

SENATE

STATE OF MINNESOTA

EIGHTY-NINTH SESSION

S.F. No. 706

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DATE	D-PG	OFFICIAL STATUS
02/12/2015	261	Introduction and first reading Referred to Health, Human Services and Housing
04/07/2015	1426a	Comm report: To pass as amended and re-refer to Finance
04/14/2015	1551	Withdrawn
	1551	Second reading
05/12/2015	3534a	Special Order: Amended
	3537	Third reading Passed See SF1458, Art. 7, Sec. 3-7, 10-23, 38, 43, Art. 11, Sec. 32

A bill for an act

relating to human services; establishing requirements for correction orders and conditional licenses for certain human services programs; providing for settlement agreements; authorizing a health care delivery pilot program; modifying licensing requirements for foster care providers; modifying home and community-based services standards; striking language establishing the Monitoring Technology Review Panel in the disability waiver rate system; amending Minnesota Statutes 2014, sections 245A.06, by adding a subdivision; 245A.155, subdivisions 1, 2; 245A.65, subdivision 2; 245D.02, by adding a subdivision; 245D.05, subdivisions 1, 2; 245D.06, subdivisions 1, 2, 7; 245D.07, subdivision 2; 245D.071, subdivision 5; 245D.09, subdivisions 3, 5; 245D.22, subdivision 4; 245D.31, subdivisions 3, 4, 5; 256B.4914, subdivision 6; 256B.492; proposing coding for new law in Minnesota Statutes, chapters 245A; 256B.

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

Section 1. Minnesota Statutes 2014, section 245A.06, is amended by adding a subdivision to read:

Subd. 1a. **Correction orders and conditional licenses for programs licensed as home and community-based services.** (a) For programs licensed under both this chapter and chapter 245D, if the license holder operates more than one service site under a single license governed by chapter 245D, the order issued under this section shall be specific to the service site or sites at which the violations of applicable law or rules occurred. The order shall not apply to other service sites governed by chapter 245D and operated by the same license holder unless the commissioner has included in the order the articulable basis for applying the order to another service site.

(b) If the commissioner has issued more than one license to the license holder under this chapter, the conditions imposed under this section shall be specific to the license for the program at which the violations of applicable law or rules occurred and shall not apply

to other licenses held by the same license holder if those programs are being operated in substantial compliance with applicable law and rules.

Sec. 2. **[245A.081] SETTLEMENT AGREEMENT.**

(a) A license holder who has made a timely appeal pursuant to section 245A.06, subdivision 4, or 245A.07, subdivision 3, or the commissioner may initiate a discussion about a possible settlement agreement related to the licensing sanction. For the purposes of this section, the following conditions apply to a settlement agreement reached by the parties:

(1) if the parties enter into a settlement agreement, the effect of the agreement shall be that the appeal is withdrawn and the agreement shall constitute the full agreement between the commissioner and the party who filed the appeal; and

(2) the settlement agreement must identify the agreed upon actions the license holder has taken and will take in order to achieve and maintain compliance with the licensing requirements that the commissioner determined the license holder had violated.

(b) Neither the license holder nor the commissioner is required to initiate a settlement discussion under this section.

(c) If a settlement discussion is initiated by the license holder, the commissioner shall respond to the license holder within 14 calendar days of receipt of the license holder's submission.

(d) If the commissioner agrees to engage in settlement discussions, the commissioner may decide at any time not to continue settlement discussions with a license holder.

Sec. 3. Minnesota Statutes 2014, section 245A.155, subdivision 1, is amended to read:

Subdivision 1. **Licensed foster care and respite care.** This section applies to foster care agencies and licensed foster care providers who place, supervise, or care for individuals who rely on medical monitoring equipment to sustain life or monitor a medical condition that could become life-threatening without proper use of the medical equipment in respite care or foster care.

Sec. 4. Minnesota Statutes 2014, section 245A.155, subdivision 2, is amended to read:

Subd. 2. **Foster care agency requirements.** In order for an agency to place an individual who relies on medical equipment to sustain life or monitor a medical condition that could become life-threatening without proper use of the medical equipment with a foster care provider, the agency must ensure that the foster care provider has received the

training to operate such equipment as observed and confirmed by a qualified source,
and that the provider:

(1) is currently caring for an individual who is using the same equipment in the
foster home; or

(2) has written documentation that the foster care provider has cared for an
individual who relied on such equipment within the past six months; or

(3) has successfully completed training with the individual being placed with the
provider.

Sec. 5. Minnesota Statutes 2014, section 245A.65, subdivision 2, is amended to read:

Subd. 2. **Abuse prevention plans.** All license holders shall establish and enforce
ongoing written program abuse prevention plans and individual abuse prevention plans as
required under section 626.557, subdivision 14.

(a) The scope of the program abuse prevention plan is limited to the population,
physical plant, and environment within the control of the license holder and the location
where licensed services are provided. In addition to the requirements in section 626.557,
subdivision 14, the program abuse prevention plan shall meet the requirements in clauses
(1) to (5).

(1) The assessment of the population shall include an evaluation of the following
factors: age, gender, mental functioning, physical and emotional health or behavior of the
client; the need for specialized programs of care for clients; the need for training of staff to
meet identified individual needs; and the knowledge a license holder may have regarding
previous abuse that is relevant to minimizing risk of abuse for clients.

(2) The assessment of the physical plant where the licensed services are provided
shall include an evaluation of the following factors: the condition and design of the
building as it relates to the safety of the clients; and the existence of areas in the building
which are difficult to supervise.

(3) The assessment of the environment for each facility and for each site when living
arrangements are provided by the agency shall include an evaluation of the following
factors: the location of the program in a particular neighborhood or community; the type
of grounds and terrain surrounding the building; the type of internal programming; and
the program's staffing patterns.

(4) The license holder shall provide an orientation to the program abuse prevention
plan for clients receiving services. If applicable, the client's legal representative must be
notified of the orientation. The license holder shall provide this orientation for each new

person within 24 hours of admission, or for persons who would benefit more from a later orientation, the orientation may take place within 72 hours.

(5) The license holder's governing body or the governing body's delegated representative shall review the plan at least annually using the assessment factors in the plan and any substantiated maltreatment findings that occurred since the last review. The governing body or the governing body's delegated representative shall revise the plan, if necessary, to reflect the review results.

(6) A copy of the program abuse prevention plan shall be posted in a prominent location in the program and be available upon request to mandated reporters, persons receiving services, and legal representatives.

(b) In addition to the requirements in section 626.557, subdivision 14, the individual abuse prevention plan shall meet the requirements in clauses (1) and (2).

(1) The plan shall include a statement of measures that will be taken to minimize the risk of abuse to the vulnerable adult when the individual assessment required in section 626.557, subdivision 14, paragraph (b), indicates the need for measures in addition to the specific measures identified in the program abuse prevention plan. The measures shall include the specific actions the program will take to minimize the risk of abuse within the scope of the licensed services, and will identify referrals made when the vulnerable adult is susceptible to abuse outside the scope or control of the licensed services. When the assessment indicates that the vulnerable adult does not need specific risk reduction measures in addition to those identified in the program abuse prevention plan, the individual abuse prevention plan shall document this determination.

(2) An individual abuse prevention plan shall be developed for each new person as part of the initial individual program plan or service plan required under the applicable licensing rule. The review and evaluation of the individual abuse prevention plan shall be done as part of the review of the program plan or service plan. The person receiving services shall participate in the development of the individual abuse prevention plan to the full extent of the person's abilities. If applicable, the person's legal representative shall be given the opportunity to participate with or for the person in the development of the plan. The interdisciplinary team shall document the review of all abuse prevention plans at least annually, using the individual assessment and any reports of abuse relating to the person. The plan shall be revised to reflect the results of this review.

Sec. 6. Minnesota Statutes 2014, section 245D.02, is amended by adding a subdivision to read:

Subd. 37. **Working day.** "Working day" means Monday, Tuesday, Wednesday, Thursday, or Friday, excluding any legal holiday, as defined in section 645.44, subdivision 5.

Sec. 7. Minnesota Statutes 2014, section 245D.05, subdivision 1, is amended to read:

Subdivision 1. **Health needs.** (a) The license holder is responsible for meeting health service needs assigned in the coordinated service and support plan or the coordinated service and support plan addendum, consistent with the person's health needs. Unless directed otherwise in the coordinated service and support plan or the coordinated service and support plan addendum, the license holder is responsible for promptly notifying the person's legal representative, if any, and the case manager of changes in a person's physical and mental health needs affecting health service needs assigned to the license holder in the coordinated service and support plan or the coordinated service and support plan addendum, when discovered by the license holder, unless the license holder has reason to know the change has already been reported. The license holder must document when the notice is provided.

(b) If responsibility for meeting the person's health service needs has been assigned to the license holder in the coordinated service and support plan or the coordinated service and support plan addendum, the license holder must maintain documentation on how the person's health needs will be met, including a description of the procedures the license holder will follow in order to:

(1) provide medication setup, assistance, or administration according to this chapter. Unlicensed staff responsible for medication setup or medication administration under this section must complete training according to section 245D.09, subdivision 4a, paragraph (d);

(2) monitor health conditions according to written instructions from a licensed health professional;

(3) assist with or coordinate medical, dental, and other health service appointments; or

(4) use medical equipment, devices, or adaptive aides or technology safely and correctly according to written instructions from a licensed health professional.

Sec. 8. Minnesota Statutes 2014, section 245D.05, subdivision 2, is amended to read:

Subd. 2. **Medication administration.** (a) For purposes of this subdivision, "medication administration" means:

(1) checking the person's medication record;

(2) preparing the medication as necessary;

(3) administering the medication or treatment to the person;

(4) documenting the administration of the medication or treatment or the reason for not administering the medication or treatment; and

(5) reporting to the prescriber or a nurse any concerns about the medication or treatment, including side effects, effectiveness, or a pattern of the person refusing to take the medication or treatment as prescribed. Adverse reactions must be immediately reported to the prescriber or a nurse.

(b)(1) If responsibility for medication administration is assigned to the license holder in the coordinated service and support plan or the coordinated service and support plan addendum, the license holder must implement medication administration procedures to ensure a person takes medications and treatments as prescribed. The license holder must ensure that the requirements in clauses (2) and (3) have been met before administering medication or treatment.

(2) The license holder must obtain written authorization from the person or the person's legal representative to administer medication or treatment ~~and must obtain reauthorization annually as needed~~. This authorization shall remain in effect unless it is withdrawn in writing and may be withdrawn at any time. If the person or the person's legal representative refuses to authorize the license holder to administer medication, the medication must not be administered. The refusal to authorize medication administration must be reported to the prescriber as expeditiously as possible.

(3) For a license holder providing intensive support services, the medication or treatment must be administered according to the license holder's medication administration policy and procedures as required under section 245D.11, subdivision 2, clause (3).

(c) The license holder must ensure the following information is documented in the person's medication administration record:

(1) the information on the current prescription label or the prescriber's current written or electronically recorded order or prescription that includes the person's name, description of the medication or treatment to be provided, and the frequency and other information needed to safely and correctly administer the medication or treatment to ensure effectiveness;

(2) information on any risks or other side effects that are reasonable to expect, and any contraindications to its use. This information must be readily available to all staff administering the medication;

(3) the possible consequences if the medication or treatment is not taken or administered as directed;

(4) instruction on when and to whom to report the following:

(i) if a dose of medication is not administered or treatment is not performed as prescribed, whether by error by the staff or the person or by refusal by the person; and

(ii) the occurrence of possible adverse reactions to the medication or treatment;

(5) notation of any occurrence of a dose of medication not being administered or treatment not performed as prescribed, whether by error by the staff or the person or by refusal by the person, or of adverse reactions, and when and to whom the report was made; and

(6) notation of when a medication or treatment is started, administered, changed, or discontinued.

Sec. 9. Minnesota Statutes 2014, section 245D.06, subdivision 1, is amended to read:

Subdivision 1. **Incident response and reporting.** (a) The license holder must respond to incidents under section 245D.02, subdivision 11, that occur while providing services to protect the health and safety of and minimize risk of harm to the person.

(b) The license holder must maintain information about and report incidents to the person's legal representative or designated emergency contact and case manager within 24 hours of an incident occurring while services are being provided, within 24 hours of discovery or receipt of information that an incident occurred, unless the license holder has reason to know that the incident has already been reported, or as otherwise directed in a person's coordinated service and support plan or coordinated service and support plan addendum. An incident of suspected or alleged maltreatment must be reported as required under paragraph (d), and an incident of serious injury or death must be reported as required under paragraph (e).

(c) When the incident involves more than one person, the license holder must not disclose personally identifiable information about any other person when making the report to each person and case manager unless the license holder has the consent of the person.

(d) Within 24 hours of reporting maltreatment as required under section 626.556 or 626.557, the license holder must inform the case manager of the report unless there is reason to believe that the case manager is involved in the suspected maltreatment. The license holder must disclose the nature of the activity or occurrence reported and the agency that received the report.

(e) The license holder must report the death or serious injury of the person as required in paragraph (b) and to the Department of Human Services Licensing Division, and the Office of Ombudsman for Mental Health and Developmental Disabilities as required under section 245.94, subdivision 2a, within 24 hours of the death or serious

injury, or receipt of information that the death or serious injury occurred, unless the license holder has reason to know that the death or serious injury has already been reported.

(f) When a death or serious injury occurs in a facility certified as an intermediate care facility for persons with developmental disabilities, the death or serious injury must be reported to the Department of Health, Office of Health Facility Complaints, and the Office of Ombudsman for Mental Health and Developmental Disabilities, as required under sections 245.91 and 245.94, subdivision 2a, unless the license holder has reason to know that the death or serious injury has already been reported.

(g) The license holder must conduct an internal review of incident reports of deaths and serious injuries that occurred while services were being provided and that were not reported by the program as alleged or suspected maltreatment, for identification of incident patterns, and implementation of corrective action as necessary to reduce occurrences. The review must include an evaluation of whether related policies and procedures were followed, whether the policies and procedures were adequate, whether there is a need for additional staff training, whether the reported event is similar to past events with the persons or the services involved, and whether there is a need for corrective action by the license holder to protect the health and safety of persons receiving services. Based on the results of this review, the license holder must develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by staff or the license holder, if any.

(h) The license holder must verbally report the emergency use of manual restraint of a person as required in paragraph (b) within 24 hours of the occurrence. The license holder must ensure the written report and internal review of all incident reports of the emergency use of manual restraints are completed according to the requirements in section 245D.061 or successor provisions.

Sec. 10. Minnesota Statutes 2014, section 245D.06, subdivision 2, is amended to read:

Subd. 2. **Environment and safety.** The license holder must:

(1) ensure the following when the license holder is the owner, lessor, or tenant of the service site:

(i) the service site is a safe and hazard-free environment;

(ii) that toxic substances or dangerous items are inaccessible to persons served by the program only to protect the safety of a person receiving services when a known safety threat exists and not as a substitute for staff supervision or interactions with a person who is receiving services. If toxic substances or dangerous items are made inaccessible, the license holder must document an assessment of the physical plant, its environment, and its

population identifying the risk factors which require toxic substances or dangerous items to be inaccessible and a statement of specific measures to be taken to minimize the safety risk to persons receiving services and to restore accessibility to all persons receiving services at the service site;

(iii) doors are locked from the inside to prevent a person from exiting only when necessary to protect the safety of a person receiving services and not as a substitute for staff supervision or interactions with the person. If doors are locked from the inside, the license holder must document an assessment of the physical plant, the environment and the population served, identifying the risk factors which require the use of locked doors, and a statement of specific measures to be taken to minimize the safety risk to persons receiving services at the service site; and

(iv) a staff person is available at the service site who is trained in basic first aid and, when required in a person's coordinated service and support plan or coordinated service and support plan addendum, cardiopulmonary resuscitation (CPR) whenever persons are present and staff are required to be at the site to provide direct support service. The CPR training must include ~~in-person~~ instruction, hands-on practice, and an observed skills assessment under the direct supervision of a CPR instructor;

(2) maintain equipment, vehicles, supplies, and materials owned or leased by the license holder in good condition when used to provide services;

(3) follow procedures to ensure safe transportation, handling, and transfers of the person and any equipment used by the person, when the license holder is responsible for transportation of a person or a person's equipment;

(4) be prepared for emergencies and follow emergency response procedures to ensure the person's safety in an emergency; and

(5) follow universal precautions and sanitary practices, including hand washing, for infection prevention and control, and to prevent communicable diseases.

Sec. 11. Minnesota Statutes 2014, section 245D.06, subdivision 7, is amended to read:

Subd. 7. **Permitted actions and procedures.** (a) Use of the instructional techniques and intervention procedures as identified in paragraphs (b) and (c) is permitted when used on an intermittent or continuous basis. When used on a continuous basis, it must be addressed in a person's coordinated service and support plan addendum as identified in sections 245D.07 and 245D.071. For purposes of this chapter, the requirements of this subdivision supersede the requirements identified in Minnesota Rules, part 9525.2720.

(b) Physical contact or instructional techniques must use the least restrictive alternative possible to meet the needs of the person and may be used:

(1) to calm or comfort a person by holding that person with no resistance from that person;

(2) to protect a person known to be at risk of injury due to frequent falls as a result of a medical condition;

(3) to facilitate the person's completion of a task or response when the person does not resist or the person's resistance is minimal in intensity and duration;

(4) to block or redirect a person's limbs or body without holding the person or limiting the person's movement to interrupt the person's behavior that may result in injury to self or others with less than 60 seconds of physical contact by staff; or

(5) to redirect a person's behavior when the behavior does not pose a serious threat to the person or others and the behavior is effectively redirected with less than 60 seconds of physical contact by staff.

(c) Restraint may be used as an intervention procedure to:

(1) allow a licensed health care professional to safely conduct a medical examination or to provide medical treatment ordered by a licensed health care professional to a person necessary to promote healing or recovery from an acute, meaning short-term, medical condition;

(2) assist in the safe evacuation or redirection of a person in the event of an emergency and the person is at imminent risk of harm; or

(3) position a person with physical disabilities in a manner specified in the person's coordinated service and support plan addendum.

Any use of manual restraint as allowed in this paragraph must comply with the restrictions identified in subdivision 6, paragraph (b).

(d) Use of adaptive aids or equipment, orthotic devices, or other medical equipment ordered by a licensed health professional to treat a diagnosed medical condition do not in and of themselves constitute the use of mechanical restraint.

Sec. 12. Minnesota Statutes 2014, section 245D.07, subdivision 2, is amended to read:

Subd. 2. **Service planning requirements for basic support services.** (a) License holders providing basic support services must meet the requirements of this subdivision.

(b) Within 15 calendar days of service initiation the license holder must complete a preliminary coordinated service and support plan addendum based on the coordinated service and support plan.

(c) Within 60 calendar days of service initiation the license holder must review and revise as needed the preliminary coordinated service and support plan addendum to document the services that will be provided including how, when, and by whom services

11.1 will be provided, and the person responsible for overseeing the delivery and coordination
11.2 of services.

11.3 (d) The license holder must participate in service planning and support team
11.4 meetings for the person following stated timelines established in the person's coordinated
11.5 service and support plan or as requested by the person or the person's legal representative,
11.6 the support team or the expanded support team.

11.7 Sec. 13. Minnesota Statutes 2014, section 245D.071, subdivision 5, is amended to read:

11.8 Subd. 5. **Service plan review and evaluation.** (a) The license holder must give the
11.9 person or the person's legal representative and case manager an opportunity to participate
11.10 in the ongoing review and development of the service plan and the methods used to support
11.11 the person and accomplish outcomes identified in subdivisions 3 and 4. The license holder,
11.12 in coordination with the person's support team or expanded support team, must meet
11.13 with the person, the person's legal representative, and the case manager, and participate
11.14 in service plan review meetings following stated timelines established in the person's
11.15 coordinated service and support plan or coordinated service and support plan addendum or
11.16 within 30 days of a written request by the person, the person's legal representative, or the
11.17 case manager, at a minimum of once per year. The purpose of the service plan review
11.18 is to determine whether changes are needed to the service plan based on the assessment
11.19 information, the license holder's evaluation of progress towards accomplishing outcomes,
11.20 or other information provided by the support team or expanded support team.

11.21 (b) The license holder must summarize the person's status and progress toward
11.22 achieving the identified outcomes and make recommendations and identify the rationale
11.23 for changing, continuing, or discontinuing implementation of supports and methods
11.24 identified in subdivision 4 in a ~~written report sent to the person or the person's legal~~
11.25 ~~representative and case manager five working days prior to the review meeting, unless the~~
11.26 ~~person, the person's legal representative, or the case manager requests to receive the report~~
11.27 available at the time of the progress review meeting. The report must be sent at least
11.28 five working days prior to the progress review meeting if requested by the team in the
11.29 coordinated service and support plan or coordinated service and support plan addendum.

11.30 (c) The license holder must send the coordinated service and support plan addendum
11.31 to the person, the person's legal representative, and the case manager by mail within ten
11.32 working days of the progress review meeting. Within ten working days of the ~~progress~~
11.33 ~~review meeting mailing of the coordinated service and support plan addendum,~~ the license
11.34 holder must obtain dated signatures from the person or the person's legal representative

and the case manager to document approval of any changes to the coordinated service and support plan addendum.

(d) If, within ten working days of submitting changes to the coordinated service and support plan and coordinated service and support plan addendum, the person or the person's legal representative or case manager has not signed and returned to the license holder the coordinated service and support plan or coordinated service and support plan addendum or has not proposed written modifications to the license holder's submission, the submission is deemed approved and the coordinated service and support plan addendum becomes effective and remains in effect until the legal representative or case manager submits a written request to revise the coordinated service and support plan addendum.

Sec. 14. Minnesota Statutes 2014, section 245D.09, subdivision 3, is amended to read:

Subd. 3. **Staff qualifications.** (a) The license holder must ensure that staff providing direct support, or staff who have responsibilities related to supervising or managing the provision of direct support service, are competent as demonstrated through skills and knowledge training, experience, and education relevant to the primary disability of the person and to meet the person's needs and additional requirements as written in the coordinated service and support plan or coordinated service and support plan addendum, or when otherwise required by the case manager or the federal waiver plan. The license holder must verify and maintain evidence of staff competency, including documentation of:

(1) education and experience qualifications relevant to the job responsibilities assigned to the staff and to the primary disability of persons served by the program, including a valid degree and transcript, or a current license, registration, or certification, when a degree or licensure, registration, or certification is required by this chapter or in the coordinated service and support plan or coordinated service and support plan addendum;

(2) demonstrated competency in the orientation and training areas required under this chapter, and when applicable, completion of continuing education required to maintain professional licensure, registration, or certification requirements. Competency in these areas is determined by the license holder through knowledge testing or observed skill assessment conducted by the trainer or instructor or by an individual who has been previously deemed competent by the trainer or instructor in the area being assessed; and

(3) except for a license holder who is the sole direct support staff, periodic performance evaluations completed by the license holder of the direct support staff person's ability to perform the job functions based on direct observation.

(b) Staff under 18 years of age may not perform overnight duties or administer medication.

13.1 Sec. 15. Minnesota Statutes 2014, section 245D.09, subdivision 5, is amended to read:

13.2 Subd. 5. **Annual training.** A license holder must provide annual training to direct
13.3 support staff on the topics identified in subdivision 4, clauses (3) to (10). If the direct
13.4 support staff has a first aid certification, annual training under subdivision 4, clause (9), is
13.5 not required as long as the certification remains current. A license holder must provide a
13.6 minimum of 24 hours of annual training to direct service staff providing intensive services
13.7 and having fewer than five years of documented experience and 12 hours of annual
13.8 training to direct service staff providing intensive services and having five or more years
13.9 of documented experience in topics described in subdivisions 4 and 4a, paragraphs (a) to
13.10 (f). Training on relevant topics received from sources other than the license holder may
13.11 count toward training requirements. A license holder must provide a minimum of 12 hours
13.12 of annual training to direct service staff providing basic services and having fewer than
13.13 five years of documented experience and six hours of annual training to direct service staff
13.14 providing basic services and having five or more years of documented experience.

13.15 Sec. 16. Minnesota Statutes 2014, section 245D.22, subdivision 4, is amended to read:

13.16 Subd. 4. **First aid must be available on site.** (a) A staff person trained in first
13.17 aid must be available on site and, when required in a person's coordinated service and
13.18 support plan or coordinated service and support plan addendum, be able to provide
13.19 cardiopulmonary resuscitation, whenever persons are present and staff are required to be
13.20 at the site to provide direct service. The CPR training must include ~~in-person~~ instruction,
13.21 hands-on practice, and an observed skills assessment under the direct supervision of a
13.22 CPR instructor.

13.23 (b) A facility must have first aid kits readily available for use by, and that meet
13.24 the needs of, persons receiving services and staff. At a minimum, the first aid kit must
13.25 be equipped with accessible first aid supplies including bandages, sterile compresses,
13.26 scissors, an ice bag or cold pack, an oral or surface thermometer, mild liquid soap,
13.27 adhesive tape, and first aid manual.

13.28 Sec. 17. Minnesota Statutes 2014, section 245D.31, subdivision 3, is amended to read:

13.29 Subd. 3. **Staff ratio requirement for each person receiving services.** The case
13.30 manager, in consultation with the interdisciplinary team, must determine at least once each
13.31 year which of the ratios in subdivisions 4, 5, and 6 is appropriate for each person receiving
13.32 services on the basis of the characteristics described in subdivisions 4, 5, and 6. The ratio
13.33 assigned each person and the documentation of how the ratio was arrived at must be kept
13.34 in each person's individual service plan. Documentation must include an assessment of the

14.1 person with respect to the characteristics in subdivisions 4, 5, and 6 ~~recorded on a standard~~
14.2 ~~assessment form required by the commissioner.~~

14.3 Sec. 18. Minnesota Statutes 2014, section 245D.31, subdivision 4, is amended to read:

14.4 Subd. 4. **Person requiring staff ratio of one to four.** A person must be assigned a
14.5 staff ratio requirement of one to four if:

14.6 (1) on a daily basis the person requires total care and monitoring or constant
14.7 hand-over-hand physical guidance to successfully complete at least three of the following
14.8 activities: toileting, communicating basic needs, eating, or ambulating; ~~or is not capable~~
14.9 ~~of taking appropriate action for self-preservation under emergency conditions; or~~

14.10 (2) the person engages in conduct that poses an imminent risk of physical harm to
14.11 self or others at a documented level of frequency, intensity, or duration requiring frequent
14.12 daily ongoing intervention and monitoring as established in the person's coordinated
14.13 service and support plan or coordinated service and support plan addendum.

14.14 Sec. 19. Minnesota Statutes 2014, section 245D.31, subdivision 5, is amended to read:

14.15 Subd. 5. **Person requiring staff ratio of one to eight.** A person must be assigned a
14.16 staff ratio requirement of one to eight if:

14.17 (1) the person does not meet the requirements in subdivision 4; and

14.18 (2) on a daily basis the person requires verbal prompts or spot checks and minimal
14.19 or no physical assistance to successfully complete at least ~~four~~ three of the following
14.20 activities: toileting, communicating basic needs, eating, or ambulating; ~~or taking~~
14.21 ~~appropriate action for self-preservation under emergency conditions.~~

14.22 Sec. 20. **[256B.0758] HEALTH CARE DELIVERY PILOT PROGRAM.**

14.23 (a) The commissioner may establish a health care delivery pilot program to test
14.24 alternative and innovative integrated health care delivery networks, including accountable
14.25 care organizations or a community-based collaborative care network created by or
14.26 including North Memorial Health Care. If required, the commissioner shall seek federal
14.27 approval of a new waiver request or amend an existing demonstration pilot project waiver.

14.28 (b) Individuals eligible for the pilot program shall be individuals who are eligible for
14.29 medical assistance under section 256B.055. The commissioner may identify individuals
14.30 to be enrolled in the pilot program based on zip code or whether the individuals would
14.31 benefit from an integrated health care delivery network.

14.32 (c) In developing a payment system for the pilot programs, the commissioner shall
14.33 establish a total cost of care for the individuals enrolled in the pilot program that equals

15.1 the cost of care that would otherwise be spent for these enrollees in the prepaid medical
15.2 assistance program.

15.3 Sec. 21. Minnesota Statutes 2014, section 256B.4914, subdivision 6, is amended to read:

15.4 Subd. 6. **Payments for residential support services.** (a) Payments for residential
15.5 support services, as defined in sections 256B.092, subdivision 11, and 256B.49,
15.6 subdivision 22, must be calculated as follows:

15.7 (1) determine the number of shared staffing and individual direct staff hours to meet
15.8 a recipient's needs provided on site or through monitoring technology;

15.9 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics
15.10 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
15.11 5. This is defined as the direct-care rate;

15.12 (3) for a recipient requiring customization for deaf and hard-of-hearing language
15.13 accessibility under subdivision 12, add the customization rate provided in subdivision 12
15.14 to the result of clause (2). This is defined as the customized direct-care rate;

15.15 (4) multiply the number of shared and individual direct staff hours provided on site
15.16 or through monitoring technology and nursing hours by the appropriate staff wages in
15.17 subdivision 5, paragraph (a), or the customized direct-care rate;

15.18 (5) multiply the number of shared and individual direct staff hours provided on site
15.19 or through monitoring technology and nursing hours by the product of the supervision
15.20 span of control ratio in subdivision 5, paragraph (b), clause (1), and the appropriate
15.21 supervision wage in subdivision 5, paragraph (a), clause (16);

15.22 (6) combine the results of clauses (4) and (5), excluding any shared and individual
15.23 direct staff hours provided through monitoring technology, and multiply the result by one
15.24 plus the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph
15.25 (b), clause (2). This is defined as the direct staffing cost;

15.26 (7) for employee-related expenses, multiply the direct staffing cost, excluding any
15.27 shared and individual direct staff hours provided through monitoring technology, by one
15.28 plus the employee-related cost ratio in subdivision 5, paragraph (b), clause (3);

15.29 (8) for client programming and supports, the commissioner shall add \$2,179; and

15.30 (9) for transportation, if provided, the commissioner shall add \$1,680, or \$3,000 if
15.31 customized for adapted transport, based on the resident with the highest assessed need.

15.32 (b) The total rate must be calculated using the following steps:

15.33 (1) subtotal paragraph (a), clauses (7) to (9), and the direct staffing cost of any
15.34 shared and individual direct staff hours provided through monitoring technology that
15.35 was excluded in clause (7);

(2) sum the standard general and administrative rate, the program-related expense ratio, and the absence and utilization ratio;

(3) divide the result of clause (1) by one minus the result of clause (2). This is the total payment amount; and

(4) adjust the result of clause (3) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

(c) The payment methodology for customized living, 24-hour customized living, and residential care services must be the customized living tool. Revisions to the customized living tool must be made to reflect the services and activities unique to disability-related recipient needs.

~~(d) The commissioner shall establish a Monitoring Technology Review Panel to annually review and approve the plans, safeguards, and rates that include residential direct care provided remotely through monitoring technology. Lead agencies shall submit individual service plans that include supervision using monitoring technology to the Monitoring Technology Review Panel for approval. Individual service plans that include supervision using monitoring technology as of December 31, 2013, shall be submitted to the Monitoring Technology Review Panel, but the plans are not subject to approval.~~

~~(e)~~ (d) For individuals enrolled prior to January 1, 2014, the days of service authorized must meet or exceed the days of service used to convert service agreements in effect on December 1, 2013, and must not result in a reduction in spending or service utilization due to conversion during the implementation period under section 256B.4913, subdivision 4a. If during the implementation period, an individual's historical rate, including adjustments required under section 256B.4913, subdivision 4a, paragraph (c), is equal to or greater than the rate determined in this subdivision, the number of days authorized for the individual is 365.

~~(f)~~ (e) The number of days authorized for all individuals enrolling after January 1, 2014, in residential services must include every day that services start and end.

Sec. 22. Minnesota Statutes 2014, section 256B.492, is amended to read:

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

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

(1) an individual's own home or family home and community-based settings that comply with all requirements identified by the federal Centers for Medicare and Medicaid Services in the Code of Federal Regulations, title 42, section 441.301(c), and with the

17.1 requirements of the federally approved transition plan and waiver plans for each home
17.2 and community-based services waiver; and

17.3 ~~(2) a licensed adult foster care or child foster care setting of up to five people or~~
17.4 ~~community residential setting of up to five people; and~~ settings required by the Housing
17.5 Opportunities for Persons with AIDS Program.

17.6 ~~(3) community living settings as defined in section 256B.49, subdivision 23, where~~
17.7 ~~individuals with disabilities may reside in all of the units in a building of four or fewer units,~~
17.8 ~~and who receive services under a home and community-based waiver occupy no more~~
17.9 ~~than the greater of four or 25 percent of the units in a multifamily building of more than~~
17.10 ~~four units, unless required by the Housing Opportunities for Persons with AIDS Program.~~

17.11 (b) The settings in paragraph (a) must not:

17.12 (1) be located in a building that is a publicly or privately operated facility that
17.13 provides institutional treatment or custodial care;

17.14 (2) be located in a building on the grounds of or adjacent to a public or private
17.15 institution;

17.16 (3) be a housing complex designed expressly around an individual's diagnosis or
17.17 disability, unless required by the Housing Opportunities for Persons with AIDS Program;

17.18 (4) be segregated based on a disability, either physically or because of setting
17.19 characteristics, from the larger community; and

17.20 (5) have the qualities of an institution which include, but are not limited to:
17.21 regimented meal and sleep times, limitations on visitors, and lack of privacy. Restrictions
17.22 agreed to and documented in the person's individual service plan shall not result in a
17.23 residence having the qualities of an institution as long as the restrictions for the person are
17.24 not imposed upon others in the same residence and are the least restrictive alternative,
17.25 imposed for the shortest possible time to meet the person's needs.

17.26 (c) The provisions of paragraphs (a) and (b) do not apply to any setting in which
17.27 individuals receive services under a home and community-based waiver as of July 1,
17.28 2012, and the setting does not meet the criteria of this section.

17.29 (d) Notwithstanding paragraph (c), a program in Hennepin County established as
17.30 part of a Hennepin County demonstration project is qualified for the exception allowed
17.31 under paragraph (c).

17.32 (e) Notwithstanding paragraphs (a) and (b), a program in Hennepin County, located
17.33 in the city of Golden Valley, within the city of Golden Valley's Highway 55 West
17.34 redevelopment area, that is not a provider-owned or controlled home and community-based
17.35 setting, and is scheduled to open by July 1, 2016, is exempt from the restrictions in

- 18.1 ~~paragraphs (a) and (b). If the program fails to comply with the Centers for Medicare and~~
18.2 ~~Medicaid Services rules for home and community-based settings, the exemption is void.~~
18.3 ~~(f) The commissioner shall submit an amendment to the waiver plan no later than~~
18.4 ~~December 31, 2012.~~
- 18.5 **EFFECTIVE DATE.** This section is effective July 1, 2016.