

**SENATE**  
**STATE OF MINNESOTA**  
**EIGHTY-EIGHTH LEGISLATURE**

**S.F. No. 1340**

(SENATE AUTHORS: HAYDEN)

DATE	D-PG	OFFICIAL STATUS
03/13/2013	969	Introduction and first reading Referred to Health, Human Services and Housing
03/20/2013	1340a	Comm report: To pass as amended and re-refer to Judiciary
04/02/2013	1502a 1668	Comm report: To pass as amended Second reading
05/16/2013		Special Order: Amended Third reading Passed

A bill for an act

1.1 relating to human services; modifying provisions related to licensing data, human  
1.2 services licensing, child care programs, financial fraud and abuse investigations,  
1.3 and vendors of chemical dependency treatment services; modifies background  
1.4 studies; amending Minnesota Statutes 2012, sections 13.46, subdivisions 3, 4;  
1.5 119B.125, subdivision 1b; 168.012, subdivision 1; 245A.02, subdivision 5a;  
1.6 245A.04, subdivisions 1, 5, 11; 245A.06, subdivision 1; 245A.07, subdivisions 2,  
1.7 3, by adding a subdivision; 245A.08, subdivisions 2a, 5a; 245A.146, subdivisions  
1.8 3, 4; 245A.50, subdivision 4; 245A.65, subdivision 1; 245A.66, subdivision  
1.9 1; 245B.02, subdivision 10; 245B.04; 245B.05, subdivisions 1, 7; 245B.07,  
1.10 subdivisions 5, 9, 10; 245C.04; 245C.05, subdivision 6; 245C.08, subdivision  
1.11 1; 245C.16, subdivision 1; 245C.20, subdivision 1; 245C.22, subdivision 1;  
1.12 245C.23, subdivision 2; 245C.28, subdivisions 1, 3; 245C.29, subdivision 2;  
1.13 254B.05, subdivision 5; 256.01, subdivision 18d; 256.045, subdivision 3b;  
1.14 268.19, subdivision 1; 471.346; proposing coding for new law in Minnesota  
1.15 Statutes, chapter 245A; repealing Minnesota Statutes 2012, sections 245B.02,  
1.16 subdivision 8a; 245B.07, subdivision 7a.

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

**ARTICLE 1**

**DATA PRACTICES**

1.21 Section 1. Minnesota Statutes 2012, section 13.46, subdivision 3, is amended to read:

1.22 Subd. 3. **Investigative data.** (a) Data on persons, including data on vendors of  
1.23 services, licensees, and applicants that is collected, maintained, used, or disseminated  
1.24 by the welfare system in an investigation, authorized by statute, and relating to the  
1.25 enforcement of rules or law are confidential data on individuals pursuant to section 13.02,  
1.26 subdivision 3, or protected nonpublic data not on individuals pursuant to section 13.02,  
1.27 subdivision 13, and shall not be disclosed except:

1.28 (1) pursuant to section 13.05;

1.29 (2) pursuant to statute or valid court order;

2.1 (3) to a party named in a civil or criminal proceeding, administrative or judicial, for  
2.2 preparation of defense; or

2.3 (4) to provide notices required or permitted by statute.

2.4 The data referred to in this subdivision shall be classified as public data upon  
2.5 submission to an administrative law judge or court in an administrative or judicial  
2.6 proceeding. Inactive welfare investigative data shall be treated as provided in section  
2.7 13.39, subdivision 3.

2.8 (b) Notwithstanding any other provision in law, the commissioner of human services  
2.9 shall provide all active and inactive investigative data, including the name of the reporter  
2.10 of alleged maltreatment under section 626.556 or 626.557, to the ombudsman for mental  
2.11 health and developmental disabilities upon the request of the ombudsman.

2.12 (c) Notwithstanding paragraph (a) and section 13.39, the existence of an  
2.13 investigation by the commissioner of possible overpayments of public funds to a service  
2.14 provider is public data during an investigation or recipient may be disclosed if the  
2.15 commissioner determines that it will not compromise the investigation.

2.16 Sec. 2. Minnesota Statutes 2012, section 13.46, subdivision 4, is amended to read:

2.17 Subd. 4. **Licensing data.** (a) As used in this subdivision:

2.18 (1) "licensing data" are all data collected, maintained, used, or disseminated by the  
2.19 welfare system pertaining to persons licensed or registered or who apply for licensure  
2.20 or registration or who formerly were licensed or registered under the authority of the  
2.21 commissioner of human services;

2.22 (2) "client" means a person who is receiving services from a licensee or from an  
2.23 applicant for licensure; and

2.24 (3) "personal and personal financial data" are Social Security numbers, identity  
2.25 of and letters of reference, insurance information, reports from the Bureau of Criminal  
2.26 Apprehension, health examination reports, and social/home studies.

2.27 (b)(1)(i) Except as provided in paragraph (c), the following data on applicants,  
2.28 license holders, and former licensees are public: name, address, telephone number of  
2.29 licensees, date of receipt of a completed application, dates of licensure, licensed capacity,  
2.30 type of client preferred, variances granted, record of training and education in child care  
2.31 and child development, type of dwelling, name and relationship of other family members,  
2.32 previous license history, class of license, the existence and status of complaints, and the  
2.33 number of serious injuries to or deaths of individuals in the licensed program as reported  
2.34 to the commissioner of human services, the local social services agency, or any other

3.1 county welfare agency. For purposes of this clause, a serious injury is one that is treated  
3.2 by a physician.

3.3 (ii) When a correction order, an order to forfeit a fine, an order of license suspension,  
3.4 an order of temporary immediate suspension, an order of license revocation, an order of  
3.5 license denial, or an order of conditional license has been issued, or a complaint is resolved,  
3.6 the following data on current and former licensees and applicants are public: the general  
3.7 nature of the complaint or allegations leading to the temporary immediate suspension; the  
3.8 substance and investigative findings of the licensing or maltreatment complaint, licensing  
3.9 violation, or substantiated maltreatment; the existence of settlement negotiations; the  
3.10 record of informal resolution of a licensing violation; orders of hearing; findings of fact;  
3.11 conclusions of law; specifications of the final correction order, fine, suspension, temporary  
3.12 immediate suspension, revocation, denial, or conditional license contained in the record of  
3.13 licensing action; whether a fine has been paid; and the status of any appeal of these actions.

3.14 (iii) When a license denial under section 245A.05 or a sanction under section  
3.15 245A.07 is based on a determination that ~~the~~ a license holder or applicant, or controlling  
3.16 individual is responsible for maltreatment under section 626.556 or 626.557, the identity  
3.17 of the applicant ~~or~~ license holder, or controlling individual as the individual responsible  
3.18 for maltreatment is public data at the time of the issuance of the license denial or sanction.

3.19 (iv) When a license denial under section 245A.05 or a sanction under section  
3.20 245A.07 is based on a determination that ~~the~~ a license holder or applicant, or controlling  
3.21 individual is disqualified under chapter 245C, the identity of the license holder ~~or~~ applicant, or controlling individual  
3.22 as the disqualified individual and the reason for  
3.23 the disqualification are public data at the time of the issuance of the licensing sanction  
3.24 or denial. If the applicant ~~or~~ license holder, or controlling individual requests  
3.25 reconsideration of the disqualification and the disqualification is affirmed, the reason for  
3.26 the disqualification and the reason to not set aside the disqualification are public data.

3.27 (2) Notwithstanding sections 626.556, subdivision 11, and 626.557, subdivision 12b,  
3.28 when any person subject to disqualification under section 245C.14 in connection with a  
3.29 license to provide family day care for children, child care center services, foster care for  
3.30 children in the provider's home, or foster care or day care services for adults in the provider's  
3.31 home is a substantiated perpetrator of maltreatment, and the substantiated maltreatment is  
3.32 a reason for a licensing action, the identity of the substantiated perpetrator of maltreatment  
3.33 is public data. For purposes of this clause, a person is a substantiated perpetrator if the  
3.34 maltreatment determination has been upheld under section 256.045; 626.556, subdivision  
3.35 10i; 626.557, subdivision 9d; or chapter 14, or if an individual or facility has not timely  
3.36 exercised appeal rights under these sections, except as provided under clause (1).

4.1 (3) For applicants who withdraw their application prior to licensure or denial of a  
4.2 license, the following data are public: the name of the applicant, the city and county in  
4.3 which the applicant was seeking licensure, the dates of the commissioner's receipt of the  
4.4 initial application and completed application, the type of license sought, and the date  
4.5 of withdrawal of the application.

4.6 (4) For applicants who are denied a license, the following data are public: the  
4.7 name and address of the applicant, the city and county in which the applicant was  
4.8 seeking licensure, the dates of the commissioner's receipt of the initial application and  
4.9 completed application, the type of license sought, the date of denial of the application, the  
4.10 nature of the basis for the denial, the existence of settlement negotiations, the record of  
4.11 informal resolution of a denial, orders of hearings, findings of fact, conclusions of law,  
4.12 specifications of the final order of denial, and the status of any appeal of the denial.

4.13 (5) The following data on persons subject to disqualification under section 245C.14 in  
4.14 connection with a license to provide family day care for children, child care center services,  
4.15 foster care for children in the provider's home, or foster care or day care services for adults  
4.16 in the provider's home, are public: the nature of any disqualification set aside under section  
4.17 245C.22, subdivisions 2 and 4, and the reasons for setting aside the disqualification; the  
4.18 nature of any disqualification for which a variance was granted under sections 245A.04,  
4.19 subdivision 9; and 245C.30, and the reasons for granting any variance under section  
4.20 245A.04, subdivision 9; and, if applicable, the disclosure that any person subject to  
4.21 a background study under section 245C.03, subdivision 1, has successfully passed a  
4.22 background study. If a licensing sanction under section 245A.07, or a license denial under  
4.23 section 245A.05, is based on a determination that an individual subject to disqualification  
4.24 under chapter 245C is disqualified, the disqualification as a basis for the licensing sanction  
4.25 or denial is public data. As specified in clause (1), item (iv), if the disqualified individual  
4.26 is the license holder ~~or~~ applicant, or controlling individual, the identity of the license  
4.27 holder ~~or~~ applicant, or controlling individual and the reason for the disqualification are  
4.28 public data; and, if the license holder ~~or~~ applicant, or controlling individual requested  
4.29 reconsideration of the disqualification and the disqualification is affirmed, the reason for  
4.30 the disqualification and the reason to not set aside the disqualification are public data. If  
4.31 the disqualified individual is an individual other than the license holder ~~or~~ applicant, or  
4.32 controlling individual, the identity of the disqualified individual shall remain private data.

4.33 (6) When maltreatment is substantiated under section 626.556 or 626.557 and the  
4.34 victim and the substantiated perpetrator are affiliated with a program licensed under  
4.35 chapter 245A, the commissioner of human services, local social services agency, or

5.1 county welfare agency may inform the license holder where the maltreatment occurred of  
5.2 the identity of the substantiated perpetrator and the victim.

5.3 (7) Notwithstanding clause (1), for child foster care, only the name of the license  
5.4 holder and the status of the license are public if the county attorney has requested that data  
5.5 otherwise classified as public data under clause (1) be considered private data based on the  
5.6 best interests of a child in placement in a licensed program.

5.7 (c) The following are private data on individuals under section 13.02, subdivision  
5.8 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial  
5.9 data on family day care program and family foster care program applicants and licensees  
5.10 and their family members who provide services under the license.

5.11 (d) The following are private data on individuals: the identity of persons who have  
5.12 made reports concerning licensees or applicants that appear in inactive investigative data,  
5.13 and the records of clients or employees of the licensee or applicant for licensure whose  
5.14 records are received by the licensing agency for purposes of review or in anticipation of a  
5.15 contested matter. The names of reporters of complaints or alleged violations of licensing  
5.16 standards under chapters 245A, 245B, 245C, and applicable rules and alleged maltreatment  
5.17 under sections 626.556 and 626.557, are confidential data and may be disclosed only as  
5.18 provided in section 626.556, subdivision 11, or 626.557, subdivision 12b.

5.19 (e) Data classified as private, confidential, nonpublic, or protected nonpublic under  
5.20 this subdivision become public data if submitted to a court or administrative law judge as  
5.21 part of a disciplinary proceeding in which there is a public hearing concerning a license  
5.22 which has been suspended, immediately suspended, revoked, or denied.

5.23 (f) Data generated in the course of licensing investigations that relate to an alleged  
5.24 violation of law are investigative data under subdivision 3.

5.25 (g) Data that are not public data collected, maintained, used, or disseminated under  
5.26 this subdivision that relate to or are derived from a report as defined in section 626.556,  
5.27 subdivision 2, or 626.5572, subdivision 18, are subject to the destruction provisions of  
5.28 sections 626.556, subdivision 11c, and 626.557, subdivision 12b.

5.29 (h) Upon request, not public data collected, maintained, used, or disseminated under  
5.30 this subdivision that relate to or are derived from a report of substantiated maltreatment as  
5.31 defined in section 626.556 or 626.557 may be exchanged with the Department of Health  
5.32 for purposes of completing background studies pursuant to section 144.057 and with  
5.33 the Department of Corrections for purposes of completing background studies pursuant  
5.34 to section 241.021.

5.35 (i) Data on individuals collected according to licensing activities under chapters  
5.36 245A and 245C, data on individuals collected by the commissioner of human services

6.1 according to investigations under chapters 245A, 245B, and 245C, and sections 626.556  
6.2 and 626.557 may be shared with the Department of Human Rights, the Department  
6.3 of Health, the Department of Corrections, the ombudsman for mental health and  
6.4 developmental disabilities, and the individual's professional regulatory board when there  
6.5 is reason to believe that laws or standards under the jurisdiction of those agencies may  
6.6 have been violated or the information may otherwise be relevant to the board's regulatory  
6.7 jurisdiction. Background study data on an individual who is the subject of a background  
6.8 study under chapter 245C for a licensed service for which the commissioner of human  
6.9 services is the license holder may be shared with the commissioner and the commissioner's  
6.10 delegate by the licensing division. Unless otherwise specified in this chapter, the identity  
6.11 of a reporter of alleged maltreatment or licensing violations may not be disclosed.

6.12 (j) In addition to the notice of determinations required under section 626.556,  
6.13 subdivision 10f, if the commissioner or the local social services agency has determined  
6.14 that an individual is a substantiated perpetrator of maltreatment of a child based on sexual  
6.15 abuse, as defined in section 626.556, subdivision 2, and the commissioner or local social  
6.16 services agency knows that the individual is a person responsible for a child's care in  
6.17 another facility, the commissioner or local social services agency shall notify the head  
6.18 of that facility of this determination. The notification must include an explanation of the  
6.19 individual's available appeal rights and the status of any appeal. If a notice is given under  
6.20 this paragraph, the government entity making the notification shall provide a copy of the  
6.21 notice to the individual who is the subject of the notice.

6.22 (k) All not public data collected, maintained, used, or disseminated under this  
6.23 subdivision and subdivision 3 may be exchanged between the Department of Human  
6.24 Services, Licensing Division, and the Department of Corrections for purposes of  
6.25 regulating services for which the Department of Human Services and the Department  
6.26 of Corrections have regulatory authority.

## 6.27 ARTICLE 2

## 6.28 LICENSING

6.29 Section 1. Minnesota Statutes 2012, section 119B.125, subdivision 1b, is amended to  
6.30 read:

6.31 Subd. 1b. **Training required.** (a) Effective November 1, 2011, prior to initial  
6.32 authorization as required in subdivision 1, a legal nonlicensed family child care provider  
6.33 must complete first aid and CPR training and provide the verification of first aid and CPR  
6.34 training to the county. The training documentation must have valid effective dates as of  
6.35 the date the registration request is submitted to the county and. The training must have

7.1 been provided by an individual approved to provide first aid and CPR instruction and have  
 7.2 included CPR techniques for infants and children.

7.3 (b) Legal nonlicensed family child care providers with an authorization effective  
 7.4 before November 1, 2011, must be notified of the requirements before October 1, 2011, or  
 7.5 at authorization, and must meet the requirements upon renewal of an authorization that  
 7.6 occurs on or after January 1, 2012.

7.7 (c) Upon each reauthorization after the authorization period when the initial first aid  
 7.8 and CPR training requirements are met, a legal nonlicensed family child care provider  
 7.9 must provide verification of at least eight hours of additional training listed in the  
 7.10 Minnesota Center for Professional Development Registry.

7.11 (d) This subdivision only applies to legal nonlicensed family child care providers.

7.12 Sec. 2. Minnesota Statutes 2012, section 245A.02, subdivision 5a, is amended to read:

7.13 Subd. 5a. **Controlling individual.** "Controlling individual" means a public body,  
 7.14 governmental agency, business entity, officer, owner, or managerial official whose  
 7.15 responsibilities include the direction of the management or policies of a program. For  
 7.16 purposes of this subdivision, owner means an individual who has direct or indirect  
 7.17 ownership interest in a corporation, partnership, or other business association issued a  
 7.18 license under this chapter. For purposes of this subdivision, managerial official means  
 7.19 those individuals who have the decision-making authority related to the operation of  
 7.20 the program, and the responsibility for the ongoing management of or direction of the  
 7.21 policies, services, or employees of the program. A site director who has no ownership  
 7.22 interest in the program is not considered to be a managerial official for purposes of this  
 7.23 definition. Controlling individual does not include:

7.24 (1) a bank, savings bank, trust company, savings association, credit union, industrial  
 7.25 loan and thrift company, investment banking firm, or insurance company unless the entity  
 7.26 operates a program directly or through a subsidiary;

7.27 (2) an individual who is a state or federal official, or state or federal employee, or a  
 7.28 member or employee of the governing body of a political subdivision of the state or  
 7.29 federal government that operates one or more programs, unless the individual is also an  
 7.30 officer, owner, or managerial official of the program, receives remuneration from the  
 7.31 program, or owns any of the beneficial interests not excluded in this subdivision;

7.32 (3) an individual who owns less than five percent of the outstanding common  
 7.33 shares of a corporation:

7.34 (i) whose securities are exempt under section 80A.45, clause (6); or

7.35 (ii) whose transactions are exempt under section 80A.46, clause (2); or

8.1 (4) an individual who is a member of an organization exempt from taxation under  
8.2 section 290.05, unless the individual is also an officer, owner, or managerial official of  
8.3 the program or owns any of the beneficial interests not excluded in this subdivision. This  
8.4 clause does not exclude from the definition of controlling individual an organization that  
8.5 is exempt from taxation.

8.6 Sec. 3. Minnesota Statutes 2012, section 245A.04, subdivision 1, is amended to read:

8.7 Subdivision 1. **Application for licensure.** (a) An individual, corporation,  
8.8 partnership, voluntary association, other organization or controlling individual that is  
8.9 subject to licensure under section 245A.03 must apply for a license. The application  
8.10 must be made on the forms and in the manner prescribed by the commissioner. The  
8.11 commissioner shall provide the applicant with instruction in completing the application  
8.12 and provide information about the rules and requirements of other state agencies that affect  
8.13 the applicant. An applicant seeking licensure in Minnesota with headquarters outside of  
8.14 Minnesota must have a program office located within the state.

8.15 The commissioner shall act on the application within 90 working days after a  
8.16 complete application and any required reports have been received from other state  
8.17 agencies or departments, counties, municipalities, or other political subdivisions. The  
8.18 commissioner shall not consider an application to be complete until the commissioner  
8.19 receives all of the information required under section 245C.05.

8.20 When the commissioner receives an application for initial licensure that is incomplete  
8.21 because the applicant failed to submit required documents or that is substantially  
8.22 deficient because the documents submitted do not meet licensing requirements, the  
8.23 commissioner shall provide the applicant written notice that the application is incomplete  
8.24 or substantially deficient. In the written notice to the applicant the commissioner shall  
8.25 identify documents that are missing or deficient and give the applicant 45 days to resubmit  
8.26 a second application that is substantially complete. An applicant's failure to submit a  
8.27 substantially complete application after receiving notice from the commissioner is a basis  
8.28 for license denial under section 245A.05.

8.29 (b) An application for licensure must identify all controlling individuals and must  
8.30 specify an agent who is responsible for dealing with the commissioner of human services  
8.31 on all matters provided for in this chapter and on whom service of all notices and orders  
8.32 must be made. The agent must be authorized to accept service on behalf of all of the  
8.33 controlling individuals of the program. Service on the agent is service on all of the  
8.34 controlling individuals of the program. It is not a defense to any action arising under this  
8.35 chapter that service was not made on each controlling individual of the program. The



9.1 designation of one or more controlling individuals as agents under this paragraph does not  
 9.2 affect the legal responsibility of any other controlling individual under this chapter.

9.3 (c) An applicant or license holder must have a policy that prohibits license holders,  
 9.4 employees, subcontractors, and volunteers, when directly responsible for persons served  
 9.5 by the program, from abusing prescription medication or being in any manner under  
 9.6 the influence of a chemical that impairs the individual's ability to provide services or  
 9.7 care. The license holder must train employees, subcontractors, and volunteers about the  
 9.8 program's drug and alcohol policy.

9.9 (d) An applicant and license holder must have a program grievance procedure that  
 9.10 permits persons served by the program and their authorized representatives to bring a  
 9.11 grievance to the highest level of authority in the program.

9.12 (e) The applicant must be able to demonstrate competent knowledge of the  
 9.13 applicable requirements of this chapter and chapter 245C, and the requirements of  
 9.14 other licensing statutes and rules applicable to the program or services for which the  
 9.15 applicant is seeking to be licensed. Effective January 1, 2013, the commissioner may  
 9.16 require the applicant, except for child foster care, to demonstrate competence in the  
 9.17 applicable licensing requirements by successfully completing a written examination. The  
 9.18 commissioner may develop a prescribed written examination format.

9.19 (f) When an applicant is an individual, the individual must provide:

9.20 (1) the applicant's taxpayer identification numbers including the Social Security  
 9.21 number, and federal employer identification number, if the applicant has employees;

9.22 (2) the complete business name, if any, and if doing business under a different name,  
 9.23 the doing business as (DBA) name, as registered with the secretary of state; and

9.24 (3) a notarized signature of the applicant.

9.25 (g) When an applicant is a nonindividual, the applicant must provide the:

9.26 (1) applicant's taxpayer identification numbers including the Minnesota tax  
 9.27 identification number, the and federal employer identification number;

9.28 (2) complete business name, and if doing business under a different name, the doing  
 9.29 business as (DBA) name, as registered with the secretary of state;

9.30 (3) first, middle, and last name, and address for all individuals who will be  
 9.31 controlling individuals, including all officers, owners, and managerial officials as defined  
 9.32 in section 245A.02, subdivision 5a, and the date that the background study was initiated  
 9.33 by the applicant for each controlling individual. ~~The applicant must also provide the; and~~

9.34 (4) first, middle, and last name, mailing address, and notarized signature of the agent  
 9.35 authorized by the applicant to accept service on behalf of the controlling individuals.

10.1 (h) At the time of application for licensure or renewal of a license, the applicant  
10.2 or license holder must acknowledge on the form provided by the commissioner if the  
10.3 applicant or license holder elects to receive any public funding reimbursement from the  
10.4 commissioner for services provided under the license that:

10.5 (1) the applicant's or license holder's compliance with the provider enrollment  
10.6 agreement or registration requirements for receipt of public funding may be monitored by  
10.7 the commissioner as part of a licensing investigation or licensing inspection; and

10.8 (2) noncompliance with the provider enrollment agreement or registration  
10.9 requirements for receipt of public funding that is identified through a licensing  
10.10 investigation or licensing inspection, or noncompliance with a licensing requirement that  
10.11 is a basis of enrollment for reimbursement for a service, may result in:

10.12 (i) a correction order or a conditional license under section 245A.06, or sanctions  
10.13 under section 245A.07;

10.14 (ii) nonpayment of claims submitted by the license holder for public program  
10.15 reimbursement;

10.16 (iii) recovery of payments made for the service;

10.17 (iv) disenrollment in the public payment program; or

10.18 (v) other administrative, civil, or criminal penalties as provided by law.

10.19 Sec. 4. Minnesota Statutes 2012, section 245A.04, subdivision 5, is amended to read:

10.20 Subd. 5. **Commissioner's right of access.** (a) When the commissioner is exercising  
10.21 the powers conferred by this chapter and sections 245.69, 626.556, and 626.557, the  
10.22 commissioner must be given access to:

10.23 (1) the physical plant and grounds where the program is provided;<sub>2</sub>

10.24 (2) documents and records, including records maintained in electronic format;<sub>2</sub>

10.25 (3) persons served by the program;<sub>2</sub> and

10.26 (4) staff and personnel records of current and former staff whenever the program is in  
10.27 operation and the information is relevant to inspections or investigations conducted by the  
10.28 commissioner. Upon request, the license holder must provide the commissioner verification  
10.29 of documentation of staff work experience, training, or educational requirements.

10.30 The commissioner must be given access without prior notice and as often as  
10.31 the commissioner considers necessary if the commissioner is investigating alleged  
10.32 maltreatment, conducting a licensing inspection, or investigating an alleged violation of  
10.33 applicable laws or rules. In conducting inspections, the commissioner may request and  
10.34 shall receive assistance from other state, county, and municipal governmental agencies and  
10.35 departments. The applicant or license holder shall allow the commissioner to photocopy,

11.1 photograph, and make audio and video tape recordings during the inspection of the  
11.2 program at the commissioner's expense. The commissioner shall obtain a court order or  
11.3 the consent of the subject of the records or the parents or legal guardian of the subject  
11.4 before photocopying hospital medical records.

11.5 (b) Persons served by the program have the right to refuse to consent to be  
11.6 interviewed, photographed, or audio or videotaped. Failure or refusal of an applicant  
11.7 or license holder to fully comply with this subdivision is reasonable cause for the  
11.8 commissioner to deny the application or immediately suspend or revoke the license.

11.9 Sec. 5. Minnesota Statutes 2012, section 245A.04, subdivision 11, is amended to read:

11.10 Subd. 11. **Education program; permitted ages, additional requirement.** (a)  
11.11 Except for foster care, the commissioner of human services may not grant a license to a  
11.12 residential facility for the placement of children before the commissioner has received  
11.13 documentation of approval of the on-site educational program from the commissioner of  
11.14 education according to section 125A.515.

11.15 (b) A program licensed by the commissioner under Minnesota Rules, chapter 2960,  
11.16 may serve persons who are over the age of 18 but under the age of 21 when the person is:

11.17 (1) completing secondary education or a program leading to an equivalent credential;

11.18 (2) enrolled in an institution which provides postsecondary or vocational education;

11.19 (3) participating in a program or activity designed to promote, or remove barriers to,  
11.20 employment;

11.21 (4) employed for at least 80 hours per month; or

11.22 (5) incapable of doing any of the activities described in clauses (1) to (4) due to a  
11.23 medical condition, which incapability is supported by regularly updated information in the  
11.24 case plan of the person.

11.25 (c) In addition to the requirements in paragraph (b), a residential program licensed  
11.26 by the commissioner of human services under Minnesota Rules, parts 2960.0010 to  
11.27 2960.0710, may serve persons under the age of 21 provided the facility complies with the  
11.28 following requirements:

11.29 (1) for each person age 18 and older served at the program, the program must assess  
11.30 and document the person's risk of victimizing other residents residing in the facility, and  
11.31 based on the assessment, the facility must develop and implement necessary measures  
11.32 to minimize any risk of harm to other residents, including making arrangements for  
11.33 appropriate sleeping arrangements; and

12.1 (2) the program must assure that the services and living arrangements provided to all  
 12.2 residents are suitable to the age and functioning of the residents, including separation of  
 12.3 services, staff supervision, and other program operations as appropriate.

12.4 (d) Nothing in this subdivision precludes the license holder from seeking other  
 12.5 variances under subdivision 9.

12.6 Sec. 6. Minnesota Statutes 2012, section 245A.06, subdivision 1, is amended to read:

12.7 Subdivision 1. **Contents of correction orders and conditional licenses.** (a) If  
 12.8 the commissioner finds that the applicant or license holder has failed to comply with an  
 12.9 applicable law or rule and this failure does not imminently endanger the health, safety,  
 12.10 or rights of the persons served by the program, the commissioner may issue a correction  
 12.11 order and an order of conditional license to the applicant or license holder. When issuing a  
 12.12 conditional license, the commissioner shall consider the nature, chronicity, or severity of  
 12.13 the violation of law or rule and the effect of the violation on the health, safety, or rights of  
 12.14 persons served by the program. The correction order or conditional license must state:

12.15 (1) the conditions that constitute a violation of the law or rule;

12.16 (2) the specific law or rule violated;

12.17 (3) the time allowed to correct each violation; and

12.18 (4) if a license is made conditional, the length and terms of the conditional license.

12.19 (b) Nothing in this section prohibits the commissioner from proposing a sanction as  
 12.20 specified in section 245A.07, prior to issuing a correction order or conditional license.

12.21 (c) If a license holder reports that an individual with a disqualification that has not  
 12.22 been set aside has moved out of the home where services are provided or reports that other  
 12.23 arrangements have been made so a disqualified person does not have direct contact or  
 12.24 access to persons receiving services, the commissioner may issue an order of conditional  
 12.25 license that makes licensure contingent on the individual's continuous absence from the  
 12.26 home during the hours of operation when:

12.27 (1) the disqualified individual is a "family or household member" of the license  
 12.28 holder, as defined in section 518B.01, subdivision 2; or

12.29 (2) the disqualified individual has a record of having had direct contact or access to  
 12.30 people receiving services.

12.31 Sec. 7. Minnesota Statutes 2012, section 245A.07, subdivision 2, is amended to read:

12.32 Subd. 2. **Temporary immediate suspension.** If the license holder's actions or  
 12.33 failure to comply with applicable law or rule, or the actions of other individuals or  
 12.34 conditions in the program pose an imminent risk of harm to the health, safety, or rights of

13.1 persons served by the program, or if while the program continues to operate pending an  
 13.2 appeal of an order of revocation the commissioner identifies one or more new violations  
 13.3 of law or rule which may adversely affect the health or safety of persons served by the  
 13.4 program, the commissioner shall act immediately to temporarily suspend the license.  
 13.5 No state funds shall be made available or be expended by any agency or department of  
 13.6 state, county, or municipal government for use by a license holder regulated under this  
 13.7 chapter while a license is under immediate suspension. A notice stating the reasons for  
 13.8 the immediate suspension and informing the license holder of the right to an expedited  
 13.9 hearing under chapter 14 and specifically Minnesota Rules, parts 1400.8505 to 1400.8612,  
 13.10 must be delivered by personal service to the address shown on the application or the last  
 13.11 known address of the license holder. The license holder may appeal an order immediately  
 13.12 suspending a license. The appeal of an order immediately suspending a license must  
 13.13 be made in writing by certified mail or personal service. If mailed, the appeal must be  
 13.14 postmarked and sent to the commissioner within five calendar days after the license holder  
 13.15 receives notice that the license has been immediately suspended. If a request is made by  
 13.16 personal service, it must be received by the commissioner within five calendar days after  
 13.17 the license holder received the order. A license holder and any controlling individual  
 13.18 shall discontinue operation of the program upon receipt of the commissioner's order to  
 13.19 immediately suspend the license.

13.20 Sec. 8. Minnesota Statutes 2012, section 245A.07, subdivision 3, is amended to read:

13.21 Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may  
 13.22 suspend or revoke a license, or impose a fine if:

13.23 (1) a license holder fails to comply fully with applicable laws or rules;

13.24 (2) a license holder, a controlling individual, or an individual living in the household  
 13.25 where the licensed services are provided or is otherwise subject to a background study has  
 13.26 a disqualification which has not been set aside under section 245C.22;

13.27 (3) a license holder knowingly withholds relevant information from or gives false  
 13.28 or misleading information to the commissioner in connection with an application for  
 13.29 a license, in connection with the background study status of an individual, during an  
 13.30 investigation, or regarding compliance with applicable laws or rules; or

13.31 (4) after July 1, 2012, and upon request by the commissioner, a license holder fails  
 13.32 to submit the information required of an applicant under section 245A.04, subdivision 1,  
 13.33 paragraph (f) or (g).

13.34 A license holder who has had a license suspended, revoked, or has been ordered  
 13.35 to pay a fine must be given notice of the action by certified mail or personal service. If

14.1 mailed, the notice must be mailed to the address shown on the application or the last  
14.2 known address of the license holder. The notice must state the reasons the license was  
14.3 suspended, revoked, or a fine was ordered.

14.4 (b) If the license was suspended or revoked, the notice must inform the license  
14.5 holder of the right to a contested case hearing under chapter 14 and specifically Minnesota  
14.6 Rules, parts 1400.8505 to 1400.8612. The license holder may appeal an order suspending  
14.7 or revoking a license. The appeal of an order suspending or revoking a license must  
14.8 be made in writing by certified mail or personal service. If mailed, the appeal must be  
14.9 postmarked and sent to the commissioner within ten calendar days after the license holder  
14.10 receives notice that the license has been suspended or revoked. If a request is made by  
14.11 personal service, it must be received by the commissioner within ten calendar days after  
14.12 the license holder received the order. Except as provided in subdivision 2a, paragraph  
14.13 (c), if a license holder submits a timely appeal of an order suspending or revoking a  
14.14 license, the license holder may continue to operate the program as provided in section  
14.15 245A.04, subdivision 7, paragraphs (g) and (h), until the commissioner issues a final order  
14.16 on the suspension or revocation.

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

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

14.32 (3) A license holder shall promptly notify the commissioner of human services,  
14.33 in writing, when a violation specified in the order to forfeit a fine is corrected. If upon  
14.34 reinspection the commissioner determines that a violation has not been corrected as  
14.35 indicated by the order to forfeit a fine, the commissioner may issue a second fine. The  
14.36 commissioner shall notify the license holder by certified mail or personal service that a

15.1 second fine has been assessed. The license holder may appeal the second fine as provided  
15.2 under this subdivision.

15.3 (4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for  
15.4 each determination of maltreatment of a child under section 626.556 or the maltreatment  
15.5 of a vulnerable adult under section 626.557 for which the license holder is determined  
15.6 responsible for the maltreatment under section 626.556, subdivision 10e, paragraph (i),  
15.7 or 626.557, subdivision 9c, paragraph (c); the license holder shall forfeit \$200 for each  
15.8 occurrence of a violation of law or rule governing matters of health, safety, or supervision,  
15.9 including but not limited to the provision of adequate staff-to-child or adult ratios, and  
15.10 failure to comply with background study requirements under chapter 245C; and the license  
15.11 holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those  
15.12 subject to a \$1,000 or \$200 fine above. For purposes of this section, "occurrence" means  
15.13 each violation identified in the commissioner's fine order. Fines assessed against a license  
15.14 holder that holds a license to provide the residential-based habilitation services, as defined  
15.15 under section 245B.02, subdivision 20, and a license to provide foster care, may be  
15.16 assessed against both licenses for the same occurrence, but the combined amount of the  
15.17 fines shall not exceed the amount specified in this clause for that occurrence.

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

15.22 (d) Except for background study violations involving the failure to comply with an  
15.23 order to immediately remove an individual or an order to provide continuous, direct  
15.24 supervision, the commissioner shall not issue a fine under paragraph (c) relating to a  
15.25 background study violation to a license holder who self-corrects a background study  
15.26 violation before the commissioner discovers the violation. A license holder who has  
15.27 previously exercised the provisions of this paragraph to avoid a fine for a background  
15.28 study violation may not avoid a fine for a subsequent background study violation unless at  
15.29 least 365 days have passed since the license holder self-corrected the earlier background  
15.30 study violation.

15.31 Sec. 9. Minnesota Statutes 2012, section 245A.07, is amended by adding a subdivision  
15.32 to read:

15.33 Subd. 7. Time frame for conducting hearing. Within 15 working days of receipt  
15.34 of the license holder's timely appeal of a sanction under this section other than a temporary  
15.35 immediate suspension, the commissioner shall request assignment of an administrative

16.1 law judge. The commissioner's request must include a proposed date, time, and place of a  
16.2 hearing. A hearing must be conducted by an administrative law judge within 90 calendar  
16.3 days of the request for assignment, unless an extension is requested by either party and  
16.4 granted by the administrative law judge for good cause or for purposes of discussing  
16.5 settlement. In no case shall one or more extensions be granted for a total of more than 90  
16.6 calendar days unless there is a criminal or juvenile court action pending against the license  
16.7 holder or another individual subject to a background study.

16.8 Sec. 10. Minnesota Statutes 2012, section 245A.08, subdivision 2a, is amended to read:

16.9 Subd. 2a. **Consolidated contested case hearings.** (a) When a denial of a license  
16.10 under section 245A.05 or a licensing sanction under section 245A.07, subdivision 3, is  
16.11 based on a disqualification for which reconsideration was timely requested and which was  
16.12 not set aside under section 245C.22, the scope of the contested case hearing shall include  
16.13 the disqualification and the licensing sanction or denial of a license, unless otherwise  
16.14 specified in this subdivision. When the licensing sanction or denial of a license is based on  
16.15 a determination of maltreatment under section 626.556 or 626.557, or a disqualification  
16.16 for serious or recurring maltreatment which was not set aside, the scope of the contested  
16.17 case hearing shall include the maltreatment determination, disqualification, and the  
16.18 licensing sanction or denial of a license, unless otherwise specified in this subdivision. In  
16.19 such cases, a fair hearing under section 256.045 shall not be conducted as provided for in  
16.20 sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

16.21 (b) Except for family child care and child foster care, reconsideration of a  
16.22 maltreatment determination under sections 626.556, subdivision 10i, and 626.557,  
16.23 subdivision 9d, and reconsideration of a disqualification under section 245C.22, shall  
16.24 not be conducted when:

16.25 (1) a denial of a license under section 245A.05, or a licensing sanction under section  
16.26 245A.07, is based on a determination that the license holder is responsible for maltreatment  
16.27 or the disqualification of a license holder is based on serious or recurring maltreatment;

16.28 (2) the denial of a license or licensing sanction is issued at the same time as the  
16.29 maltreatment determination or disqualification; and

16.30 (3) the license holder appeals the maltreatment determination or disqualification,  
16.31 and denial of a license or licensing sanction. In these cases, a fair hearing shall not be  
16.32 conducted under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision  
16.33 9d. The scope of the contested case hearing must include the maltreatment determination,  
16.34 disqualification, and denial of a license or licensing sanction.



17.1 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment  
17.2 determination or disqualification, but does not appeal the denial of a license or a licensing  
17.3 sanction, reconsideration of the maltreatment determination shall be conducted under  
17.4 sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the  
17.5 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing  
17.6 shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and  
17.7 626.557, subdivision 9d.

17.8 (c) In consolidated contested case hearings regarding sanctions issued in family child  
17.9 care, child foster care, family adult day services, and adult foster care, the county attorney  
17.10 shall defend the commissioner's orders in accordance with section 245A.16, subdivision 4.

17.11 (d) The commissioner's final order under subdivision 5 is the final agency action  
17.12 on the issue of maltreatment and disqualification, including for purposes of subsequent  
17.13 background studies under chapter 245C and is the only administrative appeal of the final  
17.14 agency determination, specifically, including a challenge to the accuracy and completeness  
17.15 of data under section 13.04.

17.16 (e) When consolidated hearings under this subdivision involve a licensing sanction  
17.17 based on a previous maltreatment determination for which the commissioner has issued  
17.18 a final order in an appeal of that determination under section 256.045, or the individual  
17.19 failed to exercise the right to appeal the previous maltreatment determination under  
17.20 section 626.556, subdivision 10i, or 626.557, subdivision 9d, the commissioner's order is  
17.21 conclusive on the issue of maltreatment. In such cases, the scope of the administrative  
17.22 law judge's review shall be limited to the disqualification and the licensing sanction or  
17.23 denial of a license. In the case of a denial of a license or a licensing sanction issued to  
17.24 a facility based on a maltreatment determination regarding an individual who is not the  
17.25 license holder or a household member, the scope of the administrative law judge's review  
17.26 includes the maltreatment determination.

17.27 (f) The hearings of all parties may be consolidated into a single contested case  
17.28 hearing upon consent of all parties and the administrative law judge, if:

17.29 (1) a maltreatment determination or disqualification, which was not set aside under  
17.30 section 245C.22, is the basis for a denial of a license under section 245A.05 or a licensing  
17.31 sanction under section 245A.07;

17.32 (2) the disqualified subject is an individual other than the license holder and upon  
17.33 whom a background study must be conducted under section 245C.03; and

17.34 (3) the individual has a hearing right under section 245C.27.

17.35 (g) When a denial of a license under section 245A.05 or a licensing sanction under  
17.36 section 245A.07 is based on a disqualification for which reconsideration was requested

18.1 and was not set aside under section 245C.22, and the individual otherwise has no hearing  
18.2 right under section 245C.27, the scope of the administrative law judge's review shall  
18.3 include the denial or sanction and a determination whether the disqualification should  
18.4 be set aside, unless section 245C.24 prohibits the set-aside of the disqualification. In  
18.5 determining whether the disqualification should be set aside, the administrative law judge  
18.6 shall consider the factors under section 245C.22, subdivision 4, to determine whether the  
18.7 individual poses a risk of harm to any person receiving services from the license holder.

18.8 (h) Notwithstanding section 245C.30, subdivision 5, when a licensing sanction  
18.9 under section 245A.07 is based on the termination of a variance under section 245C.30,  
18.10 subdivision 4, the scope of the administrative law judge's review shall include the sanction  
18.11 and a determination whether the disqualification should be set aside, unless section  
18.12 245C.24 prohibits the set-aside of the disqualification. In determining whether the  
18.13 disqualification should be set aside, the administrative law judge shall consider the factors  
18.14 under section 245C.22, subdivision 4, to determine whether the individual poses a risk of  
18.15 harm to any person receiving services from the license holder.

18.16 Sec. 11. Minnesota Statutes 2012, section 245A.08, subdivision 5a, is amended to read:

18.17 Subd. 5a. **Granting subsequent license.** (a) A license holder and each controlling  
18.18 individual of a license holder whose license has been revoked because of noncompliance  
18.19 with applicable law or rule must not be granted a license for five years following the  
18.20 revocation. Notwithstanding the five-year restriction, when a license is revoked because a  
18.21 person, other than the license holder, resides in the home where services are provided and  
18.22 that person has a disqualification that is not set aside and no variance has been granted,  
18.23 the former license holder may reapply for a license when:

18.24 (1) the person with a disqualification, who is not a minor child, is no longer residing  
18.25 in the home and is prohibited from residing in or returning to the home; or

18.26 (2) the person with the disqualification is a minor child, the restriction applies until  
18.27 the minor child becomes an adult and permanently moves away from the home or five  
18.28 years, whichever is less.

18.29 (b) An applicant or controlling individual whose application was denied must not  
18.30 be granted a license for two years following a denial, unless the applicant's subsequent  
18.31 application contains new information which constitutes a substantial change in the  
18.32 conditions that caused the previous denial. The addition of a new co-applicant in a  
18.33 subsequent application does not constitute a substantial change. If an applicant or  
18.34 controlling individual whose application was denied is affiliated with a subsequent

19.1 application, and two years have not passed since the denial, the subsequent application  
19.2 must be denied.

19.3 Sec. 12. Minnesota Statutes 2012, section 245A.146, subdivision 3, is amended to read:

19.4 Subd. 3. **License holder documentation of cribs.** (a) Annually, from the date  
19.5 printed on the license, all license holders shall check all their cribs' brand names and  
19.6 model numbers against the United States Consumer Product Safety Commission Web  
19.7 site listing of unsafe cribs.

19.8 (b) The license holder shall maintain written documentation to be reviewed on site  
19.9 for each crib showing that the review required in paragraph (a) has been completed, and  
19.10 which of the following conditions applies:

19.11 (1) the crib was not identified as unsafe on the United States Consumer Product  
19.12 Safety Commission Web site;

19.13 (2) the crib was identified as unsafe on the United States Consumer Product Safety  
19.14 Commission Web site, but the license holder has taken the action directed by the United  
19.15 States Consumer Product Safety Commission to make the crib safe; or

19.16 (3) the crib was identified as unsafe on the United States Consumer Product Safety  
19.17 Commission Web site, and the license holder has removed the crib so that it is no longer  
19.18 used by or accessible to children in care.

19.19 (c) Documentation of the review completed under this subdivision shall be  
19.20 maintained by the license holder on site and made available to parents or guardians of  
19.21 children in care and the commissioner.

19.22 (d) Notwithstanding Minnesota Rules, part 9502.0425, a family child care provider  
19.23 that complies with this section may use a mesh-sided or fabric-sided play yard, pack  
19.24 and play, or playpen or crib that has not been identified as unsafe on the United States  
19.25 Consumer Product Safety Commission Web site for the care or sleeping of infants.

19.26 (e) On at least a monthly basis, the family child care license holder shall perform  
19.27 safety inspections of every mesh-sided or fabric-sided play yard, pack and play, or playpen  
19.28 used by or that is accessible to any child in care, and must document the following:

19.29 (1) there are no tears, holes, or loose or unraveling threads in mesh or fabric sides of  
19.30 crib;

19.31 (2) the weave of the mesh on the crib is no larger than 1/4 of an inch;

19.32 (3) no mesh fabric is unsecure or unattached to top rail and floor plate of crib;

19.33 (4) no tears or holes to top rail of crib;

19.34 (5) the mattress floor board is not soft and does not exceed one-inch thick;

19.35 (6) the mattress floor board has no rips or tears in covering;

20.1 (7) the mattress floor board in use is a waterproof original mattress or replacement  
 20.2 mattress provided by the manufacturer of the crib;

20.3 (8) there are no protruding or loose rivets, metal nuts, or bolts on the crib;

20.4 (9) there are no knobs or wing nuts on outside crib legs;

20.5 (10) there are no missing, loose, or exposed staples; and

20.6 (11) the latches on top and side rails used to collapse crib are secure, they lock  
 20.7 properly, and are not loose.

20.8 Sec. 13. Minnesota Statutes 2012, section 245A.146, subdivision 4, is amended to read:

20.9 Subd. 4. **Crib safety standards and inspection.** (a) On at least a monthly basis,  
 20.10 the license holder shall perform safety inspections of every crib or portable crib of rigid  
 20.11 construction including full size and non-full size cribs used by or that is accessible to any  
 20.12 child in care, and must document the following:

20.13 ~~(1) no corner posts extend more than 1/16 of an inch;~~

20.14 ~~(2) no spaces between side slats exceed 2.375 inches;~~

20.15 ~~(3) no mattress supports can be easily dislodged from any point of the crib;~~

20.16 ~~(4) no cutout designs are present on end panels;~~

20.17 ~~(5) no heights of the rail and end panel are less than 26 inches when measured from~~  
 20.18 ~~the top of the rail or panel in the highest position to the top of the mattress support in~~  
 20.19 ~~its lowest position;~~

20.20 ~~(6) no heights of the rail and end panel are less than nine inches when measured~~  
 20.21 ~~from the top of the rail or panel in its lowest position to the top of the mattress support in~~  
 20.22 ~~its highest position;~~

20.23 ~~(7)~~ (2) no screws, bolts, or hardware are loose or not secured, and there is no use  
 20.24 of woodscrews in components that are designed to be assembled and disassembled by  
 20.25 the crib owner;

20.26 ~~(8)~~ (3) no sharp edges, points, or rough surfaces are present;

20.27 ~~(9)~~ (4) no wood surfaces are rough, splintered, split, or cracked; and

20.28 ~~(10) no tears in mesh of fabric sides in non-full-size cribs;~~

20.29 ~~(11) no mattress pads in non-full-size mesh or fabric cribs exceed one inch; and~~

20.30 ~~(12)~~ (5) no unacceptable gaps between the mattress and any sides of the crib are  
 20.31 present as follows:

20.32 (i) when the noncompressed mattress is centered in the non-full-size crib, at any of  
 20.33 the adjustable mattress support positions, the gap between the perimeter of the mattress  
 20.34 and the perimeter of the crib cannot be greater than one-half inch at any point. When the

21.1 mattress is placed against the perimeter of the crib, the resulting gap cannot be greater  
 21.2 than one inch at any point; and

21.3 (ii) when the noncompressed mattress is centered in the full-size crib, at any of  
 21.4 the adjustable mattress support positions, the gap between the perimeter of the mattress  
 21.5 and the perimeter of the crib cannot be greater than 11/16 inch at any point. When the  
 21.6 mattress is placed against the perimeter of the crib, the resulting gap cannot be greater  
 21.7 than 1-3/8 inch at any point.

21.8 (b) Upon discovery of any unsafe condition identified by the license holder during  
 21.9 the safety inspection required under paragraph (a) or subdivision 3, paragraph (e), the  
 21.10 license holder shall immediately remove the crib from use and ensure that the crib is not  
 21.11 accessible to children in care, and as soon as practicable, but not more than two business  
 21.12 days after the inspection, remove the crib from the area where child care services are  
 21.13 routinely provided for necessary repairs or to destroy the crib.

21.14 (c) Documentation of the inspections and actions taken with unsafe cribs required in  
 21.15 paragraphs (a) and (b), and subdivision 3, paragraph (e), shall be maintained on site by the  
 21.16 license holder and made available to parents of children in care and the commissioner.

21.17 Sec. 14. Minnesota Statutes 2012, section 245A.50, subdivision 4, is amended to read:

21.18 Subd. 4. **Cardiopulmonary resuscitation.** (a) When children are present in a  
 21.19 family child care home governed by Minnesota Rules, parts 9502.0315 to 9502.0445, at  
 21.20 least one ~~staff person~~ caregiver must be present in the home who has been trained in  
 21.21 cardiopulmonary resuscitation (CPR), including CPR techniques for infants and children,  
 21.22 and in the treatment of obstructed airways. The CPR training must have been provided by  
 21.23 an individual approved to provide CPR instruction, must be repeated at least once every  
 21.24 three years, and must be documented in the staff person's records.

21.25 (b) A family child care provider is exempt from the CPR training requirement in  
 21.26 this subdivision related to any substitute caregiver who provides less than 30 hours of  
 21.27 care during any 12-month period.

21.28 (c) Video training reviewed and approved by the county licensing agency satisfies  
 21.29 the training requirement of this subdivision.

21.30 Sec. 15. **[245A.55] APPLICABILITY OF LAWS AND RULES TO A FAMILY**  
 21.31 **CHILD CARE LICENSE HOLDER'S OWN CHILDREN.**

21.32 Any provision of statute or rule governing the care of a child in a licensed family  
 21.33 child care program applies to the care of a child of any license holder, controlling  
 21.34 individual, or caregiver when the child:

- 22.1           (1) is ten years old or younger; and  
22.2           (2) is present in the licensed family child care home when the program is in operation.

22.3           Sec. 16. Minnesota Statutes 2012, section 245A.65, subdivision 1, is amended to read:

22.4           Subdivision 1. **License holder requirements.** All license holders serving vulnerable  
22.5 adults shall establish and enforce written policies and procedures related to suspected or  
22.6 alleged maltreatment, and shall orient clients and mandated reporters who are under  
22.7 the control of the license holder to these procedures, as defined in section 626.5572,  
22.8 subdivision 16.

22.9           (a) License holders must establish policies and procedures allowing but not  
22.10 mandating the internal reporting of alleged or suspected maltreatment. License holders  
22.11 shall ensure that the policies and procedures on internal reporting:

22.12           (1) meet all the requirements identified for the optional internal reporting policies  
22.13 and procedures in section 626.557, subdivision 4a; and

22.14           (2) identify the primary and secondary person or position to whom internal reports  
22.15 may be made and the primary and secondary person or position responsible for forwarding  
22.16 internal reports to the common entry point as defined in section 626.5572, subdivision 5.  
22.17 The secondary person must be involved when there is reason to believe that the primary  
22.18 person was involved in the alleged or suspected maltreatment.

22.19           (b) The license holder shall:

22.20           (1) establish and maintain policies and procedures to ensure that an internal review  
22.21 is completed within 30 calendar days and that corrective action is taken as necessary to  
22.22 protect the health and safety of vulnerable adults when the facility has reason to know  
22.23 that an internal or external report of alleged or suspected maltreatment has been made.

22.24           The review must include an evaluation of whether related policies and procedures were  
22.25 followed, whether the policies and procedures were adequate, whether there is a need for  
22.26 additional staff training, whether the reported event is similar to past events with the  
22.27 vulnerable adults or the services involved, and whether there is a need for corrective  
22.28 action by the license holder to protect the health and safety of vulnerable adults. Based on  
22.29 the results of this review, the license holder must develop, document, and implement a  
22.30 corrective action plan designed to correct current lapses and prevent future lapses in  
22.31 performance by individuals or the license holder, if any.

22.32           (2) identify the primary and secondary person or position who will ensure that, when  
22.33 required, internal reviews are completed. The secondary person shall be involved when  
22.34 there is reason to believe that the primary person was involved in the alleged or suspected  
22.35 maltreatment; and

23.1 (3) document and make internal reviews accessible to the commissioner immediately  
23.2 upon the commissioner's request. For the purposes of this section, the documentation  
23.3 provided to the commissioner by the license holder may consist of a completed checklist  
23.4 that verifies completion of each of the requirements of the review.

23.5 (c) The license holder shall provide an orientation to the internal and external  
23.6 reporting procedures to all persons receiving services. The orientation shall include the  
23.7 telephone number for the license holder's common entry point as defined in section  
23.8 626.5572, subdivision 5. If applicable, the person's legal representative must be notified of  
23.9 the orientation. The program shall provide this orientation for each new person within 24  
23.10 hours of admission, or for persons who would benefit more from a later orientation, the  
23.11 orientation may take place within 72 hours.

23.12 (d) The license holder shall post a copy of the internal and external reporting policies  
23.13 and procedures, including the telephone number of the common entry point as defined  
23.14 in section 626.5572, subdivision 5, in a prominent location in the program and have it  
23.15 available upon request to mandated reporters, persons receiving services, and the person's  
23.16 legal representatives.

23.17 Sec. 17. Minnesota Statutes 2012, section 245A.66, subdivision 1, is amended to read:

23.18 Subdivision 1. **Internal review.** Except for family child care settings and foster care  
23.19 for children in the license holder's residence, license holders serving children shall:

23.20 (1) establish and maintain policies and procedures to ensure that an internal review  
23.21 is completed within 30 calendar days and that corrective action is taken if necessary to  
23.22 protect the health and safety of children in care when the facility has reason to know that  
23.23 an internal or external report of alleged or suspected maltreatment has been made. The  
23.24 review must include an evaluation of whether:

23.25 (i) related policies and procedures were followed;

23.26 (ii) the policies and procedures were adequate;

23.27 (iii) there is a need for additional staff training;

23.28 (iv) the reported event is similar to past events with the children or the services  
23.29 involved; and

23.30 (v) there is a need for corrective action by the license holder to protect the health and  
23.31 safety of children in care.

23.32 Based on the results of this review, the license holder must develop, document, and  
23.33 implement a corrective action plan designed to correct current lapses and prevent future  
23.34 lapses in performance by individuals or the license holder, if any;

24.1 (2) identify the primary and secondary person or position who will ensure that, when  
 24.2 required, internal reviews are completed. The secondary person shall be involved when  
 24.3 there is reason to believe that the primary person was involved in the alleged or suspected  
 24.4 maltreatment; and

24.5 (3) document ~~that the~~ and make internal review ~~has been completed and provide~~  
 24.6 ~~documentation showing the review was completed~~ reviews accessible to the commissioner  
 24.7 immediately upon the commissioner's request. For the purposes of this section, the  
 24.8 documentation provided to the commissioner by the license holder may consist of a  
 24.9 completed checklist that verifies completion of each of the requirements of the review.

24.10 Sec. 18. Minnesota Statutes 2012, section 245B.02, subdivision 10, is amended to read:

24.11 Subd. 10. **Incident.** "Incident" means ~~an occurrence that affects the ordinary~~  
 24.12 ~~provision of services to a person and includes~~ any of the following:

24.13 (1) serious injury as determined by section 245.91, subdivision 6;

24.14 (2) a consumer's death;

24.15 (3) any medical ~~emergency~~ emergencies, unexpected serious ~~illness~~ illnesses, or  
 24.16 ~~significant unexpected changes in an illness or medical condition, or the mental health~~  
 24.17 ~~status of a person~~ accidents that ~~requires calling 911 or a mental health mobile crisis~~  
 24.18 ~~intervention team,~~ require physician treatment; or hospitalization;

24.19 (4) a consumer's unauthorized ~~or unexplained~~ absence;

24.20 (5) any fires or other events that require the relocation of services for more than 24  
 24.21 hours, or circumstances involving a law enforcement agency or fire department related to  
 24.22 the health, safety, or supervision of a consumer;

24.23 (6) physical aggression by a consumer against another consumer that causes  
 24.24 physical pain, injury, or persistent emotional distress, including, but not limited to, hitting,  
 24.25 slapping, kicking, scratching, pinching, biting, pushing, and spitting;

24.26 ~~(6)~~ (7) any sexual activity between consumers involving force or coercion as defined  
 24.27 under section 609.341, subdivisions 3 and 14; or

24.28 ~~(7)~~ (8) a report of child or vulnerable adult maltreatment under section 626.556 or  
 24.29 626.557.

24.30 Sec. 19. Minnesota Statutes 2012, section 245B.04, is amended to read:

24.31 **245B.04 CONSUMER RIGHTS.**

24.32 Subdivision 1. **License holder's responsibility for consumers' rights.** The license  
 24.33 holder must:



25.1 (1) provide the consumer or the consumer's legal representative a copy of the  
 25.2 consumer's rights on the day that services are initiated and an explanation of the rights  
 25.3 in subdivisions 2 and 3 within five working days of service initiation ~~and annually~~  
 25.4 ~~thereafter~~. Reasonable accommodations shall be made by the license holder to provide  
 25.5 this information in other formats as needed to facilitate understanding of the rights by the  
 25.6 consumer and the consumer's legal representative, if any;

25.7 (2) document the consumer's or the consumer's legal representative's receipt of a  
 25.8 copy of the rights and an explanation of the rights; and

25.9 (3) ensure the exercise and protection of the consumer's rights in the services  
 25.10 provided by the license holder and authorized in the individual service plan.

25.11 Subd. 2. **Service-related rights.** A consumer's service-related rights include the  
 25.12 right to:

25.13 (1) refuse or terminate services and be informed of the consequences of refusing  
 25.14 or terminating services;

25.15 (2) know, in advance, limits to the services available from the license holder;

25.16 (3) know conditions and terms governing the provision of services, including the  
 25.17 ~~license holder's policies and procedures~~ those related to initiation and termination;

25.18 (4) know what the charges are for services, regardless of who will be paying for the  
 25.19 services, and be notified upon request of changes in those charges;

25.20 (5) know, in advance, whether services are covered by insurance, government  
 25.21 funding, or other sources, and be told of any charges the consumer or other private party  
 25.22 may have to pay; and

25.23 (6) receive licensed services from individuals who are competent and trained,  
 25.24 who have professional certification or licensure, as required, and who meet additional  
 25.25 qualifications identified in the individual service plan.

25.26 Subd. 3. **Protection-related rights.** ~~(a)~~ The consumer's protection-related rights  
 25.27 include the right to:

25.28 (1) have personal, financial, services, and medical information kept private, and  
 25.29 be advised of the license holder's policies and procedures regarding disclosure of such  
 25.30 information;

25.31 (2) access records and recorded information ~~about the person in accordance with~~  
 25.32 ~~applicable state and federal law, regulation, or rule~~;

25.33 (3) be free from maltreatment;

25.34 (4) be treated with courtesy and respect for the consumer's individuality, mode of  
 25.35 communication, and culture, and receive respectful treatment of the consumer's property;

25.36 (5) ~~reasonable observance of cultural and ethnic practice and religion~~;

26.1 ~~(6) be free from bias and harassment regarding race, gender, age, disability,~~  
 26.2 ~~spirituality, and sexual orientation;~~

26.3 ~~(7) be informed of and use the license holder's grievance policy and procedures,~~  
 26.4 ~~including knowing how to contact persons responsible for addressing problems and to~~  
 26.5 ~~appeal under section 256.045;~~

26.6 ~~(8) know the name, telephone number, and the Web site, e-mail, and street~~  
 26.7 ~~addresses of protection and advocacy services, including the appropriate state-appointed~~  
 26.8 ~~ombudsman, and a brief description of how to file a complaint with these offices;~~

26.9 ~~(9) voice grievances, know the contact persons responsible for addressing problems~~  
 26.10 ~~and how to contact those persons;~~

26.11 ~~(10) (6) any procedures for grievance or complaint resolution and the right to appeal~~  
 26.12 ~~under section 256.045;~~

26.13 ~~(11) (7) know the name and address of the state, county, or advocacy agency to~~  
 26.14 ~~contact for additional information or assistance;~~

26.15 ~~(12) (8) assert these rights personally, or have them asserted by the consumer's~~  
 26.16 ~~family or legal representative, without retaliation;~~

26.17 ~~(13) (9) give or withhold written informed consent to participate in any research or~~  
 26.18 ~~experimental treatment;~~

26.19 ~~(14) (10) have daily, private access to and use of a non-coin-operated telephone for~~  
 26.20 ~~local calls and long-distance calls made collect or paid for by the resident;~~

26.21 ~~(15) (11) receive and send, without interference, uncensored, unopened mail or~~  
 26.22 ~~electronic correspondence or communication;~~

26.23 ~~(16) (12) marital privacy for visits with the consumer's spouse and, if both are~~  
 26.24 ~~residents of the site, the right to share a bedroom and bed;~~

26.25 ~~(17) (13) associate with other persons of the consumer's choice;~~

26.26 ~~(18) (14) personal privacy; and~~

26.27 ~~(19) (15) engage in chosen activities.~~

26.28 ~~(b) Restriction of a person's rights under paragraph (a), clauses (13) to (15), or~~  
 26.29 ~~this paragraph is allowed only if determined necessary to ensure the health, safety, and~~  
 26.30 ~~well-being of the person. Any restriction of these rights must be documented in the service~~  
 26.31 ~~plan for the person and must include the following information:~~

26.32 ~~(1) the justification for the restriction based on an assessment of the person's~~  
 26.33 ~~vulnerability related to exercising the right without restriction;~~

26.34 ~~(2) the objective measures set as conditions for ending the restriction;~~

26.35 ~~(3) a schedule for reviewing the need for the restriction based on the conditions for~~  
 26.36 ~~ending the restriction to occur, at a minimum, every three months for persons who do not~~

27.1 ~~have a legal representative and annually for persons who do have a legal representative~~  
27.2 ~~from the date of initial approval; and~~

27.3 ~~(4) signed and dated approval for the restriction from the person, or the person's~~  
27.4 ~~legal representative, if any. A restriction may be implemented only when the required~~  
27.5 ~~approval has been obtained. Approval may be withdrawn at any time. If approval is~~  
27.6 ~~withdrawn, the right must be immediately and fully restored.~~

27.7 Sec. 20. Minnesota Statutes 2012, section 245B.05, subdivision 1, is amended to read:

27.8 Subdivision 1. **Environment.** The license holder must:

27.9 (1) ensure that services are provided in a safe and hazard-free environment when the  
27.10 license holder is the owner, lessor, or tenant of the service site. All other license holders  
27.11 shall inform the consumer or the consumer's legal representative and case manager about  
27.12 any environmental safety concerns in writing;

27.13 ~~(2) ensure that doors are locked or toxic substances or dangerous items normally~~  
27.14 ~~accessible to persons served by the program are stored in locked cabinets, drawers, or~~  
27.15 ~~containers lock doors only to protect the safety of consumers and not as a substitute for~~  
27.16 ~~staff supervision or interactions with consumers. If doors are locked or toxic substances~~  
27.17 ~~or dangerous items normally accessible to persons served by the program are stored in~~  
27.18 ~~locked cabinets, drawers, or containers, the license holder must justify and document~~  
27.19 ~~how this determination was made in consultation with the person or the person's legal~~  
27.20 ~~representative and how access will otherwise be provided to the person and all other~~  
27.21 ~~affected persons receiving services;~~

27.22 (3) follow procedures that minimize the consumer's health risk from communicable  
27.23 diseases; and

27.24 (4) maintain equipment, vehicles, supplies, and materials owned or leased by the  
27.25 license holder in good condition.

27.26 Sec. 21. Minnesota Statutes 2012, section 245B.05, subdivision 7, is amended to read:

27.27 Subd. 7. **Reporting incidents.** (a) The license holder must maintain information  
27.28 about and report incidents under section 245B.02, subdivision 10, clauses (1) to ~~(7)~~ (8), to  
27.29 the consumer's legal representative, other licensed caregiver, if any, and case manager  
27.30 within 24 hours of the occurrence, or within 24 hours of receipt of the information unless  
27.31 the incident has been reported by another license holder. An incident under section  
27.32 245B.02, subdivision 10, clause (8), must be reported as required under paragraph (c)  
27.33 unless the incident has been reported by another license holder.

28.1 (b) When the incident involves more than one consumer, the license holder must  
28.2 not disclose personally identifiable information about any other consumer when making  
28.3 the report to each consumer's legal representative, other licensed caregiver, if any, and  
28.4 case manager unless the license holder has the consent of a consumer or a consumer's  
28.5 legal representative.

28.6 (c) Within 24 hours of reporting maltreatment as required under section 626.556  
28.7 or 626.557, the license holder must inform the consumer's legal representative and case  
28.8 manager of the report unless there is reason to believe that the legal representative or case  
28.9 manager is involved in the suspected maltreatment. The information the license holder  
28.10 must disclose is the nature of the activity or occurrence reported, the agency that receives  
28.11 the report, and the telephone number of the Department of Human Services Licensing  
28.12 Division.

28.13 (d) Except as provided in paragraph (e), death or serious injury of the consumer  
28.14 must also be reported to the Department of Human Services Licensing Division and the  
28.15 ombudsman, as required under sections 245.91 and 245.94, subdivision 2a.

28.16 (e) When a death or serious injury occurs in a facility certified as an intermediate  
28.17 care facility for persons with developmental disabilities, the death or serious injury must  
28.18 be reported to the Department of Health, Office of Health Facility Complaints, and the  
28.19 ombudsman, as required under sections 245.91 and 245.94, subdivision 2a.

28.20 Sec. 22. Minnesota Statutes 2012, section 245B.07, subdivision 5, is amended to read:

28.21 Subd. 5. **Staff orientation.** (a) Within 60 days of hiring staff who provide direct  
28.22 service, the license holder must provide 30 hours of staff orientation. Direct care staff  
28.23 must complete 15 of the 30 hours orientation before providing any unsupervised direct  
28.24 service to a consumer. If the staff person has received orientation training from a license  
28.25 holder licensed under this chapter, or provides semi-independent living services only, the  
28.26 15-hour requirement may be reduced to eight hours. The total orientation of 30 hours may  
28.27 be reduced to 15 hours if the staff person has previously received orientation training from  
28.28 a license holder licensed under this chapter.

28.29 (b) The 30 hours of orientation must combine supervised on-the-job training with  
28.30 review coverage of ~~and instruction on~~ the following material:

28.31 (1) review of the consumer's service plans and risk management plan to achieve an  
28.32 understanding of the consumer as a unique individual ~~and staff responsibilities related to~~  
28.33 ~~implementation of those plans;~~

28.34 (2) review and instruction on ~~implementation~~ of the license holder's policies and  
28.35 procedures, including their location and access;

29.1 (3) ~~staff responsibilities related to~~ emergency procedures;

29.2 (4) explanation of specific job functions, including implementing objectives from  
29.3 the consumer's individual service plan;

29.4 (5) explanation of responsibilities related to section 245A.65; sections 626.556  
29.5 and 626.557, governing maltreatment reporting and service planning for children and  
29.6 vulnerable adults; and section 245.825, governing use of aversive and deprivation  
29.7 procedures;

29.8 (6) medication administration as it applies to the individual consumer, from a  
29.9 training curriculum developed by a health services professional described in section  
29.10 245B.05, subdivision 5, and when the consumer meets the criteria of having overriding  
29.11 health care needs, then medication administration taught by a health services professional.  
29.12 Staff may administer medications only after they demonstrate the ability, as defined in the  
29.13 license holder's medication administration policy and procedures. Once a consumer with  
29.14 overriding health care needs is admitted, staff will be provided with remedial training as  
29.15 deemed necessary by the license holder and the health professional to meet the needs of  
29.16 that consumer.

29.17 For purposes of this section, overriding health care needs means a health care  
29.18 condition that affects the service options available to the consumer because the condition  
29.19 requires:

29.20 (i) specialized or intensive medical or nursing supervision; and

29.21 (ii) nonmedical service providers to adapt their services to accommodate the health  
29.22 and safety needs of the consumer;

29.23 (7) ~~consumer rights and staff responsibilities related to protecting and ensuring~~  
29.24 ~~the exercise of the consumer rights;~~ and

29.25 (8) other topics necessary as determined by the consumer's individual service plan or  
29.26 other areas identified by the license holder.

29.27 (c) The license holder must document each employee's orientation received.

29.28 Sec. 23. Minnesota Statutes 2012, section 245B.07, subdivision 9, is amended to read:

29.29 Subd. 9. **Availability of current written policies and procedures.** The license  
29.30 holder shall:

29.31 (1) review and update, as needed, the written policies and procedures in this chapter;

29.32 (2) inform consumers or the consumer's legal representatives of the written policies  
29.33 and procedures in this chapter upon service initiation. ~~Copies of policies and procedures~~  
29.34 ~~affecting a consumer's rights under section 245D.04 must be provided upon service~~  
29.35 ~~initiation. Copies of all other policies and procedures must be available to consumers~~

30.1 or the consumer's legal representatives, case managers, the county where services are  
 30.2 located, and the commissioner upon request;

30.3 (3) provide all consumers or the consumers' legal representatives and case managers  
 30.4 a copy of ~~the revised policies and procedures~~ and explanation of the revisions to policies  
 30.5 and procedures that affect consumers' service-related or protection-related rights under  
 30.6 section 245B.04 ~~and maltreatment reporting policies and procedures~~. Unless there is  
 30.7 reasonable cause, the license holder must provide this notice at least 30 days before  
 30.8 implementing the revised policy and procedure. The license holder must document the  
 30.9 reason for not providing the notice at least 30 days before implementing the revisions;

30.10 (4) annually notify all consumers or the consumers' legal representatives and case  
 30.11 managers of any revised policies and procedures under this chapter, other than those in  
 30.12 clause (3). Upon request, the license holder must provide the consumer or consumer's  
 30.13 legal representative and case manager copies of the revised policies and procedures;

30.14 (5) before implementing revisions to policies and procedures under this chapter,  
 30.15 inform all employees of the ~~revisions and provide training on implementation of the~~  
 30.16 revised policies and procedures; and

30.17 (6) document and maintain relevant information related to the policies and  
 30.18 procedures in this chapter.

30.19 Sec. 24. Minnesota Statutes 2012, section 245B.07, subdivision 10, is amended to read:

30.20 Subd. 10. **Consumer funds.** (a) The license holder must ensure that consumers  
 30.21 retain the use and availability of personal funds or property unless restrictions are justified  
 30.22 in the consumer's individual service plan.

30.23 (b) The license holder must ensure separation of consumer funds from funds of the  
 30.24 license holder, the program, or program staff.

30.25 (c) Whenever the license holder assists a consumer with the safekeeping of funds  
 30.26 or other property, the license holder must have written authorization to do so by the  
 30.27 consumer or the consumer's legal representative, and the case manager. In addition, the  
 30.28 license holder must:

30.29 (1) document receipt and disbursement of the consumer's funds or the property;

30.30 (2) annually survey, document, and implement the preferences of the consumer,  
 30.31 consumer's legal representative, and the case manager for frequency of receiving a  
 30.32 statement that itemizes receipts and disbursements of consumer funds or other property; and

30.33 (3) return to the consumer upon the consumer's request, funds and property in the  
 30.34 license holder's possession subject to restrictions in the consumer's individual service plan,  
 30.35 as soon as possible, but no later than three working days after the date of the request.

- 31.1 (d) License holders and program staff must not:
- 31.2 (1) borrow money from a consumer;
- 31.3 (2) purchase personal items from a consumer;
- 31.4 (3) sell merchandise or personal services to a consumer;
- 31.5 (4) require a consumer to purchase items for which the license holder is eligible for
- 31.6 reimbursement; or
- 31.7 (5) use consumer funds in a manner that would violate section 256B.04, or any
- 31.8 rules promulgated under that section; or.
- 31.9 ~~(6) accept powers-of-attorney from a person receiving services from the license~~
- 31.10 ~~holder for any purpose, and may not accept an appointment as guardian or conservator of~~
- 31.11 ~~a person receiving services from the license holder. This does not apply to license holders~~
- 31.12 ~~that are Minnesota counties or other units of government.~~

31.13 Sec. 25. **REPEALER.**

31.14 Minnesota Statutes 2012, sections 245B.02, subdivision 8a; and 245B.07,

31.15 subdivision 7a, are repealed.

31.16 **ARTICLE 3**

31.17 **FINANCIAL FRAUD AND ABUSE INVESTIGATION**

31.18 Section 1. Minnesota Statutes 2012, section 168.012, subdivision 1, is amended to read:

31.19 Subdivision 1. **Vehicles exempt from tax, fees, or plate display.** (a) The following

31.20 vehicles are exempt from the provisions of this chapter requiring payment of tax and

31.21 registration fees, except as provided in subdivision 1c:

- 31.22 (1) vehicles owned and used solely in the transaction of official business by the
- 31.23 federal government, the state, or any political subdivision;
- 31.24 (2) vehicles owned and used exclusively by educational institutions and used solely
- 31.25 in the transportation of pupils to and from those institutions;
- 31.26 (3) vehicles used solely in driver education programs at nonpublic high schools;
- 31.27 (4) vehicles owned by nonprofit charities and used exclusively to transport disabled
- 31.28 persons for charitable, religious, or educational purposes;
- 31.29 (5) vehicles owned by nonprofit charities and used exclusively for disaster response
- 31.30 and related activities;
- 31.31 (6) vehicles owned by ambulance services licensed under section 144E.10 that
- 31.32 are equipped and specifically intended for emergency response or providing ambulance
- 31.33 services; and

32.1 (7) vehicles owned by a commercial driving school licensed under section 171.34,  
32.2 or an employee of a commercial driving school licensed under section 171.34, and the  
32.3 vehicle is used exclusively for driver education and training.

32.4 (b) Provided the general appearance of the vehicle is unmistakable, the following  
32.5 vehicles are not required to register or display number plates:

32.6 (1) vehicles owned by the federal government;

32.7 (2) fire apparatuses, including fire-suppression support vehicles, owned or leased by  
32.8 the state or a political subdivision;

32.9 (3) police patrols owned or leased by the state or a political subdivision; and

32.10 (4) ambulances owned or leased by the state or a political subdivision.

32.11 (c) Unmarked vehicles used in general police work, liquor investigations, or arson  
32.12 investigations, and passenger automobiles, pickup trucks, and buses owned or operated by  
32.13 the Department of Corrections or by conservation officers of the Division of Enforcement  
32.14 and Field Service of the Department of Natural Resources, must be registered and must  
32.15 display appropriate license number plates, furnished by the registrar at cost. Original and  
32.16 renewal applications for these license plates authorized for use in general police work and  
32.17 for use by the Department of Corrections or by conservation officers must be accompanied  
32.18 by a certification signed by the appropriate chief of police if issued to a police vehicle,  
32.19 the appropriate sheriff if issued to a sheriff's vehicle, the commissioner of corrections if  
32.20 issued to a Department of Corrections vehicle, or the appropriate officer in charge if  
32.21 issued to a vehicle of any other law enforcement agency. The certification must be on a  
32.22 form prescribed by the commissioner and state that the vehicle will be used exclusively  
32.23 for a purpose authorized by this section.

32.24 (d) Unmarked vehicles used by the Departments of Revenue and Labor and Industry,  
32.25 fraud unit, in conducting seizures or criminal investigations must be registered and must  
32.26 display passenger vehicle classification license number plates, furnished at cost by the  
32.27 registrar. Original and renewal applications for these passenger vehicle license plates  
32.28 must be accompanied by a certification signed by the commissioner of revenue or the  
32.29 commissioner of labor and industry. The certification must be on a form prescribed by  
32.30 the commissioner and state that the vehicles will be used exclusively for the purposes  
32.31 authorized by this section.

32.32 (e) Unmarked vehicles used by the Division of Disease Prevention and Control of the  
32.33 Department of Health must be registered and must display passenger vehicle classification  
32.34 license number plates. These plates must be furnished at cost by the registrar. Original  
32.35 and renewal applications for these passenger vehicle license plates must be accompanied  
32.36 by a certification signed by the commissioner of health. The certification must be on a



33.1 form prescribed by the commissioner and state that the vehicles will be used exclusively  
 33.2 for the official duties of the Division of Disease Prevention and Control.

33.3 (f) Unmarked vehicles used by staff of the Gambling Control Board in gambling  
 33.4 investigations and reviews must be registered and must display passenger vehicle  
 33.5 classification license number plates. These plates must be furnished at cost by the  
 33.6 registrar. Original and renewal applications for these passenger vehicle license plates must  
 33.7 be accompanied by a certification signed by the board chair. The certification must be on a  
 33.8 form prescribed by the commissioner and state that the vehicles will be used exclusively  
 33.9 for the official duties of the Gambling Control Board.

33.10 (g) Unmarked vehicles used in general investigation, surveillance, supervision, and  
 33.11 monitoring by the ~~staff of the Department of Human Services~~ Services' Office of Special  
 33.12 ~~Investigations and the executive director of Investigations' staff;~~ the Minnesota sex  
 33.13 offender ~~program~~ program's executive director and the executive director's staff; and the  
 33.14 Office of Inspector General's staff, including, but not limited to, county fraud prevention  
 33.15 investigators, must be registered and must display passenger vehicle classification license  
 33.16 number plates, furnished by the registrar at cost. Original and renewal applications for  
 33.17 passenger vehicle license plates must be accompanied by a certification signed by the  
 33.18 commissioner of human services. The certification must be on a form prescribed by the  
 33.19 commissioner and state that the vehicles must be used exclusively for the official duties of  
 33.20 the Office of Special ~~Investigations and Investigations' staff;~~ Investigations' staff; the ~~executive director of the~~  
 33.21 ~~Minnesota sex offender program~~ program's executive director and the executive director's  
 33.22 staff; and the Office of the Inspector General's staff, including, but not limited to, contract  
 33.23 and county fraud prevention investigators.

33.24 (h) Each state hospital and institution for persons who are mentally ill and  
 33.25 developmentally disabled may have one vehicle without the required identification on  
 33.26 the sides of the vehicle. The vehicle must be registered and must display passenger  
 33.27 vehicle classification license number plates. These plates must be furnished at cost by the  
 33.28 registrar. Original and renewal applications for these passenger vehicle license plates must  
 33.29 be accompanied by a certification signed by the hospital administrator. The certification  
 33.30 must be on a form prescribed by the commissioner and state that the vehicles will be used  
 33.31 exclusively for the official duties of the state hospital or institution.

33.32 (i) Each county social service agency may have vehicles used for child and  
 33.33 vulnerable adult protective services without the required identification on the sides of the  
 33.34 vehicle. The vehicles must be registered and must display passenger vehicle classification  
 33.35 license number plates. These plates must be furnished at cost by the registrar. Original  
 33.36 and renewal applications for these passenger vehicle license plates must be accompanied

34.1 by a certification signed by the agency administrator. The certification must be on a form  
34.2 prescribed by the commissioner and state that the vehicles will be used exclusively for the  
34.3 official duties of the social service agency.

34.4 (j) All other motor vehicles must be registered and display tax-exempt number  
34.5 plates, furnished by the registrar at cost, except as provided in subdivision 1c. All  
34.6 vehicles required to display tax-exempt number plates must have the name of the state  
34.7 department or political subdivision, nonpublic high school operating a driver education  
34.8 program, licensed commercial driving school, or other qualifying organization or entity,  
34.9 plainly displayed on both sides of the vehicle. This identification must be in a color  
34.10 giving contrast with that of the part of the vehicle on which it is placed and must endure  
34.11 throughout the term of the registration. The identification must not be on a removable  
34.12 plate or placard and must be kept clean and visible at all times; except that a removable  
34.13 plate or placard may be utilized on vehicles leased or loaned to a political subdivision or  
34.14 to a nonpublic high school driver education program.

34.15 Sec. 2. Minnesota Statutes 2012, section 256.01, subdivision 18d, is amended to read:

34.16 Subd. 18d. **Data sharing with the Department of Human Services; multiple**  
34.17 **identification cards.** (a) The commissioner of public safety shall, on a monthly basis,  
34.18 provide the commissioner of human services with the first, middle, and last name, ~~and~~  
34.19 the address, date of birth, ~~and~~ driver's license or state identification card number, and  
34.20 all photographs or electronically produced images of all applicants and holders whose  
34.21 drivers' licenses and state identification cards have been canceled under section 171.14,  
34.22 paragraph (a), clause (2) or (3), by the commissioner of public safety. After the initial data  
34.23 report has been provided by the commissioner of public safety to the commissioner of  
34.24 human services under this paragraph, subsequent reports shall only include cancellations  
34.25 that occurred after the end date of the cancellations represented in the previous data report.

34.26 (b) The commissioner of human services shall compare the information provided  
34.27 under paragraph (a) with the commissioner's data regarding recipients of all public  
34.28 assistance programs managed by the Department of Human Services to determine whether  
34.29 any individual with multiple identification cards issued by the Department of Public  
34.30 Safety has illegally or improperly enrolled in any public assistance program managed by  
34.31 the Department of Human Services.

34.32 (c) If the commissioner of human services determines that an applicant or recipient  
34.33 has illegally or improperly enrolled in any public assistance program, the commissioner  
34.34 shall provide all due process protections to the individual before terminating the individual  
34.35 from the program according to applicable statute and notifying the county attorney.

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

35.2 Sec. 3. Minnesota Statutes 2012, section 268.19, subdivision 1, is amended to read:

35.3 Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered  
35.4 from any person under the administration of the Minnesota Unemployment Insurance Law  
35.5 are private data on individuals or nonpublic data not on individuals as defined in section  
35.6 13.02, subdivisions 9 and 12, and may not be disclosed except according to a district court  
35.7 order or section 13.05. A subpoena is not considered a district court order. These data  
35.8 may be disseminated to and used by the following agencies without the consent of the  
35.9 subject of the data:

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

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

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

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

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

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

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

35.23 (8) the Department of Labor and Industry and the Division of Insurance Fraud  
35.24 Prevention in the Department of Commerce for uses consistent with the administration of  
35.25 their duties under Minnesota law;

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

35.30 ~~(9)~~ (10) local and state welfare agencies for monitoring the eligibility of the data  
35.31 subject for assistance programs, or for any employment or training program administered  
35.32 by those agencies, whether alone, in combination with another welfare agency, or in  
35.33 conjunction with the department or to monitor and evaluate the statewide Minnesota  
35.34 family investment program by providing data on recipients and former recipients of food

36.1 stamps or food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care  
 36.2 assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

36.3 ~~(10)~~ (11) local and state welfare agencies for the purpose of identifying employment,  
 36.4 wages, and other information to assist in the collection of an overpayment debt in an  
 36.5 assistance program;

36.6 ~~(11)~~ (12) local, state, and federal law enforcement agencies for the purpose of  
 36.7 ascertaining the last known address and employment location of an individual who is the  
 36.8 subject of a criminal investigation;

36.9 ~~(12)~~ (13) the United States Immigration and Customs Enforcement has access to  
 36.10 data on specific individuals and specific employers provided the specific individual or  
 36.11 specific employer is the subject of an investigation by that agency;

36.12 ~~(13)~~ (14) the Department of Health for the purposes of epidemiologic investigations;

36.13 ~~(14)~~ (15) the Department of Corrections for the purpose of preincarceration and  
 36.14 postincarceration employment tracking of committed offenders for the purpose of case  
 36.15 planning; and

36.16 ~~(15)~~ (16) the state auditor to the extent necessary to conduct audits of job opportunity  
 36.17 building zones as required under section 469.3201.

36.18 (b) Data on individuals and employers that are collected, maintained, or used by  
 36.19 the department in an investigation under section 268.182 are confidential as to data  
 36.20 on individuals and protected nonpublic data not on individuals as defined in section  
 36.21 13.02, subdivisions 3 and 13, and must not be disclosed except under statute or district  
 36.22 court order or to a party named in a criminal proceeding, administrative or judicial, for  
 36.23 preparation of a defense.

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

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

36.29 Sec. 4. Minnesota Statutes 2012, section 471.346, is amended to read:

36.30 **471.346 PUBLICLY OWNED AND LEASED VEHICLES IDENTIFIED.**

36.31 All motor vehicles owned or leased by a statutory or home rule charter city, county,  
 36.32 town, school district, metropolitan or regional agency, or other political subdivision, except  
 36.33 for unmarked vehicles used in general police and fire work ~~and~~ arson investigations,  
 36.34 and Department of Human Services investigations including county fraud prevention

37.1 investigations, shall have the name of the political subdivision plainly displayed on both  
 37.2 sides of the vehicle in letters not less than 2-1/2 inches high and one-half inch wide. The  
 37.3 identification must be in a color that contrasts with the color of the part of the vehicle on  
 37.4 which it is placed and must remain on and be clean and visible throughout the period of  
 37.5 which the vehicle is owned or leased by the political subdivision. The identification must  
 37.6 not be on a removable plate or placard except on leased vehicles but the plate or placard  
 37.7 must not be removed from a leased vehicle at any time during the term of the lease.

#### 37.8 **ARTICLE 4**

#### 37.9 **CHEMICAL AND MENTAL HEALTH**

37.10 Section 1. Minnesota Statutes 2012, section 254B.05, subdivision 5, is amended to read:

37.11 Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for  
 37.12 chemical dependency services and service enhancements funded under this chapter.

37.13 (b) Eligible chemical dependency treatment services include:

37.14 (1) outpatient treatment services that are licensed according to Minnesota Rules,  
 37.15 parts 9530.6405 to 9530.6480, or applicable tribal license;

37.16 (2) medication-assisted therapy services that are licensed according to Minnesota  
 37.17 Rules, parts 9530.6405 to 9530.6480 and 9530.6500, or applicable tribal license;

37.18 (3) medication-assisted therapy plus enhanced treatment services that meet the  
 37.19 requirements of clause (2) and provide nine hours of clinical services each week;

37.20 (4) high, medium, and low intensity residential treatment services that are licensed  
 37.21 according to Minnesota Rules, parts 9530.6405 to 9530.6480 and 9530.6505, or applicable  
 37.22 tribal license which provide, respectively, 30, 15, and five hours of clinical services each  
 37.23 week;

37.24 (5) hospital-based treatment services that are licensed according to Minnesota Rules,  
 37.25 parts 9530.6405 to 9530.6480, or applicable tribal license and licensed as a hospital under  
 37.26 sections 144.50 to 144.56;

37.27 (6) adolescent treatment programs that are licensed as outpatient treatment programs  
 37.28 according to Minnesota Rules, parts 9530.6405 to 9530.6485, or as residential treatment  
 37.29 programs according to Minnesota Rules, ~~chapter 2960~~ parts 2960.0010 to 2960.0220, and  
 37.30 2960.0430 to 2960.0490, or applicable tribal license; and

37.31 (7) room and board facilities that meet the requirements of section 254B.05,  
 37.32 subdivision 1a.

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

37.35 (1) programs that serve parents with their children if the program;

- 38.1 (i) provides on-site child care during hours of treatment activity that meets the  
38.2 additional licensing requirement requirements in Minnesota Rules, part 9530.6490, and  
38.3 provides child care that meets the requirements of or section 245A.03, subdivision 2;  
38.4 during hours of treatment activity; or
- 38.5 (ii) arranges for off-site child care during hours of treatment activity at a facility that  
38.6 is licensed under chapter 245A as:
- 38.7 (A) a child care center under Minnesota Rules, chapter 9503; or  
38.8 (B) a family child care home under Minnesota Rules, chapter 9502;
- 38.9 (2) programs serving special populations if the program meets the requirements in  
38.10 Minnesota Rules, part 9530.6605, subpart 13;
- 38.11 (3) programs that offer medical services delivered by appropriately credentialed  
38.12 health care staff in an amount equal to two hours per client per week if the medical  
38.13 needs of the client and the nature and provision of any medical services provided are  
38.14 documented in the client file; and
- 38.15 (4) programs that offer services to individuals with co-occurring mental health and  
38.16 chemical dependency problems if:
- 38.17 (i) the program meets the co-occurring requirements in Minnesota Rules, part  
38.18 9530.6495;
- 38.19 (ii) 25 percent of the counseling staff are licensed mental health professionals, as  
38.20 defined in section 245.462, subdivision 18, clauses (1) to (6), or are students or licensing  
38.21 candidates under the supervision of a licensed alcohol and drug counselor supervisor and  
38.22 licensed mental health professional, except that no more than 50 percent of the mental  
38.23 health staff may be students or licensing candidates with time documented to be directly  
38.24 related to provisions of co-occurring services;
- 38.25 (iii) clients scoring positive on a standardized mental health screen receive a mental  
38.26 health diagnostic assessment within ten days of admission;
- 38.27 (iv) the program has standards for multidisciplinary case review that include a  
38.28 monthly review for each client that, at a minimum, includes a licensed mental health  
38.29 professional and licensed alcohol and drug counselor, and their involvement in the review  
38.30 is documented;
- 38.31 (v) family education is offered that addresses mental health and substance abuse  
38.32 disorders and the interaction between the two; and
- 38.33 (vi) co-occurring counseling staff will receive eight hours of co-occurring disorder  
38.34 training annually.
- 38.35 (d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program  
38.36 that provides arrangements for off-site child care must maintain current documentation at

39.1 the chemical dependency facility of the child care provider's current licensure to provide  
 39.2 child care services. Programs that provide child care according to paragraph (c), clause  
 39.3 (1), must be deemed in compliance with the licensing requirements in Minnesota Rules,  
 39.4 part 9530.6490.

39.5 (e) Adolescent residential programs that meet the requirements of Minnesota Rules,  
 39.6 parts ~~2960.0580 to 2960.0700~~ 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are  
 39.7 exempt from the requirements in paragraph (c), clause (4), items (i) to (iv).

## 39.8 ARTICLE 5

### 39.9 BACKGROUND STUDIES

39.10 Section 1. Minnesota Statutes 2012, section 245C.04, is amended to read:

#### 39.11 **245C.04 WHEN BACKGROUND STUDY MUST OCCUR.**

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

39.15 (b) The commissioner shall conduct a background study of an individual required  
 39.16 to be studied under section 245C.03, subdivision 1, at reapplication for a license for  
 39.17 family child care.

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

39.21 (1) registered under chapter 144D; or

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

39.25 (3) the following conditions are met:

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

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

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

39.31 (d) From July 1, 2007, to June 30, 2009, the commissioner of human services shall  
 39.32 conduct a study of an individual required to be studied under section 245C.03, at the  
 39.33 time of reapplication for a child foster care license. The county or private agency shall  
 39.34 collect and forward to the commissioner the information required under section 245C.05,

40.1 subdivisions 1, paragraphs (a) and (b), and 5, paragraphs (a) and (b). The background  
40.2 study conducted by the commissioner of human services under this paragraph must  
40.3 include a review of the information required under section 245C.08, subdivisions 1,  
40.4 paragraph (a), clauses (1) to (5), 3, and 4.

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

40.12 (f) From January 1, 2010, to December 31, 2012, unless otherwise specified in  
40.13 paragraph (c), the commissioner shall conduct a study of an individual required to  
40.14 be studied under section 245C.03 at the time of reapplication for an adult foster care  
40.15 or family adult day services license: (1) the county shall collect and forward to the  
40.16 commissioner the information required under section 245C.05, subdivision 1, paragraphs  
40.17 (a) and (b), and subdivision 5, paragraphs (a) and (b), for background studies conducted  
40.18 by the commissioner for all family adult day services and for adult foster care when  
40.19 the adult foster care license holder resides in the adult foster care or family adult day  
40.20 services residence; (2) the license holder shall collect and forward to the commissioner  
40.21 the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b);  
40.22 and 5, paragraphs (a) and (b), for background studies conducted by the commissioner for  
40.23 adult foster care when the license holder does not reside in the adult foster care residence;  
40.24 and (3) the background study conducted by the commissioner under this paragraph must  
40.25 include a review of the information required under section 245C.08, subdivision 1,  
40.26 paragraph (a), clauses (1) to (5), and subdivisions 3 and 4.

40.27 (g) The commissioner shall conduct a background study of an individual specified  
40.28 under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly  
40.29 affiliated with an adult foster care or family adult day services license holder: (1) the  
40.30 county shall collect and forward to the commissioner the information required under  
40.31 section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a)  
40.32 and (b), for background studies conducted by the commissioner for all family adult day  
40.33 services and for adult foster care when the adult foster care license holder resides in  
40.34 the adult foster care residence; (2) the license holder shall collect and forward to the  
40.35 commissioner the information required under section 245C.05, subdivisions 1, paragraphs  
40.36 (a) and (b); and 5, paragraphs (a) and (b), for background studies conducted by the



41.1 commissioner for adult foster care when the license holder does not reside in the adult  
41.2 foster care residence; and (3) the background study conducted by the commissioner under  
41.3 this paragraph must include a review of the information required under section 245C.08,  
41.4 subdivision 1, paragraph (a), and subdivisions 3 and 4.

41.5 (h) Applicants for licensure, license holders, and other entities as provided in this  
41.6 chapter must submit completed background study ~~forms~~ requests to the commissioner  
41.7 using the electronic system known as NETStudy before individuals specified in section  
41.8 245C.03, subdivision 1, begin positions allowing direct contact in any licensed program.

41.9 (i) A license holder must initiate a new background study through ~~the commissioner's~~  
41.10 ~~online background study system~~ NETStudy when:

41.11 (1) an individual returns to a position requiring a background study following an  
41.12 absence of ~~90~~ 120 or more consecutive days; or

41.13 (2) a program that discontinued providing licensed direct contact services for ~~90~~ 120  
41.14 or more consecutive days begins to provide direct contact licensed services again.

41.15 The license holder shall maintain a copy of the notification provided to  
41.16 the commissioner under this paragraph in the program's files. If the individual's  
41.17 disqualification was previously set aside for the license holder's program and the new  
41.18 background study results in no new information that indicates the individual may pose a  
41.19 risk of harm to persons receiving services from the license holder, the previous set-aside  
41.20 shall remain in effect.

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

41.24 (k) For purposes of family child care, a substitute caregiver must receive repeat  
41.25 background studies at the time of each license renewal.

41.26 Subd. 2. **Other state agencies.** Applicants and license holders under the jurisdiction  
41.27 of other state agencies who are required in other statutory sections to initiate background  
41.28 studies under this chapter must submit completed background study forms to the  
41.29 commissioner before the background study subject begins in a position allowing direct  
41.30 contact in the licensed program or, where applicable, prior to being employed.

41.31 Subd. 3. **Personal care provider organizations.** (a) The commissioner shall  
41.32 conduct a background study of an individual required to be studied under section 245C.03,  
41.33 subdivision 2, at least upon application for initial enrollment under sections 256B.0651 to  
41.34 256B.0656 and 256B.0659.

41.35 (b) Organizations required to initiate background studies under sections 256B.0651  
41.36 to 256B.0656 and 256B.0659 for individuals described in section 245C.03, subdivision 2,

42.1 must submit a completed background study ~~form~~ request to the commissioner using the  
42.2 electronic system known as NETStudy before those individuals begin a position allowing  
42.3 direct contact with persons served by the organization.

42.4 (c) Organizations required to initiate background studies under sections 256B.0651  
42.5 to 256B.0656 and 256B.0659 for individuals described in section 245C.03, subdivision 2,  
42.6 must initiate a new background study through NETStudy when an individual returns to a  
42.7 position requiring a background study following an absence of 120 or more consecutive  
42.8 days.

42.9 **Subd. 4. Supplemental nursing services agencies.** (a) The commissioner shall  
42.10 conduct a background study of an individual required to be studied under section 245C.03,  
42.11 subdivision 3, at least upon application for registration under section 144A.71, subdivision  
42.12 1.

42.13 (b) Each supplemental nursing services agency must initiate background studies  
42.14 using the electronic system known as NETStudy before an individual begins a position  
42.15 allowing direct contact with persons served by the agency and annually thereafter.

42.16 **Subd. 5. Personnel agencies; educational programs; professional services**  
42.17 **agencies.** Agencies, programs, and individuals who initiate background studies under  
42.18 section 245C.03, subdivision 4, must initiate the studies annually using the electronic  
42.19 system known as NETStudy.

42.20 **Subd. 6. Unlicensed home and community-based waiver providers of service to**  
42.21 **seniors and individuals with disabilities.** (a) Providers required to initiate background  
42.22 studies under section 256B.4912 must initiate a study using the electronic system known  
42.23 as NETStudy before the individual begins in a position allowing direct contact with  
42.24 persons served by the provider.

42.25 (b) Except as provided in paragraph (c), the providers must initiate a background  
42.26 study annually of an individual required to be studied under section 245C.03, subdivision 6.

42.27 (c) After an initial background study under this subdivision is initiated on an  
42.28 individual by a provider of both services licensed by the commissioner and the unlicensed  
42.29 services under this subdivision, a repeat annual background study is not required if:

42.30 (1) the provider maintains compliance with the requirements of section 245C.07,  
42.31 paragraph (a), regarding one individual with one address and telephone number as the  
42.32 person to receive sensitive background study information for the multiple programs that  
42.33 depend on the same background study, and that the individual who is designated to receive  
42.34 the sensitive background information is capable of determining, upon the request of the  
42.35 commissioner, whether a background study subject is providing direct contact services

43.1 in one or more of the provider's programs or services and, if so, at which location or  
43.2 locations; and

43.3 (2) the individual who is the subject of the background study provides direct  
43.4 contact services under the provider's licensed program for at least 40 hours per year so  
43.5 the individual will be recognized by a probation officer or corrections agent to prompt  
43.6 a report to the commissioner regarding criminal convictions as required under section  
43.7 245C.05, subdivision 7.

43.8 Subd. 7. **New study required with legal name change.** (a) For a background study  
43.9 completed on an individual required to be studied under section 245C.03, the license  
43.10 holder or other entity that initiated the background study must initiate a new background  
43.11 study using the electronic system known as NETStudy when an individual who is affiliated  
43.12 with the license holder or other entity undergoes a legal name change.

43.13 (b) For background studies subject to a fee paid through the NETStudy system, the  
43.14 entity that initiated the study may initiate a new study under paragraph (a) or notify the  
43.15 commissioner of the name change through a notice to the commissioner.

43.16 Sec. 2. Minnesota Statutes 2012, section 245C.05, subdivision 6, is amended to read:

43.17 Subd. 6. **Applicant, license holder, other entities, and agencies.** (a) The applicant,  
43.18 license holder, other entities as provided in this chapter, Bureau of Criminal Apprehension,  
43.19 law enforcement agencies, commissioner of health, and county agencies shall help with  
43.20 the study by giving the commissioner criminal conviction data and reports about the  
43.21 maltreatment of adults substantiated under section 626.557 and the maltreatment of  
43.22 minors substantiated under section 626.556.

43.23 (b) If a background study is initiated by an applicant, license holder, or other entities  
43.24 as provided in this chapter, and the applicant, license holder, or other entity receives  
43.25 information about the possible criminal or maltreatment history of an individual who is  
43.26 the subject of the background study, the applicant, license holder, or other entity must  
43.27 immediately provide the information to the commissioner.

43.28 (c) The program or county or other agency must provide written notice to the  
43.29 individual who is the subject of the background study of the requirements under this  
43.30 subdivision.

43.31 Sec. 3. Minnesota Statutes 2012, section 245C.08, subdivision 1, is amended to read:

43.32 Subdivision 1. **Background studies conducted by Department of Human**  
43.33 **Services.** (a) For a background study conducted by the Department of Human Services,  
43.34 the commissioner shall review:

44.1 (1) information related to names of substantiated perpetrators of maltreatment of  
44.2 vulnerable adults that has been received by the commissioner as required under section  
44.3 626.557, subdivision 9c, paragraph (j);

44.4 (2) the commissioner's records relating to the maltreatment of minors in licensed  
44.5 programs, and from findings of maltreatment of minors as indicated through the social  
44.6 service information system;

44.7 (3) information from juvenile courts as required in subdivision 4 for individuals  
44.8 listed in section 245C.03, subdivision 1, paragraph (a), when there is reasonable cause;

44.9 (4) information from the Bureau of Criminal Apprehension;

44.10 (5) except as provided in clause (6), information from the national crime information  
44.11 system when the commissioner has reasonable cause as defined under section 245C.05,  
44.12 subdivision 5; and

44.13 (6) for a background study related to a child foster care application for licensure or  
44.14 adoptions, the commissioner shall also review:

44.15 (i) information from the child abuse and neglect registry for any state in which the  
44.16 background study subject has resided for the past five years; and

44.17 (ii) information from national crime information databases, when the background  
44.18 study subject is 18 years of age or older.

44.19 (b) Notwithstanding expungement by a court, the commissioner may consider  
44.20 information obtained under paragraph (a), clauses (3) and (4), unless the commissioner  
44.21 received notice of the petition for expungement and the court order for expungement is  
44.22 directed specifically to the commissioner.

44.23 (c) When the commissioner has reasonable cause to believe that the identity of  
44.24 a background study subject is uncertain, the commissioner may require the subject to  
44.25 provide a set of classifiable fingerprints for purposes of completing a fingerprint-based  
44.26 record check with the Bureau of Criminal Apprehension.

44.27 Sec. 4. Minnesota Statutes 2012, section 245C.16, subdivision 1, is amended to read:

44.28 Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner  
44.29 determines that the individual studied has a disqualifying characteristic, the commissioner  
44.30 shall review the information immediately available and make a determination as to the  
44.31 subject's immediate risk of harm to persons served by the program where the individual  
44.32 studied will have direct contact with, or access to, people receiving services.

44.33 (b) The commissioner shall consider all relevant information available, including the  
44.34 following factors in determining the immediate risk of harm:

44.35 (1) the recency of the disqualifying characteristic;

- 45.1 (2) the recency of discharge from probation for the crimes;
- 45.2 (3) the number of disqualifying characteristics;
- 45.3 (4) the intrusiveness or violence of the disqualifying characteristic;
- 45.4 (5) the vulnerability of the victim involved in the disqualifying characteristic;
- 45.5 (6) the similarity of the victim to the persons served by the program where the
- 45.6 individual studied will have direct contact;
- 45.7 (7) whether the individual has a disqualification from a previous background study
- 45.8 that has not been set aside; and
- 45.9 (8) if the individual has a disqualification which may not be set aside because it is
- 45.10 a permanent bar under section 245C.24, subdivision 1, the commissioner may order the
- 45.11 immediate removal of the individual from any position allowing direct contact with, or
- 45.12 access to, persons receiving services from the program.

45.13 (c) This section does not apply when the subject of a background study is regulated

45.14 by a health-related licensing board as defined in chapter 214, and the subject is determined

45.15 to be responsible for substantiated maltreatment under section 626.556 or 626.557.

45.16 (d) This section does not apply to a background study related to an initial application

45.17 for a child foster care license.

45.18 (e) Except for paragraph (f), this section does not apply to a background study that

45.19 is also subject to the requirements under section 256B.0659, subdivisions 11 and 13, for

45.20 a personal care assistant or a qualified professional as defined in section 256B.0659,

45.21 subdivision 1.

45.22 (f) If the commissioner has reason to believe, based on arrest information or an

45.23 active maltreatment investigation, that an individual poses an imminent risk of harm to

45.24 persons receiving services, the commissioner may order that the person be continuously

45.25 supervised or immediately removed pending the conclusion of the maltreatment

45.26 investigation or criminal proceedings.

45.27 Sec. 5. Minnesota Statutes 2012, section 245C.20, subdivision 1, is amended to read:

45.28 Subdivision 1. **Background studies initiated by program.** A licensed program

45.29 shall document the date the program initiates a background study under this chapter

45.30 and the date the subject of the study first has direct contact with persons served by the

45.31 program in the program's personnel files. When a background study is completed under

45.32 this chapter, a licensed program shall maintain a notice that the study was undertaken and

45.33 completed in the program's personnel files. Except when background studies are initiated

45.34 through the commissioner's online system, if a licensed program has not received a

45.35 response from the commissioner under section 245C.17 within 45 days of initiation of the

46.1 background study request, the licensed program must contact the human services licensing  
 46.2 division to inquire about the status of the study. If a license holder initiates a background  
 46.3 study under the commissioner's online system, but the background study subject's name  
 46.4 does not appear in the list of active or recent studies initiated by that license holder, the  
 46.5 license holder must either contact the human services licensing division or resubmit the  
 46.6 background study information online for that individual.

46.7 Sec. 6. Minnesota Statutes 2012, section 245C.22, subdivision 1, is amended to read:

46.8 Subdivision 1. **Time frame; response to disqualification reconsideration**  
 46.9 **requests.** (a) The commissioner shall respond in writing or by electronic transmission to  
 46.10 all reconsideration requests for which the basis for the request is that the information the  
 46.11 commissioner relied upon to disqualify is incorrect or inaccurate within 30 working days  
 46.12 of receipt of a complete request and all required relevant information.

46.13 (b) If the basis for a disqualified individual's reconsideration request is that the  
 46.14 individual does not pose a risk of harm, the commissioner shall respond to the request  
 46.15 within 15 working days after receiving ~~the~~ a complete request for reconsideration and  
 46.16 all required relevant information.

46.17 (c) If the disqualified individual's reconsideration request is based on both the  
 46.18 correctness or accuracy of the information the commissioner relied upon to disqualify the  
 46.19 individual and the individual's risk of harm, the commissioner shall respond to the request  
 46.20 within 45 working days after receiving ~~the~~ a complete request for reconsideration and  
 46.21 all required relevant information.

46.22 Sec. 7. Minnesota Statutes 2012, section 245C.23, subdivision 2, is amended to read:

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

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

46.29 (2) the individual submits a timely request for reconsideration, but the commissioner  
 46.30 does not set aside the disqualification for that license holder under section 245C.22, unless  
 46.31 the individual has a right to request a hearing under section 245C.27, 245C.28, or 256.045;

46.32 (3) an individual who has a right to request a hearing under sections 245C.27 and  
 46.33 256.045, or 245C.28 and chapter 14 for a disqualification that has not been set aside, does  
 46.34 not request a hearing within the specified time; or

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

47.4 (b) If the commissioner does not set aside the disqualification under section 245C.22,  
 47.5 and the license holder was previously ordered under section 245C.17 to immediately  
 47.6 remove the disqualified individual from direct contact with persons receiving services or  
 47.7 to ensure that the individual is under continuous, direct supervision when providing direct  
 47.8 contact services, the order remains in effect pending the outcome of a hearing under  
 47.9 sections 245C.27 and 256.045, or 245C.28 and chapter 14.

47.10 (c) If the commissioner does not set aside the disqualification under section 245C.22,  
 47.11 and the license holder was not previously ordered under section 245C.17 to immediately  
 47.12 remove the disqualified individual from direct contact with persons receiving services or  
 47.13 to ensure that the individual is under continuous direct supervision when providing direct  
 47.14 contact services, the commissioner shall order the individual to remain under continuous  
 47.15 direct supervision pending the outcome of a hearing under sections 245C.27 and 256.045,  
 47.16 or 245C.28 and chapter 14.

47.17 ~~(e)~~ (d) For background studies related to child foster care, the commissioner shall  
 47.18 also notify the county or private agency that initiated the study of the results of the  
 47.19 reconsideration.

47.20 ~~(d)~~ (e) For background studies related to adult foster care and family adult day  
 47.21 services, the commissioner shall also notify the county that initiated the study of the  
 47.22 results of the reconsideration.

47.23 Sec. 8. Minnesota Statutes 2012, section 245C.28, subdivision 1, is amended to read:

47.24 Subdivision 1. **License holder.** (a) If a maltreatment determination or a  
 47.25 disqualification for which reconsideration was timely requested and which was not set  
 47.26 aside is the basis for a denial of a license under section 245A.05 or a licensing sanction  
 47.27 under section 245A.07, the license holder has the right to a contested case hearing under  
 47.28 chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The license holder must  
 47.29 submit the appeal under section 245A.05 or 245A.07, subdivision 3.

47.30 (b) As provided under section 245A.08, subdivision 2a, if the denial of a license  
 47.31 or licensing sanction is based on a disqualification for which reconsideration was timely  
 47.32 requested and was not set aside, the scope of the consolidated contested case hearing  
 47.33 must include:

47.34 (1) the disqualification, to the extent the license holder otherwise has a hearing right  
 47.35 on the disqualification under this chapter; and

48.1 (2) the licensing sanction or denial of a license.

48.2 (c) As provided for under section 245A.08, subdivision 2a, if the denial of a license  
48.3 or licensing sanction is based on a determination of maltreatment under section 626.556  
48.4 or 626.557, or a disqualification for serious or recurring maltreatment which was not set  
48.5 aside, the scope of the contested case hearing must include:

48.6 (1) the maltreatment determination, if the maltreatment is not conclusive under  
48.7 section 245C.29;

48.8 (2) the disqualification, if the disqualification is not conclusive under section  
48.9 245C.29; and

48.10 (3) the licensing sanction or denial of a license. In such cases, a fair hearing must not  
48.11 be conducted under section 256.045. If the disqualification was based on a determination  
48.12 of substantiated serious or recurring maltreatment under section 626.556 or 626.557, the  
48.13 appeal must be submitted under sections 245A.07, subdivision 3, and 626.556, subdivision  
48.14 10i, or 626.557, subdivision 9d.

48.15 (d) Except for family child care and child foster care, reconsideration of a  
48.16 maltreatment determination under sections 626.556, subdivision 10i, and 626.557,  
48.17 subdivision 9d, and reconsideration of a disqualification under section 245C.22, must  
48.18 not be conducted when:

48.19 (1) a denial of a license under section 245A.05, or a licensing sanction under section  
48.20 245A.07, is based on a determination that the license holder is responsible for maltreatment  
48.21 or the disqualification of a license holder based on serious or recurring maltreatment;

48.22 (2) the denial of a license or licensing sanction is issued at the same time as the  
48.23 maltreatment determination or disqualification; and

48.24 (3) the license holder appeals the maltreatment determination, disqualification, and  
48.25 denial of a license or licensing sanction. In such cases a fair hearing under section 256.045  
48.26 must not be conducted under sections 245C.27, 626.556, subdivision 10i, and 626.557,  
48.27 subdivision 9d. Under section 245A.08, subdivision 2a, the scope of the consolidated  
48.28 contested case hearing must include the maltreatment determination, disqualification, and  
48.29 denial of a license or licensing sanction.

48.30 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment  
48.31 determination or disqualification, but does not appeal the denial of a license or a licensing  
48.32 sanction, reconsideration of the maltreatment determination shall be conducted under  
48.33 sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the  
48.34 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing  
48.35 shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and  
48.36 626.557, subdivision 9d.



49.1 Sec. 9. Minnesota Statutes 2012, section 245C.28, subdivision 3, is amended to read:

49.2 Subd. 3. **Employees of public employer.** (a) A disqualified individual who is an  
49.3 employee of an employer, as defined in section 179A.03, subdivision 15, may request  
49.4 a contested case hearing under chapter 14, and specifically Minnesota Rules, parts  
49.5 1400.8505 to 1400.8612, following a reconsideration decision under section 245C.23,  
49.6 unless the disqualification is deemed conclusive under section 245C.29. The request for a  
49.7 contested case hearing must be made in writing and must be postmarked and sent within  
49.8 30 calendar days after the employee receives notice of the reconsideration decision. If  
49.9 the individual was disqualified based on a conviction or admission to any crimes listed in  
49.10 section 245C.15, the scope of the contested case hearing shall be limited solely to whether  
49.11 the individual poses a risk of harm pursuant to section 245C.22.

49.12 (b) When an individual is disqualified based on a maltreatment determination, the  
49.13 scope of the contested case hearing under paragraph (a), must include the maltreatment  
49.14 determination and the disqualification. In such cases, a fair hearing must not be conducted  
49.15 under section 256.045.

49.16 (c) Rules adopted under this chapter may not preclude an employee in a contested  
49.17 case hearing for a disqualification from submitting evidence concerning information  
49.18 gathered under this chapter.

49.19 (d) When an individual has been disqualified from multiple licensed programs, if  
49.20 at least one of the disqualifications entitles the person to a contested case hearing under  
49.21 this subdivision, the scope of the contested case hearing shall include all disqualifications  
49.22 from licensed programs.

49.23 (e) In determining whether the disqualification should be set aside, the administrative  
49.24 law judge shall consider all of the characteristics that cause the individual to be disqualified,  
49.25 as well as all the factors set forth in section 245C.22, in order to determine whether the  
49.26 individual ~~poses~~ has met the burden of demonstrating that the individual does not pose  
49.27 a risk of harm. The administrative law judge's recommendation and the commissioner's  
49.28 order to set aside a disqualification that is the subject of the hearing constitutes a  
49.29 determination that the individual does not pose a risk of harm and that the individual may  
49.30 provide direct contact services in the individual program specified in the set aside.

49.31 (f) An individual may not request a contested case hearing under this section if a  
49.32 contested case hearing has previously been held regarding the individual's disqualification  
49.33 on the same basis.

49.34 Sec. 10. Minnesota Statutes 2012, section 245C.29, subdivision 2, is amended to read:

50.1 Subd. 2. **Conclusive disqualification determination.** (a) ~~Unless otherwise~~  
 50.2 ~~specified in statute, a determination that:~~

50.3 ~~(1) the information the commissioner relied upon to disqualify an individual under~~  
 50.4 ~~section 245C.14 was correct based on serious or recurring maltreatment;~~

50.5 ~~(2) a preponderance of the evidence shows that the individual committed an act or~~  
 50.6 ~~acts that meet the definition of any of the crimes listed in section 245C.15; or~~

50.7 ~~(3) the individual failed to make required reports under section 626.556, subdivision~~  
 50.8 ~~3, or 626.557, subdivision 3, is conclusive if: A disqualification is conclusive for purposes~~  
 50.9 ~~of current and future background studies if:~~

50.10 ~~(i) (1) the commissioner has issued a final order in an appeal of that determination~~  
 50.11 ~~the disqualification under section 245A.08, subdivision 5, 245C.28, subdivision 3, or~~  
 50.12 ~~256.045, or a court has issued a final decision;~~

50.13 ~~(ii) (2) the individual did not request reconsideration of the disqualification under~~  
 50.14 ~~section 245C.21 on the basis that the information relied upon to disqualify the individual~~  
 50.15 ~~was incorrect; or~~

50.16 ~~(iii) (3) the individual did not timely request a hearing on the disqualification under~~  
 50.17 ~~section 256.045 or this chapter, chapter 14, or section 256.045 after previously being~~  
 50.18 ~~given the right to do so.~~

50.19 (b) When a licensing action under section 245A.05, 245A.06, or 245A.07 is based  
 50.20 on the disqualification of an individual in connection with a license to provide family child  
 50.21 care, foster care for children in the provider's own home, or foster care services for adults  
 50.22 in the provider's own home, that disqualification shall be conclusive for purposes of the  
 50.23 licensing action if a request for reconsideration was not submitted within 30 calendar days  
 50.24 of the individual's receipt of the notice of disqualification.

50.25 (c) ~~If a determination that the information relied upon to disqualify an individual~~  
 50.26 ~~was correct and disqualification is conclusive under this section, and the individual is~~  
 50.27 ~~subsequently disqualified under section 245C.15, the individual has a right to request~~  
 50.28 ~~reconsideration on the risk of harm under section 245C.21 unless the commissioner~~  
 50.29 ~~is barred from setting aside the disqualification under section 245C.24. Subsequent~~  
 50.30 ~~determinations The commissioner's decision regarding the risk of harm shall be made~~  
 50.31 ~~according to section 245C.22 and are not subject to another the final agency decision and~~  
 50.32 ~~is not subject to a hearing under this chapter, section 256.045 or chapter 14, or section~~  
 50.33 ~~256.045.~~

50.34 Sec. 11. Minnesota Statutes 2012, section 256.045, subdivision 3b, is amended to read:

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

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

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

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

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

51.14 (b) If the disqualification is affirmed, the state human services referee shall  
 51.15 determine whether the individual poses a risk of harm in accordance with the requirements  
 51.16 of section 245C.22, and whether the disqualification should be set aside or not set aside.  
 51.17 In determining whether the disqualification should be set aside, the human services  
 51.18 referee shall consider all of the characteristics that cause the individual to be disqualified,  
 51.19 including those characteristics that were not subject to review under paragraph (a), in  
 51.20 order to determine whether the individual poses a risk of harm. A decision to set aside  
 51.21 a disqualification that is the subject of the hearing constitutes a determination that the  
 51.22 individual does not pose a risk of harm and that the individual may provide direct contact  
 51.23 services in the individual program specified in the set aside. ~~If a determination that the~~  
 51.24 ~~information relied upon to disqualify an individual was correct and is conclusive under~~  
 51.25 ~~section 245C.29, and the individual is subsequently disqualified under section 245C.14,~~  
 51.26 ~~the individual has a right to again request reconsideration on the risk of harm under section~~  
 51.27 ~~245C.21. Subsequent determinations regarding risk of harm are not subject to another~~  
 51.28 ~~hearing under this section.~~

51.29 (c) If a disqualification is based solely on a conviction or is conclusive for any  
 51.30 reason under section 245C.29, the disqualified individual does not have a right to a  
 51.31 hearing under this section.

51.32 ~~(e)~~ (d) The state human services referee shall recommend an order to the  
 51.33 commissioner of health, education, or human services, as applicable, who shall issue a  
 51.34 final order. The commissioner shall affirm, reverse, or modify the final disposition. Any  
 51.35 order of the commissioner issued in accordance with this subdivision is conclusive upon  
 51.36 the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing

52.1 appeal under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to  
52.2 144A.46, the commissioner's determination as to maltreatment is conclusive, as provided  
52.3 under section 245C.29.

APPENDIX  
Article locations in S1340-2

ARTICLE 1	DATA PRACTICES .....	Page.Ln 1.19
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ARTICLE 5	BACKGROUND STUDIES .....	Page.Ln 39.8

APPENDIX  
Repealed Minnesota Statutes: S1340-2

**245B.02 DEFINITIONS.**

Subd. 8a. **Emergency.** "Emergency" means any fires, severe weather, natural disasters, power failures, or any event that affects the ordinary daily operation of the program, including, but not limited to, events that threaten the immediate health and safety of a person receiving services and that require calling 911, emergency evacuation, moving to an emergency shelter, or temporary closure or relocation of the program to another facility or service site.

**245B.07 MANAGEMENT STANDARDS.**

Subd. 7a. **Subcontractors.** If the license holder uses a subcontractor to perform services licensed under this chapter on the license holder's behalf, the license holder must ensure that the subcontractor meets and maintains compliance with all requirements under this chapter that apply to the services to be provided.