State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3274

02/10/2022 Authored by Fischer; Hanson, J.; Reyer; Feist and Franke
The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

A bill for an act

relating to human services; modifying children's residential treatment; modifying psychiatric residential treatment facility requirements; modifying qualified residential treatment program requirements; directing the commissioner of human services to provide a report on psychiatric residential treatment facility reimbursement; appropriating money; amending Minnesota Statutes 2020, sections 245.4882, by adding a subdivision; 256B.0941, by adding a subdivision; 260C.007, subdivision 26d; Minnesota Statutes 2021 Supplement, sections 245I.04, by adding a subdivision; 260C.704.

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

Section 1. Minnesota Statutes 2020, section 245.4882, is amended by adding a subdivision to read:

Subd. 2a. **Assessment requirements.** (a) A residential treatment service provider must complete a diagnostic assessment of a child within ten calendar days of the child's admission. If a diagnostic assessment has been completed by a mental health professional within the past 180 days, a new diagnostic assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed.

(b) The service provider must complete the screenings required by Minnesota Rules, part 2960.0070, subpart 5, within ten calendar days unless a child and adolescent needs and strengths assessment has been completed by a qualified individual prior to the child's admission to children's residential treatment. If a child and adolescent needs and strengths assessment has been completed by a qualified individual prior to the child's admission, then the screening must be waived.

(c) The agency that places a child in residential treatment shall provide assessment information to the service provider.

Sec. 2. Minnesota Statutes 2021 Supplement, section 245I.04, is amended by adding a subdivision to read:

Subd. 5a. **Psychiatric nurse practitioner scope of practice.** A psychiatric nurse practitioner may provide services to clients according to section 256B.0941 under the supervision of the attending psychiatrist.

Sec. 3. Minnesota Statutes 2020, section 256B.0941, is amended by adding a subdivision to read:

Subd. 2a. **Sleeping hours.** During normal sleeping hours, a psychiatric residential treatment facility provider caring for residents younger than ... years old must provide at least one staff person for every eight residents present.

Sec. 4. Minnesota Statutes 2020, section 260C.007, subdivision 26d, is amended to read:

Subd. 26d. **Qualified residential treatment program.** (a) "Qualified residential treatment program" means a children's residential treatment program licensed under chapter 245A or licensed or approved by a tribe that is approved to receive foster care maintenance payments under section 256.82 that:

(1) has a trauma-informed treatment model designed to address the needs of children with serious emotional or behavioral disorders or disturbances;

(2) has registered or licensed nursing staff and other licensed clinical staff who:

(i) provide care within the scope of their practice; and

(ii) are available 24 hours per day and seven days per week;

(3) is accredited by any of the following independent, nonprofit organizations: the Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), and the Council on Accreditation (COA), or any other nonprofit accrediting organization approved by the United States Department of Health and Human Services;

(4) if it is in the child's best interests, facilitates participation of the child's family members in the child's treatment programming consistent with the child's out-of-home placement plan under sections 260C.212, subdivision 1, and 260C.708;

(5) facilitates outreach to family members of the child, including siblings;

(6) documents how the facility facilitates outreach to the child's parents and relatives, as well as documents the child's parents' and other relatives' contact information;

(7) documents how the facility includes family members in the child's treatment process, including after the child's discharge, and how the facility maintains the child's sibling connections; and

(8) provides the child and child's family with discharge planning and family-based aftercare support for at least six months after the child's discharge.

(b) Children's shelter services licensed under Minnesota Rules, parts 2960.0510 to 2960.0530, and services that support crisis stabilization or deliver short-term diagnostic and assessment services as indicated by the service statement of intended use and have an allowed length of stay of 35 days or fewer, are not qualified residential treatment programs.

Sec. 5. Minnesota Statutes 2021 Supplement, section 260C.704, is amended to read:

260C.704 REQUIREMENTS FOR THE QUALIFIED INDIVIDUAL'S ASSESSMENT OF THE CHILD FOR PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM.

(a) A qualified individual must complete an assessment of the child prior to the child's placement in a qualified residential treatment program in a format approved by the commissioner of human services unless, due to a crisis, the child must immediately be placed in a qualified residential treatment program. When a child must immediately be placed in a qualified residential treatment program without an assessment, the qualified individual must complete the child's assessment within 30 days of the child's placement. The qualified individual must:

(1) assess the child's needs and strengths, using an age-appropriate, evidence-based, validated, functional assessment approved by the commissioner of human services;

(2) determine whether the child's needs can be met by the child's family members or through placement in a family foster home; or, if not, determine which residential setting would provide the child with the most effective and appropriate level of care to the child in the least restrictive environment;

(3) develop a list of short- and long-term mental and behavioral health goals for the child; and

(4) work with the child's family and permanency team using culturally competent practices.

If a level of care determination was conducted under section 245.4885, that information must be shared with the qualified individual and the juvenile treatment screening team.

(b) The child and the child's parents, when appropriate, may request that a specific culturally competent qualified individual complete the child's assessment. The agency shall make efforts to refer the child to the identified qualified individual to complete the assessment. The assessment must not be delayed for a specific qualified individual to complete the assessment.

(c) The qualified individual must provide the assessment, when complete, to the responsible social services agency. If the assessment recommends placement of the child in a qualified residential treatment facility, the agency must distribute the assessment to the child's parent or legal guardian and file the assessment with the court report as required in section 260C.71, subdivision 2. If the assessment does not recommend placement in a qualified residential treatment facility, the agency must provide a copy of the assessment to the parents or legal guardians and the guardian ad litem and file the assessment determination with the court at the next required hearing as required in section 260C.71, subdivision 5. If court rules and chapter 13 permit disclosure of the results of the child's assessment, the agency may share the results of the child's assessment with the child's foster care provider, other members of the child's family, and the family and permanency team. The agency must not share the child's private medical data with the family and permanency team unless: (1) chapter 13 permits the agency to disclose the child's private medical data to the family and permanency team; or (2) the child's parent has authorized the agency to disclose the child's private medical data to the family and permanency team.

(d) For an Indian child, the assessment of the child must follow the order of placement preferences in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1915.

(e) In the assessment determination, the qualified individual must specify in writing:

(1) the reasons why the child's needs cannot be met by the child's family or in a family foster home. A shortage of family foster homes is not an acceptable reason for determining that a family foster home cannot meet a child's needs;

(2) why the recommended placement in a qualified residential treatment program will provide the child with the most effective and appropriate level of care to meet the child's needs in the least restrictive environment possible and how placing the child at the treatment

program is consistent with the short-term and long-term goals of the child's permanency plan; and

(3) if the qualified individual's placement recommendation is not the placement setting that the parent, family and permanency team, child, or tribe prefer, the qualified individual must identify the reasons why the qualified individual does not recommend the parent's, family and permanency team's, child's, or tribe's placement preferences. The out-of-home placement plan under section 260C.708 must also include reasons why the qualified individual did not recommend the preferences of the parents, family and permanency team, child, or tribe.

(f) If the qualified individual determines that the child's family or a family foster home or other less restrictive placement may meet the child's needs, the agency must move the child out of the qualified residential treatment program and transition the child to a less restrictive setting within 30 days of the determination. If the responsible social services agency has placement authority of the child, the agency must make a plan for the child's placement according to section 260C.212, subdivision 2. The agency must file the child's assessment determination with the court at the next required hearing.

(g) If the qualified individual recommends placing the child in a qualified residential treatment program and if the responsible social services agency has placement authority of the child, the agency shall make referrals to appropriate qualified residential treatment programs and, upon acceptance by an appropriate program, place the child in an approved or certified qualified residential treatment program.

(h) If a child requires treatment in a certified qualified residential treatment program, the final qualified residential treatment program to serve the child must deliver aftercare services to the child and the child's caregivers.

Sec. 6. **DIRECTION TO COMMISSIONER; PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY REIMBURSEMENT.**

No later than February 1, 2023, the commissioner of human services shall report to the legislative committees and divisions with jurisdiction over human services policy and finance on plans to establish a sustainable reimbursement policy for psychiatric residential treatment facility level of care.

Sec. 7. **APPROPRIATION; CHILDREN'S RESIDENTIAL TREATMENT SERVICES.**

$10,500,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of human services to provide licensed children's residential treatment facilities with emergency funding for:

(1) staff overtime;

(2) one-to-one staffing, as needed;

(3) staff recruitment and retention; and

(4) training and related costs to maintain quality staff.

Up to $1,500,000 of this appropriation may be allocated to support group home organizations supporting children transitioning to lower levels of care. This is a onetime appropriation.