

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **2060**

03/04/2019 Authored by Moran and Loeffler

The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act

1.2 relating to human services; modifying policy provisions relating to housing, health

1.3 care, chemical and mental health, continuing care for older adults, operations,

1.4 direct care and treatment, child and families services, and disability services;

1.5 requiring a report; amending Minnesota Statutes 2018, sections 13.46, subdivisions

1.6 2, 3; 13.461, subdivision 28; 62U.03; 62U.04, subdivision 11; 119B.02, subdivision

1.7 6; 144.216, by adding subdivisions; 144.218, by adding a subdivision; 144.225,

1.8 subdivision 2b; 144.226, subdivision 1; 144A.471, subdivision 8; 144A.475,

1.9 subdivision 6; 145.902; 176.011, subdivision 9; 216C.435, subdivision 13; 245.095;

1.10 245A.02, subdivisions 3, 8, 9, 12, 14, by adding subdivisions; 245A.03,

1.11 subdivisions 1, 3, 7; 245A.04, subdivisions 1, 2, 4, 6, 7, 10, by adding a subdivision;

1.12 245A.05; 245A.07, subdivisions 1, 2, 2a, 3; 245C.03, subdivision 2; 245C.04,

1.13 subdivision 3; 245C.08, subdivision 1; 245C.10, subdivision 3; 245C.16,

1.14 subdivision 1; 245D.03, subdivision 1; 245D.071, subdivisions 1, 3; 245D.09,

1.15 subdivision 4a; 245D.091, subdivisions 2, 3, 4; 245E.01, subdivision 8; 245E.02,

1.16 subdivision 4, by adding subdivisions; 245G.01, subdivisions 8, 21, by adding

1.17 subdivisions; 245G.04; 245G.05; 245G.06, subdivisions 1, 2, 4; 245G.07; 245G.08,

1.18 subdivision 3; 245G.10, subdivision 4; 245G.11, subdivisions 7, 8; 245G.12;

1.19 245G.13, subdivision 1; 245G.15, subdivisions 1, 2; 245G.18, subdivisions 3, 5;

1.20 245G.22, subdivisions 1, 2, 3, 4, 6, 7, 15, 16, 17, 19; 252.32, subdivisions 1a, 3a;

1.21 253B.18, subdivision 13, by adding subdivisions; 253D.28, subdivision 3; 254B.04,

1.22 by adding a subdivision; 254B.05, subdivisions 1, 5; 256.01, subdivision 29;

1.23 256.021, subdivision 2; 256.045, subdivisions 3, 4, 5, 6, 10; 256.0451, subdivisions

1.24 1, 3, 5, 6, 7, 9, 10, 11, 12, 13, 19, 21, 22, 23, 24; 256.046, subdivision 1; 256.9685,

1.25 subdivision 1; 256B.02, subdivision 7; 256B.038; 256B.04, subdivision 21;

1.26 256B.043, subdivision 1; 256B.056, subdivisions 1a, 4, 7, 7a, 10; 256B.0561,

1.27 subdivision 2; 256B.057, subdivision 1; 256B.0575, subdivision 2; 256B.0621,

1.28 subdivision 2; 256B.0625, subdivisions 1, 3c, 3d, 3e, 27, 53, by adding a

1.29 subdivision; 256B.0638, subdivision 3; 256B.064, subdivisions 1a, 1b, 2, by adding

1.30 subdivisions; 256B.0651, subdivisions 1, 2, 12, 13, 17; 256B.0652, subdivisions

1.31 2, 5, 8, 10, 12; 256B.0653, subdivision 3; 256B.0659, subdivisions 3a, 12;

1.32 256B.0705, subdivisions 1, 2; 256B.0711, subdivisions 1, 2; 256B.0751;

1.33 256B.0753, subdivision 1, by adding a subdivision; 256B.0911, subdivisions 1a,

1.34 3a, 3f, 6; 256B.0913, subdivision 5a; 256B.0915, subdivisions 3a, 6; 256B.0916,

1.35 subdivision 9; 256B.0918, subdivision 2; 256B.092, subdivision 1b; 256B.093,

1.36 subdivision 4; 256B.0941, subdivisions 1, 3; 256B.097, subdivision 1; 256B.27,

1.37 subdivision 3; 256B.439, subdivision 1; 256B.49, subdivisions 13, 14, 17;

1.38 256B.4912, by adding subdivisions; 256B.4914, subdivisions 2, 3, 14; 256B.501,

2.1 subdivision 4a; 256B.69, subdivision 5a; 256B.75; 256B.765; 256B.85, subdivisions
 2.2 1, 2, 4, 5, 6, 8, 9, 10, 11, 11b, 12, 12b, 13a, 18a, by adding a subdivision; 256D.44,
 2.3 subdivision 5; 256E.21, subdivision 5; 256I.03, subdivisions 8, 15; 256I.04,
 2.4 subdivisions 1, 2a, 2b, by adding subdivisions; 256I.05, subdivisions 1a, 1c;
 2.5 256J.21, subdivision 2; 256J.45, subdivision 3; 256L.03, subdivision 1; 256L.15,
 2.6 subdivision 1; 256M.41, subdivision 3, by adding a subdivision; 256N.02,
 2.7 subdivisions 10, 16, 17, 18; 256N.22, subdivision 1; 256N.23, subdivisions 2, 6;
 2.8 256N.24, subdivisions 1, 8, 11, 12, 14; 256N.28, subdivision 6; 256R.02,
 2.9 subdivisions 4, 17, 18, 19, 29, 42a, 48a; 256R.07, subdivisions 1, 2; 256R.09,
 2.10 subdivision 2; 256R.10, subdivision 1; 256R.13, subdivision 4; 256R.39; 259.241;
 2.11 259.35, subdivision 1; 259.37, subdivision 2; 259.53, subdivision 4; 259.75; 259.83,
 2.12 subdivisions 1, 1a, 3; 259A.75, subdivisions 1, 2, 3, 4, 5; 260.761, subdivision 2;
 2.13 260C.101, by adding a subdivision; 260C.139, subdivision 3; 260C.171, subdivision
 2.14 2; 260C.178, subdivision 1; 260C.212, subdivisions 1, 2, by adding a subdivision;
 2.15 260C.219; 260C.451, subdivision 9; 260C.503, subdivision 2; 260C.515,
 2.16 subdivisions 3, 4; 260C.605, subdivision 1; 260C.607, subdivision 6; 260C.609;
 2.17 260C.611; 260C.613, subdivision 6; 260C.615, subdivision 1; 260C.623,
 2.18 subdivisions 3, 4; 260C.625; 260C.629, subdivision 2; 394.307, subdivision 1;
 2.19 402A.16, subdivision 3; 462.3593, subdivision 1; 518A.53, subdivision 11;
 2.20 518A.685; 604A.33, subdivision 1; 609.2231, subdivision 3a; 609.232, subdivisions
 2.21 3, 11; 626.556, subdivisions 2, 3, 3c, 3e, 4, 7, 10, 10a, 10b, 10d, 10e, 10f, 10m,
 2.22 11, 11c; 626.5561, subdivision 1; 626.557, subdivisions 3, 3a, 4, 4a, 6, 9, 9b, 9c,
 2.23 9d, 10, 10b, 12b, 14, 17; 626.5572, subdivisions 2, 3, 4, 6, 8, 9, 16, 17, 20, 21, by
 2.24 adding a subdivision; 626.558, subdivision 2; Laws 2017, First Special Session
 2.25 chapter 6, article 1, section 44; proposing coding for new law in Minnesota Statutes,
 2.26 chapters 245A; 256B; 518A; 609; repealing Minnesota Statutes 2018, sections
 2.27 62U.15, subdivision 2; 119B.125, subdivision 8; 256.476, subdivisions 1, 2, 3, 4,
 2.28 5, 6, 8, 9, 10, 11; 256B.057, subdivision 8; 256B.0625, subdivisions 3a, 19a, 19c;
 2.29 256B.0652, subdivision 6; 256B.0659, subdivisions 1, 2, 3, 3a, 4, 5, 6, 7, 7a, 8, 9,
 2.30 10, 11, 11a, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29,
 2.31 30, 31; 256B.0752; 256B.79, subdivision 7; 256I.05, subdivision 3; 256J.751,
 2.32 subdivision 1; 256L.04, subdivision 13; 256R.08, subdivision 2; 256R.49.

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

2.34 **ARTICLE 1**

2.35 **HOUSING**

2.36 Section 1. Minnesota Statutes 2018, section 256I.03, subdivision 8, is amended to read:

2.37 Subd. 8. **Supplementary services.** "Supplementary services" means housing support
 2.38 services provided to individuals in addition to room and board including, but not limited
 2.39 to, oversight and up to 24-hour supervision, medication reminders, assistance with
 2.40 transportation, arranging for meetings and appointments, ~~and~~ arranging for medical and
 2.41 social services, and services identified in section 256I.03, subdivision 12.

2.42 Sec. 2. Minnesota Statutes 2018, section 256I.03, subdivision 15, is amended to read:

2.43 Subd. 15. **Supportive housing.** "Supportive housing" means housing ~~with support~~
 2.44 ~~services according to the continuum of care coordinated assessment system established~~

3.1 ~~under Code of Federal Regulations, title 24, section 578.3~~ that is not time-limited and
3.2 provides or coordinates services necessary for a resident to maintain housing stability.

3.3 Sec. 3. Minnesota Statutes 2018, section 256I.04, subdivision 1, is amended to read:

3.4 Subdivision 1. **Individual eligibility requirements.** An individual is eligible for and
3.5 entitled to a housing support payment to be made on the individual's behalf if the agency
3.6 has approved the setting where the individual will receive housing support and the individual
3.7 meets the requirements in paragraph (a), (b), or (c).

3.8 (a) The individual is aged, blind, or is over 18 years of age with a disability as determined
3.9 under the criteria used by the title II program of the Social Security Act, and meets the
3.10 resource restrictions and standards of section 256P.02, and the individual's countable income
3.11 after deducting the (1) exclusions and disregards of the SSI program, (2) the medical
3.12 assistance personal needs allowance under section 256B.35, and (3) an amount equal to the
3.13 income actually made available to a community spouse by an elderly waiver participant
3.14 under the provisions of sections 256B.0575, paragraph (a), clause (4), and 256B.058,
3.15 subdivision 2, is less than the monthly rate specified in the agency's agreement with the
3.16 provider of housing support in which the individual resides.

3.17 (b) The individual meets a category of eligibility under section 256D.05, subdivision 1,
3.18 paragraph (a), clauses (1), (3), (4) to (8), and (13), and paragraph (b), if applicable, and the
3.19 individual's resources are less than the standards specified by section 256P.02, and the
3.20 individual's countable income as determined under section 256P.06, less the medical
3.21 assistance personal needs allowance under section 256B.35 is less than the monthly rate
3.22 specified in the agency's agreement with the provider of housing support in which the
3.23 individual resides.

3.24 (c) The individual receives licensed residential crisis stabilization services under section
3.25 256B.0624, subdivision 7, and is receiving medical assistance. The individual may receive
3.26 concurrent housing support payments if receiving licensed residential crisis stabilization
3.27 services under section 256B.0624, subdivision 7.

3.28 (d) An individual who receives ongoing rental subsidies is not eligible for housing
3.29 support payments under paragraph (a) or (b).

4.1 Sec. 4. Minnesota Statutes 2018, section 256I.04, subdivision 2a, is amended to read:

4.2 Subd. 2a. **License required; staffing qualifications.** (a) Except as provided in paragraph
4.3 (b), an agency may not enter into an agreement with an establishment to provide housing
4.4 support unless:

4.5 (1) the establishment is licensed by the Department of Health as a hotel and restaurant;
4.6 a board and lodging establishment; a boarding care home before March 1, 1985; or a
4.7 supervised living facility, and the service provider for residents of the facility is licensed
4.8 under chapter 245A. However, an establishment licensed by the Department of Health to
4.9 provide lodging need not also be licensed to provide board if meals are being supplied to
4.10 residents under a contract with a food vendor who is licensed by the Department of Health;

4.11 (2) the residence is: (i) licensed by the commissioner of human services under Minnesota
4.12 Rules, parts 9555.5050 to 9555.6265; (ii) certified by a county human services agency prior
4.13 to July 1, 1992, using the standards under Minnesota Rules, parts 9555.5050 to 9555.6265;
4.14 (iii) licensed by the commissioner under Minnesota Rules, parts 2960.0010 to 2960.0120,
4.15 with a variance under section 245A.04, subdivision 9; or (iv) licensed under section 245D.02,
4.16 subdivision 4a, as a community residential setting by the commissioner of human services;
4.17 or

4.18 (3) the establishment is registered under chapter 144D and provides three meals a day.

4.19 (b) The requirements under paragraph (a) do not apply to establishments exempt from
4.20 state licensure because they are:

4.21 (1) located on Indian reservations and subject to tribal health and safety requirements;
4.22 or

4.23 (2) ~~a supportive housing establishment that has an approved habitability inspection and~~
4.24 ~~an individual lease agreement and that serves people who have experienced long-term~~
4.25 ~~homelessness and were referred through a coordinated assessment in section 256I.03,~~
4.26 ~~subdivision 15~~ supportive housing establishments where an individual has an approved
4.27 habitability inspection and an individual lease agreement.

4.28 (c) Supportive housing establishments that serve individuals who have experienced
4.29 long-term homelessness and emergency shelters must participate in the homeless management
4.30 information system and a coordinated assessment system as defined by the commissioner.

4.31 (d) Effective July 1, 2016, an agency shall not have an agreement with a provider of
4.32 housing support unless all staff members who have direct contact with recipients:

4.33 (1) have skills and knowledge acquired through one or more of the following:

5.1 (i) a course of study in a health- or human services-related field leading to a bachelor
5.2 of arts, bachelor of science, or associate's degree;

5.3 (ii) one year of experience with the target population served;

5.4 (iii) experience as a mental health certified peer specialist according to section 256B.0615;

5.5 or

5.6 (iv) meeting the requirements for unlicensed personnel under sections 144A.43 to
5.7 144A.483;

5.8 (2) hold a current driver's license appropriate to the vehicle driven if transporting
5.9 recipients;

5.10 (3) complete training on vulnerable adults mandated reporting and child maltreatment
5.11 mandated reporting, where applicable; and

5.12 (4) complete housing support orientation training offered by the commissioner.

5.13 Sec. 5. Minnesota Statutes 2018, section 256I.04, subdivision 2b, is amended to read:

5.14 Subd. 2b. **Housing support agreements.** (a) Agreements between agencies and providers
5.15 of housing support must be in writing on a form developed and approved by the commissioner
5.16 and must specify the name and address under which the establishment subject to the
5.17 agreement does business and under which the establishment, or service provider, if different
5.18 from the group residential housing establishment, is licensed by the Department of Health
5.19 or the Department of Human Services; the specific license or registration from the
5.20 Department of Health or the Department of Human Services held by the provider and the
5.21 number of beds subject to that license; the address of the location or locations at which
5.22 group residential housing is provided under this agreement; the per diem and monthly rates
5.23 that are to be paid from housing support funds for each eligible resident at each location;
5.24 the number of beds at each location which are subject to the agreement; whether the license
5.25 holder is a not-for-profit corporation under section 501(c)(3) of the Internal Revenue Code;
5.26 and a statement that the agreement is subject to the provisions of sections 256I.01 to 256I.06
5.27 and subject to any changes to those sections.

5.28 (b) Providers are required to verify the following minimum requirements in the
5.29 agreement:

5.30 (1) current license or registration, including authorization if managing or monitoring
5.31 medications;

5.32 (2) all staff who have direct contact with recipients meet the staff qualifications;

- 6.1 (3) the provision of housing support;
- 6.2 (4) the provision of supplementary services, if applicable;
- 6.3 (5) reports of adverse events, including recipient death or serious injury; ~~and~~
- 6.4 (6) submission of residency requirements that could result in recipient eviction; and
- 6.5 (7) that the provider complies with the prohibition on limiting or restricting the number
- 6.6 of hours an applicant or recipient is employed, as specified in subdivision 5.

6.7 (c) Agreements may be terminated with or without cause by the commissioner, the

6.8 agency, or the provider with two calendar months prior notice. The commissioner may

6.9 immediately terminate an agreement under subdivision 2d.

6.10 Sec. 6. Minnesota Statutes 2018, section 256I.04, is amended by adding a subdivision to

6.11 read:

6.12 Subd. 2h. **Required supplementary services.** A provider of supplementary services

6.13 shall ensure that a recipient has, at a minimum, assistance with services as identified in the

6.14 recipient's professional statement of need under section 256I.03, subdivision 12. A provider

6.15 of supplementary services shall maintain case notes with the date and description of services

6.16 provided to each recipient.

6.17 Sec. 7. Minnesota Statutes 2018, section 256I.04, is amended by adding a subdivision to

6.18 read:

6.19 Subd. 5. **Employment.** A provider is prohibited from limiting or restricting the number

6.20 of hours an applicant or recipient is employed.

6.21 Sec. 8. Minnesota Statutes 2018, section 256I.05, subdivision 1c, is amended to read:

6.22 Subd. 1c. **Rate increases.** An agency may not increase the rates negotiated for housing

6.23 support above those in effect on June 30, 1993, except as provided in paragraphs (a) to (f).

6.24 (a) An agency may increase the rates for room and board to the MSA equivalent rate

6.25 for those settings whose current rate is below the MSA equivalent rate.

6.26 (b) An agency may increase the rates for residents in adult foster care whose difficulty

6.27 of care has increased. The total housing support rate for these residents must not exceed the

6.28 maximum rate specified in subdivisions 1 and 1a. Agencies must not include nor increase

6.29 difficulty of care rates for adults in foster care whose difficulty of care is eligible for funding

6.30 by home and community-based waiver programs under title XIX of the Social Security Act.

7.1 (c) The room and board rates will be increased each year when the MSA equivalent rate
 7.2 is adjusted for SSI cost-of-living increases by the amount of the annual SSI increase, less
 7.3 the amount of the increase in the medical assistance personal needs allowance under section
 7.4 256B.35.

7.5 (d) When housing support pays for an individual's room and board, or other costs
 7.6 necessary to provide room and board, the rate payable to the residence must continue for
 7.7 up to 18 calendar days per incident that the person is temporarily absent from the residence,
 7.8 not to exceed 60 days in a calendar year, if the absence or absences ~~have received the prior~~
 7.9 ~~approval of~~ are reported in advance to the county agency's social service staff. ~~Prior approval~~
 7.10 Advance reporting is not required for emergency absences due to crisis, illness, or injury.

7.11 (e) For facilities meeting substantial change criteria within the prior year. Substantial
 7.12 change criteria exists if the establishment experiences a 25 percent increase or decrease in
 7.13 the total number of its beds, if the net cost of capital additions or improvements is in excess
 7.14 of 15 percent of the current market value of the residence, or if the residence physically
 7.15 moves, or changes its licensure, and incurs a resulting increase in operation and property
 7.16 costs.

7.17 (f) Until June 30, 1994, an agency may increase by up to five percent the total rate paid
 7.18 for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who
 7.19 reside in residences that are licensed by the commissioner of health as a boarding care home,
 7.20 but are not certified for the purposes of the medical assistance program. However, an increase
 7.21 under this clause must not exceed an amount equivalent to 65 percent of the 1991 medical
 7.22 assistance reimbursement rate for nursing home resident class A, in the geographic grouping
 7.23 in which the facility is located, as established under Minnesota Rules, parts 9549.0051 to
 7.24 9549.0058.

7.25 Sec. 9. **REPEALER.**

7.26 Minnesota Statutes 2018, section 256I.05, subdivision 3, is repealed.

7.27 **ARTICLE 2**
 7.28 **HEALTH CARE**

7.29 Section 1. Minnesota Statutes 2018, section 62U.03, is amended to read:

7.30 **62U.03 PAYMENT RESTRUCTURING; CARE COORDINATION PAYMENTS.**

7.31 (a) By January 1, 2010, health plan companies shall include health care homes in their
 7.32 provider networks and by July 1, 2010, shall pay a care coordination fee for their members

8.1 who choose to enroll in health care homes certified by the ~~commissioners of health and~~
8.2 ~~human services~~ commissioner under section 256B.0751. Health plan companies shall develop
8.3 payment conditions and terms for the care coordination fee for health care homes participating
8.4 in their network in a manner that is consistent with the system developed under section
8.5 256B.0753. Nothing in this section shall restrict the ability of health plan companies to
8.6 selectively contract with health care providers, including health care homes. Health plan
8.7 companies may reduce or reallocate payments to other providers to ensure that
8.8 implementation of care coordination payments is cost neutral.

8.9 (b) By July 1, 2010, the commissioner of management and budget shall implement the
8.10 care coordination payments for participants in the state employee group insurance program.
8.11 The commissioner of management and budget may reallocate payments within the health
8.12 care system in order to ensure that the implementation of this section is cost neutral.

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

8.14 Sec. 2. Minnesota Statutes 2018, section 62U.04, subdivision 11, is amended to read:

8.15 Subd. 11. **Restricted uses of the all-payer claims data.** (a) Notwithstanding subdivision
8.16 4, paragraph (b), and subdivision 5, paragraph (b), the commissioner or the commissioner's
8.17 designee shall only use the data submitted under subdivisions 4 and 5 for the following
8.18 purposes:

8.19 (1) to evaluate the performance of the health care home program as authorized under
8.20 ~~sections~~ section 256B.0751, subdivision 6, ~~and 256B.0752, subdivision 2;~~

8.21 (2) to study, in collaboration with the reducing avoidable readmissions effectively
8.22 (RARE) campaign, hospital readmission trends and rates;

8.23 (3) to analyze variations in health care costs, quality, utilization, and illness burden based
8.24 on geographical areas or populations;

8.25 (4) to evaluate the state innovation model (SIM) testing grant received by the Departments
8.26 of Health and Human Services, including the analysis of health care cost, quality, and
8.27 utilization baseline and trend information for targeted populations and communities; and

8.28 (5) to compile one or more public use files of summary data or tables that must:

8.29 (i) be available to the public for no or minimal cost by March 1, 2016, and available by
8.30 web-based electronic data download by June 30, 2019;

8.31 (ii) not identify individual patients, payers, or providers;

9.1 (iii) be updated by the commissioner, at least annually, with the most current data
9.2 available;

9.3 (iv) contain clear and conspicuous explanations of the characteristics of the data, such
9.4 as the dates of the data contained in the files, the absence of costs of care for uninsured
9.5 patients or nonresidents, and other disclaimers that provide appropriate context; and

9.6 (v) not lead to the collection of additional data elements beyond what is authorized under
9.7 this section as of June 30, 2015.

9.8 (b) The commissioner may publish the results of the authorized uses identified in
9.9 paragraph (a) so long as the data released publicly do not contain information or descriptions
9.10 in which the identity of individual hospitals, clinics, or other providers may be discerned.

9.11 (c) Nothing in this subdivision shall be construed to prohibit the commissioner from
9.12 using the data collected under subdivision 4 to complete the state-based risk adjustment
9.13 system assessment due to the legislature on October 1, 2015.

9.14 (d) The commissioner or the commissioner's designee may use the data submitted under
9.15 subdivisions 4 and 5 for the purpose described in paragraph (a), clause (3), until July 1,
9.16 2023.

9.17 (e) The commissioner shall consult with the all-payer claims database work group
9.18 established under subdivision 12 regarding the technical considerations necessary to create
9.19 the public use files of summary data described in paragraph (a), clause (5).

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

9.21 Sec. 3. Minnesota Statutes 2018, section 256.01, subdivision 29, is amended to read:

9.22 Subd. 29. **State medical review team.** (a) To ensure the timely processing of
9.23 determinations of disability by the commissioner's state medical review team under sections
9.24 256B.055, ~~subdivision~~ subdivisions 7, paragraph (b), and 12; and 256B.057, subdivision 9,
9.25 ~~and 256B.055, subdivision 12~~, the commissioner shall review all medical evidence ~~submitted~~
9.26 ~~by county agencies with a referral~~ and seek ~~additional~~ information from providers, applicants,
9.27 and enrollees to support the determination of disability where necessary. Disability shall
9.28 be determined according to the rules of title XVI and title XIX of the Social Security Act
9.29 and pertinent rules and policies of the Social Security Administration.

9.30 (b) Prior to a denial or withdrawal of a requested determination of disability due to
9.31 insufficient evidence, the commissioner shall (1) ensure that the missing evidence is necessary
9.32 and appropriate to a determination of disability, and (2) assist applicants and enrollees to

10.1 obtain the evidence, including, but not limited to, medical examinations and electronic
10.2 medical records.

10.3 (c) The commissioner shall provide the chairs of the legislative committees with
10.4 jurisdiction over health and human services finance and budget the following information
10.5 on the activities of the state medical review team by February 1 of each year:

10.6 (1) the number of applications to the state medical review team that were denied,
10.7 approved, or withdrawn;

10.8 (2) the average length of time from receipt of the application to a decision;

10.9 (3) the number of appeals, appeal results, and the length of time taken from the date the
10.10 person involved requested an appeal for a written decision to be made on each appeal;

10.11 (4) for applicants, their age, health coverage at the time of application, hospitalization
10.12 history within three months of application, and whether an application for Social Security
10.13 or Supplemental Security Income benefits is pending; and

10.14 (5) specific information on the medical certification, licensure, or other credentials of
10.15 the person or persons performing the medical review determinations and length of time in
10.16 that position.

10.17 (d) Any appeal made under section 256.045, subdivision 3, of a disability determination
10.18 made by the state medical review team must be decided according to the timelines under
10.19 section 256.0451, subdivision 22, paragraph (a). If a written decision is not issued within
10.20 the timelines under section 256.0451, subdivision 22, paragraph (a), the appeal must be
10.21 immediately reviewed by the chief human services judge.

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

10.23 Sec. 4. Minnesota Statutes 2018, section 256B.04, subdivision 21, is amended to read:

10.24 Subd. 21. **Provider enrollment.** (a) If the commissioner or the Centers for Medicare
10.25 and Medicaid Services determines that a provider is designated "high-risk," the commissioner
10.26 may withhold payment from providers within that category upon initial enrollment for a
10.27 90-day period. The withholding for each provider must begin on the date of the first
10.28 submission of a claim.

10.29 (b) An enrolled provider that is also licensed by the commissioner under chapter 245A,
10.30 or is licensed as a home care provider by the Department of Health under chapter 144A and
10.31 has a home and community-based services designation on the home care license under

11.1 section 144A.484, must designate an individual as the entity's compliance officer. The
11.2 compliance officer must:

11.3 (1) develop policies and procedures to assure adherence to medical assistance laws and
11.4 regulations and to prevent inappropriate claims submissions;

11.5 (2) train the employees of the provider entity, and any agents or subcontractors of the
11.6 provider entity including billers, on the policies and procedures under clause (1);

11.7 (3) respond to allegations of improper conduct related to the provision or billing of
11.8 medical assistance services, and implement action to remediate any resulting problems;

11.9 (4) use evaluation techniques to monitor compliance with medical assistance laws and
11.10 regulations;

11.11 (5) promptly report to the commissioner any identified violations of medical assistance
11.12 laws or regulations; and

11.13 (6) within 60 days of discovery by the provider of a medical assistance reimbursement
11.14 overpayment, report the overpayment to the commissioner and make arrangements with
11.15 the commissioner for the commissioner's recovery of the overpayment.

11.16 The commissioner may require, as a condition of enrollment in medical assistance, that a
11.17 provider within a particular industry sector or category establish a compliance program that
11.18 contains the core elements established by the Centers for Medicare and Medicaid Services.

11.19 (c) The commissioner may revoke the enrollment of an ordering or rendering provider
11.20 for a period of not more than one year, if the provider fails to maintain and, upon request
11.21 from the commissioner, provide access to documentation relating to written orders or requests
11.22 for payment for durable medical equipment, certifications for home health services, or
11.23 referrals for other items or services written or ordered by such provider, when the
11.24 commissioner has identified a pattern of a lack of documentation. A pattern means a failure
11.25 to maintain documentation or provide access to documentation on more than one occasion.
11.26 Nothing in this paragraph limits the authority of the commissioner to sanction a provider
11.27 under the provisions of section 256B.064.

11.28 (d) The commissioner shall terminate or deny the enrollment of any individual or entity
11.29 if the individual or entity has been terminated from participation in Medicare or under the
11.30 Medicaid program or Children's Health Insurance Program of any other state. The
11.31 commissioner may exempt a rehabilitation agency from termination or denial that would
11.32 otherwise be required under this paragraph, if the rehabilitation agency:

12.1 (1) is unable to retain Medicare certification and enrollment solely due to a lack of billing
12.2 to the Medicare program;

12.3 (2) meets all other applicable Medicare certification requirements based on an on-site
12.4 review completed by the commissioner of health; and

12.5 (3) serves primarily a pediatric population.

12.6 (e) As a condition of enrollment in medical assistance, the commissioner shall require
12.7 that a provider designated "moderate" or "high-risk" by the Centers for Medicare and
12.8 Medicaid Services or the commissioner permit the Centers for Medicare and Medicaid
12.9 Services, its agents, or its designated contractors and the state agency, its agents, or its
12.10 designated contractors to conduct unannounced on-site inspections of any provider location.
12.11 The commissioner shall publish in the Minnesota Health Care Program Provider Manual a
12.12 list of provider types designated "limited," "moderate," or "high-risk," based on the criteria
12.13 and standards used to designate Medicare providers in Code of Federal Regulations, title
12.14 42, section 424.518. The list and criteria are not subject to the requirements of chapter 14.
12.15 The commissioner's designations are not subject to administrative appeal.

12.16 (f) As a condition of enrollment in medical assistance, the commissioner shall require
12.17 that a high-risk provider, or a person with a direct or indirect ownership interest in the
12.18 provider of five percent or higher, consent to criminal background checks, including
12.19 fingerprinting, when required to do so under state law or by a determination by the
12.20 commissioner or the Centers for Medicare and Medicaid Services that a provider is designated
12.21 high-risk for fraud, waste, or abuse.

12.22 (g)(1) Upon initial enrollment, reenrollment, and notification of revalidation, all durable
12.23 medical equipment, prosthetics, orthotics, and supplies (DMEPOS) medical suppliers
12.24 meeting the durable medical equipment provider and supplier definition in clause (3),
12.25 operating in Minnesota and receiving Medicaid funds must purchase a surety bond that is
12.26 annually renewed and designates the Minnesota Department of Human Services as the
12.27 obligee, and must be submitted in a form approved by the commissioner. For purposes of
12.28 this clause, the following medical suppliers are not required to obtain a surety bond: a
12.29 federally qualified health center, a home health agency, the Indian Health Service, a
12.30 pharmacy, and a rural health clinic.

12.31 (2) At the time of initial enrollment or reenrollment, durable medical equipment providers
12.32 and suppliers defined in clause (3) must purchase a surety bond of \$50,000. If a revalidating
12.33 provider's Medicaid revenue in the previous calendar year is up to and including \$300,000,
12.34 the provider agency must purchase a surety bond of \$50,000. If a revalidating provider's

13.1 Medicaid revenue in the previous calendar year is over \$300,000, the provider agency must
13.2 purchase a surety bond of \$100,000. The surety bond must allow for recovery of costs and
13.3 fees in pursuing a claim on the bond.

13.4 (3) "Durable medical equipment provider or supplier" means a medical supplier that can
13.5 purchase medical equipment or supplies for sale or rental to the general public and is able
13.6 to perform or arrange for necessary repairs to and maintenance of equipment offered for
13.7 sale or rental.

13.8 (h) The Department of Human Services may require a provider to purchase a surety
13.9 bond as a condition of initial enrollment, reenrollment, reinstatement, or continued enrollment
13.10 if: (1) the provider fails to demonstrate financial viability, (2) the department determines
13.11 there is significant evidence of or potential for fraud and abuse by the provider, or (3) the
13.12 provider or category of providers is designated high-risk pursuant to paragraph (a) and as
13.13 per Code of Federal Regulations, title 42, section 455.450. The surety bond must be in an
13.14 amount of \$100,000 or ten percent of the provider's payments from Medicaid during the
13.15 immediately preceding 12 months, whichever is greater. The surety bond must name the
13.16 Department of Human Services as an obligee and must allow for recovery of costs and fees
13.17 in pursuing a claim on the bond. This paragraph does not apply if the provider currently
13.18 maintains a surety bond under the requirements in section 256B.0659 or 256B.85.

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

13.20 Sec. 5. Minnesota Statutes 2018, section 256B.043, subdivision 1, is amended to read:

13.21 Subdivision 1. **Alternative and complementary health care.** The commissioner of
13.22 human services, through the medical director and in consultation with the Health Services
13.23 ~~Policy Committee~~ Advisory Council established under section 256B.0625, subdivision 3c,
13.24 as part of the commissioner's ongoing duties, shall consider the potential for improving
13.25 quality and obtaining cost savings through greater use of alternative and complementary
13.26 treatment methods and clinical practice; shall incorporate these methods into the medical
13.27 assistance and MinnesotaCare programs; and shall make related legislative recommendations
13.28 as appropriate. The commissioner shall post the recommendations required under this
13.29 subdivision on agency websites.

13.30 Sec. 6. Minnesota Statutes 2018, section 256B.056, subdivision 1a, is amended to read:

13.31 Subd. 1a. **Income and assets generally.** (a)(1) Unless specifically required by state law
13.32 or rule or federal law or regulation, the methodologies used in counting income and assets
13.33 to determine eligibility for medical assistance for persons whose eligibility category is based

14.1 on blindness, disability, or age of 65 or more years, the methodologies for the Supplemental
 14.2 Security Income program shall be used, except as provided under subdivision 3, paragraph
 14.3 (a), clause (6).

14.4 (2) Increases in benefits under title II of the Social Security Act shall not be counted as
 14.5 income for purposes of this subdivision until July 1 of each year. Effective upon federal
 14.6 approval, for children eligible under section 256B.055, subdivision 12, or for home and
 14.7 community-based waiver services whose eligibility for medical assistance is determined
 14.8 without regard to parental income, child support payments, including any payments made
 14.9 by an obligor in satisfaction of or in addition to a temporary or permanent order for child
 14.10 support, and Social Security payments are not counted as income.

14.11 (b)(1) The modified adjusted gross income methodology as defined in ~~the Affordable~~
 14.12 ~~Care Act~~ United States Code, title 42, section 1396a(e)(14), shall be used for eligibility
 14.13 categories based on:

14.14 (i) children under age 19 and their parents and relative caretakers as defined in section
 14.15 256B.055, subdivision 3a;

14.16 (ii) children ages 19 to 20 as defined in section 256B.055, subdivision 16;

14.17 (iii) pregnant women as defined in section 256B.055, subdivision 6;

14.18 (iv) infants as defined in sections 256B.055, subdivision 10, and 256B.057, subdivision
 14.19 § 1; and

14.20 (v) adults without children as defined in section 256B.055, subdivision 15.

14.21 For these purposes, a "methodology" does not include an asset or income standard, or
 14.22 accounting method, or method of determining effective dates.

14.23 (2) For individuals whose income eligibility is determined using the modified adjusted
 14.24 gross income methodology in clause (1);

14.25 (i) the commissioner shall subtract from the individual's modified adjusted gross income
 14.26 an amount equivalent to five percent of the federal poverty guidelines; and

14.27 (ii) the individual's current monthly income and household size is used to determine
 14.28 eligibility for the 12-month eligibility period. If an individual's income is expected to vary
 14.29 month to month, eligibility is determined based on the income predicted for the 12-month
 14.30 eligibility period.

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

15.1 Sec. 7. Minnesota Statutes 2018, section 256B.056, subdivision 4, is amended to read:

15.2 Subd. 4. **Income.** (a) To be eligible for medical assistance, a person eligible under section
15.3 256B.055, subdivisions 7, 7a, and 12, may have income up to 100 percent of the federal
15.4 poverty guidelines. Effective January 1, 2000, and each successive January, recipients of
15.5 Supplemental Security Income may have an income up to the Supplemental Security Income
15.6 standard in effect on that date.

15.7 (b) ~~Effective January 1, 2014,~~ To be eligible for medical assistance, under section
15.8 256B.055, subdivision 3a, a parent or caretaker relative may have an income up to 133
15.9 percent of the federal poverty guidelines for the household size.

15.10 (c) To be eligible for medical assistance under section 256B.055, subdivision 15, a
15.11 person may have an income up to 133 percent of federal poverty guidelines for the household
15.12 size.

15.13 (d) To be eligible for medical assistance under section 256B.055, subdivision 16, a child
15.14 age 19 to 20 may have an income up to 133 percent of the federal poverty guidelines for
15.15 the household size.

15.16 (e) To be eligible for medical assistance under section 256B.055, subdivision 3a, a child
15.17 under age 19 may have income up to 275 percent of the federal poverty guidelines for the
15.18 household size ~~or an equivalent standard when converted using modified adjusted gross
15.19 income methodology as required under the Affordable Care Act. Children who are enrolled
15.20 in medical assistance as of December 31, 2013, and are determined ineligible for medical
15.21 assistance because of the elimination of income disregards under modified adjusted gross
15.22 income methodology as defined in subdivision 1a remain eligible for medical assistance
15.23 under the Children's Health Insurance Program Reauthorization Act of 2009, Public Law
15.24 111-3, until the date of their next regularly scheduled eligibility redetermination as required
15.25 in subdivision 7a.~~

15.26 (f) In computing income to determine eligibility of persons under paragraphs (a) to (e)
15.27 who are not residents of long-term care facilities, the commissioner shall disregard increases
15.28 in income as required by Public Laws 94-566, section 503; 99-272; and 99-509. For persons
15.29 eligible under paragraph (a), veteran aid and attendance benefits and Veterans Administration
15.30 unusual medical expense payments are considered income to the recipient.

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

16.1 Sec. 8. Minnesota Statutes 2018, section 256B.056, subdivision 7, is amended to read:

16.2 Subd. 7. **Period of eligibility.** (a) Eligibility is available for the month of application
16.3 and for three months prior to application if the person was eligible in those prior months.
16.4 A redetermination of eligibility must occur every 12 months.

16.5 (b) For a person eligible for an insurance affordability program who reports a change
16.6 that makes the person eligible for medical assistance, eligibility is available for the month
16.7 the change was reported and for three months prior to the month the change was reported,
16.8 if the person was eligible in those prior months.

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

16.10 Sec. 9. Minnesota Statutes 2018, section 256B.056, subdivision 7a, is amended to read:

16.11 Subd. 7a. **Periodic renewal of eligibility.** (a) The commissioner shall make an annual
16.12 redetermination of eligibility based on information contained in the enrollee's case file and
16.13 other information available to the agency, including but not limited to information accessed
16.14 through an electronic database, without requiring the enrollee to submit any information
16.15 when sufficient data is available for the agency to renew eligibility.

16.16 (b) If the commissioner cannot renew eligibility in accordance with paragraph (a), the
16.17 commissioner must provide the enrollee with a prepopulated renewal form containing
16.18 eligibility information available to the agency and permit the enrollee to submit the form
16.19 with any corrections or additional information to the agency and sign the renewal form via
16.20 any of the modes of submission specified in section 256B.04, subdivision 18.

16.21 (c) An enrollee who is terminated for failure to complete the renewal process may
16.22 subsequently submit the renewal form and required information within four months after
16.23 the date of termination and have coverage reinstated without a lapse, if otherwise eligible
16.24 under this chapter.

16.25 (d) Notwithstanding paragraph (a), ~~individuals~~ a person who is eligible under subdivision
16.26 5 shall be required to renew eligibility subject to a review of the person's income every six
16.27 months.

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

16.29 Sec. 10. Minnesota Statutes 2018, section 256B.056, subdivision 10, is amended to read:

16.30 Subd. 10. **Eligibility verification.** (a) The commissioner shall require women who are
16.31 applying for the continuation of medical assistance coverage following the end of the 60-day

17.1 postpartum period to update their income and asset information and to submit any required
17.2 income or asset verification.

17.3 (b) The commissioner shall determine the eligibility of private-sector health care coverage
17.4 for infants less than one year of age eligible under section 256B.055, subdivision 10, or
17.5 256B.057, subdivision 1, paragraph ~~(b)~~ (c), and shall pay for private-sector coverage if this
17.6 is determined to be cost-effective.

17.7 (c) The commissioner shall verify assets and income for all applicants, and for all
17.8 recipients upon renewal.

17.9 (d) The commissioner shall utilize information obtained through the electronic service
17.10 established by the secretary of the United States Department of Health and Human Services
17.11 and other available electronic data sources in Code of Federal Regulations, title 42, sections
17.12 435.940 to 435.956, to verify eligibility requirements. The commissioner shall establish
17.13 standards to define when information obtained electronically is reasonably compatible with
17.14 information provided by applicants and enrollees, including use of self-attestation, to
17.15 accomplish real-time eligibility determinations and maintain program integrity.

17.16 (e) Each person applying for or receiving medical assistance under section 256B.055,
17.17 subdivision 7, and any other person whose resources are required by law to be disclosed to
17.18 determine the applicant's or recipient's eligibility must authorize the commissioner to obtain
17.19 information from financial institutions to identify unreported accounts as required in section
17.20 256.01, subdivision 18f. If a person refuses or revokes the authorization, the commissioner
17.21 may determine that the applicant or recipient is ineligible for medical assistance. For purposes
17.22 of this paragraph, an authorization to identify unreported accounts meets the requirements
17.23 of the Right to Financial Privacy Act, United States Code, title 12, chapter 35, and need not
17.24 be furnished to the financial institution.

17.25 (f) County and tribal agencies shall comply with the standards established by the
17.26 commissioner for appropriate use of the asset verification system specified in section 256.01,
17.27 subdivision 18f.

17.28 **EFFECTIVE DATE.** This section is effective upon implementation of Minnesota
17.29 Statutes, section 256.01, subdivision 18f. The commissioner of human services shall notify
17.30 the revisor of statutes when this section is effective.

17.31 Sec. 11. Minnesota Statutes 2018, section 256B.0561, subdivision 2, is amended to read:

17.32 Subd. 2. **Periodic data matching.** ~~(a) Beginning April 1, 2018,~~ The commissioner shall
17.33 conduct periodic data matching to identify recipients who, based on available electronic

18.1 data, may not meet eligibility criteria for the public health care program in which the recipient
 18.2 is enrolled. The commissioner shall conduct data matching for medical assistance or
 18.3 MinnesotaCare recipients at least once during a recipient's 12-month period of eligibility.

18.4 (b) If data matching indicates a recipient may no longer qualify for medical assistance
 18.5 or MinnesotaCare, the commissioner must notify the recipient and allow the recipient no
 18.6 more than 30 days to confirm the information obtained through the periodic data matching
 18.7 or provide a reasonable explanation for the discrepancy to the state or county agency directly
 18.8 responsible for the recipient's case. If a recipient does not respond within the advance notice
 18.9 period or does not respond with information that demonstrates eligibility or provides a
 18.10 reasonable explanation for the discrepancy within the 30-day time period, the commissioner
 18.11 shall terminate the recipient's eligibility in the manner provided for by the laws and
 18.12 regulations governing the health care program for which the recipient has been identified
 18.13 as being ineligible.

18.14 (c) The commissioner shall not terminate eligibility for a recipient who is cooperating
 18.15 with the requirements of paragraph (b) and needs additional time to provide information in
 18.16 response to the notification.

18.17 (d) A recipient whose eligibility was terminated according to paragraph (b) may be
 18.18 eligible for medical assistance no earlier than the first day of the month in which the recipient
 18.19 provides information that demonstrates the recipient's eligibility.

18.20 ~~(d)~~ (e) Any termination of eligibility for benefits under this section may be appealed as
 18.21 provided for in sections 256.045 to 256.0451, and the laws governing the health care
 18.22 programs for which eligibility is terminated.

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

18.24 Sec. 12. Minnesota Statutes 2018, section 256B.057, subdivision 1, is amended to read:

18.25 Subdivision 1. **Infants and pregnant women.** (a) An infant less than two years of age
 18.26 ~~or a pregnant woman~~ is eligible for medical assistance if the ~~individual's~~ infant's countable
 18.27 household income is equal to or less than ~~275~~ 283 percent of the federal poverty guideline
 18.28 for the same household size ~~or an equivalent standard when converted using modified~~
 18.29 ~~adjusted gross income methodology as required under the Affordable Care Act.~~ Medical
 18.30 assistance for an uninsured infant younger than two years of age may be paid with federal
 18.31 funds available under title XXI of the Social Security Act and the state children's health
 18.32 insurance program, for an infant with countable income above 275 percent and equal to or
 18.33 less than 283 percent of the federal poverty guideline for the household size.

19.1 (b) A pregnant woman is eligible for medical assistance if the woman's countable income
 19.2 is equal to or less than 278 percent of the federal poverty guideline for the applicable
 19.3 household size.

19.4 ~~(b)~~ (c) An infant born to a woman who was eligible for and receiving medical assistance
 19.5 on the date of the child's birth shall continue to be eligible for medical assistance without
 19.6 redetermination until the child's first birthday.

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

19.8 Sec. 13. Minnesota Statutes 2018, section 256B.0575, subdivision 2, is amended to read:

19.9 Subd. 2. **Reasonable expenses.** For the purposes of subdivision 1, paragraph (a), clause
 19.10 (9), reasonable expenses are limited to expenses that have not been previously used as a
 19.11 deduction from income and were not:

19.12 (1) for long-term care expenses incurred during a period of ineligibility as defined in
 19.13 section 256B.0595, subdivision 2;

19.14 (2) incurred more than three months before the month of application associated with the
 19.15 current period of eligibility;

19.16 (3) for expenses incurred by a recipient that are duplicative of services that are covered
 19.17 under chapter 256B; ~~or~~

19.18 (4) nursing facility expenses incurred without a timely assessment as required under
 19.19 section 256B.0911; or

19.20 (5) for private room fees incurred by an assisted living client as defined in section
 19.21 144G.01, subdivision 3.

19.22 **EFFECTIVE DATE.** This section is effective August 1, 2019, or upon federal approval,
 19.23 whichever is later. The commissioner of human services shall notify the revisor of statutes
 19.24 when federal approval is obtained.

19.25 Sec. 14. Minnesota Statutes 2018, section 256B.0625, subdivision 1, is amended to read:

19.26 Subdivision 1. **Inpatient hospital services.** (a) Medical assistance covers inpatient
 19.27 hospital services performed by hospitals holding Medicare certifications for the services
 19.28 performed. ~~A second medical opinion is required prior to reimbursement for elective surgeries~~
 19.29 ~~requiring a second opinion. The commissioner shall publish in the State Register a list of~~
 19.30 ~~elective surgeries that require a second medical opinion prior to reimbursement, and the~~
 19.31 ~~criteria and standards for deciding whether an elective surgery should require a second~~

20.1 ~~medical opinion. The list and the criteria and standards are not subject to the requirements~~
 20.2 ~~of sections 14.001 to 14.69. The commissioner's decision whether a second medical opinion~~
 20.3 ~~is required, made in accordance with rules governing that decision, is not subject to~~
 20.4 ~~administrative appeal.~~

20.5 (b) When determining medical necessity for inpatient hospital services, the medical
 20.6 review agent shall follow industry standard medical necessity criteria in determining the
 20.7 following:

20.8 (1) whether a recipient's admission is medically necessary;

20.9 (2) whether the inpatient hospital services provided to the recipient were medically
 20.10 necessary;

20.11 (3) whether the recipient's continued stay was or will be medically necessary; and

20.12 (4) whether all medically necessary inpatient hospital services were provided to the
 20.13 recipient.

20.14 The medical review agent will determine medical necessity of inpatient hospital services,
 20.15 including inpatient psychiatric treatment, based on a review of the patient's medical condition
 20.16 and records, in conjunction with industry standard evidence-based criteria to ensure consistent
 20.17 and optimal application of medical appropriateness criteria.

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

20.19 Sec. 15. Minnesota Statutes 2018, section 256B.0625, subdivision 3c, is amended to read:

20.20 Subd. 3c. **Health Services Policy Committee Advisory Council.** (a) The commissioner,
 20.21 after receiving recommendations from professional physician associations, professional
 20.22 associations representing licensed nonphysician health care professionals, and consumer
 20.23 groups, shall establish a ~~13-member~~ 14-member Health Services Policy Committee Advisory
 20.24 Council, which consists of ~~12~~ 13 voting members and one nonvoting member. The Health
 20.25 Services Policy Committee Advisory Council shall advise the commissioner regarding: (1)
 20.26 health services pertaining to the administration of health care benefits covered under ~~the~~
 20.27 ~~medical assistance and MinnesotaCare programs.~~ Minnesota health care programs (MHCP);
 20.28 and (2) evidence-based decision making and health care benefit and coverage policies for
 20.29 Minnesota health care programs. The council shall consider available evidence of quality,
 20.30 safety, and cost-effectiveness when making recommendations. The Health Services Policy
 20.31 Committee Advisory Council shall meet at least quarterly. The Health Services Policy
 20.32 Committee Advisory Council shall annually ~~elect~~ select a ~~physician~~ chair from among its
 20.33 members, who shall work directly with the commissioner's medical director; to establish

21.1 the agenda for each meeting. The Health Services ~~Policy Committee shall also~~ Advisory
 21.2 Council may recommend criteria for verifying centers of excellence for specific aspects of
 21.3 medical care where a specific set of combined services, a volume of patients necessary to
 21.4 maintain a high level of competency, or a specific level of technical capacity is associated
 21.5 with improved health outcomes. The Health Services Advisory Council may also recommend
 21.6 criteria and standards for determining services that require prior authorization or whether
 21.7 certain providers must obtain prior authorization for their services under section 256B.0625,
 21.8 subdivision 25.

21.9 (b) The commissioner shall establish a dental ~~subcommittee~~ subcouncil to operate under
 21.10 the Health Services ~~Policy Committee~~ Advisory Council. The dental ~~subcommittee~~
 21.11 subcouncil consists of general dentists, dental specialists, safety net providers, dental
 21.12 hygienists, health plan company and county and public health representatives, health
 21.13 researchers, consumers, and a designee of the commissioner of health. The dental
 21.14 ~~subcommittee~~ subcouncil shall advise the commissioner regarding:

21.15 (1) the critical access dental program under section 256B.76, subdivision 4, including
 21.16 but not limited to criteria for designating and terminating critical access dental providers;

21.17 (2) any changes to the critical access dental provider program necessary to comply with
 21.18 program expenditure limits;

21.19 (3) dental coverage policy based on evidence, quality, continuity of care, and best
 21.20 practices;

21.21 (4) the development of dental delivery models; and

21.22 (5) dental services to be added or eliminated from subdivision 9, paragraph (b).

21.23 ~~(c) The Health Services Policy Committee shall study approaches to making provider~~
 21.24 ~~reimbursement under the medical assistance and MinnesotaCare programs contingent on~~
 21.25 ~~patient participation in a patient-centered decision-making process, and shall evaluate the~~
 21.26 ~~impact of these approaches on health care quality, patient satisfaction, and health care costs.~~
 21.27 ~~The committee shall present findings and recommendations to the commissioner and the~~
 21.28 ~~legislative committees with jurisdiction over health care by January 15, 2010.~~

21.29 ~~(d)~~ (c) The Health Services ~~Policy Committee shall~~ Advisory Council may monitor and
 21.30 track the practice patterns of ~~physicians providing services to medical assistance and~~
 21.31 ~~MinnesotaCare enrollees~~ health care providers who serve MHCP recipients under
 21.32 fee-for-service, managed care, and county-based purchasing. The ~~committee~~ council's
 21.33 monitoring and tracking shall focus on services or specialties for which there is a high

22.1 variation in utilization or quality across ~~physicians~~ providers, or which are associated with
 22.2 high medical costs. The commissioner, based upon the findings of the ~~committee~~ council,
 22.3 ~~shall regularly~~ may notify ~~physicians~~ providers whose practice patterns indicate below
 22.4 average quality or higher than average utilization or costs. Managed care and county-based
 22.5 purchasing plans shall provide the commissioner with utilization and cost data necessary
 22.6 to implement this paragraph, and the commissioner shall make ~~this~~ the data available to the
 22.7 ~~committee~~ Health Services Advisory Council.

22.8 ~~(e) The Health Services Policy Committee shall review caesarean section rates for the~~
 22.9 ~~fee-for-service medical assistance population. The committee may develop best practices~~
 22.10 ~~policies related to the minimization of caesarean sections, including but not limited to~~
 22.11 ~~standards and guidelines for health care providers and health care facilities.~~

22.12 Sec. 16. Minnesota Statutes 2018, section 256B.0625, subdivision 3d, is amended to read:

22.13 Subd. 3d. ~~Health Services Policy Committee~~ Health Services Policy Committee Advisory Council members. (a) The
 22.14 ~~Health Services Policy Committee~~ Advisory Council consists of:

22.15 (1) ~~seven~~ six voting members who are licensed physicians actively engaged in the practice
 22.16 of medicine in Minnesota, ~~one of whom must be actively engaged in the treatment of persons~~
 22.17 ~~with mental illness, and~~ three of whom must represent health plans currently under contract
 22.18 to serve ~~medical assistance~~ MHCP recipients;

22.19 (2) two voting members who are licensed physician specialists actively practicing their
 22.20 specialty in Minnesota;

22.21 (3) two voting members who are nonphysician health care professionals licensed or
 22.22 registered in their profession and actively engaged in their practice of their profession in
 22.23 Minnesota;

22.24 (4) one voting member who is a health care or mental health professional licensed or
 22.25 registered in their profession, actively engaged in the practice of their profession in
 22.26 Minnesota, and actively engaged in the treatment of persons with mental illness;

22.27 ~~(4) one consumer~~ (5) two consumers who shall serve as a voting ~~member~~ members; and

22.28 ~~(5)~~ (6) the commissioner's medical director₂, who shall serve as a nonvoting member.

22.29 (b) Members of the ~~Health Services Policy Committee~~ Health Services Policy Committee Advisory Council shall not be
 22.30 employed by the ~~Department of Human Services~~ state of Minnesota, except for the medical
 22.31 director. A quorum shall comprise a simple majority of the voting members and vacant
 22.32 seats must not count toward a quorum.

23.1 Sec. 17. Minnesota Statutes 2018, section 256B.0625, subdivision 3e, is amended to read:

23.2 Subd. 3e. **Health Services ~~Policy Committee~~ Advisory Council terms and**
 23.3 **compensation.** ~~Committee~~ Members shall serve staggered three-year terms, with one-third
 23.4 of the voting members' terms expiring annually. Members may be reappointed by the
 23.5 commissioner. The commissioner may require more frequent Health Services ~~Policy~~
 23.6 ~~Committee~~ Advisory Council meetings as needed. An honorarium of \$200 per meeting and
 23.7 reimbursement for mileage and parking shall be paid to each ~~committee~~ council member
 23.8 in attendance except the medical director. The Health Services ~~Policy Committee~~ Advisory
 23.9 Council does not expire as provided in section 15.059, subdivision 6.

23.10 Sec. 18. Minnesota Statutes 2018, section 256B.0625, subdivision 27, is amended to read:

23.11 Subd. 27. **Organ and tissue transplants.** ~~All organ transplants must be performed at~~
 23.12 ~~transplant centers meeting united network for organ sharing criteria or at Medicare-approved~~
 23.13 ~~organ transplant centers.~~ Organ and tissue transplants are a covered service. Stem cell or
 23.14 bone marrow transplant centers must meet the standards established by the Foundation for
 23.15 the Accreditation of Hematopoietic Cell Therapy.

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

23.17 Sec. 19. Minnesota Statutes 2018, section 256B.0625, subdivision 53, is amended to read:

23.18 Subd. 53. **Centers of excellence.** For complex medical procedures with a high degree
 23.19 of variation in outcomes, for which the Medicare program requires facilities providing the
 23.20 services to meet certain criteria as a condition of coverage, the commissioner may develop
 23.21 centers of excellence facility criteria in consultation with the Health Services ~~Policy~~
 23.22 ~~Committee~~ Advisory Council under subdivision 3c. The criteria must reflect facility traits
 23.23 that have been linked to superior patient safety and outcomes for the procedures in question,
 23.24 and must be based on the best available empirical evidence. For medical assistance recipients
 23.25 enrolled on a fee-for-service basis, the commissioner may make coverage for these procedures
 23.26 conditional upon the facility providing the services meeting the specified criteria. Only
 23.27 facilities meeting the criteria may be reimbursed for the procedures in question.

23.28 Sec. 20. Minnesota Statutes 2018, section 256B.0638, subdivision 3, is amended to read:

23.29 Subd. 3. **Opioid prescribing work group.** (a) The commissioner of human services, in
 23.30 consultation with the commissioner of health, shall appoint the following voting members
 23.31 to an opioid prescribing work group:

24.1 (1) two consumer members who have been impacted by an opioid abuse disorder or
24.2 opioid dependence disorder, either personally or with family members;

24.3 (2) one member who is a licensed physician actively practicing in Minnesota and
24.4 registered as a practitioner with the DEA;

24.5 (3) one member who is a licensed pharmacist actively practicing in Minnesota and
24.6 registered as a practitioner with the DEA;

24.7 (4) one member who is a licensed nurse practitioner actively practicing in Minnesota
24.8 and registered as a practitioner with the DEA;

24.9 (5) one member who is a licensed dentist actively practicing in Minnesota and registered
24.10 as a practitioner with the DEA;

24.11 (6) two members who are nonphysician licensed health care professionals actively
24.12 engaged in the practice of their profession in Minnesota, and their practice includes treating
24.13 pain;

24.14 (7) one member who is a mental health professional who is licensed or registered in a
24.15 mental health profession, who is actively engaged in the practice of that profession in
24.16 Minnesota, and whose practice includes treating patients with chemical dependency or
24.17 substance abuse;

24.18 (8) one member who is a medical examiner for a Minnesota county;

24.19 (9) one member of the Health Services ~~Policy Committee~~ Advisory Council established
24.20 under section 256B.0625, subdivisions 3c to 3e;

24.21 (10) one member who is a medical director of a health plan company doing business in
24.22 Minnesota;

24.23 (11) one member who is a pharmacy director of a health plan company doing business
24.24 in Minnesota; and

24.25 (12) one member representing Minnesota law enforcement.

24.26 (b) In addition, the work group shall include the following nonvoting members:

24.27 (1) the medical director for the medical assistance program;

24.28 (2) a member representing the Department of Human Services pharmacy unit; and

24.29 (3) the medical director for the Department of Labor and Industry.

24.30 (c) An honorarium of \$200 per meeting and reimbursement for mileage and parking
24.31 shall be paid to each voting member in attendance.

25.1 Sec. 21. Minnesota Statutes 2018, section 256B.0751, is amended to read:

25.2 **256B.0751 HEALTH CARE HOMES.**

25.3 Subdivision 1. **Definitions.** (a) For purposes of ~~sections~~ section 256B.0751 ~~to 256B.0753,~~
25.4 the following definitions apply.

25.5 (b) "Commissioner" means the commissioner of ~~human services~~ health.

25.6 ~~(e) "Commissioners" means the commissioner of human services and the commissioner~~
25.7 ~~of health, acting jointly.~~

25.8 ~~(d)~~ (c) "Health plan company" has the meaning provided in section 62Q.01, subdivision
25.9 4.

25.10 ~~(e)~~ (d) "Personal clinician" means a physician licensed under chapter 147, a physician
25.11 assistant licensed and practicing under chapter 147A, or an advanced practice nurse licensed
25.12 and registered to practice under chapter 148.

25.13 ~~(f) "State health care program" means the medical assistance and MinnesotaCare~~
25.14 ~~programs.~~

25.15 Subd. 2. **Development and implementation of standards.** (a) ~~By July 1, 2009,~~ The
25.16 ~~commissioners~~ commissioner of health ~~and human services~~ shall develop and implement
25.17 standards of certification for health care homes ~~for state health care programs~~. In developing
25.18 these standards, the ~~commissioners~~ commissioner shall consider existing standards developed
25.19 by national independent accrediting and medical home organizations. The standards
25.20 developed by the ~~commissioners~~ commissioner must meet the following criteria:

25.21 (1) emphasize, enhance, and encourage the use of primary care, and include the use of
25.22 primary care physicians, advanced practice nurses, and physician assistants as personal
25.23 clinicians;

25.24 (2) focus on delivering high-quality, efficient, and effective health care services;

25.25 (3) encourage patient-centered care, including active participation by the patient and
25.26 family or a legal guardian, or a health care agent as defined in chapter 145C, as appropriate
25.27 in decision making and care plan development, and providing care that is appropriate to the
25.28 patient's race, ethnicity, and language;

25.29 (4) provide patients with a consistent, ongoing contact with a personal clinician or team
25.30 of clinical professionals to ensure continuous and appropriate care for the patient's condition;

26.1 (5) ensure that health care homes develop and maintain appropriate comprehensive care
 26.2 plans for their patients with complex or chronic conditions, including an assessment of
 26.3 health risks and chronic conditions;

26.4 (6) enable and encourage utilization of a range of qualified health care professionals,
 26.5 including dedicated care coordinators, in a manner that enables providers to practice to the
 26.6 fullest extent of their license;

26.7 (7) focus initially on patients who have or are at risk of developing chronic health
 26.8 conditions;

26.9 (8) incorporate measures of quality, resource use, cost of care, and patient experience;

26.10 (9) ensure the use of health information technology and systematic follow-up, including
 26.11 the use of patient registries; and

26.12 (10) encourage the use of scientifically based health care, patient decision-making aids
 26.13 that provide patients with information about treatment options and their associated benefits,
 26.14 risks, costs, and comparative outcomes, and other clinical decision support tools.

26.15 (b) In developing these standards, the ~~commissioners~~ commissioner shall consult with
 26.16 national and local organizations working on health care home models, physicians, relevant
 26.17 state agencies, health plan companies, hospitals, other providers, patients, and patient
 26.18 advocates. ~~The commissioners may satisfy this requirement by continuing the provider~~
 26.19 ~~directed care coordination advisory committee.~~

26.20 (c) For the purposes of developing and implementing these standards, the ~~commissioners~~
 26.21 commissioner may use the expedited rulemaking process under section 14.389.

26.22 **Subd. 3. Requirements for clinicians certified as health care homes.** (a) A personal
 26.23 clinician or a primary care clinic may be certified as a health care home. If a primary care
 26.24 clinic is certified, all of the primary care clinic's clinicians must meet the criteria of a health
 26.25 care home. In order to be certified as a health care home, a clinician or clinic must meet the
 26.26 standards set by the ~~commissioners~~ commissioner in accordance with this section.

26.27 Certification as a health care home is voluntary. In order to maintain their status as health
 26.28 care homes, clinicians or clinics must renew their certification every three years.

26.29 (b) Clinicians or clinics certified as health care homes must offer their health care home
 26.30 services to all their patients with complex or chronic health conditions who are interested
 26.31 in participation.

26.32 (c) Health care homes must participate in the health care home collaborative established
 26.33 under subdivision 5.

27.1 Subd. 4. **Alternative models and waivers of requirements.** (a) Nothing in this section
 27.2 shall preclude the continued development of existing medical or health care home projects
 27.3 currently operating or under development by the commissioner of human services or preclude
 27.4 the commissioner of human services from establishing alternative models and payment
 27.5 mechanisms for persons who are enrolled in integrated Medicare and Medicaid programs
 27.6 under section 256B.69, subdivisions 23 and 28, are enrolled in managed care long-term
 27.7 care programs under section 256B.69, subdivision 6b, are dually eligible for Medicare and
 27.8 medical assistance, are in the waiting period for Medicare, or who have other primary
 27.9 coverage.

27.10 (b) The commissioner ~~of health~~ shall waive health care home certification requirements
 27.11 if an applicant demonstrates that compliance with a certification requirement will create a
 27.12 major financial hardship or is not feasible, and the applicant establishes an alternative way
 27.13 to accomplish the objectives of the certification requirement.

27.14 Subd. 5. **Health care home collaborative.** ~~By July 1, 2009, The commissioners~~
 27.15 commissioner shall establish a health care home collaborative to provide an opportunity for
 27.16 health care homes and state agencies to exchange information related to quality improvement
 27.17 and best practices.

27.18 Subd. 6. **Evaluation and continued development.** (a) For continued certification under
 27.19 this section, health care homes must meet process, outcome, and quality standards as
 27.20 developed and specified by the ~~commissioners~~ commissioner. The ~~commissioners~~
 27.21 commissioner shall collect data from health care homes necessary for monitoring compliance
 27.22 with certification standards and for evaluating the impact of health care homes on health
 27.23 care quality, cost, and outcomes.

27.24 (b) The ~~commissioners~~ commissioner may contract with a private entity to perform an
 27.25 evaluation of the effectiveness of health care homes. Data collected under this subdivision
 27.26 is classified as nonpublic data under chapter 13.

27.27 Subd. 7. **Outreach.** ~~Beginning July 1, 2009, The commissioner of human services~~ shall
 27.28 encourage state health care program enrollees who have a complex or chronic condition to
 27.29 select a primary care clinic with clinicians who have been certified as health care homes.

27.30 Subd. 8. **Coordination with local services.** The health care home and the county shall
 27.31 coordinate care and services provided to patients enrolled with a health care home who have
 27.32 complex medical needs or a disability, and who need and are eligible for additional local
 27.33 services administered by counties, including but not limited to waived services, mental
 27.34 health services, social services, public health services, transportation, and housing. The

28.1 coordination of care and services must be as provided in the plan established by the patient
28.2 and the health care home.

28.3 Subd. 9. **Pediatric care coordination.** The commissioner of human services shall
28.4 implement a pediatric care coordination service for children with high-cost medical or
28.5 high-cost psychiatric conditions who are at risk of recurrent hospitalization or emergency
28.6 room use for acute, chronic, or psychiatric illness, who receive medical assistance services.
28.7 Care coordination services must be targeted to children not already receiving care
28.8 coordination through another service and may include but are not limited to the provision
28.9 of health care home services to children admitted to hospitals that do not currently provide
28.10 care coordination. Care coordination services must be provided by care coordinators who
28.11 are directly linked to provider teams in the care delivery setting, but who may be part of a
28.12 community care team shared by multiple primary care providers or practices. For purposes
28.13 of this subdivision, the commissioner of human services shall, to the extent possible, use
28.14 the existing health care home certification and payment structure established under this
28.15 section and section 256B.0753.

28.16 Subd. 10. **Health care homes advisory committee.** (a) The ~~commissioners of health~~
28.17 ~~and human services~~ commissioner shall establish a health care homes advisory committee
28.18 to advise the ~~commissioners~~ commissioner on the ongoing statewide implementation of the
28.19 health care homes program authorized in this section.

28.20 (b) The ~~commissioners~~ commissioner shall establish an advisory committee that includes
28.21 representatives of the health care professions such as primary care providers; mental health
28.22 providers; nursing and care coordinators; certified health care home clinics with statewide
28.23 representation; health plan companies; state agencies; employers; academic researchers;
28.24 consumers; and organizations that work to improve health care quality in Minnesota. At
28.25 least 25 percent of the committee members must be consumers or patients in health care
28.26 homes. The ~~commissioners~~ commissioner, in making appointments to the committee, shall
28.27 ensure geographic representation of all regions of the state.

28.28 (c) The advisory committee shall advise the ~~commissioners~~ commissioner on ongoing
28.29 implementation of the health care homes program, including, but not limited to, the following
28.30 activities:

28.31 (1) implementation of certified health care homes across the state on performance
28.32 management and implementation of benchmarking;

28.33 (2) implementation of modifications to the health care homes program based on results
28.34 of the legislatively mandated health care homes evaluation;

29.1 (3) statewide solutions for engagement of employers and commercial payers;

29.2 (4) potential modifications of the health care homes rules or statutes;

29.3 (5) consumer engagement, including patient and family-centered care, patient activation
29.4 in health care, and shared decision making;

29.5 (6) oversight for health care homes subject matter task forces or workgroups; and

29.6 (7) other related issues as requested by the ~~commissioners~~ commissioner.

29.7 (d) The advisory committee shall have the ability to establish subcommittees on specific
29.8 topics. The advisory committee is governed by section 15.059. Notwithstanding section
29.9 15.059, the advisory committee does not expire.

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

29.11 Sec. 22. Minnesota Statutes 2018, section 256B.0753, subdivision 1, is amended to read:

29.12 Subdivision 1. **Development.** The commissioner of human services, in coordination
29.13 with the commissioner of health, shall develop a payment system that provides per-person
29.14 care coordination payments to health care homes certified under section 256B.0751 for
29.15 providing care coordination services and directly managing on-site or employing care
29.16 coordinators. The care coordination payments under this section are in addition to the quality
29.17 incentive payments in section 256B.0754, subdivision 1. The care coordination payment
29.18 system must vary the fees paid by thresholds of care complexity, with the highest fees being
29.19 paid for care provided to individuals requiring the most intensive care coordination. In
29.20 developing the criteria for care coordination payments, the commissioner shall consider the
29.21 feasibility of including the additional time and resources needed by patients with limited
29.22 English-language skills, cultural differences, or other barriers to health care. The
29.23 commissioner may determine a schedule for phasing in care coordination fees such that the
29.24 fees will be applied first to individuals who have, or are at risk of developing, complex or
29.25 chronic health conditions. ~~Development of the payment system must be completed by~~
29.26 ~~January 1, 2010.~~

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

29.28 Sec. 23. Minnesota Statutes 2018, section 256B.0753, is amended by adding a subdivision
29.29 to read:

29.30 Subd. 1a. **Definitions.** For the purposes of this section, the definitions in section
29.31 256B.0751, subdivision 1, apply.

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

30.2 Sec. 24. Minnesota Statutes 2018, section 256B.75, is amended to read:

30.3 **256B.75 HOSPITAL OUTPATIENT REIMBURSEMENT.**

30.4 (a) For outpatient hospital facility fee payments for services rendered on or after October
30.5 1, 1992, the commissioner of human services shall pay the lower of (1) submitted charge,
30.6 or (2) 32 percent above the rate in effect on June 30, 1992, except for those services for
30.7 which there is a federal maximum allowable payment. Effective for services rendered on
30.8 or after January 1, 2000, payment rates for nonsurgical outpatient hospital facility fees and
30.9 emergency room facility fees shall be increased by eight percent over the rates in effect on
30.10 December 31, 1999, except for those services for which there is a federal maximum allowable
30.11 payment. Services for which there is a federal maximum allowable payment shall be paid
30.12 at the lower of (1) submitted charge, or (2) the federal maximum allowable payment. Total
30.13 aggregate payment for outpatient hospital facility fee services shall not exceed the Medicare
30.14 upper limit. If it is determined that a provision of this section conflicts with existing or
30.15 future requirements of the United States government with respect to federal financial
30.16 participation in medical assistance, the federal requirements prevail. The commissioner
30.17 may, in the aggregate, prospectively reduce payment rates to avoid reduced federal financial
30.18 participation resulting from rates that are in excess of the Medicare upper limitations.

30.19 (b) Notwithstanding paragraph (a), payment for outpatient, emergency, and ambulatory
30.20 surgery hospital facility fee services for critical access hospitals designated under section
30.21 144.1483, clause (9), shall be paid on a cost-based payment system that is based on the
30.22 cost-finding methods and allowable costs of the Medicare program. Effective for services
30.23 provided on or after July 1, 2015, rates established for critical access hospitals under this
30.24 paragraph for the applicable payment year shall be the final payment and shall not be settled
30.25 to actual costs. Effective for services delivered on or after the first day of the hospital's fiscal
30.26 year ending in ~~2016~~ 2017, the rate for outpatient hospital services shall be computed using
30.27 information from each hospital's Medicare cost report as filed with Medicare for the year
30.28 that is two years before the year that the rate is being computed. Rates shall be computed
30.29 using information from Worksheet C series until the department finalizes the medical
30.30 assistance cost reporting process for critical access hospitals. After the cost reporting process
30.31 is finalized, rates shall be computed using information from Title XIX Worksheet D series.
30.32 The outpatient rate shall be equal to ancillary cost plus outpatient cost, excluding costs
30.33 related to rural health clinics and federally qualified health clinics, divided by ancillary

31.1 charges plus outpatient charges, excluding charges related to rural health clinics and federally
31.2 qualified health clinics.

31.3 (c) Effective for services provided on or after July 1, 2003, rates that are based on the
31.4 Medicare outpatient prospective payment system shall be replaced by a budget neutral
31.5 prospective payment system that is derived using medical assistance data. The commissioner
31.6 shall provide a proposal to the 2003 legislature to define and implement this provision.

31.7 (d) For fee-for-service services provided on or after July 1, 2002, the total payment,
31.8 before third-party liability and spenddown, made to hospitals for outpatient hospital facility
31.9 services is reduced by .5 percent from the current statutory rate.

31.10 (e) In addition to the reduction in paragraph (d), the total payment for fee-for-service
31.11 services provided on or after July 1, 2003, made to hospitals for outpatient hospital facility
31.12 services before third-party liability and spenddown, is reduced five percent from the current
31.13 statutory rates. Facilities defined under section 256.969, subdivision 16, are excluded from
31.14 this paragraph.

31.15 (f) In addition to the reductions in paragraphs (d) and (e), the total payment for
31.16 fee-for-service services provided on or after July 1, 2008, made to hospitals for outpatient
31.17 hospital facility services before third-party liability and spenddown, is reduced three percent
31.18 from the current statutory rates. Mental health services and facilities defined under section
31.19 256.969, subdivision 16, are excluded from this paragraph.

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

31.21 Sec. 25. Minnesota Statutes 2018, section 256L.03, subdivision 1, is amended to read:

31.22 Subdivision 1. **Covered health services.** (a) "Covered health services" means the health
31.23 services reimbursed under chapter 256B, with the exception of special education services,
31.24 home care nursing services, adult dental care services other than services covered under
31.25 section 256B.0625, subdivision 9, orthodontic services, nonemergency medical transportation
31.26 services, personal care assistance and case management services, behavioral health home
31.27 services, and nursing home or intermediate care facilities services.

31.28 (b) No public funds shall be used for coverage of abortion under MinnesotaCare except
31.29 where the life of the female would be endangered or substantial and irreversible impairment
31.30 of a major bodily function would result if the fetus were carried to term; or where the
31.31 pregnancy is the result of rape or incest.

31.32 (c) Covered health services shall be expanded as provided in this section.

32.1 (d) For the purposes of covered health services under this section, "child" means an
32.2 individual younger than 19 years of age.

32.3 Sec. 26. Minnesota Statutes 2018, section 256L.15, subdivision 1, is amended to read:

32.4 Subdivision 1. **Premium determination for MinnesotaCare.** (a) Families with children
32.5 and individuals shall pay a premium determined according to subdivision 2.

32.6 (b) Members of the military and their families who meet the eligibility criteria for
32.7 MinnesotaCare upon eligibility approval made within 24 months following the end of the
32.8 member's tour of active duty shall have their premiums paid by the commissioner. The
32.9 effective date of coverage for an individual or family who meets the criteria of this paragraph
32.10 shall be the first day of the month following the month in which eligibility is approved. This
32.11 exemption applies for 12 months.

32.12 (c) Beginning July 1, 2009, American Indians enrolled in MinnesotaCare and their
32.13 families shall have their premiums waived by the commissioner in accordance with section
32.14 5006 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. An
32.15 individual must indicate status as an American Indian, as defined under Code of Federal
32.16 Regulations, title 42, section 447.50, to qualify for the waiver of premiums. The
32.17 commissioner shall accept attestation of an individual's status as an American Indian as
32.18 verification until the United States Department of Health and Human Services approves an
32.19 electronic data source for this purpose.

32.20 ~~(d) For premiums effective August 1, 2015, and after, the commissioner, after consulting~~
32.21 ~~with the chairs and ranking minority members of the legislative committees with jurisdiction~~
32.22 ~~over human services, shall increase premiums under subdivision 2 for recipients based on~~
32.23 ~~June 2015 program enrollment. Premium increases shall be sufficient to increase projected~~
32.24 ~~revenue to the fund described in section 16A.724 by at least \$27,800,000 for the biennium~~
32.25 ~~ending June 30, 2017. The commissioner shall publish the revised premium scale on the~~
32.26 ~~Department of Human Services website and in the State Register no later than June 15,~~
32.27 ~~2015. The revised premium scale applies to all premiums on or after August 1, 2015, in~~
32.28 ~~place of the scale under subdivision 2.~~

32.29 ~~(e) By July 1, 2015, the commissioner shall provide the chairs and ranking minority~~
32.30 ~~members of the legislative committees with jurisdiction over human services the revised~~
32.31 ~~premium scale effective August 1, 2015, and statutory language to codify the revised~~
32.32 ~~premium schedule.~~

33.1 ~~(f) Premium changes authorized under paragraph (d) must only apply to enrollees not~~
 33.2 ~~otherwise excluded from paying premiums under state or federal law. Premium changes~~
 33.3 ~~authorized under paragraph (d) must satisfy the requirements for premiums for the Basic~~
 33.4 ~~Health Program under title 42 of Code of Federal Regulations, section 600.505.~~

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

33.6 Sec. 27. **REVISOR INSTRUCTION.**

33.7 (a) The revisor of statutes shall renumber the provisions of Minnesota Statutes listed in
 33.8 column A to the references listed in column B.

	<u>Column A</u>	<u>Column B</u>
33.9		
33.10	<u>256B.0751, subd. 1</u>	<u>62U.03, subd. 2</u>
33.11	<u>256B.0751, subd. 2</u>	<u>62U.03, subd. 3</u>
33.12	<u>256B.0751, subd. 3</u>	<u>62U.03, subd. 4</u>
33.13	<u>256B.0751, subd. 4</u>	<u>62U.03, subd. 5</u>
33.14	<u>256B.0751, subd. 5</u>	<u>62U.03, subd. 6</u>
33.15	<u>256B.0751, subd. 6</u>	<u>62U.03, subd. 7</u>
33.16	<u>256B.0751, subd. 7</u>	<u>62U.03, subd. 8</u>
33.17	<u>256B.0751, subd. 8</u>	<u>62U.03, subd. 9</u>
33.18	<u>256B.0751, subd. 9</u>	<u>62U.03, subd. 10</u>
33.19	<u>256B.0751, subd. 10</u>	<u>62U.03, subd. 11</u>

33.20 (b) The revisor of statutes shall change the applicable references to Minnesota Statutes,
 33.21 section 256B.0751, to section 62U.03. The revisor shall make necessary cross-reference
 33.22 changes in Minnesota Statutes consistent with the renumbering. The revisor shall also make
 33.23 technical and other necessary changes to sentence structure to preserve the meaning of the
 33.24 text.

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

33.26 Sec. 28. **REPEALER.**

33.27 Minnesota Statutes 2018, sections 62U.15, subdivision 2; 256B.057, subdivision 8;
 33.28 256B.0625, subdivision 3a; 256B.0752; 256B.79, subdivision 7; and 256L.04, subdivision
 33.29 13, are repealed.

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

34.1 **ARTICLE 3**

34.2 **CHEMICAL AND MENTAL HEALTH**

34.3 Section 1. Minnesota Statutes 2018, section 245G.01, subdivision 8, is amended to read:

34.4 Subd. 8. **Client.** "Client" means an individual accepted by a license holder for assessment
34.5 or treatment of a substance use disorder. An individual remains a client until the license
34.6 holder no longer provides or intends to provide the individual with treatment service. Client
34.7 also includes the meaning of patient under section 144.651, subdivision 2.

34.8 Sec. 2. Minnesota Statutes 2018, section 245G.01, is amended by adding a subdivision to
34.9 read:

34.10 Subd. 10a. **Day of service initiation.** "Day of service initiation" means the day the
34.11 license holder begins the provision of a treatment service identified in section 245G.07.

34.12 Sec. 3. Minnesota Statutes 2018, section 245G.01, is amended by adding a subdivision to
34.13 read:

34.14 Subd. 20a. **Person-centered.** "Person-centered" means a client actively participates in
34.15 the client's treatment planning of services. This includes a client making meaningful and
34.16 informed choices about the client's own goals, objectives, and the services the client receives
34.17 in collaboration with the client's identified natural supports.

34.18 Sec. 4. Minnesota Statutes 2018, section 245G.01, is amended by adding a subdivision to
34.19 read:

34.20 Subd. 20b. **Staff or staff member.** "Staff" or "staff member" means an individual who
34.21 works under the direction of the license holder regardless of the individual's employment
34.22 status including but not limited to an intern, consultant, individual who works part time, or
34.23 individual who does not provide direct care services.

34.24 Sec. 5. Minnesota Statutes 2018, section 245G.01, subdivision 21, is amended to read:

34.25 Subd. 21. **Student intern.** "Student intern" means an individual who is enrolled in a
34.26 program specializing in alcohol and drug counseling or mental health counseling at an
34.27 accredited educational institution and is authorized by a licensing board to provide services
34.28 under supervision of a licensed professional.

35.1 Sec. 6. Minnesota Statutes 2018, section 245G.01, is amended by adding a subdivision to
35.2 read:

35.3 Subd. 28. **Treatment week.** "Treatment week" means the seven-day period that the
35.4 program identified in the program's policy and procedure manual as the day of the week
35.5 that the treatment program week starts and ends for the purpose of identifying the nature
35.6 and number of treatment services an individual receives weekly.

35.7 Sec. 7. Minnesota Statutes 2018, section 245G.01, is amended by adding a subdivision to
35.8 read:

35.9 Subd. 29. **Volunteer.** "Volunteer" means an individual who, under the direction of the
35.10 license holder, provides services or an activity to a client without compensation.

35.11 Sec. 8. Minnesota Statutes 2018, section 245G.04, is amended to read:

35.12 **245G.04 INITIAL SERVICES PLAN SERVICE INITIATION.**

35.13 Subdivision 1. **Initial services plan.** (a) The license holder must complete an initial
35.14 services plan ~~on~~ within 24 hours of the day of service initiation. The plan must be
35.15 person-centered and client-specific, address the client's immediate health and safety concerns,
35.16 and identify the treatment needs of the client to be addressed in the first treatment session,
35.17 and make treatment suggestions for the client during the time between intake the day of
35.18 service initiation and completion development of the individual treatment plan.

35.19 Subd. 2. **Vulnerable adult status.** (b) ~~The initial services plan must include a~~
35.20 determination of (a) Within 24 hours of the day of service initiation, a nonresidential program
35.21 must determine whether a client is a vulnerable adult as defined in section 626.5572,
35.22 subdivision 21. An adult client of a residential program is a vulnerable adult.

35.23 (b) An individual abuse prevention plan, according to sections 245A.65, subdivision 2,
35.24 paragraph (b), and 626.557, subdivision 14, paragraph (b), is required for a client who meets
35.25 the definition of vulnerable adult.

35.26 Sec. 9. Minnesota Statutes 2018, section 245G.05, is amended to read:

35.27 **245G.05 COMPREHENSIVE ASSESSMENT AND ASSESSMENT SUMMARY.**

35.28 Subdivision 1. **Comprehensive assessment.** (a) A comprehensive assessment of the
35.29 client's substance use disorder must be administered face-to-face by an alcohol and drug
35.30 counselor within three calendar days ~~after~~ from the day of service initiation for a residential
35.31 program or during the initial session for all other programs within three sessions of the day

36.1 of service initiation for a client in a nonresidential program. If the comprehensive assessment
36.2 is not completed ~~during the initial session,~~ within the required time frame, the ~~client-centered~~
36.3 person-centered reason for the delay and the planned completion date must be documented
36.4 in the client's file ~~and the planned completion date.~~ The comprehensive assessment is
36.5 complete upon a qualified staff member's dated signature. If the client received a
36.6 comprehensive assessment that authorized the treatment service, an alcohol and drug
36.7 counselor may use the comprehensive assessment for requirements of this subdivision but
36.8 must document a review ~~the~~ of the comprehensive assessment and update the comprehensive
36.9 assessment as necessary to determine ensure compliance with this subdivision, ~~including~~
36.10 within applicable timelines. ~~If available, the alcohol and drug counselor may use current~~
36.11 ~~information provided by a referring agency or other source as a supplement. Information~~
36.12 ~~gathered more than 45 days before the date of admission is not considered current.~~ The
36.13 comprehensive assessment must include sufficient information to complete the assessment
36.14 summary according to subdivision 2 and the individual treatment plan according to section
36.15 245G.06. The comprehensive assessment must include information about the client's needs
36.16 that relate to substance use and personal strengths that support recovery, including:

36.17 (1) age, sex, cultural background, sexual orientation, living situation, economic status,
36.18 and level of education;

36.19 (2) a description of the circumstances on the day of service initiation;

36.20 (3) a list of previous attempts at treatment for substance misuse or substance use disorder,
36.21 compulsive gambling, or mental illness;

36.22 (4) a list of substance use history including amounts and types of substances used,
36.23 frequency and duration of use, periods of abstinence, and circumstances of relapse, if any.
36.24 For each substance used within the previous 30 days, the information must include the date
36.25 of the most recent use and address the absence or presence of previous withdrawal symptoms;

36.26 (5) specific problem behaviors exhibited by the client when under the influence of
36.27 substances;

36.28 (6) ~~family status~~ the client's desire for family involvement in the treatment program,
36.29 family history of substance use and misuse, ~~including~~ history or presence of physical or
36.30 sexual abuse, and level of family support, ~~and substance misuse or substance use disorder~~
36.31 ~~of a family member or significant other;~~

36.32 (7) physical and medical concerns or diagnoses, ~~the severity of the concerns,~~ and current
36.33 medical treatment needed or being received related to the diagnoses, and whether the

37.1 concerns ~~are being addressed by a~~ need to be referred to an appropriate health care
 37.2 professional;

37.3 (8) ~~mental health history and psychiatric status, including symptoms, disability, and the~~
 37.4 effect on the client's ability to function; current mental health treatment supports; and
 37.5 psychotropic medication needed to maintain stability; The assessment must utilize screening
 37.6 tools approved by the commissioner pursuant to section 245.4863 to identify whether the
 37.7 client screens positive for co-occurring disorders;

37.8 (9) arrests and legal interventions related to substance use;

37.9 (10) a description of how the client's use affected the client's ability to function
 37.10 appropriately in work and educational settings;

37.11 (11) ability to understand written treatment materials, including rules and the client's
 37.12 rights;

37.13 (12) a description of any risk-taking behavior, including behavior that puts the client at
 37.14 risk of exposure to blood-borne or sexually transmitted diseases;

37.15 (13) social network in relation to expected support for recovery ~~and;~~

37.16 (14) leisure time activities that are associated with substance use;

37.17 ~~(14)~~ (15) whether the client is pregnant and, if so, the health of the unborn child and the
 37.18 client's current involvement in prenatal care;

37.19 ~~(15)~~ (16) whether the client recognizes ~~problems~~ needs related to substance use and is
 37.20 willing to follow treatment recommendations; and

37.21 ~~(16) collateral~~ (17) information from a collateral contact may be included, but is not
 37.22 required. If the assessor gathered sufficient information from the referral source or the client
 37.23 to apply the criteria in Minnesota Rules, parts 9530.6620 and 9530.6622, a collateral contact
 37.24 is not required.

37.25 (b) If the client is identified as having opioid use disorder or seeking treatment for opioid
 37.26 use disorder, the program must provide educational information to the client concerning:

37.27 (1) risks for opioid use disorder and dependence;

37.28 (2) treatment options, including the use of a medication for opioid use disorder;

37.29 (3) the risk of and recognizing opioid overdose; and

37.30 (4) the use, availability, and administration of naloxone to respond to opioid overdose.

38.1 (c) The commissioner shall develop educational materials that are supported by research
38.2 and updated periodically. The license holder must use the educational materials that are
38.3 approved by the commissioner to comply with this requirement.

38.4 (d) If the comprehensive assessment is completed to authorize treatment service for the
38.5 client, at the earliest opportunity during the assessment interview the assessor shall determine
38.6 if:

38.7 (1) the client is in severe withdrawal and likely to be a danger to self or others;

38.8 (2) the client has severe medical problems that require immediate attention; or

38.9 (3) the client has severe emotional or behavioral symptoms that place the client or others
38.10 at risk of harm.

38.11 If one or more of the conditions in clauses (1) to (3) are present, the assessor must end the
38.12 assessment interview and follow the procedures in the program's medical services plan
38.13 under section 245G.08, subdivision 2, to help the client obtain the appropriate services. The
38.14 assessment interview may resume when the condition is resolved.

38.15 Subd. 2. **Assessment summary.** (a) An alcohol and drug counselor must complete an
38.16 assessment summary within three calendar days ~~after~~ from the day of service initiation for
38.17 a residential program and within three sessions ~~for all other programs~~ from the day of service
38.18 initiation for a client in a nonresidential program. The comprehensive assessment summary
38.19 is complete upon a qualified staff member's dated signature. If the comprehensive assessment
38.20 is used to authorize the treatment service, the alcohol and drug counselor must prepare an
38.21 assessment summary on the same date the comprehensive assessment is completed. If the
38.22 comprehensive assessment and assessment summary are to authorize treatment services,
38.23 the assessor must determine appropriate services for the client using the dimensions in
38.24 Minnesota Rules, part 9530.6622, and document the recommendations.

38.25 (b) An assessment summary must include:

38.26 (1) a risk description according to section 245G.05 for each dimension listed in paragraph
38.27 (c);

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

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

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

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

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

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

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

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

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

39.18 Sec. 10. Minnesota Statutes 2018, section 245G.06, subdivision 1, is amended to read:

39.19 Subdivision 1. **General.** Each client must have ~~an~~ a person-centered individual treatment
39.20 plan developed by an alcohol and drug counselor within ~~seven~~ ten days from the day of
39.21 service initiation for a residential program and within ~~three~~ five sessions for ~~all other~~
39.22 programs from the day of service initiation for a client in a nonresidential program. Opioid
39.23 treatment programs must complete the individual treatment plan within 21 days from the
39.24 day of service initiation. The client must have active, direct involvement in selecting the
39.25 ~~anticipated outcomes of the treatment process and developing the treatment plan.~~ The
39.26 individual treatment plan must be signed by the client and the alcohol and drug counselor
39.27 and document the client's involvement in the development of the plan. ~~The plan may be a~~
39.28 ~~continuation of the initial services plan required in section 245G.04.~~ The individual treatment
39.29 plan is developed upon the qualified staff member's dated signature. Treatment planning
39.30 must include ongoing assessment of client needs. An individual treatment plan must be
39.31 updated based on new information gathered about the client's condition, the client's level
39.32 of participation, and on whether methods identified have the intended effect. A change to
39.33 the plan must be signed by the client and the alcohol and drug counselor. ~~The plan must~~

40.1 ~~provide for the involvement of the client's family and people selected by the client as~~
40.2 ~~important to the success of treatment at the earliest opportunity, consistent with the client's~~
40.3 ~~treatment needs and written consent.~~ If the client chooses to have family or others involved
40.4 in treatment, the client's individual treatment plan must include goals and methods identifying
40.5 how the family or others will be involved in the client's treatment.

40.6 Sec. 11. Minnesota Statutes 2018, section 245G.06, subdivision 2, is amended to read:

40.7 Subd. 2. **Plan contents.** An individual treatment plan must be recorded in the six
40.8 dimensions listed in section 245G.05, subdivision 2, paragraph (c), must address each issue
40.9 identified in the assessment summary, prioritized according to the client's needs and focus,
40.10 and must include:

40.11 (1) specific goals and methods to address each identified need in the comprehensive
40.12 assessment summary, including amount, frequency, and anticipated duration of treatment
40.13 service. The methods must be appropriate to the client's language, reading skills, cultural
40.14 background, and strengths;

40.15 (2) resources to refer the client to when the client's needs are to be addressed concurrently
40.16 by another provider and identification of whether the client has an assessed need of peer
40.17 support services and, if available, how peer support services are made available to the client
40.18 with an assessed need; and

40.19 (3) goals the client must reach to complete treatment and terminate services.

40.20 Sec. 12. Minnesota Statutes 2018, section 245G.06, subdivision 4, is amended to read:

40.21 Subd. 4. **Service discharge summary.** (a) An alcohol and drug counselor must write a
40.22 service discharge summary for each client. The service discharge summary must be
40.23 completed within five days of the client's service termination or within five days from the
40.24 client's or program's decision to terminate services, whichever is earlier. The client's file
40.25 must include verification that the client was provided a copy of the client's service discharge
40.26 summary. If the program is unable to provide a copy of the client's service discharge summary
40.27 directly to the client, the program must document the reason.

40.28 (b) The service discharge summary must be recorded in the six dimensions listed in
40.29 section 245G.05, subdivision 2, paragraph (c), and include the following information:

40.30 (1) the client's issues, strengths, and needs while participating in treatment, including
40.31 services provided;

41.1 (2) the client's progress toward achieving each goal identified in the individual treatment
41.2 plan;

41.3 (3) a risk description according to section 245G.05; ~~and~~

41.4 (4) the reasons for and circumstances of service termination. If a program discharges a
41.5 client at staff request, the reason for discharge and the procedure followed for the decision
41.6 to discharge must be documented and comply with the ~~program's policies on staff-initiated~~
41.7 ~~client discharge. If a client is discharged at staff request, the program must give the client~~
41.8 ~~crisis and other referrals appropriate for the client's needs and offer assistance to the client~~
41.9 ~~to access the services.~~ requirements in section 245G.14, subdivision 3, clause (3);

41.10 ~~(e) For a client who successfully completes treatment, the summary must also include:~~

41.11 ~~(1) (5) the client's living arrangements at service termination;~~

41.12 ~~(2) (6) continuing care recommendations, including transitions between more or less~~
41.13 ~~intense services, or more frequent to less frequent services, and referrals made with specific~~
41.14 ~~attention to continuity of care for mental health, as needed; and~~

41.15 ~~(3) (7) service termination diagnosis; and~~

41.16 ~~(4) the client's prognosis.~~

41.17 Sec. 13. Minnesota Statutes 2018, section 245G.07, is amended to read:

41.18 **245G.07 TREATMENT SERVICE.**

41.19 Subdivision 1. **Treatment service.** ~~(a) A license holder~~ licensed residential treatment
41.20 program must offer provide the following treatment services in clauses (1) to (5) to each
41.21 client, unless clinically inappropriate and the justifying clinical rationale is documented.
41.22 A nonresidential treatment program must offer all treatment services in clauses (1) to (5)
41.23 and document in the individual treatment plan the specific services for which a client has
41.24 an assessed need and the plan to provide the services:

41.25 (1) individual and group counseling to help the client identify and address needs related
41.26 to substance use and develop strategies to avoid harmful substance use after discharge and
41.27 to help the client obtain the services necessary to establish a lifestyle free of the harmful
41.28 effects of substance use disorder; Notwithstanding subdivision 3, individual and group
41.29 counseling services must be provided by an individual who meets the staff qualifications
41.30 of an alcohol and drug counselor in section 245G.11, subdivision 5;

41.31 (2) client education strategies to avoid inappropriate substance use and health problems
41.32 related to substance use and the necessary lifestyle changes to regain and maintain health.

42.1 Client education must include information on tuberculosis education on a form approved
 42.2 by the commissioner, the human immunodeficiency virus according to section 245A.19,
 42.3 other sexually transmitted diseases, drug and alcohol use during pregnancy, and hepatitis.
 42.4 A licensed alcohol and drug counselor must be present during an educational group;

42.5 (3) a service to help the client integrate gains made during treatment into daily living
 42.6 and to reduce the client's reliance on a staff member for support;

42.7 (4) a service to address issues related to co-occurring disorders, including client education
 42.8 on symptoms of mental illness, the possibility of comorbidity, and the need for continued
 42.9 medication compliance while recovering from substance use disorder. A group must address
 42.10 co-occurring disorders, as needed. When treatment for mental health problems is indicated,
 42.11 the treatment must be integrated into the client's individual treatment plan; and

42.12 ~~(5) on July 1, 2018, or upon federal approval, whichever is later, peer recovery support~~
 42.13 ~~services provided one-to-one by an individual in recovery. Peer support services include~~
 42.14 ~~education, advocacy, mentoring through self-disclosure of personal recovery experiences,~~
 42.15 ~~attending recovery and other support groups with a client, accompanying the client to~~
 42.16 ~~appointments that support recovery, assistance accessing resources to obtain housing,~~
 42.17 ~~employment, education, and advocacy services, and nonclinical recovery support to assist~~
 42.18 ~~the transition from treatment into the recovery community; and~~

42.19 ~~(6) on July 1, 2018, or upon federal approval, whichever is later, care~~ (5) treatment
 42.20 coordination provided one-to-one by an individual who meets the staff qualifications in
 42.21 section 245G.11, subdivision 7, or an alcohol and drug counselor under section 245G.11,
 42.22 subdivision 5. Care Treatment coordination services include:

42.23 (i) assistance in coordination with significant others to help in the treatment planning
 42.24 process whenever possible;

42.25 (ii) assistance in coordination with and follow up for medical services as identified in
 42.26 the treatment plan;

42.27 (iii) facilitation of referrals to substance use disorder services as indicated by a client's
 42.28 medical provider, comprehensive assessment, or treatment plan;

42.29 (iv) facilitation of referrals to mental health services as identified by a client's
 42.30 comprehensive assessment or treatment plan;

42.31 (v) assistance with referrals to economic assistance, social services, housing resources,
 42.32 and prenatal care according to the client's needs;

43.1 (vi) life skills advocacy and support accessing treatment follow-up, disease management,
 43.2 and education services, including referral and linkages to long-term services and supports
 43.3 as needed; and

43.4 (vii) documentation of the provision of ~~care~~ treatment coordination services in the client's
 43.5 file.

43.6 (b) A treatment service provided to a client must be provided according to the individual
 43.7 treatment plan and must consider cultural differences and special needs of a client.

43.8 Subd. 2. **Additional treatment service.** A license holder may provide or arrange the
 43.9 following additional treatment service as a part of the client's individual treatment plan:

43.10 (1) relationship counseling provided by a qualified professional to help the client identify
 43.11 the impact of the client's substance use disorder on others and to help the client and persons
 43.12 in the client's support structure identify and change behaviors that contribute to the client's
 43.13 substance use disorder;

43.14 (2) therapeutic recreation to allow the client to participate in recreational activities
 43.15 without the use of mood-altering chemicals and to plan and select leisure activities that do
 43.16 not involve the inappropriate use of chemicals;

43.17 (3) stress management and physical well-being to help the client reach and maintain an
 43.18 appropriate level of health, physical fitness, and well-being;

43.19 (4) living skills development to help the client learn basic skills necessary for independent
 43.20 living;

43.21 (5) employment or educational services to help the client become financially independent;

43.22 (6) socialization skills development to help the client live and interact with others in a
 43.23 positive and productive manner; ~~and~~

43.24 (7) room, board, and supervision at the treatment site to provide the client with a safe
 43.25 and appropriate environment to gain and practice new skills; and

43.26 (8) peer recovery support services provided one-to-one by an individual in recovery.
 43.27 Peer support services include education; advocacy; mentoring through self-disclosure of
 43.28 personal recovery experiences; attending recovery and other support groups with a client;
 43.29 accompanying the client to appointments that support recovery; assistance accessing resources
 43.30 to obtain housing, employment, education, and advocacy services; and nonclinical recovery
 43.31 support to assist the transition from treatment into the recovery community.

44.1 Subd. 3. **Counselors.** A treatment service, including therapeutic recreation, must be
 44.2 provided by an alcohol and drug counselor according to section 245G.11, unless the
 44.3 individual providing the service is specifically qualified according to the accepted credential
 44.4 required to provide the service. ~~Therapeutic recreation does not include planned leisure~~
 44.5 ~~activities.~~ The commissioner shall maintain a current list of professionals qualified to provide
 44.6 treatment services, notwithstanding the staff qualification requirements in section 245G.11,
 44.7 subdivision 4.

44.8 Subd. 4. **Location of service provision.** The license holder may provide services at any
 44.9 of the license holder's licensed locations or at another suitable location including a school,
 44.10 government building, medical or behavioral health facility, or social service organization,
 44.11 upon notification and approval of the commissioner. If services are provided off site from
 44.12 the licensed site, the reason for the provision of services remotely must be documented.
 44.13 The license holder may provide additional services under subdivision 2, clauses (2) to (5),
 44.14 off-site if the license holder includes a policy and procedure detailing the off-site location
 44.15 as a part of the treatment service description and the program abuse prevention plan.

44.16 Sec. 14. Minnesota Statutes 2018, section 245G.08, subdivision 3, is amended to read:

44.17 Subd. 3. **Standing order protocol.** A license holder that maintains a supply of naloxone
 44.18 available for emergency treatment of opioid overdose must have a written standing order
 44.19 protocol by a physician who is licensed under chapter 147, that permits the license holder
 44.20 to maintain a supply of naloxone on site, ~~and.~~ A license holder must require staff to undergo
 44.21 ~~specific training in administration of naloxone~~ the specific mode of administration used at
 44.22 the program, which may include intranasal administration, intramuscular injection, or both.

44.23 Sec. 15. Minnesota Statutes 2018, section 245G.10, subdivision 4, is amended to read:

44.24 Subd. 4. **Staff requirement.** It is the responsibility of the license holder to determine
 44.25 an acceptable group size based on each client's needs except that treatment services provided
 44.26 in a group shall not exceed 16 clients. ~~A counselor in an opioid treatment program must not~~
 44.27 ~~supervise more than 50 clients.~~ The license holder must maintain a record that documents
 44.28 compliance with this subdivision.

44.29 Sec. 16. Minnesota Statutes 2018, section 245G.11, subdivision 7, is amended to read:

44.30 Subd. 7. **Care Treatment coordination provider qualifications.** (a) Care Treatment
 44.31 coordination must be provided by qualified staff. An individual is qualified to provide care
 44.32 treatment coordination if the individual: meets the qualifications of an alcohol and drug

45.1 counselor under subdivision 5. An individual who does not meet the qualifications of an
 45.2 alcohol and drug counselor under subdivision 5 is qualified to provide treatment coordination
 45.3 if the individual:

45.4 (1) is skilled in the process of identifying and assessing a wide range of client needs;

45.5 (2) is knowledgeable about local community resources and how to use those resources
 45.6 for the benefit of the client;

45.7 (3) has successfully completed 30 hours of classroom instruction on ~~care~~ treatment
 45.8 coordination for an individual with substance use disorder;

45.9 (4) has either:

45.10 (i) a bachelor's degree in one of the behavioral sciences or related fields; or

45.11 (ii) current certification as an alcohol and drug counselor, level I, by the Upper Midwest
 45.12 Indian Council on Addictive Disorders; and

45.13 (5) has at least 2,000 hours of supervised experience working with individuals with
 45.14 substance use disorder.

45.15 (b) A ~~care~~ treatment coordinator must receive at least one hour of supervision regarding
 45.16 individual service delivery from an alcohol and drug counselor weekly.

45.17 Sec. 17. Minnesota Statutes 2018, section 245G.11, subdivision 8, is amended to read:

45.18 Subd. 8. **Recovery peer qualifications.** A recovery peer must:

45.19 (1) have a high school diploma or its equivalent;

45.20 (2) have a minimum of one year in recovery from substance use disorder;

45.21 (3) hold a current credential from ~~a certification body approved by the commissioner~~

45.22 ~~that demonstrates~~ the Minnesota Certification Board, the Upper Midwest Indian Council

45.23 on Addictive Disorders, or the National Association for Alcoholism and Drug Abuse

45.24 Counselors. An individual may also receive a credential from a tribal nation when providing

45.25 peer recovery support services in a tribally licensed program. The credential must demonstrate

45.26 skills and training in the domains of ethics and boundaries, advocacy, mentoring and

45.27 education, and recovery and wellness support; and

45.28 (4) receive ongoing supervision in areas specific to the domains of the recovery peer's

45.29 role by an alcohol and drug counselor ~~or an individual with a certification approved by the~~

45.30 ~~commissioner.~~

46.1 Sec. 18. Minnesota Statutes 2018, section 245G.12, is amended to read:

46.2 **245G.12 PROVIDER POLICIES AND PROCEDURES.**

46.3 A license holder must develop a written policies and procedures manual, indexed
46.4 according to section 245A.04, subdivision 14, paragraph (c), that provides staff members
46.5 immediate access to all policies and procedures and provides a client and other authorized
46.6 parties access to all policies and procedures. The manual must contain the following
46.7 materials:

46.8 (1) assessment and treatment planning policies, including screening for mental health
46.9 concerns and treatment objectives related to the client's identified mental health concerns
46.10 in the client's treatment plan;

46.11 (2) policies and procedures regarding HIV according to section 245A.19;

46.12 (3) the license holder's methods and resources to provide information on tuberculosis
46.13 and tuberculosis screening to each client and to report a known tuberculosis infection
46.14 according to section 144.4804;

46.15 (4) personnel policies according to section 245G.13;

46.16 (5) policies and procedures that protect a client's rights according to section 245G.15;

46.17 (6) a medical services plan according to section 245G.08;

46.18 (7) emergency procedures according to section 245G.16;

46.19 (8) policies and procedures for maintaining client records according to section 245G.09;

46.20 (9) procedures for reporting the maltreatment of minors according to section 626.556,
46.21 and vulnerable adults according to sections 245A.65, 626.557, and 626.5572;

46.22 (10) a description of treatment services, including the amount and type of services
46.23 provided and the program's treatment week;

46.24 (11) the methods used to achieve desired client outcomes;

46.25 (12) the hours of operation; and

46.26 (13) the target population served.

46.27 Sec. 19. Minnesota Statutes 2018, section 245G.13, subdivision 1, is amended to read:

46.28 Subdivision 1. **Personnel policy requirements.** A license holder must have written
46.29 personnel policies that are available to each staff member. The personnel policies must:

47.1 (1) ensure that staff member retention, promotion, job assignment, or pay are not affected
47.2 by a good faith communication between a staff member and the department, the Department
47.3 of Health, the ombudsman for mental health and developmental disabilities, law enforcement,
47.4 or a local agency for the investigation of a complaint regarding a client's rights, health, or
47.5 safety;

47.6 (2) contain a job description for each staff member position specifying responsibilities,
47.7 degree of authority to execute job responsibilities, and qualification requirements;

47.8 (3) provide for a job performance evaluation based on standards of job performance
47.9 conducted on a regular and continuing basis, including a written annual review;

47.10 (4) describe behavior that constitutes grounds for disciplinary action, suspension, or
47.11 dismissal, including policies that address staff member problematic substance use and the
47.12 requirements of section 245G.11, subdivision 1, policies prohibiting personal involvement
47.13 with a client in violation of chapter 604, and policies prohibiting client abuse described in
47.14 sections 245A.65, 626.556, 626.557, and 626.5572;

47.15 (5) identify how the program will identify whether behaviors or incidents are problematic
47.16 substance use, including a description of how the facility must address:

47.17 (i) receiving treatment for substance use within the period specified for the position in
47.18 the staff qualification requirements, including medication-assisted treatment;

47.19 (ii) substance use that negatively impacts the staff member's job performance;

47.20 (iii) ~~chemical~~ substance use that affects the credibility of treatment services with a client,
47.21 referral source, or other member of the community;

47.22 (iv) symptoms of intoxication or withdrawal on the job; and

47.23 (v) the circumstances under which an individual who participates in monitoring by the
47.24 health professional services program for a substance use or mental health disorder is able
47.25 to provide services to the program's clients;

47.26 (6) include a chart or description of the organizational structure indicating lines of
47.27 authority and responsibilities;

47.28 (7) include orientation within 24 working hours of starting for each new staff member
47.29 based on a written plan that, at a minimum, must provide training related to the staff member's
47.30 specific job responsibilities, policies and procedures, client confidentiality, HIV minimum
47.31 standards, and client needs; and

48.1 (8) include policies outlining the license holder's response to a staff member with a
48.2 behavior problem that interferes with the provision of treatment service.

48.3 Sec. 20. Minnesota Statutes 2018, section 245G.15, subdivision 1, is amended to read:

48.4 Subdivision 1. **Explanation.** A client has the rights identified in sections 144.651,
48.5 148F.165, and 253B.03, as applicable. The license holder must give each client ~~at~~ on the
48.6 day of service initiation a written statement of the client's rights and responsibilities. A staff
48.7 member must review the statement with a client at that time.

48.8 Sec. 21. Minnesota Statutes 2018, section 245G.15, subdivision 2, is amended to read:

48.9 Subd. 2. **Grievance procedure.** ~~At~~ On the day of service initiation, the license holder
48.10 must explain the grievance procedure to the client or the client's representative. The grievance
48.11 procedure must be posted in a place visible to clients, and made available upon a client's or
48.12 former client's request. The grievance procedure must require that:

48.13 (1) a staff member helps the client develop and process a grievance;

48.14 (2) current telephone numbers and addresses of the Department of Human Services,
48.15 Licensing Division; the Office of Ombudsman for Mental Health and Developmental
48.16 Disabilities; the Department of Health Office of Health Facilities Complaints; and the Board
48.17 of Behavioral Health and Therapy, when applicable, be made available to a client; and

48.18 (3) a license holder responds to the client's grievance within three days of a staff member's
48.19 receipt of the grievance, and the client may bring the grievance to the highest level of
48.20 authority in the program if not resolved by another staff member.

48.21 Sec. 22. Minnesota Statutes 2018, section 245G.18, subdivision 3, is amended to read:

48.22 Subd. 3. **Staff ratios.** ~~At least 25 percent of a counselor's scheduled work hours must~~
48.23 ~~be allocated to indirect services, including documentation of client services, coordination~~
48.24 ~~of services with others, treatment team meetings, and other duties.~~ A counseling group
48.25 consisting entirely of adolescents must not exceed 16 adolescents. It is the responsibility of
48.26 the license holder to determine an acceptable group size based on the needs of the clients.

48.27 Sec. 23. Minnesota Statutes 2018, section 245G.18, subdivision 5, is amended to read:

48.28 Subd. 5. **Program requirements.** In addition to the requirements specified in the client's
48.29 treatment plan under section 245G.06, programs serving an adolescent must include:

48.30 (1) coordination with the school system to address the client's academic needs;

49.1 (2) when appropriate, a plan that addresses the client's leisure activities without ~~chemical~~
 49.2 substance use; and

49.3 (3) a plan that addresses family involvement in the adolescent's treatment.

49.4 Sec. 24. Minnesota Statutes 2018, section 245G.22, subdivision 1, is amended to read:

49.5 Subdivision 1. **Additional requirements.** (a) An opioid treatment program licensed
 49.6 under this chapter must also: (1) comply with the requirements of this section and Code of
 49.7 Federal Regulations, title 42, part 8. ~~When federal guidance or interpretations are issued on~~
 49.8 ~~federal standards or requirements also required under this section, the federal guidance or~~
 49.9 ~~interpretations shall apply;~~ (2) be registered as a narcotic treatment program with the Drug
 49.10 Enforcement Administration; (3) be accredited through an accreditation body approved by
 49.11 the Division of Pharmacologic Therapy of the Center for Substance Abuse Treatment; (4)
 49.12 be certified through the Division of Pharmacologic Therapy of the Center for Substance
 49.13 Abuse Treatment; and (5) hold a license from the Minnesota Board of Pharmacy or equivalent
 49.14 agency.

49.15 (b) Where a standard in this section differs from a standard in an otherwise applicable
 49.16 administrative rule or statute, the standard of this section applies.

49.17 Sec. 25. Minnesota Statutes 2018, section 245G.22, subdivision 2, is amended to read:

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

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

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

49.25 (d) "Medical director" means a physician practitioner licensed to practice medicine in
 49.26 the jurisdiction that the opioid treatment program is located who assumes responsibility for
 49.27 administering all medical services performed by the program, either by performing the
 49.28 services directly or by delegating specific responsibility to (1) authorized program physicians;
 49.29 (2) advanced practice registered nurses, when approved by variance by the State Opioid
 49.30 Treatment Authority under section 254A.03 and the federal Substance Abuse and Mental
 49.31 Health Services Administration; or (3) health care professionals functioning under the
 49.32 medical director's direct supervision a practitioner of the opioid treatment program.

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

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

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

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

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

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

50.18 Sec. 26. Minnesota Statutes 2018, section 245G.22, subdivision 3, is amended to read:

50.19 Subd. 3. **Medication orders.** Before the program may administer or dispense a medication
50.20 used for the treatment of opioid use disorder:

50.21 (1) a client-specific order must be received from an appropriately credentialed ~~physician~~
50.22 practitioner who is enrolled as a Minnesota health care programs provider and meets all
50.23 applicable provider standards;

50.24 (2) the signed order must be documented in the client's record; and

50.25 (3) if the ~~physician~~ practitioner that issued the order is not able to sign the order when
50.26 issued, the unsigned order must be entered in the client record at the time it was received,
50.27 and the ~~physician~~ practitioner must review the documentation and sign the order in the
50.28 client's record within 72 hours of the medication being ordered. The license holder must
50.29 report to the commissioner any medication error that endangers a client's health, as
50.30 determined by the medical director.

51.1 Sec. 27. Minnesota Statutes 2018, section 245G.22, subdivision 4, is amended to read:

51.2 Subd. 4. **High dose requirements.** A client being administered or dispensed a dose
51.3 beyond that set forth in subdivision 6, paragraph (a), ~~clause (1)~~, that exceeds 150 milligrams
51.4 of methadone or 24 milligrams of buprenorphine daily, and for each subsequent increase,
51.5 must meet face-to-face with a prescribing ~~physician~~ practitioner. The meeting must occur
51.6 before the administration or dispensing of the increased medication dose.

51.7 Sec. 28. Minnesota Statutes 2018, section 245G.22, subdivision 6, is amended to read:

51.8 Subd. 6. **Criteria for unsupervised use.** (a) To limit the potential for diversion of
51.9 medication used for the treatment of opioid use disorder to the illicit market, medication
51.10 dispensed to a client for unsupervised use shall be subject to the ~~following~~ requirements:
51.11 of this subdivision.

51.12 ~~(1)~~ Any client in an opioid treatment program may receive a single unsupervised use
51.13 dose for a day that the clinic is closed for business, including Sundays and state and federal
51.14 holidays; ~~and~~.

51.15 ~~(2) other treatment program decisions on dispensing medications used for the treatment~~
51.16 ~~of opioid use disorder to a client for unsupervised use shall be determined by the medical~~
51.17 ~~director.~~

51.18 ~~(b) In determining whether a client may be permitted unsupervised use of medications,~~
51.19 ~~a physician~~ A practitioner with authority to prescribe must ~~consider~~ review and document
51.20 ~~the criteria in this paragraph. The criteria in this paragraph must also be considered~~ (c) when
51.21 determining whether dispensing medication for a client's unsupervised use is appropriate
51.22 to implement, increase, or ~~to~~ extend the amount of time between visits to the program. The
51.23 criteria are:

51.24 (1) absence of recent abuse of drugs including but not limited to opioids, non-narcotics,
51.25 and alcohol;

51.26 (2) regularity of program attendance;

51.27 (3) absence of serious behavioral problems at the program;

51.28 (4) absence of known recent criminal activity such as drug dealing;

51.29 (5) stability of the client's home environment and social relationships;

51.30 (6) length of time in comprehensive maintenance treatment;

52.1 (7) reasonable assurance that unsupervised use medication will be safely stored within
52.2 the client's home; and

52.3 (8) whether the rehabilitative benefit the client derived from decreasing the frequency
52.4 of program attendance outweighs the potential risks of diversion or unsupervised use.

52.5 (c) The determination, including the basis of the determination must be documented in
52.6 the client's medical record.

52.7 Sec. 29. Minnesota Statutes 2018, section 245G.22, subdivision 7, is amended to read:

52.8 Subd. 7. **Restrictions for unsupervised use of methadone hydrochloride.** (a) If a
52.9 ~~physician with authority to prescribe~~ medical director or prescribing practitioner assesses
52.10 and determines that a client meets the criteria in subdivision 6 and may be dispensed a
52.11 medication used for the treatment of opioid addiction, the restrictions in this subdivision
52.12 must be followed when the medication to be dispensed is methadone hydrochloride. The
52.13 results of the assessment must be contained in the client file.

52.14 (b) During the first 90 days of treatment, the unsupervised use medication supply must
52.15 be limited to a maximum of a single dose each week and the client shall ingest all other
52.16 doses under direct supervision.

52.17 (c) In the second 90 days of treatment, the unsupervised use medication supply must be
52.18 limited to two doses per week.

52.19 (d) In the third 90 days of treatment, the unsupervised use medication supply must not
52.20 exceed three doses per week.

52.21 (e) In the remaining months of the first year, a client may be given a maximum six-day
52.22 unsupervised use medication supply.

52.23 (f) After one year of continuous treatment, a client may be given a maximum two-week
52.24 unsupervised use medication supply.

52.25 (g) After two years of continuous treatment, a client may be given a maximum one-month
52.26 unsupervised use medication supply, but must make monthly visits to the program.

52.27 Sec. 30. Minnesota Statutes 2018, section 245G.22, subdivision 15, is amended to read:

52.28 Subd. 15. **Nonmedication treatment services; documentation.** (a) The program must
52.29 offer at least 50 consecutive minutes of individual or group therapy treatment services as
52.30 defined in section 245G.07, subdivision 1, paragraph (a), clause (1), per week, for the first
52.31 ten weeks following admission, and at least 50 consecutive minutes per month thereafter.

53.1 As clinically appropriate, the program may offer these services cumulatively and not
 53.2 consecutively in increments of no less than 15 minutes over the required time period, and
 53.3 for a total of 60 minutes of treatment services over the time period, and must document the
 53.4 reason for providing services cumulatively in the client's record. The program may offer
 53.5 additional levels of service when deemed clinically necessary.

53.6 (b) Notwithstanding the requirements of comprehensive assessments in section 245G.05,
 53.7 the assessment must be completed within 21 days from the day of service initiation.

53.8 (c) Notwithstanding the requirements of individual treatment plans set forth in section
 53.9 245G.06:

53.10 (1) treatment plan contents for a maintenance client are not required to include goals
 53.11 the client must reach to complete treatment and have services terminated;

53.12 (2) treatment plans for a client in a taper or detox status must include goals the client
 53.13 must reach to complete treatment and have services terminated;

53.14 (3) for the initial ten weeks after admission for all new admissions, readmissions, and
 53.15 transfers, ~~progress notes~~ a weekly treatment plan review must be entered in a client's file at
 53.16 ~~least weekly and be recorded in each of the six dimensions upon the development of the~~
 53.17 ~~treatment plan and thereafter~~ documented upon the completion of the treatment plan. Prior
 53.18 to the completion of the treatment plan, all services must be documented according to section
 53.19 245G.06, subdivision 3. Subsequently, the counselor must document ~~progress~~ treatment
 53.20 plan reviews in the six dimensions at least once monthly after the initial ten weeks or, when
 53.21 clinical need warrants, more frequently; ~~and~~.

53.22 ~~(4) upon the development of the treatment plan and thereafter, treatment plan reviews~~
 53.23 ~~must occur weekly, or after each treatment service, whichever is less frequent, for the first~~
 53.24 ~~ten weeks after the treatment plan is developed. Following the first ten weeks of treatment~~
 53.25 ~~plan reviews, reviews may occur monthly, unless the client's needs warrant more frequent~~
 53.26 ~~revisions or documentation.~~

53.27 Sec. 31. Minnesota Statutes 2018, section 245G.22, subdivision 16, is amended to read:

53.28 Subd. 16. **Prescription monitoring program.** (a) The program must develop and
 53.29 maintain a policy and procedure that requires the ongoing monitoring of the data from the
 53.30 prescription monitoring program (PMP) for each client. The policy and procedure must
 53.31 include how the program meets the requirements in paragraph (b).

53.32 (b) ~~If~~ When a medication used for the treatment of substance use disorder is administered
 53.33 or dispensed to a client, the license holder ~~shall be~~ is subject to the following requirements:

54.1 (1) upon admission to ~~a methadone clinic outpatient~~ an opioid treatment program, a
54.2 client must be notified in writing that the commissioner of human services and the medical
54.3 director must monitor the PMP to review the prescribed controlled drugs a client received;

54.4 (2) the medical director or the medical director's delegate must review the data from the
54.5 PMP described in section 152.126 before the client is ordered any controlled substance, as
54.6 defined under section 152.126, subdivision 1, paragraph (c), including medications used
54.7 for the treatment of opioid addiction, and the medical director's or the medical director's
54.8 delegate's subsequent reviews of the PMP data must occur at least every 90 days;

54.9 (3) a copy of the PMP data reviewed must be maintained in the client's file along with
54.10 the licensed practitioner's decision for frequency of ongoing PMP checks;

54.11 (4) when the PMP data contains a recent history of multiple prescribers or multiple
54.12 prescriptions for controlled substances, the physician's review of the data and subsequent
54.13 actions must be documented in the client's file within 72 hours and must contain the medical
54.14 director's determination of whether or not the prescriptions place the client at risk of harm
54.15 and the actions to be taken in response to the PMP findings. The provider must conduct
54.16 subsequent reviews of the PMP on a monthly basis; and

54.17 (5) if at any time the ~~medical director~~ licensed practitioner believes the use of the
54.18 controlled substances places the client at risk of harm, the program must seek the client's
54.19 consent to discuss the client's opioid treatment with other prescribers and must seek the
54.20 client's consent for the other prescriber to disclose to the opioid treatment program's medical
54.21 director the client's condition that formed the basis of the other prescriptions. If the
54.22 information is not obtained within seven days, the medical director must document whether
54.23 or not changes to the client's medication dose or number of unsupervised use doses are
54.24 necessary until the information is obtained.

54.25 (c) The commissioner shall collaborate with the Minnesota Board of Pharmacy to develop
54.26 and implement an electronic system for the commissioner to routinely access the PMP data
54.27 to determine whether any client enrolled in an opioid addiction treatment program licensed
54.28 according to this section was prescribed or dispensed a controlled substance in addition to
54.29 that administered or dispensed by the opioid addiction treatment program. When the
54.30 commissioner determines there have been multiple prescribers or multiple prescriptions of
54.31 controlled substances for a client, the commissioner shall:

54.32 (1) inform the medical director of the opioid treatment program only that the
54.33 commissioner determined the existence of multiple prescribers or multiple prescriptions of
54.34 controlled substances; and

55.1 (2) direct the medical director of the opioid treatment program to access the data directly,
55.2 review the effect of the multiple prescribers or multiple prescriptions, and document the
55.3 review.

55.4 (d) If determined necessary, the commissioner shall seek a federal waiver of, or exception
55.5 to, any applicable provision of Code of Federal Regulations, title 42, section 2.34 (c), before
55.6 implementing this subdivision.

55.7 Sec. 32. Minnesota Statutes 2018, section 245G.22, subdivision 17, is amended to read:

55.8 Subd. 17. **Policies and procedures.** (a) A license holder must develop and maintain the
55.9 policies and procedures required in this subdivision.

55.10 (b) For a program that is not open every day of the year, the license holder must maintain
55.11 a policy and procedure that ~~permits a client to receive a single~~ covers requirements under
55.12 section 245G.22, subdivisions 6 and 7. Unsupervised use of medication used for the treatment
55.13 of opioid use disorder for days that the program is closed for business, including; but not
55.14 limited to; Sundays and state and federal holidays ~~as required under subdivision 6, paragraph~~
55.15 ~~(a), clause (1),~~ must meet the requirements under section 245G.22, subdivisions 6 and 7.

55.16 (c) The license holder must maintain a policy and procedure that includes specific
55.17 measures to reduce the possibility of diversion. The policy and procedure must:

55.18 (1) specifically identify and define the responsibilities of the medical and administrative
55.19 staff for performing diversion control measures; and

55.20 (2) include a process for contacting no less than five percent of clients who have
55.21 unsupervised use of medication, excluding clients approved solely under subdivision 6,
55.22 paragraph (a), ~~clause (1)~~; to require clients to physically return to the program each month.
55.23 The system must require clients to return to the program within a stipulated time frame and
55.24 turn in all unused medication containers related to opioid use disorder treatment. The license
55.25 holder must document all related contacts on a central log and the outcome of the contact
55.26 for each client in the client's record. The medical director must be informed of each outcome
55.27 that results in a situation in which a possible diversion issue was identified.

55.28 (d) Medication used for the treatment of opioid use disorder must be ordered,
55.29 administered, and dispensed according to applicable state and federal regulations and the
55.30 standards set by applicable accreditation entities. If a medication order requires assessment
55.31 by the person administering or dispensing the medication to determine the amount to be
55.32 administered or dispensed, the assessment must be completed by an individual whose
55.33 professional scope of practice permits an assessment. For the purposes of enforcement of

56.1 this paragraph, the commissioner has the authority to monitor the person administering or
56.2 dispensing the medication for compliance with state and federal regulations and the relevant
56.3 standards of the license holder's accreditation agency and may issue licensing actions
56.4 according to sections 245A.05, 245A.06, and 245A.07, based on the commissioner's
56.5 determination of noncompliance.

56.6 (e) A counselor in an opioid treatment program must not supervise more than 50 clients.

56.7 Sec. 33. Minnesota Statutes 2018, section 245G.22, subdivision 19, is amended to read:

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

56.14 Sec. 34. Minnesota Statutes 2018, section 254B.04, is amended by adding a subdivision
56.15 to read:

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

56.23 Sec. 35. Minnesota Statutes 2018, section 254B.05, subdivision 1, is amended to read:

56.24 Subdivision 1. **Licensure required.** (a) Programs licensed by the commissioner are
56.25 eligible vendors. Hospitals may apply for and receive licenses to be eligible vendors,
56.26 notwithstanding the provisions of section 245A.03. American Indian programs that provide
56.27 substance use disorder treatment, extended care, transitional residence, or outpatient treatment
56.28 services, and are licensed by tribal government are eligible vendors.

56.29 (b) On July 1, 2018, or upon federal approval, whichever is later, a licensed professional
56.30 in private practice who meets the requirements of section 245G.11, subdivisions 1 and 4,
56.31 is an eligible vendor of a comprehensive assessment and assessment summary provided
56.32 according to section 245G.05, and treatment services provided according to sections 245G.06

57.1 and 245G.07, subdivision 1, paragraphs (a), clauses (1) to ~~(5)~~ (4), and (b); and subdivision
57.2 2.

57.3 (c) On July 1, 2018, or upon federal approval, whichever is later, a county is an eligible
57.4 vendor for a comprehensive assessment and assessment summary when provided by an
57.5 individual who meets the staffing credentials of section 245G.11, subdivisions 1 and 4, and
57.6 completed according to the requirements of section 245G.05. A county is an eligible vendor
57.7 of care coordination services when provided by an individual who meets the staffing
57.8 credentials of section 245G.11, subdivisions 1 and 7, and provided according to the
57.9 requirements of section 245G.07, subdivision 1, paragraph (a), clause ~~(7)~~ (5).

57.10 (d) On July 1, 2018, or upon federal approval, whichever is later, a recovery community
57.11 organization that meets certification requirements identified by the commissioner is an
57.12 eligible vendor of peer support services.

57.13 (e) Detoxification programs licensed under Minnesota Rules, parts 9530.6510 to
57.14 9530.6590, are not eligible vendors. Programs that are not licensed as a residential or
57.15 nonresidential substance use disorder treatment or withdrawal management program by the
57.16 commissioner or by tribal government or do not meet the requirements of subdivisions 1a
57.17 and 1b are not eligible vendors.

57.18 Sec. 36. Minnesota Statutes 2018, section 254B.05, subdivision 5, is amended to read:

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

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

57.22 (1) outpatient treatment services that are licensed according to sections 245G.01 to
57.23 245G.17, or applicable tribal license;

57.24 (2) ~~on July 1, 2018, or upon federal approval, whichever is later,~~ comprehensive
57.25 assessments provided according to sections 245.4863, paragraph (a), and 245G.05, ~~and~~
57.26 ~~Minnesota Rules, part 9530.6422;~~

57.27 (3) ~~on July 1, 2018, or upon federal approval, whichever is later,~~ care coordination
57.28 services provided according to section 245G.07, subdivision 1, paragraph (a), clause ~~(6)~~
57.29 (5);

57.30 (4) ~~on July 1, 2018, or upon federal approval, whichever is later,~~ peer recovery support
57.31 services provided according to section 245G.07, subdivision 1, ~~paragraph (a) 2,~~ clause ~~(5)~~
57.32 (8);

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

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

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

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

58.10 (9) hospital-based treatment services that are licensed according to sections 245G.01 to
58.11 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to
58.12 144.56;

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

58.17 (11) high-intensity residential treatment services that are licensed according to sections
58.18 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide 30 hours of
58.19 clinical services each week provided by a state-operated vendor or to clients who have been
58.20 civilly committed to the commissioner, present the most complex and difficult care needs,
58.21 and are a potential threat to the community; and

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

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

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

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

58.27 (A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter
58.28 9503; or

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

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

- 59.1 (A) a child care center under Minnesota Rules, chapter 9503; or
- 59.2 (B) a family child care home under Minnesota Rules, chapter 9502;
- 59.3 (2) culturally specific programs as defined in section 254B.01, subdivision 4a, or
- 59.4 programs or subprograms serving special populations, if the program or subprogram meets
- 59.5 the following requirements:
- 59.6 (i) is designed to address the unique needs of individuals who share a common language,
- 59.7 racial, ethnic, or social background;
- 59.8 (ii) is governed with significant input from individuals of that specific background; and
- 59.9 (iii) employs individuals to provide individual or group therapy, at least 50 percent of
- 59.10 whom are of that specific background, except when the common social background of the
- 59.11 individuals served is a traumatic brain injury or cognitive disability and the program employs
- 59.12 treatment staff who have the necessary professional training, as approved by the
- 59.13 commissioner, to serve clients with the specific disabilities that the program is designed to
- 59.14 serve;
- 59.15 (3) programs that offer medical services delivered by appropriately credentialed health
- 59.16 care staff in an amount equal to two hours per client per week if the medical needs of the
- 59.17 client and the nature and provision of any medical services provided are documented in the
- 59.18 client file; and
- 59.19 (4) programs that offer services to individuals with co-occurring mental health and
- 59.20 chemical dependency problems if:
- 59.21 (i) the program meets the co-occurring requirements in section 245G.20;
- 59.22 (ii) 25 percent of the counseling staff are licensed mental health professionals, as defined
- 59.23 in section 245.462, subdivision 18, clauses (1) to (6), or are students or licensing candidates
- 59.24 under the supervision of a licensed alcohol and drug counselor supervisor and licensed
- 59.25 mental health professional, except that no more than 50 percent of the mental health staff
- 59.26 may be students or licensing candidates with time documented to be directly related to
- 59.27 provisions of co-occurring services;
- 59.28 (iii) clients scoring positive on a standardized mental health screen receive a mental
- 59.29 health diagnostic assessment within ten days of admission;
- 59.30 (iv) the program has standards for multidisciplinary case review that include a monthly
- 59.31 review for each client that, at a minimum, includes a licensed mental health professional
- 59.32 and licensed alcohol and drug counselor, and their involvement in the review is documented;

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

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

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

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

60.13 (f) Subject to federal approval, chemical dependency services that are otherwise covered
60.14 as direct face-to-face services may be provided via two-way interactive video. The use of
60.15 two-way interactive video must be medically appropriate to the condition and needs of the
60.16 person being served. Reimbursement shall be at the same rates and under the same conditions
60.17 that would otherwise apply to direct face-to-face services. The interactive video equipment
60.18 and connection must comply with Medicare standards in effect at the time the service is
60.19 provided.

60.20 Sec. 37. Minnesota Statutes 2018, section 256B.0941, subdivision 1, is amended to read:

60.21 Subdivision 1. **Eligibility.** (a) An individual who is eligible for mental health treatment
60.22 services in a psychiatric residential treatment facility must meet all of the following criteria:

60.23 (1) before admission, services are determined to be medically necessary ~~by the state's~~
60.24 ~~medical review agent~~ according to Code of Federal Regulations, title 42, section 441.152;

60.25 (2) is younger than 21 years of age at the time of admission. Services may continue until
60.26 the individual meets criteria for discharge or reaches 22 years of age, whichever occurs
60.27 first;

60.28 (3) has a mental health diagnosis as defined in the most recent edition of the Diagnostic
60.29 and Statistical Manual for Mental Disorders, as well as clinical evidence of severe aggression,
60.30 or a finding that the individual is a risk to self or others;

60.31 (4) has functional impairment and a history of difficulty in functioning safely and
60.32 successfully in the community, school, home, or job; an inability to adequately care for

61.1 one's physical needs; or caregivers, guardians, or family members are unable to safely fulfill
61.2 the individual's needs;

61.3 (5) requires psychiatric residential treatment under the direction of a physician to improve
61.4 the individual's condition or prevent further regression so that services will no longer be
61.5 needed;

61.6 (6) utilized and exhausted other community-based mental health services, or clinical
61.7 evidence indicates that such services cannot provide the level of care needed; and

61.8 (7) was referred for treatment in a psychiatric residential treatment facility by a qualified
61.9 mental health professional licensed as defined in section 245.4871, subdivision 27, clauses
61.10 (1) to (6).

61.11 (b) A mental health professional making a referral shall submit documentation to the
61.12 state's medical review agent containing all information necessary to determine medical
61.13 necessity, including a standard diagnostic assessment completed within 180 days of the
61.14 individual's admission. Documentation shall include evidence of family participation in the
61.15 individual's treatment planning and signed consent for services.

61.16 Sec. 38. Minnesota Statutes 2018, section 256B.0941, subdivision 3, is amended to read:

61.17 Subd. 3. **Per diem rate.** (a) The commissioner shall establish a statewide per diem rate
61.18 for psychiatric residential treatment facility services for individuals 21 years of age or
61.19 younger. The rate for a provider must not exceed the rate charged by that provider for the
61.20 same service to other payers. Payment must not be made to more than one entity for each
61.21 individual for services provided under this section on a given day. The commissioner shall
61.22 set rates prospectively for the annual rate period. The commissioner shall require providers
61.23 to submit annual cost reports on a uniform cost reporting form and shall use submitted cost
61.24 reports to inform the rate-setting process. The cost reporting shall be done according to
61.25 federal requirements for Medicare cost reports.

61.26 (b) The following are included in the rate:

61.27 (1) costs necessary for licensure and accreditation, meeting all staffing standards for
61.28 participation, meeting all service standards for participation, meeting all requirements for
61.29 active treatment, maintaining medical records, conducting utilization review, meeting
61.30 inspection of care, and discharge planning. The direct services costs must be determined
61.31 using the actual cost of salaries, benefits, payroll taxes, and training of direct services staff
61.32 and service-related transportation; and

62.1 (2) payment for room and board provided by facilities meeting all accreditation and
62.2 licensing requirements for participation.

62.3 (c) A facility may submit a claim for payment outside of the per diem for professional
62.4 services arranged by and provided at the facility by an appropriately licensed professional
62.5 who is enrolled as a provider with Minnesota health care programs. Arranged services ~~must~~
62.6 ~~be billed by the facility on a separate claim, and the facility shall be responsible for payment~~
62.7 ~~to the provider~~ may be billed by either the facility or the licensed professional. These services
62.8 must be included in the individual plan of care and are subject to prior authorization ~~by the~~
62.9 ~~state's medical review agent.~~

62.10 (d) Medicaid shall reimburse for concurrent services as approved by the commissioner
62.11 to support continuity of care and successful discharge from the facility. "Concurrent services"
62.12 means services provided by another entity or provider while the individual is admitted to a
62.13 psychiatric residential treatment facility. Payment for concurrent services may be limited
62.14 and these services are subject to prior authorization by the state's medical review agent.
62.15 Concurrent services may include targeted case management, assertive community treatment,
62.16 clinical care consultation, team consultation, and treatment planning.

62.17 (e) Payment rates under this subdivision shall not include the costs of providing the
62.18 following services:

62.19 (1) educational services;

62.20 (2) acute medical care or specialty services for other medical conditions;

62.21 (3) dental services; and

62.22 (4) pharmacy drug costs.

62.23 (f) For purposes of this section, "actual cost" means costs that are allowable, allocable,
62.24 reasonable, and consistent with federal reimbursement requirements in Code of Federal
62.25 Regulations, title 48, chapter 1, part 31, relating to for-profit entities, and the Office of
62.26 Management and Budget Circular Number A-122, relating to nonprofit entities.

62.27 ARTICLE 4

62.28 CONTINUING CARE FOR OLDER ADULTS

62.29 Section 1. Minnesota Statutes 2018, section 245A.07, subdivision 3, is amended to read:

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

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

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

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

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

63.12 A license holder who has had a license suspended, revoked, or has been ordered to pay
63.13 a fine must be given notice of the action by certified mail or personal service. If mailed, the
63.14 notice must be mailed to the address shown on the application or the last known address of
63.15 the license holder. The notice must state in plain language the reasons the license was
63.16 suspended or revoked, or a fine was ordered.

63.17 (b) If the license was suspended or revoked, the notice must inform the license holder
63.18 of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts
63.19 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking
63.20 a license. The appeal of an order suspending or revoking a license must be made in writing
63.21 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
63.22 the commissioner within ten calendar days after the license holder receives notice that the
63.23 license has been suspended or revoked. If a request is made by personal service, it must be
63.24 received by the commissioner within ten calendar days after the license holder received the
63.25 order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a
63.26 timely appeal of an order suspending or revoking a license, the license holder may continue
63.27 to operate the program as provided in section 245A.04, subdivision 7, paragraphs (g) and
63.28 (h), until the commissioner issues a final order on the suspension or revocation.

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

64.1 personal service, it must be received by the commissioner within ten calendar days after
64.2 the license holder received the order.

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

64.10 (3) A license holder shall promptly notify the commissioner of human services, in writing,
64.11 when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the
64.12 commissioner determines that a violation has not been corrected as indicated by the order
64.13 to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify
64.14 the license holder by certified mail or personal service that a second fine has been assessed.
64.15 The license holder may appeal the second fine as provided under this subdivision.

64.16 (4) Fines shall be assessed as follows:

64.17 (i) the license holder shall forfeit \$1,000 for each determination of maltreatment of a
64.18 child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557
64.19 for which the license holder is determined responsible for the maltreatment under section
64.20 626.556, subdivision 10e, paragraph (i), or 626.557, subdivision 9c, paragraph ~~(e)~~ (f);

64.21 (ii) if the commissioner determines that a determination of maltreatment for which the
64.22 license holder is responsible is the result of maltreatment that meets the definition of serious
64.23 maltreatment as defined in section 245C.02, subdivision 18, the license holder shall forfeit
64.24 \$5,000;

64.25 (iii) for a program that operates out of the license holder's home and a program licensed
64.26 under Minnesota Rules, parts 9502.0300 to ~~9502.0495~~ 9502.0445, the fine assessed against
64.27 the license holder shall not exceed \$1,000 for each determination of maltreatment;

64.28 (iv) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule
64.29 governing matters of health, safety, or supervision, including but not limited to the provision
64.30 of adequate staff-to-child or adult ratios, and failure to comply with background study
64.31 requirements under chapter 245C; and

64.32 (v) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule
64.33 other than those subject to a \$5,000, \$1,000, or \$200 fine in items (i) to (iv).

65.1 For purposes of this section, "occurrence" means each violation identified in the
65.2 commissioner's fine order. Fines assessed against a license holder that holds a license to
65.3 provide home and community-based services, as identified in section 245D.03, subdivision
65.4 1, and a community residential setting or day services facility license under chapter 245D
65.5 where the services are provided, may be assessed against both licenses for the same
65.6 occurrence, but the combined amount of the fines shall not exceed the amount specified in
65.7 this clause for that occurrence.

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

65.12 (d) Except for background study violations involving the failure to comply with an order
65.13 to immediately remove an individual or an order to provide continuous, direct supervision,
65.14 the commissioner shall not issue a fine under paragraph (c) relating to a background study
65.15 violation to a license holder who self-corrects a background study violation before the
65.16 commissioner discovers the violation. A license holder who has previously exercised the
65.17 provisions of this paragraph to avoid a fine for a background study violation may not avoid
65.18 a fine for a subsequent background study violation unless at least 365 days have passed
65.19 since the license holder self-corrected the earlier background study violation.

65.20 **EFFECTIVE DATE.** This section is effective August 1, 2019.

65.21 Sec. 2. Minnesota Statutes 2018, section 245C.08, subdivision 1, is amended to read:

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

65.25 (1) information related to names of substantiated perpetrators of maltreatment of
65.26 vulnerable adults that has been received by the commissioner as required under section
65.27 626.557, subdivision 9c, paragraph ~~(j)~~ (n);

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

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

66.1 (4) information from the Bureau of Criminal Apprehension, including information
66.2 regarding a background study subject's registration in Minnesota as a predatory offender
66.3 under section 243.166;

66.4 (5) except as provided in clause (6), information received as a result of submission of
66.5 fingerprints for a national criminal history record check, as defined in section 245C.02,
66.6 subdivision 13c, when the commissioner has reasonable cause for a national criminal history
66.7 record check as defined under section 245C.02, subdivision 15a, or as required under section
66.8 144.057, subdivision 1, clause (2);

66.9 (6) for a background study related to a child foster care application for licensure, a
66.10 transfer of permanent legal and physical custody of a child under sections 260C.503 to
66.11 260C.515, or adoptions, and for a background study required for family child care, certified
66.12 license-exempt child care, child care centers, and legal nonlicensed child care authorized
66.13 under chapter 119B, the commissioner shall also review:

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

66.16 (ii) when the background study subject is 18 years of age or older, or a minor under
66.17 section 245C.05, subdivision 5a, paragraph (c), information received following submission
66.18 of fingerprints for a national criminal history record check; and

66.19 (7) for a background study required for family child care, certified license-exempt child
66.20 care centers, licensed child care centers, and legal nonlicensed child care authorized under
66.21 chapter 119B, the background study shall also include, to the extent practicable, a name
66.22 and date-of-birth search of the National Sex Offender Public website.

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

66.27 (c) The commissioner shall also review criminal case information received according
66.28 to section 245C.04, subdivision 4a, from the Minnesota court information system that relates
66.29 to individuals who have already been studied under this chapter and who remain affiliated
66.30 with the agency that initiated the background study.

66.31 (d) When the commissioner has reasonable cause to believe that the identity of a
66.32 background study subject is uncertain, the commissioner may require the subject to provide
66.33 a set of classifiable fingerprints for purposes of completing a fingerprint-based record check

67.1 with the Bureau of Criminal Apprehension. Fingerprints collected under this paragraph
67.2 shall not be saved by the commissioner after they have been used to verify the identity of
67.3 the background study subject against the particular criminal record in question.

67.4 (e) The commissioner may inform the entity that initiated a background study under
67.5 NETStudy 2.0 of the status of processing of the subject's fingerprints.

67.6 **EFFECTIVE DATE.** This section is effective August 1, 2019.

67.7 Sec. 3. Minnesota Statutes 2018, section 256.021, subdivision 2, is amended to read:

67.8 Subd. 2. **Review procedure.** (a) If a vulnerable adult or an interested person acting on
67.9 behalf of the vulnerable adult requests a review under this section, the panel shall review
67.10 the request at its next quarterly meeting. If the next quarterly meeting is within ~~ten~~ 30
67.11 calendar days of the panel's receipt of the request for review, the review may be delayed
67.12 until the next subsequent meeting. The panel shall review the request and the investigation
67.13 memorandum and may review any other data on the investigation maintained by the lead
67.14 investigative agency that are pertinent and necessary to its review of the final disposition.
67.15 If more than one person requests a review under this section with respect to the same final
67.16 disposition, the review panel shall combine the requests into one review. The panel shall
67.17 submit its written request for the case file and other documentation relevant to the review
67.18 to the supervisor of the investigator conducting the investigation under review.

67.19 (b) Within 30 days of the review under this section, the panel shall notify the director
67.20 or manager of the lead investigative agency and the vulnerable adult or interested person
67.21 who requested the review as to whether the panel concurs with the final disposition or
67.22 whether the lead investigative agency must reconsider the final disposition. If the panel
67.23 determines that the lead investigative agency must reconsider the final disposition, the panel
67.24 must make specific recommendations to the director or manager of the lead investigative
67.25 agency. The recommendation must include an explanation of the factors that form the basis
67.26 of the recommendation to reconsider the final disposition and must specifically identify the
67.27 disputed facts, the disputed application of maltreatment definitions, the disputed application
67.28 of responsibility for maltreatment, and the disputed weighing of evidence, whichever apply.
67.29 Within 30 days the lead investigative agency shall conduct a review and report back to the
67.30 panel with its determination and the specific rationale for its final disposition. At a minimum,
67.31 the specific rationale must include a detailed response to each of the factors identified by
67.32 the panel that formed the basis for the recommendations of the panel.

67.33 (c) Upon receiving the report of reconsideration from the lead investigative agency, the
67.34 panel shall communicate the decision in writing to the vulnerable adult or interested person

68.1 acting on behalf of the vulnerable adult who requested the review. The panel shall include
 68.2 the specific rationale provided by the lead investigative agency as part of the communication.

68.3 **EFFECTIVE DATE.** This section is effective August 1, 2019.

68.4 Sec. 4. Minnesota Statutes 2018, section 256R.02, subdivision 4, is amended to read:

68.5 Subd. 4. **Administrative costs.** "Administrative costs" means the identifiable costs for
 68.6 administering the overall activities of the nursing home. These costs include salaries and
 68.7 wages of the administrator, assistant administrator, business office employees, security
 68.8 guards, purchasing and inventory employees, and associated fringe benefits and payroll
 68.9 taxes, fees, contracts, or purchases related to business office functions, licenses, permits
 68.10 except as provided in the external fixed costs category, employee recognition, travel including
 68.11 meals and lodging, all training except as specified in subdivision 17, voice and data
 68.12 communication or transmission, office supplies, property and liability insurance and other
 68.13 forms of insurance except insurance that is a fringe benefit under subdivision 22, personnel
 68.14 recruitment, legal services, accounting services, management or business consultants, data
 68.15 processing, information technology, website, central or home office costs, business meetings
 68.16 and seminars, postage, fees for professional organizations, subscriptions, security services,
 68.17 nonpromotional advertising, board of directors fees, working capital interest expense, bad
 68.18 debts, bad debt collection fees, and costs incurred for travel and housing for persons employed
 68.19 by a supplemental nursing services agency as defined in section 144A.70, subdivision 6.

68.20 **EFFECTIVE DATE.** This section is effective August 1, 2019.

68.21 Sec. 5. Minnesota Statutes 2018, section 256R.02, subdivision 17, is amended to read:

68.22 Subd. 17. **Direct care costs.** "Direct care costs" means costs for the wages of nursing
 68.23 administration, direct care registered nurses, licensed practical nurses, certified nursing
 68.24 assistants, trained medication aides, employees conducting training in resident care topics
 68.25 and associated fringe benefits and payroll taxes; services from a Minnesota registered
 68.26 supplemental nursing services agency up to the maximum allowable charges under section
 68.27 144A.74, excluding associated lodging and travel costs; supplies that are stocked at nursing
 68.28 stations or on the floor and distributed or used individually, including, but not limited to:
 68.29 alcohol, applicators, cotton balls, incontinence pads, disposable ice bags, dressings, bandages,
 68.30 water pitchers, tongue depressors, disposable gloves, enemas, enema equipment, personal
 68.31 hygiene soap, medication cups, diapers, ~~plastic waste bags~~, sanitary products, disposable
 68.32 thermometers, hypodermic needles and syringes, clinical reagents or similar diagnostic
 68.33 agents, drugs ~~that are not paid~~ payable on a separate fee schedule by the medical assistance

69.1 program or any other payer, and ~~technology-related~~ clinical software costs specific to the
 69.2 provision of nursing care to residents, such as electronic charting systems; costs of materials
 69.3 used for resident care training, and training courses outside of the facility attended by direct
 69.4 care staff on resident care topics; and costs for nurse consultants, pharmacy consultants,
 69.5 and medical directors. Salaries and payroll taxes for nurse consultants who work out of a
 69.6 central office must be allocated proportionately by total resident days or by direct
 69.7 identification to the nursing facilities served by those consultants.

69.8 **EFFECTIVE DATE.** This section is effective August 1, 2019.

69.9 Sec. 6. Minnesota Statutes 2018, section 256R.02, subdivision 18, is amended to read:

69.10 Subd. 18. **Employer health insurance costs.** "Employer health insurance costs" means
 69.11 premium expenses for group coverage; and actual expenses incurred for self-insured plans,
 69.12 including reinsurance; actual claims paid, stop loss premiums, plan fees, and employer
 69.13 contributions to employee health reimbursement and health savings accounts. Actual costs
 69.14 of self-insurance plans must not include any allowance for future funding unless the plan
 69.15 meets the Medicare requirements for reporting on a premium basis when the Medicare
 69.16 regulations define the actual costs. Premium and expense costs and contributions are
 69.17 allowable for (1) all employees and (2) the spouse and dependents of those employees who
 69.18 are employed on average at least 30 hours per week.

69.19 **EFFECTIVE DATE.** This section is effective August 1, 2019.

69.20 Sec. 7. Minnesota Statutes 2018, section 256R.02, subdivision 19, is amended to read:

69.21 Subd. 19. **External fixed costs.** "External fixed costs" means costs related to the nursing
 69.22 home surcharge under section 256.9657, subdivision 1; licensure fees under section 144.122;
 69.23 family advisory council fee under section 144A.33; scholarships under section 256R.37;
 69.24 planned closure rate adjustments under section 256R.40; consolidation rate adjustments
 69.25 under section 144A.071, subdivisions 4c, paragraph (a), clauses (5) and (6), and 4d;
 69.26 single-bed room incentives under section 256R.41; property taxes, special assessments, and
 69.27 payments in lieu of taxes; employer health insurance costs; quality improvement incentive
 69.28 payment rate adjustments under section 256R.39; performance-based incentive payments
 69.29 under section 256R.38; special dietary needs under section 256R.51; ~~rate adjustments for~~
 69.30 ~~compensation-related costs for minimum wage changes under section 256R.49 provided~~
 69.31 ~~on or after January 1, 2018;~~ and Public Employees Retirement Association employer costs.

69.32 **EFFECTIVE DATE.** This section is effective August 1, 2019.

70.1 Sec. 8. Minnesota Statutes 2018, section 256R.02, subdivision 29, is amended to read:

70.2 Subd. 29. **Maintenance and plant operations costs.** "Maintenance and plant operations
70.3 costs" means the costs for the salaries and wages of the maintenance supervisor, engineers,
70.4 heating-plant employees, and other maintenance employees and associated fringe benefits
70.5 and payroll taxes. It also includes identifiable costs for maintenance and operation of the
70.6 building and grounds, including, but not limited to, fuel, electricity, plastic waste bags,
70.7 medical waste and garbage removal, water, sewer, supplies, tools, and repairs, and equipment
70.8 that is not required to be included in the property allowance.

70.9 **EFFECTIVE DATE.** This section is effective August 1, 2019.

70.10 Sec. 9. Minnesota Statutes 2018, section 256R.02, subdivision 42a, is amended to read:

70.11 Subd. 42a. **Real estate taxes.** "Real estate taxes" means the real estate tax liability shown
70.12 on the annual property tax ~~statement~~ statements of the nursing facility for the reporting
70.13 period. The term does not include personnel costs or fees for late payment.

70.14 **EFFECTIVE DATE.** This section is effective August 1, 2019.

70.15 Sec. 10. Minnesota Statutes 2018, section 256R.02, subdivision 48a, is amended to read:

70.16 Subd. 48a. **Special assessments.** "Special assessments" means the actual special
70.17 assessments and related interest paid during the reporting period that are involuntary costs.
70.18 The term does not include personnel costs ~~or~~ fees for late payment, or special assessments
70.19 for projects that are reimbursed in the property allowance.

70.20 **EFFECTIVE DATE.** This section is effective August 1, 2019.

70.21 Sec. 11. Minnesota Statutes 2018, section 256R.07, subdivision 1, is amended to read:

70.22 Subdivision 1. **Criteria.** A nursing facility shall keep adequate documentation. In order
70.23 to be adequate, documentation must:

70.24 (1) be maintained in orderly, well-organized files;

70.25 (2) not include documentation of more than one nursing facility in one set of files unless
70.26 transactions may be traced by the commissioner to the nursing facility's annual cost report;

70.27 (3) include a paid invoice or copy of a paid invoice with date of purchase, vendor name
70.28 and address, purchaser name and delivery destination address, listing of items or services
70.29 purchased, cost of items purchased, account number to which the cost is posted, and a
70.30 breakdown of any allocation of costs between accounts or nursing facilities. If any of the

71.1 information is not available, the nursing facility shall document its good faith attempt to
71.2 obtain the information;

71.3 (4) include contracts, agreements, amortization schedules, mortgages, other debt
71.4 instruments, and all other documents necessary to explain the nursing facility's costs or
71.5 revenues; and

71.6 (5) be retained by the nursing facility to support the five most recent annual cost reports.
71.7 The commissioner may extend the period of retention if the field audit was postponed
71.8 because of inadequate record keeping or accounting practices as in section 256R.13,
71.9 subdivisions 2 and 4, the records are necessary to resolve a pending appeal, or the records
71.10 are required for the enforcement of sections 256R.04; 256R.05, subdivision 2; 256R.06,
71.11 subdivisions 2, 6, and 7; 256R.08, subdivisions 1 ~~to~~ and 3; and 256R.09, subdivisions 3 and
71.12 4.

71.13 **EFFECTIVE DATE.** This section is effective August 1, 2019.

71.14 Sec. 12. Minnesota Statutes 2018, section 256R.07, subdivision 2, is amended to read:

71.15 Subd. 2. **Documentation of compensation.** Compensation for personal services,
71.16 regardless of whether treated as identifiable costs or costs that are not identifiable, must be
71.17 documented on payroll records. Payrolls must be supported by time and attendance or
71.18 equivalent records for individual employees. Salaries and wages of employees which are
71.19 allocated to more than one cost category must be supported by time distribution records.
71.20 ~~The method used must produce a proportional distribution of actual time spent, or an accurate~~
71.21 ~~estimate of time spent performing assigned duties. The nursing facility that chooses to~~
71.22 ~~estimate time spent must use a statistically valid method. The compensation must reflect~~
71.23 ~~an amount proportionate to a full-time basis if the services are rendered on less than a~~
71.24 ~~full-time basis.~~ Salary allocations are allowable using the Medicare approved allocation
71.25 basis and methodology only if the salary costs cannot be directly determined including when
71.26 employees provide shared services to noncovered operations.

71.27 **EFFECTIVE DATE.** This section is effective August 1, 2019.

71.28 Sec. 13. Minnesota Statutes 2018, section 256R.09, subdivision 2, is amended to read:

71.29 Subd. 2. **Reporting of statistical and cost information.** All nursing facilities shall
71.30 provide information annually to the commissioner on a form and in a manner determined
71.31 by the commissioner. The commissioner may separately require facilities to submit in a
71.32 manner specified by the commissioner documentation of statistical and cost information

72.1 included in the report to ensure accuracy in establishing payment rates and to perform audit
 72.2 and appeal review functions under this chapter. The commissioner may also require nursing
 72.3 facilities to provide statistical and cost information for a subset of the items in the annual
 72.4 report on a semiannual basis. Nursing facilities shall report only costs directly related to the
 72.5 operation of the nursing facility. The facility shall not include costs which are separately
 72.6 ~~reimbursed~~ reimbursable by residents, medical assistance, or other payors. Allocations of
 72.7 costs from central, affiliated, or corporate office and related organization transactions shall
 72.8 be reported according to sections 256R.07, subdivision 3, and 256R.12, subdivisions 1 to
 72.9 7. The commissioner shall not grant facilities extensions to the filing deadline.

72.10 **EFFECTIVE DATE.** This section is effective August 1, 2019.

72.11 Sec. 14. Minnesota Statutes 2018, section 256R.10, subdivision 1, is amended to read:

72.12 Subdivision 1. **General cost principles.** Only costs determined to be allowable shall be
 72.13 used to compute the total payment rate for nursing facilities participating in the medical
 72.14 assistance program. To be considered an allowable cost for rate-setting purposes, a cost
 72.15 must satisfy the following criteria:

72.16 (1) the cost is ordinary, necessary, and related to resident care;

72.17 (2) the cost is what a prudent and cost-conscious business person would pay for the
 72.18 specific good or service in the open market in an arm's-length transaction;

72.19 (3) the cost is for goods or services actually provided in the nursing facility;

72.20 (4) incurred costs that are not salary or wage costs must be paid within 180 days of the
 72.21 end of the reporting period to be allowable costs of the reporting period;

72.22 (5) the cost effects of transactions that have the effect of circumventing this chapter are
 72.23 not allowable under the principle that the substance of the transaction shall prevail over
 72.24 form; and

72.25 ~~(5)~~ (6) costs that are incurred due to management inefficiency, unnecessary care or
 72.26 facilities, agreements not to compete, or activities not commonly accepted in the nursing
 72.27 facility care field are not allowable.

72.28 **EFFECTIVE DATE.** This section is effective August 1, 2019.

72.29 Sec. 15. Minnesota Statutes 2018, section 256R.13, subdivision 4, is amended to read:

72.30 Subd. 4. **Extended record retention requirements.** The commissioner shall extend the
 72.31 period for retention of records under section 256R.09, subdivision 3, for purposes of

73.1 performing field audits as necessary to enforce sections 256R.04; 256R.05, subdivision 2;
 73.2 256R.06, subdivisions 2, 6, and 7; 256R.08, subdivisions 1 ~~to~~ and 3; and 256R.09,
 73.3 subdivisions 3 and 4, with written notice to the facility postmarked no later than 90 days
 73.4 prior to the expiration of the record retention requirement.

73.5 **EFFECTIVE DATE.** This section is effective August 1, 2019.

73.6 Sec. 16. Minnesota Statutes 2018, section 256R.39, is amended to read:

73.7 **256R.39 QUALITY IMPROVEMENT INCENTIVE PROGRAM.**

73.8 The commissioner shall develop a quality improvement incentive program in consultation
 73.9 with stakeholders. The annual funding pool available for quality improvement incentive
 73.10 payments shall be equal to 0.8 percent of all operating payments, not including any rate
 73.11 components resulting from equitable cost-sharing for publicly owned nursing facility program
 73.12 participation under section 256R.48, critical access nursing facility program participation
 73.13 under section 256R.47, or performance-based incentive payment program participation
 73.14 under section 256R.38. ~~For the period from October 1, 2015, to December 31, 2016, rate~~
 73.15 ~~adjustments provided under this section shall be effective for 15 months. Beginning January~~
 73.16 ~~1, 2017,~~ Annual rate adjustments provided under this section shall be effective for one rate
 73.17 year.

73.18 **EFFECTIVE DATE.** This section is effective August 1, 2019.

73.19 Sec. 17. Minnesota Statutes 2018, section 626.557, subdivision 3, is amended to read:

73.20 Subd. 3. **Timing of report.** (a) A mandated reporter who has reason to believe that a
 73.21 vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable
 73.22 adult has sustained a physical injury which is not reasonably explained shall immediately
 73.23 report the information to the common entry point. If an individual is a vulnerable adult
 73.24 solely because the individual ~~is admitted to a facility~~ receives licensed services, a mandated
 73.25 reporter is not required to report suspected maltreatment of the individual that occurred
 73.26 prior to ~~admission~~ receiving licensed services, unless:

73.27 (1) the individual ~~was admitted to the facility~~ received licensed services from another
 73.28 ~~facility~~ licensed provider and the reporter has reason to believe the vulnerable adult was
 73.29 maltreated ~~in the previous facility~~ during the time period in which the vulnerable adult
 73.30 received licensed services; or

73.31 (2) the reporter knows or has reason to believe that the individual is a vulnerable adult
 73.32 as defined in section 626.5572, subdivision 21, paragraph (a), clause (4).

74.1 (b) A person not required to report under the provisions of this section may voluntarily
74.2 report as described above.

74.3 (c) Nothing in this section requires a report of known or suspected maltreatment, if the
74.4 reporter knows or has reason to know that a report has been made to the common entry
74.5 point.

74.6 (d) Nothing in this section shall preclude a reporter from also reporting to a law
74.7 enforcement agency.

74.8 (e) A mandated reporter who knows or has reason to believe that an error under section
74.9 626.5572, subdivision 17, paragraph (c), clause (5), occurred must make a report under this
74.10 subdivision. If the reporter or a facility licensed provider, at any time believes that an
74.11 investigation by a lead investigative agency will determine or should determine that the
74.12 reported error was not neglect according to the criteria under section 626.5572, subdivision
74.13 17, paragraph (c), clause (5), the reporter or facility licensed provider may provide to the
74.14 common entry point or directly to the lead investigative agency information explaining how
74.15 the event meets the criteria under section 626.5572, subdivision 17, paragraph (c), clause
74.16 (5). The lead investigative agency shall consider this information when making an initial
74.17 disposition of the report under subdivision 9c.

74.18 Sec. 18. Minnesota Statutes 2018, section 626.557, subdivision 3a, is amended to read:

74.19 Subd. 3a. **Report not required.** The following events are not required to be reported
74.20 under this section:

74.21 (1) A circumstance where federal law specifically prohibits a person from disclosing
74.22 patient identifying information in connection with a report of suspected maltreatment, unless
74.23 the vulnerable adult, or the vulnerable adult's guardian, conservator, or legal representative,
74.24 has consented to disclosure in a manner which conforms to federal requirements. ~~Facilities~~
74.25 Licensed providers whose patients or residents are covered by such a federal law shall seek
74.26 consent to the disclosure of suspected maltreatment from each patient or resident, or a
74.27 guardian, conservator, or legal representative, upon the patient's or resident's ~~admission to~~
74.28 the facility receipt of licensed services. Persons who are prohibited by federal law from
74.29 reporting an incident of suspected maltreatment shall immediately seek consent to make a
74.30 report.

74.31 (2) Verbal or physical aggression occurring between patients, residents, or clients of a
74.32 facility licensed provider, or self-abusive behavior by these persons does not constitute
74.33 abuse unless the behavior causes serious harm. ~~The operator of the facility or a designee~~

75.1 licensed provider shall record incidents of aggression and self-abusive behavior to facilitate
75.2 review by licensing agencies and county and local welfare agencies.

75.3 (3) Accidents as defined in section 626.5572, subdivision 3.

75.4 (4) Events ~~occurring in a facility~~ that result from ~~an individual's~~ a licensed provider's
75.5 error in the provision of therapeutic conduct to a vulnerable adult, as provided in section
75.6 626.5572, subdivision 17, paragraph (c), clause (4).

75.7 (5) Nothing in this section shall be construed to require a report of financial exploitation,
75.8 as defined in section 626.5572, subdivision 9, solely on the basis of the transfer of money
75.9 or property by gift or as compensation for services rendered.

75.10 Sec. 19. Minnesota Statutes 2018, section 626.557, subdivision 4, is amended to read:

75.11 Subd. 4. **Reporting.** (a) Except as provided in paragraph (b), a mandated reporter shall
75.12 immediately make an oral report to the common entry point. ~~The common entry point may~~
75.13 ~~accept electronic reports submitted through a web-based reporting system established by~~
75.14 ~~the commissioner. Use of a telecommunications device for the deaf or other similar device~~
75.15 ~~shall be considered an oral report. The common entry point may not require written reports.~~
75.16 To the extent possible, the report must be of sufficient content to identify the vulnerable
75.17 adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of
75.18 previous maltreatment, the name and address of the reporter, the time, date, and location of
75.19 the incident, and any other information that the reporter believes might be helpful in
75.20 investigating the suspected maltreatment. A mandated reporter may disclose not public data,
75.21 as defined in section 13.02, and medical records under sections 144.291 to 144.298, to the
75.22 extent necessary to comply with this subdivision.

75.23 (b) A boarding care home that is licensed under sections 144.50 to 144.58 and certified
75.24 under Title 19 of the Social Security Act, a nursing home that is licensed under section
75.25 144A.02 and certified under Title 18 or Title 19 of the Social Security Act, or a hospital
75.26 that is licensed under sections 144.50 to 144.58 and has swing beds certified under Code
75.27 of Federal Regulations, title 42, section 482.66, may submit a report electronically to the
75.28 common entry point instead of submitting an oral report. The report may be a duplicate of
75.29 the initial report the ~~facility~~ licensed provider submits electronically to the commissioner
75.30 of health to comply with the reporting requirements under Code of Federal Regulations,
75.31 title 42, section 483.13. The commissioner of health may modify these reporting requirements
75.32 to include items required under paragraph (a) that are not currently included in the electronic
75.33 reporting form.

76.1 **EFFECTIVE DATE.** This section is effective August 1, 2019.

76.2 Sec. 20. Minnesota Statutes 2018, section 626.557, subdivision 4a, is amended to read:

76.3 Subd. 4a. **Internal reporting of maltreatment.** (a) Each facility licensed provider shall
 76.4 establish and enforce an ongoing written procedure in compliance with applicable licensing
 76.5 rules to ensure that all cases of suspected maltreatment are reported. If a facility licensed
 76.6 provider has an internal reporting procedure, a mandated reporter may meet the reporting
 76.7 requirements of this section by reporting internally. However, the facility licensed provider
 76.8 remains responsible for complying with the immediate reporting requirements of this section.

76.9 (b) A facility licensed provider with an internal reporting procedure that receives an
 76.10 internal report by a mandated reporter shall give the mandated reporter a written notice
 76.11 stating whether the facility licensed provider has reported the incident to the common entry
 76.12 point. The written notice must be provided within two working days and in a manner that
 76.13 protects the confidentiality of the reporter.

76.14 (c) The written response to the mandated reporter shall note that if the mandated reporter
 76.15 is not satisfied with the action taken by the facility licensed provider on whether to report
 76.16 the incident to the common entry point, then the mandated reporter may report externally.

76.17 (d) A facility licensed provider may not prohibit a mandated reporter from reporting
 76.18 externally, and a facility licensed provider is prohibited from retaliating against a mandated
 76.19 reporter who reports an incident to the common entry point in good faith. The written notice
 76.20 by the facility licensed provider must inform the mandated reporter of this protection from
 76.21 retaliatory measures by the facility licensed provider against the mandated reporter for
 76.22 reporting externally.

76.23 Sec. 21. Minnesota Statutes 2018, section 626.557, subdivision 6, is amended to read:

76.24 Subd. 6. **Falsified reports.** A person or facility licensed provider who intentionally
 76.25 makes a false report under the provisions of this section shall be liable in a civil suit for any
 76.26 actual damages suffered by the reported facility licensed provider, person or persons and
 76.27 for punitive damages up to \$10,000 and attorney fees.

76.28 Sec. 22. Minnesota Statutes 2018, section 626.557, subdivision 9, is amended to read:

76.29 Subd. 9. **Common entry point designation.** (a) ~~Each county board shall designate a~~
 76.30 ~~common entry point for reports of suspected maltreatment, for use until the commissioner~~
 76.31 ~~of human services establishes a common entry point. Two or more county boards may~~
 76.32 ~~jointly designate a single common entry point.~~ The commissioner of human services shall

77.1 establish a common entry point ~~effective July 1, 2015~~. The common entry point is the unit
77.2 responsible for receiving the report of suspected maltreatment under this section.

77.3 (b) The common entry point must be available 24 hours per day to take calls from
77.4 reporters of suspected maltreatment. The common entry point shall use a standard intake
77.5 form that includes:

77.6 (1) the time and date of the report;

77.7 (2) the name, relationship, and identifying and contact information for the alleged victim
77.8 and alleged perpetrator;

77.9 ~~(3) the name, address, and telephone number of the person reporting; relationship, and~~
77.10 contact information for the:

77.11 (i) reporter;

77.12 (ii) initial reporter, witnesses, and persons who may have knowledge about the
77.13 maltreatment; and

77.14 (iii) alleged victim's legal surrogate and persons who may provide support to the alleged
77.15 victim;

77.16 (4) the basis of vulnerability for the alleged victim;

77.17 ~~(3)~~ (5) the time, date, and location of the incident;

77.18 ~~(4) the names of the persons involved, including but not limited to, perpetrators, alleged~~
77.19 ~~victims, and witnesses;~~

77.20 ~~(5) whether there was a risk of imminent danger~~ (6) the immediate safety risk to the
77.21 alleged victim;

77.22 ~~(6)~~ (7) a description of the suspected maltreatment;

77.23 ~~(7) the disability, if any, of the alleged victim;~~

77.24 ~~(8) the relationship of the alleged perpetrator to the alleged victim;~~

77.25 (8) the impact of the suspected maltreatment on the alleged victim;

77.26 (9) whether a ~~facility~~ licensed provider was involved and, if so, which agency licenses
77.27 the ~~facility~~ licensed provider;

77.28 (10) the actions taken to protect the alleged victim;

77.29 ~~(10) any action taken~~ (11) the required notifications and referrals made by the common
77.30 entry point; and

78.1 ~~(11) whether law enforcement has been notified;~~

78.2 (12) whether the reporter wishes to receive notification of the ~~initial and final reports;~~
78.3 ~~and disposition.~~

78.4 ~~(13) if the report is from a facility with an internal reporting procedure, the name, mailing~~
78.5 ~~address, and telephone number of the person who initiated the report internally.~~

78.6 (c) The common entry point is not required to complete each item on the form prior to
78.7 dispatching the report to the appropriate lead investigative agency.

78.8 (d) The common entry point shall immediately report to a law enforcement agency any
78.9 incident in which there is reason to believe a crime has been committed.

78.10 (e) If a report is initially made to a law enforcement agency or a lead investigative agency,
78.11 those agencies shall take the report on the appropriate common entry point intake forms
78.12 and immediately forward a copy to the common entry point.

78.13 (f) The common entry point staff must receive training on how to screen and dispatch
78.14 reports efficiently and in accordance with this section.

78.15 (g) The commissioner of human services shall maintain a centralized database for the
78.16 collection of common entry point data, lead investigative agency data including maltreatment
78.17 report disposition, and appeals data. The common entry point shall have access to the
78.18 centralized database and must log the reports into the database ~~and immediately identify~~
78.19 ~~and locate prior reports of abuse, neglect, or exploitation.~~

78.20 (h) When appropriate, the common entry point staff must refer calls that do not allege
78.21 the abuse, neglect, or exploitation of a vulnerable adult to other organizations that might
78.22 resolve the reporter's concerns.

78.23 (i) A common entry point must be operated in a manner that enables the commissioner
78.24 of human services to:

78.25 (1) track critical steps in the reporting, evaluation, referral, response, disposition, and
78.26 investigative process to ensure compliance with all requirements for all reports;

78.27 (2) maintain data to facilitate the production of aggregate statistical reports for monitoring
78.28 patterns of abuse, neglect, or exploitation;

78.29 (3) serve as a resource for the evaluation, management, and planning of preventative
78.30 and remedial services for vulnerable adults who have been subject to abuse, neglect, or
78.31 exploitation;

79.1 (4) set standards, priorities, and policies to maximize the efficiency and effectiveness
79.2 of the common entry point; and

79.3 (5) track and manage consumer complaints related to the common entry point.

79.4 (j) The commissioners of human services and health shall collaborate on the creation of
79.5 a system for referring reports to the lead investigative agencies. This system shall enable
79.6 the commissioner of human services to track critical steps in the reporting, evaluation,
79.7 referral, response, disposition, investigation, notification, determination, and appeal processes.

79.8 **EFFECTIVE DATE.** This section is effective August 1, 2019.

79.9 Sec. 23. Minnesota Statutes 2018, section 626.557, subdivision 9b, is amended to read:

79.10 Subd. 9b. **Response to reports.** Law enforcement is the primary agency to conduct
79.11 investigations of any incident in which there is reason to believe a crime has been committed.
79.12 Law enforcement shall initiate a response immediately. If the common entry point notified
79.13 a county agency for emergency adult protective services, law enforcement shall cooperate
79.14 with that county agency when both agencies are involved and shall exchange data to the
79.15 extent authorized in subdivision 12b, paragraph (g). County adult protection shall initiate
79.16 a response immediately. Each lead investigative agency shall complete the investigative
79.17 process for reports within its jurisdiction. A lead investigative agency, county, adult protective
79.18 agency, licensed ~~facility~~ provider, or law enforcement agency shall cooperate with other
79.19 agencies in the provision of protective services, coordinating its investigations, and assisting
79.20 another agency within the limits of its resources and expertise and shall exchange data to
79.21 the extent authorized in subdivision 12b, paragraph (g). The lead investigative agency shall
79.22 obtain the results of any investigation conducted by law enforcement officials. The lead
79.23 investigative agency has the right to enter ~~facilities~~ licensed provider premises and inspect
79.24 and copy records as part of investigations. The lead investigative agency has access to not
79.25 public data, as defined in section 13.02, and medical records under sections 144.291 to
79.26 144.298, that are maintained by ~~facilities~~ licensed providers to the extent necessary to
79.27 conduct its investigation. Each lead investigative agency shall develop guidelines for
79.28 prioritizing reports for investigation.

79.29 Sec. 24. Minnesota Statutes 2018, section 626.557, subdivision 9c, is amended to read:

79.30 Subd. 9c. **Lead investigative agency; notifications, dispositions, determinations.** (a)
79.31 Upon request of the reporter, the lead investigative agency shall notify the reporter that it
79.32 has received the report, and provide information on the initial disposition of the report within

80.1 five business days of receipt of the report, provided that the notification will not endanger
80.2 the vulnerable adult or hamper the investigation.

80.3 (b) In making the initial disposition, the lead investigative agency may consider previous
80.4 reports of suspected maltreatment and may request and consider public information, records
80.5 maintained by a lead investigative agency or licensed providers, and information from any
80.6 other person who may have knowledge regarding the alleged maltreatment.

80.7 (c) Unless the lead investigative agency knows the information would endanger the
80.8 well-being of the vulnerable adult, during the investigation period the lead investigative
80.9 agency shall inform the vulnerable adult of the maltreatment allegation, investigation
80.10 guidelines, time frame, and evidence standards used for determinations. The lead investigative
80.11 agency must also provide the information to the vulnerable adult's guardian or health care
80.12 agent if the allegation is applicable to the guardian or health care agent.

80.13 (d) During the investigation and in the provision of adult protective services, the lead
80.14 investigative agency may coordinate with entities identified under section 626.557,
80.15 subdivision 12b, paragraph (g), and the primary support person to safeguard the welfare
80.16 and prevent further maltreatment of the vulnerable adult. The lead investigative agency
80.17 must request and consider the vulnerable adult's choice of a primary support person.

80.18 (e) Upon conclusion of every investigation it conducts, the lead investigative agency
80.19 shall make a final disposition as defined in section 626.5572, subdivision 8.

80.20 ~~(e)~~ (f) When determining whether the ~~facility~~ licensed provider or individual is the
80.21 responsible party for substantiated maltreatment or whether both the ~~facility~~ licensed provider
80.22 and ~~the~~ individual are responsible for substantiated maltreatment, the lead investigative
80.23 agency shall consider at least the following mitigating factors:

80.24 (1) whether the actions of the ~~facility~~ licensed provider or ~~the~~ individual caregiver
80.25 caregiver were in accordance with, and followed the terms of, an erroneous physician order,
80.26 prescription, resident care plan, or directive. This is not a mitigating factor when the ~~facility~~
80.27 licensed provider or individual caregiver is responsible for the issuance of the erroneous
80.28 order, prescription, plan, or directive or knows or should have known of the errors and took
80.29 no reasonable measures to correct the defect before administering care;

80.30 (2) the comparative responsibility between the ~~facility, other caregivers,~~ licensed provider
80.31 or individual caregiver and requirements placed upon the employee, including but not limited
80.32 to, the ~~facility's~~ licensed provider's compliance with related regulatory standards and factors
80.33 such as the adequacy of ~~facility~~ licensed provider's policies and procedures, the adequacy
80.34 of ~~facility~~ the licensed provider's training, the adequacy of an individual's participation in

81.1 the training, the adequacy of caregiver supervision, the adequacy of ~~facility~~ the licensed
81.2 provider's staffing levels, and a consideration of the scope of the individual employee's
81.3 authority; and

81.4 (3) whether the ~~facility~~ licensed provider, employee, or individual followed professional
81.5 standards in exercising professional judgment.

81.6 ~~(d)~~ (g) When substantiated maltreatment is determined to have been committed by an
81.7 individual who is also the ~~facility~~ license holder, both the individual and the ~~facility~~ licensed
81.8 provider must be determined responsible for the maltreatment, and both the background
81.9 study disqualification standards under section 245C.15, subdivision 4, and the licensing
81.10 actions under section 245A.06 or 245A.07 apply.

81.11 ~~(e)~~ (h) The lead investigative agency shall complete its final disposition within 60
81.12 calendar days from the date of the initial disposition for the report. If the lead investigative
81.13 agency is unable to complete its final disposition within 60 calendar days, the lead
81.14 investigative agency shall notify the following persons provided that the notification will
81.15 not endanger the vulnerable adult or hamper the investigation: (1) the vulnerable adult or
81.16 the vulnerable adult's guardian or health care agent, when known, if the lead investigative
81.17 agency knows them to be aware of the investigation; and (2) the ~~facility~~ licensed provider,
81.18 where applicable. The notice shall contain the reason for the delay and the projected
81.19 completion date. If the lead investigative agency is unable to complete its final disposition
81.20 by a subsequent projected completion date, the lead investigative agency shall again notify
81.21 the vulnerable adult or the vulnerable adult's guardian or health care agent, when known if
81.22 the lead investigative agency knows them to be aware of the investigation, and the ~~facility~~
81.23 licensed provider, where applicable, of the reason for the delay and the revised projected
81.24 completion date provided that the notification will not endanger the vulnerable adult or
81.25 hamper the investigation. The lead investigative agency must notify the health care agent
81.26 of the vulnerable adult only if the health care agent's authority to make health care decisions
81.27 for the vulnerable adult is currently effective under section 145C.06 and not suspended
81.28 under section 524.5-310 and the investigation relates to a duty assigned to the health care
81.29 agent by the principal. A lead investigative agency's inability to complete the final disposition
81.30 within 60 calendar days or by any projected completion date does not invalidate the final
81.31 disposition.

81.32 ~~(f)~~ (i) When the lead investigative agency is the Department of Human Services or the
81.33 Department of Health, within ten calendar days of completing the final disposition, the lead
81.34 investigative agency shall provide a copy of the public investigation memorandum under
81.35 subdivision 12b, paragraph (b), clause (1), ~~when required to be completed under this section,~~

82.1 to the following persons: (1) the vulnerable adult, or the vulnerable adult's guardian or health
 82.2 care agent, if known, when the allegation is applicable to the surrogate's authority, unless
 82.3 the lead investigative agency knows that the notification would endanger the well-being of
 82.4 the vulnerable adult; (2) the reporter, if the reporter requested notification when making the
 82.5 report, provided this notification would not endanger the well-being of the vulnerable adult;
 82.6 (3) the alleged perpetrator, if known; (4) the ~~facility~~ licensed provider; and (5) the
 82.7 ombudsman for long-term care, or the ombudsman for mental health and developmental
 82.8 disabilities, as appropriate.

82.9 (j) When the lead investigative agency is a county agency, within ten calendar days of
 82.10 completing the final disposition, the lead investigative agency shall provide notification of
 82.11 the final disposition to the following persons: (1) the vulnerable adult, or the vulnerable
 82.12 adult's guardian or health agent, if known, when the allegation is applicable to the surrogate's
 82.13 authority, unless the agency knows the notification would endanger the well-being of the
 82.14 vulnerable adult; (2) the alleged perpetrator, if known; and (3) the personal care provider
 82.15 organization under section 256B.0659 when the alleged incident involves a personal care
 82.16 assistant or provider agency.

82.17 ~~(g)~~ (k) If, as a result of a reconsideration, review, or hearing, the lead investigative
 82.18 agency changes the final disposition, or if a final disposition is changed on appeal, the lead
 82.19 investigative agency shall notify the parties specified in paragraph (f).

82.20 ~~(h)~~ (l) The lead investigative agency shall notify the vulnerable adult who is the subject
 82.21 of the report or the vulnerable adult's guardian or health care agent, if known, and any person
 82.22 or ~~facility~~ licensed provider determined to have maltreated a vulnerable adult, of their appeal
 82.23 or review rights under this section or section 256.021.

82.24 ~~(i)~~ (m) The lead investigative agency shall routinely provide investigation memoranda
 82.25 for substantiated reports to the appropriate licensing boards. These reports must include the
 82.26 names of substantiated perpetrators. The lead investigative agency may not provide
 82.27 investigative memoranda for inconclusive or false reports to the appropriate licensing boards
 82.28 unless the lead investigative agency's investigation gives reason to believe that there may
 82.29 have been a violation of the applicable professional practice laws. If the investigation
 82.30 memorandum is provided to a licensing board, the subject of the investigation memorandum
 82.31 shall be notified and receive a summary of the investigative findings.

82.32 ~~(j)~~ (n) In order to avoid duplication, licensing boards shall consider the findings of the
 82.33 lead investigative agency in their investigations if they choose to investigate. This does not
 82.34 preclude licensing boards from considering other information.

83.1 ~~(k)~~ (o) The lead investigative agency must provide to the commissioner of human services
 83.2 its final dispositions, including the names of all substantiated perpetrators. The commissioner
 83.3 of human services shall establish records to retain the names of substantiated perpetrators.

83.4 **EFFECTIVE DATE.** This section is effective August 1, 2019.

83.5 Sec. 25. Minnesota Statutes 2018, section 626.557, subdivision 9d, is amended to read:

83.6 Subd. 9d. **Administrative reconsideration; review panel.** (a) Except as provided under
 83.7 paragraph (e), any individual or ~~facility~~ licensed provider which a lead investigative agency
 83.8 determines has maltreated a vulnerable adult, or the vulnerable adult or an interested person
 83.9 acting on behalf of the vulnerable adult, regardless of the lead investigative agency's
 83.10 determination, who contests the lead investigative agency's final disposition of an allegation
 83.11 of maltreatment, may request the lead investigative agency to reconsider its final disposition.
 83.12 The request for reconsideration must be submitted in writing to the lead investigative agency
 83.13 within 15 calendar days after receipt of notice of final disposition or, if the request is made
 83.14 by an interested person who is not entitled to notice, within 15 days after receipt of the
 83.15 notice by the vulnerable adult or the vulnerable adult's guardian or health care agent. If
 83.16 mailed, the request for reconsideration must be postmarked and sent to the lead investigative
 83.17 agency within 15 calendar days of the individual's or ~~facility's~~ licensed provider's receipt
 83.18 of the final disposition. If the request for reconsideration is made by personal service, it
 83.19 must be received by the lead investigative agency within 15 calendar days of the individual's
 83.20 or ~~facility's~~ licensed provider's receipt of the final disposition. An individual who was
 83.21 determined to have maltreated a vulnerable adult under this section and who was disqualified
 83.22 on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may
 83.23 request reconsideration of the maltreatment determination and the disqualification. The
 83.24 request for reconsideration of the maltreatment determination and the disqualification must
 83.25 be submitted in writing within 30 calendar days of the individual's receipt of the notice of
 83.26 disqualification under sections 245C.16 and 245C.17. If mailed, the request for
 83.27 reconsideration of the maltreatment determination and the disqualification must be
 83.28 postmarked and sent to the lead investigative agency within 30 calendar days of the
 83.29 individual's receipt of the notice of disqualification. If the request for reconsideration is
 83.30 made by personal service, it must be received by the lead investigative agency within 30
 83.31 calendar days after the individual's receipt of the notice of disqualification.

83.32 (b) Except as provided under paragraphs (e) and (f), if the lead investigative agency
 83.33 denies the request or fails to act upon the request within 15 working days after receiving
 83.34 the request for reconsideration, the person or ~~facility~~ licensed provider entitled to a fair

84.1 hearing under section 256.045, may submit to the commissioner of human services a written
84.2 request for a hearing under that statute. The vulnerable adult, or an interested person acting
84.3 on behalf of the vulnerable adult, may request a review by the Vulnerable Adult Maltreatment
84.4 Review Panel under section 256.021 if the lead investigative agency denies the request or
84.5 fails to act upon the request, or if the vulnerable adult or interested person contests a
84.6 reconsidered disposition. The Vulnerable Adult Maltreatment Review Panel shall not conduct
84.7 a review if the interested person making the request on behalf of the vulnerable adult is also
84.8 the alleged perpetrator. The lead investigative agency shall notify persons who request
84.9 reconsideration of their rights under this paragraph. The request must be submitted in writing
84.10 to the review panel and a copy sent to the lead investigative agency within 30 calendar days
84.11 of receipt of notice of a denial of a request for reconsideration or of a reconsidered
84.12 disposition. The request must specifically identify the aspects of the lead investigative
84.13 agency determination with which the person is dissatisfied.

84.14 (c) If, as a result of a reconsideration or review, the lead investigative agency changes
84.15 the final disposition, it shall notify the parties specified in subdivision 9c, paragraph ~~(f)~~ (i).

84.16 (d) For purposes of this subdivision, "interested person acting on behalf of the vulnerable
84.17 adult" means a person designated in writing by the vulnerable adult to act on behalf of the
84.18 vulnerable adult, or a legal guardian or conservator or other legal representative, a proxy
84.19 or health care agent appointed under chapter 145B or 145C, or an individual who is related
84.20 to the vulnerable adult, as defined in section 245A.02, subdivision 13.

84.21 (e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis
84.22 of a determination of maltreatment, which was serious or recurring, and the individual has
84.23 requested reconsideration of the maltreatment determination under paragraph (a) and
84.24 reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration
84.25 of the maltreatment determination and requested reconsideration of the disqualification
84.26 shall be consolidated into a single reconsideration. If reconsideration of the maltreatment
84.27 determination is denied and the individual remains disqualified following a reconsideration
84.28 decision, the individual may request a fair hearing under section 256.045. If an individual
84.29 requests a fair hearing on the maltreatment determination and the disqualification, the scope
84.30 of the fair hearing shall include both the maltreatment determination and the disqualification.

84.31 (f) If a maltreatment determination or a disqualification based on serious or recurring
84.32 maltreatment is the basis for a denial of a license under section 245A.05 or a licensing
84.33 sanction under section 245A.07, the license holder has the right to a contested case hearing
84.34 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for
84.35 under section 245A.08, the scope of the contested case hearing must include the maltreatment

85.1 determination, disqualification, and licensing sanction or denial of a license. In such cases,
85.2 a fair hearing must not be conducted under section 256.045. Except for family child care
85.3 and child foster care, reconsideration of a maltreatment determination under this subdivision,
85.4 and reconsideration of a disqualification under section 245C.22, must not be conducted
85.5 when:

85.6 (1) a denial of a license under section 245A.05, or a licensing sanction under section
85.7 245A.07, is based on a determination that the license holder is responsible for maltreatment
85.8 or the disqualification of a license holder based on serious or recurring maltreatment;

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

85.11 (3) the license holder appeals the maltreatment determination or disqualification, and
85.12 denial of a license or licensing sanction.

85.13 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment
85.14 determination or disqualification, but does not appeal the denial of a license or a licensing
85.15 sanction, reconsideration of the maltreatment determination shall be conducted under sections
85.16 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the
85.17 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall
85.18 also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and
85.19 626.557, subdivision 9d.

85.20 If the disqualified subject is an individual other than the license holder and upon whom
85.21 a background study must be conducted under chapter 245C, the hearings of all parties may
85.22 be consolidated into a single contested case hearing upon consent of all parties and the
85.23 administrative law judge.

85.24 (g) Until August 1, 2002, an individual or ~~facility~~ licensed provider that was determined
85.25 by the commissioner of human services or the commissioner of health to be responsible for
85.26 neglect under section 626.5572, subdivision 17, after October 1, 1995, and before August
85.27 1, 2001, that believes that the finding of neglect does not meet an amended definition of
85.28 neglect may request a reconsideration of the determination of neglect. The commissioner
85.29 of human services or the commissioner of health shall mail a notice to the last known address
85.30 of individuals who are eligible to seek this reconsideration. The request for reconsideration
85.31 must state how the established findings no longer meet the elements of the definition of
85.32 neglect. The commissioner shall review the request for reconsideration and make a
85.33 determination within 15 calendar days. The commissioner's decision on this reconsideration
85.34 is the final agency action.

86.1 (1) For purposes of compliance with the data destruction schedule under subdivision
86.2 12b, paragraph (d), when a finding of substantiated maltreatment has been changed as a
86.3 result of a reconsideration under this paragraph, the date of the original finding of a
86.4 substantiated maltreatment must be used to calculate the destruction date.

86.5 (2) For purposes of any background studies under chapter 245C, when a determination
86.6 of substantiated maltreatment has been changed as a result of a reconsideration under this
86.7 paragraph, any prior disqualification of the individual under chapter 245C that was based
86.8 on this determination of maltreatment shall be rescinded, and for future background studies
86.9 under chapter 245C the commissioner must not use the previous determination of
86.10 substantiated maltreatment as a basis for disqualification or as a basis for referring the
86.11 individual's maltreatment history to a health-related licensing board under section 245C.31.

86.12 **EFFECTIVE DATE.** This section is effective August 1, 2019.

86.13 Sec. 26. Minnesota Statutes 2018, section 626.557, subdivision 10, is amended to read:

86.14 Subd. 10. **Duties of county social service agency.** (a) When the common entry point
86.15 refers a report to the county social service agency as the lead investigative agency or makes
86.16 a referral to the county social service agency for emergency adult protective services, or
86.17 when another lead investigative agency requests assistance from the county social service
86.18 agency for adult protective services, the county social service agency shall immediately
86.19 assess and offer emergency and continuing protective social services for purposes of
86.20 preventing further maltreatment and for safeguarding the welfare of the maltreated vulnerable
86.21 adult. The county shall use a standardized tool made available by the commissioner. The
86.22 information entered by the county into the standardized tool must be accessible to the
86.23 Department of Human Services. In cases of suspected sexual abuse, the county social service
86.24 agency shall immediately arrange for and make available to the vulnerable adult appropriate
86.25 medical examination and treatment. When necessary in order to protect the vulnerable adult
86.26 from further harm, the county social service agency shall seek authority to remove the
86.27 vulnerable adult from the situation in which the maltreatment occurred. The county social
86.28 service agency may also investigate to determine whether the conditions which resulted in
86.29 the reported maltreatment place other vulnerable adults in jeopardy of being maltreated and
86.30 offer protective social services that are called for by its determination.

86.31 (b) County social service agencies may enter facilities licensed provider's premises and
86.32 inspect and copy records as part of an investigation. The county social service agency has
86.33 access to not public data, as defined in section 13.02, and medical records under sections
86.34 144.291 to 144.298, that are maintained by facilities licensed providers to the extent necessary

87.1 to conduct its investigation. The inquiry is not limited to the written records of the ~~facility~~
 87.2 licensed provider, but may include every other available source of information.

87.3 (c) When necessary in order to protect a vulnerable adult from serious harm, the county
 87.4 social service agency shall immediately intervene on behalf of that adult to help the family,
 87.5 vulnerable adult, or other interested person by seeking any of the following:

87.6 (1) a restraining order or a court order for removal of the perpetrator from the residence
 87.7 of the vulnerable adult pursuant to section 518B.01;

87.8 (2) the appointment of a guardian or conservator pursuant to sections 524.5-101 to
 87.9 524.5-502, or guardianship or conservatorship pursuant to chapter 252A;

87.10 (3) replacement of a guardian or conservator suspected of maltreatment and appointment
 87.11 of a suitable person as guardian or conservator, pursuant to sections 524.5-101 to 524.5-502;
 87.12 or

87.13 (4) a referral to the prosecuting attorney for possible criminal prosecution of the
 87.14 perpetrator under chapter 609.

87.15 The expenses of legal intervention must be paid by the county in the case of indigent
 87.16 persons, under section 524.5-502 and chapter 563.

87.17 In proceedings under sections 524.5-101 to 524.5-502, if a suitable relative or other
 87.18 person is not available to petition for guardianship or conservatorship, a county employee
 87.19 shall present the petition with representation by the county attorney. The county shall contract
 87.20 with or arrange for a suitable person or organization to provide ongoing guardianship
 87.21 services. If the county presents evidence to the court exercising probate jurisdiction that it
 87.22 has made a diligent effort and no other suitable person can be found, a county employee
 87.23 may serve as guardian or conservator. The county shall not retaliate against the employee
 87.24 for any action taken on behalf of the ward or protected person even if the action is adverse
 87.25 to the county's interest. Any person retaliated against in violation of this subdivision shall
 87.26 have a cause of action against the county and shall be entitled to reasonable attorney fees
 87.27 and costs of the action if the action is upheld by the court.

87.28 Sec. 27. Minnesota Statutes 2018, section 626.557, subdivision 10b, is amended to read:

87.29 Subd. 10b. **Investigations; guidelines.** (a) Each lead investigative agency shall develop
 87.30 guidelines for prioritizing reports for investigation and shall publicly post the guidelines.

87.31 (b) When investigating a report, the lead investigative agency shall conduct the following
 87.32 activities, as appropriate without exception unless: (i) the vulnerable adult, reporter, or

88.1 witness is deceased, refuses an interview, or is unable to be contacted despite diligent
 88.2 attempts; (ii) the interview was conducted by law enforcement and an additional interview
 88.3 will not further the civil investigation; (iii) the alleged vulnerable adult declines an interview;
 88.4 or (iv) the agency has reason to know the activity will endanger the vulnerable adult or
 88.5 impede the investigation:

88.6 (1) interview of the alleged victim;

88.7 (2) interview of the reporter and others who may have relevant information;

88.8 (3) interview of the alleged perpetrator; and

88.9 ~~(4) examination of the environment surrounding the alleged incident;~~

88.10 ~~(5) (4) review of records and pertinent documentation of the alleged incident; and~~

88.11 (c) The lead investigative agency shall conduct the following activities if appropriate to
 88.12 further the investigation or necessary to prevent further maltreatment or to safeguard the
 88.13 vulnerable adult:

88.14 (1) examine the environment surrounding the alleged incident;

88.15 ~~(6) consultation~~ (2) consult with professionals;

88.16 (3) request the vulnerable adult's choice of the primary support person; and

88.17 (4) communicate with tribes, service providers, and the primary support person for the
 88.18 vulnerable adult.

88.19 **EFFECTIVE DATE.** This section is effective August 1, 2019.

88.20 Sec. 28. Minnesota Statutes 2018, section 626.557, subdivision 12b, is amended to read:

88.21 Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a
 88.22 lead investigative agency, the county social service agency shall maintain appropriate
 88.23 records. Data collected by the county social service agency under this section during the
 88.24 provision of adult protective services are welfare data under section 13.46. Investigative
 88.25 data collected under this section are confidential data on individuals or protected nonpublic
 88.26 data as defined under section 13.02. Notwithstanding section 13.46, subdivision 1, paragraph
 88.27 (a), data under this paragraph that are inactive investigative data on an individual who is a
 88.28 vendor of services are private data on individuals, as defined in section 13.02. The identity
 88.29 of the reporter may only be disclosed as provided in paragraph (c).

88.30 Data maintained by the common entry point are confidential data on individuals or
 88.31 protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the

89.1 common entry point shall maintain data for three calendar years after date of receipt and
89.2 then destroy the data unless otherwise directed by federal requirements.

89.3 (b) The commissioners of health and human services shall prepare an investigation
89.4 memorandum for each report alleging maltreatment investigated under this section. County
89.5 social service agencies must maintain private data on individuals but are not required to
89.6 prepare an investigation memorandum. During an investigation by the commissioner of
89.7 health or the commissioner of human services, data collected under this section are
89.8 confidential data on individuals or protected nonpublic data as defined in section 13.02.
89.9 Upon completion of the investigation, the data are classified as provided in clauses (1) to
89.10 (3) and paragraph (c).

89.11 (1) The investigation memorandum must contain the following data, which are public:

89.12 (i) the name of the ~~facility~~ licensed provider investigated;

89.13 (ii) a statement of the nature of the alleged maltreatment;

89.14 (iii) pertinent information obtained from medical or other records reviewed;

89.15 (iv) the identity of the investigator;

89.16 (v) a summary of the investigation's findings;

89.17 (vi) statement of whether the report was found to be substantiated, inconclusive, false,
89.18 or that no determination will be made;

89.19 (vii) a statement of any action taken by the ~~facility~~ licensed provider;

89.20 (viii) a statement of any action taken by the lead investigative agency; and

89.21 (ix) when a lead investigative agency's determination has substantiated maltreatment, a
89.22 statement of whether an individual, individuals, or a ~~facility~~ licensed provider were
89.23 responsible for the substantiated maltreatment, if known.

89.24 The investigation memorandum must be written in a manner which protects the identity
89.25 of the reporter and of the vulnerable adult and may not contain the names or, to the extent
89.26 possible, data on individuals or private data listed in clause (2).

89.27 (2) Data on individuals collected and maintained in the investigation memorandum are
89.28 private data, including:

89.29 (i) the name of the vulnerable adult;

89.30 (ii) the identity of the individual alleged to be the perpetrator;

89.31 (iii) the identity of the individual substantiated as the perpetrator; and

90.1 (iv) the identity of all individuals interviewed as part of the investigation.

90.2 (3) Other data on individuals maintained as part of an investigation under this section
90.3 are private data on individuals upon completion of the investigation. When the law
90.4 enforcement investigation is active, the data received by a lead investigative agency or
90.5 county agency responsible for protection of the vulnerable adult is confidential data on
90.6 individuals as defined in section 13.02, subdivision 3. When the law enforcement
90.7 investigation is completed, the investigative data are private data on individuals as defined
90.8 in section 13.02, subdivision 12.

90.9 (c) ~~After the assessment or investigation is completed,~~ The name of the reporter must
90.10 be confidential. The subject of the report may compel disclosure of the name of the reporter
90.11 only with the consent of the reporter or upon a written finding by a court that the report was
90.12 false and there is evidence that the report was made in bad faith. This subdivision does not
90.13 alter disclosure responsibilities or obligations under the Rules of Criminal Procedure, except
90.14 that where the identity of the reporter is relevant to a criminal prosecution, the district court
90.15 shall do an in-camera review prior to determining whether to order disclosure of the identity
90.16 of the reporter.

90.17 (d) Notwithstanding section 138.163, data maintained under this section by the
90.18 commissioners of health and human services must be maintained under the following
90.19 schedule and then destroyed unless otherwise directed by federal requirements:

90.20 (1) data from reports determined to be false, maintained for three years after the finding
90.21 was made;

90.22 (2) data from reports determined to be inconclusive, maintained for four years after the
90.23 finding was made;

90.24 (3) data from reports determined to be substantiated, maintained for seven years after
90.25 the finding was made; and

90.26 (4) data from reports which were not investigated by a lead investigative agency and for
90.27 which there is no final disposition, maintained for three years from the date of the report.

90.28 (e) The commissioners of health and human services shall annually publish on their
90.29 websites the number and type of reports of alleged maltreatment involving licensed ~~facilities~~
90.30 providers reported under this section, the number of those requiring investigation under this
90.31 section, and the resolution of those investigations. On a biennial basis, the commissioners
90.32 of health and human services shall jointly report the following information to the legislature
90.33 and the governor:

91.1 (1) the number and type of reports of alleged maltreatment involving licensed facilities
 91.2 reported under this section, the number of those requiring investigations under this section,
 91.3 the resolution of those investigations, and which of the two lead agencies was responsible;

91.4 (2) trends about types of substantiated maltreatment found in the reporting period;

91.5 (3) if there are upward trends for types of maltreatment substantiated, recommendations
 91.6 for addressing and responding to them;

91.7 (4) efforts undertaken or recommended to improve the protection of vulnerable adults;

91.8 (5) whether and where backlogs of cases result in a failure to conform with statutory
 91.9 time frames and recommendations for reducing backlogs if applicable;

91.10 (6) recommended changes to statutes affecting the protection of vulnerable adults; and

91.11 (7) any other information that is relevant to the report trends and findings.

91.12 (f) Each lead investigative agency must have a record retention policy.

91.13 (g) Lead investigative agencies, county agencies responsible for adult protective services,
 91.14 prosecuting authorities, and law enforcement agencies may exchange not public data, as
 91.15 defined in section 13.02, with a tribe, provider, vulnerable adult, primary support person
 91.16 for the vulnerable adult, state licensing board, federal or state agency, the ombudsperson
 91.17 for long-term care, or the ombudsman for mental health and developmental disabilities, if
 91.18 the agency or authority requesting providing the data determines that the data are pertinent
 91.19 and necessary to the requesting agency in initiating, furthering, or completing to prevent
 91.20 further maltreatment, to safeguard the affected vulnerable adults, or to initiate, further, or
 91.21 complete an investigation under this section. Data collected under this section must be made
 91.22 available to prosecuting authorities and law enforcement officials, local county agencies,
 91.23 and licensing agencies investigating the alleged maltreatment under this section. The lead
 91.24 investigative agency shall exchange not public data with the vulnerable adult maltreatment
 91.25 review panel established in section 256.021 if the data are pertinent and necessary for a
 91.26 review requested under that section. Notwithstanding section 138.17, upon completion of
 91.27 the review, not public data received by the review panel must be destroyed.

91.28 (h) Each lead investigative agency shall keep records of the length of time it takes to
 91.29 complete its investigations.

91.30 (i) A lead investigative agency may notify other affected parties and their authorized
 91.31 representative if the lead investigative agency has reason to believe maltreatment has occurred
 91.32 and determines the information will safeguard the well-being of the affected parties or dispel
 91.33 widespread rumor or unrest in the affected facility licensed provider.

92.1 (j) Under any notification provision of this section, where federal law specifically
92.2 prohibits the disclosure of patient identifying information, a lead investigative agency may
92.3 not provide any notice unless the vulnerable adult has consented to disclosure in a manner
92.4 which conforms to federal requirements.

92.5 **EFFECTIVE DATE.** This section is effective August 1, 2019.

92.6 Sec. 29. Minnesota Statutes 2018, section 626.557, subdivision 14, is amended to read:

92.7 Subd. 14. **Abuse prevention plans.** (a) Each facility licensed provider, except home
92.8 health agencies and personal care attendant services providers, shall establish and enforce
92.9 an ongoing written abuse prevention plan. The plan shall contain an assessment of the
92.10 physical plant, its environment, and its population identifying factors which may encourage
92.11 or permit abuse, and a statement of specific measures to be taken to minimize the risk of
92.12 abuse. The plan shall comply with any rules governing the plan promulgated by the licensing
92.13 agency.

92.14 (b) Each facility licensed provider, including a home health care agency and personal
92.15 care attendant services providers, shall develop an individual abuse prevention plan for each
92.16 vulnerable adult residing there or receiving services from them. The plan shall contain an
92.17 individualized assessment of: (1) the person's susceptibility to abuse by other individuals,
92.18 including other vulnerable adults; (2) the person's risk of abusing other vulnerable adults;
92.19 and (3) statements of the specific measures to be taken to minimize the risk of abuse to that
92.20 person and other vulnerable adults. For the purposes of this paragraph, the term "abuse"
92.21 includes self-abuse.

92.22 (c) If the facility licensed provider, except home health agencies and personal care
92.23 attendant services providers, knows that the vulnerable adult has committed a violent crime
92.24 or an act of physical aggression toward others, the individual abuse prevention plan must
92.25 detail the measures to be taken to minimize the risk that the vulnerable adult might reasonably
92.26 be expected to pose to visitors to the facility licensed provider and persons outside the
92.27 facility licensed provider, if unsupervised. Under this section, a facility licensed provider
92.28 knows of a vulnerable adult's history of criminal misconduct or physical aggression if it
92.29 receives such information from a law enforcement authority or through a medical record
92.30 prepared by another facility licensed provider, another health care provider, or the facility's
92.31 licensed provider's ongoing assessments of the vulnerable adult.

93.1 Sec. 30. Minnesota Statutes 2018, section 626.557, subdivision 17, is amended to read:

93.2 Subd. 17. **Retaliation prohibited.** (a) A facility licensed provider or person shall not
 93.3 retaliate against any person who reports in good faith suspected maltreatment pursuant to
 93.4 this section, or against a vulnerable adult with respect to whom a report is made, because
 93.5 of the report.

93.6 (b) In addition to any remedies allowed under sections 181.931 to 181.935, any facility
 93.7 licensed provider or person which retaliates against any person because of a report of
 93.8 suspected maltreatment is liable to that person for actual damages, punitive damages up to
 93.9 \$10,000, and attorney fees.

93.10 (c) There shall be a rebuttable presumption that any adverse action, as defined below,
 93.11 within 90 days of a report, is retaliatory. For purposes of this clause, the term "adverse
 93.12 action" refers to action taken by a facility licensed provider or person involved in a report
 93.13 against the person making the report or the person with respect to whom the report was
 93.14 made because of the report, and includes, but is not limited to:

93.15 (1) discharge or transfer from the facility licensed provider's services;

93.16 (2) discharge from or termination of employment;

93.17 (3) demotion or reduction in remuneration for services;

93.18 (4) restriction or prohibition of access to the facility licensed provider's premises or its
 93.19 residents; or

93.20 (5) any restriction of rights set forth in section 144.651.

93.21 Sec. 31. Minnesota Statutes 2018, section 626.5572, subdivision 2, is amended to read:

93.22 Subd. 2. **Abuse.** "Abuse" means:

93.23 (a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate,
 93.24 or aiding and abetting a violation of:

93.25 (1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224;

93.26 (2) the use of drugs to injure or facilitate crime as defined in section 609.235;

93.27 (3) the solicitation, inducement, and promotion of prostitution as defined in section
 93.28 609.322; and

93.29 (4) criminal sexual conduct in the first through fifth degrees as defined in sections
 93.30 609.342 to 609.3451.

94.1 A violation includes any action that meets the elements of the crime, regardless of
94.2 whether there is a criminal proceeding or conviction.

94.3 (b) Conduct which is not an accident or therapeutic conduct as defined in this section,
94.4 which produces or could reasonably be expected to produce physical pain or injury or
94.5 emotional distress including, but not limited to, the following:

94.6 (1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable
94.7 adult;

94.8 (2) use of repeated or malicious oral, written, or gestured language toward a vulnerable
94.9 adult or the treatment of a vulnerable adult which would be considered by a reasonable
94.10 person to be disparaging, derogatory, humiliating, harassing, or threatening; or

94.11 (3) use, not authorized under chapter 245A or 245D or inconsistent with state and federal
94.12 patient rights, of any aversive or deprivation procedure, unreasonable confinement, or
94.13 involuntary seclusion, including the forced separation of the vulnerable adult from other
94.14 persons against the will of the vulnerable adult or the legal representative of the vulnerable
94.15 adult; and.

94.16 ~~(4) use of any aversive or deprivation procedures for persons with developmental~~
94.17 ~~disabilities or related conditions not authorized under section 245.825.~~

94.18 (c) Any sexual contact or penetration as defined in section 609.341, between a ~~facility~~
94.19 licensed provider's staff person or a person providing services ~~in~~ for the facility licensed
94.20 provider and a resident, patient, or client of ~~that facility~~ the licensed provider.

94.21 (d) The act of forcing, compelling, coercing, or enticing a vulnerable adult against the
94.22 vulnerable adult's will to perform services for the advantage of another.

94.23 (e) For purposes of this section, a vulnerable adult is not abused for the sole reason that
94.24 the vulnerable adult or a person with authority to make health care decisions for the
94.25 vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C or 252A, or section
94.26 253B.03 or 524.5-313, refuses consent or withdraws consent, consistent with that authority
94.27 and within the boundary of reasonable medical practice, to any therapeutic conduct, including
94.28 any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition
94.29 of the vulnerable adult or, where permitted under law, to provide nutrition and hydration
94.30 parenterally or through intubation. This paragraph does not enlarge or diminish rights
94.31 otherwise held under law by:

94.32 (1) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an
94.33 involved family member, to consent to or refuse consent for therapeutic conduct; or

95.1 (2) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct.

95.2 (f) For purposes of this section, a vulnerable adult is not abused for the sole reason that
 95.3 the vulnerable adult, a person with authority to make health care decisions for the vulnerable
 95.4 adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for
 95.5 treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care,
 95.6 provided that this is consistent with the prior practice or belief of the vulnerable adult or
 95.7 with the expressed intentions of the vulnerable adult.

95.8 (g) For purposes of this section, a vulnerable adult is not abused for the sole reason that
 95.9 the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional
 95.10 dysfunction or undue influence, engages in consensual sexual contact with:

95.11 (1) a person, including a ~~facility~~ licensed provider staff person, when a consensual sexual
 95.12 personal relationship existed prior to the caregiving relationship; or

95.13 (2) a personal care attendant, regardless of whether the consensual sexual personal
 95.14 relationship existed prior to the caregiving relationship.

95.15 **EFFECTIVE DATE.** This section is effective August 1, 2019.

95.16 Sec. 32. Minnesota Statutes 2018, section 626.5572, subdivision 3, is amended to read:

95.17 Subd. 3. **Accident.** "Accident" means a sudden, unforeseen, and unexpected occurrence
 95.18 or event which:

95.19 (1) is not likely to occur and which could not have been prevented by exercise of due
 95.20 care; and

95.21 (2) if occurring while a vulnerable adult is receiving services from a ~~facility~~ licensed
 95.22 provider, happens when the ~~facility~~ licensed provider and the employee or person providing
 95.23 services ~~in the facility~~ are in compliance with the laws and rules relevant to the occurrence
 95.24 or event.

95.25 Sec. 33. Minnesota Statutes 2018, section 626.5572, subdivision 4, is amended to read:

95.26 Subd. 4. **Caregiver.** "Caregiver" means a paid provider, an individual, or ~~facility who~~
 95.27 ~~has responsibility for the care of a vulnerable adult as a result of a family relationship, or~~
 95.28 licensed provider who has assumed responsibility for all or a portion of the care of a
 95.29 vulnerable adult voluntarily, by contract, or by agreement.

95.30 **EFFECTIVE DATE.** This section is effective August 1, 2019.

96.1 Sec. 34. Minnesota Statutes 2018, section 626.5572, subdivision 6, is amended to read:

96.2 Subd. 6. **Facility Licensed provider.** (a) "Facility Licensed provider" means a hospital
 96.3 or other entity required to be licensed under sections 144.50 to 144.58; a nursing home
 96.4 required to be licensed to serve adults under section 144A.02; a facility licensed provider
 96.5 or service required to be licensed under chapter 245A; a home care provider licensed or
 96.6 required to be licensed under sections 144A.43 to 144A.482; a hospice provider licensed
 96.7 under sections 144A.75 to 144A.755; or a person or organization that offers, provides, or
 96.8 arranges for personal care assistance services under the medical assistance program as
 96.9 authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654, 256B.0659,
 96.10 or 256B.85.

96.11 (b) For services identified in paragraph (a) that are provided in the vulnerable adult's
 96.12 own home or in another unlicensed location, the term "facility licensed provider" refers to
 96.13 the provider, person, or organization that offers, provides, or arranges for personal care
 96.14 services, and does not refer to the vulnerable adult's home or other location at which services
 96.15 are rendered.

96.16 **EFFECTIVE DATE.** This section is effective August 1, 2019.

96.17 Sec. 35. Minnesota Statutes 2018, section 626.5572, subdivision 8, is amended to read:

96.18 Subd. 8. **Final disposition.** "Final disposition" is the determination of an investigation
 96.19 by a lead investigative agency that a report of maltreatment under Laws 1995, chapter 229,
 96.20 is substantiated, inconclusive, false, or that no determination will be made. When a lead
 96.21 investigative agency determination has substantiated maltreatment, the final disposition
 96.22 also identifies, if known, which individual or individuals were responsible for the
 96.23 substantiated maltreatment, and whether a facility licensed provider was responsible for the
 96.24 substantiated maltreatment.

96.25 Sec. 36. Minnesota Statutes 2018, section 626.5572, subdivision 9, is amended to read:

96.26 Subd. 9. **Financial exploitation.** "Financial exploitation" means:

96.27 (a) In breach of a fiduciary obligation recognized elsewhere in law, including pertinent
 96.28 regulations, contractual obligations, documented consent by a competent person, or the
 96.29 obligations of a responsible party under section 144.6501, a person:

96.30 (1) ~~engages in unauthorized expenditure of funds entrusted to the actor by the vulnerable~~
 96.31 ~~adult which results or is likely to result in detriment to the vulnerable adult~~ takes, uses, or
 96.32 transfers the vulnerable adult's personal property or financial resources other than what a

97.1 reasonable person would deem the use, ownership, or obligations of the vulnerable adult;

97.2 or

97.3 (2) fails to use the financial resources of the vulnerable adult to provide food, clothing,
97.4 shelter, health care, therapeutic conduct or supervision for the vulnerable adult, and the
97.5 failure results or is likely to result in detriment to the vulnerable adult.

97.6 (b) In the absence of legal authority a person:

97.7 (1) willfully uses, withholds, or disposes of funds or property of a vulnerable adult;

97.8 (2) obtains for the actor or another the performance of services by a third person for the
97.9 wrongful profit or advantage of the actor or another to the detriment of the vulnerable adult;

97.10 (3) acquires possession or control of, or an interest in, funds or property of a vulnerable
97.11 adult through the use of undue influence, harassment, duress, deception, or fraud; or

97.12 (4) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's
97.13 will to perform services for the profit or advantage of another.

97.14 (c) Nothing in this definition requires a ~~facility~~ licensed provider or caregiver to provide
97.15 financial management or supervise financial management for a vulnerable adult except as
97.16 otherwise required by law.

97.17 **EFFECTIVE DATE.** This section is effective August 1, 2019.

97.18 Sec. 37. Minnesota Statutes 2018, section 626.5572, subdivision 16, is amended to read:

97.19 Subd. 16. **Mandated reporter.** "Mandated reporter" means a professional or
97.20 professional's delegate while engaged in: (1) social services; (2) law enforcement; (3)
97.21 education; (4) the care of vulnerable adults; (5) any of the occupations referred to in section
97.22 214.01, subdivision 2; (6) an employee of a rehabilitation facility certified by the
97.23 commissioner of jobs and training for vocational rehabilitation; (7) an employee or person
97.24 providing licensed services ~~in a facility~~ as defined in subdivision 6; or (8) a person that
97.25 performs the duties of the medical examiner or coroner.

97.26 Sec. 38. Minnesota Statutes 2018, section 626.5572, subdivision 17, is amended to read:

97.27 Subd. 17. **Neglect.** ~~"Neglect" means:~~ Neglect includes caregiver neglect and self-neglect.

97.28 (a) "Caregiver neglect" means the failure or omission by a caregiver to supply a vulnerable
97.29 adult with care or services, including but not limited to, food, clothing, shelter, health care,
97.30 or supervision which is:

98.1 (1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or
 98.2 mental health or safety, considering the physical and mental capacity or dysfunction of the
 98.3 vulnerable adult; and

98.4 (2) which is not the result of an accident or therapeutic conduct.

98.5 (b) ~~The absence or likelihood of absence of care or services, including but not limited~~
 98.6 ~~to, food, clothing, shelter, health care, or supervision necessary to maintain the physical~~
 98.7 ~~and mental health of the vulnerable adult~~ "Self-neglect" means neglect by a vulnerable adult
 98.8 of food, clothing, shelter, health care, or other services not under the responsibility of a
 98.9 caregiver which a reasonable person would deem essential to obtain or maintain the
 98.10 vulnerable adult's health, safety, or comfort ~~considering the physical or mental capacity or~~
 98.11 ~~dysfunction, or physical and mental health~~ of the vulnerable adult.

98.12 (c) For purposes of this section, a vulnerable adult is not neglected for the sole reason
 98.13 that:

98.14 (1) the vulnerable adult or a person with authority to make health care decisions for the
 98.15 vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or sections
 98.16 253B.03 or 524.5-101 to 524.5-502, refuses consent or withdraws consent, consistent with
 98.17 that authority and within the boundary of reasonable medical practice, to any therapeutic
 98.18 conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical
 98.19 or mental condition of the vulnerable adult, or, where permitted under law, to provide
 98.20 nutrition and hydration parenterally or through intubation; this paragraph does not enlarge
 98.21 or diminish rights otherwise held under law by:

98.22 (i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an
 98.23 involved family member, to consent to or refuse consent for therapeutic conduct; or

98.24 (ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct; or

98.25 (2) the vulnerable adult, a person with authority to make health care decisions for the
 98.26 vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or
 98.27 prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of
 98.28 medical care, provided that this is consistent with the prior practice or belief of the vulnerable
 98.29 adult or with the expressed intentions of the vulnerable adult;

98.30 (3) the vulnerable adult, who is not impaired in judgment or capacity by mental or
 98.31 emotional dysfunction or undue influence, engages in consensual sexual contact with:

98.32 (i) a person including a ~~facility~~ licensed provider staff person when a consensual sexual
 98.33 personal relationship existed prior to the caregiving relationship; or

99.1 (ii) a personal care attendant, regardless of whether the consensual sexual personal
99.2 relationship existed prior to the caregiving relationship; or

99.3 (4) an individual makes an error in the provision of therapeutic conduct to a vulnerable
99.4 adult which does not result in injury or harm which reasonably requires medical or mental
99.5 health care; or

99.6 (5) an individual makes an error in the provision of therapeutic conduct to a vulnerable
99.7 adult that results in injury or harm, which reasonably requires the care of a physician, and:

99.8 (i) the necessary care is provided in a timely fashion as dictated by the condition of the
99.9 vulnerable adult;

99.10 (ii) if after receiving care, the health status of the vulnerable adult can be reasonably
99.11 expected, as determined by the attending physician, to be restored to the vulnerable adult's
99.12 preexisting condition;

99.13 (iii) the error is not part of a pattern of errors by the individual;

99.14 (iv) if ~~in a facility~~ receiving services from a licensed provider, the error is immediately
99.15 reported as required under section 626.557, and recorded internally ~~in~~ by the facility licensed
99.16 provider;

99.17 (v) if ~~in a facility~~ receiving licensed services, the facility licensed provider identifies
99.18 and takes corrective action and implements measures designed to reduce the risk of further
99.19 occurrence of this error and similar errors; and

99.20 (vi) if ~~in a facility~~ receiving licensed services, the licensed provider takes the actions
99.21 required under items (iv) and (v) are sufficiently documented for review and evaluation by
99.22 the facility licensed provider and any applicable licensing, certification, and ombudsman
99.23 agency.

99.24 (d) Nothing in this definition requires a caregiver, if regulated, to provide services in
99.25 excess of those required by the caregiver's license, certification, registration, or other
99.26 regulation.

99.27 (e) If the findings of an investigation by a lead investigative agency result in a
99.28 determination of substantiated maltreatment for the sole reason that the actions required of
99.29 a facility licensed provider under paragraph (c), clause (5), item (iv), (v), or (vi), were not
99.30 taken, then the facility licensed provider is subject to a correction order. An individual will
99.31 not be found to have neglected or maltreated the vulnerable adult based solely on the facility's
99.32 licensed provider's not having taken the actions required under paragraph (c), clause (5),

100.1 item (iv), (v), or (vi). This must not alter the lead investigative agency's determination of
100.2 mitigating factors under section 626.557, subdivision 9c, paragraph ~~(e)~~ (f).

100.3 **EFFECTIVE DATE.** This section is effective August 1, 2019.

100.4 Sec. 39. Minnesota Statutes 2018, section 626.5572, is amended by adding a subdivision
100.5 to read:

100.6 **Subd. 17a. Primary support person.** "Primary support person" means a person or
100.7 persons identified by the lead investigative agency or agency responsible for adult protective
100.8 services as best able to coordinate with the agency to support protection of the vulnerable
100.9 adult, safeguard the vulnerable adult's welfare, and prevent further maltreatment. The primary
100.10 support person may be the vulnerable adult's guardian, health care agent, or other legal
100.11 representative, person authorized by the vulnerable adult under a supported decision making
100.12 or other agreement, or another person determined by the agency. If known to the agency,
100.13 the agency must consider the vulnerable adult's choice for primary support person.

100.14 **EFFECTIVE DATE.** This section is effective August 1, 2019.

100.15 Sec. 40. Minnesota Statutes 2018, section 626.5572, subdivision 20, is amended to read:

100.16 **Subd. 20. Therapeutic conduct.** "Therapeutic conduct" means the provision of program
100.17 services, health care, or other personal care services done in good faith in the interests of
100.18 the vulnerable adult by: (1) an individual, ~~facility~~ licensed provider, or employee or person
100.19 providing services ~~in~~ for a ~~facility~~ licensed provider under the rights, privileges and
100.20 responsibilities conferred by state license, certification, or registration; or (2) a caregiver.

100.21 Sec. 41. Minnesota Statutes 2018, section 626.5572, subdivision 21, is amended to read:

100.22 **Subd. 21. Vulnerable adult.** (a) "Vulnerable adult" means any person 18 years of age
100.23 or older who:

100.24 (1) is a resident or inpatient of a ~~facility~~ licensed provider;

100.25 (2) receives services required to be licensed under chapter 245A, except that a person
100.26 receiving outpatient services for treatment of chemical dependency or mental illness, or one
100.27 who is served in the Minnesota sex offender program on a court-hold order for commitment,
100.28 or is committed as a sexual psychopathic personality or as a sexually dangerous person
100.29 under chapter 253B, is not considered a vulnerable adult unless the person meets the
100.30 requirements of clause (4);

101.1 (3) receives services from a home care provider required to be licensed under sections
 101.2 144A.43 to 144A.482; or from a person or organization that offers, provides, or arranges
 101.3 for personal care assistance services under the medical assistance program as authorized
 101.4 under section 256B.0625, subdivision 19a, 256B.0651, 256B.0653, 256B.0654, 256B.0659,
 101.5 or 256B.85; or

101.6 (4) regardless of residence or whether any type of service is received, possesses a physical
 101.7 or mental infirmity or other physical, mental, or emotional dysfunction:

101.8 (i) that impairs the individual's ability to provide adequately for the individual's own
 101.9 care without assistance, including the provision of food, shelter, clothing, health care, or
 101.10 supervision; and

101.11 (ii) because of the dysfunction or infirmity and the need for care or services, the individual
 101.12 has an impaired ability to protect the individual's self from maltreatment.

101.13 (b) For purposes of this subdivision, "care or services" means care or services for the
 101.14 health, safety, welfare, or maintenance of an individual.

101.15 Sec. 42. **DIRECTION TO COMMISSIONER; PROVIDER STANDARD**
 101.16 **EVALUATION.**

101.17 By January 1, 2020, the commissioner of human services shall evaluate provider standards
 101.18 for companion, homemaker, and respite services covered by the home and community-based
 101.19 waivers under Minnesota Statutes, sections 256B.0915, 256B.092, and 256B.49, and shall
 101.20 make recommendations to the legislative committees with jurisdiction over elderly waiver
 101.21 services for adjustments to these provider standards. The goal of this evaluation is to promote
 101.22 access to services by developing standards that ensure the well-being of participants while
 101.23 being minimally burdensome to providers.

101.24 **EFFECTIVE DATE.** This section is effective August 1, 2019.

101.25 Sec. 43. **REPEALER.**

101.26 Minnesota Statutes 2018, sections 256R.08, subdivision 2; and 256R.49, are repealed.

101.27 **EFFECTIVE DATE.** This section is effective August 1, 2019.

102.1

ARTICLE 5

102.2

CHILDREN AND FAMILIES SERVICES

102.3 Section 1. Minnesota Statutes 2018, section 13.46, subdivision 2, is amended to read:

102.4 Subd. 2. **General.** (a) Data on individuals collected, maintained, used, or disseminated
102.5 by the welfare system are private data on individuals, and shall not be disclosed except:

102.6 (1) according to section 13.05;

102.7 (2) according to court order;

102.8 (3) according to a statute specifically authorizing access to the private data;

102.9 (4) to an agent of the welfare system and an investigator acting on behalf of a county,

102.10 the state, or the federal government, including a law enforcement person or attorney in the

102.11 investigation or prosecution of a criminal, civil, or administrative proceeding relating to the

102.12 administration of a program;

102.13 (5) to personnel of the welfare system who require the data to verify an individual's

102.14 identity; determine eligibility, amount of assistance, and the need to provide services to an

102.15 individual or family across programs; coordinate services for an individual or family;

102.16 evaluate the effectiveness of programs; assess parental contribution amounts; and investigate

102.17 suspected fraud;

102.18 (6) to administer federal funds or programs;

102.19 (7) between personnel of the welfare system working in the same program;

102.20 (8) to the Department of Revenue to assess parental contribution amounts for purposes

102.21 of section 252.27, subdivision 2a, administer and evaluate tax refund or tax credit programs

102.22 and to identify individuals who may benefit from these programs. The following information

102.23 may be disclosed under this paragraph: an individual's and their dependent's names, dates

102.24 of birth, Social Security numbers, income, addresses, and other data as required, upon

102.25 request by the Department of Revenue. Disclosures by the commissioner of revenue to the

102.26 commissioner of human services for the purposes described in this clause are governed by

102.27 section 270B.14, subdivision 1. Tax refund or tax credit programs include, but are not limited

102.28 to, the dependent care credit under section 290.067, the Minnesota working family credit

102.29 under section 290.0671, the property tax refund and rental credit under section 290A.04,

102.30 and the Minnesota education credit under section 290.0674;

103.1 (9) between the Department of Human Services, the Department of Employment and
103.2 Economic Development, and when applicable, the Department of Education, for the following
103.3 purposes:

103.4 (i) to monitor the eligibility of the data subject for unemployment benefits, for any
103.5 employment or training program administered, supervised, or certified by that agency;

103.6 (ii) to administer any rehabilitation program or child care assistance program, whether
103.7 alone or in conjunction with the welfare system;

103.8 (iii) to monitor and evaluate the Minnesota family investment program or the child care
103.9 assistance program by exchanging data on recipients and former recipients of food support,
103.10 cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter
103.11 119B, medical programs under chapter 256B or 256L, or a medical program formerly
103.12 codified under chapter 256D; and

103.13 (iv) to analyze public assistance employment services and program utilization, cost,
103.14 effectiveness, and outcomes as implemented under the authority established in Title II,
103.15 Sections 201-204 of the Ticket to Work and Work Incentives Improvement Act of 1999.
103.16 Health records governed by sections 144.291 to 144.298 and "protected health information"
103.17 as defined in Code of Federal Regulations, title 45, section 160.103, and governed by Code
103.18 of Federal Regulations, title 45, parts 160-164, including health care claims utilization
103.19 information, must not be exchanged under this clause;

103.20 (10) to appropriate parties in connection with an emergency if knowledge of the
103.21 information is necessary to protect the health or safety of the individual or other individuals
103.22 or persons;

103.23 (11) data maintained by residential programs as defined in section 245A.02 may be
103.24 disclosed to the protection and advocacy system established in this state according to Part
103.25 C of Public Law 98-527 to protect the legal and human rights of persons with developmental
103.26 disabilities or other related conditions who live in residential facilities for these persons if
103.27 the protection and advocacy system receives a complaint by or on behalf of that person and
103.28 the person does not have a legal guardian or the state or a designee of the state is the legal
103.29 guardian of the person;

103.30 (12) to the county medical examiner or the county coroner for identifying or locating
103.31 relatives or friends of a deceased person;

104.1 (13) data on a child support obligor who makes payments to the public agency may be
104.2 disclosed to the Minnesota Office of Higher Education to the extent necessary to determine
104.3 eligibility under section 136A.121, subdivision 2, clause (5);

104.4 (14) participant Social Security numbers and names collected by the telephone assistance
104.5 program may be disclosed to the Department of Revenue to conduct an electronic data
104.6 match with the property tax refund database to determine eligibility under section 237.70,
104.7 subdivision 4a;

104.8 (15) the current address of a Minnesota family investment program participant may be
104.9 disclosed to law enforcement officers who provide the name of the participant and notify
104.10 the agency that:

104.11 (i) the participant:

104.12 (A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after
104.13 conviction, for a crime or attempt to commit a crime that is a felony under the laws of the
104.14 jurisdiction from which the individual is fleeing; or

104.15 (B) is violating a condition of probation or parole imposed under state or federal law;

104.16 (ii) the location or apprehension of the felon is within the law enforcement officer's
104.17 official duties; and

104.18 (iii) the request is made in writing and in the proper exercise of those duties;

104.19 (16) the current address of a recipient of general assistance may be disclosed to probation
104.20 officers and corrections agents who are supervising the recipient and to law enforcement
104.21 officers who are investigating the recipient in connection with a felony level offense;

104.22 (17) information obtained from food support applicant or recipient households may be
104.23 disclosed to local, state, or federal law enforcement officials, upon their written request, for
104.24 the purpose of investigating an alleged violation of the Food Stamp Act, according to Code
104.25 of Federal Regulations, title 7, section 272.1(c);

104.26 (18) the address, Social Security number, and, if available, photograph of any member
104.27 of a household receiving food support shall be made available, on request, to a local, state,
104.28 or federal law enforcement officer if the officer furnishes the agency with the name of the
104.29 member and notifies the agency that:

104.30 (i) the member:

104.31 (A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a
104.32 crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

105.1 (B) is violating a condition of probation or parole imposed under state or federal law;

105.2 or

105.3 (C) has information that is necessary for the officer to conduct an official duty related

105.4 to conduct described in subitem (A) or (B);

105.5 (ii) locating or apprehending the member is within the officer's official duties; and

105.6 (iii) the request is made in writing and in the proper exercise of the officer's official duty;

105.7 (19) the current address of a recipient of Minnesota family investment program, general

105.8 assistance, or food support may be disclosed to law enforcement officers who, in writing,

105.9 provide the name of the recipient and notify the agency that the recipient is a person required

105.10 to register under section 243.166, but is not residing at the address at which the recipient is

105.11 registered under section 243.166;

105.12 (20) certain information regarding child support obligors who are in arrears may be

105.13 made public according to section 518A.74;

105.14 (21) data on child support payments made by a child support obligor and data on the

105.15 distribution of those payments excluding identifying information on obligees may be

105.16 disclosed to all obligees to whom the obligor owes support, and data on the enforcement

105.17 actions undertaken by the public authority, the status of those actions, and data on the income

105.18 of the obligor or obligee may be disclosed to the other party;

105.19 (22) data in the work reporting system may be disclosed under section 256.998,

105.20 subdivision 7;

105.21 (23) to the Department of Education for the purpose of matching Department of Education

105.22 student data with public assistance data to determine students eligible for free and

105.23 reduced-price meals, meal supplements, and free milk according to United States Code,

105.24 title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and state

105.25 funds that are distributed based on income of the student's family; and to verify receipt of

105.26 energy assistance for the telephone assistance plan;

105.27 (24) the current address and telephone number of program recipients and emergency

105.28 contacts may be released to the commissioner of health or a community health board as

105.29 defined in section 145A.02, subdivision 5, when the commissioner or community health

105.30 board has reason to believe that a program recipient is a disease case, carrier, suspect case,

105.31 or at risk of illness, and the data are necessary to locate the person;

105.32 (25) to other state agencies, statewide systems, and political subdivisions of this state,

105.33 including the attorney general, and agencies of other states, interstate information networks,

106.1 federal agencies, and other entities as required by federal regulation or law for the
106.2 administration of the child support enforcement program;

106.3 (26) to personnel of public assistance programs as defined in section 256.741, for access
106.4 to the child support system database for the purpose of administration, including monitoring
106.5 and evaluation of those public assistance programs;

106.6 (27) to monitor and evaluate the Minnesota family investment program by exchanging
106.7 data between the Departments of Human Services and Education, on recipients and former
106.8 recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child
106.9 care assistance under chapter 119B, medical programs under chapter 256B or 256L, or a
106.10 medical program formerly codified under chapter 256D;

106.11 (28) to evaluate child support program performance and to identify and prevent fraud
106.12 in the child support program by exchanging data between the Department of Human Services,
106.13 Department of Revenue under section 270B.14, subdivision 1, paragraphs (a) and (b),
106.14 without regard to the limitation of use in paragraph (c), Department of Health, Department
106.15 of Employment and Economic Development, and other state agencies as is reasonably
106.16 necessary to perform these functions;

106.17 (29) counties and the Department of Human Services operating child care assistance
106.18 programs under chapter 119B may disseminate data on program participants, applicants,
106.19 and providers to the commissioner of education;

106.20 (30) child support data on the child, the parents, and relatives of the child may be
106.21 disclosed to agencies administering programs under titles IV-B and IV-E of the Social
106.22 Security Act, as authorized by federal law;

106.23 (31) to a health care provider governed by sections 144.291 to 144.298, to the extent
106.24 necessary to coordinate services;

106.25 (32) to the chief administrative officer of a school to coordinate services for a student
106.26 and family; data that may be disclosed under this clause are limited to name, date of birth,
106.27 gender, and address; or

106.28 (33) to county correctional agencies to the extent necessary to coordinate services and
106.29 diversion programs; data that may be disclosed under this clause are limited to name, client
106.30 demographics, program, case status, and county worker information.

106.31 (b) Information on persons who have been treated for drug or alcohol abuse may only
106.32 be disclosed according to the requirements of Code of Federal Regulations, title 42, sections
106.33 2.1 to 2.67.

107.1 (c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16),
107.2 (17), or (18), or paragraph (b), are investigative data and are confidential or protected
107.3 nonpublic while the investigation is active. The data are private after the investigation
107.4 becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

107.5 (d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but are
107.6 not subject to the access provisions of subdivision 10, paragraph (b).

107.7 For the purposes of this subdivision, a request will be deemed to be made in writing if
107.8 made through a computer interface system.

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

107.10 Sec. 2. Minnesota Statutes 2018, section 13.461, subdivision 28, is amended to read:

107.11 Subd. 28. **Child care assistance program.** Data collected, maintained, used, or
107.12 disseminated by the welfare system pertaining to persons selected as legal nonlicensed child
107.13 care providers by families receiving child care assistance are classified under section 119B.02,
107.14 subdivision 6, paragraph (a). Child care assistance program payment data is classified under
107.15 section 119B.02, subdivision 6, paragraph (b).

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

107.17 Sec. 3. Minnesota Statutes 2018, section 119B.02, subdivision 6, is amended to read:

107.18 Subd. 6. **Data.** (a) Data collected, maintained, used, or disseminated by the welfare
107.19 system pertaining to persons selected as legal nonlicensed child care providers by families
107.20 receiving child care assistance shall be treated as licensing data as provided in section 13.46,
107.21 subdivision 4.

107.22 (b) For purposes of this paragraph, "child care assistance program payment data" means
107.23 data for a specified time period showing (1) that a child care assistance program payment
107.24 under this chapter was made, and (2) the amount of child care assistance payments made
107.25 to a child care center. Child care assistance program payment data may include the number
107.26 of families and children on whose behalf payments were made for the specified time period.
107.27 Any child care assistance program payment data that may identify a specific child care
107.28 assistance recipient or benefit paid on behalf of a specific child care assistance recipient,
107.29 as determined by the commissioner, is private data on individuals as defined in section
107.30 13.02, subdivision 12. Data related to a child care assistance payment is public if the data
107.31 relates to a child care assistance payment made to a licensed child care center or a child
107.32 care center exempt from licensure and:

108.1 (1) the child care center receives payment of more than \$100,000 from the child care
108.2 assistance program under this chapter in a period of one year or less; or

108.3 (2) when the commissioner or county agency either:

108.4 (i) disqualified the center from receipt of a payment from the child care assistance
108.5 program under this chapter for wrongfully obtaining child care assistance under section
108.6 256.98, subdivision 8, paragraph (c);

108.7 (ii) refused a child care authorization, revoked a child care authorization, stopped
108.8 payment, or denied payment for a bill for the center under section 119B.13, subdivision 6,
108.9 paragraph (d); or

108.10 (iii) made a finding of financial misconduct under section 245E.02.

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

108.12 Sec. 4. Minnesota Statutes 2018, section 144.216, is amended by adding a subdivision to
108.13 read:

108.14 Subd. 3. **Reporting safe place newborn births.** A hospital that receives a safe place
108.15 newborn under section 145.902 shall report the birth of the newborn to the Office of Vital
108.16 Records within five days after receiving the newborn. The state registrar must register
108.17 information about the safe place newborn according to part 4601.0600, subpart 4, item C.

108.18 **EFFECTIVE DATE.** This section is effective August 1, 2019.

108.19 Sec. 5. Minnesota Statutes 2018, section 144.216, is amended by adding a subdivision to
108.20 read:

108.21 Subd. 4. **Status of safe place birth registrations.** (a) Information about the safe place
108.22 newborn registered under subdivision 3 shall constitute the record of birth for the child. The
108.23 record is confidential data on individuals as defined in section 13.02, subdivision 3.
108.24 Information on the birth record or a birth certificate issued from the birth record shall be
108.25 disclosed only to the responsible social services agency as defined in section 260C.007,
108.26 subdivision 27a, or pursuant to court order.

108.27 (b) Pursuant to section 144.218, subdivision 6, if the safe place newborn was born in a
108.28 hospital and it is known that a record of birth was registered, the Office of Vital Records
108.29 shall replace the original birth record registered under section 144.215.

108.30 **EFFECTIVE DATE.** This section is effective August 1, 2019.

109.1 Sec. 6. Minnesota Statutes 2018, section 144.218, is amended by adding a subdivision to
109.2 read:

109.3 Subd. 6. **Safe place newborns.** If a hospital receives a safe place newborn under section
109.4 145.902 and it is known that a record of birth was registered, the hospital shall report the
109.5 newborn to the Office of Vital Records and identify the birth record. The state registrar
109.6 shall issue a replacement birth record free of information that identifies a parent. The prior
109.7 vital record is confidential data on individuals as defined in section 13.02, subdivision 3,
109.8 and shall not be disclosed except pursuant to court order.

109.9 **EFFECTIVE DATE.** This section is effective August 1, 2019.

109.10 Sec. 7. Minnesota Statutes 2018, section 144.225, subdivision 2b, is amended to read:

109.11 Subd. 2b. **Commissioner of health; duties.** Notwithstanding the designation of certain
109.12 of this data as confidential under subdivision 2 or private under subdivision 2a, the
109.13 commissioner shall give the commissioner of human services access to birth record data
109.14 and data contained in recognitions of parentage prepared according to section 257.75
109.15 necessary to enable the commissioner of human services to identify a child who is subject
109.16 to threatened injury, as defined in section 626.556, subdivision 2, paragraph ~~(p)~~(s), by a
109.17 person responsible for the child's care, as defined in section 626.556, subdivision 2, paragraph
109.18 (j), clause (1). The commissioner shall be given access to all data included on official birth
109.19 records.

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

109.21 Sec. 8. Minnesota Statutes 2018, section 144.226, subdivision 1, is amended to read:

109.22 Subdivision 1. **Which services are for fee.** (a) The fees for the following services shall
109.23 be the following or an amount prescribed by rule of the commissioner:

109.24 (b) The fee for the administrative review and processing of a request for a certified vital
109.25 record or a certification that the vital record cannot be found is \$9. The fee is payable at the
109.26 time of application and is nonrefundable.

109.27 (c) The fee for processing a request for the replacement of a birth record for all events,
109.28 except for safe place newborns pursuant to section 144.218, subdivision 6, and when filing
109.29 a recognition of parentage pursuant to section 257.73, subdivision 1, is \$40. The fee is
109.30 payable at the time of application and is nonrefundable.

110.1 (d) The fee for administrative review and processing of a request for the filing of a
110.2 delayed registration of birth, stillbirth, or death is \$40. The fee is payable at the time of
110.3 application and is nonrefundable.

110.4 (e) The fee for administrative review and processing of a request for the amendment of
110.5 any vital record is \$40. The fee is payable at the time of application and is nonrefundable.

110.6 (f) The fee for administrative review and processing of a request for the verification of
110.7 information from vital records is \$9 when the applicant furnishes the specific information
110.8 to locate the vital record. When the applicant does not furnish specific information, the fee
110.9 is \$20 per hour for staff time expended. Specific information includes the correct date of
110.10 the event and the correct name of the subject of the record. Fees charged shall approximate
110.11 the costs incurred in searching and copying the vital records. The fee is payable at the time
110.12 of application and is nonrefundable.

110.13 (g) The fee for administrative review and processing of a request for the issuance of a
110.14 copy of any document on file pertaining to a vital record or statement that a related document
110.15 cannot be found is \$9. The fee is payable at the time of application and is nonrefundable.

110.16 **EFFECTIVE DATE.** This section is effective August 1, 2019.

110.17 Sec. 9. Minnesota Statutes 2018, section 145.902, is amended to read:

110.18 **145.902 GIVE LIFE A CHANCE; SAFE PLACE FOR NEWBORNS DUTIES;**
110.19 **IMMUNITY.**

110.20 Subdivision 1. **General.** (a) For purposes of this section, a "safe place" means a hospital
110.21 licensed under sections 144.50 to 144.56, including the hospital where the newborn was
110.22 born, a health care provider who provides urgent care medical services, or an ambulance
110.23 service licensed under chapter 144E dispatched in response to a 911 call from a mother or
110.24 a person with the mother's permission to relinquish a newborn infant.

110.25 (b) A safe place shall receive a newborn left with an employee on the premises of the
110.26 safe place during its hours of operation, provided that:

110.27 (1) the newborn was born within seven days of being left at the safe place, as determined
110.28 within a reasonable degree of medical certainty; and

110.29 (2) the newborn is left in an unharmed condition.

110.30 (c) The safe place must not inquire as to the identity of the mother or the person leaving
110.31 the newborn or call the police, provided the newborn is unharmed when presented to the
110.32 hospital. The safe place may ask the mother or the person leaving the newborn about the

111.1 medical history of the mother or newborn and if the newborn may have lineage to an Indian
111.2 tribe and, if known, the name of the tribe but the mother or the person leaving the newborn
111.3 is not required to provide any information. The safe place may provide the mother or the
111.4 person leaving the newborn with information about how to contact relevant social service
111.5 agencies.

111.6 (d) A safe place that is a health care provider who provides urgent care medical services
111.7 shall dial 911, advise the dispatcher that the call is being made from a safe place for
111.8 newborns, and ask the dispatcher to send an ambulance or take other appropriate action to
111.9 transport the newborn to a hospital. An ambulance with whom a newborn is left shall
111.10 transport the newborn to a hospital for care. Hospitals must receive a newborn left with a
111.11 safe place and make the report as required in subdivision 2.

111.12 Subd. 2. **Reporting.** (a) Within 24 hours of receiving a newborn under this section, the
111.13 hospital must inform the responsible social service agency that a newborn has been left at
111.14 the hospital, but must not do so in the presence of the mother or the person leaving the
111.15 newborn. The hospital must provide necessary care to the newborn pending assumption of
111.16 legal responsibility by the responsible social service agency pursuant to section 260C.139,
111.17 subdivision 5.

111.18 (b) Within five days of receiving a newborn under this section, a hospital shall report
111.19 the newborn pursuant to section 144.216, subdivision 3. If a hospital receives a safe place
111.20 newborn under section 145.902 and it is known that a record of birth was registered because
111.21 the newborn was born at that hospital, the hospital shall report the newborn to the Office
111.22 of Vital Records and identify the birth record. The state registrar shall issue a replacement
111.23 birth record pursuant to section 144.218, subdivision 6.

111.24 Subd. 3. **Immunity.** (a) A safe place with responsibility for performing duties under
111.25 this section, and any hospital, employee, doctor, ambulance personnel, or other medical
111.26 professional working at the safe place, are immune from any criminal liability that otherwise
111.27 might result from their actions, if they are acting in good faith in receiving a newborn, and
111.28 are immune from any civil liability or administrative penalty that otherwise might result
111.29 from merely receiving a newborn.

111.30 (b) A safe place performing duties under this section, or an employee, doctor, ambulance
111.31 personnel, or other medical professional working at the safe place who is a mandated reporter
111.32 under section 626.556, is immune from any criminal or civil liability that otherwise might
111.33 result from the failure to make a report under that section if the person is acting in good
111.34 faith in complying with this section.

112.1 **EFFECTIVE DATE.** This section is effective August 1, 2019.

112.2 Sec. 10. Minnesota Statutes 2018, section 256E.21, subdivision 5, is amended to read:

112.3 Subd. 5. **Child abuse.** "Child abuse" means sexual abuse, neglect, or physical abuse as
112.4 defined in section 626.556, subdivision 2, paragraphs (g), (k), and ~~(n)~~ (p).

112.5 **EFFECTIVE DATE.** This section is effective August 1, 2019.

112.6 Sec. 11. Minnesota Statutes 2018, section 256M.41, subdivision 3, is amended to read:

112.7 Subd. 3. **Payments based on performance.** ~~(a)~~ The commissioner shall make payments
112.8 under this section to each county board ~~on a calendar year basis in an amount determined~~
112.9 under paragraph (b) on or before July 10 of each year.

112.10 ~~(b)~~ Calendar year allocations under subdivision 1 shall be paid to counties in the following
112.11 manner:

112.12 ~~(1)~~ 80 percent of the allocation as determined in subdivision 1 must be paid to counties
112.13 ~~on or before July 10 of each year;~~

112.14 ~~(2)~~ ten percent of the allocation shall be withheld until the commissioner determines if
112.15 the county has met the performance outcome threshold of 90 percent based on face-to-face
112.16 contact with alleged child victims. In order to receive the performance allocation, the county
112.17 child protection workers must have a timely face-to-face contact with at least 90 percent of
112.18 all alleged child victims of screened-in maltreatment reports. The standard requires that
112.19 each initial face-to-face contact occur consistent with timelines defined in section 626.556,
112.20 subdivision 10, paragraph (i). The commissioner shall make threshold determinations in
112.21 January of each year and payments to counties meeting the performance outcome threshold
112.22 shall occur in February of each year. Any withheld funds from this appropriation for counties
112.23 that do not meet this requirement shall be reallocated by the commissioner to those counties
112.24 meeting the requirement; and

112.25 ~~(3)~~ ten percent of the allocation shall be withheld until the commissioner determines
112.26 that the county has met the performance outcome threshold of 90 percent based on
112.27 face-to-face visits by the case manager. In order to receive the performance allocation, the
112.28 total number of visits made by caseworkers on a monthly basis to children in foster care
112.29 and children receiving child protection services while residing in their home must be at least
112.30 90 percent of the total number of such visits that would occur if every child were visited
112.31 once per month. The commissioner shall make such determinations in January of each year
112.32 and payments to counties meeting the performance outcome threshold shall occur in February

113.1 ~~of each year. Any withheld funds from this appropriation for counties that do not meet this~~
 113.2 ~~requirement shall be reallocated by the commissioner to those counties meeting the~~
 113.3 ~~requirement. For 2015, the commissioner shall only apply the standard for monthly foster~~
 113.4 ~~care visits.~~

113.5 ~~(e) The commissioner shall work with stakeholders and the Human Services Performance~~
 113.6 ~~Council under section 402A.16 to develop recommendations for specific outcome measures~~
 113.7 ~~that counties should meet in order to receive funds withheld under paragraph (b), and include~~
 113.8 ~~in those recommendations a determination as to whether the performance measures under~~
 113.9 ~~paragraph (b) should be modified or phased out. The commissioner shall report the~~
 113.10 ~~recommendations to the legislative committees having jurisdiction over child protection~~
 113.11 ~~issues by January 1, 2018.~~

113.12 **EFFECTIVE DATE.** This section is effective August 1, 2019.

113.13 Sec. 12. Minnesota Statutes 2018, section 256M.41, is amended by adding a subdivision
 113.14 to read:

113.15 **Subd. 4. County performance on child protection measures.** The commissioner shall
 113.16 set child protection measures and standards. The commissioner shall require an
 113.17 underperforming county to demonstrate that the county designated sufficient funds and
 113.18 implemented a reasonable strategy to improve child protection performance, including the
 113.19 provision of a performance improvement plan and additional remedies identified by the
 113.20 commissioner. The commissioner may reallocate up to 20 percent of a county's funds under
 113.21 this section toward the program improvement plan. Sanctions under section 256M.20,
 113.22 subdivision 3, related to noncompliance with federal performance standards also apply.

113.23 **EFFECTIVE DATE.** This section is effective August 1, 2019.

113.24 Sec. 13. Minnesota Statutes 2018, section 256N.02, subdivision 10, is amended to read:

113.25 **Subd. 10. Financially responsible agency.** "Financially responsible agency" means the
 113.26 agency that is financially responsible for a child. These agencies include both local social
 113.27 service agencies under section 393.07 and tribal social service agencies authorized in section
 113.28 256.01, subdivision 14b, as part of the American Indian Child Welfare Initiative, and
 113.29 Minnesota tribes who assume financial responsibility of children from other states. Under
 113.30 Northstar Care for Children, the agency that is financially responsible at the time of placement
 113.31 for foster care continues to be responsible under section 256N.27 for the local share of any
 113.32 maintenance payments, even after finalization of the adoption ~~of~~ or transfer of permanent
 113.33 legal and physical custody of a child.

114.1 **EFFECTIVE DATE.** This section is effective August 1, 2019.

114.2 Sec. 14. Minnesota Statutes 2018, section 256N.02, subdivision 16, is amended to read:

114.3 Subd. 16. **Permanent legal and physical custody.** "Permanent legal and physical
114.4 custody" means (1) a full transfer of permanent legal and physical custody ordered by a
114.5 Minnesota juvenile court under section 256C.515, subdivision 4, to a relative ~~ordered by a~~
114.6 ~~Minnesota juvenile court under section 260C.515, subdivision 4,~~ who is not a parent as
114.7 defined in section 260C.007, subdivision 25, or (2) for a child under jurisdiction of a tribal
114.8 court, a judicial determination under a similar provision in tribal code which means that a
114.9 relative will assume the duty and authority to provide care, control, and protection of a child
114.10 who is residing in foster care, and to make decisions regarding the child's education, health
114.11 care, and general welfare until adulthood. For purposes of establishing eligibility for Northstar
114.12 kinship assistance, permanent legal and physical custody must not include joint legal custody,
114.13 joint physical custody, or joint legal and joint physical custody between a child's parent and
114.14 relative custodian.

114.15 **EFFECTIVE DATE.** This section is effective August 1, 2019.

114.16 Sec. 15. Minnesota Statutes 2018, section 256N.02, subdivision 17, is amended to read:

114.17 Subd. 17. **Reassessment.** "Reassessment" means an update of a previous assessment
114.18 through the process under section 256N.24 for a child who has been continuously eligible
114.19 for Northstar Care for Children, or when a child identified as an at-risk child (Level A)
114.20 under ~~guardianship or~~ adoption assistance has manifested the disability upon which eligibility
114.21 for the agreement was based according to section 256N.25, subdivision 3, paragraph (b).
114.22 A reassessment may be used to update an initial assessment, a special assessment, or a
114.23 previous reassessment.

114.24 **EFFECTIVE DATE.** This section is effective August 1, 2019.

114.25 Sec. 16. Minnesota Statutes 2018, section 256N.02, subdivision 18, is amended to read:

114.26 Subd. 18. **Relative.** "Relative," as described in section 260C.007, subdivision 27, means
114.27 a person related to the child by blood, marriage, or adoption; the legal parent, guardian, or
114.28 custodian of the child's siblings; or an individual who is an important friend with whom the
114.29 child has resided or had significant contact. For an Indian child, relative, as described in
114.30 section 260C.007, subdivision 26b, means a person who is a member of the Indian child's
114.31 family as defined in the Indian Child Welfare Act of 1978, United States Code, title 25,
114.32 section 1903, paragraphs (2), (6), and (9).

115.1 **EFFECTIVE DATE.** This section is effective August 1, 2019.

115.2 Sec. 17. Minnesota Statutes 2018, section 256N.22, subdivision 1, is amended to read:

115.3 Subdivision 1. **General eligibility requirements.** (a) To be eligible for Northstar kinship
115.4 assistance under this section, there must be a judicial determination under section 260C.515,
115.5 subdivision 4, that a transfer of permanent legal and physical custody to a relative who is
115.6 not a parent of the child is in the child's best interest. For a child under jurisdiction of a
115.7 tribal court, a judicial determination under a similar provision in tribal code indicating that
115.8 a relative will assume the duty and authority to provide care, control, and protection of a
115.9 child who is residing in foster care, and to make decisions regarding the child's education,
115.10 health care, and general welfare until adulthood, and that this is in the child's best interest
115.11 is considered equivalent. A child whose parent shares legal, physical, or legal and physical
115.12 custody with a relative custodian is not eligible for Northstar kinship assistance. Additionally,
115.13 a child must:

115.14 (1) have been removed from the child's home pursuant to a voluntary placement
115.15 agreement or court order;

115.16 (2)(i) have resided with the prospective relative custodian who has been a licensed child
115.17 foster parent for at least six consecutive months; or

115.18 (ii) have received from the commissioner an exemption from the requirement in item
115.19 (i) that the prospective relative custodian has been a licensed child foster parent for at least
115.20 six consecutive months, based on a determination that:

115.21 (A) an expedited move to permanency is in the child's best interest;

115.22 (B) expedited permanency cannot be completed without provision of Northstar kinship
115.23 assistance;

115.24 (C) the prospective relative custodian is uniquely qualified to meet the child's needs, as
115.25 defined in section 260C.212, subdivision 2, on a permanent basis;

115.26 (D) the child and prospective relative custodian meet the eligibility requirements of this
115.27 section; and

115.28 (E) efforts were made by the legally responsible agency to place the child with the
115.29 prospective relative custodian as a licensed child foster parent for six consecutive months
115.30 before permanency, or an explanation why these efforts were not in the child's best interests;

115.31 (3) meet the agency determinations regarding permanency requirements in subdivision
115.32 2;

- 116.1 (4) meet the applicable citizenship and immigration requirements in subdivision 3;
- 116.2 (5) have been consulted regarding the proposed transfer of permanent legal and physical
116.3 custody to a relative, if the child is at least 14 years of age or is expected to attain 14 years
116.4 of age prior to the transfer of permanent legal and physical custody; and
- 116.5 (6) have a written, binding agreement under section 256N.25 among the caregiver or
116.6 caregivers, the financially responsible agency, and the commissioner established prior to
116.7 transfer of permanent legal and physical custody.
- 116.8 (b) In addition to the requirements in paragraph (a), the child's prospective relative
116.9 custodian or custodians must meet the applicable background study requirements in
116.10 subdivision 4.
- 116.11 (c) To be eligible for title IV-E Northstar kinship assistance, a child must also meet any
116.12 additional criteria in section 473(d) of the Social Security Act. The sibling of a child who
116.13 meets the criteria for title IV-E Northstar kinship assistance in section 473(d) of the Social
116.14 Security Act is eligible for title IV-E Northstar kinship assistance if the child and sibling
116.15 are placed with the same prospective relative custodian or custodians, and the legally
116.16 responsible agency, relatives, and commissioner agree on the appropriateness of the
116.17 arrangement for the sibling. A child who meets all eligibility criteria except those specific
116.18 to title IV-E Northstar kinship assistance is entitled to Northstar kinship assistance paid
116.19 through funds other than title IV-E.

116.20 **EFFECTIVE DATE.** This section is effective August 1, 2019.

116.21 Sec. 18. Minnesota Statutes 2018, section 256N.23, subdivision 2, is amended to read:

116.22 Subd. 2. **Special needs determination.** (a) A child is considered a child with special
116.23 needs under this section if the requirements in paragraphs (b) to (g) are met.

116.24 (b) There must be a determination that the child must not or should not be returned to
116.25 the home of the child's parents as evidenced by:

116.26 (1) a court-ordered termination of parental rights;

116.27 (2) a petition to terminate parental rights;

116.28 (3) consent of parent to adoption accepted by the court under chapter 260C;

116.29 (4) in circumstances when tribal law permits the child to be adopted without a termination
116.30 of parental rights, a judicial determination by a tribal court indicating the valid reason why
116.31 the child cannot or should not return home;

117.1 (5) a voluntary relinquishment under section 259.25 ~~or 259.47~~ or, if relinquishment
117.2 occurred in another state, the applicable laws in that state; or

117.3 (6) the death of the legal parent or parents if the child has two legal parents.

117.4 (c) There exists a specific factor or condition of which it is reasonable to conclude that
117.5 the child cannot be placed with adoptive parents without providing adoption assistance as
117.6 evidenced by:

117.7 (1) a determination by the Social Security Administration that the child meets all medical
117.8 or disability requirements of title XVI of the Social Security Act with respect to eligibility
117.9 for Supplemental Security Income benefits;

117.10 (2) a documented physical, mental, emotional, or behavioral disability not covered under
117.11 clause (1);

117.12 (3) a member of a sibling group being adopted at the same time by the same parent;

117.13 (4) an adoptive placement in the home of a parent who previously adopted a sibling for
117.14 whom they receive adoption assistance; or

117.15 (5) documentation that the child is an at-risk child.

117.16 (d) A reasonable but unsuccessful effort must have been made to place the child with
117.17 adoptive parents without providing adoption assistance as evidenced by:

117.18 (1) a documented search for an appropriate adoptive placement; or

117.19 (2) a determination by the commissioner that a search under clause (1) is not in the best
117.20 interests of the child.

117.21 (e) The requirement for a documented search for an appropriate adoptive placement
117.22 under paragraph (d), including the registration of the child with the state adoption exchange
117.23 and other recruitment methods under paragraph (f), must be waived if:

117.24 (1) the child is being adopted by a relative and it is determined by the child-placing
117.25 agency that adoption by the relative is in the best interests of the child;

117.26 (2) the child is being adopted by a foster parent with whom the child has developed
117.27 significant emotional ties while in the foster parent's care as a foster child and it is determined
117.28 by the child-placing agency that adoption by the foster parent is in the best interests of the
117.29 child; or

118.1 (3) the child is being adopted by a parent that previously adopted a sibling of the child,
118.2 and it is determined by the child-placing agency that adoption by this parent is in the best
118.3 interests of the child.

118.4 For an Indian child covered by the Indian Child Welfare Act, a waiver must not be
118.5 granted unless the child-placing agency has complied with the placement preferences required
118.6 by the Indian Child Welfare Act, United States Code, title 25, section 1915(a).

118.7 (f) To meet the requirement of a documented search for an appropriate adoptive placement
118.8 under paragraph (d), clause (1), the child-placing agency minimally must:

118.9 (1) conduct a relative search as required by section 260C.221 and give consideration to
118.10 placement with a relative, as required by section 260C.212, subdivision 2;

118.11 (2) comply with the placement preferences required by the Indian Child Welfare Act
118.12 when the Indian Child Welfare Act, United States Code, title 25, section 1915(a), applies;

118.13 (3) locate prospective adoptive families by registering the child on the state adoption
118.14 exchange, as required under section 259.75; and

118.15 (4) if registration with the state adoption exchange does not result in the identification
118.16 of an appropriate adoptive placement, the agency must employ additional recruitment
118.17 methods prescribed by the commissioner.

118.18 (g) Once the legally responsible agency has determined that placement with an identified
118.19 parent is in the child's best interests and made full written disclosure about the child's social
118.20 and medical history, the agency must ask the prospective adoptive parent if the prospective
118.21 adoptive parent is willing to adopt the child without receiving adoption assistance under
118.22 this section. If the identified parent is either unwilling or unable to adopt the child without
118.23 adoption assistance, the legally responsible agency must provide documentation as prescribed
118.24 by the commissioner to fulfill the requirement to make a reasonable effort to place the child
118.25 without adoption assistance. If the identified parent is willing to adopt the child without
118.26 adoption assistance, the parent must provide a written statement to this effect to the legally
118.27 responsible agency and the statement must be maintained in the permanent adoption record
118.28 of the legally responsible agency. For children under guardianship of the commissioner,
118.29 the legally responsible agency shall submit a copy of this statement to the commissioner to
118.30 be maintained in the permanent adoption record.

118.31 **EFFECTIVE DATE.** This section is effective August 1, 2019.

119.1 Sec. 19. Minnesota Statutes 2018, section 256N.23, subdivision 6, is amended to read:

119.2 Subd. 6. **Exclusions.** The commissioner must not enter into an adoption assistance
119.3 agreement with the following individuals:

119.4 (1) a child's biological parent or stepparent;

119.5 (2) a child's relative under section 260C.007, subdivision 26b or 27, with whom the
119.6 child resided immediately prior to child welfare involvement unless:

119.7 (i) the child was in the custody of a Minnesota county or tribal agency pursuant to an
119.8 order under chapter 260C or equivalent provisions of tribal code and the agency had
119.9 placement and care responsibility for permanency planning for the child; and

119.10 (ii) the child is under guardianship of the commissioner of human services according to
119.11 the requirements of section 260C.325, subdivision 1 or 3, or is a ward of a Minnesota tribal
119.12 court after termination of parental rights, suspension of parental rights, or a finding by the
119.13 tribal court that the child cannot safely return to the care of the parent;

119.14 (3) an individual adopting a child who is the subject of a direct adoptive placement under
119.15 section 259.47 or the equivalent in tribal code;

119.16 (4) a child's legal custodian or guardian who is now adopting the child, except for a
119.17 relative custodian as defined in section 256N.02, subdivision 19, who is currently receiving
119.18 Northstar kinship assistance benefits; or

119.19 (5) an individual who is adopting a child who is not a citizen or resident of the United
119.20 States and was either adopted in another country or brought to the United States for the
119.21 purposes of adoption.

119.22 **EFFECTIVE DATE.** This section is effective August 1, 2019.

119.23 Sec. 20. Minnesota Statutes 2018, section 256N.24, subdivision 1, is amended to read:

119.24 Subdivision 1. **Assessment.** (a) Each child eligible under sections 256N.21, 256N.22,
119.25 and 256N.23, must be assessed to determine the benefits the child may receive under section
119.26 256N.26, in accordance with the assessment tool, process, and requirements specified in
119.27 subdivision 2.

119.28 (b) If an agency applies the emergency foster care rate for initial placement under section
119.29 256N.26, the agency may wait up to 30 days to complete the initial assessment.

119.30 (c) Unless otherwise specified in paragraph (d), a child must be assessed at the basic
119.31 level, level B, or one of ten supplemental difficulty of care levels, levels C to L.

120.1 (d) An assessment must not be completed for:

120.2 (1) a child eligible for Northstar ~~kinship assistance under section 256N.22~~ or adoption
120.3 assistance under section 256N.23 who is determined to be an at-risk child. A child under
120.4 this clause must be assigned level A under section 256N.26, subdivision 1; and

120.5 (2) a child transitioning into Northstar Care for Children under section 256N.28,
120.6 subdivision 7, unless the commissioner determines an assessment is appropriate.

120.7 **EFFECTIVE DATE.** This section is effective August 1, 2019.

120.8 Sec. 21. Minnesota Statutes 2018, section 256N.24, subdivision 8, is amended to read:

120.9 Subd. 8. **Completing the special assessment.** (a) The special assessment must be
120.10 completed in consultation with the child's caregiver. Face-to-face contact with the caregiver
120.11 is not required to complete the special assessment.

120.12 (b) If a new special assessment is required prior to the effective date of the Northstar
120.13 kinship assistance agreement, it must be completed by the financially responsible agency,
120.14 in consultation with the legally responsible agency if different. If the prospective relative
120.15 custodian is unable or unwilling to cooperate with the special assessment process, the child
120.16 shall be assigned the basic level, level B under section 256N.26, subdivision 3, ~~unless the~~
120.17 ~~child is known to be an at-risk child, in which case, the child shall be assigned level A under~~
120.18 ~~section 256N.26, subdivision 1.~~

120.19 (c) If a special assessment is required prior to the effective date of the adoption assistance
120.20 agreement, it must be completed by the financially responsible agency, in consultation with
120.21 the legally responsible agency if different. If there is no financially responsible agency, the
120.22 special assessment must be completed by the agency designated by the commissioner. If
120.23 the prospective adoptive parent is unable or unwilling to cooperate with the special
120.24 assessment process, the child must be assigned the basic level, level B under section 256N.26,
120.25 subdivision 3, unless the child is known to be an at-risk child, in which case, the child shall
120.26 be assigned level A under section 256N.26, subdivision 1.

120.27 (d) Notice to the prospective relative custodians or prospective adoptive parents must
120.28 be provided as specified in subdivision 13.

120.29 **EFFECTIVE DATE.** This section is effective August 1, 2019.

121.1 Sec. 22. Minnesota Statutes 2018, section 256N.24, subdivision 11, is amended to read:

121.2 Subd. 11. **Completion of reassessment.** (a) The reassessment must be completed in
121.3 consultation with the child's caregiver. Face-to-face contact with the caregiver is not required
121.4 to complete the reassessment.

121.5 (b) For foster children eligible under section 256N.21, reassessments must be completed
121.6 by the financially responsible agency, in consultation with the legally responsible agency
121.7 if different.

121.8 (c) If reassessment is required after the effective date of the Northstar kinship assistance
121.9 agreement, the reassessment must be completed by the financially responsible agency.

121.10 (d) If a reassessment is required after the effective date of the adoption assistance
121.11 agreement, it must be completed by the financially responsible agency or, if there is no
121.12 financially responsible agency, the agency designated by the commissioner.

121.13 (e) If the child's caregiver is unable or unwilling to cooperate with the reassessment, the
121.14 child must be assessed at level B under section 256N.26, subdivision 3, unless the child has
121.15 ~~an a Northstar adoption assistance or Northstar kinship assistance~~ agreement in place and
121.16 is known to be an at-risk child, in which case the child must be assessed at level A under
121.17 section 256N.26, subdivision 1.

121.18 **EFFECTIVE DATE.** This section is effective August 1, 2019.

121.19 Sec. 23. Minnesota Statutes 2018, section 256N.24, subdivision 12, is amended to read:

121.20 Subd. 12. **Approval of initial assessments, special assessments, and reassessments.** (a)
121.21 Any agency completing initial assessments, special assessments, or reassessments must
121.22 designate one or more supervisors or other staff to examine and approve assessments
121.23 completed by others in the agency under subdivision 2. The person approving an assessment
121.24 must not be the case manager or staff member completing that assessment.

121.25 (b) In cases where a special assessment or reassessment for ~~guardian~~ Northstar kinship
121.26 assistance and adoption assistance is required under subdivision 8 or 11, the commissioner
121.27 shall review and approve the assessment as part of the eligibility determination process
121.28 outlined in section 256N.22, subdivision 7, for Northstar kinship assistance, or section
121.29 256N.23, subdivision 7, for adoption assistance. The assessment determines the maximum
121.30 for the negotiated agreement amount under section 256N.25.

121.31 (c) The new rate is effective the calendar month that the assessment is approved, or the
121.32 effective date of the agreement, whichever is later.

122.1 **EFFECTIVE DATE.** This section is effective August 1, 2019.

122.2 Sec. 24. Minnesota Statutes 2018, section 256N.24, subdivision 14, is amended to read:

122.3 Subd. 14. **Assessment tool determines rate of benefits.** The assessment tool established
122.4 by the commissioner in subdivision 2 determines the monthly benefit level for children in
122.5 foster care. The monthly payment for ~~guardian~~ Northstar kinship assistance or adoption
122.6 assistance may be negotiated up to the monthly benefit level under foster care for those
122.7 children eligible for a payment under section 256N.26, subdivision 1.

122.8 **EFFECTIVE DATE.** This section is effective August 1, 2019.

122.9 Sec. 25. Minnesota Statutes 2018, section 256N.28, subdivision 6, is amended to read:

122.10 Subd. 6. **Appeals and fair hearings.** (a) A caregiver has the right to appeal to the
122.11 commissioner under section 256.045 when eligibility for Northstar Care for Children is
122.12 denied, and when payment or the agreement for an eligible child is modified or terminated.

122.13 (b) ~~A relative custodian or adoptive parent has additional rights to appeal to the~~
122.14 ~~commissioner pursuant to section 256.045. These rights include when the commissioner~~
122.15 ~~terminates or modifies the Northstar kinship assistance or adoption assistance agreement~~
122.16 ~~or when the commissioner denies an application for Northstar kinship assistance or adoption~~
122.17 ~~assistance. A prospective relative custodian or adoptive parent who disagrees with a decision~~
122.18 ~~by the commissioner before transfer of permanent legal and physical custody or finalization~~
122.19 ~~of the adoption may request review of the decision by the commissioner or may appeal the~~
122.20 ~~decision under section 256.045. A Northstar kinship assistance or adoption assistance~~
122.21 ~~agreement must be signed and in effect before the court order that transfers permanent legal~~
122.22 ~~and physical custody or the adoption finalization; however, in some cases, there may be~~
122.23 ~~extenuating circumstances as to why an agreement was not entered into before finalization~~
122.24 ~~of permanency for the child. Caregivers who believe that extenuating circumstances exist~~
122.25 ~~as to why an agreement was not entered into before finalization of permanency in the case~~
122.26 ~~of their child may request a fair hearing. Caregivers have the responsibility of proving that~~
122.27 ~~extenuating circumstances exist. Caregivers must be required to provide written~~
122.28 ~~documentation of each eligibility criterion at the fair hearing. Examples of extenuating~~
122.29 ~~circumstances include: relevant facts regarding the child were known by the placing agency~~
122.30 ~~and not presented to the caregivers before transfer of permanent legal and physical custody~~
122.31 ~~or finalization of the adoption, or failure by the commissioner or a designee to advise~~
122.32 ~~potential caregivers about the availability of Northstar kinship assistance or adoption~~
122.33 ~~assistance for children in the state foster care system. If a human services judge finds through~~

123.1 the fair hearing process that extenuating circumstances existed and that the child met all
 123.2 other eligibility criteria at the time the transfer of permanent legal and physical custody was
 123.3 ordered or the adoption was finalized, the effective date and any associated federal financial
 123.4 participation shall be retroactive from the date of the request for a fair hearing.

123.5 **EFFECTIVE DATE.** This section is effective August 1, 2019.

123.6 Sec. 26. Minnesota Statutes 2018, section 259.241, is amended to read:

123.7 **259.241 ADULT ADOPTION.**

123.8 (a) Any adult person may be adopted, regardless of the adult person's residence. A
 123.9 resident of Minnesota may petition the court of record having jurisdiction of adoption
 123.10 proceedings to adopt an individual who has reached the age of 18 years or older.

123.11 (b) The consent of the person to be adopted shall be the only consent necessary, according
 123.12 to section 259.24. The consent of an adult in the adult person's own adoption is invalid if
 123.13 the adult is considered to be a vulnerable adult under section 626.5572, subdivision 21, or
 123.14 if the person consenting to the adoption is determined not competent to give consent.

123.15 (c) Notwithstanding paragraph (b), a person in extended foster care under section
 123.16 260C.451 may consent to the person's own adoption if the court of jurisdiction finds the
 123.17 person competent to give consent.

123.18 ~~(e)~~ (d) The decree of adoption establishes a parent-child relationship between the adopting
 123.19 parent or parents and the person adopted, including the right to inherit, and also terminates
 123.20 the parental rights ~~and sibling relationship~~ between the adopted person and the adopted
 123.21 person's birth parents ~~and siblings~~ according to section 259.59.

123.22 ~~(d)~~ (e) If the adopted person requests a change of name, the adoption decree shall order
 123.23 the name change.

123.24 **EFFECTIVE DATE.** This section is effective August 1, 2019.

123.25 Sec. 27. Minnesota Statutes 2018, section 259.35, subdivision 1, is amended to read:

123.26 Subdivision 1. **Parental responsibilities.** Prior to commencing an investigation of the
 123.27 suitability of proposed adoptive parents, a child-placing agency shall give the individuals
 123.28 the following written notice in all capital letters at least one-eighth inch high:

123.29 "Minnesota Statutes, section 259.59, provides that upon legally adopting a child, adoptive
 123.30 parents assume all the rights and responsibilities of birth parents. The responsibilities include
 123.31 providing for the child's financial support and caring for health, emotional, and behavioral

124.1 problems. Except for subsidized adoptions under Minnesota Statutes, chapter ~~259A~~ 256N,
124.2 or any other provisions of law that expressly apply to adoptive parents and children, adoptive
124.3 parents are not eligible for state or federal financial subsidies besides those that a birth
124.4 parent would be eligible to receive for a child. Adoptive parents may not terminate their
124.5 parental rights to a legally adopted child for a reason that would not apply to a birth parent
124.6 seeking to terminate rights to a child. An individual who takes guardianship of a child for
124.7 the purpose of adopting the child shall, upon taking guardianship from the child's country
124.8 of origin, assume all the rights and responsibilities of birth and adoptive parents as stated
124.9 in this paragraph."

124.10 **EFFECTIVE DATE.** This section is effective August 1, 2019.

124.11 Sec. 28. Minnesota Statutes 2018, section 259.37, subdivision 2, is amended to read:

124.12 Subd. 2. **Disclosure to birth parents and adoptive parents.** (a) An agency shall provide
124.13 a disclosure statement written in clear, plain language to be signed by the prospective
124.14 adoptive parents and birth parents, except that in intercountry adoptions, the signatures of
124.15 birth parents are not required. The disclosure statement must contain the following
124.16 information:

124.17 (1) fees charged to the adoptive parent, including any policy on sliding scale fees or fee
124.18 waivers and an itemization of the amount that will be charged for the adoption study,
124.19 counseling, postplacement services, family of origin searches, birth parent expenses
124.20 authorized under section 259.55, or any other services;

124.21 (2) timeline for the adoptive parent to make fee payments;

124.22 (3) likelihood, given the circumstances of the prospective adoptive parent and any specific
124.23 program to which the prospective adoptive parent is applying, that an adoptive placement
124.24 may be made and the estimated length of time for making an adoptive placement. These
124.25 estimates must be based on adoptive placements made with prospective parents in similar
124.26 circumstances applying to a similar program with the agency during the immediately
124.27 preceding three to five years. If an agency has not been in operation for at least three years,
124.28 it must provide summary data based on whatever adoptive placements it has made and may
124.29 include a statement about the kind of efforts it will make to achieve an adoptive placement,
124.30 including a timetable it will follow in seeking a child. The estimates must include a statement
124.31 that the agency cannot guarantee placement of a child or a time by which a child will be
124.32 placed;

124.33 (4) a statement of the services the agency will provide the birth and adoptive parents;

125.1 (5) a statement prepared by the commissioner under section 259.39 that explains the
125.2 child placement and adoption process and the respective legal rights and responsibilities of
125.3 the birth parent and prospective adoptive parent during the process including a statement
125.4 that the prospective adoptive parent is responsible for filing an adoption petition not later
125.5 than 12 months after the child is placed in the prospective adoptive home;

125.6 (6) a statement regarding any information the agency may have about attorney referral
125.7 services, or about obtaining assistance with completing legal requirements for an adoption;
125.8 and

125.9 (7) an acknowledgment to be signed by the birth parent and prospective adoptive parent
125.10 that they have received, read, and had the opportunity to ask questions of the agency about
125.11 the contents of the disclosure statement.

125.12 (b) An agency responsible for a placement or an agency supervising the placement shall
125.13 obtain from the birth parents named on the original birth record an affidavit attesting to the
125.14 following:

125.15 (1) the birth parent has been informed of the right of the adopted person at the age
125.16 specified in section 259.89 to request from the agency the name, last known address,
125.17 birthdate, and birthplace of the birth parents named on the adopted person's original birth
125.18 record;

125.19 (2) each birth parent may file in the agency record an affidavit of nondisclosure objecting
125.20 to the release of any or all of the information listed in clause (1) about that birth parent only,
125.21 to the adopted person;

125.22 (3) if the birth parent does not file an affidavit of nondisclosure objecting to the release
125.23 of information before the adopted person reaches the age specified in section 259.89, the
125.24 agency may provide the adopted person with the information upon request;

125.25 (4) notwithstanding a birth parent's filed affidavit of nondisclosure, the adopted person
125.26 may petition the court according to section 259.61 for release of identifying information
125.27 about a birth parent. The birth parent must then have the opportunity to present evidence
125.28 to the court that nondisclosure of identifying information is of greater benefit to the birth
125.29 parent than disclosure to the adopted person;

125.30 (5) any objection filed by the birth parent becomes invalid when withdrawn by the birth
125.31 parent; and

125.32 (6) if the birth parent filed an affidavit of nondisclosure or the birth parent's file does
125.33 not contain an affidavit of disclosure, the agency shall release the identifying information

126.1 to the adopted person upon receipt of the birth parent's death record and a court order
 126.2 authorizing disclosure under section 259.89, subdivision 5. A court order to release
 126.3 information is not required when a birth parent's affidavit of disclosure is filed, and no
 126.4 affidavit of nondisclosure was filed by either birth parent.

126.5 **EFFECTIVE DATE.** This section is effective August 1, 2019.

126.6 Sec. 29. Minnesota Statutes 2018, section 259.53, subdivision 4, is amended to read:

126.7 Subd. 4. **Preadoption residence.** No petition shall be granted under this chapter until
 126.8 the child shall have lived three months in the proposed home, subject to a right of visitation
 126.9 by the commissioner or an agency or their authorized representatives.

126.10 **EFFECTIVE DATE.** This section is effective August 1, 2019.

126.11 Sec. 30. Minnesota Statutes 2018, section 259.75, is amended to read:

126.12 **259.75 STATE ADOPTION EXCHANGE.**

126.13 Subdivision 1. **Establishment; contents; availability.** The commissioner of human
 126.14 services shall establish ~~an~~ a state adoption exchange that contains a photograph and
 126.15 ~~description of where~~ each child who has been legally freed for adoption is listed. The state
 126.16 adoption exchange is an information and matching tool. The state adoption exchange service
 126.17 ~~shall~~ must be available to all ~~local social service agencies and licensed~~ authorized
 126.18 child-placing agencies in Minnesota, as defined in section 257.065, whose purpose is to
 126.19 assist in the adoptive placement of children.

126.20 Subd. 2. ~~**Photograph and description**~~ **Submission of child's information.** ~~All local~~
 126.21 ~~social service agencies, and licensed~~ An authorized child-placing agencies agency shall
 126.22 ~~send to register on the state adoption exchange, within 45 days of the time a child becomes~~
 126.23 ~~free for adoption, a recent photograph and description of each child in its~~ the agency's care
 126.24 who has been legally freed for adoption by the termination of parental rights, and for whom
 126.25 no adoptive home has been found, within 45 days of the date the child became legally free
 126.26 for adoption and in a format specified by the commissioner.

126.27 Subd. 2a. **Listing deadline.** All children identified under subdivision 2 must be listed
 126.28 on the state adoption exchange within 20 days of the receipt of the information from the
 126.29 ~~local social service agency or licensed~~ authorized child-placing agency.

126.30 Subd. 3. **Changes in status.** The authorized child-placing agency shall report to the state
 126.31 adoption exchange, in a format specified by the commissioner, changes in the status of a
 126.32 ~~child listed in the state adoption exchange shall be reported by the local social service agency~~

127.1 ~~and the licensed child-placing agency to the exchange~~ within ten working days after the
127.2 change occurs.

127.3 Subd. 4. **Updated information.** Children remaining registered for 12 months shall have
127.4 ~~their photographs and written descriptions updated~~ registration completed by the ~~local social~~
127.5 ~~service agency and the licensed~~ authorized child-placing agency within ten working days
127.6 of the expiration of the 12 months, and ~~every 12 months~~ annually thereafter. The authorized
127.7 child-placing agency shall submit the registration update to the commissioner in a format
127.8 specified by the commissioner.

127.9 Subd. 5. **Withdrawal of registration.** A child's registration shall be withdrawn when
127.10 ~~the exchange service~~ commissioner has been notified in writing by the ~~local social service~~
127.11 ~~agency or the licensed~~ authorized child-placing agency that the child has been placed in an
127.12 adoptive home ~~or~~; has died; or is no longer under guardianship of the commissioner and is
127.13 no longer seeking a permanency resource.

127.14 Subd. 6. **Periodic review of status.** (a) ~~The exchange service~~ commissioner shall
127.15 ~~semiannually check~~ review the state adoption exchange status of ~~listed children for whom~~
127.16 ~~inquiries have been received,~~ including a child whose registration was withdrawn pursuant
127.17 to subdivision 5. The commissioner may determine that a child who is unregistered or whose
127.18 registration has been deferred must be registered and require the authorized child-placing
127.19 agency to register the child on the state adoption exchange within ten working days of the
127.20 commissioner's determination.

127.21 (b) ~~Periodic checks~~ reviews shall be made by ~~the service~~ to determine the progress
127.22 toward adoption of those children ~~and the status of children~~ registered ~~but never listed in~~
127.23 on the exchange book because of placement in an adoptive home prior to or at the time of
127.24 registration state adoption exchange.

127.25 Subd. 7. **Voluntary referral; required registration.** ~~A local social service agency and~~
127.26 ~~a licensed~~ An authorized child-placing agency may voluntarily refer any child legally freed
127.27 for adoption to the exchange service; or the ~~exchange service~~ commissioner may determine
127.28 that the recruitment of an adoptive family through the state adoption exchange ~~book~~ is
127.29 appropriate for a child not registered with the service and require the child to be registered
127.30 with the state adoption exchange service within ten working days of the commissioner's
127.31 determination.

127.32 Subd. 8. **Reasons for deferral.** ~~Deferral of the listing of~~ (a) An authorized child-placing
127.33 agency may defer a child with from registration on the state adoption exchange shall be
127.34 only for one or more of the following reasons:

- 128.1 ~~(a) the child is in an adoptive placement but is not legally adopted;~~
- 128.2 ~~(b) if the child's foster parents or other individuals are now considering adoption;~~
- 128.3 ~~(c) diagnostic study or testing is required to clarify the child's problem and provide an~~
- 128.4 ~~adequate description; or~~
- 128.5 ~~(d) the child is currently in a hospital and continuing need for daily professional care~~
- 128.6 ~~will not permit placement in a family setting.~~
- 128.7 (b) Approval of a request to defer listing for any of the reasons specified in paragraph
- 128.8 (b) or (c) registration shall be valid for a period not to exceed 90 days, with no subsequent
- 128.9 deferrals for those reasons, unless determined by the commissioner to be in the best interests
- 128.10 of the child. The authorized child-placing agency shall submit a deferral request to the
- 128.11 commissioner in a format specified by the commissioner.

128.12 Subd. 9. **Rules; staff.** The commissioner of human services shall make rules, procedures,

128.13 requirements, and deadlines as necessary to administer this section and shall employ

128.14 necessary staff to carry out the purposes of this section. The commissioner may contract

128.15 for portions of these services.

128.16 **EFFECTIVE DATE.** This section is effective August 1, 2019.

128.17 Sec. 31. Minnesota Statutes 2018, section 259.83, subdivision 1, is amended to read:

128.18 Subdivision 1. **Services provided.** Agencies shall provide assistance and counseling

128.19 services upon receiving a request for current information, to share information, or to facilitate

128.20 contact from adoptive parents, birth parents, genetic siblings, or adopted persons aged 19

128.21 years and over. The agency shall contact the other adult persons or the adoptive parents of

128.22 a minor child in a personal and confidential manner to determine whether there is a desire

128.23 to receive or share information or to have contact. If there is such a desire, the agency shall

128.24 provide the services requested. The agency shall provide services to adult genetic siblings

128.25 if there is no known violation of the confidentiality of a birth parent or if the birth parent

128.26 gives written consent. Any service provided by the agency shall be discontinued upon

128.27 request of any party receiving the service.

128.28 **EFFECTIVE DATE.** This section is effective August 1, 2019.

128.29 Sec. 32. Minnesota Statutes 2018, section 259.83, subdivision 1a, is amended to read:

128.30 Subd. 1a. ~~Social and medical history~~ **Nonidentifying information.** (a) If a person aged

128.31 19 years and over ~~who was adopted on or after August 1, 1994,~~ or the adoptive parent

129.1 requests the detailed nonidentifying social and medical history of the adopted person's birth
 129.2 family that was provided at the time of the adoption, agencies must provide the information
 129.3 to the adopted person or adoptive parent on the applicable form required under ~~section~~
 129.4 sections 259.43 and 260C.609.

129.5 (b) If an adopted person aged 19 years and over or the adoptive parent requests the
 129.6 agency to contact the adopted person's birth parents to request current nonidentifying social
 129.7 and medical history of the adopted person's birth family, agencies must use the applicable
 129.8 form required under ~~section~~ sections 259.43 and 260C.609 when obtaining the information
 129.9 for the adopted person or adoptive parent.

129.10 **EFFECTIVE DATE.** This section is effective August 1, 2019.

129.11 Sec. 33. Minnesota Statutes 2018, section 259.83, subdivision 3, is amended to read:

129.12 Subd. 3. **Identifying information Affidavit of disclosure or nondisclosure.** In adoptive
 129.13 placements made on and after August 1, 1982, the agency responsible for or supervising
 129.14 the placement shall obtain from the birth parents named on the original birth record an
 129.15 affidavit attesting to the following:

129.16 (a) ~~that the birth parent has been informed of the right of the adopted person at the age~~
 129.17 ~~specified in section 259.89 to request from the agency the name, last known address, birthdate~~
 129.18 ~~and birthplace of the birth parents named on the adopted person's original birth record;~~

129.19 (b) ~~that each birth parent may file in the agency record an affidavit objecting to the~~
 129.20 ~~release of any or all of the information listed in clause (a) about that birth parent, and that~~
 129.21 ~~parent only, to the adopted person;~~

129.22 (c) ~~that if the birth parent does not file an affidavit objecting to release of information~~
 129.23 ~~before the adopted person reaches the age specified in section 259.89, the agency will~~
 129.24 ~~provide the adopted person with the information upon request;~~

129.25 (d) ~~that notwithstanding the filing of an affidavit, the adopted person may petition the~~
 129.26 ~~court according to section 259.61 for release of identifying information about a birth parent;~~

129.27 (e) ~~that the birth parent shall then have the opportunity to present evidence to the court~~
 129.28 ~~that nondisclosure of identifying information is of greater benefit to the birth parent than~~
 129.29 ~~disclosure to the adopted person; and~~

129.30 (f) ~~that any objection filed by the birth parent shall become invalid when withdrawn by~~
 129.31 ~~the birth parent or when the birth parent dies. Upon receipt of a death record for the birth~~
 129.32 ~~parent, the agency shall release the identifying information to the adopted person if requested.~~

130.1 (a) Access to the original birth record of an adopted person is governed by section 259.89.
130.2 Upon receiving notice from the commissioner of a request for release of birth records, an
130.3 agency shall determine whether an affidavit of disclosure has been filed in the agency records
130.4 according to section 259.37, subdivision 2, paragraph (b).

130.5 (b) If an affidavit of disclosure was filed and no affidavit of nondisclosure was filed by
130.6 either birth parent according to section 259.37, subdivision 2, paragraph (b), the agency
130.7 shall provide the name, last known address, birthdate, and birthplace of the birth parents
130.8 named on the adopted person's original birth record. The agency shall not release a birth
130.9 parent's information if an affidavit of nondisclosure was filed by that birth parent, unless
130.10 authorized by court order.

130.11 (c) If an affidavit of disclosure was not filed, the agency shall make reasonable efforts
130.12 to locate and notify each birth parent of the request, of the right to file an affidavit of
130.13 nondisclosure according to section 259.37, subdivision 2, paragraph (b), clause (2), with
130.14 the state registrar, and of how filing or not filing an affidavit of disclosure or affidavit of
130.15 nondisclosure affects the release of the original birth record. For a birth parent who has
130.16 been located, an agency must follow the procedures outlined in section 259.37, subdivision
130.17 2, paragraph (b).

130.18 **EFFECTIVE DATE.** This section is effective August 1, 2019.

130.19 Sec. 34. Minnesota Statutes 2018, section 259A.75, subdivision 1, is amended to read:

130.20 Subdivision 1. **General information.** (a) Subject to the procedures required by the
130.21 commissioner and the provisions of this section, a Minnesota county or tribal agency shall
130.22 receive a reimbursement from the commissioner equal to 100 percent of the reasonable and
130.23 appropriate cost for contracted adoption placement services identified for a specific child
130.24 that are not reimbursed under other federal or state funding sources.

130.25 (b) The commissioner may spend up to \$16,000 for each purchase of service contract.
130.26 Only one contract per child per adoptive placement is permitted. Funds encumbered and
130.27 obligated under the contract for the child remain available until the terms of the contract
130.28 are fulfilled or the contract is terminated.

130.29 (c) The commissioner shall set aside an amount not to exceed five percent of the total
130.30 amount of the fiscal year appropriation from the state for the adoption assistance program
130.31 to reimburse a Minnesota county or tribal social services placing agency for child-specific
130.32 adoption placement services. When adoption assistance payments for children's needs exceed
130.33 95 percent of the total amount of the fiscal year appropriation from the state for the adoption

131.1 assistance program, the amount of reimbursement available to placing agencies for adoption
 131.2 services is reduced correspondingly.

131.3 **EFFECTIVE DATE.** This section is effective August 1, 2019.

131.4 Sec. 35. Minnesota Statutes 2018, section 259A.75, subdivision 2, is amended to read:

131.5 Subd. 2. **Purchase of service contract child eligibility criteria.** (a) A child who is the
 131.6 subject of a purchase of service contract must:

131.7 (1) have the goal of adoption, which may include an adoption in accordance with tribal
 131.8 law;

131.9 (2) be under the guardianship of the commissioner of human services or be a ward of
 131.10 tribal court pursuant to section 260.755, subdivision 20; and

131.11 (3) ~~meet all of the~~ be a child with special needs criteria according to section ~~259A.10~~
 131.12 ~~256N.23~~, subdivision 2.

131.13 ~~(b) A child under the guardianship of the commissioner must have an identified adoptive~~
 131.14 ~~parent and a fully executed adoption placement agreement according to section 260C.613,~~
 131.15 ~~subdivision 1, paragraph (a).~~

131.16 **EFFECTIVE DATE.** This section is effective August 1, 2019.

131.17 Sec. 36. Minnesota Statutes 2018, section 259A.75, subdivision 3, is amended to read:

131.18 Subd. 3. **Agency eligibility criteria.** (a) A Minnesota county or tribal social services
 131.19 agency shall ~~receive reimbursement for~~ enter into a child-specific agreement for adoption
 131.20 placement services for an eligible child that it purchases from a private adoption agency
 131.21 licensed in Minnesota or any other state or tribal social services agency.

131.22 (b) Reimbursement for adoption services is available only for services approved through
 131.23 a fully executed child-specific contract for adoption services and provided prior to the date
 131.24 of the adoption decree.

131.25 **EFFECTIVE DATE.** This section is effective August 1, 2019.

131.26 Sec. 37. Minnesota Statutes 2018, section 259A.75, subdivision 4, is amended to read:

131.27 Subd. 4. **Application and eligibility determination.** (a) A county or tribal social services
 131.28 agency may request reimbursement of costs for adoption placement services by submitting
 131.29 a complete purchase of service application, according to the requirements and procedures
 131.30 and on forms prescribed by the commissioner.

132.1 (b) The commissioner shall determine eligibility for reimbursement of adoption placement
132.2 services. If determined eligible, the commissioner of human services shall sign the purchase
132.3 of service agreement, making this a fully executed contract. No reimbursement under this
132.4 section shall be made to an agency for services provided prior to the fully executed contract.

132.5 (c) Separate purchase of service agreements shall be made, and separate records
132.6 maintained, on each child. Only one agreement per child per adoptive placement is permitted.
132.7 For siblings who are placed together, services shall be planned and provided to best maximize
132.8 efficiency of the contracted hours.

132.9 **EFFECTIVE DATE.** This section is effective August 1, 2019.

132.10 Sec. 38. Minnesota Statutes 2018, section 259A.75, subdivision 5, is amended to read:

132.11 Subd. 5. **Reimbursement process.** (a) The agency providing adoption services is
132.12 responsible to track and record all service activity, including billable hours, on a form
132.13 prescribed by the commissioner. The agency shall submit this form to the state for
132.14 reimbursement after services have been completed. Reimbursement may be made directly
132.15 to the county or tribal social services agency or private child-placing agency.

132.16 (b) The commissioner shall make the final determination whether or not the requested
132.17 reimbursement costs are reasonable and appropriate and if the services have been completed
132.18 according to the terms of the purchase of service agreement.

132.19 **EFFECTIVE DATE.** This section is effective August 1, 2019.

132.20 Sec. 39. Minnesota Statutes 2018, section 260.761, subdivision 2, is amended to read:

132.21 Subd. 2. **Agency and court notice to tribes.** (a) When a local social services agency
132.22 has information that a family assessment or investigation being conducted may involve an
132.23 Indian child, the local social services agency shall notify the Indian child's tribe of the family
132.24 assessment or investigation according to section 626.556, subdivision 10, paragraph ~~(a)~~ (b),
132.25 clause (5). Initial notice shall be provided by telephone and by e-mail or facsimile. The
132.26 local social services agency shall request that the tribe or a designated tribal representative
132.27 participate in evaluating the family circumstances, identifying family and tribal community
132.28 resources, and developing case plans.

132.29 (b) When a local social services agency has information that a child receiving services
132.30 may be an Indian child, the local social services agency shall notify the tribe by telephone
132.31 and by e-mail or facsimile of the child's full name and date of birth, the full names and dates
132.32 of birth of the child's biological parents, and, if known, the full names and dates of birth of

133.1 the child's grandparents and of the child's Indian custodian. This notification must be provided
 133.2 so the tribe can determine if the child is enrolled in the tribe or eligible for membership,
 133.3 and must be provided within seven days. If information regarding the child's grandparents
 133.4 or Indian custodian is not available within the seven-day period, the local social services
 133.5 agency shall continue to request this information and shall notify the tribe when it is received.
 133.6 Notice shall be provided to all tribes to which the child may have any tribal lineage. If the
 133.7 identity or location of the child's parent or Indian custodian and tribe cannot be determined,
 133.8 the local social services agency shall provide the notice required in this paragraph to the
 133.9 United States secretary of the interior.

133.10 (c) In accordance with sections 260C.151 and 260C.152, when a court has reason to
 133.11 believe that a child placed in emergency protective care is an Indian child, the court
 133.12 administrator or a designee shall, as soon as possible and before a hearing takes place, notify
 133.13 the tribal social services agency by telephone and by e-mail or facsimile of the date, time,
 133.14 and location of the emergency protective case hearing. The court shall make efforts to allow
 133.15 appearances by telephone for tribal representatives, parents, and Indian custodians.

133.16 (d) A local social services agency must provide the notices required under this subdivision
 133.17 at the earliest possible time to facilitate involvement of the Indian child's tribe. Nothing in
 133.18 this subdivision is intended to hinder the ability of the local social services agency and the
 133.19 court to respond to an emergency situation. Lack of participation by a tribe shall not prevent
 133.20 the tribe from intervening in services and proceedings at a later date. A tribe may participate
 133.21 at any time. At any stage of the local social services agency's involvement with an Indian
 133.22 child, the agency shall provide full cooperation to the tribal social services agency, including
 133.23 disclosure of all data concerning the Indian child. Nothing in this subdivision relieves the
 133.24 local social services agency of satisfying the notice requirements in the Indian Child Welfare
 133.25 Act.

133.26 **EFFECTIVE DATE.** This section is effective August 1, 2019.

133.27 Sec. 40. Minnesota Statutes 2018, section 260C.101, is amended by adding a subdivision
 133.28 to read:

133.29 **Subd. 6. Provisions inapplicable to a child in foster care.** If the court orders a child
 133.30 placed under the protective care or legal custody of the responsible social services agency
 133.31 pursuant to section 260C.151, subdivision 6; 260C.178; or 260C.201, then the provisions
 133.32 of section 524.5-211 and chapter 257B have no force and effect and any delegation of power
 133.33 by parent or guardian or designation of standby custodian are terminated by the court's
 133.34 order.

134.1 **EFFECTIVE DATE.** This section is effective August 1, 2019.

134.2 Sec. 41. Minnesota Statutes 2018, section 260C.139, subdivision 3, is amended to read:

134.3 Subd. 3. **Status of child.** For purposes of proceedings under this chapter and adoption
134.4 proceedings, a newborn left at a safe place, pursuant to subdivision 3 and section 145.902,
134.5 is considered an abandoned child under section 626.556, subdivision 2, paragraph ~~(o)~~ (r),
134.6 clause (2). The child is abandoned under sections 260C.007, subdivision 6, clause (1), and
134.7 260C.301, subdivision 1, paragraph (b), clause (1).

134.8 **EFFECTIVE DATE.** This section is effective August 1, 2019.

134.9 Sec. 42. Minnesota Statutes 2018, section 260C.171, subdivision 2, is amended to read:

134.10 Subd. 2. **Public inspection of records.** (a) The records from proceedings or portions of
134.11 proceedings involving a child in need of protection or services, permanency, or termination
134.12 of parental rights are accessible to the public as authorized by the Minnesota Rules of
134.13 Juvenile Protection Procedure-, except that the court shall maintain the confidentiality of a
134.14 child's education, physical health, and mental health records or information. A petition filed
134.15 alleging a child to be habitually truant under section 260C.007, subdivision 6, clause (14),
134.16 is not part of the child's education record or information. The court shall maintain the
134.17 confidentiality of any record filed in proceedings under chapter 260D.

134.18 (b) None of the records relating to an appeal from a nonpublic juvenile court proceeding,
134.19 except the written appellate opinion, shall be open to public inspection or their contents
134.20 disclosed except by order of a court.

134.21 (c) The records of juvenile probation officers are records of the court for the purposes
134.22 of this subdivision. This subdivision applies to all proceedings under this chapter, including
134.23 appeals from orders of the juvenile court. The court shall maintain the confidentiality of
134.24 adoption files and records in accordance with the provisions of laws relating to adoptions.
134.25 In juvenile court proceedings any report or social history furnished to the court shall be
134.26 open to inspection by the attorneys of record and the guardian ad litem a reasonable time
134.27 before it is used in connection with any proceeding before the court.

134.28 **EFFECTIVE DATE.** This section is effective August 1, 2019.

134.29 Sec. 43. Minnesota Statutes 2018, section 260C.178, subdivision 1, is amended to read:

134.30 Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody
134.31 under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a

135.1 hearing within 72 hours of the time the child was taken into custody, excluding Saturdays,
135.2 Sundays, and holidays, to determine whether the child should continue in custody.

135.3 (b) Unless there is reason to believe that the child would endanger self or others or not
135.4 return for a court hearing, or that the child's health or welfare would be immediately
135.5 endangered, the child shall be released to the custody of a parent, guardian, custodian, or
135.6 other suitable person, subject to reasonable conditions of release including, but not limited
135.7 to, a requirement that the child undergo a chemical use assessment as provided in section
135.8 260C.157, subdivision 1.

135.9 (c) If the court determines there is reason to believe that the child would endanger self
135.10 or others or not return for a court hearing, or that the child's health or welfare would be
135.11 immediately endangered if returned to the care of the parent or guardian who has custody
135.12 and from whom the child was removed, the court shall order the child into foster care under
135.13 the legal responsibility of the responsible social services agency or responsible probation
135.14 or corrections agency for the purposes of protective care as that term is used in the juvenile
135.15 court rules or into the home of a noncustodial parent and order the noncustodial parent to
135.16 comply with any conditions the court determines to be appropriate to the safety and care of
135.17 the child, including cooperating with paternity establishment proceedings in the case of a
135.18 man who has not been adjudicated the child's father. The court shall not give the responsible
135.19 social services legal custody and order a trial home visit at any time prior to adjudication
135.20 and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may
135.21 order the child returned to the care of the parent or guardian who has custody and from
135.22 whom the child was removed and order the parent or guardian to comply with any conditions
135.23 the court determines to be appropriate to meet the safety, health, and welfare of the child.

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

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

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

136.4 (2) that there are no services or other efforts that could be made at the time of the hearing
136.5 that could safely permit the child to remain home or to return home. When reasonable efforts
136.6 to prevent placement are required and there are services or other efforts that could be ordered
136.7 which would permit the child to safely return home, the court shall order the child returned
136.8 to the care of the parent or guardian and the services or efforts put in place to ensure the
136.9 child's safety. When the court makes a prima facie determination that one of the
136.10 circumstances under paragraph (g) exists, the court shall determine that reasonable efforts
136.11 to prevent placement and to return the child to the care of the parent or guardian are not
136.12 required.

136.13 If the court finds the social services agency's preventive or reunification efforts have
136.14 not been reasonable but further preventive or reunification efforts could not permit the child
136.15 to safely remain at home, the court may nevertheless authorize or continue the removal of
136.16 the child.

136.17 (f) The court may not order or continue the foster care placement of the child unless the
136.18 court makes explicit, individualized findings that continued custody of the child by the
136.19 parent or guardian would be contrary to the welfare of the child and that placement is in the
136.20 best interest of the child.

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

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

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

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

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

136.32 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision 2,
136.33 against the child or another child of the parent;

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

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

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

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

137.14 (j) If the court determines the child should be ordered into foster care and the child's
137.15 parent refuses to give information to the responsible social services agency regarding the
137.16 child's father or relatives of the child, the court may order the parent to disclose the names,
137.17 addresses, telephone numbers, and other identifying information to the responsible social
137.18 services agency for the purpose of complying with sections 260C.151, 260C.212, 260C.215,
137.19 and 260C.221.

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

137.31 (l) When the court has ordered the child into foster care or into the home of a noncustodial
137.32 parent, the court may order a chemical dependency evaluation, mental health evaluation,
137.33 medical examination, and parenting assessment for the parent as necessary to support the
137.34 development of a plan for reunification required under subdivision 7 and section 260C.212,

138.1 subdivision 1, or the child protective services plan under section 626.556, subdivision 10,
138.2 and Minnesota Rules, part 9560.0228.

138.3 **EFFECTIVE DATE.** This section is effective August 1, 2019.

138.4 Sec. 44. Minnesota Statutes 2018, section 260C.212, subdivision 1, is amended to read:

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

138.9 (b) An out-of-home placement plan means a written document which is prepared by the
138.10 responsible social services agency jointly with the parent or parents or guardian of the child
138.11 and in consultation with the child's guardian ad litem, the child's tribe, if the child is an
138.12 Indian child, the child's foster parent or representative of the foster care facility, and, where
138.13 appropriate, the child. When a child is age 14 or older, the child may include two other
138.14 individuals on the team preparing the child's out-of-home placement plan. The child may
138.15 select one member of the case planning team to be designated as the child's ~~advisor~~ adviser
138.16 and to advocate with respect to the application of the reasonable and prudent parenting
138.17 standards. The responsible social services agency may reject an individual selected by the
138.18 child if the agency has good cause to believe that the individual would not act in the best
138.19 interest of the child. For a child in voluntary foster care for treatment under chapter 260D,
138.20 preparation of the out-of-home placement plan shall additionally include the child's mental
138.21 health treatment provider. For a child 18 years of age or older, the responsible social services
138.22 agency shall involve the child and the child's parents as appropriate. As appropriate, the
138.23 plan shall be:

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

138.25 (2) ordered by the court, either as presented or modified after hearing, under section
138.26 260C.178, subdivision 7, or 260C.201, subdivision 6; and

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

138.30 (c) The out-of-home placement plan shall be explained to all persons involved in its
138.31 implementation, including the child who has signed the plan, and shall set forth:

138.32 (1) a description of the foster care home or facility selected, including how the
138.33 out-of-home placement plan is designed to achieve a safe placement for the child in the

139.1 least restrictive, most family-like, setting available which is in close proximity to the home
139.2 of the parent or parents or guardian of the child when the case plan goal is reunification,
139.3 and how the placement is consistent with the best interests and special needs of the child
139.4 according to the factors under subdivision 2, paragraph (b);

139.5 (2) the specific reasons for the placement of the child in foster care, and when
139.6 reunification is the plan, a description of the problems or conditions in the home of the
139.7 parent or parents which necessitated removal of the child from home and the changes the
139.8 parent or parents must make for the child to safely return home;

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

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

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

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

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

139.26 (6) when a child cannot return to or be in the care of either parent, documentation of
139.27 steps to finalize adoption as the permanency plan for the child through reasonable efforts
139.28 to place the child for adoption. At a minimum, the documentation must include consideration
139.29 of whether adoption is in the best interests of the child, child-specific recruitment efforts
139.30 such as relative search and the use of state, regional, and national adoption exchanges to
139.31 facilitate orderly and timely placements in and outside of the state. A copy of this
139.32 documentation shall be provided to the court in the review required under section 260C.317,
139.33 subdivision 3, paragraph (b);

140.1 (7) when a child cannot return to or be in the care of either parent, documentation of
140.2 steps to finalize the transfer of permanent legal and physical custody to a relative as the
140.3 permanency plan for the child. This documentation must support the requirements of the
140.4 kinship placement agreement under section 256N.22 and must include the reasonable efforts
140.5 used to determine that it is not appropriate for the child to return home or be adopted, and
140.6 reasons why permanent placement with a relative through a Northstar kinship assistance
140.7 arrangement is in the child's best interest; how the child meets the eligibility requirements
140.8 for Northstar kinship assistance payments; agency efforts to discuss adoption with the child's
140.9 relative foster parent and reasons why the relative foster parent chose not to pursue adoption,
140.10 if applicable; and agency efforts to discuss with the child's parent or parents the permanent
140.11 transfer of permanent legal and physical custody or the reasons why these efforts were not
140.12 made;

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

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

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

140.27 (9) the educational records of the child including the most recent information available
140.28 regarding:

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

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

140.31 (iii) the child's school record;

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

- 141.1 (v) any other relevant educational information;
- 141.2 (10) the efforts by the responsible social services agency to ensure the oversight and
141.3 continuity of health care services for the foster child, including:
- 141.4 (i) the plan to schedule the child's initial health screens;
- 141.5 (ii) how the child's known medical problems and identified needs from the screens,
141.6 including any known communicable diseases, as defined in section 144.4172, subdivision
141.7 2, shall be monitored and treated while the child is in foster care;
- 141.8 (iii) how the child's medical information shall be updated and shared, including the
141.9 child's immunizations;
- 141.10 (iv) who is responsible to coordinate and respond to the child's health care needs,
141.11 including the role of the parent, the agency, and the foster parent;
- 141.12 (v) who is responsible for oversight of the child's prescription medications;
- 141.13 (vi) how physicians or other appropriate medical and nonmedical professionals shall be
141.14 consulted and involved in assessing the health and well-being of the child and determine
141.15 the appropriate medical treatment for the child; and
- 141.16 (vii) the responsibility to ensure that the child has access to medical care through either
141.17 medical insurance or medical assistance;
- 141.18 (11) the health records of the child including information available regarding:
- 141.19 (i) the names and addresses of the child's health care and dental care providers;
- 141.20 (ii) a record of the child's immunizations;
- 141.21 (iii) the child's known medical problems, including any known communicable diseases
141.22 as defined in section 144.4172, subdivision 2;
- 141.23 (iv) the child's medications; and
- 141.24 (v) any other relevant health care information such as the child's eligibility for medical
141.25 insurance or medical assistance;
- 141.26 (12) an independent living plan for a child 14 years of age or older, developed in
141.27 consultation with the child. The child may select one member of the case planning team to
141.28 be designated as the child's ~~advisor~~ adviser and to advocate with respect to the application
141.29 of the reasonable and prudent parenting standards in subdivision 14. The plan should include,
141.30 but not be limited to, the following objectives:
- 141.31 (i) educational, vocational, or employment planning;

- 142.1 (ii) health care planning and medical coverage;
- 142.2 (iii) transportation including, where appropriate, assisting the child in obtaining a driver's
142.3 license;
- 142.4 (iv) money management, including the responsibility of the responsible social services
142.5 agency to ensure that the child annually receives, at no cost to the child, a consumer report
142.6 as defined under section 13C.001 and assistance in interpreting and resolving any inaccuracies
142.7 in the report;
- 142.8 (v) planning for housing;
- 142.9 (vi) social and recreational skills;
- 142.10 (vii) establishing and maintaining connections with the child's family and community;
142.11 and
- 142.12 (viii) regular opportunities to engage in age-appropriate or developmentally appropriate
142.13 activities typical for the child's age group, taking into consideration the capacities of the
142.14 individual child;
- 142.15 (13) for a child in voluntary foster care for treatment under chapter 260D, diagnostic
142.16 and assessment information, specific services relating to meeting the mental health care
142.17 needs of the child, and treatment outcomes; and
- 142.18 (14) for a child 14 years of age or older, a signed acknowledgment that describes the
142.19 child's rights regarding education, health care, visitation, safety and protection from
142.20 exploitation, and court participation; receipt of the documents identified in section 260C.452;
142.21 and receipt of an annual credit report. The acknowledgment shall state that the rights were
142.22 explained in an age-appropriate manner to the child.
- 142.23 (d) The parent or parents or guardian and the child each shall have the right to legal
142.24 counsel in the preparation of the case plan and shall be informed of the right at the time of
142.25 placement of the child. The child shall also have the right to a guardian ad litem. If unable
142.26 to employ counsel from their own resources, the court shall appoint counsel upon the request
142.27 of the parent or parents or the child or the child's legal guardian. The parent or parents may
142.28 also receive assistance from any person or social services agency in preparation of the case
142.29 plan.
- 142.30 After the plan has been agreed upon by the parties involved or approved or ordered by
142.31 the court, the foster parents shall be fully informed of the provisions of the case plan and
142.32 shall be provided a copy of the plan.

143.1 Upon discharge from foster care, the parent, adoptive parent, or permanent legal and
 143.2 physical custodian, ~~as appropriate~~, and the child, if ~~appropriate~~ 14 years of age or older,
 143.3 must be provided with a current copy of the child's health and education record- and, for a
 143.4 child who meets the conditions in subdivision 15, paragraph (b), the child's social and
 143.5 medical history. A child younger than 14 years of age may be given a copy of the child's
 143.6 health and education record and social and medical history, if appropriate and applicable
 143.7 according to subdivision 15, paragraph (b).

143.8 **EFFECTIVE DATE.** This section is effective August 1, 2019.

143.9 Sec. 45. Minnesota Statutes 2018, section 260C.212, subdivision 2, is amended to read:

143.10 Subd. 2. **Placement decisions based on best interests of the child.** (a) The policy of
 143.11 the state of Minnesota is to ensure that the child's best interests are met by requiring an
 143.12 individualized determination of the needs of the child and of how the selected placement
 143.13 will serve the needs of the child being placed. The authorized child-placing agency shall
 143.14 assess a noncustodial or nonadjudicated parent's capacity and willingness to provide for the
 143.15 day-to-day care of a child pursuant to section 260C.219. Upon assessment, if a noncustodial
 143.16 or nonadjudicated parent cannot provide for the day-to-day care of a child, the authorized
 143.17 child-placing agency shall place a child, released by court order or by voluntary release by
 143.18 the parent or parents, in a family foster home selected by considering placement with relatives
 143.19 and important friends in the following order:

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

143.22 (2) with an individual who is an important friend with whom the child has resided or
 143.23 had significant contact.

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

143.26 (b) Among the factors the agency shall consider in determining the needs of the child
 143.27 are the following:

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

143.29 (2) the medical needs of the child;

143.30 (3) the educational needs of the child;

143.31 (4) the developmental needs of the child;

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

- 144.1 (6) the child's religious and cultural needs;
- 144.2 (7) the child's connection with a community, school, and faith community;
- 144.3 (8) the child's interests and talents;
- 144.4 (9) the child's relationship to current caretakers, parents, siblings, and relatives;
- 144.5 (10) the reasonable preference of the child, if the court, or the child-placing agency in
- 144.6 the case of a voluntary placement, deems the child to be of sufficient age to express
- 144.7 preferences; and
- 144.8 (11) for an Indian child, the best interests of an Indian child as defined in section 260.755,
- 144.9 subdivision 2a.
- 144.10 (c) Placement of a child cannot be delayed or denied based on race, color, or national
- 144.11 origin of the foster parent or the child.
- 144.12 (d) Siblings should be placed together for foster care and adoption at the earliest possible
- 144.13 time unless it is documented that a joint placement would be contrary to the safety or
- 144.14 well-being of any of the siblings or unless it is not possible after reasonable efforts by the
- 144.15 responsible social services agency. In cases where siblings cannot be placed together, the
- 144.16 agency is required to provide frequent visitation or other ongoing interaction between
- 144.17 siblings unless the agency documents that the interaction would be contrary to the safety
- 144.18 or well-being of any of the siblings.
- 144.19 (e) Except for emergency placement as provided for in section 245A.035, the following
- 144.20 requirements must be satisfied before the approval of a foster or adoptive placement in a
- 144.21 related or unrelated home: (1) a completed background study under section 245C.08; and
- 144.22 (2) a completed review of the written home study required under section 260C.215,
- 144.23 subdivision 4, clause (5), or 260C.611, to assess the capacity of the prospective foster or
- 144.24 adoptive parent to ensure the placement will meet the needs of the individual child.

144.25 **EFFECTIVE DATE.** This section is effective August 1, 2019.

144.26 Sec. 46. Minnesota Statutes 2018, section 260C.212, is amended by adding a subdivision

144.27 to read:

144.28 **Subd. 15. Social and medical history.** (a) The commissioner shall develop forms for

144.29 the responsible social services agency to complete a child's social and medical history. The

144.30 responsible social services agency shall work with the child's birth family, foster family,

144.31 medical and treatment providers, and school to ensure each child has a detailed and up-to-date

144.32 social and medical history on the forms provided by the commissioner.

145.1 (b) If the child continues in foster care, the responsible social services agency must begin
145.2 reasonable efforts to complete the child's social and medical history no later than the
145.3 permanency progress review hearing required in section 260C.204 or six months after the
145.4 child's placement in foster care, whichever occurs earlier.

145.5 (c) A child's social and medical history must include background and health history
145.6 specific to the child, the child's birth parents, and the child's other birth relatives. Applicable
145.7 background and health information about the child includes the child's current health
145.8 condition, behavior, and demeanor; placement history; education history; sibling information;
145.9 and birth, medical, dental, and immunization information. Redacted copies of pertinent
145.10 records, assessments, and evaluations must be attached to the child's social and medical
145.11 history. Applicable background information about the child's birth parents and other birth
145.12 relatives includes general background information; education and employment histories;
145.13 physical and mental health histories; and reasons for the child's placement.

145.14 **EFFECTIVE DATE.** This section is effective August 1, 2019.

145.15 Sec. 47. Minnesota Statutes 2018, section 260C.219, is amended to read:

145.16 **260C.219 AGENCY RESPONSIBILITIES FOR PARENTS AND CHILDREN IN**
145.17 **PLACEMENT.**

145.18 (a) When a child is in foster care, the responsible social services agency shall make
145.19 diligent efforts to identify, locate, and, where appropriate, offer services to both parents of
145.20 the child.

145.21 (1) The responsible social services agency shall assess whether a noncustodial or
145.22 nonadjudicated parent is willing and capable of providing for the day-to-day care of the
145.23 child temporarily or permanently. An assessment under this clause may include, but is not
145.24 limited to, obtaining information under section 260C.209. If after assessment, the responsible
145.25 social services agency determines that a noncustodial or nonadjudicated parent is willing
145.26 and capable of providing day-to-day care of the child, the responsible social services agency
145.27 may seek authority from the custodial parent or the court to have that parent assume
145.28 day-to-day care of the child. If a parent is not an adjudicated parent, the responsible social
145.29 services agency shall require the nonadjudicated parent to cooperate with paternity
145.30 establishment procedures as part of the case plan.

145.31 (2) If, after assessment, the responsible social services agency determines that the child
145.32 cannot be in the day-to-day care of either parent, the agency shall:

146.1 (i) prepare an out-of-home placement plan addressing the conditions that each parent
146.2 must meet before the child can be in that parent's day-to-day care; and

146.3 (ii) provide a parent who is the subject of a background study under section 260C.209
146.4 15 days' notice that it intends to use the study to recommend against putting the child with
146.5 that parent, and the court shall afford the parent an opportunity to be heard concerning the
146.6 study.

146.7 The results of a background study of a noncustodial parent shall not be used by the
146.8 agency to determine that the parent is incapable of providing day-to-day care of the child
146.9 unless the agency reasonably believes that placement of the child into the home of that
146.10 parent would endanger the child's health, safety, or welfare.

146.11 (3) If, after the provision of services following an out-of-home placement plan under
146.12 this section, the child cannot return to the care of the parent from whom the child was
146.13 removed or who had legal custody at the time the child was placed in foster care, the agency
146.14 may petition on behalf of a noncustodial parent to establish legal custody with that parent
146.15 under section 260C.515, subdivision 4. If paternity has not already been established, it may
146.16 be established in the same proceeding in the manner provided for under chapter 257.

146.17 (4) The responsible social services agency may be relieved of the requirement to locate
146.18 and offer services to both parents by the juvenile court upon a finding of good cause after
146.19 the filing of a petition under section 260C.141.

146.20 (b) The responsible social services agency shall give notice to the parent or guardian of
146.21 each child in foster care, other than a child in voluntary foster care for treatment under
146.22 chapter 260D, of the following information:

146.23 (1) that the child's placement in foster care may result in termination of parental rights
146.24 or an order permanently placing the child out of the custody of the parent, but only after
146.25 notice and a hearing as required under this chapter and the juvenile court rules;

146.26 (2) time limits on the length of placement and of reunification services, including the
146.27 date on which the child is expected to be returned to and safely maintained in the home of
146.28 the parent or parents or placed for adoption or otherwise permanently removed from the
146.29 care of the parent by court order;

146.30 (3) the nature of the services available to the parent;

146.31 (4) the consequences to the parent and the child if the parent fails or is unable to use
146.32 services to correct the circumstances that led to the child's placement;

146.33 (5) the first consideration for placement with relatives;

147.1 (6) the benefit to the child in getting the child out of foster care as soon as possible,
147.2 preferably by returning the child home, but if that is not possible, through a permanent legal
147.3 placement of the child away from the parent;

147.4 (7) when safe for the child, the benefits to the child and the parent of maintaining
147.5 visitation with the child as soon as possible in the course of the case and, in any event,
147.6 according to the visitation plan under this section; and

147.7 (8) the financial responsibilities and obligations, if any, of the parent or parents for the
147.8 support of the child during the period the child is in foster care.

147.9 (c) The responsible social services agency shall inform a parent considering voluntary
147.10 placement of a child under section 260C.227 of the following information:

147.11 (1) the parent and the child each has a right to separate legal counsel before signing a
147.12 voluntary placement agreement, but not to counsel appointed at public expense;

147.13 (2) the parent is not required to agree to the voluntary placement, and a parent who enters
147.14 a voluntary placement agreement may at any time request that the agency return the child.
147.15 If the parent so requests, the child must be returned within 24 hours of the receipt of the
147.16 request;

147.17 (3) evidence gathered during the time the child is voluntarily placed may be used at a
147.18 later time as the basis for a petition alleging that the child is in need of protection or services
147.19 or as the basis for a petition seeking termination of parental rights or other permanent
147.20 placement of the child away from the parent;

147.21 (4) if the responsible social services agency files a petition alleging that the child is in
147.22 need of protection or services or a petition seeking the termination of parental rights or other
147.23 permanent placement of the child away from the parent, the parent would have the right to
147.24 appointment of separate legal counsel and the child would have a right to the appointment
147.25 of counsel and a guardian ad litem as provided by law, and that counsel will be appointed
147.26 at public expense if they are unable to afford counsel; and

147.27 (5) the timelines and procedures for review of voluntary placements under section
147.28 260C.212, subdivision 3, and the effect the time spent in voluntary placement on the
147.29 scheduling of a permanent placement determination hearing under sections 260C.503 to
147.30 260C.521.

147.31 (d) When an agency accepts a child for placement, the agency shall determine whether
147.32 the child has had a physical examination by or under the direction of a licensed physician
147.33 within the 12 months immediately preceding the date when the child came into the agency's

148.1 care. If there is documentation that the child has had an examination within the last 12
148.2 months, the agency is responsible for seeing that the child has another physical examination
148.3 within one year of the documented examination and annually in subsequent years. If the
148.4 agency determines that the child has not had a physical examination within the 12 months
148.5 immediately preceding placement, the agency shall ensure that the child has an examination
148.6 within 30 days of coming into the agency's care and once a year in subsequent years.

148.7 (e) Whether under state guardianship or not, if a child leaves foster care by reason of
148.8 having attained the age of majority under state law, the child must be given at no cost a
148.9 copy of the child's social and medical history, as defined in section ~~259.43~~ 260C.212,
148.10 subdivision 15, ~~and~~ including the child's health and education report.

148.11 **EFFECTIVE DATE.** This section is effective August 1, 2019.

148.12 Sec. 48. Minnesota Statutes 2018, section 260C.451, subdivision 9, is amended to read:

148.13 Subd. 9. **Administrative or court review of placements.** (a) The court shall conduct
148.14 reviews at least annually to ensure the responsible social services agency is making
148.15 reasonable efforts to finalize the permanency plan for the child, including reasonable efforts
148.16 to finalize an adoption, if applicable.

148.17 (b) The court shall find that the responsible social services agency is making reasonable
148.18 efforts to finalize the permanency plan for the child when the responsible social services
148.19 agency:

148.20 (1) provides appropriate support to the child and foster care provider to ensure continuing
148.21 stability and success in placement;

148.22 (2) works with the child to plan for transition to adulthood and assists the child in
148.23 demonstrating progress in achieving related goals;

148.24 (3) works with the child to plan for independent living skills and assists the child in
148.25 demonstrating progress in achieving independent living goals; and

148.26 (4) prepares the child for independence according to sections 260C.203, paragraph (d),
148.27 and 260C.452, subdivision 4.

148.28 (c) The responsible social services agency must ensure that an administrative review
148.29 that meets the requirements of this section and section 260C.203 is completed at least six
148.30 months after each of the court's annual reviews.

148.31 **EFFECTIVE DATE.** This section is effective August 1, 2019.

149.1 Sec. 49. Minnesota Statutes 2018, section 260C.503, subdivision 2, is amended to read:

149.2 Subd. 2. **Termination of parental rights.** (a) The responsible social services agency
149.3 must ask the county attorney to immediately file a termination of parental rights petition
149.4 when:

149.5 (1) the child has been subjected to egregious harm as defined in section 260C.007,
149.6 subdivision 14;

149.7 (2) the child is determined to be the sibling of a child who was subjected to egregious
149.8 harm;

149.9 (3) the child is an abandoned infant as defined in section 260C.301, subdivision 2,
149.10 paragraph (a), clause (2);

149.11 (4) the child's parent has lost parental rights to another child through an order involuntarily
149.12 terminating the parent's rights;

149.13 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision 2,
149.14 against the child or another child of the parent;

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

149.17 (7) another child of the parent is the subject of an order involuntarily transferring
149.18 permanent legal and physical custody of the child to a relative under this chapter or a similar
149.19 law of another jurisdiction;

149.20 The county attorney shall file a termination of parental rights petition unless the conditions
149.21 of paragraph (d) are met.

149.22 (b) When the termination of parental rights petition is filed under this subdivision, the
149.23 responsible social services agency shall identify, recruit, and approve an adoptive family
149.24 for the child. If a termination of parental rights petition has been filed by another party, the
149.25 responsible social services agency shall be joined as a party to the petition.

149.26 (c) If criminal charges have been filed against a parent arising out of the conduct alleged
149.27 to constitute egregious harm, the county attorney shall determine which matter should
149.28 proceed to trial first, consistent with the best interests of the child and subject to the
149.29 defendant's right to a speedy trial.

149.30 (d) The requirement of paragraph (a) does not apply if the responsible social services
149.31 agency and the county attorney determine and file with the court:

150.1 (1) a petition for transfer of permanent legal and physical custody to a relative under
 150.2 sections 260C.505 and 260C.515, subdivision ~~3~~ 4, including a determination that adoption
 150.3 is not in the child's best interests and that transfer of permanent legal and physical custody
 150.4 is in the child's best interests; or

150.5 (2) a petition under section 260C.141 alleging the child, and where appropriate, the
 150.6 child's siblings, to be in need of protection or services accompanied by a case plan prepared
 150.7 by the responsible social services agency documenting a compelling reason why filing a
 150.8 termination of parental rights petition would not be in the best interests of the child.

150.9 **EFFECTIVE DATE.** This section is effective August 1, 2019.

150.10 Sec. 50. Minnesota Statutes 2018, section 260C.515, subdivision 3, is amended to read:

150.11 Subd. 3. **Guardianship; commissioner.** The court may order guardianship to the
 150.12 commissioner of human services under the following procedures and conditions:

150.13 (1) there is an identified prospective adoptive parent agreed to by the responsible social
 150.14 services agency having legal custody of the child pursuant to court order under this chapter
 150.15 and that prospective adoptive parent has agreed to adopt the child;

150.16 (2) the court accepts the parent's voluntary consent to adopt in writing on a form
 150.17 prescribed by the commissioner, executed before two competent witnesses and confirmed
 150.18 by the consenting parent before the court or executed before the court. The consent shall
 150.19 contain notice that consent given under this chapter:

150.20 (i) is irrevocable upon acceptance by the court unless fraud is established and an order
 150.21 is issued permitting revocation as stated in clause (9) unless the matter is governed by the
 150.22 Indian Child Welfare Act, United States Code, title 25, section 1913(c); and

150.23 (ii) will result in an order that the child is under the guardianship of the commissioner
 150.24 of human services;

150.25 (3) a consent executed and acknowledged outside of this state, either in accordance with
 150.26 the law of this state or in accordance with the law of the place where executed, is valid;

150.27 (4) the court must review the matter at least every 90 days under section 260C.317;

150.28 (5) a consent to adopt under this subdivision vests guardianship of the child with the
 150.29 commissioner of human services and makes the child a ward of the commissioner of human
 150.30 services under section 260C.325;

150.31 (6) the court must forward to the commissioner a copy of the consent to adopt, together
 150.32 with a certified copy of the order transferring guardianship to the commissioner;

151.1 (7) if an adoption is not finalized by the identified prospective adoptive parent within
151.2 six months of the execution of the consent to adopt under this clause, the responsible social
151.3 services agency shall pursue adoptive placement in another home unless the court finds in
151.4 a hearing under section 260C.317 that the failure to finalize is not due to either an action
151.5 or a failure to act by the prospective adoptive parent;

151.6 (8) notwithstanding clause (7), the responsible social services agency must pursue
151.7 adoptive placement in another home as soon as the agency determines that finalization of
151.8 the adoption with the identified prospective adoptive parent is not possible, that the identified
151.9 prospective adoptive parent is not willing to adopt the child, or that the identified prospective
151.10 adoptive parent is not cooperative in completing the steps necessary to finalize the adoption.
151.11 The court may order a termination of parental rights under subdivision 2; and

151.12 (9) unless otherwise required by the Indian Child Welfare Act, United States Code, title
151.13 25, section 1913(c), a consent to adopt executed under this section shall be irrevocable upon
151.14 acceptance by the court except upon order permitting revocation issued by the same court
151.15 after written findings that consent was obtained by fraud.

151.16 **EFFECTIVE DATE.** This section is effective August 1, 2019.

151.17 Sec. 51. Minnesota Statutes 2018, section 260C.515, subdivision 4, is amended to read:

151.18 Subd. 4. **Custody to relative.** The court may order permanent legal and physical custody
151.19 to a fit and willing relative in the best interests of the child according to the following
151.20 requirements:

151.21 (1) an order for transfer of permanent legal and physical custody to a relative shall only
151.22 be made after the court has reviewed the suitability of the prospective legal and physical
151.23 custodian;

151.24 (2) in transferring permanent legal and physical custody to a relative, the juvenile court
151.25 shall follow the standards applicable under this chapter and chapter 260, and the procedures
151.26 in the Minnesota Rules of Juvenile Protection Procedure;

151.27 (3) a transfer of legal and physical custody includes responsibility for the protection,
151.28 education, care, and control of the child and decision making on behalf of the child;

151.29 (4) a permanent legal and physical custodian may not return a child to the permanent
151.30 care of a parent from whom the court removed custody without the court's approval and
151.31 without notice to the responsible social services agency;

152.1 (5) the social services agency may file a petition naming a fit and willing relative as a
152.2 proposed permanent legal and physical custodian. A petition for transfer of permanent legal
152.3 and physical custody to a relative who is not a parent shall be accompanied by a kinship
152.4 placement agreement under section 256N.22, subdivision 2, between the agency and proposed
152.5 permanent legal and physical custodian;

152.6 (6) another party to the permanency proceeding regarding the child may file a petition
152.7 to transfer permanent legal and physical custody to a relative. The petition must include
152.8 facts upon which the court can make the determination required under clause (7) and must
152.9 be filed not later than the date for the required admit-deny hearing under section 260C.507;
152.10 or if the agency's petition is filed under section 260C.503, subdivision 2, the petition must
152.11 be filed not later than 30 days prior to the trial required under section 260C.509;

152.12 (7) where a petition is for transfer of permanent legal and physical custody to a relative
152.13 who is not a parent, the court must find that:

152.14 (i) transfer of permanent legal and physical custody and receipt of Northstar kinship
152.15 assistance under chapter 256N, when requested and the child is eligible, are in the child's
152.16 best interests;

152.17 (ii) adoption is not in the child's best interests based on the determinations in the kinship
152.18 placement agreement required under section 256N.22, subdivision 2;

152.19 (iii) the agency made efforts to discuss adoption with the child's parent or parents, or
152.20 the agency did not make efforts to discuss adoption and the reasons why efforts were not
152.21 made; and

152.22 (iv) there are reasons to separate siblings during placement, if applicable; The court
152.23 may find there is a reason to separate siblings when the court finds both (A) that the
152.24 responsible social services agency made reasonable efforts to place siblings together, and
152.25 (B) that placing siblings together is not in the best interest of one or more of the siblings;

152.26 (8) the court may defer finalization of an order transferring permanent legal and physical
152.27 custody to a relative when deferring finalization is necessary to determine eligibility for
152.28 Northstar kinship assistance under chapter 256N;

152.29 (9) the court may finalize a permanent transfer of physical and legal custody to a relative
152.30 regardless of eligibility for Northstar kinship assistance under chapter 256N; ~~and~~

152.31 (10) the juvenile court may maintain jurisdiction over the responsible social services
152.32 agency, the parents or guardian of the child, the child, and the permanent legal and physical
152.33 custodian for purposes of ensuring appropriate services are delivered to the child and

153.1 permanent legal custodian for the purpose of ensuring conditions ordered by the court related
 153.2 to the care and custody of the child are met; and

153.3 (11) after finalization of the transfer of permanent legal and physical custody to a relative
 153.4 who is not a parent, the court administrator must mail a copy of the final order to the
 153.5 commissioner of human services.

153.6 **EFFECTIVE DATE.** This section is effective August 1, 2019.

153.7 Sec. 52. Minnesota Statutes 2018, section 260C.605, subdivision 1, is amended to read:

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

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

153.17 (c) Reasonable efforts under paragraph (b) must begin as soon as possible when the
 153.18 child is in foster care under this chapter, but not later than the hearing required under section
 153.19 260C.204.

153.20 (d) Reasonable efforts to finalize the adoption of the child include but are not limited
 153.21 to:

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

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

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

153.26 ~~(i)~~ completing or updating the relative search required under section 260C.221 and giving
 153.27 notice of the need for an adoptive home for the child to a child's relative who:

153.28 ~~(A) relatives who have~~ (i) kept the agency or the court apprised of ~~their~~ the relative's
 153.29 whereabouts and who ~~have~~ has indicated an interest in adopting the child; or

153.30 ~~(B) relatives of the child who are~~ (ii) is located in an updated search; ~~;~~

153.31 ~~(ii)~~ An updated search is required whenever:

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

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

154.5 (C) the court determines a relative search by the agency is in the best interests of the
 154.6 child;

154.7 ~~(iii)~~ (4) engaging the child's foster parent and the child's ~~relatives~~ relative identified as
 154.8 an adoptive resource during the search conducted under section 260C.221, to commit to
 154.9 being the prospective adoptive parent of the child; ~~or~~

154.10 ~~(iv)~~ (5) when there is no identified prospective adoptive parent:

154.11 ~~(A)~~ (i) registering the child on the state adoption exchange as required in section 259.75
 154.12 unless the agency documents to the court an exception to placing the child on the state
 154.13 adoption exchange reported to the commissioner;

154.14 ~~(B)~~ (ii) reviewing all families with approved adoption home studies associated with the
 154.15 responsible social services agency;

154.16 ~~(C)~~ (iii) presenting the child to adoption agencies and adoption personnel who may assist
 154.17 with finding an adoptive home for the child;

154.18 ~~(D)~~ (iv) using ~~newspapers and other media~~ as appropriate to promote the particular child;

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

154.21 ~~(F)~~ (vi) making any other efforts or using any other resources reasonably calculated to
 154.22 identify a prospective adoption parent for the child;

154.23 ~~(4)~~ (6) updating and completing the social and medical history required under sections
 154.24 ~~259.43~~ 260C.212, subdivision 15, and 260C.609;

154.25 ~~(5)~~ (7) making, and keeping updated, appropriate referrals required by section 260.851,
 154.26 the Interstate Compact on the Placement of Children;

154.27 ~~(6)~~ (8) giving notice regarding the responsibilities of an adoptive parent to any prospective
 154.28 adoptive parent as required under section ~~259.35~~ 260C.611, paragraph (b);

154.29 ~~(7)~~ (9) offering the adopting parent the opportunity to apply for or decline adoption
 154.30 assistance under chapter ~~259A~~ 256N;

155.1 ~~(8)~~ (10) certifying the child for adoption assistance, assessing the amount of adoption
155.2 assistance, and ascertaining the status of the commissioner's decision on the level of payment
155.3 if the adopting parent has applied for adoption assistance;

155.4 ~~(9)~~ (11) placing the child with siblings. If the child is not placed with siblings, the agency
155.5 must document reasonable efforts to place the siblings together, as well as the reason for
155.6 separation. The agency may not cease reasonable efforts to place siblings together for final
155.7 adoption until the court finds further reasonable efforts would be futile or that placement
155.8 together for purposes of adoption is not in the best interests of one of the siblings; and

155.9 ~~(10)~~ (12) working with the adopting parent to file a petition to adopt the child and with
155.10 the court administrator to obtain a timely hearing to finalize the adoption.

155.11 **EFFECTIVE DATE.** This section is effective August 1, 2019.

155.12 Sec. 53. Minnesota Statutes 2018, section 260C.607, subdivision 6, is amended to read:

155.13 Subd. 6. **Motion and hearing to order adoptive placement.** (a) At any time after the
155.14 district court orders the child under the guardianship of the commissioner of human services,
155.15 but not later than 30 days after receiving notice required under section 260C.613, subdivision
155.16 1, paragraph (c), that the agency has made an adoptive placement, a relative or the child's
155.17 foster parent may file a motion for an order for adoptive placement of a child who is under
155.18 the guardianship of the commissioner if the relative or the child's foster parent:

155.19 (1) has an adoption home study under section ~~259.41~~ 260C.611 approving the relative
155.20 or foster parent for adoption and has been a resident of Minnesota for at least six months
155.21 before filing the motion; the court may waive the residency requirement for the moving
155.22 party if there is a reasonable basis to do so; or

155.23 (2) is not a resident of Minnesota, but has an approved adoption home study by an agency
155.24 licensed or approved to complete an adoption home study in the state of the individual's
155.25 residence and the study is filed with the motion for adoptive placement.

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

155.32 (c) If the motion and supporting documents do not make a prima facie showing for the
155.33 court to determine whether the agency has been unreasonable in failing to make the requested

156.1 adoptive placement, the court shall dismiss the motion. If the court determines a prima facie
156.2 basis is made, the court shall set the matter for evidentiary hearing.

156.3 (d) At the evidentiary hearing, the responsible social services agency shall proceed first
156.4 with evidence about the reason for not making the adoptive placement proposed by the
156.5 moving party. The moving party then has the burden of proving by a preponderance of the
156.6 evidence that the agency has been unreasonable in failing to make the adoptive placement.

156.7 (e) At the conclusion of the evidentiary hearing, if the court finds that the agency has
156.8 been unreasonable in failing to make the adoptive placement and that the relative or the
156.9 child's foster parent is the most suitable adoptive home to meet the child's needs using the
156.10 factors in section 260C.212, subdivision 2, paragraph (b), the court may order the responsible
156.11 social services agency to make an adoptive placement in the home of the relative or the
156.12 child's foster parent.

156.13 (f) If, in order to ensure that a timely adoption may occur, the court orders the responsible
156.14 social services agency to make an adoptive placement under this subdivision, the agency
156.15 shall:

156.16 (1) make reasonable efforts to obtain a fully executed adoption placement agreement;

156.17 (2) work with the moving party regarding eligibility for adoption assistance as required
156.18 under chapter ~~259A~~ 256N; and

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

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

156.28 **EFFECTIVE DATE.** This section is effective August 1, 2019.

156.29 Sec. 54. Minnesota Statutes 2018, section 260C.609, is amended to read:

156.30 **260C.609 SOCIAL AND MEDICAL HISTORY.**

156.31 ~~(a) The responsible social services agency shall work with the birth family of the child,~~
156.32 ~~foster family, medical and treatment providers, and the child's school to ensure there is a~~

157.1 ~~detailed, thorough, and currently up-to-date social and medical history of the child as required~~
 157.2 ~~under section 259.43 on the forms required by the commissioner.~~

157.3 ~~(b) When the child continues in foster care, the agency's reasonable efforts to complete~~
 157.4 ~~the history shall begin no later than the permanency progress review hearing required under~~
 157.5 ~~section 260C.204 or six months after the child's placement in foster care.~~

157.6 ~~(e) (a) The agency shall thoroughly discuss the child's history with the adopting~~
 157.7 ~~prospective adoptive parent of the child and shall give a redacted copy of the report of the~~
 157.8 ~~child's social and medical history including redacted attachments as described in section~~
 157.9 ~~260C.212, subdivision 15, to the adopting prospective adoptive parent. If the prospective~~
 157.10 ~~adoptive parent does not pursue adoption of the child, the prospective adoptive parent must~~
 157.11 ~~return to the agency the child's social and medical history including redacted attachments.~~
 157.12 ~~A redacted copy of the child's social and medical history may also be given to the child, as~~
 157.13 ~~appropriate according to section 260C.212, subdivision 1.~~

157.14 ~~(d) (b) The report shall not include information that identifies birth relatives. Redacted~~
 157.15 ~~copies of all the child's relevant evaluations, assessments, and records must be attached to~~
 157.16 ~~the social and medical history.~~

157.17 ~~(c) The agency must: (1) submit the child's social and medical history to the Department~~
 157.18 ~~of Human Services at the time the adoption placement agreement is submitted; and (2) file~~
 157.19 ~~the child's social and medical history with the court when the adoption petition is filed.~~

157.20 **EFFECTIVE DATE.** This section is effective August 1, 2019.

157.21 Sec. 55. Minnesota Statutes 2018, section 260C.611, is amended to read:

157.22 **260C.611 ADOPTION STUDY REQUIRED.**

157.23 (a) An adoption study under section 259.41 approving placement of the child in the
 157.24 home of the prospective adoptive parent shall be completed before placing any child under
 157.25 the guardianship of the commissioner in a home for adoption. If a prospective adoptive
 157.26 parent has a current child foster care license under chapter 245A and is seeking to adopt a
 157.27 foster child who is placed in the prospective adoptive parent's home and is under the
 157.28 guardianship of the commissioner according to section 260C.325, subdivision 1, the child
 157.29 foster care home study meets the requirements of this section for an approved adoption
 157.30 home study if:

157.31 (1) the written home study on which the foster care license was based is completed in
 157.32 the commissioner's designated format, consistent with the requirements in sections 259.41,

158.1 subdivision 2; and 260C.215, subdivision 4, clause (5); and Minnesota Rules, part 2960.3060,
158.2 subpart 4;

158.3 (2) the background studies on each prospective adoptive parent and all required household
158.4 members were completed according to section 245C.33;

158.5 (3) the commissioner has not issued, within the last three years, a sanction on the license
158.6 under section 245A.07 or an order of a conditional license under section 245A.06; and

158.7 (4) the legally responsible agency determines that the individual needs of the child are
158.8 being met by the prospective adoptive parent through an assessment under section 256N.24,
158.9 subdivision 2, or a documented placement decision consistent with section 260C.212,
158.10 subdivision 2.

158.11 (b) Before investigating the suitability of a prospective adoptive parent for a child under
158.12 guardianship of the commissioner, a child-placing agency shall give the prospective adoptive
158.13 parent the following written notice in all capital letters at least one-eighth inch high:
158.14 "Minnesota Statutes, section 260C.635, provides that upon legally adopting a child under
158.15 guardianship of the commissioner, an adoptive parent assumes all the rights and
158.16 responsibilities of a birth parent. The responsibilities include providing for the child's
158.17 financial support and caring for the child's health and emotional and behavioral problems.
158.18 Except for a subsidized adoption under Minnesota Statutes, chapter 256N, or any other
158.19 provision of law that expressly applies to an adoptive parent and child, an adoptive parent
158.20 is not eligible for state or federal financial subsidies aside from those that a birth parent
158.21 would be eligible to receive for a child. An adoptive parent may not terminate the adoptive
158.22 parent's parental rights to a legally adopted child for a reason that would not apply to a birth
158.23 parent seeking to terminate rights to a child."

158.24 ~~(b)~~ (c) If a prospective adoptive parent has previously held a foster care license or
158.25 adoptive home study, any update necessary to the foster care license, or updated or new
158.26 adoptive home study, if not completed by the licensing authority responsible for the previous
158.27 license or home study, shall include collateral information from the previous licensing or
158.28 approving agency, if available.

158.29 **EFFECTIVE DATE.** This section is effective August 1, 2019.

158.30 Sec. 56. Minnesota Statutes 2018, section 260C.613, subdivision 6, is amended to read:

158.31 Subd. 6. **Death notification.** (a) The agency shall inform the adoptive parents that the
158.32 adoptive parents of an adopted child under age 19 or an adopted person age 19 or older may
158.33 maintain a current address on file with the agency and indicate a desire to be notified if the

159.1 agency receives information of the death of a birth parent. The agency shall notify birth
 159.2 parents of the child's death and the cause of death, if known, provided that the birth parents
 159.3 desire notice and maintain current addresses on file with the agency. The agency shall inform
 159.4 birth parents entitled to notice under section ~~259.27~~ 259.49 that they may designate
 159.5 individuals to notify the agency if a birth parent dies and that the agency receiving
 159.6 information of the birth parent's death will share the information with adoptive parents, if
 159.7 the adopted person is under age 19, or an adopted person age 19 or older who has indicated
 159.8 a desire to be notified of the death of a birth parent and who maintains a current address on
 159.9 file with the agency.

159.10 (b) Notice to a birth parent that a child has died or to the adoptive parents or an adopted
 159.11 person age 19 or older that a birth parent has died shall be provided by an employee of the
 159.12 agency through personal and confidential contact, but not by mail.

159.13 **EFFECTIVE DATE.** This section is effective August 1, 2019.

159.14 Sec. 57. Minnesota Statutes 2018, section 260C.615, subdivision 1, is amended to read:

159.15 Subdivision 1. **Duties.** (a) For any child who is under the guardianship of the
 159.16 commissioner, the commissioner has the exclusive rights to consent to:

159.17 (1) the medical care plan for the treatment of a child who is at imminent risk of death
 159.18 or who has a chronic disease that, in a physician's judgment, will result in the child's death
 159.19 in the near future including a physician's order not to resuscitate or intubate the child; and

159.20 (2) the child donating a part of the child's body to another person while the child is living;
 159.21 the decision to donate a body part under this clause shall take into consideration the child's
 159.22 wishes and the child's culture.

159.23 (b) In addition to the exclusive rights under paragraph (a), the commissioner has a duty
 159.24 to:

159.25 (1) process any complete and accurate request for home study and placement through
 159.26 the Interstate Compact on the Placement of Children under section 260.851;

159.27 (2) process any complete and accurate application for adoption assistance forwarded by
 159.28 the responsible social services agency according to ~~chapter~~ chapters 256N and 259A;

159.29 (3) ~~complete the execution of~~ review and process an adoption placement agreement
 159.30 forwarded to the commissioner by the responsible social services agency and return it to
 159.31 the agency in a timely fashion; and

159.32 (4) maintain records as required in chapter 259.

160.1 **EFFECTIVE DATE.** This section is effective August 1, 2019.

160.2 Sec. 58. Minnesota Statutes 2018, section 260C.623, subdivision 3, is amended to read:

160.3 Subd. 3. **Requirements of petition.** (a) The petition shall be captioned in the legal name
160.4 of the child as that name is reflected on the child's birth record prior to adoption and shall
160.5 be entitled "Petition to Adopt Child under the Guardianship of the Commissioner of Human
160.6 Services." The actual name of the child shall be supplied to the court by the responsible
160.7 social services agency if unknown to the individual with whom the agency has made the
160.8 adoptive placement.

160.9 (b) The adoption petition shall be verified as required in section 260C.141, subdivision
160.10 4, and, if filed by the responsible social services agency, signed and approved by the county
160.11 attorney.

160.12 (c) The petition shall state:

160.13 (1) the full name, age, and place of residence of the adopting parent;

160.14 (2) if the adopting parents are married, the date and place of marriage;

160.15 (3) the date the child was physically placed in the home of the adopting parent ~~acquired~~
160.16 ~~physical custody of the child, if applicable;~~

160.17 (4) the date of the adoptive placement by the responsible social services agency;

160.18 (5) the date of the birth of the child, if known, and the county, state, and country where
160.19 born;

160.20 (6) the name to be given the child, if a change of name is desired;

160.21 (7) the description and value of any real or personal property owned by the child;

160.22 (8) the relationship of the adopting parent to the child prior to adoptive placement, if
160.23 any;

160.24 (9) whether the Indian Child Welfare Act does or does not apply; and

160.25 (10) the name and address of:

160.26 (i) the child's guardian ad litem;

160.27 (ii) the adoptee, if age ten or older;

160.28 (iii) the child's Indian tribe, if the child is an Indian child; and

160.29 (iv) the responsible social services agency.

161.1 (d) A petition may ask for the adoption of two or more children.

161.2 (e) If a petition is for adoption by a married person, both spouses must sign the petition
161.3 indicating willingness to adopt the child and the petition must ask for adoption by both
161.4 spouses unless the court approves adoption by only one spouse when spouses do not reside
161.5 together or for other good cause shown.

161.6 (f) If the petition is for adoption by a person residing outside the state, the adoptive
161.7 placement must have been approved by the state where the person is a resident through the
161.8 Interstate Compact on the Placement of Children, sections 260.851 to 260.92.

161.9 **EFFECTIVE DATE.** This section is effective August 1, 2019.

161.10 Sec. 59. Minnesota Statutes 2018, section 260C.623, subdivision 4, is amended to read:

161.11 Subd. 4. **Attachments to the petition.** The following must be filed with the petition:

161.12 (1) the adoption study report required under section ~~259.41~~ 260C.611;

161.13 (2) the social and medical history required under ~~sections 259.43 and~~ section 260C.609;
161.14 and

161.15 (3) a document prepared by the petitioner that establishes who must be given notice
161.16 under section 260C.627, subdivision 1, that includes the names and mailing addresses of
161.17 those to be served by the court administrator.

161.18 **EFFECTIVE DATE.** This section is effective August 1, 2019.

161.19 Sec. 60. Minnesota Statutes 2018, section 260C.625, is amended to read:

161.20 **260C.625 DOCUMENTS FILED BY SOCIAL SERVICES AGENCY.**

161.21 (a) The following shall be filed with the court by the responsible social services agency
161.22 prior to finalization of the adoption:

161.23 (1) ~~a certified~~ an electronic copy of the child's certified birth record;

161.24 (2) ~~a certified~~ an electronic copy of the certified findings and order terminating parental
161.25 rights or order accepting the parent's consent to adoption under section 260C.515, subdivision
161.26 3, and for guardianship to the commissioner;

161.27 (3) a copy of any communication or contact agreement under section 260C.619;

161.28 (4) certification that the Minnesota Fathers' Adoption Registry has been searched which
161.29 requirement may be met according to the requirements of the Minnesota Rules of Adoption
161.30 Procedure, Rule 32.01, subdivision 2;

162.1 (5) an electronic copy of the original of each consent to adoption required, if any, unless
 162.2 the original was filed in the permanency proceeding conducted under section 260C.515,
 162.3 subdivision 3, and the order filed under clause (2) has a copy of the consent attached; and

162.4 (6) the postplacement assessment report required under section 259.53, subdivision 2.

162.5 (b) The responsible social services agency shall provide any known aliases of the child
 162.6 to the court.

162.7 **EFFECTIVE DATE.** This section is effective August 1, 2019.

162.8 Sec. 61. Minnesota Statutes 2018, section 260C.629, subdivision 2, is amended to read:

162.9 Subd. 2. **Required documents.** In order to issue a decree for adoption and enter judgment
 162.10 accordingly, the court must have the following documents in the record:

162.11 (1) an electronic copy of the original birth record of the child;

162.12 (2) an adoption study report including a background study required under section ~~259.41~~
 162.13 260C.611;

162.14 (3) ~~a~~ an electronic copy of the certified copy of the findings and order terminating parental
 162.15 rights or order accepting the parent's consent to adoption under section 260C.515, subdivision
 162.16 3, and for guardianship to the commissioner;

162.17 (4) any consents required under subdivision 1;

162.18 (5) the child's social and medical history under section 260C.609;

162.19 (6) the postplacement assessment report required under section 259.53, subdivision 2,
 162.20 unless waived by the court on the record at a hearing under section 260C.607; and

162.21 (7) a report from the child's guardian ad litem.

162.22 **EFFECTIVE DATE.** This section is effective August 1, 2019.

162.23 Sec. 62. Minnesota Statutes 2018, section 518A.53, subdivision 11, is amended to read:

162.24 Subd. 11. **Lump-sum payments.** Before transmittal to the obligor of a lump-sum payment
 162.25 of \$500 or more including, but not limited to, severance pay, accumulated sick pay, vacation
 162.26 pay, bonuses, commissions, or other pay or benefits, a payor of funds:

162.27 (1) who has been served with an order for or notice of income withholding under this
 162.28 section shall:

162.29 (i) notify the public authority of the lump-sum payment that is to be paid to the obligor;

163.1 (ii) hold the lump-sum payment for 30 days after the date on which the lump-sum payment
 163.2 would otherwise have been paid to the obligor, notwithstanding sections 176.221, 176.225,
 163.3 176.521, 181.08, 181.101, 181.11, 181.13, and 181.145; and

163.4 (iii) upon order of the court, and after a showing of past willful nonpayment of support,
 163.5 pay any specified amount of the lump-sum payment to the public authority for future support;
 163.6 or

163.7 (2) shall pay the lesser of the amount of the lump-sum payment or the total amount of
 163.8 the judgment and arrearages upon service by United States mail of a sworn affidavit from
 163.9 the public authority or a court order that includes the following information:

163.10 (i) that a judgment entered pursuant to section 548.091, subdivision 1a, exists against
 163.11 the obligor, or that other support arrearages exist;

163.12 (ii) the current balance of the judgment or arrearage; and

163.13 (iii) that a portion of the judgment or arrearage remains unpaid.

163.14 ~~The Consumer Credit Protection Act, title 15 of the United States Code, section 1673(b),~~
 163.15 ~~does not apply to lump-sum payments.~~

163.16 Sec. 63. Minnesota Statutes 2018, section 518A.685, is amended to read:

163.17 **518A.685 CONSUMER REPORTING AGENCY; REPORTING ARREARS.**

163.18 (a) If a public authority determines that an obligor has not paid the current monthly
 163.19 support obligation plus any required arrearage payment for three months, the public authority
 163.20 must report this information to a consumer reporting agency.

163.21 (b) Before reporting that an obligor is in arrears for court-ordered child support, the
 163.22 public authority must:

163.23 (1) provide written notice to the obligor that the public authority intends to report the
 163.24 arrears to a consumer reporting agency; and

163.25 (2) mail the written notice to the obligor's last known mailing address at least 30 days
 163.26 before the public authority reports the arrears to a consumer reporting agency.

163.27 (c) The obligor may, within 21 days of receipt of the notice, do the following to prevent
 163.28 the public authority from reporting the arrears to a consumer reporting agency:

163.29 (1) pay the arrears in full; or

163.30 (2) request an administrative review. An administrative review is limited to issues of
 163.31 mistaken identity, a pending legal action involving the arrears, or an incorrect arrears balance.

164.1 ~~(d) If the public authority has reported that an obligor is in arrears for court-ordered~~
 164.2 ~~child support and subsequently determines that the obligor has paid the court-ordered child~~
 164.3 ~~support arrears in full, or is paying the current monthly support obligation plus any required~~
 164.4 ~~arrearage payment, the public authority must report to the consumer reporting agency that~~
 164.5 ~~the obligor is currently paying child support as ordered by the court.~~

164.6 ~~(e)~~ (d) A public authority that reports arrearage information under this section must
 164.7 make monthly reports to a consumer reporting agency. The monthly report must be consistent
 164.8 with credit reporting industry standards for child support.

164.9 ~~(f)~~ (e) For purposes of this section, "consumer reporting agency" has the meaning given
 164.10 in section 13C.001, subdivision 4, and United States Code, title 15, section 1681a(f).

164.11 Sec. 64. **[518A.80] MOTION TO TRANSFER TO TRIBAL COURT.**

164.12 Subdivision 1. Definitions. (a) For purposes of this section, the terms defined in this
 164.13 subdivision have the meanings given them.

164.14 (b) "Case participant" means a party to the case that is a natural person.

164.15 (c) "District court" means a district court of the state of Minnesota.

164.16 (d) "Party" means a person or entity named or admitted as a party or seeking to be
 164.17 admitted as a party in the district court action, including the county IV-D agency, whether
 164.18 or not named in the caption.

164.19 (e) "Tribal court" means a tribal court of a federally recognized Indian tribe located in
 164.20 Minnesota that is receiving funding from the federal government to operate a child support
 164.21 program under United States Code, title 42, chapter 7, subchapter IV, part D, sections 654
 164.22 to 669b.

164.23 (f) "Tribal IV-D agency" has the meaning given to "tribal IV-D agency" in Code of
 164.24 Federal Regulations, title 45, part 309.05.

164.25 (g) "Title IV-D child support case" has the meaning given to "IV-D case" in section
 164.26 518A.26, subdivision 10.

164.27 Subd. 2. Actions eligible for transfer. For purposes of this section, a postjudgment
 164.28 child support, custody, or parenting time action is eligible for transfer to tribal court. A child
 164.29 protection action or a dissolution action involving a child is not eligible for transfer to tribal
 164.30 court pursuant to this section.

164.31 Subd. 3. Motion to transfer. (a) A party's or tribal IV-D agency's motion to transfer to
 164.32 tribal court shall state and allege:

- 165.1 (1) the address of each case participant;
165.2 (2) the tribal affiliation of each case participant, if any;
165.3 (3) the name, tribal affiliation, if any, and date of birth of each living minor or dependent
165.4 child of a case participant who is subject to the action; and
165.5 (4) the legal and factual basis for the court to make a finding that there is concurrent
165.6 jurisdiction in the case.
- 165.7 (b) A party or tribal IV-D agency bringing a motion to transfer to tribal court must file
165.8 with the court and serve the required documents on each party and the tribal IV-D agency,
165.9 regardless of whether the tribal IV-D agency is a party.
- 165.10 (c) A party's or tribal IV-D agency's motion to transfer must be accompanied by an
165.11 affidavit setting forth facts in support of its motion.
- 165.12 (d) When a motion to transfer is not brought by the tribal IV-D agency, an affidavit of
165.13 the tribal IV-D agency stating whether the tribal IV-D agency provides services to a party
165.14 must be filed and served on each party within 15 days from the date of service of the motion.
- 165.15 **Subd. 4. Order to transfer to tribal court.** (a) Unless a hearing is held under subdivision
165.16 6, upon motion of a party or a tribal IV-D agency, a district court must transfer a
165.17 postjudgment child support, custody, or parenting time action to a tribal court when the
165.18 district court finds:
- 165.19 (1) the district court and tribal court have concurrent jurisdiction;
165.20 (2) a case participant is receiving services from the tribal IV-D agency; and
165.21 (3) no party or tribal IV-D agency files and serves a timely objection to the transfer.
- 165.22 (b) When the requirements of this subdivision are satisfied, the district court is not
165.23 required to hold a hearing. The district court's order transferring the action to tribal court
165.24 must contain written findings on each requirement of this subdivision.
- 165.25 **Subd. 5. Objection to motion to transfer.** (a) To object to a motion to transfer to a
165.26 tribal court, a party or tribal IV-D agency must file with the court and serve on each party
165.27 and the tribal IV-D agency a responsive motion objecting to the motion to transfer within
165.28 30 days from the date of service of the motion to transfer.
- 165.29 (b) If a party or tribal IV-D agency files with the court and properly serves a timely
165.30 objection to the motion to transfer to a tribal court, the district court must conduct a hearing.

166.1 Subd. 6. **Hearing.** If a hearing is held under this section, the district court must evaluate
166.2 and make written findings on all relevant factors, including:

166.3 (1) whether an issue requires interpretation of tribal law, including the tribal constitution,
166.4 statutes, bylaws, ordinances, resolutions, treaties, or case law;

166.5 (2) whether the action involves tribal traditional or cultural matters;

166.6 (3) whether the tribe is a party;

166.7 (4) whether tribal sovereignty, jurisdiction, or territory is an issue;

166.8 (5) the tribal membership status of each case participant;

166.9 (6) where the claim arises;

166.10 (7) the location of the residence of each case participant and the child;

166.11 (8) whether the parties have by contract chosen a forum or the law to be applied in the
166.12 event of a dispute;

166.13 (9) the timing of any motion to transfer to tribal court, considering each party's and the
166.14 court's expenditure of time and resources, and the district court's scheduling order;

166.15 (10) the court in which the action can be heard and decided most expeditiously;

166.16 (11) the burdens on each party, including cost, access to and admissibility of evidence,
166.17 and matters of procedure; and

166.18 (12) any other factor the court determines relevant.

166.19 Subd. 7. **Future exercise of jurisdiction.** Nothing in this section shall be construed to
166.20 limit the district court's exercise of jurisdiction where the tribal court waives jurisdiction,
166.21 transfers the action back to district court, or otherwise declines to exercise jurisdiction over
166.22 the action.

166.23 Subd. 8. **Transfer to Red Lake Nation Tribal Court.** When a party or tribal IV-D
166.24 agency brings a motion to transfer to the Red Lake Nation Tribal Court, the court must
166.25 transfer the action if the case participants and child resided within the boundaries of the
166.26 Red Lake Reservation for the preceding six months.

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

166.28 Sec. 65. Minnesota Statutes 2018, section 626.556, subdivision 2, is amended to read:

166.29 Subd. 2. **Definitions.** As used in this section, the following terms have the meanings
166.30 given them unless the specific content indicates otherwise:

167.1 (a) "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence
167.2 or event which:

167.3 (1) is not likely to occur and could not have been prevented by exercise of due care; and

167.4 (2) if occurring while a child is receiving services from a facility, happens when the
167.5 facility and the employee or person providing services in the facility are in compliance with
167.6 the laws and rules relevant to the occurrence or event.

167.7 (b) "Commissioner" means the commissioner of human services.

167.8 (c) "Facility" means:

167.9 (1) a licensed or unlicensed day care facility or provider, certified license-exempt child
167.10 care center, residential facility, agency, hospital, sanitarium, or other facility or institution
167.11 required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16,
167.12 or chapter 144H, ~~245D~~, or 245H;

167.13 (2) a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E;
167.14 or

167.15 (3) a nonlicensed personal care provider organization as defined in section ~~256B.0625~~,
167.16 ~~subdivision 19a~~ 256B.0659.

167.17 (d) "Family assessment" means a comprehensive assessment of child safety, risk of
167.18 subsequent child maltreatment, and family strengths and needs that is applied to a child
167.19 maltreatment report that does not allege sexual abuse or substantial child endangerment.
167.20 Family assessment does not include a determination as to whether child maltreatment
167.21 occurred but does determine the need for services to address the safety of family members
167.22 and the risk of subsequent maltreatment.

167.23 (e) "Investigation" means fact gathering related to the current safety of a child and the
167.24 risk of subsequent maltreatment that determines whether child maltreatment occurred and
167.25 whether child protective services are needed. An investigation must be used when reports
167.26 involve sexual abuse or substantial child endangerment, and for reports of maltreatment in
167.27 facilities required to be licensed or certified under chapter 245A, ~~245D~~, or 245H; under
167.28 sections 144.50 to 144.58 and 241.021; in a school as defined in section 120A.05,
167.29 subdivisions 9, 11, and 13, and chapter 124E; or in a nonlicensed personal care provider
167.30 association as defined in section ~~256B.0625~~, ~~subdivision 19a~~ 256B.0659.

167.31 (f) "Mental injury" means an injury to the psychological capacity or emotional stability
167.32 of a child as evidenced by an observable or substantial impairment in the child's ability to

168.1 function within a normal range of performance and behavior with due regard to the child's
168.2 culture.

168.3 (g) "Neglect" means the commission or omission of any of the acts specified under
168.4 clauses (1) to ~~(9)~~ (10), other than by accidental means:

168.5 (1) failure by a person responsible for a child's care to supply a child with necessary
168.6 food, clothing, shelter, health, medical, or other care required for the child's physical or
168.7 mental health when reasonably able to do so;

168.8 (2) failure to protect a child from conditions or actions that seriously endanger the child's
168.9 physical or mental health when reasonably able to do so, including a growth delay, which
168.10 may be referred to as a failure to thrive, that has been diagnosed by a physician and is due
168.11 to parental neglect;

168.12 (3) failure to provide for necessary supervision or child care arrangements appropriate
168.13 for a child after considering factors as the child's age, mental ability, physical condition,
168.14 length of absence, or environment, when the child is unable to care for the child's own basic
168.15 needs or safety, or the basic needs or safety of another child in their care;

168.16 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
168.17 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
168.18 child with sympathomimetic medications, consistent with section 125A.091, subdivision
168.19 5;

168.20 (5) nothing in this section shall be construed to mean that a child is neglected solely
168.21 because the child's parent, guardian, or other person responsible for the child's care in good
168.22 faith selects and depends upon spiritual means or prayer for treatment or care of disease or
168.23 remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker,
168.24 or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of
168.25 medical care may cause serious danger to the child's health. This section does not impose
168.26 upon persons, not otherwise legally responsible for providing a child with necessary food,
168.27 clothing, shelter, education, or medical care, a duty to provide that care;

168.28 (6) prenatal exposure to alcohol or a controlled substance, as defined in section 253B.02,
168.29 subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal
168.30 symptoms in the child at birth, results of a toxicology test performed on the mother at
168.31 delivery or the child at birth, medical effects or developmental delays during the child's first
168.32 year of life that medically indicate prenatal exposure to a controlled substance, or the
168.33 presence of a fetal alcohol spectrum disorder;

169.1 (7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

169.2 (8) chronic and severe use of alcohol or a controlled substance by a parent or person
169.3 responsible for the care of the child that adversely affects the child's basic needs and safety;

169.4 ~~or~~

169.5 (9) emotional harm from a pattern of behavior which contributes to impaired emotional
169.6 functioning of the child which may be demonstrated by a substantial and observable effect
169.7 in the child's behavior, emotional response, or cognition that is not within the normal range
169.8 for the child's age and stage of development, with due regard to the child's culture; or

169.9 (10) abandonment of the child in which a parent does not have regular contact with the
169.10 child and has failed to demonstrate consistent interest in the child's well-being, unless the
169.11 parent establishes an extreme financial hardship, physical hardship, treatment for mental
169.12 disability or chemical dependency, or other good cause that prevented the parent from
169.13 making contact with the child. A child custody determination under chapter 257 or 518 is
169.14 not abandonment of the child.

169.15 (h) "Nonmaltreatment mistake" means:

169.16 (1) at the time of the incident, the individual was performing duties identified in the
169.17 center's child care program plan required under Minnesota Rules, part 9503.0045;

169.18 (2) the individual has not been determined responsible for a similar incident that resulted
169.19 in a finding of maltreatment for at least seven years;

169.20 (3) the individual has not been determined to have committed a similar nonmaltreatment
169.21 mistake under this paragraph for at least four years;

169.22 (4) any injury to a child resulting from the incident, if treated, is treated only with
169.23 remedies that are available over the counter, whether ordered by a medical professional or
169.24 not; and

169.25 (5) except for the period when the incident occurred, the facility and the individual
169.26 providing services were both in compliance with all licensing requirements relevant to the
169.27 incident.

169.28 This definition only applies to child care centers licensed under Minnesota Rules, chapter
169.29 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated
169.30 maltreatment by the individual, the commissioner of human services shall determine that a
169.31 nonmaltreatment mistake was made by the individual.

169.32 (i) "Operator" means an operator or agency as defined in section 245A.02.

170.1 (j) "Person responsible for the child's care" means (1) an individual functioning within
170.2 the family unit and having responsibilities for the care of the child such as a parent, guardian,
170.3 or other person having similar care responsibilities, or (2) an individual functioning outside
170.4 the family unit and having responsibilities for the care of the child such as a teacher, school
170.5 administrator, other school employees or agents, or other lawful custodian of a child having
170.6 either full-time or short-term care responsibilities including, but not limited to, day care,
170.7 babysitting whether paid or unpaid, counseling, teaching, and coaching.

170.8 (k) "Physical abuse" means any physical injury, mental injury, or threatened injury,
170.9 inflicted by a person responsible for the child's care on a child other than by accidental
170.10 means, or any physical or mental injury that cannot reasonably be explained by the child's
170.11 history of injuries, or any aversive or deprivation procedures, or regulated interventions,
170.12 that have not been authorized under section 125A.0942 or 245.825.

170.13 Abuse does not include reasonable and moderate physical discipline of a child
170.14 administered by a parent or legal guardian which does not result in an injury. Abuse does
170.15 not include the use of reasonable force by a teacher, principal, or school employee as allowed
170.16 by section 121A.582. Actions which are not reasonable and moderate include, but are not
170.17 limited to, any of the following:

170.18 (1) throwing, kicking, burning, biting, or cutting a child;

170.19 (2) striking a child with a closed fist;

170.20 (3) shaking a child under age three;

170.21 (4) striking or other actions which result in any nonaccidental injury to a child under 18
170.22 months of age;

170.23 (5) unreasonable interference with a child's breathing;

170.24 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

170.25 (7) striking a child under age one on the face or head;

170.26 (8) striking a child who is at least age one but under age four on the face or head, which
170.27 results in an injury;

170.28 (9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
170.29 substances which were not prescribed for the child by a practitioner, in order to control or
170.30 punish the child; or other substances that substantially affect the child's behavior, motor
170.31 coordination, or judgment or that results in sickness or internal injury, or subjects the child

171.1 to medical procedures that would be unnecessary if the child were not exposed to the
171.2 substances;

171.3 (10) unreasonable physical confinement or restraint not permitted under section 609.379,
171.4 including but not limited to tying, caging, or chaining; or

171.5 (11) in a school facility or school zone, an act by a person responsible for the child's
171.6 care that is a violation under section 121A.58.

171.7 (l) "Position of authority" has the meaning given in section 609.341, subdivision 10.

171.8 ~~(h)~~ (m) "Practice of social services," for the purposes of subdivision 3, includes but is
171.9 not limited to employee assistance counseling and the provision of guardian ad litem and
171.10 parenting time expeditor services.

171.11 ~~(m)~~ (n) "Report" means any communication received by the local welfare agency, police
171.12 department, county sheriff, or agency responsible for child protection pursuant to this section
171.13 that describes neglect or physical or sexual abuse of a child and contains sufficient content
171.14 to identify the child and any person believed to be responsible for the neglect or abuse, if
171.15 known.

171.16 (o) "Safety plan" means any written or oral plan made with the child's parent or legal
171.17 custodian or ordered by the court that sets out the conditions necessary to keep the child
171.18 safe.

171.19 ~~(n)~~ (p) "Sexual abuse" means:

171.20 (1) the subjection of a child by a person responsible for the child's care, by a person who
171.21 has a significant relationship to the child, as defined in section 609.341, or by a person in
171.22 a position of authority, as defined in section 609.341, subdivision 10, to any act which
171.23 constitutes a violation of section 609.342 (criminal sexual conduct in the first degree),
171.24 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct
171.25 in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451
171.26 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which
171.27 involves a minor which constitutes a violation of prostitution offenses under sections 609.321
171.28 to 609.324 or 617.246. Effective May 29, 2017, sexual abuse includes all reports of known
171.29 or suspected child sex trafficking involving a child who is identified as a victim of sex
171.30 trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321,
171.31 subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse which includes the
171.32 status of a parent or household member who has committed a violation which requires
171.33 registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or

172.1 ~~required registration under section 243.166, subdivision 1b, paragraph (a) or (b).~~ any of the
 172.2 following: (i) criminal sexual conduct in the first degree as defined in section 609.342; (ii)
 172.3 criminal sexual conduct in the second degree as defined in section 609.343; (iii) criminal
 172.4 sexual conduct in the third degree as defined in section 609.344; (iv) criminal sexual conduct
 172.5 in the fourth degree as defined in section 609.345; (v) criminal sexual conduct in the fifth
 172.6 degree as defined in section 609.3451; (vi) solicitation, promotion, or inducement of
 172.7 prostitution in the first degree as defined in section 609.322; (vii) prostitution-related offenses
 172.8 as defined in section 609.324; and (viii) use of a minor in sexual performance as defined in
 172.9 section 617.246; or

172.10 (2) the known or suspected subjection of a child by any person to acts of sex trafficking
 172.11 as defined in sections 609.321 and 609.322.

172.12 (q) "Significant relationship to the child" means a situation in which the alleged offender
 172.13 is:

172.14 (1) the child's parent, stepparent, or guardian;

172.15 (2) any of the following persons related to the child by blood, marriage, or adoption:
 172.16 brother, sister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent,
 172.17 great-uncle, great-aunt; or

172.18 (3) any person who jointly resides intermittently or regularly in the same dwelling as
 172.19 the child and who is not the child's spouse.

172.20 ~~(o)~~ (r) "Substantial child endangerment" means a person responsible for a child's care,
 172.21 by act or omission, commits or attempts to commit an act against a child under their care
 172.22 that constitutes any of the following:

172.23 (1) egregious harm as defined in section 260C.007, subdivision 14;

172.24 (2) abandonment under section 260C.301, subdivision 2, paragraph (a), clause (2);

172.25 (3) neglect as defined in paragraph (g), clause (2), that substantially endangers the child's
 172.26 physical or mental health, including a growth delay, which may be referred to as failure to
 172.27 thrive, that has been diagnosed by a physician and is due to parental neglect;

172.28 (4) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

172.29 (5) manslaughter in the first or second degree under section 609.20 or 609.205;

172.30 (6) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;

172.31 (7) solicitation, inducement, and promotion of prostitution under section 609.322;

- 173.1 (8) criminal sexual conduct under sections 609.342 to 609.3451;
- 173.2 (9) solicitation of children to engage in sexual conduct under section 609.352;
- 173.3 (10) malicious punishment or neglect or endangerment of a child under section 609.377
- 173.4 or 609.378;
- 173.5 (11) use of a minor in sexual performance under section 617.246; or
- 173.6 (12) parental behavior, status, or condition which mandates that the county attorney file
- 173.7 a termination of parental rights petition under section 260C.503, subdivision 2.
- 173.8 ~~(p)~~ (s) "Threatened injury" means a statement, overt act, condition, or status that
- 173.9 represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury
- 173.10 includes, but is not limited to, exposing a child to a person responsible for the child's care,
- 173.11 as defined in paragraph (j), clause (1), who has:
- 173.12 (1) subjected a child to, or failed to protect a child from, an overt act or condition that
- 173.13 constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law
- 173.14 of another jurisdiction;
- 173.15 (2) been found to be palpably unfit under section 260C.301, subdivision 1, paragraph
- 173.16 (b), clause (4), or a similar law of another jurisdiction;
- 173.17 (3) committed an act that has resulted in an involuntary termination of parental rights
- 173.18 under section 260C.301, or a similar law of another jurisdiction; ~~or~~
- 173.19 (4) committed an act that has resulted in the involuntary transfer of permanent legal and
- 173.20 physical custody of a child to a relative under Minnesota Statutes 2010, section 260C.201,
- 173.21 subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law
- 173.22 of another jurisdiction;
- 173.23 ~~A child is the subject of~~ (5) subjected a child to a status or condition requiring a report
- 173.24 ~~of threatened injury when the responsible social services agency receives birth match data~~
- 173.25 ~~under paragraph~~ (t) ~~from the Department of Human Services;~~ or
- 173.26 (6) committed a violation that required registration as an offender under section 243.166,
- 173.27 subdivision 1b, paragraph (a) or (b), or required registration under section 243.166,
- 173.28 subdivision 1b, paragraph (a) or (b), and is a parent or a household member.
- 173.29 ~~(t)~~ (t) Upon receiving data under section 144.225, subdivision 2b, contained in a birth
- 173.30 record or recognition of parentage identifying a child who is subject to threatened injury
- 173.31 under paragraph ~~(p)~~ (s), the Department of Human Services shall send the data to the
- 173.32 responsible social services agency. The data is known as "birth match" data. Unless the

174.1 responsible social services agency has already begun an investigation or assessment of the
 174.2 report due to the birth of the child or execution of the recognition of parentage and the
 174.3 parent's previous history with child protection, the agency shall accept the birth match data
 174.4 as a report under this section. The agency ~~may~~ shall use ~~either a family assessment or an~~
 174.5 investigation to determine whether the child is safe. All of the provisions of this section
 174.6 apply. If the child is determined to be safe, the agency shall consult with the county attorney
 174.7 to determine the appropriateness of filing a petition alleging the child is in need of protection
 174.8 or services under section 260C.007, subdivision 6, clause (16), in order to deliver needed
 174.9 services. If the child is determined not to be safe, the agency and the county attorney shall
 174.10 take appropriate action as required under section 260C.503, subdivision 2.

174.11 ~~(r)~~ (u) Persons who conduct assessments or investigations under this section shall take
 174.12 into account accepted child-rearing practices of the culture in which a child participates and
 174.13 accepted teacher discipline practices, which are not injurious to the child's health, welfare,
 174.14 and safety.

174.15 **EFFECTIVE DATE.** This section is effective August 1, 2019.

174.16 Sec. 66. Minnesota Statutes 2018, section 626.556, subdivision 3, is amended to read:

174.17 Subd. 3. **Persons mandated to report; persons voluntarily reporting.** (a) A person
 174.18 who knows or has reason to believe a child is being neglected or physically or sexually
 174.19 abused, as defined in subdivision 2, or has been neglected or physically or sexually abused
 174.20 within the preceding three years, shall immediately report the information to the local welfare
 174.21 agency, agency responsible for assessing or investigating the report, police department,
 174.22 county sheriff, tribal social services agency, or tribal police department if the person is:

174.23 (1) a professional or professional's delegate ~~who is~~ while engaged in the practice of the
 174.24 healing arts, social services, hospital administration, psychological or psychiatric treatment,
 174.25 child care, education, correctional supervision, probation and correctional services, or law
 174.26 enforcement; or

174.27 (2) employed as a member of the clergy and received the information while engaged in
 174.28 ministerial duties, provided that a member of the clergy is not required by this subdivision
 174.29 to report information that is otherwise privileged under section 595.02, subdivision 1,
 174.30 paragraph (c).

174.31 (b) Any person may voluntarily report to the local welfare agency, agency responsible
 174.32 for assessing or investigating the report, police department, county sheriff, tribal social

175.1 services agency, or tribal police department if the person knows, has reason to believe, or
 175.2 suspects a child is being or has been neglected or subjected to physical or sexual abuse.

175.3 (c) A person mandated to report physical or sexual child abuse or neglect occurring
 175.4 within a licensed facility shall report the information to the agency responsible for licensing
 175.5 or certifying the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16;
 175.6 or chapter 144H, ~~245D~~, or 245H; or a nonlicensed personal care provider organization as
 175.7 defined in section ~~256B.0625, subdivision 19a~~ 256B.0659. A health or corrections agency
 175.8 receiving a report may request the local welfare agency to provide assistance pursuant to
 175.9 subdivisions 10, 10a, and 10b. A board or other entity whose licensees perform work within
 175.10 a school facility, upon receiving a complaint of alleged maltreatment, shall provide
 175.11 information about the circumstances of the alleged maltreatment to the commissioner of
 175.12 education. Section 13.03, subdivision 4, applies to data received by the commissioner of
 175.13 education from a licensing entity.

175.14 (d) Notification requirements under subdivision 10 apply to all reports received under
 175.15 this section.

175.16 (e) For purposes of this section, "immediately" means as soon as possible but in no event
 175.17 longer than 24 hours.

175.18 **EFFECTIVE DATE.** This section is effective August 1, 2019.

175.19 Sec. 67. Minnesota Statutes 2018, section 626.556, subdivision 3c, is amended to read:

175.20 Subd. 3c. **Local welfare agency, Department of Human Services or Department of**
 175.21 **Health responsible for assessing or investigating reports of maltreatment.** (a) The local
 175.22 welfare agency is the agency responsible for assessing or investigating allegations of
 175.23 maltreatment by a parent, guardian, or person responsible for the child's care as defined in
 175.24 subdivision 2, paragraph (j). The local welfare agency is ~~the agency also~~ responsible for
 175.25 assessing or investigating allegations of maltreatment in child foster care, family child care,
 175.26 legally nonlicensed child care, and reports involving children served by an unlicensed
 175.27 personal care provider organization under section 256B.0659. Copies of findings related to
 175.28 personal care provider organizations under section 256B.0659 must be forwarded to the
 175.29 Department of Human Services provider enrollment.

175.30 (b) The local welfare agency is the agency responsible for investigating allegations of
 175.31 substantial child endangerment by a parent, guardian, or person responsible for the child's
 175.32 care as defined in subdivision 2, paragraph (j).

176.1 ~~(b)~~ (c) The Department of Human Services is the agency responsible for assessing or
 176.2 investigating allegations of maltreatment in juvenile correctional facilities listed under
 176.3 section 241.021 located in the local welfare agency's county and in facilities licensed or
 176.4 certified under chapters 245A, ~~245D~~, and 245H, except for child foster care and family
 176.5 child care.

176.6 ~~(e)~~ (d) The Department of Health is the agency responsible for assessing or investigating
 176.7 allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58 and
 176.8 144A.43 to 144A.482 or chapter 144H.

176.9 **EFFECTIVE DATE.** This section is effective August 1, 2019.

176.10 Sec. 68. Minnesota Statutes 2018, section 626.556, subdivision 3e, is amended to read:

176.11 Subd. 3e. **Agency responsible for assessing or investigating reports of sexual**
 176.12 **abuse.** The local welfare agency is the agency responsible for investigating allegations of
 176.13 sexual abuse if the alleged offender is the parent, guardian, sibling, or an individual
 176.14 functioning within the family unit as a person responsible for the child's care, or a person
 176.15 with a significant relationship to the child if that person resides in the child's household.
 176.16 ~~Effective May 29, 2017,~~ The local welfare agency is also responsible for investigating
 176.17 allegations involving any person when a child is identified as a known or suspected victim
 176.18 of sex trafficking.

176.19 **EFFECTIVE DATE.** This section is effective August 1, 2019.

176.20 Sec. 69. Minnesota Statutes 2018, section 626.556, subdivision 4, is amended to read:

176.21 Subd. 4. **Immunity from liability.** (a) The following persons are immune from any civil
 176.22 or criminal liability that otherwise might result from their actions, if they are acting in good
 176.23 faith:

176.24 (1) any person making a voluntary or mandated report under subdivision 3 or under
 176.25 section 626.5561 or assisting in an assessment under this section or under section 626.5561;

176.26 (2) any person with responsibility for performing duties under this section or supervisor
 176.27 employed by a local welfare agency, the commissioner of an agency responsible for operating
 176.28 or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital,
 176.29 sanitarium, or other facility or institution required to be licensed or certified under sections
 176.30 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B or 245H; or a school as
 176.31 defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed

177.1 personal care provider organization as defined in section 256B.0625, subdivision 19a,
177.2 complying with subdivision 10d; and

177.3 (3) any public or private school, facility as defined in subdivision 2, or the employee of
177.4 any public or private school or facility who permits access by a local welfare agency, the
177.5 Department of Education, or a local law enforcement agency and assists in an investigation
177.6 or assessment pursuant to subdivision 10 or under section 626.5561.

177.7 (b) A person who is a supervisor or person with responsibility for performing duties
177.8 under this section employed by a local welfare agency, the commissioner of human services,
177.9 or the commissioner of education complying with subdivisions 10 and 11 or section 626.5561
177.10 or any related rule or provision of law is immune from any civil or criminal liability that
177.11 might otherwise result from the person's actions, if the person is (1) acting in good faith
177.12 and exercising due care, or (2) acting in good faith and following the information collection
177.13 procedures established under subdivision 10, paragraphs ~~(h), (i), and~~ (j), (k), (l), and (m).

177.14 (c) This subdivision does not provide immunity to any person for failure to make a
177.15 required report or for committing neglect, physical abuse, or sexual abuse of a child.

177.16 (d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails
177.17 in a civil action from which the person has been granted immunity under this subdivision,
177.18 the court may award the person attorney fees and costs.

177.19 **EFFECTIVE DATE.** This section is effective August 1, 2019.

177.20 Sec. 70. Minnesota Statutes 2018, section 626.556, subdivision 7, is amended to read:

177.21 **Subd. 7. Report; information provided to parent; reporter.** (a) An oral report shall
177.22 be made immediately by telephone or otherwise. ~~An oral report made by a person required~~
177.23 ~~under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and~~
177.24 ~~holidays, by a report in writing to the appropriate police department, the county sheriff, the~~
177.25 ~~agency responsible for assessing or investigating the report, or the local welfare agency.~~

177.26 (b) The local welfare agency shall determine if the report is to be screened in or out as
177.27 soon as possible but in no event longer than 24 hours after the report is received. When
177.28 determining whether a report will be screened in or out, the agency receiving the report
177.29 must consider, when relevant, all previous history, including reports that were screened out.
177.30 The agency may communicate with treating professionals and individuals specified under
177.31 subdivision 10, paragraph ~~(i)~~ (k), clause (3), item (iii). A treating professional or individual
177.32 required to provide information under this paragraph is immune from liability as specified
177.33 under subdivision 4.

178.1 (c) Any report shall be of sufficient content to identify the child, any person believed to
178.2 be responsible for the abuse or neglect of the child if the person is known, the nature and
178.3 extent of the abuse or neglect and the name and address of the reporter. The local welfare
178.4 agency or agency responsible for assessing or investigating the report shall accept a report
178.5 made under subdivision 3 notwithstanding refusal by a reporter to provide the reporter's
178.6 name or address as long as the report is otherwise sufficient under this paragraph. ~~Written~~
178.7 ~~reports received by a police department or the county sheriff shall be forwarded immediately~~
178.8 ~~to the local welfare agency or the agency responsible for assessing or investigating the~~
178.9 ~~report. The police department or the county sheriff may keep copies of reports received by~~
178.10 ~~them. Copies of written reports received by a local welfare department or the agency~~
178.11 ~~responsible for assessing or investigating the report shall be forwarded immediately to the~~
178.12 ~~local police department or the county sheriff.~~

178.13 (d) ~~When requested,~~ The agency responsible for assessing or investigating a report shall
178.14 inform the reporter within ten days after the initial report was made, either orally or in
178.15 writing, whether the report was accepted or not, unless release would be detrimental to the
178.16 best interests of the child. ~~If the responsible agency determines the report does not constitute~~
178.17 ~~a report under this section, the agency shall advise the reporter the report was screened out.~~
178.18 Any person mandated to report shall receive a summary of the final disposition of any report
178.19 made by that reporter, including whether the case has been opened for child protection or
178.20 other services, or if a referral has been made to a community organization, unless release
178.21 would be detrimental to the best interests of the child. Any person who is not mandated to
178.22 report shall, upon request to the local welfare agency, receive a concise summary of the
178.23 disposition of any report made by that reporter, unless release would be detrimental to the
178.24 best interests of the child.

178.25 (e) Reports that are screened out must be maintained in accordance with subdivision
178.26 11c, paragraph (a).

178.27 (f) A local welfare agency or agency responsible for investigating or assessing a report
178.28 may use a screened-out report for making an offer of social services to the subjects of the
178.29 screened-out report. ~~A local welfare agency or agency responsible for evaluating a report~~
178.30 ~~alleging maltreatment of a child shall consider prior reports, including screened-out reports,~~
178.31 ~~to determine whether an investigation or family assessment must be conducted.~~ The local
178.32 welfare agency may inform the child-placing agency or the child foster care licensing agency
178.33 of the screened-out report when the report alleges child maltreatment by a child or adult
178.34 who resides intermittently or regularly in the same dwelling as a child placed in foster care.

179.1 (g) Notwithstanding paragraph (a), the commissioner of education must inform the
179.2 parent, guardian, or legal custodian of the child who is the subject of a report of alleged
179.3 maltreatment in a school facility within ten days of receiving the report, either orally or in
179.4 writing, whether the commissioner is assessing or investigating the report of alleged
179.5 maltreatment.

179.6 (h) Regardless of whether a report is made under this subdivision, as soon as practicable
179.7 after a school receives information regarding an incident that may constitute maltreatment
179.8 of a child in a school facility, the school shall inform the parent, legal guardian, or custodian
179.9 of the child that an incident has occurred that may constitute maltreatment of the child,
179.10 when the incident occurred, and the nature of the conduct that may constitute maltreatment.

179.11 (i) A written copy of a report maintained by personnel of agencies, other than welfare
179.12 or law enforcement agencies, which are subject to chapter 13 shall be confidential. An
179.13 individual subject of the report may obtain access to the original report as provided by
179.14 subdivision 11.

179.15 **EFFECTIVE DATE.** This section is effective August 1, 2019.

179.16 Sec. 71. Minnesota Statutes 2018, section 626.556, subdivision 10, is amended to read:

179.17 Subd. 10. **Duties of local welfare agency and local law enforcement agency upon**
179.18 **receipt of report; mandatory notification between police or sheriff and agency.** (a) The
179.19 police department or the county sheriff shall immediately notify the local welfare agency
179.20 or agency responsible for child protection reports under this section orally ~~and~~ or in writing
179.21 when a report is received. The local welfare agency or agency responsible for child protection
179.22 reports shall immediately notify the local police department or the county sheriff orally ~~and~~
179.23 or in writing when a report is received. The county sheriff and the head of every local welfare
179.24 agency, agency responsible for child protection reports, and police department shall each
179.25 designate a person within their agency, department, or office who is responsible for ensuring
179.26 that the notification duties of this paragraph are carried out. When the alleged maltreatment
179.27 of an Indian child occurred on tribal land, the local welfare agency or agency responsible
179.28 for child protection reports and the local police department or the county sheriff shall
179.29 immediately notify the tribe's social services agency and tribal law enforcement orally ~~and~~
179.30 or in writing when a report is received. When the alleged maltreatment occurred in another
179.31 state involving a child residing in Minnesota, the local welfare agency shall assume
179.32 responsibility for child protection assessment or investigation.

180.1 (b) Upon receipt of a report, the local welfare agency shall determine whether to conduct
180.2 a family assessment or an investigation as appropriate to prevent or provide a remedy for
180.3 child maltreatment. The local welfare agency:

180.4 (1) shall conduct an investigation on reports involving sexual abuse according to
180.5 subdivision 3e or substantial child endangerment according to subdivision 3c, paragraph
180.6 (b);

180.7 (2) shall begin an immediate investigation if, at any time when it is using a family
180.8 assessment response, it determines that there is reason to believe that sexual abuse or
180.9 substantial child endangerment or a serious threat to the child's safety exists;

180.10 (3) may conduct a family assessment for reports that do not allege sexual abuse or
180.11 substantial child endangerment. In determining that a family assessment is appropriate, the
180.12 local welfare agency may consider issues of child safety, parental cooperation, and the need
180.13 for an immediate response;

180.14 (4) may conduct a family assessment on a report that was initially screened and assigned
180.15 for an investigation. In determining that a complete investigation is not required, the local
180.16 welfare agency must document the reason for terminating the investigation and notify the
180.17 local law enforcement agency if the local law enforcement agency is conducting a joint
180.18 investigation; and

180.19 (5) shall provide immediate notice, according to section 260.761, subdivision 2, to an
180.20 Indian child's tribe when the agency has reason to believe the family assessment or
180.21 investigation may involve an Indian child. For purposes of this clause, "immediate notice"
180.22 means notice provided within 24 hours.

180.23 ~~If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or~~
180.24 ~~individual functioning within the family unit as a person responsible for the child's care, or~~
180.25 ~~sexual abuse by a person with a significant relationship to the child when that person resides~~
180.26 ~~in the child's household or by a sibling, the local welfare agency shall immediately conduct~~
180.27 ~~a family assessment or investigation as identified in clauses (1) to (4).~~ (c) In conducting a
180.28 family assessment or investigation, the local welfare agency shall gather information on the
180.29 existence of substance abuse and domestic violence and offer services for purposes of
180.30 preventing future child maltreatment, safeguarding and enhancing the welfare of the abused
180.31 or neglected minor, and supporting and preserving family life whenever possible. If the
180.32 report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or
180.33 neglect or endangerment, under section 609.378, the local law enforcement agency and
180.34 local welfare agency shall coordinate the planning and execution of their respective

181.1 investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple
181.2 interviews. Each agency shall prepare a separate report of the results of its investigation or
181.3 assessment. In cases of alleged child maltreatment resulting in death, the local agency may
181.4 rely on the fact-finding efforts of a law enforcement investigation to make a determination
181.5 of whether or not maltreatment occurred. When necessary the local welfare agency shall
181.6 seek authority to remove the child from the custody of a parent, guardian, or adult with
181.7 whom the child is living. In performing any of these duties, the local welfare agency shall
181.8 maintain appropriate records.

181.9 If the family assessment or investigation indicates there is a potential for abuse of alcohol
181.10 or other drugs by the parent, guardian, or person responsible for the child's care, the local
181.11 welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part
181.12 9530.6615.

181.13 ~~(e)~~ (d) When a local agency receives a report or otherwise has information indicating
181.14 that a child who is a client, as defined in section 245.91, has been the subject of physical
181.15 abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section
181.16 245.91, it shall, in addition to its other duties under this section, immediately inform the
181.17 ombudsman established under sections 245.91 to 245.97. The commissioner of education
181.18 shall inform the ombudsman established under sections 245.91 to 245.97 of reports regarding
181.19 a child defined as a client in section 245.91 that maltreatment occurred at a school as defined
181.20 in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E.

181.21 ~~(d)~~ (e) Authority of the local welfare agency responsible for assessing or investigating
181.22 the child abuse or neglect report, the agency responsible for assessing or investigating the
181.23 report, and of the local law enforcement agency for investigating the alleged abuse or neglect
181.24 includes, but is not limited to, authority to interview, without parental consent, the alleged
181.25 victim and any other minors who currently reside with or who have resided with the alleged
181.26 offender. The interview may take place at school or at any facility or other place where the
181.27 alleged victim or other minors might be found or the child may be transported to, and the
181.28 interview conducted at, a place appropriate for the interview of a child designated by the
181.29 local welfare agency or law enforcement agency. The interview may take place outside the
181.30 presence of the alleged offender or parent, legal custodian, guardian, or school official. For
181.31 family assessments, it is the preferred practice to request a parent or guardian's permission
181.32 to interview the child prior to conducting the child interview, unless doing so would
181.33 compromise the safety assessment. Except as provided in this paragraph, the parent, legal
181.34 custodian, or guardian shall be notified by the responsible local welfare or law enforcement
181.35 agency no later than the conclusion of the investigation or assessment that this interview

182.1 has occurred. Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile
182.2 Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare
182.3 agency, order that, where reasonable cause exists, the agency withhold notification of this
182.4 interview from the parent, legal custodian, or guardian. If the interview took place or is to
182.5 take place on school property, the order shall specify that school officials may not disclose
182.6 to the parent, legal custodian, or guardian the contents of the notification of intent to interview
182.7 the child on school property, as provided under this paragraph, and any other related
182.8 information regarding the interview that may be a part of the child's school record. A copy
182.9 of the order shall be sent by the local welfare or law enforcement agency to the appropriate
182.10 school official.

182.11 ~~(e)~~ (f) When the local welfare, local law enforcement agency, or the agency responsible
182.12 for assessing or investigating a report of maltreatment determines that an interview should
182.13 take place on school property, written notification of intent to interview the child on school
182.14 property must be received by school officials prior to the interview. The notification shall
182.15 include the name of the child to be interviewed, the purpose of the interview, and a reference
182.16 to the statutory authority to conduct an interview on school property. For interviews
182.17 conducted by the local welfare agency, the notification shall be signed by the chair of the
182.18 local social services agency or the chair's designee. The notification shall be private data
182.19 on individuals subject to the provisions of this paragraph. School officials may not disclose
182.20 to the parent, legal custodian, or guardian the contents of the notification or any other related
182.21 information regarding the interview until notified in writing by the local welfare or law
182.22 enforcement agency that the investigation or assessment has been concluded, unless a school
182.23 employee or agent is alleged to have maltreated the child. Until that time, the local welfare
182.24 or law enforcement agency or the agency responsible for assessing or investigating a report
182.25 of maltreatment shall be solely responsible for any disclosures regarding the nature of the
182.26 assessment or investigation.

182.27 (g) Except where the alleged offender is believed to be a school official or employee,
182.28 the time and place, and manner of the interview on school premises shall be within the
182.29 discretion of school officials, but the local welfare or law enforcement agency shall have
182.30 the exclusive authority to determine who may attend the interview. The conditions as to
182.31 time, place, and manner of the interview set by the school officials shall be reasonable and
182.32 the interview shall be conducted not more than 24 hours after the receipt of the notification
182.33 unless another time is considered necessary by agreement between the school officials and
182.34 the local welfare or law enforcement agency. Where the school fails to comply with the
182.35 provisions of this paragraph, the juvenile court may order the school to comply. Every effort

183.1 must be made to reduce the disruption of the educational program of the child, other students,
183.2 or school staff when an interview is conducted on school premises.

183.3 ~~(f)~~ (h) Where the alleged offender or a person responsible for the care of the alleged
183.4 victim or other minor prevents access to the victim or other minor by the local welfare
183.5 agency, the juvenile court may order the parents, legal custodian, or guardian to produce
183.6 the alleged victim or other minor for questioning by the local welfare agency or the local
183.7 law enforcement agency outside the presence of the alleged offender or any person
183.8 responsible for the child's care at reasonable places and times as specified by court order.

183.9 ~~(g)~~ (i) Before making an order under paragraph ~~(f)~~ (h), the court shall issue an order to
183.10 show cause, either upon its own motion or upon a verified petition, specifying the basis for
183.11 the requested interviews and fixing the time and place of the hearing. The order to show
183.12 cause shall be served personally and shall be heard in the same manner as provided in other
183.13 cases in the juvenile court. The court shall consider the need for appointment of a guardian
183.14 ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall
183.15 be present at the hearing on the order to show cause.

183.16 ~~(h)~~ (j) The commissioner of human services, the ombudsman for mental health and
183.17 developmental disabilities, the local welfare agencies responsible for investigating reports,
183.18 the commissioner of education, and the local law enforcement agencies have the right to
183.19 enter facilities as defined in subdivision 2 and to inspect and copy the facility's records,
183.20 including medical records, as part of the investigation. Notwithstanding the provisions of
183.21 chapter 13, they also have the right to inform the facility under investigation that they are
183.22 conducting an investigation, to disclose to the facility the names of the individuals under
183.23 investigation for abusing or neglecting a child, and to provide the facility with a copy of
183.24 the report and the investigative findings.

183.25 ~~(i)~~ (k) The local welfare agency responsible for conducting a family assessment or
183.26 investigation shall collect available and relevant information to determine child safety, risk
183.27 of subsequent child maltreatment, and family strengths and needs and share not public
183.28 information, including the name of the reporter of child maltreatment and any other
183.29 information collected under this subdivision, with an Indian's tribal social services agency
183.30 without violating any law of the state that may otherwise impose duties of confidentiality
183.31 on the local welfare agency in order to implement the tribal state agreement. The local
183.32 welfare agency or the agency responsible for investigating the report shall collect available
183.33 and relevant information to ascertain whether maltreatment occurred and whether protective
183.34 services are needed. Information collected includes, when relevant, information with regard
183.35 to the person reporting the alleged maltreatment, including the nature of the reporter's

184.1 relationship to the child and to the alleged offender, and the basis of the reporter's knowledge
184.2 for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker;
184.3 and other collateral sources having relevant information related to the alleged maltreatment.
184.4 The local welfare agency or the agency responsible for investigating the report may make
184.5 a determination of no maltreatment early in an investigation, and close the case and retain
184.6 immunity, if the collected information shows no basis for a full investigation.

184.7 Information relevant to the assessment or investigation must be asked for, and may
184.8 include:

184.9 (1) the child's sex and age; prior reports of maltreatment, including any maltreatment
184.10 reports that were screened out and not accepted for assessment or investigation; information
184.11 relating to developmental functioning; credibility of the child's statement; and whether the
184.12 information provided under this clause is consistent with other information collected during
184.13 the course of the assessment or investigation;

184.14 (2) the alleged offender's age, a record check for prior reports of maltreatment, and
184.15 criminal charges and convictions. The local welfare agency or the agency responsible for
184.16 assessing or investigating the report must provide the alleged offender with an opportunity
184.17 to make a statement. The alleged offender may submit supporting documentation relevant
184.18 to the assessment or investigation;

184.19 (3) collateral source information regarding the alleged maltreatment and care of the
184.20 child. Collateral information includes, when relevant: (i) a medical examination of the child;
184.21 (ii) prior medical records relating to the alleged maltreatment or the care of the child
184.22 maintained by any facility, clinic, or health care professional and an interview with the
184.23 treating professionals; and (iii) interviews with the child's caretakers, including the child's
184.24 parent, guardian, foster parent, child care provider, teachers, counselors, family members,
184.25 relatives, and other persons who may have knowledge regarding the alleged maltreatment
184.26 and the care of the child; and

184.27 (4) information on the existence of domestic abuse and violence in the home of the child,
184.28 and substance abuse.

184.29 Nothing in this paragraph precludes the local welfare agency, the local law enforcement
184.30 agency, or the agency responsible for assessing or investigating the report from collecting
184.31 other relevant information necessary to conduct the assessment or investigation.

184.32 Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access
184.33 to medical data and records for purposes of clause (3). Notwithstanding the data's
184.34 classification in the possession of any other agency, data acquired by the local welfare

185.1 agency or the agency responsible for assessing or investigating the report during the course
 185.2 of the assessment or investigation are private data on individuals and must be maintained
 185.3 in accordance with subdivision 11. Data of the commissioner of education collected or
 185.4 maintained during and for the purpose of an investigation of alleged maltreatment in a school
 185.5 are governed by this section, notwithstanding the data's classification as educational,
 185.6 licensing, or personnel data under chapter 13.

185.7 In conducting an assessment or investigation involving a school facility as defined in
 185.8 subdivision 2, paragraph (c), the commissioner of education shall collect investigative
 185.9 reports and data that are relevant to a report of maltreatment and are from local law
 185.10 enforcement and the school facility.

185.11 ~~(j)~~ (l) Upon receipt of a report made under subdivision 7, paragraph (a), the local welfare
 185.12 agency shall conduct a face-to-face contact with the child reported to be maltreated and
 185.13 with the child's primary caregiver sufficient to complete a safety assessment and ensure the
 185.14 immediate safety of the child. A safety plan is developed, when required, after a safety
 185.15 assessment. The face-to-face contact with the child and primary caregiver shall occur
 185.16 immediately if sexual abuse or substantial child endangerment is alleged and within five
 185.17 calendar days for all other reports. If the alleged offender was not already interviewed as
 185.18 the primary caregiver, the local welfare agency shall also conduct a face-to-face interview
 185.19 with the alleged offender in the early stages of the assessment or investigation. At the initial
 185.20 contact, the local child welfare agency or the agency responsible for assessing or investigating
 185.21 the report must inform the alleged offender of the complaints or allegations made against
 185.22 the individual in a manner consistent with laws protecting the rights of the person who made
 185.23 the report or the person who provided information under subdivision 7, paragraph (b). The
 185.24 interview with the alleged offender may be postponed if it would jeopardize an active law
 185.25 enforcement investigation.

185.26 ~~(k)~~ (m) When conducting an investigation, the local welfare agency shall use a question
 185.27 and answer interviewing format with questioning as nondirective as possible to elicit
 185.28 spontaneous responses. For investigations only, the following interviewing methods and
 185.29 procedures must be used whenever possible when collecting information:

185.30 (1) audio recordings of all interviews with witnesses and collateral sources; and

185.31 (2) in cases of alleged sexual abuse, audio-video recordings of each interview with the
 185.32 alleged victim and child witnesses.

185.33 ~~(h)~~ (n) In conducting an assessment or investigation involving a school facility as defined
 185.34 in subdivision 2, paragraph (c), the commissioner of education shall collect available and

186.1 relevant information and use the procedures in paragraphs ~~(j)~~ (l) and ~~(k)~~ (m), and subdivision
186.2 3d, except that the requirement for face-to-face observation of the child and face-to-face
186.3 interview of the alleged offender is to occur in the initial stages of the assessment or
186.4 investigation provided that the commissioner may also base the assessment or investigation
186.5 on investigative reports and data received from the school facility and local law enforcement,
186.6 to the extent those investigations satisfy the requirements of paragraphs ~~(j)~~ (l) and ~~(k)~~ (m),
186.7 and subdivision 3d.

186.8 **EFFECTIVE DATE.** This section is effective August 1, 2019.

186.9 Sec. 72. Minnesota Statutes 2018, section 626.556, subdivision 10a, is amended to read:

186.10 Subd. 10a. **Law enforcement agency responsibility for investigation; welfare agency**
186.11 **reliance on law enforcement fact-finding; welfare agency offer of services.** (a) If the
186.12 report alleges neglect, physical abuse, or sexual abuse by a person who is not a parent,
186.13 guardian, sibling, person responsible for the child's care functioning within the family unit,
186.14 or a person who lives in the child's household and who has a significant relationship to the
186.15 child, in a setting other than a facility as defined in subdivision 2, the local welfare agency
186.16 shall immediately notify the appropriate law enforcement agency, which shall conduct an
186.17 investigation of the alleged abuse or neglect if a violation of a criminal statute is alleged.
186.18 If the report alleges known or suspected child sex trafficking by any person, both the local
186.19 child welfare agency and the appropriate law enforcement agency shall conduct an
186.20 investigation.

186.21 (b) The local agency may rely on the fact-finding efforts of the law enforcement
186.22 investigation conducted under this subdivision to make a determination whether or not
186.23 threatened injury or other maltreatment has occurred under subdivision 2 if an alleged
186.24 offender has minor children or lives with minors.

186.25 (c) If a child is the victim of an alleged crime under paragraph (a), the law enforcement
186.26 agency shall immediately notify the local welfare agency, which shall offer appropriate
186.27 social services for the purpose of safeguarding and enhancing the welfare of the abused or
186.28 neglected minor.

186.29 **EFFECTIVE DATE.** This section is effective August 1, 2019.

186.30 Sec. 73. Minnesota Statutes 2018, section 626.556, subdivision 10b, is amended to read:

186.31 Subd. 10b. **Duties of commissioner; neglect or abuse in facility.** (a) This section applies
186.32 to the commissioners of human services, health, and education. The commissioner of the

187.1 agency responsible for assessing or investigating the report shall immediately assess or
187.2 investigate if the report alleges that:

187.3 (1) a child who is in the care of a facility as defined in subdivision 2 is neglected,
187.4 physically abused, sexually abused, or is the victim of maltreatment in a facility by an
187.5 individual in that facility, or has been so neglected or abused, or been the victim of
187.6 maltreatment in a facility by an individual in that facility within the three years preceding
187.7 the report; or

187.8 (2) a child was neglected, physically abused, sexually abused, or is the victim of
187.9 maltreatment in a facility by an individual in a facility defined in subdivision 2, while in
187.10 the care of that facility within the three years preceding the report.

187.11 The commissioner of the agency responsible for assessing or investigating the report
187.12 shall arrange for the transmittal to the commissioner of reports received by local agencies
187.13 and may delegate to a local welfare agency the duty to investigate reports. In conducting
187.14 an investigation under this section, the commissioner has the powers and duties specified
187.15 for local welfare agencies under this section. The commissioner of the agency responsible
187.16 for assessing or investigating the report or local welfare agency may interview any children
187.17 who are or have been in the care of a facility under investigation and their parents, guardians,
187.18 or legal custodians.

187.19 (b) Prior to any interview, the commissioner of the agency responsible for assessing or
187.20 investigating the report or local welfare agency shall notify the parent, guardian, or legal
187.21 custodian of a child who will be interviewed in the manner provided for in subdivision 10d,
187.22 paragraph (a). If reasonable efforts to reach the parent, guardian, or legal custodian of a
187.23 child in an out-of-home placement have failed, the child may be interviewed if there is
187.24 reason to believe the interview is necessary to protect the child or other children in the
187.25 facility. The commissioner of the agency responsible for assessing or investigating the report
187.26 or local agency must provide the information required in this subdivision to the parent,
187.27 guardian, or legal custodian of a child interviewed without parental notification as soon as
187.28 possible after the interview. When the investigation is completed, any parent, guardian, or
187.29 legal custodian notified under this subdivision shall receive the written memorandum
187.30 provided for in subdivision 10d, paragraph (c).

187.31 (c) In conducting investigations under this subdivision the commissioner or local welfare
187.32 agency shall obtain access to information consistent with subdivision 10, paragraphs ~~(h)~~
187.33 (j), ~~(k)~~, and ~~(l)~~. In conducting assessments or investigations under this subdivision,
187.34 the commissioner of education shall obtain access to reports and investigative data that are

188.1 relevant to a report of maltreatment and are in the possession of a school facility as defined
188.2 in subdivision 2, paragraph (c), notwithstanding the classification of the data as educational
188.3 or personnel data under chapter 13. This includes, but is not limited to, school investigative
188.4 reports, information concerning the conduct of school personnel alleged to have committed
188.5 maltreatment of students, information about witnesses, and any protective or corrective
188.6 action taken by the school facility regarding the school personnel alleged to have committed
188.7 maltreatment.

188.8 (d) The commissioner may request assistance from the local social services agency.

188.9 **EFFECTIVE DATE.** This section is effective August 1, 2019.

188.10 Sec. 74. Minnesota Statutes 2018, section 626.556, subdivision 10d, is amended to read:

188.11 Subd. 10d. **Notification of neglect or abuse in facility.** (a) When a report is received
188.12 that alleges neglect, physical abuse, sexual abuse, or maltreatment of a child while in the
188.13 care of a licensed or unlicensed day care facility, residential facility, agency, hospital,
188.14 sanitarium, or other facility or institution required to be licensed or certified according to
188.15 sections 144.50 to 144.58; 241.021; or 245A.01 to 245A.16; or chapter 144H,~~245D~~, or
188.16 245H, or a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter
188.17 124E; or a nonlicensed personal care provider organization as defined in section 256B.0625,
188.18 subdivision 19a, the commissioner of the agency responsible for assessing or investigating
188.19 the report or local welfare agency investigating the report shall provide the following
188.20 information to the parent, guardian, or legal custodian of a child alleged to have been
188.21 neglected, physically abused, sexually abused, or the victim of maltreatment of a child in
188.22 the facility: the name of the facility; the fact that a report alleging neglect, physical abuse,
188.23 sexual abuse, or maltreatment of a child in the facility has been received; the nature of the
188.24 alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; that
188.25 the agency is conducting an assessment or investigation; any protective or corrective measures
188.26 being taken pending the outcome of the investigation; and that a written memorandum will
188.27 be provided when the investigation is completed.

188.28 (b) The commissioner of the agency responsible for assessing or investigating the report
188.29 or local welfare agency may also provide the information in paragraph (a) to the parent,
188.30 guardian, or legal custodian of any other child in the facility if the investigative agency
188.31 knows or has reason to believe the alleged neglect, physical abuse, sexual abuse, or
188.32 maltreatment of a child in the facility has occurred. In determining whether to exercise this
188.33 authority, the commissioner of the agency responsible for assessing or investigating the
188.34 report or local welfare agency shall consider the seriousness of the alleged neglect, physical

189.1 abuse, sexual abuse, or maltreatment of a child in the facility; the number of children
189.2 allegedly neglected, physically abused, sexually abused, or victims of maltreatment of a
189.3 child in the facility; the number of alleged perpetrators; and the length of the investigation.
189.4 The facility shall be notified whenever this discretion is exercised.

189.5 (c) When the commissioner of the agency responsible for assessing or investigating the
189.6 report or local welfare agency has completed its investigation, every parent, guardian, or
189.7 legal custodian previously notified of the investigation by the commissioner or local welfare
189.8 agency shall be provided with the following information in a written memorandum: the
189.9 name of the facility investigated; the nature of the alleged neglect, physical abuse, sexual
189.10 abuse, or maltreatment of a child in the facility; the investigator's name; a summary of the
189.11 investigation findings; a statement whether maltreatment was found; and the protective or
189.12 corrective measures that are being or will be taken. The memorandum shall be written in a
189.13 manner that protects the identity of the reporter and the child and shall not contain the name,
189.14 or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed
189.15 during the investigation. If maltreatment is determined to exist, the commissioner or local
189.16 welfare agency shall also provide the written memorandum to the parent, guardian, or legal
189.17 custodian of each child in the facility who had contact with the individual responsible for
189.18 the maltreatment. When the facility is the responsible party for maltreatment, the
189.19 commissioner or local welfare agency shall also provide the written memorandum to the
189.20 parent, guardian, or legal custodian of each child who received services in the population
189.21 of the facility where the maltreatment occurred. This notification must be provided to the
189.22 parent, guardian, or legal custodian of each child receiving services from the time the
189.23 maltreatment occurred until either the individual responsible for maltreatment is no longer
189.24 in contact with a child or children in the facility or the conclusion of the investigation. In
189.25 the case of maltreatment within a school facility, as defined in section 120A.05, subdivisions
189.26 9, 11, and 13, and chapter 124E, the commissioner of education need not provide notification
189.27 to parents, guardians, or legal custodians of each child in the facility, but shall, within ten
189.28 days after the investigation is completed, provide written notification to the parent, guardian,
189.29 or legal custodian of any student alleged to have been maltreated. The commissioner of
189.30 education may notify the parent, guardian, or legal custodian of any student involved as a
189.31 witness to alleged maltreatment.

189.32 **EFFECTIVE DATE.** This section is effective August 1, 2019.

190.1 Sec. 75. Minnesota Statutes 2018, section 626.556, subdivision 10e, is amended to read:

190.2 Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family
190.3 assessment or the investigation within 45 days of the receipt of a report. The conclusion of
190.4 the assessment or investigation may be extended to permit the completion of a criminal
190.5 investigation or the receipt of expert information requested within 45 days of the receipt of
190.6 the report.

190.7 (b) After conducting a family assessment, the local welfare agency shall determine
190.8 whether services are needed to address the safety of the child and other family members
190.9 and the risk of subsequent maltreatment.

190.10 (c) After conducting an investigation, the local welfare agency shall make two
190.11 determinations: first, whether maltreatment has occurred; and second, whether child
190.12 protective services are needed. No determination of maltreatment shall be made when the
190.13 alleged perpetrator is a child under the age of ten.

190.14 (d) If the commissioner of education conducts an assessment or investigation, the
190.15 commissioner shall determine whether maltreatment occurred and what corrective or
190.16 protective action was taken by the school facility. If a determination is made that
190.17 maltreatment has occurred, the commissioner shall report to the employer, the school board,
190.18 and any appropriate licensing entity the determination that maltreatment occurred and what
190.19 corrective or protective action was taken by the school facility. In all other cases, the
190.20 commissioner shall inform the school board or employer that a report was received, the
190.21 subject of the report, the date of the initial report, the category of maltreatment alleged as
190.22 defined in paragraph (f), the fact that maltreatment was not determined, and a summary of
190.23 the specific reasons for the determination.

190.24 (e) When maltreatment is determined in an investigation involving a facility, the
190.25 investigating agency shall also determine whether the facility or individual was responsible,
190.26 or whether both the facility and the individual were responsible for the maltreatment using
190.27 the mitigating factors in paragraph (i). Determinations under this subdivision must be made
190.28 based on a preponderance of the evidence and are private data on individuals or nonpublic
190.29 data as maintained by the commissioner of education.

190.30 (f) For the purposes of this subdivision, "maltreatment" means any of the following acts
190.31 or omissions:

190.32 (1) physical abuse as defined in subdivision 2, paragraph (k);

190.33 (2) neglect as defined in subdivision 2, paragraph (g);

191.1 (3) sexual abuse as defined in subdivision 2, paragraph ~~(n)~~ (p);

191.2 (4) mental injury as defined in subdivision 2, paragraph (f); or

191.3 (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (c).

191.4 (g) For the purposes of this subdivision, a determination that child protective services
191.5 are needed means that the local welfare agency has documented conditions during the
191.6 assessment or investigation sufficient to cause a child protection worker, as defined in
191.7 section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment
191.8 if protective intervention is not provided and that the individuals responsible for the child's
191.9 care have not taken or are not likely to take actions to protect the child from maltreatment
191.10 or risk of maltreatment.

191.11 (h) This subdivision does not mean that maltreatment has occurred solely because the
191.12 child's parent, guardian, or other person responsible for the child's care in good faith selects
191.13 and depends upon spiritual means or prayer for treatment or care of disease or remedial care
191.14 of the child, in lieu of medical care. However, if lack of medical care may result in serious
191.15 danger to the child's health, the local welfare agency may ensure that necessary medical
191.16 services are provided to the child.

191.17 (i) When determining whether the facility or individual is the responsible party, or
191.18 whether both the facility and the individual are responsible for determined maltreatment in
191.19 a facility, the investigating agency shall consider at least the following mitigating factors:

191.20 (1) whether the actions of the facility or the individual caregivers were according to,
191.21 and followed the terms of, an erroneous physician order, prescription, individual care plan,
191.22 or directive; however, this is not a mitigating factor when the facility or caregiver was
191.23 responsible for the issuance of the erroneous order, prescription, individual care plan, or
191.24 directive or knew or should have known of the errors and took no reasonable measures to
191.25 correct the defect before administering care;

191.26 (2) comparative responsibility between the facility, other caregivers, and requirements
191.27 placed upon an employee, including the facility's compliance with related regulatory standards
191.28 and the adequacy of facility policies and procedures, facility training, an individual's
191.29 participation in the training, the caregiver's supervision, and facility staffing levels and the
191.30 scope of the individual employee's authority and discretion; and

191.31 (3) whether the facility or individual followed professional standards in exercising
191.32 professional judgment.

192.1 The evaluation of the facility's responsibility under clause (2) must not be based on the
192.2 completeness of the risk assessment or risk reduction plan required under section 245A.66,
192.3 but must be based on the facility's compliance with the regulatory standards for policies
192.4 and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota
192.5 Rules.

192.6 (j) Notwithstanding paragraph (i), when maltreatment is determined to have been
192.7 committed by an individual who is also the facility license or certification holder, both the
192.8 individual and the facility must be determined responsible for the maltreatment, and both
192.9 the background study disqualification standards under section 245C.15, subdivision 4, and
192.10 the licensing or certification actions under section 245A.06, 245A.07, 245H.06, or 245H.07
192.11 apply.

192.12 **EFFECTIVE DATE.** This section is effective August 1, 2019.

192.13 Sec. 76. Minnesota Statutes 2018, section 626.556, subdivision 10f, is amended to read:

192.14 Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion of a
192.15 family assessment, the local welfare agency shall notify the parent or guardian of the child
192.16 of the need for services to address child safety concerns or significant risk of subsequent
192.17 child maltreatment. The local welfare agency and the family may also jointly agree that
192.18 family support and family preservation services are needed. Within ten working days of the
192.19 conclusion of an investigation, the local welfare agency or agency responsible for
192.20 investigating the report shall notify the parent or guardian of the child, the person determined
192.21 to be maltreating the child, and, if applicable, the director of the facility, of the determination
192.22 and a summary of the specific reasons for the determination. When the investigation involves
192.23 a child foster care setting that is monitored by a private licensing agency under section
192.24 245A.16, the local welfare agency responsible for investigating the report shall notify the
192.25 private licensing agency of the determination and shall provide a summary of the specific
192.26 reasons for the determination. The notice to the private licensing agency must include
192.27 identifying private data, but not the identity of the reporter of maltreatment. The notice must
192.28 also include a certification that the information collection procedures under subdivision 10,
192.29 paragraphs ~~(h)~~ (j), ~~(i)~~ (k), and ~~(j)~~ (l), were followed and a notice of the right of a data subject
192.30 to obtain access to other private data on the subject collected, created, or maintained under
192.31 this section. In addition, the notice shall include the length of time that the records will be
192.32 kept under subdivision 11c. When the investigation involves a nonlicensed personal care
192.33 provider agency as defined in section 256B.0659, regardless of the relationship of the victim
192.34 to the nonlicensed personal care attendant, the local welfare agency responsible for

193.1 investigating the report shall notify the personal care provider agency of the determination
 193.2 and shall provide a summary of the specific reasons for the determination. The notice to
 193.3 the personal care provider agency must include identifying private data, but cannot identify
 193.4 the reporter of maltreatment. The notice must also include a certification that the procedures
 193.5 under subdivision 10, paragraphs (i), (j), and (k), were followed and a notice of the right of
 193.6 a data subject to obtain access to other private data on the subject collected, created, or
 193.7 maintained under this section. In addition, the notice shall include the length of time that
 193.8 the records will be kept according to subdivision 11c. The investigating agency shall notify
 193.9 the parent or guardian of the child who is the subject of the report, and any person or facility
 193.10 determined to have maltreated a child, of their appeal or review rights under this section.
 193.11 The notice must also state that a finding of maltreatment may result in denial of a license
 193.12 or certification application or background study disqualification under chapter 245C related
 193.13 to employment or services that are licensed or certified by the Department of Human Services
 193.14 under chapter 245A or 245H, the Department of Health under chapter 144 or 144A, the
 193.15 Department of Corrections under section 241.021, and from providing services related to
 193.16 an unlicensed personal care provider organization under chapter 256B.

193.17 **EFFECTIVE DATE.** This section is effective August 1, 2019.

193.18 Sec. 77. Minnesota Statutes 2018, section 626.556, subdivision 10m, is amended to read:

193.19 Subd. 10m. **Provision of child protective services; safety planning; consultation with**
 193.20 **county attorney.** (a) The local welfare agency shall create a written plan, in collaboration
 193.21 with the family whenever possible, within 30 days of the determination that child protective
 193.22 services are needed or upon joint agreement of the local welfare agency and the family that
 193.23 family support and preservation services are needed. The plan may be part of a child
 193.24 protective services plan, out-of-home placement plan, or reunification plan when the child
 193.25 leaves foster care. Child protective services for a family are voluntary ~~unless~~ on the part of
 193.26 the family unless ordered by the court; after a petition under section 260C.141 has been
 193.27 filed. Family support and preservation services for a family are voluntary on the part of the
 193.28 family unless the services are ordered by the court.

193.29 (b) When a child's removal from the care of a parent or guardian is necessary as part of
 193.30 a safety plan, the removal must occur pursuant to a voluntary placement agreement under
 193.31 section 260C.227; a court order under section 260C.151, subdivision 6, 260C.178 or
 193.32 260C.201; or peace officer action authorized under section 260C.175, subdivision 1, clause
 193.33 (2). The local agency must not use a delegation of power by a parent or guardian under

194.1 section 524.5-211 or the standby custodian provisions of chapter 257B as authority to support
 194.2 removal of a child from the care of a parent or guardian.

194.3 (c) The local welfare agency shall consult with the county attorney to determine the
 194.4 appropriateness of filing a petition alleging the child is in need of protection or services
 194.5 under section 260C.007, subdivision 6, if:

194.6 (1) the family does not accept or comply with a plan for child protective services or
 194.7 safety plan;

194.8 (2) voluntary child protective services on the part of the family may not provide sufficient
 194.9 protection for the child; ~~or~~

194.10 (3) the family is not cooperating with an investigation or assessment; or

194.11 (4) removal of the child from the care of a parent or guardian is necessary and a voluntary
 194.12 placement agreement under section 260C.227 may not provide sufficient protection for the
 194.13 child.

194.14 **EFFECTIVE DATE.** This section is effective August 1, 2019.

194.15 Sec. 78. Minnesota Statutes 2018, section 626.556, subdivision 11, is amended to read:

194.16 Subd. 11. **Records.** (a) Except as provided in paragraph (b) and subdivisions 10b, 10d,
 194.17 10g, and 11b, all records concerning individuals maintained by a local welfare agency or
 194.18 agency responsible for assessing or investigating the report under this section, including
 194.19 not public information shared with an Indian's tribal social service agency under subdivision
 194.20 10 and any written reports filed under subdivision 7, shall be private data on individuals,
 194.21 except insofar as copies of reports are required by subdivision 7 to be sent to the local police
 194.22 department or the county sheriff. All records concerning determinations of maltreatment
 194.23 by a facility are nonpublic data as maintained by the Department of Education, except insofar
 194.24 as copies of reports are required by subdivision 7 to be sent to the local police department
 194.25 or the county sheriff. Reports maintained by any police department or the county sheriff
 194.26 shall be private data on individuals except the reports shall be made available to the
 194.27 investigating, petitioning, or prosecuting authority, including county medical examiners or
 194.28 county coroners. Section 13.82, subdivisions 8, 9, and 14, apply to law enforcement data
 194.29 other than the reports. The local social services agency or agency responsible for assessing
 194.30 or investigating the report shall make available to the investigating, petitioning, or prosecuting
 194.31 authority, including county medical examiners or county coroners or their professional
 194.32 delegates, any records which contain information relating to a specific incident of neglect
 194.33 or abuse which is under investigation, petition, or prosecution and information relating to

195.1 any prior incidents of neglect or abuse involving any of the same persons. The records shall
195.2 be collected and maintained in accordance with the provisions of chapter 13. In conducting
195.3 investigations and assessments pursuant to this section, the notice required by section 13.04,
195.4 subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim
195.5 of abuse or neglect. An individual subject of a record shall have access to the record in
195.6 accordance with those sections, except that the name of the reporter shall be confidential
195.7 while the report is under assessment or investigation except as otherwise permitted by this
195.8 subdivision. Any person conducting an investigation or assessment under this section or
195.9 who has received not public information as permitted by this subdivision and who
195.10 intentionally discloses the identity of a reporter prior to the completion of the investigation
195.11 or assessment is guilty of a misdemeanor. After the assessment or investigation is completed,
195.12 the name of the reporter shall be confidential. The subject of the report may compel disclosure
195.13 of the name of the reporter only with the consent of the reporter or upon a written finding
195.14 by the court that the report was false and that there is evidence that the report was made in
195.15 bad faith. This subdivision does not alter disclosure responsibilities or obligations under
195.16 the Rules of Criminal Procedure.

195.17 (b) Upon request of the legislative auditor, data on individuals maintained under this
195.18 section must be released to the legislative auditor in order for the auditor to fulfill the auditor's
195.19 duties under section 3.971. The auditor shall maintain the data in accordance with chapter
195.20 13.

195.21 (c) The commissioner of education must be provided with all requested data that are
195.22 relevant to a report of maltreatment and are in possession of a school facility as defined in
195.23 subdivision 2, paragraph (c), when the data is requested pursuant to an assessment or
195.24 investigation of a maltreatment report of a student in a school. If the commissioner of
195.25 education makes a determination of maltreatment involving an individual performing work
195.26 within a school facility who is licensed by a board or other agency, the commissioner shall
195.27 provide necessary and relevant information to the licensing entity to enable the entity to
195.28 fulfill its statutory duties. Notwithstanding section 13.03, subdivision 4, data received by a
195.29 licensing entity under this paragraph are governed by section 13.41 or other applicable law
195.30 governing data of the receiving entity, except that this section applies to the classification
195.31 of and access to data on the reporter of the maltreatment.

195.32 **EFFECTIVE DATE.** This section is effective August 1, 2019.

196.1 Sec. 79. Minnesota Statutes 2018, section 626.556, subdivision 11c, is amended to read:

196.2 Subd. 11c. **Welfare, court services agency, and school records**

196.3 **maintained.** Notwithstanding sections 138.163 and 138.17, records maintained or records
196.4 derived from reports of abuse by local welfare agencies, agencies responsible for assessing
196.5 or investigating the report, court services agencies, or schools under this section shall be
196.6 destroyed as provided in paragraphs (a) to (d) by the responsible authority.

196.7 (a) For reports alleging child maltreatment that were not accepted for assessment or
196.8 investigation, family assessment cases, and cases where an investigation results in no
196.9 determination of maltreatment or the need for child protective services, the records must
196.10 be maintained for a period of five years after the date the report was not accepted for
196.11 assessment or investigation or of the final entry in the case record. Records of reports that
196.12 were not accepted must contain sufficient information to identify the subjects of the report,
196.13 the nature of the alleged maltreatment, and the reasons as to why the report was not accepted.
196.14 Records under this paragraph may not be used for employment, background checks, or
196.15 purposes other than to assist in future screening decisions and risk and safety assessments.

196.16 (b) All records relating to reports which, upon investigation, indicate either maltreatment
196.17 or a need for child protective services shall be maintained for ten years after the date of the
196.18 final entry in the case record.

196.19 (c) All records regarding a report of maltreatment, including any notification of intent
196.20 to interview which was received by a school under subdivision 10, paragraph ~~(d)~~ (e), shall
196.21 be destroyed by the school when ordered to do so by the agency conducting the assessment
196.22 or investigation. The agency shall order the destruction of the notification when other records
196.23 relating to the report under investigation or assessment are destroyed under this subdivision.

196.24 (d) Private or confidential data released to a court services agency under subdivision
196.25 10h must be destroyed by the court services agency when ordered to do so by the local
196.26 welfare agency that released the data. The local welfare agency or agency responsible for
196.27 assessing or investigating the report shall order destruction of the data when other records
196.28 relating to the assessment or investigation are destroyed under this subdivision.

196.29 **EFFECTIVE DATE.** This section is effective August 1, 2019.

196.30 Sec. 80. Minnesota Statutes 2018, section 626.5561, subdivision 1, is amended to read:

196.31 Subdivision 1. **Reports required.** (a) Except as provided in paragraph (b), a person
196.32 mandated to report under section 626.556, subdivision 3, shall immediately report to the
196.33 local welfare agency if the person knows or has reason to believe that a woman is pregnant

197.1 and has used a controlled substance for a nonmedical purpose during the pregnancy,
197.2 including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages
197.3 during the pregnancy in any way that is habitual or excessive.

197.4 (b) A health care professional or a social service professional who is mandated to report
197.5 under section 626.556, subdivision 3, is exempt from reporting under paragraph (a) a
197.6 woman's use or consumption of tetrahydrocannabinol or alcoholic beverages during
197.7 pregnancy if the professional is providing the woman with prenatal care or other healthcare
197.8 services.

197.9 (c) Any person may make a voluntary report if the person knows or has reason to believe
197.10 that a woman is pregnant and has used a controlled substance for a nonmedical purpose
197.11 during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed
197.12 alcoholic beverages during the pregnancy in any way that is habitual or excessive.

197.13 (d) An oral report shall be made immediately by telephone or otherwise. ~~An oral report~~
197.14 ~~made by a person required to report shall be followed within 72 hours, exclusive of weekends~~
197.15 ~~and holidays, by a report in writing to the local welfare agency.~~ Any report shall be of
197.16 sufficient content to identify the pregnant woman, the nature and extent of the use, if known,
197.17 and the name and address of the reporter. The local welfare agency shall accept a report
197.18 made under paragraph (c) notwithstanding refusal by a voluntary reporter to provide the
197.19 reporter's name or address as long as the report is otherwise sufficient.

197.20 (e) For purposes of this section, "prenatal care" means the comprehensive package of
197.21 medical and psychological support provided throughout the pregnancy.

197.22 **EFFECTIVE DATE.** This section is effective August 1, 2019.

197.23 Sec. 81. Minnesota Statutes 2018, section 626.558, subdivision 2, is amended to read:

197.24 Subd. 2. **Duties of team.** A multidisciplinary child protection team may provide public
197.25 and professional education, develop resources for prevention, intervention, and treatment,
197.26 and provide case consultation including but not limited to screening, to the local welfare
197.27 agency or other interested community-based agencies. The community-based agencies may
197.28 request case consultation from the multidisciplinary child protection team regarding a child
197.29 or family for whom the community-based agency is providing services. As used in this
197.30 section, "case consultation" means a case review process in which recommendations are
197.31 made concerning services to be provided to the identified children and family and which
197.32 may include screening. Case consultation may be performed by a committee or subcommittee
197.33 of members representing human services, including mental health and chemical dependency;

198.1 law enforcement, including probation and parole; the county attorney; a children's advocacy
198.2 center; health care; education; community-based agencies and other necessary agencies;
198.3 and persons directly involved in an individual case as designated by other members
198.4 performing case consultation.

198.5 **EFFECTIVE DATE.** This section is effective August 1, 2019.

198.6 Sec. 82. **REPEALER.**

198.7 Minnesota Statutes 2018, sections 119B.125, subdivision 8; and 256J.751, subdivision
198.8 1, are repealed.

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

198.10

ARTICLE 6

198.11

DIRECT CARE AND TREATMENT

198.12 Section 1. Minnesota Statutes 2018, section 253B.18, is amended by adding a subdivision
198.13 to read:

198.14 Subd. 6a. **Transfer; voluntary readmission to secure treatment facility.** (a) After a
198.15 patient has been transferred out of a secure treatment facility pursuant to subdivision 6, the
198.16 patient with the medical director's consent may voluntarily return to a secure treatment
198.17 facility for a period of up to 60 days.

198.18 (b) If the patient is not returned to the facility to which the person was originally
198.19 transferred pursuant to subdivision 6 within 60 days of being readmitted to a secure treatment
198.20 facility, the transfer is revoked and the patient shall remain in a secure treatment facility.
198.21 The patient shall immediately be notified by the medical director in writing of the revocation.

198.22 (c) Within 15 days of receiving notice of the revocation, the patient may petition the
198.23 special review board for a review of the revocation. The special review board shall review
198.24 the circumstances of the revocation and shall recommend to the commissioner whether or
198.25 not the revocation shall be upheld. The special review board may also recommend a new
198.26 transfer at the time of the revocation hearing.

198.27 (d) If the transfer has not been revoked and the patient is to be returned to the facility
198.28 to which the patient was originally transferred pursuant to subdivision 6 with no substantive
198.29 change to the conditions of the transfer ordered pursuant to subdivision 6, no action by the
198.30 special review board or commissioner is required.

199.1 **EFFECTIVE DATE.** This section is effective the day following final enactment and
199.2 applies to any patient who is or retroactively to any patient who has been transferred out of
199.3 a secure treatment facility pursuant to Minnesota Statutes, section 253B.18, subdivision 6,
199.4 on or after that date.

199.5 Sec. 2. Minnesota Statutes 2018, section 253B.18, is amended by adding a subdivision to
199.6 read:

199.7 Subd. 6b. **Transfer; revocation.** (a) The medical director may revoke a transfer made
199.8 pursuant to subdivision 6 and require a patient to return to a secure treatment facility if:

199.9 (1) remaining in a nonsecure setting will not provide a reasonable degree of safety to
199.10 the patient or others; or

199.11 (2) the facility to which the patient transferred is no longer sufficient to meet the patient's
199.12 treatment needs.

199.13 (b) Upon the revocation of the transfer, the patient shall be immediately returned to a
199.14 secure treatment facility. The medical director shall issue a report documenting the reasons
199.15 for revocation within seven days after the patient is returned to the secure treatment facility.
199.16 Advance notice to the patient of the revocation is not required.

199.17 (c) The medical director must provide a copy of the revocation report to the patient and
199.18 inform the patient, orally and in writing, of the rights of a patient under this subdivision.
199.19 The revocation report shall be served upon the patient and the patient's counsel by the
199.20 medical director. The report shall outline the specific reasons for the revocation including
199.21 but not limited to the specific facts upon which the revocation is based.

199.22 (d) If a patient's transfer is revoked, the patient may re-petition for transfer according to
199.23 subdivision 5.

199.24 (e) A patient aggrieved by a transfer revocation decision may petition the special review
199.25 board within seven days, excluding Saturdays, Sundays, and holidays as defined in section
199.26 645.44, subdivision 5, after receipt of the revocation report for a review of the revocation.
199.27 The matter shall be scheduled within 30 days. The special review board shall review the
199.28 circumstances leading to the revocation and, after considering the factors in paragraph (a),
199.29 shall recommend to the commissioner whether or not the revocation shall be upheld. The
199.30 special review board may also recommend a new transfer out of a secure treatment facility
199.31 pursuant to subdivision 6 at the time of the revocation hearing.

199.32 **EFFECTIVE DATE.** This section is effective the day following final enactment and
199.33 applies to any patient who is or retroactively to any patient who has been transferred out of

200.1 a secure treatment facility pursuant to Minnesota Statutes, section 253B.18, subdivision 6,
 200.2 on or after that date.

200.3 Sec. 3. Minnesota Statutes 2018, section 253B.18, subdivision 13, is amended to read:

200.4 Subd. 13. **Appeal.** Any patient aggrieved by a provisional discharge revocation decision
 200.5 or any interested person may petition the special review board within seven days, exclusive
 200.6 of Saturdays, Sundays, and ~~legal~~ holidays as defined in section 645.44, subdivision 5, after
 200.7 receipt of the revocation report for a review of the revocation. The matter shall be scheduled
 200.8 within 30 days. The special review board shall review the circumstances leading to the
 200.9 revocation and shall recommend to the commissioner whether or not the revocation shall
 200.10 be upheld. The special review board may also recommend a new provisional discharge at
 200.11 the time of a revocation hearing.

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

200.13 Sec. 4. Minnesota Statutes 2018, section 253D.28, subdivision 3, is amended to read:

200.14 Subd. 3. **Decision.** A majority of the judicial appeal panel shall rule upon the petition.
 200.15 The panel shall consider the petition de novo. No order of the judicial appeal panel granting
 200.16 a transfer, ~~discharge, or provisional discharge~~ shall be made effective sooner than 15 days
 200.17 after it is issued. No order of the judicial appeal panel granting provisional discharge or
 200.18 discharge shall be made effective sooner than 30 days after it is issued. The panel may not
 200.19 consider petitions for relief other than those considered by the special review board from
 200.20 which the appeal is taken. The judicial appeal panel may not grant a transfer or provisional
 200.21 discharge on terms or conditions that were not presented to the special review board.

200.22 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 200.23 applies to any judicial appeal panel order granting provisional discharge or discharge that
 200.24 is issued on or after that date.

200.25 Sec. 5. Minnesota Statutes 2018, section 609.2231, subdivision 3a, is amended to read:

200.26 Subd. 3a. **Secure treatment facility personnel.** (a) As used in this subdivision, "secure
 200.27 treatment facility" includes facilities listed in sections 253B.02, subdivision 18a, and
 200.28 253D.02, subdivision 13.

200.29 (b) Whoever, while committed under chapter 253D, Minnesota Statutes 2012, section
 200.30 253B.185, or Minnesota Statutes 1992, section 526.10, commits either of the following acts
 200.31 against an employee or other individual who provides care or treatment at a secure treatment
 200.32 facility while the person is engaged in the performance of a duty imposed by law, policy,

201.1 or rule is guilty of a felony and may be sentenced to imprisonment for not more than two
 201.2 years or to payment of a fine of not more than \$4,000, or both:

201.3 (1) assaults the person and inflicts demonstrable bodily harm; or

201.4 (2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the person.

201.5 (c) Whoever, while committed under section 253B.18, or admitted under the provision
 201.6 of section 253B.10, subdivision 1, commits either of the following acts against an employee
 201.7 or other individual who supervises and works directly with patients at a secure treatment
 201.8 facility while the person is engaged in the performance of a duty imposed by law, policy,
 201.9 or rule, is guilty of a felony and may be sentenced to imprisonment for not more than two
 201.10 years or to payment of a fine of not more than \$4,000, or both:

201.11 (1) assaults the person and inflicts demonstrable bodily harm; or

201.12 (2) intentionally throws or otherwise transfers ~~urine, blood, semen,~~ bodily fluids or feces
 201.13 onto the person.

201.14 (d) The court shall commit a person convicted of violating paragraph (b) to the custody
 201.15 of the commissioner of corrections for not less than one year and one day. The court may
 201.16 not, on its own motion or the prosecutor's motion, sentence a person without regard to this
 201.17 paragraph. A person convicted and sentenced as required by this paragraph is not eligible
 201.18 for probation, parole, discharge, work release, or supervised release, until that person has
 201.19 served the full term of imprisonment as provided by law, notwithstanding the provisions of
 201.20 sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

201.21 (e) Notwithstanding the statutory maximum sentence provided in paragraph (b), when
 201.22 a court sentences a person to the custody of the commissioner of corrections for a violation
 201.23 of paragraph (b), the court shall provide that after the person has been released from prison,
 201.24 the commissioner shall place the person on conditional release for five years. The terms of
 201.25 conditional release are governed by sections 244.05 and 609.3455, subdivision 6, 7, or 8;
 201.26 and Minnesota Statutes 2004, section 609.109.

201.27 ARTICLE 7

201.28 OPERATIONS

201.29 Section 1. Minnesota Statutes 2018, section 13.46, subdivision 3, is amended to read:

201.30 Subd. 3. **Investigative data.** (a) Data on persons, including data on vendors of services,
 201.31 licensees, and applicants that is collected, maintained, used, or disseminated by the welfare
 201.32 system in an investigation, authorized by statute, and relating to the enforcement of rules

202.1 or law are confidential data on individuals pursuant to section 13.02, subdivision 3, or
 202.2 protected nonpublic data not on individuals pursuant to section 13.02, subdivision 13, and
 202.3 shall not be disclosed except:

202.4 (1) pursuant to section 13.05;

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

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

202.8 (4) to an agent of the welfare system or an investigator acting on behalf of a county,
 202.9 state, or federal government, including a law enforcement officer or attorney in the
 202.10 investigation or prosecution of a criminal, civil, or administrative proceeding, unless the
 202.11 commissioner of human services determines that disclosure may compromise a department
 202.12 of human services ongoing investigation; or

202.13 ~~(4)~~ (5) to provide notices required or permitted by statute.

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

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

202.21 (c) Notwithstanding paragraph (a) and section 13.39, the existence of an investigation
 202.22 by the commissioner of human services of possible overpayments of public funds to a service
 202.23 provider or recipient may be disclosed if the commissioner determines that it will not
 202.24 compromise the investigation.

202.25 Sec. 2. Minnesota Statutes 2018, section 245.095, is amended to read:

202.26 **245.095 LIMITS ON RECEIVING PUBLIC FUNDS.**

202.27 Subdivision 1. **Prohibition.** (a) If a provider, vendor, or individual enrolled, licensed,
 202.28 ~~or~~ receiving funds under a grant contract, or registered in any program administered by the
 202.29 commissioner, including under the commissioner's powers and authorities in section 256.01,
 202.30 is excluded from any that program administered by the commissioner, ~~including under the~~
 202.31 ~~commissioner's powers and authorities in section 256.01,~~ the commissioner shall:

203.1 (1) prohibit the excluded provider, vendor, or individual from enrolling or, becoming
 203.2 licensed, receiving grant funds, or registering in any other program administered by the
 203.3 commissioner; and

203.4 (2) disenroll, revoke or suspend a license, disqualify, or debar the excluded provider,
 203.5 vendor, or individual in any other program administered by the commissioner.

203.6 (b) The duration of this prohibition, disenrollment, revocation, suspension,
 203.7 disqualification, or debarment must last for the longest applicable sanction or disqualifying
 203.8 period in effect for the provider, vendor, or individual permitted by state or federal law.

203.9 Subd. 2. **Definitions.** (a) For purposes of this section, the following definitions have the
 203.10 meanings given them.

203.11 (b) "Excluded" means disenrolled, ~~subject to license revocation or suspension,~~
 203.12 ~~disqualified, or subject to vendor debarment~~ disqualified, having a license that has been
 203.13 revoked or suspended under chapter 245A, or debarred or suspended under Minnesota Rules,
 203.14 part 1230.1150, or excluded pursuant to section 256B.064, subdivision 3.

203.15 (c) "Individual" means a natural person providing products or services as a provider or
 203.16 vendor.

203.17 (d) "Provider" ~~means~~ includes any entity or individual receiving payment from a program
 203.18 administered by the Department of Human Services, and an owner, controlling individual,
 203.19 license holder, director, or managerial official of an entity receiving payment from a program
 203.20 administered by the Department of Human Services.

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

203.22 Sec. 3. Minnesota Statutes 2018, section 245A.02, subdivision 3, is amended to read:

203.23 Subd. 3. **Applicant.** "Applicant" means an individual, ~~corporation, partnership, voluntary~~
 203.24 ~~association, controlling individual, or other organization,~~ or government entity, as defined
 203.25 in section 13.02, subdivision 7a, that has applied for licensure under this chapter and the
 203.26 rules of the commissioner is subject to licensure under this chapter and that has applied for
 203.27 but not yet been granted a license under this chapter.

203.28 **EFFECTIVE DATE.** This section is effective January 1, 2020.

204.1 Sec. 4. Minnesota Statutes 2018, section 245A.02, is amended by adding a subdivision to
204.2 read:

204.3 Subd. 3b. **Authorized agent.** "Authorized agent" means the controlling individual
204.4 designated by the license holder responsible for communicating with the commissioner of
204.5 human services on all matters related to this chapter and on whom service of all notices and
204.6 orders must be made pursuant to section 245A.04, subdivision 1.

204.7 **EFFECTIVE DATE.** This section is effective January 1, 2020.

204.8 Sec. 5. Minnesota Statutes 2018, section 245A.02, subdivision 8, is amended to read:

204.9 Subd. 8. **License.** "License" means a certificate issued by the commissioner under section
204.10 245A.04 authorizing the license holder to provide a specified program for a specified period
204.11 of time and in accordance with the terms of the license and the rules of the commissioner.

204.12 **EFFECTIVE DATE.** This section is effective January 1, 2020.

204.13 Sec. 6. Minnesota Statutes 2018, section 245A.02, subdivision 9, is amended to read:

204.14 Subd. 9. **License holder.** "License holder" means an individual, ~~corporation, partnership,~~
204.15 ~~voluntary association, or other~~ organization, or government entity that is legally responsible
204.16 for the operation of the program or service, and has been granted a license by the
204.17 commissioner under this chapter ~~or chapter 245D~~ and the rules of the commissioner, ~~and~~
204.18 ~~is a controlling individual.~~

204.19 **EFFECTIVE DATE.** This section is effective January 1, 2020.

204.20 Sec. 7. Minnesota Statutes 2018, section 245A.02, is amended by adding a subdivision to
204.21 read:

204.22 Subd. 10c. **Organization.** "Organization" means a domestic or foreign corporation,
204.23 nonprofit corporation, limited liability company, partnership, limited partnership, limited
204.24 liability partnership, association, voluntary association, and any other legal or commercial
204.25 entity. For purposes of this chapter, organization does not include a government entity.

204.26 **EFFECTIVE DATE.** This section is effective January 1, 2020.

204.27 Sec. 8. Minnesota Statutes 2018, section 245A.02, subdivision 12, is amended to read:

204.28 Subd. 12. **Private agency.** "Private agency" means an ~~individual, corporation, partnership,~~
204.29 ~~voluntary association or other~~ organization, other than a county agency, or a court with

205.1 jurisdiction, that places persons who cannot remain in their own homes in residential
 205.2 programs, foster care, or adoptive homes.

205.3 **EFFECTIVE DATE.** This section is effective January 1, 2020.

205.4 Sec. 9. Minnesota Statutes 2018, section 245A.02, subdivision 14, is amended to read:

205.5 Subd. 14. **Residential program.** (a) Except as provided in paragraph (b), "residential
 205.6 program" means a program that provides 24-hour-a-day care, supervision, food, lodging,
 205.7 rehabilitation, training, education, habilitation, or treatment outside a person's own home,
 205.8 including a program in an intermediate care facility for four or more persons with
 205.9 developmental disabilities; and chemical dependency or chemical abuse programs that are
 205.10 located in a hospital or nursing home and receive public funds for providing chemical abuse
 205.11 or chemical dependency treatment services under chapter 254B. Residential programs
 205.12 include home and community-based services for persons with disabilities or persons age
 205.13 65 and older that are provided in or outside of a person's own home under chapter 245D.

205.14 (b) For a residential program under chapter 245D, "residential program" means a single
 205.15 or multifamily dwelling that is under the control, either directly or indirectly, of the service
 205.16 provider licensed under chapter 245D and in which at least one person receives services
 205.17 under chapter 245D, including residential supports and services under section 245D.03,
 205.18 subdivision 1, paragraph (c), clause (3); out-of-home crisis respite services under section
 205.19 245D.03, subdivision 1, paragraph (c), clause (1), item (ii); and out-of-home respite services
 205.20 under section 245D.03, subdivision 1, paragraph (b), clause (1). A residential program does
 205.21 not include out-of-home respite services when a case manager has determined that an
 205.22 unlicensed site meets the assessed needs of the person. A residential program also does not
 205.23 include multifamily dwellings where persons receive integrated community supports, even
 205.24 if authorization to provide these supports is granted under chapter 245D and approved in
 205.25 the federal waiver.

205.26 Sec. 10. Minnesota Statutes 2018, section 245A.03, subdivision 1, is amended to read:

205.27 Subdivision 1. **License required.** Unless licensed by the commissioner under this chapter,
 205.28 an individual, corporation, partnership, voluntary association, other organization, or
 205.29 controlling individual government entity must not:

205.30 (1) operate a residential or a nonresidential program;

205.31 (2) receive a child or adult for care, supervision, or placement in foster care or adoption;

206.1 (3) help plan the placement of a child or adult in foster care or adoption or engage in
 206.2 placement activities as defined in section 259.21, subdivision 9, in this state, whether or not
 206.3 the adoption occurs in this state; or

206.4 (4) advertise a residential or nonresidential program.

206.5 **EFFECTIVE DATE.** This section is effective January 1, 2020.

206.6 Sec. 11. Minnesota Statutes 2018, section 245A.03, subdivision 3, is amended to read:

206.7 Subd. 3. **Unlicensed programs.** (a) It is a misdemeanor for an individual, ~~corporation,~~
 206.8 ~~partnership, voluntary association, other organization, or a controlling individual~~ government
 206.9 entity to provide a residential or nonresidential program without a license issued under this
 206.10 chapter and in willful disregard of this chapter unless the program is excluded from licensure
 206.11 under subdivision 2.

206.12 (b) The commissioner may ask the appropriate county attorney or the attorney general
 206.13 to begin proceedings to secure a court order against the continued operation of the program,
 206.14 if an individual, ~~corporation, partnership, voluntary association, other organization, or~~
 206.15 ~~controlling individual~~ government entity has:

206.16 (1) failed to apply for a license under this chapter after receiving notice that a license is
 206.17 required or continues to operate without a license after receiving notice that a license is
 206.18 required;

206.19 (2) continued to operate without a license after ~~the~~ a license issued under this chapter
 206.20 has been revoked or suspended under section 245A.07 this chapter, and the commissioner
 206.21 has issued a final order affirming the revocation or suspension, or the license holder did not
 206.22 timely appeal the sanction; or

206.23 (3) continued to operate without a license after ~~the~~ a temporary immediate suspension
 206.24 of a license has been temporarily suspended under section 245A.07 issued under this chapter.

206.25 (c) The county attorney and the attorney general have a duty to cooperate with the
 206.26 commissioner.

206.27 **EFFECTIVE DATE.** This section is effective January 1, 2020.

206.28 Sec. 12. Minnesota Statutes 2018, section 245A.04, subdivision 1, is amended to read:

206.29 Subdivision 1. **Application for licensure.** (a) An individual, ~~corporation, partnership,~~
 206.30 ~~voluntary association, other organization or controlling individual,~~ or government entity
 206.31 that is subject to licensure under section 245A.03 must apply for a license. The application

207.1 must be made on the forms and in the manner prescribed by the commissioner. The
 207.2 commissioner shall provide the applicant with instruction in completing the application and
 207.3 provide information about the rules and requirements of other state agencies that affect the
 207.4 applicant. An applicant seeking licensure in Minnesota with headquarters outside of
 207.5 Minnesota must have a program office located within 30 miles of the Minnesota state border.
 207.6 An applicant who intends to buy or otherwise acquire a program or services licensed under
 207.7 this chapter that is owned by another license holder must apply for a license under this
 207.8 chapter and comply with the application procedures in this section and section 245A.03.

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

207.14 When the commissioner receives an application for initial licensure that is incomplete
 207.15 because the applicant failed to submit required documents or that is substantially deficient
 207.16 because the documents submitted do not meet licensing requirements, the commissioner
 207.17 shall provide the applicant written notice that the application is incomplete or substantially
 207.18 deficient. In the written notice to the applicant the commissioner shall identify documents
 207.19 that are missing or deficient and give the applicant 45 days to resubmit a second application
 207.20 that is substantially complete. An applicant's failure to submit a substantially complete
 207.21 application after receiving notice from the commissioner is a basis for license denial under
 207.22 section 245A.05.

207.23 (b) An application for licensure must identify all controlling individuals as defined in
 207.24 section 245A.02, subdivision 5a, and must ~~specify an~~ designate one individual to be the
 207.25 authorized agent who is responsible for dealing with the commissioner of human services
 207.26 ~~on all matters provided for in this chapter and on whom service of all notices and orders~~
 207.27 ~~must be made.~~ The application must be signed by the authorized agent and must include
 207.28 the authorized agent's first, middle, and last name; mailing address; and e-mail address. By
 207.29 submitting an application for licensure, the authorized agent consents to electronic
 207.30 communication with the commissioner throughout the application process. The authorized
 207.31 agent must be authorized to accept service on behalf of all of the controlling individuals of
 207.32 ~~the program.~~ A government entity that holds multiple licenses under this chapter may
 207.33 designate one authorized agent for all licenses issued under this chapter or may designate
 207.34 a different authorized agent for each license. Service on the authorized agent is service on
 207.35 all of the controlling individuals ~~of the program.~~ It is not a defense to any action arising

208.1 under this chapter that service was not made on each controlling individual ~~of the program.~~
208.2 The designation of ~~one or more~~ a controlling ~~individuals~~ individual as ~~agents~~ the authorized
208.3 agent under this paragraph does not affect the legal responsibility of any other controlling
208.4 individual under this chapter.

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

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

208.14 (e) ~~The applicant must be able to demonstrate competent knowledge of the applicable~~
208.15 ~~requirements of this chapter and chapter 245C, and the requirements of other licensing~~
208.16 ~~statutes and rules applicable to the program or services for which the applicant is seeking~~
208.17 ~~to be licensed. Effective January 1, 2013, The commissioner may limit communication~~
208.18 during the application process to the authorized agent or the controlling individuals identified
208.19 on the license application and for whom a background study was initiated under chapter
208.20 245C. The commissioner may require the applicant, except for child foster care, to
208.21 demonstrate competence in the applicable licensing requirements by successfully completing
208.22 a written examination. The commissioner may develop a prescribed written examination
208.23 format.

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

208.25 (1) the applicant's taxpayer identification numbers including the Social Security number
208.26 or Minnesota tax identification number, and federal employer identification number if the
208.27 applicant has employees;

208.28 (2) at the request of the commissioner, a copy of the most recent filing with the secretary
208.29 of state that includes the complete business name, if any; ~~and;~~

208.30 (3) if doing business under a different name, the doing business as (DBA) name, as
208.31 registered with the secretary of state; and

209.1 ~~(3) a notarized signature of the applicant.~~ (4) if applicable, the applicant's National
 209.2 Provider Identifier (NPI) number and Unique Minnesota Provider Identifier (UMPI) number;
 209.3 and

209.4 (5) at the request of the commissioner, the notarized signature of the applicant or
 209.5 authorized agent.

209.6 (g) When an applicant is ~~a nonindividual~~ an organization, the applicant must provide
 209.7 ~~the~~:

209.8 (1) the applicant's taxpayer identification numbers including the Minnesota tax
 209.9 identification number and federal employer identification number;

209.10 (2) at the request of the commissioner, a copy of the most recent filing with the secretary
 209.11 of state that includes the complete business name, and if doing business under a different
 209.12 name, the doing business as (DBA) name, as registered with the secretary of state;

209.13 (3) the first, middle, and last name, and address for all individuals who will be controlling
 209.14 individuals, including all officers, owners, and managerial officials as defined in section
 209.15 245A.02, subdivision 5a, and the date that the background study was initiated by the applicant
 209.16 for each controlling individual; and

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

209.19 (4) if applicable, the applicant's National Provider Identifier (NPI) number and Unique
 209.20 Minnesota Provider Identifier (UMPI) number;

209.21 (5) the documents that created the organization and that determine the organization's
 209.22 internal governance and the relations among the persons that own the organization, have
 209.23 an interest in the organization, or are members of the organization, in each case as provided
 209.24 or authorized by the organization's governing statute, which may include a partnership
 209.25 agreement, bylaws, articles of organization, organizational chart, and operating agreement,
 209.26 or comparable documents as provided in the organization's governing statute; and

209.27 (6) the notarized signature of the applicant or authorized agent.

209.28 (h) When the applicant is a government entity, the applicant must provide:

209.29 (1) the name of the government agency, political subdivision, or other unit of government
 209.30 seeking the license and the name of the program or services that will be licensed;

209.31 (2) the applicant's taxpayer identification numbers including the Minnesota tax
 209.32 identification number and federal employer identification number;

210.1 (3) a letter signed by the manager, administrator, or other executive of the government
 210.2 entity authorizing the submission of the license application; and

210.3 (4) if applicable, the applicant's National Provider Identifier (NPI) number and Unique
 210.4 Minnesota Provider Identifier (UMPI) number.

210.5 ~~(h)~~ (i) At the time of application for licensure or renewal of a license under this chapter,
 210.6 the applicant or license holder must acknowledge on the form provided by the commissioner
 210.7 if the applicant or license holder elects to receive any public funding reimbursement from
 210.8 the commissioner for services provided under the license that:

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

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

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

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

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

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

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

210.23 **EFFECTIVE DATE.** This section is effective January 1, 2020.

210.24 Sec. 13. Minnesota Statutes 2018, section 245A.04, subdivision 2, is amended to read:

210.25 Subd. 2. **Notification of affected municipality.** The commissioner must not issue a
 210.26 license under this chapter without giving 30 calendar days' written notice to the affected
 210.27 municipality or other political subdivision unless the program is considered a permitted
 210.28 single-family residential use under sections 245A.11 and 245A.14. The commissioner may
 210.29 provide notice through electronic communication. The notification must be given before
 210.30 the first issuance of a license under this chapter and annually after that time if annual
 210.31 notification is requested in writing by the affected municipality or other political subdivision.
 210.32 State funds must not be made available to or be spent by an agency or department of state,

211.1 county, or municipal government for payment to a residential or nonresidential program
 211.2 licensed under this chapter until the provisions of this subdivision have been complied with
 211.3 in full. The provisions of this subdivision shall not apply to programs located in hospitals.

211.4 **EFFECTIVE DATE.** This section is effective January 1, 2020.

211.5 Sec. 14. Minnesota Statutes 2018, section 245A.04, subdivision 4, is amended to read:

211.6 Subd. 4. **Inspections; waiver.** (a) Before issuing ~~an initial~~ a license under this chapter,
 211.7 the commissioner shall conduct an inspection of the program. The inspection must include
 211.8 but is not limited to:

211.9 (1) an inspection of the physical plant;

211.10 (2) an inspection of records and documents;

211.11 (3) ~~an evaluation of the program by consumers of the program;~~

211.12 ~~(4)~~ observation of the program in operation; and

211.13 ~~(5)~~ (4) an inspection for the health, safety, and fire standards in licensing requirements
 211.14 for a child care license holder.

211.15 ~~For the purposes of this subdivision, "consumer" means a person who receives the~~
 211.16 ~~services of a licensed program, the person's legal guardian, or the parent or individual having~~
 211.17 ~~legal custody of a child who receives the services of a licensed program.~~

211.18 (b) ~~The evaluation required in paragraph (a), clause (3), or the observation in paragraph~~
 211.19 ~~(a), clause (4) (3), is not required prior to issuing an initial~~ a license under subdivision 7. If
 211.20 the commissioner issues ~~an initial~~ a license under ~~subdivision 7~~ this chapter, these
 211.21 requirements must be completed within one year after the issuance of ~~an initial~~ the license.

211.22 (c) Before completing a licensing inspection in a family child care program or child care
 211.23 center, the licensing agency must offer the license holder an exit interview to discuss
 211.24 violations of law or rule observed during the inspection and offer technical assistance on
 211.25 how to comply with applicable laws and rules. Nothing in this paragraph limits the ability
 211.26 of the commissioner to issue a correction order or negative action for violations of law or
 211.27 rule not discussed in an exit interview or in the event that a license holder chooses not to
 211.28 participate in an exit interview.

211.29 (d) The commissioner or the county shall inspect at least annually a child care provider
 211.30 licensed under this chapter and Minnesota Rules, chapter 9502 or 9503, for compliance
 211.31 with applicable licensing standards.

212.1 (e) No later than November 19, 2017, the commissioner shall make publicly available
 212.2 on the department's website the results of inspection reports of all child care providers
 212.3 licensed under this chapter and under Minnesota Rules, chapter 9502 or 9503, and the
 212.4 number of deaths, serious injuries, and instances of substantiated child maltreatment that
 212.5 occurred in licensed child care settings each year.

212.6 **EFFECTIVE DATE.** This section is effective January 1, 2020.

212.7 Sec. 15. Minnesota Statutes 2018, section 245A.04, subdivision 6, is amended to read:

212.8 Subd. 6. **Commissioner's evaluation.** (a) Before issuing, denying, suspending, revoking,
 212.9 or making conditional a license, the commissioner shall evaluate information gathered under
 212.10 this section. The commissioner's evaluation shall consider the applicable requirements of
 212.11 statutes and rules for the program or services for which the applicant seeks a license,
 212.12 including the disqualification standards set forth in chapter 245C, and shall evaluate facts,
 212.13 conditions, or circumstances concerning:

212.14 (1) the program's operation;

212.15 (2) the well-being of persons served by the program;

212.16 (3) available consumer evaluations of the program, and by persons receiving services;

212.17 (4) information about the qualifications of the personnel employed by the applicant or
 212.18 license holder; and

212.19 (5) the applicant's or license holder's ability to demonstrate competent knowledge of the
 212.20 applicable requirements of statutes and rules including this chapter and chapter 245C for
 212.21 which the applicant seeks a license or the license holder is licensed.

212.22 (b) The commissioner shall also evaluate the results of the study required in subdivision
 212.23 3 and determine whether a risk of harm to the persons served by the program exists. In
 212.24 conducting this evaluation, the commissioner shall apply the disqualification standards set
 212.25 forth in chapter 245C.

212.26 **EFFECTIVE DATE.** This section is effective January 1, 2020.

212.27 Sec. 16. Minnesota Statutes 2018, section 245A.04, subdivision 7, is amended to read:

212.28 Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines that
 212.29 the program complies with all applicable rules and laws, the commissioner shall issue a
 212.30 license consistent with this section or, if applicable, a temporary change of ownership license
 212.31 under section 245A.043. At minimum, the license shall state:

- 213.1 (1) the name of the license holder;
- 213.2 (2) the address of the program;
- 213.3 (3) the effective date and expiration date of the license;
- 213.4 (4) the type of license;
- 213.5 (5) the maximum number and ages of persons that may receive services from the program;
- 213.6 and
- 213.7 (6) any special conditions of licensure.
- 213.8 (b) The commissioner may issue ~~an initial~~ a license for a period not to exceed two years
- 213.9 if:
- 213.10 (1) the commissioner is unable to conduct the evaluation or observation required by
- 213.11 subdivision 4, paragraph (a), ~~clauses (3) and~~ clause (4), because the program is not yet
- 213.12 operational;
- 213.13 (2) certain records and documents are not available because persons are not yet receiving
- 213.14 services from the program; and
- 213.15 (3) the applicant complies with applicable laws and rules in all other respects.
- 213.16 (c) A decision by the commissioner to issue a license does not guarantee that any person
- 213.17 or persons will be placed or cared for in the licensed program. ~~A license shall not be~~
- 213.18 ~~transferable to another individual, corporation, partnership, voluntary association, other~~
- 213.19 ~~organization, or controlling individual or to another location.~~
- 213.20 ~~(d) A license holder must notify the commissioner and obtain the commissioner's approval~~
- 213.21 ~~before making any changes that would alter the license information listed under paragraph~~
- 213.22 ~~(a).~~
- 213.23 ~~(e)~~ (d) Except as provided in paragraphs ~~(g)~~ (f) and ~~(h)~~ (g), the commissioner shall not
- 213.24 issue or reissue a license if the applicant, license holder, or controlling individual has:
- 213.25 (1) been disqualified and the disqualification was not set aside and no variance has been
- 213.26 granted;
- 213.27 (2) been denied a license under this chapter, within the past two years;
- 213.28 (3) had a license issued under this chapter revoked within the past five years;
- 213.29 (4) an outstanding debt related to a license fee, licensing fine, or settlement agreement
- 213.30 for which payment is delinquent; or

214.1 (5) failed to submit the information required of an applicant under subdivision 1,
214.2 paragraph (f) or (g), after being requested by the commissioner.

214.3 When a license issued under this chapter is revoked under clause (1) or (3), the license
214.4 holder and controlling individual may not hold any license under chapter 245A ~~or 245D~~ for
214.5 five years following the revocation, and other licenses held by the applicant, license holder,
214.6 or controlling individual shall also be revoked.

214.7 ~~(f)~~ (e) The commissioner shall not issue or reissue a license under this chapter if an
214.8 individual living in the household where the licensed services will be provided as specified
214.9 under section 245C.03, subdivision 1, has been disqualified and the disqualification has not
214.10 been set aside and no variance has been granted.

214.11 ~~(g)~~ (f) Pursuant to section 245A.07, subdivision 1, paragraph (b), when a license issued
214.12 under this chapter has been suspended or revoked and the suspension or revocation is under
214.13 appeal, the program may continue to operate pending a final order from the commissioner.
214.14 If the license under suspension or revocation will expire before a final order is issued, a
214.15 temporary provisional license may be issued provided any applicable license fee is paid
214.16 before the temporary provisional license is issued.

214.17 ~~(h)~~ (g) Notwithstanding paragraph ~~(g)~~ (f), when a revocation is based on the
214.18 disqualification of a controlling individual or license holder, and the controlling individual
214.19 or license holder is ordered under section 245C.17 to be immediately removed from direct
214.20 contact with persons receiving services or is ordered to be under continuous, direct
214.21 supervision when providing direct contact services, the program may continue to operate
214.22 only if the program complies with the order and submits documentation demonstrating
214.23 compliance with the order. If the disqualified individual fails to submit a timely request for
214.24 reconsideration, or if the disqualification is not set aside and no variance is granted, the
214.25 order to immediately remove the individual from direct contact or to be under continuous,
214.26 direct supervision remains in effect pending the outcome of a hearing and final order from
214.27 the commissioner.

214.28 ~~(i)~~ (h) For purposes of reimbursement for meals only, under the Child and Adult Care
214.29 Food Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A,
214.30 part 226, relocation within the same county by a licensed family day care provider, shall
214.31 be considered an extension of the license for a period of no more than 30 calendar days or
214.32 until the new license is issued, whichever occurs first, provided the county agency has
214.33 determined the family day care provider meets licensure requirements at the new location.

215.1 ~~(i)~~ (i) Unless otherwise specified by statute, all licenses issued under this chapter expire
 215.2 at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must
 215.3 apply for and be granted a new license to operate the program or the program must not be
 215.4 operated after the expiration date.

215.5 ~~(j)~~ (j) The commissioner shall not issue or reissue a license under this chapter if it has
 215.6 been determined that a tribal licensing authority has established jurisdiction to license the
 215.7 program or service.

215.8 **EFFECTIVE DATE.** This section is effective January 1, 2020.

215.9 Sec. 17. Minnesota Statutes 2018, section 245A.04, is amended by adding a subdivision
 215.10 to read:

215.11 Subd. 7a. **Notification required.** (a) A license holder must notify the commissioner, in
 215.12 a manner prescribed by the commissioner, and obtain the commissioner's approval before
 215.13 making any change that would alter the license information listed under subdivision 7,
 215.14 paragraph (a).

215.15 (b) A license holder must also notify the commissioner, in a manner prescribed by the
 215.16 commissioner, before making any change:

215.17 (1) to the license holder's authorized agent as defined in section 245A.02, subdivision
 215.18 3b;

215.19 (2) to the license holder's controlling individual as defined in section 245A.02, subdivision
 215.20 5a;

215.21 (3) to the license holder information on file with the secretary of state;

215.22 (4) in the location of the program or service licensed under this chapter; and

215.23 (5) in the federal or state tax identification number associated with the license holder.

215.24 (c) When, for reasons beyond the license holder's control, a license holder cannot provide
 215.25 the commissioner with prior notice of the changes in paragraph (b), clauses (1) to (3), the
 215.26 license holder must notify the commissioner by the tenth business day after the change and
 215.27 must provide any additional information requested by the commissioner.

215.28 (d) When a license holder notifies the commissioner of a change to the license holder
 215.29 information on file with the secretary of state, the license holder must provide amended
 215.30 articles of incorporation and other documentation of the change.

215.31 **EFFECTIVE DATE.** This section is effective January 1, 2020.

216.1 Sec. 18. Minnesota Statutes 2018, section 245A.04, subdivision 10, is amended to read:

216.2 Subd. 10. **Adoption agency; additional requirements.** In addition to the other
216.3 requirements of this section, an individual, ~~corporation, partnership, voluntary association,~~
216.4 ~~other~~ or organization, or controlling individual applying for a license to place children for
216.5 adoption must:

216.6 (1) incorporate as a nonprofit corporation under chapter 317A;

216.7 (2) file with the application for licensure a copy of the disclosure form required under
216.8 section 259.37, subdivision 2;

216.9 (3) provide evidence that a bond has been obtained and will be continuously maintained
216.10 throughout the entire operating period of the agency, to cover the cost of transfer of records
216.11 to and storage of records by the agency which has agreed, according to rule established by
216.12 the commissioner, to receive the applicant agency's records if the applicant agency voluntarily
216.13 or involuntarily ceases operation and fails to provide for proper transfer of the records. The
216.14 bond must be made in favor of the agency which has agreed to receive the records; and

216.15 (4) submit a certified audit to the commissioner each year the license is renewed as
216.16 required under section 245A.03, subdivision 1.

216.17 **EFFECTIVE DATE.** This section is effective January 1, 2020.

216.18 Sec. 19. **[245A.043] LICENSE APPLICATION AFTER A CHANGE OF**
216.19 **OWNERSHIP.**

216.20 **Subdivision 1. Transfer prohibited.** A license issued under this chapter is only valid
216.21 for a premises and individual, organization, or government entity identified by the
216.22 commissioner on the license. A license is not transferable or assignable.

216.23 **Subd. 2. Change in ownership.** (a) If the commissioner determines that there is a change
216.24 in ownership, the commissioner shall require submission of a new license application. This
216.25 subdivision does not apply to a licensed program or service located in a home where the
216.26 license holder resides. A change in ownership occurs when:

216.27 (1) the license holder sells or transfers 100 percent of the property, stock, or assets;

216.28 (2) the license holder merges with another organization;

216.29 (3) the license holder consolidates with two or more organizations, resulting in the
216.30 creation of a new organization;

217.1 (4) there is a change in the federal tax identification number associated with the license
217.2 holder; or

217.3 (5) all controlling individuals associated with the original application have changed.

217.4 (b) Notwithstanding paragraph (a), clauses (1) and (5), no change in ownership has
217.5 occurred if at least one controlling individual has been listed as a controlling individual for
217.6 the license for at least the previous 12 months.

217.7 Subd. 3. **Change of ownership process.** (a) When a change in ownership is proposed
217.8 and the party intends to assume operation without an interruption in service longer than 60
217.9 days after acquiring the program or service, the license holder must provide the commissioner
217.10 with written notice of the proposed change on a form provided by the commissioner at least
217.11 60 days before the anticipated date of the change in ownership. For purposes of this
217.12 subdivision and subdivision 4, "party" means the party that intends to operate the service
217.13 or program.

217.14 (b) The party must submit a license application under this chapter on the form and in
217.15 the manner prescribed by the commissioner at least 30 days before the change in ownership
217.16 is complete, and must include documentation to support the upcoming change. The party
217.17 must comply with background study requirements under chapter 245C and shall pay the
217.18 application fee required under section 245A.10. A party that intends to assume operation
217.19 without an interruption in service longer than 60 days after acquiring the program or service
217.20 is exempt from the requirements of Minnesota Rules, part 9530.6800.

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

217.28 (d) Except when a temporary change in ownership license is issued pursuant to
217.29 subdivision 4, the existing license holder is solely responsible for operating the program
217.30 according to applicable laws and rules until a license under this chapter is issued to the
217.31 party.

217.32 (e) If a licensing inspection of the program or service was conducted within the previous
217.33 12 months and the existing license holder's record demonstrates substantial compliance with
217.34 the applicable licensing requirements, the commissioner may waive the party's inspection

218.1 required by section 245A.04, subdivision 4. The party must submit to the commissioner (1)
218.2 proof that the premises was inspected by a fire marshal or that the fire marshal deemed an
218.3 inspection was not warranted, and (2) proof that the premises was inspected for compliance
218.4 with the building code or no inspection was deemed warranted.

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

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

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

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

218.21 Subd. 4. **Temporary change in ownership license.** (a) After receiving the party's
218.22 application pursuant to subdivision 3, upon the written request of the existing license holder
218.23 and the party, the commissioner may issue a temporary change in ownership license to the
218.24 party while the commissioner evaluates the party's application. Until a decision is made to
218.25 grant or deny a license under this chapter, the existing license holder and the party shall
218.26 both be responsible for operating the program or service according to applicable laws and
218.27 rules, and the sale or transfer of the existing license holder's ownership interest in the licensed
218.28 program or service does not terminate the existing license.

218.29 (b) The commissioner may issue a temporary change in ownership license when a license
218.30 holder's death, divorce, or other event affects the ownership of the program and an applicant
218.31 seeks to assume operation of the program or service to ensure continuity of the program or
218.32 service while a license application is evaluated.

218.33 (c) This subdivision applies to any program or service licensed under this chapter.

219.1 **EFFECTIVE DATE.** This section is effective January 1, 2020.

219.2 Sec. 20. Minnesota Statutes 2018, section 245A.05, is amended to read:

219.3 **245A.05 DENIAL OF APPLICATION.**

219.4 (a) The commissioner may deny a license if an applicant or controlling individual:

219.5 (1) fails to submit a substantially complete application after receiving notice from the
219.6 commissioner under section 245A.04, subdivision 1;

219.7 (2) fails to comply with applicable laws or rules;

219.8 (3) knowingly withholds relevant information from or gives false or misleading
219.9 information to the commissioner in connection with an application for a license or during
219.10 an investigation;

219.11 (4) has a disqualification that has not been set aside under section 245C.22 and no
219.12 variance has been granted;

219.13 (5) has an individual living in the household who received a background study under
219.14 section 245C.03, subdivision 1, paragraph (a), clause (2), who has a disqualification that
219.15 has not been set aside under section 245C.22, and no variance has been granted;

219.16 (6) is associated with an individual who received a background study under section
219.17 245C.03, subdivision 1, paragraph (a), clause (6), who may have unsupervised access to
219.18 children or vulnerable adults, and who has a disqualification that has not been set aside
219.19 under section 245C.22, and no variance has been granted; ~~or~~

219.20 (7) fails to comply with section 245A.04, subdivision 1, paragraph (f) or (g);₂

219.21 (8) fails to demonstrate competent knowledge as required by section 245A.04, subdivision
219.22 6;

219.23 (9) has a history of noncompliance as a license holder or controlling individual with
219.24 applicable laws or rules including but not limited to this chapter and chapters 119B and
219.25 245C; or

219.26 (10) is prohibited from holding a license according to section 245.095.

219.27 (b) An applicant whose application has been denied by the commissioner must be given
219.28 notice of the denial, which must state the reasons for the denial in plain language. Notice
219.29 must be given by certified mail or personal service. The notice must state the reasons the
219.30 application was denied and must inform the applicant of the right to a contested case hearing
219.31 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The applicant may

220.1 appeal the denial by notifying the commissioner in writing by certified mail or personal
220.2 service. If mailed, the appeal must be postmarked and sent to the commissioner within 20
220.3 calendar days after the applicant received the notice of denial. If an appeal request is made
220.4 by personal service, it must be received by the commissioner within 20 calendar days after
220.5 the applicant received the notice of denial. Section 245A.08 applies to hearings held to
220.6 appeal the commissioner's denial of an application.

220.7 **EFFECTIVE DATE.** This section is effective January 1, 2020.

220.8 Sec. 21. **[245A.055] CLOSING A LICENSE.**

220.9 Subdivision 1. **Inactive programs.** The commissioner shall close a license if the
220.10 commissioner determines that a licensed program has not been serving any client for a
220.11 consecutive period of 12 months or longer. The license holder is not prohibited from
220.12 reapplying for a license if the license holder's license was closed under this chapter.

220.13 Subd. 2. **Reconsideration of closure.** If a license is closed, the commissioner must
220.14 notify the license holder of closure by certified mail or personal service. If mailed, the notice
220.15 of closure must be mailed to the last known address of the license holder and must inform
220.16 the license holder why the license was closed and that the license holder has the right to
220.17 request reconsideration of the closure. If the license holder believes that the license was
220.18 closed in error, the license holder may ask the commissioner to reconsider the closure. The
220.19 license holder's request for reconsideration must be made in writing and must include
220.20 documentation that the licensed program has served a client in the previous 12 months. The
220.21 request for reconsideration must be postmarked and sent to the commissioner within 20
220.22 calendar days after the license holder receives the notice of closure. A timely request for
220.23 reconsideration stays imposition of the license closure until the commissioner issues a
220.24 decision on the request for reconsideration.

220.25 Subd. 3. **Reconsideration final.** The commissioner's disposition of a request for
220.26 reconsideration is final and not subject to appeal under chapter 14.

220.27 **EFFECTIVE DATE.** This section is effective January 1, 2020.

220.28 Sec. 22. Minnesota Statutes 2018, section 245A.07, subdivision 1, is amended to read:

220.29 Subdivision 1. **Sanctions; appeals; license.** (a) In addition to making a license conditional
220.30 under section 245A.06, the commissioner may suspend or revoke the license, impose a fine,
220.31 or secure an injunction against the continuing operation of the program of a license holder
220.32 who does not comply with applicable law or rule. When applying sanctions authorized under

221.1 this section, the commissioner shall consider the nature, chronicity, or severity of the violation
 221.2 of law or rule and the effect of the violation on the health, safety, or rights of persons served
 221.3 by the program.

221.4 (b) If a license holder appeals the suspension or revocation of a license and the license
 221.5 holder continues to operate the program pending a final order on the appeal, the commissioner
 221.6 shall issue the license holder a temporary provisional license. Unless otherwise specified
 221.7 by the commissioner, variances in effect on the date of the license sanction under appeal
 221.8 continue under the temporary provisional license. If a license holder fails to comply with
 221.9 applicable law or rule while operating under a temporary provisional license, the
 221.10 commissioner may impose additional sanctions under this section and section 245A.06, and
 221.11 may terminate any prior variance. If a temporary provisional license is set to expire, a new
 221.12 temporary provisional license shall be issued to the license holder upon payment of any fee
 221.13 required under section 245A.10. The temporary provisional license shall expire on the date
 221.14 the final order is issued. If the license holder prevails on the appeal, a new nonprovisional
 221.15 license shall be issued for the remainder of the current license period.

221.16 (c) If a license holder is under investigation and the license issued under this chapter is
 221.17 due to expire before completion of the investigation, the program shall be issued a new
 221.18 license upon completion of the reapplication requirements and payment of any applicable
 221.19 license fee. Upon completion of the investigation, a licensing sanction may be imposed
 221.20 against the new license under this section, section 245A.06, or 245A.08.

221.21 (d) Failure to reapply or closure of a license issued under this chapter by the license
 221.22 holder prior to the completion of any investigation shall not preclude the commissioner
 221.23 from issuing a licensing sanction under this section, or section 245A.06, ~~or 245A.08~~ at the
 221.24 conclusion of the investigation.

221.25 **EFFECTIVE DATE.** This section is effective January 1, 2020.

221.26 Sec. 23. Minnesota Statutes 2018, section 245A.07, subdivision 2, is amended to read:

221.27 Subd. 2. **Temporary immediate suspension.** (a) The commissioner shall act immediately
 221.28 to temporarily suspend a license issued under this chapter if:

221.29 (1) the license holder's actions or failure to comply with applicable law or rule, or the
 221.30 actions of other individuals or conditions in the program, pose an imminent risk of harm to
 221.31 the health, safety, or rights of persons served by the program; ~~or~~

222.1 (2) while the program continues to operate pending an appeal of an order of revocation,
 222.2 the commissioner identifies one or more subsequent violations of law or rule which may
 222.3 adversely affect the health or safety of persons served by the program; or

222.4 (3) the license holder is criminally charged in state or federal court with an offense that
 222.5 involves fraud or theft against a program administered by the commissioner.

222.6 (b) No state funds shall be made available or be expended by any agency or department
 222.7 of state, county, or municipal government for use by a license holder regulated under this
 222.8 chapter while a license issued under this chapter is under immediate suspension. A notice
 222.9 stating the reasons for the immediate suspension and informing the license holder of the
 222.10 right to an expedited hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to
 222.11 1400.8612, must be delivered by personal service to the address shown on the application
 222.12 or the last known address of the license holder. The license holder may appeal an order
 222.13 immediately suspending a license. The appeal of an order immediately suspending a license
 222.14 must be made in writing by certified mail ~~or~~, personal service, or other means expressly set
 222.15 forth in the commissioner's order. If mailed, the appeal must be postmarked and sent to the
 222.16 commissioner within five calendar days after the license holder receives notice that the
 222.17 license has been immediately suspended. If a request is made by personal service, it must
 222.18 be received by the commissioner within five calendar days after the license holder received
 222.19 the order. A license holder and any controlling individual shall discontinue operation of the
 222.20 program upon receipt of the commissioner's order to immediately suspend the license.

222.21 **EFFECTIVE DATE.** This section is effective January 1, 2020.

222.22 Sec. 24. Minnesota Statutes 2018, section 245A.07, subdivision 2a, is amended to read:

222.23 Subd. 2a. **Immediate suspension expedited hearing.** (a) Within five working days of
 222.24 receipt of the license holder's timely appeal, the commissioner shall request assignment of
 222.25 an administrative law judge. The request must include a proposed date, time, and place of
 222.26 a hearing. A hearing must be conducted by an administrative law judge within 30 calendar
 222.27 days of the request for assignment, unless an extension is requested by either party and
 222.28 granted by the administrative law judge for good cause. The commissioner shall issue a
 222.29 notice of hearing by certified mail or personal service at least ten working days before the
 222.30 hearing. The scope of the hearing shall be limited solely to the issue of whether the temporary
 222.31 immediate suspension should remain in effect pending the commissioner's final order under
 222.32 section 245A.08, regarding a licensing sanction issued under subdivision 3 following the
 222.33 immediate suspension. For suspensions under subdivision 2, paragraph (a), clause (1), the
 222.34 burden of proof in expedited hearings under this subdivision shall be limited to the

223.1 commissioner's demonstration that reasonable cause exists to believe that the license holder's
223.2 actions or failure to comply with applicable law or rule poses, or the actions of other
223.3 individuals or conditions in the program poses an imminent risk of harm to the health, safety,
223.4 or rights of persons served by the program. "Reasonable cause" means there exist specific
223.5 articulable facts or circumstances which provide the commissioner with a reasonable
223.6 suspicion that there is an imminent risk of harm to the health, safety, or rights of persons
223.7 served by the program. When the commissioner has determined there is reasonable cause
223.8 to order the temporary immediate suspension of a license based on a violation of safe sleep
223.9 requirements, as defined in section 245A.1435, the commissioner is not required to
223.10 demonstrate that an infant died or was injured as a result of the safe sleep violations. For
223.11 suspensions under subdivision 2, paragraph (a), clause (2), the burden of proof in expedited
223.12 hearings under this subdivision shall be limited to the commissioner's demonstration by a
223.13 preponderance of evidence that, since the license was revoked, the license holder committed
223.14 additional violations of law or rule which may adversely affect the health or safety of persons
223.15 served by the program.

223.16 (b) The administrative law judge shall issue findings of fact, conclusions, and a
223.17 recommendation within ten working days from the date of hearing. The parties shall have
223.18 ten calendar days to submit exceptions to the administrative law judge's report. The record
223.19 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
223.20 final order shall be issued within ten working days from the close of the record. When an
223.21 appeal of a temporary immediate suspension is withdrawn or dismissed, the commissioner
223.22 shall issue a final order affirming the temporary immediate suspension within ten calendar
223.23 days of the commissioner's receipt of the withdrawal or dismissal. Within 90 calendar days
223.24 after a final order affirming an immediate suspension, the commissioner shall make a
223.25 determination regarding whether a final licensing sanction shall be issued under subdivision
223.26 3. The license holder shall continue to be prohibited from operation of the program during
223.27 this 90-day period.

223.28 (c) When the final order under paragraph (b) affirms an immediate suspension, and a
223.29 final licensing sanction is issued under subdivision 3 and the license holder appeals that
223.30 sanction, the license holder continues to be prohibited from operation of the program pending
223.31 a final commissioner's order under section 245A.08, subdivision 5, regarding the final
223.32 licensing sanction.

223.33 (d) For suspensions under subdivision 2, paragraph (a), clause (3), the burden of proof
223.34 in expedited hearings under this subdivision shall be limited to the commissioner's
223.35 demonstration by a preponderance of evidence that a criminal complaint and warrant or

224.1 summons was issued for the license holder that was not dismissed, and that the criminal
 224.2 charge is an offense that involves fraud or theft against a program administered by the
 224.3 commissioner.

224.4 Sec. 25. Minnesota Statutes 2018, section 245A.07, subdivision 3, is amended to read:

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

224.7 (1) a license holder fails to comply fully with applicable laws or rules including but not
 224.8 limited to the requirements of this chapter and chapter 245C;

224.9 (2) a license holder, a controlling individual, or an individual living in the household
 224.10 where the licensed services are provided or is otherwise subject to a background study has
 224.11 a been disqualified and the disqualification which has was not been set aside under section
 224.12 245C.22 and no variance has been granted;

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

224.17 (4) ~~after July 1, 2012, and upon request by the commissioner, a license holder fails to~~
 224.18 ~~submit the information required of an applicant under section 245A.04, subdivision 1,~~
 224.19 ~~paragraph (f) or (g);~~ a license holder is excluded from any program administered by the
 224.20 commissioner under section 245.095; or

224.21 (5) revocation is required under section 245A.04, subdivision 7, paragraph (d).

224.22 A license holder who has had a license issued under this chapter suspended, revoked,
 224.23 or has been ordered to pay a fine must be given notice of the action by certified mail or
 224.24 personal service. If mailed, the notice must be mailed to the address shown on the application
 224.25 or the last known address of the license holder. The notice must state in plain language the
 224.26 reasons the license was suspended or revoked, or a fine was ordered.

224.27 (b) If the license was suspended or revoked, the notice must inform the license holder
 224.28 of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts
 224.29 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking
 224.30 a license. The appeal of an order suspending or revoking a license must be made in writing
 224.31 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
 224.32 the commissioner within ten calendar days after the license holder receives notice that the
 224.33 license has been suspended or revoked. If a request is made by personal service, it must be

225.1 received by the commissioner within ten calendar days after the license holder received the
225.2 order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a
225.3 timely appeal of an order suspending or revoking a license, the license holder may continue
225.4 to operate the program as provided in section 245A.04, subdivision 7, paragraphs ~~(g)~~ (f)
225.5 and ~~(h)~~ (g), until the commissioner issues a final order on the suspension or revocation.

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

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

225.21 (3) A license holder shall promptly notify the commissioner of human services, in writing,
225.22 when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the
225.23 commissioner determines that a violation has not been corrected as indicated by the order
225.24 to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify
225.25 the license holder by certified mail or personal service that a second fine has been assessed.
225.26 The license holder may appeal the second fine as provided under this subdivision.

225.27 (4) Fines shall be assessed as follows:

225.28 (i) the license holder shall forfeit \$1,000 for each determination of maltreatment of a
225.29 child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557
225.30 for which the license holder is determined responsible for the maltreatment under section
225.31 626.556, subdivision 10e, paragraph (i), or 626.557, subdivision 9c, paragraph (c);

225.32 (ii) if the commissioner determines that a determination of maltreatment for which the
225.33 license holder is responsible is the result of maltreatment that meets the definition of serious

226.1 maltreatment as defined in section 245C.02, subdivision 18, the license holder shall forfeit
226.2 \$5,000;

226.3 (iii) for a program that operates out of the license holder's home and a program licensed
226.4 under Minnesota Rules, parts 9502.0300 to ~~9502.0495~~ 9502.0445, the fine assessed against
226.5 the license holder shall not exceed \$1,000 for each determination of maltreatment;

226.6 (iv) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule
226.7 governing matters of health, safety, or supervision, including but not limited to the provision
226.8 of adequate staff-to-child or adult ratios, and failure to comply with background study
226.9 requirements under chapter 245C; and

226.10 (v) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule
226.11 other than those subject to a \$5,000, \$1,000, or \$200 fine in items (i) to (iv).

226.12 For purposes of this section, "occurrence" means each violation identified in the
226.13 commissioner's fine order. Fines assessed against a license holder that holds a license to
226.14 provide home and community-based services, as identified in section 245D.03, subdivision
226.15 1, and a community residential setting or day services facility license under chapter 245D
226.16 where the services are provided, may be assessed against both licenses for the same
226.17 occurrence, but the combined amount of the fines shall not exceed the amount specified in
226.18 this clause for that occurrence.

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

226.23 (d) Except for background study violations involving the failure to comply with an order
226.24 to immediately remove an individual or an order to provide continuous, direct supervision,
226.25 the commissioner shall not issue a fine under paragraph (c) relating to a background study
226.26 violation to a license holder who self-corrects a background study violation before the
226.27 commissioner discovers the violation. A license holder who has previously exercised the
226.28 provisions of this paragraph to avoid a fine for a background study violation may not avoid
226.29 a fine for a subsequent background study violation unless at least 365 days have passed
226.30 since the license holder self-corrected the earlier background study violation.

226.31 **EFFECTIVE DATE.** This section is effective January 1, 2020.

227.1 Sec. 26. Minnesota Statutes 2018, section 245E.01, subdivision 8, is amended to read:

227.2 Subd. 8. **Financial misconduct or misconduct.** "Financial misconduct" or "misconduct"
227.3 means an entity's or individual's acts or omissions that result in fraud and abuse or error
227.4 against the Department of Human Services. Financial misconduct includes: (1) acting as a
227.5 recruiter offering conditional employment on behalf of a provider that has received funds
227.6 from the child care assistance program; and (2) committing an act or acts that meet the
227.7 definition of offenses listed in section 609.817.

227.8 Sec. 27. Minnesota Statutes 2018, section 245E.02, is amended by adding a subdivision
227.9 to read:

227.10 Subd. 1a. **Provider definitions.** For the purposes of this section, "provider" includes:

227.11 (1) individuals or entities meeting the definition of provider in section 245E.01,
227.12 subdivision 12; and

227.13 (2) owners and controlling individuals of entities identified in clause (1).

227.14 Sec. 28. Minnesota Statutes 2018, section 245E.02, subdivision 4, is amended to read:

227.15 Subd. 4. **Actions or administrative sanctions.** (a) After completing the determination
227.16 under subdivision 3, the department may take one or more of the actions or sanctions
227.17 specified in this subdivision.

227.18 (b) The department may take the following actions:

227.19 (1) refer the investigation to law enforcement or a county attorney for possible criminal
227.20 prosecution;

227.21 (2) refer relevant information to the department's licensing division, the child care
227.22 assistance program, the Department of Education, the federal Child and Adult Care Food
227.23 Program, or appropriate child or adult protection agency;

227.24 (3) enter into a settlement agreement with a provider, license holder, controlling
227.25 individual, or recipient; or

227.26 (4) refer the matter for review by a prosecutorial agency with appropriate jurisdiction
227.27 for possible civil action under the Minnesota False Claims Act, chapter 15C.

227.28 (c) In addition to section 256.98, the department may impose sanctions by:

227.29 (1) pursuing administrative disqualification ~~through hearings or waivers;~~

227.30 (2) establishing and seeking monetary recovery or recoupment;

228.1 (3) issuing an order of corrective action that states the practices that are violations of
 228.2 child care assistance program policies, laws, or regulations, and that they must be corrected;
 228.3 or

228.4 (4) suspending, denying, or terminating payments to a provider.

228.5 (d) Upon a finding by the commissioner that any child care provider, center owner,
 228.6 director, manager, license holder, or other controlling individual of a child care center has
 228.7 employed, used, or acted as a recruiter offering conditional employment for a child care
 228.8 center that has received child care assistance program funding, the commissioner shall:

228.9 (1) immediately suspend all program payments to all child care centers in which the
 228.10 person employing, using, or acting as a recruiter offering conditional employment is an
 228.11 owner, director, manager, license holder, or other controlling individual. The commissioner
 228.12 shall suspend program payments under this clause even if services have already been
 228.13 provided; and

228.14 (2) immediately and permanently revoke the licenses of all child care centers of which
 228.15 the person employing, using, or acting as a recruiter offering conditional employment is an
 228.16 owner, director, manager, license holder, or other controlling individual.

228.17 Sec. 29. Minnesota Statutes 2018, section 245E.02, is amended by adding a subdivision
 228.18 to read:

228.19 Subd. 5. **Administrative disqualifications.** (a) The department shall pursue an
 228.20 administrative disqualification in subdivision 4, paragraph (c), clause (1), if the provider
 228.21 committed an intentional program violation. Intentional program violations include
 228.22 intentionally making false or misleading statements; intentionally misrepresenting,
 228.23 concealing, or withholding facts; and intentionally violating program regulations. Intent
 228.24 may be proven by demonstrating a pattern or conduct that violates program rules.

228.25 (b) To initiate an administrative disqualification, the department must issue a notice to
 228.26 the provider under section 245E.06, subdivision 2.

228.27 (c) The provider may appeal the department's administrative disqualification according
 228.28 to section 256.045. The appeal must be made in writing and must be received by the
 228.29 department no later than 30 days after the issuance of the notice to the provider. On appeal
 228.30 the department bears the burden of proof to demonstrate by a preponderance of the evidence
 228.31 that the provider committed an intentional program violation.

228.32 (d) The human services judge may combine a fair hearing and administrative
 228.33 disqualification hearing into a single hearing if the factual issues arise out of the same or

229.1 related circumstances and the provider receives prior notice that the hearings will be
229.2 combined.

229.3 (e) A provider found to have committed an intentional program violation and is
229.4 administratively disqualified shall be disqualified, for a period of three years for the first
229.5 offense and permanently for any subsequent offense, from receiving any payments from
229.6 any child care program under chapter 119B. Unless a timely and proper appeal made under
229.7 this section is received by the department, the administrative determination of the department
229.8 is final and binding.

229.9 Sec. 30. Minnesota Statutes 2018, section 256.045, subdivision 3, is amended to read:

229.10 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

229.11 (1) any person applying for, receiving or having received public assistance, medical
229.12 care, or a program of social services granted by the state agency or a county agency or the
229.13 federal Food Stamp Act whose application for assistance is denied, not acted upon with
229.14 reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed
229.15 to have been incorrectly paid;

229.16 (2) any patient or relative aggrieved by an order of the commissioner under section
229.17 252.27;

229.18 (3) a party aggrieved by a ruling of a prepaid health plan;

229.19 (4) except as provided under chapter 245C, any individual or facility determined by a
229.20 lead investigative agency to have maltreated a vulnerable adult under section 626.557 after
229.21 they have exercised their right to administrative reconsideration under section 626.557;

229.22 (5) any person whose claim for foster care payment according to a placement of the
229.23 child resulting from a child protection assessment under section 626.556 is denied or not
229.24 acted upon with reasonable promptness, regardless of funding source;

229.25 (6) any person to whom a right of appeal according to this section is given by other
229.26 provision of law;

229.27 (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver
229.28 under section 256B.15;

229.29 (8) an applicant aggrieved by an adverse decision to an application or redetermination
229.30 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

230.1 (9) except as provided under chapter 245A, an individual or facility determined to have
 230.2 maltreated a minor under section 626.556, after the individual or facility has exercised the
 230.3 right to administrative reconsideration under section 626.556;

230.4 (10) except as provided under chapter 245C, an individual disqualified under sections
 230.5 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,
 230.6 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the
 230.7 individual has committed an act or acts that meet the definition of any of the crimes listed
 230.8 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section
 230.9 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment
 230.10 determination under clause (4) or (9) and a disqualification under this clause in which the
 230.11 basis for a disqualification is serious or recurring maltreatment, shall be consolidated into
 230.12 a single fair hearing. In such cases, the scope of review by the human services judge shall
 230.13 include both the maltreatment determination and the disqualification. The failure to exercise
 230.14 the right to an administrative reconsideration shall not be a bar to a hearing under this section
 230.15 if federal law provides an individual the right to a hearing to dispute a finding of
 230.16 maltreatment;

230.17 (11) any person with an outstanding debt resulting from receipt of public assistance,
 230.18 medical care, or the federal Food Stamp Act who is contesting a setoff claim by the
 230.19 Department of Human Services or a county agency. The scope of the appeal is the validity
 230.20 of the claimant agency's intention to request a setoff of a refund under chapter 270A against
 230.21 the debt;

230.22 (12) a person issued a notice of service termination under section 245D.10, subdivision
 230.23 3a, from residential supports and services as defined in section 245D.03, subdivision 1,
 230.24 paragraph (c), clause (3), that is not otherwise subject to appeal under subdivision 4a;

230.25 (13) an individual disability waiver recipient based on a denial of a request for a rate
 230.26 exception under section 256B.4914; ~~or~~

230.27 (14) a person issued a notice of service termination under section 245A.11, subdivision
 230.28 11, that is not otherwise subject to appeal under subdivision 4a; or

230.29 (15) pursuant to Minnesota Rules, part 9510.1140, a provider or county aggrieved by
 230.30 an order of the commissioner regarding a request for a special needs rate exception. Appeals
 230.31 under this clause are not subject to an evidentiary hearing and proceed by desk review.

230.32 (b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10),
 230.33 is the only administrative appeal to the final agency determination specifically, including
 230.34 a challenge to the accuracy and completeness of data under section 13.04. Hearings requested

231.1 under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or
231.2 after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged
231.3 to have maltreated a resident prior to October 1, 1995, shall be held as a contested case
231.4 proceeding under the provisions of chapter 14. Hearings requested under paragraph (a),
231.5 clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A
231.6 hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only
231.7 available when there is no district court action pending. If such action is filed in district
231.8 court while an administrative review is pending that arises out of some or all of the events
231.9 or circumstances on which the appeal is based, the administrative review must be suspended
231.10 until the judicial actions are completed. If the district court proceedings are completed,
231.11 dismissed, or overturned, the matter may be considered in an administrative hearing. If the
231.12 district court action is a juvenile protection proceeding under chapter 260C, the matter may
231.13 also be considered in an administrative hearing if: (1) an adjudication was made under
231.14 section 260C.513 and the only actions still before the district court are status review hearings;
231.15 and (2) the person involved wishes to proceed with an administrative hearing.

231.16 (c) For purposes of this section, bargaining unit grievance procedures are not an
231.17 administrative appeal.

231.18 (d) The scope of hearings involving claims to foster care payments under paragraph (a),
231.19 clause (5), shall be limited to the issue of whether the county is legally responsible for a
231.20 child's placement under court order or voluntary placement agreement and, if so, the correct
231.21 amount of foster care payment to be made on the child's behalf and shall not include review
231.22 of the propriety of the county's child protection determination or child placement decision.

231.23 (e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to
231.24 whether the proposed termination of services is authorized under section 245D.10,
231.25 subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements
231.26 of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision ~~2a~~ 11,
231.27 paragraphs (d) to ~~(f)~~ (g), were met. If the appeal includes a request for a temporary stay of
231.28 termination of services, the scope of the hearing shall also include whether the case
231.29 management provider has finalized arrangements for a residential facility, a program, or
231.30 services that will meet the assessed needs of the recipient by the effective date of the service
231.31 termination.

231.32 (f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor
231.33 under contract with a county agency to provide social services is not a party and may not
231.34 request a hearing under this section, except if assisting a recipient as provided in subdivision
231.35 4.

232.1 (g) An applicant or recipient is not entitled to receive social services beyond the services
 232.2 prescribed under chapter 256M or other social services the person is eligible for under state
 232.3 law.

232.4 (h) The commissioner may summarily affirm the county or state agency's proposed
 232.5 action without a hearing when the sole issue is an automatic change due to a change in state
 232.6 or federal law.

232.7 (i) Unless federal or Minnesota law specifies a different time frame or method in which
 232.8 to file an appeal, an individual or organization specified in this section may contest the
 232.9 specified action, decision, or final disposition before the state agency by submitting a written
 232.10 request for a hearing to the state agency within 30 90 days after receiving from the date of
 232.11 the written notice of the action, decision, or final disposition, ~~or within 90 days of such~~
 232.12 ~~written notice if the applicant, recipient, patient, or relative shows good cause, as defined~~
 232.13 ~~in section 256.0451, subdivision 13, why the request was not submitted within the 30-day~~
 232.14 ~~time limit. The individual filing the appeal has the burden of proving good cause by a~~
 232.15 ~~preponderance of the evidence.~~

232.16 (j) Notwithstanding paragraph (i), a hearing request to contest the imposition of a medical
 232.17 assistance lien under section 514.981 must be submitted within 30 days after receiving
 232.18 written notice of the agency's lien rights.

232.19 Sec. 31. Minnesota Statutes 2018, section 256.045, subdivision 4, is amended to read:

232.20 Subd. 4. **Conduct of hearings.** (a) All hearings held pursuant to subdivision 3, 3a, 3b,
 232.21 or 4a shall be conducted according to the provisions of the federal Social Security Act and
 232.22 the regulations implemented in accordance with that act to enable this state to qualify for
 232.23 federal grants-in-aid, and according to the rules and written policies of the commissioner
 232.24 of human services. County agencies shall install equipment necessary to conduct telephone
 232.25 hearings. ~~A state human services judge~~ The Appeals Division may schedule a telephone
 232.26 conference hearing when the distance or time required to travel to the county agency offices
 232.27 will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual
 232.28 request of the parties. Hearings may be conducted by telephone conferences unless the
 232.29 applicant, recipient, former recipient, person, or facility contesting maltreatment objects.
 232.30 ~~A human services judge~~ The Appeals Division may grant a request for a hearing in person
 232.31 by holding the hearing by interactive video technology or in person. The human services
 232.32 judge must hear the case in person if the person asserts that either the person or a witness
 232.33 has a physical or mental disability that would impair the person's or witness's ability to fully
 232.34 participate in a hearing held by interactive video technology. The hearing shall not be held

233.1 earlier than five days after filing of the required notice with the county or state agency. ~~The~~
233.2 ~~state human services judge~~ The Appeals Division shall notify all interested persons of the
233.3 time, date, and location of the hearing at least five days before the date of the hearing.
233.4 Interested persons may be represented by legal counsel or other representative of their
233.5 choice, including a provider of therapy services, at the hearing and may appear personally,
233.6 testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient,
233.7 former recipient, person, or facility contesting maltreatment shall have the opportunity to
233.8 examine the contents of the case file and all documents and records to be used by the county
233.9 or state agency at the hearing at a reasonable time before the date of the hearing and during
233.10 the hearing. In hearings under subdivision 3, paragraph (a), clauses (4), (9), and (10), either
233.11 party may subpoena the private data relating to the investigation prepared by the agency
233.12 under section 626.556 or 626.557 that is not otherwise accessible under section 13.04,
233.13 provided the identity of the reporter may not be disclosed.

233.14 (b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph
233.15 (a), clause (4), (9), or (10), must be subject to a protective order which prohibits its disclosure
233.16 for any other purpose outside the hearing provided for in this section without prior order of
233.17 the district court. Disclosure without court order is punishable by a sentence of not more
233.18 than 90 days imprisonment or a fine of not more than \$1,000, or both. These restrictions on
233.19 the use of private data do not prohibit access to the data under section 13.03, subdivision
233.20 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), (9), and (10), upon
233.21 request, the county agency shall provide reimbursement for transportation, child care,
233.22 photocopying, medical assessment, witness fee, and other necessary and reasonable costs
233.23 incurred by the applicant, recipient, or former recipient in connection with the appeal. All
233.24 evidence, except that privileged by law, commonly accepted by reasonable people in the
233.25 conduct of their affairs as having probative value with respect to the issues shall be submitted
233.26 at the hearing and such hearing shall not be "a contested case" within the meaning of section
233.27 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, ~~and~~
233.28 ~~may not submit evidence after the hearing except by agreement of the parties at the hearing,~~
233.29 ~~provided the petitioner has the opportunity to respond.~~ A party shall not submit evidence
233.30 after the hearing except: (1) by agreement at the hearing between the appellant, the agency,
233.31 and the human services judge; (2) in response to new evidence; or (3) when the human
233.32 services judge determines that additional evidence is needed to sufficiently complete the
233.33 appeal file and make a fair and accurate decision. If a party submits evidence after the
233.34 hearing, consistent with an exception, the other party must be allowed sufficient opportunity
233.35 to respond to the evidence.

234.1 (c) In hearings under subdivision 3, paragraph (a), clauses (4), (9), and (10), involving
 234.2 determinations of maltreatment or disqualification made by more than one county agency,
 234.3 by a county agency and a state agency, or by more than one state agency, the hearings may
 234.4 be consolidated into a single fair hearing upon the consent of all parties and the state human
 234.5 services judge.

234.6 (d) For hearings under subdivision 3, paragraph (a), clause (4) or (10), involving a
 234.7 vulnerable adult, the ~~human services judge~~ Appeals Division shall notify the vulnerable
 234.8 adult who is the subject of the maltreatment determination and, if known, a guardian of the
 234.9 vulnerable adult appointed under section 524.5-310, or a health care agent designated by
 234.10 the vulnerable adult in a health care directive that is currently effective under section 145C.06
 234.11 and whose authority to make health care decisions is not suspended under section 524.5-310,
 234.12 of the hearing. The notice must be sent by certified mail and inform the vulnerable adult of
 234.13 the right to file a signed written statement in the proceedings. A guardian or health care
 234.14 agent who prepares or files a written statement for the vulnerable adult must indicate in the
 234.15 statement that the person is the vulnerable adult's guardian or health care agent and sign the
 234.16 statement in that capacity. The vulnerable adult, the guardian, or the health care agent may
 234.17 file a written statement with the ~~human services judge hearing the case~~ Appeals Division
 234.18 no later than five business days before commencement of the hearing. The human services
 234.19 judge shall include the written statement in the hearing record and consider the statement
 234.20 in deciding the appeal. This subdivision does not limit, prevent, or excuse the vulnerable
 234.21 adult from being called as a witness testifying at the hearing or grant the vulnerable adult,
 234.22 the guardian, or health care agent a right to participate in the proceedings or appeal the
 234.23 ~~human services judge's commissioner's decision~~ in the case. The lead investigative agency
 234.24 must consider including the vulnerable adult victim of maltreatment as a witness in the
 234.25 hearing. If the lead investigative agency determines that participation in the hearing would
 234.26 endanger the well-being of the vulnerable adult or not be in the best interests of the vulnerable
 234.27 adult, the lead investigative agency shall inform the human services judge of the basis for
 234.28 this determination, which must be included in the final order. If the ~~human services judge~~
 234.29 Appeals Division is not reasonably able to determine the address of the vulnerable adult,
 234.30 the guardian, or the health care agent, the ~~human services judge~~ Appeals Division is not
 234.31 required to send a hearing notice under this subdivision.

234.32 Sec. 32. Minnesota Statutes 2018, section 256.045, subdivision 5, is amended to read:

234.33 Subd. 5. **Orders of the commissioner of human services.** (a) A state human services
 234.34 judge shall conduct a hearing on the appeal and shall recommend an order to the
 234.35 commissioner of human services. The recommended order must be based on all relevant

235.1 evidence and must not be limited to a review of the propriety of the state or county agency's
235.2 action. A human services judge may take official notice of adjudicative facts. The
235.3 commissioner of human services may accept the recommended order of a state human
235.4 services judge and issue the order to the county agency and the applicant, recipient, former
235.5 recipient, or prepaid health plan. The commissioner on refusing to accept the recommended
235.6 order of the state human services judge, shall notify the petitioner, the agency, or prepaid
235.7 health plan of that fact and shall state reasons therefor and shall allow each party at least
235.8 ten days' time to submit additional written argument on the matter. After the expiration of
235.9 the ~~ten-day~~ comment period, the commissioner shall issue an order on the matter to the
235.10 petitioner, the agency, or prepaid health plan.

235.11 (b) A party aggrieved by an order of the commissioner may appeal under subdivision
235.12 7, or request reconsideration by the commissioner within 30 days after the date the
235.13 commissioner issues the order. The commissioner may reconsider an order upon request of
235.14 any party or on the commissioner's own motion. A request for reconsideration does not stay
235.15 implementation of the commissioner's order. The person seeking reconsideration has the
235.16 burden to demonstrate why the matter should be reconsidered. The request for reconsideration
235.17 may include legal argument and proposed additional evidence supporting the request. If
235.18 proposed additional evidence is submitted, the person must explain why the proposed
235.19 additional evidence was not provided at the time of the hearing. If reconsideration is granted,
235.20 the other participants must be sent a copy of all material submitted in support of the request
235.21 for reconsideration and must be given at least ten days to respond. Upon reconsideration,
235.22 the commissioner may issue an amended order or an order affirming the original order.

235.23 (c) Any order of the commissioner issued under this subdivision shall be conclusive
235.24 upon the parties unless appeal is taken in the manner provided by subdivision 7. Any order
235.25 of the commissioner is binding on the parties and must be implemented by the state agency,
235.26 a county agency, or a prepaid health plan according to subdivision 3a, until the order is
235.27 reversed by the district court, or unless the commissioner or a district court orders monthly
235.28 assistance or aid or services paid or provided under subdivision 10.

235.29 (d) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor
235.30 under contract with a county agency to provide social services is not a party and may not
235.31 request a hearing or seek judicial review of an order issued under this section, unless assisting
235.32 a recipient as provided in subdivision 4. A prepaid health plan is a party to an appeal under
235.33 subdivision 3a, but cannot seek judicial review of an order issued under this section.

236.1 Sec. 33. Minnesota Statutes 2018, section 256.045, subdivision 6, is amended to read:

236.2 Subd. 6. **Additional powers of commissioner; subpoenas.** (a) The commissioner of
236.3 human services, or the commissioner of health for matters within the commissioner's
236.4 jurisdiction under subdivision 3b, may initiate a review of any action or decision of a county
236.5 agency and direct that the matter be presented to a state human services judge for a hearing
236.6 held under subdivision 3, 3a, 3b, or 4a. In all matters dealing with human services committed
236.7 by law to the discretion of the county agency, the commissioner's judgment may be
236.8 substituted for that of the county agency. The commissioner may order an independent
236.9 examination when appropriate.

236.10 (b) Any party to a hearing held pursuant to subdivision 3, 3a, 3b, or 4a may request that
236.11 the commissioner issue a subpoena to compel the attendance of witnesses and the production
236.12 of records at the hearing. A local agency may request that the commissioner issue a subpoena
236.13 to compel the release of information from third parties prior to a request for a hearing under
236.14 section 256.046 upon a showing of relevance to such a proceeding. The issuance, service,
236.15 and enforcement of subpoenas under this subdivision is governed by section 357.22 and
236.16 the Minnesota Rules of Civil Procedure.

236.17 (c) The commissioner may issue a temporary order staying a proposed demission by a
236.18 residential facility licensed under chapter 245A:

236.19 (1) while an appeal by a recipient under subdivision 3 is pending;

236.20 (2) for the period of time necessary for the case management provider to implement the
236.21 commissioner's order; or

236.22 (3) for appeals under subdivision 3, paragraph (a), ~~clause~~ clauses (12) and (14), when
236.23 the individual is seeking a temporary stay of demission on the basis that the county has not
236.24 yet finalized an alternative arrangement for a residential facility, a program, or services that
236.25 will meet the assessed needs of the individual by the effective date of the service termination,
236.26 a temporary stay of demission may be issued for no more than 30 calendar days to allow
236.27 for such arrangements to be finalized.

236.28 Sec. 34. Minnesota Statutes 2018, section 256.045, subdivision 10, is amended to read:

236.29 Subd. 10. **Payments pending appeal.** If the commissioner of human services or district
236.30 court orders monthly assistance or aid or services paid or provided in any proceeding under
236.31 this section, it shall be paid or provided pending appeal to the commissioner of human
236.32 services, district court, court of appeals, or supreme court. The ~~human services judge~~
236.33 commissioner may order the local human services agency to reduce or terminate medical

237.1 assistance to a recipient before a final order is issued under this section if: (1) the human
 237.2 services judge determines at the hearing that the sole issue on appeal is one of a change in
 237.3 state or federal law; and (2) the commissioner or the local agency notifies the recipient
 237.4 before the action. The state or county agency has a claim for food stamps, food support,
 237.5 cash payments, medical assistance, and MinnesotaCare program payments made to or on
 237.6 behalf of a recipient or former recipient while an appeal is pending if the recipient or former
 237.7 recipient is determined ineligible for the food stamps, food support, cash payments, medical
 237.8 assistance, or MinnesotaCare as a result of the appeal, except for medical assistance made
 237.9 on behalf of a recipient pursuant to a court order. In enforcing a claim on MinnesotaCare
 237.10 program payments, the state or county agency shall reduce the claim amount by the value
 237.11 of any premium payments made by a recipient or former recipient during the period for
 237.12 which the recipient or former recipient has been determined to be ineligible. Provision of
 237.13 a health care service by the state agency under medical assistance or MinnesotaCare pending
 237.14 appeal shall not render moot the state agency's position in a court of law.

237.15 Sec. 35. Minnesota Statutes 2018, section 256.0451, subdivision 1, is amended to read:

237.16 Subdivision 1. **Scope.** (a) The requirements in this section apply to all fair hearings and
 237.17 appeals under section 256.045, subdivision 3, paragraph (a), clauses (1), (2), (3), (5), (6),
 237.18 (7), (8), (11), and (13). Except as provided in subdivisions 3 and 19, the requirements under
 237.19 this section apply to fair hearings and appeals under section 256.045, subdivision 3, paragraph
 237.20 (a), clauses (4), (9), (10), and (12), (14), and (15).

237.21 ~~The term~~ (b) For purposes of this section, "person" is used in this section to mean means
 237.22 an individual who, on behalf of themselves or their household, is appealing or disputing or
 237.23 challenging an action, a decision, or a failure to act, by an agency in the human services
 237.24 system. When a person involved in a proceeding under this section is represented by an
 237.25 attorney or by an authorized representative, the term "person" or other advocate for whom
 237.26 the person gave clear consent to contest the matter on the person's behalf; person also refers
 237.27 to means the person's attorney or authorized representative, or other advocate. Any notice
 237.28 sent to the person involved in the hearing must also be sent to the person's attorney or
 237.29 authorized representative, or other advocate.

237.30 ~~The term "Agency"~~ (c) For the purpose of an appeal under section 256.045, subdivision
 237.31 3, paragraph (a), clauses (12) and (14), "agency" means the provider who issued the notice
 237.32 of service termination. Agency includes the county human services agency, the state human
 237.33 services agency, and, where applicable, any entity involved under a contract, subcontract,

238.1 grant, or subgrant with the state agency or with a county agency, that provides or operates
238.2 programs or services in which appeals are governed by section 256.045.

238.3 Sec. 36. Minnesota Statutes 2018, section 256.0451, subdivision 3, is amended to read:

238.4 Subd. 3. **Agency appeal summary.** (a) Except in fair hearings and appeals under section
238.5 256.045, subdivision 3, paragraph (a), clauses (4), (9), ~~and (10)~~, (12), (14), and (15), the
238.6 agency involved in an appeal must prepare a state agency appeal summary for each fair
238.7 hearing appeal. The state agency appeal summary shall be ~~mailed or otherwise~~ delivered
238.8 to the person who is involved in the appeal at least three working days before the date of
238.9 the hearing. The state agency appeal summary must also be ~~mailed or otherwise~~ delivered
238.10 to the department's Appeals ~~Office~~ Division at least three working days before the date of
238.11 the fair hearing appeal.

238.12 (b) In addition, the human services judge shall confirm that the state agency appeal
238.13 summary is ~~mailed or otherwise~~ delivered to the person involved in the appeal as required
238.14 under paragraph (a). The person involved in the fair hearing should be provided, through
238.15 the state agency appeal summary or other reasonable methods, appropriate information
238.16 about the procedures for the fair hearing and an adequate opportunity to prepare. These
238.17 requirements apply equally to the state agency or an entity under contract when involved
238.18 in the appeal.

238.19 (c) The contents of the state agency appeal summary must be adequate to inform the
238.20 person involved in the appeal of the evidence on which the agency relies and the legal basis
238.21 for the agency's action or determination.

238.22 Sec. 37. Minnesota Statutes 2018, section 256.0451, subdivision 5, is amended to read:

238.23 Subd. 5. **Prehearing conferences.** (a) ~~The human services judge prior to~~ Before a fair
238.24 hearing appeal, the Appeals Division may hold a prehearing conference to further the
238.25 interests of justice or efficiency and must include the person involved in the appeal. A person
238.26 involved in a fair hearing appeal or the agency may request a prehearing conference. The
238.27 prehearing conference may be conducted by telephone, in person, or in writing. The
238.28 prehearing conference may address the following:

- 238.29 (1) disputes regarding access to files, evidence, subpoenas, or testimony;
- 238.30 (2) the time required for the hearing or any need for expedited procedures or decision;
- 238.31 (3) identification or clarification of legal or other issues that may arise at the hearing;
- 238.32 (4) identification of and possible agreement to factual issues; and

239.1 (5) scheduling and any other matter which will aid in the proper and fair functioning of
239.2 the hearing.

239.3 (b) The ~~human services judge~~ Appeals Division shall make a record or otherwise
239.4 contemporaneously summarize the prehearing conference in writing, which shall be sent
239.5 to both the person involved in the hearing, the person's attorney or authorized representative,
239.6 and the agency. A human services judge may make and issue rulings and orders while the
239.7 appeal is pending. During the pendency of the appeal, these rulings and orders are not subject
239.8 to a request for reconsideration or appeal. These rulings and orders are subject to review
239.9 under subdivision 24 and section 256.045, subdivision 7.

239.10 Sec. 38. Minnesota Statutes 2018, section 256.0451, subdivision 6, is amended to read:

239.11 Subd. 6. **Appeal request for emergency assistance or urgent matter.** (a) When an
239.12 appeal involves an application for emergency assistance, the agency involved shall ~~mail or~~
239.13 ~~otherwise~~ deliver the state agency appeal summary to the department's Appeals ~~Office~~
239.14 Division within two working days of receiving the request for an appeal. A person may also
239.15 request that a fair hearing be held on an emergency basis when the issue requires an
239.16 immediate resolution. The ~~human services judge~~ Appeals Division shall schedule the fair
239.17 hearing on the earliest available date according to the urgency of the issue involved. Issuance
239.18 of the recommended decision after an emergency hearing shall be expedited.

239.19 (b) The commissioner shall issue a written decision within five working days of receiving
239.20 the recommended decision, ~~shall immediately inform the parties of the outcome by telephone,~~
239.21 and shall ~~mail~~ send the decision to each party no later than two working days following the
239.22 date of the decision.

239.23 Sec. 39. Minnesota Statutes 2018, section 256.0451, subdivision 7, is amended to read:

239.24 Subd. 7. **Continuance, rescheduling, or adjourning a hearing.** (a) A person involved
239.25 in a fair hearing, or the agency, may request a continuance, a rescheduling, or an adjournment
239.26 of a hearing for a reasonable period of time. The grounds for granting a request for a
239.27 continuance, a rescheduling, or adjournment of a hearing include, but are not limited to, the
239.28 following:

239.29 (1) to reasonably accommodate the appearance of a witness;

239.30 (2) to ensure that the person or agency has adequate opportunity for preparation and for
239.31 presentation of evidence and argument;

240.1 (3) to ensure that the person or ~~the~~ agency has adequate opportunity to review, evaluate,
 240.2 and respond to new evidence, or where appropriate, to require that the person or agency
 240.3 review, evaluate, and respond to new evidence;

240.4 (4) to permit the person involved and the agency to negotiate toward resolution of some
 240.5 or all of the issues where both agree that additional time is needed;

240.6 (5) to permit the agency to reconsider a previous action or determination;

240.7 (6) to permit or to require the performance of actions not previously taken; ~~and~~

240.8 (7) to accommodate a person's or agency's conflict of previously scheduled appointments;

240.9 (8) to accommodate a person's physical or mental illness;

240.10 (9) to accommodate an interpreter, translator, or other service when necessary to
 240.11 accommodate a person with a disability; or

240.12 ~~(7)~~ (10) to provide additional time or to permit or require additional activity by the person
 240.13 or agency as the interests of fairness may require.

240.14 (b) Requests for continuances or for rescheduling may be made orally or in writing. ~~The~~
 240.15 ~~person or agency requesting the continuance or rescheduling must first make reasonable~~
 240.16 ~~efforts to contact the other participants in the hearing or their representatives and seek to~~
 240.17 ~~obtain an agreement on the request. Requests for continuance or rescheduling should be~~
 240.18 ~~made no later than three working days before the scheduled date of the hearing, unless there~~
 240.19 ~~is a good cause as specified in subdivision 13.~~ When a request to reschedule a hearing is
 240.20 received less than five calendar days before the scheduled hearing date, the requesting party
 240.21 must attempt to notify the other party of the request and provide the other party an opportunity
 240.22 to object. When a request to reschedule a hearing is received less than 24 hours before the
 240.23 scheduled hearing date, the Appeals Division must consider the potential prejudicial effect
 240.24 and burdens on the parties in reviewing the request. Unless the Appeals Division makes a
 240.25 written determination that a request to reschedule a hearing was made to unnecessarily delay
 240.26 the proceeding or that a party's objection and the reason for the objection outweighs the
 240.27 need to reschedule, the hearing must be rescheduled for good cause. Granting a continuance
 240.28 or rescheduling may be conditioned upon a waiver by the requester of applicable time limits
 240.29 but should not cause unreasonable delay.

240.30 Sec. 40. Minnesota Statutes 2018, section 256.0451, subdivision 9, is amended to read:

240.31 Subd. 9. **No ex parte contact.** The human services judge shall not have ex parte contact
 240.32 on substantive issues with the agency or with any person or witness in a fair hearing appeal.

241.1 No employee of the department or agency shall review, interfere with, change, or attempt
 241.2 to influence the recommended decision of the human services judge in any fair hearing
 241.3 appeal, except through the procedure allowed in subdivision 18. The limitations in this
 241.4 subdivision do not affect the commissioner's authority to: (1) review or reconsider decisions
 241.5 or make final decisions-; (2) establish policies and procedures to process and administer
 241.6 fair hearing appeals; or (3) require human services judges to address deficiencies in
 241.7 recommended decisions.

241.8 Sec. 41. Minnesota Statutes 2018, section 256.0451, subdivision 10, is amended to read:

241.9 Subd. 10. **Telephone or face-to-face hearing.** A fair hearing appeal may be conducted
 241.10 by telephone, by other electronic media, or by an in-person, face-to-face hearing. ~~At the~~
 241.11 ~~request of the person involved in a fair hearing appeal or their representative, a face-to-face~~
 241.12 ~~hearing shall be conducted with all participants personally present before the human services~~
 241.13 ~~judge.~~ A human services judge may satisfy a request for an in-person hearing by holding
 241.14 the hearing using interactive video technology or in person. However, the human services
 241.15 judge must hold an in-person hearing if a party asserts that either the party or a witness has
 241.16 a physical or mental disability that would impair the party's or witness's ability to fully
 241.17 participate in a hearing held using interactive video technology.

241.18 Sec. 42. Minnesota Statutes 2018, section 256.0451, subdivision 11, is amended to read:

241.19 Subd. 11. **Hearing facilities and equipment.** (a) If an in-person hearing is held, the
 241.20 human services judge shall conduct the hearing in the county where the person involved
 241.21 resides, unless an alternate location is mutually agreed upon before the hearing, ~~or unless~~
 241.22 ~~the person has agreed to a hearing by telephone.~~ In-person hearings under section 256.045,
 241.23 subdivision 3, paragraph (a), clauses (4), (9), and (10), must be conducted in the county
 241.24 where the determination was made, unless an alternate location is mutually agreed upon
 241.25 before the hearing. The hearing room used for an in-person hearing shall be of sufficient
 241.26 size and layout to adequately accommodate both the number of individuals participating in
 241.27 the hearing and any identified special needs of any individual participating in the hearing.

241.28 (b) The human services judge shall ensure that all communication and recording
 241.29 equipment that is necessary to conduct the hearing and to create an adequate record is present
 241.30 and functioning properly. If any necessary communication or recording equipment fails or
 241.31 ceases to operate effectively, the human services judge shall take any steps necessary,
 241.32 including stopping or adjourning the hearing, until the necessary equipment is present and

242.1 functioning properly. All reasonable efforts shall be undertaken to prevent and avoid any
 242.2 delay in the hearing process caused by defective communication or recording equipment.

242.3 Sec. 43. Minnesota Statutes 2018, section 256.0451, subdivision 12, is amended to read:

242.4 Subd. 12. **Interpreter and translation services.** The human services judge has a duty
 242.5 to inquire and to determine whether any participant in the hearing needs the services of an
 242.6 interpreter or translator in order to participate in or to understand the hearing process.
 242.7 Necessary interpreter or translation services must be provided by the agency taking the
 242.8 action in the appeal at no charge to the person involved in the hearing. If it appears that
 242.9 interpreter or translation services are needed but are not available for the scheduled hearing,
 242.10 the human services judge shall continue or postpone the hearing until appropriate services
 242.11 can be provided.

242.12 Sec. 44. Minnesota Statutes 2018, section 256.0451, subdivision 13, is amended to read:

242.13 Subd. 13. **Failure to appear; withdrawal; good cause.** (a) If a person involved in a
 242.14 fair hearing appeal fails to appear at the hearing, the human services judge may dismiss the
 242.15 appeal. The human services judge may also dismiss the appeal if the person clearly indicates,
 242.16 orally or in writing, the person's wish to withdraw the appeal.

242.17 (b) ~~The human services judge~~ Appeals Division may reopen the appeal if within ~~ten~~
 242.18 ~~working~~ 30 days after the date of the dismissal the person files information in writing with
 242.19 the ~~human services judge~~ Appeals Division to show good cause for withdrawing or not
 242.20 appearing. Good cause can be shown when there is:

242.21 (1) a death or serious illness in the person's family;

242.22 (2) a personal injury or illness which reasonably prevents the person from attending the
 242.23 hearing;

242.24 (3) an emergency, crisis, or unforeseen event which reasonably prevents the person from
 242.25 attending the hearing;

242.26 (4) an obligation or responsibility of the person which a reasonable person, in the conduct
 242.27 of one's affairs, could reasonably determine takes precedence over attending the hearing;

242.28 (5) lack of or failure to receive timely notice of the hearing in the preferred language of
 242.29 the person involved in the hearing; ~~and~~

242.30 (6) erroneous belief that the matter on appeal had been resolved in the person's favor;
 242.31 and

243.1 ~~(6)~~ (7) excusable neglect, excusable inadvertence, excusable mistake, or other good
243.2 cause as determined by the ~~human services judge~~ Appeals Division.

243.3 Sec. 45. Minnesota Statutes 2018, section 256.0451, subdivision 19, is amended to read:

243.4 Subd. 19. **Developing the record.** The human services judge shall accept all evidence,
243.5 except evidence privileged by law, that is commonly accepted by reasonable people in the
243.6 conduct of their affairs as having probative value on the issues to be addressed at the hearing.
243.7 Except in fair hearings and appeals under section 256.045, subdivision 3, paragraph (a),
243.8 clauses (4), (9), (10), ~~and~~ (12), (14), and (15), in cases involving medical issues such as a
243.9 diagnosis, a physician's report, or a review team's decision, the human services judge shall
243.10 consider whether it is necessary to have a medical assessment other than that of the individual
243.11 making the original decision. When necessary, the human services judge shall require an
243.12 additional assessment be obtained at agency expense and made part of the hearing record.
243.13 The human services judge shall ensure for all cases that the record is sufficiently complete
243.14 to make a fair and accurate decision.

243.15 Sec. 46. Minnesota Statutes 2018, section 256.0451, subdivision 21, is amended to read:

243.16 Subd. 21. **Closing of the record.** The agency must present its evidence prior to or at the
243.17 hearing. ~~The agency shall not be permitted to submit evidence after the hearing except by~~
243.18 ~~agreement at the hearing between the person involved, the agency, and the human services~~
243.19 ~~judge. If evidence is submitted after the hearing, based on such an agreement, the person~~
243.20 ~~involved and the agency must be allowed sufficient opportunity to respond to the evidence.~~
243.21 ~~When necessary, the record shall remain open to permit a person to submit additional~~
243.22 ~~evidence on the issues presented at the hearing. A party shall not submit evidence after the~~
243.23 hearing except: (1) by agreement at the hearing between the appellant, the agency, and the
243.24 human services judge; (2) in response to new evidence; or (3) when the human services
243.25 judge determines that additional evidence is needed to sufficiently complete the appeal
243.26 record and make a fair and accurate decision. If a party submits evidence after the hearing,
243.27 consistent with an exception, the other party must be allowed sufficient opportunity to
243.28 respond to the evidence.

243.29 Sec. 47. Minnesota Statutes 2018, section 256.0451, subdivision 22, is amended to read:

243.30 Subd. 22. **Decisions.** A timely, written decision must be issued in every appeal. Each
243.31 decision must contain a clear ruling on the issues presented in the appeal hearing and should
243.32 contain a ruling only on questions directly presented by the appeal and the arguments raised
243.33 in the appeal.

244.1 (a) A written decision must be issued within 90 days of the date the person involved
244.2 requested the appeal unless a shorter time is required by law. An additional 30 days is
244.3 provided in those cases where the commissioner refuses to accept the recommended decision.
244.4 Unless otherwise required by federal or state law, the time to issue the decision is extended
244.5 by the number of days a hearing is continued or the record held open in response to a
244.6 documented request by the person involved, and by the time the appeal is suspended pursuant
244.7 to section 256.045, subdivision 3, paragraph (b). In appeals of maltreatment determinations
244.8 or disqualifications filed pursuant to section 256.045, subdivision 3, paragraph (a), clause
244.9 (4), (9), or (10), that also give rise to possible licensing actions, the 90-day period for issuing
244.10 final decisions does not begin until the later of the date that the licensing authority provides
244.11 notice to the appeals division that the authority has made the final determination in the
244.12 matter or the date the appellant files the last appeal in the consolidated matters.

244.13 (b) The decision must contain both findings of fact and conclusions of law, clearly
244.14 separated and identified. The findings of fact must be based on the entire record. Each
244.15 finding of fact made by the human services judge shall be supported by a preponderance
244.16 of the evidence unless a different standard is required under the regulations of a particular
244.17 program. The "preponderance of the evidence" means, in light of the record as a whole, the
244.18 evidence leads the human services judge to believe that the finding of fact is more likely to
244.19 be true than not true. The legal claims or arguments of a participant do not constitute either
244.20 a finding of fact or a conclusion of law, except to the extent the human services judge adopts
244.21 an argument as a finding of fact or conclusion of law.

244.22 The decision shall contain at least the following:

244.23 (1) a listing of the date and place of the hearing and the participants at the hearing;

244.24 (2) a clear and precise statement of the issues, including the dispute under consideration
244.25 and the specific points which must be resolved in order to decide the case;

244.26 (3) a listing of the material, including exhibits, records, reports, placed into evidence at
244.27 the hearing, and upon which the hearing decision is based;

244.28 (4) the findings of fact based upon the entire hearing record. The findings of fact must
244.29 be adequate to inform the participants and any interested person in the public of the basis
244.30 of the decision. If the evidence is in conflict on an issue which must be resolved, the findings
244.31 of fact must state the reasoning used in resolving the conflict;

244.32 (5) conclusions of law that address the legal authority for the hearing and the ruling, and
244.33 which give appropriate attention to the claims of the participants to the hearing;

245.1 (6) a clear and precise statement of the decision made resolving the dispute under
245.2 consideration in the hearing; and

245.3 (7) written notice of the right to appeal to district court or to request reconsideration,
245.4 and of the actions required and the time limits for taking appropriate action to appeal to
245.5 district court or to request a reconsideration.

245.6 (c) The human services judge shall not independently investigate facts or otherwise rely
245.7 on information not presented at the hearing. The human services judge may not contact
245.8 other agency personnel, except as provided in subdivision 18. The human services judge's
245.9 recommended decision must be based exclusively on the testimony and evidence presented
245.10 at the hearing, and legal arguments presented, and the human services judge's research and
245.11 knowledge of the law.

245.12 (d) The commissioner ~~will~~ shall review the recommended decision and accept or refuse
245.13 to accept the decision according to section 256.045, subdivision 5. The commissioner may
245.14 return the recommended decision to the human services judge to address deficiencies before
245.15 accepting or refusing to accept the decision. The commissioner may include a memorandum
245.16 with an accepted decision to clarify or distinguish how the commissioner's findings of fact
245.17 or conclusions of law differ from the recommended decision. If the commissioner refuses
245.18 to accept a human services judge's recommended decision that recommends dismissal of
245.19 the appeal on procedural grounds, the commissioner may remand the case back to the human
245.20 services judge to make a recommended decision on the merits instead of requiring the parties
245.21 to follow the process described in subdivision 23.

245.22 Sec. 48. Minnesota Statutes 2018, section 256.0451, subdivision 23, is amended to read:

245.23 Subd. 23. **Refusal to accept recommended orders.** (a) If the commissioner refuses to
245.24 accept the recommended order from the human services judge, the person involved, the
245.25 person's attorney ~~or~~, authorized representative, or advocate, and the agency shall be sent a
245.26 copy of the recommended order, a detailed explanation of the basis for refusing to accept
245.27 the recommended order, and the proposed modified order.

245.28 (b) The person involved and the agency shall have at least ten business days to respond
245.29 to the proposed modification of the recommended order. The person involved and the agency
245.30 may submit a legal argument concerning the proposed modification, and may propose to
245.31 submit additional evidence that relates to the proposed modified order.

246.1 Sec. 49. Minnesota Statutes 2018, section 256.0451, subdivision 24, is amended to read:

246.2 Subd. 24. **Reconsideration.** (a) Reconsideration may be requested within 30 days of
246.3 the date of the commissioner's final order. If reconsideration is requested under section
246.4 256.045, subdivision 5, the other participants in the appeal shall be informed of the request.
246.5 The person seeking reconsideration has the burden to demonstrate why the matter should
246.6 be reconsidered. The request for reconsideration may include legal argument and may
246.7 include proposed additional evidence supporting the request. The other participants shall
246.8 be sent a copy of all material submitted in support of the request for reconsideration and
246.9 must be given at least ten days to respond.

246.10 (b) When the requesting party raises a question as to the appropriateness of the findings
246.11 of fact, the commissioner shall review the entire record.

246.12 (c) When the requesting party questions the appropriateness of a conclusion of law, the
246.13 commissioner shall consider the recommended decision, the decision under reconsideration,
246.14 and the material submitted in connection with the reconsideration. The commissioner shall
246.15 review the remaining record as necessary to issue a reconsidered decision.

246.16 (d) The commissioner shall issue a written decision on reconsideration in a timely fashion.
246.17 The decision must clearly inform the parties that this constitutes the final administrative
246.18 decision, advise the participants of the right to seek judicial review, and the deadline for
246.19 doing so.

246.20 Sec. 50. Minnesota Statutes 2018, section 256.046, subdivision 1, is amended to read:

246.21 Subdivision 1. **Hearing authority.** A local agency must initiate an administrative fraud
246.22 disqualification hearing for individuals, ~~including child care providers caring for children~~
246.23 ~~receiving child care assistance~~, accused of wrongfully obtaining assistance or intentional
246.24 program violations, in lieu of a criminal action when it has not been pursued, in the Minnesota
246.25 family investment program and any affiliated program to include the diversionary work
246.26 program and the work participation cash benefit program, child care assistance programs,
246.27 general assistance, family general assistance program formerly codified in section 256D.05,
246.28 subdivision 1, clause (15), Minnesota supplemental aid, food stamp programs, MinnesotaCare
246.29 for adults without children, and upon federal approval, all categories of medical assistance
246.30 and remaining categories of MinnesotaCare except for children through age 18. The
246.31 Department of Human Services, in lieu of a local agency, may initiate an administrative
246.32 fraud disqualification hearing when the state agency is directly responsible for administration
246.33 or investigation of the program for which benefits were wrongfully obtained. The hearing

247.1 is subject to the requirements of ~~section~~ sections 256.045 and 256.0451, and the requirements
247.2 in Code of Federal Regulations, title 7, section 273.16.

247.3 Sec. 51. Minnesota Statutes 2018, section 256.9685, subdivision 1, is amended to read:

247.4 Subdivision 1. **Authority.** (a) The commissioner shall establish procedures for
247.5 determining medical assistance payment rates under a prospective payment system for
247.6 inpatient hospital services in hospitals that qualify as vendors of medical assistance. The
247.7 commissioner shall establish, by rule, procedures for implementing this section and sections
247.8 256.9686, 256.969, and 256.9695. Services must meet the requirements of section 256B.04,
247.9 subdivision 15, to be eligible for payment.

247.10 (b) The commissioner shall publish in the Minnesota Health Care Program Provider
247.11 Manual the industry standard, evidence-based clinical decision tool used for determining
247.12 the medical necessity of a recipient's hospital admission. The tool must be used in conjunction
247.13 with the recipient's medical conditions and records. The commissioner's tool designation is
247.14 not subject to administrative appeal and is not subject to the requirements of chapter 14,
247.15 including section 14.386. This paragraph supersedes any contrary rule or law.

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

247.17 Sec. 52. Minnesota Statutes 2018, section 256B.02, subdivision 7, is amended to read:

247.18 Subd. 7. **Vendor of medical care.** (a) "Vendor of medical care" means any person or
247.19 persons furnishing, within the scope of the vendor's respective license, any or all of the
247.20 following goods or services: medical, surgical, hospital, ambulatory surgical center services,
247.21 optical, visual, dental and nursing services; drugs and medical supplies; appliances;
247.22 laboratory, diagnostic, and therapeutic services; nursing home and convalescent care;
247.23 screening and health assessment services provided by public health nurses as defined in
247.24 section 145A.02, subdivision 18; health care services provided at the residence of the patient
247.25 if the services are performed by a public health nurse and the nurse indicates in a statement
247.26 submitted under oath that the services were actually provided; and such other ~~medical~~
247.27 services or supplies provided or prescribed by persons authorized by state law to give such
247.28 services and supplies. The term includes, but is not limited to, directors and officers of
247.29 corporations or members of partnerships who, either individually or jointly with another or
247.30 others, have the legal control, supervision, or responsibility of submitting claims for
247.31 reimbursement to the medical assistance program. The term only includes directors and
247.32 officers of corporations who personally receive a portion of the distributed assets upon
247.33 liquidation or dissolution, and their liability is limited to the portion of the claim that bears

248.1 the same proportion to the total claim as their share of the distributed assets bears to the
248.2 total distributed assets.

248.3 (b) "Vendor of medical care" also includes any person who is credentialed as a health
248.4 professional under standards set by the governing body of a federally recognized Indian
248.5 tribe authorized under an agreement with the federal government according to United States
248.6 Code, title 25, section 450f, to provide health services to its members, and who through a
248.7 tribal facility provides covered services to American Indian people within a contract health
248.8 service delivery area of a Minnesota reservation, as defined under Code of Federal
248.9 Regulations, title 42, section 36.22.

248.10 (c) A federally recognized Indian tribe that intends to implement standards for
248.11 credentialing health professionals must submit the standards to the commissioner of human
248.12 services, along with evidence of meeting, exceeding, or being exempt from corresponding
248.13 state standards. The commissioner shall maintain a copy of the standards and supporting
248.14 evidence, and shall use those standards to enroll tribal-approved health professionals as
248.15 medical assistance providers. For purposes of this section, "Indian" and "Indian tribe" mean
248.16 persons or entities that meet the definition in United States Code, title 25, section 450b.

248.17 Sec. 53. Minnesota Statutes 2018, section 256B.064, subdivision 1a, is amended to read:

248.18 Subd. 1a. **Grounds for sanctions against vendors.** The commissioner may impose
248.19 sanctions against a vendor of medical care for any of the following: (1) fraud, theft, or abuse
248.20 in connection with the provision of medical care to recipients of public assistance; (2) a
248.21 pattern of presentment of false or duplicate claims or claims for services not medically
248.22 necessary; (3) a pattern of making false statements of material facts for the purpose of
248.23 obtaining greater compensation than that to which the vendor is legally entitled; (4)
248.24 suspension or termination as a Medicare vendor; (5) refusal to grant the state agency access
248.25 during regular business hours to examine all records necessary to disclose the extent of
248.26 services provided to program recipients and appropriateness of claims for payment; (6)
248.27 failure to repay an overpayment or a fine finally established under this section; (7) failure
248.28 to correct errors in the maintenance of health service or financial records for which a fine
248.29 was imposed or after issuance of a warning by the commissioner; ~~and~~ (8) any reason for
248.30 which a vendor could be excluded from participation in the Medicare program under section
248.31 1128, 1128A, or 1866(b)(2) of the Social Security Act; and (9) there is a preponderance of
248.32 evidence that the vendor committed an act or acts that meet the definition of offenses listed
248.33 in section 609.817.

249.1 Sec. 54. Minnesota Statutes 2018, section 256B.064, subdivision 1b, is amended to read:

249.2 Subd. 1b. **Sanctions available.** The commissioner may impose the following sanctions
249.3 for the conduct described in subdivision 1a: suspension or withholding of payments to a
249.4 vendor and suspending or terminating participation in the program, or imposition of a fine
249.5 under subdivision 2, paragraph (f). When imposing sanctions under this section, the
249.6 commissioner shall consider the nature, chronicity, or severity of the conduct and the effect
249.7 of the conduct on the health and safety of persons served by the vendor. The commissioner
249.8 shall suspend a vendor's participation in the program for a minimum of five years if the
249.9 vendor is convicted of a crime, received a stay of adjudication, or entered a court-ordered
249.10 diversion program for an offense related to a provision of a health service under medical
249.11 assistance or health care fraud. Regardless of imposition of sanctions, the commissioner
249.12 may make a referral to the appropriate state licensing board.

249.13 Sec. 55. Minnesota Statutes 2018, section 256B.064, subdivision 2, is amended to read:

249.14 Subd. 2. **Imposition of monetary recovery and sanctions.** (a) The commissioner shall
249.15 determine any monetary amounts to be recovered and sanctions to be imposed upon a vendor
249.16 of medical care under this section. Except as provided in paragraphs (b) and (d), neither a
249.17 monetary recovery nor a sanction will be imposed by the commissioner without prior notice
249.18 and an opportunity for a hearing, according to chapter 14, on the commissioner's proposed
249.19 action, provided that the commissioner may suspend or reduce payment to a vendor of
249.20 medical care, except a nursing home or convalescent care facility, after notice and prior to
249.21 the hearing if in the commissioner's opinion that action is necessary to protect the public
249.22 welfare and the interests of the program.

249.23 (b) Except when the commissioner finds good cause not to suspend payments under
249.24 Code of Federal Regulations, title 42, section 455.23 (e) or (f), the commissioner shall
249.25 withhold or reduce payments to a vendor of medical care without providing advance notice
249.26 of such withholding or reduction if either of the following occurs:

249.27 (1) the vendor is convicted of a crime involving the conduct described in subdivision
249.28 1a; or

249.29 (2) the commissioner determines there is a credible allegation of fraud for which an
249.30 investigation is pending under the program. A credible allegation of fraud is an allegation
249.31 which has been verified by the state, from any source, including but not limited to:

249.32 (i) fraud hotline complaints;

249.33 (ii) claims data mining; and

250.1 (iii) patterns identified through provider audits, civil false claims cases, and law
250.2 enforcement investigations.

250.3 Allegations are considered to be credible when they have an indicia of reliability and
250.4 the state agency has reviewed all allegations, facts, and evidence carefully and acts
250.5 judiciously on a case-by-case basis.

250.6 (c) The commissioner must send notice of the withholding or reduction of payments
250.7 under paragraph (b) within five days of taking such action unless requested in writing by a
250.8 law enforcement agency to temporarily withhold the notice. The notice must:

250.9 (1) state that payments are being withheld according to paragraph (b);

250.10 (2) set forth the general allegations as to the nature of the withholding action, but need
250.11 not disclose any specific information concerning an ongoing investigation;

250.12 (3) except in the case of a conviction for conduct described in subdivision 1a, state that
250.13 the withholding is for a temporary period and cite the circumstances under which withholding
250.14 will be terminated;

250.15 (4) identify the types of claims to which the withholding applies; and

250.16 (5) inform the vendor of the right to submit written evidence for consideration by the
250.17 commissioner.

250.18 The withholding or reduction of payments will not continue after the commissioner
250.19 determines there is insufficient evidence of fraud by the vendor, or after legal proceedings
250.20 relating to the alleged fraud are completed, unless the commissioner has sent notice of
250.21 intention to impose monetary recovery or sanctions under paragraph (a). Upon conviction
250.22 for a crime related to the provision, management, or administration of a health service under
250.23 medical assistance, a payment held pursuant to this section by the commissioner or a managed
250.24 care organization that contracts with the commissioner under section 256B.035 is forfeited
250.25 by the commissioner or managed care organization, regardless of the amount charged in
250.26 the criminal complaint or the amount of criminal restitution ordered.

250.27 (d) The commissioner shall suspend or terminate a vendor's participation in the program
250.28 without providing advance notice and an opportunity for a hearing when the suspension or
250.29 termination is required because of the vendor's exclusion from participation in Medicare.
250.30 Within five days of taking such action, the commissioner must send notice of the suspension
250.31 or termination. The notice must:

250.32 (1) state that suspension or termination is the result of the vendor's exclusion from
250.33 Medicare;

251.1 (2) identify the effective date of the suspension or termination; and

251.2 (3) inform the vendor of the need to be reinstated to Medicare before reapplying for
251.3 participation in the program.

251.4 (e) Upon receipt of a notice under paragraph (a) that a monetary recovery or sanction is
251.5 to be imposed, a vendor may request a contested case, as defined in section 14.02, subdivision
251.6 3, by filing with the commissioner a written request of appeal. The appeal request must be
251.7 received by the commissioner no later than 30 days after the date the notification of monetary
251.8 recovery or sanction was mailed to the vendor. The appeal request must specify:

251.9 (1) each disputed item, the reason for the dispute, and an estimate of the dollar amount
251.10 involved for each disputed item;

251.11 (2) the computation that the vendor believes is correct;

251.12 (3) the authority in statute or rule upon which the vendor relies for each disputed item;

251.13 (4) the name and address of the person or entity with whom contacts may be made
251.14 regarding the appeal; and

251.15 (5) other information required by the commissioner.

251.16 (f) The commissioner may order a vendor to forfeit a fine for failure to fully document
251.17 services according to standards in this chapter and Minnesota Rules, chapter 9505. The
251.18 commissioner may assess fines if specific required components of documentation are
251.19 missing. The fine for incomplete documentation shall equal 20 percent of the amount paid
251.20 on the claims for reimbursement submitted by the vendor, or up to \$5,000, whichever is
251.21 less. If the commissioner determines that a vendor repeatedly violated this chapter or
251.22 Minnesota Rules, chapter 9505, related to the provision of services to program recipients
251.23 and the submission of claims for payment, the commissioner may order a vendor to forfeit
251.24 a fine based on the nature, severity, and chronicity of the violations, in an amount of up to
251.25 \$5,000 or 20 percent of the value of the claims, whichever is greater.

251.26 (g) The vendor shall pay the fine assessed on or before the payment date specified. If
251.27 the vendor fails to pay the fine, the commissioner may withhold or reduce payments and
251.28 recover the amount of the fine. A timely appeal shall stay payment of the fine until the
251.29 commissioner issues a final order.

252.1 Sec. 56. Minnesota Statutes 2018, section 256B.064, is amended by adding a subdivision
252.2 to read:

252.3 Subd. 3. Vendor mandates on prohibited hiring. (a) The commissioner shall maintain
252.4 and publish a list of each excluded individual and entity that was convicted of a crime related
252.5 to the provision, management, or administration of a medical assistance health service, or
252.6 suspended or terminated under subdivision 2. A vendor that receives funding from medical
252.7 assistance shall not: (1) employ an individual or entity who is on the exclusion list; or (2)
252.8 enter into or maintain a business relationship with an individual or entity that is on the
252.9 exclusion list.

252.10 (b) Before hiring or entering into a business transaction, a vendor must check the
252.11 exclusion list. The vendor must check the exclusion list on a monthly basis and document
252.12 the date and time with a.m. and p.m. designations that the exclusion list was checked and
252.13 the name and title of the person who checked the exclusion list. The vendor must: (1)
252.14 immediately terminate a current employee on the exclusion list; and (2) immediately
252.15 terminate a business relationship with an individual or entity on the exclusion list.

252.16 (c) A vendor's requirement to check the exclusion list and to terminate an employee on
252.17 the exclusion list applies to each employee, even if the named employee is not responsible
252.18 for direct patient care or direct submission of a claim to medical assistance. A vendor's
252.19 requirement to check the exclusion list and terminate a business relationship with an
252.20 individual or entity on the exclusion list applies to each business relationship, even if the
252.21 named individual or entity is not responsible for direct patient care or direct submission of
252.22 a claim to medical assistance.

252.23 (d) A vendor that employs or enters into or maintains a business relationship with an
252.24 individual or entity on the exclusion list must refund any payment related to a service
252.25 rendered by an individual or entity on the exclusion list from the date the individual is
252.26 employed or the date the individual is placed on the exclusion list, whichever is later, and
252.27 a vendor may be subject to:

252.28 (1) sanctions under subdivision 2;

252.29 (2) a civil monetary penalty of up to \$25,000 for each determination by the department
252.30 that the vendor employed or contracted with an individual or entity on the exclusion list;
252.31 and

252.32 (3) other fines or penalties allowed by law.

253.1 Sec. 57. Minnesota Statutes 2018, section 256B.064, is amended by adding a subdivision
253.2 to read:

253.3 Subd. 4. **Notice.** (a) The notice required under subdivision 2 shall be served by first class
253.4 mail at the address submitted to the department by the vendor. Service is complete upon
253.5 mailing. The commissioner shall place an affidavit of the first class mailing in the vendor's
253.6 file as an indication of the address and the date of mailing.

253.7 (b) The department shall give notice in writing to a recipient placed in the Minnesota
253.8 restricted recipient program under section 256B.0646 and Minnesota Rules, part 9505.2200.
253.9 The notice shall be sent by first class mail to the recipient's current address on file with the
253.10 department. A recipient placed in the Minnesota restricted recipient program may contest
253.11 the placement by submitting a written request for a hearing to the department within 90
253.12 days of the notice being mailed.

253.13 Sec. 58. Minnesota Statutes 2018, section 256B.064, is amended by adding a subdivision
253.14 to read:

253.15 Subd. 5. **Immunity; good faith reporters.** (a) A person who makes a good faith report
253.16 is immune from any civil or criminal liability that might otherwise arise from reporting or
253.17 participating in the investigation. Nothing in this subdivision affects a vendor's responsibility
253.18 for an overpayment established under this subdivision.

253.19 (b) A person employed by a lead investigative agency who is conducting or supervising
253.20 an investigation or enforcing the law according to the applicable law or rule is immune from
253.21 any civil or criminal liability that might otherwise arise from the person's actions, if the
253.22 person is acting in good faith and exercising due care.

253.23 (c) For purposes of this subdivision, "person" includes a natural person or any form of
253.24 a business or legal entity.

253.25 (d) After an investigation is complete, the reporter's name must be kept confidential.
253.26 The subject of the report may compel disclosure of the reporter's name only with the consent
253.27 of the reporter or upon a written finding by a district court that the report was false and there
253.28 is evidence that the report was made in bad faith. This subdivision does not alter disclosure
253.29 responsibilities or obligations under the Rules of Criminal Procedure, except when the
253.30 identity of the reporter is relevant to a criminal prosecution the district court shall conduct
253.31 an in-camera review before determining whether to order disclosure of the reporter's identity.

254.1 Sec. 59. [256B.0646] MINNESOTA RESTRICTED RECIPIENT PROGRAM;
 254.2 PERSONAL CARE ASSISTANCE SERVICES.

254.3 (a) When a recipient's use of personal care assistance services or community first services
 254.4 and supports under section 256B.85 results in abusive or fraudulent billing, the commissioner
 254.5 may place a recipient in the Minnesota restricted recipient program under Minnesota Rules,
 254.6 part 9505.2165. A recipient placed in the Minnesota restricted recipient program under this
 254.7 section must: (1) use a designated traditional personal care assistance provider agency; and
 254.8 (2) obtain a new assessment under section 256B.0911, including consultation with a registered
 254.9 or public health nurse on the long-term care consultation team pursuant to section 256B.0911,
 254.10 subdivision 3, paragraph (b), clause (2).

254.11 (b) A recipient must comply with additional conditions for the use of personal care
 254.12 assistance services or community first services and supports if the commissioner determines
 254.13 it is necessary to prevent future misuse of personal care assistance services or abusive or
 254.14 fraudulent billing. Additional conditions may include but are not limited to restricting service
 254.15 authorizations to a duration of no more than one month, and requiring a qualified professional
 254.16 to monitor and report services on a monthly basis.

254.17 (c) A recipient placed in the Minnesota restricted recipient program under this section
 254.18 may appeal the placement according to section 256B.045.

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

254.20 Sec. 60. Minnesota Statutes 2018, section 256B.0651, subdivision 17, is amended to read:

254.21 Subd. 17. **Recipient protection.** (a) Providers of home care services must provide each
 254.22 recipient with a copy of the home care bill of rights under section 144A.44 at least 30 days
 254.23 prior to terminating services to a recipient, if the termination results from provider sanctions
 254.24 under section 256B.064, such as a payment withhold, a suspension of participation, or a
 254.25 termination of participation. If a home care provider determines it is unable to continue
 254.26 providing services to a recipient, the provider must notify the recipient, the recipient's
 254.27 responsible party, and the commissioner 30 days prior to terminating services to the recipient
 254.28 because of an action under section 256B.064, and must assist the commissioner and lead
 254.29 agency in supporting the recipient in transitioning to another home care provider of the
 254.30 recipient's choice.

254.31 (b) In the event of a payment withhold from a home care provider, a suspension of
 254.32 participation, or a termination of participation of a home care provider under section
 254.33 256B.064, the commissioner may inform the Office of Ombudsman for Long-Term Care

255.1 and the lead agencies for all recipients with active service agreements with the provider. At
255.2 the commissioner's request, the lead agencies must contact recipients to ensure that the
255.3 recipients are continuing to receive needed care, and that the recipients have been given
255.4 free choice of provider if they transfer to another home care provider. In addition, the
255.5 commissioner or the commissioner's delegate may directly notify recipients who receive
255.6 care from the provider that payments have been or may be withheld or that the provider's
255.7 participation in medical assistance has been or may be suspended or terminated, if the
255.8 commissioner determines that notification is necessary to protect the welfare of the recipients.
255.9 For purposes of this subdivision, "lead agencies" means counties, tribes, and managed care
255.10 organizations.

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

255.12 Sec. 61. Minnesota Statutes 2018, section 256B.0659, subdivision 12, is amended to read:

255.13 Subd. 12. **Documentation of personal care assistance services provided.** (a) Personal
255.14 care assistance services for a recipient must be documented daily by each personal care
255.15 assistant, on a time sheet form approved by the commissioner. All documentation may be
255.16 web-based, electronic, or paper documentation. The completed form must be submitted on
255.17 a monthly basis to the provider and kept in the recipient's health record.

255.18 (b) The activity documentation must correspond to the personal care assistance care plan
255.19 and be reviewed by the qualified professional.

255.20 (c) The personal care assistant time sheet must be on a form approved by the
255.21 commissioner documenting time the personal care assistant provides services in the home.
255.22 The following criteria must be included in the time sheet:

255.23 (1) full name of personal care assistant and individual provider number;

255.24 (2) provider name and telephone numbers;

255.25 (3) full name of recipient and either the recipient's medical assistance identification
255.26 number or date of birth;

255.27 (4) consecutive dates, including month, day, and year, and arrival and departure times
255.28 with a.m. or p.m. notations;

255.29 (5) signatures of recipient or the responsible party;

255.30 (6) personal signature of the personal care assistant;

255.31 (7) any shared care provided, if applicable;

256.1 (8) a statement that it is a federal crime to provide false information on personal care
256.2 service billings for medical assistance payments; and

256.3 (9) dates and location of recipient stays in a hospital, care facility, or incarceration.

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

256.5 Sec. 62. Minnesota Statutes 2018, section 256B.27, subdivision 3, is amended to read:

256.6 Subd. 3. **Access to medical records.** The commissioner of human services, with the
256.7 written consent of the recipient, on file with the local welfare agency, shall be allowed
256.8 access to all personal medical records of medical assistance recipients solely for the purposes
256.9 of investigating whether or not: (a) a vendor of medical care has submitted a claim for
256.10 reimbursement, a cost report or a rate application which is duplicative, erroneous, or false
256.11 in whole or in part, or which results in the vendor obtaining greater compensation than the
256.12 vendor is legally entitled to; or (b) the medical care was medically necessary. ~~The vendor~~
256.13 ~~of medical care shall receive notification from the commissioner at least 24 hours before~~
256.14 ~~the commissioner gains access to such records.~~ When the commissioner is investigating a
256.15 possible overpayment of Medicaid funds, the commissioner must be given immediate access
256.16 without prior notice to the vendor's office during regular business hours and to documentation
256.17 and records related to services provided and submission of claims for services provided.
256.18 Denying the commissioner access to records is cause for the vendor's immediate suspension
256.19 of payment or termination according to section 256B.064. The determination of provision
256.20 of services not medically necessary shall be made by the commissioner. Notwithstanding
256.21 any other law to the contrary, a vendor of medical care shall not be subject to any civil or
256.22 criminal liability for providing access to medical records to the commissioner of human
256.23 services pursuant to this section.

256.24 Sec. 63. Minnesota Statutes 2018, section 256B.4912, is amended by adding a subdivision
256.25 to read:

256.26 Subd. 11. **Home and community-based service billing requirements.** (a) A home and
256.27 community-based service is eligible for reimbursement if:

256.28 (1) the service is provided according to a federally approved waiver plan, as authorized
256.29 under sections 256B.0913, 256B.0915, 256B.092, and 256B.49;

256.30 (2) if applicable, the service is provided on days and times during the days and hours of
256.31 operation specified on any license required under chapter 245A or 245D; and

256.32 (3) the provider complies with subdivisions 12 to 15, if applicable.

257.1 (b) The provider must maintain documentation that, upon employment and annually
257.2 thereafter, staff providing a service have attested to reviewing and understanding the
257.3 following statement: "It is a federal crime to provide materially false information on service
257.4 billings for medical assistance or services provided under a federally approved waiver plan,
257.5 as authorized under Minnesota Statutes, sections 256B.0913, 256B.0915, 256B.092, and
257.6 256B.49."

257.7 (c) The department may recover payment, according to section 256B.064 and Minnesota
257.8 Rules, parts 9505.2160 to 9505.2245, for a service that does not satisfy this subdivision.

257.9 Sec. 64. Minnesota Statutes 2018, section 256B.4912, is amended by adding a subdivision
257.10 to read:

257.11 Subd. 12. **Home and community-based service documentation requirements.** (a)
257.12 Documentation may be collected and maintained electronically or in paper form by providers
257.13 and must be produced upon request of the commissioner.

257.14 (b) Documentation of a delivered service must be in English and must be legible according
257.15 to the standard of a reasonable person.

257.16 (c) If the service is reimbursed at an hourly or specified minute-based rate, each
257.17 documentation of the provision of a service, unless otherwise specified, must include:

257.18 (1) the date the documentation occurred;

257.19 (2) the day, month, and year when the service was provided;

257.20 (3) the start and stop times with a.m. and p.m. designations, except for case management
257.21 services as defined under sections 256B.0913, subdivision 7; 256B.0915, subdivision 1a;
257.22 256B.092, subdivision 1a; and 256B.49, subdivision 13;

257.23 (4) the service name or description of the service provided; and

257.24 (5) the name, signature, and title, if any, of the provider of service. If the service is
257.25 provided by multiple staff members, the provider may designate a staff member responsible
257.26 for verifying services and completing the documentation required by this paragraph.

257.27 (d) If the service is reimbursed at a daily rate or does not meet the requirements in
257.28 paragraph (c), each documentation of the provision of a service, unless otherwise specified,
257.29 must include:

257.30 (1) the date the documentation occurred;

257.31 (2) the day, month, and year when the service was provided;

258.1 (3) the service name or description of the service provided; and

258.2 (4) the name, signature, and title, if any, of the person providing the service. If the service
258.3 is provided by multiple staff, the provider may designate a staff member responsible for
258.4 verifying services and completing the documentation required by this paragraph.

258.5 Sec. 65. Minnesota Statutes 2018, section 256B.4912, is amended by adding a subdivision
258.6 to read:

258.7 Subd. 13. **Waiver transportation documentation and billing requirements.** (a) A
258.8 waiver transportation service must be a waiver transportation service that: (1) is not covered
258.9 by medical transportation under the Medicaid state plan; and (2) is not included as a
258.10 component of another waiver service.

258.11 (b) In addition to the documentation requirements in subdivision 12, a waiver
258.12 transportation service provider must maintain:

258.13 (1) odometer and other records pursuant to section 256B.0625, subdivision 17b, paragraph
258.14 (b), clause (3), sufficient to distinguish an individual trip with a specific vehicle and driver
258.15 for a waiver transportation service that is billed directly by the mile. A common carrier as
258.16 defined by Minnesota Rules, part 9505.0315, subpart 1, item B, or a publicly operated transit
258.17 system provider are exempt from this clause; and

258.18 (2) documentation demonstrating that a vehicle and a driver meet the standards determined
258.19 by the Department of Human Services on vehicle and driver qualifications in section
258.20 256B.0625, subdivision 17, paragraph (c).

258.21 Sec. 66. Minnesota Statutes 2018, section 256B.4912, is amended by adding a subdivision
258.22 to read:

258.23 Subd. 14. **Equipment and supply documentation requirements.** (a) In addition to the
258.24 requirements in subdivision 12, an equipment and supply services provider must for each
258.25 documentation of the provision of a service include:

258.26 (1) the recipient's assessed need for the equipment or supply;

258.27 (2) the reason the equipment or supply is not covered by the Medicaid state plan;

258.28 (3) the type and brand name of the equipment or supply delivered to or purchased by
258.29 the recipient, including whether the equipment or supply was rented or purchased;

258.30 (4) the quantity of the equipment or supplies delivered or purchased; and

259.1 (5) the cost of equipment or supplies if the amount paid for the service depends on the
259.2 cost.

259.3 (b) A provider must maintain a copy of the shipping invoice or a delivery service tracking
259.4 log or other documentation showing the date of delivery that proves the equipment or supply
259.5 was delivered to the recipient or a receipt if the equipment or supply was purchased by the
259.6 recipient.

259.7 Sec. 67. Minnesota Statutes 2018, section 256B.4912, is amended by adding a subdivision
259.8 to read:

259.9 Subd. 15. **Adult day service documentation and billing requirements.** (a) In addition
259.10 to the requirements in subdivision 12, a provider of adult day services as defined in section
259.11 245A.02, subdivision 2a, and licensed under Minnesota Rules, parts 9555.9600 to 9555.9730,
259.12 must maintain documentation of:

259.13 (1) a needs assessment and current plan of care according to section 245A.143,
259.14 subdivisions 4 to 7, or Minnesota Rules, part 9555.9700, for each recipient, if applicable;

259.15 (2) attendance records as specified under section 245A.14, subdivision 14, paragraph
259.16 (c), including the date of attendance with the day, month, and year; and the pickup and
259.17 drop-off time in hours and minutes with a.m. and p.m. designations;

259.18 (3) the monthly and quarterly program requirements in Minnesota Rules, part 9555.9710,
259.19 subparts 1, items E and H; 3; 4; and 6, if applicable;

259.20 (4) the name and qualification of each registered physical therapist, registered nurse,
259.21 and registered dietitian who provides services to the adult day services or nonresidential
259.22 program; and

259.23 (5) the location where the service was provided. If the location is an alternate location
259.24 from the usual place of service, the documentation must include the address, or a description
259.25 if the address is not available, of both the origin site and destination site; the length of time
259.26 at the alternate location with a.m. and p.m. designations; and a list of participants who went
259.27 to the alternate location.

259.28 (b) A provider cannot exceed the provider's licensed capacity. If a provider exceeds the
259.29 provider's licensed capacity, the department must recover all Minnesota health care programs
259.30 payments from the date the provider exceeded licensed capacity.

259.31 **EFFECTIVE DATE.** This section is effective August 1, 2019.

260.1 Sec. 68. Minnesota Statutes 2018, section 402A.16, subdivision 3, is amended to read:

260.2 Subd. 3. **Membership.** (a) Human Services Performance Council membership shall be
260.3 equally balanced among the following five stakeholder groups: the Association of Minnesota
260.4 Counties, the Minnesota Association of County Social Service Administrators, the
260.5 Department of Human Services, tribes and communities of color, and service providers and
260.6 advocates for persons receiving human services. The Association of Minnesota Counties
260.7 and the Minnesota Association of County Social Service Administrators shall appoint their
260.8 own respective representatives. The commissioner of human services shall appoint
260.9 representatives of the Department of Human Services, tribes and communities of color, and
260.10 social services providers and advocates. Minimum council membership shall be 15 members,
260.11 with at least three representatives from each stakeholder group, and maximum council
260.12 membership shall be 20 members, with four representatives from each stakeholder group.

260.13 (b) Notwithstanding section 15.059, Human Services Performance Council members
260.14 shall be appointed for a ~~minimum of two years, but may serve longer terms~~ four-year term.
260.15 Council members may serve more than one term at the discretion of their appointing
260.16 authority.

260.17 (c) Notwithstanding section 15.059, members of the council shall receive no compensation
260.18 for their services.

260.19 (d) A commissioner's representative and a county representative from either the
260.20 Association of Minnesota Counties or the Minnesota Association of County Social Service
260.21 Administrators shall serve as Human Services Performance Council cochairs.

260.22 Sec. 69. **[609.817] CRIMINAL PENALTIES FOR ACTS INVOLVING HUMAN**
260.23 **SERVICES PROGRAMS.**

260.24 Subdivision 1. **Payments made relating to human services programs.** A person who
260.25 with intent offers or pays any remuneration, including any kickback, bribe, or rebate, directly
260.26 or indirectly, overtly or covertly, in cash or in kind, to a person to induce the person:

260.27 (1) to apply for, receive, or induce another person to apply for or receive a human services
260.28 benefit, service, or grant related to a program funded in whole or in part by the Department
260.29 of Human Services or administered by the commissioner of human services, including but
260.30 not limited to a human services benefit, service, or grant funded in whole or in part by a
260.31 local social services agency, the Department of Human Services, or the United States
260.32 Department of Health and Human Services; or

261.1 (2) to apply for or to use a particular vendor providing a service administered or funded
 261.2 in whole or in part by the Department of Human Services, a local social services agency,
 261.3 or the United States Department of Health and Human Services,
 261.4 is guilty of a felony and upon conviction shall be sentenced to not more than five years'
 261.5 imprisonment or to payment of a fine of not more than \$15,000, or both.

261.6 Subd. 2. **Payments received relating to human services programs.** A person who
 261.7 with intent solicits or receives any remuneration, including any kickback, bribe, or rebate,
 261.8 directly or indirectly, overtly or covertly, in cash or in kind:

261.9 (1) in return for applying for or receiving a human services benefit, service, or grant
 261.10 administered or funded in whole or in part by the Department of Human Services or
 261.11 administered by the commissioner of human services, including but not limited to a human
 261.12 services benefit, service, or grant funded in whole or in part by a local social services agency,
 261.13 the Department of Human Services, or the United States Department of Health and Human
 261.14 Services;

261.15 (2) in return for applying for or using a particular vendor providing a service administered
 261.16 or funded in whole or in part by the Department of Human Services, a local social services
 261.17 agency, or the United States Department of Health and Human Services; or

261.18 (3) in return for receiving or agreeing to receive payments in excess of fair and reasonable
 261.19 market value for services or supplies provided to a company or person who is being paid
 261.20 in whole or in part by the Department of Human Services, a local social services agency,
 261.21 or the United States Department of Health and Human Services to provide a human services
 261.22 benefit to a person,

261.23 is guilty of a felony and upon conviction shall be sentenced to not more than five years'
 261.24 imprisonment or to payment of a fine of not more than \$15,000, or both.

261.25 Subd. 3. **Defense.** It is not a defense under this section for the person or company
 261.26 receiving or making the payments in excess of fair and reasonable market value to claim
 261.27 the person did not have knowledge of the source of the payments.

261.28 Subd. 4. **Persons exempt.** This section does not apply if:

261.29 (1) the employee receiving the remuneration is a bona fide employee of the company
 261.30 receiving payment for providing care or services;

261.31 (2) the remuneration received by the employee is for work performed by the employee
 261.32 and is paid via a standard payroll check or a direct deposit from the company payroll account
 261.33 to the bank designated by the employee; and

262.1 (3) the company making the payment complies with all state and federal laws relating
 262.2 to tax withholding, Social Security and Medicare withholding, and wage reporting to the
 262.3 Department of Employment and Economic Development.

262.4 Subd. 5. **Additional sanctions.** (a) Claims or payments for any service rendered or
 262.5 claimed to have been rendered by a provider or individual who violated this section in regard
 262.6 to the person for whom such services were rendered or claimed to have been rendered are
 262.7 noncompensable, unenforceable as a matter of law, and constitute the value of any restitution
 262.8 owed to the Department of Human Services, a county, or the United States Department of
 262.9 Health and Human Services.

262.10 (b) For the purposes of this section, service includes any benefit, service, or grant,
 262.11 administered or funded in whole or in part by the Department of Human Services, a county,
 262.12 or the United States Department of Health and Human Services.

262.13 (c) A person convicted under this section is subject to prohibitions described under
 262.14 section 245.095.

262.15 **ARTICLE 8**

262.16 **DISABILITY SERVICES**

262.17 Section 1. Minnesota Statutes 2018, section 144A.471, subdivision 8, is amended to read:

262.18 **Subd. 8. Exemptions from home care services licensure.** (a) Except as otherwise
 262.19 provided in this chapter, home care services that are provided by the state, counties, or other
 262.20 units of government must be licensed under this chapter.

262.21 (b) An exemption under this subdivision does not excuse the exempted individual or
 262.22 organization from complying with applicable provisions of the home care bill of rights in
 262.23 section 144A.44. The following individuals or organizations are exempt from the requirement
 262.24 to obtain a home care provider license:

262.25 (1) an individual or organization that offers, provides, or arranges for personal care
 262.26 assistance services under the medical assistance program ~~as authorized under sections~~
 262.27 ~~256B.0625, subdivision 19a, and 256B.0659;~~

262.28 (2) a provider that is licensed by the commissioner of human services to provide
 262.29 semi-independent living services for persons with developmental disabilities under section
 262.30 252.275 and Minnesota Rules, parts 9525.0900 to 9525.1020;

263.1 (3) a provider that is licensed by the commissioner of human services to provide home
 263.2 and community-based services for persons with developmental disabilities under section
 263.3 256B.092 and Minnesota Rules, parts 9525.1800 to 9525.1930;

263.4 (4) an individual or organization that provides only home management services, if the
 263.5 individual or organization is registered under section 144A.482; or

263.6 (5) an individual who is licensed in this state as a nurse, dietitian, social worker,
 263.7 occupational therapist, physical therapist, or speech-language pathologist who provides
 263.8 health care services in the home independently and not through any contractual or
 263.9 employment relationship with a home care provider or other organization.

263.10 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 263.11 human services following federal approval but not more than two years after federal approval
 263.12 is obtained. The commissioner of human services shall notify the revisor of statutes when
 263.13 federal approval is obtained.

263.14 Sec. 2. Minnesota Statutes 2018, section 144A.475, subdivision 6, is amended to read:

263.15 Subd. 6. **Owners and managerial officials; refusal to grant license.** (a) The owner
 263.16 and managerial officials of a home care provider whose Minnesota license has not been
 263.17 renewed or that has been revoked because of noncompliance with applicable laws or rules
 263.18 shall not be eligible to apply for nor will be granted a home care license, including other
 263.19 licenses under this chapter, or be given status as an enrolled personal care assistance provider
 263.20 agency or personal care assistant by the Department of Human Services ~~under section~~
 263.21 ~~256B.0659~~ for five years following the effective date of the nonrenewal or revocation. If
 263.22 the owner and managerial officials already have enrollment status, their enrollment will be
 263.23 terminated by the Department of Human Services.

263.24 (b) The commissioner shall not issue a license to a home care provider for five years
 263.25 following the effective date of license nonrenewal or revocation if the owner or managerial
 263.26 official, including any individual who was an owner or managerial official of another home
 263.27 care provider, had a Minnesota license that was not renewed or was revoked as described
 263.28 in paragraph (a).

263.29 (c) Notwithstanding subdivision 1, the commissioner shall not renew, or shall suspend
 263.30 or revoke, the license of any home care provider that includes any individual as an owner
 263.31 or managerial official who was an owner or managerial official of a home care provider
 263.32 whose Minnesota license was not renewed or was revoked as described in paragraph (a) for
 263.33 five years following the effective date of the nonrenewal or revocation.

264.1 (d) The commissioner shall notify the home care provider 30 days in advance of the date
264.2 of nonrenewal, suspension, or revocation of the license. Within ten days after the receipt
264.3 of the notification, the home care provider may request, in writing, that the commissioner
264.4 stay the nonrenewal, revocation, or suspension of the license. The home care provider shall
264.5 specify the reasons for requesting the stay; the steps that will be taken to attain or maintain
264.6 compliance with the licensure laws and regulations; any limits on the authority or
264.7 responsibility of the owners or managerial officials whose actions resulted in the notice of
264.8 nonrenewal, revocation, or suspension; and any other information to establish that the
264.9 continuing affiliation with these individuals will not jeopardize client health, safety, or
264.10 well-being. The commissioner shall determine whether the stay will be granted within 30
264.11 days of receiving the provider's request. The commissioner may propose additional
264.12 restrictions or limitations on the provider's license and require that the granting of the stay
264.13 be contingent upon compliance with those provisions. The commissioner shall take into
264.14 consideration the following factors when determining whether the stay should be granted:

264.15 (1) the threat that continued involvement of the owners and managerial officials with
264.16 the home care provider poses to client health, safety, and well-being;

264.17 (2) the compliance history of the home care provider; and

264.18 (3) the appropriateness of any limits suggested by the home care provider.

264.19 If the commissioner grants the stay, the order shall include any restrictions or limitation
264.20 on the provider's license. The failure of the provider to comply with any restrictions or
264.21 limitations shall result in the immediate removal of the stay and the commissioner shall
264.22 take immediate action to suspend, revoke, or not renew the license.

264.23 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
264.24 human services following federal approval but not more than two years after federal approval
264.25 is obtained. The commissioner of human services shall notify the revisor of statutes when
264.26 federal approval is obtained.

264.27 Sec. 3. Minnesota Statutes 2018, section 176.011, subdivision 9, is amended to read:

264.28 Subd. 9. **Employee.** (a) "Employee" means any person who performs services for another
264.29 for hire including the following:

264.30 (1) an alien;

264.31 (2) a minor;

265.1 (3) a sheriff, deputy sheriff, police officer, firefighter, county highway engineer, and
265.2 peace officer while engaged in the enforcement of peace or in the pursuit or capture of a
265.3 person charged with or suspected of crime;

265.4 (4) a person requested or commanded to aid an officer in arresting or retaking a person
265.5 who has escaped from lawful custody, or in executing legal process, in which cases, for
265.6 purposes of calculating compensation under this chapter, the daily wage of the person shall
265.7 be the prevailing wage for similar services performed by paid employees;

265.8 (5) a county assessor;

265.9 (6) an elected or appointed official of the state, or of a county, city, town, school district,
265.10 or governmental subdivision in the state. An officer of a political subdivision elected or
265.11 appointed for a regular term of office, or to complete the unexpired portion of a regular
265.12 term, shall be included only after the governing body of the political subdivision has adopted
265.13 an ordinance or resolution to that effect;

265.14 (7) an executive officer of a corporation, except those executive officers excluded by
265.15 section 176.041;

265.16 (8) a voluntary uncompensated worker, other than an inmate, rendering services in state
265.17 institutions under the commissioners of human services and corrections similar to those of
265.18 officers and employees of the institutions, and whose services have been accepted or
265.19 contracted for by the commissioner of human services or corrections as authorized by law.
265.20 In the event of injury or death of the worker, the daily wage of the worker, for the purpose
265.21 of calculating compensation under this chapter, shall be the usual wage paid at the time of
265.22 the injury or death for similar services in institutions where the services are performed by
265.23 paid employees;

265.24 (9) a voluntary uncompensated worker engaged in emergency management as defined
265.25 in section 12.03, subdivision 4, who is:

265.26 (i) registered with the state or any political subdivision of it, according to the procedures
265.27 set forth in the state or political subdivision emergency operations plan; and

265.28 (ii) acting under the direction and control of, and within the scope of duties approved
265.29 by, the state or political subdivision.

265.30 The daily wage of the worker, for the purpose of calculating compensation under this chapter,
265.31 shall be the usual wage paid at the time of the injury or death for similar services performed
265.32 by paid employees;

266.1 (10) a voluntary uncompensated worker participating in a program established by a local
266.2 social services agency. For purposes of this clause, "local social services agency" means
266.3 any agency established under section 393.01. In the event of injury or death of the worker,
266.4 the wage of the worker, for the purpose of calculating compensation under this chapter,
266.5 shall be the usual wage paid in the county at the time of the injury or death for similar
266.6 services performed by paid employees working a normal day and week;

266.7 (11) a voluntary uncompensated worker accepted by the commissioner of natural
266.8 resources who is rendering services as a volunteer pursuant to section 84.089. The daily
266.9 wage of the worker for the purpose of calculating compensation under this chapter, shall
266.10 be the usual wage paid at the time of injury or death for similar services performed by paid
266.11 employees;

266.12 (12) a voluntary uncompensated worker in the building and construction industry who
266.13 renders services for joint labor-management nonprofit community service projects. The
266.14 daily wage of the worker for the purpose of calculating compensation under this chapter
266.15 shall be the usual wage paid at the time of injury or death for similar services performed by
266.16 paid employees;

266.17 (13) a member of the military forces, as defined in section 190.05, while in state active
266.18 service, as defined in section 190.05, subdivision 5a. The daily wage of the member for the
266.19 purpose of calculating compensation under this chapter shall be based on the member's
266.20 usual earnings in civil life. If there is no evidence of previous occupation or earning, the
266.21 trier of fact shall consider the member's earnings as a member of the military forces;

266.22 (14) a voluntary uncompensated worker, accepted by the director of the Minnesota
266.23 Historical Society, rendering services as a volunteer, pursuant to chapter 138. The daily
266.24 wage of the worker, for the purposes of calculating compensation under this chapter, shall
266.25 be the usual wage paid at the time of injury or death for similar services performed by paid
266.26 employees;

266.27 (15) a voluntary uncompensated worker, other than a student, who renders services at
266.28 the Minnesota State Academy for the Deaf or the Minnesota State Academy for the Blind,
266.29 and whose services have been accepted or contracted for by the commissioner of education,
266.30 as authorized by law. In the event of injury or death of the worker, the daily wage of the
266.31 worker, for the purpose of calculating compensation under this chapter, shall be the usual
266.32 wage paid at the time of the injury or death for similar services performed in institutions
266.33 by paid employees;

267.1 (16) a voluntary uncompensated worker, other than a resident of the veterans home, who
267.2 renders services at a Minnesota veterans home, and whose services have been accepted or
267.3 contracted for by the commissioner of veterans affairs, as authorized by law. In the event
267.4 of injury or death of the worker, the daily wage of the worker, for the purpose of calculating
267.5 compensation under this chapter, shall be the usual wage paid at the time of the injury or
267.6 death for similar services performed in institutions by paid employees;

267.7 (17) a worker performing services ~~under section 256B.0659~~ for a recipient in the home
267.8 of the recipient or in the community ~~under section 256B.0625, subdivision 19a,~~ who is paid
267.9 from government funds through a fiscal intermediary ~~under section 256B.0659, subdivision~~
267.10 ~~33~~. For purposes of maintaining workers' compensation insurance, the employer of the
267.11 worker is as designated in law by the commissioner of the Department of Human Services,
267.12 notwithstanding any other law to the contrary;

267.13 (18) students enrolled in and regularly attending the Medical School of the University
267.14 of Minnesota in the graduate school program or the postgraduate program. The students
267.15 shall not be considered employees for any other purpose. In the event of the student's injury
267.16 or death, the weekly wage of the student for the purpose of calculating compensation under
267.17 this chapter, shall be the annualized educational stipend awarded to the student, divided by
267.18 52 weeks. The institution in which the student is enrolled shall be considered the "employer"
267.19 for the limited purpose of determining responsibility for paying benefits under this chapter;

267.20 (19) a faculty member of the University of Minnesota employed for an academic year
267.21 is also an employee for the period between that academic year and the succeeding academic
267.22 year if:

267.23 (i) the member has a contract or reasonable assurance of a contract from the University
267.24 of Minnesota for the succeeding academic year; and

267.25 (ii) the personal injury for which compensation is sought arises out of and in the course
267.26 of activities related to the faculty member's employment by the University of Minnesota;

267.27 (20) a worker who performs volunteer ambulance driver or attendant services is an
267.28 employee of the political subdivision, nonprofit hospital, nonprofit corporation, or other
267.29 entity for which the worker performs the services. The daily wage of the worker for the
267.30 purpose of calculating compensation under this chapter shall be the usual wage paid at the
267.31 time of injury or death for similar services performed by paid employees;

267.32 (21) a voluntary uncompensated worker, accepted by the commissioner of administration,
267.33 rendering services as a volunteer at the Department of Administration. In the event of injury
267.34 or death of the worker, the daily wage of the worker, for the purpose of calculating

268.1 compensation under this chapter, shall be the usual wage paid at the time of the injury or
268.2 death for similar services performed in institutions by paid employees;

268.3 (22) a voluntary uncompensated worker rendering service directly to the Pollution
268.4 Control Agency. The daily wage of the worker for the purpose of calculating compensation
268.5 payable under this chapter is the usual going wage paid at the time of injury or death for
268.6 similar services if the services are performed by paid employees;

268.7 (23) a voluntary uncompensated worker while volunteering services as a first responder
268.8 or as a member of a law enforcement assistance organization while acting under the
268.9 supervision and authority of a political subdivision. The daily wage of the worker for the
268.10 purpose of calculating compensation payable under this chapter is the usual going wage
268.11 paid at the time of injury or death for similar services if the services are performed by paid
268.12 employees;

268.13 (24) a voluntary uncompensated member of the civil air patrol rendering service on the
268.14 request and under the authority of the state or any of its political subdivisions. The daily
268.15 wage of the member for the purposes of calculating compensation payable under this chapter
268.16 is the usual going wage paid at the time of injury or death for similar services if the services
268.17 are performed by paid employees; and

268.18 (25) a Minnesota Responds Medical Reserve Corps volunteer, as provided in sections
268.19 145A.04 and 145A.06, responding at the request of or engaged in training conducted by the
268.20 commissioner of health. The daily wage of the volunteer for the purposes of calculating
268.21 compensation payable under this chapter is established in section 145A.06. A person who
268.22 qualifies under this clause and who may also qualify under another clause of this subdivision
268.23 shall receive benefits in accordance with this clause.

268.24 If it is difficult to determine the daily wage as provided in this subdivision, the trier of
268.25 fact may determine the wage upon which the compensation is payable.

268.26 (b) For purposes of this chapter "employee" does not include farmers or members of
268.27 their family who exchange work with other farmers in the same community.

268.28 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
268.29 human services following federal approval but not more than two years after federal approval
268.30 is obtained. The commissioner of human services shall notify the revisor of statutes when
268.31 federal approval is obtained.

269.1 Sec. 4. Minnesota Statutes 2018, section 216C.435, subdivision 13, is amended to read:

269.2 Subd. 13. **Vulnerable adult.** "Vulnerable adult" means any person 18 years of age or
269.3 older who:

269.4 (1) receives services from a home care provider required to be licensed under sections
269.5 144A.43 to 144A.482, or from a person or organization that offers, provides, or arranges
269.6 for personal care assistance services under the medical assistance program as authorized
269.7 under section ~~256B.0625, subdivision 19a,~~ 256B.0651, 256B.0653, 256B.0654, ~~256B.0659,~~
269.8 or 256B.85;

269.9 (2) possesses a physical or mental infirmity or other physical, mental, or emotional
269.10 dysfunction that impairs the individual's ability to provide adequately for the individual's
269.11 own care without assistance, including the provision of food, shelter, clothing, health care,
269.12 or supervision;

269.13 (3) possesses a physical or mental infirmity or other physical, mental, or emotional
269.14 dysfunction that impairs the individual's ability to knowingly contract or otherwise protect
269.15 the individual's own self-interest; or

269.16 (4) identifies as having dementia or Alzheimer's disease, or who exhibits behaviors that
269.17 a reasonable person would suspect indicates the adult has Alzheimer's disease or other
269.18 dementia.

269.19 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
269.20 human services following federal approval but not more than two years after federal approval
269.21 is obtained. The commissioner of human services shall notify the revisor of statutes when
269.22 federal approval is obtained.

269.23 Sec. 5. Minnesota Statutes 2018, section 245A.03, subdivision 7, is amended to read:

269.24 Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license
269.25 for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult
269.26 foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter
269.27 for a physical location that will not be the primary residence of the license holder for the
269.28 entire period of licensure. If a license is issued during this moratorium, and the license
269.29 holder changes the license holder's primary residence away from the physical location of
269.30 the foster care license, the commissioner shall revoke the license according to section
269.31 245A.07. The commissioner shall not issue an initial license for a community residential
269.32 setting licensed under chapter 245D. When approving an exception under this paragraph,
269.33 the commissioner shall consider the resource need determination process in paragraph (h),

270.1 the availability of foster care licensed beds in the geographic area in which the licensee
270.2 seeks to operate, the results of a person's choices during their annual assessment and service
270.3 plan review, and the recommendation of the local county board. The determination by the
270.4 commissioner is final and not subject to appeal. Exceptions to the moratorium include:

270.5 (1) foster care settings that are required to be registered under chapter 144D;

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

270.10 (3) new foster care licenses or community residential setting licenses determined to be
270.11 needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD,
270.12 or regional treatment center; restructuring of state-operated services that limits the capacity
270.13 of state-operated facilities; or allowing movement to the community for people who no
270.14 longer require the level of care provided in state-operated facilities as provided under section
270.15 256B.092, subdivision 13, or 256B.49, subdivision 24;

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

270.18 ~~(5) new foster care licenses or community residential setting licenses determined to be~~
270.19 ~~needed by the commissioner for the transition of people from personal care assistance to~~
270.20 ~~the home and community-based services;~~

270.21 ~~(6)~~ (5) new foster care licenses or community residential setting licenses determined to
270.22 be needed by the commissioner for the transition of people from the residential care waiver
270.23 services to foster care services. This exception applies only when:

270.24 (i) the person's case manager provided the person with information about the choice of
270.25 service, service provider, and location of service to help the person make an informed choice;
270.26 and

270.27 (ii) the person's foster care services are less than or equal to the cost of the person's
270.28 services delivered in the residential care waiver service setting as determined by the lead
270.29 agency; or

270.30 ~~(7)~~ (6) new foster care licenses or community residential setting licenses for people
270.31 receiving services under chapter 245D and residing in an unlicensed setting before May 1,
270.32 2017, and for which a license is required. This exception does not apply to people living in
270.33 their own home. For purposes of this clause, there is a presumption that a foster care or

271.1 community residential setting license is required for services provided to three or more
271.2 people in a dwelling unit when the setting is controlled by the provider. A license holder
271.3 subject to this exception may rebut the presumption that a license is required by seeking a
271.4 reconsideration of the commissioner's determination. The commissioner's disposition of a
271.5 request for reconsideration is final and not subject to appeal under chapter 14. The exception
271.6 is available until June 30, 2018. This exception is available when:

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

271.10 (ii) the person's services provided in the licensed foster care or community residential
271.11 setting are less than or equal to the cost of the person's services delivered in the unlicensed
271.12 setting as determined by the lead agency.

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

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

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

271.28 (e) A resource need determination process, managed at the state level, using the available
271.29 reports required by section 144A.351, and other data and information shall be used to
271.30 determine where the reduced capacity determined under section 256B.493 will be
271.31 implemented. The commissioner shall consult with the stakeholders described in section
271.32 144A.351, and employ a variety of methods to improve the state's capacity to meet the
271.33 informed decisions of those people who want to move out of corporate foster care or
271.34 community residential settings, long-term service needs within budgetary limits, including

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

272.5 (f) At the time of application and reapplication for licensure, the applicant and the license
272.6 holder that are subject to the moratorium or an exclusion established in paragraph (a) are
272.7 required to inform the commissioner whether the physical location where the foster care
272.8 will be provided is or will be the primary residence of the license holder for the entire period
272.9 of licensure. If the primary residence of the applicant or license holder changes, the applicant
272.10 or license holder must notify the commissioner immediately. The commissioner shall print
272.11 on the foster care license certificate whether or not the physical location is the primary
272.12 residence of the license holder.

272.13 (g) License holders of foster care homes identified under paragraph (f) that are not the
272.14 primary residence of the license holder and that also provide services in the foster care home
272.15 that are covered by a federally approved home and community-based services waiver, as
272.16 authorized under section 256B.0915, 256B.092, or 256B.49, must inform the human services
272.17 licensing division that the license holder provides or intends to provide these waiver-funded
272.18 services.

272.19 (h) The commissioner may adjust capacity to address needs identified in section
272.20 144A.351. Under this authority, the commissioner may approve new licensed settings or
272.21 delicense existing settings. Delicensing of settings will be accomplished through a process
272.22 identified in section 256B.493. Annually, by August 1, the commissioner shall provide
272.23 information and data on capacity of licensed long-term services and supports, actions taken
272.24 under the subdivision to manage statewide long-term services and supports resources, and
272.25 any recommendations for change to the legislative committees with jurisdiction over the
272.26 health and human services budget.

272.27 (i) The commissioner must notify a license holder when its corporate foster care or
272.28 community residential setting licensed beds are reduced under this section. The notice of
272.29 reduction of licensed beds must be in writing and delivered to the license holder by certified
272.30 mail or personal service. The notice must state why the licensed beds are reduced and must
272.31 inform the license holder of its right to request reconsideration by the commissioner. The
272.32 license holder's request for reconsideration must be in writing. If mailed, the request for
272.33 reconsideration must be postmarked and sent to the commissioner within 20 calendar days
272.34 after the license holder's receipt of the notice of reduction of licensed beds. If a request for

273.1 reconsideration is made by personal service, it must be received by the commissioner within
 273.2 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

273.3 (j) The commissioner shall not issue an initial license for children's residential treatment
 273.4 services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter
 273.5 for a program that Centers for Medicare and Medicaid Services would consider an institution
 273.6 for mental diseases. Facilities that serve only private pay clients are exempt from the
 273.7 moratorium described in this paragraph. The commissioner has the authority to manage
 273.8 existing statewide capacity for children's residential treatment services subject to the
 273.9 moratorium under this paragraph and may issue an initial license for such facilities if the
 273.10 initial license would not increase the statewide capacity for children's residential treatment
 273.11 services subject to the moratorium under this paragraph.

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

273.13 Sec. 6. Minnesota Statutes 2018, section 245C.03, subdivision 2, is amended to read:

273.14 Subd. 2. **Personal care provider organizations.** The commissioner shall conduct
 273.15 background studies on any individual required under sections 256B.0651 to 256B.0654 and
 273.16 ~~256B.0659~~ to have a background study completed under this chapter.

273.17 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 273.18 human services following federal approval but not more than two years after federal approval
 273.19 is obtained. The commissioner of human services shall notify the revisor of statutes when
 273.20 federal approval is obtained.

273.21 Sec. 7. Minnesota Statutes 2018, section 245C.04, subdivision 3, is amended to read:

273.22 Subd. 3. **Personal care provider organizations.** (a) The commissioner shall conduct
 273.23 a background study of an individual required to be studied under section 245C.03, subdivision
 273.24 2, at least upon application for initial enrollment under sections 256B.0651 to 256B.0654
 273.25 and ~~256B.0659~~.

273.26 (b) Organizations required to initiate background studies under sections 256B.0651 to
 273.27 256B.0654 and ~~256B.0659~~ for individuals described in section 245C.03, subdivision 2,
 273.28 must submit a completed background study request to the commissioner using the electronic
 273.29 system known as NETStudy before those individuals begin a position allowing direct contact
 273.30 with persons served by the organization.

273.31 (c) Organizations required to initiate background studies under sections 256B.0651 to
 273.32 256B.0654 and ~~256B.0659~~ for individuals described in section 245C.03, subdivision 2,

274.1 must initiate a new background study through NETStudy when an individual returns to a
274.2 position requiring a background study following an absence of 120 or more consecutive
274.3 days.

274.4 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
274.5 human services following federal approval but not more than two years after federal approval
274.6 is obtained. The commissioner of human services shall notify the revisor of statutes when
274.7 federal approval is obtained.

274.8 Sec. 8. Minnesota Statutes 2018, section 245C.10, subdivision 3, is amended to read:

274.9 Subd. 3. **Personal care provider organizations.** The commissioner shall recover the
274.10 cost of background studies initiated by a personal care provider organization under sections
274.11 256B.0651 to 256B.0654 and ~~256B.0659~~ through a fee of no more than \$20 per study
274.12 charged to the organization responsible for submitting the background study form. The fees
274.13 collected under this subdivision are appropriated to the commissioner for the purpose of
274.14 conducting background studies.

274.15 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
274.16 human services following federal approval but not more than two years after federal approval
274.17 is obtained. The commissioner of human services shall notify the revisor of statutes when
274.18 federal approval is obtained.

274.19 Sec. 9. Minnesota Statutes 2018, section 245C.16, subdivision 1, is amended to read:

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

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

274.27 (1) the recency of the disqualifying characteristic;

274.28 (2) the recency of discharge from probation for the crimes;

274.29 (3) the number of disqualifying characteristics;

274.30 (4) the intrusiveness or violence of the disqualifying characteristic;

274.31 (5) the vulnerability of the victim involved in the disqualifying characteristic;

275.1 (6) the similarity of the victim to the persons served by the program where the individual
275.2 studied will have direct contact;

275.3 (7) whether the individual has a disqualification from a previous background study that
275.4 has not been set aside; and

275.5 (8) if the individual has a disqualification which may not be set aside because it is a
275.6 permanent bar under section 245C.24, subdivision 1, or the individual is a child care
275.7 background study subject who has a felony-level conviction for a drug-related offense in
275.8 the last five years, the commissioner may order the immediate removal of the individual
275.9 from any position allowing direct contact with, or access to, persons receiving services from
275.10 the program.

275.11 (c) This section does not apply when the subject of a background study is regulated by
275.12 a health-related licensing board as defined in chapter 214, and the subject is determined to
275.13 be responsible for substantiated maltreatment under section 626.556 or 626.557.

275.14 (d) This section does not apply to a background study related to an initial application
275.15 for a child foster care license.

275.16 ~~(e) Except for paragraph (f), this section does not apply to a background study that is~~
275.17 ~~also subject to the requirements under section 256B.0659, subdivisions 11 and 13, for a~~
275.18 ~~personal care assistant or a qualified professional as defined in section 256B.0659,~~
275.19 ~~subdivision 1.~~

275.20 ~~(f)~~ (e) If the commissioner has reason to believe, based on arrest information or an active
275.21 maltreatment investigation, that an individual poses an imminent risk of harm to persons
275.22 receiving services, the commissioner may order that the person be continuously supervised
275.23 or immediately removed pending the conclusion of the maltreatment investigation or criminal
275.24 proceedings.

275.25 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
275.26 human services following federal approval but not more than two years after federal approval
275.27 is obtained. The commissioner of human services shall notify the revisor of statutes when
275.28 federal approval is obtained.

275.29 Sec. 10. Minnesota Statutes 2018, section 245D.03, subdivision 1, is amended to read:

275.30 Subdivision 1. **Applicability.** (a) The commissioner shall regulate the provision of home
275.31 and community-based services to persons with disabilities and persons age 65 and older
275.32 pursuant to this chapter. The licensing standards in this chapter govern the provision of
275.33 basic support services and intensive support services.

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

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

276.14 (2) adult companion services as defined under the brain injury, community access for
276.15 disability inclusion, community alternative care, and elderly waiver plans, excluding adult
276.16 companion services provided under the Corporation for National and Community Services
276.17 Senior Companion Program established under the Domestic Volunteer Service Act of 1973,
276.18 Public Law 98-288;

276.19 (3) personal support as defined under the developmental disability waiver plan;

276.20 (4) 24-hour emergency assistance, personal emergency response as defined under the
276.21 community access for disability inclusion and developmental disability waiver plans;

276.22 (5) night supervision services as defined under the brain injury, community access for
276.23 disability inclusion, community alternative care, and developmental disability waiver plan
276.24 plans;

276.25 (6) homemaker services as defined under the community access for disability inclusion,
276.26 brain injury, community alternative care, developmental disability, and elderly waiver plans,
276.27 excluding providers licensed by the Department of Health under chapter 144A and those
276.28 providers providing cleaning services only; and

276.29 (7) individual community living support under section 256B.0915, subdivision 3j.

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

276.33 (1) intervention services, including:

277.1 (i) ~~behavioral~~ positive support services as defined under the brain injury and, community
277.2 access for disability inclusion, community alternative care, and developmental disability
277.3 waiver plans;

277.4 (ii) in-home or out-of-home crisis respite services as defined under the brain injury,
277.5 community access for disability inclusion, community alternative care, and developmental
277.6 disability waiver ~~plan~~ plans; and

277.7 (iii) specialist services as defined under the current brain injury, community access for
277.8 disability inclusion, community alternative care, and developmental disability waiver ~~plan~~
277.9 plans;

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

277.11 (i) in-home family support and supported living services as defined under the
277.12 developmental disability waiver plan;

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

277.15 (iii) semi-independent living services; and

277.16 (iv) individualized home supports services as defined under the brain injury, community
277.17 alternative care, and community access for disability inclusion waiver plans;

277.18 (3) residential supports and services, including:

277.19 (i) supported living services as defined under the developmental disability waiver plan
277.20 provided in a family or corporate child foster care residence, a family adult foster care
277.21 residence, a community residential setting, or a supervised living facility;

277.22 (ii) foster care services as defined in the brain injury, community alternative care, and
277.23 community access for disability inclusion waiver plans provided in a family or corporate
277.24 child foster care residence, a family adult foster care residence, or a community residential
277.25 setting; and

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

277.28 (4) day services, including:

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

277.30 (ii) day training and habilitation services under sections 252.41 to 252.46, and as defined
277.31 under the developmental disability waiver plan; and

278.1 (iii) prevocational services as defined under the brain injury and community access for
278.2 disability inclusion waiver plans; and

278.3 (5) employment exploration services as defined under the brain injury, community
278.4 alternative care, community access for disability inclusion, and developmental disability
278.5 waiver plans;

278.6 (6) employment development services as defined under the brain injury, community
278.7 alternative care, community access for disability inclusion, and developmental disability
278.8 waiver plans; and

278.9 (7) employment support services as defined under the brain injury, community alternative
278.10 care, community access for disability inclusion, and developmental disability waiver plans.

278.11 Sec. 11. Minnesota Statutes 2018, section 245D.071, subdivision 1, is amended to read:

278.12 Subdivision 1. **Requirements for intensive support services.** Except for services
278.13 identified in section 245D.03, subdivision 1, paragraph (c), clauses (1) and (2), item (ii), a
278.14 license holder providing intensive support services identified in section 245D.03, subdivision
278.15 1, paragraph (c), must comply with the requirements in this section and section 245D.07,
278.16 subdivisions 1, 1a, and 3. Services identified in section 245D.03, subdivision 1, paragraph
278.17 (c), clauses (1) and (2), item (ii), must comply with the requirements in section 245D.07,
278.18 subdivision 2.

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

278.20 Sec. 12. Minnesota Statutes 2018, section 245D.071, subdivision 3, is amended to read:

278.21 Subd. 3. **Assessment and initial service planning.** (a) Within 15 days of service initiation
278.22 the license holder must complete a preliminary coordinated service and support plan
278.23 addendum based on the coordinated service and support plan.

278.24 (b) Within the scope of services, the license holder must, at a minimum, complete
278.25 assessments in the following areas before the 45-day planning meeting:

278.26 (1) the person's ability to self-manage health and medical needs to maintain or improve
278.27 physical, mental, and emotional well-being, including, when applicable, allergies, seizures,
278.28 choking, special dietary needs, chronic medical conditions, self-administration of medication
278.29 or treatment orders, preventative screening, and medical and dental appointments;

279.1 (2) the person's ability to self-manage personal safety to avoid injury or accident in the
279.2 service setting, including, when applicable, risk of falling, mobility, regulating water
279.3 temperature, community survival skills, water safety skills, and sensory disabilities; and

279.4 (3) the person's ability to self-manage symptoms or behavior that may otherwise result
279.5 in an incident as defined in section 245D.02, subdivision 11, clauses (4) to (7), suspension
279.6 or termination of services by the license holder, or other symptoms or behaviors that may
279.7 jeopardize the health and welfare of the person or others.

279.8 Assessments must produce information about the person that describes the person's overall
279.9 strengths, functional skills and abilities, and behaviors or symptoms. Assessments must be
279.10 based on the person's status within the last 12 months at the time of service initiation.

279.11 Assessments based on older information must be documented and justified. Assessments
279.12 must be conducted annually at a minimum or within 30 days of a written request from the
279.13 person or the person's legal representative or case manager. The results must be reviewed
279.14 by the support team or expanded support team as part of a service plan review.

279.15 (c) Within 45 days of service initiation, the license holder must meet with the person,
279.16 the person's legal representative, the case manager, and other members of the support team
279.17 or expanded support team to determine the following based on information obtained from
279.18 the assessments identified in paragraph (b), the person's identified needs in the coordinated
279.19 service and support plan, and the requirements in subdivision 4 and section 245D.07,
279.20 subdivision 1a:

279.21 (1) the scope of the services to be provided to support the person's daily needs and
279.22 activities;

279.23 (2) the person's desired outcomes and the supports necessary to accomplish the person's
279.24 desired outcomes;

279.25 (3) the person's preferences for how services and supports are provided, including how
279.26 the provider will support the person to have control of the person's schedule;

279.27 (4) whether the current service setting is the most integrated setting available and
279.28 appropriate for the person; and

279.29 (5) how services must be coordinated across other providers licensed under this chapter
279.30 serving the person and members of the support team or expanded support team to ensure
279.31 continuity of care and coordination of services for the person.

279.32 (d) A discussion of how technology might be used to meet the person's desired outcomes
279.33 must be included in the 45-day planning meeting and at least annually thereafter. The

280.1 ~~coordinated service and support plan~~ or support plan addendum must include a summary
280.2 of this discussion. The summary must include a statement regarding any decision that is
280.3 made regarding the use of technology and a description of any further research that needs
280.4 to be completed before a decision regarding the use of technology can be made. Nothing
280.5 in this paragraph requires that the coordinated service and support plan include the use of
280.6 technology for the provision of services.

280.7 Sec. 13. Minnesota Statutes 2018, section 245D.09, subdivision 4a, is amended to read:

280.8 Subd. 4a. **Orientation to individual service recipient needs.** (a) Before having
280.9 unsupervised direct contact with a person served by the program, or for whom the staff
280.10 person has not previously provided direct support, or any time the plans or procedures
280.11 identified in paragraphs (b) to (f) are revised, the staff person must review and receive
280.12 instruction on the requirements in paragraphs (b) to (f) as they relate to the staff person's
280.13 job functions for that person.

280.14 (b) For community residential services, training and competency evaluations must include
280.15 the following, if identified in the coordinated service and support plan:

280.16 (1) appropriate and safe techniques in personal hygiene and grooming, including hair
280.17 care; bathing; care of teeth, gums, and oral prosthetic devices; and other activities of daily
280.18 living (ADLs) ~~as defined under section 256B.0659, subdivision 1;~~

280.19 (2) an understanding of what constitutes a healthy diet according to data from the Centers
280.20 for Disease Control and Prevention and the skills necessary to prepare that diet; and

280.21 (3) skills necessary to provide appropriate support in instrumental activities of daily
280.22 living (IADLs) ~~as defined under section 256B.0659, subdivision 1.~~

280.23 (c) The staff person must review and receive instruction on the person's coordinated
280.24 service and support plan or coordinated service and support plan addendum as it relates to
280.25 the responsibilities assigned to the license holder, and when applicable, the person's individual
280.26 abuse prevention plan, to achieve and demonstrate an understanding of the person as a
280.27 unique individual, and how to implement those plans.

280.28 (d) The staff person must review and receive instruction on medication setup, assistance,
280.29 or administration procedures established for the person when assigned to the license holder
280.30 according to section 245D.05, subdivision 1, paragraph (b). Unlicensed staff may perform
280.31 medication setup or medication administration only after successful completion of a
280.32 medication setup or medication administration training, from a training curriculum developed
280.33 by a registered nurse or appropriate licensed health professional. The training curriculum

281.1 must incorporate an observed skill assessment conducted by the trainer to ensure unlicensed
281.2 staff demonstrate the ability to safely and correctly follow medication procedures.

281.3 Medication administration must be taught by a registered nurse, clinical nurse specialist,
281.4 certified nurse practitioner, physician assistant, or physician if, at the time of service initiation
281.5 or any time thereafter, the person has or develops a health care condition that affects the
281.6 service options available to the person because the condition requires:

281.7 (1) specialized or intensive medical or nursing supervision; and

281.8 (2) nonmedical service providers to adapt their services to accommodate the health and
281.9 safety needs of the person.

281.10 (e) The staff person must review and receive instruction on the safe and correct operation
281.11 of medical equipment used by the person to sustain life or to monitor a medical condition
281.12 that could become life-threatening without proper use of the medical equipment, including
281.13 but not limited to ventilators, feeding tubes, or endotracheal tubes. The training must be
281.14 provided by a licensed health care professional or a manufacturer's representative and
281.15 incorporate an observed skill assessment to ensure staff demonstrate the ability to safely
281.16 and correctly operate the equipment according to the treatment orders and the manufacturer's
281.17 instructions.

281.18 (f) The staff person must review and receive instruction on mental health crisis response,
281.19 de-escalation techniques, and suicide intervention when providing direct support to a person
281.20 with a serious mental illness.

281.21 (g) In the event of an emergency service initiation, the license holder must ensure the
281.22 training required in this subdivision occurs within 72 hours of the direct support staff person
281.23 first having unsupervised contact with the person receiving services. The license holder
281.24 must document the reason for the unplanned or emergency service initiation and maintain
281.25 the documentation in the person's service recipient record.

281.26 (h) License holders who provide direct support services themselves must complete the
281.27 orientation required in subdivision 4, clauses (3) to (10).

281.28 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
281.29 human services following federal approval but not more than two years after federal approval
281.30 is obtained. The commissioner of human services shall notify the revisor of statutes when
281.31 federal approval is obtained.

282.1 Sec. 14. Minnesota Statutes 2018, section 245D.091, subdivision 2, is amended to read:

282.2 Subd. 2. ~~Behavior~~ **Positive support professional qualifications.** A ~~behavior~~ positive
282.3 support professional providing ~~behavioral~~ positive support services as identified in section
282.4 245D.03, subdivision 1, paragraph (c), clause (1), item (i), must have competencies in the
282.5 following areas as required under the brain injury ~~and~~₂ community access for disability
282.6 inclusion, community alternative care, and development disability waiver plans or successor
282.7 plans:

282.8 (1) ethical considerations;

282.9 (2) functional assessment;

282.10 (3) functional analysis;

282.11 (4) measurement of behavior and interpretation of data;

282.12 (5) selecting intervention outcomes and strategies;

282.13 (6) behavior reduction and elimination strategies that promote least restrictive approved
282.14 alternatives;

282.15 (7) data collection;

282.16 (8) staff and caregiver training;

282.17 (9) support plan monitoring;

282.18 (10) co-occurring mental disorders or neurocognitive disorder;

282.19 (11) demonstrated expertise with populations being served; and

282.20 (12) must be a:

282.21 (i) psychologist licensed under sections 148.88 to 148.98, who has stated to the Board
282.22 of Psychology competencies in the above identified areas;

282.23 (ii) clinical social worker licensed as an independent clinical social worker under chapter
282.24 148D, or a person with a master's degree in social work from an accredited college or
282.25 university, with at least 4,000 hours of post-master's supervised experience in the delivery
282.26 of clinical services in the areas identified in clauses (1) to (11);

282.27 (iii) physician licensed under chapter 147 and certified by the American Board of
282.28 Psychiatry and Neurology or eligible for board certification in psychiatry with competencies
282.29 in the areas identified in clauses (1) to (11);

283.1 (iv) licensed professional clinical counselor licensed under sections 148B.29 to 148B.39
 283.2 with at least 4,000 hours of post-master's supervised experience in the delivery of clinical
 283.3 services who has demonstrated competencies in the areas identified in clauses (1) to (11);

283.4 (v) person with a master's degree from an accredited college or university in one of the
 283.5 behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised
 283.6 experience in the delivery of clinical services with demonstrated competencies in the areas
 283.7 identified in clauses (1) to (11); ~~or~~

283.8 (vi) person with a master's degree or PhD in one of the behavioral sciences or related
 283.9 field with demonstrated expertise in positive support services, as determined by the person's
 283.10 case manager based on the person's needs as outlined in the person's community support
 283.11 plan; or

283.12 ~~(vi)~~ (vii) registered nurse who is licensed under sections 148.171 to 148.285, and who
 283.13 is certified as a clinical specialist or as a nurse practitioner in adult or family psychiatric
 283.14 and mental health nursing by a national nurse certification organization, or who has a master's
 283.15 degree in nursing or one of the behavioral sciences or related fields from an accredited
 283.16 college or university or its equivalent, with at least 4,000 hours of post-master's supervised
 283.17 experience in the delivery of clinical services.

283.18 Sec. 15. Minnesota Statutes 2018, section 245D.091, subdivision 3, is amended to read:

283.19 Subd. 3. ~~Behavior~~ **Positive support analyst qualifications.** (a) A ~~behavior~~ positive
 283.20 support analyst providing behavioral positive support services as identified in section
 283.21 245D.03, subdivision 1, paragraph (c), clause (1), item (i), must have competencies in the
 283.22 following areas as required under the brain injury ~~and~~ community access for disability
 283.23 inclusion, community alternative care, and developmental disability waiver plans or successor
 283.24 plans:

283.25 (1) have obtained a baccalaureate degree, master's degree, or PhD in a social services
 283.26 discipline; ~~or~~

283.27 (2) meet the qualifications of a mental health practitioner as defined in section 245.462,
 283.28 subdivision 17; or

283.29 (3) certification as a board-certified behavior analyst or board-certified assistant behavior
 283.30 analyst by the Behavior Analyst Certification Board.

283.31 (b) In addition, a ~~behavior~~ positive support analyst must:

284.1 (1) have four years of supervised experience ~~working with individuals who exhibit~~
 284.2 ~~challenging behaviors as well as co-occurring mental disorders or neurocognitive disorder;~~
 284.3 conducting functional behavior assessments and designing, implementing, and evaluating
 284.4 the effectiveness of positive practices behavior support strategies for people who exhibit
 284.5 challenging behaviors as well as co-occurring mental disorders and neurocognitive disorder;

284.6 ~~(2) have received ten hours of instruction in functional assessment and functional analysis;~~

284.7 ~~(3) have received 20 hours of instruction in the understanding of the function of behavior;~~

284.8 ~~(4) have received ten hours of instruction on design of positive practices behavior support~~
 284.9 ~~strategies;~~

284.10 ~~(5) have received 20 hours of instruction on the use of behavior reduction approved~~
 284.11 ~~strategies used only in combination with behavior positive practices strategies;~~

284.12 (2) have training prior to hire or within 90 calendar days of hire that includes:

284.13 (i) ten hours of instruction in functional assessment and functional analysis;

284.14 (ii) 20 hours of instruction in the understanding of the function of behavior;

284.15 (iii) ten hours of instruction on design of positive practices behavior support strategies;

284.16 (iv) 20 hours of instruction preparing written intervention strategies, designing data
 284.17 collection protocols, training other staff to implement positive practice behavior support
 284.18 strategies, summarizing and reporting program evaluation data, analyzing program evaluation
 284.19 data to identify design flaws in behavioral interventions or failures in implementation fidelity,
 284.20 and recommending enhancements based on evaluation data; and

284.21 (v) eight hours of instruction on principles of person-centered thinking;

284.22 ~~(6)~~ (3) be determined by a ~~behavior~~ positive support professional to have the training
 284.23 and prerequisite skills required to provide positive practice strategies as well as behavior
 284.24 reduction approved and permitted intervention to the person who receives ~~behavioral~~ positive
 284.25 support; and

284.26 ~~(7)~~ (4) be under the direct supervision of a ~~behavior~~ positive support professional.

284.27 (c) Meeting the qualifications for a positive support professional under subdivision 2
 284.28 shall substitute for meeting the qualifications listed in paragraph (b).

284.29 Sec. 16. Minnesota Statutes 2018, section 245D.091, subdivision 4, is amended to read:

284.30 Subd. 4. **Behavior Positive support specialist qualifications.** (a) A ~~behavior~~ positive
 284.31 support specialist providing ~~behavioral~~ positive support services as identified in section

285.1 245D.03, subdivision 1, paragraph (c), clause (1), item (i), must have competencies in the
 285.2 following areas as required under the brain injury ~~and~~ community access for disability
 285.3 inclusion, community alternative care, and developmental disability waiver plans or successor
 285.4 plans:

285.5 (1) have an associate's degree in a social services discipline; or

285.6 (2) have two years of supervised experience working with individuals who exhibit
 285.7 challenging behaviors as well as co-occurring mental disorders or neurocognitive disorder.

285.8 (b) In addition, a behavior specialist must:

285.9 ~~(1) have received a minimum of four hours of training in functional assessment;~~

285.10 ~~(2) have received 20 hours of instruction in the understanding of the function of behavior;~~

285.11 ~~(3) have received ten hours of instruction on design of positive practices behavioral~~
 285.12 ~~support strategies;~~

285.13 (1) have received training prior to hire or within 90 calendar days of hire that includes:

285.14 (i) a minimum of four hours of training in functional assessment;

285.15 (ii) 20 hours of instruction in the understanding of the function of behavior;

285.16 (iii) ten hours of instruction on design of positive practices behavior support strategies;

285.17 and

285.18 (iv) eight hours of instruction on person-centered thinking principles;

285.19 ~~(4)~~ (2) be determined by a ~~behavior~~ positive support professional to have the training
 285.20 and prerequisite skills required to provide positive practices behavior support strategies as
 285.21 well as behavior reduction approved intervention to the person who receives ~~behavioral~~
 285.22 positive support; and

285.23 ~~(5)~~ (3) be under the direct supervision of a ~~behavior~~ positive support professional.

285.24 (c) Meeting the qualifications for a positive support professional under subdivision 2
 285.25 shall substitute for meeting the qualifications listed in paragraphs (a) and (b).

285.26 Sec. 17. Minnesota Statutes 2018, section 252.32, subdivision 1a, is amended to read:

285.27 Subd. 1a. **Support grants.** (a) Provision of support grants must be limited to families
 285.28 who require support and whose dependents are under the age of 21 and who have been
 285.29 certified disabled under section 256B.055, subdivision 12, paragraphs (a), (b), (c), (d), and
 285.30 (e). Families who are receiving: home and community-based waived services for persons

286.1 with disabilities authorized under section 256B.092 or 256B.49; or personal care assistance
286.2 under section 256B.0652; or a consumer support grant under section 256.476 are not eligible
286.3 for support grants.

286.4 Families whose annual adjusted gross income is \$60,000 or more are not eligible for
286.5 support grants except in cases where extreme hardship is demonstrated. Beginning in state
286.6 fiscal year 1994, the commissioner shall adjust the income ceiling annually to reflect the
286.7 projected change in the average value in the United States Department of Labor Bureau of
286.8 Labor Statistics Consumer Price Index (all urban) for that year.

286.9 (b) Support grants may be made available as monthly subsidy grants and lump-sum
286.10 grants.

286.11 (c) Support grants may be issued in the form of cash, voucher, and direct county payment
286.12 to a vendor.

286.13 (d) Applications for the support grant shall be made by the legal guardian to the county
286.14 social service agency. The application shall specify the needs of the families, the form of
286.15 the grant requested by the families, and the items and services to be reimbursed.

286.16 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
286.17 human services following federal approval but not more than two years after federal approval
286.18 is obtained. The commissioner of human services shall notify the revisor of statutes when
286.19 federal approval is obtained.

286.20 Sec. 18. Minnesota Statutes 2018, section 252.32, subdivision 3a, is amended to read:

286.21 Subd. 3a. **Reports and allocations.** (a) The commissioner shall specify requirements
286.22 for quarterly fiscal and annual program reports according to section 256.01, subdivision 2,
286.23 paragraph (p). Program reports shall include data which will enable the commissioner to
286.24 evaluate program effectiveness and to audit compliance. The commissioner shall reimburse
286.25 county costs on a quarterly basis.

286.26 (b) The commissioner shall allocate state funds made available under this section to
286.27 county social service agencies on a calendar year basis. The commissioner shall allocate to
286.28 each county first in amounts equal to each county's guaranteed floor as described in clause
286.29 (1), and second, any remaining funds will be allocated to county agencies to support children
286.30 in their family homes.

286.31 (1) Each county's guaranteed floor shall be calculated as follows:

286.32 (i) 95 percent of the county's allocation received in the preceding calendar year;

287.1 (ii) when the amount of funds available for allocation is less than the amount available
 287.2 in the preceding year, each county's previous year allocation shall be reduced in proportion
 287.3 to the reduction in statewide funding, for the purpose of establishing the guaranteed floor.

287.4 (2) The commissioner shall regularly review the use of family support fund allocations
 287.5 by county. The commissioner may reallocate unexpended or unencumbered money at any
 287.6 time to those counties that have a demonstrated need for additional funding.

287.7 (c) County allocations under this section will be adjusted ~~for transfers that occur according~~
 287.8 ~~to section 256.476 or~~ when the county of financial responsibility changes according to
 287.9 chapter 256G for eligible recipients.

287.10 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 287.11 human services following federal approval but not more than two years after federal approval
 287.12 is obtained. The commissioner of human services shall notify the revisor of statutes when
 287.13 federal approval is obtained.

287.14 Sec. 19. Minnesota Statutes 2018, section 256B.038, is amended to read:

287.15 **256B.038 PROVIDER RATE INCREASES AFTER JUNE 30, 1999.**

287.16 (a) For fiscal years beginning on or after July 1, 1999, the commissioner of management
 287.17 and budget shall include an annual inflationary adjustment in payment rates for the services
 287.18 listed in paragraph (b) as a budget change request in each biennial detailed expenditure
 287.19 budget submitted to the legislature under section 16A.11. The adjustment shall be
 287.20 accomplished by indexing the rates in effect for inflation based on the change in the
 287.21 Consumer Price Index-All Items (United States city average)(CPI-U) as forecasted by Data
 287.22 Resources, Inc., in the fourth quarter of the prior year for the calendar year during which
 287.23 the rate increase occurs.

287.24 (b) Within the limits of appropriations specifically for this purpose, the commissioner
 287.25 shall apply the rate increases in paragraph (a) to home and community-based waiver services
 287.26 for persons with developmental disabilities under section 256B.501; home and
 287.27 community-based waiver services for the elderly under section 256B.0915; waived services
 287.28 under community access for disability inclusion under section 256B.49; community
 287.29 alternative care waived services under section 256B.49; brain injury waived services
 287.30 under section 256B.49; nursing services and home health services under section 256B.0625,
 287.31 subdivision 6a; personal care services and nursing supervision of personal care services
 287.32 ~~under section 256B.0625, subdivision 19a;~~ home care nursing services under section
 287.33 256B.0625, subdivision 7; day training and habilitation services for adults with developmental

288.1 disabilities under sections 252.41 to 252.46; physical therapy services under section
288.2 256B.0625, subdivision 8; occupational therapy services under section 256B.0625,
288.3 subdivision 8a; speech-language therapy services under Minnesota Rules, part 9505.0390;
288.4 respiratory therapy services under Minnesota Rules, part 9505.0295; physician services
288.5 under section 256B.0625, subdivision 3; dental services under section 256B.0625, subdivision
288.6 9; alternative care services under section 256B.0913; adult residential program grants under
288.7 section 245.73; adult and family community support grants under Minnesota Rules, parts
288.8 9535.1700 to 9535.1760; and semi-independent living services under section 252.275,
288.9 including SILS funding under county social services grants formerly funded under chapter
288.10 256I.

288.11 (c) The commissioner shall increase prepaid medical assistance program capitation rates
288.12 as appropriate to reflect the rate increases in this section.

288.13 (d) In implementing this section, the commissioner shall consider proposing a schedule
288.14 to equalize rates paid by different programs for the same service.

288.15 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
288.16 human services following federal approval but not more than two years after federal approval
288.17 is obtained. The commissioner of human services shall notify the revisor of statutes when
288.18 federal approval is obtained.

288.19 Sec. 20. Minnesota Statutes 2018, section 256B.04, subdivision 21, is amended to read:

288.20 Subd. 21. **Provider enrollment.** (a) If the commissioner or the Centers for Medicare
288.21 and Medicaid Services determines that a provider is designated "high-risk," the commissioner
288.22 may withhold payment from providers within that category upon initial enrollment for a
288.23 90-day period. The withholding for each provider must begin on the date of the first
288.24 submission of a claim.

288.25 (b) An enrolled provider that is also licensed by the commissioner under chapter 245A,
288.26 or is licensed as a home care provider by the Department of Health under chapter 144A and
288.27 has a home and community-based services designation on the home care license under
288.28 section 144A.484, must designate an individual as the entity's compliance officer. The
288.29 compliance officer must:

288.30 (1) develop policies and procedures to assure adherence to medical assistance laws and
288.31 regulations and to prevent inappropriate claims submissions;

288.32 (2) train the employees of the provider entity, and any agents or subcontractors of the
288.33 provider entity including billers, on the policies and procedures under clause (1);

289.1 (3) respond to allegations of improper conduct related to the provision or billing of
289.2 medical assistance services, and implement action to remediate any resulting problems;

289.3 (4) use evaluation techniques to monitor compliance with medical assistance laws and
289.4 regulations;

289.5 (5) promptly report to the commissioner any identified violations of medical assistance
289.6 laws or regulations; and

289.7 (6) within 60 days of discovery by the provider of a medical assistance reimbursement
289.8 overpayment, report the overpayment to the commissioner and make arrangements with
289.9 the commissioner for the commissioner's recovery of the overpayment.

289.10 The commissioner may require, as a condition of enrollment in medical assistance, that a
289.11 provider within a particular industry sector or category establish a compliance program that
289.12 contains the core elements established by the Centers for Medicare and Medicaid Services.

289.13 (c) The commissioner may revoke the enrollment of an ordering or rendering provider
289.14 for a period of not more than one year, if the provider fails to maintain and, upon request
289.15 from the commissioner, provide access to documentation relating to written orders or requests
289.16 for payment for durable medical equipment, certifications for home health services, or
289.17 referrals for other items or services written or ordered by such provider, when the
289.18 commissioner has identified a pattern of a lack of documentation. A pattern means a failure
289.19 to maintain documentation or provide access to documentation on more than one occasion.
289.20 Nothing in this paragraph limits the authority of the commissioner to sanction a provider
289.21 under the provisions of section 256B.064.

289.22 (d) The commissioner shall terminate or deny the enrollment of any individual or entity
289.23 if the individual or entity has been terminated from participation in Medicare or under the
289.24 Medicaid program or Children's Health Insurance Program of any other state.

289.25 (e) As a condition of enrollment in medical assistance, the commissioner shall require
289.26 that a provider designated "moderate" or "high-risk" by the Centers for Medicare and
289.27 Medicaid Services or the commissioner permit the Centers for Medicare and Medicaid
289.28 Services, its agents, or its designated contractors and the state agency, its agents, or its
289.29 designated contractors to conduct unannounced on-site inspections of any provider location.
289.30 The commissioner shall publish in the Minnesota Health Care Program Provider Manual a
289.31 list of provider types designated "limited," "moderate," or "high-risk," based on the criteria
289.32 and standards used to designate Medicare providers in Code of Federal Regulations, title
289.33 42, section 424.518. The list and criteria are not subject to the requirements of chapter 14.
289.34 The commissioner's designations are not subject to administrative appeal.

290.1 (f) As a condition of enrollment in medical assistance, the commissioner shall require
290.2 that a high-risk provider, or a person with a direct or indirect ownership interest in the
290.3 provider of five percent or higher, consent to criminal background checks, including
290.4 fingerprinting, when required to do so under state law or by a determination by the
290.5 commissioner or the Centers for Medicare and Medicaid Services that a provider is designated
290.6 high-risk for fraud, waste, or abuse.

290.7 (g)(1) Upon initial enrollment, reenrollment, and notification of revalidation, all durable
290.8 medical equipment, prosthetics, orthotics, and supplies (DMEPOS) medical suppliers
290.9 meeting the durable medical equipment provider and supplier definition in clause (3),
290.10 operating in Minnesota and receiving Medicaid funds must purchase a surety bond that is
290.11 annually renewed and designates the Minnesota Department of Human Services as the
290.12 obligee, and must be submitted in a form approved by the commissioner. For purposes of
290.13 this clause, the following medical suppliers are not required to obtain a surety bond: a
290.14 federally qualified health center, a home health agency, the Indian Health Service, a
290.15 pharmacy, and a rural health clinic.

290.16 (2) At the time of initial enrollment or reenrollment, durable medical equipment providers
290.17 and suppliers defined in clause (3) must purchase a surety bond of \$50,000. If a revalidating
290.18 provider's Medicaid revenue in the previous calendar year is up to and including \$300,000,
290.19 the provider agency must purchase a surety bond of \$50,000. If a revalidating provider's
290.20 Medicaid revenue in the previous calendar year is over \$300,000, the provider agency must
290.21 purchase a surety bond of \$100,000. The surety bond must allow for recovery of costs and
290.22 fees in pursuing a claim on the bond.

290.23 (3) "Durable medical equipment provider or supplier" means a medical supplier that can
290.24 purchase medical equipment or supplies for sale or rental to the general public and is able
290.25 to perform or arrange for necessary repairs to and maintenance of equipment offered for
290.26 sale or rental.

290.27 (h) The Department of Human Services may require a provider to purchase a surety
290.28 bond as a condition of initial enrollment, reenrollment, reinstatement, or continued enrollment
290.29 if: (1) the provider fails to demonstrate financial viability, (2) the department determines
290.30 there is significant evidence of or potential for fraud and abuse by the provider, or (3) the
290.31 provider or category of providers is designated high-risk pursuant to paragraph (a) and as
290.32 per Code of Federal Regulations, title 42, section 455.450. The surety bond must be in an
290.33 amount of \$100,000 or ten percent of the provider's payments from Medicaid during the
290.34 immediately preceding 12 months, whichever is greater. The surety bond must name the
290.35 Department of Human Services as an obligee and must allow for recovery of costs and fees

291.1 in pursuing a claim on the bond. This paragraph does not apply if the provider currently
291.2 maintains a surety bond under the requirements in section ~~256B.0659~~ or 256B.85.

291.3 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
291.4 human services following federal approval but not more than two years after federal approval
291.5 is obtained. The commissioner of human services shall notify the revisor of statutes when
291.6 federal approval is obtained.

291.7 Sec. 21. Minnesota Statutes 2018, section 256B.0621, subdivision 2, is amended to read:

291.8 Subd. 2. **Targeted case management; definitions.** For purposes of subdivisions 3 to
291.9 10, the following terms have the meanings given them:

291.10 (1) "home care service recipients" means those individuals receiving the following
291.11 services under sections 256B.0651 to 256B.0654 and ~~256B.0659~~: skilled nursing visits,
291.12 home health aide visits, home care nursing, personal care assistants, or therapies provided
291.13 through a home health agency;

291.14 (2) "home care targeted case management" means the provision of targeted case
291.15 management services for the purpose of assisting home care service recipients to gain access
291.16 to needed services and supports so that they may remain in the community;

291.17 (3) "institutions" means hospitals, consistent with Code of Federal Regulations, title 42,
291.18 section 440.10; regional treatment center inpatient services, consistent with section 245.474;
291.19 nursing facilities; and intermediate care facilities for persons with developmental disabilities;

291.20 (4) "relocation targeted case management" includes the provision of both county targeted
291.21 case management and public or private vendor service coordination services for the purpose
291.22 of assisting recipients to gain access to needed services and supports if they choose to move
291.23 from an institution to the community. Relocation targeted case management may be provided
291.24 during the lesser of:

291.25 (i) the last 180 consecutive days of an eligible recipient's institutional stay; or

291.26 (ii) the limits and conditions which apply to federal Medicaid funding for this service;
291.27 and

291.28 (5) "targeted case management" means case management services provided to help
291.29 recipients gain access to needed medical, social, educational, and other services and supports.

291.30 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
291.31 human services following federal approval but not more than two years after federal approval

292.1 is obtained. The commissioner of human services shall notify the revisor of statutes when
 292.2 federal approval is obtained.

292.3 Sec. 22. Minnesota Statutes 2018, section 256B.0625, is amended by adding a subdivision
 292.4 to read:

292.5 Subd. 66. **Community first services and supports.** Medical assistance covers community
 292.6 first services and supports as determined by section 256B.85.

292.7 Sec. 23. Minnesota Statutes 2018, section 256B.0651, subdivision 1, is amended to read:

292.8 Subdivision 1. **Definitions.** (a) For the purposes of sections 256B.0651 to 256B.0654
 292.9 ~~and 256B.0659~~, the terms in paragraphs (b) to ~~(g)~~ (f) have the meanings given.

292.10 ~~(b) "Activities of daily living" has the meaning given in section 256B.0659, subdivision~~
 292.11 ~~1, paragraph (b).~~

292.12 ~~(e)~~ (b) "Assessment" means a review and evaluation of a recipient's need for home care
 292.13 services conducted in person.

292.14 ~~(d)~~ (c) "Home care services" means medical assistance covered services that are home
 292.15 health agency services, including skilled nurse visits; home health aide visits; physical
 292.16 therapy, occupational therapy, respiratory therapy, and language-speech pathology therapy;
 292.17 home care nursing; and personal care assistance.

292.18 ~~(e)~~ (d) "Home residence," effective January 1, 2010, means a residence owned or rented
 292.19 by the recipient either alone, with roommates of the recipient's choosing, or with an unpaid
 292.20 responsible party or legal representative; or a family foster home where the license holder
 292.21 lives with the recipient and is not paid to provide home care services for the recipient except
 292.22 as allowed under sections 256B.0652, subdivision 10, and 256B.0654, subdivision 4.

292.23 ~~(f)~~ (e) "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170
 292.24 to 9505.0475.

292.25 ~~(g)~~ (f) "Ventilator-dependent" means an individual who receives mechanical ventilation
 292.26 for life support at least six hours per day and is expected to be or has been dependent on a
 292.27 ventilator for at least 30 consecutive days.

292.28 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 292.29 human services following federal approval but not more than two years after federal approval
 292.30 is obtained. The commissioner of human services shall notify the revisor of statutes when
 292.31 federal approval is obtained.

293.1 Sec. 24. Minnesota Statutes 2018, section 256B.0651, subdivision 2, is amended to read:

293.2 Subd. 2. **Services covered.** Home care services covered under this section and sections
293.3 256B.0652 to 256B.0654 ~~and 256B.0659~~ include:

293.4 (1) nursing services under sections 256B.0625, subdivision 6a, and 256B.0653;

293.5 (2) home care nursing services under sections 256B.0625, subdivision 7, and 256B.0654;

293.6 (3) home health services under sections 256B.0625, subdivision 6a, and 256B.0653;

293.7 (4) personal care assistance services ~~under sections 256B.0625, subdivision 19a, and~~
293.8 ~~256B.0659~~;

293.9 (5) supervision of personal care assistance services provided by a qualified professional
293.10 ~~under sections 256B.0625, subdivision 19a, and 256B.0659~~;

293.11 (6) face-to-face assessments by county public health nurses for services ~~under sections~~
293.12 ~~256B.0625, subdivision 19a, and 256B.0659~~; and

293.13 (7) service updates and review of temporary increases for personal care assistance
293.14 services by the county public health nurse for services ~~under sections 256B.0625, subdivision~~
293.15 ~~19a, and 256B.0659~~.

293.16 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
293.17 human services following federal approval but not more than two years after federal approval
293.18 is obtained. The commissioner of human services shall notify the revisor of statutes when
293.19 federal approval is obtained.

293.20 Sec. 25. Minnesota Statutes 2018, section 256B.0651, subdivision 12, is amended to read:

293.21 Subd. 12. **Approval of home care services.** The commissioner or the commissioner's
293.22 designee shall determine the medical necessity of home care services, the level of caregiver
293.23 according to subdivision 2, and the institutional comparison according to this subdivision
293.24 and ~~sections~~ section 256B.0652, subdivisions 3a, 4 to 11, 13, and 14, ~~and 256B.0659~~, the
293.25 cost-effectiveness of services, and the amount, scope, and duration of home care services
293.26 reimbursable by medical assistance, based on the assessment, primary payer coverage
293.27 determination information as required, the service plan, the recipient's age, the cost of
293.28 services, the recipient's medical condition, and diagnosis or disability. The commissioner
293.29 may publish additional criteria for determining medical necessity according to section
293.30 256B.04.

293.31 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
293.32 human services following federal approval but not more than two years after federal approval

294.1 is obtained. The commissioner of human services shall notify the revisor of statutes when
294.2 federal approval is obtained.

294.3 Sec. 26. Minnesota Statutes 2018, section 256B.0651, subdivision 13, is amended to read:

294.4 Subd. 13. **Recovery of excessive payments.** The commissioner shall seek monetary
294.5 recovery from providers of payments made for services which exceed the limits established
294.6 in this section and sections 256B.0653, and 256B.0654, ~~and 256B.0659~~. This subdivision
294.7 does not apply to services provided to a recipient at the previously authorized level pending
294.8 an appeal under section 256.045, subdivision 10.

294.9 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
294.10 human services following federal approval but not more than two years after federal approval
294.11 is obtained. The commissioner of human services shall notify the revisor of statutes when
294.12 federal approval is obtained.

294.13 Sec. 27. Minnesota Statutes 2018, section 256B.0652, subdivision 2, is amended to read:

294.14 Subd. 2. **Duties.** (a) The commissioner may contract with or employ necessary staff, or
294.15 contract with qualified agencies, to provide home care authorization and review services
294.16 for medical assistance recipients who are receiving home care services.

294.17 (b) Reimbursement for the authorization function shall be made through the medical
294.18 assistance administrative authority. The state shall pay the nonfederal share. The functions
294.19 will be to:

294.20 (1) assess the recipient's individual need for services required to be cared for safely in
294.21 the community;

294.22 (2) ensure that a care plan that meets the recipient's needs is developed by the appropriate
294.23 agency or individual;

294.24 (3) ensure cost-effectiveness and nonduplication of medical assistance home care services;

294.25 (4) recommend the approval or denial of the use of medical assistance funds to pay for
294.26 home care services;

294.27 (5) reassess the recipient's need for and level of home care services at a frequency
294.28 determined by the commissioner;

294.29 (6) conduct on-site assessments when determined necessary by the commissioner and
294.30 recommend changes to care plans that will provide more efficient and appropriate home
294.31 care; and

295.1 (7) on the department's website:

295.2 (i) provide a link to MinnesotaHelp.info for a list of enrolled home care agencies with
 295.3 the following information: main office address, contact information for the agency, counties
 295.4 in which services are provided, type of home care services provided, whether the personal
 295.5 care assistance choice option is offered, types of qualified professionals employed, number
 295.6 of personal care assistants employed, and data on staff turnover; and

295.7 (ii) post data on home care services including information from both fee-for-service and
 295.8 managed care plans on recipients as available.

295.9 (c) In addition, the commissioner or the commissioner's designee may:

295.10 (1) review care plans, service plans, and reimbursement data for utilization of services
 295.11 that exceed community-based standards for home care, inappropriate home care services,
 295.12 medical necessity, home care services that do not meet quality of care standards, or
 295.13 unauthorized services and make appropriate referrals within the department or to other
 295.14 appropriate entities based on the findings;

295.15 (2) assist the recipient in obtaining services necessary to allow the recipient to remain
 295.16 safely in or return to the community;

295.17 (3) coordinate home care services with other medical assistance services under section
 295.18 256B.0625;

295.19 (4) assist the recipient with problems related to the provision of home care services;

295.20 (5) assure the quality of home care services; and

295.21 (6) assure that all liable third-party payers including, but not limited to, Medicare have
 295.22 been used prior to medical assistance for home care services.

295.23 (d) For the purposes of this section, "home care services" means medical assistance
 295.24 services defined under section 256B.0625, subdivisions 6a, ~~and 7,~~ and 19a.

295.25 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 295.26 human services following federal approval but not more than two years after federal approval
 295.27 is obtained. The commissioner of human services shall notify the revisor of statutes when
 295.28 federal approval is obtained.

295.29 Sec. 28. Minnesota Statutes 2018, section 256B.0652, subdivision 5, is amended to read:

295.30 Subd. 5. **Authorization; home care nursing services.** (a) All home care nursing services
 295.31 shall be authorized by the commissioner or the commissioner's designee. Authorization for

296.1 home care nursing services shall be based on medical necessity and cost-effectiveness when
296.2 compared with alternative care options. The commissioner may authorize medically necessary
296.3 home care nursing services in quarter-hour units when:

296.4 (1) the recipient requires more individual and continuous care than can be provided
296.5 during a skilled nurse visit; or

296.6 (2) the cares are outside of the scope of services that can be provided by a home health
296.7 aide or personal care assistant.

296.8 (b) The commissioner may authorize:

296.9 (1) up to two times the average amount of direct care hours provided in nursing facilities
296.10 statewide for case mix classification "K" as established by the annual cost report submitted
296.11 to the department by nursing facilities in May 1992;

296.12 (2) home care nursing in combination with other home care services up to the total cost
296.13 allowed under this subdivision and subdivision 7;

296.14 (3) up to 16 hours per day if the recipient requires more nursing than the maximum
296.15 number of direct care hours as established in clause (1) and, but for the provision of the
296.16 nursing services, the recipient would require a hospital level of care as defined in Code of
296.17 Federal Regulations, title 42, section 440.10.

296.18 (c) The commissioner may authorize up to 16 hours per day of medically necessary
296.19 home care nursing services or up to 24 hours per day of medically necessary home care
296.20 nursing services until such time as the commissioner is able to make a determination of
296.21 eligibility for recipients who are cooperatively applying for home care services under the
296.22 community alternative care program developed under section 256B.49, or until it is
296.23 determined by the appropriate regulatory agency that a health benefit plan is or is not required
296.24 to pay for appropriate medically necessary health care services. Recipients or their
296.25 representatives must cooperatively assist the commissioner in obtaining this determination.
296.26 Recipients who are eligible for the community alternative care program may not receive
296.27 more hours of nursing under this section and sections 256B.0651, and 256B.0653, ~~and~~
296.28 ~~256B.0659~~ than would otherwise be authorized under section 256B.49.

296.29 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
296.30 human services following federal approval but not more than two years after federal approval
296.31 is obtained. The commissioner of human services shall notify the revisor of statutes when
296.32 federal approval is obtained.

297.1 Sec. 29. Minnesota Statutes 2018, section 256B.0652, subdivision 8, is amended to read:

297.2 Subd. 8. **Authorization; time limits; amount and type.** ~~(a)~~ The commissioner or the
 297.3 commissioner's designee shall determine the time period for which an authorization shall
 297.4 be effective. If the recipient continues to require home care services beyond the duration
 297.5 of the authorization, the home care provider must request a new authorization. A personal
 297.6 care provider agency must request a new personal care assistance services assessment, or
 297.7 service update if allowed, at least 60 days prior to the end of the current authorization time
 297.8 period. The request for the assessment must be made on a form approved by the
 297.9 commissioner. An authorization must be valid for no more than 12 months.

297.10 ~~(b) The amount and type of personal care assistance services authorized based upon the~~
 297.11 ~~assessment and service plan must remain in effect for the recipient whether the recipient~~
 297.12 ~~chooses a different provider or enrolls or disenrolls from a managed care plan under section~~
 297.13 ~~256B.0659, unless the service needs of the recipient change and new assessment is warranted~~
 297.14 ~~under section 256B.0659, subdivision 3a.~~

297.15 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 297.16 human services following federal approval but not more than two years after federal approval
 297.17 is obtained. The commissioner of human services shall notify the revisor of statutes when
 297.18 federal approval is obtained.

297.19 Sec. 30. Minnesota Statutes 2018, section 256B.0652, subdivision 10, is amended to read:

297.20 Subd. 10. **Authorization for foster care setting.** (a) Home care services provided in
 297.21 an adult or child foster care setting must receive authorization by the commissioner according
 297.22 to the limits established in subdivision 11.

297.23 (b) The commissioner may not authorize:

297.24 (1) home care services that are the responsibility of the foster care provider under the
 297.25 terms of the foster care placement agreement, difficulty of care rate as of January 1, 2010,
 297.26 and administrative rules;

297.27 (2) personal care assistance services when the foster care license holder is also the
 297.28 personal care provider or personal care assistant, unless the foster home is the licensed
 297.29 provider's primary residence ~~as defined in section 256B.0625, subdivision 19a;~~ or

297.30 (3) personal care assistant and home care nursing services when the licensed capacity
 297.31 is greater than four, unless all conditions for a variance under Minnesota Rules, part
 297.32 2960.3030, subpart 3, are satisfied for a sibling, as defined in section 260C.007, subdivision
 297.33 32.

298.1 **EFFECTIVE DATE.** This section is effective the day following final enactment except
298.2 the amendment to paragraph (b), clause (2), is effective as determined by the commissioner
298.3 of human services following federal approval but not more than two years after federal
298.4 approval is obtained. The commissioner of human services shall notify the revisor of statutes
298.5 when federal approval is obtained.

298.6 Sec. 31. Minnesota Statutes 2018, section 256B.0652, subdivision 12, is amended to read:

298.7 Subd. 12. **Assessment and authorization process for persons receiving personal care**
298.8 **assistance and developmental disabilities services.** For purposes of providing informed
298.9 choice, coordinating of local planning decisions, and streamlining administrative
298.10 requirements, the assessment and authorization process for persons receiving both home
298.11 care and home and community-based waived services for persons with developmental
298.12 disabilities shall meet the requirements of sections 256B.0651 to 256B.0654 ~~and 256B.0659~~
298.13 with the following exceptions:

298.14 (a) Upon request for home care services and subsequent assessment by the public health
298.15 nurse under sections 256B.0651 to 256B.0654 ~~and 256B.0659~~, the public health nurse shall
298.16 participate in the screening process, as appropriate, and, if home care services are determined
298.17 to be necessary, participate in the development of a service plan coordinating the need for
298.18 home care and home and community-based waived services with the assigned county
298.19 case manager, the recipient of services, and the recipient's legal representative, if any.

298.20 (b) The public health nurse shall give authorization for home care services to the extent
298.21 that home care services are:

298.22 (1) medically necessary;

298.23 (2) chosen by the recipient and their legal representative, if any, from the array of home
298.24 care and home and community-based waived services available;

298.25 (3) coordinated with other services to be received by the recipient as described in the
298.26 service plan; and

298.27 (4) provided within the county's reimbursement limits for home care and home and
298.28 community-based waived services for persons with developmental disabilities.

298.29 (c) If the public health agency is or may be the provider of home care services to the
298.30 recipient, the public health agency shall provide the commissioner of human services with
298.31 a written plan that specifies how the assessment and authorization process will be held
298.32 separate and distinct from the provision of services.

299.1 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
299.2 human services following federal approval but not more than two years after federal approval
299.3 is obtained. The commissioner of human services shall notify the revisor of statutes when
299.4 federal approval is obtained.

299.5 Sec. 32. Minnesota Statutes 2018, section 256B.0653, subdivision 3, is amended to read:

299.6 Subd. 3. **Home health aide visits.** (a) Home health aide visits must be provided by a
299.7 certified home health aide using a written plan of care that is updated in compliance with
299.8 Medicare regulations. A home health aide shall provide hands-on personal care, perform
299.9 simple procedures as an extension of therapy or nursing services, and assist in instrumental
299.10 activities of daily living as defined in section ~~256B.0659~~, including assuring that the person
299.11 gets to medical appointments if identified in the written plan of care. Home health aide
299.12 visits may be provided in the recipient's home or in the community where normal life
299.13 activities take the recipient.

299.14 (b) All home health aide visits must have authorization under section 256B.0652. The
299.15 commissioner shall limit home health aide visits to no more than one visit per day per
299.16 recipient.

299.17 (c) Home health aides must be supervised by a registered nurse or an appropriate therapist
299.18 when providing services that are an extension of therapy.

299.19 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
299.20 human services following federal approval but not more than two years after federal approval
299.21 is obtained. The commissioner of human services shall notify the revisor of statutes when
299.22 federal approval is obtained.

299.23 Sec. 33. Minnesota Statutes 2018, section 256B.0659, subdivision 3a, is amended to read:

299.24 Subd. 3a. **Assessment; defined.** (a) "Assessment" means a review and evaluation of a
299.25 recipient's need for personal care assistance services conducted in person. Assessments for
299.26 personal care assistance services shall be conducted by the county public health nurse or a
299.27 certified public health nurse under contract with the county except when a long-term care
299.28 consultation assessment is being conducted for the purposes of determining a person's
299.29 eligibility for home and community-based waiver services including personal care assistance
299.30 services according to section 256B.0911. During the transition to MnCHOICES, a certified
299.31 assessor may complete the assessment required in this subdivision. An in-person assessment
299.32 must include: documentation of health status, determination of need, evaluation of service
299.33 effectiveness, identification of appropriate services, service plan development or modification,

300.1 coordination of services, referrals and follow-up to appropriate payers and community
 300.2 resources, completion of required reports, recommendation of service authorization, and
 300.3 consumer education. Once the need for personal care assistance services is determined under
 300.4 this section, the county public health nurse or certified public health nurse under contract
 300.5 with the county is responsible for communicating this recommendation to the commissioner
 300.6 and the recipient. An in-person assessment must occur at least annually or when there is a
 300.7 significant change in the recipient's condition or when there is a change in the need for
 300.8 personal care assistance services. A service update may substitute for the annual face-to-face
 300.9 assessment when there is not a significant change in recipient condition or a change in the
 300.10 need for personal care assistance service. A service update may be completed by telephone,
 300.11 used when there is no need for an increase in personal care assistance services, and used
 300.12 for two consecutive assessments if followed by a face-to-face assessment. A service update
 300.13 must be completed on a form approved by the commissioner. A service update or review
 300.14 for temporary increase includes a review of initial baseline data, evaluation of service
 300.15 effectiveness, redetermination of service need, modification of service plan and appropriate
 300.16 referrals, update of initial forms, obtaining service authorization, and on going consumer
 300.17 education. Assessments or reassessments must be completed on forms provided by the
 300.18 commissioner within 30 days of a request for home care services by a recipient or responsible
 300.19 party.

300.20 (b) This subdivision expires when notification is given by the commissioner as described
 300.21 in section 256B.0911, subdivision 3a.

300.22 Sec. 34. Minnesota Statutes 2018, section 256B.0705, subdivision 1, is amended to read:

300.23 Subdivision 1. **Definitions.** (a) For purposes of this section, the following ~~terms have~~
 300.24 term has the meanings meaning given ~~them~~.

300.25 ~~(b) "Personal care assistance services" or "PCA services" means services provided~~
 300.26 ~~according to section 256B.0659.~~

300.27 ~~(c) "Personal care assistant" or "PCA" has the meaning given in section 256B.0659,~~
 300.28 ~~subdivision 1.~~

300.29 ~~(d)~~ (b) "Service verification" means a random, unscheduled telephone call made for the
 300.30 purpose of verifying that the individual personal care assistant is present at the location
 300.31 where personal care assistance services are being provided and is providing services as
 300.32 scheduled.

301.1 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
301.2 human services following federal approval but not more than two years after federal approval
301.3 is obtained. The commissioner of human services shall notify the revisor of statutes when
301.4 federal approval is obtained.

301.5 Sec. 35. Minnesota Statutes 2018, section 256B.0705, subdivision 2, is amended to read:

301.6 Subd. 2. **Verification schedule.** An agency that submits claims for reimbursement for
301.7 PCA services under this chapter must develop and implement administrative policies and
301.8 procedures by which the agency verifies the services provided by a PCA. For each service
301.9 recipient, the agency must conduct at least one service verification every 90 days. If more
301.10 than one PCA provides services to a single service recipient, the agency must conduct a
301.11 service verification for each PCA providing services before conducting a service verification
301.12 for a PCA whose services were previously verified by the agency. Service verification must
301.13 occur on an ongoing basis while the agency provides PCA services to the recipient. During
301.14 service verification, the agency must speak with both the PCA and the service recipient or
301.15 recipient's authorized representative. Only qualified professional service verifications are
301.16 eligible for reimbursement. An agency may substitute a visit by a qualified professional
301.17 that is eligible for reimbursement ~~under section 256B.0659, subdivision 14 or 19.~~

301.18 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
301.19 human services following federal approval but not more than two years after federal approval
301.20 is obtained. The commissioner of human services shall notify the revisor of statutes when
301.21 federal approval is obtained.

301.22 Sec. 36. Minnesota Statutes 2018, section 256B.0711, subdivision 1, is amended to read:

301.23 Subdivision 1. **Definitions.** For purposes of this section:

301.24 (a) "Commissioner" means the commissioner of human services unless otherwise
301.25 indicated.

301.26 (b) "Covered program" means a program to provide direct support services funded in
301.27 whole or in part by the state of Minnesota, including the Community First Services and
301.28 Supports program; Consumer Directed Community Supports services and extended state
301.29 plan personal care assistance services available under programs established pursuant to
301.30 home and community-based service waivers authorized under section 1915(c) of the Social
301.31 Security Act, and Minnesota Statutes, including, but not limited to, sections 256B.0915,
301.32 256B.092, and 256B.49, and under the alternative care program, as offered pursuant to
301.33 section 256B.0913; the personal care assistance choice program, ~~as established pursuant to~~

302.1 ~~section 256B.0659, subdivisions 18 to 20~~; and any similar program that may provide similar
302.2 services in the future.

302.3 (c) "Direct support services" means personal care assistance services covered by medical
302.4 assistance ~~under section 256B.0625, subdivisions 19a and 19e~~; assistance with activities of
302.5 daily living as defined in ~~section 256B.0659, subdivision 1, paragraph (b)~~, and instrumental
302.6 activities of daily living as defined in ~~section 256B.0659, subdivision 1, paragraph (i)~~; and
302.7 other similar, in-home, nonprofessional long-term services and supports provided to an
302.8 elderly person or person with a disability by the person's employee or the employee of the
302.9 person's representative to meet such person's daily living needs and ensure that such person
302.10 may adequately function in the person's home and have safe access to the community.

302.11 (d) "Individual provider" means an individual selected by and working under the direction
302.12 of a participant in a covered program, or a participant's representative, to provide direct
302.13 support services to the participant, but does not include an employee of a provider agency,
302.14 subject to the agency's direction and control commensurate with agency employee status.

302.15 (e) "Participant" means a person who receives direct support services through a covered
302.16 program.

302.17 (f) "Participant's representative" means a participant's legal guardian or an individual
302.18 having the authority and responsibility to act on behalf of a participant with respect to the
302.19 provision of direct support services through a covered program.

302.20 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
302.21 human services following federal approval but not more than two years after federal approval
302.22 is obtained. The commissioner of human services shall notify the revisor of statutes when
302.23 federal approval is obtained.

302.24 Sec. 37. Minnesota Statutes 2018, section 256B.0711, subdivision 2, is amended to read:

302.25 Subd. 2. **Operation of covered programs.** All covered programs shall operate consistent
302.26 with this section, including by affording participants and participants' representatives within
302.27 the programs of the option of receiving services through individual providers as defined in
302.28 subdivision 1, paragraph (d), ~~notwithstanding any inconsistent provision of section~~
302.29 ~~256B.0659.~~

302.30 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
302.31 human services following federal approval but not more than two years after federal approval
302.32 is obtained. The commissioner of human services shall notify the revisor of statutes when
302.33 federal approval is obtained.

- 303.1 Sec. 38. Minnesota Statutes 2018, section 256B.0911, subdivision 1a, is amended to read:
- 303.2 Subd. 1a. **Definitions.** For purposes of this section, the following definitions apply:
- 303.3 (a) Until additional requirements apply under paragraph (b), "long-term care consultation
303.4 services" means:
- 303.5 (1) intake for and access to assistance in identifying services needed to maintain an
303.6 individual in the most inclusive environment;
- 303.7 (2) providing recommendations for and referrals to cost-effective community services
303.8 that are available to the individual;
- 303.9 (3) development of an individual's person-centered community support plan;
- 303.10 (4) providing information regarding eligibility for Minnesota health care programs;
- 303.11 (5) face-to-face long-term care consultation assessments, which may be completed in a
303.12 hospital, nursing facility, intermediate care facility for persons with developmental disabilities
303.13 (ICF/DDs), regional treatment centers, or the person's current or planned residence;
- 303.14 (6) determination of home and community-based waiver and other service eligibility as
303.15 required under sections 256B.0913, 256B.0915, 256B.092, and 256B.49, including level
303.16 of care determination for individuals who need an institutional level of care as determined
303.17 under subdivision 4e, based on assessment and community support plan development,
303.18 appropriate referrals to obtain necessary diagnostic information, and including an eligibility
303.19 determination for consumer-directed community supports;
- 303.20 (7) providing recommendations for institutional placement when there are no
303.21 cost-effective community services available;
- 303.22 (8) providing access to assistance to transition people back to community settings after
303.23 institutional admission; and
- 303.24 (9) providing information about competitive employment, with or without supports, for
303.25 school-age youth and working-age adults and referrals to the Disability ~~Linkage Line~~ Hub
303.26 and Disability Benefits 101 to ensure that an informed choice about competitive employment
303.27 can be made. For the purposes of this subdivision, "competitive employment" means work
303.28 in the competitive labor market that is performed on a full-time or part-time basis in an
303.29 integrated setting, and for which an individual is compensated at or above the minimum
303.30 wage, but not less than the customary wage and level of benefits paid by the employer for
303.31 the same or similar work performed by individuals without disabilities.

304.1 (b) Upon statewide implementation of lead agency requirements in subdivisions 2b, 2c,
304.2 and 3a, "long-term care consultation services" also means:

304.3 (1) service eligibility determination for ~~state plan home care services identified in:~~

304.4 ~~(i) section 256B.0625, subdivisions 7, 19a, and 19e;~~

304.5 ~~(ii) consumer support grants under section 256.476; or~~

304.6 ~~(iii) section 256B.85;~~

304.7 (2) notwithstanding provisions in Minnesota Rules, parts 9525.0004 to 9525.0024,
304.8 ~~determination of eligibility for gaining access to~~ case management services available under
304.9 sections 256B.0621, subdivision 2, paragraph (4), and 256B.0924 and Minnesota Rules,
304.10 part 9525.0016; and

304.11 ~~(3) determination of institutional level of care, home and community-based service~~
304.12 ~~waiver, and other service eligibility as required under section 256B.092, determination of~~
304.13 ~~eligibility for family support grants under section 252.32, semi-independent living services~~
304.14 ~~under section 252.275, and day training and habilitation services under section 256B.092;~~
304.15 ~~and~~

304.16 ~~(4)~~ (3) obtaining necessary diagnostic information to determine eligibility under clauses
304.17 (2) and (3).

304.18 (c) "Long-term care options counseling" means the services provided by the linkage
304.19 lines as mandated by sections 256.01, subdivision 24, and 256.975, subdivision 7, and also
304.20 includes telephone assistance and follow up once a long-term care consultation assessment
304.21 has been completed.

304.22 (d) "Minnesota health care programs" means the medical assistance program under this
304.23 chapter and the alternative care program under section 256B.0913.

304.24 (e) "Lead agencies" means counties administering or tribes and health plans under
304.25 contract with the commissioner to administer long-term care consultation assessment and
304.26 support planning services.

304.27 (f) "Person-centered planning" is a process that includes the active participation of a
304.28 person in the planning of the person's services, including in making meaningful and informed
304.29 choices about the person's own goals, talents, and objectives, as well as making meaningful
304.30 and informed choices about the services the person receives. For the purposes of this section,
304.31 "informed choice" means a voluntary choice of services by a person from all available
304.32 service options based on accurate and complete information concerning all available service

305.1 options and concerning the person's own preferences, abilities, goals, and objectives. In
305.2 order for a person to make an informed choice, all available options must be developed and
305.3 presented to the person to empower the person to make decisions.

305.4 **EFFECTIVE DATE.** This section is effective August 1, 2019, except the amendment
305.5 striking section 256B.0625, subdivisions 19a and 19c, from paragraph (b), clause (1), item
305.6 (i), is effective as determined by the commissioner of human services following federal
305.7 approval but not more than two years after federal approval is obtained. The commissioner
305.8 of human services shall notify the revisor of statutes when federal approval is obtained.

305.9 Sec. 39. Minnesota Statutes 2018, section 256B.0911, subdivision 3a, is amended to read:

305.10 Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services
305.11 planning, or other assistance intended to support community-based living, including persons
305.12 who need assessment in order to determine waiver or alternative care program eligibility,
305.13 must be visited by a long-term care consultation team within 20 calendar days after the date
305.14 on which the person accepts an assessment ~~was requested or recommended~~. Upon statewide
305.15 implementation of subdivisions 2b, 2c, and 5, this requirement also applies to an assessment
305.16 of a person requesting personal care assistance services ~~and home care nursing~~. The
305.17 commissioner shall provide at least a 90-day notice to lead agencies prior to the effective
305.18 date of this requirement. Face-to-face assessments must be conducted according to paragraphs
305.19 (b) to (i).

305.20 (b) Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall use certified
305.21 assessors to conduct the assessment. For a person with complex health care needs, a public
305.22 health or registered nurse from the team must be consulted.

305.23 (c) The MnCHOICES assessment provided by the commissioner to lead agencies must
305.24 be used to complete a comprehensive, person-centered assessment. The assessment must
305.25 include the health, psychological, functional, environmental, and social needs of the
305.26 ~~individual person~~ individual person necessary to develop a community support plan that meets the ~~individual's~~
305.27 person's needs and preferences.

305.28 (d) ~~The assessment must be conducted~~ assessor must conduct the assessment in a
305.29 face-to-face interview with the person being assessed ~~and the person's legal representative~~.
305.30 The person's legal representative must provide input during the assessment interview and
305.31 may do so remotely. At the request of the person, other individuals may participate in the
305.32 assessment to provide information on the needs, strengths, and preferences of the person
305.33 necessary to develop a community support plan that ensures the person's health and safety.
305.34 Except for legal representatives or family members invited by the person, persons

306.1 participating in the assessment may not be a provider of service or have any financial interest
306.2 in the provision of services. For persons who are to be assessed for elderly waiver customized
306.3 living or adult day services under section 256B.0915, with the permission of the person
306.4 being assessed or the person's designated or legal representative, the client's current or
306.5 proposed provider of services may submit a copy of the provider's nursing assessment or
306.6 written report outlining its recommendations regarding the client's care needs. The person
306.7 conducting the assessment must notify the provider of the date by which this information
306.8 is to be submitted. This information shall be provided to the person conducting the assessment
306.9 prior to the assessment. For a person who is to be assessed for waiver services under section
306.10 256B.092 or 256B.49, with the permission of the person being assessed or the person's
306.11 designated legal representative, the person's current provider of services may submit a
306.12 written report outlining recommendations regarding the person's care needs prepared by a
306.13 direct service employee ~~with at least 20 hours of service to that client~~ who is familiar with
306.14 the person. ~~The person conducting the assessment or reassessment must notify the provider~~
306.15 ~~of the date by which this information is to be submitted~~. This information shall be provided
306.16 to the person conducting the assessment and the person or the person's legal representative,
306.17 and must be considered prior to the finalization of the assessment or reassessment.

306.18 (e) The certified assessor and the individual responsible for developing the coordinated
306.19 service and support plan must ensure the person has timely access to needed resources and
306.20 must complete the community support plan and the coordinated service and support plan
306.21 no more than 60 calendar days from the assessment visit. The person or the person's legal
306.22 representative must be provided with a written community support plan within ~~40 calendar~~
306.23 ~~days of the assessment visit~~ the timelines established by the commissioner, regardless of
306.24 whether the ~~individual~~ person is eligible for Minnesota health care programs.

306.25 (f) For a person being assessed for elderly waiver services under section 256B.0915, a
306.26 provider who submitted information under paragraph (d) shall receive the final written
306.27 community support plan when available and the Residential Services Workbook.

306.28 (g) The written community support plan must include:

306.29 (1) a summary of assessed needs as defined in paragraphs (c) and (d);

306.30 (2) ~~the individual's~~ person's options and choices to meet identified needs, including all
306.31 available options for case management services and providers, including service provided
306.32 in a non-disability-specific setting;

306.33 (3) identification of health and safety risks and how those risks will be addressed,
306.34 including personal risk management strategies;

307.1 (4) referral information; and

307.2 (5) informal caregiver supports, if applicable.

307.3 For a person determined eligible for state plan home care under subdivision 1a, paragraph
307.4 (b), clause (1), the person or person's representative must also receive a copy of the home
307.5 care service plan developed by the certified assessor.

307.6 (h) A person may request assistance in identifying community supports without
307.7 participating in a complete assessment. Upon a request for assistance identifying community
307.8 support, the person must be transferred or referred to long-term care options counseling
307.9 services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for
307.10 telephone assistance and follow up.

307.11 (i) The person has the right to make the final decision between institutional placement
307.12 and community placement after the recommendations have been provided, except as provided
307.13 in section 256.975, subdivision 7a, paragraph (d).

307.14 (j) The lead agency must give the person receiving assessment or support planning, or
307.15 the person's legal representative, materials, and forms supplied by the commissioner
307.16 containing the following information:

307.17 (1) written recommendations for community-based services and consumer-directed
307.18 options;

307.19 (2) documentation that the most cost-effective alternatives available were offered to the
307.20 ~~individual person~~. For purposes of this clause, "cost-effective" means community services
307.21 and living arrangements that cost the same as or less than institutional care. For ~~an individual~~
307.22 a person found to meet eligibility criteria for home and community-based service programs
307.23 under section 256B.0915 or 256B.49, "cost-effectiveness" has the meaning found in the
307.24 federally approved waiver plan for each program;

307.25 (3) the need for and purpose of preadmission screening conducted by long-term care
307.26 options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects
307.27 nursing facility placement. If the ~~individual person~~ selects nursing facility placement, the
307.28 lead agency shall forward information needed to complete the level of care determinations
307.29 and screening for developmental disability and mental illness collected during the assessment
307.30 to the long-term care options counselor using forms provided by the commissioner;

307.31 (4) the role of long-term care consultation assessment and support planning in eligibility
307.32 determination for waiver and alternative care programs, ~~and state plan home care~~, case

308.1 management, and other services as defined in subdivision 1a, paragraphs (a), clause (6),
308.2 and (b);

308.3 (5) information about Minnesota health care programs;

308.4 (6) the person's freedom to accept or reject the recommendations of the team;

308.5 (7) the person's right to confidentiality under the Minnesota Government Data Practices
308.6 Act, chapter 13;

308.7 (8) the certified assessor's decision regarding the person's need for institutional level of
308.8 care as determined under criteria established in subdivision 4e and the certified assessor's
308.9 decision regarding eligibility for all services and programs as defined in subdivision 1a,
308.10 paragraphs (a), clause (6), and (b); and

308.11 (9) the person's right to appeal the certified assessor's decision regarding eligibility for
308.12 all services and programs as defined in subdivision 1a, paragraphs (a), clauses (6), (7), and
308.13 (8), and (b), and incorporating the decision regarding the need for institutional level of care
308.14 or the lead agency's final decisions regarding public programs eligibility according to section
308.15 256.045, subdivision 3.

308.16 (k) Face-to-face assessment completed as part of eligibility determination for the
308.17 alternative care, elderly waiver, community access for disability inclusion, community
308.18 alternative care, ~~and~~ brain injury, and developmental disabilities waiver programs under
308.19 sections 256B.0913, 256B.0915, 256B.092, and 256B.49 is valid to establish service
308.20 eligibility for no more than 60 calendar days after the date of assessment.

308.21 (l) The effective eligibility start date for programs in paragraph (k) can never be prior
308.22 to the date of assessment. If an assessment was completed more than 60 days before the
308.23 effective waiver or alternative care program eligibility start date, assessment and support
308.24 plan information must be updated and documented in the department's Medicaid Management
308.25 Information System (MMIS). Notwithstanding retroactive medical assistance coverage of
308.26 state plan services, the effective date of eligibility for programs included in paragraph (k)
308.27 cannot be prior to the date the most recent updated assessment is completed.

308.28 (m) If an eligibility update is completed within 90 days of the previous face-to-face
308.29 assessment and documented in the department's Medicaid Management Information System
308.30 (MMIS), the effective date of eligibility for programs included in paragraph (k) is the date
308.31 of the previous face-to-face assessment when all other eligibility requirements are met.

308.32 (n) At the time of reassessment, the certified assessor shall assess each person receiving
308.33 waiver services currently residing in a community residential setting, or licensed adult foster

309.1 care home that is not the primary residence of the license holder, or in which the license
309.2 holder is not the primary caregiver, to determine if that person would prefer to be served in
309.3 a community-living setting as defined in section 256B.49, subdivision 23. The certified
309.4 assessor shall offer the person, through a person-centered planning process, the option to
309.5 receive alternative housing and service options.

309.6 Sec. 40. Minnesota Statutes 2018, section 256B.0911, subdivision 3f, is amended to read:

309.7 Subd. 3f. **Long-term care reassessments and community support plan**
309.8 **updates.** Reassessments must be tailored using the professional judgment of the assessor
309.9 to the person's known needs, strengths, preferences, and circumstances. Reassessments
309.10 provide information to support the person's informed choice and opportunities to express
309.11 choice regarding activities that contribute to quality of life, as well as information and
309.12 opportunity to identify goals related to desired employment, community activities, and
309.13 preferred living environment. Reassessments allow for a review of the current support plan's
309.14 effectiveness, monitoring of services, and the development of an updated person-centered
309.15 community support plan. Reassessments verify continued eligibility or offer alternatives as
309.16 warranted and provide an opportunity for quality assurance of service delivery. Face-to-face
309.17 assessments must be conducted annually or as required by federal and state laws and rules.
309.18 The certified assessor and the individual responsible for developing the coordinated service
309.19 and support plan must ensure the continuity of care for the person receiving services and
309.20 must complete the updated community support plan and the updated coordinated service
309.21 and support plan no more than 60 calendar days from the reassessment visit.

309.22 Sec. 41. Minnesota Statutes 2018, section 256B.0911, subdivision 6, is amended to read:

309.23 Subd. 6. **Payment for long-term care consultation services.** (a) Until September 30,
309.24 2013, payment for long-term care consultation face-to-face assessment shall be made as
309.25 described in this subdivision.

309.26 (b) The total payment for each county must be paid monthly by certified nursing facilities
309.27 in the county. The monthly amount to be paid by each nursing facility for each fiscal year
309.28 must be determined by dividing the county's annual allocation for long-term care consultation
309.29 services by 12 to determine the monthly payment and allocating the monthly payment to
309.30 each nursing facility based on the number of licensed beds in the nursing facility. Payments
309.31 to counties in which there is no certified nursing facility must be made by increasing the
309.32 payment rate of the two facilities located nearest to the county seat.

310.1 (c) The commissioner shall include the total annual payment determined under paragraph
310.2 (b) for each nursing facility reimbursed under section 256B.431 or 256B.434 or chapter
310.3 256R.

310.4 (d) In the event of the layaway, delicensure and decertification, or removal from layaway
310.5 of 25 percent or more of the beds in a facility, the commissioner may adjust the per diem
310.6 payment amount in paragraph (c) and may adjust the monthly payment amount in paragraph
310.7 (b). The effective date of an adjustment made under this paragraph shall be on or after the
310.8 first day of the month following the effective date of the layaway, delicensure and
310.9 decertification, or removal from layaway.

310.10 (e) Payments for long-term care consultation services are available to the county or
310.11 counties to cover staff salaries and expenses to provide the services described in subdivision
310.12 1a. The county shall employ, or contract with other agencies to employ, within the limits
310.13 of available funding, sufficient personnel to provide long-term care consultation services
310.14 while meeting the state's long-term care outcomes and objectives as defined in subdivision
310.15 1. The county shall be accountable for meeting local objectives as approved by the
310.16 commissioner in the biennial home and community-based services quality assurance plan
310.17 on a form provided by the commissioner.

310.18 (f) Notwithstanding section 256B.0641, overpayments attributable to payment of the
310.19 screening costs under the medical assistance program may not be recovered from a facility.

310.20 (g) The commissioner of human services shall amend the Minnesota medical assistance
310.21 plan to include reimbursement for the local consultation teams.

310.22 (h) Until the alternative payment methodology in paragraph (i) is implemented, the
310.23 county may bill, as case management services, assessments, support planning, and
310.24 follow-along provided to persons determined to be eligible for case management under
310.25 Minnesota health care programs. No individual or family member shall be charged for an
310.26 initial assessment or initial support plan development provided under subdivision 3a or 3b.

310.27 (i) The commissioner shall develop an alternative payment methodology, effective on
310.28 October 1, 2013, for long-term care consultation services that includes the funding available
310.29 under this subdivision, and for assessments authorized under ~~sections~~ section 256B.092 ~~and~~
310.30 ~~256B.0659~~. In developing the new payment methodology, the commissioner shall consider
310.31 the maximization of other funding sources, including federal administrative reimbursement
310.32 through federal financial participation funding, for all long-term care consultation activity.
310.33 The alternative payment methodology shall include the use of the appropriate time studies
310.34 and the state financing of nonfederal share as part of the state's medical assistance program.

311.1 Between July 1, 2017, and June 30, 2019, the state shall pay 84.3 percent of the nonfederal
 311.2 share as reimbursement to the counties. Beginning July 1, 2019, the state shall pay 81.9
 311.3 percent of the nonfederal share as reimbursement to the counties.

311.4 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 311.5 human services following federal approval but not more than two years after federal approval
 311.6 is obtained. The commissioner of human services shall notify the revisor of statutes when
 311.7 federal approval is obtained.

311.8 Sec. 42. Minnesota Statutes 2018, section 256B.0913, subdivision 5a, is amended to read:

311.9 Subd. 5a. **Services; service definitions; service standards.** (a) Unless specified in
 311.10 statute, the services, service definitions, and standards for alternative care services shall be
 311.11 the same as the services, service definitions, and standards specified in the federally approved
 311.12 elderly waiver plan, except alternative care does not cover transitional support services,
 311.13 assisted living services, adult foster care services, and residential care and benefits defined
 311.14 under section 256B.0625 that meet primary and acute health care needs.

311.15 (b) The lead agency must ensure that the funds are not used to supplant or supplement
 311.16 services available through other public assistance or services programs, including
 311.17 supplementation of client co-pays, deductibles, premiums, or other cost-sharing arrangements
 311.18 for health-related benefits and services or entitlement programs and services that are available
 311.19 to the person, but in which they have elected not to enroll. The lead agency must ensure
 311.20 that the benefit department recovery system in the Medicaid Management Information
 311.21 System (MMIS) has the necessary information on any other health insurance or third-party
 311.22 insurance policy to which the client may have access. Supplies and equipment may be
 311.23 purchased from a vendor not certified to participate in the Medicaid program if the cost for
 311.24 the item is less than that of a Medicaid vendor.

311.25 (c) Personal care services must meet the service standards defined in the federally
 311.26 approved elderly waiver plan, except that a lead agency may authorize services to be provided
 311.27 by a client's relative who meets the relative hardship waiver requirements or a relative who
 311.28 meets the criteria and is also the responsible party under an individual service plan that
 311.29 ensures the client's health and safety and supervision of the personal care services by a
 311.30 qualified professional ~~as defined in section 256B.0625, subdivision 19e.~~ Relative hardship
 311.31 is established by the lead agency when the client's care causes a relative caregiver to do any
 311.32 of the following: resign from a paying job, reduce work hours resulting in lost wages, obtain
 311.33 a leave of absence resulting in lost wages, incur substantial client-related expenses, provide

312.1 services to address authorized, unstaffed direct care time, or meet special needs of the client
 312.2 unmet in the formal service plan.

312.3 (d) Alternative care covers sign language interpreter services and spoken language
 312.4 interpreter services for recipients eligible for alternative care when the services are necessary
 312.5 to help deaf and hard-of-hearing recipients or recipients with limited English proficiency
 312.6 obtain covered services. Coverage for face-to-face spoken language interpreter services
 312.7 shall be provided only if the spoken language interpreter used by the enrolled health care
 312.8 provider is listed in the registry or roster established under section 144.058.

312.9 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 312.10 human services following federal approval but not more than two years after federal approval
 312.11 is obtained. The commissioner of human services shall notify the revisor of statutes when
 312.12 federal approval is obtained.

312.13 Sec. 43. Minnesota Statutes 2018, section 256B.0915, subdivision 3a, is amended to read:

312.14 Subd. 3a. **Elderly waiver cost limits.** (a) Effective on the first day of the state fiscal
 312.15 year in which the resident assessment system as described in section 256R.17 for nursing
 312.16 home rate determination is implemented and the first day of each subsequent state fiscal
 312.17 year, the monthly limit for the cost of waived services to an individual elderly waiver
 312.18 client shall be the monthly limit of the case mix resident class to which the waiver client
 312.19 would be assigned under Minnesota Rules, parts 9549.0051 to 9549.0059, in effect on the
 312.20 last day of the previous state fiscal year, adjusted by any legislatively adopted home and
 312.21 community-based services percentage rate adjustment. If a legislatively authorized increase
 312.22 is service-specific, the monthly cost limit shall be adjusted based on the overall average
 312.23 increase to the elderly waiver program.

312.24 (b) The monthly limit for the cost of waived services under paragraph (a) to an
 312.25 individual elderly waiver client assigned to a case mix classification A with:

312.26 (1) no dependencies in activities of daily living; or

312.27 (2) up to two dependencies in bathing, dressing, grooming, walking, and eating when
 312.28 the dependency score in eating is three or greater as determined by an assessment performed
 312.29 under section 256B.0911 shall be \$1,750 per month effective on July 1, 2011, for all new
 312.30 participants enrolled in the program on or after July 1, 2011. This monthly limit shall be
 312.31 applied to all other participants who meet this criteria at reassessment. This monthly limit
 312.32 shall be increased annually as described in paragraphs (a) and (e).

313.1 (c) If extended medical supplies and equipment or environmental modifications are or
 313.2 will be purchased for an elderly waiver client, the costs may be prorated for up to 12
 313.3 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's
 313.4 waived services exceeds the monthly limit established in paragraph (a), (b), (d), or (e),
 313.5 the annual cost of all waived services shall be determined. In this event, the annual cost
 313.6 of all waived services shall not exceed 12 times the monthly limit of waived services
 313.7 as described in paragraph (a), (b), (d), or (e).

313.8 (d) Effective July 1, 2013, the monthly cost limit of waiver services, including any
 313.9 necessary home care services described in section 256B.0651, subdivision 2, for individuals
 313.10 who meet the criteria as ventilator-dependent given in section 256B.0651, subdivision 1,
 313.11 paragraph ~~(g)~~ (f), shall be the average of the monthly medical assistance amount established
 313.12 for home care services as described in section 256B.0652, subdivision 7, and the annual
 313.13 average contracted amount established by the commissioner for nursing facility services
 313.14 for ventilator-dependent individuals. This monthly limit shall be increased annually as
 313.15 described in paragraphs (a) and (e).

313.16 (e) Effective January 1, 2018, and each January 1 thereafter, the monthly cost limits for
 313.17 elderly waiver services in effect on the previous December 31 shall be increased by the
 313.18 difference between any legislatively adopted home and community-based provider rate
 313.19 increases effective on January 1 or since the previous January 1 and the average statewide
 313.20 percentage increase in nursing facility operating payment rates under chapter 256R, effective
 313.21 the previous January 1. This paragraph shall only apply if the average statewide percentage
 313.22 increase in nursing facility operating payment rates is greater than any legislatively adopted
 313.23 home and community-based provider rate increases effective on January 1, or occurring
 313.24 since the previous January 1.

313.25 Sec. 44. Minnesota Statutes 2018, section 256B.0915, subdivision 6, is amended to read:

313.26 **Subd. 6. Implementation of coordinated service and support plan.** (a) Each elderly
 313.27 waiver client shall be provided a copy of a written coordinated service and support plan
 313.28 which:

313.29 (1) is developed with and signed by the recipient within ~~ten working days after the case~~
 313.30 ~~manager receives the assessment information and written community support plan as~~
 313.31 ~~described in section 256B.0911, subdivision 3a, from the certified assessor~~ the timelines
 313.32 established by the commissioner and section 256B.0911, subdivision 3a, paragraph (e);

314.1 (2) includes the person's need for service and identification of service needs that will be
 314.2 or that are met by the person's relatives, friends, and others, as well as community services
 314.3 used by the general public;

314.4 (3) reasonably ensures the health and welfare of the recipient;

314.5 (4) identifies the person's preferences for services as stated by the person or the person's
 314.6 legal guardian or conservator;

314.7 (5) reflects the person's informed choice between institutional and community-based
 314.8 services, as well as choice of services, supports, and providers, including available case
 314.9 manager providers;

314.10 (6) identifies long-range and short-range goals for the person;

314.11 (7) identifies specific services and the amount, frequency, duration, and cost of the
 314.12 services to be provided to the person based on assessed needs, preferences, and available
 314.13 resources;

314.14 (8) includes information about the right to appeal decisions under section 256.045; and

314.15 (9) includes the authorized annual and estimated monthly amounts for the services.

314.16 (b) In developing the coordinated service and support plan, the case manager should
 314.17 also include the use of volunteers, religious organizations, social clubs, and civic and service
 314.18 organizations to support the individual in the community. The lead agency must be held
 314.19 harmless for damages or injuries sustained through the use of volunteers and agencies under
 314.20 this paragraph, including workers' compensation liability.

314.21 Sec. 45. Minnesota Statutes 2018, section 256B.0916, subdivision 9, is amended to read:

314.22 Subd. 9. **Legal representative participation exception.** The commissioner, in
 314.23 cooperation with representatives of counties, service providers, service recipients, family
 314.24 members, legal representatives and advocates, shall develop criteria to allow legal
 314.25 representatives to be reimbursed for providing specific support services to meet the person's
 314.26 needs when a plan which assures health and safety has been agreed upon and carried out
 314.27 by the legal representative, the person, and the county. Legal representatives providing
 314.28 support under the home and community-based waiver for persons with developmental
 314.29 disabilities ~~or the consumer support grant program pursuant to section 256.476~~, shall not
 314.30 be considered to have a direct or indirect service provider interest under section 256B.092,
 314.31 subdivision 7, if a health and safety plan which meets the criteria established has been agreed
 314.32 upon and implemented. By August 1, 2001, the commissioner shall submit, for federal

315.1 approval, amendments to allow legal representatives to provide support and receive
315.2 reimbursement under the home and community-based waiver plan.

315.3 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
315.4 human services following federal approval but not more than two years after federal approval
315.5 is obtained. The commissioner of human services shall notify the revisor of statutes when
315.6 federal approval is obtained.

315.7 Sec. 46. Minnesota Statutes 2018, section 256B.0918, subdivision 2, is amended to read:

315.8 Subd. 2. **Participating providers.** The commissioner shall publish a request for proposals
315.9 in the State Register by August 15, 2005, specifying provider eligibility requirements,
315.10 provider selection criteria, program specifics, funding mechanism, and methods of evaluation.
315.11 The commissioner may publish additional requests for proposals in subsequent years.
315.12 Providers who provide services funded through the following programs are eligible to apply
315.13 to participate in the scholarship program: home and community-based waived services
315.14 for persons with developmental disabilities under section 256B.501; home and
315.15 community-based waived services for the elderly under section 256B.0915; waived
315.16 services under community access for disability inclusion under section 256B.49; community
315.17 alternative care waived services under section 256B.49; brain injury waived services
315.18 under section 256B.49; nursing services and home health services under section 256B.0625,
315.19 subdivision 6a; personal care services and nursing supervision of personal care services
315.20 ~~under section 256B.0625, subdivision 19a;~~ home care nursing services under section
315.21 256B.0625, subdivision 7; day training and habilitation services for adults with developmental
315.22 disabilities under sections 252.41 to 252.46; and intermediate care facilities for persons
315.23 with developmental disabilities under section 256B.5012.

315.24 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
315.25 human services following federal approval but not more than two years after federal approval
315.26 is obtained. The commissioner of human services shall notify the revisor of statutes when
315.27 federal approval is obtained.

315.28 Sec. 47. Minnesota Statutes 2018, section 256B.092, subdivision 1b, is amended to read:

315.29 Subd. 1b. **Coordinated service and support plan.** (a) Each recipient of home and
315.30 community-based waived services shall be provided a copy of the written coordinated
315.31 service and support plan which:

315.32 (1) is developed with and signed by the recipient within ~~ten working days after the case~~
315.33 ~~manager receives the assessment information and written community support plan as~~

316.1 ~~described in section 256B.0911, subdivision 3a, from the certified assessor~~ the timelines
316.2 established by the commissioner and section 256B.0911, subdivision 3a, paragraph (e);

316.3 (2) includes the person's need for service, including identification of service needs that
316.4 will be or that are met by the person's relatives, friends, and others, as well as community
316.5 services used by the general public;

316.6 (3) reasonably ensures the health and welfare of the recipient;

316.7 (4) identifies the person's preferences for services as stated by the person, the person's
316.8 legal guardian or conservator, or the parent if the person is a minor, including the person's
316.9 choices made on self-directed options and on services and supports to achieve employment
316.10 goals;

316.11 (5) provides for an informed choice, as defined in section 256B.77, subdivision 2,
316.12 paragraph (o), of service and support providers, and identifies all available options for case
316.13 management services and providers;

316.14 (6) identifies long-range and short-range goals for the person;

316.15 (7) identifies specific services and the amount and frequency of the services to be provided
316.16 to the person based on assessed needs, preferences, and available resources. The coordinated
316.17 service and support plan shall also specify other services the person needs that are not
316.18 available;

316.19 (8) identifies the need for an individual program plan to be developed by the provider
316.20 according to the respective state and federal licensing and certification standards, and
316.21 additional assessments to be completed or arranged by the provider after service initiation;

316.22 (9) identifies provider responsibilities to implement and make recommendations for
316.23 modification to the coordinated service and support plan;

316.24 (10) includes notice of the right to request a conciliation conference or a hearing under
316.25 section 256.045;

316.26 (11) is agreed upon and signed by the person, the person's legal guardian or conservator,
316.27 or the parent if the person is a minor, and the authorized county representative;

316.28 (12) is reviewed by a health professional if the person has overriding medical needs that
316.29 impact the delivery of services; and

316.30 (13) includes the authorized annual and monthly amounts for the services.

316.31 (b) In developing the coordinated service and support plan, the case manager is
316.32 encouraged to include the use of volunteers, religious organizations, social clubs, and civic

317.1 and service organizations to support the individual in the community. The lead agency must
317.2 be held harmless for damages or injuries sustained through the use of volunteers and agencies
317.3 under this paragraph, including workers' compensation liability.

317.4 (c) Approved, written, and signed changes to a consumer's services that meet the criteria
317.5 in this subdivision shall be an addendum to that consumer's individual service plan.

317.6 Sec. 48. Minnesota Statutes 2018, section 256B.093, subdivision 4, is amended to read:

317.7 Subd. 4. **Definitions.** For purposes of this section, the following definitions apply:

317.8 (a) "Traumatic brain injury" means a sudden insult or damage to the brain or its coverings,
317.9 not of a degenerative or congenital nature. The insult or damage may produce an altered
317.10 state of consciousness and may result in a decrease in cognitive, behavioral, emotional, or
317.11 physical functioning resulting in partial or total disability.

317.12 (b) "Home care services" means medical assistance home care services defined under
317.13 section 256B.0625, subdivisions 6a, and 7, ~~and 19a~~.

317.14 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
317.15 human services following federal approval but not more than two years after federal approval
317.16 is obtained. The commissioner of human services shall notify the revisor of statutes when
317.17 federal approval is obtained.

317.18 Sec. 49. Minnesota Statutes 2018, section 256B.097, subdivision 1, is amended to read:

317.19 Subdivision 1. **Scope.** (a) In order to improve the quality of services provided to
317.20 Minnesotans with disabilities and to meet the requirements of the federally approved home
317.21 and community-based waivers under section 1915c of the Social Security Act, a State
317.22 Quality Assurance, Quality Improvement, and Licensing System for Minnesotans receiving
317.23 disability services is enacted. This system is a partnership between the Department of Human
317.24 Services and the State Quality Council established under subdivision 3.

317.25 (b) This system is a result of the recommendations from the Department of Human
317.26 Services' licensing and alternative quality assurance study mandated under Laws 2005, First
317.27 Special Session chapter 4, article 7, section 57, and presented to the legislature in February
317.28 2007.

317.29 (c) The disability services eligible under this section include:

317.30 (1) the home and community-based services waiver programs for persons with
317.31 developmental disabilities under section 256B.092, subdivision 4, or section 256B.49,

318.1 including brain injuries and services for those who qualify for nursing facility level of care
318.2 or hospital facility level of care and any other services licensed under chapter 245D;

318.3 (2) home care services under section 256B.0651;

318.4 (3) family support grants under section 252.32;

318.5 ~~(4) consumer support grants under section 256.476;~~

318.6 ~~(5)~~ (4) semi-independent living services under section 252.275; and

318.7 ~~(6)~~ (5) services provided through an intermediate care facility for the developmentally
318.8 disabled.

318.9 (d) For purposes of this section, the following definitions apply:

318.10 (1) "commissioner" means the commissioner of human services;

318.11 (2) "council" means the State Quality Council under subdivision 3;

318.12 (3) "Quality Assurance Commission" means the commission under section 256B.0951;
318.13 and

318.14 (4) "system" means the State Quality Assurance, Quality Improvement and Licensing
318.15 System under this section.

318.16 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
318.17 human services following federal approval but not more than two years after federal approval
318.18 is obtained. The commissioner of human services shall notify the revisor of statutes when
318.19 federal approval is obtained.

318.20 Sec. 50. Minnesota Statutes 2018, section 256B.439, subdivision 1, is amended to read:

318.21 Subdivision 1. **Development and implementation of quality profiles.** (a) The
318.22 commissioner of human services, in cooperation with the commissioner of health, shall
318.23 develop and implement quality profiles for nursing facilities and, beginning not later than
318.24 July 1, 2014, for home and community-based services providers, except when the quality
318.25 profile system would duplicate requirements under section 256B.5011, 256B.5012, or
318.26 256B.5013. For purposes of this section, home and community-based services providers
318.27 are defined as providers of home and community-based services under sections 256B.0625,
318.28 subdivisions 6a, and 7, and 19a; 256B.0913; 256B.0915; 256B.092; 256B.49; and 256B.85,
318.29 and intermediate care facilities for persons with developmental disabilities providers under
318.30 section 256B.5013. To the extent possible, quality profiles must be developed for providers
318.31 of services to older adults and people with disabilities, regardless of payor source, for the

319.1 purposes of providing information to consumers. The quality profiles must be developed
 319.2 using existing data sets maintained by the commissioners of health and human services to
 319.3 the extent possible. The profiles must incorporate or be coordinated with information on
 319.4 quality maintained by area agencies on aging, long-term care trade associations, the
 319.5 ombudsman offices, counties, tribes, health plans, and other entities and the long-term care
 319.6 database maintained under section 256.975, subdivision 7. The profiles must be designed
 319.7 to provide information on quality to:

319.8 (1) consumers and their families to facilitate informed choices of service providers;

319.9 (2) providers to enable them to measure the results of their quality improvement efforts
 319.10 and compare quality achievements with other service providers; and

319.11 (3) public and private purchasers of long-term care services to enable them to purchase
 319.12 high-quality care.

319.13 (b) The profiles must be developed in consultation with the long-term care task force,
 319.14 area agencies on aging, and representatives of consumers, providers, and labor unions.

319.15 Within the limits of available appropriations, the commissioners may employ consultants
 319.16 to assist with this project.

319.17 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 319.18 human services following federal approval but not more than two years after federal approval
 319.19 is obtained. The commissioner of human services shall notify the revisor of statutes when
 319.20 federal approval is obtained.

319.21 Sec. 51. Minnesota Statutes 2018, section 256B.49, subdivision 13, is amended to read:

319.22 Subd. 13. **Case management.** (a) Each recipient of a home and community-based waiver
 319.23 shall be provided case management services by qualified vendors as described in the federally
 319.24 approved waiver application. The case management service activities provided must include:

319.25 (1) finalizing the written coordinated service and support plan within ~~ten working days~~
 319.26 ~~after the case manager receives the plan from the certified assessor~~ the timelines established
 319.27 by the commissioner and section 256B.0911, subdivision 3a, paragraph (e);

319.28 (2) informing the recipient or the recipient's legal guardian or conservator of service
 319.29 options;

319.30 (3) assisting the recipient in the identification of potential service providers and available
 319.31 options for case management service and providers, including services provided in a
 319.32 non-disability-specific setting;

320.1 (4) assisting the recipient to access services and assisting with appeals under section
320.2 256.045; and

320.3 (5) coordinating, evaluating, and monitoring of the services identified in the service
320.4 plan.

320.5 (b) The case manager may delegate certain aspects of the case management service
320.6 activities to another individual provided there is oversight by the case manager. The case
320.7 manager may not delegate those aspects which require professional judgment including:

320.8 (1) finalizing the coordinated service and support plan;

320.9 (2) ongoing assessment and monitoring of the person's needs and adequacy of the
320.10 approved coordinated service and support plan; and

320.11 (3) adjustments to the coordinated service and support plan.

320.12 (c) Case management services must be provided by a public or private agency that is
320.13 enrolled as a medical assistance provider determined by the commissioner to meet all of
320.14 the requirements in the approved federal waiver plans. Case management services must not
320.15 be provided to a recipient by a private agency that has any financial interest in the provision
320.16 of any other services included in the recipient's coordinated service and support plan. For
320.17 purposes of this section, "private agency" means any agency that is not identified as a lead
320.18 agency under section 256B.0911, subdivision 1a, paragraph (e).

320.19 (d) For persons who need a positive support transition plan as required in chapter 245D,
320.20 the case manager shall participate in the development and ongoing evaluation of the plan
320.21 with the expanded support team. At least quarterly, the case manager, in consultation with
320.22 the expanded support team, shall evaluate the effectiveness of the plan based on progress
320.23 evaluation data submitted by the licensed provider to the case manager. The evaluation must
320.24 identify whether the plan has been developed and implemented in a manner to achieve the
320.25 following within the required timelines:

320.26 (1) phasing out the use of prohibited procedures;

320.27 (2) acquisition of skills needed to eliminate the prohibited procedures within the plan's
320.28 timeline; and

320.29 (3) accomplishment of identified outcomes.

320.30 If adequate progress is not being made, the case manager shall consult with the person's
320.31 expanded support team to identify needed modifications and whether additional professional
320.32 support is required to provide consultation.

321.1 Sec. 52. Minnesota Statutes 2018, section 256B.49, subdivision 14, is amended to read:

321.2 Subd. 14. **Assessment and reassessment.** (a) Assessments and reassessments shall be
321.3 conducted by certified assessors according to section 256B.0911, subdivision 2b. The
321.4 certified assessor, with the permission of the recipient or the recipient's designated legal
321.5 representative, may invite other individuals to attend the assessment. With the permission
321.6 of the recipient or the recipient's designated legal representative, the recipient's current
321.7 provider of services may submit a written report outlining their recommendations regarding
321.8 the recipient's care needs prepared by a direct service employee ~~with at least 20 hours of~~
321.9 ~~service to that client~~ who is familiar with the person. ~~The certified assessor must notify the~~
321.10 ~~provider of the date by which this information is to be submitted.~~ This information shall be
321.11 provided to the certified assessor and the person or the person's legal representative and
321.12 must be considered prior to the finalization of the assessment or reassessment.

321.13 (b) There must be a determination that the client requires a hospital level of care or a
321.14 nursing facility level of care as defined in section 256B.0911, subdivision 4e, at initial and
321.15 subsequent assessments to initiate and maintain participation in the waiver program.

321.16 (c) Regardless of other assessments identified in section 144.0724, subdivision 4, as
321.17 appropriate to determine nursing facility level of care for purposes of medical assistance
321.18 payment for nursing facility services, only face-to-face assessments conducted according
321.19 to section 256B.0911, subdivisions 3a, 3b, and 4d, that result in a hospital level of care
321.20 determination or a nursing facility level of care determination must be accepted for purposes
321.21 of initial and ongoing access to waiver services payment.

321.22 (d) Recipients who are found eligible for home and community-based services under
321.23 this section before their 65th birthday may remain eligible for these services after their 65th
321.24 birthday if they continue to meet all other eligibility factors.

321.25 Sec. 53. Minnesota Statutes 2018, section 256B.49, subdivision 17, is amended to read:

321.26 Subd. 17. **Cost of services and supports.** (a) The commissioner shall ensure that the
321.27 average per capita expenditures estimated in any fiscal year for home and community-based
321.28 waiver recipients does not exceed the average per capita expenditures that would have been
321.29 made to provide institutional services for recipients in the absence of the waiver.

321.30 (b) The commissioner shall implement on January 1, 2002, one or more aggregate,
321.31 need-based methods for allocating to local agencies the home and community-based waived
321.32 service resources available to support recipients with disabilities in need of the level of care

322.1 provided in a nursing facility or a hospital. The commissioner shall allocate resources to
322.2 single counties and county partnerships in a manner that reflects consideration of:

322.3 (1) an incentive-based payment process for achieving outcomes;

322.4 (2) the need for a state-level risk pool;

322.5 (3) the need for retention of management responsibility at the state agency level; and

322.6 (4) a phase-in strategy as appropriate.

322.7 (c) Until the allocation methods described in paragraph (b) are implemented, the annual
322.8 allowable reimbursement level of home and community-based waiver services shall be the
322.9 greater of:

322.10 (1) the statewide average payment amount which the recipient is assigned under the
322.11 waiver reimbursement system in place on June 30, 2001, modified by the percentage of any
322.12 provider rate increase appropriated for home and community-based services; or

322.13 (2) an amount approved by the commissioner based on the recipient's extraordinary
322.14 needs that cannot be met within the current allowable reimbursement level. The increased
322.15 reimbursement level must be necessary to allow the recipient to be discharged from an
322.16 institution or to prevent imminent placement in an institution. The additional reimbursement
322.17 may be used to secure environmental modifications; assistive technology and equipment;
322.18 and increased costs for supervision, training, and support services necessary to address the
322.19 recipient's extraordinary needs. The commissioner may approve an increased reimbursement
322.20 level for up to one year of the recipient's relocation from an institution or up to six months
322.21 of a determination that a current waiver recipient is at imminent risk of being placed in an
322.22 institution.

322.23 (d) Beginning July 1, 2001, medically necessary home care nursing services will be
322.24 authorized under this section as complex and regular care according to sections 256B.0651
322.25 to 256B.0654 and ~~256B.0659~~. The rate established by the commissioner for registered nurse
322.26 or licensed practical nurse services under any home and community-based waiver as of
322.27 January 1, 2001, shall not be reduced.

322.28 (e) Notwithstanding section 252.28, subdivision 3, paragraph (d), if the 2009 legislature
322.29 adopts a rate reduction that impacts payment to providers of adult foster care services, the
322.30 commissioner may issue adult foster care licenses that permit a capacity of five adults. The
322.31 application for a five-bed license must meet the requirements of section 245A.11, subdivision
322.32 2a. Prior to admission of the fifth recipient of adult foster care services, the county must
322.33 negotiate a revised per diem rate for room and board and waiver services that reflects the

323.1 legislated rate reduction and results in an overall average per diem reduction for all foster
 323.2 care recipients in that home. The revised per diem must allow the provider to maintain, as
 323.3 much as possible, the level of services or enhanced services provided in the residence, while
 323.4 mitigating the losses of the legislated rate reduction.

323.5 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 323.6 human services following federal approval but not more than two years after federal approval
 323.7 is obtained. The commissioner of human services shall notify the revisor of statutes when
 323.8 federal approval is obtained.

323.9 Sec. 54. Minnesota Statutes 2018, section 256B.4914, subdivision 2, is amended to read:

323.10 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the
 323.11 meanings given them, unless the context clearly indicates otherwise.

323.12 (b) "Commissioner" means the commissioner of human services.

323.13 (c) "Component value" means underlying factors that are part of the cost of providing
 323.14 services that are built into the waiver rates methodology to calculate service rates.

323.15 (d) "Customized living tool" means a methodology for setting service rates that delineates
 323.16 and documents the amount of each component service included in a recipient's customized
 323.17 living service plan.

323.18 (e) "Disability waiver rates system" means a statewide system that establishes rates that
 323.19 are based on uniform processes and captures the individualized nature of waiver services
 323.20 and recipient needs.

323.21 (f) "Individual staffing" means the time spent as a one-to-one interaction specific to an
 323.22 individual recipient by staff to provide direct support and assistance with activities of daily
 323.23 living, instrumental activities of daily living, and training to participants, and is based on
 323.24 the requirements in each individual's coordinated service and support plan under section
 323.25 245D.02, subdivision 4b; any coordinated service and support plan addendum under section
 323.26 245D.02, subdivision 4c; and an assessment tool. Provider observation of an individual's
 323.27 needs must also be considered.

323.28 (g) "Lead agency" means a county, partnership of counties, or tribal agency charged
 323.29 with administering waived services under sections 256B.092 and 256B.49.

323.30 (h) "Median" means the amount that divides distribution into two equal groups, one-half
 323.31 above the median and one-half below the median.

324.1 (i) "Payment or rate" means reimbursement to an eligible provider for services provided
 324.2 to a qualified individual based on an approved service authorization.

324.3 (j) "Rates management system" means a web-based software application that uses a
 324.4 framework and component values, as determined by the commissioner, to establish service
 324.5 rates.

324.6 (k) "Recipient" means a person receiving home and community-based services funded
 324.7 under any of the disability waivers.

324.8 (l) "Shared staffing" means time spent by employees, not defined under paragraph (f),
 324.9 providing or available to provide more than one individual with direct support and assistance
 324.10 with activities of daily living as defined under section 256B.0659, subdivision 1, paragraph
 324.11 (b); instrumental activities of daily living as defined under section 256B.0659, subdivision
 324.12 1, paragraph (i); ancillary activities needed to support individual services; and training to
 324.13 participants, and is based on the requirements in each individual's coordinated service and
 324.14 support plan under section 245D.02, subdivision 4b; any coordinated service and support
 324.15 plan addendum under section 245D.02, subdivision 4c; an assessment tool; and provider
 324.16 observation of an individual's service need. Total shared staffing hours are divided
 324.17 proportionally by the number of individuals who receive the shared service provisions.

324.18 (m) "Staffing ratio" means the number of recipients a service provider employee supports
 324.19 during a unit of service based on a uniform assessment tool, provider observation, case
 324.20 history, and the recipient's services of choice, and not based on the staffing ratios under
 324.21 section 245D.31.

324.22 (n) "Unit of service" means the following:

324.23 (1) for residential support services under subdivision 6, a unit of service is a day. Any
 324.24 portion of any calendar day, within allowable Medicaid rules, where an individual spends
 324.25 time in a residential setting is billable as a day;

324.26 (2) for day services under subdivision 7:

324.27 (i) for day training and habilitation services, a unit of service is either:

324.28 (A) a day unit of service is defined as six or more hours of time spent providing direct
 324.29 services and transportation; or

324.30 (B) a partial day unit of service is defined as fewer than six hours of time spent providing
 324.31 direct services and transportation; and

325.1 (C) for new day service recipients after January 1, 2014, 15 minute units of service must
 325.2 be used for fewer than six hours of time spent providing direct services and transportation;

325.3 (ii) for adult day and structured day services, a unit of service is a day or 15 minutes. A
 325.4 day unit of service is six or more hours of time spent providing direct services;

325.5 (iii) for prevocational services, a unit of service is a day or an hour. A day unit of service
 325.6 is six or more hours of time spent providing direct service;

325.7 (3) for unit-based services with programming under subdivision 8:

325.8 (i) for supported living services, a unit of service is a day or 15 minutes. When a day
 325.9 rate is authorized, any portion of a calendar day where an individual receives services is
 325.10 billable as a day; and

325.11 (ii) for all other services, a unit of service is 15 minutes; and

325.12 (4) for unit-based services without programming under subdivision 9, a unit of service
 325.13 is 15 minutes.

325.14 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 325.15 human services following federal approval but not more than two years after federal approval
 325.16 is obtained. The commissioner of human services shall notify the revisor of statutes when
 325.17 federal approval is obtained.

325.18 Sec. 55. Minnesota Statutes 2018, section 256B.4914, subdivision 3, is amended to read:

325.19 Subd. 3. **Applicable services.** Applicable services are those authorized under the state's
 325.20 home and community-based services waivers under sections 256B.092 and 256B.49,
 325.21 including the following, as defined in the federally approved home and community-based
 325.22 services plan:

325.23 (1) 24-hour customized living;

325.24 (2) adult day care;

325.25 (3) adult day care bath;

325.26 (4) ~~behavioral programming~~ positive support services;

325.27 (5) companion services;

325.28 (6) customized living;

325.29 (7) day training and habilitation;

325.30 (8) housing access coordination;

- 326.1 (9) independent living skills;
- 326.2 (10) in-home family support;
- 326.3 (11) night supervision;
- 326.4 (12) personal support;
- 326.5 (13) prevocational services;
- 326.6 (14) residential care services;
- 326.7 (15) residential support services;
- 326.8 (16) respite services;
- 326.9 (17) structured day services;
- 326.10 (18) supported employment services;
- 326.11 (19) supported living services;
- 326.12 (20) transportation services;
- 326.13 (21) individualized home supports;
- 326.14 (22) independent living skills specialist services;
- 326.15 (23) employment exploration services;
- 326.16 (24) employment development services;
- 326.17 (25) employment support services; and
- 326.18 (26) other services as approved by the federal government in the state home and
326.19 community-based services plan.

326.20 Sec. 56. Minnesota Statutes 2018, section 256B.4914, subdivision 14, is amended to read:

326.21 Subd. 14. **Exceptions.** (a) In a format prescribed by the commissioner, lead agencies
326.22 must identify individuals with exceptional needs that cannot be met under the disability
326.23 waiver rate system. The commissioner shall use that information to evaluate and, if necessary,
326.24 approve an alternative payment rate for those individuals. Whether granted, denied, or
326.25 modified, the commissioner shall respond to all exception requests in writing. The
326.26 commissioner shall include in the written response the basis for the action and provide
326.27 notification of the right to appeal under paragraph (h).

326.28 (b) Lead agencies must act on an exception request within 30 days ~~and~~ from the date
326.29 that the lead agency receives all application materials described in paragraph (d). Lead

327.1 agencies must notify the initiator of the request of their recommendation in writing. A lead
327.2 agency shall submit all exception requests along with its recommendation to the
327.3 commissioner.

327.4 (c) An application for a rate exception may be submitted for the following criteria:

327.5 (1) an individual has service needs that cannot be met through additional units of service;

327.6 (2) an individual's rate determined under subdivisions 6, 7, 8, and 9 is so insufficient
327.7 that it has resulted in an individual receiving a notice of discharge from the individual's
327.8 provider; or

327.9 (3) an individual's service needs, including behavioral changes, require a level of service
327.10 which necessitates a change in provider or which requires the current provider to propose
327.11 service changes beyond those currently authorized.

327.12 (d) Exception requests must include the following information:

327.13 (1) the service needs required by each individual that are not accounted for in subdivisions
327.14 6, 7, 8, and 9;

327.15 (2) the service rate requested and the difference from the rate determined in subdivisions
327.16 6, 7, 8, and 9;

327.17 (3) a basis for the underlying costs used for the rate exception ~~and any accompanying~~
327.18 based on real costs related to the individual's extraordinary needs borne by the provider,
327.19 including documentation of these costs; and

327.20 (4) any contingencies for approval.

327.21 (e) Approved rate exceptions shall be managed within lead agency allocations under
327.22 sections 256B.092 and 256B.49.

327.23 (f) Individual disability waiver recipients, an interested party, or the license holder that
327.24 would receive the rate exception increase may request that a lead agency submit an exception
327.25 request. A lead agency that denies such a request shall notify the individual waiver recipient,
327.26 interested party, or license holder of its decision and the reasons for denying the request in
327.27 writing no later than 30 days after the request has been made and shall submit its denial to
327.28 the commissioner in accordance with paragraph (b). The reasons for the denial must be
327.29 based on the failure to meet the criteria in paragraph (c).

327.30 (g) The commissioner shall determine whether to approve or deny an exception request
327.31 no more than 30 days after receiving the request. If the commissioner denies the request,

328.1 the commissioner shall notify the lead agency and the individual disability waiver recipient,
328.2 the interested party, and the license holder in writing of the reasons for the denial.

328.3 (h) The individual disability waiver recipient may appeal any denial of an exception
328.4 request by either the lead agency or the commissioner, pursuant to sections 256.045 and
328.5 256.0451. When the denial of an exception request results in the proposed demission of a
328.6 waiver recipient from a residential or day habilitation program, the commissioner shall issue
328.7 a temporary stay of demission, when requested by the disability waiver recipient, consistent
328.8 with the provisions of section 256.045, subdivisions 4a and 6, paragraph (c). The temporary
328.9 stay shall remain in effect until the lead agency can provide an informed choice of
328.10 appropriate, alternative services to the disability waiver.

328.11 (i) Providers may petition lead agencies to update values that were entered incorrectly
328.12 or erroneously into the rate management system, based on past service level discussions
328.13 and determination in subdivision 4, without applying for a rate exception.

328.14 (j) The starting date for the rate exception will be the later of the date of the recipient's
328.15 change in support or the date of the request to the lead agency for an exception.

328.16 (k) The commissioner shall track all exception requests received and their dispositions.
328.17 The commissioner shall issue quarterly public exceptions statistical reports, including the
328.18 number of exception requests received and the numbers granted, denied, withdrawn, and
328.19 pending. The report shall include the average amount of time required to process exceptions.

328.20 (l) No later than January 15, 2016, the commissioner shall provide research findings on
328.21 the estimated fiscal impact, the primary cost drivers, and common population characteristics
328.22 of recipients with needs that cannot be met by the framework rates.

328.23 (m) No later than July 1, 2016, the commissioner shall develop and implement, in
328.24 consultation with stakeholders, a process to determine eligibility for rate exceptions for
328.25 individuals with rates determined under the methodology in section 256B.4913, subdivision
328.26 4a. Determination of eligibility for an exception will occur as annual service renewals are
328.27 completed.

328.28 (n) Approved rate exceptions will be implemented at such time that the individual's rate
328.29 is no longer banded and remain in effect in all cases until an individual's needs change as
328.30 defined in paragraph (c).

328.31 **EFFECTIVE DATE.** This section is effective August 1, 2019.

329.1 Sec. 57. Minnesota Statutes 2018, section 256B.501, subdivision 4a, is amended to read:

329.2 Subd. 4a. **Inclusion of home care costs in waiver rates.** The commissioner shall adjust
329.3 the limits of the established average daily reimbursement rates for waived services to
329.4 include the cost of home care services that may be provided to waived services recipients.
329.5 This adjustment must be used to maintain or increase services and shall not be used by
329.6 county agencies for inflation increases for waived services vendors. Home care services
329.7 referenced in this section are those listed in section 256B.0651, subdivision 2. The average
329.8 daily reimbursement rates established in accordance with the provisions of this subdivision
329.9 apply only to the combined average, daily costs of waived and home care services and
329.10 do not change home care limitations under sections 256B.0651 to 256B.0654 and ~~256B.0659~~.
329.11 Waivered services recipients receiving home care as of June 30, 1992, shall not have the
329.12 amount of their services reduced as a result of this section.

329.13 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
329.14 human services following federal approval but not more than two years after federal approval
329.15 is obtained. The commissioner of human services shall notify the revisor of statutes when
329.16 federal approval is obtained.

329.17 Sec. 58. Minnesota Statutes 2018, section 256B.69, subdivision 5a, is amended to read:

329.18 Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and
329.19 section 256L.12 shall be entered into or renewed on a calendar year basis. The commissioner
329.20 may issue separate contracts with requirements specific to services to medical assistance
329.21 recipients age 65 and older.

329.22 (b) A prepaid health plan providing covered health services for eligible persons pursuant
329.23 to chapters 256B and 256L is responsible for complying with the terms of its contract with
329.24 the commissioner. Requirements applicable to managed care programs under chapters 256B
329.25 and 256L established after the effective date of a contract with the commissioner take effect
329.26 when the contract is next issued or renewed.

329.27 (c) The commissioner shall withhold five percent of managed care plan payments under
329.28 this section and county-based purchasing plan payments under section 256B.692 for the
329.29 prepaid medical assistance program pending completion of performance targets. Each
329.30 performance target must be quantifiable, objective, measurable, and reasonably attainable,
329.31 except in the case of a performance target based on a federal or state law or rule. Criteria
329.32 for assessment of each performance target must be outlined in writing prior to the contract
329.33 effective date. Clinical or utilization performance targets and their related criteria must
329.34 consider evidence-based research and reasonable interventions when available or applicable

330.1 to the populations served, and must be developed with input from external clinical experts
330.2 and stakeholders, including managed care plans, county-based purchasing plans, and
330.3 providers. The managed care or county-based purchasing plan must demonstrate, to the
330.4 commissioner's satisfaction, that the data submitted regarding attainment of the performance
330.5 target is accurate. The commissioner shall periodically change the administrative measures
330.6 used as performance targets in order to improve plan performance across a broader range
330.7 of administrative services. The performance targets must include measurement of plan
330.8 efforts to contain spending on health care services and administrative activities. The
330.9 commissioner may adopt plan-specific performance targets that take into account factors
330.10 affecting only one plan, including characteristics of the plan's enrollee population. The
330.11 withheld funds must be returned no sooner than July of the following year if performance
330.12 targets in the contract are achieved. The commissioner may exclude special demonstration
330.13 projects under subdivision 23.

330.14 (d) The commissioner shall require that managed care plans use the assessment and
330.15 authorization processes, forms, timelines, standards, documentation, and data reporting
330.16 requirements, protocols, billing processes, and policies consistent with medical assistance
330.17 fee-for-service or the Department of Human Services contract requirements for all personal
330.18 care assistance services ~~under section 256B.0659~~ and community first services and supports
330.19 under section 256B.85.

330.20 (e) Effective for services rendered on or after January 1, 2012, the commissioner shall
330.21 include as part of the performance targets described in paragraph (c) a reduction in the health
330.22 plan's emergency department utilization rate for medical assistance and MinnesotaCare
330.23 enrollees, as determined by the commissioner. For 2012, the reduction shall be based on
330.24 the health plan's utilization in 2009. To earn the return of the withhold each subsequent
330.25 year, the managed care plan or county-based purchasing plan must achieve a qualifying
330.26 reduction of no less than ten percent of the plan's emergency department utilization rate for
330.27 medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described
330.28 in subdivisions 23 and 28, compared to the previous measurement year until the final
330.29 performance target is reached. When measuring performance, the commissioner must
330.30 consider the difference in health risk in a managed care or county-based purchasing plan's
330.31 membership in the baseline year compared to the measurement year, and work with the
330.32 managed care or county-based purchasing plan to account for differences that they agree
330.33 are significant.

330.34 The withheld funds must be returned no sooner than July 1 and no later than July 31 of
330.35 the following calendar year if the managed care plan or county-based purchasing plan

331.1 demonstrates to the satisfaction of the commissioner that a reduction in the utilization rate
331.2 was achieved. The commissioner shall structure the withhold so that the commissioner
331.3 returns a portion of the withheld funds in amounts commensurate with achieved reductions
331.4 in utilization less than the targeted amount.

331.5 The withhold described in this paragraph shall continue for each consecutive contract
331.6 period until the plan's emergency room utilization rate for state health care program enrollees
331.7 is reduced by 25 percent of the plan's emergency room utilization rate for medical assistance
331.8 and MinnesotaCare enrollees for calendar year 2009. Hospitals shall cooperate with the
331.9 health plans in meeting this performance target and shall accept payment withholds that
331.10 may be returned to the hospitals if the performance target is achieved.

331.11 (f) Effective for services rendered on or after January 1, 2012, the commissioner shall
331.12 include as part of the performance targets described in paragraph (c) a reduction in the plan's
331.13 hospitalization admission rate for medical assistance and MinnesotaCare enrollees, as
331.14 determined by the commissioner. To earn the return of the withhold each year, the managed
331.15 care plan or county-based purchasing plan must achieve a qualifying reduction of no less
331.16 than five percent of the plan's hospital admission rate for medical assistance and
331.17 MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and
331.18 28, compared to the previous calendar year until the final performance target is reached.
331.19 When measuring performance, the commissioner must consider the difference in health risk
331.20 in a managed care or county-based purchasing plan's membership in the baseline year
331.21 compared to the measurement year, and work with the managed care or county-based
331.22 purchasing plan to account for differences that they agree are significant.

331.23 The withheld funds must be returned no sooner than July 1 and no later than July 31 of
331.24 the following calendar year if the managed care plan or county-based purchasing plan
331.25 demonstrates to the satisfaction of the commissioner that this reduction in the hospitalization
331.26 rate was achieved. The commissioner shall structure the withhold so that the commissioner
331.27 returns a portion of the withheld funds in amounts commensurate with achieved reductions
331.28 in utilization less than the targeted amount.

331.29 The withhold described in this paragraph shall continue until there is a 25 percent
331.30 reduction in the hospital admission rate compared to the hospital admission rates in calendar
331.31 year 2011, as determined by the commissioner. The hospital admissions in this performance
331.32 target do not include the admissions applicable to the subsequent hospital admission
331.33 performance target under paragraph (g). Hospitals shall cooperate with the plans in meeting
331.34 this performance target and shall accept payment withholds that may be returned to the
331.35 hospitals if the performance target is achieved.

332.1 (g) Effective for services rendered on or after January 1, 2012, the commissioner shall
332.2 include as part of the performance targets described in paragraph (c) a reduction in the plan's
332.3 hospitalization admission rates for subsequent hospitalizations within 30 days of a previous
332.4 hospitalization of a patient regardless of the reason, for medical assistance and MinnesotaCare
332.5 enrollees, as determined by the commissioner. To earn the return of the withhold each year,
332.6 the managed care plan or county-based purchasing plan must achieve a qualifying reduction
332.7 of the subsequent hospitalization rate for medical assistance and MinnesotaCare enrollees,
332.8 excluding enrollees in programs described in subdivisions 23 and 28, of no less than five
332.9 percent compared to the previous calendar year until the final performance target is reached.

332.10 The withheld funds must be returned no sooner than July 1 and no later than July 31 of
332.11 the following calendar year if the managed care plan or county-based purchasing plan
332.12 demonstrates to the satisfaction of the commissioner that a qualifying reduction in the
332.13 subsequent hospitalization rate was achieved. The commissioner shall structure the withhold
332.14 so that the commissioner returns a portion of the withheld funds in amounts commensurate
332.15 with achieved reductions in utilization less than the targeted amount.

332.16 The withhold described in this paragraph must continue for each consecutive contract
332.17 period until the plan's subsequent hospitalization rate for medical assistance and
332.18 MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and
332.19 28, is reduced by 25 percent of the plan's subsequent hospitalization rate for calendar year
332.20 2011. Hospitals shall cooperate with the plans in meeting this performance target and shall
332.21 accept payment withholds that must be returned to the hospitals if the performance target
332.22 is achieved.

332.23 (h) Effective for services rendered on or after January 1, 2013, through December 31,
332.24 2013, the commissioner shall withhold 4.5 percent of managed care plan payments under
332.25 this section and county-based purchasing plan payments under section 256B.692 for the
332.26 prepaid medical assistance program. The withheld funds must be returned no sooner than
332.27 July 1 and no later than July 31 of the following year. The commissioner may exclude
332.28 special demonstration projects under subdivision 23.

332.29 (i) Effective for services rendered on or after January 1, 2014, the commissioner shall
332.30 withhold three percent of managed care plan payments under this section and county-based
332.31 purchasing plan payments under section 256B.692 for the prepaid medical assistance
332.32 program. The withheld funds must be returned no sooner than July 1 and no later than July
332.33 31 of the following year. The commissioner may exclude special demonstration projects
332.34 under subdivision 23.

333.1 (j) A managed care plan or a county-based purchasing plan under section 256B.692 may
333.2 include as admitted assets under section 62D.044 any amount withheld under this section
333.3 that is reasonably expected to be returned.

333.4 (k) Contracts between the commissioner and a prepaid health plan are exempt from the
333.5 set-aside and preference provisions of section 16C.16, subdivisions 6, paragraph (a), and
333.6 7.

333.7 (l) The return of the withhold under paragraphs (h) and (i) is not subject to the
333.8 requirements of paragraph (c).

333.9 (m) Managed care plans and county-based purchasing plans shall maintain current and
333.10 fully executed agreements for all subcontractors, including bargaining groups, for
333.11 administrative services that are expensed to the state's public health care programs.
333.12 Subcontractor agreements determined to be material, as defined by the commissioner after
333.13 taking into account state contracting and relevant statutory requirements, must be in the
333.14 form of a written instrument or electronic document containing the elements of offer,
333.15 acceptance, consideration, payment terms, scope, duration of the contract, and how the
333.16 subcontractor services relate to state public health care programs. Upon request, the
333.17 commissioner shall have access to all subcontractor documentation under this paragraph.
333.18 Nothing in this paragraph shall allow release of information that is nonpublic data pursuant
333.19 to section 13.02.

333.20 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
333.21 human services following federal approval but not more than two years after federal approval
333.22 is obtained. The commissioner of human services shall notify the revisor of statutes when
333.23 federal approval is obtained.

333.24 Sec. 59. Minnesota Statutes 2018, section 256B.765, is amended to read:

333.25 **256B.765 PROVIDER RATE INCREASES.**

333.26 (a) Effective July 1, 2001, within the limits of appropriations specifically for this purpose,
333.27 the commissioner shall provide an annual inflation adjustment for the providers listed in
333.28 paragraph (c). The index for the inflation adjustment must be based on the change in the
333.29 Employment Cost Index for Private Industry Workers - Total Compensation forecasted by
333.30 Data Resources, Inc., as forecasted in the fourth quarter of the calendar year preceding the
333.31 fiscal year. The commissioner shall increase reimbursement or allocation rates by the
333.32 percentage of this adjustment, and county boards shall adjust provider contracts as needed.

334.1 (b) The commissioner of management and budget shall include an annual inflationary
 334.2 adjustment in reimbursement rates for the providers listed in paragraph (c) using the inflation
 334.3 factor specified in paragraph (a) as a budget change request in each biennial detailed
 334.4 expenditure budget submitted to the legislature under section 16A.11.

334.5 (c) The annual adjustment under paragraph (a) shall be provided for home and
 334.6 community-based waiver services for persons with developmental disabilities under section
 334.7 256B.501; home and community-based waiver services for the elderly under section
 334.8 256B.0915; waived services under community access for disability inclusion under section
 334.9 256B.49; community alternative care waived services under section 256B.49; brain injury
 334.10 waived services under section 256B.49; nursing services and home health services under
 334.11 section 256B.0625, subdivision 6a; personal care services and nursing supervision of personal
 334.12 care services ~~under section 256B.0625, subdivision 19a~~; home care nursing services under
 334.13 section 256B.0625, subdivision 7; day training and habilitation services for adults with
 334.14 developmental disabilities under sections 252.41 to 252.46; physical therapy services under
 334.15 section 256B.0625, subdivision 8; occupational therapy services under section 256B.0625,
 334.16 subdivision 8a; speech-language therapy services under Minnesota Rules, part 9505.0390;
 334.17 respiratory therapy services under Minnesota Rules, part 9505.0295; alternative care services
 334.18 under section 256B.0913; adult residential program grants under section 245.73; adult and
 334.19 family community support grants under Minnesota Rules, parts 9535.1700 to 9535.1760;
 334.20 semi-independent living services under section 252.275 including SILS funding under
 334.21 county social services grants formerly funded under chapter 256I; and community support
 334.22 services for deaf and hard-of-hearing adults with mental illness who use or wish to use sign
 334.23 language as their primary means of communication.

334.24 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 334.25 human services following federal approval but not more than two years after federal approval
 334.26 is obtained. The commissioner of human services shall notify the revisor of statutes when
 334.27 federal approval is obtained.

334.28 Sec. 60. Minnesota Statutes 2018, section 256B.85, subdivision 1, is amended to read:

334.29 Subdivision 1. **Basis and scope.** (a) Upon federal approval, the commissioner shall
 334.30 establish a state plan option for the provision of home and community-based personal
 334.31 assistance service and supports called "community first services and supports (CFSS)."

334.32 (b) CFSS is a participant-controlled method of selecting and providing services and
 334.33 supports that allows the participant maximum control of the services and supports.
 334.34 Participants may choose the degree to which they direct and manage their supports by

335.1 choosing to have a significant and meaningful role in the management of services and
 335.2 supports including by directly employing support workers with the necessary supports to
 335.3 perform that function.

335.4 (c) CFSS is available statewide to eligible people to assist with accomplishing activities
 335.5 of daily living (ADLs), instrumental activities of daily living (IADLs), and health-related
 335.6 procedures and tasks through hands-on assistance to accomplish the task or constant
 335.7 supervision and cueing to accomplish the task; and to assist with acquiring, maintaining,
 335.8 and enhancing the skills necessary to accomplish ADLs, IADLs, and health-related
 335.9 procedures and tasks. CFSS allows payment for certain supports for the participant and
 335.10 goods such as environmental modifications and technology that are intended to replace or
 335.11 decrease the need for human assistance.

335.12 (d) ~~Upon federal approval, CFSS will~~ shall replace the personal care assistance program
 335.13 under sections ~~256.476, 256B.0625, subdivisions 19a and 19e, 256B.0652, subdivisions 6~~
 335.14 and 8, paragraph (b), and 256B.0659.

335.15 (e) For the purposes of this section, notwithstanding the provisions of section 144A.43,
 335.16 subdivision 3, supports purchased under CFSS are not home care services.

335.17 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 335.18 human services following federal approval but not more than two years after federal approval
 335.19 is obtained. The commissioner of human services shall notify the revisor of statutes when
 335.20 federal approval is obtained.

335.21 Sec. 61. Minnesota Statutes 2018, section 256B.85, subdivision 2, is amended to read:

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

335.24 (b) "Activities of daily living" or "ADLs" means ~~eating, toileting, grooming, dressing,~~
 335.25 ~~bathing, mobility, positioning, and transferring.;~~

335.26 (1) dressing, including assistance with choosing, application, and changing of clothing
 335.27 and application of special appliances, wraps, or clothing;

335.28 (2) grooming, including assistance with basic hair care, oral care, shaving, applying
 335.29 cosmetics and deodorant, and care of eyeglasses and hearing aids. Nail care is included,
 335.30 except for recipients who are diabetic or have poor circulation;

335.31 (3) bathing, including assistance with basic personal hygiene and skin care;

336.1 (4) eating, including assistance with hand washing and application of orthotics required
336.2 for eating, transfers, or feeding;

336.3 (5) transfers, including assistance with transferring the recipient from one seating or
336.4 reclining area to another;

336.5 (6) mobility, including assistance with ambulation and use of a wheelchair. Mobility
336.6 does not include providing transportation for a recipient;

336.7 (7) positioning, including assistance with positioning or turning a recipient for necessary
336.8 care and comfort; and

336.9 (8) toileting, including assistance with bowel or bladder elimination and care, transfers,
336.10 mobility, positioning, feminine hygiene, use of toileting equipment or supplies, cleansing
336.11 the perineal area, inspection of the skin, and adjusting clothing.

336.12 (c) "Agency-provider model" means a method of CFSS under which a qualified agency
336.13 provides services and supports through the agency's own employees and policies. The agency
336.14 must allow the participant to have a significant role in the selection and dismissal of support
336.15 workers of their choice for the delivery of their specific services and supports.

336.16 (d) "Behavior" means a description of a need for services and supports used to determine
336.17 the home care rating and additional service units. The presence of Level I behavior is used
336.18 to determine the home care rating.

336.19 (e) "Budget model" means a service delivery method of CFSS that allows the use of a
336.20 service budget and assistance from a financial management services (FMS) provider for a
336.21 participant to directly employ support workers and purchase supports and goods.

336.22 (f) "Complex health-related needs" means an intervention listed in clauses (1) to (8) that
336.23 has been ordered by a physician, and is specified in a community services and support plan,
336.24 including:

336.25 (1) tube feedings requiring:

336.26 (i) a gastrojejunostomy tube; or

336.27 (ii) continuous tube feeding lasting longer than 12 hours per day;

336.28 (2) wounds described as:

336.29 (i) stage III or stage IV;

336.30 (ii) multiple wounds;

336.31 (iii) requiring sterile or clean dressing changes or a wound vac; or

- 337.1 (iv) open lesions such as burns, fistulas, tube sites, or ostomy sites that require specialized
337.2 care;
- 337.3 (3) parenteral therapy described as:
- 337.4 (i) IV therapy more than two times per week lasting longer than four hours for each
337.5 treatment; or
- 337.6 (ii) total parenteral nutrition (TPN) daily;
- 337.7 (4) respiratory interventions, including:
- 337.8 (i) oxygen required more than eight hours per day;
- 337.9 (ii) respiratory vest more than one time per day;
- 337.10 (iii) bronchial drainage treatments more than two times per day;
- 337.11 (iv) sterile or clean suctioning more than six times per day;
- 337.12 (v) dependence on another to apply respiratory ventilation augmentation devices such
337.13 as BiPAP and CPAP; and
- 337.14 (vi) ventilator dependence under section 256B.0651;
- 337.15 (5) insertion and maintenance of catheter, including:
- 337.16 (i) sterile catheter changes more than one time per month;
- 337.17 (ii) clean intermittent catheterization, and including self-catheterization more than six
337.18 times per day; or
- 337.19 (iii) bladder irrigations;
- 337.20 (6) bowel program more than two times per week requiring more than 30 minutes to
337.21 perform each time;
- 337.22 (7) neurological intervention, including:
- 337.23 (i) seizures more than two times per week and requiring significant physical assistance
337.24 to maintain safety; or
- 337.25 (ii) swallowing disorders diagnosed by a physician and requiring specialized assistance
337.26 from another on a daily basis; and
- 337.27 (8) other congenital or acquired diseases creating a need for significantly increased direct
337.28 hands-on assistance and interventions in six to eight activities of daily living.

338.1 (g) "Community first services and supports" or "CFSS" means the assistance and supports
338.2 program under this section needed for accomplishing activities of daily living, instrumental
338.3 activities of daily living, and health-related tasks through hands-on assistance to accomplish
338.4 the task or constant supervision and cueing to accomplish the task, or the purchase of goods
338.5 as defined in subdivision 7, clause (3), that replace the need for human assistance.

338.6 (h) "Community first services and supports service delivery plan" or "CFSS service
338.7 delivery plan" means a written document detailing the services and supports chosen by the
338.8 participant to meet assessed needs that are within the approved CFSS service authorization,
338.9 as determined in subdivision 8. Services and supports are based on the coordinated service
338.10 and support plan identified in ~~section~~ sections 256B.0915, subdivision 6, and 256B.092,
338.11 subdivision 1b.

338.12 (i) "Consultation services" means a Minnesota health care program enrolled provider
338.13 organization that provides assistance to the participant in making informed choices about
338.14 CFSS services in general and self-directed tasks in particular, and in developing a
338.15 person-centered CFSS service delivery plan to achieve quality service outcomes.

338.16 (j) "Critical activities of daily living" means transferring, mobility, eating, and toileting.

338.17 (k) "Dependency" in activities of daily living means a person requires hands-on assistance
338.18 or constant supervision and cueing to accomplish one or more of the activities of daily living
338.19 every day or on the days during the week that the activity is performed; however, a child
338.20 may not be found to be dependent in an activity of daily living if, because of the child's age,
338.21 an adult would either perform the activity for the child or assist the child with the activity
338.22 and the assistance needed is the assistance appropriate for a typical child of the same age.

338.23 (l) "Extended CFSS" means CFSS services and supports provided under CFSS that are
338.24 included in the CFSS service delivery plan through one of the home and community-based
338.25 services waivers and as approved and authorized under sections 256B.0915; 256B.092,
338.26 subdivision 5; and 256B.49, which exceed the amount, duration, and frequency of the state
338.27 plan CFSS services for participants. Extended CFSS excludes the purchase of goods.

338.28 (m) "Financial management services provider" or "FMS provider" means a qualified
338.29 organization required for participants using the budget model under subdivision 13 that is
338.30 an enrolled provider with the department to provide vendor fiscal/employer agent financial
338.31 management services (FMS).

338.32 (n) "Health-related procedures and tasks" means procedures and tasks related to the
338.33 specific assessed health needs of a participant that can be taught or assigned by a
338.34 state-licensed health care or mental health professional and performed by a support worker.

339.1 (o) "Instrumental activities of daily living" means activities related to living independently
339.2 in the community, including but not limited to: meal planning, preparation, and cooking;
339.3 shopping for food, clothing, or other essential items; laundry; housecleaning; assistance
339.4 with medications; managing finances; communicating needs and preferences during activities;
339.5 arranging supports; and assistance with traveling around and participating in the community.

339.6 (p) "Lead agency" has the meaning given in section 256B.0911, subdivision 1a, paragraph
339.7 (e).

339.8 (q) "Legal representative" means parent of a minor, a court-appointed guardian, or
339.9 another representative with legal authority to make decisions about services and supports
339.10 for the participant. Other representatives with legal authority to make decisions include but
339.11 are not limited to a health care agent or an attorney-in-fact authorized through a health care
339.12 directive or power of attorney.

339.13 (r) "Level I behavior" means physical aggression towards self or others or destruction
339.14 of property that requires the immediate response of another person.

339.15 (s) "Medication assistance" means providing verbal or visual reminders to take regularly
339.16 scheduled medication, and includes any of the following supports listed in clauses (1) to
339.17 (3) and other types of assistance, except that a support worker may not determine medication
339.18 dose or time for medication or inject medications into veins, muscles, or skin:

339.19 (1) under the direction of the participant or the participant's representative, bringing
339.20 medications to the participant including medications given through a nebulizer, opening a
339.21 container of previously set-up medications, emptying the container into the participant's
339.22 hand, opening and giving the medication in the original container to the participant, or
339.23 bringing to the participant liquids or food to accompany the medication;

339.24 (2) organizing medications as directed by the participant or the participant's representative;
339.25 and

339.26 (3) providing verbal or visual reminders to perform regularly scheduled medications.

339.27 (t) "Participant" means a person who is eligible for CFSS.

339.28 (u) "Participant's representative" means a parent, family member, advocate, or other
339.29 adult authorized by the participant or participant's legal representative, if any, to serve as a
339.30 representative in connection with the provision of CFSS. ~~This authorization must be in
339.31 writing or by another method that clearly indicates the participant's free choice and may be
339.32 withdrawn at any time. The participant's representative must have no financial interest in
339.33 the provision of any services included in the participant's CFSS service delivery plan and~~

340.1 ~~must be capable of providing the support necessary to assist the participant in the use of~~
340.2 ~~CFSS. If through the assessment process described in subdivision 5 a participant is~~
340.3 ~~determined to be in need of a participant's representative, one must be selected. If the~~
340.4 ~~participant is unable to assist in the selection of a participant's representative, the legal~~
340.5 ~~representative shall appoint one. Two persons may be designated as a participant's~~
340.6 ~~representative for reasons such as divided households and court-ordered custodies. Duties~~
340.7 ~~of a participant's representatives may include:~~

340.8 ~~(1) being available while services are provided in a method agreed upon by the participant~~
340.9 ~~or the participant's legal representative and documented in the participant's CFSS service~~
340.10 ~~delivery plan;~~

340.11 ~~(2) monitoring CFSS services to ensure the participant's CFSS service delivery plan is~~
340.12 ~~being followed; and~~

340.13 ~~(3) reviewing and signing CFSS time sheets after services are provided to provide~~
340.14 ~~verification of the CFSS services.~~

340.15 (v) "Person-centered planning process" means a process that is directed by the participant
340.16 to plan for CFSS services and supports.

340.17 (w) "Service budget" means the authorized dollar amount used for the budget model or
340.18 for the purchase of goods.

340.19 (x) "Shared services" means the provision of CFSS services by the same CFSS support
340.20 worker to two or three participants who voluntarily enter into an agreement to receive
340.21 services at the same time and in the same setting by the same employer.

340.22 (y) "Support worker" means a qualified and trained employee of the agency-provider
340.23 as required by subdivision 11b or of the participant employer under the budget model as
340.24 required by subdivision 14 who has direct contact with the participant and provides services
340.25 as specified within the participant's CFSS service delivery plan.

340.26 (z) "Unit" means the increment of service based on hours or minutes identified in the
340.27 service agreement.

340.28 (aa) "Vendor fiscal employer agent" means an agency that provides financial management
340.29 services.

340.30 (bb) "Wages and benefits" means the hourly wages and salaries, the employer's share
340.31 of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation,
340.32 mileage reimbursement, health and dental insurance, life insurance, disability insurance,

341.1 long-term care insurance, uniform allowance, contributions to employee retirement accounts,
341.2 or other forms of employee compensation and benefits.

341.3 (cc) "Worker training and development" means services provided according to subdivision
341.4 18a for developing workers' skills as required by the participant's individual CFSS service
341.5 delivery plan that are arranged for or provided by the agency-provider or purchased by the
341.6 participant employer. These services include training, education, direct observation and
341.7 supervision, and evaluation and coaching of job skills and tasks, including supervision of
341.8 health-related tasks or behavioral supports.

341.9 Sec. 62. Minnesota Statutes 2018, section 256B.85, subdivision 4, is amended to read:

341.10 Subd. 4. **Eligibility for other services.** Selection of CFSS by a participant must not
341.11 restrict access to other medically necessary care and services furnished under the state plan
341.12 benefit or other services available through the alternative care program.

341.13 Sec. 63. Minnesota Statutes 2018, section 256B.85, subdivision 5, is amended to read:

341.14 Subd. 5. **Assessment requirements.** (a) The assessment of functional need must:

341.15 (1) be conducted by a certified assessor according to the criteria established in section
341.16 256B.0911, subdivision 3a;

341.17 (2) be conducted face-to-face, initially and at least annually thereafter, or when there is
341.18 a significant change in the participant's condition or a change in the need for services and
341.19 supports, or at the request of the participant when the participant experiences a change in
341.20 condition or needs a change in the services or supports; and

341.21 (3) be completed using the format established by the commissioner.

341.22 (b) The results of the assessment and any recommendations and authorizations for CFSS
341.23 must be determined and communicated in writing by the lead agency's certified assessor as
341.24 defined in section 256B.0911 to the participant ~~and the agency-provider or FMS provider~~
341.25 ~~chosen by the participant~~ or participant's representative and chosen CFSS providers within
341.26 ~~40 calendar ten business~~ days and must include the participant's right to appeal under section
341.27 ~~256.045, subdivision 3~~ of the assessment.

341.28 (c) The lead agency assessor may authorize a temporary authorization for CFSS services
341.29 to be provided under the agency-provider model. Authorization for a temporary level of
341.30 CFSS services under the agency-provider model is limited to the time specified by the
341.31 commissioner, but shall not exceed 45 days. The level of services authorized under this
341.32 paragraph shall have no bearing on a future authorization.

342.1 For CFSS services beyond the temporary authorization, participants ~~approved for a temporary~~
342.2 ~~authorization~~ shall access the consultation service to complete their orientation and selection
342.3 of a service model.

342.4 Sec. 64. Minnesota Statutes 2018, section 256B.85, subdivision 6, is amended to read:

342.5 Subd. 6. **Community first services and supports service delivery plan.** (a) The CFSS
342.6 service delivery plan must be developed and evaluated through a person-centered planning
342.7 process by the participant, or the participant's representative or legal representative who
342.8 may be assisted by a consultation services provider. The CFSS service delivery plan must
342.9 reflect the services and supports that are important to the participant and for the participant
342.10 to meet the needs assessed by the certified assessor and identified in the coordinated service
342.11 and support plan identified in ~~section~~ sections 256B.0915, subdivision 6, and 256B.092,
342.12 subdivision 1b. The CFSS service delivery plan must be reviewed by the participant, the
342.13 consultation services provider, and the agency-provider or FMS provider prior to starting
342.14 services and at least annually upon reassessment, or when there is a significant change in
342.15 the participant's condition, or a change in the need for services and supports.

342.16 (b) The commissioner shall establish the format and criteria for the CFSS service delivery
342.17 plan.

342.18 (c) The CFSS service delivery plan must be person-centered and:

342.19 (1) specify the consultation services provider, agency-provider, or FMS provider selected
342.20 by the participant;

342.21 (2) reflect the setting in which the participant resides that is chosen by the participant;

342.22 (3) reflect the participant's strengths and preferences;

342.23 (4) include the methods and supports used to address the needs as identified through an
342.24 assessment of functional needs;

342.25 (5) include the participant's identified goals and desired outcomes;

342.26 (6) reflect the services and supports, paid and unpaid, that will assist the participant to
342.27 achieve identified goals, including the costs of the services and supports, and the providers
342.28 of those services and supports, including natural supports;

342.29 (7) identify the amount and frequency of face-to-face supports and amount and frequency
342.30 of remote supports and technology that will be used;

342.31 (8) identify risk factors and measures in place to minimize them, including individualized
342.32 backup plans;

343.1 (9) be understandable to the participant and the individuals providing support;

343.2 (10) identify the individual or entity responsible for monitoring the plan;

343.3 (11) be finalized and agreed to in writing by the participant and signed by ~~all~~ individuals
343.4 and providers responsible for its implementation;

343.5 (12) be distributed to the participant and other people involved in the plan;

343.6 (13) prevent the provision of unnecessary or inappropriate care;

343.7 (14) include a detailed budget for expenditures for budget model participants or
343.8 participants under the agency-provider model if purchasing goods; and

343.9 (15) include a plan for worker training and development provided according to
343.10 subdivision 18a detailing what service components will be used, when the service components
343.11 will be used, how they will be provided, and how these service components relate to the
343.12 participant's individual needs and CFSS support worker services.

343.13 (d) The CFSS service delivery plan must describe the units or dollar amount available
343.14 to the participant. The total units of agency-provider services or the service budget amount
343.15 for the budget model include both annual totals and a monthly average amount that cover
343.16 the number of months of the service agreement. The amount used each month may vary,
343.17 but additional funds must not be provided above the annual service authorization amount,
343.18 determined according to subdivision 8, unless a change in condition is assessed and
343.19 authorized by the certified assessor and documented in the coordinated service and support
343.20 plan and CFSS service delivery plan.

343.21 (e) In assisting with the development or modification of the CFSS service delivery plan
343.22 during the authorization time period, the consultation services provider shall:

343.23 (1) consult with the FMS provider on the spending budget when applicable; and

343.24 (2) consult with the participant or participant's representative, agency-provider, and case
343.25 manager/care coordinator.

343.26 (f) The CFSS service delivery plan must be approved by the consultation services provider
343.27 for participants without a case manager or care coordinator who is responsible for authorizing
343.28 services. A case manager or care coordinator must approve the plan for a waiver or alternative
343.29 care program participant.

344.1 Sec. 65. Minnesota Statutes 2018, section 256B.85, subdivision 8, is amended to read:

344.2 Subd. 8. **Determination of CFSS service authorization amount.** (a) All community
344.3 first services and supports must be authorized by the commissioner or the commissioner's
344.4 designee before services begin. The authorization for CFSS must be completed as soon as
344.5 possible following an assessment but no later than 40 calendar days from the date of the
344.6 assessment.

344.7 (b) The amount of CFSS authorized must be based on the participant's home care rating
344.8 described in paragraphs (d) and (e) and any additional service units for which the participant
344.9 qualifies as described in paragraph (f).

344.10 (c) The home care rating shall be determined by the commissioner or the commissioner's
344.11 designee based on information submitted to the commissioner identifying the following for
344.12 a participant:

344.13 (1) the total number of dependencies of activities of daily living;

344.14 (2) the presence of complex health-related needs; and

344.15 (3) the presence of Level I behavior.

344.16 (d) The methodology to determine the total service units for CFSS for each home care
344.17 rating is based on the median paid units per day for each home care rating from fiscal year
344.18 2007 data for the PCA program.

344.19 (e) Each home care rating is designated by the letters P through Z and EN and has the
344.20 following base number of service units assigned:

344.21 (1) P home care rating requires Level I behavior or one to three dependencies in ADLs
344.22 and qualifies the person for five service units;

344.23 (2) Q home care rating requires Level I behavior and one to three dependencies in ADLs
344.24 and qualifies the person for six service units;

344.25 (3) R home care rating requires a complex health-related need and one to three
344.26 dependencies in ADLs and qualifies the person for seven service units;

344.27 (4) S home care rating requires four to six dependencies in ADLs and qualifies the person
344.28 for ten service units;

344.29 (5) T home care rating requires four to six dependencies in ADLs and Level I behavior
344.30 and qualifies the person for 11 service units;

345.1 (6) U home care rating requires four to six dependencies in ADLs and a complex
345.2 health-related need and qualifies the person for 14 service units;

345.3 (7) V home care rating requires seven to eight dependencies in ADLs and qualifies the
345.4 person for 17 service units;

345.5 (8) W home care rating requires seven to eight dependencies in ADLs and Level I
345.6 behavior and qualifies the person for 20 service units;

345.7 (9) Z home care rating requires seven to eight dependencies in ADLs and a complex
345.8 health-related need and qualifies the person for 30 service units; and

345.9 (10) EN home care rating includes ventilator dependency as defined in section 256B.0651,
345.10 subdivision 1, paragraph (g). A person who meets the definition of ventilator-dependent
345.11 and the EN home care rating and utilize a combination of CFSS and home care nursing
345.12 services is limited to a total of 96 service units per day for those services in combination.
345.13 Additional units may be authorized when a person's assessment indicates a need for two
345.14 staff to perform activities. Additional time is limited to 16 service units per day.

345.15 (f) Additional service units are provided through the assessment and identification of
345.16 the following:

345.17 (1) 30 additional minutes per day for a dependency in each critical activity of daily
345.18 living;

345.19 (2) 30 additional minutes per day for each complex health-related need; and

345.20 (3) ~~30 additional minutes per day when the behavior requires assistance at least four~~
345.21 ~~times per week for one or more of the following behaviors~~ if a behavior in this clause requires
345.22 assistance at least four times per week 30 additional minutes per category:

345.23 (i) level I behavior that requires the immediate response of another person;

345.24 (ii) increased vulnerability due to cognitive deficits or socially inappropriate behavior;

345.25 or

345.26 (iii) increased need for assistance for participants who are verbally aggressive or resistive
345.27 to care so that the time needed to perform activities of daily living is increased.

345.28 (g) The service budget for budget model participants shall be based on:

345.29 (1) assessed units as determined by the home care rating; and

345.30 (2) an adjustment needed for administrative expenses.

346.1 Sec. 66. Minnesota Statutes 2018, section 256B.85, subdivision 9, is amended to read:

346.2 Subd. 9. **Noncovered services.** (a) Services or supports that are not eligible for payment
346.3 under this section include those that:

346.4 (1) are not authorized by the certified assessor or included in the CFSS service delivery
346.5 plan;

346.6 (2) are provided prior to the authorization of services and the approval of the CFSS
346.7 service delivery plan;

346.8 (3) are duplicative of other paid services in the CFSS service delivery plan;

346.9 (4) supplant natural unpaid supports that appropriately meet a need in the CFSS service
346.10 delivery plan, are provided voluntarily to the participant, and are selected by the participant
346.11 in lieu of other services and supports;

346.12 (5) are not effective means to meet the participant's needs; and

346.13 (6) are available through other funding sources, including, but not limited to, funding
346.14 through title IV-E of the Social Security Act.

346.15 (b) Additional services, goods, or supports that are not covered include:

346.16 (1) those that are not for the direct benefit of the participant, except that services for
346.17 caregivers such as training to improve the ability to provide CFSS are considered to directly
346.18 benefit the participant if chosen by the participant and approved in the support plan;

346.19 (2) any fees incurred by the participant, such as Minnesota health care programs fees
346.20 and co-pays, legal fees, or costs related to advocate agencies;

346.21 (3) insurance, except for insurance costs related to employee coverage;

346.22 (4) room and board costs for the participant;

346.23 (5) services, supports, or goods that are not related to the assessed needs;

346.24 (6) special education and related services provided under the Individuals with Disabilities
346.25 Education Act and vocational rehabilitation services provided under the Rehabilitation Act
346.26 of 1973;

346.27 (7) assistive technology devices and assistive technology services other than those for
346.28 back-up systems or mechanisms to ensure continuity of service and supports listed in
346.29 subdivision 7;

346.30 (8) medical supplies and equipment covered under medical assistance;

- 347.1 (9) environmental modifications, except as specified in subdivision 7;
- 347.2 (10) expenses for travel, lodging, or meals related to training the participant or the
347.3 participant's representative or legal representative;
- 347.4 (11) experimental treatments;
- 347.5 (12) any service or good covered by other state plan services, including prescription and
347.6 over-the-counter medications, compounds, and solutions and related fees, including premiums
347.7 and co-payments;
- 347.8 (13) membership dues or costs, except when the service is necessary and appropriate to
347.9 treat a health condition or to improve or maintain the adult participant's health condition.
347.10 The condition must be identified in the participant's CFSS service delivery plan and
347.11 monitored by a Minnesota health care program enrolled physician;
- 347.12 (14) vacation expenses other than the cost of direct services;
- 347.13 (15) vehicle maintenance or modifications not related to the disability, health condition,
347.14 or physical need;
- 347.15 (16) tickets and related costs to attend sporting or other recreational or entertainment
347.16 events;
- 347.17 (17) services provided and billed by a provider who is not an enrolled CFSS provider;
- 347.18 (18) CFSS provided by a participant's representative or paid legal guardian;
- 347.19 (19) services that are used solely as a child care or babysitting service;
- 347.20 (20) services that are the responsibility or in the daily rate of a residential or program
347.21 license holder under the terms of a service agreement and administrative rules;
- 347.22 (21) sterile procedures;
- 347.23 (22) giving of injections into veins, muscles, or skin;
- 347.24 (23) homemaker services that are not an integral part of the assessed CFSS service;
- 347.25 (24) home maintenance or chore services;
- 347.26 (25) home care services, including hospice services if elected by the participant, covered
347.27 by Medicare or any other insurance held by the participant;
- 347.28 (26) services to other members of the participant's household;
- 347.29 (27) services not specified as covered under medical assistance as CFSS;
- 347.30 (28) application of restraints or implementation of deprivation procedures;

348.1 (29) assessments by CFSS provider organizations or by independently enrolled registered
 348.2 nurses;

348.3 (30) services provided in lieu of legally required staffing in a residential or child care
 348.4 setting; ~~and~~

348.5 (31) services provided ~~by the residential or program license holder in a residence for~~
 348.6 ~~more than four participants~~; in licensed foster care, except when:

348.7 (i) the foster care home is the foster care license holder's primary residence; or

348.8 (ii) the licensed capacity is four or fewer, or all conditions for a variance under Minnesota
 348.9 Rules, part 2960.3030, subpart 3, are met for a group of siblings, as defined in section
 348.10 260C.007, subdivision 32;

348.11 (32) services from a provider who owns or otherwise controls for the living arrangement,
 348.12 except when the provider of services is related by blood, marriage, or adoption or when the
 348.13 provider meets the requirements under clause (31); and

348.14 (33) instrumental activities of daily living for children younger than 18 years of age,
 348.15 except when immediate attention is needed for health or hygiene reasons integral to the
 348.16 personal care services and the assessor lists the need in the service plan.

348.17 Sec. 67. Minnesota Statutes 2018, section 256B.85, subdivision 10, is amended to read:

348.18 Subd. 10. **Agency-provider and FMS provider qualifications and duties.** (a)

348.19 Agency-providers identified in subdivision 11 and FMS providers identified in subdivision
 348.20 13a shall:

348.21 (1) enroll as a medical assistance Minnesota health care programs provider and meet all
 348.22 applicable provider standards and requirements including completion of required provider
 348.23 training as determined by the commissioner;

348.24 (2) demonstrate compliance with federal and state laws and policies for CFSS as
 348.25 determined by the commissioner;

348.26 (3) comply with background study requirements under chapter 245C and maintain
 348.27 documentation of background study requests and results;

348.28 (4) verify and maintain records of all services and expenditures by the participant,
 348.29 including hours worked by support workers;

349.1 (5) not engage in any agency-initiated direct contact or marketing in person, by telephone,
349.2 or other electronic means to potential participants, guardians, family members, or participants'
349.3 representatives;

349.4 (6) directly provide services and not use a subcontractor or reporting agent;

349.5 (7) meet the financial requirements established by the commissioner for financial
349.6 solvency;

349.7 (8) have never had a lead agency contract or provider agreement discontinued due to
349.8 fraud, or have never had an owner, board member, or manager fail a state or FBI-based
349.9 criminal background check while enrolled or seeking enrollment as a Minnesota health care
349.10 programs provider; and

349.11 (9) have an office located in Minnesota.

349.12 (b) In conducting general duties, agency-providers and FMS providers shall:

349.13 (1) pay support workers based upon actual hours of services provided;

349.14 (2) pay for worker training and development services based upon actual hours of services
349.15 provided or the unit cost of the training session purchased;

349.16 (3) withhold and pay all applicable federal and state payroll taxes;

349.17 (4) make arrangements and pay unemployment insurance, taxes, workers' compensation,
349.18 liability insurance, and other benefits, if any;

349.19 (5) enter into a written agreement with the participant, participant's representative, or
349.20 legal representative that assigns roles and responsibilities to be performed before services,
349.21 supports, or goods are provided;

349.22 (6) report maltreatment as required under sections 626.556 and 626.557; ~~and~~

349.23 (7) comply with any data requests from the department consistent with the Minnesota
349.24 Government Data Practices Act under chapter 13-; and

349.25 (8) request reassessments at least 60 days before the end of the current authorization for
349.26 CFSS on forms provided by the commissioner.

349.27 Sec. 68. Minnesota Statutes 2018, section 256B.85, subdivision 11, is amended to read:

349.28 Subd. 11. **Agency-provider model.** (a) The agency-provider model includes services
349.29 provided by support workers and staff providing worker training and development services
349.30 who are employed by an agency-provider that meets the criteria established by the
349.31 commissioner, including required training.

350.1 (b) The agency-provider shall allow the participant to have a significant role in the
350.2 selection and dismissal of the support workers for the delivery of the services and supports
350.3 specified in the participant's CFSS service delivery plan. The agency must make a reasonable
350.4 effort to fulfill the participant's request for the participant's preferred worker.

350.5 (c) A participant may use authorized units of CFSS services as needed within a service
350.6 agreement that is not greater than 12 months. Using authorized units in a flexible manner
350.7 in either the agency-provider model or the budget model does not increase the total amount
350.8 of services and supports authorized for a participant or included in the participant's CFSS
350.9 service delivery plan.

350.10 (d) A participant may share CFSS services. Two or three CFSS participants may share
350.11 services at the same time provided by the same support worker.

350.12 (e) The agency-provider must use a minimum of 72.5 percent of the revenue generated
350.13 by the medical assistance payment for CFSS for support worker wages and benefits. The
350.14 agency-provider must document how this requirement is being met. The revenue generated
350.15 by the worker training and development services and the reasonable costs associated with
350.16 the worker training and development services must not be used in making this calculation.

350.17 (f) The agency-provider model must be used by individuals who are restricted by the
350.18 Minnesota restricted recipient program under Minnesota Rules, parts 9505.2160 to
350.19 9505.2245.

350.20 (g) Participants purchasing goods under this model, along with support worker services,
350.21 must:

350.22 (1) specify the goods in the CFSS service delivery plan and detailed budget for
350.23 expenditures that must be approved by the consultation services provider, case manager, or
350.24 care coordinator; and

350.25 (2) use the FMS provider for the billing and payment of such goods.

350.26 Sec. 69. Minnesota Statutes 2018, section 256B.85, subdivision 11b, is amended to read:

350.27 Subd. 11b. **Agency-provider model; support worker competency.** (a) The
350.28 agency-provider must ensure that support workers are competent to meet the participant's
350.29 assessed needs, goals, and additional requirements as written in the CFSS service delivery
350.30 plan. Within 30 days of any support worker beginning to provide services for a participant,
350.31 the agency-provider must evaluate the competency of the worker through direct observation
350.32 of the support worker's performance of the job functions in a setting where the participant
350.33 is using CFSS.

351.1 (b) The agency-provider must verify and maintain evidence of support worker
351.2 competency, including documentation of the support worker's:

351.3 (1) education and experience relevant to the job responsibilities assigned to the support
351.4 worker and the needs of the participant;

351.5 (2) relevant training received from sources other than the agency-provider;

351.6 (3) orientation and instruction to implement services and supports to participant needs
351.7 and preferences as identified in the CFSS service delivery plan; ~~and~~

351.8 (4) orientation and instruction delivered by an individual competent to perform, teach,
351.9 or assign the health-related tasks for tracheostomy suctioning and services to participants
351.10 on ventilator support, including equipment operation and maintenance; and

351.11 (5) periodic performance reviews completed by the agency-provider at least annually,
351.12 including any evaluations required under subdivision 11a, paragraph (a).

351.13 If a support worker is a minor, all evaluations of worker competency must be completed in
351.14 person and in a setting where the participant is using CFSS.

351.15 (c) The agency-provider must develop a worker training and development plan with the
351.16 participant to ensure support worker competency. The worker training and development
351.17 plan must be updated when:

351.18 (1) the support worker begins providing services;

351.19 (2) there is any change in condition or a modification to the CFSS service delivery plan;
351.20 or

351.21 (3) a performance review indicates that additional training is needed.

351.22 Sec. 70. Minnesota Statutes 2018, section 256B.85, subdivision 12, is amended to read:

351.23 Subd. 12. **Requirements for enrollment of CFSS agency-providers.** (a) All CFSS
351.24 agency-providers must provide, at the time of enrollment, reenrollment, and revalidation
351.25 as a CFSS agency-provider in a format determined by the commissioner, information and
351.26 documentation that includes, but is not limited to, the following:

351.27 (1) the CFSS agency-provider's current contact information including address, telephone
351.28 number, and e-mail address;

351.29 (2) proof of surety bond coverage. Upon new enrollment, or if the agency-provider's
351.30 Medicaid revenue in the previous calendar year is less than or equal to \$300,000, the
351.31 agency-provider must purchase a surety bond of \$50,000. If the agency-provider's Medicaid

352.1 revenue in the previous calendar year is greater than \$300,000, the agency-provider must
352.2 purchase a surety bond of \$100,000. The surety bond must be in a form approved by the
352.3 commissioner, must be renewed annually, and must allow for recovery of costs and fees in
352.4 pursuing a claim on the bond;

352.5 (3) proof of fidelity bond coverage in the amount of \$20,000 per provider location;

352.6 (4) proof of workers' compensation insurance coverage;

352.7 (5) proof of liability insurance;

352.8 (6) a ~~description~~ copy of the CFSS agency-provider's ~~organization~~ organizational chart
352.9 identifying the names and roles of all owners, managing employees, staff, board of directors,
352.10 and ~~the~~ additional documentation reporting any affiliations of the directors and owners to
352.11 other service providers;

352.12 (7) ~~a copy of~~ proof that the CFSS agency-provider's agency-provider has written policies
352.13 and procedures including: hiring of employees; training requirements; service delivery; and
352.14 employee and consumer safety, including the process for notification and resolution of
352.15 participant grievances, incident response, identification and prevention of communicable
352.16 diseases, and employee misconduct;

352.17 (8) ~~copies of all other forms~~ proof that the CFSS agency-provider uses in the course of
352.18 ~~daily business~~ has all of the following forms and documents including, but not limited to:

352.19 (i) a copy of the CFSS agency-provider's time sheet; and

352.20 (ii) a copy of the participant's individual CFSS service delivery plan;

352.21 (9) a list of all training and classes that the CFSS agency-provider requires of its staff
352.22 providing CFSS services;

352.23 (10) documentation that the CFSS agency-provider and staff have successfully completed
352.24 all the training required by this section;

352.25 (11) documentation of the agency-provider's marketing practices;

352.26 (12) disclosure of ownership, leasing, or management of all residential properties that
352.27 are used or could be used for providing home care services;

352.28 (13) documentation that the agency-provider will use at least the following percentages
352.29 of revenue generated from the medical assistance rate paid for CFSS services for CFSS
352.30 support worker wages and benefits: 72.5 percent of revenue from CFSS providers. The
352.31 revenue generated by the worker training and development services and the reasonable costs

353.1 associated with the worker training and development services shall not be used in making
353.2 this calculation; and

353.3 (14) documentation that the agency-provider does not burden participants' free exercise
353.4 of their right to choose service providers by requiring CFSS support workers to sign an
353.5 agreement not to work with any particular CFSS participant or for another CFSS
353.6 agency-provider after leaving the agency and that the agency is not taking action on any
353.7 such agreements or requirements regardless of the date signed.

353.8 (b) CFSS agency-providers shall provide to the commissioner the information specified
353.9 in paragraph (a).

353.10 (c) All CFSS agency-providers shall require all employees in management and
353.11 supervisory positions and owners of the agency who are active in the day-to-day management
353.12 and operations of the agency to complete mandatory training as determined by the
353.13 commissioner. Employees in management and supervisory positions and owners who are
353.14 active in the day-to-day operations of an agency who have completed the required training
353.15 as an employee with a CFSS agency-provider do not need to repeat the required training if
353.16 they are hired by another agency, if they have completed the training within the past three
353.17 years. CFSS agency-provider billing staff shall complete training about CFSS program
353.18 financial management. Any new owners or employees in management and supervisory
353.19 positions involved in the day-to-day operations are required to complete mandatory training
353.20 as a requisite of working for the agency.

353.21 ~~(d) The commissioner shall send annual review notifications to agency providers 30~~
353.22 ~~days prior to renewal. The notification must:~~

353.23 ~~(1) list the materials and information the agency provider is required to submit;~~

353.24 ~~(2) provide instructions on submitting information to the commissioner; and~~

353.25 ~~(3) provide a due date by which the commissioner must receive the requested information.~~

353.26 Agency-providers shall submit all required documentation for annual review within 30 days
353.27 of notification from the commissioner. If an agency-provider fails to submit all the required
353.28 documentation, the commissioner may take action under subdivision 23a.

353.29 Sec. 71. Minnesota Statutes 2018, section 256B.85, subdivision 12b, is amended to read:

353.30 Subd. 12b. **CFSS agency-provider requirements; notice regarding termination of**
353.31 **services.** (a) An agency-provider must provide written notice when it intends to terminate

354.1 services with a participant at least ~~ten~~ 30 calendar days before the proposed service
 354.2 termination is to become effective, except in cases where:

354.3 (1) the participant engages in conduct that significantly alters the terms of the CFSS
 354.4 service delivery plan with the agency-provider;

354.5 (2) the participant or other persons at the setting where services are being provided
 354.6 engage in conduct that creates an imminent risk of harm to the support worker or other
 354.7 agency-provider staff; or

354.8 (3) an emergency or a significant change in the participant's condition occurs within a
 354.9 24-hour period that results in the participant's service needs exceeding the participant's
 354.10 identified needs in the current CFSS service delivery plan so that the agency-provider cannot
 354.11 safely meet the participant's needs.

354.12 (b) When a participant initiates a request to terminate CFSS services with the
 354.13 agency-provider, the agency-provider must give the participant a written ~~acknowledgement~~
 354.14 acknowledgment of the participant's service termination request that includes the date the
 354.15 request was received by the agency-provider and the requested date of termination.

354.16 (c) The agency-provider must participate in a coordinated transfer of the participant to
 354.17 a new agency-provider to ensure continuity of care.

354.18 Sec. 72. Minnesota Statutes 2018, section 256B.85, subdivision 13a, is amended to read:

354.19 Subd. 13a. **Financial management services.** (a) Services provided by an FMS provider
 354.20 include but are not limited to: filing and payment of federal and state payroll taxes on behalf
 354.21 of the participant; initiating and complying with background study requirements under
 354.22 chapter 245C and maintaining documentation of background study requests and results;
 354.23 billing for approved CFSS services with authorized funds; monitoring expenditures;
 354.24 accounting for and disbursing CFSS funds; providing assistance in obtaining and filing for
 354.25 liability, workers' compensation, and unemployment coverage; and providing participant
 354.26 instruction and technical assistance to the participant in fulfilling employer-related
 354.27 requirements in accordance with section 3504 of the Internal Revenue Code and related
 354.28 regulations and interpretations, including Code of Federal Regulations, title 26, section
 354.29 31.3504-1.

354.30 (b) Agency-provider services shall not be provided by the FMS provider.

354.31 (c) The FMS provider shall provide service functions as determined by the commissioner
 354.32 for budget model participants that include but are not limited to:

355.1 (1) assistance with the development of the detailed budget for expenditures portion of
355.2 the CFSS service delivery plan as requested by the consultation services provider or
355.3 participant;

355.4 (2) data recording and reporting of participant spending;

355.5 (3) other duties established by the department, including with respect to providing
355.6 assistance to the participant, participant's representative, or legal representative in performing
355.7 employer responsibilities regarding support workers. The support worker shall not be
355.8 considered the employee of the FMS provider; and

355.9 (4) billing, payment, and accounting of approved expenditures for goods.

355.10 (d) The FMS provider shall obtain an assurance statement from the participant employer
355.11 agreeing to follow state and federal regulations and CFSS policies regarding employment
355.12 of support workers.

355.13 (e) The FMS provider shall:

355.14 (1) not limit or restrict the participant's choice of service or support providers or service
355.15 delivery models consistent with any applicable state and federal requirements;

355.16 (2) provide the participant, consultation services provider, and case manager or care
355.17 coordinator, if applicable, with a monthly written summary of the spending for services and
355.18 supports that were billed against the spending budget;

355.19 (3) be knowledgeable of state and federal employment regulations, including those under
355.20 the Fair Labor Standards Act of 1938, and comply with the requirements under section 3504
355.21 of the Internal Revenue Code and related regulations and interpretations, including Code
355.22 of Federal Regulations, title 26, section 31.3504-1, regarding agency employer tax liability
355.23 for vendor fiscal/employer agent, and any requirements necessary to process employer and
355.24 employee deductions, provide appropriate and timely submission of employer tax liabilities,
355.25 and maintain documentation to support medical assistance claims;

355.26 (4) have current and adequate liability insurance and bonding and sufficient cash flow
355.27 as determined by the commissioner and have on staff or under contract a certified public
355.28 accountant or an individual with a baccalaureate degree in accounting;

355.29 (5) assume fiscal accountability for state funds designated for the program and be held
355.30 liable for any overpayments or violations of applicable statutes or rules, including but not
355.31 limited to the Minnesota False Claims Act, chapter 15C; and

356.1 (6) maintain documentation of receipts, invoices, and bills to track all services and
356.2 supports expenditures for any goods purchased and maintain time records of support workers.
356.3 The documentation and time records must be maintained for a minimum of five years from
356.4 the claim date and be available for audit or review upon request by the commissioner. Claims
356.5 submitted by the FMS provider to the commissioner for payment must correspond with
356.6 services, amounts, and time periods as authorized in the participant's service budget and
356.7 service plan and must contain specific identifying information as determined by the
356.8 commissioner; and

356.9 (7) provide written notice to the participant or the participant's representative at least 30
356.10 calendar days before a proposed service termination becomes effective.

356.11 (f) The commissioner of human services shall:

356.12 (1) establish rates and payment methodology for the FMS provider;

356.13 (2) identify a process to ensure quality and performance standards for the FMS provider
356.14 and ensure statewide access to FMS providers; and

356.15 (3) establish a uniform protocol for delivering and administering CFSS services to be
356.16 used by eligible FMS providers.

356.17 Sec. 73. Minnesota Statutes 2018, section 256B.85, is amended by adding a subdivision
356.18 to read:

356.19 Subd. 14a. **Participant's representative responsibilities.** (a) If a participant is unable
356.20 to direct the participant's own care, the participant must use a participant's representative
356.21 to receive CFSS services. A participant's representative is required if:

356.22 (1) the person is under 18 years of age;

356.23 (2) the person has a court-appointed guardian; or

356.24 (3) an assessment according to section 256B.0659, subdivision 3a, determines that the
356.25 participant is in need of a participant's representative.

356.26 (b) A participant's representative must:

356.27 (1) be at least 18 years of age and actively participate in planning and directing CFSS
356.28 services;

356.29 (2) have sufficient knowledge of the participant's circumstances to use CFSS services
356.30 consistent with the participant's health and safety needs identified in the participant's care
356.31 plan;

- 357.1 (3) not have a financial interest in the provision of any services included in the
357.2 participant's CFSS service delivery plan; and
- 357.3 (4) be capable of providing the support necessary to assist the participant in the use of
357.4 CFSS services.
- 357.5 (c) A participant's representative must not be the:
- 357.6 (1) support worker;
- 357.7 (2) worker training and development service provider;
- 357.8 (3) agency-provider staff, unless related to the participant by blood, marriage, or adoption;
- 357.9 (4) consultation service provider, unless related to the participant by blood, marriage,
357.10 or adoption;
- 357.11 (5) FMS staff, unless related to the participant by blood, marriage, or adoption;
- 357.12 (6) FMS owner or manager; or
- 357.13 (7) lead agency staff acting as part of employment.
- 357.14 (d) A licensed family foster parent who lives with the participant may be the participant's
357.15 representative if the family foster parent meets the other participant's representative
357.16 requirements.
- 357.17 (e) There may be two persons designated as the participant's representative, including
357.18 instances of divided households and court-ordered custodies. Each person named as
357.19 participant's representative must meet the program criteria and responsibilities.
- 357.20 (f) The participant or the participant's legal representative shall appoint a participant's
357.21 representative. The participant's file must include written documentation that indicates the
357.22 participant's free choice. The participant's representative must be identified at the time of
357.23 assessment and listed on the participant's service agreement and CFSS service delivery plan.
- 357.24 (g) A participant's representative shall enter into a written agreement with an
357.25 agency-provider or FMS, on a form determined by the commissioner, to:
- 357.26 (1) be available while care is provided in a method agreed upon by the participant or
357.27 the participant's legal representative and documented in the participant's service delivery
357.28 plan;
- 357.29 (2) monitor CFSS services to ensure the participant's service delivery plan is followed;
- 357.30 (3) review and sign support worker time sheets after services are provided to verify the
357.31 provision of services;

- 358.1 (4) review and sign vendor paperwork to verify receipt of the good; and
- 358.2 (5) review and sign documentation to verify worker training after receipt of the worker
- 358.3 training.
- 358.4 (h) A participant's representative may delegate the responsibility to another adult who
- 358.5 is not the support worker during a temporary absence of at least 24 hours but not more than
- 358.6 six months. To delegate responsibility the participant's representative must:
- 358.7 (1) ensure that the delegate as the participant's representative satisfies the requirement
- 358.8 of the participant's representative;
- 358.9 (2) ensure that the delegate performs the functions of the participant's representative;
- 358.10 (3) communicate to the CFSS agency-provider or FMS about the need for a delegate by
- 358.11 updating the written agreement to include the name of the delegate and the delegate's contact
- 358.12 information; and
- 358.13 (4) ensure that the delegate protects the participant's privacy according to federal and
- 358.14 state data privacy laws.
- 358.15 (i) The designation of a participant's representative remains in place until:
- 358.16 (1) the participant revokes the designation;
- 358.17 (2) the participant's representative withdraws the designation or becomes unable to fulfill
- 358.18 the duties;
- 358.19 (3) the legal authority to act as a participant's representative changes; or
- 358.20 (4) the participant's representative is disqualified.
- 358.21 (j) A lead agency may disqualify a participant's representative who engages in conduct
- 358.22 that creates an imminent risk of harm to the participant, the support workers, or other staff.
- 358.23 A participant's representative that fails to provide support required by the participant must
- 358.24 be referred to the common entry point.
- 358.25 Sec. 74. Minnesota Statutes 2018, section 256B.85, subdivision 18a, is amended to read:
- 358.26 Subd. 18a. **Worker training and development services.** (a) The commissioner shall
- 358.27 develop the scope of tasks and functions, service standards, and service limits for worker
- 358.28 training and development services.
- 358.29 (b) Worker training and development costs are in addition to the participant's assessed
- 358.30 service units or service budget. Services provided according to this subdivision must:

359.1 (1) help support workers obtain and expand the skills and knowledge necessary to ensure
359.2 competency in providing quality services as needed and defined in the participant's CFSS
359.3 service delivery plan and as required under subdivisions 11b and 14;

359.4 (2) be provided or arranged for by the agency-provider under subdivision 11, or purchased
359.5 by the participant employer under the budget model as identified in subdivision 13; ~~and~~

359.6 (3) be delivered by an individual competent to perform, teach, or assign the tasks
359.7 identified, including health-related tasks, in the plan through education, training, and work
359.8 experience relevant to the person's assessed needs; and

359.9 (4) be described in the participant's CFSS service delivery plan and documented in the
359.10 participant's file.

359.11 (c) Services covered under worker training and development shall include:

359.12 (1) support worker training on the participant's individual assessed needs and condition,
359.13 provided individually or in a group setting by a skilled and knowledgeable trainer beyond
359.14 any training the participant or participant's representative provides;

359.15 (2) tuition for professional classes and workshops for the participant's support workers
359.16 that relate to the participant's assessed needs and condition;

359.17 (3) direct observation, monitoring, coaching, and documentation of support worker job
359.18 skills and tasks, beyond any training the participant or participant's representative provides,
359.19 including supervision of health-related tasks or behavioral supports that is conducted by an
359.20 appropriate professional based on the participant's assessed needs. These services must be
359.21 provided at the start of services or the start of a new support worker except as provided in
359.22 paragraph (d) and must be specified in the participant's CFSS service delivery plan; and

359.23 (4) the activities to evaluate CFSS services and ensure support worker competency
359.24 described in subdivisions 11a and 11b.

359.25 (d) The services in paragraph (c), clause (3), are not required to be provided for a new
359.26 support worker providing services for a participant due to staffing failures, unless the support
359.27 worker is expected to provide ongoing backup staffing coverage.

359.28 (e) Worker training and development services shall not include:

359.29 (1) general agency training, worker orientation, or training on CFSS self-directed models;

359.30 (2) payment for preparation or development time for the trainer or presenter;

359.31 (3) payment of the support worker's salary or compensation during the training;

360.1 (4) training or supervision provided by the participant, the participant's support worker,
360.2 or the participant's informal supports, including the participant's representative; or

360.3 (5) services in excess of 96 units per annual service agreement, unless approved by the
360.4 department.

360.5 Sec. 75. Minnesota Statutes 2018, section 256D.44, subdivision 5, is amended to read:

360.6 Subd. 5. **Special needs.** (a) In addition to the state standards of assistance established
360.7 in subdivisions 1 to 4, payments are allowed for the following special needs of recipients
360.8 of Minnesota supplemental aid who are not residents of a nursing home, a regional treatment
360.9 center, or a setting authorized to receive housing support payments under chapter 256I.

360.10 (b) The county agency shall pay a monthly allowance for medically prescribed diets if
360.11 the cost of those additional dietary needs cannot be met through some other maintenance
360.12 benefit. The need for special diets or dietary items must be prescribed by a licensed physician,
360.13 advanced practice registered nurse, or physician assistant. Costs for special diets shall be
360.14 determined as percentages of the allotment for a one-person household under the thrifty
360.15 food plan as defined by the United States Department of Agriculture. The types of diets and
360.16 the percentages of the thrifty food plan that are covered are as follows:

360.17 (1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;

360.18 (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent of
360.19 thrifty food plan;

360.20 (3) controlled protein diet, less than 40 grams and requires special products, 125 percent
360.21 of thrifty food plan;

360.22 (4) low cholesterol diet, 25 percent of thrifty food plan;

360.23 (5) high residue diet, 20 percent of thrifty food plan;

360.24 (6) pregnancy and lactation diet, 35 percent of thrifty food plan;

360.25 (7) gluten-free diet, 25 percent of thrifty food plan;

360.26 (8) lactose-free diet, 25 percent of thrifty food plan;

360.27 (9) antidumping diet, 15 percent of thrifty food plan;

360.28 (10) hypoglycemic diet, 15 percent of thrifty food plan; or

360.29 (11) ketogenic diet, 25 percent of thrifty food plan.

361.1 (c) Payment for nonrecurring special needs must be allowed for necessary home repairs
361.2 or necessary repairs or replacement of household furniture and appliances using the payment
361.3 standard of the AFDC program in effect on July 16, 1996, for these expenses, as long as
361.4 other funding sources are not available.

361.5 (d) A fee for guardian or conservator service is allowed at a reasonable rate negotiated
361.6 by the county or approved by the court. This rate shall not exceed five percent of the
361.7 assistance unit's gross monthly income up to a maximum of \$100 per month. If the guardian
361.8 or conservator is a member of the county agency staff, no fee is allowed.

361.9 (e) The county agency shall continue to pay a monthly allowance of \$68 for restaurant
361.10 meals for a person who was receiving a restaurant meal allowance on June 1, 1990, and
361.11 who eats two or more meals in a restaurant daily. The allowance must continue until the
361.12 person has not received Minnesota supplemental aid for one full calendar month or until
361.13 the person's living arrangement changes and the person no longer meets the criteria for the
361.14 restaurant meal allowance, whichever occurs first.

361.15 (f) A fee of ten percent of the recipient's gross income or \$25, whichever is less, is
361.16 allowed for representative payee services provided by an agency that meets the requirements
361.17 under SSI regulations to charge a fee for representative payee services. This special need
361.18 is available to all recipients of Minnesota supplemental aid regardless of their living
361.19 arrangement.

361.20 (g)(1) Notwithstanding the language in this subdivision, an amount equal to one-half of
361.21 the maximum federal Supplemental Security Income payment amount for a single individual
361.22 which is in effect on the first day of July of each year will be added to the standards of
361.23 assistance established in subdivisions 1 to 4 for adults under the age of 65 who qualify as
361.24 in need of housing assistance and are:

361.25 (i) relocating from an institution, a setting authorized to receive housing support under
361.26 chapter 256I, or an adult mental health residential treatment program under section
361.27 256B.0622;

361.28 (ii) eligible for personal care assistance ~~under section 256B.0659~~; or

361.29 (iii) home and community-based waiver recipients living in their own home or rented
361.30 or leased apartment.

361.31 (2) Notwithstanding subdivision 3, paragraph (c), an individual eligible for the shelter
361.32 needy benefit under this paragraph is considered a household of one. An eligible individual

362.1 who receives this benefit prior to age 65 may continue to receive the benefit after the age
362.2 of 65.

362.3 (3) "Housing assistance" means that the assistance unit incurs monthly shelter costs that
362.4 exceed 40 percent of the assistance unit's gross income before the application of this special
362.5 needs standard. "Gross income" for the purposes of this section is the applicant's or recipient's
362.6 income as defined in section 256D.35, subdivision 10, or the standard specified in subdivision
362.7 3, paragraph (a) or (b), whichever is greater. A recipient of a federal or state housing subsidy,
362.8 that limits shelter costs to a percentage of gross income, shall not be considered in need of
362.9 housing assistance for purposes of this paragraph.

362.10 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
362.11 human services following federal approval but not more than two years after federal approval
362.12 is obtained. The commissioner of human services shall notify the revisor of statutes when
362.13 federal approval is obtained.

362.14 Sec. 76. Minnesota Statutes 2018, section 256I.05, subdivision 1a, is amended to read:

362.15 Subd. 1a. **Supplementary service rates.** (a) Subject to the provisions of section 256I.04,
362.16 subdivision 3, the county agency may negotiate a payment not to exceed \$426.37 for other
362.17 services necessary to provide room and board if the residence is licensed by or registered
362.18 by the Department of Health, or licensed by the Department of Human Services to provide
362.19 services in addition to room and board, and if the provider of services is not also concurrently
362.20 receiving funding for services for a recipient under a home and community-based waiver
362.21 under title XIX of the Social Security Act; or funding from the medical assistance program
362.22 ~~under section 256B.0659~~, for personal care services for residents in the setting; or residing
362.23 in a setting which receives funding under section 245.73. If funding is available for other
362.24 necessary services through a home and community-based waiver, or personal care services
362.25 ~~under section 256B.0659~~, then the housing support rate is limited to the rate set in subdivision
362.26 1. Unless otherwise provided in law, in no case may the supplementary service rate exceed
362.27 \$426.37. The registration and licensure requirement does not apply to establishments which
362.28 are exempt from state licensure because they are located on Indian reservations and for
362.29 which the tribe has prescribed health and safety requirements. Service payments under this
362.30 section may be prohibited under rules to prevent the supplanting of federal funds with state
362.31 funds. The commissioner shall pursue the feasibility of obtaining the approval of the Secretary
362.32 of Health and Human Services to provide home and community-based waiver services under
362.33 title XIX of the Social Security Act for residents who are not eligible for an existing home

363.1 and community-based waiver due to a primary diagnosis of mental illness or chemical
363.2 dependency and shall apply for a waiver if it is determined to be cost-effective.

363.3 (b) The commissioner is authorized to make cost-neutral transfers from the housing
363.4 support fund for beds under this section to other funding programs administered by the
363.5 department after consultation with the county or counties in which the affected beds are
363.6 located. The commissioner may also make cost-neutral transfers from the housing support
363.7 fund to county human service agencies for beds permanently removed from the housing
363.8 support census under a plan submitted by the county agency and approved by the
363.9 commissioner. The commissioner shall report the amount of any transfers under this provision
363.10 annually to the legislature.

363.11 (c) Counties must not negotiate supplementary service rates with providers of housing
363.12 support that are licensed as board and lodging with special services and that do not encourage
363.13 a policy of sobriety on their premises and make referrals to available community services
363.14 for volunteer and employment opportunities for residents.

363.15 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
363.16 human services following federal approval but not more than two years after federal approval
363.17 is obtained. The commissioner of human services shall notify the revisor of statutes when
363.18 federal approval is obtained.

363.19 Sec. 77. Minnesota Statutes 2018, section 256J.21, subdivision 2, is amended to read:

363.20 Subd. 2. **Income exclusions.** The following must be excluded in determining a family's
363.21 available income:

363.22 (1) payments for basic care, difficulty of care, and clothing allowances received for
363.23 providing family foster care to children or adults under Minnesota Rules, parts 9555.5050
363.24 to 9555.6265, 9560.0521, and 9560.0650 to 9560.0654, payments for family foster care for
363.25 children under section 260C.4411 or chapter 256N, and payments received and used for
363.26 care and maintenance of a third-party beneficiary who is not a household member;

363.27 (2) reimbursements for employment training received through the Workforce Investment
363.28 Act of 1998, United States Code, title 20, chapter 73, section 9201;

363.29 (3) reimbursement for out-of-pocket expenses incurred while performing volunteer
363.30 services, jury duty, employment, or informal carpooling arrangements directly related to
363.31 employment;

363.32 (4) all educational assistance, except the county agency must count graduate student
363.33 teaching assistantships, fellowships, and other similar paid work as earned income and,

- 364.1 after allowing deductions for any unmet and necessary educational expenses, shall count
364.2 scholarships or grants awarded to graduate students that do not require teaching or research
364.3 as unearned income;
- 364.4 (5) loans, regardless of purpose, from public or private lending institutions, governmental
364.5 lending institutions, or governmental agencies;
- 364.6 (6) loans from private individuals, regardless of purpose, provided an applicant or
364.7 participant documents that the lender expects repayment;
- 364.8 (7)(i) state income tax refunds; and
364.9 (ii) federal income tax refunds;
- 364.10 (8)(i) federal earned income credits;
364.11 (ii) Minnesota working family credits;
364.12 (iii) state homeowners and renters credits under chapter 290A; and
364.13 (iv) federal or state tax rebates;
- 364.14 (9) funds received for reimbursement, replacement, or rebate of personal or real property
364.15 when these payments are made by public agencies, awarded by a court, solicited through
364.16 public appeal, or made as a grant by a federal agency, state or local government, or disaster
364.17 assistance organizations, subsequent to a presidential declaration of disaster;
- 364.18 (10) the portion of an insurance settlement that is used to pay medical, funeral, and burial
364.19 expenses, or to repair or replace insured property;
- 364.20 (11) reimbursements for medical expenses that cannot be paid by medical assistance;
- 364.21 (12) payments by a vocational rehabilitation program administered by the state under
364.22 chapter 268A, except those payments that are for current living expenses;
- 364.23 (13) in-kind income, including any payments directly made by a third party to a provider
364.24 of goods and services;
- 364.25 (14) assistance payments to correct underpayments, but only for the month in which the
364.26 payment is received;
- 364.27 (15) payments for short-term emergency needs under section 256J.626, subdivision 2;
364.28 (16) funeral and cemetery payments as provided by section 256.935;
- 364.29 (17) nonrecurring cash gifts of \$30 or less, not exceeding \$30 per participant in a calendar
364.30 month;

- 365.1 (18) any form of energy assistance payment made through Public Law 97-35,
365.2 Low-Income Home Energy Assistance Act of 1981, payments made directly to energy
365.3 providers by other public and private agencies, and any form of credit or rebate payment
365.4 issued by energy providers;
- 365.5 (19) Supplemental Security Income (SSI), including retroactive SSI payments and other
365.6 income of an SSI recipient;
- 365.7 (20) Minnesota supplemental aid, including retroactive payments;
- 365.8 (21) proceeds from the sale of real or personal property;
- 365.9 (22) adoption or kinship assistance payments under chapter 256N or 259A and Minnesota
365.10 permanency demonstration title IV-E waiver payments;
- 365.11 (23) state-funded family subsidy program payments made under section 252.32 to help
365.12 families care for children with developmental disabilities, ~~consumer support grant funds~~
365.13 ~~under section 256.476~~, and resources and services for a disabled household member under
365.14 one of the home and community-based waiver services programs under chapter 256B;
- 365.15 (24) interest payments and dividends from property that is not excluded from and that
365.16 does not exceed the asset limit;
- 365.17 (25) rent rebates;
- 365.18 (26) income earned by a minor caregiver, minor child through age 6, or a minor child
365.19 who is at least a half-time student in an approved elementary or secondary education program;
- 365.20 (27) income earned by a caregiver under age 20 who is at least a half-time student in an
365.21 approved elementary or secondary education program;
- 365.22 (28) MFIP child care payments under section 119B.05;
- 365.23 (29) all other payments made through MFIP to support a caregiver's pursuit of greater
365.24 economic stability;
- 365.25 (30) income a participant receives related to shared living expenses;
- 365.26 (31) reverse mortgages;
- 365.27 (32) benefits provided by the Child Nutrition Act of 1966, United States Code, title 42,
365.28 chapter 13A, sections 1771 to 1790;
- 365.29 (33) benefits provided by the women, infants, and children (WIC) nutrition program,
365.30 United States Code, title 42, chapter 13A, section 1786;

366.1 (34) benefits from the National School Lunch Act, United States Code, title 42, chapter
366.2 13, sections 1751 to 1769e;

366.3 (35) relocation assistance for displaced persons under the Uniform Relocation Assistance
366.4 and Real Property Acquisition Policies Act of 1970, United States Code, title 42, chapter
366.5 61, subchapter II, section 4636, or the National Housing Act, United States Code, title 12,
366.6 chapter 13, sections 1701 to 1750jj;

366.7 (36) benefits from the Trade Act of 1974, United States Code, title 19, chapter 12, part
366.8 2, sections 2271 to 2322;

366.9 (37) war reparations payments to Japanese Americans and Aleuts under United States
366.10 Code, title 50, sections 1989 to 1989d;

366.11 (38) payments to veterans or their dependents as a result of legal settlements regarding
366.12 Agent Orange or other chemical exposure under Public Law 101-239, section 10405,
366.13 paragraph (a)(2)(E);

366.14 (39) income that is otherwise specifically excluded from MFIP consideration in federal
366.15 law, state law, or federal regulation;

366.16 (40) security and utility deposit refunds;

366.17 (41) American Indian tribal land settlements excluded under Public Laws 98-123, 98-124,
366.18 and 99-377 to the Mississippi Band Chippewa Indians of White Earth, Leech Lake, and
366.19 Mille Lacs reservations and payments to members of the White Earth Band, under United
366.20 States Code, title 25, chapter 9, section 331, and chapter 16, section 1407;

366.21 (42) all income of the minor parent's parents and stepparents when determining the grant
366.22 for the minor parent in households that include a minor parent living with parents or
366.23 stepparents on MFIP with other children;

366.24 (43) income of the minor parent's parents and stepparents equal to 200 percent of the
366.25 federal poverty guideline for a family size not including the minor parent and the minor
366.26 parent's child in households that include a minor parent living with parents or stepparents
366.27 not on MFIP when determining the grant for the minor parent. The remainder of income is
366.28 deemed as specified in section 256J.37, subdivision 1b;

366.29 (44) payments made to children eligible for relative custody assistance under section
366.30 257.85;

366.31 (45) vendor payments for goods and services made on behalf of a client unless the client
366.32 has the option of receiving the payment in cash;

367.1 (46) the principal portion of a contract for deed payment;

367.2 (47) cash payments to individuals enrolled for full-time service as a volunteer under
 367.3 AmeriCorps programs including AmeriCorps VISTA, AmeriCorps State, AmeriCorps
 367.4 National, and AmeriCorps NCCC;

367.5 (48) housing assistance grants under section 256J.35, paragraph (a); and

367.6 (49) child support payments of up to \$100 for an assistance unit with one child and up
 367.7 to \$200 for an assistance unit with two or more children.

367.8 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 367.9 human services following federal approval but not more than two years after federal approval
 367.10 is obtained. The commissioner of human services shall notify the revisor of statutes when
 367.11 federal approval is obtained.

367.12 Sec. 78. Minnesota Statutes 2018, section 256J.45, subdivision 3, is amended to read:

367.13 Subd. 3. **Good cause exemptions for not attending orientation.** (a) The county agency
 367.14 shall not impose the sanction under section 256J.46 if it determines that the participant has
 367.15 good cause for failing to attend orientation. Good cause exists when:

367.16 (1) appropriate child care is not available;

367.17 (2) the participant is ill or injured;

367.18 (3) a family member is ill and needs care by the participant that prevents the participant
 367.19 from attending orientation. For a caregiver with a child or adult in the household who meets
 367.20 the disability or medical criteria for home care services ~~under section 256B.0659~~, or a home
 367.21 and community-based waiver services program under chapter 256B, or meets the criteria
 367.22 for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and
 367.23 persistent mental illness under section 245.462, subdivision 20, paragraph (c), good cause
 367.24 also exists when an interruption in the provision of those services occurs which prevents
 367.25 the participant from attending orientation;

367.26 (4) the caregiver is unable to secure necessary transportation;

367.27 (5) the caregiver is in an emergency situation that prevents orientation attendance;

367.28 (6) the orientation conflicts with the caregiver's work, training, or school schedule; or

367.29 (7) the caregiver documents other verifiable impediments to orientation attendance
 367.30 beyond the caregiver's control.

368.1 (b) Counties must work with clients to provide child care and transportation necessary
 368.2 to ensure a caregiver has every opportunity to attend orientation.

368.3 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 368.4 human services following federal approval but not more than two years after federal approval
 368.5 is obtained. The commissioner of human services shall notify the revisor of statutes when
 368.6 federal approval is obtained.

368.7 Sec. 79. Minnesota Statutes 2018, section 394.307, subdivision 1, is amended to read:

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

368.10 (b) "Caregiver" means an individual 18 years of age or older who:

368.11 (1) provides care for a mentally or physically impaired person; and

368.12 (2) is a relative, legal guardian, or health care agent of the mentally or physically impaired
 368.13 person for whom the individual is caring.

368.14 ~~(e) "Instrumental activities of daily living" has the meaning given in section 256B.0659,~~
 368.15 ~~subdivision 1, paragraph (i).~~

368.16 ~~(d)~~ (c) "Mentally or physically impaired person" means a person who is a resident of
 368.17 this state and who requires assistance with two or more instrumental activities of daily living
 368.18 as certified in writing by a physician, a physician assistant, or an advanced practice registered
 368.19 nurse licensed to practice in this state.

368.20 ~~(e)~~ (d) "Relative" means a spouse, parent, grandparent, child, grandchild, sibling, uncle,
 368.21 aunt, nephew, or niece of the mentally or physically impaired person. Relative includes
 368.22 half, step, and in-law relationships.

368.23 ~~(f)~~ (e) "Temporary family health care dwelling" means a mobile residential dwelling
 368.24 providing an environment facilitating a caregiver's provision of care for a mentally or
 368.25 physically impaired person that meets the requirements of subdivision 2.

368.26 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 368.27 human services following federal approval but not more than two years after federal approval
 368.28 is obtained. The commissioner of human services shall notify the revisor of statutes when
 368.29 federal approval is obtained.

369.1 Sec. 80. Minnesota Statutes 2018, section 462.3593, subdivision 1, is amended to read:

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

369.4 (b) "Caregiver" means an individual 18 years of age or older who:

369.5 (1) provides care for a mentally or physically impaired person; and

369.6 (2) is a relative, legal guardian, or health care agent of the mentally or physically impaired
369.7 person for whom the individual is caring.

369.8 ~~(c) "Instrumental activities of daily living" has the meaning given in section 256B.0659,~~
369.9 ~~subdivision 1, paragraph (i).~~

369.10 ~~(d)~~ (c) "Mentally or physically impaired person" means a person who is a resident of
369.11 this state and who requires assistance with two or more instrumental activities of daily living
369.12 as certified in writing by a physician, a physician assistant, or an advanced practice registered
369.13 nurse licensed to practice in this state.

369.14 ~~(e)~~ (d) "Relative" means a spouse, parent, grandparent, child, grandchild, sibling, uncle,
369.15 aunt, nephew, or niece of the mentally or physically impaired person. Relative includes
369.16 half, step, and in-law relationships.

369.17 ~~(f)~~ (e) "Temporary family health care dwelling" means a mobile residential dwelling
369.18 providing an environment facilitating a caregiver's provision of care for a mentally or
369.19 physically impaired person that meets the requirements of subdivision 2.

369.20 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
369.21 human services following federal approval but not more than two years after federal approval
369.22 is obtained. The commissioner of human services shall notify the revisor of statutes when
369.23 federal approval is obtained.

369.24 Sec. 81. Minnesota Statutes 2018, section 604A.33, subdivision 1, is amended to read:

369.25 Subdivision 1. **Application.** This section applies to residential treatment programs for
369.26 children or group homes for children licensed under chapter 245A, residential services and
369.27 programs for juveniles licensed under section 241.021, providers licensed pursuant to
369.28 sections 144A.01 to 144A.33 or sections 144A.43 to 144A.47, personal care provider
369.29 organizations ~~under section 256B.0659~~, providers of day training and habilitation services
369.30 under sections 252.41 to 252.46, board and lodging facilities licensed under chapter 157,
369.31 intermediate care facilities for persons with developmental disabilities, and other facilities
369.32 licensed to provide residential services to persons with developmental disabilities.

370.1 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 370.2 human services following federal approval but not more than two years after federal approval
 370.3 is obtained. The commissioner of human services shall notify the revisor of statutes when
 370.4 federal approval is obtained.

370.5 Sec. 82. Minnesota Statutes 2018, section 609.232, subdivision 3, is amended to read:

370.6 Subd. 3. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed
 370.7 under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults
 370.8 under section 144A.02; a home care provider licensed or required to be licensed under
 370.9 sections 144A.43 to 144A.482; a residential or nonresidential facility required to be licensed
 370.10 to serve adults under sections 245A.01 to 245A.16; or a person or organization that
 370.11 exclusively offers, provides, or arranges for personal care assistance services under the
 370.12 medical assistance program as authorized under sections ~~256B.0625, subdivision 19a,~~
 370.13 256B.0651, 256B.0653, and 256B.0654.

370.14 (b) For home care providers and personal care attendants, the term "facility" refers to
 370.15 the provider or person or organization that exclusively offers, provides, or arranges for
 370.16 personal care services, and does not refer to the client's home or other location at which
 370.17 services are rendered.

370.18 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 370.19 human services following federal approval but not more than two years after federal approval
 370.20 is obtained. The commissioner of human services shall notify the revisor of statutes when
 370.21 federal approval is obtained.

370.22 Sec. 83. Minnesota Statutes 2018, section 609.232, subdivision 11, is amended to read:

370.23 Subd. 11. **Vulnerable adult.** "Vulnerable adult" means any person 18 years of age or
 370.24 older who:

370.25 (1) is a resident inpatient of a facility;

370.26 (2) receives services at or from a facility required to be licensed to serve adults under
 370.27 sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment
 370.28 of chemical dependency or mental illness, or one who is committed as a sexual psychopathic
 370.29 personality or as a sexually dangerous person under chapter 253B, is not considered a
 370.30 vulnerable adult unless the person meets the requirements of clause (4);

370.31 (3) receives services from a home care provider required to be licensed under sections
 370.32 144A.43 to 144A.482; or from a person or organization that exclusively offers, provides,

371.1 or arranges for personal care assistance services under the medical assistance program as
371.2 authorized under sections ~~256B.0625, subdivision 19a, 256B.0651 to 256B.0654, and~~
371.3 ~~256B.0659~~; or

371.4 (4) regardless of residence or whether any type of service is received, possesses a physical
371.5 or mental infirmity or other physical, mental, or emotional dysfunction:

371.6 (i) that impairs the individual's ability to provide adequately for the individual's own
371.7 care without assistance, including the provision of food, shelter, clothing, health care, or
371.8 supervision; and

371.9 (ii) because of the dysfunction or infirmity and the need for assistance, the individual
371.10 has an impaired ability to protect the individual from maltreatment.

371.11 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
371.12 human services following federal approval but not more than two years after federal approval
371.13 is obtained. The commissioner of human services shall notify the revisor of statutes when
371.14 federal approval is obtained.

371.15 Sec. 84. Minnesota Statutes 2018, section 626.556, subdivision 2, is amended to read:

371.16 Subd. 2. **Definitions.** As used in this section, the following terms have the meanings
371.17 given them unless the specific content indicates otherwise:

371.18 (a) "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence
371.19 or event which:

371.20 (1) is not likely to occur and could not have been prevented by exercise of due care; and

371.21 (2) if occurring while a child is receiving services from a facility, happens when the
371.22 facility and the employee or person providing services in the facility are in compliance with
371.23 the laws and rules relevant to the occurrence or event.

371.24 (b) "Commissioner" means the commissioner of human services.

371.25 (c) "Facility" means:

371.26 (1) a licensed or unlicensed day care facility, certified license-exempt child care center,
371.27 residential facility, agency, hospital, sanitarium, or other facility or institution required to
371.28 be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter
371.29 144H, 245D, or 245H;

371.30 (2) a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E;
371.31 or

372.1 (3) a nonlicensed personal care provider organization ~~as defined in section 256B.0625,~~
372.2 ~~subdivision 19a.~~

372.3 (d) "Family assessment" means a comprehensive assessment of child safety, risk of
372.4 subsequent child maltreatment, and family strengths and needs that is applied to a child
372.5 maltreatment report that does not allege sexual abuse or substantial child endangerment.
372.6 Family assessment does not include a determination as to whether child maltreatment
372.7 occurred but does determine the need for services to address the safety of family members
372.8 and the risk of subsequent maltreatment.

372.9 (e) "Investigation" means fact gathering related to the current safety of a child and the
372.10 risk of subsequent maltreatment that determines whether child maltreatment occurred and
372.11 whether child protective services are needed. An investigation must be used when reports
372.12 involve sexual abuse or substantial child endangerment, and for reports of maltreatment in
372.13 facilities required to be licensed or certified under chapter 245A, 245D, or 245H; under
372.14 sections 144.50 to 144.58 and 241.021; in a school as defined in section 120A.05,
372.15 subdivisions 9, 11, and 13, and chapter 124E; or in a nonlicensed personal care provider
372.16 association ~~as defined in section 256B.0625, subdivision 19a.~~

372.17 (f) "Mental injury" means an injury to the psychological capacity or emotional stability
372.18 of a child as evidenced by an observable or substantial impairment in the child's ability to
372.19 function within a normal range of performance and behavior with due regard to the child's
372.20 culture.

372.21 (g) "Neglect" means the commission or omission of any of the acts specified under
372.22 clauses (1) to (9), other than by accidental means:

372.23 (1) failure by a person responsible for a child's care to supply a child with necessary
372.24 food, clothing, shelter, health, medical, or other care required for the child's physical or
372.25 mental health when reasonably able to do so;

372.26 (2) failure to protect a child from conditions or actions that seriously endanger the child's
372.27 physical or mental health when reasonably able to do so, including a growth delay, which
372.28 may be referred to as a failure to thrive, that has been diagnosed by a physician and is due
372.29 to parental neglect;

372.30 (3) failure to provide for necessary supervision or child care arrangements appropriate
372.31 for a child after considering factors as the child's age, mental ability, physical condition,
372.32 length of absence, or environment, when the child is unable to care for the child's own basic
372.33 needs or safety, or the basic needs or safety of another child in their care;

373.1 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
373.2 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
373.3 child with sympathomimetic medications, consistent with section 125A.091, subdivision
373.4 5;

373.5 (5) nothing in this section shall be construed to mean that a child is neglected solely
373.6 because the child's parent, guardian, or other person responsible for the child's care in good
373.7 faith selects and depends upon spiritual means or prayer for treatment or care of disease or
373.8 remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker,
373.9 or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of
373.10 medical care may cause serious danger to the child's health. This section does not impose
373.11 upon persons, not otherwise legally responsible for providing a child with necessary food,
373.12 clothing, shelter, education, or medical care, a duty to provide that care;

373.13 (6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision
373.14 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in
373.15 the child at birth, results of a toxicology test performed on the mother at delivery or the
373.16 child at birth, medical effects or developmental delays during the child's first year of life
373.17 that medically indicate prenatal exposure to a controlled substance, or the presence of a
373.18 fetal alcohol spectrum disorder;

373.19 (7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

373.20 (8) chronic and severe use of alcohol or a controlled substance by a parent or person
373.21 responsible for the care of the child that adversely affects the child's basic needs and safety;
373.22 or

373.23 (9) emotional harm from a pattern of behavior which contributes to impaired emotional
373.24 functioning of the child which may be demonstrated by a substantial and observable effect
373.25 in the child's behavior, emotional response, or cognition that is not within the normal range
373.26 for the child's age and stage of development, with due regard to the child's culture.

373.27 (h) "Nonmaltreatment mistake" means:

373.28 (1) at the time of the incident, the individual was performing duties identified in the
373.29 center's child care program plan required under Minnesota Rules, part 9503.0045;

373.30 (2) the individual has not been determined responsible for a similar incident that resulted
373.31 in a finding of maltreatment for at least seven years;

373.32 (3) the individual has not been determined to have committed a similar nonmaltreatment
373.33 mistake under this paragraph for at least four years;

374.1 (4) any injury to a child resulting from the incident, if treated, is treated only with
374.2 remedies that are available over the counter, whether ordered by a medical professional or
374.3 not; and

374.4 (5) except for the period when the incident occurred, the facility and the individual
374.5 providing services were both in compliance with all licensing requirements relevant to the
374.6 incident.

374.7 This definition only applies to child care centers licensed under Minnesota Rules, chapter
374.8 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated
374.9 maltreatment by the individual, the commissioner of human services shall determine that a
374.10 nonmaltreatment mistake was made by the individual.

374.11 (i) "Operator" means an operator or agency as defined in section 245A.02.

374.12 (j) "Person responsible for the child's care" means (1) an individual functioning within
374.13 the family unit and having responsibilities for the care of the child such as a parent, guardian,
374.14 or other person having similar care responsibilities, or (2) an individual functioning outside
374.15 the family unit and having responsibilities for the care of the child such as a teacher, school
374.16 administrator, other school employees or agents, or other lawful custodian of a child having
374.17 either full-time or short-term care responsibilities including, but not limited to, day care,
374.18 babysitting whether paid or unpaid, counseling, teaching, and coaching.

374.19 (k) "Physical abuse" means any physical injury, mental injury, or threatened injury,
374.20 inflicted by a person responsible for the child's care on a child other than by accidental
374.21 means, or any physical or mental injury that cannot reasonably be explained by the child's
374.22 history of injuries, or any aversive or deprivation procedures, or regulated interventions,
374.23 that have not been authorized under section 125A.0942 or 245.825.

374.24 Abuse does not include reasonable and moderate physical discipline of a child
374.25 administered by a parent or legal guardian which does not result in an injury. Abuse does
374.26 not include the use of reasonable force by a teacher, principal, or school employee as allowed
374.27 by section 121A.582. Actions which are not reasonable and moderate include, but are not
374.28 limited to, any of the following:

374.29 (1) throwing, kicking, burning, biting, or cutting a child;

374.30 (2) striking a child with a closed fist;

374.31 (3) shaking a child under age three;

374.32 (4) striking or other actions which result in any nonaccidental injury to a child under 18
374.33 months of age;

- 375.1 (5) unreasonable interference with a child's breathing;
- 375.2 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
- 375.3 (7) striking a child under age one on the face or head;
- 375.4 (8) striking a child who is at least age one but under age four on the face or head, which
375.5 results in an injury;
- 375.6 (9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
375.7 substances which were not prescribed for the child by a practitioner, in order to control or
375.8 punish the child; or other substances that substantially affect the child's behavior, motor
375.9 coordination, or judgment or that results in sickness or internal injury, or subjects the child
375.10 to medical procedures that would be unnecessary if the child were not exposed to the
375.11 substances;
- 375.12 (10) unreasonable physical confinement or restraint not permitted under section 609.379,
375.13 including but not limited to tying, caging, or chaining; or
- 375.14 (11) in a school facility or school zone, an act by a person responsible for the child's
375.15 care that is a violation under section 121A.58.
- 375.16 (l) "Practice of social services," for the purposes of subdivision 3, includes but is not
375.17 limited to employee assistance counseling and the provision of guardian ad litem and
375.18 parenting time expeditor services.
- 375.19 (m) "Report" means any communication received by the local welfare agency, police
375.20 department, county sheriff, or agency responsible for child protection pursuant to this section
375.21 that describes neglect or physical or sexual abuse of a child and contains sufficient content
375.22 to identify the child and any person believed to be responsible for the neglect or abuse, if
375.23 known.
- 375.24 (n) "Sexual abuse" means the subjection of a child by a person responsible for the child's
375.25 care, by a person who has a significant relationship to the child, as defined in section 609.341,
375.26 or by a person in a position of authority, as defined in section 609.341, subdivision 10, to
375.27 any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first
375.28 degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual
375.29 conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or
375.30 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act
375.31 which involves a minor which constitutes a violation of prostitution offenses under sections
375.32 609.321 to 609.324 or 617.246. Effective May 29, 2017, sexual abuse includes all reports
375.33 of known or suspected child sex trafficking involving a child who is identified as a victim

376.1 of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321,
376.2 subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse which includes the
376.3 status of a parent or household member who has committed a violation which requires
376.4 registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or
376.5 required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

376.6 (o) "Substantial child endangerment" means a person responsible for a child's care, by
376.7 act or omission, commits or attempts to commit an act against a child under their care that
376.8 constitutes any of the following:

376.9 (1) egregious harm as defined in section 260C.007, subdivision 14;

376.10 (2) abandonment under section 260C.301, subdivision 2;

376.11 (3) neglect as defined in paragraph (g), clause (2), that substantially endangers the child's
376.12 physical or mental health, including a growth delay, which may be referred to as failure to
376.13 thrive, that has been diagnosed by a physician and is due to parental neglect;

376.14 (4) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

376.15 (5) manslaughter in the first or second degree under section 609.20 or 609.205;

376.16 (6) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;

376.17 (7) solicitation, inducement, and promotion of prostitution under section 609.322;

376.18 (8) criminal sexual conduct under sections 609.342 to 609.3451;

376.19 (9) solicitation of children to engage in sexual conduct under section 609.352;

376.20 (10) malicious punishment or neglect or endangerment of a child under section 609.377
376.21 or 609.378;

376.22 (11) use of a minor in sexual performance under section 617.246; or

376.23 (12) parental behavior, status, or condition which mandates that the county attorney file
376.24 a termination of parental rights petition under section 260C.503, subdivision 2.

376.25 (p) "Threatened injury" means a statement, overt act, condition, or status that represents
376.26 a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes,
376.27 but is not limited to, exposing a child to a person responsible for the child's care, as defined
376.28 in paragraph (j), clause (1), who has:

376.29 (1) subjected a child to, or failed to protect a child from, an overt act or condition that
376.30 constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law
376.31 of another jurisdiction;

377.1 (2) been found to be palpably unfit under section 260C.301, subdivision 1, paragraph
377.2 (b), clause (4), or a similar law of another jurisdiction;

377.3 (3) committed an act that has resulted in an involuntary termination of parental rights
377.4 under section 260C.301, or a similar law of another jurisdiction; or

377.5 (4) committed an act that has resulted in the involuntary transfer of permanent legal and
377.6 physical custody of a child to a relative under Minnesota Statutes 2010, section 260C.201,
377.7 subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law
377.8 of another jurisdiction.

377.9 A child is the subject of a report of threatened injury when the responsible social services
377.10 agency receives birth match data under paragraph (q) from the Department of Human
377.11 Services.

377.12 (q) Upon receiving data under section 144.225, subdivision 2b, contained in a birth
377.13 record or recognition of parentage identifying a child who is subject to threatened injury
377.14 under paragraph (p), the Department of Human Services shall send the data to the responsible
377.15 social services agency. The data is known as "birth match" data. Unless the responsible
377.16 social services agency has already begun an investigation or assessment of the report due
377.17 to the birth of the child or execution of the recognition of parentage and the parent's previous
377.18 history with child protection, the agency shall accept the birth match data as a report under
377.19 this section. The agency may use either a family assessment or investigation to determine
377.20 whether the child is safe. All of the provisions of this section apply. If the child is determined
377.21 to be safe, the agency shall consult with the county attorney to determine the appropriateness
377.22 of filing a petition alleging the child is in need of protection or services under section
377.23 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is
377.24 determined not to be safe, the agency and the county attorney shall take appropriate action
377.25 as required under section 260C.503, subdivision 2.

377.26 (r) Persons who conduct assessments or investigations under this section shall take into
377.27 account accepted child-rearing practices of the culture in which a child participates and
377.28 accepted teacher discipline practices, which are not injurious to the child's health, welfare,
377.29 and safety.

377.30 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
377.31 human services following federal approval but not more than two years after federal approval
377.32 is obtained. The commissioner of human services shall notify the revisor of statutes when
377.33 federal approval is obtained.

378.1 Sec. 85. Minnesota Statutes 2018, section 626.556, subdivision 3, is amended to read:

378.2 Subd. 3. **Persons mandated to report; persons voluntarily reporting.** (a) A person
378.3 who knows or has reason to believe a child is being neglected or physically or sexually
378.4 abused, as defined in subdivision 2, or has been neglected or physically or sexually abused
378.5 within the preceding three years, shall immediately report the information to the local welfare
378.6 agency, agency responsible for assessing or investigating the report, police department,
378.7 county sheriff, tribal social services agency, or tribal police department if the person is:

378.8 (1) a professional or professional's delegate who is engaged in the practice of the healing
378.9 arts, social services, hospital administration, psychological or psychiatric treatment, child
378.10 care, education, correctional supervision, probation and correctional services, or law
378.11 enforcement; or

378.12 (2) employed as a member of the clergy and received the information while engaged in
378.13 ministerial duties, provided that a member of the clergy is not required by this subdivision
378.14 to report information that is otherwise privileged under section 595.02, subdivision 1,
378.15 paragraph (c).

378.16 (b) Any person may voluntarily report to the local welfare agency, agency responsible
378.17 for assessing or investigating the report, police department, county sheriff, tribal social
378.18 services agency, or tribal police department if the person knows, has reason to believe, or
378.19 suspects a child is being or has been neglected or subjected to physical or sexual abuse.

378.20 (c) A person mandated to report physical or sexual child abuse or neglect occurring
378.21 within a licensed facility shall report the information to the agency responsible for licensing
378.22 or certifying the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16;
378.23 or chapter 144H, 245D, or 245H; or a nonlicensed personal care provider organization as
378.24 ~~defined in section 256B.0625, subdivision 19a.~~ A health or corrections agency receiving a
378.25 report may request the local welfare agency to provide assistance pursuant to subdivisions
378.26 10, 10a, and 10b. A board or other entity whose licensees perform work within a school
378.27 facility, upon receiving a complaint of alleged maltreatment, shall provide information about
378.28 the circumstances of the alleged maltreatment to the commissioner of education. Section
378.29 13.03, subdivision 4, applies to data received by the commissioner of education from a
378.30 licensing entity.

378.31 (d) Notification requirements under subdivision 10 apply to all reports received under
378.32 this section.

378.33 (e) For purposes of this section, "immediately" means as soon as possible but in no event
378.34 longer than 24 hours.

379.1 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 379.2 human services following federal approval but not more than two years after federal approval
 379.3 is obtained. The commissioner of human services shall notify the revisor of statutes when
 379.4 federal approval is obtained.

379.5 Sec. 86. Minnesota Statutes 2018, section 626.556, subdivision 3c, is amended to read:

379.6 Subd. 3c. **Local welfare agency, Department of Human Services or Department of**
 379.7 **Health responsible for assessing or investigating reports of maltreatment.** (a) The local
 379.8 welfare agency is the agency responsible for assessing or investigating allegations of
 379.9 maltreatment in child foster care, family child care, legally nonlicensed child care, and
 379.10 reports involving children served by an unlicensed personal care provider organization
 379.11 ~~under section 256B.0659.~~ Copies of findings related to personal care provider organizations
 379.12 ~~under section 256B.0659~~ must be forwarded to the Department of Human Services provider
 379.13 enrollment.

379.14 (b) The Department of Human Services is the agency responsible for assessing or
 379.15 investigating allegations of maltreatment in juvenile correctional facilities listed under
 379.16 section 241.021 located in the local welfare agency's county and in facilities licensed or
 379.17 certified under chapters 245A, 245D, and 245H, except for child foster care and family
 379.18 child care.

379.19 (c) The Department of Health is the agency responsible for assessing or investigating
 379.20 allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58 and
 379.21 144A.43 to 144A.482 or chapter 144H.

379.22 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 379.23 human services following federal approval but not more than two years after federal approval
 379.24 is obtained. The commissioner of human services shall notify the revisor of statutes when
 379.25 federal approval is obtained.

379.26 Sec. 87. Minnesota Statutes 2018, section 626.556, subdivision 4, is amended to read:

379.27 Subd. 4. **Immunity from liability.** (a) The following persons are immune from any civil
 379.28 or criminal liability that otherwise might result from their actions, if they are acting in good
 379.29 faith:

379.30 (1) any person making a voluntary or mandated report under subdivision 3 or under
 379.31 section 626.5561 or assisting in an assessment under this section or under section 626.5561;

380.1 (2) any person with responsibility for performing duties under this section or supervisor
 380.2 employed by a local welfare agency, the commissioner of an agency responsible for operating
 380.3 or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital,
 380.4 sanitarium, or other facility or institution required to be licensed or certified under sections
 380.5 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B or 245H; or a school as
 380.6 defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed
 380.7 personal care provider organization ~~as defined in section 256B.0625, subdivision 19a,~~
 380.8 complying with subdivision 10d; and

380.9 (3) any public or private school, facility as defined in subdivision 2, or the employee of
 380.10 any public or private school or facility who permits access by a local welfare agency, the
 380.11 Department of Education, or a local law enforcement agency and assists in an investigation
 380.12 or assessment pursuant to subdivision 10 or under section 626.5561.

380.13 (b) A person who is a supervisor or person with responsibility for performing duties
 380.14 under this section employed by a local welfare agency, the commissioner of human services,
 380.15 or the commissioner of education complying with subdivisions 10 and 11 or section 626.5561
 380.16 or any related rule or provision of law is immune from any civil or criminal liability that
 380.17 might otherwise result from the person's actions, if the person is (1) acting in good faith
 380.18 and exercising due care, or (2) acting in good faith and following the information collection
 380.19 procedures established under subdivision 10, paragraphs (h), (i), and (j).

380.20 (c) This subdivision does not provide immunity to any person for failure to make a
 380.21 required report or for committing neglect, physical abuse, or sexual abuse of a child.

380.22 (d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails
 380.23 in a civil action from which the person has been granted immunity under this subdivision,
 380.24 the court may award the person attorney fees and costs.

380.25 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 380.26 human services following federal approval but not more than two years after federal approval
 380.27 is obtained. The commissioner of human services shall notify the revisor of statutes when
 380.28 federal approval is obtained.

380.29 Sec. 88. Minnesota Statutes 2018, section 626.556, subdivision 10d, is amended to read:

380.30 Subd. 10d. **Notification of neglect or abuse in facility.** (a) When a report is received
 380.31 that alleges neglect, physical abuse, sexual abuse, or maltreatment of a child while in the
 380.32 care of a licensed or unlicensed day care facility, residential facility, agency, hospital,
 380.33 sanitarium, or other facility or institution required to be licensed or certified according to

381.1 sections 144.50 to 144.58; 241.021; or 245A.01 to 245A.16; or chapter 144H, 245D, or
381.2 245H, or a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter
381.3 124E; or a nonlicensed personal care provider organization as defined in section 256B.0625,
381.4 ~~subdivision 19a~~, the commissioner of the agency responsible for assessing or investigating
381.5 the report or local welfare agency investigating the report shall provide the following
381.6 information to the parent, guardian, or legal custodian of a child alleged to have been
381.7 neglected, physically abused, sexually abused, or the victim of maltreatment of a child in
381.8 the facility: the name of the facility; the fact that a report alleging neglect, physical abuse,
381.9 sexual abuse, or maltreatment of a child in the facility has been received; the nature of the
381.10 alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; that
381.11 the agency is conducting an assessment or investigation; any protective or corrective measures
381.12 being taken pending the outcome of the investigation; and that a written memorandum will
381.13 be provided when the investigation is completed.

381.14 (b) The commissioner of the agency responsible for assessing or investigating the report
381.15 or local welfare agency may also provide the information in paragraph (a) to the parent,
381.16 guardian, or legal custodian of any other child in the facility if the investigative agency
381.17 knows or has reason to believe the alleged neglect, physical abuse, sexual abuse, or
381.18 maltreatment of a child in the facility has occurred. In determining whether to exercise this
381.19 authority, the commissioner of the agency responsible for assessing or investigating the
381.20 report or local welfare agency shall consider the seriousness of the alleged neglect, physical
381.21 abuse, sexual abuse, or maltreatment of a child in the facility; the number of children
381.22 allegedly neglected, physically abused, sexually abused, or victims of maltreatment of a
381.23 child in the facility; the number of alleged perpetrators; and the length of the investigation.
381.24 The facility shall be notified whenever this discretion is exercised.

381.25 (c) When the commissioner of the agency responsible for assessing or investigating the
381.26 report or local welfare agency has completed its investigation, every parent, guardian, or
381.27 legal custodian previously notified of the investigation by the commissioner or local welfare
381.28 agency shall be provided with the following information in a written memorandum: the
381.29 name of the facility investigated; the nature of the alleged neglect, physical abuse, sexual
381.30 abuse, or maltreatment of a child in the facility; the investigator's name; a summary of the
381.31 investigation findings; a statement whether maltreatment was found; and the protective or
381.32 corrective measures that are being or will be taken. The memorandum shall be written in a
381.33 manner that protects the identity of the reporter and the child and shall not contain the name,
381.34 or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed
381.35 during the investigation. If maltreatment is determined to exist, the commissioner or local

382.1 welfare agency shall also provide the written memorandum to the parent, guardian, or legal
 382.2 custodian of each child in the facility who had contact with the individual responsible for
 382.3 the maltreatment. When the facility is the responsible party for maltreatment, the
 382.4 commissioner or local welfare agency shall also provide the written memorandum to the
 382.5 parent, guardian, or legal custodian of each child who received services in the population
 382.6 of the facility where the maltreatment occurred. This notification must be provided to the
 382.7 parent, guardian, or legal custodian of each child receiving services from the time the
 382.8 maltreatment occurred until either the individual responsible for maltreatment is no longer
 382.9 in contact with a child or children in the facility or the conclusion of the investigation. In
 382.10 the case of maltreatment within a school facility, as defined in section 120A.05, subdivisions
 382.11 9, 11, and 13, and chapter 124E, the commissioner of education need not provide notification
 382.12 to parents, guardians, or legal custodians of each child in the facility, but shall, within ten
 382.13 days after the investigation is completed, provide written notification to the parent, guardian,
 382.14 or legal custodian of any student alleged to have been maltreated. The commissioner of
 382.15 education may notify the parent, guardian, or legal custodian of any student involved as a
 382.16 witness to alleged maltreatment.

382.17 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
 382.18 human services following federal approval but not more than two years after federal approval
 382.19 is obtained. The commissioner of human services shall notify the revisor of statutes when
 382.20 federal approval is obtained.

382.21 Sec. 89. Minnesota Statutes 2018, section 626.5572, subdivision 6, is amended to read:

382.22 Subd. 6. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed
 382.23 under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults
 382.24 under section 144A.02; a facility or service required to be licensed under chapter 245A; a
 382.25 home care provider licensed or required to be licensed under sections 144A.43 to 144A.482;
 382.26 a hospice provider licensed under sections 144A.75 to 144A.755; or a person or organization
 382.27 that offers, provides, or arranges for personal care assistance services under the medical
 382.28 assistance program as authorized under sections ~~256B.0625, subdivision 19a,~~ 256B.0651
 382.29 to 256B.0654, ~~256B.0659,~~ or 256B.85.

382.30 (b) For services identified in paragraph (a) that are provided in the vulnerable adult's
 382.31 own home or in another unlicensed location, the term "facility" refers to the provider, person,
 382.32 or organization that offers, provides, or arranges for personal care services, and does not
 382.33 refer to the vulnerable adult's home or other location at which services are rendered.

383.1 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
383.2 human services following federal approval but not more than two years after federal approval
383.3 is obtained. The commissioner of human services shall notify the revisor of statutes when
383.4 federal approval is obtained.

383.5 Sec. 90. Minnesota Statutes 2018, section 626.5572, subdivision 21, is amended to read:

383.6 Subd. 21. **Vulnerable adult.** (a) "Vulnerable adult" means any person 18 years of age
383.7 or older who:

383.8 (1) is a resident or inpatient of a facility;

383.9 (2) receives services required to be licensed under chapter 245A, except that a person
383.10 receiving outpatient services for treatment of chemical dependency or mental illness, or one
383.11 who is served in the Minnesota sex offender program on a court-hold order for commitment,
383.12 or is committed as a sexual psychopathic personality or as a sexually dangerous person
383.13 under chapter 253B, is not considered a vulnerable adult unless the person meets the
383.14 requirements of clause (4);

383.15 (3) receives services from a home care provider required to be licensed under sections
383.16 144A.43 to 144A.482; or from a person or organization that offers, provides, or arranges
383.17 for personal care assistance services under the medical assistance program as authorized
383.18 under section ~~256B.0625, subdivision 19a,~~ 256B.0651, 256B.0653, 256B.0654, ~~256B.0659,~~
383.19 or 256B.85; or

383.20 (4) regardless of residence or whether any type of service is received, possesses a physical
383.21 or mental infirmity or other physical, mental, or emotional dysfunction:

383.22 (i) that impairs the individual's ability to provide adequately for the individual's own
383.23 care without assistance, including the provision of food, shelter, clothing, health care, or
383.24 supervision; and

383.25 (ii) because of the dysfunction or infirmity and the need for care or services, the individual
383.26 has an impaired ability to protect the individual's self from maltreatment.

383.27 (b) For purposes of this subdivision, "care or services" means care or services for the
383.28 health, safety, welfare, or maintenance of an individual.

383.29 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
383.30 human services following federal approval but not more than two years after federal approval
383.31 is obtained. The commissioner of human services shall notify the revisor of statutes when
383.32 federal approval is obtained.

384.1 Sec. 91. Laws 2017, First Special Session chapter 6, article 1, section 44, is amended to
384.2 read:

384.3 Sec. 44. **EXPANSION OF CONSUMER-DIRECTED COMMUNITY SUPPORTS**
384.4 **BUDGET METHODOLOGY EXCEPTION.**

384.5 (a) No later than September 30, 2017, if necessary, the commissioner of human services
384.6 shall submit an amendment to the Centers for Medicare and Medicaid Services for the home
384.7 and community-based services waivers authorized under Minnesota Statutes, sections
384.8 256B.092 and 256B.49, to expand the exception to the consumer-directed community
384.9 supports budget methodology under Laws 2015, chapter 71, article 7, section 54, to provide
384.10 up to 30 percent more funds for either:

384.11 (1) consumer-directed community supports participants who have a coordinated service
384.12 and support plan which identifies the need for an increased amount of services or supports
384.13 under consumer-directed community supports than the amount they are currently receiving
384.14 under the consumer-directed community supports budget methodology:

384.15 (i) to increase the amount of time a person works or otherwise improves employment
384.16 opportunities;

384.17 (ii) to plan a transition to, move to, or live in a setting described in Minnesota Statutes,
384.18 section 256D.44, subdivision 5, ~~paragraph (f), clause (1), item (ii), or paragraph (g), clause~~
384.19 (1), item (iii); or

384.20 (iii) to develop and implement a positive behavior support plan; or

384.21 (2) home and community-based waiver participants who are currently using licensed
384.22 providers for (i) employment supports or services during the day; or (ii) residential services,
384.23 either of which cost more annually than the person would spend under a consumer-directed
384.24 community supports plan for any or all of the supports needed to meet the goals identified
384.25 in paragraph (a), clause (1), items (i), (ii), and (iii).

384.26 (b) The exception under paragraph (a), clause (1), is limited to those persons who can
384.27 demonstrate that they will have to discontinue using consumer-directed community supports
384.28 and accept other non-self-directed waiver services because their supports needed for the
384.29 goals described in paragraph (a), clause (1), items (i), (ii), and (iii), cannot be met within
384.30 the consumer-directed community supports budget limits.

384.31 (c) The exception under paragraph (a), clause (2), is limited to those persons who can
384.32 demonstrate that, upon choosing to become a consumer-directed community supports

385.1 participant, the total cost of services, including the exception, will be less than the cost of
385.2 current waiver services.

385.3 **Sec. 92. DIRECTION TO COMMISSIONER; NOTICE.**

385.4 The commissioner of human services shall publish on the Department of Human Services
385.5 website notice of implementation at least 30 days before section 60 becomes effective.

385.6 **Sec. 93. DIRECTION TO COMMISSIONER; PCA TRANSITION TO CFSS.**

385.7 Upon the implementation of section 60, the commissioner of human services shall
385.8 transfer an individual from personal care assistance services to community first services
385.9 and supports after the individual's reassessment. Nothing in this article prohibits a provider
385.10 from billing for personal care services according to Minnesota Statutes, chapter 256B, for
385.11 one year from the date of the provision of service.

385.12 **Sec. 94. REVISOR INSTRUCTION.**

385.13 (a) The revisor of statutes shall change the term "developmental disability waiver" or
385.14 similar terms to "developmental disabilities waiver" or similar terms wherever they appear
385.15 in Minnesota Statutes. The revisor shall also make technical and other necessary changes
385.16 to sentence structure to preserve the meaning of the text.

385.17 (b) In Minnesota Statutes, sections 256.01, subdivisions 2 and 24; 256.975, subdivision
385.18 7; 256B.0911, subdivisions 1a, 3b, and 4d; and 256B.439, subdivision 4, the revisor of
385.19 statutes shall substitute the term "Disability Linkage Line" or similar terms for "Disability
385.20 Hub" or similar terms. The revisor shall also make grammatical changes related to the
385.21 changes in terms.

385.22 **Sec. 95. REPEALER.**

385.23 Minnesota Statutes 2018, sections 256.476, subdivisions 1, 2, 3, 4, 5, 6, 8, 9, 10, and
385.24 11; 256B.0625, subdivisions 19a and 19c; 256B.0652, subdivision 6; and 256B.0659,
385.25 subdivisions 1, 2, 3, 3a, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 11a, 12, 13, 14, 15, 16, 17, 18, 19, 20,
385.26 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31, are repealed.

385.27 **EFFECTIVE DATE.** This section is effective as determined by the commissioner of
385.28 human services following federal approval but not more than two years after federal approval
385.29 is obtained. The commissioner of human services shall notify the revisor of statutes when
385.30 federal approval is obtained.

62U.15 ALZHEIMER'S DISEASE; PREVALENCE AND SCREENING MEASURES.

Subd. 2. **Learning collaborative.** By July 1, 2012, the commissioner shall develop a health care home learning collaborative curriculum that includes screening and education on best practices regarding identification and management of Alzheimer's and other dementia patients under section 256B.0751, subdivision 5, for providers, clinics, care coordinators, clinic administrators, patient partners and families, and community resources including public health.

119B.125 PROVIDER REQUIREMENTS.

Subd. 8. **Overpayment claim for failure to comply with access to records requirement.** (a) In establishing an overpayment claim under subdivision 6 for failure to provide access to attendance records, the county or commissioner is limited to the six years prior to the date the county or the commissioner requested the attendance records.

(b) When the commissioner or county establishes an overpayment claim against a current or former provider, the commissioner or county must provide notice of the claim to the provider. A notice of overpayment claim must specify the reason for the overpayment, the authority for making the overpayment claim, the time period in which the overpayment occurred, the amount of the overpayment, and the provider's right to appeal.

(c) The commissioner or county may seek to recover overpayments paid to a current or former provider. When a provider has been convicted of fraud under section 256.98, theft under section 609.52, or a federal crime relating to theft of state funds or fraudulent billing for a program administered by the commissioner or a county, recovery may be sought regardless of the amount of overpayment.

256.476 CONSUMER SUPPORT PROGRAM.

Subdivision 1. **Purpose and goals.** The commissioner of human services shall establish a consumer support grant program for individuals with functional limitations and their families who wish to purchase and secure their own supports. The program shall:

(1) make support grants available to individuals or families as an effective alternative to the family support program, personal care attendant services, home health aide services, and home care nursing services;

(2) provide consumers more control, flexibility, and responsibility over their services and supports;

(3) promote local program management and decision making; and

(4) encourage the use of informal and typical community supports.

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given them:

(a) "County board" means the county board of commissioners for the county of financial responsibility as defined in section 256G.02, subdivision 4, or its designated representative. When a human services board has been established under sections 402.01 to 402.10, it shall be considered the county board for the purposes of this section.

(b) "Family" means the person's birth parents, adoptive parents or stepparents, siblings or stepsiblings, children or stepchildren, grandparents, grandchildren, niece, nephew, aunt, uncle, or spouse. For the purposes of this section, a family member is at least 18 years of age.

(c) "Functional limitations" means the long-term inability to perform an activity or task in one or more areas of major life activity, including self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living. For the purpose of this section, the inability to perform an activity or task results from a mental, emotional, psychological, sensory, or physical disability, condition, or illness.

(d) "Informed choice" means a voluntary decision made by the person, the person's legal representative, or other authorized representative after becoming familiarized with the alternatives to:

(1) select a preferred alternative from a number of feasible alternatives;

(2) select an alternative which may be developed in the future; and

(3) refuse any or all alternatives.

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(e) "Local agency" means the local agency authorized by the county board or, for counties not participating in the consumer grant program by July 1, 2002, the commissioner, to carry out the provisions of this section.

(f) "Person" or "persons" means a person or persons meeting the eligibility criteria in subdivision 3.

(g) "Authorized representative" means an individual designated by the person or their legal representative to act on their behalf. This individual may be a family member, guardian, representative payee, or other individual designated by the person or their legal representative, if any, to assist in purchasing and arranging for supports. For the purposes of this section, an authorized representative is at least 18 years of age.

(h) "Screening" means the screening of a person's service needs under sections 256B.0911 and 256B.092.

(i) "Supports" means services, care, aids, environmental modifications, or assistance purchased by the person, the person's legal representative, or other authorized representative. Examples of supports include respite care, assistance with daily living, and assistive technology. For the purpose of this section, notwithstanding the provisions of section 144A.43, supports purchased under the consumer support program are not considered home care services.

(j) "Program of origination" means the program the individual transferred from when approved for the consumer support grant program.

Subd. 3. Eligibility to apply for grants. (a) A person is eligible to apply for a consumer support grant if the person meets all of the following criteria:

(1) the person is eligible for and has been approved to receive services under medical assistance as determined under sections 256B.055 and 256B.056 or the person has been approved to receive a grant under the family support program under section 252.32;

(2) the person is able to direct and purchase the person's own care and supports, or the person has a family member, legal representative, or other authorized representative who can purchase and arrange supports on the person's behalf;

(3) the person has functional limitations, requires ongoing supports to live in the community, and is at risk of or would continue institutionalization without such supports; and

(4) the person will live in a home. For the purpose of this section, "home" means the person's own home or home of a person's family member. These homes are natural home settings and are not licensed by the Department of Health or Human Services.

(b) Persons may not concurrently receive a consumer support grant if they are:

(1) receiving personal care attendant and home health aide services, or home care nursing under section 256B.0625; a family support grant; or alternative care services under section 256B.0913; or

(2) residing in an institutional or congregate care setting.

(c) A person or person's family receiving a consumer support grant shall not be charged a fee or premium by a local agency for participating in the program.

(d) Individuals receiving home and community-based waivers under United States Code, title 42, section 1396h(c), are not eligible for the consumer support grant, except for individuals receiving consumer support grants before July 1, 2003, as long as other eligibility criteria are met.

(e) The commissioner shall establish a budgeted appropriation each fiscal year for the consumer support grant program. The number of individuals participating in the program will be adjusted so the total amount allocated to counties does not exceed the amount of the budgeted appropriation. The budgeted appropriation will be adjusted annually to accommodate changes in demand for the consumer support grants.

Subd. 4. Support grants; criteria and limitations. (a) A county board may choose to participate in the consumer support grant program. If a county has not chosen to participate by July 1, 2002, the commissioner shall contract with another county or other entity to provide access to residents of the nonparticipating county who choose the consumer support grant option. The commissioner shall notify the county board in a county that has declined to participate of the commissioner's intent to enter into a contract with another county or other entity at least 30 days in advance of entering

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into the contract. The local agency shall establish written procedures and criteria to determine the amount and use of support grants. These procedures must include, at least, the availability of respite care, assistance with daily living, and adaptive aids. The local agency may establish monthly or annual maximum amounts for grants and procedures where exceptional resources may be required to meet the health and safety needs of the person on a time-limited basis, however, the total amount awarded to each individual may not exceed the limits established in subdivision 11.

(b) Support grants to a person, a person's legal representative, or other authorized representative will be provided through a monthly subsidy payment and be in the form of cash, voucher, or direct county payment to vendor. Support grant amounts must be determined by the local agency. Each service and item purchased with a support grant must meet all of the following criteria:

(1) it must be over and above the normal cost of caring for the person if the person did not have functional limitations;

(2) it must be directly attributable to the person's functional limitations;

(3) it must enable the person, a person's legal representative, or other authorized representative to delay or prevent out-of-home placement of the person; and

(4) it must be consistent with the needs identified in the service agreement, when applicable.

(c) Items and services purchased with support grants must be those for which there are no other public or private funds available to the person, a person's legal representative, or other authorized representative. Fees assessed to the person or the person's family for health and human services are not reimbursable through the grant.

(d) In approving or denying applications, the local agency shall consider the following factors:

(1) the extent and areas of the person's functional limitations;

(2) the degree of need in the home environment for additional support; and

(3) the potential effectiveness of the grant to maintain and support the person in the family environment or the person's own home.

(e) At the time of application to the program or screening for other services, the person, a person's legal representative, or other authorized representative shall be provided sufficient information to ensure an informed choice of alternatives by the person, the person's legal representative, or other authorized representative, if any. The application shall be made to the local agency and shall specify the needs of the person or the person's legal representative or other authorized representative, the form and amount of grant requested, the items and services to be reimbursed, and evidence of eligibility for medical assistance.

(f) Upon approval of an application by the local agency and agreement on a support plan for the person or the person's legal representative or other authorized representative, the local agency shall make grants to the person or the person's legal representative or other authorized representative. The grant shall be in an amount for the direct costs of the services or supports outlined in the service agreement.

(g) Reimbursable costs shall not include costs for resources already available, such as special education classes, day training and habilitation, case management, other services to which the person is entitled, medical costs covered by insurance or other health programs, or other resources usually available at no cost to the person or the person's legal representative or other authorized representative.

(h) The state of Minnesota, the county boards participating in the consumer support grant program, or the agencies acting on behalf of the county boards in the implementation and administration of the consumer support grant program shall not be liable for damages, injuries, or liabilities sustained through the purchase of support by the individual, the individual's family, or the authorized representative under this section with funds received through the consumer support grant program. Liabilities include but are not limited to: workers' compensation liability, the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act (FUTA). For purposes of this section, participating county boards and agencies acting on behalf of county boards are exempt from the provisions of section 268.035.

Subd. 5. Reimbursement, allocations, and reporting. (a) For the purpose of transferring persons to the consumer support grant program from the family support program and personal care assistance services, home health aide services, or home care nursing services, the amount of funds

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transferred by the commissioner between the family support program account, the medical assistance account, or the consumer support grant account shall be based on each county's participation in transferring persons to the consumer support grant program from those programs and services.

(b) At the beginning of each fiscal year, county allocations for consumer support grants shall be based on:

(1) the number of persons to whom the county board expects to provide consumer support grants;

(2) their eligibility for current program and services;

(3) the monthly grant levels allowed under subdivision 11; and

(4) projected dates when persons will start receiving grants. County allocations shall be adjusted periodically by the commissioner based on the actual transfer of persons or service openings, and the monthly grant levels associated with those persons or service openings, to the consumer support grant program.

(c) The amount of funds transferred by the commissioner from the medical assistance account for an individual may be changed if it is determined by the county or its agent that the individual's need for support has changed.

(d) The authority to utilize funds transferred to the consumer support grant account for the purposes of implementing and administering the consumer support grant program will not be limited or constrained by the spending authority provided to the program of origination.

(e) The commissioner may use up to five percent of each county's allocation, as adjusted, for payments for administrative expenses, to be paid as a proportionate addition to reported direct service expenditures.

(f) The county allocation for each person or the person's legal representative or other authorized representative cannot exceed the amount allowed under subdivision 11.

(g) The commissioner may recover, suspend, or withhold payments if the county board, local agency, or grantee does not comply with the requirements of this section.

(h) Grant funds unexpended by consumers shall return to the state once a year. The annual return of unexpended grant funds shall occur in the quarter following the end of the state fiscal year.

Subd. 6. **Right to appeal.** Notice, appeal, and hearing procedures shall be conducted in accordance with section 256.045. The denial, suspension, or termination of services under this program may be appealed by a recipient or applicant under section 256.045, subdivision 3. It is an absolute defense to an appeal under this section, if the county board proves that it followed the established written procedures and criteria and determined that the grant could not be provided within the county board's allocation of money for consumer support grants.

Subd. 8. **Commissioner responsibilities.** The commissioner shall:

(1) transfer and allocate funds pursuant to subdivision 11;

(2) determine allocations based on projected and actual local agency use;

(3) monitor and oversee overall program spending;

(4) evaluate the effectiveness of the program;

(5) provide training and technical assistance for local agencies and consumers to help identify potential applicants to the program; and

(6) develop guidelines for local agency program administration and consumer information.

Subd. 9. **County board responsibilities.** County boards receiving funds under this section shall:

(1) determine the needs of persons and families for services and supports;

(2) determine the eligibility for persons proposed for program participation;

(3) approve items and services to be reimbursed and inform families of their determination;

(4) issue support grants directly to or on behalf of persons;

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(5) submit quarterly financial reports and an annual program report to the commissioner;

(6) coordinate services and supports with other programs offered or made available to persons or their families; and

(7) provide assistance to persons or their families in securing or maintaining supports, as needed.

Subd. 10. **Consumer responsibilities.** Persons receiving grants under this section shall:

(1) spend the grant money in a manner consistent with their agreement with the local agency;

(2) notify the local agency of any necessary changes in the grant or the items on which it is spent;

(3) notify the local agency of any decision made by the person, a person's legal representative, or other authorized representative that would change their eligibility for consumer support grants;

(4) arrange and pay for supports; and

(5) inform the local agency of areas where they have experienced difficulty securing or maintaining supports.

Subd. 11. **Consumer support grant program after July 1, 2001.** Effective July 1, 2001, the commissioner shall allocate consumer support grant resources to serve additional individuals based on a review of Medicaid authorization and payment information of persons eligible for a consumer support grant from the most recent fiscal year. The commissioner shall use the following methodology to calculate maximum allowable monthly consumer support grant levels:

(1) For individuals whose program of origination is medical assistance home care under sections 256B.0651, 256B.0653, and 256B.0654, the maximum allowable monthly grant levels are calculated by:

(i) determining the service authorization for each individual based on the individual's home care assessment;

(ii) calculating the overall ratio of actual payments to service authorizations by program;

(iii) applying the overall ratio to 50 percent of the service authorization level of each home care rating; and

(iv) adjusting the result for any authorized rate changes provided by the legislature.

(2) The commissioner shall ensure the methodology is consistent with the home care programs.

256B.057 ELIGIBILITY REQUIREMENTS FOR SPECIAL CATEGORIES.

Subd. 8. **Children under age two.** Medical assistance may be paid for a child under two years of age whose countable household income is above 275 percent of the federal poverty guidelines for the same household size but less than or equal to 280 percent of the federal poverty guidelines for the same household size or an equivalent standard when converted using modified adjusted gross income methodology as required under the Affordable Care Act.

256B.0625 COVERED SERVICES.

Subd. 3a. **Sex reassignment surgery.** Sex reassignment surgery is not covered.

Subd. 19a. **Personal care assistance services.** Medical assistance covers personal care assistance services in a recipient's home. Effective January 1, 2010, to qualify for personal care assistance services, a recipient must require assistance and be determined dependent in one activity of daily living as defined in section 256B.0659, subdivision 1, paragraph (b), or in a Level I behavior as defined in section 256B.0659, subdivision 1, paragraph (c). Recipients or responsible parties must be able to identify the recipient's needs, direct and evaluate task accomplishment, and provide for health and safety. Approved hours may be used outside the home when normal life activities take them outside the home. To use personal care assistance services at school, the recipient or responsible party must provide written authorization in the care plan identifying the chosen provider and the daily amount of services to be used at school. Total hours for services, whether actually performed inside or outside the recipient's home, cannot exceed that which is otherwise allowed for personal care assistance services in an in-home setting according to sections 256B.0651 to 256B.0654. Medical assistance does not cover personal care assistance services for residents of a hospital, nursing facility, intermediate care facility, health care facility licensed by the commissioner of health, or unless a resident who is otherwise eligible is on leave from the facility and the facility

either pays for the personal care assistance services or forgoes the facility per diem for the leave days that personal care assistance services are used. All personal care assistance services must be provided according to sections 256B.0651 to 256B.0654. Personal care assistance services may not be reimbursed if the personal care assistant is the spouse or paid guardian of the recipient or the parent of a recipient under age 18, or the responsible party or the family foster care provider of a recipient who cannot direct the recipient's own care unless, in the case of a foster care provider, a county or state case manager visits the recipient as needed, but not less than every six months, to monitor the health and safety of the recipient and to ensure the goals of the care plan are met. Notwithstanding the provisions of section 256B.0659, the unpaid guardian or conservator of an adult, who is not the responsible party and not the personal care provider organization, may be reimbursed to provide personal care assistance services to the recipient if the guardian or conservator meets all criteria for a personal care assistant according to section 256B.0659, and shall not be considered to have a service provider interest for purposes of participation on the screening team under section 256B.092, subdivision 7.

Subd. 19c. **Personal care.** Medical assistance covers personal care assistance services provided by an individual who is qualified to provide the services according to subdivision 19a and sections 256B.0651 to 256B.0654, provided in accordance with a plan, and supervised by a qualified professional.

"Qualified professional" means a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (6), or 245.4871, subdivision 27, clauses (1) to (6); a registered nurse as defined in sections 148.171 to 148.285, a licensed social worker as defined in sections 148E.010 and 148E.055, or a qualified designated coordinator under section 245D.081, subdivision 2. The qualified professional shall perform the duties required in section 256B.0659.

256B.0652 AUTHORIZATION AND REVIEW OF HOME CARE SERVICES.

Subd. 6. **Authorization; personal care assistance and qualified professional.** (a) All personal care assistance services, supervision by a qualified professional, and additional services beyond the limits established in subdivision 11, must be authorized by the commissioner or the commissioner's designee before services begin except for the assessments established in subdivision 11 and section 256B.0911. The authorization for personal care assistance and qualified professional services under section 256B.0659 must be completed within 30 days after receiving a complete request.

(b) The amount of personal care assistance services authorized must be based on the recipient's home care rating. The home care rating shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner identifying the following for recipients with dependencies in two or more activities of daily living:

- (1) total number of dependencies of activities of daily living as defined in section 256B.0659;
- (2) presence of complex health-related needs as defined in section 256B.0659; and
- (3) presence of Level I behavior as defined in section 256B.0659.

(c) For purposes meeting the criteria in paragraph (b), the methodology to determine total time for personal care assistance services for each home care rating is based on the median paid units per day for each home care rating from fiscal year 2007 data for the personal care assistance program. Each home care rating has a base level of hours assigned. Additional time is added through the assessment and identification of the following:

- (1) 30 additional minutes per day for a dependency in each critical activity of daily living as defined in section 256B.0659;
- (2) 30 additional minutes per day for each complex health-related function as defined in section 256B.0659; and
- (3) 30 additional minutes per day for each behavior issue as defined in section 256B.0659, subdivision 4, paragraph (d).

(d) Effective July 1, 2011, the home care rating for recipients who have a dependency in one activity of daily living or Level I behavior shall equal no more than two units per day. Recipients with this home care rating are not subject to the methodology in paragraph (c) and are not eligible for more than two units per day.

(e) A limit of 96 units of qualified professional supervision may be authorized for each recipient receiving personal care assistance services. A request to the commissioner to exceed this total in a

calendar year must be requested by the personal care provider agency on a form approved by the commissioner.

256B.0659 PERSONAL CARE ASSISTANCE PROGRAM.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in paragraphs (b) to (r) have the meanings given unless otherwise provided in text.

(b) "Activities of daily living" means grooming, dressing, bathing, transferring, mobility, positioning, eating, and toileting.

(c) "Behavior," effective January 1, 2010, means a category to determine the home care rating and is based on the criteria found in this section. "Level I behavior" means physical aggression towards self, others, or destruction of property that requires the immediate response of another person.

(d) "Complex health-related needs," effective January 1, 2010, means a category to determine the home care rating and is based on the criteria found in this section.

(e) "Critical activities of daily living," effective January 1, 2010, means transferring, mobility, eating, and toileting.

(f) "Dependency in activities of daily living" means a person requires assistance to begin and complete one or more of the activities of daily living.

(g) "Extended personal care assistance service" means personal care assistance services included in a service plan under one of the home and community-based services waivers authorized under sections 256B.0915, 256B.092, subdivision 5, and 256B.49, which exceed the amount, duration, and frequency of the state plan personal care assistance services for participants who:

(1) need assistance provided periodically during a week, but less than daily will not be able to remain in their homes without the assistance, and other replacement services are more expensive or are not available when personal care assistance services are to be reduced; or

(2) need additional personal care assistance services beyond the amount authorized by the state plan personal care assistance assessment in order to ensure that their safety, health, and welfare are provided for in their homes.

(h) "Health-related procedures and tasks" means procedures and tasks that can be delegated or assigned by a licensed health care professional under state law to be performed by a personal care assistant.

(i) "Instrumental activities of daily living" means activities to include meal planning and preparation; basic assistance with paying bills; shopping for food, clothing, and other essential items; performing household tasks integral to the personal care assistance services; communication by telephone and other media; and traveling, including to medical appointments and to participate in the community.

(j) "Managing employee" has the same definition as Code of Federal Regulations, title 42, section 455.

(k) "Qualified professional" means a professional providing supervision of personal care assistance services and staff as defined in section 256B.0625, subdivision 19c.

(l) "Personal care assistance provider agency" means a medical assistance enrolled provider that provides or assists with providing personal care assistance services and includes a personal care assistance provider organization, personal care assistance choice agency, class A licensed nursing agency, and Medicare-certified home health agency.

(m) "Personal care assistant" or "PCA" means an individual employed by a personal care assistance agency who provides personal care assistance services.

(n) "Personal care assistance care plan" means a written description of personal care assistance services developed by the personal care assistance provider according to the service plan.

(o) "Responsible party" means an individual who is capable of providing the support necessary to assist the recipient to live in the community.

(p) "Self-administered medication" means medication taken orally, by injection, nebulizer, or insertion, or applied topically without the need for assistance.

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(q) "Service plan" means a written summary of the assessment and description of the services needed by the recipient.

(r) "Wages and benefits" means wages and salaries, the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage reimbursement, health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, and contributions to employee retirement accounts.

Subd. 2. **Personal care assistance services; covered services.** (a) The personal care assistance services eligible for payment include services and supports furnished to an individual, as needed, to assist in:

- (1) activities of daily living;
- (2) health-related procedures and tasks;
- (3) observation and redirection of behaviors; and
- (4) instrumental activities of daily living.

(b) Activities of daily living include the following covered services:

(1) dressing, including assistance with choosing, application, and changing of clothing and application of special appliances, wraps, or clothing;

(2) grooming, including assistance with basic hair care, oral care, shaving, applying cosmetics and deodorant, and care of eyeglasses and hearing aids. Nail care is included, except for recipients who are diabetic or have poor circulation;

(3) bathing, including assistance with basic personal hygiene and skin care;

(4) eating, including assistance with hand washing and application of orthotics required for eating, transfers, and feeding;

(5) transfers, including assistance with transferring the recipient from one seating or reclining area to another;

(6) mobility, including assistance with ambulation, including use of a wheelchair. Mobility does not include providing transportation for a recipient;

(7) positioning, including assistance with positioning or turning a recipient for necessary care and comfort; and

(8) toileting, including assistance with helping recipient with bowel or bladder elimination and care including transfers, mobility, positioning, feminine hygiene, use of toileting equipment or supplies, cleansing the perineal area, inspection of the skin, and adjusting clothing.

(c) Health-related procedures and tasks include the following covered services:

(1) range of motion and passive exercise to maintain a recipient's strength and muscle functioning;

(2) assistance with self-administered medication as defined by this section, including reminders to take medication, bringing medication to the recipient, and assistance with opening medication under the direction of the recipient or responsible party, including medications given through a nebulizer;

(3) interventions for seizure disorders, including monitoring and observation; and

(4) other activities considered within the scope of the personal care service and meeting the definition of health-related procedures and tasks under this section.

(d) A personal care assistant may provide health-related procedures and tasks associated with the complex health-related needs of a recipient if the procedures and tasks meet the definition of health-related procedures and tasks under this section and the personal care assistant is trained by a qualified professional and demonstrates competency to safely complete the procedures and tasks. Delegation of health-related procedures and tasks and all training must be documented in the personal care assistance care plan and the recipient's and personal care assistant's files. A personal care assistant must not determine the medication dose or time for medication.

(e) Effective January 1, 2010, for a personal care assistant to provide the health-related procedures and tasks of tracheostomy suctioning and services to recipients on ventilator support there must be:

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(1) delegation and training by a registered nurse, certified or licensed respiratory therapist, or a physician;

(2) utilization of clean rather than sterile procedure;

(3) specialized training about the health-related procedures and tasks and equipment, including ventilator operation and maintenance;

(4) individualized training regarding the needs of the recipient; and

(5) supervision by a qualified professional who is a registered nurse.

(f) Effective January 1, 2010, a personal care assistant may observe and redirect the recipient for episodes where there is a need for redirection due to behaviors. Training of the personal care assistant must occur based on the needs of the recipient, the personal care assistance care plan, and any other support services provided.

(g) Instrumental activities of daily living under subdivision 1, paragraph (i).

Subd. 3. **Noncovered personal care assistance services.** (a) Personal care assistance services are not eligible for medical assistance payment under this section when provided:

(1) by the recipient's spouse, parent of a recipient under the age of 18, paid legal guardian, licensed foster provider, except as allowed under section 256B.0652, subdivision 10, or responsible party;

(2) in order to meet staffing or license requirements in a residential or child care setting;

(3) solely as a child care or babysitting service; or

(4) without authorization by the commissioner or the commissioner's designee.

(b) The following personal care services are not eligible for medical assistance payment under this section when provided in residential settings:

(1) when the provider of home care services who is not related by blood, marriage, or adoption owns or otherwise controls the living arrangement, including licensed or unlicensed services; or

(2) when personal care assistance services are the responsibility of a residential or program license holder under the terms of a service agreement and administrative rules.

(c) Other specific tasks not covered under paragraph (a) or (b) that are not eligible for medical assistance reimbursement for personal care assistance services under this section include:

(1) sterile procedures;

(2) injections of fluids and medications into veins, muscles, or skin;

(3) home maintenance or chore services;

(4) homemaker services not an integral part of assessed personal care assistance services needed by a recipient;

(5) application of restraints or implementation of procedures under section 245.825;

(6) instrumental activities of daily living for children under the age of 18, except when immediate attention is needed for health or hygiene reasons integral to the personal care services and the need is listed in the service plan by the assessor; and

(7) assessments for personal care assistance services by personal care assistance provider agencies or by independently enrolled registered nurses.

Subd. 3a. **Assessment; defined.** (a) "Assessment" means a review and evaluation of a recipient's need for personal care assistance services conducted in person. Assessments for personal care assistance services shall be conducted by the county public health nurse or a certified public health nurse under contract with the county except when a long-term care consultation assessment is being conducted for the purposes of determining a person's eligibility for home and community-based waiver services including personal care assistance services according to section 256B.0911. An in-person assessment must include: documentation of health status, determination of need, evaluation of service effectiveness, identification of appropriate services, service plan development or modification, coordination of services, referrals and follow-up to appropriate payers and community resources, completion of required reports, recommendation of service authorization, and consumer education. Once the need for personal care assistance services is determined under this section, the

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county public health nurse or certified public health nurse under contract with the county is responsible for communicating this recommendation to the commissioner and the recipient. An in-person assessment must occur at least annually or when there is a significant change in the recipient's condition or when there is a change in the need for personal care assistance services. A service update may substitute for the annual face-to-face assessment when there is not a significant change in recipient condition or a change in the need for personal care assistance service. A service update may be completed by telephone, used when there is no need for an increase in personal care assistance services, and used for two consecutive assessments if followed by a face-to-face assessment. A service update must be completed on a form approved by the commissioner. A service update or review for temporary increase includes a review of initial baseline data, evaluation of service effectiveness, redetermination of service need, modification of service plan and appropriate referrals, update of initial forms, obtaining service authorization, and on going consumer education. Assessments or reassessments must be completed on forms provided by the commissioner within 30 days of a request for home care services by a recipient or responsible party.

(b) This subdivision expires when notification is given by the commissioner as described in section 256B.0911, subdivision 3a.

Subd. 4. Assessment for personal care assistance services; limitations. (a) An assessment as defined in subdivision 3a must be completed for personal care assistance services.

(b) The following limitations apply to the assessment:

(1) a person must be assessed as dependent in an activity of daily living based on the person's daily need or need on the days during the week the activity is completed for:

- (i) cuing and constant supervision to complete the task; or
- (ii) hands-on assistance to complete the task; and

(2) a child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity. Assistance needed is the assistance appropriate for a typical child of the same age.

(c) Assessment for complex health-related needs must meet the criteria in this paragraph. A recipient qualifies as having complex health-related needs if the recipient has one or more of the interventions that are ordered by a physician, specified in a personal care assistance care plan or community support plan developed under section 256B.0911, and found in the following:

(1) tube feedings requiring:

- (i) a gastrojejunostomy tube; or
- (ii) continuous tube feeding lasting longer than 12 hours per day;

(2) wounds described as:

- (i) stage III or stage IV;
- (ii) multiple wounds;
- (iii) requiring sterile or clean dressing changes or a wound vac; or
- (iv) open lesions such as burns, fistulas, tube sites, or ostomy sites that require specialized care;

(3) parenteral therapy described as:

(i) IV therapy more than two times per week lasting longer than four hours for each treatment;
or

(ii) total parenteral nutrition (TPN) daily;

(4) respiratory interventions, including:

- (i) oxygen required more than eight hours per day;
- (ii) respiratory vest more than one time per day;
- (iii) bronchial drainage treatments more than two times per day;
- (iv) sterile or clean suctioning more than six times per day;

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(v) dependence on another to apply respiratory ventilation augmentation devices such as BiPAP and CPAP; and

(vi) ventilator dependence under section 256B.0652;

(5) insertion and maintenance of catheter, including:

(i) sterile catheter changes more than one time per month;

(ii) clean intermittent catheterization, and including self-catheterization more than six times per day; or

(iii) bladder irrigations;

(6) bowel program more than two times per week requiring more than 30 minutes to perform each time;

(7) neurological intervention, including:

(i) seizures more than two times per week and requiring significant physical assistance to maintain safety; or

(ii) swallowing disorders diagnosed by a physician and requiring specialized assistance from another on a daily basis; and

(8) other congenital or acquired diseases creating a need for significantly increased direct hands-on assistance and interventions in six to eight activities of daily living.

(d) An assessment of behaviors must meet the criteria in this paragraph. A recipient qualifies as having a need for assistance due to behaviors if the recipient's behavior requires assistance at least four times per week and shows one or more of the following behaviors:

(1) physical aggression towards self or others, or destruction of property that requires the immediate response of another person;

(2) increased vulnerability due to cognitive deficits or socially inappropriate behavior; or

(3) increased need for assistance for recipients who are verbally aggressive or resistive to care so that the time needed to perform activities of daily living is increased.

Subd. 5. Service, support planning, and referral. (a) The assessor, with the recipient or responsible party, shall review the assessment information and determine referrals for other payers, services, and community supports as appropriate.

(b) The recipient must be referred for evaluation, services, or supports that are appropriate to help meet the recipient's needs including, but not limited to, the following circumstances:

(1) when there is another payer who is responsible to provide the service to meet the recipient's needs;

(2) when the recipient qualifies for assistance due to mental illness or behaviors under this section, a referral for a mental health diagnostic and functional assessment must be completed, or referral must be made for other specific mental health services or other community services;

(3) when the recipient is eligible for medical assistance and meets medical assistance eligibility for a home health aide or skilled nurse visit;

(4) when the recipient would benefit from an evaluation for another service; and

(5) when there is a more appropriate service to meet the assessed needs.

(c) The reimbursement rates for public health nurse visits that relate to the provision of personal care assistance services under this section and section 256B.0625, subdivision 19a, are:

(1) \$210.50 for a face-to-face assessment visit;

(2) \$105.25 for each service update; and

(3) \$105.25 for each request for a temporary service increase.

(d) The rates specified in paragraph (c) must be adjusted to reflect provider rate increases for personal care assistance services that are approved by the legislature for the fiscal year ending June 30, 2000, and subsequent fiscal years. Any requirements applied by the legislature to provider rate increases for personal care assistance services also apply to adjustments under this paragraph.

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(e) Effective July 1, 2008, the payment rate for an assessment under this section and section 256B.0651 shall be reduced by 25 percent when the assessment is not completed on time and the service agreement documentation is not submitted in time to continue services. The commissioner shall reduce the amount of the claim for those assessments that are not submitted on time.

Subd. 6. **Service plan.** The service plan must be completed by the assessor with the recipient and responsible party on a form determined by the commissioner and include a summary of the assessment with a description of the need, authorized amount, and expected outcomes and goals of personal care assistance services. The recipient and the provider chosen by the recipient or responsible party must be given a copy of the completed service plan within ten working days of the assessment. The recipient or responsible party must be given information by the assessor about the options in the personal care assistance program to allow for review and decision making.

Subd. 7. **Personal care assistance care plan.** (a) Each recipient must have a current personal care assistance care plan based on the service plan in subdivision 6 that is developed by the qualified professional with the recipient and responsible party. A copy of the most current personal care assistance care plan is required to be in the recipient's home and in the recipient's file at the provider agency.

(b) The personal care assistance care plan must have the following components:

- (1) start and end date of the care plan;
- (2) recipient demographic information, including name and telephone number;
- (3) emergency numbers, procedures, and a description of measures to address identified safety and vulnerability issues, including a backup staffing plan;
- (4) name of responsible party and instructions for contact;
- (5) description of the recipient's individualized needs for assistance with activities of daily living, instrumental activities of daily living, health-related tasks, and behaviors; and
- (6) dated signatures of recipient or responsible party and qualified professional.

(c) The personal care assistance care plan must have instructions and comments about the recipient's needs for assistance and any special instructions or procedures required, including whether or not the recipient has requested a personal care assistant of the same gender. The month-to-month plan for the use of personal care assistance services is part of the personal care assistance care plan. The personal care assistance care plan must be completed within the first week after start of services with a personal care provider agency and must be updated as needed when there is a change in need for personal care assistance services. A new personal care assistance care plan is required annually at the time of the reassessment.

Subd. 7a. **Special instructions; gender.** If a recipient requests a personal care assistant of the same gender as the recipient, the personal care assistance agency must make a reasonable effort to fulfill the request.

Subd. 8. **Communication with recipient's physician.** The personal care assistance program requires communication with the recipient's physician about a recipient's assessed needs for personal care assistance services. The commissioner shall work with the state medical director to develop options for communication with the recipient's physician.

Subd. 9. **Responsible party; generally.** (a) "Responsible party" means an individual who is capable of providing the support necessary to assist the recipient to live in the community.

(b) A responsible party must be 18 years of age, actively participate in planning and directing of personal care assistance services, and attend all assessments for the recipient.

(c) A responsible party must not be the:

- (1) personal care assistant;
- (2) qualified professional;
- (3) home care provider agency owner or manager;
- (4) home care provider agency staff unless staff who are not listed in clauses (1) to (3) are related to the recipient by blood, marriage, or adoption; or
- (5) county staff acting as part of employment.

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(d) A licensed family foster parent who lives with the recipient may be the responsible party as long as the family foster parent meets the other responsible party requirements.

(e) A responsible party is required when:

(1) the person is a minor according to section 524.5-102, subdivision 10;

(2) the person is an incapacitated adult according to section 524.5-102, subdivision 6, resulting in a court-appointed guardian; or

(3) the assessment according to subdivision 3a determines that the recipient is in need of a responsible party to direct the recipient's care.

(f) There may be two persons designated as the responsible party for reasons such as divided households and court-ordered custodies. Each person named as responsible party must meet the program criteria and responsibilities.

(g) The recipient or the recipient's legal representative shall appoint a responsible party if necessary to direct and supervise the care provided to the recipient. The responsible party must be identified at the time of assessment and listed on the recipient's service agreement and personal care assistance care plan.

Subd. 10. Responsible party; duties; delegation. (a) A responsible party shall enter into a written agreement with a personal care assistance provider agency, on a form determined by the commissioner, to perform the following duties:

(1) be available while care is provided in a method agreed upon by the individual or the individual's legal representative and documented in the recipient's personal care assistance care plan;

(2) monitor personal care assistance services to ensure the recipient's personal care assistance care plan is being followed; and

(3) review and sign personal care assistance time sheets after services are provided to provide verification of the personal care assistance services.

Failure to provide the support required by the recipient must result in a referral to the county common entry point.

(b) Responsible parties who are parents of minors or guardians of minors or incapacitated persons may delegate the responsibility to another adult who is not the personal care assistant during a temporary absence of at least 24 hours but not more than six months. The person delegated as a responsible party must be able to meet the definition of the responsible party. The responsible party must ensure that the delegate performs the functions of the responsible party, is identified at the time of the assessment, and is listed on the personal care assistance care plan. The responsible party must communicate to the personal care assistance provider agency about the need for a delegated responsible party, including the name of the delegated responsible party and contact numbers.

Subd. 11. Personal care assistant; requirements. (a) A personal care assistant must meet the following requirements:

(1) be at least 18 years of age with the exception of persons who are 16 or 17 years of age with these additional requirements:

(i) supervision by a qualified professional every 60 days; and

(ii) employment by only one personal care assistance provider agency responsible for compliance with current labor laws;

(2) be employed by a personal care assistance provider agency;

(3) enroll with the department as a personal care assistant after clearing a background study. Except as provided in subdivision 11a, before a personal care assistant provides services, the personal care assistance provider agency must initiate a background study on the personal care assistant under chapter 245C, and the personal care assistance provider agency must have received a notice from the commissioner that the personal care assistant is:

(i) not disqualified under section 245C.14; or

(ii) is disqualified, but the personal care assistant has received a set aside of the disqualification under section 245C.22;

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(4) be able to effectively communicate with the recipient and personal care assistance provider agency;

(5) be able to provide covered personal care assistance services according to the recipient's personal care assistance care plan, respond appropriately to recipient needs, and report changes in the recipient's condition to the supervising qualified professional or physician;

(6) not be a consumer of personal care assistance services;

(7) maintain daily written records including, but not limited to, time sheets under subdivision 12;

(8) effective January 1, 2010, complete standardized training as determined by the commissioner before completing enrollment. The training must be available in languages other than English and to those who need accommodations due to disabilities. Personal care assistant training must include successful completion of the following training components: basic first aid, vulnerable adult, child maltreatment, OSHA universal precautions, basic roles and responsibilities of personal care assistants including information about assistance with lifting and transfers for recipients, emergency preparedness, orientation to positive behavioral practices, fraud issues, and completion of time sheets. Upon completion of the training components, the personal care assistant must demonstrate the competency to provide assistance to recipients;

(9) complete training and orientation on the needs of the recipient; and

(10) be limited to providing and being paid for up to 275 hours per month of personal care assistance services regardless of the number of recipients being served or the number of personal care assistance provider agencies enrolled with. The number of hours worked per day shall not be disallowed by the department unless in violation of the law.

(b) A legal guardian may be a personal care assistant if the guardian is not being paid for the guardian services and meets the criteria for personal care assistants in paragraph (a).

(c) Persons who do not qualify as a personal care assistant include parents, stepparents, and legal guardians of minors; spouses; paid legal guardians of adults; family foster care providers, except as otherwise allowed in section 256B.0625, subdivision 19a; and staff of a residential setting.

Subd. 11a. Exception to personal care assistant; requirements. The personal care assistant for a recipient may be allowed to enroll with a different personal care assistant provider agency upon initiation of a new background study according to chapter 245C, if all of the following are met:

(1) the commissioner determines that a change in enrollment or affiliation of the personal care assistant is needed in order to ensure continuity of services and protect the health and safety of the recipient;

(2) the chosen agency has been continuously enrolled as a personal care assistance provider agency for at least two years;

(3) the recipient chooses to transfer to the personal care assistance provider agency;

(4) the personal care assistant has been continuously enrolled with the former personal care assistance provider agency since the last background study was completed; and

(5) the personal care assistant continues to meet requirements of subdivision 11, excluding paragraph (a), clause (3).

Subd. 12. Documentation of personal care assistance services provided. (a) Personal care assistance services for a recipient must be documented daily by each personal care assistant, on a time sheet form approved by the commissioner. All documentation may be web-based, electronic, or paper documentation. The completed form must be submitted on a monthly basis to the provider and kept in the recipient's health record.

(b) The activity documentation must correspond to the personal care assistance care plan and be reviewed by the qualified professional.

(c) The personal care assistant time sheet must be on a form approved by the commissioner documenting time the personal care assistant provides services in the home. The following criteria must be included in the time sheet:

(1) full name of personal care assistant and individual provider number;

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- (2) provider name and telephone numbers;
- (3) full name of recipient;
- (4) consecutive dates, including month, day, and year, and arrival and departure times with a.m. or p.m. notations;
- (5) signatures of recipient or the responsible party;
- (6) personal signature of the personal care assistant;
- (7) any shared care provided, if applicable;
- (8) a statement that it is a federal crime to provide false information on personal care service billings for medical assistance payments; and
- (9) dates and location of recipient stays in a hospital, care facility, or incarceration.

Subd. 13. **Qualified professional; qualifications.** (a) The qualified professional must work for a personal care assistance provider agency and meet the definition under section 256B.0625, subdivision 19c. Before a qualified professional provides services, the personal care assistance provider agency must initiate a background study on the qualified professional under chapter 245C, and the personal care assistance provider agency must have received a notice from the commissioner that the qualified professional:

- (1) is not disqualified under section 245C.14; or
- (2) is disqualified, but the qualified professional has received a set aside of the disqualification under section 245C.22.

(b) The qualified professional shall perform the duties of training, supervision, and evaluation of the personal care assistance staff and evaluation of the effectiveness of personal care assistance services. The qualified professional shall:

- (1) develop and monitor with the recipient a personal care assistance care plan based on the service plan and individualized needs of the recipient;
- (2) develop and monitor with the recipient a monthly plan for the use of personal care assistance services;
- (3) review documentation of personal care assistance services provided;
- (4) provide training and ensure competency for the personal care assistant in the individual needs of the recipient; and
- (5) document all training, communication, evaluations, and needed actions to improve performance of the personal care assistants.

(c) Effective July 1, 2011, the qualified professional shall complete the provider training with basic information about the personal care assistance program approved by the commissioner. Newly hired qualified professionals must complete the training within six months of the date hired by a personal care assistance provider agency. Qualified professionals who have completed the required training as a worker from a personal care assistance provider agency do not need to repeat the required training if they are hired by another agency, if they have completed the training within the last three years. The required training must be available with meaningful access according to title VI of the Civil Rights Act and federal regulations adopted under that law or any guidance from the United States Health and Human Services Department. The required training must be available online or by electronic remote connection. The required training must provide for competency testing to demonstrate an understanding of the content without attending in-person training. A qualified professional is allowed to be employed and is not subject to the training requirement until the training is offered online or through remote electronic connection. A qualified professional employed by a personal care assistance provider agency certified for participation in Medicare as a home health agency is exempt from the training required in this subdivision. When available, the qualified professional working for a Medicare-certified home health agency must successfully complete the competency test. The commissioner shall ensure there is a mechanism in place to verify the identity of persons completing the competency testing electronically.

Subd. 14. **Qualified professional; duties.** (a) Effective January 1, 2010, all personal care assistants must be supervised by a qualified professional.

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(b) Through direct training, observation, return demonstrations, and consultation with the staff and the recipient, the qualified professional must ensure and document that the personal care assistant is:

(1) capable of providing the required personal care assistance services;

(2) knowledgeable about the plan of personal care assistance services before services are performed; and

(3) able to identify conditions that should be immediately brought to the attention of the qualified professional.

(c) The qualified professional shall evaluate the personal care assistant within the first 14 days of starting to provide regularly scheduled services for a recipient, or sooner as determined by the qualified professional, except for the personal care assistance choice option under subdivision 19, paragraph (a), clause (4). For the initial evaluation, the qualified professional shall evaluate the personal care assistance services for a recipient through direct observation of a personal care assistant's work. The qualified professional may conduct additional training and evaluation visits, based upon the needs of the recipient and the personal care assistant's ability to meet those needs. Subsequent visits to evaluate the personal care assistance services provided to a recipient do not require direct observation of each personal care assistant's work and shall occur:

(1) at least every 90 days thereafter for the first year of a recipient's services;

(2) every 120 days after the first year of a recipient's service or whenever needed for response to a recipient's request for increased supervision of the personal care assistance staff; and

(3) after the first 180 days of a recipient's service, supervisory visits may alternate between unscheduled phone or Internet technology and in-person visits, unless the in-person visits are needed according to the care plan.

(d) Communication with the recipient is a part of the evaluation process of the personal care assistance staff.

(e) At each supervisory visit, the qualified professional shall evaluate personal care assistance services including the following information:

(1) satisfaction level of the recipient with personal care assistance services;

(2) review of the month-to-month plan for use of personal care assistance services;

(3) review of documentation of personal care assistance services provided;

(4) whether the personal care assistance services are meeting the goals of the service as stated in the personal care assistance care plan and service plan;

(5) a written record of the results of the evaluation and actions taken to correct any deficiencies in the work of a personal care assistant; and

(6) revision of the personal care assistance care plan as necessary in consultation with the recipient or responsible party, to meet the needs of the recipient.

(f) The qualified professional shall complete the required documentation in the agency recipient and employee files and the recipient's home, including the following documentation:

(1) the personal care assistance care plan based on the service plan and individualized needs of the recipient;

(2) a month-to-month plan for use of personal care assistance services;

(3) changes in need of the recipient requiring a change to the level of service and the personal care assistance care plan;

(4) evaluation results of supervision visits and identified issues with personal care assistance staff with actions taken;

(5) all communication with the recipient and personal care assistance staff; and

(6) hands-on training or individualized training for the care of the recipient.

(g) The documentation in paragraph (f) must be done on agency templates.

(h) The services that are not eligible for payment as qualified professional services include:

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(1) direct professional nursing tasks that could be assessed and authorized as skilled nursing tasks;

(2) agency administrative activities;

(3) training other than the individualized training required to provide care for a recipient; and

(4) any other activity that is not described in this section.

Subd. 15. **Flexible use.** (a) "Flexible use" means the scheduled use of authorized hours of personal care assistance services, which vary within a service authorization period covering no more than six months, in order to more effectively meet the needs and schedule of the recipient. Each 12-month service agreement is divided into two six-month authorization date spans. No more than 75 percent of the total authorized units for a 12-month service agreement may be used in a six-month date span.

(b) Authorization of flexible use occurs during the authorization process under section 256B.0652. The flexible use of authorized hours does not increase the total amount of authorized hours available to a recipient. The commissioner shall not authorize additional personal care assistance services to supplement a service authorization that is exhausted before the end date under a flexible service use plan, unless the assessor determines a change in condition and a need for increased services is established. Authorized hours not used within the six-month period must not be carried over to another time period.

(c) A recipient who has terminated personal care assistance services before the end of the 12-month authorization period must not receive additional hours upon reapplying during the same 12-month authorization period, except if a change in condition is documented. Services must be prorated for the remainder of the 12-month authorization period based on the first six-month assessment.

(d) The recipient, responsible party, and qualified professional must develop a written month-to-month plan of the projected use of personal care assistance services that is part of the personal care assistance care plan and ensures:

(1) that the health and safety needs of the recipient are met throughout both date spans of the authorization period; and

(2) that the total authorized amount of personal care assistance services for each date span must not be used before the end of each date span in the authorization period.

(e) The personal care assistance provider agency shall monitor the use of personal care assistance services to ensure health and safety needs of the recipient are met throughout both date spans of the authorization period. The commissioner or the commissioner's designee shall provide written notice to the provider and the recipient or responsible party when a recipient is at risk of exceeding the personal care assistance services prior to the end of the six-month period.

(f) Misuse and abuse of the flexible use of personal care assistance services resulting in the overuse of units in a manner where the recipient will not have enough units to meet their needs for assistance and ensure health and safety for the entire six-month date span may lead to an action by the commissioner. The commissioner may take action including, but not limited to: (1) restricting recipients to service authorizations of no more than one month in duration; (2) requiring the recipient to have a responsible party; and (3) requiring a qualified professional to monitor and report services on a monthly basis.

Subd. 16. **Shared services.** (a) Medical assistance payments for shared personal care assistance services are limited according to this subdivision.

(b) Shared service is the provision of personal care assistance services by a personal care assistant to two or three recipients, eligible for medical assistance, who voluntarily enter into an agreement to receive services at the same time and in the same setting.

(c) For the purposes of this subdivision, "setting" means:

(1) the home residence or family foster care home of one or more of the individual recipients;
or

(2) a child care program licensed under chapter 245A or operated by a local school district or private school.

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(d) Shared personal care assistance services follow the same criteria for covered services as subdivision 2.

(e) Noncovered shared personal care assistance services include the following:

- (1) services for more than three recipients by one personal care assistant at one time;
- (2) staff requirements for child care programs under chapter 245C;
- (3) caring for multiple recipients in more than one setting;
- (4) additional units of personal care assistance based on the selection of the option; and
- (5) use of more than one personal care assistance provider agency for the shared care services.

(f) The option of shared personal care assistance is elected by the recipient or the responsible party with the assistance of the assessor. The option must be determined appropriate based on the ages of the recipients, compatibility, and coordination of their assessed care needs. The recipient or the responsible party, in conjunction with the qualified professional, shall arrange the setting and grouping of shared services based on the individual needs and preferences of the recipients. The personal care assistance provider agency shall offer the recipient or the responsible party the option of shared or one-on-one personal care assistance services or a combination of both. The recipient or the responsible party may withdraw from participating in a shared services arrangement at any time.

(g) Authorization for the shared service option must be determined by the commissioner based on the criteria that the shared service is appropriate to meet all of the recipients' needs and their health and safety is maintained. The authorization of shared services is part of the overall authorization of personal care assistance services. Nothing in this subdivision must be construed to reduce the total number of hours authorized for an individual recipient.

(h) A personal care assistant providing shared personal care assistance services must:

- (1) receive training specific for each recipient served; and
- (2) follow all required documentation requirements for time and services provided.

(i) A qualified professional shall:

(1) evaluate the ability of the personal care assistant to provide services for all of the recipients in a shared setting;

(2) visit the shared setting as services are being provided at least once every six months or whenever needed for response to a recipient's request for increased supervision of the personal care assistance staff;

(3) provide ongoing monitoring and evaluation of the effectiveness and appropriateness of the shared services;

(4) develop a contingency plan with each of the recipients which accounts for absence of the recipient in a shared services setting due to illness or other circumstances;

(5) obtain permission from each of the recipients who are sharing a personal care assistant for number of shared hours for services provided inside and outside the home residence; and

(6) document the training completed by the personal care assistants specific to the shared setting and recipients sharing services.

Subd. 17. **Shared services; rates.** The commissioner shall provide a rate system for shared personal care assistance services. For two persons sharing services, the rate paid to a provider must not exceed one and one-half times the rate paid for serving a single individual, and for three persons sharing services, the rate paid to a provider must not exceed twice the rate paid for serving a single individual. These rates apply only when all of the criteria for the shared care personal care assistance service have been met.

Subd. 18. **Personal care assistance choice option; generally.** (a) The commissioner may allow a recipient of personal care assistance services to use a fiscal intermediary to assist the recipient in paying and accounting for medically necessary covered personal care assistance services. Unless otherwise provided in this section, all other statutory and regulatory provisions relating to personal care assistance services apply to a recipient using the personal care assistance choice option.

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(b) Personal care assistance choice is an option of the personal care assistance program that allows the recipient who receives personal care assistance services to be responsible for the hiring, training, scheduling, and firing of personal care assistants according to the terms of the written agreement with the personal care assistance choice agency required under subdivision 20, paragraph (a). This program offers greater control and choice for the recipient in who provides the personal care assistance service and when the service is scheduled. The recipient or the recipient's responsible party must choose a personal care assistance choice provider agency as a fiscal intermediary. This personal care assistance choice provider agency manages payroll, invoices the state, is responsible for all payroll-related taxes and insurance, and is responsible for providing the consumer training and support in managing the recipient's personal care assistance services.

Subd. 19. **Personal care assistance choice option; qualifications; duties.** (a) Under personal care assistance choice, the recipient or responsible party shall:

(1) recruit, hire, schedule, and terminate personal care assistants according to the terms of the written agreement required under subdivision 20, paragraph (a);

(2) develop a personal care assistance care plan based on the assessed needs and addressing the health and safety of the recipient with the assistance of a qualified professional as needed;

(3) orient and train the personal care assistant with assistance as needed from the qualified professional;

(4) effective January 1, 2010, supervise and evaluate the personal care assistant with the qualified professional, who is required to visit the recipient at least every 180 days;

(5) monitor and verify in writing and report to the personal care assistance choice agency the number of hours worked by the personal care assistant and the qualified professional;

(6) engage in an annual face-to-face reassessment to determine continuing eligibility and service authorization; and

(7) use the same personal care assistance choice provider agency if shared personal assistance care is being used.

(b) The personal care assistance choice provider agency shall:

(1) meet all personal care assistance provider agency standards;

(2) enter into a written agreement with the recipient, responsible party, and personal care assistants;

(3) not be related as a parent, child, sibling, or spouse to the recipient or the personal care assistant; and

(4) ensure arm's-length transactions without undue influence or coercion with the recipient and personal care assistant.

(c) The duties of the personal care assistance choice provider agency are to:

(1) be the employer of the personal care assistant and the qualified professional for employment law and related regulations including, but not limited to, purchasing and maintaining workers' compensation, unemployment insurance, surety and fidelity bonds, and liability insurance, and submit any or all necessary documentation including, but not limited to, workers' compensation and unemployment insurance;

(2) bill the medical assistance program for personal care assistance services and qualified professional services;

(3) request and complete background studies that comply with the requirements for personal care assistants and qualified professionals;

(4) pay the personal care assistant and qualified professional based on actual hours of services provided;

(5) withhold and pay all applicable federal and state taxes;

(6) verify and keep records of hours worked by the personal care assistant and qualified professional;

(7) make the arrangements and pay taxes and other benefits, if any, and comply with any legal requirements for a Minnesota employer;

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- (8) enroll in the medical assistance program as a personal care assistance choice agency; and
- (9) enter into a written agreement as specified in subdivision 20 before services are provided.

Subd. 20. **Personal care assistance choice option; administration.** (a) Before services commence under the personal care assistance choice option, and annually thereafter, the personal care assistance choice provider agency and the recipient or responsible party shall enter into a written agreement. The annual agreement must be provided to the recipient or responsible party, each personal care assistant, and the qualified professional when completed, and include at a minimum:

- (1) duties of the recipient, qualified professional, personal care assistant, and personal care assistance choice provider agency;
- (2) salary and benefits for the personal care assistant and the qualified professional;
- (3) administrative fee of the personal care assistance choice provider agency and services paid for with that fee, including background study fees;
- (4) grievance procedures to respond to complaints;
- (5) procedures for hiring and terminating the personal care assistant; and
- (6) documentation requirements including, but not limited to, time sheets, activity records, and the personal care assistance care plan.

(b) Effective January 1, 2010, except for the administrative fee of the personal care assistance choice provider agency as reported on the written agreement, the remainder of the rates paid to the personal care assistance choice provider agency must be used to pay for the salary and benefits for the personal care assistant or the qualified professional. The provider agency must use a minimum of 72.5 percent of the revenue generated by the medical assistance rate for personal care assistance services for employee personal care assistant wages and benefits. The revenue generated by the qualified professional and the reasonable costs associated with the qualified professional shall not be used in making this calculation.

(c) The commissioner shall deny, revoke, or suspend the authorization to use the personal care assistance choice option if:

- (1) it has been determined by the qualified professional or public health nurse that the use of this option jeopardizes the recipient's health and safety;
- (2) the parties have failed to comply with the written agreement specified in this subdivision;
- (3) the use of the option has led to abusive or fraudulent billing for personal care assistance services; or
- (4) the department terminates the personal care assistance choice option.

(d) The recipient or responsible party may appeal the commissioner's decision in paragraph (c) according to section 256.045. The denial, revocation, or suspension to use the personal care assistance choice option must not affect the recipient's authorized level of personal care assistance services.

Subd. 21. **Requirements for provider enrollment of personal care assistance provider agencies.** (a) All personal care assistance provider agencies must provide, at the time of enrollment, reenrollment, and revalidation as a personal care assistance provider agency in a format determined by the commissioner, information and documentation that includes, but is not limited to, the following:

- (1) the personal care assistance provider agency's current contact information including address, telephone number, and e-mail address;
- (2) proof of surety bond coverage. Upon new enrollment, or if the provider's Medicaid revenue in the previous calendar year is up to and including \$300,000, the provider agency must purchase a surety bond of \$50,000. If the Medicaid revenue in the previous year is over \$300,000, the provider agency must purchase a surety bond of \$100,000. The surety bond must be in a form approved by the commissioner, must be renewed annually, and must allow for recovery of costs and fees in pursuing a claim on the bond;
- (3) proof of fidelity bond coverage in the amount of \$20,000;
- (4) proof of workers' compensation insurance coverage;

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(5) proof of liability insurance;

(6) a description of the personal care assistance provider agency's organization identifying the names of all owners, managing employees, staff, board of directors, and the affiliations of the directors, owners, or staff to other service providers;

(7) a copy of the personal care assistance provider agency's written policies and procedures including: hiring of employees; training requirements; service delivery; and employee and consumer safety including process for notification and resolution of consumer grievances, identification and prevention of communicable diseases, and employee misconduct;

(8) copies of all other forms the personal care assistance provider agency uses in the course of daily business including, but not limited to:

(i) a copy of the personal care assistance provider agency's time sheet if the time sheet varies from the standard time sheet for personal care assistance services approved by the commissioner, and a letter requesting approval of the personal care assistance provider agency's nonstandard time sheet;

(ii) the personal care assistance provider agency's template for the personal care assistance care plan; and

(iii) the personal care assistance provider agency's template for the written agreement in subdivision 20 for recipients using the personal care assistance choice option, if applicable;

(9) a list of all training and classes that the personal care assistance provider agency requires of its staff providing personal care assistance services;

(10) documentation that the personal care assistance provider agency and staff have successfully completed all the training required by this section;

(11) documentation of the agency's marketing practices;

(12) disclosure of ownership, leasing, or management of all residential properties that is used or could be used for providing home care services;

(13) documentation that the agency will use the following percentages of revenue generated from the medical assistance rate paid for personal care assistance services for employee personal care assistant wages and benefits: 72.5 percent of revenue in the personal care assistance choice option and 72.5 percent of revenue from other personal care assistance providers. The revenue generated by the qualified professional and the reasonable costs associated with the qualified professional shall not be used in making this calculation; and

(14) effective May 15, 2010, documentation that the agency does not burden recipients' free exercise of their right to choose service providers by requiring personal care assistants to sign an agreement not to work with any particular personal care assistance recipient or for another personal care assistance provider agency after leaving the agency and that the agency is not taking action on any such agreements or requirements regardless of the date signed.

(b) Personal care assistance provider agencies shall provide the information specified in paragraph (a) to the commissioner at the time the personal care assistance provider agency enrolls as a vendor or upon request from the commissioner. The commissioner shall collect the information specified in paragraph (a) from all personal care assistance providers beginning July 1, 2009.

(c) All personal care assistance provider agencies shall require all employees in management and supervisory positions and owners of the agency who are active in the day-to-day management and operations of the agency to complete mandatory training as determined by the commissioner before enrollment of the agency as a provider. Employees in management and supervisory positions and owners who are active in the day-to-day operations of an agency who have completed the required training as an employee with a personal care assistance provider agency do not need to repeat the required training if they are hired by another agency, if they have completed the training within the past three years. By September 1, 2010, the required training must be available with meaningful access according to title VI of the Civil Rights Act and federal regulations adopted under that law or any guidance from the United States Health and Human Services Department. The required training must be available online or by electronic remote connection. The required training must provide for competency testing. Personal care assistance provider agency billing staff shall complete training about personal care assistance program financial management. This training is effective July 1, 2009. Any personal care assistance provider agency enrolled before that date shall, if it has not already, complete the provider training within 18 months of July 1, 2009. Any

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new owners or employees in management and supervisory positions involved in the day-to-day operations are required to complete mandatory training as a requisite of working for the agency. Personal care assistance provider agencies certified for participation in Medicare as home health agencies are exempt from the training required in this subdivision. When available, Medicare-certified home health agency owners, supervisors, or managers must successfully complete the competency test.

Subd. 22. **Annual review for personal care providers.** (a) All personal care assistance provider agencies shall resubmit, on an annual basis, the information specified in subdivision 21, in a format determined by the commissioner, and provide a copy of the personal care assistance provider agency's most current version of its grievance policies and procedures along with a written record of grievances and resolutions of the grievances that the personal care assistance provider agency has received in the previous year and any other information requested by the commissioner.

(b) The commissioner shall send annual review notification to personal care assistance provider agencies 30 days prior to renewal. The notification must:

- (1) list the materials and information the personal care assistance provider agency is required to submit;
- (2) provide instructions on submitting information to the commissioner; and
- (3) provide a due date by which the commissioner must receive the requested information.

Personal care assistance provider agencies shall submit required documentation for annual review within 30 days of notification from the commissioner. If no documentation is submitted, the personal care assistance provider agency enrollment number must be terminated or suspended.

(c) Personal care assistance provider agencies also currently licensed under section 144A.471, subdivision 6 or 7, or currently certified for participation in Medicare as a home health agency are deemed in compliance with the personal care assistance requirements for enrollment, annual review process, and documentation.

Subd. 23. **Enrollment requirements following termination.** (a) A terminated personal care assistance provider agency, including all named individuals on the current enrollment disclosure form and known or discovered affiliates of the personal care assistance provider agency, is not eligible to enroll as a personal care assistance provider agency for two years following the termination.

(b) After the two-year period in paragraph (a), if the provider seeks to reenroll as a personal care assistance provider agency, the personal care assistance provider agency must be placed on a one-year probation period, beginning after completion of the following:

- (1) the department's provider trainings under this section; and
- (2) initial enrollment requirements under subdivision 21.

(c) During the probationary period the commissioner shall complete site visits and request submission of documentation to review compliance with program policy.

Subd. 24. **Personal care assistance provider agency; general duties.** A personal care assistance provider agency shall:

- (1) enroll as a Medicaid provider meeting all provider standards, including completion of the required provider training;
- (2) comply with general medical assistance coverage requirements;
- (3) demonstrate compliance with law and policies of the personal care assistance program to be determined by the commissioner;
- (4) comply with background study requirements;
- (5) verify and keep records of hours worked by the personal care assistant and qualified professional;
- (6) not engage in any agency-initiated direct contact or marketing in person, by phone, or other electronic means to potential recipients, guardians, or family members;
- (7) pay the personal care assistant and qualified professional based on actual hours of services provided;

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(8) withhold and pay all applicable federal and state taxes;

(9) effective January 1, 2010, document that the agency uses a minimum of 72.5 percent of the revenue generated by the medical assistance rate for personal care assistance services for employee personal care assistant wages and benefits. The revenue generated by the qualified professional and the reasonable costs associated with the qualified professional shall not be used in making this calculation;

(10) make the arrangements and pay unemployment insurance, taxes, workers' compensation, liability insurance, and other benefits, if any;

(11) enter into a written agreement under subdivision 20 before services are provided;

(12) report suspected neglect and abuse to the common entry point according to section 256B.0651;

(13) provide the recipient with a copy of the home care bill of rights at start of service; and

(14) request reassessments at least 60 days prior to the end of the current authorization for personal care assistance services, on forms provided by the commissioner.

Subd. 25. Personal care assistance provider agency; background studies. Personal care assistance provider agencies enrolled to provide personal care assistance services under the medical assistance program shall comply with the following:

(1) owners who have a five percent interest or more and all managing employees are subject to a background study as provided in chapter 245C. This applies to currently enrolled personal care assistance provider agencies and those agencies seeking enrollment as a personal care assistance provider agency. "Managing employee" has the same meaning as Code of Federal Regulations, title 42, section 455. An organization is barred from enrollment if:

(i) the organization has not initiated background studies on owners and managing employees; or

(ii) the organization has initiated background studies on owners and managing employees, but the commissioner has sent the organization a notice that an owner or managing employee of the organization has been disqualified under section 245C.14, and the owner or managing employee has not received a set aside of the disqualification under section 245C.22;

(2) a background study must be initiated and completed for all qualified professionals; and

(3) a background study must be initiated and completed for all personal care assistants.

Subd. 26. Personal care assistance provider agency; communicable disease prevention. A personal care assistance provider agency shall establish and implement policies and procedures for prevention, control, and investigation of infections and communicable diseases according to current nationally recognized infection control practices or guidelines established by the United States Centers for Disease Control and Prevention, as well as applicable regulations of other federal or state agencies.

Subd. 27. Personal care assistance provider agency. (a) The personal care assistance provider agency is required to provide training for the personal care assistant responsible for working with a recipient who is ventilator dependent. All training must be administered by a respiratory therapist, nurse, or physician. Qualified professional supervision by a nurse must be completed and documented on file in the personal care assistant's employment record and the recipient's health record. If offering personal care services to a ventilator-dependent recipient, the personal care assistance provider agency shall demonstrate and document the ability to:

(1) train the personal care assistant;

(2) supervise the personal care assistant in the care of a ventilator-dependent recipient;

(3) supervise the recipient and responsible party in the care of a ventilator-dependent recipient; and

(4) provide documentation of the training and supervision in clauses (1) to (3) upon request.

(b) A personal care assistant shall not undertake any clinical services, patient assessment, patient evaluation, or clinical education regarding the ventilator or the patient on the ventilator. These services may only be provided by health care professionals licensed or registered in this state.

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(c) A personal care assistant may only perform tasks associated with ventilator maintenance that are approved by the Board of Medical Practice in consultation with the Respiratory Care Practitioner Advisory Council and the Department of Human Services.

Subd. 28. **Personal care assistance provider agency; required documentation.** (a) Required documentation must be completed and kept in the personal care assistance provider agency file or the recipient's home residence. The required documentation consists of:

(1) employee files, including:

- (i) applications for employment;
- (ii) background study requests and results;
- (iii) orientation records about the agency policies;
- (iv) trainings completed with demonstration of competence;
- (v) supervisory visits;
- (vi) evaluations of employment; and
- (vii) signature on fraud statement;

(2) recipient files, including:

- (i) demographics;
- (ii) emergency contact information and emergency backup plan;
- (iii) personal care assistance service plan;
- (iv) personal care assistance care plan;
- (v) month-to-month service use plan;
- (vi) all communication records;
- (vii) start of service information, including the written agreement with recipient; and
- (viii) date the home care bill of rights was given to the recipient;

(3) agency policy manual, including:

- (i) policies for employment and termination;
- (ii) grievance policies with resolution of consumer grievances;
- (iii) staff and consumer safety;
- (iv) staff misconduct; and

(v) staff hiring, service delivery, staff and consumer safety, staff misconduct, and resolution of consumer grievances;

(4) time sheets for each personal care assistant along with completed activity sheets for each recipient served; and

(5) agency marketing and advertising materials and documentation of marketing activities and costs.

(b) The commissioner may assess a fine of up to \$500 on provider agencies that do not consistently comply with the requirements of this subdivision.

Subd. 29. **Transitional assistance.** The commissioner, counties, health plans, tribes, and personal care assistance providers shall work together to provide transitional assistance for recipients and families to come into compliance with the new requirements of this section that may require a change in living arrangement no later than August 10, 2010.

Subd. 30. **Notice of service changes to recipients.** The commissioner must provide:

(1) by October 31, 2009, information to recipients likely to be affected that (i) describes the changes to the personal care assistance program that may result in the loss of access to personal care assistance services, and (ii) includes resources to obtain further information; and

(2) a service agreement authorizing personal care assistance hours of service at the previously authorized level, throughout the appeal process period, when a recipient requests services pending an appeal.

Subd. 31. **Commissioner's access.** When the commissioner is investigating a possible overpayment of Medicaid funds, the commissioner must be given immediate access without prior notice to the office during regular business hours and to documentation and records related to services provided and submission of claims for services provided. Denying the commissioner access to records is cause for immediate suspension of payment and/or terminating the personal care provider organization's enrollment according to section 256B.064.

256B.0752 HEALTH CARE HOME REPORTING REQUIREMENTS.

Subdivision 1. **Annual reports on implementation and administration.** The commissioners shall report annually to the legislature on the implementation and administration of the health care home model for state health care program enrollees in the fee-for-service, managed care, and county-based purchasing sectors beginning December 15, 2009, and each December 15 thereafter.

Subd. 2. **Evaluation reports.** The commissioners shall provide to the legislature comprehensive evaluations of the health care home model three years and five years after implementation. The report must include:

(1) the number of state health care program enrollees in health care homes and the number and characteristics of enrollees with complex or chronic conditions, identified by income, race, ethnicity, and language;

(2) the number and geographic distribution of health care home providers;

(3) the performance and quality of care of health care homes;

(4) measures of preventive care;

(5) health care home payment arrangements, and costs related to implementation and payment of care coordination fees;

(6) the estimated impact of health care homes on health disparities; and

(7) estimated savings from implementation of the health care home model for the fee-for-service, managed care, and county-based purchasing sectors.

256B.79 INTEGRATED CARE FOR HIGH-RISK PREGNANT WOMEN.

Subd. 7. **Expiration.** This section expires June 30, 2019.

256I.05 MONTHLY RATES.

Subd. 3. **Limits on rates.** When a room and board rate is used to pay for an individual's room and board, the rate payable to the residence must not exceed the rate paid by an individual not receiving a room and board rate under this chapter.

256J.751 COUNTY PERFORMANCE MANAGEMENT.

Subdivision 1. **Monthly county caseload report.** The commissioner shall report monthly to each county the following caseload information:

(1) total number of cases receiving MFIP, and subtotals of cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;

(2) total number of child only assistance cases;

(3) total number of eligible adults and children receiving an MFIP grant, and subtotals for cases with one eligible parent, two eligible parents, an eligible caregiver who is not a parent, and child only cases;

(4) number of cases with an exemption from the 60-month time limit based on a family violence waiver;

(5) number of MFIP cases with work hours, and subtotals for cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;

(6) number of employed MFIP cases, and subtotals for cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;

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(7) average monthly gross earnings, and averages for subgroups of cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;

(8) number of employed cases receiving only the food portion of assistance;

(9) number of parents or caregivers exempt from work activity requirements, with subtotals for each exemption type; and

(10) number of cases with a sanction, with subtotals by level of sanction for cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent.

256L.04 ELIGIBLE PERSONS.

Subd. 13. **Families with relative caretakers, foster parents, or legal guardians.** Beginning January 1, 1999, in families that include a relative caretaker as defined in the medical assistance program, foster parent, or legal guardian, the relative caretaker, foster parent, or legal guardian may apply as a family or may apply separately for the children. If the caretaker applies separately for the children, only the children's income is counted and the provisions of subdivision 1, paragraph (b), do not apply. If the relative caretaker, foster parent, or legal guardian applies with the children, their income is included in the gross family income for determining eligibility and premium amount.

256R.08 REPORTING OF FINANCIAL STATEMENTS.

Subd. 2. **Extensions.** The commissioner may grant up to a 15-day extension of the reporting deadline to a nursing facility for good cause. To receive such an extension, a nursing facility shall submit a written request by January 1. The commissioner shall notify the nursing facility of the decision by January 15. Between January 1 and February 1, the nursing facility may request a reporting extension for good cause by telephone and followed by a written request.

256R.49 RATE ADJUSTMENTS FOR COMPENSATION-RELATED COSTS FOR MINIMUM WAGE CHANGES.

Subdivision 1. **Rate adjustments for compensation-related costs.** (a) Rate increases provided under this section before October 1, 2016, expire effective January 1, 2018, and rate increases provided on or after October 1, 2016, expire effective January 1, 2019.

(b) Nursing facilities that receive approval of the applications in subdivision 2 must receive rate adjustments according to subdivision 4. The rate adjustments must be used to pay compensation costs for nursing facility employees paid less than \$14 per hour.

Subd. 2. **Application process.** To receive a rate adjustment, nursing facilities must submit applications to the commissioner in a form and manner determined by the commissioner. The applications for the rate adjustments shall include specified data, and spending plans that describe how the funds from the rate adjustments will be allocated for compensation to employees paid less than \$14 per hour. The applications must be submitted within three months of the effective date of any operating payment rate adjustment under this section. The commissioner may request any additional information needed to determine the rate adjustment within three weeks of receiving a complete application. The nursing facility must provide any additional information requested by the commissioner within six months of the effective date of any operating payment rate adjustment under this section. The commissioner may waive the deadlines in this section under extraordinary circumstances.

Subd. 3. **Additional application requirements for facilities with employees represented by an exclusive bargaining representative.** For nursing facilities in which employees are represented by an exclusive bargaining representative, the commissioner shall approve the applications submitted under subdivision 2 only upon receipt of a letter or letters of acceptance of the spending plans in regard to members of the bargaining unit, signed by the exclusive bargaining agent and dated after May 31, 2014. Upon receipt of the letter or letters of acceptance, the commissioner shall deem all requirements of this section as having been met in regard to the members of the bargaining unit.

Subd. 4. **Determination of the rate adjustments for compensation-related costs.** Based on the application in subdivision 2, the commissioner shall calculate the allowable annualized compensation costs by adding the totals of clauses (1), (2), and (3). The result must be divided by the standardized or resident days from the most recently available cost report to determine per day amounts, which must be included in the operating portion of the total payment rate and allocated to direct care or other operating as determined by the commissioner:

(1) the sum of the difference between \$9.50 and any hourly wage rate less than \$9.50 for October 1, 2016; and between the indexed value of the minimum wage, as defined in section 177.24,

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subdivision 1, paragraph (f), and any hourly wage less than that indexed value for rate years beginning on and after October 1, 2017; multiplied by the number of compensated hours at that wage rate;

(2) using wages and hours in effect during the first three months of calendar year 2014, beginning with the first pay period beginning on or after January 1, 2014; 22.2 percent of the sum of items (i) to (viii) for October 1, 2016;

(i) for all compensated hours from \$8 to \$8.49 per hour, the number of compensated hours is multiplied by \$0.13;

(ii) for all compensated hours from \$8.50 to \$8.99 per hour, the number of compensated hours is multiplied by \$0.25;

(iii) for all compensated hours from \$9 to \$9.49 per hour, the number of compensated hours is multiplied by \$0.38;

(iv) for all compensated hours from \$9.50 to \$10.49 per hour, the number of compensated hours is multiplied by \$0.50;

(v) for all compensated hours from \$10.50 to \$10.99 per hour, the number of compensated hours is multiplied by \$0.40;

(vi) for all compensated hours from \$11 to \$11.49 per hour, the number of compensated hours is multiplied by \$0.30;

(vii) for all compensated hours from \$11.50 to \$11.99 per hour, the number of compensated hours is multiplied by \$0.20; and

(viii) for all compensated hours from \$12 to \$13 per hour, the number of compensated hours is multiplied by \$0.10; and

(3) the sum of the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, pensions, and contributions to employee retirement accounts attributable to the amounts in clauses (1) and (2).