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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. **1403**

02/08/2023 Authored by Fischer and Curran
The bill was read for the first time and referred to the Committee on Human Services Policy
03/13/2023 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A bill for an act

1.2 relating to human services; modifying and establishing laws regarding aging,

1.3 disability, behavioral health, substance use disorder, and statewide opioid litigation;

1.4 amending Minnesota Statutes 2022, sections 3.757, subdivision 1; 62N.25,

1.5 subdivision 5; 62Q.1055; 62Q.47; 169A.70, subdivisions 3, 4; 245.462, subdivisions

1.6 3, 12; 245.4711, subdivisions 3, 4; 245.477; 245.4835, subdivision 2; 245.4871,

1.7 subdivisions 3, 19; 245.4873, subdivision 4; 245.4881, subdivisions 3, 4; 245.4885,

1.8 subdivision 1; 245.4887; 245.50, subdivision 5; 245A.03, subdivision 7; 245A.043,

1.9 subdivision 3; 245A.11, subdivision 7; 245A.16, subdivision 1; 245D.03,

1.10 subdivision 1; 245G.05, subdivision 2; 245G.22, subdivision 2; 246.0135; 254A.03,

1.11 subdivision 3; 254A.035, subdivision 2; 254A.19, subdivisions 1, 3, 4, by adding

1.12 subdivisions; 254B.01, subdivision 5, by adding subdivisions; 254B.03,

1.13 subdivisions 1, 2, 5; 254B.04, subdivisions 1, 2a, by adding subdivisions; 254B.05,

1.14 subdivisions 1a, 5; 256.01, by adding a subdivision; 256B.0911, subdivision 23;

1.15 256B.092, subdivision 10; 256B.093, subdivision 1; 256B.439, subdivisions 3c,

1.16 3d; 256B.492; 256B.493, subdivisions 2a, 4; 256D.09, subdivision 2a; 256L.03,

1.17 subdivision 2; 256L.12, subdivision 8; 256S.202, subdivision 1; 260B.157,

1.18 subdivisions 1, 3; 260C.157, subdivision 3; 260E.20, subdivision 1; 299A.299,

1.19 subdivision 1; 524.5-104; 524.5-313; Laws 2021, First Special Session chapter 7,

1.20 article 2, section 17; article 6, section 12; article 11, section 18; article 13, section

1.21 43; article 17, section 20; Laws 2022, chapter 98, article 4, section 37; repealing

1.22 Minnesota Statutes 2022, sections 169A.70, subdivision 6; 245G.22, subdivision

1.23 19; 254A.02, subdivision 8a; 254A.16, subdivision 6; 254A.19, subdivisions 1a,

1.24 2, 5; 254B.04, subdivisions 2b, 2c; 254B.041, subdivision 2; 254B.13, subdivisions

1.25 1, 2, 2a, 4, 5, 6, 7, 8; 254B.16; 256.041, subdivision 10; 256B.49, subdivision 23;

1.26 260.835, subdivision 2.

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

1.28 **ARTICLE 1**

1.29 **AGING, DISABILITY, AND BEHAVIORAL HEALTH SERVICES**

1.30 Section 1. Minnesota Statutes 2022, section 245.462, subdivision 3, is amended to read:

1.31 Subd. 3. **Case management services.** "Case management services" means activities

1.32 that are coordinated with the community support services program as defined in subdivision

2.1 6 and are designed to help adults with serious and persistent mental illness in gaining access
2.2 to needed medical, social, educational, vocational, and other necessary services as they
2.3 relate to the client's mental health needs. Case management services include developing a
2.4 functional assessment, an individual ~~assessment summary~~ community support plan, referring
2.5 and assisting the person to obtain needed mental health and other services, ensuring
2.6 coordination of services, and monitoring the delivery of services.

2.7 Sec. 2. Minnesota Statutes 2022, section 245.462, subdivision 12, is amended to read:

2.8 Subd. 12. **Individual ~~assessment summary~~ community support plan.** "Individual
2.9 ~~assessment summary~~ community support plan" means a written plan developed by a case
2.10 manager on the basis of a diagnostic assessment and functional assessment. The plan
2.11 identifies specific services needed by an adult with serious and persistent mental illness to
2.12 develop independence or improved functioning in daily living, health and medication
2.13 management, social functioning, interpersonal relationships, financial management, housing,
2.14 transportation, and employment.

2.15 Sec. 3. Minnesota Statutes 2022, section 245.4711, subdivision 3, is amended to read:

2.16 Subd. 3. **Duties of case manager.** Upon a determination of eligibility for case
2.17 management services, and if the adult consents to the services, the case manager shall
2.18 complete a written functional assessment according to section 245.462, subdivision 11a.
2.19 The case manager shall develop an individual ~~assessment summary~~ community support
2.20 plan for the adult according to subdivision 4, paragraph (a), review the adult's progress, and
2.21 monitor the provision of services. If services are to be provided in a host county that is not
2.22 the county of financial responsibility, the case manager shall consult with the host county
2.23 and obtain a letter demonstrating the concurrence of the host county regarding the provision
2.24 of services.

2.25 Sec. 4. Minnesota Statutes 2022, section 245.4711, subdivision 4, is amended to read:

2.26 Subd. 4. **Individual ~~assessment summary~~ community support plan.** (a) The case
2.27 manager must develop an individual ~~assessment summary~~ community support plan for each
2.28 adult that incorporates the client's individual treatment plan. The individual treatment plan
2.29 may not be a substitute for the development of an individual ~~assessment summary~~ community
2.30 support plan. The individual ~~assessment summary~~ community support plan must be developed
2.31 within 30 days of client intake and reviewed at least every 180 days after it is developed,
2.32 unless the case manager receives a written request from the client or the client's family for
2.33 a review of the plan every 90 days after it is developed. The case manager is responsible

3.1 for developing the individual ~~assessment summary~~ community support plan based on a
3.2 diagnostic assessment and a functional assessment and for implementing and monitoring
3.3 the delivery of services according to the individual ~~assessment summary~~ community support
3.4 plan. To the extent possible, the adult with serious and persistent mental illness, the person's
3.5 family, advocates, service providers, and significant others must be involved in all phases
3.6 of development and implementation of the individual ~~or family assessment summary~~
3.7 community support plan.

3.8 (b) The client's individual ~~assessment summary~~ community support plan must state:

3.9 (1) the goals of each service;

3.10 (2) the activities for accomplishing each goal;

3.11 (3) a schedule for each activity; and

3.12 (4) the frequency of face-to-face contacts by the case manager, as appropriate to client
3.13 need and the implementation of the individual ~~assessment summary~~ community support
3.14 plan.

3.15 Sec. 5. Minnesota Statutes 2022, section 245.477, is amended to read:

3.16 **245.477 APPEALS.**

3.17 Any adult who requests mental health services under sections 245.461 to 245.486 must
3.18 be advised of services available and the right to appeal at the time of the request and each
3.19 time the individual ~~assessment summary~~ community support plan or individual treatment
3.20 plan is reviewed. Any adult whose request for mental health services under sections 245.461
3.21 to 245.486 is denied, not acted upon with reasonable promptness, or whose services are
3.22 suspended, reduced, or terminated by action or inaction for which the county board is
3.23 responsible under sections 245.461 to 245.486 may contest that action or inaction before
3.24 the state agency as specified in section 256.045. The commissioner shall monitor the nature
3.25 and frequency of administrative appeals under this section.

3.26 Sec. 6. Minnesota Statutes 2022, section 245.4835, subdivision 2, is amended to read:

3.27 Subd. 2. **Failure to maintain expenditures.** (a) If a county does not comply with
3.28 subdivision 1, the commissioner shall require the county to develop a corrective action plan
3.29 according to a format and timeline established by the commissioner. If the commissioner
3.30 determines that a county has not developed an acceptable corrective action plan within the
3.31 required timeline, or that the county is not in compliance with an approved corrective action
3.32 plan, the protections provided to that county under section 245.485 do not apply.

4.1 (b) The commissioner shall consider the following factors to determine whether to
4.2 approve a county's corrective action plan:

4.3 (1) the degree to which a county is maximizing revenues for mental health services from
4.4 noncounty sources;

4.5 (2) the degree to which a county is expanding use of alternative services that meet mental
4.6 health needs, but do not count as mental health services within existing reporting systems.
4.7 If approved by the commissioner, the alternative services must be included in the county's
4.8 base as well as subsequent years. The commissioner's approval for alternative services must
4.9 be based on the following criteria:

4.10 (i) the service must be provided to children with emotional disturbance or adults with
4.11 mental illness;

4.12 (ii) the services must be based on an individual treatment plan or individual ~~assessment~~
4.13 ~~summary~~ community support plan as defined in the Comprehensive Mental Health Act;
4.14 and

4.15 (iii) the services must be supervised by a mental health professional and provided by
4.16 staff who meet the staff qualifications defined in sections 256B.0943, subdivision 7, and
4.17 256B.0623, subdivision 5.

4.18 (c) Additional county expenditures to make up for the prior year's underspending may
4.19 be spread out over a two-year period.

4.20 Sec. 7. Minnesota Statutes 2022, section 245.4871, subdivision 3, is amended to read:

4.21 Subd. 3. **Case management services.** "Case management services" means activities
4.22 that are coordinated with the family community support services and are designed to help
4.23 the child with severe emotional disturbance and the child's family obtain needed mental
4.24 health services, social services, educational services, health services, vocational services,
4.25 recreational services, and related services in the areas of volunteer services, advocacy,
4.26 transportation, and legal services. Case management services include assisting in obtaining
4.27 a comprehensive diagnostic assessment, developing an individual family ~~assessment summary~~
4.28 community support plan, and assisting the child and the child's family in obtaining needed
4.29 services by coordination with other agencies and assuring continuity of care. Case managers
4.30 must assess and reassess the delivery, appropriateness, and effectiveness of services over
4.31 time.

5.1 Sec. 8. Minnesota Statutes 2022, section 245.4871, subdivision 19, is amended to read:

5.2 Subd. 19. **Individual family ~~assessment summary~~ community support**

5.3 **plan**. "Individual family ~~assessment summary~~ community support plan" means a written
5.4 plan developed by a case manager in conjunction with the family and the child with severe
5.5 emotional disturbance on the basis of a diagnostic assessment and a functional assessment.

5.6 The plan identifies specific services needed by a child and the child's family to:

5.7 (1) treat the symptoms and dysfunctions determined in the diagnostic assessment;

5.8 (2) relieve conditions leading to emotional disturbance and improve the personal
5.9 well-being of the child;

5.10 (3) improve family functioning;

5.11 (4) enhance daily living skills;

5.12 (5) improve functioning in education and recreation settings;

5.13 (6) improve interpersonal and family relationships;

5.14 (7) enhance vocational development; and

5.15 (8) assist in obtaining transportation, housing, health services, and employment.

5.16 Sec. 9. Minnesota Statutes 2022, section 245.4873, subdivision 4, is amended to read:

5.17 Subd. 4. **Individual case coordination.** The case manager designated under section
5.18 245.4881 is responsible for ongoing coordination with any other person responsible for
5.19 planning, development, and delivery of social services, education, corrections, health, or
5.20 vocational services for the individual child. The individual family ~~assessment summary~~
5.21 community support plan developed by the case manager shall reflect the coordination among
5.22 the local service system providers.

5.23 Sec. 10. Minnesota Statutes 2022, section 245.4881, subdivision 3, is amended to read:

5.24 Subd. 3. **Duties of case manager.** (a) Upon a determination of eligibility for case
5.25 management services, the case manager shall develop an individual family ~~assessment~~
5.26 ~~summary~~ community support plan for a child as specified in subdivision 4, review the child's
5.27 progress, and monitor the provision of services. If services are to be provided in a host
5.28 county that is not the county of financial responsibility, the case manager shall consult with
5.29 the host county and obtain a letter demonstrating the concurrence of the host county regarding
5.30 the provision of services.

6.1 (b) The case manager shall note in the child's record the services needed by the child
6.2 and the child's family, the services requested by the family, services that are not available,
6.3 and the unmet needs of the child and child's family. The case manager shall note this
6.4 provision in the child's record.

6.5 Sec. 11. Minnesota Statutes 2022, section 245.4881, subdivision 4, is amended to read:

6.6 Subd. 4. **Individual family ~~assessment summary~~ community support plan.** (a) For
6.7 each child, the case manager must develop an individual family ~~assessment summary~~
6.8 community support plan that incorporates the child's individual treatment plan. The individual
6.9 treatment plan may not be a substitute for the development of an individual family ~~assessment~~
6.10 ~~summary~~ community support plan. The case manager is responsible for developing the
6.11 individual family ~~assessment summary~~ community support plan within 30 days of intake
6.12 based on a diagnostic assessment and for implementing and monitoring the delivery of
6.13 services according to the individual family ~~assessment summary~~ community support plan.
6.14 The case manager must review the plan at least every 180 calendar days after it is developed,
6.15 unless the case manager has received a written request from the child's family or an advocate
6.16 for the child for a review of the plan every 90 days after it is developed. To the extent
6.17 appropriate, the child with severe emotional disturbance, the child's family, advocates,
6.18 service providers, and significant others must be involved in all phases of development and
6.19 implementation of the individual family ~~assessment summary~~ community support plan.
6.20 Notwithstanding the lack of an individual family ~~assessment summary~~ community support
6.21 plan, the case manager shall assist the child and child's family in accessing the needed
6.22 services listed in section 245.4884, subdivision 1.

6.23 (b) The child's individual family ~~assessment summary~~ community support plan must
6.24 state:

6.25 (1) the goals and expected outcomes of each service and criteria for evaluating the
6.26 effectiveness and appropriateness of the service;

6.27 (2) the activities for accomplishing each goal;

6.28 (3) a schedule for each activity; and

6.29 (4) the frequency of face-to-face contacts by the case manager, as appropriate to client
6.30 need and the implementation of the individual family ~~assessment summary~~ community
6.31 support plan.

7.1 Sec. 12. Minnesota Statutes 2022, section 245.4885, subdivision 1, is amended to read:

7.2 Subdivision 1. **Admission criteria.** (a) Prior to admission or placement, except in the
7.3 case of an emergency, all children referred for treatment of severe emotional disturbance
7.4 in a treatment foster care setting, residential treatment facility, or informally admitted to a
7.5 regional treatment center shall undergo an assessment to determine the appropriate level of
7.6 care if county funds are used to pay for the child's services. An emergency includes when
7.7 a child is in need of and has been referred for crisis stabilization services under section
7.8 245.4882, subdivision 6. A child who has been referred to residential treatment for crisis
7.9 stabilization services in a residential treatment center is not required to undergo an assessment
7.10 under this section.

7.11 (b) The county board shall determine the appropriate level of care for a child when
7.12 county-controlled funds are used to pay for the child's residential treatment under this
7.13 chapter, including residential treatment provided in a qualified residential treatment program
7.14 as defined in section 260C.007, subdivision 26d. When a county board does not have
7.15 responsibility for a child's placement and the child is enrolled in a prepaid health program
7.16 under section 256B.69, the enrolled child's contracted health plan must determine the
7.17 appropriate level of care for the child. When Indian Health Services funds or funds of a
7.18 tribally owned facility funded under the Indian Self-Determination and Education Assistance
7.19 Act, Public Law 93-638, are used for the child, the Indian Health Services or 638 tribal
7.20 health facility must determine the appropriate level of care for the child. When more than
7.21 one entity bears responsibility for a child's coverage, the entities shall coordinate level of
7.22 care determination activities for the child to the extent possible.

7.23 (c) The child's level of care determination shall determine whether the proposed treatment:

7.24 (1) is necessary;

7.25 (2) is appropriate to the child's individual treatment needs;

7.26 (3) cannot be effectively provided in the child's home; and

7.27 (4) provides a length of stay as short as possible consistent with the individual child's
7.28 needs.

7.29 (d) When a level of care determination is conducted, the county board or other entity
7.30 may not determine that a screening of a child, referral, or admission to a residential treatment
7.31 facility is not appropriate solely because services were not first provided to the child in a
7.32 less restrictive setting and the child failed to make progress toward or meet treatment goals
7.33 in the less restrictive setting. The level of care determination must be based on a diagnostic

8.1 assessment of a child that evaluates the child's family, school, and community living
8.2 situations; and an assessment of the child's need for care out of the home using a validated
8.3 tool which assesses a child's functional status and assigns an appropriate level of care to the
8.4 child. The validated tool must be approved by the commissioner of human services and
8.5 may be the validated tool approved for the child's assessment under section 260C.704 if the
8.6 juvenile treatment screening team recommended placement of the child in a qualified
8.7 residential treatment program. If a diagnostic assessment has been completed by a mental
8.8 health professional within the past 180 days, a new diagnostic assessment need not be
8.9 completed unless in the opinion of the current treating mental health professional the child's
8.10 mental health status has changed markedly since the assessment was completed. The child's
8.11 parent shall be notified if an assessment will not be completed and of the reasons. A copy
8.12 of the notice shall be placed in the child's file. Recommendations developed as part of the
8.13 level of care determination process shall include specific community services needed by
8.14 the child and, if appropriate, the child's family, and shall indicate whether these services
8.15 are available and accessible to the child and the child's family. The child and the child's
8.16 family must be invited to any meeting where the level of care determination is discussed
8.17 and decisions regarding residential treatment are made. The child and the child's family
8.18 may invite other relatives, friends, or advocates to attend these meetings.

8.19 (e) During the level of care determination process, the child, child's family, or child's
8.20 legal representative, as appropriate, must be informed of the child's eligibility for case
8.21 management services and family community support services and that an individual family
8.22 ~~assessment summary~~ community support plan is being developed by the case manager, if
8.23 assigned.

8.24 (f) The level of care determination, placement decision, and recommendations for mental
8.25 health services must be documented in the child's record and made available to the child's
8.26 family, as appropriate.

8.27 Sec. 13. Minnesota Statutes 2022, section 245.4887, is amended to read:

8.28 **245.4887 APPEALS.**

8.29 A child or a child's family, as appropriate, who requests mental health services under
8.30 sections 245.487 to 245.4889 must be advised of services available and the right to appeal
8.31 as described in this section at the time of the request and each time the individual family
8.32 ~~assessment summary~~ community support plan or individual treatment plan is reviewed. A
8.33 child whose request for mental health services under sections 245.487 to 245.4889 is denied,
8.34 not acted upon with reasonable promptness, or whose services are suspended, reduced, or

9.1 terminated by action or inaction for which the county board is responsible under sections
9.2 245.487 to 245.4889 may contest that action or inaction before the state agency according
9.3 to section 256.045. The commissioner shall monitor the nature and frequency of
9.4 administrative appeals under this section.

9.5 Sec. 14. Minnesota Statutes 2022, section 245A.03, subdivision 7, is amended to read:

9.6 Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license
9.7 for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult
9.8 foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter
9.9 for a physical location that will not be the primary residence of the license holder for the
9.10 entire period of licensure. If a family child foster care home or family adult foster care home
9.11 license is issued during this moratorium, and the license holder changes the license holder's
9.12 primary residence away from the physical location of the foster care license, the
9.13 commissioner shall revoke the license according to section 245A.07. The commissioner
9.14 shall not issue an initial license for a community residential setting licensed under chapter
9.15 245D. When approving an exception under this paragraph, the commissioner shall consider
9.16 the resource need determination process in paragraph (h), the availability of foster care
9.17 licensed beds in the geographic area in which the licensee seeks to operate, the results of a
9.18 person's choices during their annual assessment and service plan review, and the
9.19 recommendation of the local county board. The determination by the commissioner is final
9.20 and not subject to appeal. Exceptions to the moratorium include:

9.21 (1) ~~foster care settings~~ a license for a person in a foster care setting that is not the primary
9.22 residence of the license holder and where at least 80 percent of the residents are 55 years
9.23 of age or older;

9.24 (2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or
9.25 community residential setting licenses replacing adult foster care licenses in existence on
9.26 December 31, 2013, and determined to be needed by the commissioner under paragraph
9.27 (b);

9.28 (3) new foster care licenses or community residential setting licenses determined to be
9.29 needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD,
9.30 or regional treatment center; restructuring of state-operated services that limits the capacity
9.31 of state-operated facilities; or allowing movement to the community for people who no
9.32 longer require the level of care provided in state-operated facilities as provided under section
9.33 256B.092, subdivision 13, or 256B.49, subdivision 24;

10.1 (4) new foster care licenses or community residential setting licenses determined to be
10.2 needed by the commissioner under paragraph (b) for persons requiring hospital-level care;
10.3 or

10.4 (5) new foster care licenses or community residential setting licenses for people receiving
10.5 customized living or 24-hour customized living services under the brain injury or community
10.6 access for disability inclusion waiver plans under section 256B.49 and residing in the
10.7 customized living setting before July 1, 2022, for which a license is required. A customized
10.8 living service provider subject to this exception may rebut the presumption that a license
10.9 is required by seeking a reconsideration of the commissioner's determination. The
10.10 commissioner's disposition of a request for reconsideration is final and not subject to appeal
10.11 under chapter 14. The exception is available until June 30, 2023. This exception is available
10.12 when:

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

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

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

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

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

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

11.5 (e) A resource need determination process, managed at the state level, using the available
11.6 data required by section 144A.351, and other data and information shall be used to determine
11.7 where the reduced capacity determined under section 256B.493 will be implemented. The
11.8 commissioner shall consult with the stakeholders described in section 144A.351, and employ
11.9 a variety of methods to improve the state's capacity to meet the informed decisions of those
11.10 people who want to move out of corporate foster care or community residential settings,
11.11 long-term service needs within budgetary limits, including seeking proposals from service
11.12 providers or lead agencies to change service type, capacity, or location to improve services,
11.13 increase the independence of residents, and better meet needs identified by the long-term
11.14 services and supports reports and statewide data and information.

11.15 (f) At the time of application and reapplication for licensure, the applicant and the license
11.16 holder that are subject to the moratorium or an exclusion established in paragraph (a) are
11.17 required to inform the commissioner whether the physical location where the foster care
11.18 will be provided is or will be the primary residence of the license holder for the entire period
11.19 of licensure. If the primary residence of the applicant or license holder changes, the applicant
11.20 or license holder must notify the commissioner immediately. The commissioner shall print
11.21 on the foster care license certificate whether or not the physical location is the primary
11.22 residence of the license holder.

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

11.29 (h) The commissioner may adjust capacity to address needs identified in section
11.30 144A.351. Under this authority, the commissioner may approve new licensed settings or
11.31 delicense existing settings. Delicensing of settings will be accomplished through a process
11.32 identified in section 256B.493.

11.33 (i) The commissioner must notify a license holder when its corporate foster care or
11.34 community residential setting licensed beds are reduced under this section. The notice of

12.1 reduction of licensed beds must be in writing and delivered to the license holder by certified
12.2 mail or personal service. The notice must state why the licensed beds are reduced and must
12.3 inform the license holder of its right to request reconsideration by the commissioner. The
12.4 license holder's request for reconsideration must be in writing. If mailed, the request for
12.5 reconsideration must be postmarked and sent to the commissioner within 20 calendar days
12.6 after the license holder's receipt of the notice of reduction of licensed beds. If a request for
12.7 reconsideration is made by personal service, it must be received by the commissioner within
12.8 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

12.9 (j) The commissioner shall not issue an initial license for children's residential treatment
12.10 services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter
12.11 for a program that Centers for Medicare and Medicaid Services would consider an institution
12.12 for mental diseases. Facilities that serve only private pay clients are exempt from the
12.13 moratorium described in this paragraph. The commissioner has the authority to manage
12.14 existing statewide capacity for children's residential treatment services subject to the
12.15 moratorium under this paragraph and may issue an initial license for such facilities if the
12.16 initial license would not increase the statewide capacity for children's residential treatment
12.17 services subject to the moratorium under this paragraph.

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

12.19 Sec. 15. Minnesota Statutes 2022, section 245A.11, subdivision 7, is amended to read:

12.20 Subd. 7. **Adult foster care and community residential settings; variance for alternate**
12.21 **overnight supervision.** (a) The commissioner may grant a variance under section 245A.04,
12.22 subdivision 9, to statutes and rule parts requiring a caregiver to be present in an adult foster
12.23 care home or a community residential setting during normal sleeping hours to allow for
12.24 alternative methods of overnight supervision. The commissioner may grant the variance if
12.25 the local county licensing agency recommends the variance and the county recommendation
12.26 includes documentation verifying that:

12.27 (1) the county has approved the license holder's plan for alternative methods of providing
12.28 overnight supervision and determined the plan protects the residents' health, safety, and
12.29 rights;

12.30 (2) the license holder has obtained written and signed informed consent from each
12.31 resident or each resident's legal representative documenting the resident's or legal
12.32 representative's agreement with the alternative method of overnight supervision; and

13.1 (3) the alternative method of providing overnight supervision, which may include the
 13.2 use of technology, is specified for each resident in the resident's: (i) individualized plan of
 13.3 care; (ii) ~~individual service~~ support plan under section 256B.092, subdivision 1b, if required;
 13.4 or (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105,
 13.5 subpart 19, if required.

13.6 (b) To be eligible for a variance under paragraph (a), the adult foster care or community
 13.7 residential setting license holder must not have had a conditional license issued under section
 13.8 245A.06, or any other licensing sanction issued under section 245A.07 during the prior 24
 13.9 months based on failure to provide adequate supervision, health care services, or resident
 13.10 safety in the adult foster care home or community residential setting.

13.11 (c) A license holder requesting a variance under this subdivision to utilize technology
 13.12 as a component of a plan for alternative overnight supervision may request the commissioner's
 13.13 review in the absence of a county recommendation. Upon receipt of such a request from a
 13.14 license holder, the commissioner shall review the variance request with the county.

13.15 ~~(d) A variance granted by the commissioner according to this subdivision before January~~
 13.16 ~~1, 2014, to a license holder for an adult foster care home must transfer with the license when~~
 13.17 ~~the license converts to a community residential setting license under chapter 245D. The~~
 13.18 ~~terms and conditions of the variance remain in effect as approved at the time the variance~~
 13.19 ~~was granted.~~

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

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

13.22 Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private
 13.23 agencies that have been designated or licensed by the commissioner to perform licensing
 13.24 functions and activities under section 245A.04 and background studies for family child care
 13.25 under chapter 245C; to recommend denial of applicants under section 245A.05; to issue
 13.26 correction orders, to issue variances, and recommend a conditional license under section
 13.27 245A.06; or to recommend suspending or revoking a license or issuing a fine under section
 13.28 245A.07, shall comply with rules and directives of the commissioner governing those
 13.29 functions and with this section. The following variances are excluded from the delegation
 13.30 of variance authority and may be issued only by the commissioner:

13.31 (1) dual licensure of family child care and family child foster care, dual licensure of
 13.32 family child foster care and family adult foster care, dual licensure of child foster residence

14.1 setting and community residential setting, and dual licensure of family adult foster care and
14.2 family child care;

14.3 (2) adult foster care maximum capacity;

14.4 (3) adult foster care minimum age requirement;

14.5 (4) child foster care maximum age requirement;

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

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

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

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

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

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

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

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

14.28 (c) Before the implementation of NETStudy 2.0, county agencies must report information
14.29 about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision
14.30 2, paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the
14.31 commissioner at least monthly in a format prescribed by the commissioner.

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

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

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

15.6 (g) During implementation of chapter 245D, the commissioner shall consider:

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

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

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

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

15.14 (h) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or
15.15 successor provisions; and section 245D.061 or successor provisions, for family child foster
15.16 care programs providing out-of-home respite, as identified in section 245D.03, subdivision
15.17 1, paragraph (b), clause (1), is excluded from the delegation of authority to county and
15.18 private agencies.

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

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

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

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

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

15.28 Sec. 17. Minnesota Statutes 2022, section 245D.03, subdivision 1, is amended to read:

15.29 Subdivision 1. **Applicability.** (a) The commissioner shall regulate the provision of home
15.30 and community-based services to persons with disabilities and persons age 65 and older

16.1 pursuant to this chapter. The licensing standards in this chapter govern the provision of
 16.2 basic support services and intensive support services.

16.3 (b) Basic support services provide the level of assistance, supervision, and care that is
 16.4 necessary to ensure the health and welfare of the person and do not include services that
 16.5 are specifically directed toward the training, treatment, habilitation, or rehabilitation of the
 16.6 person. Basic support services include:

16.7 (1) in-home and out-of-home respite care services as defined in section 245A.02,
 16.8 subdivision 15, and under the brain injury, community alternative care, community access
 16.9 for disability inclusion, developmental disabilities, and elderly waiver plans, excluding
 16.10 out-of-home respite care provided to children in a family child foster care home licensed
 16.11 under Minnesota Rules, parts 2960.3000 to 2960.3100, when the child foster care license
 16.12 holder complies with the requirements under section 245D.06, subdivisions 5, 6, 7, and 8,
 16.13 or successor provisions; and section 245D.061 or successor provisions, which must be
 16.14 stipulated in the statement of intended use required under Minnesota Rules, part 2960.3000,
 16.15 subpart 4;

16.16 (2) adult companion services as defined under the ~~brain injury, community access for~~
 16.17 ~~disability inclusion, community alternative care, and elderly waiver plans~~ plan, excluding
 16.18 adult companion services provided under the Corporation for National and Community
 16.19 Services Senior Companion Program established under the Domestic Volunteer Service
 16.20 Act of 1973, Public Law 98-288;

16.21 ~~(3) personal support as defined under the developmental disabilities waiver plan;~~

16.22 ~~(4)~~ (3) 24-hour emergency assistance, personal emergency response as defined under
 16.23 the community access for disability inclusion and developmental disabilities waiver plans;

16.24 ~~(5)~~ (4) night supervision services as defined under the brain injury, community access
 16.25 for disability inclusion, community alternative care, and developmental disabilities waiver
 16.26 plans;

16.27 ~~(6)~~ (5) homemaker services as defined under the community access for disability
 16.28 inclusion, brain injury, community alternative care, developmental disabilities, and elderly
 16.29 waiver plans, excluding providers licensed by the Department of Health under chapter 144A
 16.30 and those providers providing cleaning services only;

16.31 ~~(7)~~ (6) individual community living support under section 256S.13; and

17.1 ~~(8)~~ (7) individualized home supports without training services as defined under the brain
 17.2 injury, community alternative care, and community access for disability inclusion, and
 17.3 developmental disabilities waiver plans.

17.4 (c) Intensive support services provide assistance, supervision, and care that is necessary
 17.5 to ensure the health and welfare of the person and services specifically directed toward the
 17.6 training, habilitation, or rehabilitation of the person. Intensive support services include:

17.7 (1) intervention services, including:

17.8 (i) positive support services as defined under the brain injury and community access for
 17.9 disability inclusion, community alternative care, and developmental disabilities waiver
 17.10 plans;

17.11 (ii) in-home or out-of-home crisis respite services as defined under the brain injury,
 17.12 community access for disability inclusion, community alternative care, and developmental
 17.13 disabilities waiver plans; and

17.14 (iii) specialist services as defined under the current brain injury, community access for
 17.15 disability inclusion, community alternative care, and developmental disabilities waiver
 17.16 plans;

17.17 (2) in-home support services, including:

17.18 ~~(i) in-home family support and supported living services as defined under the~~
 17.19 ~~developmental disabilities waiver plan;~~

17.20 ~~(ii) independent living services training as defined under the brain injury and community~~
 17.21 ~~access for disability inclusion waiver plans;~~

17.22 ~~(iii)~~ (i) semi-independent living services;

17.23 ~~(iv)~~ (ii) individualized home support with training services as defined under the brain
 17.24 injury, community alternative care, community access for disability inclusion, and
 17.25 developmental disabilities waiver plans; and

17.26 ~~(v)~~ (iii) individualized home support with family training services as defined under the
 17.27 brain injury, community alternative care, community access for disability inclusion, and
 17.28 developmental disabilities waiver plans;

17.29 (3) residential supports and services, including:

17.30 ~~(i) supported living services as defined under the developmental disabilities waiver plan~~
 17.31 ~~provided in a family or corporate child foster care residence, a family adult foster care~~
 17.32 ~~residence, a community residential setting, or a supervised living facility;~~

18.1 ~~(ii) foster care services as defined in the brain injury, community alternative care, and~~
18.2 ~~community access for disability inclusion waiver plans provided in a family or corporate~~
18.3 ~~child foster care residence, a family adult foster care residence, or a community residential~~
18.4 ~~setting;~~

18.5 ~~(iii)~~ (i) community residential services as defined under the brain injury, community
18.6 alternative care, community access for disability inclusion, and developmental disabilities
18.7 waiver plans provided in a corporate child foster care residence, a community residential
18.8 setting, or a supervised living facility;

18.9 ~~(iv)~~ (ii) family residential services as defined in the brain injury, community alternative
18.10 care, community access for disability inclusion, and developmental disabilities waiver plans
18.11 provided in a family child foster care residence or a family adult foster care residence; and

18.12 ~~(v)~~ (iii) residential services provided to more than four persons with developmental
18.13 disabilities in a supervised living facility, including ICFs/DD;

18.14 (4) day services, including:

18.15 ~~(i) structured day services as defined under the brain injury waiver plan;~~

18.16 ~~(ii)~~ (i) day services under sections 252.41 to 252.46, and as defined under the brain
18.17 injury, community alternative care, community access for disability inclusion, and
18.18 developmental disabilities waiver plans; and

18.19 ~~(iii) day training and habilitation services under sections 252.41 to 252.46, and as defined~~
18.20 ~~under the developmental disabilities waiver plan; and~~

18.21 ~~(iv)~~ (ii) prevocational services as defined under the brain injury, community alternative
18.22 care, community access for disability inclusion, and developmental disabilities waiver plans;
18.23 and

18.24 (5) employment exploration services as defined under the brain injury, community
18.25 alternative care, community access for disability inclusion, and developmental disabilities
18.26 waiver plans;

18.27 (6) employment development services as defined under the brain injury, community
18.28 alternative care, community access for disability inclusion, and developmental disabilities
18.29 waiver plans;

18.30 (7) employment support services as defined under the brain injury, community alternative
18.31 care, community access for disability inclusion, and developmental disabilities waiver plans;
18.32 and

19.1 (8) integrated community support as defined under the brain injury and community
19.2 access for disability inclusion waiver plans beginning January 1, 2021, and community
19.3 alternative care and developmental disabilities waiver plans beginning January 1, 2023.

19.4 Sec. 18. Minnesota Statutes 2022, section 246.0135, is amended to read:

19.5 **246.0135 OPERATION OF REGIONAL TREATMENT CENTERS.**

19.6 (a) The commissioner of human services is prohibited from closing any regional treatment
19.7 center or state-operated nursing home or any program at any of the regional treatment centers
19.8 or state-operated nursing homes, without specific legislative authorization. ~~For persons with~~
19.9 ~~developmental disabilities who move from one regional treatment center to another regional~~
19.10 ~~treatment center, the provisions of section 256B.092, subdivision 10, must be followed for~~
19.11 ~~both the discharge from one regional treatment center and admission to another regional~~
19.12 ~~treatment center, except that the move is not subject to the consensus requirement of section~~
19.13 ~~256B.092, subdivision 10, paragraph (b).~~

19.14 (b) Prior to closing or downsizing a regional treatment center, the commissioner of
19.15 human services shall be responsible for assuring that community-based alternatives developed
19.16 in response are adequate to meet the program needs identified by each county within the
19.17 catchment area and do not require additional local county property tax expenditures.

19.18 (c) The nonfederal share of the cost of alternative treatment or care developed as the
19.19 result of the closure of a regional treatment center, including costs associated with fulfillment
19.20 of responsibilities under chapter 253B shall be paid from state funds appropriated for
19.21 purposes specified in section 246.013.

19.22 (d) The commissioner may not divert state funds used for providing for care or treatment
19.23 of persons residing in a regional treatment center for purposes unrelated to the care and
19.24 treatment of such persons.

19.25 Sec. 19. Minnesota Statutes 2022, section 254A.035, subdivision 2, is amended to read:

19.26 Subd. 2. **Membership terms, compensation, removal and expiration.** The membership
19.27 of this council shall be composed of 17 persons who are American Indians and who are
19.28 appointed by the commissioner. The commissioner shall appoint one representative from
19.29 each of the following groups: Red Lake Band of Chippewa Indians; Fond du Lac Band,
19.30 Minnesota Chippewa Tribe; Grand Portage Band, Minnesota Chippewa Tribe; Leech Lake
19.31 Band, Minnesota Chippewa Tribe; Mille Lacs Band, Minnesota Chippewa Tribe; Bois Forte
19.32 Band, Minnesota Chippewa Tribe; White Earth Band, Minnesota Chippewa Tribe; Lower

20.1 Sioux Indian Reservation; Prairie Island Sioux Indian Reservation; Shakopee Mdewakanton
20.2 Sioux Indian Reservation; Upper Sioux Indian Reservation; International Falls Northern
20.3 Range; Duluth Urban Indian Community; and two representatives from the Minneapolis
20.4 Urban Indian Community and two from the St. Paul Urban Indian Community. The terms,
20.5 compensation, and removal of American Indian Advisory Council members shall be as
20.6 provided in section 15.059. ~~The council expires June 30, 2023.~~

20.7 Sec. 20. Minnesota Statutes 2022, section 254B.05, subdivision 1a, is amended to read:

20.8 Subd. 1a. **Room and board provider requirements.** (a) Effective January 1, 2000,
20.9 vendors of room and board are eligible for behavioral health fund payment if the vendor:

20.10 (1) has rules prohibiting residents bringing chemicals into the facility or using chemicals
20.11 while residing in the facility and provide consequences for infractions of those rules;

20.12 (2) is determined to meet applicable health and safety requirements;

20.13 (3) is not a jail or prison;

20.14 (4) is not concurrently receiving funds under chapter 256I for the recipient;

20.15 (5) admits individuals who are 18 years of age or older;

20.16 (6) is registered as a board and lodging or lodging establishment according to section
20.17 157.17;

20.18 (7) has awake staff on site ~~24 hours per day~~ whenever a client is present;

20.19 (8) has staff who are at least 18 years of age and meet the requirements of section
20.20 245G.11, subdivision 1, paragraph (b);

20.21 (9) has emergency behavioral procedures that meet the requirements of section 245G.16;

20.22 (10) meets the requirements of section 245G.08, subdivision 5, if administering
20.23 medications to clients;

20.24 (11) meets the abuse prevention requirements of section 245A.65, including a policy on
20.25 fraternization and the mandatory reporting requirements of section 626.557;

20.26 (12) documents coordination with the treatment provider to ensure compliance with
20.27 section 254B.03, subdivision 2;

20.28 (13) protects client funds and ensures freedom from exploitation by meeting the
20.29 provisions of section 245A.04, subdivision 13;

21.1 (14) has a grievance procedure that meets the requirements of section 245G.15,
21.2 subdivision 2; and

21.3 (15) has sleeping and bathroom facilities for men and women separated by a door that
21.4 is locked, has an alarm, or is supervised by awake staff.

21.5 (b) Programs licensed according to Minnesota Rules, chapter 2960, are exempt from
21.6 paragraph (a), clauses (5) to (15).

21.7 (c) Programs providing children's mental health crisis admissions and stabilization under
21.8 section 245.4882, subdivision 6, are eligible vendors of room and board.

21.9 (d) Licensed programs providing intensive residential treatment services or residential
21.10 crisis stabilization services pursuant to section 256B.0622 or 256B.0624 are eligible vendors
21.11 of room and board and are exempt from paragraph (a), clauses (6) to (15).

21.12 (e) A vendor that is not licensed as a residential treatment program must have a policy
21.13 to address staffing coverage when a client may unexpectedly need to be present at the room
21.14 and board site.

21.15 Sec. 21. Minnesota Statutes 2022, section 254B.05, subdivision 5, is amended to read:

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

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

21.19 (1) outpatient treatment services that are licensed according to sections 245G.01 to
21.20 245G.17, or applicable tribal license;

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

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

21.25 (4) peer recovery support services provided according to section 245G.07, subdivision
21.26 2, clause (8);

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

21.29 (6) substance use disorder treatment services with medications for opioid use disorder
21.30 that are licensed according to sections 245G.01 to 245G.17 and 245G.22, or applicable
21.31 tribal license;

22.1 (7) substance use disorder treatment with medications for opioid use disorder plus
22.2 enhanced treatment services that meet the requirements of clause (6) and provide nine hours
22.3 of clinical services each week;

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

22.7 (9) hospital-based treatment services that are licensed according to sections 245G.01 to
22.8 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to
22.9 144.56;

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

22.14 (11) high-intensity residential treatment services that are licensed according to sections
22.15 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide 30 hours of
22.16 clinical services each week provided by a state-operated vendor or to clients who have been
22.17 civilly committed to the commissioner, present the most complex and difficult care needs,
22.18 and are a potential threat to the community; and

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

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

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

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

22.24 (A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter
22.25 9503; or

22.26 (B) ~~meets the licensure exclusion criteria of section 245A.03, subdivision 2, paragraph~~
22.27 ~~(a), clause (6), and meets the requirements~~ is licensed under section chapter 245A and
22.28 sections 245G.01 to 245G.19, subdivision 4; or

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

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

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

- 23.1 (2) culturally specific or culturally responsive programs as defined in section 254B.01,
23.2 subdivision 4a;
- 23.3 (3) disability responsive programs as defined in section 254B.01, subdivision 4b;
- 23.4 (4) programs that offer medical services delivered by appropriately credentialed health
23.5 care staff in an amount equal to two hours per client per week if the medical needs of the
23.6 client and the nature and provision of any medical services provided are documented in the
23.7 client file; or
- 23.8 (5) programs that offer services to individuals with co-occurring mental health and
23.9 substance use disorder problems if:
- 23.10 (i) the program meets the co-occurring requirements in section 245G.20;
- 23.11 (ii) 25 percent of the counseling staff are licensed mental health professionals under
23.12 section 245I.04, subdivision 2, or are students or licensing candidates under the supervision
23.13 of a licensed alcohol and drug counselor supervisor and mental health professional under
23.14 section 245I.04, subdivision 2, except that no more than 50 percent of the mental health
23.15 staff may be students or licensing candidates with time documented to be directly related
23.16 to provisions of co-occurring services;
- 23.17 (iii) clients scoring positive on a standardized mental health screen receive a mental
23.18 health diagnostic assessment within ten days of admission;
- 23.19 (iv) the program has standards for multidisciplinary case review that include a monthly
23.20 review for each client that, at a minimum, includes a licensed mental health professional
23.21 and licensed alcohol and drug counselor, and their involvement in the review is documented;
- 23.22 (v) family education is offered that addresses mental health and substance use disorder
23.23 and the interaction between the two; and
- 23.24 (vi) co-occurring counseling staff shall receive eight hours of co-occurring disorder
23.25 training annually.
- 23.26 (d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program
23.27 that provides arrangements for off-site child care must maintain current documentation at
23.28 the substance use disorder facility of the child care provider's current licensure to provide
23.29 child care services. ~~Programs that provide child care according to paragraph (e), clause (1),
23.30 must be deemed in compliance with the licensing requirements in section 245G.19.~~

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

24.4 (f) Subject to federal approval, substance use disorder services that are otherwise covered
24.5 as direct face-to-face services may be provided via telehealth as defined in section 256B.0625,
24.6 subdivision 3b. The use of telehealth to deliver services must be medically appropriate to
24.7 the condition and needs of the person being served. Reimbursement shall be at the same
24.8 rates and under the same conditions that would otherwise apply to direct face-to-face services.

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

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

24.18 Sec. 22. Minnesota Statutes 2022, section 256.01, is amended by adding a subdivision to
24.19 read:

24.20 **Subd. 12b. Department of Human Services systemic critical incident review team. (a)**
24.21 **The commissioner may establish a Department of Human Services systemic critical incident**
24.22 **review team to review critical incidents reported as required under section 626.557 for**
24.23 **which the Department of Human Services is responsible under section 626.5572, subdivision**
24.24 **13; chapter 245D; or Minnesota Rules, chapter 9544. When reviewing a critical incident,**
24.25 **the systemic critical incident review team shall identify systemic influences to the incident**
24.26 **rather than determine the culpability of any actors involved in the incident. The systemic**
24.27 **critical incident review may assess the entire critical incident process from the point of an**
24.28 **entity reporting the critical incident through the ongoing case management process.**
24.29 **Department staff shall lead and conduct the reviews and may utilize county staff as reviewers.**
24.30 **The systemic critical incident review process may include but is not limited to:**

24.31 **(1) data collection about the incident and actors involved. Data may include the relevant**
24.32 **critical services; the service provider's policies and procedures applicable to the incident;**
24.33 **the coordinated service and support plan as defined in section 245D.02, subdivision 4b, for**

- 25.1 the person receiving services; or an interview of an actor involved in the critical incident
25.2 or the review of the critical incident. Actors may include:
- 25.3 (i) staff of the provider agency;
- 25.4 (ii) lead agency staff administering home and community-based services delivered by
25.5 the provider;
- 25.6 (iii) Department of Human Services staff with oversight of home and community-based
25.7 services;
- 25.8 (iv) Department of Health staff with oversight of home and community-based services;
- 25.9 (v) members of the community including advocates, legal representatives, health care
25.10 providers, pharmacy staff, or others with knowledge of the incident or the actors in the
25.11 incident; and
- 25.12 (vi) staff from the Office of the Ombudsman for Mental Health and Developmental
25.13 Disabilities;
- 25.14 (2) systemic mapping of the critical incident. The team conducting the systemic mapping
25.15 of the incident may include any actors identified in clause (1), designated representatives
25.16 of other provider agencies, regional teams, and representatives of the local regional quality
25.17 council identified in section 256B.097; and
- 25.18 (3) analysis of the case for systemic influences.
- 25.19 Data collected by the critical incident review team shall be aggregated and provided to
25.20 regional teams, participating regional quality councils, and the commissioner. The regional
25.21 teams and quality councils shall analyze the data and make recommendations to the
25.22 commissioner regarding systemic changes that would decrease the number and severity of
25.23 critical incidents in the future or improve the quality of the home and community-based
25.24 service system.
- 25.25 (b) Cases selected for the systemic critical incident review process shall be selected by
25.26 a selection committee among the following critical incident categories:
- 25.27 (1) cases of caregiver neglect identified in section 626.5572, subdivision 17;
- 25.28 (2) cases involving financial exploitation identified in section 626.5572, subdivision 9;
- 25.29 (3) incidents identified in section 245D.02, subdivision 11;
- 25.30 (4) behavior interventions identified in Minnesota Rules, part 9544.0110; and

26.1 (5) service terminations reported to the department in accordance with section 245D.10,
26.2 subdivision 3a.

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

26.8 (d) The proceedings and records of the review team are confidential data on individuals
26.9 or protected nonpublic data as defined in section 13.02, subdivisions 3 and 13. Data that
26.10 document a person's opinions formed as a result of the review are not subject to discovery
26.11 or introduction into evidence in a civil or criminal action against a professional, the state,
26.12 or a county agency arising out of the matters that the team is reviewing. Information,
26.13 documents, and records otherwise available from other sources are not immune from
26.14 discovery or use in a civil or criminal action solely because the information, documents,
26.15 and records were assessed or presented during proceedings of the review team. A person
26.16 who presented information before the systemic critical incident review team or who is a
26.17 member of the team shall not be prevented from testifying about matters within the person's
26.18 knowledge. In a civil or criminal proceeding, a person shall not be questioned about opinions
26.19 formed by the person as a result of the review.

26.20 (e) By October 1 of each year, the commissioner shall prepare an annual public report
26.21 containing the following information:

26.22 (1) the number of cases reviewed under each critical incident category identified in
26.23 paragraph (b) and a geographical description of where cases under each category originated;

26.24 (2) an aggregate summary of the systemic themes from the critical incidents examined
26.25 by the critical incident review team during the previous year;

26.26 (3) a synopsis of the conclusions, incident analyses, or exploratory activities taken in
26.27 regard to the critical incidents examined by the critical incident review team; and

26.28 (4) recommendations made to the commissioner regarding systemic changes that could
26.29 decrease the number and severity of critical incidents in the future or improve the quality
26.30 of the home and community-based service system.

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

27.1 Sec. 23. Minnesota Statutes 2022, section 256B.0911, subdivision 23, is amended to read:

27.2 Subd. 23. **MnCHOICES reassessments; option for alternative and self-directed**
27.3 **waiver services.** (a) At the time of reassessment, the certified assessor shall assess a person
27.4 receiving waiver residential supports and services and currently residing in a setting listed
27.5 in clauses (1) to (5) to determine if the person would prefer to be served in a
27.6 community-living setting as defined in section ~~256B.49, subdivision 23~~ 256B.492,
27.7 subdivision 1, paragraph (b), or in a setting not controlled by a provider, or to receive
27.8 integrated community supports as described in section 245D.03, subdivision 1, paragraph
27.9 (c), clause (8). The certified assessor shall offer the person through a person-centered
27.10 planning process the option to receive alternative housing and service options. This paragraph
27.11 applies to those currently residing in a:

27.12 (1) community residential setting;

27.13 (2) licensed adult foster care home that is either not the primary residence of the license
27.14 holder or in which the license holder is not the primary caregiver;

27.15 (3) family adult foster care residence;

27.16 (4) customized living setting; or

27.17 (5) supervised living facility.

27.18 (b) At the time of reassessment, the certified assessor shall assess each person receiving
27.19 waiver day services to determine if that person would prefer to receive employment services
27.20 as described in section 245D.03, subdivision 1, paragraph (c), clauses (5) to (7). The certified
27.21 assessor shall describe to the person through a person-centered planning process the option
27.22 to receive employment services.

27.23 (c) At the time of reassessment, the certified assessor shall assess each person receiving
27.24 non-self-directed waiver services to determine if that person would prefer an available
27.25 service and setting option that would permit self-directed services and supports. The certified
27.26 assessor shall describe to the person through a person-centered planning process the option
27.27 to receive self-directed services and supports.

27.28 **EFFECTIVE DATE.** This section is effective upon federal approval. The commissioner
27.29 of human services shall notify the revisor of statutes when federal approval is obtained.

27.30 Sec. 24. Minnesota Statutes 2022, section 256B.092, subdivision 10, is amended to read:

27.31 Subd. 10. **Admission of persons to and discharge of persons from regional treatment**
27.32 **centers.** (a) Prior to the admission of a person to a regional treatment center program for

28.1 persons with developmental disabilities, the case manager shall make efforts to secure
28.2 community-based alternatives. If these alternatives are rejected by the person, the person's
28.3 legal guardian or conservator, or the county agency in favor of a regional treatment center
28.4 placement, the case manager shall document the reasons why the alternatives were rejected.

28.5 ~~(b) When discharge of a person from a regional treatment center to a community-based~~
28.6 ~~service is proposed, the case manager shall convene the screening team and in addition to~~
28.7 ~~members of the team identified in subdivision 7, the case manager shall invite to the meeting~~
28.8 ~~the person's parents and near relatives, and the ombudsman established under section 245.92~~
28.9 ~~if the person is under public guardianship. The meeting shall be convened at a time and~~
28.10 ~~place that allows for participation of all team members and invited individuals who choose~~
28.11 ~~to attend. The notice of the meeting shall inform the person's parents and near relatives~~
28.12 ~~about the screening team process, and their right to request a review if they object to the~~
28.13 ~~discharge, and shall provide the names and functions of advocacy organizations, and~~
28.14 ~~information relating to assistance available to individuals interested in establishing private~~
28.15 ~~guardianships under the provisions of section 252A.03. The screening team meeting shall~~
28.16 ~~be conducted according to subdivisions 7 and 8. Discharge of the person shall not go forward~~
28.17 ~~without consensus of the screening team.~~

28.18 ~~(c) The results of the screening team meeting and individual service plan developed~~
28.19 ~~according to subdivision 1b shall be used by the interdisciplinary team assembled in~~
28.20 ~~accordance with Code of Federal Regulations, title 42, section 483.440, to evaluate and~~
28.21 ~~make recommended modifications to the individual service plan as proposed. The individual~~
28.22 ~~service plan shall specify postplacement monitoring to be done by the case manager according~~
28.23 ~~to section 253B.15, subdivision 1a.~~

28.24 ~~(d) Notice of the meeting of the interdisciplinary team assembled in accordance with~~
28.25 ~~Code of Federal Regulations, title 42, section 483.440, shall be sent to all team members~~
28.26 ~~15 days prior to the meeting, along with a copy of the proposed individual service plan. The~~
28.27 ~~case manager shall request that proposed providers visit the person and observe the person's~~
28.28 ~~program at the regional treatment center prior to the discharge. Whenever possible,~~
28.29 ~~preplacement visits by the person to proposed service sites should also be scheduled in~~
28.30 ~~advance of the meeting. Members of the interdisciplinary team assembled for the purpose~~
28.31 ~~of discharge planning shall include but not be limited to the case manager, the person, the~~
28.32 ~~person's legal guardian or conservator, parents and near relatives, the person's advocate,~~
28.33 ~~representatives of proposed community service providers, representatives of the regional~~
28.34 ~~treatment center residential and training and habilitation services, a registered nurse if the~~
28.35 ~~person has overriding medical needs that impact the delivery of services, and a qualified~~

29.1 ~~developmental disability professional specializing in behavior management if the person~~
29.2 ~~to be discharged has behaviors that may result in injury to self or others. The case manager~~
29.3 ~~may also invite other service providers who have expertise in an area related to specific~~
29.4 ~~service needs of the person to be discharged.~~

29.5 ~~(e) The interdisciplinary team shall review the proposed plan to assure that it identifies~~
29.6 ~~service needs, availability of services, including support services, and the proposed providers'~~
29.7 ~~abilities to meet the service needs identified in the person's individual service plan. The~~
29.8 ~~interdisciplinary team shall review the most recent licensing reports of the proposed providers~~
29.9 ~~and corrective action taken by the proposed provider, if required. The interdisciplinary team~~
29.10 ~~shall review the current individual program plans for the person and agree to an interim~~
29.11 ~~individual program plan to be followed for the first 30 days in the person's new living~~
29.12 ~~arrangement. The interdisciplinary team may suggest revisions to the service plan, and all~~
29.13 ~~team suggestions shall be documented. If the person is to be discharged to a community~~
29.14 ~~intermediate care facility for persons with developmental disabilities, the team shall give~~
29.15 ~~preference to facilities with a licensed capacity of 15 or fewer beds. Thirty days prior to the~~
29.16 ~~date of discharge, the case manager shall send a final copy of the service plan to all invited~~
29.17 ~~members of the team, the ombudsman, if the person is under public guardianship, and the~~
29.18 ~~advocacy system established under United States Code, title 42, section 6042.~~

29.19 (b) Assessment and support planning must be completed in accordance with requirements
29.20 identified in section 256B.0911.

29.21 ~~(f) (c) No discharge shall take place until disputes are resolved under section 256.045,~~
29.22 ~~subdivision 4a, or until a review by the commissioner is completed upon request of the chief~~
29.23 ~~executive officer or program director of the regional treatment center, or the county agency.~~
29.24 ~~For persons under public guardianship, the ombudsman may request a review or hearing~~
29.25 ~~under section 256.045. Notification schedules required under this subdivision may be waived~~
29.26 ~~by members of the team when judged urgent and with agreement of the parents or near~~
29.27 ~~relatives participating as members of the interdisciplinary team.~~

29.28 Sec. 25. Minnesota Statutes 2022, section 256B.093, subdivision 1, is amended to read:

29.29 Subdivision 1. **State traumatic brain injury program.** (a) The commissioner of human
29.30 services shall:

29.31 (1) maintain a statewide traumatic brain injury program;

29.32 (2) supervise and coordinate services and policies for persons with traumatic brain
29.33 injuries;

30.1 (3) contract with qualified agencies or employ staff to provide statewide administrative
30.2 case management and consultation;

30.3 (4) maintain an advisory committee to provide recommendations in reports to the
30.4 commissioner regarding program and service needs of persons with brain injuries;

30.5 (5) investigate the need for the development of rules or statutes for the brain injury home
30.6 and community-based services waiver; and

30.7 (6) investigate present and potential models of service coordination which can be
30.8 delivered at the local level.

30.9 (b) The advisory committee required by paragraph (a), clause (4), must consist of no
30.10 fewer than ten members and no more than 30 members. The commissioner shall appoint
30.11 all advisory committee members to one- or two-year terms and appoint one member as
30.12 chair. ~~The advisory committee expires on June 30, 2023.~~

30.13 Sec. 26. Minnesota Statutes 2022, section 256B.439, subdivision 3c, is amended to read:

30.14 Subd. 3c. **Contact and demographic information for consumer surveys for home**
30.15 **and community-based services.** For purposes of conducting the consumer surveys under
30.16 subdivision 3a, the commissioner may request contact information of clients and associated
30.17 key representatives and aggregate, de-identified demographic information of clients served
30.18 by the provider. The commissioner may request the following demographic information:
30.19 (1) age; (2) race; (3) ethnicity; and (4) gender identity. Providers must furnish the contact
30.20 and demographic information available to the provider and must provide notice to clients
30.21 and associated key representatives that their contact information and aggregate demographic
30.22 information has been provided to the commissioner.

30.23 Sec. 27. Minnesota Statutes 2022, section 256B.439, subdivision 3d, is amended to read:

30.24 Subd. 3d. **Resident experience survey and family survey for assisted living**
30.25 **facilities.** The commissioner shall develop and administer a resident experience survey for
30.26 assisted living facility residents and a family survey for families of assisted living facility
30.27 residents. Money appropriated to the commissioner to administer the resident experience
30.28 survey and family survey is available in either fiscal year of the biennium in which it is
30.29 appropriated. Assisted living facilities licensed under chapter 144G must participate in the
30.30 surveys when the commissioner requests their participation.

31.1 Sec. 28. Minnesota Statutes 2022, section 256B.492, is amended to read:

31.2 **256B.492 HOME AND COMMUNITY-BASED SETTINGS FOR PEOPLE WITH**
31.3 **DISABILITIES.**

31.4 Subdivision 1. Definitions. (a) For the purposes of this section the following terms have
31.5 the meanings given.

31.6 (b) "Community-living setting" means a single-family home or multifamily dwelling
31.7 unit where a service recipient or a service recipient's family owns or rents and maintains
31.8 control over the individual unit as demonstrated by a lease agreement. Community-living
31.9 setting does not include a home or dwelling unit that the service provider owns, operates,
31.10 or leases or in which the service provider has a direct or indirect financial interest.

31.11 (c) "Controlling individual" has the meaning given in section 245A.02, subdivision 5a.

31.12 (d) "License holder" has the meaning given in section 245A.02, subdivision 9.

31.13 Subd. 2. Home and community-based waiver settings. (a) Individuals receiving services
31.14 under a home and community-based waiver under section 256B.092 or 256B.49 may receive
31.15 services in the following settings:

31.16 (1) home and community-based settings that comply with all requirements identified by
31.17 the federal Centers for Medicare and Medicaid Services in the Code of Federal Regulations,
31.18 title 42, section 441.301(c), and with the requirements of the federally approved transition
31.19 plan and waiver plans for each home and community-based services waiver; and

31.20 (2) settings required by the Housing Opportunities for Persons with AIDS Program.

31.21 (b) The settings in paragraph (a) must not have the qualities of an institution which
31.22 include, but are not limited to: regimented meal and sleep times, limitations on visitors, and
31.23 lack of privacy. Restrictions agreed to and documented in the person's individual service
31.24 plan shall not result in a residence having the qualities of an institution as long as the
31.25 restrictions for the person are not imposed upon others in the same residence and are the
31.26 least restrictive alternative, imposed for the shortest possible time to meet the person's needs.

31.27 Subd. 3. Community-living settings. (a) Individuals receiving services under a home
31.28 and community-based waiver under section 256B.092 or 256B.49 may receive services in
31.29 community-living settings. Community-living settings must meet the requirements of
31.30 subdivision 2, paragraph (a), clause (1).

31.31 (b) For the purposes of this section, direct financial interest exists if payment passes
31.32 between the license holder or any controlling individual of a licensed program and the

32.1 service recipient or an entity acting on the service recipient's behalf for the purpose of
32.2 obtaining or maintaining a dwelling. For the purposes of this section, indirect financial
32.3 interest exists if the license holder or any controlling individual of a licensed program has
32.4 an ownership or investment interest in the entity that owns, operates, leases, or otherwise
32.5 receives payment from the service recipient or an entity acting on the service recipient's
32.6 behalf for the purpose of obtaining or maintaining a dwelling.

32.7 (c) To ensure a service recipient or the service recipient's family maintains control over
32.8 the home or dwelling unit, community-living settings are subject to the following
32.9 requirements:

32.10 (1) service recipients must not be required to receive services or share services;

32.11 (2) service recipients must not be required to have a disability or specific diagnosis to
32.12 live in the community-living setting;

32.13 (3) service recipients may hire service providers of their choice;

32.14 (4) service recipients may choose whether to share their household and with whom;

32.15 (5) the home or multifamily dwelling unit must include living, sleeping, bathing, and
32.16 cooking areas;

32.17 (6) service recipients must have lockable access and egress;

32.18 (7) service recipients must be free to receive visitors and leave the settings at times and
32.19 for durations of their own choosing;

32.20 (8) leases must comply with chapter 504B;

32.21 (9) landlords must not charge different rents to tenants who are receiving home and
32.22 community-based services; and

32.23 (10) access to the greater community must be easily facilitated based on the service
32.24 recipient's needs and preferences.

32.25 (d) Nothing in this section prohibits a service recipient from having another person or
32.26 entity not affiliated with the service provider cosign a lease. Nothing in this section prohibits
32.27 a service recipient, during any period in which a service provider has cosigned the service
32.28 recipient's lease, from modifying services with an existing cosigning service provider and,
32.29 subject to the approval of the landlord, maintaining a lease cosigned by the service provider.
32.30 Nothing in this section prohibits a service recipient, during any period in which a service
32.31 provider has cosigned the service recipient's lease, from terminating services with the

33.1 cosigning service provider, receiving services from a new service provider, or, subject to
33.2 the approval of the landlord, maintaining a lease cosigned by the new service provider.

33.3 (e) A lease cosigned by a service provider meets the requirements of paragraph (b) if
33.4 the service recipient and service provider develop and implement a transition plan which
33.5 must provide that, within two years of cosigning the initial lease, the service provider shall
33.6 transfer the lease to the service recipient and other cosigners, if any.

33.7 (f) In the event the landlord has not approved the transfer of the lease within two years
33.8 of the service provider cosigning the initial lease, the service provider must submit a
33.9 time-limited extension request to the commissioner of human services to continue the
33.10 cosigned lease arrangement. The extension request must include:

33.11 (1) the reason the landlord denied the transfer;

33.12 (2) the plan to overcome the denial to transfer the lease;

33.13 (3) the length of time needed to successfully transfer the lease, not to exceed an additional
33.14 two years;

33.15 (4) a description of how the transition plan was followed, what occurred that led to the
33.16 landlord denying the transfer, and what changes in circumstances or condition, if any, the
33.17 service recipient experienced; and

33.18 (5) a revised transition plan to transfer the cosigned lease between the service provider
33.19 and the service recipient to the service recipient.

33.20 (g) The commissioner must approve an extension under paragraph (f) within sufficient
33.21 time to ensure the continued occupancy by the service recipient.

33.22 **EFFECTIVE DATE.** This section is effective upon federal approval. The commissioner
33.23 of human services shall notify the revisor of statutes when federal approval is obtained.

33.24 Sec. 29. Minnesota Statutes 2022, section 256B.493, subdivision 2a, is amended to read:

33.25 Subd. 2a. **Closure process.** (a) The commissioner shall work with stakeholders to
33.26 establish a process for the application, review, approval, and implementation of setting
33.27 closures. Voluntary proposals from license holders for consolidation and closure of adult
33.28 foster care or community residential settings are encouraged. Whether voluntary or
33.29 involuntary, all closure plans must include:

33.30 (1) a description of the proposed closure plan, identifying the home or homes and
33.31 occupied beds;

34.1 (2) the proposed timetable for the proposed closure, including the proposed dates for
34.2 notification to people living there and the affected lead agencies, commencement of closure,
34.3 and completion of closure;

34.4 (3) the proposed relocation plan jointly developed by the counties of financial
34.5 responsibility, the people living there and their legal representatives, if any, who wish to
34.6 continue to receive services from the provider, and the providers for current residents of
34.7 any adult foster care home designated for closure; and

34.8 (4) documentation from the provider in a format approved by the commissioner that all
34.9 the adult foster care homes or community residential settings receiving a planned closure
34.10 rate adjustment under the plan have accepted joint and severable for recovery of
34.11 overpayments under section 256B.0641, subdivision 2, for the facilities designated for
34.12 closure under this plan.

34.13 (b) The commissioner shall give first priority to closure plans which:

34.14 (1) target counties and geographic areas which have:

34.15 (i) need for other types of services;

34.16 (ii) need for specialized services;

34.17 (iii) higher than average per capita use of licensed corporate foster care or community
34.18 residential settings; or

34.19 (iv) residents not living in the geographic area of their choice;

34.20 (2) demonstrate savings of medical assistance expenditures; and

34.21 (3) demonstrate that alternative services are based on the recipient's choice of provider
34.22 and are consistent with federal law, state law, and federally approved waiver plans.

34.23 The commissioner shall also consider any information provided by people using services,
34.24 their legal representatives, family members, or the lead agency on the impact of the planned
34.25 closure on people and the services they need.

34.26 ~~(c) For each closure plan approved by the commissioner, a contract must be established~~
34.27 ~~between the commissioner, the counties of financial responsibility, and the participating~~
34.28 ~~license holder.~~

34.29 Sec. 30. Minnesota Statutes 2022, section 256B.493, subdivision 4, is amended to read:

34.30 Subd. 4. **Review and approval process.** (a) To be considered for approval, an application
34.31 must include:

35.1 (1) a description of the proposed closure plan, which must identify the home or homes
35.2 and occupied beds for which a planned closure rate adjustment is requested;

35.3 (2) the proposed timetable for any proposed closure, including the proposed dates for
35.4 notification to residents and the affected lead agencies, commencement of closure, and
35.5 completion of closure;

35.6 (3) the proposed relocation plan jointly developed by the counties of financial
35.7 responsibility, the residents and their legal representatives, if any, who wish to continue to
35.8 receive services from the provider, and the providers for current residents of any adult foster
35.9 care home designated for closure; and

35.10 (4) documentation in a format approved by the commissioner that all the adult foster
35.11 care homes receiving a planned closure rate adjustment under the plan have accepted joint
35.12 and several liability for recovery of overpayments under section 256B.0641, subdivision 2,
35.13 for the facilities designated for closure under this plan.

35.14 (b) In reviewing and approving closure proposals, the commissioner shall give first
35.15 priority to proposals that:

35.16 (1) target counties and geographic areas which have:

35.17 (i) need for other types of services;

35.18 (ii) need for specialized services;

35.19 (iii) higher than average per capita use of foster care settings where the license holder
35.20 does not reside; or

35.21 (iv) residents not living in the geographic area of their choice;

35.22 (2) demonstrate savings of medical assistance expenditures; and

35.23 (3) demonstrate that alternative services are based on the recipient's choice of provider
35.24 and are consistent with federal law, state law, and federally approved waiver plans.

35.25 The commissioner shall also consider any information provided by service recipients,
35.26 their legal representatives, family members, or the lead agency on the impact of the planned
35.27 closure on the recipients and the services they need.

35.28 (c) The commissioner shall select proposals that best meet the criteria established in this
35.29 subdivision for planned closure of adult foster care settings. The commissioner shall notify
35.30 license holders of the selections approved by the commissioner.

36.1 ~~(d) For each proposal approved by the commissioner, a contract must be established~~
36.2 ~~between the commissioner, the counties of financial responsibility, and the participating~~
36.3 ~~license holder.~~

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

36.5 Sec. 31. Minnesota Statutes 2022, section 256S.202, subdivision 1, is amended to read:

36.6 Subdivision 1. **Customized living monthly service rate limits.** (a) Except for a
36.7 participant assigned to case mix classification L, as described in section 256S.18, subdivision
36.8 1, paragraph (b), the customized living monthly service rate limit shall not exceed 50 percent
36.9 of the monthly case mix budget cap, ~~less the maintenance needs allowance~~, adjusted at least
36.10 annually in the manner described under section 256S.18, subdivisions 5 and 6.

36.11 (b) The customized living monthly service rate limit for participants assigned to case
36.12 mix classification L must be the monthly service rate limit for participants assigned to case
36.13 mix classification A, reduced by 25 percent.

36.14 Sec. 32. Minnesota Statutes 2022, section 524.5-104, is amended to read:

36.15 **524.5-104 FACILITY OF TRANSFER.**

36.16 (a) A person who may transfer money or personal property to a minor may do so, as to
36.17 an amount or value not exceeding the amount allowable as a tax exclusion gift under section
36.18 2503(b) of the Internal Revenue Code or a different amount that is approved by the court,
36.19 by transferring it to:

36.20 (1) a person who has the care and custody of the minor and with whom the minor resides;

36.21 (2) a guardian of the minor;

36.22 (3) a custodian under the Uniform Transfers To Minors Act or custodial trustee under
36.23 the Uniform Custodial Trust Act;

36.24 (4) a financial institution as a deposit in an interest-bearing account or certificate in the
36.25 sole name of the minor and giving notice of the deposit to the minor; or

36.26 (5) an ABLE account. A guardian only has the authority to establish an ABLE account.
36.27 The guardian may not administer the ABLE account in the guardian's capacity as guardian.
36.28 The guardian may appoint or name a person to exercise signature authority over an ABLE
36.29 account, including the individual selected by the eligible individual or the eligible individual's
36.30 agent under a power of attorney, conservator, spouse, parent, sibling, grandparent, or

37.1 representative payee, whether an individual or organization, appointed by the Social Security
37.2 Administration, in that order.

37.3 (b) This section does not apply if the person making payment or delivery knows that a
37.4 conservator has been appointed or that a proceeding for appointment of a conservator of
37.5 the minor is pending.

37.6 (c) A person who transfers money or property in compliance with this section is not
37.7 responsible for its proper application.

37.8 (d) A guardian or other person who receives money or property for a minor under
37.9 paragraph (a), clause (1) or (2), may only apply it to the support, care, education, health,
37.10 and welfare of the minor, and may not derive a personal financial benefit except for
37.11 reimbursement for necessary expenses. Any excess must be preserved for the future support,
37.12 care, education, health, and welfare of the minor and any balance must be transferred to the
37.13 minor upon emancipation or attaining majority.

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

37.15 Sec. 33. Minnesota Statutes 2022, section 524.5-313, is amended to read:

37.16 **524.5-313 POWERS AND DUTIES OF GUARDIAN.**

37.17 (a) A guardian shall be subject to the control and direction of the court at all times and
37.18 in all things.

37.19 (b) The court shall grant to a guardian only those powers necessary to provide for the
37.20 demonstrated needs of the person subject to guardianship.

37.21 (c) The court may appoint a guardian if it determines that all the powers and duties listed
37.22 in this section are needed to provide for the needs of the incapacitated person. The court
37.23 may also appoint a guardian if it determines that a guardian is needed to provide for the
37.24 needs of the incapacitated person through the exercise of some, but not all, of the powers
37.25 and duties listed in this section. The duties and powers of a guardian or those which the
37.26 court may grant to a guardian include, but are not limited to:

37.27 (1) the power to have custody of the person subject to guardianship and the power to
37.28 establish a place of abode within or outside the state, except as otherwise provided in this
37.29 clause. The person subject to guardianship or any interested person may petition the court
37.30 to prevent or to initiate a change in abode. A person subject to guardianship may not be
37.31 admitted to a regional treatment center by the guardian except:

37.32 (i) after a hearing under chapter 253B;

38.1 (ii) for outpatient services; or

38.2 (iii) for the purpose of receiving temporary care for a specific period of time not to
38.3 exceed 90 days in any calendar year;

38.4 (2) the duty to provide for the care, comfort, and maintenance needs of the person subject
38.5 to guardianship, including food, clothing, shelter, health care, social and recreational
38.6 requirements, and, whenever appropriate, training, education, and habilitation or
38.7 rehabilitation. The guardian has no duty to pay for these requirements out of personal funds.
38.8 Whenever possible and appropriate, the guardian should meet these requirements through
38.9 governmental benefits or services to which the person subject to guardianship is entitled,
38.10 rather than from the estate of the person subject to guardianship. Failure to satisfy the needs
38.11 and requirements of this clause shall be grounds for removal of a private guardian, but the
38.12 guardian shall have no personal or monetary liability;

38.13 (3) the duty to take reasonable care of the clothing, furniture, vehicles, and other personal
38.14 effects of the person subject to guardianship, and, if other property requires protection, the
38.15 power to seek appointment of a conservator of the estate. The guardian must give notice by
38.16 mail to interested persons prior to the disposition of the clothing, furniture, vehicles, or
38.17 other personal effects of the person subject to guardianship. The notice must inform the
38.18 person of the right to object to the disposition of the property within ten days of the date of
38.19 mailing and to petition the court for a review of the guardian's proposed actions. Notice of
38.20 the objection must be served by mail or personal service on the guardian and the person
38.21 subject to guardianship unless the person subject to guardianship is the objector. The guardian
38.22 served with notice of an objection to the disposition of the property may not dispose of the
38.23 property unless the court approves the disposition after a hearing;

38.24 (4)(i) the power to give any necessary consent to enable the person subject to guardianship
38.25 to receive necessary medical or other professional care, counsel, treatment, or service, except
38.26 that no guardian may give consent for psychosurgery, electroshock, sterilization, or
38.27 experimental treatment of any kind unless the procedure is first approved by order of the
38.28 court as provided in this clause. The guardian shall not consent to any medical care for the
38.29 person subject to guardianship which violates the known conscientious, religious, or moral
38.30 belief of the person subject to guardianship;

38.31 (ii) a guardian who believes a procedure described in item (i) requiring prior court
38.32 approval to be necessary for the proper care of the person subject to guardianship, shall
38.33 petition the court for an order and, in the case of a public guardianship under chapter 252A,
38.34 obtain the written recommendation of the commissioner of human services. The court shall

39.1 fix the time and place for the hearing and shall give notice to the person subject to
39.2 guardianship in such manner as specified in section 524.5-308 and to interested persons.
39.3 The court shall appoint an attorney to represent the person subject to guardianship who is
39.4 not represented by counsel, provided that such appointment shall expire upon the expiration
39.5 of the appeal time for the order issued by the court under this section or the order dismissing
39.6 a petition, or upon such other time or event as the court may direct. In every case the court
39.7 shall determine if the procedure is in the best interest of the person subject to guardianship.
39.8 In making its determination, the court shall consider a written medical report which
39.9 specifically considers the medical risks of the procedure, whether alternative, less restrictive
39.10 methods of treatment could be used to protect the best interest of the person subject to
39.11 guardianship, and any recommendation of the commissioner of human services for a public
39.12 person subject to guardianship. The standard of proof is that of clear and convincing evidence;

39.13 (iii) in the case of a petition for sterilization of a person with developmental disabilities
39.14 subject to guardianship, the court shall appoint a licensed physician, a psychologist who is
39.15 qualified in the diagnosis and treatment of developmental disability, and a social worker
39.16 who is familiar with the social history and adjustment of the person subject to guardianship
39.17 or the case manager for the person subject to guardianship to examine or evaluate the person
39.18 subject to guardianship and to provide written reports to the court. The reports shall indicate
39.19 why sterilization is being proposed, whether sterilization is necessary and is the least intrusive
39.20 method for alleviating the problem presented, and whether it is in the best interest of the
39.21 person subject to guardianship. The medical report shall specifically consider the medical
39.22 risks of sterilization, the consequences of not performing the sterilization, and whether
39.23 alternative methods of contraception could be used to protect the best interest of the person
39.24 subject to guardianship;

39.25 (iv) any person subject to guardianship whose right to consent to a sterilization has not
39.26 been restricted under this section or section 252A.101 may be sterilized only if the person
39.27 subject to guardianship consents in writing or there is a sworn acknowledgment by an
39.28 interested person of a nonwritten consent by the person subject to guardianship. The consent
39.29 must certify that the person subject to guardianship has received a full explanation from a
39.30 physician or registered nurse of the nature and irreversible consequences of the sterilization;

39.31 (v) a guardian or the public guardian's designee who acts within the scope of authority
39.32 conferred by letters of guardianship under section 252A.101, subdivision 7, and according
39.33 to the standards established in this chapter or in chapter 252A shall not be civilly or criminally
39.34 liable for the provision of any necessary medical care, including, but not limited to, the

40.1 administration of psychotropic medication or the implementation of aversive and deprivation
40.2 procedures to which the guardian or the public guardian's designee has consented;

40.3 (5) in the event there is no duly appointed conservator of the estate of the person subject
40.4 to guardianship, the guardian shall have the power to approve or withhold approval of any
40.5 contract, except for necessities, which the person subject to guardianship may make or wish
40.6 to make;

40.7 (6) the duty and power to exercise supervisory authority over the person subject to
40.8 guardianship in a manner which limits civil rights and restricts personal freedom only to
40.9 the extent necessary to provide needed care and services. A guardian may not restrict the
40.10 ability of the person subject to guardianship to communicate, visit, or interact with others,
40.11 including receiving visitors or making or receiving telephone calls, personal mail, or
40.12 electronic communications including through social media, or participating in social activities,
40.13 unless the guardian has good cause to believe restriction is necessary because interaction
40.14 with the person poses a risk of significant physical, psychological, or financial harm to the
40.15 person subject to guardianship, and there is no other means to avoid such significant harm.
40.16 In all cases, the guardian shall provide written notice of the restrictions imposed to the court,
40.17 to the person subject to guardianship, and to the person subject to restrictions. The person
40.18 subject to guardianship or the person subject to restrictions may petition the court to remove
40.19 or modify the restrictions;

40.20 (7) if there is no acting conservator of the estate for the person subject to guardianship,
40.21 the guardian has the power to apply on behalf of the person subject to guardianship for any
40.22 assistance, services, or benefits available to the person subject to guardianship through any
40.23 unit of government;

40.24 (8) unless otherwise ordered by the court, the person subject to guardianship retains the
40.25 right to vote;

40.26 (9) the power to establish an ABLE account for a person subject to guardianship or
40.27 conservatorship. By this provision a guardian only has the authority to establish an ABLE
40.28 account, but may not administer the ABLE account in the guardian's capacity as guardian.
40.29 The guardian may appoint or name a person to exercise signature authority over an ABLE
40.30 account, including the individual selected by the eligible individual or the eligible individual's
40.31 agent under a power of attorney; conservator; spouse; parent; sibling; grandparent; or
40.32 representative payee, whether an individual or organization, appointed by the SSA, in that
40.33 order; and

41.1 (10) if there is no conservator appointed for the person subject to guardianship, the
41.2 guardian has the duty and power to institute suit on behalf of the person subject to
41.3 guardianship and represent the person subject to guardianship in expungement proceedings,
41.4 harassment proceedings, and all civil court proceedings, including but not limited to
41.5 restraining orders, orders for protection, name changes, conciliation court, housing court,
41.6 family court, probate court, and juvenile court, provided that a guardian may not settle or
41.7 compromise any claim or debt owed to the estate without court approval.

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

41.9 Sec. 34. Laws 2021, First Special Session chapter 7, article 17, section 20, is amended to
41.10 read:

41.11 Sec. 20. **HCBS WORKFORCE DEVELOPMENT GRANT.**

41.12 **Subdivision 1. Appropriation.** (a) This act includes \$0 in fiscal year 2022 and \$5,588,000
41.13 in fiscal year 2023 to address challenges related to attracting and maintaining direct care
41.14 workers who provide home and community-based services for people with disabilities and
41.15 older adults. The general fund base included in this act for this purpose is \$5,588,000 in
41.16 fiscal year 2024 and \$0 in fiscal year 2025.

41.17 (b) At least 90 percent of funding for this provision must be directed to workers who
41.18 earn ~~200~~ 300 percent or less of the most current federal poverty level issued by the United
41.19 States Department of Health and Human Services.

41.20 (c) The commissioner must consult with stakeholders to finalize a report detailing the
41.21 final plan for use of the funds. The commissioner must publish the report by March 1, 2022,
41.22 and notify the chairs and ranking minority members of the legislative committees with
41.23 jurisdiction over health and human services policy and finance.

41.24 **Subd. 2. Public assistance eligibility.** Notwithstanding any law to the contrary, workforce
41.25 development grant money received under this section is not income, assets, or personal
41.26 property for purposes of determining eligibility or recertifying eligibility for:

41.27 (1) child care assistance programs under Minnesota Statutes, chapter 119B;

41.28 (2) general assistance, Minnesota supplemental aid, and food support under Minnesota
41.29 Statutes, chapter 256D;

41.30 (3) housing support under Minnesota Statutes, chapter 256I;

42.1 (4) Minnesota family investment program and diversionary work program under
 42.2 Minnesota Statutes, chapter 256J; and

42.3 (5) economic assistance programs under Minnesota Statutes, chapter 256P.

42.4 Subd. 3. **Medical assistance eligibility.** Notwithstanding any law to the contrary,
 42.5 workforce development grant money received under this section is not income or assets for
 42.6 the purposes of determining eligibility for medical assistance under Minnesota Statutes,
 42.7 section 256B.056, subdivision 1a, paragraph (a); 3; or 3c; or 256B.057, subdivision 3, 3a,
 42.8 or 3b.

42.9 Sec. 35. **REPEALER.**

42.10 Minnesota Statutes 2022, sections 254B.13, subdivisions 1, 2, 2a, 4, 5, 6, 7, and 8;
 42.11 254B.16; 256.041, subdivision 10; 256B.49, subdivision 23; and 260.835, subdivision 2,
 42.12 are repealed.

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

42.14 **ARTICLE 2**

42.15 **SUBSTANCE USE DISORDER DIRECT ACCESS**

42.16 Section 1. Minnesota Statutes 2022, section 62N.25, subdivision 5, is amended to read:

42.17 Subd. 5. **Benefits.** Community integrated service networks must offer the health
 42.18 maintenance organization benefit set, as defined in chapter 62D, and other laws applicable
 42.19 to entities regulated under chapter 62D. Community networks and chemical dependency
 42.20 facilities under contract with a community network shall use the assessment criteria in
 42.21 ~~Minnesota Rules, parts 9530.6600 to 9530.6655,~~ section 245G.05 when assessing enrollees
 42.22 for chemical dependency treatment.

42.23 Sec. 2. Minnesota Statutes 2022, section 62Q.1055, is amended to read:

42.24 **62Q.1055 CHEMICAL DEPENDENCY.**

42.25 All health plan companies shall use the assessment criteria in ~~Minnesota Rules, parts~~
 42.26 ~~9530.6600 to 9530.6655,~~ section 245G.05 when assessing and ~~placing~~ treating enrollees
 42.27 for chemical dependency treatment.

43.1 Sec. 3. Minnesota Statutes 2022, section 62Q.47, is amended to read:

43.2 **62Q.47 ALCOHOLISM, MENTAL HEALTH, AND CHEMICAL DEPENDENCY**
43.3 **SERVICES.**

43.4 (a) All health plans, as defined in section 62Q.01, that provide coverage for alcoholism,
43.5 mental health, or chemical dependency services, must comply with the requirements of this
43.6 section.

43.7 (b) Cost-sharing requirements and benefit or service limitations for outpatient mental
43.8 health and outpatient chemical dependency and alcoholism services, except for persons
43.9 ~~placed in seeking~~ chemical dependency services under ~~Minnesota Rules, parts 9530.6600~~
43.10 ~~to 9530.6655~~ section 245G.05, must not place a greater financial burden on the insured or
43.11 enrollee, or be more restrictive than those requirements and limitations for outpatient medical
43.12 services.

43.13 (c) Cost-sharing requirements and benefit or service limitations for inpatient hospital
43.14 mental health and inpatient hospital and residential chemical dependency and alcoholism
43.15 services, except for persons ~~placed in seeking~~ chemical dependency services under ~~Minnesota~~
43.16 ~~Rules, parts 9530.6600 to 9530.6655~~ section 245G.05, must not place a greater financial
43.17 burden on the insured or enrollee, or be more restrictive than those requirements and
43.18 limitations for inpatient hospital medical services.

43.19 (d) A health plan company must not impose an NQTL with respect to mental health and
43.20 substance use disorders in any classification of benefits unless, under the terms of the health
43.21 plan as written and in operation, any processes, strategies, evidentiary standards, or other
43.22 factors used in applying the NQTL to mental health and substance use disorders in the
43.23 classification are comparable to, and are applied no more stringently than, the processes,
43.24 strategies, evidentiary standards, or other factors used in applying the NQTL with respect
43.25 to medical and surgical benefits in the same classification.

43.26 (e) All health plans must meet the requirements of the federal Mental Health Parity Act
43.27 of 1996, Public Law 104-204; Paul Wellstone and Pete Domenici Mental Health Parity and
43.28 Addiction Equity Act of 2008; the Affordable Care Act; and any amendments to, and federal
43.29 guidance or regulations issued under, those acts.

43.30 (f) The commissioner may require information from health plan companies to confirm
43.31 that mental health parity is being implemented by the health plan company. Information
43.32 required may include comparisons between mental health and substance use disorder
43.33 treatment and other medical conditions, including a comparison of prior authorization

44.1 requirements, drug formulary design, claim denials, rehabilitation services, and other
44.2 information the commissioner deems appropriate.

44.3 (g) Regardless of the health care provider's professional license, if the service provided
44.4 is consistent with the provider's scope of practice and the health plan company's credentialing
44.5 and contracting provisions, mental health therapy visits and medication maintenance visits
44.6 shall be considered primary care visits for the purpose of applying any enrollee cost-sharing
44.7 requirements imposed under the enrollee's health plan.

44.8 (h) By June 1 of each year, beginning June 1, 2021, the commissioner of commerce, in
44.9 consultation with the commissioner of health, shall submit a report on compliance and
44.10 oversight to the chairs and ranking minority members of the legislative committees with
44.11 jurisdiction over health and commerce. The report must:

44.12 (1) describe the commissioner's process for reviewing health plan company compliance
44.13 with United States Code, title 42, section 18031(j), any federal regulations or guidance
44.14 relating to compliance and oversight, and compliance with this section and section 62Q.53;

44.15 (2) identify any enforcement actions taken by either commissioner during the preceding
44.16 12-month period regarding compliance with parity for mental health and substance use
44.17 disorders benefits under state and federal law, summarizing the results of any market conduct
44.18 examinations. The summary must include: (i) the number of formal enforcement actions
44.19 taken; (ii) the benefit classifications examined in each enforcement action; and (iii) the
44.20 subject matter of each enforcement action, including quantitative and nonquantitative
44.21 treatment limitations;

44.22 (3) detail any corrective action taken by either commissioner to ensure health plan
44.23 company compliance with this section, section 62Q.53, and United States Code, title 42,
44.24 section 18031(j); and

44.25 (4) describe the information provided by either commissioner to the public about
44.26 alcoholism, mental health, or chemical dependency parity protections under state and federal
44.27 law.

44.28 The report must be written in nontechnical, readily understandable language and must be
44.29 made available to the public by, among other means as the commissioners find appropriate,
44.30 posting the report on department websites. Individually identifiable information must be
44.31 excluded from the report, consistent with state and federal privacy protections.

45.1 Sec. 4. Minnesota Statutes 2022, section 169A.70, subdivision 3, is amended to read:

45.2 Subd. 3. **Assessment report.** (a) The assessment report must be on a form prescribed
45.3 by the commissioner and shall contain an evaluation of the convicted defendant concerning
45.4 the defendant's prior traffic and criminal record, characteristics and history of alcohol and
45.5 chemical use problems, and amenability to rehabilitation through the alcohol safety program.
45.6 The report is classified as private data on individuals as defined in section 13.02, subdivision
45.7 12.

45.8 (b) The assessment report must include:

45.9 (1) a diagnosis of the nature of the offender's chemical and alcohol involvement;

45.10 (2) an assessment of the severity level of the involvement;

45.11 (3) a recommended level of care for the offender in accordance with the criteria contained
45.12 in ~~rules adopted by the commissioner of human services under section 254A.03, subdivision~~
45.13 ~~3 (substance use disorder treatment rules)~~ section 245G.05;

45.14 (4) an assessment of the offender's placement needs;

45.15 (5) recommendations for other appropriate remedial action or care, including aftercare
45.16 services in section 254B.01, subdivision 3, that may consist of educational programs,
45.17 one-on-one counseling, a program or type of treatment that addresses mental health concerns,
45.18 or a combination of them; and

45.19 (6) a specific explanation why no level of care or action was recommended, if applicable.

45.20 Sec. 5. Minnesota Statutes 2022, section 169A.70, subdivision 4, is amended to read:

45.21 Subd. 4. **Assessor standards; rules; assessment time limits.** A chemical use assessment
45.22 required by this section must be conducted by an assessor appointed by the court. The
45.23 assessor must meet the training and qualification requirements of ~~rules adopted by the~~
45.24 ~~commissioner of human services under section 254A.03, subdivision 3 (substance use~~
45.25 ~~disorder treatment rules)~~ section 245G.11, subdivisions 1 and 5. Notwithstanding section
45.26 13.82 (law enforcement data), the assessor shall have access to any police reports, laboratory
45.27 test results, and other law enforcement data relating to the current offense or previous
45.28 offenses that are necessary to complete the evaluation. ~~An assessor providing an assessment~~
45.29 ~~under this section may not have any direct or shared financial interest or referral relationship~~
45.30 ~~resulting in shared financial gain with a treatment provider, except as authorized under~~
45.31 ~~section 254A.19, subdivision 3. If an independent assessor is not available, the court may~~
45.32 ~~use the services of an assessor authorized to perform assessments for the county social~~

46.1 ~~services agency under a variance granted under rules adopted by the commissioner of human~~
46.2 ~~services under section 254A.03, subdivision 3.~~ An appointment for the defendant to undergo
46.3 the assessment must be made by the court, a court services probation officer, or the court
46.4 administrator as soon as possible but in no case more than one week after the defendant's
46.5 court appearance. The assessment must be completed no later than three weeks after the
46.6 defendant's court appearance. If the assessment is not performed within this time limit, the
46.7 county where the defendant is to be sentenced shall perform the assessment. The county of
46.8 financial responsibility must be determined under chapter 256G.

46.9 Sec. 6. Minnesota Statutes 2022, section 245A.043, subdivision 3, is amended to read:

46.10 Subd. 3. **Change of ownership process.** (a) When a change in ownership is proposed
46.11 and the party intends to assume operation without an interruption in service longer than 60
46.12 days after acquiring the program or service, the license holder must provide the commissioner
46.13 with written notice of the proposed change on a form provided by the commissioner at least
46.14 60 days before the anticipated date of the change in ownership. For purposes of this
46.15 subdivision and subdivision 4, "party" means the party that intends to operate the service
46.16 or program.

46.17 (b) The party must submit a license application under this chapter on the form and in
46.18 the manner prescribed by the commissioner at least 30 days before the change in ownership
46.19 is complete, and must include documentation to support the upcoming change. The party
46.20 must comply with background study requirements under chapter 245C and shall pay the
46.21 application fee required under section 245A.10. A party that intends to assume operation
46.22 without an interruption in service longer than 60 days after acquiring the program or service
46.23 is exempt from the requirements of sections 245G.03, subdivision 2, paragraph (b), and
46.24 254B.03, subdivision 2, paragraphs (c) and (d) ~~and (e)~~.

46.25 (c) The commissioner may streamline application procedures when the party is an existing
46.26 license holder under this chapter and is acquiring a program licensed under this chapter or
46.27 service in the same service class as one or more licensed programs or services the party
46.28 operates and those licenses are in substantial compliance. For purposes of this subdivision,
46.29 "substantial compliance" means within the previous 12 months the commissioner did not
46.30 (1) issue a sanction under section 245A.07 against a license held by the party, or (2) make
46.31 a license held by the party conditional according to section 245A.06.

46.32 (d) Except when a temporary change in ownership license is issued pursuant to
46.33 subdivision 4, the existing license holder is solely responsible for operating the program

47.1 according to applicable laws and rules until a license under this chapter is issued to the
47.2 party.

47.3 (e) If a licensing inspection of the program or service was conducted within the previous
47.4 12 months and the existing license holder's license record demonstrates substantial
47.5 compliance with the applicable licensing requirements, the commissioner may waive the
47.6 party's inspection required by section 245A.04, subdivision 4. The party must submit to the
47.7 commissioner (1) proof that the premises was inspected by a fire marshal or that the fire
47.8 marshal deemed that an inspection was not warranted, and (2) proof that the premises was
47.9 inspected for compliance with the building code or that no inspection was deemed warranted.

47.10 (f) If the party is seeking a license for a program or service that has an outstanding action
47.11 under section 245A.06 or 245A.07, the party must submit a letter as part of the application
47.12 process identifying how the party has or will come into full compliance with the licensing
47.13 requirements.

47.14 (g) The commissioner shall evaluate the party's application according to section 245A.04,
47.15 subdivision 6. If the commissioner determines that the party has remedied or demonstrates
47.16 the ability to remedy the outstanding actions under section 245A.06 or 245A.07 and has
47.17 determined that the program otherwise complies with all applicable laws and rules, the
47.18 commissioner shall issue a license or conditional license under this chapter. The conditional
47.19 license remains in effect until the commissioner determines that the grounds for the action
47.20 are corrected or no longer exist.

47.21 (h) The commissioner may deny an application as provided in section 245A.05. An
47.22 applicant whose application was denied by the commissioner may appeal the denial according
47.23 to section 245A.05.

47.24 (i) This subdivision does not apply to a licensed program or service located in a home
47.25 where the license holder resides.

47.26 Sec. 7. Minnesota Statutes 2022, section 245G.05, subdivision 2, is amended to read:

47.27 Subd. 2. **Assessment summary.** (a) An alcohol and drug counselor must complete an
47.28 assessment summary within three calendar days from the day of service initiation for a
47.29 residential program and within three calendar days on which a treatment session has been
47.30 provided from the day of service initiation for a client in a nonresidential program. The
47.31 comprehensive assessment summary is complete upon a qualified staff member's dated
47.32 signature. If the comprehensive assessment is used to authorize the treatment service, the
47.33 alcohol and drug counselor must prepare an assessment summary on the same date the

48.1 comprehensive assessment is completed. If the comprehensive assessment and assessment
48.2 summary are to authorize treatment services, the assessor must determine appropriate level
48.3 of care and services for the client using the ~~dimensions in Minnesota Rules, part 9530.6622,~~
48.4 criteria established in section 254B.04, subdivision 4, and document the recommendations.

48.5 (b) An assessment summary must include:

48.6 (1) a risk description according to section 245G.05 for each dimension listed in paragraph

48.7 (c);

48.8 (2) a narrative summary supporting the risk descriptions; and

48.9 (3) a determination of whether the client has a substance use disorder.

48.10 (c) An assessment summary must contain information relevant to treatment service
48.11 planning and recorded in the dimensions in clauses (1) to (6). The license holder must
48.12 consider:

48.13 (1) Dimension 1, acute intoxication/withdrawal potential; the client's ability to cope with
48.14 withdrawal symptoms and current state of intoxication;

48.15 (2) Dimension 2, biomedical conditions and complications; the degree to which any
48.16 physical disorder of the client would interfere with treatment for substance use, and the
48.17 client's ability to tolerate any related discomfort. The license holder must determine the
48.18 impact of continued substance use on the unborn child, if the client is pregnant;

48.19 (3) Dimension 3, emotional, behavioral, and cognitive conditions and complications;
48.20 the degree to which any condition or complication is likely to interfere with treatment for
48.21 substance use or with functioning in significant life areas and the likelihood of harm to self
48.22 or others;

48.23 (4) Dimension 4, readiness for change; the support necessary to keep the client involved
48.24 in treatment service;

48.25 (5) Dimension 5, relapse, continued use, and continued problem potential; the degree
48.26 to which the client recognizes relapse issues and has the skills to prevent relapse of either
48.27 substance use or mental health problems; and

48.28 (6) Dimension 6, recovery environment; whether the areas of the client's life are
48.29 supportive of or antagonistic to treatment participation and recovery.

49.1 Sec. 8. Minnesota Statutes 2022, section 245G.22, subdivision 2, is amended to read:

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

49.4 (b) "Diversion" means the use of a medication for the treatment of opioid addiction being
49.5 diverted from intended use of the medication.

49.6 (c) "Guest dose" means administration of a medication used for the treatment of opioid
49.7 addiction to a person who is not a client of the program that is administering or dispensing
49.8 the medication.

49.9 (d) "Medical director" means a practitioner licensed to practice medicine in the
49.10 jurisdiction that the opioid treatment program is located who assumes responsibility for
49.11 administering all medical services performed by the program, either by performing the
49.12 services directly or by delegating specific responsibility to a practitioner of the opioid
49.13 treatment program.

49.14 (e) "Medication used for the treatment of opioid use disorder" means a medication
49.15 approved by the Food and Drug Administration for the treatment of opioid use disorder.

49.16 (f) "Minnesota health care programs" has the meaning given in section 256B.0636.

49.17 (g) "Opioid treatment program" has the meaning given in Code of Federal Regulations,
49.18 title 42, section 8.12, and includes programs licensed under this chapter.

49.19 ~~(h) "Placing authority" has the meaning given in Minnesota Rules, part 9530.6605,~~
49.20 ~~subpart 21a.~~

49.21 ~~(h)~~ (h) "Practitioner" means a staff member holding a current, unrestricted license to
49.22 practice medicine issued by the Board of Medical Practice or nursing issued by the Board
49.23 of Nursing and is currently registered with the Drug Enforcement Administration to order
49.24 or dispense controlled substances in Schedules II to V under the Controlled Substances Act,
49.25 United States Code, title 21, part B, section 821. Practitioner includes an advanced practice
49.26 registered nurse and physician assistant if the staff member receives a variance by the state
49.27 opioid treatment authority under section 254A.03 and the federal Substance Abuse and
49.28 Mental Health Services Administration.

49.29 ~~(i)~~ (i) "Unsupervised use" means the use of a medication for the treatment of opioid use
49.30 disorder dispensed for use by a client outside of the program setting.

50.1 Sec. 9. Minnesota Statutes 2022, section 254A.03, subdivision 3, is amended to read:

50.2 Subd. 3. **Rules for substance use disorder care.** (a) ~~The commissioner of human~~
50.3 ~~services shall establish by rule criteria to be used in determining the appropriate level of~~
50.4 ~~substance use disorder care for each recipient of public assistance seeking treatment for~~
50.5 ~~substance misuse or substance use disorder. Upon federal approval of a comprehensive~~
50.6 ~~assessment as a Medicaid benefit, or on July 1, 2018, whichever is later, and notwithstanding~~
50.7 ~~the criteria in Minnesota Rules, parts 9530.6600 to 9530.6655, An eligible vendor of~~
50.8 ~~comprehensive assessments under section 254B.05 may determine and approve the~~
50.9 ~~appropriate level of substance use disorder treatment for a recipient of public assistance.~~
50.10 ~~The process for determining an individual's financial eligibility for the behavioral health~~
50.11 ~~fund or determining an individual's enrollment in or eligibility for a publicly subsidized~~
50.12 ~~health plan is not affected by the individual's choice to access a comprehensive assessment~~
50.13 ~~for placement.~~

50.14 (b) The commissioner shall develop and implement a utilization review process for
50.15 publicly funded treatment placements to monitor and review the clinical appropriateness
50.16 and timeliness of all publicly funded placements in treatment.

50.17 (c) If a screen result is positive for alcohol or substance misuse, a brief screening for
50.18 alcohol or substance use disorder that is provided to a recipient of public assistance within
50.19 a primary care clinic, hospital, or other medical setting or school setting establishes medical
50.20 necessity and approval for an initial set of substance use disorder services identified in
50.21 section 254B.05, subdivision 5. The initial set of services approved for a recipient whose
50.22 screen result is positive may include any combination of up to four hours of individual or
50.23 group substance use disorder treatment, two hours of substance use disorder treatment
50.24 coordination, or two hours of substance use disorder peer support services provided by a
50.25 qualified individual according to chapter 245G. A recipient must obtain an assessment
50.26 pursuant to paragraph (a) to be approved for additional treatment services. ~~Minnesota Rules,~~
50.27 ~~parts 9530.6600 to 9530.6655, and A comprehensive assessment pursuant to section 245G.05~~
50.28 ~~are not applicable~~ is not required to receive the initial set of services allowed under this
50.29 subdivision. A positive screen result establishes eligibility for the initial set of services
50.30 allowed under this subdivision.

50.31 (d) ~~Notwithstanding Minnesota Rules, parts 9530.6600 to 9530.6655, An individual~~
50.32 ~~may choose to obtain a comprehensive assessment as provided in section 245G.05.~~
50.33 ~~Individuals obtaining a comprehensive assessment may access any enrolled provider that~~
50.34 ~~is licensed to provide the level of service authorized pursuant to section 254A.19, subdivision~~
50.35 ~~3, paragraph (d). If the individual is enrolled in a prepaid health plan, the individual must~~

51.1 ~~comply with any provider network requirements or limitations. This paragraph expires July~~
 51.2 ~~1, 2022.~~

51.3 (d) An individual may choose to obtain a comprehensive assessment as provided in
 51.4 section 245G.05. Individuals obtaining a comprehensive assessment may access any enrolled
 51.5 provider that is licensed to provide the level of service authorized pursuant to section
 51.6 254A.19, subdivision 3. If the individual is enrolled in a prepaid health plan, the individual
 51.7 must comply with any provider network requirements or limitations.

51.8 Sec. 10. Minnesota Statutes 2022, section 254A.19, subdivision 1, is amended to read:

51.9 Subdivision 1. **Persons arrested outside of home county.** When a chemical use
 51.10 assessment is required ~~under Minnesota Rules, parts 9530.6600 to 9530.6655~~, for a person
 51.11 who is arrested and taken into custody by a peace officer outside of the person's county of
 51.12 residence, ~~the assessment must be completed by the person's county of residence no later~~
 51.13 ~~than three weeks after the assessment is initially requested. If the assessment is not performed~~
 51.14 ~~within this time limit, the county where the person is to be sentenced shall perform the~~
 51.15 ~~assessment~~ county where the person is detained must give access to an assessor qualified
 51.16 under section 254A.19, subdivision 3. The county of financial responsibility is determined
 51.17 under chapter 256G.

51.18 Sec. 11. Minnesota Statutes 2022, section 254A.19, subdivision 3, is amended to read:

51.19 Subd. 3. **Financial conflicts of interest. Comprehensive assessments.** ~~(a) Except as~~
 51.20 ~~provided in paragraph (b), (c), or (d), an assessor conducting a chemical use assessment~~
 51.21 ~~under Minnesota Rules, parts 9530.6600 to 9530.6655, may not have any direct or shared~~
 51.22 ~~financial interest or referral relationship resulting in shared financial gain with a treatment~~
 51.23 ~~provider.~~

51.24 ~~(b) A county may contract with an assessor having a conflict described in paragraph (a)~~
 51.25 ~~if the county documents that:~~

51.26 ~~(1) the assessor is employed by a culturally specific service provider or a service provider~~
 51.27 ~~with a program designed to treat individuals of a specific age, sex, or sexual preference;~~

51.28 ~~(2) the county does not employ a sufficient number of qualified assessors and the only~~
 51.29 ~~qualified assessors available in the county have a direct or shared financial interest or a~~
 51.30 ~~referral relationship resulting in shared financial gain with a treatment provider; or~~

51.31 ~~(3) the county social service agency has an existing relationship with an assessor or~~
 51.32 ~~service provider and elects to enter into a contract with that assessor to provide both~~

52.1 ~~assessment and treatment under circumstances specified in the county's contract, provided~~
52.2 ~~the county retains responsibility for making placement decisions.~~

52.3 ~~(c) The county may contract with a hospital to conduct chemical assessments if the~~
52.4 ~~requirements in subdivision 1a are met.~~

52.5 ~~An assessor under this paragraph may not place clients in treatment. The assessor shall~~
52.6 ~~gather required information and provide it to the county along with any required~~
52.7 ~~documentation. The county shall make all placement decisions for clients assessed by~~
52.8 ~~assessors under this paragraph.~~

52.9 ~~(d) An eligible vendor under section 254B.05 conducting a comprehensive assessment~~
52.10 ~~for an individual seeking treatment shall approve the nature, intensity level, and duration~~
52.11 ~~of treatment service if a need for services is indicated, but the individual assessed can access~~
52.12 ~~any enrolled provider that is licensed to provide the level of service authorized, including~~
52.13 ~~the provider or program that completed the assessment. If an individual is enrolled in a~~
52.14 ~~prepaid health plan, the individual must comply with any provider network requirements~~
52.15 ~~or limitations.~~

52.16 Sec. 12. Minnesota Statutes 2022, section 254A.19, subdivision 4, is amended to read:

52.17 Subd. 4. **Civil commitments.** ~~A Rule 25 assessment, under Minnesota Rules, part~~
52.18 ~~9530.6615, For the purposes of determining level of care, a comprehensive assessment does~~
52.19 ~~not need to be completed for an individual being committed as a chemically dependent~~
52.20 ~~person, as defined in section 253B.02, and for the duration of a civil commitment under~~
52.21 ~~section 253B.065, 253B.09, or 253B.095 in order for a county to access the behavioral~~
52.22 ~~health fund under section 254B.04. The county must determine if the individual meets the~~
52.23 ~~financial eligibility requirements for the behavioral health fund under section 254B.04.~~
52.24 ~~Nothing in this subdivision prohibits placement in a treatment facility or treatment program~~
52.25 ~~governed under this chapter or Minnesota Rules, parts 9530.6600 to 9530.6655.~~

52.26 Sec. 13. Minnesota Statutes 2022, section 254A.19, is amended by adding a subdivision
52.27 to read:

52.28 Subd. 6. **Assessments for detoxification programs.** For detoxification programs licensed
52.29 under chapter 245A according to Minnesota Rules, parts 9530.6510 to 9530.6590, a
52.30 "chemical use assessment" is a comprehensive assessment and assessment summary
52.31 completed according to the requirements of section 245G.05 and a "chemical dependency
52.32 assessor" or "assessor" is an individual who meets the qualifications of section 245G.11,
52.33 subdivisions 1 and 5.

53.1 Sec. 14. Minnesota Statutes 2022, section 254A.19, is amended by adding a subdivision
53.2 to read:

53.3 Subd. 7. **Assessments for children's residential facilities.** For children's residential
53.4 facilities licensed under chapter 245A according to Minnesota Rules, parts 2960.0010 to
53.5 2960.0220 and 2960.0430 to 2960.0490, a "chemical use assessment" is a comprehensive
53.6 assessment and assessment summary completed according to the requirements of section
53.7 245G.05 and must be completed by an individual who meets the qualifications of section
53.8 245G.11, subdivisions 1 and 5.

53.9 Sec. 15. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision
53.10 to read:

53.11 Subd. 2a. **Behavioral health fund.** "Behavioral health fund" means money allocated
53.12 for payment of treatment services under chapter 254B.

53.13 Sec. 16. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision
53.14 to read:

53.15 Subd. 2b. **Client.** "Client" means an individual who has requested substance use disorder
53.16 services or for whom substance use disorder services have been requested.

53.17 Sec. 17. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision
53.18 to read:

53.19 Subd. 2c. **Co-payment.** "Co-payment" means:

53.20 (1) the amount an insured person is obligated to pay before the person's third-party
53.21 payment source is obligated to make a payment; or

53.22 (2) the amount an insured person is obligated to pay in addition to the amount the person's
53.23 third-party payment source is obligated to pay.

53.24 Sec. 18. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision
53.25 to read:

53.26 Subd. 4c. **Department.** "Department" means the Department of Human Services.

54.1 Sec. 19. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision
54.2 to read:

54.3 Subd. 4d. **Drug and Alcohol Abuse Normative Evaluation System or DAANES.** "Drug
54.4 and Alcohol Abuse Normative Evaluation System" or "DAANES" means the reporting
54.5 system used to collect all substance use disorder treatment data across all levels of care and
54.6 providers.

54.7 Sec. 20. Minnesota Statutes 2022, section 254B.01, subdivision 5, is amended to read:

54.8 Subd. 5. **Local agency.** "Local agency" means the agency designated by a board of
54.9 county commissioners, a local social services agency, or a human services board to make
54.10 placements and submit state invoices according to Laws 1986, chapter 394, sections 8 to
54.11 20 authorized under section 254B.03, subdivision 1, to determine financial eligibility for
54.12 the behavioral health fund.

54.13 Sec. 21. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision
54.14 to read:

54.15 Subd. 6a. **Minor child.** "Minor child" means an individual under the age of 18 years.

54.16 Sec. 22. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision
54.17 to read:

54.18 Subd. 6b. **Policyholder.** "Policyholder" means a person who has a third-party payment
54.19 policy under which a third-party payment source has an obligation to pay all or part of a
54.20 client's treatment costs.

54.21 Sec. 23. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision
54.22 to read:

54.23 Subd. 9. **Responsible relative.** "Responsible relative" means a person who is a member
54.24 of the client's household and is the client's spouse or the parent of a minor child who is a
54.25 client.

54.26 Sec. 24. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision
54.27 to read:

54.28 Subd. 10. **Third-party payment source** "Third-party payment source" means a person,
54.29 entity, or public or private agency other than medical assistance or general assistance medical

55.1 care that has a probable obligation to pay all or part of the costs of a client's substance use
55.2 disorder treatment.

55.3 Sec. 25. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision
55.4 to read:

55.5 Subd. 11. **Vendor.** "Vendor" means a provider of substance use disorder treatment
55.6 services that meets the criteria established in section 254B.05, and that has applied to
55.7 participate as a provider in the medical assistance program according to Minnesota Rules,
55.8 part 9505.0195.

55.9 Sec. 26. Minnesota Statutes 2022, section 254B.03, subdivision 1, is amended to read:

55.10 Subdivision 1. **Local agency duties.** (a) Every local agency ~~shall~~ must determine financial
55.11 eligibility for substance use disorder services and provide substance use disorder services
55.12 to persons residing within its jurisdiction who meet criteria established by the commissioner
55.13 for placement in a substance use disorder residential or nonresidential treatment service.
55.14 Substance use disorder money must be administered by the local agencies according to law
55.15 and rules adopted by the commissioner under sections 14.001 to 14.69.

55.16 (b) In order to contain costs, the commissioner of human services shall select eligible
55.17 vendors of substance use disorder services who can provide economical and appropriate
55.18 treatment. Unless the local agency is a social services department directly administered by
55.19 a county or human services board, the local agency shall not be an eligible vendor under
55.20 section 254B.05. The commissioner may approve proposals from county boards to provide
55.21 services in an economical manner or to control utilization, with safeguards to ensure that
55.22 necessary services are provided. If a county implements a demonstration or experimental
55.23 medical services funding plan, the commissioner shall transfer the money as appropriate.

55.24 ~~(c) A culturally specific vendor that provides assessments under a variance under~~
55.25 ~~Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons~~
55.26 ~~not covered by the variance.~~

55.27 ~~(d) Notwithstanding Minnesota Rules, parts 9530.6600 to 9530.6655,~~ (c) An individual
55.28 may choose to obtain a comprehensive assessment as provided in section 245G.05.
55.29 Individuals obtaining a comprehensive assessment may access any enrolled provider that
55.30 is licensed to provide the level of service authorized pursuant to section 254A.19, subdivision
55.31 3, ~~paragraph (d).~~ If the individual is enrolled in a prepaid health plan, the individual must
55.32 comply with any provider network requirements or limitations.

56.1 ~~(e)~~ (d) Beginning July 1, 2022, local agencies shall not make placement location
56.2 determinations.

56.3 Sec. 27. Minnesota Statutes 2022, section 254B.03, subdivision 2, is amended to read:

56.4 Subd. 2. **Behavioral health fund payment.** (a) Payment from the behavioral health
56.5 fund is limited to payments for services identified in section 254B.05, other than
56.6 detoxification licensed under Minnesota Rules, parts 9530.6510 to 9530.6590, and
56.7 detoxification provided in another state that would be required to be licensed as a substance
56.8 use disorder program if the program were in the state. Out of state vendors must also provide
56.9 the commissioner with assurances that the program complies substantially with state licensing
56.10 requirements and possesses all licenses and certifications required by the host state to provide
56.11 substance use disorder treatment. Vendors receiving payments from the behavioral health
56.12 fund must not require co-payment from a recipient of benefits for services provided under
56.13 this subdivision. The vendor is prohibited from using the client's public benefits to offset
56.14 the cost of services paid under this section. The vendor shall not require the client to use
56.15 public benefits for room or board costs. This includes but is not limited to cash assistance
56.16 benefits under chapters 119B, 256D, and 256J, or SNAP benefits. Retention of SNAP
56.17 benefits is a right of a client receiving services through the behavioral health fund or through
56.18 state contracted managed care entities. Payment from the behavioral health fund shall be
56.19 made for necessary room and board costs provided by vendors meeting the criteria under
56.20 section 254B.05, subdivision 1a, or in a community hospital licensed by the commissioner
56.21 of health according to sections 144.50 to 144.56 to a client who is:

56.22 (1) determined to meet the criteria for placement in a residential substance use disorder
56.23 treatment program according to rules adopted under section 254A.03, subdivision 3; and

56.24 (2) concurrently receiving a substance use disorder treatment service in a program
56.25 licensed by the commissioner and reimbursed by the behavioral health fund.

56.26 ~~(b) A county may, from its own resources, provide substance use disorder services for~~
56.27 ~~which state payments are not made. A county may elect to use the same invoice procedures~~
56.28 ~~and obtain the same state payment services as are used for substance use disorder services~~
56.29 ~~for which state payments are made under this section if county payments are made to the~~
56.30 ~~state in advance of state payments to vendors. When a county uses the state system for~~
56.31 ~~payment, the commissioner shall make monthly billings to the county using the most recent~~
56.32 ~~available information to determine the anticipated services for which payments will be made~~
56.33 ~~in the coming month. Adjustment of any overestimate or underestimate based on actual~~

57.1 ~~expenditures shall be made by the state agency by adjusting the estimate for any succeeding~~
 57.2 ~~month.~~

57.3 ~~(e)~~ (b) The commissioner shall coordinate substance use disorder services and determine
 57.4 whether there is a need for any proposed expansion of substance use disorder treatment
 57.5 services. The commissioner shall deny vendor certification to any provider that has not
 57.6 received prior approval from the commissioner for the creation of new programs or the
 57.7 expansion of existing program capacity. The commissioner shall consider the provider's
 57.8 capacity to obtain clients from outside the state based on plans, agreements, and previous
 57.9 utilization history, when determining the need for new treatment services.

57.10 ~~(d)~~ (c) At least 60 days prior to submitting an application for new licensure under chapter
 57.11 245G, the applicant must notify the county human services director in writing of the
 57.12 applicant's intent to open a new treatment program. The written notification must include,
 57.13 at a minimum:

57.14 (1) a description of the proposed treatment program; and

57.15 (2) a description of the target population to be served by the treatment program.

57.16 ~~(e)~~ (d) The county human services director may submit a written statement to the
 57.17 commissioner, within 60 days of receiving notice from the applicant, regarding the county's
 57.18 support of or opposition to the opening of the new treatment program. The written statement
 57.19 must include documentation of the rationale for the county's determination. The commissioner
 57.20 shall consider the county's written statement when determining whether there is a need for
 57.21 the treatment program as required by paragraph (c).

57.22 Sec. 28. Minnesota Statutes 2022, section 254B.03, subdivision 5, is amended to read:

57.23 Subd. 5. **Rules; appeal.** The commissioner shall adopt rules as necessary to implement
 57.24 this chapter. ~~The commissioner shall establish an appeals process for use by recipients when~~
 57.25 ~~services certified by the county are disputed. The commissioner shall adopt rules and~~
 57.26 ~~standards for the appeal process to assure adequate redress for persons referred to~~
 57.27 ~~inappropriate services.~~

57.28 Sec. 29. Minnesota Statutes 2022, section 254B.04, subdivision 1, is amended to read:

57.29 Subdivision 1. **Eligibility. Scope and applicability.** ~~(a) Persons eligible for benefits~~
 57.30 ~~under Code of Federal Regulations, title 25, part 20, who meet the income standards of~~
 57.31 ~~section 256B.056, subdivision 4, and are not enrolled in medical assistance, are entitled to~~

58.1 ~~behavioral health fund services. State money appropriated for this paragraph must be placed~~
58.2 ~~in a separate account established for this purpose.~~

58.3 ~~(b) Persons with dependent children who are determined to be in need of chemical~~
58.4 ~~dependency treatment pursuant to an assessment under section 260E.20, subdivision 1, or~~
58.5 ~~a case plan under section 260C.201, subdivision 6, or 260C.212, shall be assisted by the~~
58.6 ~~local agency to access needed treatment services. Treatment services must be appropriate~~
58.7 ~~for the individual or family, which may include long-term care treatment or treatment in a~~
58.8 ~~facility that allows the dependent children to stay in the treatment facility. The county shall~~
58.9 ~~pay for out-of-home placement costs, if applicable.~~

58.10 ~~(e) Notwithstanding paragraph (a), persons enrolled in medical assistance are eligible~~
58.11 ~~for room and board services under section 254B.05, subdivision 5, paragraph (b), clause~~
58.12 ~~(12).~~

58.13 This section governs the administration of the behavioral health fund, establishes the
58.14 criteria to be applied by local agencies to determine a client's financial eligibility under the
58.15 behavioral health fund, and determines a client's obligation to pay for substance use disorder
58.16 treatment services.

58.17 Sec. 30. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision
58.18 to read:

58.19 Subd. 1a. **Client eligibility.** (a) Persons eligible for benefits under Code of Federal
58.20 Regulations, title 25, part 20, who meet the income standards of section 256B.056,
58.21 subdivision 4, and are not enrolled in medical assistance, are entitled to behavioral health
58.22 fund services. State money appropriated for this paragraph must be placed in a separate
58.23 account established for this purpose.

58.24 (b) Persons with dependent children who are determined to be in need of chemical
58.25 dependency treatment pursuant to an assessment under section 260E.20, subdivision 1, or
58.26 a case plan under section 260C.201, subdivision 6, or 260C.212, shall be assisted by the
58.27 local agency to access needed treatment services. Treatment services must be appropriate
58.28 for the individual or family, which may include long-term care treatment or treatment in a
58.29 facility that allows the dependent children to stay in the treatment facility. The county shall
58.30 pay for out-of-home placement costs, if applicable.

58.31 (c) Notwithstanding paragraph (a), persons enrolled in medical assistance are eligible
58.32 for room and board services under section 254B.05, subdivision 5, paragraph (b), clause
58.33 (12).

59.1 (d) A client is eligible to have substance use disorder treatment paid for with funds from
59.2 the behavioral health fund when the client:

59.3 (1) is eligible for MFIP as determined under chapter 256J;

59.4 (2) is eligible for medical assistance as determined under Minnesota Rules, parts
59.5 9505.0010 to 9505.0150;

59.6 (3) is eligible for general assistance, general assistance medical care, or work readiness
59.7 as determined under Minnesota Rules, parts 9500.1200 to 9500.1318; or

59.8 (4) has income that is within current household size and income guidelines for entitled
59.9 persons, as defined in this subdivision and subdivision 7.

59.10 (e) Clients who meet the financial eligibility requirement in paragraph (a) and who have
59.11 a third-party payment source are eligible for the behavioral health fund if the third-party
59.12 payment source pays less than 100 percent of the cost of treatment services for eligible
59.13 clients.

59.14 (f) A client is ineligible to have substance use disorder treatment services paid for with
59.15 behavioral health fund money if the client:

59.16 (1) has an income that exceeds current household size and income guidelines for entitled
59.17 persons as defined in this subdivision and subdivision 7; or

59.18 (2) has an available third-party payment source that will pay the total cost of the client's
59.19 treatment.

59.20 (g) A client who is disenrolled from a state prepaid health plan during a treatment episode
59.21 is eligible for continued treatment service that is paid for by the behavioral health fund until
59.22 the treatment episode is completed or the client is re-enrolled in a state prepaid health plan
59.23 if the client:

59.24 (1) continues to be enrolled in MinnesotaCare, medical assistance, or general assistance
59.25 medical care; or

59.26 (2) is eligible according to paragraphs (a) and (b) and is determined eligible by a local
59.27 agency under section 254B.04.

59.28 (h) When a county commits a client under chapter 253B to a regional treatment center
59.29 for substance use disorder services and the client is ineligible for the behavioral health fund,
59.30 the county is responsible for the payment to the regional treatment center according to
59.31 section 254B.05, subdivision 4.

60.1 Sec. 31. Minnesota Statutes 2022, section 254B.04, subdivision 2a, is amended to read:

60.2 Subd. 2a. **Eligibility for treatment in residential settings room and board services**
60.3 **for persons in outpatient substance use disorder treatment.** ~~Notwithstanding provisions~~
60.4 ~~of Minnesota Rules, part 9530.6622, subparts 5 and 6, related to an assessor's discretion in~~
60.5 ~~making placements to residential treatment settings,~~ A person eligible for room and board
60.6 services under this section 254B.05, subdivision 5, paragraph (b), clause (12), must score
60.7 at level 4 on assessment dimensions related to readiness to change, relapse, continued use,
60.8 or recovery environment in order to be assigned to services with a room and board component
60.9 reimbursed under this section. Whether a treatment facility has been designated an institution
60.10 for mental diseases under United States Code, title 42, section 1396d, shall not be a factor
60.11 in making placements.

60.12 Sec. 32. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision
60.13 to read:

60.14 **Subd. 4. Assessment criteria and risk descriptions.** (a) The level of care determination
60.15 must follow criteria approved by the commissioner.

60.16 (b) Dimension 1: Acute intoxication/withdrawal potential. A vendor must use the criteria
60.17 in Dimension 1 to determine a client's acute intoxication and withdrawal potential, the
60.18 client's ability to cope with withdrawal symptoms, and the client's current state of
60.19 intoxication.

60.20 "0" The client displays full functioning with good ability to tolerate and cope with
60.21 withdrawal discomfort, and the client shows no signs or symptoms of intoxication or
60.22 withdrawal or diminishing signs or symptoms.

60.23 "1" The client can tolerate and cope with withdrawal discomfort. The client displays
60.24 mild to moderate intoxication or signs and symptoms interfering with daily functioning but
60.25 does not immediately endanger self or others. The client poses a minimal risk of severe
60.26 withdrawal.

60.27 "2" The client has some difficulty tolerating and coping with withdrawal discomfort.
60.28 The client's intoxication may be severe but responds to support and treatment such that the
60.29 client does not immediately endanger self or others. The client displays moderate signs and
60.30 symptoms of withdrawal with moderate risk of severe withdrawal.

60.31 "3" The client tolerates and copes with withdrawal discomfort poorly. The client has
60.32 severe intoxication, such that the client endangers self or others, or intoxication has not
60.33 abated with less intensive services. The client displays severe signs and symptoms of

61.1 withdrawal, has a risk of severe but manageable withdrawal, or has worsening withdrawal
61.2 despite detoxification at less intensive level.

61.3 "4" The client is incapacitated with severe signs and symptoms. The client displays
61.4 severe withdrawal and is a danger to self or others.

61.5 (c) Dimension 2: biomedical conditions and complications. The vendor must use the
61.6 criteria in Dimension 2 to determine a client's biomedical conditions and complications, the
61.7 degree to which any physical disorder of the client would interfere with treatment for
61.8 substance use, and the client's ability to tolerate any related discomfort. If the client is
61.9 pregnant, the provider must determine the impact of continued substance use on the unborn
61.10 child.

61.11 "0" The client displays full functioning with good ability to cope with physical discomfort.

61.12 "1" The client tolerates and copes with physical discomfort and is able to get the services
61.13 that the client needs.

61.14 "2" The client has difficulty tolerating and coping with physical problems or has other
61.15 biomedical problems that interfere with recovery and treatment. The client neglects or does
61.16 not seek care for serious biomedical problems.

61.17 "3" The client tolerates and copes poorly with physical problems or has poor general
61.18 health. The client neglects the client's medical problems without active assistance.

61.19 "4" The client is unable to participate in substance use disorder treatment and has severe
61.20 medical problems, a condition that requires immediate intervention, or is incapacitated.

61.21 (d) Dimension 3: Emotional, behavioral, and cognitive conditions and complications.
61.22 The vendor must use the criteria in Dimension 3 to determine a client's: emotional, behavioral,
61.23 and cognitive conditions and complications; the degree to which any condition or
61.24 complication is likely to interfere with treatment for substance use or with functioning in
61.25 significant life areas; and the likelihood of harm to self or others.

61.26 "0" The client has good impulse control and coping skills and presents no risk of harm
61.27 to self or others. The client functions in all life areas and displays no emotional, behavioral,
61.28 or cognitive problems or the problems are stable.

61.29 "1" The client has impulse control and coping skills. The client presents a mild to
61.30 moderate risk of harm to self or others or displays symptoms of emotional, behavioral, or
61.31 cognitive problems. The client has a mental health diagnosis and is stable. The client
61.32 functions adequately in significant life areas.

62.1 "2" The client has difficulty with impulse control and lacks coping skills. The client has
62.2 thoughts of suicide or harm to others without means; however, the thoughts may interfere
62.3 with participation in some activities. The client has difficulty functioning in significant life
62.4 areas. The client has moderate symptoms of emotional, behavioral, or cognitive problems.
62.5 The client is able to participate in most treatment activities.

62.6 "3" The client has a severe lack of impulse control and coping skills. The client also has
62.7 frequent thoughts of suicide or harm to others including a plan and the means to carry out
62.8 the plan. In addition, the client is severely impaired in significant life areas and has severe
62.9 symptoms of emotional, behavioral, or cognitive problems that interfere with the client's
62.10 participation in treatment activities.

62.11 "4" The client has severe emotional or behavioral symptoms that place the client or
62.12 others at acute risk of harm. The client also has intrusive thoughts of harming self or others.
62.13 The client is unable to participate in treatment activities.

62.14 (e) Dimension 4: Readiness for change. The vendor must use the criteria in Dimension
62.15 4 to determine a client's readiness for change and the support necessary to keep the client
62.16 involved in treatment services.

62.17 "0" The client is cooperative, motivated, ready to change, admits problems, committed
62.18 to change, and engaged in treatment as a responsible participant.

62.19 "1" The client is motivated with active reinforcement to explore treatment and strategies
62.20 for change but ambivalent about illness or need for change.

62.21 "2" The client displays verbal compliance, but lacks consistent behaviors; has low
62.22 motivation for change; and is passively involved in treatment.

62.23 "3" The client displays inconsistent compliance, minimal awareness of either the client's
62.24 addiction or mental disorder, and is minimally cooperative.

62.25 "4" The client is:

62.26 (i) noncompliant with treatment and has no awareness of addiction or mental disorder
62.27 and does not want or is unwilling to explore change or is in total denial of the client's illness
62.28 and its implications; or

62.29 (ii) the client is dangerously oppositional to the extent that the client is a threat of
62.30 imminent harm to self and others.

62.31 (f) Dimension 5: Relapse, continued use, and continued problem potential. The vendor
62.32 must use the criteria in Dimension 5 to determine a client's relapse, continued use, and

63.1 continued problem potential and the degree to which the client recognizes relapse issues
63.2 and has the skills to prevent relapse of either substance use or mental health problems.

63.3 "0" The client recognizes risk well and is able to manage potential problems.

63.4 "1" The client recognizes relapse issues and prevention strategies but displays some
63.5 vulnerability for further substance use or mental health problems.

63.6 "2" The client has:

63.7 (i) minimal recognition and understanding of relapse and recidivism issues and displays
63.8 moderate vulnerability for further substance use or mental health problems; or

63.9 (ii) some coping skills inconsistently applied.

63.10 "3" The client has poor recognition and understanding of relapse and recidivism issues
63.11 and displays moderately high vulnerability for further substance use or mental health
63.12 problems. The client has few coping skills and rarely applies coping skills.

63.13 "4" The client has no coping skills to arrest mental health or addiction illnesses or prevent
63.14 relapse. The client has no recognition or understanding of relapse and recidivism issues and
63.15 displays high vulnerability for further substance use disorder or mental health problems.

63.16 (g) Dimension 6: Recovery environment. The vendor must use the criteria in Dimension
63.17 6 to determine a client's recovery environment, whether the areas of the client's life are
63.18 supportive of or antagonistic to treatment participation and recovery.

63.19 "0" The client is engaged in structured meaningful activity and has a supportive significant
63.20 other, family, and living environment.

63.21 "1" The client has passive social network support, or family and significant other are
63.22 not interested in the client's recovery. The client is engaged in structured meaningful activity.

63.23 "2" The client is engaged in structured, meaningful activity, but peers, family, significant
63.24 other, and living environment are unsupportive, or there is criminal justice involvement by
63.25 the client or among the client's peers, significant other, or in the client's living environment.

63.26 "3" The client is not engaged in structured meaningful activity and the client's peers,
63.27 family, significant other, and living environment are unsupportive, or there is significant
63.28 criminal justice system involvement.

63.29 "4" The client has:

64.1 (i) a chronically antagonistic significant other, living environment, family, peer group,
64.2 or long-term criminal justice involvement that is harmful to recovery or treatment progress;
64.3 or

64.4 (ii) the client has an actively antagonistic significant other, family, work, or living
64.5 environment that poses an immediate threat to the client's safety and well-being.

64.6 Sec. 33. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision
64.7 to read:

64.8 Subd. 5. Local agency responsibility to provide services. The local agency may employ
64.9 individuals to conduct administrative activities and facilitate access to substance use disorder
64.10 treatment services.

64.11 Sec. 34. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision
64.12 to read:

64.13 Subd. 6. Local agency to determine client financial eligibility. (a) The local agency
64.14 shall determine a client's financial eligibility for the behavioral health fund according to
64.15 section 254B.04, subdivision 1a, with the income calculated prospectively for one year from
64.16 the date of comprehensive assessment. The local agency shall pay for eligible clients
64.17 according to chapter 256G. The local agency shall enter the financial eligibility span within
64.18 ten calendar days of request. Client eligibility must be determined using forms prescribed
64.19 by the department. To determine a client's eligibility, the local agency must determine the
64.20 client's income, the size of the client's household, the availability of a third-party payment
64.21 source, and a responsible relative's ability to pay for the client's substance use disorder
64.22 treatment.

64.23 (b) A client who is a minor child must not be deemed to have income available to pay
64.24 for substance use disorder treatment, unless the minor child is responsible for payment under
64.25 section 144.347 for substance use disorder treatment services sought under section 144.343,
64.26 subdivision 1.

64.27 (c) The local agency must determine the client's household size as follows:

64.28 (1) if the client is a minor child, the household size includes the following persons living
64.29 in the same dwelling unit:

64.30 (i) the client;

64.31 (ii) the client's birth or adoptive parents; and

65.1 (iii) the client's siblings who are minors; and

65.2 (2) if the client is an adult, the household size includes the following persons living in
65.3 the same dwelling unit:

65.4 (i) the client;

65.5 (ii) the client's spouse;

65.6 (iii) the client's minor children; and

65.7 (iv) the client's spouse's minor children.

65.8 For purposes of this paragraph, household size includes a person listed in clauses (1) and
65.9 (2) who is in an out-of-home placement if a person listed in clause (1) or (2) is contributing
65.10 to the cost of care of the person in out-of-home placement.

65.11 (d) The local agency must determine the client's current prepaid health plan enrollment,
65.12 the availability of a third-party payment source, including the availability of total payment,
65.13 partial payment, and amount of co-payment.

65.14 (e) The local agency must provide the required eligibility information to the department
65.15 in the manner specified by the department.

65.16 (f) The local agency shall require the client and policyholder to conditionally assign to
65.17 the department the client and policyholder's rights and the rights of minor children to benefits
65.18 or services provided to the client if the department is required to collect from a third-party
65.19 pay source.

65.20 (g) The local agency must redetermine a client's eligibility for the behavioral health fund
65.21 every 12 months.

65.22 (h) A client, responsible relative, and policyholder must provide income or wage
65.23 verification, household size verification, and must make an assignment of third-party payment
65.24 rights under paragraph (f). If a client, responsible relative, or policyholder does not comply
65.25 with the provisions of this subdivision, the client is ineligible for behavioral health fund
65.26 payment for substance use disorder treatment, and the client and responsible relative must
65.27 be obligated to pay for the full cost of substance use disorder treatment services provided
65.28 to the client.

66.1 Sec. 35. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision
66.2 to read:

66.3 Subd. 7. **Client fees.** A client whose household income is within current household size
66.4 and income guidelines for entitled persons as defined in section 254B.04, subdivision 1a,
66.5 must pay no fee for care related to substance use disorder, including drug screens.

66.6 Sec. 36. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision
66.7 to read:

66.8 Subd. 8. **Vendor must participate in DAANES system.** To be eligible for payment
66.9 under the behavioral health fund, a vendor must participate in the Drug and Alcohol Abuse
66.10 Normative Evaluation System (DAANES) or submit to the commissioner the information
66.11 required in the DAANES in the format specified by the commissioner.

66.12 Sec. 37. Minnesota Statutes 2022, section 256D.09, subdivision 2a, is amended to read:

66.13 Subd. 2a. **Vendor payments for drug dependent persons.** If, at the time of application
66.14 or at any other time, there is a reasonable basis for questioning whether a person applying
66.15 for or receiving financial assistance is drug dependent, as defined in section 254A.02,
66.16 subdivision 5, the person shall be referred for a chemical health assessment, and only
66.17 emergency assistance payments or general assistance vendor payments may be provided
66.18 until the assessment is complete and the results of the assessment made available to the
66.19 county agency. A reasonable basis for referring an individual for an assessment exists when:

66.20 (1) the person has required detoxification two or more times in the past 12 months;

66.21 (2) the person appears intoxicated at the county agency as indicated by two or more of
66.22 the following:

66.23 (i) the odor of alcohol;

66.24 (ii) slurred speech;

66.25 (iii) disconjugate gaze;

66.26 (iv) impaired balance;

66.27 (v) difficulty remaining awake;

66.28 (vi) consumption of alcohol;

66.29 (vii) responding to sights or sounds that are not actually present;

66.30 (viii) extreme restlessness, fast speech, or unusual belligerence;

67.1 (3) the person has been involuntarily committed for drug dependency at least once in
67.2 the past 12 months; or

67.3 (4) the person has received treatment, including domiciliary care, for drug abuse or
67.4 dependency at least twice in the past 12 months.

67.5 The assessment and determination of drug dependency, if any, must be made by an
67.6 assessor qualified under ~~Minnesota Rules, part 9530.6615, subpart 2~~ section 245G.11,
67.7 subdivisions 1 and 5, to perform an assessment of chemical use. The county shall only
67.8 provide emergency general assistance or vendor payments to an otherwise eligible applicant
67.9 or recipient who is determined to be drug dependent, except up to 15 percent of the grant
67.10 amount the person would otherwise receive may be paid in cash. Notwithstanding subdivision
67.11 1, the commissioner of human services shall also require county agencies to provide
67.12 assistance only in the form of vendor payments to all eligible recipients who assert substance
67.13 use disorder as a basis for eligibility under section 256D.05, subdivision 1, paragraph (a),
67.14 clauses (1) and (5).

67.15 The determination of drug dependency shall be reviewed at least every 12 months. If
67.16 the county determines a recipient is no longer drug dependent, the county may cease vendor
67.17 payments and provide the recipient payments in cash.

67.18 Sec. 38. Minnesota Statutes 2022, section 256L.03, subdivision 2, is amended to read:

67.19 Subd. 2. **Substance use disorder.** Beginning July 1, 1993, covered health services shall
67.20 include individual outpatient treatment of substance use disorder by a qualified health
67.21 professional or outpatient program.

67.22 Persons who may need substance use disorder services under the provisions of this
67.23 chapter ~~shall be assessed by a local agency as defined under section 254B.01~~ must be
67.24 assessed by a qualified professional as defined in section 245G.11, subdivisions 1 and 5,
67.25 and under the assessment provisions of section 254A.03, subdivision 3. A local agency or
67.26 managed care plan under contract with the Department of Human Services must ~~place~~ offer
67.27 services to a person in need of substance use disorder services ~~as provided in Minnesota~~
67.28 ~~Rules, parts 9530.6600 to 9530.6655~~ based on the recommendations of section 245G.05.
67.29 Persons who are recipients of medical benefits under the provisions of this chapter and who
67.30 are financially eligible for behavioral health fund services provided under the provisions of
67.31 chapter 254B shall receive substance use disorder treatment services under the provisions
67.32 of chapter 254B only if:

68.1 (1) they have exhausted the substance use disorder benefits offered under this chapter;
68.2 or
68.3 (2) an assessment indicates that they need a level of care not provided under the provisions
68.4 of this chapter.

68.5 Recipients of covered health services under the children's health plan, as provided in
68.6 Minnesota Statutes 1990, section 256.936, and as amended by Laws 1991, chapter 292,
68.7 article 4, section 17, and recipients of covered health services enrolled in the children's
68.8 health plan or the MinnesotaCare program after October 1, 1992, pursuant to Laws 1992,
68.9 chapter 549, article 4, sections 5 and 17, are eligible to receive substance use disorder
68.10 benefits under this subdivision.

68.11 Sec. 39. Minnesota Statutes 2022, section 256L.12, subdivision 8, is amended to read:

68.12 Subd. 8. **Substance use disorder assessments.** The managed care plan shall be
68.13 responsible for assessing the need and ~~placement for~~ provision of substance use disorder
68.14 services according to criteria set forth in ~~Minnesota Rules, parts 9530.6600 to 9530.6655~~
68.15 section 245G.05.

68.16 Sec. 40. Minnesota Statutes 2022, section 260B.157, subdivision 1, is amended to read:

68.17 Subdivision 1. **Investigation.** Upon request of the court the local social services agency
68.18 or probation officer shall investigate the personal and family history and environment of
68.19 any minor coming within the jurisdiction of the court under section 260B.101 and shall
68.20 report its findings to the court. The court may order any minor coming within its jurisdiction
68.21 to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the
68.22 court.

68.23 The court shall order a chemical use assessment conducted when a child is (1) found to
68.24 be delinquent for violating a provision of chapter 152, or for committing a felony-level
68.25 violation of a provision of chapter 609 if the probation officer determines that alcohol or
68.26 drug use was a contributing factor in the commission of the offense, or (2) alleged to be
68.27 delinquent for violating a provision of chapter 152, if the child is being held in custody
68.28 under a detention order. The assessor's qualifications must comply with section 245G.11,
68.29 subdivisions 1 and 5, and the assessment criteria ~~shall~~ must comply with ~~Minnesota Rules,~~
68.30 ~~parts 9530.6600 to 9530.6655~~ section 245G.05. If funds under chapter 254B are to be used
68.31 to pay for the recommended treatment, the assessment ~~and placement~~ must comply with all
68.32 provisions of ~~Minnesota Rules, parts 9530.6600 to 9530.6655 and 9530.7000 to 9530.7030~~

69.1 sections 245G.05 and 254B.04. The commissioner of human services shall reimburse the
69.2 court for the cost of the chemical use assessment, up to a maximum of \$100.

69.3 The court shall order a children's mental health screening conducted when a child is
69.4 found to be delinquent. The screening shall be conducted with a screening instrument
69.5 approved by the commissioner of human services and shall be conducted by a mental health
69.6 practitioner as defined in section 245.4871, subdivision 26, or a probation officer who is
69.7 trained in the use of the screening instrument. If the screening indicates a need for assessment,
69.8 the local social services agency, in consultation with the child's family, shall have a diagnostic
69.9 assessment conducted, including a functional assessment, as defined in section 245.4871.

69.10 With the consent of the commissioner of corrections and agreement of the county to pay
69.11 the costs thereof, the court may, by order, place a minor coming within its jurisdiction in
69.12 an institution maintained by the commissioner for the detention, diagnosis, custody and
69.13 treatment of persons adjudicated to be delinquent, in order that the condition of the minor
69.14 be given due consideration in the disposition of the case. Any funds received under the
69.15 provisions of this subdivision shall not cancel until the end of the fiscal year immediately
69.16 following the fiscal year in which the funds were received. The funds are available for use
69.17 by the commissioner of corrections during that period and are hereby appropriated annually
69.18 to the commissioner of corrections as reimbursement of the costs of providing these services
69.19 to the juvenile courts.

69.20 Sec. 41. Minnesota Statutes 2022, section 260B.157, subdivision 3, is amended to read:

69.21 Subd. 3. **Juvenile treatment screening team.** (a) The local social services agency shall
69.22 establish a juvenile treatment screening team to conduct screenings and prepare case plans
69.23 under this subdivision. The team, which may be the team constituted under section 245.4885
69.24 or 256B.092 or ~~Minnesota Rules, parts 9530.6600 to 9530.6655~~ chapter 254B, shall consist
69.25 of social workers, juvenile justice professionals, and persons with expertise in the treatment
69.26 of juveniles who are emotionally disabled, chemically dependent, or have a developmental
69.27 disability. The team shall involve parents or guardians in the screening process as appropriate.
69.28 The team may be the same team as defined in section 260C.157, subdivision 3.

69.29 (b) If the court, prior to, or as part of, a final disposition, proposes to place a child:

69.30 (1) for the primary purpose of treatment for an emotional disturbance, and residential
69.31 placement is consistent with section 260.012, a developmental disability, or chemical
69.32 dependency in a residential treatment facility out of state or in one which is within the state
69.33 and licensed by the commissioner of human services under chapter 245A; or

70.1 (2) in any out-of-home setting potentially exceeding 30 days in duration, including a
70.2 post-dispositional placement in a facility licensed by the commissioner of corrections or
70.3 human services, the court shall notify the county welfare agency. The county's juvenile
70.4 treatment screening team must either:

70.5 (i) screen and evaluate the child and file its recommendations with the court within 14
70.6 days of receipt of the notice; or

70.7 (ii) elect not to screen a given case, and notify the court of that decision within three
70.8 working days.

70.9 (c) If the screening team has elected to screen and evaluate the child, the child may not
70.10 be placed for the primary purpose of treatment for an emotional disturbance, a developmental
70.11 disability, or chemical dependency, in a residential treatment facility out of state nor in a
70.12 residential treatment facility within the state that is licensed under chapter 245A, unless one
70.13 of the following conditions applies:

70.14 (1) a treatment professional certifies that an emergency requires the placement of the
70.15 child in a facility within the state;

70.16 (2) the screening team has evaluated the child and recommended that a residential
70.17 placement is necessary to meet the child's treatment needs and the safety needs of the
70.18 community, that it is a cost-effective means of meeting the treatment needs, and that it will
70.19 be of therapeutic value to the child; or

70.20 (3) the court, having reviewed a screening team recommendation against placement,
70.21 determines to the contrary that a residential placement is necessary. The court shall state
70.22 the reasons for its determination in writing, on the record, and shall respond specifically to
70.23 the findings and recommendation of the screening team in explaining why the
70.24 recommendation was rejected. The attorney representing the child and the prosecuting
70.25 attorney shall be afforded an opportunity to be heard on the matter.

70.26 Sec. 42. Minnesota Statutes 2022, section 260C.157, subdivision 3, is amended to read:

70.27 Subd. 3. **Juvenile treatment screening team.** (a) The responsible social services agency
70.28 shall establish a juvenile treatment screening team to conduct screenings under this chapter
70.29 and chapter 260D, for a child to receive treatment for an emotional disturbance, a
70.30 developmental disability, or related condition in a residential treatment facility licensed by
70.31 the commissioner of human services under chapter 245A, or licensed or approved by a tribe.
70.32 A screening team is not required for a child to be in: (1) a residential facility specializing
70.33 in prenatal, postpartum, or parenting support; (2) a facility specializing in high-quality

71.1 residential care and supportive services to children and youth who have been or are at risk
71.2 of becoming victims of sex trafficking or commercial sexual exploitation; (3) supervised
71.3 settings for youth who are 18 years of age or older and living independently; or (4) a licensed
71.4 residential family-based treatment facility for substance abuse consistent with section
71.5 260C.190. Screenings are also not required when a child must be placed in a facility due to
71.6 an emotional crisis or other mental health emergency.

71.7 (b) The responsible social services agency shall conduct screenings within 15 days of a
71.8 request for a screening, unless the screening is for the purpose of residential treatment and
71.9 the child is enrolled in a prepaid health program under section 256B.69, in which case the
71.10 agency shall conduct the screening within ten working days of a request. The responsible
71.11 social services agency shall convene the juvenile treatment screening team, which may be
71.12 constituted under section 245.4885, 254B.05, or 256B.092 ~~or Minnesota Rules, parts~~
71.13 ~~9530.6600 to 9530.6655~~. The team shall consist of social workers; persons with expertise
71.14 in the treatment of juveniles who are emotionally disturbed, chemically dependent, or have
71.15 a developmental disability; and the child's parent, guardian, or permanent legal custodian.
71.16 The team may include the child's relatives as defined in section 260C.007, subdivisions 26b
71.17 and 27, the child's foster care provider, and professionals who are a resource to the child's
71.18 family such as teachers, medical or mental health providers, and clergy, as appropriate,
71.19 consistent with the family and permanency team as defined in section 260C.007, subdivision
71.20 16a. Prior to forming the team, the responsible social services agency must consult with the
71.21 child's parents, the child if the child is age 14 or older, and, if applicable, the child's tribe
71.22 to obtain recommendations regarding which individuals to include on the team and to ensure
71.23 that the team is family-centered and will act in the child's best interests. If the child, child's
71.24 parents, or legal guardians raise concerns about specific relatives or professionals, the team
71.25 should not include those individuals. This provision does not apply to paragraph (c).

71.26 (c) If the agency provides notice to tribes under section 260.761, and the child screened
71.27 is an Indian child, the responsible social services agency must make a rigorous and concerted
71.28 effort to include a designated representative of the Indian child's tribe on the juvenile
71.29 treatment screening team, unless the child's tribal authority declines to appoint a
71.30 representative. The Indian child's tribe may delegate its authority to represent the child to
71.31 any other federally recognized Indian tribe, as defined in section 260.755, subdivision 12.
71.32 The provisions of the Indian Child Welfare Act of 1978, United States Code, title 25, sections
71.33 1901 to 1963, and the Minnesota Indian Family Preservation Act, sections 260.751 to
71.34 260.835, apply to this section.

72.1 (d) If the court, prior to, or as part of, a final disposition or other court order, proposes
72.2 to place a child with an emotional disturbance or developmental disability or related condition
72.3 in residential treatment, the responsible social services agency must conduct a screening.
72.4 If the team recommends treating the child in a qualified residential treatment program, the
72.5 agency must follow the requirements of sections 260C.70 to 260C.714.

72.6 The court shall ascertain whether the child is an Indian child and shall notify the
72.7 responsible social services agency and, if the child is an Indian child, shall notify the Indian
72.8 child's tribe as paragraph (c) requires.

72.9 (e) When the responsible social services agency is responsible for placing and caring
72.10 for the child and the screening team recommends placing a child in a qualified residential
72.11 treatment program as defined in section 260C.007, subdivision 26d, the agency must: (1)
72.12 begin the assessment and processes required in section 260C.704 without delay; and (2)
72.13 conduct a relative search according to section 260C.221 to assemble the child's family and
72.14 permanency team under section 260C.706. Prior to notifying relatives regarding the family
72.15 and permanency team, the responsible social services agency must consult with the child's
72.16 parent or legal guardian, the child if the child is age 14 or older, and, if applicable, the child's
72.17 tribe to ensure that the agency is providing notice to individuals who will act in the child's
72.18 best interests. The child and the child's parents may identify a culturally competent qualified
72.19 individual to complete the child's assessment. The agency shall make efforts to refer the
72.20 assessment to the identified qualified individual. The assessment may not be delayed for
72.21 the purpose of having the assessment completed by a specific qualified individual.

72.22 (f) When a screening team determines that a child does not need treatment in a qualified
72.23 residential treatment program, the screening team must:

72.24 (1) document the services and supports that will prevent the child's foster care placement
72.25 and will support the child remaining at home;

72.26 (2) document the services and supports that the agency will arrange to place the child
72.27 in a family foster home; or

72.28 (3) document the services and supports that the agency has provided in any other setting.

72.29 (g) When the Indian child's tribe or tribal health care services provider or Indian Health
72.30 Services provider proposes to place a child for the primary purpose of treatment for an
72.31 emotional disturbance, a developmental disability, or co-occurring emotional disturbance
72.32 and chemical dependency, the Indian child's tribe or the tribe delegated by the child's tribe
72.33 shall submit necessary documentation to the county juvenile treatment screening team,
72.34 which must invite the Indian child's tribe to designate a representative to the screening team.

73.1 (h) The responsible social services agency must conduct and document the screening in
73.2 a format approved by the commissioner of human services.

73.3 Sec. 43. Minnesota Statutes 2022, section 260E.20, subdivision 1, is amended to read:

73.4 Subdivision 1. **General duties.** (a) The local welfare agency shall offer services to
73.5 prevent future maltreatment, safeguarding and enhancing the welfare of the maltreated child,
73.6 and supporting and preserving family life whenever possible.

73.7 (b) If the report alleges a violation of a criminal statute involving maltreatment or child
73.8 endangerment under section 609.378, the local law enforcement agency and local welfare
73.9 agency shall coordinate the planning and execution of their respective investigation and
73.10 assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews.
73.11 Each agency shall prepare a separate report of the results of the agency's investigation or
73.12 assessment.

73.13 (c) In cases of alleged child maltreatment resulting in death, the local agency may rely
73.14 on the fact-finding efforts of a law enforcement investigation to make a determination of
73.15 whether or not maltreatment occurred.

73.16 (d) When necessary, the local welfare agency shall seek authority to remove the child
73.17 from the custody of a parent, guardian, or adult with whom the child is living.

73.18 (e) In performing any of these duties, the local welfare agency shall maintain an
73.19 appropriate record.

73.20 (f) In conducting a family assessment or investigation, the local welfare agency shall
73.21 gather information on the existence of substance abuse and domestic violence.

73.22 (g) If the family assessment or investigation indicates there is a potential for abuse of
73.23 alcohol or other drugs by the parent, guardian, or person responsible for the child's care,
73.24 the local welfare agency ~~shall conduct~~ must coordinate a chemical use comprehensive
73.25 assessment pursuant to Minnesota Rules, part 9530.6615 section 245G.05.

73.26 (h) The agency may use either a family assessment or investigation to determine whether
73.27 the child is safe when responding to a report resulting from birth match data under section
73.28 260E.03, subdivision 23, paragraph (c). If the child subject of birth match data is determined
73.29 to be safe, the agency shall consult with the county attorney to determine the appropriateness
73.30 of filing a petition alleging the child is in need of protection or services under section
73.31 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is
73.32 determined not to be safe, the agency and the county attorney shall take appropriate action
73.33 as required under section 260C.503, subdivision 2.

74.1 Sec. 44. Minnesota Statutes 2022, section 299A.299, subdivision 1, is amended to read:

74.2 Subdivision 1. **Establishment of team.** A county, a multicounty organization of counties
74.3 formed by an agreement under section 471.59, or a city with a population of no more than
74.4 50,000, may establish a multidisciplinary chemical abuse prevention team. The chemical
74.5 abuse prevention team may include, but not be limited to, representatives of health, mental
74.6 health, public health, law enforcement, educational, social service, court service, community
74.7 education, religious, and other appropriate agencies, and parent and youth groups. For
74.8 purposes of this section, "chemical abuse" has the meaning given in ~~Minnesota Rules, part~~
74.9 ~~9530.6605, subpart 6~~ section 254A.02, subdivision 6a. When possible the team must
74.10 coordinate its activities with existing local groups, organizations, and teams dealing with
74.11 the same issues the team is addressing.

74.12 Sec. 45. **REVISOR INSTRUCTION.**

74.13 The revisor of statutes shall renumber the subdivisions in Minnesota Statutes, section
74.14 254B.01, in alphabetical order and correct any cross-reference changes that result.

74.15 Sec. 46. **REPEALER.**

74.16 Minnesota Statutes 2022, sections 169A.70, subdivision 6; 245G.22, subdivision 19;
74.17 254A.02, subdivision 8a; 254A.16, subdivision 6; 254A.19, subdivisions 1a, 2, and 5;
74.18 254B.04, subdivisions 2b and 2c; and 254B.041, subdivision 2, are repealed.

74.19 ARTICLE 3

74.20 MISCELLANEOUS

74.21 Section 1. Minnesota Statutes 2022, section 3.757, subdivision 1, is amended to read:

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

74.24 (b) "Municipality" has the meaning provided in section 466.01, subdivision 1.

74.25 (c) "Opioid litigation" means any civil litigation, demand, or settlement in lieu of litigation
74.26 alleging unlawful conduct related to the marketing, sale, or distribution of opioids in this
74.27 state or other alleged illegal actions that contributed to the excessive use of opioids.

74.28 (d) "Released claim" means any cause of action or other claim that has been released in
74.29 a statewide opioid settlement agreement, including matters identified as a released claim as
74.30 that term or a comparable term is defined in a statewide opioid settlement agreement.

75.1 (e) "Settling defendant" means Johnson & Johnson, AmerisourceBergen Corporation,
75.2 Cardinal Health, Inc., ~~and~~ McKesson Corporation, Teva Pharmaceuticals, Allergan plc,
75.3 CVS Health Corporation, Walgreens Boots Alliance, Inc., and Walmart, Inc., as well as
75.4 related subsidiaries, affiliates, officers, directors, and other related entities specifically named
75.5 as a released entity in a statewide opioid settlement agreement.

75.6 (f) "Statewide opioid settlement agreement" means an agreement, including consent
75.7 judgments, assurances of discontinuance, and related agreements or documents, between
75.8 the attorney general, on behalf of the state, and a settling defendant, to provide or allocate
75.9 remuneration for conduct related to the marketing, sale, or distribution of opioids in this
75.10 state or other alleged illegal actions that contributed to the excessive use of opioids.

75.11 Sec. 2. Minnesota Statutes 2022, section 245.50, subdivision 5, is amended to read:

75.12 Subd. 5. **Special contracts; bordering states.** (a) An individual who is detained,
75.13 committed, or placed on an involuntary basis under chapter 253B may be confined or treated
75.14 in a bordering state pursuant to a contract under this section. An individual who is detained,
75.15 committed, or placed on an involuntary basis under the civil law of a bordering state may
75.16 be confined or treated in Minnesota pursuant to a contract under this section. A peace or
75.17 health officer who is acting under the authority of the sending state may transport an
75.18 individual to a receiving agency that provides services pursuant to a contract under this
75.19 section and may transport the individual back to the sending state under the laws of the
75.20 sending state. Court orders valid under the law of the sending state are granted recognition
75.21 and reciprocity in the receiving state for individuals covered by a contract under this section
75.22 to the extent that the court orders relate to confinement for treatment or care of mental
75.23 illness, chemical dependency, or detoxification. Such treatment or care may address other
75.24 conditions that may be co-occurring with the mental illness or chemical dependency. These
75.25 court orders are not subject to legal challenge in the courts of the receiving state. Individuals
75.26 who are detained, committed, or placed under the law of a sending state and who are
75.27 transferred to a receiving state under this section continue to be in the legal custody of the
75.28 authority responsible for them under the law of the sending state. Except in emergencies,
75.29 those individuals may not be transferred, removed, or furloughed from a receiving agency
75.30 without the specific approval of the authority responsible for them under the law of the
75.31 sending state.

75.32 (b) While in the receiving state pursuant to a contract under this section, an individual
75.33 shall be subject to the sending state's laws and rules relating to length of confinement,
75.34 reexaminations, and extensions of confinement. No individual may be sent to another state

76.1 pursuant to a contract under this section until the receiving state has enacted a law recognizing
76.2 the validity and applicability of this section.

76.3 (c) If an individual receiving services pursuant to a contract under this section leaves
76.4 the receiving agency without permission and the individual is subject to involuntary
76.5 confinement under the law of the sending state, the receiving agency shall use all reasonable
76.6 means to return the individual to the receiving agency. The receiving agency shall
76.7 immediately report the absence to the sending agency. The receiving state has the primary
76.8 responsibility for, and the authority to direct, the return of these individuals within its borders
76.9 and is liable for the cost of the action to the extent that it would be liable for costs of its
76.10 own resident.

76.11 (d) Responsibility for payment for the cost of care remains with the sending agency.

76.12 (e) This subdivision also applies to county contracts under subdivision 2 which include
76.13 emergency care and treatment provided to a county resident in a bordering state.

76.14 (f) If a Minnesota resident is admitted to a facility in a bordering state under this chapter,
76.15 ~~a physician, a licensed psychologist who has a doctoral degree in psychology, or an advanced~~
76.16 ~~practice registered nurse certified in mental health,~~ an individual who is licensed in the
76.17 bordering state, may act as a court examiner under sections 253B.07, 253B.08, 253B.092,
76.18 253B.12, and 253B.17 subject to the same requirements and limitations in section 253B.02,
76.19 ~~subdivision~~ subdivisions 4d and 7. An examiner under section 253B.02, subdivision 7, may
76.20 initiate an emergency hold under section 253B.051 on a Minnesota resident who is in a
76.21 hospital that is under contract with a Minnesota governmental entity under this section
76.22 provided the resident, in the opinion of the examiner, meets the criteria in section 253B.051.

76.23 (g) This section shall apply to detoxification services that are unrelated to treatment
76.24 whether the services are provided on a voluntary or involuntary basis.

76.25 Sec. 3. Laws 2021, First Special Session chapter 7, article 2, section 17, the effective date,
76.26 is amended to read:

76.27 **EFFECTIVE DATE.** This section is effective July 1, 2021, except ~~subdivision 6,~~
76.28 ~~paragraph (b), is effective upon federal approval and~~ subdivision 15 is effective the day
76.29 following final enactment. ~~The commissioner of human services shall notify the revisor of~~
76.30 ~~statutes when federal approval is obtained.~~

77.1 Sec. 4. Laws 2021, First Special Session chapter 7, article 6, section 12, the effective date,
77.2 is amended to read:

77.3 **EFFECTIVE DATE.** This section is effective July 1, 2021, ~~or upon federal approval,~~
77.4 ~~whichever is later. The commissioner of human services shall notify the revisor of statutes~~
77.5 ~~when federal approval is obtained.~~

77.6 Sec. 5. Laws 2021, First Special Session chapter 7, article 11, section 18, the effective
77.7 date, is amended to read:

77.8 **EFFECTIVE DATE.** This section is effective July 1, 2021, ~~or upon federal approval,~~
77.9 ~~whichever is later,~~ except paragraph (f) is effective the day following final enactment. The
77.10 ~~commissioner shall notify the revisor of statutes when federal approval is obtained.~~

77.11 Sec. 6. Laws 2021, First Special Session chapter 7, article 13, section 43, the effective
77.12 date, is amended to read:

77.13 **EFFECTIVE DATE.** This section is effective January 1, 2022, ~~or upon federal approval,~~
77.14 ~~whichever is later, except the fifth sentence in paragraph (d) is effective January 1, 2022.~~
77.15 ~~The commissioner of human services shall notify the revisor of statutes when federal approval~~
77.16 ~~is obtained.~~

77.17 Sec. 7. Laws 2022, chapter 98, article 4, section 37, the effective date, is amended to read:

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

169A.70 ALCOHOL SAFETY PROGRAMS; CHEMICAL USE ASSESSMENTS.

Subd. 6. **Method of assessment.** (a) As used in this subdivision, "collateral contact" means an oral or written communication initiated by an assessor for the purpose of gathering information from an individual or agency, other than the offender, to verify or supplement information provided by the offender during an assessment under this section. The term includes contacts with family members and criminal justice agencies.

(b) An assessment conducted under this section must include at least one personal interview with the offender designed to make a determination about the extent of the offender's past and present chemical and alcohol use or abuse. It must also include collateral contacts and a review of relevant records or reports regarding the offender including, but not limited to, police reports, arrest reports, driving records, chemical testing records, and test refusal records. If the offender has a probation officer, the officer must be the subject of a collateral contact under this subdivision. If an assessor is unable to make collateral contacts, the assessor shall specify why collateral contacts were not made.

245G.22 OPIOID TREATMENT PROGRAMS.

Subd. 19. **Placing authorities.** A program must provide certain notification and client-specific updates to placing authorities for a client who is enrolled in Minnesota health care programs. At the request of the placing authority, the program must provide client-specific updates, including but not limited to informing the placing authority of positive drug testings and changes in medications used for the treatment of opioid use disorder ordered for the client.

254A.02 DEFINITIONS.

Subd. 8a. **Placing authority.** "Placing authority" means a county, prepaid health plan, or tribal governing board governed by Minnesota Rules, parts 9530.6600 to 9530.6655.

254A.16 RESPONSIBILITIES OF THE COMMISSIONER.

Subd. 6. **Monitoring.** The commissioner shall gather and placing authorities shall provide information to measure compliance with Minnesota Rules, parts 9530.6600 to 9530.6655. The commissioner shall specify the format for data collection to facilitate tracking, aggregating, and using the information.

254A.19 CHEMICAL USE ASSESSMENTS.

Subd. 1a. **Emergency room patients.** A county may enter into a contract with a hospital to provide chemical use assessments under Minnesota Rules, parts 9530.6600 to 9530.6655, for patients admitted to an emergency room or inpatient hospital when:

- (1) an assessor is not available; and
- (2) detoxification services in the county are at full capacity.

Subd. 2. **Probation officer as contact.** When a chemical use assessment is required under Minnesota Rules, parts 9530.6600 to 9530.6655, for a person who is on probation or under other correctional supervision, the assessor, either orally or in writing, shall contact the person's probation officer to verify or supplement the information provided by the person.

Subd. 5. **Assessment via telehealth.** Notwithstanding Minnesota Rules, part 9530.6615, subpart 3, item A, a chemical use assessment may be conducted via telehealth as defined in section 256B.0625, subdivision 3b.

254B.04 ELIGIBILITY FOR BEHAVIORAL HEALTH FUND SERVICES.

Subd. 2b. **Eligibility for placement in opioid treatment programs.** Prior to placement of an individual who is determined by the assessor to require treatment for opioid addiction, the assessor must provide educational information concerning treatment options for opioid addiction, including the use of a medication for the use of opioid addiction. The commissioner shall develop educational materials supported by research and updated periodically that must be used by assessors to comply with this requirement.

Subd. 2c. **Eligibility to receive peer recovery support and treatment service coordination.** Notwithstanding Minnesota Rules, part 9530.6620, subpart 6, a placing authority may authorize peer recovery support and treatment service coordination for a person who scores a severity of one or more in dimension 4, 5, or 6, under Minnesota Rules, part 9530.6622. Authorization for peer recovery support and treatment service coordination under this subdivision does not need

to be provided in conjunction with treatment services under Minnesota Rules, part 9530.6622, subpart 4, 5, or 6.

254B.041 SUBSTANCE USE DISORDER RULES.

Subd. 2. **Vendor collections; rule amendment.** The commissioner may amend Minnesota Rules, parts 9530.7000 to 9530.7025, to require a vendor of substance use disorder transitional and extended care rehabilitation services to collect the cost of care received under a program from an eligible person who has been determined to be partially responsible for treatment costs, and to remit the collections to the commissioner. The commissioner shall pay to a vendor, for the collections, an amount equal to five percent of the collections remitted to the commissioner by the vendor.

254B.13 PILOT PROJECTS; CHEMICAL HEALTH CARE.

Subdivision 1. **Authorization for navigator pilot projects.** The commissioner may approve and implement navigator pilot projects developed under the planning process required under Laws 2009, chapter 79, article 7, section 26, to provide alternatives to and enhance coordination of the delivery of chemical health services required under section 254B.03.

Subd. 2. **Program design and implementation.** (a) The commissioner and counties participating in the navigator pilot projects shall continue to work in partnership to refine and implement the navigator pilot projects initiated under Laws 2009, chapter 79, article 7, section 26.

(b) The commissioner and counties participating in the navigator pilot projects shall complete the planning phase and, if approved by the commissioner for implementation, enter into agreements governing the operation of the navigator pilot projects.

Subd. 2a. **Eligibility for navigator pilot program.** (a) To be considered for participation in a navigator pilot program, an individual must:

(1) be a resident of a county with an approved navigator program;

(2) be eligible for behavioral health fund services;

(3) be a voluntary participant in the navigator program;

(4) satisfy one of the following items:

(i) have at least one severity rating of three or above in dimension four, five, or six in a comprehensive assessment under section 245G.05, subdivision 2, paragraph (c), clauses (4) to (6); or

(ii) have at least one severity rating of two or above in dimension four, five, or six in a comprehensive assessment under section 245G.05, subdivision 2, paragraph (c), clauses (4) to (6), and be currently participating in a Rule 31 treatment program under chapter 245G or be within 60 days following discharge after participation in a Rule 31 treatment program; and

(5) have had at least two treatment episodes in the past two years, not limited to episodes reimbursed by the behavioral health fund. An admission to an emergency room, a detoxification program, or a hospital may be substituted for one treatment episode if it resulted from the individual's substance use disorder.

(b) New eligibility criteria may be added as mutually agreed upon by the commissioner and participating navigator programs.

Subd. 4. **Notice of navigator pilot project discontinuation.** Each county's participation in the navigator pilot project may be discontinued for any reason by the county or the commissioner of human services after 30 days' written notice to the other party.

Subd. 5. **Duties of commissioner.** (a) Notwithstanding any other provisions in this chapter, the commissioner may authorize navigator pilot projects to use the behavioral health fund to pay for nontreatment navigator pilot services:

(1) in addition to those authorized under section 254B.03, subdivision 2, paragraph (a); and

(2) by vendors in addition to those authorized under section 254B.05 when not providing substance use disorder treatment services.

(b) For purposes of this section, "nontreatment navigator pilot services" include navigator services, peer support, family engagement and support, housing support, rent subsidies, supported employment, and independent living skills.

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(c) State expenditures for substance use disorder services and nontreatment navigator pilot services provided by or through the navigator pilot projects must not be greater than the behavioral health fund expected share of forecasted expenditures in the absence of the navigator pilot projects. The commissioner may restructure the schedule of payments between the state and participating counties under the local agency share and division of cost provisions under section 254B.03, subdivisions 3 and 4, as necessary to facilitate the operation of the navigator pilot projects.

(d) The commissioner may waive administrative rule requirements that are incompatible with the implementation of the navigator pilot project, except that any substance use disorder treatment funded under this section must continue to be provided by a licensed treatment provider.

(e) The commissioner shall not approve or enter into any agreement related to navigator pilot projects authorized under this section that puts current or future federal funding at risk.

(f) The commissioner shall provide participating navigator pilot projects with transactional data, reports, provider data, and other data generated by county activity to assess and measure outcomes. This information must be transmitted or made available in an acceptable form to participating navigator pilot projects at least once every six months or within a reasonable time following the commissioner's receipt of information from the counties needed to comply with this paragraph.

Subd. 6. Duties of county board. The county board, or other county entity that is approved to administer a navigator pilot project, shall:

(1) administer the navigator pilot project in a manner consistent with the objectives described in subdivision 2 and the planning process in subdivision 5;

(2) ensure that no one is denied substance use disorder treatment services for which they would otherwise be eligible under section 254A.03, subdivision 3; and

(3) provide the commissioner with timely and pertinent information as negotiated in agreements governing operation of the navigator pilot projects.

Subd. 7. Managed care. An individual who is eligible for the navigator pilot program under subdivision 2a is excluded from mandatory enrollment in managed care until these services are included in the health plan's benefit set.

Subd. 8. Authorization for continuation of navigator pilots. The navigator pilot projects implemented pursuant to subdivision 1 are authorized to continue operation after July 1, 2013, under existing agreements governing operation of the pilot projects.

254B.16 PILOT PROJECTS; TREATMENT FOR PREGNANT AND POSTPARTUM WOMEN WITH SUBSTANCE USE DISORDER.

Subdivision 1. Pilot projects established. (a) Within the limits of federal funds available specifically for this purpose, the commissioner of human services shall establish pilot projects to provide substance use disorder treatment and services to pregnant and postpartum women with a primary diagnosis of substance use disorder, including opioid use disorder. Pilot projects funded under this section must:

(1) promote flexible uses of funds to provide treatment and services to pregnant and postpartum women with substance use disorders;

(2) fund family-based treatment and services for pregnant and postpartum women with substance use disorders;

(3) identify gaps in services along the continuum of care that are provided to pregnant and postpartum women with substance use disorders; and

(4) encourage new approaches to service delivery and service delivery models.

(b) A pilot project funded under this section must provide at least a portion of its treatment and services to women who receive services on an outpatient basis.

Subd. 2. Federal funds. The commissioner shall apply for any available grant funds from the federal Center for Substance Abuse Treatment for these pilot projects.

256.041 CULTURAL AND ETHNIC COMMUNITIES LEADERSHIP COUNCIL.

Subd. 10. Expiration. The council expires on June 30, 2025.

256B.49 HOME AND COMMUNITY-BASED SERVICE WAIVERS FOR PERSONS WITH DISABILITIES.

Subd. 23. **Community-living settings.** (a) For the purposes of this chapter, "community-living settings" means a single-family home or multifamily dwelling unit where a service recipient or a service recipient's family owns or rents, and maintains control over the individual unit as demonstrated by a lease agreement. Community-living settings does not include a home or dwelling unit that the service provider owns, operates, or leases or in which the service provider has a direct or indirect financial interest.

(b) To ensure a service recipient or the service recipient's family maintains control over the home or dwelling unit, community-living settings are subject to the following requirements:

- (1) service recipients must not be required to receive services or share services;
- (2) service recipients must not be required to have a disability or specific diagnosis to live in the community-living setting;
- (3) service recipients may hire service providers of their choice;
- (4) service recipients may choose whether to share their household and with whom;
- (5) the home or multifamily dwelling unit must include living, sleeping, bathing, and cooking areas;
- (6) service recipients must have lockable access and egress;
- (7) service recipients must be free to receive visitors and leave the settings at times and for durations of their own choosing;
- (8) leases must comply with chapter 504B;
- (9) landlords must not charge different rents to tenants who are receiving home and community-based services; and
- (10) access to the greater community must be easily facilitated based on the service recipient's needs and preferences.

(c) Nothing in this section prohibits a service recipient from having another person or entity not affiliated with the service provider cosign a lease. Nothing in this section prohibits a service recipient, during any period in which a service provider has cosigned the service recipient's lease, from modifying services with an existing cosigning service provider and, subject to the approval of the landlord, maintaining a lease cosigned by the service provider. Nothing in this section prohibits a service recipient, during any period in which a service provider has cosigned the service recipient's lease, from terminating services with the cosigning service provider, receiving services from a new service provider, and, subject to the approval of the landlord, maintaining a lease cosigned by the new service provider.

(d) A lease cosigned by a service provider meets the requirements of paragraph (a) if the service recipient and service provider develop and implement a transition plan which must provide that, within two years of cosigning the initial lease, the service provider shall transfer the lease to the service recipient and other cosigners, if any.

(e) In the event the landlord has not approved the transfer of the lease within two years of the service provider cosigning the initial lease, the service provider must submit a time-limited extension request to the commissioner of human services to continue the cosigned lease arrangement. The extension request must include:

- (1) the reason the landlord denied the transfer;
- (2) the plan to overcome the denial to transfer the lease;
- (3) the length of time needed to successfully transfer the lease, not to exceed an additional two years;
- (4) a description of how the transition plan was followed, what occurred that led to the landlord denying the transfer, and what changes in circumstances or condition, if any, the service recipient experienced; and
- (5) a revised transition plan to transfer the cosigned lease between the service provider and the service recipient to the service recipient.

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The commissioner must approve an extension within sufficient time to ensure the continued occupancy by the service recipient.

260.835 AMERICAN INDIAN CHILD WELFARE ADVISORY COUNCIL.

Subd. 2. **Expiration.** The American Indian Child Welfare Advisory Council expires June 30, 2023.