

436.26

ARTICLE 9

436.27

DEPARTMENT OF HUMAN SERVICES OPERATIONS POLICY

436.28 Section 1. Minnesota Statutes 2022, section 62V.05, subdivision 4a, is amended to read:

436.29 Subd. 4a. **Background study required.** (a) The board must initiate background studies
436.30 under section 245C.031 of:

437.1 (1) each navigator;

437.2 (2) each in-person assister; and

437.3 (3) each certified application counselor.

437.4 (b) The board may initiate the background studies required by paragraph (a) using the
437.5 online NETStudy 2.0 system operated by the commissioner of human services.437.6 (c) The board shall not permit any individual to provide any service or function listed
437.7 in paragraph (a) until ~~the board has received notification from the commissioner of human~~
437.8 ~~services indicating that the individual:~~437.9 (1) the board has evaluated any notification received from the commissioner of human
437.10 services indicating the individual's potential disqualifications and has determined that the
437.11 individual is not disqualified under chapter 245C; or437.12 (2) the board has determined that the individual is disqualified; but has received granted
437.13 a set aside from the board of that disqualification according to sections 245C.22 and 245C.23.437.14 (d) The board or its delegate shall review a reconsideration request of an individual in
437.15 paragraph (a), including granting a set aside, according to the procedures and criteria in
437.16 chapter 245C. The board shall notify the individual and the Department of Human Services
437.17 of the board's decision.

437.18 Sec. 2. Minnesota Statutes 2022, section 122A.18, subdivision 8, is amended to read:

437.19 Subd. 8. **Background studies.** (a) The Professional Educator Licensing and Standards
437.20 Board and the Board of School Administrators must initiate criminal history background
437.21 studies of all first-time applicants for educator and administrator licenses under their
437.22 jurisdiction. Applicants must include with their licensure applications:

437.23 (1) an executed criminal history consent form, including fingerprints; and

437.24 (2) payment to conduct the background study. The Professional Educator Licensing and
437.25 Standards Board must deposit payments received under this subdivision in an account in
437.26 the special revenue fund. Amounts in the account are annually appropriated to the
437.27 Professional Educator Licensing and Standards Board to pay for the costs of background
437.28 studies on applicants for licensure.

437.29 (b) The background study for all first-time ~~teaching~~ applicants for educator licenses
437.30 must include a review of information from the Bureau of Criminal Apprehension, including
437.31 criminal history data as defined in section 13.87, and must also include a review of the
437.32 national criminal records repository. The superintendent of the Bureau of Criminal
438.1 Apprehension is authorized to exchange fingerprints with the Federal Bureau of Investigation
438.2 for purposes of the criminal history check.

438.3 (c) The Professional Educator Licensing and Standards Board may initiate criminal
438.4 history background studies through the commissioner of human services according to section
438.5 245C.031 to obtain background study data required under this chapter.

438.6 Sec. 3. Minnesota Statutes 2022, section 245A.02, subdivision 5a, is amended to read:

438.7 Subd. 5a. **Controlling individual.** (a) "Controlling individual" means an owner of a
438.8 program or service provider licensed under this chapter and the following individuals, if
438.9 applicable:

438.10 (1) each officer of the organization, including the chief executive officer and chief
438.11 financial officer;

438.12 (2) the individual designated as the authorized agent under section 245A.04, subdivision
438.13 1, paragraph (b);

438.14 (3) the individual designated as the compliance officer under section 256B.04, subdivision
438.15 21, paragraph (g);

438.16 (4) each managerial official whose responsibilities include the direction of the
438.17 management or policies of a program; ~~and~~

438.18 (5) the individual designated as the primary provider of care for a special family child
438.19 care program under section 245A.14, subdivision 4, paragraph (i); and

438.20 (6) the president and treasurer of the board of directors of a nonprofit corporation.

438.21 (b) Controlling individual does not include:

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

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

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

- 439.1 (i) whose securities are exempt under section 80A.45, clause (6); or
- 439.2 (ii) whose transactions are exempt under section 80A.46, clause (2);
- 439.3 (4) an individual who is a member of an organization exempt from taxation under section
- 439.4 290.05, unless the individual is also an officer, owner, or managerial official of the program
- 439.5 or owns any of the beneficial interests not excluded in this subdivision. This clause does
- 439.6 not exclude from the definition of controlling individual an organization that is exempt from
- 439.7 taxation; or
- 439.8 (5) an employee stock ownership plan trust, or a participant or board member of an
- 439.9 employee stock ownership plan, unless the participant or board member is a controlling
- 439.10 individual according to paragraph (a).
- 439.11 (c) For purposes of this subdivision, "managerial official" means an individual who has
- 439.12 the decision-making authority related to the operation of the program, and the responsibility
- 439.13 for the ongoing management of or direction of the policies, services, or employees of the
- 439.14 program. A site director who has no ownership interest in the program is not considered to
- 439.15 be a managerial official for purposes of this definition.
- 439.16 Sec. 4. Minnesota Statutes 2022, section 245A.02, subdivision 10b, is amended to read:
- 439.17 Subd. 10b. **Owner.** "Owner" means an individual or organization that has a direct or
- 439.18 indirect ownership interest of five percent or more in a program licensed under this chapter.
- 439.19 For purposes of this subdivision, "direct ownership interest" means the possession of equity
- 439.20 in capital, stock, or profits of an organization, and "indirect ownership interest" means a
- 439.21 direct ownership interest in an entity that has a direct or indirect ownership interest in a
- 439.22 licensed program. For purposes of this chapter, "owner of a ~~nonprofit corporation~~" means
- 439.23 ~~the president and treasurer of the board of directors or, for an entity owned by an employee~~
- 439.24 ~~stock ownership plan,"~~ means the president and treasurer of the entity. A government entity
- 439.25 or nonprofit corporation that is issued a license under this chapter shall be designated the
- 439.26 owner.
- 439.27 Sec. 5. Minnesota Statutes 2022, section 245A.04, subdivision 1, is amended to read:
- 439.28 Subdivision 1. **Application for licensure.** (a) An individual, organization, or government
- 439.29 entity that is subject to licensure under section 245A.03 must apply for a license. The
- 439.30 application must be made on the forms and in the manner prescribed by the commissioner.
- 439.31 The commissioner shall provide the applicant with instruction in completing the application
- 439.32 and provide information about the rules and requirements of other state agencies that affect
- 440.1 the applicant. An applicant seeking licensure in Minnesota with headquarters outside of
- 440.2 Minnesota must have a program office located within 30 miles of the Minnesota border.
- 440.3 An applicant who intends to buy or otherwise acquire a program or services licensed under
- 440.4 this chapter that is owned by another license holder must apply for a license under this
- 440.5 chapter and comply with the application procedures in this section and section ~~245A.03~~
- 440.6 245A.043.

440.7 The commissioner shall act on the application within 90 working days after a complete
440.8 application and any required reports have been received from other state agencies or
440.9 departments, counties, municipalities, or other political subdivisions. The commissioner
440.10 shall not consider an application to be complete until the commissioner receives all of the
440.11 required information.

440.12 When the commissioner receives an application for initial licensure that is incomplete
440.13 because the applicant failed to submit required documents or that is substantially deficient
440.14 because the documents submitted do not meet licensing requirements, the commissioner
440.15 shall provide the applicant written notice that the application is incomplete or substantially
440.16 deficient. In the written notice to the applicant the commissioner shall identify documents
440.17 that are missing or deficient and give the applicant 45 days to resubmit a second application
440.18 that is substantially complete. An applicant's failure to submit a substantially complete
440.19 application after receiving notice from the commissioner is a basis for license denial under
440.20 section 245A.05.

440.21 (b) An application for licensure must identify all controlling individuals as defined in
440.22 section 245A.02, subdivision 5a, and must designate one individual to be the authorized
440.23 agent. The application must be signed by the authorized agent and must include the authorized
440.24 agent's first, middle, and last name; mailing address; and email address. By submitting an
440.25 application for licensure, the authorized agent consents to electronic communication with
440.26 the commissioner throughout the application process. The authorized agent must be
440.27 authorized to accept service on behalf of all of the controlling individuals. A government
440.28 entity that holds multiple licenses under this chapter may designate one authorized agent
440.29 for all licenses issued under this chapter or may designate a different authorized agent for
440.30 each license. Service on the authorized agent is service on all of the controlling individuals.
440.31 It is not a defense to any action arising under this chapter that service was not made on each
440.32 controlling individual. The designation of a controlling individual as the authorized agent
440.33 under this paragraph does not affect the legal responsibility of any other controlling individual
440.34 under this chapter.

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

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

441.10 (e) The commissioner may limit communication during the application process to the
441.11 authorized agent or the controlling individuals identified on the license application and for
441.12 whom a background study was initiated under chapter 245C. The commissioner may require
441.13 the applicant, except for child foster care, to demonstrate competence in the applicable

- 441.14 licensing requirements by successfully completing a written examination. The commissioner
441.15 may develop a prescribed written examination format.
- 441.16 (f) When an applicant is an individual, the applicant must provide:
- 441.17 (1) the applicant's taxpayer identification numbers including the Social Security number
441.18 or Minnesota tax identification number, and federal employer identification number if the
441.19 applicant has employees;
- 441.20 (2) at the request of the commissioner, a copy of the most recent filing with the secretary
441.21 of state that includes the complete business name, if any;
- 441.22 (3) if doing business under a different name, the doing business as (DBA) name, as
441.23 registered with the secretary of state;
- 441.24 (4) if applicable, the applicant's National Provider Identifier (NPI) number and Unique
441.25 Minnesota Provider Identifier (UMPI) number; and
- 441.26 (5) at the request of the commissioner, the notarized signature of the applicant or
441.27 authorized agent; and
- 441.28 (6) except for family foster care providers, an email address that will be made public
441.29 subject to the requirements under section 13.46, subdivision 4, paragraph (b), clause (1),
441.30 item (i).
- 441.31 (g) When an applicant is an organization, the applicant must provide:
- 442.1 (1) the applicant's taxpayer identification numbers including the Minnesota tax
442.2 identification number and federal employer identification number;
- 442.3 (2) at the request of the commissioner, a copy of the most recent filing with the secretary
442.4 of state that includes the complete business name, and if doing business under a different
442.5 name, the doing business as (DBA) name, as registered with the secretary of state;
- 442.6 (3) the first, middle, and last name, and address for all individuals who will be controlling
442.7 individuals, including all officers, owners, and managerial officials as defined in section
442.8 245A.02, subdivision 5a, and the date that the background study was initiated by the applicant
442.9 for each controlling individual;
- 442.10 (4) if applicable, the applicant's NPI number and UMPI number;
- 442.11 (5) the documents that created the organization and that determine the organization's
442.12 internal governance and the relations among the persons that own the organization, have
442.13 an interest in the organization, or are members of the organization, in each case as provided
442.14 or authorized by the organization's governing statute, which may include a partnership
442.15 agreement, bylaws, articles of organization, organizational chart, and operating agreement,
442.16 or comparable documents as provided in the organization's governing statute; ~~and~~

- 442.17 (6) the notarized signature of the applicant or authorized agent; and
- 442.18 (7) an email address that will be made public subject to the requirements under section
- 442.19 13.46, subdivision 4, paragraph (b), clause (1), item (i).
- 442.20 (h) When the applicant is a government entity, the applicant must provide:
- 442.21 (1) the name of the government agency, political subdivision, or other unit of government
- 442.22 seeking the license and the name of the program or services that will be licensed;
- 442.23 (2) the applicant's taxpayer identification numbers including the Minnesota tax
- 442.24 identification number and federal employer identification number;
- 442.25 (3) a letter signed by the manager, administrator, or other executive of the government
- 442.26 entity authorizing the submission of the license application; and
- 442.27 (4) if applicable, the applicant's NPI number and UMPI number; and
- 442.28 (5) an email address that will be made public subject to the requirements under section
- 442.29 13.46, subdivision 4, paragraph (b), clause (1), item (i).
- 442.30 (i) At the time of application for licensure or renewal of a license under this chapter, the
- 442.31 applicant or license holder must acknowledge on the form provided by the commissioner
- 443.1 if the applicant or license holder elects to receive any public funding reimbursement from
- 443.2 the commissioner for services provided under the license that:
- 443.3 (1) the applicant's or license holder's compliance with the provider enrollment agreement
- 443.4 or registration requirements for receipt of public funding may be monitored by the
- 443.5 commissioner as part of a licensing investigation or licensing inspection; and
- 443.6 (2) noncompliance with the provider enrollment agreement or registration requirements
- 443.7 for receipt of public funding that is identified through a licensing investigation or licensing
- 443.8 inspection, or noncompliance with a licensing requirement that is a basis of enrollment for
- 443.9 reimbursement for a service, may result in:
- 443.10 (i) a correction order or a conditional license under section 245A.06, or sanctions under
- 443.11 section 245A.07;
- 443.12 (ii) nonpayment of claims submitted by the license holder for public program
- 443.13 reimbursement;
- 443.14 (iii) recovery of payments made for the service;
- 443.15 (iv) disenrollment in the public payment program; or
- 443.16 (v) other administrative, civil, or criminal penalties as provided by law.
- 443.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

443.18 Sec. 6. Minnesota Statutes 2022, section 245A.04, subdivision 7, is amended to read:

443.19 Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines that
 443.20 the program complies with all applicable rules and laws, the commissioner shall issue a
 443.21 license consistent with this section or, if applicable, a temporary change of ownership license
 443.22 under section 245A.043. At minimum, the license shall state:

443.23 (1) the name of the license holder;

443.24 (2) the address of the program;

443.25 (3) the effective date and expiration date of the license;

443.26 (4) the type of license;

443.27 (5) the maximum number and ages of persons that may receive services from the program;

443.28 ~~and~~

443.29 (6) any special conditions of licensure; and

443.30 (7) the public email address of the program.

444.1 (b) The commissioner may issue a license for a period not to exceed two years if:

444.2 (1) the commissioner is unable to conduct the ~~evaluation or~~ observation required by
 444.3 subdivision 4, paragraph (a), clause ~~(4)~~ (3), because the program is not yet operational;

444.4 (2) certain records and documents are not available because persons are not yet receiving
 444.5 services from the program; and

444.6 (3) the applicant complies with applicable laws and rules in all other respects.

444.7 (c) A decision by the commissioner to issue a license does not guarantee that any person
 444.8 or persons will be placed or cared for in the licensed program.

444.9 (d) Except as provided in paragraphs (f) and (g), the commissioner shall not issue or
 444.10 reissue a license if the applicant, license holder, or controlling individual has:

444.11 (1) been disqualified and the disqualification was not set aside and no variance has been
 444.12 granted;

444.13 (2) been denied a license under this chapter, within the past two years;

444.14 (3) had a license issued under this chapter revoked within the past five years;

444.15 (4) an outstanding debt related to a license fee, licensing fine, or settlement agreement
 444.16 for which payment is delinquent; or

444.17 (5) failed to submit the information required of an applicant under subdivision 1,

444.18 paragraph (f) ~~or~~ (g), or (h), after being requested by the commissioner.

444.19 When a license issued under this chapter is revoked under clause (1) or (3), the license
444.20 holder and controlling individual may not hold any license under chapter 245A for five
444.21 years following the revocation, and other licenses held by the applicant, license holder, or
444.22 controlling individual shall also be revoked.

444.23 (e) The commissioner shall not issue or reissue a license under this chapter if an individual
444.24 living in the household where the services will be provided as specified under section
444.25 245C.03, subdivision 1, has been disqualified and the disqualification has not been set aside
444.26 and no variance has been granted.

444.27 (f) Pursuant to section 245A.07, subdivision 1, paragraph (b), when a license issued
444.28 under this chapter has been suspended or revoked and the suspension or revocation is under
444.29 appeal, the program may continue to operate pending a final order from the commissioner.
444.30 If the license under suspension or revocation will expire before a final order is issued, a
444.31 temporary provisional license may be issued provided any applicable license fee is paid
444.32 before the temporary provisional license is issued.

445.1 (g) Notwithstanding paragraph (f), when a revocation is based on the disqualification
445.2 of a controlling individual or license holder, and the controlling individual or license holder
445.3 is ordered under section 245C.17 to be immediately removed from direct contact with
445.4 persons receiving services or is ordered to be under continuous, direct supervision when
445.5 providing direct contact services, the program may continue to operate only if the program
445.6 complies with the order and submits documentation demonstrating compliance with the
445.7 order. If the disqualified individual fails to submit a timely request for reconsideration, or
445.8 if the disqualification is not set aside and no variance is granted, the order to immediately
445.9 remove the individual from direct contact or to be under continuous, direct supervision
445.10 remains in effect pending the outcome of a hearing and final order from the commissioner.

445.11 (h) For purposes of reimbursement for meals only, under the Child and Adult Care Food
445.12 Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A, part 226,
445.13 relocation within the same county by a licensed family day care provider, shall be considered
445.14 an extension of the license for a period of no more than 30 calendar days or until the new
445.15 license is issued, whichever occurs first, provided the county agency has determined the
445.16 family day care provider meets licensure requirements at the new location.

445.17 (i) Unless otherwise specified by statute, all licenses issued under this chapter expire at
445.18 12:01 a.m. on the day after the expiration date stated on the license. A license holder must
445.19 apply for and be granted a new license to operate the program or the program must not be
445.20 operated after the expiration date.

445.21 (j) The commissioner shall not issue or reissue a license under this chapter if it has been
445.22 determined that a tribal licensing authority has established jurisdiction to license the program
445.23 or service.

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

445.25 Sec. 7. Minnesota Statutes 2022, section 245A.041, is amended by adding a subdivision
445.26 to read:

445.27 Subd. 6. **First date of direct contact; documentation requirements.** Except for family
445.28 child care, family foster care for children, and family adult day services that the license
445.29 holder provides in the license holder's residence, license holders must document the first
445.30 date that a background study subject has direct contact, as defined in section 245C.02,
445.31 subdivision 11, with a person served by the license holder's program. Unless this chapter
445.32 otherwise requires, if the license holder does not maintain the documentation required by
445.33 this subdivision in the license holder's personnel files, the license holder must provide the
445.34 documentation to the commissioner upon the commissioner's request.

446.1 **EFFECTIVE DATE.** This section is effective January 1, 2024.

446.2 Sec. 8. Minnesota Statutes 2022, section 245A.07, subdivision 2a, is amended to read:

446.3 Subd. 2a. **Immediate suspension expedited hearing.** (a) Within five working days of
446.4 receipt of the license holder's timely appeal, the commissioner shall request assignment of
446.5 an administrative law judge. The request must include a proposed date, time, and place of
446.6 a hearing. A hearing must be conducted by an administrative law judge within 30 calendar
446.7 days of the request for assignment, unless an extension is requested by either party and
446.8 granted by the administrative law judge for good cause. The commissioner shall issue a
446.9 notice of hearing by certified mail or personal service at least ten working days before the
446.10 hearing. The scope of the hearing shall be limited solely to the issue of whether the temporary
446.11 immediate suspension should remain in effect pending the commissioner's final order under
446.12 section 245A.08, regarding a licensing sanction issued under subdivision 3 following the
446.13 immediate suspension. For suspensions under subdivision 2, paragraph (a), clause (1), the
446.14 burden of proof in expedited hearings under this subdivision shall be limited to the
446.15 commissioner's demonstration that reasonable cause exists to believe that the license holder's
446.16 actions or failure to comply with applicable law or rule poses, or the actions of other
446.17 individuals or conditions in the program poses an imminent risk of harm to the health, safety,
446.18 or rights of persons served by the program. "Reasonable cause" means there exist specific
446.19 articulable facts or circumstances which provide the commissioner with a reasonable
446.20 suspicion that there is an imminent risk of harm to the health, safety, or rights of persons
446.21 served by the program. When the commissioner has determined there is reasonable cause
446.22 to order the temporary immediate suspension of a license based on a violation of safe sleep
446.23 requirements, as defined in section 245A.1435, the commissioner is not required to
446.24 demonstrate that an infant died or was injured as a result of the safe sleep violations. For
446.25 suspensions under subdivision 2, paragraph (a), clause (2), the burden of proof in expedited
446.26 hearings under this subdivision shall be limited to the commissioner's demonstration by a
446.27 preponderance of the evidence that, since the license was revoked, the license holder
446.28 committed additional violations of law or rule which may adversely affect the health or
446.29 safety of persons served by the program.

446.30 (b) The administrative law judge shall issue findings of fact, conclusions, and a
446.31 recommendation within ten working days from the date of hearing. The parties shall have

446.32 ten calendar days to submit exceptions to the administrative law judge's report. The record
446.33 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
446.34 final order shall be issued within ten working days from the close of the record. When an
446.35 appeal of a temporary immediate suspension is withdrawn or dismissed, the commissioner
447.1 shall issue a final order affirming the temporary immediate suspension within ten calendar
447.2 days of the commissioner's receipt of the withdrawal or dismissal. Within 90 calendar days
447.3 after an immediate suspension has been issued and the license holder has not submitted a
447.4 timely appeal under subdivision 2, paragraph (b), or within 90 calendar days after a final
447.5 order affirming an immediate suspension, the commissioner shall ~~make a determination~~
447.6 regarding determine:

447.7 (1) whether a final licensing sanction shall be issued under subdivision 3, paragraph (a),
447.8 clauses (1) to (5). The license holder shall continue to be prohibited from operation of the
447.9 program during this 90-day period; or

447.10 (2) whether the outcome of related, ongoing investigations or judicial proceedings are
447.11 necessary to determine if a final licensing sanction under subdivision 3, paragraph (a),
447.12 clauses (1) to (5), will be issued, and persons served by the program remain at an imminent
447.13 risk of harm during the investigation period or proceedings. If so, the commissioner shall
447.14 issue a suspension order under subdivision 3, paragraph (a), clause (6).

447.15 (c) When the final order under paragraph (b) affirms an immediate suspension or the
447.16 license holder does not submit a timely appeal of the immediate suspension, and a final
447.17 licensing sanction is issued under subdivision 3 and the license holder appeals that sanction,
447.18 the license holder continues to be prohibited from operation of the program pending a final
447.19 commissioner's order under section 245A.08, subdivision 5, regarding the final licensing
447.20 sanction.

447.21 (d) The license holder shall continue to be prohibited from operation of the program
447.22 while a suspension order issued under paragraph (b), clause (2), remains in effect.

447.23 ~~(c)~~ (e) For suspensions under subdivision 2, paragraph (a), clause (3), the burden of
447.24 proof in expedited hearings under this subdivision shall be limited to the commissioner's
447.25 demonstration by a preponderance of the evidence that a criminal complaint and warrant
447.26 or summons was issued for the license holder that was not dismissed, and that the criminal
447.27 charge is an offense that involves fraud or theft against a program administered by the
447.28 commissioner.

447.29 Sec. 9. Minnesota Statutes 2022, section 245A.07, subdivision 3, is amended to read:

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

447.32 (1) a license holder fails to comply fully with applicable laws or rules including but not
447.33 limited to the requirements of this chapter and chapter 245C;

- 448.1 (2) a license holder, a controlling individual, or an individual living in the household
448.2 where the licensed services are provided or is otherwise subject to a background study has
448.3 been disqualified and the disqualification was not set aside and no variance has been granted;
- 448.4 (3) a license holder knowingly withholds relevant information from or gives false or
448.5 misleading information to the commissioner in connection with an application for a license,
448.6 in connection with the background study status of an individual, during an investigation,
448.7 or regarding compliance with applicable laws or rules;
- 448.8 (4) a license holder is excluded from any program administered by the commissioner
448.9 under section 245.095; ~~or~~
- 448.10 (5) revocation is required under section 245A.04, subdivision 7, paragraph (d); or
448.11 (6) suspension is necessary under subdivision 2a, paragraph (b), clause (2).
- 448.12 A license holder who has had a license issued under this chapter suspended, revoked,
448.13 or has been ordered to pay a fine must be given notice of the action by certified mail or
448.14 personal service. If mailed, the notice must be mailed to the address shown on the application
448.15 or the last known address of the license holder. The notice must state in plain language the
448.16 reasons the license was suspended or revoked, or a fine was ordered.
- 448.17 (b) If the license was suspended or revoked, the notice must inform the license holder
448.18 of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts
448.19 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking
448.20 a license. The appeal of an order suspending or revoking a license must be made in writing
448.21 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
448.22 the commissioner within ten calendar days after the license holder receives notice that the
448.23 license has been suspended or revoked. If a request is made by personal service, it must be
448.24 received by the commissioner within ten calendar days after the license holder received the
448.25 order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a
448.26 timely appeal of an order suspending or revoking a license, the license holder may continue
448.27 to operate the program as provided in section 245A.04, subdivision 7, paragraphs (f) and
448.28 (g), until the commissioner issues a final order on the suspension or revocation.
- 448.29 (c)(1) If the license holder was ordered to pay a fine, the notice must inform the license
448.30 holder of the responsibility for payment of fines and the right to a contested case hearing
448.31 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an
448.32 order to pay a fine must be made in writing by certified mail or personal service. If mailed,
448.33 the appeal must be postmarked and sent to the commissioner within ten calendar days after
448.34 the license holder receives notice that the fine has been ordered. If a request is made by
449.1 personal service, it must be received by the commissioner within ten calendar days after
449.2 the license holder received the order.
- 449.3 (2) The license holder shall pay the fines assessed on or before the payment date specified.
449.4 If the license holder fails to fully comply with the order, the commissioner may issue a
449.5 second fine or suspend the license until the license holder complies. If the license holder

449.6 receives state funds, the state, county, or municipal agencies or departments responsible for
449.7 administering the funds shall withhold payments and recover any payments made while the
449.8 license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine
449.9 until the commissioner issues a final order.

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

449.16 (4) Fines shall be assessed as follows:

449.17 (i) the license holder shall forfeit \$1,000 for each determination of maltreatment of a
449.18 child under chapter 260E or the maltreatment of a vulnerable adult under section 626.557
449.19 for which the license holder is determined responsible for the maltreatment under section
449.20 260E.30, subdivision 4, paragraphs (a) and (b), or 626.557, subdivision 9c, paragraph (c);

449.21 (ii) if the commissioner determines that a determination of maltreatment for which the
449.22 license holder is responsible is the result of maltreatment that meets the definition of serious
449.23 maltreatment as defined in section 245C.02, subdivision 18, the license holder shall forfeit
449.24 \$5,000;

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

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

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

450.1 For purposes of this section, "occurrence" means each violation identified in the
450.2 commissioner's fine order. Fines assessed against a license holder that holds a license to
450.3 provide home and community-based services, as identified in section 245D.03, subdivision
450.4 1, and a community residential setting or day services facility license under chapter 245D
450.5 where the services are provided, may be assessed against both licenses for the same
450.6 occurrence, but the combined amount of the fines shall not exceed the amount specified in
450.7 this clause for that occurrence.

450.8 (5) When a fine has been assessed, the license holder may not avoid payment by closing,
450.9 selling, or otherwise transferring the licensed program to a third party. In such an event, the

450.10 license holder will be personally liable for payment. In the case of a corporation, each
450.11 controlling individual is personally and jointly liable for payment.

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

450.20 Sec. 10. Minnesota Statutes 2022, section 245A.10, subdivision 3, is amended to read:

450.21 Subd. 3. **Application fee for initial license or certification.** (a) For fees required under
450.22 subdivision 1, an applicant for an initial license or certification issued by the commissioner
450.23 shall submit a \$500 application fee with each new application required under this subdivision.
450.24 An applicant for an initial day services facility license under chapter 245D shall submit a
450.25 \$250 application fee with each new application. The application fee shall not be prorated,
450.26 is nonrefundable, and is in lieu of the annual license or certification fee that expires on
450.27 December 31. The commissioner shall not process an application until the application fee
450.28 is paid.

450.29 (b) Except as provided in clauses (1) ~~to (3)~~ and (2), an applicant shall apply for a license
450.30 to provide services at a specific location.

450.31 (1) For a license to provide home and community-based services to persons with
450.32 disabilities or age 65 and older under chapter 245D, an applicant shall submit an application
450.33 to provide services statewide. Notwithstanding paragraph (a), applications received by the
450.34 commissioner between July 1, 2013, and December 31, 2013, for licensure of services
451.1 provided under chapter 245D must include an application fee that is equal to the annual
451.2 license renewal fee under subdivision 4, paragraph (b), or \$500, whichever is less.
451.3 Applications received by the commissioner after January 1, 2014, must include the application
451.4 fee required under paragraph (a). Applicants who meet the modified application criteria
451.5 identified in section 245A.042, subdivision 2, are exempt from paying an application fee.

451.6 ~~(2) For a license to provide independent living assistance for youth under section 245A.22,~~
451.7 ~~an applicant shall submit a single application to provide services statewide.~~

451.8 ~~(3)~~ (2) For a license for a private agency to provide foster care or adoption services under
451.9 Minnesota Rules, parts 9545.0755 to 9545.0845, an applicant shall submit a single application
451.10 to provide services statewide.

451.11 (c) The initial application fee charged under this subdivision does not include the
451.12 temporary license surcharge under section 16E.22.

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

451.14 Sec. 11. Minnesota Statutes 2022, section 245A.10, subdivision 4, is amended to read:

451.15 Subd. 4. **License or certification fee for certain programs.** (a) Child care centers shall
451.16 pay an annual nonrefundable license fee based on the following schedule:

| 451.17 | Licensed Capacity | Child Care Center License Fee |
|--------|---------------------|-------------------------------|
| 451.18 | | |
| 451.19 | 1 to 24 persons | \$200 |
| 451.20 | 25 to 49 persons | \$300 |
| 451.21 | 50 to 74 persons | \$400 |
| 451.22 | 75 to 99 persons | \$500 |
| 451.23 | 100 to 124 persons | \$600 |
| 451.24 | 125 to 149 persons | \$700 |
| 451.25 | 150 to 174 persons | \$800 |
| 451.26 | 175 to 199 persons | \$900 |
| 451.27 | 200 to 224 persons | \$1,000 |
| 451.28 | 225 or more persons | \$1,100 |

451.29 (b)(1) A program licensed to provide one or more of the home and community-based
451.30 services and supports identified under chapter 245D to persons with disabilities or age 65
451.31 and older, shall pay an annual nonrefundable license fee based on revenues derived from
451.32 the provision of services that would require licensure under chapter 245D during the calendar
451.33 year immediately preceding the year in which the license fee is paid, according to the
451.34 following schedule:

| 452.1 | License Holder Annual Revenue | License Fee |
|-------|--|-------------|
| 452.2 | less than or equal to \$10,000 | \$200 |
| 452.3 | greater than \$10,000 but less than or | |
| 452.4 | equal to \$25,000 | \$300 |
| 452.5 | greater than \$25,000 but less than or | |
| 452.6 | equal to \$50,000 | \$400 |

| | | |
|--------|---|---------|
| 452.7 | greater than \$50,000 but less than or | |
| 452.8 | equal to \$100,000 | \$500 |
| 452.9 | greater than \$100,000 but less than or | |
| 452.10 | equal to \$150,000 | \$600 |
| 452.11 | greater than \$150,000 but less than or | |
| 452.12 | equal to \$200,000 | \$800 |
| 452.13 | greater than \$200,000 but less than or | |
| 452.14 | equal to \$250,000 | \$1,000 |
| 452.15 | greater than \$250,000 but less than or | |
| 452.16 | equal to \$300,000 | \$1,200 |
| 452.17 | greater than \$300,000 but less than or | |
| 452.18 | equal to \$350,000 | \$1,400 |
| 452.19 | greater than \$350,000 but less than or | |
| 452.20 | equal to \$400,000 | \$1,600 |
| 452.21 | greater than \$400,000 but less than or | |
| 452.22 | equal to \$450,000 | \$1,800 |
| 452.23 | greater than \$450,000 but less than or | |
| 452.24 | equal to \$500,000 | \$2,000 |
| 452.25 | greater than \$500,000 but less than or | |
| 452.26 | equal to \$600,000 | \$2,250 |
| 452.27 | greater than \$600,000 but less than or | |
| 452.28 | equal to \$700,000 | \$2,500 |
| 452.29 | greater than \$700,000 but less than or | |
| 452.30 | equal to \$800,000 | \$2,750 |
| 452.31 | greater than \$800,000 but less than or | |
| 452.32 | equal to \$900,000 | \$3,000 |
| 452.33 | greater than \$900,000 but less than or | |
| 452.34 | equal to \$1,000,000 | \$3,250 |
| 452.35 | greater than \$1,000,000 but less than or | |
| 452.36 | equal to \$1,250,000 | \$3,500 |

| | | |
|--------|---|----------|
| 452.37 | greater than \$1,250,000 but less than or | |
| 452.38 | equal to \$1,500,000 | \$3,750 |
| 452.39 | greater than \$1,500,000 but less than or | |
| 452.40 | equal to \$1,750,000 | \$4,000 |
| 452.41 | greater than \$1,750,000 but less than or | |
| 452.42 | equal to \$2,000,000 | \$4,250 |
| 452.43 | greater than \$2,000,000 but less than or | |
| 452.44 | equal to \$2,500,000 | \$4,500 |
| 453.1 | greater than \$2,500,000 but less than or | |
| 453.2 | equal to \$3,000,000 | \$4,750 |
| 453.3 | greater than \$3,000,000 but less than or | |
| 453.4 | equal to \$3,500,000 | \$5,000 |
| 453.5 | greater than \$3,500,000 but less than or | |
| 453.6 | equal to \$4,000,000 | \$5,500 |
| 453.7 | greater than \$4,000,000 but less than or | |
| 453.8 | equal to \$4,500,000 | \$6,000 |
| 453.9 | greater than \$4,500,000 but less than or | |
| 453.10 | equal to \$5,000,000 | \$6,500 |
| 453.11 | greater than \$5,000,000 but less than or | |
| 453.12 | equal to \$7,500,000 | \$7,000 |
| 453.13 | greater than \$7,500,000 but less than or | |
| 453.14 | equal to \$10,000,000 | \$8,500 |
| 453.15 | greater than \$10,000,000 but less than or | |
| 453.16 | equal to \$12,500,000 | \$10,000 |
| 453.17 | greater than \$12,500,000 but less than or | |
| 453.18 | equal to \$15,000,000 | \$14,000 |
| 453.19 | greater than \$15,000,000 | \$18,000 |
| 453.20 | (2) If requested, the license holder shall provide the commissioner information to verify | |
| 453.21 | the license holder's annual revenues or other information as needed, including copies of | |
| 453.22 | documents submitted to the Department of Revenue. | |

453.23 (3) At each annual renewal, a license holder may elect to pay the highest renewal fee,
453.24 and not provide annual revenue information to the commissioner.

453.25 (4) A license holder that knowingly provides the commissioner incorrect revenue amounts
453.26 for the purpose of paying a lower license fee shall be subject to a civil penalty in the amount
453.27 of double the fee the provider should have paid.

453.28 (5) Notwithstanding clause (1), a license holder providing services under one or more
453.29 licenses under chapter 245B that are in effect on May 15, 2013, shall pay an annual license
453.30 fee for calendar years 2014, 2015, and 2016, equal to the total license fees paid by the license
453.31 holder for all licenses held under chapter 245B for calendar year 2013. For calendar year
453.32 2017 and thereafter, the license holder shall pay an annual license fee according to clause
453.33 (1).

453.34 (c) A substance use disorder treatment program licensed under chapter 245G, to provide
453.35 substance use disorder treatment shall pay an annual nonrefundable license fee based on
453.36 the following schedule:

| 453.37 | Licensed Capacity | License Fee |
|--------|---------------------|-------------|
| 453.38 | 1 to 24 persons | \$600 |
| 454.1 | 25 to 49 persons | \$800 |
| 454.2 | 50 to 74 persons | \$1,000 |
| 454.3 | 75 to 99 persons | \$1,200 |
| 454.4 | 100 or more persons | \$1,400 |

454.5 (d) A detoxification program licensed under Minnesota Rules, parts 9530.6510 to
454.6 9530.6590, or a withdrawal management program licensed under chapter 245F shall pay
454.7 an annual nonrefundable license fee based on the following schedule:

| 454.8 | Licensed Capacity | License Fee |
|--------|--------------------|-------------|
| 454.9 | 1 to 24 persons | \$760 |
| 454.10 | 25 to 49 persons | \$960 |
| 454.11 | 50 or more persons | \$1,160 |

454.12 A detoxification program that also operates a withdrawal management program at the same
454.13 location shall only pay one fee based upon the licensed capacity of the program with the
454.14 higher overall capacity.

454.15 (e) Except for child foster care, a residential facility licensed under Minnesota Rules,
 454.16 chapter 2960, to serve children shall pay an annual nonrefundable license fee based on the
 454.17 following schedule:

| 454.18 | Licensed Capacity | License Fee |
|--------|---------------------|-------------|
| 454.19 | 1 to 24 persons | \$1,000 |
| 454.20 | 25 to 49 persons | \$1,100 |
| 454.21 | 50 to 74 persons | \$1,200 |
| 454.22 | 75 to 99 persons | \$1,300 |
| 454.23 | 100 or more persons | \$1,400 |

454.24 (f) A residential facility licensed under section 2451.23 or Minnesota Rules, parts
 454.25 9520.0500 to 9520.0670, to serve persons with mental illness shall pay an annual
 454.26 nonrefundable license fee based on the following schedule:

| 454.27 | Licensed Capacity | License Fee |
|--------|--------------------|-------------|
| 454.28 | 1 to 24 persons | \$2,525 |
| 454.29 | 25 or more persons | \$2,725 |

454.30 (g) A residential facility licensed under Minnesota Rules, parts 9570.2000 to 9570.3400,
 454.31 to serve persons with physical disabilities shall pay an annual nonrefundable license fee
 454.32 based on the following schedule:

| 454.33 | Licensed Capacity | License Fee |
|--------|---------------------|-------------|
| 454.34 | 1 to 24 persons | \$450 |
| 455.1 | 25 to 49 persons | \$650 |
| 455.2 | 50 to 74 persons | \$850 |
| 455.3 | 75 to 99 persons | \$1,050 |
| 455.4 | 100 or more persons | \$1,250 |

455.5 (h) ~~A program licensed to provide independent living assistance for youth under section~~
 455.6 ~~245A.22 shall pay an annual nonrefundable license fee of \$1,500.~~

455.7 ~~(h)~~ (h) A private agency licensed to provide foster care and adoption services under
 455.8 Minnesota Rules, parts 9545.0755 to 9545.0845, shall pay an annual nonrefundable license
 455.9 fee of \$875.

455.10 ~~(i)~~ (i) A program licensed as an adult day care center licensed under Minnesota Rules,
 455.11 parts 9555.9600 to 9555.9730, shall pay an annual nonrefundable license fee based on the
 455.12 following schedule:

| 455.13 | Licensed Capacity | License Fee |
|--------|---------------------|-------------|
| 455.14 | 1 to 24 persons | \$500 |
| 455.15 | 25 to 49 persons | \$700 |
| 455.16 | 50 to 74 persons | \$900 |
| 455.17 | 75 to 99 persons | \$1,100 |
| 455.18 | 100 or more persons | \$1,300 |

455.19 ~~(j)~~ (j) A program licensed to provide treatment services to persons with sexual
 455.20 psychopathic personalities or sexually dangerous persons under Minnesota Rules, parts
 455.21 9515.3000 to 9515.3110, shall pay an annual nonrefundable license fee of \$20,000.

455.22 ~~(k)~~ (k) A mental health clinic certified under section 245I.20 shall pay an annual
 455.23 nonrefundable certification fee of \$1,550. If the mental health clinic provides services at a
 455.24 primary location with satellite facilities, the satellite facilities shall be certified with the
 455.25 primary location without an additional charge.

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

455.27 Sec. 12. Minnesota Statutes 2022, section 245A.16, subdivision 1, is amended to read:

455.28 Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private
 455.29 agencies that have been designated or licensed by the commissioner to perform licensing
 455.30 functions and activities under section 245A.04 ~~and background studies for family child care~~
 455.31 ~~under chapter 245C~~; to recommend denial of applicants under section 245A.05; to issue
 455.32 correction orders, to issue variances, and recommend a conditional license under section
 455.33 245A.06; or to recommend suspending or revoking a license or issuing a fine under section
 456.1 245A.07, shall comply with rules and directives of the commissioner governing those
 456.2 functions and with this section. The following variances are excluded from the delegation
 456.3 of variance authority and may be issued only by the commissioner:

456.4 (1) dual licensure of family child care and child foster care, dual licensure of child and
 456.5 adult foster care, and adult foster care and family child care;

456.6 (2) adult foster care maximum capacity;

- 456.7 (3) adult foster care minimum age requirement;
- 456.8 (4) child foster care maximum age requirement;
- 456.9 (5) variances regarding disqualified individuals ~~except that, before the implementation~~
 456.10 ~~of NETStudy 2.0, county agencies may issue variances under section 245C.30 regarding~~
 456.11 ~~disqualified individuals when the county is responsible for conducting a consolidated~~
 456.12 ~~reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and~~
 456.13 ~~(b), of a county maltreatment determination and a disqualification based on serious or~~
 456.14 ~~recurring maltreatment;~~
- 456.15 (6) the required presence of a caregiver in the adult foster care residence during normal
 456.16 sleeping hours;
- 456.17 (7) variances to requirements relating to chemical use problems of a license holder or a
 456.18 household member of a license holder; and
- 456.19 (8) variances to section 245A.53 for a time-limited period. If the commissioner grants
 456.20 a variance under this clause, the license holder must provide notice of the variance to all
 456.21 parents and guardians of the children in care.
- 456.22 Except as provided in section 245A.14, subdivision 4, paragraph (e), a county agency must
 456.23 not grant a license holder a variance to exceed the maximum allowable family child care
 456.24 license capacity of 14 children.
- 456.25 (b) A county agency that has been designated by the commissioner to issue family child
 456.26 care variances must:
- 456.27 (1) publish the county agency's policies and criteria for issuing variances on the county's
 456.28 public website and update the policies as necessary; and
- 456.29 (2) annually distribute the county agency's policies and criteria for issuing variances to
 456.30 all family child care license holders in the county.
- 456.31 ~~(e) Before the implementation of NETStudy 2.0, county agencies must report information~~
 456.32 ~~about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision~~
 457.1 ~~2, paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the~~
 457.2 ~~commissioner at least monthly in a format prescribed by the commissioner.~~
- 457.3 ~~(c)~~ (c) For family child care programs, the commissioner shall require a county agency
 457.4 to conduct one unannounced licensing review at least annually.
- 457.5 ~~(d)~~ (d) For family adult day services programs, the commissioner may authorize licensing
 457.6 reviews every two years after a licensee has had at least one annual review.
- 457.7 ~~(e)~~ (e) A license issued under this section may be issued for up to two years.
- 457.8 ~~(f)~~ (f) During implementation of chapter 245D, the commissioner shall consider:
- 457.9 (1) the role of counties in quality assurance;

- 457.10 (2) the duties of county licensing staff; and
- 457.11 (3) the possible use of joint powers agreements, according to section 471.59, with counties
- 457.12 through which some licensing duties under chapter 245D may be delegated by the
- 457.13 commissioner to the counties.
- 457.14 Any consideration related to this paragraph must meet all of the requirements of the corrective
- 457.15 action plan ordered by the federal Centers for Medicare and Medicaid Services.
- 457.16 ~~(h)~~ (g) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or
- 457.17 successor provisions; and section 245D.061 or successor provisions, for family child foster
- 457.18 care programs providing out-of-home respite, as identified in section 245D.03, subdivision
- 457.19 1, paragraph (b), clause (1), is excluded from the delegation of authority to county and
- 457.20 private agencies.
- 457.21 ~~(i)~~ (h) A county agency shall report to the commissioner, in a manner prescribed by the
- 457.22 commissioner, the following information for a licensed family child care program:
- 457.23 (1) the results of each licensing review completed, including the date of the review, and
- 457.24 any licensing correction order issued;
- 457.25 (2) any death, serious injury, or determination of substantiated maltreatment; and
- 457.26 (3) any fires that require the service of a fire department within 48 hours of the fire. The
- 457.27 information under this clause must also be reported to the state fire marshal within two
- 457.28 business days of receiving notice from a licensed family child care provider.
- 457.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 458.1 Sec. 13. **[245A.211] PRONE RESTRAINT PROHIBITION.**
- 458.2 Subdivision 1. **Applicability.** This section applies to all programs licensed or certified
- 458.3 under this chapter, chapters 245D, 245F, 245G, 245H, and sections 245I.20 and 245I.23.
- 458.4 The requirements in this section are in addition to any applicable requirements for the use
- 458.5 of holds or restraints for each license or certification type.
- 458.6 Subd. 2. **Definitions.** (a) "Mechanical restraint" means a restraint device that limits the
- 458.7 voluntary movement of a person or the person's limbs.
- 458.8 (b) "Prone restraint" means a restraint that places a person in a face-down position with
- 458.9 the person's chest in contact with the floor or other surface.
- 458.10 (c) "Restraint" means a physical hold, physical restraint, manual restraint, restraint
- 458.11 equipment, or mechanical restraint that holds a person immobile or limits the voluntary
- 458.12 movement of a person or the person's limbs.

- 458.13 Subd. 3. **Prone restraint prohibition.** (a) A license or certification holder must not use
 458.14 a prone restraint on any person receiving services in a program, except in the instances
 458.15 allowed by paragraphs (b) to (d).
- 458.16 (b) If a person rolls into a prone position during the use of a restraint, the person must
 458.17 be restored to a nonprone position as quickly as possible.
- 458.18 (c) If the applicable licensing requirements allow a program to use mechanical restraints,
 458.19 a person may be briefly held in a prone restraint for the purpose of applying mechanical
 458.20 restraints if the person is restored to a nonprone position as quickly as possible.
- 458.21 (d) If the applicable licensing requirements allow a program to use seclusion, a person
 458.22 may be briefly held in a prone restraint to allow staff to safely exit a seclusion room.
- 458.23 Subd. 4. **Contraindicated physical restraints.** A license or certification holder must
 458.24 not implement a restraint on a person receiving services in a program in a way that is
 458.25 contraindicated for any of the person's known medical or psychological conditions. Prior
 458.26 to using restraints on a person, the license or certification holder must assess and document
 458.27 a determination of any medical or psychological conditions that restraints are contraindicated
 458.28 for and the type of restraints that will not be used on the person based on this determination.
- 458.29 Sec. 14. Minnesota Statutes 2022, section 245C.02, subdivision 6a, is amended to read:
- 458.30 Subd. 6a. **Child care background study subject.** (a) "Child care background study
 458.31 subject" means an individual who is affiliated with a licensed child care center, certified
 459.1 license-exempt child care center, licensed family child care program, or legal nonlicensed
 459.2 child care provider authorized under chapter 119B, and who is:
- 459.3 (1) employed by a child care provider for compensation;
- 459.4 (2) assisting in the care of a child for a child care provider;
- 459.5 (3) a person applying for licensure, certification, or enrollment;
- 459.6 (4) a controlling individual as defined in section 245A.02, subdivision 5a;
- 459.7 (5) an individual 13 years of age or older who lives in the household where the licensed
 459.8 program will be provided and who is not receiving licensed services from the program;
- 459.9 (6) an individual ten to 12 years of age who lives in the household where the licensed
 459.10 services will be provided when the commissioner has reasonable cause as defined in section
 459.11 245C.02, subdivision 15;
- 459.12 (7) an individual who, without providing direct contact services at a licensed program,
 459.13 certified program, or program authorized under chapter 119B, may have unsupervised access
 459.14 to a child receiving services from a program when the commissioner has reasonable cause
 459.15 as defined in section 245C.02, subdivision 15; or

459.16 (8) a volunteer, contractor providing services for hire in the program, prospective
459.17 employee, or other individual who has unsupervised physical access to a child served by a
459.18 program and who is not under supervision by an individual listed in clause (1) or (5),
459.19 regardless of whether the individual provides program services.

459.20 (b) Notwithstanding paragraph (a), an individual who is providing services that are not
459.21 part of the child care program is not required to have a background study if:

459.22 (1) the child receiving services is signed out of the child care program for the duration
459.23 that the services are provided;

459.24 (2) the licensed child care center, certified license-exempt child care center, licensed
459.25 family child care program, or legal nonlicensed child care provider authorized under chapter
459.26 119B has obtained advanced written permission from the parent authorizing the child to
459.27 receive the services, which is maintained in the child's record;

459.28 (3) the licensed child care center, certified license-exempt child care center, licensed
459.29 family child care program, or legal nonlicensed child care provider authorized under chapter
459.30 119B maintains documentation on site that identifies the individual service provider and
459.31 the services being provided; and

460.1 (4) the licensed child care center, certified license-exempt child care center, licensed
460.2 family child care program, or legal nonlicensed child care provider authorized under chapter
460.3 119B ensures that the service provider does not have unsupervised access to a child not
460.4 receiving the provider's services.

460.5 (c) The definition of employee under subdivision 11f and the definition of volunteer
460.6 under subdivision 22 do not apply for child care background study subjects.

460.7 Sec. 15. Minnesota Statutes 2022, section 245C.02, subdivision 11c, is amended to read:

460.8 Subd. 11c. **Entity.** "Entity" means any program, organization, license holder, or agency
460.9 ~~initiating~~ required to initiate or submit a background study.

460.10 Sec. 16. Minnesota Statutes 2022, section 245C.02, is amended by adding a subdivision
460.11 to read:

460.12 Subd. 11f. **Employee.** "Employee" means an individual who provides services or seeks
460.13 to provide services for or through the entity with which they are required to be affiliated in
460.14 NETStudy 2.0 and who is subject to oversight by the entity, which includes but is not limited
460.15 to continuous, direct supervision by the entity and being subject to immediate removal from
460.16 providing direct contact services by the entity when required.

460.17 Sec. 17. Minnesota Statutes 2022, section 245C.02, is amended by adding a subdivision
460.18 to read:

460.19 Subd. 22. **Volunteer.** "Volunteer" means an individual who provides or seeks to provide
460.20 services for or through an entity without direct compensation for services provided, is

460.21 required to be affiliated in NETStudy 2.0 and is subject to oversight by the entity, including
460.22 but not limited to continuous, direct supervision and immediate removal from providing
460.23 direct contact services when required.

UES2995-2 ARTICLE 9, SECTION 18 WAS REMOVED TO MATCH WITH
S2995-3 ARTICLE 7, SECTION 5.

462.11 Sec. 19. Minnesota Statutes 2022, section 245C.03, subdivision 1a, is amended to read:

462.12 Subd. 1a. **Procedure.** (a) Individuals and organizations that are required under this
462.13 section to have or initiate background studies shall comply with the requirements of this
462.14 chapter.

462.15 (b) All studies conducted under this section shall be conducted according to sections
462.16 299C.60 to 299C.64, including the consent and self-disclosure required in section 299C.62,
462.17 subdivision 2. This requirement does not apply to subdivisions 1, paragraph (c), clauses (2)
462.18 to (5), and 6a.

462.19 Sec. 20. Minnesota Statutes 2022, section 245C.03, subdivision 4, is amended to read:

462.20 Subd. 4. **Personnel pool agencies; temporary personnel agencies; educational**
462.21 **programs; professional services agencies.** (a) The commissioner also may conduct studies
462.22 on individuals specified in subdivision 1, paragraph (a), clauses (3) and (4), when the studies
462.23 are initiated by:

462.24 (1) personnel pool agencies;

462.25 (2) temporary personnel agencies;

462.26 (3) educational programs that train individuals by providing direct contact services in
462.27 licensed programs; and

463.1 (4) professional services agencies that are not licensed and ~~which contract that work~~
463.2 with licensed programs to provide direct contact services or individuals who provide direct
463.3 contact services.

463.4 (b) Personnel pool agencies, temporary personnel agencies, and professional services
463.5 agencies must employ the individuals providing direct care services for children, people
463.6 with disabilities, or the elderly. Individuals must be affiliated in NETStudy 2.0 and subject
463.7 to oversight by the entity, which includes but is not limited to continuous, direct supervision
463.8 by the entity and being subject to immediate removal from providing direct care services
463.9 when required.

463.10 Sec. 21. Minnesota Statutes 2022, section 245C.03, subdivision 5, is amended to read:

463.11 Subd. 5. **Other state agencies.** The commissioner shall conduct background studies on
463.12 applicants and license holders under the jurisdiction of other state agencies who are required
463.13 in other statutory sections to initiate background studies under this chapter, including the

463.14 applicant's or license holder's employees, ~~contractors~~, and volunteers when required under
463.15 other statutory sections.

463.16 Sec. 22. Minnesota Statutes 2022, section 245C.03, subdivision 5a, is amended to read:

463.17 Subd. 5a. **Facilities serving children or adults licensed or regulated by the**
463.18 **Department of Health.** (a) Except as specified in paragraph (b), the commissioner shall
463.19 conduct background studies of:

463.20 (1) individuals providing services who have direct contact, as defined under section
463.21 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes,
463.22 outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and
463.23 home care agencies licensed under chapter 144A; assisted living facilities and assisted living
463.24 facilities with dementia care licensed under chapter 144G; and board and lodging
463.25 establishments that are registered to provide supportive or health supervision services under
463.26 section 157.17;

463.27 (2) individuals specified in subdivision 2 who provide direct contact services in a nursing
463.28 home or a home care agency licensed under chapter 144A; an assisted living facility or
463.29 assisted living facility with dementia care licensed under chapter 144G; or a boarding care
463.30 home licensed under sections 144.50 to 144.58. If the individual undergoing a study resides
463.31 outside of Minnesota, the study must include a check for substantiated findings of
463.32 maltreatment of adults and children in the individual's state of residence when the state
463.33 makes the information available;

464.1 (3) all other employees in assisted living facilities or assisted living facilities with
464.2 dementia care licensed under chapter 144G, nursing homes licensed under chapter 144A,
464.3 and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of
464.4 an individual in this section shall disqualify the individual from positions allowing direct
464.5 contact with or access to patients or residents receiving services. "Access" means physical
464.6 access to a client or the client's personal property without continuous, direct supervision as
464.7 defined in section 245C.02, subdivision 8, when the employee's employment responsibilities
464.8 do not include providing direct contact services;

464.9 (4) individuals employed by a supplemental nursing services agency, as defined under
464.10 section 144A.70, who are providing services in health care facilities;

464.11 (5) controlling persons of a supplemental nursing services agency, as defined by section
464.12 144A.70; and

464.13 (6) license applicants, owners, managerial officials, and controlling individuals who are
464.14 required under section 144A.476, subdivision 1, or 144G.13, subdivision 1, to undergo a
464.15 background study under this chapter, regardless of the licensure status of the license applicant,
464.16 owner, managerial official, or controlling individual.

464.17 (b) ~~The commissioner of human services shall not conduct~~ An entity shall not initiate a
464.18 background study on any individual identified in paragraph (a), clauses (1) to (5), if the

464.19 individual has a valid license issued by a health-related licensing board as defined in section
464.20 214.01, subdivision 2, and has completed the criminal background check as required in
464.21 section 214.075. An entity that is affiliated with individuals who meet the requirements of
464.22 this paragraph must separate those individuals from the entity's roster for NETStudy 2.0.
464.23 The Department of Human Services is not liable for conducting background studies that
464.24 have been submitted or not removed from the roster in violation of this provision.

464.25 (c) If a facility or program is licensed by the Department of Human Services and the
464.26 Department of Health and is subject to the background study provisions of this chapter, the
464.27 Department of Human Services is solely responsible for the background studies of individuals
464.28 in the jointly licensed program.

464.29 (d) The commissioner of health shall review and make decisions regarding reconsideration
464.30 requests, including whether to grant variances, according to the procedures and criteria in
464.31 this chapter. The commissioner of health shall inform the requesting individual and the
464.32 Department of Human Services of the commissioner of health's decision regarding the
464.33 reconsideration. The commissioner of health's decision to grant or deny a reconsideration
464.34 of a disqualification is a final administrative agency action.

465.1 Sec. 23. Minnesota Statutes 2022, section 245C.031, subdivision 1, is amended to read:

465.2 Subdivision 1. **Alternative background studies.** (a) The commissioner shall conduct
465.3 an alternative background study of individuals listed in this section.

465.4 (b) Notwithstanding other sections of this chapter, all alternative background studies
465.5 except subdivision 12 shall be conducted according to this section and with sections 299C.60
465.6 to 299C.64, including the consent and self-disclosure required in section 299C.62, subdivision
465.7 2.

465.8 (c) All terms in this section shall have the definitions provided in section 245C.02.

465.9 (d) The entity that submits an alternative background study request under this section
465.10 shall submit the request to the commissioner according to section 245C.05.

465.11 (e) The commissioner shall comply with the destruction requirements in section 245C.051.

465.12 (f) Background studies conducted under this section are subject to the provisions of
465.13 section 245C.32.

465.14 (g) The commissioner shall forward all information that the commissioner receives under
465.15 section 245C.08 to the entity that submitted the alternative background study request under
465.16 subdivision 2. The commissioner shall not make any eligibility determinations regarding
465.17 background studies conducted under this section.

465.18 Sec. 24. Minnesota Statutes 2022, section 245C.031, subdivision 4, is amended to read:

465.19 Subd. 4. **Applicants, licensees, and other occupations regulated by the commissioner**
465.20 **of health.** The commissioner shall conduct an alternative background study, including a

465.21 check of state data, and a national criminal history records check of the following individuals.
465.22 For studies under this section, the following persons shall complete a consent form and
465.23 criminal history disclosure form:

465.24 (1) An applicant for initial licensure, temporary licensure, or relicensure after a lapse in
465.25 licensure as an audiologist or speech-language pathologist or an applicant for initial
465.26 certification as a hearing instrument dispenser who must submit to a background study
465.27 under section 144.0572.

465.28 (2) An applicant for a renewal license or certificate as an audiologist, speech-language
465.29 pathologist, or hearing instrument dispenser who was licensed or obtained a certificate
465.30 before January 1, 2018.

UES2995-2 ARTICLE 8, SECTION 25 WAS REMOVED TO MATCH WITH
S2995-3 ARTICLE 7, SECTION 10.

467.1 Sec. 26. Minnesota Statutes 2022, section 245C.05, is amended by adding a subdivision
467.2 to read:

467.3 Subd. 8. **Study submitted.** The entity with which the background study subject is seeking
467.4 affiliation shall initiate the background study in the NETStudy 2.0 system.

467.5 Sec. 27. Minnesota Statutes 2022, section 245C.07, is amended to read:

467.6 **245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.**

467.7 (a) Subject to the conditions in paragraph (d), when a license holder, applicant, or other
467.8 entity owns multiple programs or services that are licensed by the Department of Human
467.9 Services, Department of Health, or Department of Corrections, only one background study
467.10 is required for an individual who provides direct contact services in one or more of the
467.11 licensed programs or services if:

467.12 (1) the license holder designates one individual with one address and telephone number
467.13 as the person to receive sensitive background study information for the multiple licensed
467.14 programs or services that depend on the same background study; and

467.15 (2) the individual designated to receive the sensitive background study information is
467.16 capable of determining, upon request of the department, whether a background study subject
467.17 is providing direct contact services in one or more of the license holder's programs or services
467.18 and, if so, at which location or locations.

467.19 (b) When a license holder maintains background study compliance for multiple licensed
467.20 programs according to paragraph (a), and one or more of the licensed programs closes, the
467.21 license holder shall immediately notify the commissioner which staff must be transferred
467.22 to an active license so that the background studies can be electronically paired with the
467.23 license holder's active program.

467.24 (c) When a background study is being initiated by a licensed program or service or a
 467.25 foster care provider that is also licensed under chapter 144G, a study subject affiliated with
 467.26 multiple licensed programs or services may attach to the background study form a cover
 467.27 letter indicating the additional names of the programs or services, addresses, and background
 467.28 study identification numbers.

467.29 When the commissioner receives a notice, the commissioner shall notify each program
 467.30 or service identified by the background study subject of the study results.

468.1 The background study notice the commissioner sends to the subsequent agencies shall
 468.2 satisfy those programs' or services' responsibilities for initiating a background study on that
 468.3 individual.

468.4 (d) If a background study was conducted on an individual related to child foster care
 468.5 and the requirements under paragraph (a) are met, the background study is transferable
 468.6 across all licensed programs. If a background study was conducted on an individual under
 468.7 a license other than child foster care and the requirements under paragraph (a) are met, the
 468.8 background study is transferable to all licensed programs except child foster care.

468.9 (e) The provisions of this section that allow a single background study in one or more
 468.10 licensed programs or services do not apply to background studies submitted by adoption
 468.11 agencies, supplemental nursing services agencies, personnel pool agencies, educational
 468.12 programs, professional services agencies, temporary personnel agencies, and unlicensed
 468.13 personal care provider organizations.

468.14 (f) For an entity operating under NETStudy 2.0, the entity's active roster must be the
 468.15 system used to document when a background study subject is affiliated with multiple entities.
 468.16 For a background study to be transferable:

468.17 (1) the background study subject must be on and moving to a roster for which the person
 468.18 designated to receive sensitive background study information is the same; and

468.19 (2) the same entity must own or legally control both the roster from which the transfer
 468.20 is occurring and the roster to which the transfer is occurring. For an entity that holds or
 468.21 controls multiple licenses, or unlicensed personal care provider organizations, there must
 468.22 be a common highest level entity that has a legally identifiable structure that can be verified
 468.23 through records available from the secretary of state.

UES2995-2 ARTICLE 9, SECTION 28 WAS REMOVED TO MATCH WITH
 S2995-3 ARTICLE 7, SECTION 17.

469.1 Sec. 29. Minnesota Statutes 2022, section 245C.31, subdivision 1, is amended to read:

469.2 Subdivision 1. **Board determines disciplinary or corrective action.** ~~(a)~~ The
 469.3 commissioner shall notify a health-related licensing board as defined in section 214.01,
 469.4 subdivision 2, if the commissioner determines that an individual who is licensed by the
 469.5 health-related licensing board and who is included on the board's roster list provided in
 469.6 accordance with subdivision 3a is responsible for substantiated maltreatment under section

469.7 626.557 or chapter 260E, in accordance with subdivision 2. Upon receiving notification,
 469.8 the health-related licensing board shall make a determination as to whether to impose
 469.9 disciplinary or corrective action under chapter 214.

469.10 ~~(b) This section does not apply to a background study of an individual regulated by a~~
 469.11 ~~health-related licensing board if the individual's study is related to child foster care, adult~~
 469.12 ~~foster care, or family child care licensure.~~

469.13 Sec. 30. Minnesota Statutes 2022, section 245C.33, subdivision 4, is amended to read:

469.14 Subd. 4. **Information commissioner reviews.** (a) The commissioner shall review the
 469.15 following information regarding the background study subject:

469.16 (1) the information under section 245C.08, subdivisions 1, 3, and 4;

469.17 (2) information from the child abuse and neglect registry for any state in which the
 469.18 subject has resided for the past five years; and

469.19 (3) information from national crime information databases, when required under section
 469.20 245C.08.

469.21 (b) The commissioner shall provide any information collected under this subdivision to
 469.22 the county or private agency that initiated the background study. The commissioner shall
 469.23 also provide the agency:

469.24 ~~(1) with a~~ notice whether the information collected shows that the subject of the
 469.25 background study has a conviction listed in United States Code, title 42, section
 469.26 671(a)(20)(A); ~~and.~~

469.27 ~~(2) for background studies conducted under subdivision 1, paragraph (a), the date of all~~
 469.28 ~~adoption-related background studies completed on the subject by the commissioner after~~
 469.29 ~~June 30, 2007, and the name of the county or private agency that initiated the adoption-related~~
 469.30 ~~background study.~~

470.1 Sec. 31. Minnesota Statutes 2022, section 245H.13, subdivision 9, is amended to read:

470.2 Subd. 9. **Behavior guidance.** The certified center must ensure that staff and volunteers
 470.3 use positive behavior guidance and do not subject children to:

470.4 (1) corporal punishment, including but not limited to rough handling, shoving, hair
 470.5 pulling, ear pulling, shaking, slapping, kicking, biting, pinching, hitting, and spanking;

470.6 (2) humiliation;

470.7 (3) abusive language;

470.8 (4) the use of mechanical restraints, including tying;

470.9 (5) the use of physical restraints other than to physically hold a child when containment
470.10 is necessary to protect a child or others from harm; ~~or~~

470.11 (6) prone restraints, as prohibited by section 245A.211; or
470.12 ~~(6)~~ (7) the withholding or forcing of food and other basic needs.

470.13 Sec. 32. Minnesota Statutes 2022, section 245I.20, subdivision 10, is amended to read:

470.14 Subd. 10. **Application procedures.** (a) The applicant for certification must submit any
470.15 documents that the commissioner requires on forms approved by the commissioner.

470.16 (b) Upon submitting an application for certification, an applicant must pay the application
470.17 fee required by section 245A.10, subdivision 3.

470.18 (c) The commissioner must act on an application within 90 working days of receiving
470.19 a completed application.

470.20 (d) When the commissioner receives an application for initial certification that is
470.21 incomplete because the applicant failed to submit required documents or is deficient because
470.22 the submitted documents do not meet certification requirements, the commissioner must
470.23 provide the applicant with written notice that the application is incomplete or deficient. In
470.24 the notice, the commissioner must identify the particular documents that are missing or
470.25 deficient and give the applicant 45 days to submit a second application that is complete. An
470.26 applicant's failure to submit a complete application within 45 days after receiving notice
470.27 from the commissioner is a basis for certification denial.

470.28 (e) The commissioner must give notice of a denial to an applicant when the commissioner
470.29 has made the decision to deny the certification application. In the notice of denial, the
470.30 commissioner must state the reasons for the denial in plain language. The commissioner
470.31 must send or deliver the notice of denial to an applicant by certified mail or personal service.
471.1 In the notice of denial, the commissioner must state the reasons that the commissioner denied
471.2 the application and must inform the applicant of the applicant's right to request a contested
471.3 case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The
471.4 applicant may appeal the denial by notifying the commissioner in writing by certified mail
471.5 or personal service. If mailed, the appeal must be postmarked and sent to the commissioner
471.6 within 20 calendar days after the applicant received the notice of denial. If an applicant
471.7 delivers an appeal by personal service, the commissioner must receive the appeal within 20
471.8 calendar days after the applicant received the notice of denial.

471.9 (f) The commissioner may require the applicant or certification holder to provide an
471.10 email address for the certification holder that will be made public subject to the requirements
471.11 under section 13.46, subdivision 4, paragraph (b), clause (1), item (i).

471.12 Sec. 33. Minnesota Statutes 2022, section 256.9685, subdivision 1a, is amended to read:

471.13 Subd. 1a. **Administrative reconsideration.** Notwithstanding section 256B.04,
471.14 subdivision 15, the commissioner shall establish an administrative reconsideration process

471.15 for appeals of inpatient hospital services determined to be medically unnecessary. A
 471.16 physician, advanced practice registered nurse, physician assistant, or hospital may request
 471.17 a reconsideration of the decision that inpatient hospital services are not medically necessary
 471.18 by submitting a written request for review to the commissioner within ~~30~~ 45 calendar days
 471.19 after ~~receiving~~ the date of the notice of the decision was mailed. The request for
 471.20 reconsideration ~~process shall take place prior to the procedures of subdivision 1b and shall~~
 471.21 ~~be conducted~~ be reviewed by the at least one medical review agent that is independent of
 471.22 the case under reconsideration. The medical review agent shall make a recommendation to
 471.23 the commissioner. The commissioner's decision on reconsideration is final and not subject
 471.24 to appeal under chapter 14.

471.25 Sec. 34. Minnesota Statutes 2022, section 256.9685, subdivision 1b, is amended to read:

471.26 Subd. 1b. **Appeal of reconsideration.** ~~Notwithstanding section 256B.72, the~~
 471.27 ~~commissioner may recover inpatient hospital payments for services that have been determined~~
 471.28 ~~to be medically unnecessary after the reconsideration and determinations. A physician,~~
 471.29 ~~advanced practice registered nurse, physician assistant, or hospital may appeal the result of~~
 471.30 ~~the reconsideration process by submitting a written request for review to the commissioner~~
 471.31 ~~within 30 days after receiving notice of the action. The commissioner shall review the~~
 471.32 ~~medical record and information submitted during the reconsideration process and the medical~~
 471.33 ~~review agent's basis for the determination that the services were not medically necessary~~
 472.1 ~~for inpatient hospital services. The commissioner shall issue an order upholding or reversing~~
 472.2 ~~the decision of the reconsideration process based on the review. The commissioner's decision~~
 472.3 ~~under subdivision 1a is appealable by petition for writ of certiorari under chapter 606.~~

472.4 Sec. 35. Minnesota Statutes 2022, section 256.9686, is amended by adding a subdivision
 472.5 to read:

472.6 Subd. 7a. **Medical review agent.** "Medical review agent" means the representative of
 472.7 the commissioner who is authorized by the commissioner to administer medical record
 472.8 reviews; conduct administrative reconsiderations as defined by section 256.9685, subdivision
 472.9 1a; and perform other functions as stipulated in the terms of the agent's contract with the
 472.10 department. Medical records reviews and administrative reconsiderations will be performed
 472.11 by medical professionals within their scope of expertise, including but not limited to
 472.12 physicians, physician assistants, advanced practice registered nurses, and registered nurses.
 472.13 The medical professional performing the review or reconsideration must be on staff with
 472.14 the medical review agent, in good standing, and licensed to practice in the state where the
 472.15 medical professional resides.

472.16 Sec. 36. Minnesota Statutes 2022, section 256B.04, subdivision 15, is amended to read:

472.17 Subd. 15. **Utilization review.** (a) Establish on a statewide basis a new program to
 472.18 safeguard against unnecessary or inappropriate use of medical assistance services, against
 472.19 excess payments, against unnecessary or inappropriate hospital admissions or lengths of
 472.20 stay, and against underutilization of services in prepaid health plans, long-term care facilities
 472.21 or any health care delivery system subject to fixed rate reimbursement. In implementing

472.22 the program, the state agency shall utilize both prepayment and postpayment review systems
 472.23 to determine if utilization is reasonable and necessary. The determination of whether services
 472.24 are reasonable and necessary shall be made by the commissioner in consultation with a
 472.25 professional services advisory group or health care consultant appointed by the commissioner.

472.26 (b) Contracts entered into for purposes of meeting the requirements of this subdivision
 472.27 shall not be subject to the set-aside provisions of chapter 16C.

472.28 (c) A recipient aggrieved by the commissioner's termination of services or denial of
 472.29 future services may appeal pursuant to section 256.045. Unless otherwise provided by law,
 472.30 a vendor aggrieved by the commissioner's determination that services provided were not
 472.31 reasonable or necessary may appeal pursuant to the contested case procedures of chapter
 472.32 14. To appeal, the vendor shall notify the commissioner in writing within 30 days of receiving
 472.33 the commissioner's notice. The appeal request shall specify each disputed item, the reason
 473.1 for the dispute, an estimate of the dollar amount involved for each disputed item, the
 473.2 computation that the vendor believes is correct, the authority in statute or rule upon which
 473.3 the vendor relies for each disputed item, the name and address of the person or firm with
 473.4 whom contacts may be made regarding the appeal, and other information required by the
 473.5 commissioner.

473.6 (d) The commissioner may select providers to provide case management services to
 473.7 recipients who use health care services inappropriately or to recipients who are eligible for
 473.8 other managed care projects. The providers shall be selected based upon criteria that may
 473.9 include a comparison with a peer group of providers related to the quality, quantity, or cost
 473.10 of health care services delivered or a review of sanctions previously imposed by health care
 473.11 services programs or the provider's professional licensing board.

473.12 Sec. 37. Minnesota Statutes 2022, section 256B.064, is amended to read:

473.13 **256B.064 SANCTIONS; MONETARY RECOVERY.**

473.14 Subdivision 1. **Terminating payments to ineligible vendors individuals or entities.** The
 473.15 commissioner may terminate payments under this chapter to any person or facility that,
 473.16 under applicable federal law or regulation, has been determined to be ineligible for payments
 473.17 under title XIX of the Social Security Act.

473.18 Subd. 1a. **Grounds for sanctions against vendors.** (a) The commissioner may impose
 473.19 sanctions against ~~a vendor of medical care~~ any individual or entity that receives payments
 473.20 from medical assistance or provides goods or services for which payment is made from
 473.21 medical assistance for any of the following: (1) fraud, theft, or abuse in connection with the
 473.22 provision of ~~medical care~~ goods and services to recipients of public assistance for which
 473.23 payment is made from medical assistance; (2) a pattern of presentment of false or duplicate
 473.24 claims or claims for services not medically necessary; (3) a pattern of making false statements
 473.25 of material facts for the purpose of obtaining greater compensation than that to which the
 473.26 ~~vendor individual or entity~~ is legally entitled; (4) suspension or termination as a Medicare
 473.27 vendor; (5) refusal to grant the state agency access during regular business hours to examine

473.28 all records necessary to disclose the extent of services provided to program recipients and
 473.29 appropriateness of claims for payment; (6) failure to repay an overpayment or a fine finally
 473.30 established under this section; (7) failure to correct errors in the maintenance of health
 473.31 service or financial records for which a fine was imposed or after issuance of a warning by
 473.32 the commissioner; and (8) any reason for which ~~a vendor~~ an individual or entity could be
 473.33 excluded from participation in the Medicare program under section 1128, 1128A, or
 473.34 1866(b)(2) of the Social Security Act. For the purposes of this section, goods or services
 474.1 for which payment is made from medical assistance includes but is not limited to care and
 474.2 services identified in section 256B.0625 or provided pursuant to any federally approved
 474.3 waiver.

474.4 (b) The commissioner may impose sanctions against a pharmacy provider for failure to
 474.5 respond to a cost of dispensing survey under section 256B.0625, subdivision 13e, paragraph
 474.6 (h).

474.7 Subd. 1b. **Sanctions available.** The commissioner may impose the following sanctions
 474.8 for the conduct described in subdivision 1a: suspension or withholding of payments to ~~a~~
 474.9 ~~vendor~~ an individual or entity and suspending or terminating participation in the program,
 474.10 or imposition of a fine under subdivision 2, paragraph (f). When imposing sanctions under
 474.11 this section, the commissioner shall consider the nature, chronicity, or severity of the conduct
 474.12 and the effect of the conduct on the health and safety of persons served by the ~~vendor~~
 474.13 individual or entity. The commissioner shall suspend ~~a vendor's~~ an individual's or entity's
 474.14 participation in the program for a minimum of five years if the vendor individual or entity
 474.15 is convicted of a crime, received a stay of adjudication, or entered a court-ordered diversion
 474.16 program for an offense related to a provision of a health service under medical assistance,
 474.17 including a federally approved waiver, or health care fraud. Regardless of imposition of
 474.18 sanctions, the commissioner may make a referral to the appropriate state licensing board.

474.19 Subd. 1c. **Grounds for and methods of monetary recovery.** (a) The commissioner
 474.20 may obtain monetary recovery from ~~a vendor who~~ an individual or entity that has been
 474.21 improperly paid by the department either as a result of conduct described in subdivision 1a
 474.22 or as a result of a vendor or department error by the individual or entity submitting the
 474.23 claim or by the department, regardless of whether the error was intentional. Patterns need
 474.24 not be proven as a precondition to monetary recovery of erroneous or false claims, duplicate
 474.25 claims, claims for services not medically necessary, or claims based on false statements.

474.26 (b) The commissioner may obtain monetary recovery using methods including but not
 474.27 limited to the following: assessing and recovering money improperly paid and debiting from
 474.28 future payments any money improperly paid. The commissioner shall charge interest on
 474.29 money to be recovered if the recovery is to be made by installment payments or debits,
 474.30 except when the monetary recovery is of an overpayment that resulted from a department
 474.31 error. The interest charged shall be the rate established by the commissioner of revenue
 474.32 under section 270C.40.

474.33 Subd. 1d. **Investigative costs.** The commissioner may seek recovery of investigative
 474.34 costs from any ~~vendor of medical care or services who~~ individual or entity that willfully

475.1 submits a claim for reimbursement for services that the ~~vendor~~ individual or entity knows,
 475.2 or reasonably should have known, is a false representation and that results in the payment
 475.3 of public funds for which the ~~vendor~~ individual or entity is ineligible. Billing errors that
 475.4 result in unintentional overcharges shall not be grounds for investigative cost recoupment.

475.5 Subd. 2. **Imposition of monetary recovery and sanctions.** (a) The commissioner shall
 475.6 determine any monetary amounts to be recovered and sanctions to be imposed upon ~~a vendor~~
 475.7 ~~of medical care~~ an individual or entity under this section. Except as provided in paragraphs
 475.8 (b) and (d), neither a monetary recovery nor a sanction will be imposed by the commissioner
 475.9 without prior notice and an opportunity for a hearing, according to chapter 14, on the
 475.10 commissioner's proposed action, provided that the commissioner may suspend or reduce
 475.11 payment to ~~a vendor of medical care~~ an individual or entity, except a nursing home or
 475.12 convalescent care facility, after notice and prior to the hearing if in the commissioner's
 475.13 opinion that action is necessary to protect the public welfare and the interests of the program.

475.14 (b) Except when the commissioner finds good cause not to suspend payments under
 475.15 Code of Federal Regulations, title 42, section 455.23 (e) or (f), the commissioner shall
 475.16 withhold or reduce payments to ~~a vendor of medical care~~ an individual or entity without
 475.17 providing advance notice of such withholding or reduction if either of the following occurs:

475.18 (1) the ~~vendor~~ individual or entity is convicted of a crime involving the conduct described
 475.19 in subdivision 1a; or

475.20 (2) the commissioner determines there is a credible allegation of fraud for which an
 475.21 investigation is pending under the program. Allegations are considered credible when they
 475.22 have an indicium of reliability and the state agency has reviewed all allegations, facts, and
 475.23 evidence carefully and acts judiciously on a case-by-case basis. A credible allegation of
 475.24 fraud is an allegation which has been verified by the state, from any source, including but
 475.25 not limited to:

475.26 (i) fraud hotline complaints;

475.27 (ii) claims data mining; and

475.28 (iii) patterns identified through provider audits, civil false claims cases, and law
 475.29 enforcement investigations.

475.30 ~~Allegations are considered to be credible when they have an indicia of reliability and~~
 475.31 ~~the state agency has reviewed all allegations, facts, and evidence carefully and acts~~
 475.32 ~~judiciously on a case-by-case basis.~~

476.1 (c) The commissioner must send notice of the withholding or reduction of payments
 476.2 under paragraph (b) within five days of taking such action unless requested in writing by a
 476.3 law enforcement agency to temporarily withhold the notice. The notice must:

476.4 (1) state that payments are being withheld according to paragraph (b);

- 476.5 (2) set forth the general allegations as to the nature of the withholding action, but need
 476.6 not disclose any specific information concerning an ongoing investigation;
- 476.7 (3) except in the case of a conviction for conduct described in subdivision 1a, state that
 476.8 the withholding is for a temporary period and cite the circumstances under which withholding
 476.9 will be terminated;
- 476.10 (4) identify the types of claims to which the withholding applies; and
- 476.11 (5) inform the ~~vendor~~ individual or entity of the right to submit written evidence for
 476.12 consideration by the commissioner.
- 476.13 (d) The withholding or reduction of payments will not continue after the commissioner
 476.14 determines there is insufficient evidence of fraud by the ~~vendor~~ individual or entity, or after
 476.15 legal proceedings relating to the alleged fraud are completed, unless the commissioner has
 476.16 sent notice of intention to impose monetary recovery or sanctions under paragraph (a). Upon
 476.17 conviction for a crime related to the provision, management, or administration of a health
 476.18 service under medical assistance, a payment held pursuant to this section by the commissioner
 476.19 or a managed care organization that contracts with the commissioner under section 256B.035
 476.20 is forfeited to the commissioner or managed care organization, regardless of the amount
 476.21 charged in the criminal complaint or the amount of criminal restitution ordered.
- 476.22 ~~(d)~~ (e) The commissioner shall suspend or terminate ~~a vendor's~~ an individual's or entity's
 476.23 participation in the program without providing advance notice and an opportunity for a
 476.24 hearing when the suspension or termination is required because of the ~~vendor's~~ individual's
 476.25 or entity's exclusion from participation in Medicare. Within five days of taking such action,
 476.26 the commissioner must send notice of the suspension or termination. The notice must:
- 476.27 (1) state that suspension or termination is the result of the ~~vendor's~~ individual's or entity's
 476.28 exclusion from Medicare;
- 476.29 (2) identify the effective date of the suspension or termination; and
- 476.30 (3) inform the ~~vendor~~ individual or entity of the need to be reinstated to Medicare before
 476.31 reapplying for participation in the program.
- 477.1 ~~(e)~~ (f) Upon receipt of a notice under paragraph (a) that a monetary recovery or sanction
 477.2 is to be imposed, ~~a vendor~~ an individual or entity may request a contested case, as defined
 477.3 in section 14.02, subdivision 3, by filing with the commissioner a written request of appeal.
 477.4 The appeal request must be received by the commissioner no later than 30 days after the
 477.5 date the notification of monetary recovery or sanction was mailed to the ~~vendor~~ individual
 477.6 or entity. The appeal request must specify:
- 477.7 (1) each disputed item, the reason for the dispute, and an estimate of the dollar amount
 477.8 involved for each disputed item;
- 477.9 (2) the computation that the ~~vendor~~ individual or entity believes is correct;

- 477.10 (3) the authority in statute or rule upon which the ~~vendor~~ individual or entity relies for
477.11 each disputed item;
- 477.12 (4) the name and address of the person or entity with whom contacts may be made
477.13 regarding the appeal; and
- 477.14 (5) other information required by the commissioner.
- 477.15 ~~(f)~~ (g) The commissioner may order ~~a vendor~~ an individual or entity to forfeit a fine for
477.16 failure to fully document services according to standards in this chapter and Minnesota
477.17 Rules, chapter 9505. The commissioner may assess fines if specific required components
477.18 of documentation are missing. The fine for incomplete documentation shall equal 20 percent
477.19 of the amount paid on the claims for reimbursement submitted by the ~~vendor~~ individual or
477.20 entity, or up to \$5,000, whichever is less. If the commissioner determines that ~~a vendor~~ an
477.21 individual or entity repeatedly violated this chapter, chapter 254B or 245G, or Minnesota
477.22 Rules, chapter 9505, related to the provision of services to program recipients and the
477.23 submission of claims for payment, the commissioner may order ~~a vendor~~ an individual or
477.24 entity to forfeit a fine based on the nature, severity, and chronicity of the violations, in an
477.25 amount of up to \$5,000 or 20 percent of the value of the claims, whichever is greater. The
477.26 commissioner may issue fines under this paragraph in place of or in addition to full monetary
477.27 recovery of the value of the claims submitted under subdivision 1c.
- 477.28 ~~(g)~~ (h) The ~~vendor~~ individual or entity shall pay the fine assessed on or before the
477.29 payment date specified. If the ~~vendor~~ individual or entity fails to pay the fine, the
477.30 commissioner may withhold or reduce payments and recover the amount of the fine. A
477.31 timely appeal shall stay payment of the fine until the commissioner issues a final order.
- 477.32 Subd. 3. **Vendor Mandates on prohibited payments.** (a) The commissioner shall
477.33 maintain and publish a list of each excluded individual and entity that was convicted of a
478.1 crime related to the provision, management, or administration of a medical assistance health
478.2 service, or suspended or terminated under subdivision 2. Medical assistance payments cannot
478.3 be made by ~~a vendor~~ an individual or entity for items or services furnished either directly
478.4 or indirectly by an excluded individual or entity, or at the direction of excluded individuals
478.5 or entities.
- 478.6 (b) The ~~vendor~~ entity must check the exclusion list on a monthly basis and document
478.7 the date and time the exclusion list was checked and the name and title of the person who
478.8 checked the exclusion list. The ~~vendor~~ entity must immediately terminate payments to an
478.9 individual or entity on the exclusion list.
- 478.10 (c) ~~A vendor's~~ An entity's requirement to check the exclusion list and to terminate
478.11 payments to individuals or entities on the exclusion list applies to each individual or entity
478.12 on the exclusion list, even if the named individual or entity is not responsible for direct
478.13 patient care or direct submission of a claim to medical assistance.
- 478.14 (d) ~~A vendor~~ An entity that pays medical assistance program funds to an individual or
478.15 entity on the exclusion list must refund any payment related to either items or services

478.16 rendered by an individual or entity on the exclusion list from the date the individual or entity
478.17 is first paid or the date the individual or entity is placed on the exclusion list, whichever is
478.18 later, and ~~a vendor~~ an entity may be subject to:

478.19 (1) sanctions under subdivision 2;

478.20 (2) a civil monetary penalty of up to \$25,000 for each determination by the department
478.21 that the vendor employed or contracted with an individual or entity on the exclusion list;
478.22 and

478.23 (3) other fines or penalties allowed by law.

478.24 **Subd. 4. Notice.** (a) The department shall serve the notice required under subdivision 2
478.25 ~~shall be served~~ by certified mail at the address submitted to the department by the ~~vendor~~
478.26 individual or entity. Service is complete upon mailing. ~~The commissioner shall place an~~
478.27 ~~affidavit of the certified mailing in the vendor's file as an indication of the address and the~~
478.28 ~~date of mailing.~~

478.29 (b) The department shall give notice in writing to a recipient placed in the Minnesota
478.30 restricted recipient program under section 256B.0646 and Minnesota Rules, part 9505.2200.
478.31 ~~The department shall send the notice shall be sent~~ by first class mail to the recipient's current
478.32 address on file with the department. A recipient placed in the Minnesota restricted recipient
479.1 program may contest the placement by submitting a written request for a hearing to the
479.2 department within 90 days of the notice being mailed.

479.3 **Subd. 5. Immunity; good faith reporters.** (a) A person who makes a good faith report
479.4 is immune from any civil or criminal liability that might otherwise arise from reporting or
479.5 participating in the investigation. Nothing in this subdivision affects ~~a vendor's~~ an individual's
479.6 or entity's responsibility for an overpayment established under this subdivision.

479.7 (b) A person employed by a lead investigative agency who is conducting or supervising
479.8 an investigation or enforcing the law according to the applicable law or rule is immune from
479.9 any civil or criminal liability that might otherwise arise from the person's actions, if the
479.10 person is acting in good faith and exercising due care.

479.11 (c) For purposes of this subdivision, "person" includes a natural person or any form of
479.12 a business or legal entity.

479.13 (d) After an investigation is complete, the reporter's name must be kept confidential.
479.14 The subject of the report may compel disclosure of the reporter's name only with the consent
479.15 of the reporter or upon a written finding by a district court that the report was false and there
479.16 is evidence that the report was made in bad faith. This subdivision does not alter disclosure
479.17 responsibilities or obligations under the Rules of Criminal Procedure, except that when the
479.18 identity of the reporter is relevant to a criminal prosecution the district court shall conduct
479.19 an in-camera review before determining whether to order disclosure of the reporter's identity.

479.20 Sec. 38. Minnesota Statutes 2022, section 256B.27, subdivision 3, is amended to read:

479.21 Subd. 3. **Access to medical records.** The commissioner of human services, with the
479.22 written consent of the recipient, on file with the local welfare agency, shall be allowed
479.23 access in the manner and within the time prescribed by the commissioner to all personal
479.24 medical records of medical assistance recipients solely for the purposes of investigating
479.25 whether or not: (a) a vendor of medical care has submitted a claim for reimbursement, a
479.26 cost report or a rate application which is duplicative, erroneous, or false in whole or in part,
479.27 or which results in the vendor obtaining greater compensation than the vendor is legally
479.28 entitled to; or (b) the medical care was medically necessary. When the commissioner is
479.29 investigating a possible overpayment of Medicaid funds, the commissioner must be given
479.30 immediate access without prior notice to the vendor's office during regular business hours
479.31 and to documentation and records related to services provided and submission of claims
479.32 for services provided. The department shall document in writing the need for immediate
479.33 access to records related to a specific investigation. Denying the commissioner access to
479.34 records is cause for the vendor's immediate suspension of payment or termination according
480.1 to section 256B.064. Any records not provided to the commissioner at the date and time of
480.2 the request are inadmissible if offered as evidence by the provider in any proceeding to
480.3 contest sanctions against or monetary recovery from the provider. The determination of
480.4 provision of services not medically necessary shall be made by the commissioner.
480.5 Notwithstanding any other law to the contrary, a vendor of medical care shall not be subject
480.6 to any civil or criminal liability for providing access to medical records to the commissioner
480.7 of human services pursuant to this section.

480.8 Sec. 39. Minnesota Statutes 2022, section 524.5-118, subdivision 2a, is amended to read:

480.9 Subd. 2a. **Procedure; state licensing agency data.** (a) The court shall request the
480.10 commissioner of human services to provide the court within 25 working days of receipt of
480.11 the request with licensing agency data for licenses directly related to the responsibilities of
480.12 a professional fiduciary if the study subject indicates current or prior affiliation from the
480.13 following agencies in Minnesota:

- 480.14 (1) Lawyers Responsibility Board;
- 480.15 (2) State Board of Accountancy;
- 480.16 (3) Board of Social Work;
- 480.17 (4) Board of Psychology;
- 480.18 (5) Board of Nursing;
- 480.19 (6) Board of Medical Practice;
- 480.20 ~~(7) Department of Education;~~
- 480.21 ~~(8) (7) Department of Commerce;~~

- 480.22 ~~(9)~~ (8) Board of Chiropractic Examiners;
- 480.23 ~~(10)~~ (9) Board of Dentistry;
- 480.24 ~~(11)~~ (10) Board of Marriage and Family Therapy;
- 480.25 ~~(12)~~ (11) Department of Human Services;
- 480.26 ~~(13)~~ (12) Peace Officer Standards and Training (POST) Board; and
- 480.27 ~~(14)~~ (13) Professional Educator Licensing and Standards Board.
- 480.28 (b) The commissioner shall enter into agreements with these agencies to provide the
480.29 commissioner with electronic access to the relevant licensing data, and to provide the
480.30 commissioner with a quarterly list of new sanctions issued by the agency.
- 481.1 (c) The commissioner shall provide to the court the electronically available data
481.2 maintained in the agency's database, including whether the proposed guardian or conservator
481.3 is or has been licensed by the agency, and if the licensing agency database indicates a
481.4 disciplinary action or a sanction against the individual's license, including a condition,
481.5 suspension, revocation, or cancellation.
- 481.6 (d) If the proposed guardian or conservator has resided in a state other than Minnesota
481.7 in the previous ten years, licensing agency data under this section shall also include the
481.8 licensing agency data from any other state where the proposed guardian or conservator
481.9 reported to have resided during the previous ten years if the study subject indicates current
481.10 or prior affiliation. If the proposed guardian or conservator has or has had a professional
481.11 license in another state that is directly related to the responsibilities of a professional fiduciary
481.12 from one of the agencies listed under paragraph (a), state licensing agency data shall also
481.13 include data from the relevant licensing agency of that state.
- 481.14 (e) The commissioner is not required to repeat a search for Minnesota or out-of-state
481.15 licensing data on an individual if the commissioner has provided this information to the
481.16 court within the prior five years.
- 481.17 (f) The commissioner shall review the information in paragraph (c) at least once every
481.18 four months to determine if an individual who has been studied within the previous five
481.19 years:
- 481.20 (1) has new disciplinary action or sanction against the individual's license; or
- 481.21 (2) did not disclose a prior or current affiliation with a Minnesota licensing agency.
- 481.22 (g) If the commissioner's review in paragraph (f) identifies new information, the
481.23 commissioner shall provide any new information to the court.

481.24 Sec. 40. **REVISOR INSTRUCTION.**

481.25 The revisor of statutes shall renumber the subdivisions in Minnesota Statutes, section
481.26 245C.02, in alphabetical order and correct any cross-reference changes that result.

481.27 Sec. 41. **REPEALER.**

481.28 (a) Minnesota Statutes 2022, sections 245A.22; 245C.02, subdivision 9; 245C.301; and
481.29 256.9685, subdivisions 1c and 1d, are repealed.

481.30 (b) Minnesota Rules, parts 9505.0505, subpart 18; and 9505.0520, subpart 9b, are
481.31 repealed.

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