivered
 100.14 in person.

100.15 Sec. 26. Minnesota Statutes 2020, section 256K.26, subdivision 6, is amended to read:

100.16 Subd. 6. **Outcomes.** Projects will be selected to further the following outcomes:

100.17 (1) reduce the number of Minnesota individuals and families that experience long-term
 100.18 homelessness;

100.19 (2) increase the number of housing opportunities with supportive services;

100.20 (3) develop integrated, cost-effective service models that address the multiple barriers
 100.21 to obtaining housing stability faced by people experiencing long-term homelessness,
 100.22 including abuse, neglect, chemical dependency, disability, chronic health problems, or other
 100.23 factors including ethnicity and race that may result in poor outcomes or service disparities;

100.24 (4) encourage partnerships among counties, Tribes, community agencies, schools, and
 100.25 other providers so that the service delivery system is seamless for people experiencing
 100.26 long-term homelessness;

100.27 (5) increase employability, self-sufficiency, and other social outcomes for individuals
 100.28 and families experiencing long-term homelessness; and

100.29 (6) reduce inappropriate use of emergency health care, shelter, ~~chemical dependency~~
 100.30 substance use disorder treatment, foster care, child protection, corrections, and similar
 100.31 services used by people experiencing long-term homelessness.

101.1 Sec. 27. Minnesota Statutes 2020, section 256K.26, subdivision 7, is amended to read:

101.2 Subd. 7. **Eligible services.** Services eligible for funding under this section are all services
 101.3 needed to maintain households in permanent supportive housing, as determined by the
 101.4 ~~county or counties~~ or Tribes administering the project or projects.

101.5 Sec. 28. Minnesota Statutes 2021 Supplement, section 256P.01, subdivision 6a, is amended
 101.6 to read:

101.7 Subd. 6a. **Qualified professional.** (a) For illness, injury, or incapacity, a "qualified
 101.8 professional" means a licensed physician, physician assistant, advanced practice registered
 101.9 nurse, physical therapist, occupational therapist, or licensed chiropractor, according to their
 101.10 scope of practice.

101.11 (b) For developmental disability, learning disability, and intelligence testing, a "qualified
 101.12 professional" means a licensed physician, physician assistant, advanced practice registered
 101.13 nurse, licensed independent clinical social worker, licensed psychologist, certified school
 101.14 psychologist, or certified psychometrist working under the supervision of a licensed
 101.15 psychologist.

101.16 (c) For mental health, a "qualified professional" means a licensed physician, advanced
 101.17 practice registered nurse, or qualified mental health professional under section 245I.04,
 101.18 subdivision 2.

101.19 (d) For substance use disorder, a "qualified professional" means a licensed physician, a
 101.20 qualified mental health professional under section ~~245.462, subdivision 18, clauses (1) to~~
 101.21 ~~(6)~~ 245I.04, subdivision 2, or an individual as defined in section 245G.11, subdivision 3,
 101.22 4, or 5.

101.23 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
 101.24 whichever is later. The commissioner of human services shall notify the revisor of statutes
 101.25 when federal approval is obtained.

101.26 Sec. 29. Minnesota Statutes 2020, section 256Q.06, is amended by adding a subdivision
 101.27 to read:

101.28 Subd. 6. **Account creation.** If an eligible individual is unable to establish the eligible
 101.29 individual's own ABLE account, an ABLE account may be established on behalf of the
 101.30 eligible individual by the eligible individual's agent under a power of attorney or, if none,
 101.31 by the eligible individual's conservator or legal guardian, spouse, parent, sibling, or

102.1 grandparent or a representative payee appointed for the eligible individual by the Social
102.2 Security Administration, in that order.

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

102.4 Sec. 30. Laws 2020, First Special Session chapter 7, section 1, subdivision 1, as amended
102.5 by Laws 2021, First Special Session chapter 7, article 2, section 71, is amended to read:

102.6 Subdivision 1. **Waivers and modifications; federal funding extension.** When the
102.7 peacetime emergency declared by the governor in response to the COVID-19 outbreak
102.8 expires, is terminated, or is rescinded by the proper authority, the following waivers and
102.9 modifications to human services programs issued by the commissioner of human services
102.10 pursuant to Executive Orders 20-11 and 20-12 ~~that are required to comply with federal law~~
102.11 may remain in effect for the time period set out in applicable federal law or for the time
102.12 period set out in any applicable federally approved waiver or state plan amendment,
102.13 whichever is later:

102.14 (1) CV15: allowing telephone or video visits for waiver programs;

102.15 (2) CV17: preserving health care coverage for Medical Assistance and MinnesotaCare;

102.16 (3) CV18: implementation of federal changes to the Supplemental Nutrition Assistance
102.17 Program;

102.18 (4) CV20: eliminating cost-sharing for COVID-19 diagnosis and treatment;

102.19 (5) CV24: allowing telephone or video use for targeted case management visits;

102.20 (6) CV30: expanding telemedicine in health care, mental health, and substance use
102.21 disorder settings;

102.22 (7) CV37: implementation of federal changes to the Supplemental Nutrition Assistance
102.23 Program;

102.24 (8) CV39: implementation of federal changes to the Supplemental Nutrition Assistance
102.25 Program;

102.26 (9) CV42: implementation of federal changes to the Supplemental Nutrition Assistance
102.27 Program;

102.28 (10) CV43: expanding remote home and community-based waiver services;

102.29 (11) CV44: allowing remote delivery of adult day services;

102.30 (12) CV59: modifying eligibility period for the federally funded Refugee Cash Assistance
102.31 Program;

103.1 (13) CV60: modifying eligibility period for the federally funded Refugee Social Services
103.2 Program; and

103.3 (14) CV109: providing 15 percent increase for Minnesota Food Assistance Program and
103.4 Minnesota Family Investment Program maximum food benefits.

103.5 Sec. 31. **REVISOR INSTRUCTION.**

103.6 In Minnesota Statutes, chapters 245G, 253B, 254A, and 254B, the revisor of statutes
103.7 shall change the term "chemical dependency" or similar terms to "substance use disorder."
103.8 The revisor may make grammatical changes related to the term change.

103.9 Sec. 32. **REPEALER.**

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

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

103.13

ARTICLE 4

103.14

HEALTH CARE

103.15 Section 1. Minnesota Statutes 2020, section 62J.2930, subdivision 3, is amended to read:

103.16 Subd. 3. **Consumer information.** (a) The information clearinghouse or another entity
103.17 designated by the commissioner shall provide consumer information to health plan company
103.18 enrollees to:

103.19 (1) assist enrollees in understanding their rights;

103.20 (2) explain and assist in the use of all available complaint systems, including internal
103.21 complaint systems within health carriers, community integrated service networks, and the
103.22 Departments of Health and Commerce;

103.23 (3) provide information on coverage options in each region of the state;

103.24 (4) provide information on the availability of purchasing pools and enrollee subsidies;
103.25 and

103.26 (5) help consumers use the health care system to obtain coverage.

103.27 (b) The information clearinghouse or other entity designated by the commissioner for
103.28 the purposes of this subdivision shall not:

103.29 (1) provide legal services to consumers;

104.1 (2) represent a consumer or enrollee; or

104.2 (3) serve as an advocate for consumers in disputes with health plan companies.

104.3 (c) Nothing in this subdivision shall interfere with the ombudsman program established
104.4 under section ~~256B.69~~, subdivision 20 256B.6903, or other existing ombudsman programs.

104.5 Sec. 2. Minnesota Statutes 2020, section 256B.055, subdivision 2, is amended to read:

104.6 Subd. 2. **Subsidized foster children.** Medical assistance may be paid for a child eligible
104.7 for or receiving foster care maintenance payments under Title IV-E of the Social Security
104.8 Act, United States Code, title 42, sections 670 to 676, and for a child who is not eligible for
104.9 Title IV-E of the Social Security Act but who is ~~determined eligible for~~ placed in foster
104.10 care as determined by Minnesota Statutes or kinship assistance under chapter 256N.

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

104.12 Sec. 3. Minnesota Statutes 2020, section 256B.056, subdivision 3c, is amended to read:

104.13 Subd. 3c. **Asset limitations for families and children.** (a) A household of two or more
104.14 persons must not own more than \$20,000 in total net assets, and a household of one person
104.15 must not own more than \$10,000 in total net assets. In addition to these maximum amounts,
104.16 an eligible individual or family may accrue interest on these amounts, but they must be
104.17 reduced to the maximum at the time of an eligibility redetermination. The value of assets
104.18 that are not considered in determining eligibility for medical assistance for families and
104.19 children is the value of those assets excluded under the AFDC state plan as of July 16, 1996,
104.20 as required by the Personal Responsibility and Work Opportunity Reconciliation Act of
104.21 1996 (PRWORA), Public Law 104-193, with the following exceptions:

104.22 (1) household goods and personal effects are not considered;

104.23 (2) capital and operating assets of a trade or business up to \$200,000 are not considered;

104.24 (3) one motor vehicle is excluded for each person of legal driving age who is employed
104.25 or seeking employment;

104.26 (4) assets designated as burial expenses are excluded to the same extent they are excluded
104.27 by the Supplemental Security Income program;

104.28 (5) court-ordered settlements up to \$10,000 are not considered;

104.29 (6) individual retirement accounts and funds are not considered;

104.30 (7) assets owned by children are not considered; and

105.1 (8) ~~effective July 1, 2009~~, certain assets owned by American Indians are excluded as
105.2 required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public
105.3 Law 111-5. For purposes of this clause, an American Indian is any person who meets the
105.4 definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

105.5 (b) ~~Beginning January 1, 2014, this subdivision~~ Paragraph (a) applies only to parents
105.6 and caretaker relatives who qualify for medical assistance under subdivision 5.

105.7 (c) Eligibility for children under age 21 must be determined without regard to the asset
105.8 limitations described in paragraphs (a) and (b) and subdivision 3.

105.9 Sec. 4. Minnesota Statutes 2020, section 256B.056, subdivision 11, is amended to read:

105.10 Subd. 11. **Treatment of annuities.** (a) Any person requesting medical assistance payment
105.11 of long-term care services shall provide a complete description of any interest either the
105.12 person or the person's spouse has in annuities on a form designated by the department. The
105.13 form shall include a statement that the state becomes a preferred remainder beneficiary of
105.14 annuities or similar financial instruments by virtue of the receipt of medical assistance
105.15 payment of long-term care services. The person and the person's spouse shall furnish the
105.16 agency responsible for determining eligibility with complete current copies of their annuities
105.17 and related documents and complete the form designating the state as the preferred remainder
105.18 beneficiary for each annuity in which the person or the person's spouse has an interest.

105.19 (b) The department shall provide notice to the issuer of the department's right under this
105.20 section as a preferred remainder beneficiary under the annuity or similar financial instrument
105.21 for medical assistance furnished to the person or the person's spouse, and provide notice of
105.22 the issuer's responsibilities as provided in paragraph (c).

105.23 (c) An issuer of an annuity or similar financial instrument who receives notice of the
105.24 state's right to be named a preferred remainder beneficiary as described in paragraph (b)
105.25 shall provide confirmation to the requesting agency that the state has been made a preferred
105.26 remainder beneficiary. The issuer shall also notify the county agency when a change in the
105.27 amount of income or principal being withdrawn from the annuity or other similar financial
105.28 instrument or a change in the state's preferred remainder beneficiary designation under the
105.29 annuity or other similar financial instrument occurs. The county agency shall provide the
105.30 issuer with the name, address, and telephone number of a unit within the department that
105.31 the issuer can contact to comply with this paragraph.

105.32 (d) "Preferred remainder beneficiary" for purposes of this subdivision and sections
105.33 256B.0594 and 256B.0595 means the state is a remainder beneficiary in the first position

106.1 in an amount equal to the amount of medical assistance paid on behalf of the institutionalized
106.2 person, or is a remainder beneficiary in the second position if the institutionalized person
106.3 designates and is survived by a remainder beneficiary who is (1) a spouse who does not
106.4 reside in a medical institution, (2) a minor child, or (3) a child of any age who is blind or
106.5 permanently and totally disabled as defined in the Supplemental Security Income program.
106.6 Notwithstanding this paragraph, the state is the remainder beneficiary in the first position
106.7 if the spouse or child disposes of the remainder for less than fair market value.

106.8 (e) For purposes of this subdivision, "institutionalized person" and "long-term care
106.9 services" have the meanings given in section 256B.0595, subdivision 1, paragraph ~~(g)~~ (f).

106.10 (f) For purposes of this subdivision, "medical institution" means a skilled nursing facility,
106.11 intermediate care facility, intermediate care facility for persons with developmental
106.12 disabilities, nursing facility, or inpatient hospital.

106.13 Sec. 5. Minnesota Statutes 2020, section 256B.0595, subdivision 1, is amended to read:

106.14 Subdivision 1. **Prohibited transfers.** (a) Effective for transfers made after August 10,
106.15 1993, an institutionalized person, an institutionalized person's spouse, or any person, court,
106.16 or administrative body with legal authority to act in place of, on behalf of, at the direction
106.17 of, or upon the request of the institutionalized person or institutionalized person's spouse,
106.18 may not give away, sell, or dispose of, for less than fair market value, any asset or interest
106.19 therein, except assets other than the homestead that are excluded under the Supplemental
106.20 Security Income program, for the purpose of establishing or maintaining medical assistance
106.21 eligibility. This applies to all transfers, including those made by a community spouse after
106.22 the month in which the institutionalized spouse is determined eligible for medical assistance.
106.23 For purposes of determining eligibility for long-term care services, any transfer of such
106.24 assets within 36 months before or any time after an institutionalized person requests medical
106.25 assistance payment of long-term care services, or 36 months before or any time after a
106.26 medical assistance recipient becomes an institutionalized person, for less than fair market
106.27 value may be considered. Any such transfer is presumed to have been made for the purpose
106.28 of establishing or maintaining medical assistance eligibility and the institutionalized person
106.29 is ineligible for long-term care services for the period of time determined under subdivision
106.30 2, unless the institutionalized person furnishes convincing evidence to establish that the
106.31 transaction was exclusively for another purpose, or unless the transfer is permitted under
106.32 subdivision 3 or 4. In the case of payments from a trust or portions of a trust that are
106.33 considered transfers of assets under federal law, or in the case of any other disposal of assets
106.34 made on or after February 8, 2006, any transfers made within 60 months before or any time

107.1 after an institutionalized person requests medical assistance payment of long-term care
 107.2 services and within 60 months before or any time after a medical assistance recipient becomes
 107.3 an institutionalized person, may be considered.

107.4 (b) This section applies to transfers, for less than fair market value, of income or assets,
 107.5 including assets that are considered income in the month received, such as inheritances,
 107.6 court settlements, and retroactive benefit payments or income to which the institutionalized
 107.7 person or the institutionalized person's spouse is entitled but does not receive due to action
 107.8 by the institutionalized person, the institutionalized person's spouse, or any person, court,
 107.9 or administrative body with legal authority to act in place of, on behalf of, at the direction
 107.10 of, or upon the request of the institutionalized person or the institutionalized person's spouse.

107.11 (c) This section applies to payments for care or personal services provided by a relative,
 107.12 unless the compensation was stipulated in a notarized, written agreement ~~which~~ that was
 107.13 in existence when the service was performed, the care or services directly benefited the
 107.14 person, and the payments made represented reasonable compensation for the care or services
 107.15 provided. A notarized written agreement is not required if payment for the services was
 107.16 made within 60 days after the service was provided.

107.17 ~~(d) This section applies to the portion of any asset or interest that an institutionalized~~
 107.18 ~~person, an institutionalized person's spouse, or any person, court, or administrative body~~
 107.19 ~~with legal authority to act in place of, on behalf of, at the direction of, or upon the request~~
 107.20 ~~of the institutionalized person or the institutionalized person's spouse, transfers to any~~
 107.21 ~~annuity that exceeds the value of the benefit likely to be returned to the institutionalized~~
 107.22 ~~person or institutionalized person's spouse while alive, based on estimated life expectancy~~
 107.23 ~~as determined according to the current actuarial tables published by the Office of the Chief~~
 107.24 ~~Actuary of the Social Security Administration. The commissioner may adopt rules reducing~~
 107.25 ~~life expectancies based on the need for long-term care. This section applies to an annuity~~
 107.26 ~~purchased on or after March 1, 2002, that:~~

107.27 ~~(1) is not purchased from an insurance company or financial institution that is subject~~
 107.28 ~~to licensing or regulation by the Minnesota Department of Commerce or a similar regulatory~~
 107.29 ~~agency of another state;~~

107.30 ~~(2) does not pay out principal and interest in equal monthly installments; or~~

107.31 ~~(3) does not begin payment at the earliest possible date after annuitization.~~

107.32 ~~(e)~~ (d) Effective for transactions, including the purchase of an annuity, occurring on or
 107.33 after February 8, 2006, by or on behalf of an institutionalized person who has applied for
 107.34 or is receiving long-term care services or the institutionalized person's spouse shall be treated

108.1 as the disposal of an asset for less than fair market value unless the department is named a
108.2 preferred remainder beneficiary as described in section 256B.056, subdivision 11. Any
108.3 subsequent change to the designation of the department as a preferred remainder beneficiary
108.4 shall result in the annuity being treated as a disposal of assets for less than fair market value.
108.5 The amount of such transfer shall be the maximum amount the institutionalized person or
108.6 the institutionalized person's spouse could receive from the annuity or similar financial
108.7 instrument. Any change in the amount of the income or principal being withdrawn from the
108.8 annuity or other similar financial instrument at the time of the most recent disclosure shall
108.9 be deemed to be a transfer of assets for less than fair market value unless the institutionalized
108.10 person or the institutionalized person's spouse demonstrates that the transaction was for fair
108.11 market value. In the event a distribution of income or principal has been improperly
108.12 distributed or disbursed from an annuity or other retirement planning instrument of an
108.13 institutionalized person or the institutionalized person's spouse, a cause of action exists
108.14 against the individual receiving the improper distribution for the cost of medical assistance
108.15 services provided or the amount of the improper distribution, whichever is less.

108.16 ~~(f)~~ (e) Effective for transactions, including the purchase of an annuity, occurring on or
108.17 after February 8, 2006, by or on behalf of an institutionalized person applying for or receiving
108.18 long-term care services shall be treated as a disposal of assets for less than fair market value
108.19 unless it is:

108.20 (1) an annuity described in subsection (b) or (q) of section 408 of the Internal Revenue
108.21 Code of 1986; or

108.22 (2) purchased with proceeds from:

108.23 (i) an account or trust described in subsection (a), (c), or (p) of section 408 of the Internal
108.24 Revenue Code;

108.25 (ii) a simplified employee pension within the meaning of section 408(k) of the Internal
108.26 Revenue Code; or

108.27 (iii) a Roth IRA described in section 408A of the Internal Revenue Code; or

108.28 (3) an annuity that is irrevocable and nonassignable; is actuarially sound as determined
108.29 in accordance with actuarial publications of the Office of the Chief Actuary of the Social
108.30 Security Administration; and provides for payments in equal amounts during the term of
108.31 the annuity, with no deferral and no balloon payments made.

108.32 ~~(g)~~ (f) For purposes of this section, long-term care services include services in a nursing
108.33 facility, services that are eligible for payment according to section 256B.0625, subdivision

109.1 2, because they are provided in a swing bed, intermediate care facility for persons with
109.2 developmental disabilities, and home and community-based services provided pursuant to
109.3 chapter 256S and sections 256B.092 and 256B.49. For purposes of this subdivision and
109.4 subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in
109.5 a nursing facility or in a swing bed, or intermediate care facility for persons with
109.6 developmental disabilities or who is receiving home and community-based services under
109.7 chapter 256S and sections 256B.092 and 256B.49.

109.8 ~~(h)~~ (g) This section applies to funds used to purchase a promissory note, loan, or mortgage
109.9 unless the note, loan, or mortgage:

109.10 (1) has a repayment term that is actuarially sound;

109.11 (2) provides for payments to be made in equal amounts during the term of the loan, with
109.12 no deferral and no balloon payments made; and

109.13 (3) prohibits the cancellation of the balance upon the death of the lender.

109.14 (h) In the case of a promissory note, loan, or mortgage that does not meet an exception
109.15 in paragraph (g), clauses (1) to (3), the value of such note, loan, or mortgage shall be the
109.16 outstanding balance due as of the date of the institutionalized person's request for medical
109.17 assistance payment of long-term care services.

109.18 (i) This section applies to the purchase of a life estate interest in another person's home
109.19 unless the purchaser resides in the home for a period of at least one year after the date of
109.20 purchase.

109.21 (j) This section applies to transfers into a pooled trust that qualifies under United States
109.22 Code, title 42, section 1396p(d)(4)(C), by:

109.23 (1) a person age 65 or older or the person's spouse; or

109.24 (2) any person, court, or administrative body with legal authority to act in place of, on
109.25 behalf of, at the direction of, or upon the request of a person age 65 or older or the person's
109.26 spouse.

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

109.28 Sec. 6. Minnesota Statutes 2021 Supplement, section 256B.0625, subdivision 3b, is
109.29 amended to read:

109.30 Subd. 3b. **Telehealth services.** (a) Medical assistance covers medically necessary services
109.31 and consultations delivered by a health care provider through telehealth in the same manner

110.1 as if the service or consultation was delivered through in-person contact. Services or
110.2 consultations delivered through telehealth shall be paid at the full allowable rate.

110.3 (b) The commissioner may establish criteria that a health care provider must attest to in
110.4 order to demonstrate the safety or efficacy of delivering a particular service through
110.5 telehealth. The attestation may include that the health care provider:

110.6 (1) has identified the categories or types of services the health care provider will provide
110.7 through telehealth;

110.8 (2) has written policies and procedures specific to services delivered through telehealth
110.9 that are regularly reviewed and updated;

110.10 (3) has policies and procedures that adequately address patient safety before, during,
110.11 and after the service is delivered through telehealth;

110.12 (4) has established protocols addressing how and when to discontinue telehealth services;
110.13 and

110.14 (5) has an established quality assurance process related to delivering services through
110.15 telehealth.

110.16 (c) As a condition of payment, a licensed health care provider must document each
110.17 occurrence of a health service delivered through telehealth to a medical assistance enrollee.
110.18 Health care service records for services delivered through telehealth must meet the
110.19 requirements set forth in Minnesota Rules, part 9505.2175, subparts 1 and 2, and must
110.20 document:

110.21 (1) the type of service delivered through telehealth;

110.22 (2) the time the service began and the time the service ended, including an a.m. and p.m.
110.23 designation;

110.24 (3) the health care provider's basis for determining that telehealth is an appropriate and
110.25 effective means for delivering the service to the enrollee;

110.26 (4) the mode of transmission used to deliver the service through telehealth and records
110.27 evidencing that a particular mode of transmission was utilized;

110.28 (5) the location of the originating site and the distant site;

110.29 (6) if the claim for payment is based on a physician's consultation with another physician
110.30 through telehealth, the written opinion from the consulting physician providing the telehealth
110.31 consultation; and

111.1 (7) compliance with the criteria attested to by the health care provider in accordance
111.2 with paragraph (b).

111.3 (d) Telehealth visits, as described in this subdivision provided through audio and visual
111.4 communication; or accessible video-based platforms may be used to satisfy the face-to-face
111.5 requirement for reimbursement under the payment methods that apply to a federally qualified
111.6 health center, rural health clinic, Indian health service, 638 Tribal clinic, and certified
111.7 community behavioral health clinic, if the service would have otherwise qualified for
111.8 payment if performed in person. Beginning July 1, 2021, visits provided through telephone
111.9 may satisfy the face-to-face requirement for reimbursement under these payment methods
111.10 if the service would have otherwise qualified for payment if performed in person until the
111.11 COVID-19 federal public health emergency ends or July 1, 2023, whichever is earlier.

111.12 (e) For mental health services or assessments delivered through telehealth that are based
111.13 on an individual treatment plan, the provider may document the client's verbal approval or
111.14 electronic written approval of the treatment plan or change in the treatment plan in lieu of
111.15 the client's signature in accordance with Minnesota Rules, part 9505.0371.

111.16 (f) For purposes of this subdivision, unless otherwise covered under this chapter:

111.17 (1) "telehealth" means the delivery of health care services or consultations ~~through the~~
111.18 ~~use of~~ using real-time two-way interactive audio and visual communication or accessible
111.19 telemedicine video-based platforms to provide or support health care delivery and facilitate
111.20 the assessment, diagnosis, consultation, treatment, education, and care management of a
111.21 patient's health care. Telehealth includes the application of secure video conferencing;
111.22 consisting of a real-time, full-motion synchronized video; store-and-forward technology;
111.23 and synchronous interactions between a patient located at an originating site and a health
111.24 care provider located at a distant site. Telehealth does not include communication between
111.25 health care providers, or between a health care provider and a patient that consists solely
111.26 of an audio-only communication, e-mail, or facsimile transmission or as specified by law;

111.27 (2) "health care provider" means a health care provider as defined under section 62A.673;
111.28 a community paramedic as defined under section 144E.001, subdivision 5f;
111.29 a community health worker who meets the criteria under subdivision 49, paragraph (a);
111.30 a mental health certified peer specialist under section 256B.0615, subdivision 5;
111.31 a mental health certified family peer specialist under section 256B.0616, subdivision 5;
111.32 a mental health rehabilitation worker under section 256B.0623, subdivision 5, paragraph (a), clause (4), and paragraph
111.33 (b);
111.34 a mental health behavioral aide under section 256B.0943, subdivision 7, paragraph (b), clause (3);
a treatment coordinator under section 245G.11, subdivision 7; an alcohol

112.1 and drug counselor under section 245G.11, subdivision 5; or a recovery peer under section
112.2 245G.11, subdivision 8; and

112.3 (3) "originating site," "distant site," and "store-and-forward technology" have the
112.4 meanings given in section 62A.673, subdivision 2.

112.5 **Sec. 7. [256B.6903] OMBUDSPERSON FOR MANAGED CARE.**

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

112.8 (b) "Adverse benefit determination" has the meaning provided in Code of Federal
112.9 Regulations, title 42, section 438.400, subpart (b).

112.10 (c) "Appeal" means an oral or written request from an enrollee to the managed care
112.11 organization for review of an adverse benefit determination.

112.12 (d) "Commissioner" means the commissioner of human services.

112.13 (e) "Complaint" means an enrollee's informal expression of dissatisfaction about any
112.14 matter relating to the enrollee's prepaid health plan other than an adverse benefit
112.15 determination.

112.16 (f) "Data analyst" means the person employed by the ombudsperson that uses research
112.17 methodologies to conduct research on data collected from prepaid health plans, including
112.18 but not limited to scientific theory; hypothesis testing; survey research techniques; data
112.19 collection; data manipulation; and statistical analysis interpretation, including multiple
112.20 regression techniques.

112.21 (g) "Enrollee" means a person enrolled in a prepaid health plan under section 256B.69.
112.22 When applicable, an enrollee includes an enrollee's authorized representative.

112.23 (h) "External review" means the process described under Code of Federal Regulations,
112.24 title 42, section 438.408, subpart (f); and section 62Q.73, subdivision 2.

112.25 (i) "Grievance" means an enrollee's expression of dissatisfaction about any matter relating
112.26 to the enrollee's prepaid health plan other than an adverse benefit determination that follows
112.27 the procedures outlined in Code of Federal Regulations, title 42, part 438, subpart (f). A
112.28 grievance may include but is not limited to concerns relating to quality of care, services
112.29 provided, or failure to respect an enrollee's rights under a prepaid health plan.

112.30 (j) "Managed care advocate" means a county or Tribal employee who works with
112.31 managed care enrollees when the enrollee has service, billing, or access problems with the
112.32 enrollee's prepaid health plan.

113.1 (k) "Prepaid health plan" means a plan under contract with the commissioner according
 113.2 to section 256B.69.

113.3 (l) "State fair hearing" means the appeals process mandated under section 256.045,
 113.4 subdivision 3a.

113.5 Subd. 2. **Ombudsperson.** The commissioner must designate an ombudsperson to advocate
 113.6 for enrollees. At the time of enrollment in a prepaid health plan, the local agency must
 113.7 inform enrollees about the ombudsperson.

113.8 Subd. 3. **Duties and cost.** (a) The ombudsperson must work to ensure enrollees receive
 113.9 covered services as described in the enrollee's prepaid health plan by:

113.10 (1) providing assistance and education to enrollees, when requested, regarding covered
 113.11 health care benefits or services; billing and access; or the grievance, appeal, or state fair
 113.12 hearing processes;

113.13 (2) with the enrollee's permission and within the ombudsperson's discretion, using an
 113.14 informal review process to assist an enrollee with a resolution involving the enrollee's
 113.15 prepaid health plan's benefits;

113.16 (3) assisting enrollees, when requested, with filing a prepaid health plan grievance,
 113.17 appeal, or state fair hearing;

113.18 (4) supporting an enrollee, when requested, in the enrollee's case before an administrative
 113.19 law judge;

113.20 (5) overseeing, reviewing, and approving documents used by enrollees relating to prepaid
 113.21 health plans' grievances, appeals, and state fair hearings;

113.22 (6) reviewing all state fair hearing and requests by enrollees for external review;
 113.23 overseeing entities under contract to provide external reviews, processes, and payments for
 113.24 services; and utilizing aggregated results of external reviews to recommend health care
 113.25 benefits policy changes; and

113.26 (7) providing trainings to managed care advocates.

113.27 (b) The ombudsperson must not charge an enrollee for the ombudsperson's services.

113.28 Subd. 4. **Powers.** In exercising the ombudsperson's authority under this section, the
 113.29 ombudsperson may:

113.30 (1) gather information and evaluate any practice, policy, procedure, or action by a prepaid
 113.31 health plan, state human services agency, county, or Tribe; and

- 114.1 (2) prescribe the methods by which complaints are to be made, received, and acted upon.
- 114.2 The ombudsperson's authority under this clause includes but is not limited to:
- 114.3 (i) determining the scope and manner of a complaint;
- 114.4 (ii) holding a prepaid health plan accountable to address a complaint in a timely manner
- 114.5 as outlined in state and federal laws;
- 114.6 (iii) requiring a prepaid health plan to respond in a timely manner to a request for data,
- 114.7 case details, and other information as needed to help resolve a complaint or to improve a
- 114.8 prepaid health plan's policy; and
- 114.9 (iv) making recommendations for policy, administrative, or legislative changes regarding
- 114.10 prepaid health plans to the proper partners.
- 114.11 Subd. 5. **Data.** (a) The data analyst must review and analyze prepaid health plan data
- 114.12 on denial, termination, and reduction notices (DTRs), grievances, appeals, and state fair
- 114.13 hearings by:
- 114.14 (1) analyzing, reviewing, and reporting on DTRs, grievances, appeals, and state fair
- 114.15 hearings data collected from each prepaid health plan;
- 114.16 (2) collaborating with the commissioner's partners and the Department of Health for the
- 114.17 Triennial Compliance Assessment under Code of Federal Regulations, title 42, section
- 114.18 438.358, subpart (b);
- 114.19 (3) reviewing state fair hearing decisions for policy or coverage issues that may affect
- 114.20 enrollees; and
- 114.21 (4) providing data required under Code of Federal Regulations, title 42, section 438.66
- 114.22 (2016), to the Centers for Medicare and Medicaid Services.
- 114.23 (b) The data analyst must share the data analyst's data observations and trends under
- 114.24 this subdivision with the ombudsperson, prepaid health plans, and commissioner's partners.
- 114.25 Subd. 6. **Collaboration and independence.** (a) The ombudsperson must work in
- 114.26 collaboration with the commissioner and the commissioner's partners when the
- 114.27 ombudsperson's collaboration does not otherwise interfere with the ombudsperson's duties
- 114.28 under this section.
- 114.29 (b) The ombudsperson may act independently of the commissioner when:
- 114.30 (1) providing information or testimony to the legislature; and
- 114.31 (2) contacting and making reports to federal and state officials.

115.1 Subd. 7. Civil actions. The ombudsperson is not civilly liable for actions taken under
 115.2 this section if the action was taken in good faith, was within the scope of the ombudsperson's
 115.3 authority, and did not constitute willful or reckless misconduct.

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

115.5 Sec. 8. Minnesota Statutes 2020, section 256B.77, subdivision 13, is amended to read:

115.6 Subd. 13. **Ombudsman.** Enrollees shall have access to ombudsman services established
 115.7 in section ~~256B.69, subdivision 20~~ 256B.6903, and advocacy services provided by the
 115.8 ombudsman for mental health and developmental disabilities established in sections 245.91
 115.9 to 245.97. The managed care ombudsman and the ombudsman for mental health and
 115.10 developmental disabilities shall coordinate services provided to avoid duplication of services.
 115.11 For purposes of the demonstration project, the powers and responsibilities of the Office of
 115.12 Ombudsman for Mental Health and Developmental Disabilities, as provided in sections
 115.13 245.91 to 245.97 are expanded to include all eligible individuals, health plan companies,
 115.14 agencies, and providers participating in the demonstration project.

115.15 Sec. 9. Minnesota Statutes 2020, section 501C.1206, is amended to read:

115.16 **501C.1206 PUBLIC HEALTH CARE PROGRAMS AND CERTAIN TRUSTS.**

115.17 ~~(a)~~ It is the public policy of this state that individuals use all available resources to pay
 115.18 for the cost of long-term care services, as defined in section 256B.0595, before turning to
 115.19 Minnesota health care program funds, and that trust instruments should not be permitted to
 115.20 shield available resources of an individual or an individual's spouse from such use.

115.21 ~~(b) When a state or local agency makes a determination on an application by the~~
 115.22 ~~individual or the individual's spouse for payment of long-term care services through a~~
 115.23 ~~Minnesota public health care program pursuant to chapter 256B, any irrevocable inter vivos~~
 115.24 ~~trust or any legal instrument, device, or arrangement similar to an irrevocable inter vivos~~
 115.25 ~~trust created on or after July 1, 2005, containing assets or income of an individual or an~~
 115.26 ~~individual's spouse, including those created by a person, court, or administrative body with~~
 115.27 ~~legal authority to act in place of, at the direction of, upon the request of, or on behalf of the~~
 115.28 ~~individual or individual's spouse, becomes revocable for the sole purpose of that~~
 115.29 ~~determination. For purposes of this section, any inter vivos trust and any legal instrument,~~
 115.30 ~~device, or arrangement similar to an inter vivos trust:~~

115.31 ~~(1) shall be deemed to be located in and subject to the laws of this state; and~~

116.1 ~~(2) is created as of the date it is fully executed by or on behalf of all of the settlors or~~
 116.2 ~~others.~~

116.3 ~~(c) For purposes of this section, a legal instrument, device, or arrangement similar to an~~
 116.4 ~~irrevocable inter vivos trust means any instrument, device, or arrangement which involves~~
 116.5 ~~a settlor who transfers or whose property is transferred by another including, but not limited~~
 116.6 ~~to, any court, administrative body, or anyone else with authority to act on their behalf or at~~
 116.7 ~~their direction, to an individual or entity with fiduciary, contractual, or legal obligations to~~
 116.8 ~~the settlor or others to be held, managed, or administered by the individual or entity for the~~
 116.9 ~~benefit of the settlor or others. These legal instruments, devices, or other arrangements are~~
 116.10 ~~irrevocable inter vivos trusts for purposes of this section.~~

116.11 ~~(d) In the event of a conflict between this section and the provisions of an irrevocable~~
 116.12 ~~trust created on or after July 1, 2005, this section shall control.~~

116.13 ~~(e) This section does not apply to trusts that qualify as supplemental needs trusts under~~
 116.14 ~~section 501C.1205 or to trusts meeting the criteria of United States Code, title 42, section~~
 116.15 ~~1396p (d)(4)(a) and (e) for purposes of eligibility for medical assistance.~~

116.16 ~~(f) This section applies to all trusts first created on or after July 1, 2005, as permitted~~
 116.17 ~~under United States Code, title 42, section 1396p, and to all interests in real or personal~~
 116.18 ~~property regardless of the date on which the interest was created, reserved, or acquired.~~

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

116.20 Sec. 10. **REPEALER.**

116.21 **(a) Minnesota Statutes 2020, section 256B.057, subdivision 7, is repealed on July 1,**
 116.22 **2022.**

116.23 **(b) Minnesota Statutes 2020, section 256B.69, subdivision 20, is repealed the day**
 116.24 **following final enactment.**

ARTICLE 5

OPERATIONS

116.27 Section 1. Minnesota Statutes 2020, section 245A.02, subdivision 5a, is amended to read:

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

117.1 (1) each officer of the organization, including the chief executive officer and chief
117.2 financial officer;

117.3 (2) the individual designated as the authorized agent under section 245A.04, subdivision
117.4 1, paragraph (b);

117.5 (3) the individual designated as the compliance officer under section 256B.04, subdivision
117.6 21, paragraph (g); ~~and~~

117.7 (4) each managerial official whose responsibilities include the direction of the
117.8 management or policies of a program; and

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

117.11 (b) Controlling individual does not include:

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

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

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

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

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

117.24 (4) an individual who is a member of an organization exempt from taxation under section
117.25 290.05, unless the individual is also an officer, owner, or managerial official of the program
117.26 or owns any of the beneficial interests not excluded in this subdivision. This clause does
117.27 not exclude from the definition of controlling individual an organization that is exempt from
117.28 taxation; or

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

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

118.6 **EFFECTIVE DATE.** This section is effective July 1, 2022.

118.7 Sec. 2. Minnesota Statutes 2020, section 245A.04, subdivision 4, is amended to read:

118.8 Subd. 4. **Inspections; waiver.** (a) Before issuing a license under this chapter, the
118.9 commissioner shall conduct an inspection of the program. The inspection must include but
118.10 is not limited to:

118.11 (1) an inspection of the physical plant;

118.12 (2) an inspection of records and documents;

118.13 (3) observation of the program in operation; and

118.14 (4) an inspection for the health, safety, and fire standards in licensing requirements for
118.15 a child care license holder.

118.16 (b) The observation in paragraph (a), clause (3), is not required prior to issuing a license
118.17 under subdivision 7. If the commissioner issues a license under this chapter, these
118.18 requirements must be completed within one year after the issuance of the license.

118.19 (c) Before completing a licensing inspection in a family child care program or child care
118.20 center, the licensing agency must offer the license holder an exit interview to discuss
118.21 violations or potential violations of law or rule observed during the inspection and offer
118.22 technical assistance on how to comply with applicable laws and rules. The commissioner
118.23 shall not issue a correction order or negative licensing action for violations of law or rule
118.24 not discussed in an exit interview, unless a license holder chooses not to participate in an
118.25 exit interview or not to complete the exit interview. If the license holder is unable to complete
118.26 the exit interview, the licensing agency must offer an alternate time for the license holder
118.27 to complete the exit interview.

118.28 (d) If a family child care license holder disputes a county licenser's interpretation of a
118.29 licensing requirement during a licensing inspection or exit interview, the license holder
118.30 may, within five business days after the exit interview or licensing inspection, request
118.31 clarification from the commissioner, in writing, in a manner prescribed by the commissioner.
118.32 The license holder's request must describe the county licenser's interpretation of the licensing

119.1 requirement at issue, and explain why the license holder believes the county licensor's
119.2 interpretation is inaccurate. The commissioner and the county must include the license
119.3 holder in all correspondence regarding the disputed interpretation, and must provide an
119.4 opportunity for the license holder to contribute relevant information that may impact the
119.5 commissioner's decision. The county licensor must not issue a correction order related to
119.6 the disputed licensing requirement until the commissioner has provided clarification to the
119.7 license holder about the licensing requirement.

119.8 (e) The commissioner or the county shall inspect at least ~~annually~~ once each calendar
119.9 year a child care provider licensed under this chapter and Minnesota Rules, chapter 9502
119.10 or 9503, for compliance with applicable licensing standards.

119.11 (f) No later than November 19, 2017, the commissioner shall make publicly available
119.12 on the department's website the results of inspection reports of all child care providers
119.13 licensed under this chapter and under Minnesota Rules, chapter 9502 or 9503, and the
119.14 number of deaths, serious injuries, and instances of substantiated child maltreatment that
119.15 occurred in licensed child care settings each year.

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

119.17 Sec. 3. Minnesota Statutes 2020, section 245A.07, subdivision 2a, is amended to read:

119.18 Subd. 2a. **Immediate suspension expedited hearing.** (a) Within five working days of
119.19 receipt of the license holder's timely appeal, the commissioner shall request assignment of
119.20 an administrative law judge. The request must include a proposed date, time, and place of
119.21 a hearing. A hearing must be conducted by an administrative law judge within 30 calendar
119.22 days of the request for assignment, unless an extension is requested by either party and
119.23 granted by the administrative law judge for good cause. The commissioner shall issue a
119.24 notice of hearing by certified mail or personal service at least ten working days before the
119.25 hearing. The scope of the hearing shall be limited solely to the issue of whether the temporary
119.26 immediate suspension should remain in effect pending the commissioner's final order under
119.27 section 245A.08, regarding a licensing sanction issued under subdivision 3 following the
119.28 immediate suspension. For suspensions under subdivision 2, paragraph (a), clause (1), the
119.29 burden of proof in expedited hearings under this subdivision shall be limited to the
119.30 commissioner's demonstration that reasonable cause exists to believe that the license holder's
119.31 actions or failure to comply with applicable law or rule poses, or the actions of other
119.32 individuals or conditions in the program poses an imminent risk of harm to the health, safety,
119.33 or rights of persons served by the program. "Reasonable cause" means there exist specific
119.34 articulable facts or circumstances which provide the commissioner with a reasonable

120.1 suspicion that there is an imminent risk of harm to the health, safety, or rights of persons
120.2 served by the program. When the commissioner has determined there is reasonable cause
120.3 to order the temporary immediate suspension of a license based on a violation of safe sleep
120.4 requirements, as defined in section 245A.1435, the commissioner is not required to
120.5 demonstrate that an infant died or was injured as a result of the safe sleep violations. For
120.6 suspensions under subdivision 2, paragraph (a), clause (2), the burden of proof in expedited
120.7 hearings under this subdivision shall be limited to the commissioner's demonstration by a
120.8 preponderance of the evidence that, since the license was revoked, the license holder
120.9 committed additional violations of law or rule which may adversely affect the health or
120.10 safety of persons served by the program.

120.11 (b) The administrative law judge shall issue findings of fact, conclusions, and a
120.12 recommendation within ten working days from the date of hearing. The parties shall have
120.13 ten calendar days to submit exceptions to the administrative law judge's report. The record
120.14 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
120.15 final order shall be issued within ten working days from the close of the record. When an
120.16 appeal of a temporary immediate suspension is withdrawn or dismissed, the commissioner
120.17 shall issue a final order affirming the temporary immediate suspension within ten calendar
120.18 days of the commissioner's receipt of the withdrawal or dismissal. Within 90 calendar days
120.19 after an immediate suspension has been issued and the license holder has not submitted a
120.20 timely appeal under subdivision 2, paragraph (b), or within 90 calendar days after a final
120.21 order affirming an immediate suspension, the commissioner shall ~~make a determination~~
120.22 regarding determine:

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

120.26 (2) whether the outcome of related, ongoing investigations or judicial proceedings are
120.27 necessary to determine if a final licensing sanction under subdivision 3, paragraph (a),
120.28 clauses (1) to (5), will be issued, and persons served by the program remain at an imminent
120.29 risk of harm during the investigation period or proceedings. If so, the commissioner shall
120.30 issue a suspension in accordance with subdivision 3.

120.31 (c) When the final order under paragraph (b) affirms an immediate suspension or the
120.32 license holder does not submit a timely appeal of the immediate suspension, and a final
120.33 licensing sanction is issued under subdivision 3 and the license holder appeals that sanction,
120.34 the license holder continues to be prohibited from operation of the program pending a final

121.1 commissioner's order under section 245A.08, subdivision 5, regarding the final licensing
121.2 sanction.

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

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

121.11 Sec. 4. Minnesota Statutes 2020, section 245A.07, subdivision 3, is amended to read:

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

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

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

121.19 (3) a license holder knowingly withholds relevant information from or gives false or
121.20 misleading information to the commissioner in connection with an application for a license,
121.21 in connection with the background study status of an individual, during an investigation,
121.22 or regarding compliance with applicable laws or rules;

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

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

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

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

122.1 (b) If the license was suspended or revoked, the notice must inform the license holder
122.2 of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts
122.3 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking
122.4 a license. The appeal of an order suspending or revoking a license must be made in writing
122.5 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
122.6 the commissioner within ten calendar days after the license holder receives notice that the
122.7 license has been suspended or revoked. If a request is made by personal service, it must be
122.8 received by the commissioner within ten calendar days after the license holder received the
122.9 order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a
122.10 timely appeal of an order suspending or revoking a license, the license holder may continue
122.11 to operate the program as provided in section 245A.04, subdivision 7, paragraphs (f) and
122.12 (g), until the commissioner issues a final order on the suspension or revocation.

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

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

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

122.34 (4) Fines shall be assessed as follows:

123.1 (i) the license holder shall forfeit \$1,000 for each determination of maltreatment of a
123.2 child under chapter 260E or the maltreatment of a vulnerable adult under section 626.557
123.3 for which the license holder is determined responsible for the maltreatment under section
123.4 260E.30, subdivision 4, paragraphs (a) and (b), or 626.557, subdivision 9c, paragraph (c);

123.5 (ii) if the commissioner determines that a determination of maltreatment for which the
123.6 license holder is responsible is the result of maltreatment that meets the definition of serious
123.7 maltreatment as defined in section 245C.02, subdivision 18, the license holder shall forfeit
123.8 \$5,000;

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

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

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

123.18 For purposes of this section, "occurrence" means each violation identified in the
123.19 commissioner's fine order. Fines assessed against a license holder that holds a license to
123.20 provide home and community-based services, as identified in section 245D.03, subdivision
123.21 1, and a community residential setting or day services facility license under chapter 245D
123.22 where the services are provided, may be assessed against both licenses for the same
123.23 occurrence, but the combined amount of the fines shall not exceed the amount specified in
123.24 this clause for that occurrence.

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

123.29 (d) Except for background study violations involving the failure to comply with an order
123.30 to immediately remove an individual or an order to provide continuous, direct supervision,
123.31 the commissioner shall not issue a fine under paragraph (c) relating to a background study
123.32 violation to a license holder who self-corrects a background study violation before the
123.33 commissioner discovers the violation. A license holder who has previously exercised the
123.34 provisions of this paragraph to avoid a fine for a background study violation may not avoid

124.1 a fine for a subsequent background study violation unless at least 365 days have passed
124.2 since the license holder self-corrected the earlier background study violation.

124.3 Sec. 5. Minnesota Statutes 2021 Supplement, section 245A.14, subdivision 4, is amended
124.4 to read:

124.5 Subd. 4. **Special family child care homes.** Nonresidential child care programs serving
124.6 14 or fewer children that are conducted at a location other than the license holder's own
124.7 residence shall be licensed under this section and the rules governing family child care or
124.8 group family child care if:

124.9 (a) the license holder is the primary provider of care and the nonresidential child care
124.10 program is conducted in a dwelling that is located on a residential lot;

124.11 (b) the license holder is an employer who may or may not be the primary provider of
124.12 care, and the purpose for the child care program is to provide child care services to children
124.13 of the license holder's employees;

124.14 (c) the license holder is a church or religious organization;

124.15 (d) the license holder is a community collaborative child care provider. For purposes of
124.16 this subdivision, a community collaborative child care provider is a provider participating
124.17 in a cooperative agreement with a community action agency as defined in section 256E.31;

124.18 (e) the license holder is a not-for-profit agency that provides child care in a dwelling
124.19 located on a residential lot and the license holder maintains two or more contracts with
124.20 community employers or other community organizations to provide child care services.
124.21 The county licensing agency may grant a capacity variance to a license holder licensed
124.22 under this paragraph to exceed the licensed capacity of 14 children by no more than five
124.23 children during transition periods related to the work schedules of parents, if the license
124.24 holder meets the following requirements:

124.25 (1) the program does not exceed a capacity of 14 children more than a cumulative total
124.26 of four hours per day;

124.27 (2) the program meets a one to seven staff-to-child ratio during the variance period;

124.28 (3) all employees receive at least an extra four hours of training per year than required
124.29 in the rules governing family child care each year;

124.30 (4) the facility has square footage required per child under Minnesota Rules, part
124.31 9502.0425;

124.32 (5) the program is in compliance with local zoning regulations;

125.1 (6) the program is in compliance with the applicable fire code as follows:

125.2 (i) if the program serves more than five children older than 2-1/2 years of age, but no
125.3 more than five children 2-1/2 years of age or less, the applicable fire code is educational
125.4 occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2015,
125.5 Section 202; or

125.6 (ii) if the program serves more than five children 2-1/2 years of age or less, the applicable
125.7 fire code is Group I-4 Occupancies, as provided in the Minnesota State Fire Code 2015,
125.8 Section 202, unless the rooms in which the children are cared for are located on a level of
125.9 exit discharge and each of these child care rooms has an exit door directly to the exterior,
125.10 then the applicable fire code is Group E occupancies, as provided in the Minnesota State
125.11 Fire Code 2015, Section 202; and

125.12 (7) any age and capacity limitations required by the fire code inspection and square
125.13 footage determinations shall be printed on the license; or

125.14 (f) the license holder is the primary provider of care and has located the licensed child
125.15 care program in a commercial space, if the license holder meets the following requirements:

125.16 (1) the program is in compliance with local zoning regulations;

125.17 (2) the program is in compliance with the applicable fire code as follows:

125.18 (i) if the program serves more than five children older than 2-1/2 years of age, but no
125.19 more than five children 2-1/2 years of age or less, the applicable fire code is educational
125.20 occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2015,
125.21 Section 202; or

125.22 (ii) if the program serves more than five children 2-1/2 years of age or less, the applicable
125.23 fire code is Group I-4 Occupancies, as provided under the Minnesota State Fire Code 2015,
125.24 Section 202;

125.25 (3) any age and capacity limitations required by the fire code inspection and square
125.26 footage determinations are printed on the license; and

125.27 (4) the license holder prominently displays the license issued by the commissioner which
125.28 contains the statement "This special family child care provider is not licensed as a child
125.29 care center."

125.30 (g) Notwithstanding Minnesota Rules, part 9502.0335, subpart 12, the commissioner
125.31 may issue up to four licenses to an organization licensed under paragraph (b), (c), or (e).
125.32 Each license must have its own primary provider of care as required under paragraph (i).

126.1 Each license must operate as a distinct and separate program in compliance with all applicable
126.2 laws and regulations.

126.3 (h) For licenses issued under paragraph (b), (c), (d), (e), or (f), the commissioner may
126.4 approve up to four licenses at the same location or under one contiguous roof if each license
126.5 holder is able to demonstrate compliance with all applicable rules and laws. Each licensed
126.6 program must operate as a distinct program and within the capacity, age, and ratio
126.7 distributions of each license.

126.8 (i) For a license issued under paragraph (b), (c), or (e), the license holder must designate
126.9 a person to be the primary provider of care at the licensed location on a form and in a manner
126.10 prescribed by the commissioner. The license holder shall notify the commissioner in writing
126.11 before there is a change of the person designated to be the primary provider of care. The
126.12 primary provider of care:

126.13 (1) must be the person who will be the provider of care at the program and present during
126.14 the hours of operation;

126.15 (2) must operate the program in compliance with applicable laws and regulations under
126.16 chapter 245A and Minnesota Rules, chapter 9502;

126.17 (3) is considered a child care background study subject as defined in section 245C.02,
126.18 subdivision 6a, and must comply with background study requirements in chapter 245C; ~~and~~

126.19 (4) must complete the training that is required of license holders in section 245A.50;

126.20 (5) is authorized to communicate with the county licensing agency and the department
126.21 on matters related to licensing; and

126.22 (6) must meet the requirements of Minnesota Rules, part 9502.0355, subpart 3, before
126.23 providing group family child care.

126.24 (j) For any license issued under this subdivision, the license holder must ensure that any
126.25 other caregiver, substitute, or helper who assists in the care of children meets the training
126.26 requirements in section 245A.50 and background study requirements under chapter 245C.

126.27 **EFFECTIVE DATE.** This section is effective July 1, 2022.

127.1 Sec. 6. Minnesota Statutes 2020, section 245A.1435, is amended to read:

127.2 **245A.1435 REDUCTION OF RISK OF SUDDEN UNEXPECTED INFANT DEATH**
127.3 **IN LICENSED PROGRAMS.**

127.4 (a) When a license holder is placing an infant to sleep, the license holder must place the
127.5 infant on the infant's back, unless the license holder has documentation from the infant's
127.6 physician or advanced practice registered nurse directing an alternative sleeping position
127.7 for the infant. The physician or advanced practice registered nurse directive must be on a
127.8 form ~~approved~~ developed by the commissioner and must remain on file at the licensed
127.9 location.

127.10 An infant who independently rolls onto its stomach after being placed to sleep on its
127.11 back may be allowed to remain sleeping on its stomach if the infant is at least six months
127.12 of age or the license holder has a signed statement from the parent indicating that the infant
127.13 regularly rolls over at home.

127.14 (b) The license holder must place the infant in a crib directly on a firm mattress with a
127.15 fitted sheet that is appropriate to the mattress size, that fits tightly on the mattress, and
127.16 overlaps the underside of the mattress so it cannot be dislodged by pulling on the corner of
127.17 the sheet with reasonable effort. The license holder must not place anything in the crib with
127.18 the infant except for the infant's pacifier, as defined in Code of Federal Regulations, title
127.19 16, part 1511. The pacifier must be free from any sort of attachment. The requirements of
127.20 this section apply to license holders serving infants younger than one year of age. Licensed
127.21 child care providers must meet the crib requirements under section 245A.146. A correction
127.22 order shall not be issued under this paragraph unless there is evidence that a violation
127.23 occurred when an infant was present in the license holder's care.

127.24 (c) If an infant falls asleep before being placed in a crib, the license holder must move
127.25 the infant to a crib as soon as practicable, and must keep the infant within sight of the license
127.26 holder until the infant is placed in a crib. When an infant falls asleep while being held, the
127.27 license holder must consider the supervision needs of other children in care when determining
127.28 how long to hold the infant before placing the infant in a crib to sleep. The sleeping infant
127.29 must not be in a position where the airway may be blocked or with anything covering the
127.30 infant's face.

127.31 (d) When a license holder places an infant under one year of age down to sleep, the
127.32 infant's clothing or sleepwear must not have weighted materials, a hood, or a bib.

127.33 (e) A license holder may place an infant under one year of age down to sleep wearing
127.34 a helmet if the license holder has signed documentation by a physician, advanced practice

128.1 registered nurse, licensed occupational therapist, or a licensed physical therapist on a form
 128.2 developed by the commissioner.

128.3 ~~(d)~~ (f) Placing a swaddled infant down to sleep in a licensed setting is not recommended
 128.4 for an infant of any age and is prohibited for any infant who has begun to roll over
 128.5 independently. However, with the written consent of a parent or guardian according to this
 128.6 paragraph, a license holder may place the infant who has not yet begun to roll over on its
 128.7 own down to sleep in a ~~one-piece sleeper equipped with an attached system that fastens~~
 128.8 ~~securely only across the upper torso, with no constriction of the hips or legs, to create a~~
 128.9 swaddle. A swaddle is defined as one-piece sleepwear that wraps over the infant's arms,
 128.10 fastens securely only across the infant's upper torso, and does not constrict the infant's hips
 128.11 or legs. If a swaddle is used by a license holder, the license holder must ensure that it meets
 128.12 the requirements of paragraph (d) and is not so tight that it restricts the infant's ability to
 128.13 breathe or so loose that the fabric could cover the infant's nose and mouth. Prior to any use
 128.14 of swaddling for sleep by a provider licensed under this chapter, the license holder must
 128.15 obtain informed written consent for the use of swaddling from the parent or guardian of the
 128.16 infant on a form ~~provided~~ developed by the commissioner ~~and prepared in partnership with~~
 128.17 ~~the Minnesota Sudden Infant Death Center.~~

128.18 **EFFECTIVE DATE.** This section is effective January 1, 2023.

128.19 Sec. 7. Minnesota Statutes 2020, section 245A.1443, is amended to read:

128.20 **245A.1443 CHEMICAL DEPENDENCY SUBSTANCE USE DISORDER**
 128.21 **TREATMENT LICENSED PROGRAMS THAT SERVE PARENTS WITH THEIR**
 128.22 **CHILDREN.**

128.23 Subdivision 1. **Application.** This section applies to ~~chemical dependency residential~~
 128.24 substance use disorder treatment facilities that are licensed under this chapter and ~~Minnesota~~
 128.25 ~~Rules~~, chapter ~~9530~~, 245G and that provide services in accordance with section 245G.19.

128.26 Subd. 2. **Requirements for providing education.** (a) On or before the date of a child's
 128.27 initial physical presence at the facility, the license holder must provide education to the
 128.28 child's parent related to safe bathing and reducing the risk of sudden unexpected infant death
 128.29 and abusive head trauma from shaking infants and young children. The license holder must
 128.30 use the educational material developed by the commissioner to comply with this requirement.
 128.31 At a minimum, the education must address:

129.1 (1) instruction that a child or infant should never be left unattended around water, a tub
129.2 should be filled with only two to four inches of water for infants, and an infant should never
129.3 be put into a tub when the water is running; and

129.4 (2) the risk factors related to sudden unexpected infant death and abusive head trauma
129.5 from shaking infants and young children, and means of reducing the risks, including the
129.6 safety precautions identified in section 245A.1435 and the ~~dangers~~ risks of co-sleeping.

129.7 (b) The license holder must document the parent's receipt of the education and keep the
129.8 documentation in the parent's file. The documentation must indicate whether the parent
129.9 agrees to comply with the safeguards. If the parent refuses to comply, program staff must
129.10 provide additional education to the parent ~~at appropriate intervals, at least weekly as described~~
129.11 in the parental supervision plan. The parental supervision plan must include the intervention,
129.12 frequency, and staff responsible for the duration of the parent's participation in the program
129.13 or until the parent agrees to comply with the safeguards.

129.14 Subd. 3. **Parental supervision of children.** (a) On or before the date of a child's initial
129.15 physical presence at the facility, the license holder must ~~complete and document an~~
129.16 ~~assessment of the parent's capacity to meet the health and safety needs of the child while~~
129.17 ~~on the facility premises, including identifying circumstances when the parent may be unable~~
129.18 ~~to adequately care for their child due to~~ considering the following factors:

129.19 (1) the parent's physical ~~or~~ and mental health;

129.20 (2) the parent being under the influence of drugs, alcohol, medications, or other chemicals;

129.21 ~~(3) the parent being unable to provide appropriate supervision for the child; or~~

129.22 (3) the child's physical and mental health; and

129.23 (4) any other information available to the license holder that indicates the parent may
129.24 not be able to adequately care for the child.

129.25 (b) The license holder must have written procedures specifying the actions to be taken
129.26 by staff if a parent is or becomes unable to adequately care for the parent's child.

129.27 (c) If the parent refuses to comply with the safeguards described in subdivision 2 or is
129.28 unable to adequately care for the child, the license holder must develop a parental supervision
129.29 plan in conjunction with the client. The plan must account for any factors in paragraph (a)
129.30 that contribute to the parent's inability to adequately care for the child. The plan must be
129.31 dated and signed by the staff person who completed the plan.

130.1 Subd. 4. **Alternative supervision arrangements.** The license holder must have written
130.2 procedures addressing whether the program permits a parent to arrange for supervision of
130.3 the parent's child by another client in the program. If permitted, the facility must have a
130.4 procedure that requires staff approval of the supervision arrangement before the supervision
130.5 by the nonparental client occurs. The procedure for approval must include an assessment
130.6 of the nonparental client's capacity to assume the supervisory responsibilities using the
130.7 criteria in subdivision 3. The license holder must document the license holder's approval of
130.8 the supervisory arrangement and the assessment of the nonparental client's capacity to
130.9 supervise the child, and must keep this documentation in the file of the parent of the child
130.10 being supervised.

130.11 **EFFECTIVE DATE.** This section is effective January 1, 2023.

130.12 Sec. 8. Minnesota Statutes 2020, section 245A.146, subdivision 3, is amended to read:

130.13 Subd. 3. **License holder documentation of cribs.** (a) Annually, from the date printed
130.14 on the license, all license holders shall check all their cribs' brand names and model numbers
130.15 against the United States Consumer Product Safety Commission website listing of unsafe
130.16 cribs.

130.17 (b) The license holder shall maintain written documentation to be reviewed on site for
130.18 each crib showing that the review required in paragraph (a) has been completed, and which
130.19 of the following conditions applies:

130.20 (1) the crib was not identified as unsafe on the United States Consumer Product Safety
130.21 Commission website;

130.22 (2) the crib was identified as unsafe on the United States Consumer Product Safety
130.23 Commission website, but the license holder has taken the action directed by the United
130.24 States Consumer Product Safety Commission to make the crib safe; or

130.25 (3) the crib was identified as unsafe on the United States Consumer Product Safety
130.26 Commission website, and the license holder has removed the crib so that it is no longer
130.27 used by or accessible to children in care.

130.28 (c) Documentation of the review completed under this subdivision shall be maintained
130.29 by the license holder on site and made available to parents or guardians of children in care
130.30 and the commissioner.

130.31 (d) Notwithstanding Minnesota Rules, part 9502.0425, a family child care provider that
130.32 complies with this section may use a mesh-sided or fabric-sided play yard, pack and play,

131.1 or playpen or crib that has not been identified as unsafe on the United States Consumer
131.2 Product Safety Commission website for the care or sleeping of infants.

131.3 (e) On at least a monthly basis, the family child care license holder shall perform safety
131.4 inspections of every mesh-sided or fabric-sided play yard, pack and play, or playpen used
131.5 by or that is accessible to any child in care, and must document the following:

131.6 (1) there are no tears, holes, or loose or unraveling threads in mesh or fabric sides of
131.7 crib;

131.8 (2) the weave of the mesh on the crib is no larger than one-fourth of an inch;

131.9 (3) no mesh fabric is unsecure or unattached to top rail and floor plate of crib;

131.10 (4) no tears or holes to top rail of crib;

131.11 (5) the mattress floor board is not soft and does not exceed one inch thick;

131.12 (6) the mattress floor board has no rips or tears in covering;

131.13 (7) the mattress floor board in use is ~~a waterproof~~ an original mattress or replacement
131.14 mattress provided by the manufacturer of the crib;

131.15 (8) there are no protruding or loose rivets, metal nuts, or bolts on the crib;

131.16 (9) there are no knobs or wing nuts on outside crib legs;

131.17 (10) there are no missing, loose, or exposed staples; and

131.18 (11) the latches on top and side rails used to collapse crib are secure, they lock properly,
131.19 and are not loose.

131.20 **EFFECTIVE DATE.** This section is effective January 1, 2023.

131.21 Sec. 9. Minnesota Statutes 2020, section 245F.15, subdivision 1, is amended to read:

131.22 Subdivision 1. **Qualifications for all staff who have direct patient contact.** ~~(a)~~ All
131.23 staff who have direct patient contact must be at least 18 years of age ~~and must, at the time~~
131.24 ~~of hiring, document that they meet the requirements in paragraph (b), (c), or (d).~~

131.25 ~~(b) Program directors, supervisors, nurses, and alcohol and drug counselors must be free~~
131.26 ~~of substance use problems for at least two years immediately preceding their hiring and~~
131.27 ~~must sign a statement attesting to that fact.~~

131.28 ~~(c) Recovery peers must be free of substance use problems for at least one year~~
131.29 ~~immediately preceding their hiring and must sign a statement attesting to that fact.~~

132.1 ~~(d) Technicians and other support staff must be free of substance use problems for at~~
132.2 ~~least six months immediately preceding their hiring and must sign a statement attesting to~~
132.3 ~~that fact.~~

132.4 **EFFECTIVE DATE.** This section is effective January 1, 2023.

132.5 Sec. 10. Minnesota Statutes 2020, section 245F.16, subdivision 1, is amended to read:

132.6 Subdivision 1. **Policy requirements.** A license holder must have written personnel
132.7 policies and must make them available to staff members at all times. The personnel policies
132.8 must:

132.9 (1) ensure that a staff member's retention, promotion, job assignment, or pay are not
132.10 affected by a good-faith communication between the staff member and the Department of
132.11 Human Services, Department of Health, Ombudsman for Mental Health and Developmental
132.12 Disabilities, law enforcement, or local agencies that investigate complaints regarding patient
132.13 rights, health, or safety;

132.14 (2) include a job description for each position that specifies job responsibilities, degree
132.15 of authority to execute job responsibilities, standards of job performance related to specified
132.16 job responsibilities, and qualifications;

132.17 (3) provide for written job performance evaluations for staff members of the license
132.18 holder at least annually;

132.19 (4) describe ~~behavior that constitutes grounds~~ the process for disciplinary action,
132.20 suspension, or dismissal, ~~including policies that address substance use problems and meet~~
132.21 ~~the requirements of section 245F.15, subdivisions 1 and 2. The policies and procedures~~
132.22 ~~must list behaviors or incidents that are considered substance use problems. The list must~~
132.23 ~~include:~~ of a staff person for violating the drug and alcohol policy described in section
132.24 245A.04, subdivision 1, paragraph (c);

132.25 ~~(i) receiving treatment for substance use disorder within the period specified for the~~
132.26 ~~position in the staff qualification requirements;~~

132.27 ~~(ii) substance use that has a negative impact on the staff member's job performance;~~

132.28 ~~(iii) substance use that affects the credibility of treatment services with patients, referral~~
132.29 ~~sources, or other members of the community; and~~

132.30 ~~(iv) symptoms of intoxication or withdrawal on the job;~~

133.1 (5) include policies prohibiting personal involvement with patients and policies
 133.2 prohibiting patient maltreatment as specified under sections 245A.65, 626.557, and 626.5572
 133.3 and chapters 260E and 604;

133.4 (6) include a chart or description of organizational structure indicating the lines of
 133.5 authority and responsibilities;

133.6 (7) include a written plan for new staff member orientation that, at a minimum, includes
 133.7 training related to the specific job functions for which the staff member was hired, program
 133.8 policies and procedures, patient needs, and the areas identified in subdivision 2, paragraphs
 133.9 (b) to (e); and

133.10 (8) include a policy on the confidentiality of patient information.

133.11 **EFFECTIVE DATE.** This section is effective January 1, 2023.

133.12 Sec. 11. Minnesota Statutes 2020, section 245G.01, subdivision 4, is amended to read:

133.13 Subd. 4. **Alcohol and drug counselor.** "Alcohol and drug counselor" ~~has the meaning~~
 133.14 ~~given in section 148F.01, subdivision 5~~ means a person who is qualified according to section
 133.15 245G.11, subdivision 5.

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

133.17 Sec. 12. Minnesota Statutes 2020, section 245G.01, subdivision 17, is amended to read:

133.18 Subd. 17. **Licensed professional in private practice.** (a) "Licensed professional in
 133.19 private practice" means an individual who:

133.20 (1) is licensed under chapter 148F, or is exempt from licensure under that chapter but
 133.21 is otherwise licensed to provide alcohol and drug counseling services;

133.22 (2) practices solely within the permissible scope of the individual's license as defined
 133.23 in the law authorizing licensure; and

133.24 (3) does not affiliate with other licensed or unlicensed professionals to provide alcohol
 133.25 and drug counseling services. ~~Affiliation does not include conferring with another~~
 133.26 ~~professional or making a client referral.~~

133.27 (b) For purposes of this subdivision, affiliate includes but is not limited to:

133.28 (1) using the same electronic record system as another professional, except when the
 133.29 system prohibits each professional from accessing the records of another professional;

133.30 (2) advertising the services of more than one professional together;

- 134.1 (3) accepting client referrals made to a group of professionals;
- 134.2 (4) providing services to another professional's clients when that professional is absent;
- 134.3 or
- 134.4 (5) appearing in any way to be a group practice or program.
- 134.5 (c) For purposes of this subdivision, affiliate does not include:
- 134.6 (1) conferring with another professional;
- 134.7 (2) making a client referral to another professional;
- 134.8 (3) contracting with the same agency as another professional for billing services;
- 134.9 (4) using the same waiting area for clients in an office as another professional; or
- 134.10 (5) using the same receptionist as another professional if the receptionist supports each
- 134.11 professional independently.
- 134.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 134.13 Sec. 13. Minnesota Statutes 2020, section 245G.06, is amended by adding a subdivision
- 134.14 to read:
- 134.15 **Subd. 2a. Documentation of treatment services.** The license holder must ensure that
- 134.16 the staff member who provides the treatment service documents in the client record the
- 134.17 date, type, and amount of each treatment service provided to a client and the client's response
- 134.18 to each treatment service within seven days of providing the treatment service.
- 134.19 **EFFECTIVE DATE.** This section is effective August 1, 2022.
- 134.20 Sec. 14. Minnesota Statutes 2020, section 245G.06, is amended by adding a subdivision
- 134.21 to read:
- 134.22 **Subd. 2b. Client record documentation requirements.** (a) The license holder must
- 134.23 document in the client record any significant event that occurs at the program on the day
- 134.24 the event occurs. A significant event is an event that impacts the client's relationship with
- 134.25 other clients, staff, or the client's family, or the client's treatment plan.
- 134.26 (b) A residential treatment program must document in the client record the following
- 134.27 items on the day that each occurs:
- 134.28 (1) medical and other appointments the client attended;

135.1 (2) concerns related to medications that are not documented in the medication
 135.2 administration record; and

135.3 (3) concerns related to attendance for treatment services, including the reason for any
 135.4 client absence from a treatment service.

135.5 (c) Each entry in a client's record must be accurate, legible, signed, dated, and include
 135.6 the job title or position of the staff person that made the entry. A late entry must be clearly
 135.7 labeled "late entry." A correction to an entry must be made in a way in which the original
 135.8 entry can still be read.

135.9 **EFFECTIVE DATE.** This section is effective August 1, 2022.

135.10 Sec. 15. Minnesota Statutes 2020, section 245G.06, subdivision 3, is amended to read:

135.11 Subd. 3. ~~Documentation of treatment services; Treatment plan review.~~ (a) ~~A review~~
 135.12 ~~of all treatment services must be documented weekly and include a review of:~~

135.13 ~~(1) care coordination activities;~~

135.14 ~~(2) medical and other appointments the client attended;~~

135.15 ~~(3) issues related to medications that are not documented in the medication administration~~
 135.16 ~~record; and~~

135.17 ~~(4) issues related to attendance for treatment services, including the reason for any client~~
 135.18 ~~absence from a treatment service.~~

135.19 ~~(b) A note must be entered immediately following any significant event. A significant~~
 135.20 ~~event is an event that impacts the client's relationship with other clients, staff, the client's~~
 135.21 ~~family, or the client's treatment plan.~~

135.22 ~~(e) A treatment plan review must be entered in a client's file weekly or after each treatment~~
 135.23 ~~service, whichever is less frequent, by the staff member providing the service alcohol and~~
 135.24 ~~drug counselor responsible for the client's treatment plan. The review must indicate the span~~
 135.25 ~~of time covered by the review and each of the six dimensions listed in section 245G.05,~~
 135.26 ~~subdivision 2, paragraph (c). The review must:~~

135.27 ~~(1) indicate the date, type, and amount of each treatment service provided and the client's~~
 135.28 ~~response to each service;~~

135.29 ~~(2) (1) address each goal in the treatment plan and whether the methods to address the~~
 135.30 ~~goals are effective;~~

135.31 ~~(3) (2) include monitoring of any physical and mental health problems;~~

136.1 ~~(4)~~ (3) document the participation of others;

136.2 ~~(5)~~ (4) document staff recommendations for changes in the methods identified in the
136.3 treatment plan and whether the client agrees with the change; and

136.4 ~~(6)~~ (5) include a review and evaluation of the individual abuse prevention plan according
136.5 to section 245A.65.

136.6 ~~(d) Each entry in a client's record must be accurate, legible, signed, and dated. A late~~
136.7 ~~entry must be clearly labeled "late entry." A correction to an entry must be made in a way~~
136.8 ~~in which the original entry can still be read.~~

136.9 **EFFECTIVE DATE.** This section is effective August 1, 2022.

136.10 Sec. 16. Minnesota Statutes 2020, section 245G.08, subdivision 5, is amended to read:

136.11 Subd. 5. **Administration of medication and assistance with self-medication.** (a) A
136.12 license holder must meet the requirements in this subdivision if a service provided includes
136.13 the administration of medication.

136.14 (b) A staff member, other than a licensed practitioner or nurse, who is delegated by a
136.15 licensed practitioner or a registered nurse the task of administration of medication or assisting
136.16 with self-medication, must:

136.17 (1) successfully complete a medication administration training program for unlicensed
136.18 personnel through an accredited Minnesota postsecondary educational institution. A staff
136.19 member's completion of the course must be documented in writing and placed in the staff
136.20 member's personnel file;

136.21 (2) be trained according to a formalized training program that is taught by a registered
136.22 nurse and offered by the license holder. The training must include the process for
136.23 administration of naloxone, if naloxone is kept on site. A staff member's completion of the
136.24 training must be documented in writing and placed in the staff member's personnel records;
136.25 or

136.26 (3) demonstrate to a registered nurse competency to perform the delegated activity. A
136.27 registered nurse must be employed or contracted to develop the policies and procedures for
136.28 administration of medication or assisting with self-administration of medication, or both.

136.29 (c) A registered nurse must provide supervision as defined in section 148.171, subdivision
136.30 23. The registered nurse's supervision must include, at a minimum, monthly on-site
136.31 supervision or more often if warranted by a client's health needs. The policies and procedures
136.32 must include:

137.1 (1) a provision that a delegation of administration of medication is limited to a method
137.2 a staff member has been trained to administer and limited to the administration of:

137.3 (i) a medication that is administered orally, topically, or as a suppository, an eye drop,
137.4 an ear drop, ~~or~~ an inhalant, or an intranasal; and

137.5 (ii) an intramuscular injection of naloxone or epinephrine;

137.6 (2) a provision that each client's file must include documentation indicating whether
137.7 staff must conduct the administration of medication or the client must self-administer
137.8 medication, or both;

137.9 (3) a provision that a client may carry emergency medication such as nitroglycerin as
137.10 instructed by the client's physician or advanced practice registered nurse;

137.11 (4) a provision for the client to self-administer medication when a client is scheduled to
137.12 be away from the facility;

137.13 (5) a provision that if a client self-administers medication when the client is present in
137.14 the facility, the client must self-administer medication under the observation of a trained
137.15 staff member;

137.16 (6) a provision that when a license holder serves a client who is a parent with a child,
137.17 the parent may only administer medication to the child under a staff member's supervision;

137.18 (7) requirements for recording the client's use of medication, including staff signatures
137.19 with date and time;

137.20 (8) guidelines for when to inform a nurse of problems with self-administration of
137.21 medication, including a client's failure to administer, refusal of a medication, adverse
137.22 reaction, or error; and

137.23 (9) procedures for acceptance, documentation, and implementation of a prescription,
137.24 whether written, verbal, telephonic, or electronic.

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

137.26 Sec. 17. Minnesota Statutes 2020, section 245G.09, subdivision 3, is amended to read:

137.27 Subd. 3. **Contents.** Client records must contain the following:

137.28 (1) documentation that the client was given information on client rights and
137.29 responsibilities, grievance procedures, tuberculosis, and HIV, and that the client was provided
137.30 an orientation to the program abuse prevention plan required under section 245A.65,
137.31 subdivision 2, paragraph (a), clause (4). If the client has an opioid use disorder, the record

138.1 must contain documentation that the client was provided educational information according
138.2 to section 245G.05, subdivision 1, paragraph (b);

138.3 (2) an initial services plan completed according to section 245G.04;

138.4 (3) a comprehensive assessment completed according to section 245G.05;

138.5 (4) an assessment summary completed according to section 245G.05, subdivision 2;

138.6 (5) an individual abuse prevention plan according to sections 245A.65, subdivision 2,
138.7 and 626.557, subdivision 14, when applicable;

138.8 (6) an individual treatment plan according to section 245G.06, subdivisions 1 and 2;

138.9 (7) documentation of treatment services, significant events, appointments, concerns, and
138.10 treatment plan review reviews according to section 245G.06, ~~subdivision~~ subdivisions 2a,
138.11 2b, and 3; and

138.12 (8) a summary at the time of service termination according to section 245G.06,
138.13 subdivision 4.

138.14 **EFFECTIVE DATE.** This section is effective August 1, 2022.

138.15 Sec. 18. Minnesota Statutes 2020, section 245G.11, subdivision 1, is amended to read:

138.16 Subdivision 1. **General qualifications.** (a) All staff members who have direct contact
138.17 must be 18 years of age or older. ~~At the time of employment, each staff member must meet~~
138.18 ~~the qualifications in this subdivision. For purposes of this subdivision, "problematic substance~~
138.19 ~~use" means a behavior or incident listed by the license holder in the personnel policies and~~
138.20 ~~procedures according to section 245G.13, subdivision 1, clause (5).~~

138.21 ~~(b) A treatment director, supervisor, nurse, counselor, student intern, or other professional~~
138.22 ~~must be free of problematic substance use for at least the two years immediately preceding~~
138.23 ~~employment and must sign a statement attesting to that fact.~~

138.24 ~~(c) A paraprofessional, recovery peer, or any other staff member with direct contact~~
138.25 ~~must be free of problematic substance use for at least one year immediately preceding~~
138.26 ~~employment and must sign a statement attesting to that fact.~~

138.27 **EFFECTIVE DATE.** This section is effective January 1, 2023.

138.28 Sec. 19. Minnesota Statutes 2020, section 245G.11, subdivision 10, is amended to read:

138.29 Subd. 10. **Student interns.** A qualified staff member must supervise and be responsible
138.30 for a treatment service performed by a student intern and must review and sign each

139.1 assessment, ~~progress note, and individual treatment plan, and treatment plan review~~ prepared
 139.2 by a student intern. A student intern must receive the orientation and training required in
 139.3 section 245G.13, subdivisions 1, clause (7), and 2. No more than 50 percent of the treatment
 139.4 staff may be students or licensing candidates with time documented to be directly related
 139.5 to the provision of treatment services for which the staff are authorized.

139.6 **EFFECTIVE DATE.** This section is effective January 1, 2023.

139.7 Sec. 20. Minnesota Statutes 2020, section 245G.13, subdivision 1, is amended to read:

139.8 Subdivision 1. **Personnel policy requirements.** A license holder must have written
 139.9 personnel policies that are available to each staff member. The personnel policies must:

139.10 (1) ensure that staff member retention, promotion, job assignment, or pay are not affected
 139.11 by a good faith communication between a staff member and the department, the Department
 139.12 of Health, the ombudsman for mental health and developmental disabilities, law enforcement,
 139.13 or a local agency for the investigation of a complaint regarding a client's rights, health, or
 139.14 safety;

139.15 (2) contain a job description for each staff member position specifying responsibilities,
 139.16 degree of authority to execute job responsibilities, and qualification requirements;

139.17 (3) provide for a job performance evaluation based on standards of job performance
 139.18 conducted on a regular and continuing basis, including a written annual review;

139.19 (4) describe behavior that constitutes grounds for disciplinary action, suspension, or
 139.20 dismissal, including ~~policies that address staff member problematic substance use and the~~
 139.21 ~~requirements of section 245G.11, subdivision 1,~~ policies prohibiting personal involvement
 139.22 with a client in violation of chapter 604, and policies prohibiting client abuse described in
 139.23 sections 245A.65, 626.557, and 626.5572, and chapter 260E;

139.24 ~~(5) identify how the program will identify whether behaviors or incidents are problematic~~
 139.25 ~~substance use, including a description of how the facility must address:~~

139.26 ~~(i) receiving treatment for substance use within the period specified for the position in~~
 139.27 ~~the staff qualification requirements, including medication-assisted treatment;~~

139.28 ~~(ii) substance use that negatively impacts the staff member's job performance;~~

139.29 ~~(iii) substance use that affects the credibility of treatment services with a client, referral~~
 139.30 ~~source, or other member of the community;~~

139.31 ~~(iv) symptoms of intoxication or withdrawal on the job; and~~

140.1 ~~(v) the circumstances under which an individual who participates in monitoring by the~~
140.2 ~~health professional services program for a substance use or mental health disorder is able~~
140.3 ~~to provide services to the program's clients;~~

140.4 (5) describe the process for disciplinary action, suspension, or dismissal of a staff person
140.5 for violating the drug and alcohol policy described in section 245A.04, subdivision 1,
140.6 paragraph (c);

140.7 (6) include a chart or description of the organizational structure indicating lines of
140.8 authority and responsibilities;

140.9 (7) include orientation within 24 working hours of starting for each new staff member
140.10 based on a written plan that, at a minimum, must provide training related to the staff member's
140.11 specific job responsibilities, policies and procedures, client confidentiality, HIV minimum
140.12 standards, and client needs; and

140.13 (8) include policies outlining the license holder's response to a staff member with a
140.14 behavior problem that interferes with the provision of treatment service.

140.15 **EFFECTIVE DATE.** This section is effective January 1, 2023.

140.16 Sec. 21. Minnesota Statutes 2020, section 245G.20, is amended to read:

140.17 **245G.20 LICENSE HOLDERS SERVING PERSONS WITH CO-OCCURRING**
140.18 **DISORDERS.**

140.19 A license holder specializing in the treatment of a person with co-occurring disorders
140.20 must:

140.21 (1) demonstrate that staff levels are appropriate for treating a client with a co-occurring
140.22 disorder, and that there are adequate staff members with mental health training;

140.23 (2) have continuing access to a medical provider with appropriate expertise in prescribing
140.24 psychotropic medication;

140.25 (3) have a mental health professional available for staff member supervision and
140.26 consultation;

140.27 (4) determine group size, structure, and content considering the special needs of a client
140.28 with a co-occurring disorder;

140.29 (5) have documentation of active interventions to stabilize mental health symptoms
140.30 present in the individual treatment plans and ~~progress notes~~ treatment plan reviews;

141.1 (6) have continuing documentation of collaboration with continuing care mental health
141.2 providers, and involvement of the providers in treatment planning meetings;

141.3 (7) have available program materials adapted to a client with a mental health problem;

141.4 (8) have policies that provide flexibility for a client who may lapse in treatment or may
141.5 have difficulty adhering to established treatment rules as a result of a mental illness, with
141.6 the goal of helping a client successfully complete treatment; and

141.7 (9) have individual psychotherapy and case management available during treatment
141.8 service.

141.9 **EFFECTIVE DATE.** This section is effective January 1, 2023.

141.10 Sec. 22. Minnesota Statutes 2020, section 245G.22, subdivision 7, is amended to read:

141.11 Subd. 7. **Restrictions for unsupervised use of methadone hydrochloride.** (a) If a
141.12 medical director or prescribing practitioner assesses and determines that a client meets the
141.13 criteria in subdivision 6 and may be dispensed a medication used for the treatment of opioid
141.14 addiction, the restrictions in this subdivision must be followed when the medication to be
141.15 dispensed is methadone hydrochloride. The results of the assessment must be contained in
141.16 the client file. The number of unsupervised use medication doses per week in paragraphs
141.17 (b) to (d) is in addition to the number of unsupervised use medication doses a client may
141.18 receive for days the clinic is closed for business as allowed by subdivision 6, paragraph (a).

141.19 (b) During the first 90 days of treatment, the unsupervised use medication supply must
141.20 be limited to a maximum of a single dose each week and the client shall ingest all other
141.21 doses under direct supervision.

141.22 (c) In the second 90 days of treatment, the unsupervised use medication supply must be
141.23 limited to two doses per week.

141.24 (d) In the third 90 days of treatment, the unsupervised use medication supply must not
141.25 exceed three doses per week.

141.26 (e) In the remaining months of the first year, a client may be given a maximum six-day
141.27 unsupervised use medication supply.

141.28 (f) After one year of continuous treatment, a client may be given a maximum two-week
141.29 unsupervised use medication supply.

141.30 (g) After two years of continuous treatment, a client may be given a maximum one-month
141.31 unsupervised use medication supply, but must make monthly visits to the program.

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

142.2 Sec. 23. Minnesota Statutes 2020, section 245H.05, is amended to read:

142.3 **245H.05 MONITORING AND INSPECTIONS.**

142.4 (a) The commissioner must conduct an on-site inspection of a certified license-exempt
142.5 child care center at least ~~annually~~ once each calendar year to determine compliance with
142.6 the health, safety, and fire standards specific to a certified license-exempt child care center.

142.7 (b) No later than November 19, 2017, the commissioner shall make publicly available
142.8 on the department's website the results of inspection reports for all certified centers including
142.9 the number of deaths, serious injuries, and instances of substantiated child maltreatment
142.10 that occurred in certified centers each year.

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

142.12 Sec. 24. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; AMENDING**
142.13 **CHILDREN'S RESIDENTIAL FACILITY AND DETOXIFICATION PROGRAM**
142.14 **RULES.**

142.15 (a) The commissioner of human services must amend Minnesota Rules, part 2960.0460,
142.16 to remove all references to repealed Minnesota Rules, part 2960.0460, subpart 2.

142.17 (b) The commissioner must amend Minnesota Rules, part 2960.0470, to require license
142.18 holders to have written personnel policies that describe the process for disciplinary action,
142.19 suspension, or dismissal of a staff person for violating the drug and alcohol policy described
142.20 in Minnesota Statutes, section 245A.04, subdivision 1, paragraph (c), and Minnesota Rules,
142.21 part 2960.0030, subpart 9.

142.22 (c) The commissioner must amend Minnesota Rules, part 9530.6565, subpart 1, to
142.23 remove items A and B and the documentation requirement that references these items.

142.24 (d) The commissioner must amend Minnesota Rules, part 9530.6570, subpart 1, item
142.25 D, to remove the existing language and insert language to require license holders to have
142.26 written personnel policies that describe the process for disciplinary action, suspension, or
142.27 dismissal of a staff person for violating the drug and alcohol policy described in Minnesota
142.28 Statutes, section 245A.04, subdivision 1, paragraph (c).

142.29 (e) For purposes of this section, the commissioner may use the good cause exemption
142.30 process under Minnesota Statutes, section 14.388, subdivision 1, clause (3), and Minnesota
142.31 Statutes, section 14.386, does not apply.

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

143.2 Sec. 25. **CHILD CARE REGULATION MODERNIZATION; PILOT PROJECTS.**

143.3 The commissioner of human services may conduct and administer pilot projects to test
 143.4 methods and procedures for the projects to modernize regulation of child care centers and
 143.5 family child care allowed under Laws 2021, First Special Session chapter 7, article 2, sections
 143.6 75 and 81. To carry out the pilot projects, the commissioner of human services may, by
 143.7 issuing a commissioner's order, waive enforcement of existing specific statutory program
 143.8 requirements, rules, and standards in one or more counties. The commissioner's order
 143.9 establishing the waiver must provide alternative methods and procedures of administration
 143.10 and must not be in conflict with the basic purposes, coverage, or benefits provided by law.
 143.11 In no event may a pilot project under this section extend beyond February 1, 2024. Pilot
 143.12 projects must comply with the requirements of the child care and development fund plan.

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

143.14 Sec. 26. **REPEALER.**

143.15 (a) Minnesota Statutes 2020, sections 245F.15, subdivision 2; and 245G.11, subdivision
 143.16 2, are repealed.

143.17 (b) Minnesota Rules, parts 2960.0460, subpart 2; and 9530.6565, subpart 2, are repealed.

143.18 **EFFECTIVE DATE.** This section is effective January 1, 2023.

143.19 **ARTICLE 6**

143.20 **DIRECT CARE AND TREATMENT**

143.21 Section 1. Minnesota Statutes 2020, section 246.131, is amended to read:

143.22 **246.131 REPORT ON ANOKA-METRO REGIONAL TREATMENT CENTER**
 143.23 **(AMRTC), MINNESOTA SECURITY HOSPITAL (MSH), AND COMMUNITY**
 143.24 **BEHAVIORAL HEALTH HOSPITALS (CBHH).**

143.25 The commissioner of human services shall issue a public ~~quarterly~~ annual report to the
 143.26 chairs and ranking minority leaders of the senate and house of representatives committees
 143.27 having jurisdiction over health and human services issues on the AMRTC, MSH, and CBHH.
 143.28 The report shall contain information on the number of licensed beds, budgeted capacity,
 143.29 occupancy rate, number of Occupational Safety and Health Administration (OSHA)
 143.30 recordable injuries and the number of OSHA recordable injuries due to patient aggression
 143.31 or restraint, number of clinical positions budgeted, the percentage of those positions that

144.1 are filled, the number of direct care positions budgeted, and the percentage of those positions
144.2 that are filled.

144.3 Sec. 2. Minnesota Statutes 2020, section 253B.18, subdivision 6, is amended to read:

144.4 Subd. 6. **Transfer.** (a) A patient who is a person who has a mental illness and is
144.5 dangerous to the public shall not be transferred out of a secure treatment facility unless it
144.6 appears to the satisfaction of the commissioner, after a hearing and favorable recommendation
144.7 by a majority of the special review board, that the transfer is appropriate. Transfer may be
144.8 to another state-operated treatment program. In those instances where a commitment also
144.9 exists to the Department of Corrections, transfer may be to a facility designated by the
144.10 commissioner of corrections.

144.11 (b) The following factors must be considered in determining whether a transfer is
144.12 appropriate:

144.13 (1) the person's clinical progress and present treatment needs;

144.14 (2) the need for security to accomplish continuing treatment;

144.15 (3) the need for continued institutionalization;

144.16 (4) which facility can best meet the person's needs; and

144.17 (5) whether transfer can be accomplished with a reasonable degree of safety for the
144.18 public.

144.19 (c) If a committed person has been transferred out of a secure facility pursuant to this
144.20 subdivision, that committed person may voluntarily return to a secure facility for a period
144.21 of up to 60 days.

144.22 (d) If the committed person is not returned to the original, nonsecure transfer facility
144.23 within 60 days of being readmitted to a secure facility, the transfer is revoked and the
144.24 committed person shall remain in a secure facility. The committed person shall immediately
144.25 be notified in writing of the revocation.

144.26 (e) Within 15 days of receiving notice of the revocation, the committed person may
144.27 petition the special review board for a review of the revocation. The special review board
144.28 shall review the circumstances of the revocation and shall recommend to the judicial appeal
144.29 panel whether or not the revocation shall be upheld. The special review board may also
144.30 recommend a new transfer at the time of the revocation hearing.

144.31 (f) No action by the special review board or judicial appeal panel is required if the transfer
144.32 has not been revoked and the committed person is returned to the original, nonsecure transfer

145.1 facility with no substantive change to the conditions of the transfer ordered under this
145.2 subdivision.

145.3 (g) The head of the treatment facility may revoke a transfer made under this subdivision
145.4 and require a committed person to return to a secure treatment facility if:

145.5 (1) remaining in a nonsecure setting does not provide a reasonable degree of safety to
145.6 the committed person or others; or

145.7 (2) the committed person has regressed clinically and the facility to which the committed
145.8 person was transferred does not meet the committed person's needs.

145.9 (h) Upon the revocation of the transfer, the committed person shall be immediately
145.10 returned to a secure treatment facility. A report documenting the reasons for revocation
145.11 shall be issued by the head of the treatment facility within seven days after the committed
145.12 person is returned to the secure treatment facility. Advance notice to the committed person
145.13 of the revocation is not required.

145.14 (i) The committed person must be provided a copy of the revocation report and informed,
145.15 orally and in writing, of the rights of a committed person under this section. The revocation
145.16 report shall be served upon the committed person and the committed person's counsel. The
145.17 report shall outline the specific reasons for the revocation, including but not limited to the
145.18 specific facts upon which the revocation is based.

145.19 (j) If a committed person's transfer is revoked, the committed person may re-petition for
145.20 transfer according to subdivision 5.

145.21 (k) A committed person aggrieved by a transfer revocation decision may petition the
145.22 special review board within seven business days after receipt of the revocation report for a
145.23 review of the revocation. The matter shall be scheduled within 30 days. The special review
145.24 board shall review the circumstances leading to the revocation and, after considering the
145.25 factors in paragraph (b), shall recommend to the judicial appeal panel whether or not the
145.26 revocation shall be upheld. The special review board may also recommend a new transfer
145.27 out of a secure facility at the time of the revocation hearing.

145.28 Sec. 3. Laws 2009, chapter 79, article 13, section 3, subdivision 10, as amended by Laws
145.29 2009, chapter 173, article 2, section 1, is amended to read:

145.30 **Subd. 10. State-Operated Services**

145.31 The amounts that may be spent from the
145.32 appropriation for each purpose are as follows:

146.1 **Transfer Authority Related to**
 146.2 **State-Operated Services.** Money
 146.3 appropriated to finance state-operated services
 146.4 may be transferred between the fiscal years of
 146.5 the biennium with the approval of the
 146.6 commissioner of finance.

146.7 **County Past Due Receivables.** The
 146.8 commissioner is authorized to withhold county
 146.9 federal administrative reimbursement when
 146.10 the county of financial responsibility for
 146.11 cost-of-care payments due the state under
 146.12 Minnesota Statutes, section 246.54 or
 146.13 253B.045, is 90 days past due. The
 146.14 commissioner shall deposit the withheld
 146.15 federal administrative earnings for the county
 146.16 into the general fund to settle the claims with
 146.17 the county of financial responsibility. The
 146.18 process for withholding funds is governed by
 146.19 Minnesota Statutes, section 256.017.

146.20 **Forecast and Census Data.** The
 146.21 commissioner shall include census data and
 146.22 fiscal projections for state-operated services
 146.23 and Minnesota sex offender services with the
 146.24 ~~November and February budget forecasts.~~
 146.25 ~~Notwithstanding any contrary provision in this~~
 146.26 ~~article, this paragraph shall not expire forecast.~~

146.27 **(a) Adult Mental Health Services** 106,702,000 107,201,000

146.28 **Appropriation Limitation.** No part of the
 146.29 appropriation in this article to the
 146.30 commissioner for mental health treatment
 146.31 services provided by state-operated services
 146.32 shall be used for the Minnesota sex offender
 146.33 program.

147.1 **Community Behavioral Health Hospitals.**

147.2 Under Minnesota Statutes, section 246.51,
 147.3 subdivision ~~1~~ 1a, a determination order for the
 147.4 clients served in a community behavioral
 147.5 health hospital operated by the commissioner
 147.6 of human services is only required when a
 147.7 client's third-party coverage has been
 147.8 exhausted.

147.9 **Base Adjustment.** The general fund base is
 147.10 decreased by \$500,000 for fiscal year 2012
 147.11 and by \$500,000 for fiscal year 2013.

147.12 **(b) Minnesota Sex Offender Services**

147.13 Appropriations by Fund			
147.14	General	38,348,000	67,503,000
147.15	Federal Fund	26,495,000	0

147.16 **Use of Federal Stabilization Funds.** Of this
 147.17 appropriation, \$26,495,000 in fiscal year 2010
 147.18 is from the fiscal stabilization account in the
 147.19 federal fund to the commissioner. This
 147.20 appropriation must not be used for any activity
 147.21 or service for which federal reimbursement is
 147.22 claimed. This is a onetime appropriation.

147.23 **(c) Minnesota Security Hospital and METO**
 147.24 **Services**

147.25 Appropriations by Fund			
147.26	General	230,000	83,735,000
147.27	Federal Fund	83,505,000	0

147.28 **Minnesota Security Hospital.** For the
 147.29 purposes of enhancing the safety of the public,
 147.30 improving supervision, and enhancing
 147.31 community-based mental health treatment,
 147.32 state-operated services may establish
 147.33 additional community capacity for providing
 147.34 treatment and supervision of clients who have

148.1 been ordered into a less restrictive alternative
148.2 of care from the state-operated services
148.3 transitional services program consistent with
148.4 Minnesota Statutes, section 246.014.

148.5 **Use of Federal Stabilization Funds.**

148.6 \$83,505,000 in fiscal year 2010 is appropriated
148.7 from the fiscal stabilization account in the
148.8 federal fund to the commissioner. This
148.9 appropriation must not be used for any activity
148.10 or service for which federal reimbursement is
148.11 claimed. This is a onetime appropriation.

148.12 Sec. 4. **REPEALER.**

148.13 Minnesota Statutes 2020, sections 246.0136; 252.025, subdivision 7; and 252.035, are
148.14 repealed.

245F.15 STAFF QUALIFICATIONS.

Subd. 2. **Continuing employment; no substance use problems.** License holders must require staff to be free from substance use problems as a condition of continuing employment. Staff are not required to sign statements attesting to their freedom from substance use problems after the initial statement required by subdivision 1. Staff with substance use problems must be immediately removed from any responsibilities that include direct patient contact.

245G.11 STAFF QUALIFICATIONS.

Subd. 2. **Employment; prohibition on problematic substance use.** A staff member with direct contact must be free from problematic substance use as a condition of employment, but is not required to sign additional statements. A staff member with direct contact who is not free from problematic substance use must be removed from any responsibilities that include direct contact for the time period specified in subdivision 1. The time period begins to run on the date of the last incident of problematic substance use as described in the facility's policies and procedures according to section 245G.13, subdivision 1, clause (5).

246.0136 ESTABLISHING ENTERPRISE ACTIVITIES IN STATE-OPERATED SERVICES.

Subdivision 1. **Planning for enterprise activities.** The commissioner of human services is directed to study and make recommendations to the legislature on establishing enterprise activities within state-operated services. Before implementing an enterprise activity, the commissioner must obtain statutory authorization for its implementation, except that the commissioner has authority to implement enterprise activities for adult mental health, adolescent services, and to establish a public group practice without statutory authorization. Enterprise activities are defined as the range of services, which are delivered by state employees, needed by people with disabilities and are fully funded by public or private third-party health insurance or other revenue sources available to clients that provide reimbursement for the services provided. Enterprise activities within state-operated services shall specialize in caring for vulnerable people for whom no other providers are available or for whom state-operated services may be the provider selected by the payer. In subsequent biennia after an enterprise activity is established within a state-operated service, the base state appropriation for that state-operated service shall be reduced proportionate to the size of the enterprise activity.

Subd. 2. **Required components of any proposal; considerations.** In any proposal for an enterprise activity brought to the legislature by the commissioner, the commissioner must demonstrate that there is public or private third-party health insurance or other revenue available to the people served, that the anticipated revenues to be collected will fully fund the services, that there will be sufficient funds for cash flow purposes, and that access to services by vulnerable populations served by state-operated services will not be limited by implementation of an enterprise activity. In studying the feasibility of establishing an enterprise activity, the commissioner must consider:

- (1) creating public or private partnerships to facilitate client access to needed services;
- (2) administrative simplification and efficiencies throughout the state-operated services system;
- (3) converting or disposing of buildings not utilized and surplus lands; and
- (4) exploring the efficiencies and benefits of establishing state-operated services as an independent state agency.

252.025 STATE HOSPITALS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.

Subd. 7. **Minnesota extended treatment options.** The commissioner shall develop by July 1, 1997, the Minnesota extended treatment options to serve Minnesotans who have developmental disabilities and exhibit severe behaviors which present a risk to public safety. This program is statewide and must provide specialized residential services in Cambridge and an array of community-based services with sufficient levels of care and a sufficient number of specialists to ensure that individuals referred to the program receive the appropriate care. The individuals working in the community-based services under this section are state employees supervised by the commissioner of human services. No layoffs shall occur as a result of restructuring under this section.

252.035 REGIONAL TREATMENT CENTER CATCHMENT AREAS.

The commissioner may administratively designate catchment areas for regional treatment centers and state nursing homes. Catchment areas may vary by client group served. Catchment areas in

effect on January 1, 1989, may not be modified until the commissioner has consulted with the regional planning committees of the affected regional treatment centers.

254A.04 CITIZENS ADVISORY COUNCIL.

There is hereby created an Alcohol and Other Drug Abuse Advisory Council to advise the Department of Human Services concerning the problems of substance misuse and substance use disorder, composed of ten members. Five members shall be individuals whose interests or training are in the field of alcohol-specific substance use disorder and alcohol misuse; and five members whose interests or training are in the field of substance use disorder and misuse of substances other than alcohol. The terms, compensation and removal of members shall be as provided in section 15.059. The council expires June 30, 2018. The commissioner of human services shall appoint members whose terms end in even-numbered years. The commissioner of health shall appoint members whose terms end in odd-numbered years.

254B.14 CONTINUUM OF CARE PILOT PROJECTS; CHEMICAL HEALTH CARE.

Subdivision 1. **Authorization for continuum of care pilot projects.** The commissioner shall establish chemical dependency continuum of care pilot projects to begin implementing the measures developed with stakeholder input and identified in the report completed pursuant to Laws 2012, chapter 247, article 5, section 8. The pilot projects are intended to improve the effectiveness and efficiency of the service continuum for chemically dependent individuals in Minnesota while reducing duplication of efforts and promoting scientifically supported practices.

Subd. 2. **Program implementation.** (a) The commissioner, in coordination with representatives of the Minnesota Association of County Social Service Administrators and the Minnesota Inter-County Association, shall develop a process for identifying and selecting interested counties and providers for participation in the continuum of care pilot projects. There shall be three pilot projects: one representing the northern region, one for the metro region, and one for the southern region. The selection process of counties and providers must include consideration of population size, geographic distribution, cultural and racial demographics, and provider accessibility. The commissioner shall identify counties and providers that are selected for participation in the continuum of care pilot projects no later than September 30, 2013.

(b) The commissioner and entities participating in the continuum of care pilot projects shall enter into agreements governing the operation of the continuum of care pilot projects. The agreements shall identify pilot project outcomes and include timelines for implementation and beginning operation of the pilot projects.

(c) Entities that are currently participating in the navigator pilot project are eligible to participate in the continuum of care pilot project subsequent to or instead of participating in the navigator pilot project.

(d) The commissioner may waive administrative rule requirements that are incompatible with implementation of the continuum of care pilot projects.

(e) Notwithstanding section 254A.19, the commissioner may designate noncounty entities to complete chemical use assessments and placement authorizations required under section 254A.19 and Minnesota Rules, parts 9530.6600 to 9530.6655. Section 254A.19, subdivision 3, is applicable to the continuum of care pilot projects at the discretion of the commissioner.

Subd. 3. **Program design.** (a) The operation of the pilot projects shall include:

- (1) new services that are responsive to the chronic nature of substance use disorder;
- (2) telehealth services, when appropriate to address barriers to services;
- (3) services that assure integration with the mental health delivery system when appropriate;
- (4) services that address the needs of diverse populations; and
- (5) an assessment and access process that permits clients to present directly to a service provider for a substance use disorder assessment and authorization of services.

(b) Prior to implementation of the continuum of care pilot projects, a utilization review process must be developed and agreed to by the commissioner, participating counties, and providers. The utilization review process shall be described in the agreements governing operation of the continuum of care pilot projects.

Subd. 4. **Notice of project discontinuation.** Each entity's participation in the continuum of care pilot project may be discontinued for any reason by the county or the commissioner after 30 days' written notice to the entity.

Subd. 5. **Duties of commissioner.** (a) Notwithstanding any other provisions in this chapter, the commissioner may authorize the behavioral health fund to pay for nontreatment services arranged by continuum of care pilot projects. Individuals who are currently accessing Rule 31 treatment services are eligible for concurrent participation in the continuum of care pilot projects.

(b) County expenditures for continuum of care pilot project services shall not be greater than their expected share of forecasted expenditures in the absence of the continuum of care pilot projects.

Subd. 6. **Managed care.** An individual who is eligible for the continuum of care pilot project is excluded from mandatory enrollment in managed care unless these services are included in the health plan's benefit set.

256B.057 ELIGIBILITY REQUIREMENTS FOR SPECIAL CATEGORIES.

Subd. 7. **Waiver of maintenance of effort requirement.** Unless a federal waiver of the maintenance of effort requirement of section 2105(d) of title XXI of the Balanced Budget Act of 1997, Public Law 105-33, Statutes at Large, volume 111, page 251, is granted by the federal Department of Health and Human Services by September 30, 1998, eligibility for children under age 21 must be determined without regard to asset standards established in section 256B.056, subdivision 3c. The commissioner of human services shall publish a notice in the State Register upon receipt of a federal waiver.

256B.69 PREPAID HEALTH PLANS.

Subd. 20. **Ombudsperson.** The commissioner shall designate an ombudsperson to advocate for persons required to enroll in prepaid health plans under this section. The ombudsperson shall advocate for recipients enrolled in prepaid health plans through complaint and appeal procedures and ensure that necessary medical services are provided either by the prepaid health plan directly or by referral to appropriate social services. At the time of enrollment in a prepaid health plan, the local agency shall inform recipients about the ombudsperson program and their right to a resolution of a complaint by the prepaid health plan if they experience a problem with the plan or its providers.

2960.0460 STAFF QUALIFICATIONS.

Subp. 2. **Qualifications applying to employees with direct resident contact.** An employee working directly with residents must be at least 21 years of age and must, at the time of hiring, document meeting the qualifications in item A or B.

A. A program director, supervisor, counselor, or any other person who has direct resident contact must be free of chemical use problems for at least the two years immediately preceding hiring and freedom from chemical use problems must be maintained during employment.

B. Overnight staff must be free of chemical use problems for at least one year preceding their hiring and maintain freedom from chemical use problems during their employment.

9530.6565 STAFF QUALIFICATIONS.

Subp. 2. **Continuing employment requirement.** License holders must require freedom from chemical use problems as a condition of continuing employment. Staff must remain free of chemical use problems although they are not required to sign statements after the initial statement required by subpart 1, item A. Staff with chemical use problems must be immediately removed from any responsibilities that include direct client contact.