

CHAPTER 245A

HUMAN SERVICES LICENSING

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245A.023 [Repealed, 2007 c 112 s 59]

245A.03 WHO MUST BE LICENSED.

[For text of subd 1, see M.S.2006]

Subd. 2. **Exclusion from licensure.** (a) This chapter does not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is related unless the residential program is a child foster care placement made by a local social services agency or a licensed child-placing agency, except as provided in subdivision 2a;

(2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, a developmental disability, a functional impairment, or a physical disability;

(4) sheltered workshops or work activity programs that are certified by the commissioner of economic security;

(5) programs operated by a public school for children 33 months or older;

(6) nonresidential programs primarily for children that provide care or supervision for periods of less than three hours a day while the child's parent or legal guardian is in the same building as the nonresidential program or present within another building that is directly contiguous to the building in which the nonresidential program is located;

(7) nursing homes or hospitals licensed by the commissioner of health except as specified under section 245A.02;

(8) board and lodge facilities licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness that do not provide intensive residential treatment;

(9) homes providing programs for persons placed by a county or a licensed agency for legal adoption, unless the adoption is not completed within two years;

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that are operated or approved by a park and recreation board whose primary purpose is to provide social and recreational activities;

(12) programs operated by a school as defined in section 120A.22, subdivision 4, whose primary purpose is to provide child care to school-age children;

(13) Head Start nonresidential programs which operate for less than 45 days in each calendar year;

(14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or a developmental disability;

(15) programs for children such as scouting, boys clubs, girls clubs, and sports and art programs, and nonresidential programs for children provided for a cumulative total of less than 30 days in any 12-month period;

(16) residential programs for persons with mental illness, that are located in hospitals;

(17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;

(18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;

(19) mental health outpatient services for adults with mental illness or children with emotional disturbance;

(20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules;

(21) unrelated individuals who provide out-of-home respite care services to persons with developmental disabilities from a single related family for no more than 90 days in a 12-month period and the respite care services are for the temporary relief of the person's family or legal representative;

(22) respite care services provided as a home and community-based service to a person with a developmental disability, in the person's primary residence;

(23) community support services programs as defined in section 245.462, subdivision 6, and family community support services as defined in section 245.4871, subdivision 17;

(24) the placement of a child by a birth parent or legal guardian in a preadoptive home for purposes of adoption as authorized by section 259.47;

(25) settings registered under chapter 144D which provide home care services licensed by the commissioner of health to fewer than seven adults; or

(26) consumer-directed community support service funded under the Medicaid waiver for persons with developmental disabilities when the individual who provided the service is:

(i) the same individual who is the direct payee of these specific waiver funds or paid by a fiscal agent, fiscal intermediary, or employer of record; and

(ii) not otherwise under the control of a residential or nonresidential program that is required to be licensed under this chapter when providing the service.

(b) For purposes of paragraph (a), clause (6), a building is directly contiguous to a building in which a nonresidential program is located if it shares a common wall with the building in which the nonresidential program is located or is attached to that building by skyway, tunnel, atrium, or common roof.

(c) Nothing in this chapter shall be construed to require licensure for any services provided and funded according to an approved federal waiver plan where licensure is specifically identified as not being a condition for the services and funding.

[For text of subs 2a to 6, see M.S.2006]

History: 2007 c 112 s 3

245A.035 UNLICENSED EMERGENCY RELATIVE PLACEMENT.

Subdivision 1. **Emergency placement.** Notwithstanding section 245A.03, subdivision 2a, or 245C.13, subdivision 2, a county agency may place a child with a relative who is

not licensed to provide foster care, provided the requirements of this section are met. As used in this section, the term "relative" has the meaning given it under section 260C.007, subdivision 27.

Subd. 2. Cooperation with emergency placement process. (a) A county agency that places a child with a relative who is not licensed to provide foster care must conduct the initial inspection required by subdivision 3, clause (1), whenever possible, prior to placing the child in the relative's home, but no later than three working days after placing the child in the home. A child placed in the home of a relative who is not licensed to provide foster care must be removed from that home if the relative fails to cooperate with the county agency.

(b) If a child is to be placed in the home of a relative not licensed to provide foster care, either the placing agency or the county agency in the county in which the relative lives shall conduct the emergency placement process as required in this section.

Subd. 3. Requirements for emergency placement. Before an emergency placement may be made, the following requirements must be met:

(1) the county agency must conduct an initial inspection of the premises where the placement is to be made to ensure the health and safety of any child placed in the home. The county agency shall conduct the inspection using a form developed by the commissioner;

(2) at the time of the inspection or placement, whichever is earlier, the county agency must provide the relative being considered for an emergency placement an application form for a child foster care license;

(3) whenever possible, prior to placing the child in the relative's home, the relative being considered for an emergency placement shall provide the information required by section 245C.05; and

(4) if the county determines, prior to the emergency placement, that anyone requiring a background study prior to licensure of the home is disqualified under chapter 245C, and the disqualification is one which the commissioner cannot set aside, an emergency placement must not be made.

Subd. 4. Applicant study. When the county agency has received the information required by section 245C.05, the county agency shall submit the information to the commissioner according to section 245C.05.

Subd. 5. Child foster care license application. (a) The relatives with whom the emergency placement has been made shall complete the child foster care license application and necessary paperwork within ten days of the placement. The county agency shall assist the applicant to complete the application. The granting of a child foster care license to a relative shall be under the procedures in this chapter and according to the standards in Minnesota Rules, chapter 2960. In licensing a relative, the commissioner shall consider the importance of maintaining the child's relationship with relatives as an additional significant factor in determining whether a background study disqualification should be set aside under section 245C.22, or a variance should be granted under section 245C.30.

(b) When the county or private child-placing agency is processing an application for child foster care licensure of a relative as defined in section 260B.007, subdivision 12, or 260C.007, subdivision 27, the county agency or child-placing agency must explain the licensing process to the prospective licensee, including the background study process and the procedure for reconsideration of an initial disqualification for licensure. The county or private child-placing agency must also provide the prospective relative licensee with information regarding appropriate options for legal representation in the pertinent geographic area. If a relative is initially disqualified under section 245C.14, the commissioner must provide written notice of the reasons for the disqualification and the right to request a reconsideration by the commissioner as required under section 245C.17.

(c) The commissioner shall maintain licensing data so that activities related to applications and licensing actions for relative foster care providers may be distinguished from other child foster care settings.

Subd. 6. [Repealed by amendment, 2007 c 147 art 3 s 1]

History: 2007 c 147 art 3 s 1

245A.04 APPLICATION PROCEDURES.

[For text of subs 1 to 10, see M.S.2006]

Subd. 11. **Education program; additional requirement.** (a) The education program offered in a residential or nonresidential program, except for child care, foster care, or services for adults, must be approved by the commissioner of education before the commissioner of human services may grant a license to the program.

(b) A residential program licensed by the commissioner of human services under Minnesota Rules, parts 2960.0010 to 2960.0710, may serve persons through the age of 19 when:

(1) the admission or continued stay is necessary for a person to complete a secondary school program or its equivalent, or it is necessary to facilitate a transition period after completing the secondary school program or its equivalent for up to four months in order for the resident to obtain other living arrangements;

(2) the facility develops policies, procedures, and plans required under section 245A.65;

(3) the facility documents an assessment of the 18- or 19-year-old person's risk of victimizing children residing in the facility, and develops necessary risk reduction measures, including sleeping arrangements, to minimize any risk of harm to children; and

(4) notwithstanding the license holder's target population age range, whenever persons age 18 or 19 years old are receiving residential services, the age difference among residents may not exceed five years.

(c) Nothing in this paragraph precludes the license holder from seeking other variances under subdivision 9.

[For text of subs 12 and 13, see M.S.2006]

Subd. 14. **Policies and procedures for program administration required and enforceable.** (a) The license holder shall develop program policies and procedures necessary to maintain compliance with licensing requirements under Minnesota Statutes and Minnesota Rules.

(b) The license holder shall:

(1) provide training to program staff related to their duties in implementing the program's policies and procedures developed under paragraph (a);

(2) document the provision of this training; and

(3) monitor implementation of policies and procedures by program staff.

(c) The license holder shall keep program policies and procedures readily accessible to staff and index the policies and procedures with a table of contents or another method approved by the commissioner.

Subd. 15. **Pandemic planning.** Upon request, the license holder must cooperate with state and local government disaster planning agencies working to prepare for or react to emergencies presented by a pandemic outbreak.

History: 2007 c 112 s 4-6

245A.06 CORRECTION ORDER AND CONDITIONAL LICENSE.

[For text of subs 1 to 3, see M.S.2006]

Subd. 4. **Notice of conditional license; reconsideration of conditional license.** If a license is made conditional, the license holder must be notified of the order by certified mail or personal service. If mailed, the notice must be mailed to the address shown on the applica-

tion or the last known address of the license holder. The notice must state the reasons the conditional license was ordered and must inform the license holder of the right to request reconsideration of the conditional license by the commissioner. The license holder may request reconsideration of the order of conditional license by notifying the commissioner by certified mail or personal service. The request must be made in writing. If sent by certified mail, the request must be postmarked and sent to the commissioner within ten calendar days after the license holder received the order. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order. The license holder may submit with the request for reconsideration written argument or evidence in support of the request for reconsideration. A timely request for reconsideration shall stay imposition of the terms of the conditional license until the commissioner issues a decision on the request for reconsideration. If the commissioner issues a dual order of conditional license under this section and an order to pay a fine under section 245A.07, subdivision 3, the license holder has a right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The scope of the contested case hearing shall include the fine and the conditional license. In this case, a reconsideration of the conditional license will not be conducted under this section. If the license holder does not appeal the fine, the license holder does not have a right to a contested case hearing and a reconsideration of the conditional license must be conducted under this subdivision.

The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

[For text of subd 8, see M.S.2006]

History: 2007 c 112 s 7

245A.07 SANCTIONS.

[For text of subs 1 and 2, see M.S.2006]

Subd. 2a. **Immediate suspension expedited hearing.** (a) Within five working days of receipt of the license holder's timely appeal, the commissioner shall request assignment of an administrative law judge. The request must include a proposed date, time, and place of a hearing. A hearing must be conducted by an administrative law judge within 30 calendar days of the request for assignment, unless an extension is requested by either party and granted by the administrative law judge for good cause. The commissioner shall issue a notice of hearing by certified mail or personal service at least ten working days before the hearing. The scope of the hearing shall be limited solely to the issue of whether the temporary immediate suspension should remain in effect pending the commissioner's final order under section 245A.08, regarding a licensing sanction issued under subdivision 3 following the immediate suspension. The burden of proof in expedited hearings under this subdivision shall be limited to the commissioner's demonstration that reasonable cause exists to believe that the license holder's actions or failure to comply with applicable law or rule poses, or if the actions of other individuals or conditions in the program poses an imminent risk of harm to the health, safety, or rights of persons served by the program.

(b) The administrative law judge shall issue findings of fact, conclusions, and a recommendation within ten working days from the date of hearing. The parties shall have ten calendar days to submit exceptions to the administrative law judge's report. The record shall close at the end of the ten-day period for submission of exceptions. The commissioner's final order shall be issued within ten working days from the close of the record. Within 90 calendar days after a final order affirming an immediate suspension, the commissioner shall make a determination regarding whether a final licensing sanction shall be issued under subdivision 3. The license holder shall continue to be prohibited from operation of the program during this 90-day period.

(c) When the final order under paragraph (b) affirms an immediate suspension, and a final licensing sanction is issued under subdivision 3 and the license holder appeals that sanc-

tion, the license holder continues to be prohibited from operation of the program pending a final commissioner's order under section 245A.08, subdivision 5, regarding the final licensing sanction.

Subd. 3. License suspension, revocation, or fine. (a) The commissioner may suspend or revoke a license, or impose a fine if a license holder fails to comply fully with applicable laws or rules, if a license holder; a controlling individual, or an individual living in the household where the licensed services are provided or is otherwise subject to a background study has a disqualification which has not been set aside under section 245C.22, or if a license holder knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license, in connection with the background study status of an individual, during an investigation, or regarding compliance with applicable laws or rules. A license holder who has had a license suspended, revoked, or has been ordered to pay a fine must be given notice of the action by certified mail or personal service. If mailed, the notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the license was suspended, revoked, or a fine was ordered.

(b) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking a license. The appeal of an order suspending or revoking a license must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the license has been suspended or revoked. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order. Except as provided in subdivision 2a, paragraph (c), a timely appeal of an order suspending or revoking a license shall stay the suspension or revocation until the commissioner issues a final order.

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

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

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

(4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for each determination of maltreatment of a child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557; the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff-to-child or adult ratios, and failure to submit a background study; and the license holder shall forfeit \$100 for each occurrence of a violation

of law or rule other than those subject to a \$1,000 or \$200 fine above. For purposes of this section, "occurrence" means each violation identified in the commissioner's fine order.

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

[For text of subs 4 and 5, see M.S.2006]

Subd. 6. Appeal of multiple sanctions. (a) When the license holder appeals more than one licensing action or sanction that were simultaneously issued by the commissioner, the license holder shall specify the actions or sanctions that are being appealed.

(b) If there are different timelines prescribed in statutes for the licensing actions or sanctions being appealed, the license holder must submit the appeal within the longest of those timelines specified in statutes.

(c) The appeal must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within the prescribed timeline with the first day beginning the day after the license holder receives the certified letter. If a request is made by personal service, it must be received by the commissioner within the prescribed timeline with the first day beginning the day after the license holder receives the certified letter.

(d) When there are different timelines prescribed in statutes for the appeal of licensing actions or sanctions simultaneously issued by the commissioner, the commissioner shall specify in the notice to the license holder the timeline for appeal as specified under paragraph (b).

History: 2007 c 112 s 8–10

245A.08 HEARINGS.

[For text of subs 1 and 2, see M.S.2006]

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) When a denial of a license under section 245A.05 or a licensing sanction under section 245A.07 is based on a disqualification for which reconsideration was requested and was not set aside under section 245C.22, and the individual otherwise has no hearing right under section 245C.27, the scope of the administrative law judge's review shall include the denial or sanction and a determination whether the disqualification should be set aside, unless section 245C.24 prohibits the set-aside of the disqualification. In determining whether the disqualification should be set aside, the administrative law judge shall consider the factors under section 245C.22, subdivision 4, to determine whether the individual poses a risk of harm to any person receiving services from the license holder.

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

[For text of subs 3 to 5a, see M.S.2006]

History: 2007 c 112 s 11

245A.10 FEES.

[For text of subd 1, see M.S.2006]

Subd. 2. County fees for background studies and licensing inspections. (a) For purposes of family and group family child care licensing under this chapter, a county agency may charge a fee to an applicant or license holder to recover the actual cost of background studies, but in any case not to exceed \$100 annually. A county agency may also charge a license fee to an applicant or license holder not to exceed \$50 for a one-year license or \$100 for a two-year license.

(b) A county agency may charge a fee to a legal nonlicensed child care provider or applicant for authorization to recover the actual cost of background studies completed under section 119B.125, but in any case not to exceed \$100 annually.

(c) Counties may elect to reduce or waive the fees in paragraph (a) or (b):

- (1) in cases of financial hardship;
- (2) if the county has a shortage of providers in the county's area;
- (3) for new providers; or

(4) for providers who have attained at least 16 hours of training before seeking initial licensure.

(d) Counties may allow providers to pay the applicant fees in paragraph (a) or (b) on an installment basis for up to one year. If the provider is receiving child care assistance payments from the state, the provider may have the fees under paragraph (a) or (b) deducted from the child care assistance payments for up to one year and the state shall reimburse the county for the county fees collected in this manner.

(e) For purposes of adult foster care and child foster care licensing under this chapter, a county agency may charge a fee to a corporate applicant or corporate license holder to recover the actual cost of background studies. A county agency may also charge a fee to a corporate applicant or corporate license holder to recover the actual cost of licensing inspections, not to exceed \$500 annually.

(f) Counties may elect to reduce or waive the fees in paragraph (e) under the following circumstances:

- (1) in cases of financial hardship;
- (2) if the county has a shortage of providers in the county's area; or
- (3) for new providers.

[For text of subs 3 to 6, see M.S.2006]

History: 2007 c 112 s 12; 2007 c 147 art 3 s 2

NOTE: Subdivision 2, paragraphs (e) and (f), as added by Laws 2007, chapter 112, section 12, are effective August 1, 2008. Laws 2007, chapter 112, section 12, the effective date.

245A.11 SPECIAL CONDITIONS FOR RESIDENTIAL PROGRAMS.

[For text of subs 1 to 6, see M.S.2006]

Subd. 7. Adult foster care; variance for alternate overnight supervision. (a) The commissioner may grant a variance under section 245A.04, subdivision 9, to rule parts requiring a caregiver to be present in an adult foster care home during normal sleeping hours to allow for alternative methods of overnight supervision. The commissioner may grant the variance if the local county licensing agency recommends the variance and the county recommendation includes documentation verifying that:

(1) the county has approved the license holder's plan for alternative methods of providing overnight supervision and determined the plan protects the residents' health, safety, and rights;

(2) the license holder has obtained written and signed informed consent from each resident or each resident's legal representative documenting the resident's or legal representative's agreement with the alternative method of overnight supervision; and

(3) the alternative method of providing overnight supervision, which may include the use of technology, is specified for each resident in the resident's: (i) individualized plan of care; (ii) individual service plan under section 256B.092, subdivision 1b, if required; or (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required.

(b) To be eligible for a variance under paragraph (a), the adult foster care license holder must not have had a licensing action under section 245A.06 or 245A.07 during the prior 24 months based on failure to provide adequate supervision, health care services, or resident safety in the adult foster care home.

(c) A license holder requesting a variance under this subdivision to utilize technology as a component of a plan for alternative overnight supervision may request the commissioner's review in the absence of a county recommendation. Upon receipt of such a request from a license holder, the commissioner shall review the variance request with the county.

History: 2007 c 112 s 13

245A.14 SPECIAL CONDITIONS FOR NONRESIDENTIAL PROGRAMS.

[For text of subs 1 to 6, see M.S.2006]

Subd. 7. [Repealed, 2007 c 112 s 59]

Subd. 8. **Experienced aides; child care centers.** (a) An individual employed as an aide at a child care center may work with children without being directly supervised for an amount of time that does not exceed 25 percent of the child care center's daily hours if:

(1) a teacher is in the facility;

(2) the individual has received within the last three years first aid training that meets the requirements under section 245A.40, subdivision 3, and CPR training that meets the requirements under section 245A.40, subdivision 4;

(3) the individual is at least 20 years old; and

(4) the individual has at least 4,160 hours of child care experience as a staff member in a licensed child care center or as the license holder of a family day care home, 120 days of which must be in the employment of the current company.

(b) A child care center that uses experienced aides under this subdivision must notify parents or guardians by posting the notification in each classroom that uses experienced aides, identifying which staff member is the experienced aide. Records of experienced aide usage must be kept on-site and given to the commissioner upon request.

(c) A child care center may not use the experienced aide provision for one year following two determined experienced aide violations within a one-year period.

(d) A child care center may use one experienced aide per every four full-time child care classroom staff.

Subd. 9. [Repealed, 2007 c 112 s 59]

Subd. 9a. [Repealed, 2007 c 112 s 59]

[For text of subs 10 and 11, see M.S.2006]

Subd. 12. [Repealed, 2007 c 112 s 59]

Subd. 13. [Repealed, 2007 c 112 s 59]

History: 2007 c 112 s 14

245A.143 FAMILY ADULT DAY SERVICES.

[For text of subs 1 and 2, see M.S.2006]

Subd. 3. Policy and program information requirements. (a) The license holder shall have available for review, and shall distribute to participants and their caregivers upon admission, written information about:

- (1) the scope of the programs, services, and care offered by the license holder;
- (2) a description of the population to be served by the license holder;
- (3) a description of individual conditions which the license holder is not prepared to accept, such as a communicable disease requiring isolation, a history of violence to self or others, unmanageable incontinence, or uncontrollable wandering;
- (4) the participants' rights and procedure for presenting grievances, including the name, address, and telephone number of the Office of Ombudsman for Long-Term Care and the county licensing department, to which a participant or participant's caregiver may submit an oral or written complaint;
- (5) the license holder's policy on and arrangements for providing transportation;
- (6) the license holder's policy on providing meals and snacks;
- (7) the license holder's fees, billing arrangements, and plans for payment;
- (8) the license holder's policy governing the presence of pets in the home;
- (9) the license holder's policy on smoking in the home;
- (10) types of insurance coverage carried by the license holder;
- (11) information on orientation requirements under section 245A.65, subdivisions 1, paragraph (c), and 2, paragraph (a), clause (4);
- (12) the terms and conditions of the license holder's license issued by the department;
- (13) the license holder's plan for emergency evacuation of participants involving fire, weather, and other disasters. The plan must include instructions for evacuation or rescue of participants, identification of an emergency shelter area, quarterly fire drill schedule, and staff responsibilities; and
- (14) the license holder's policy for handling harmful objects, materials, or equipment including the storage of poisonous chemicals, use of appliances, sharp instruments, matches, or any other potentially harmful materials.

(b) The information in paragraph (a) must be provided in writing to the commissioner's representative upon request and must be available for inspection by the commissioner's representative at the home.

[For text of subs 4 to 8, see M.S.2006]

Subd. 9. Social services. The license holder, in consultation with the county or private case manager, when appropriate, shall actively assist the participant in identifying and achieving personal goals, support the participant in maintaining personal support networks and socially valued roles, provide assistance to the participant to enable community participation, and refer participants to the Office of Ombudsman for Long-Term Care and other advocacy organizations for assistance when there is a potential conflict of interest between the license holder and the participant.

Subd. 10. Participant rights. (a) The license holder shall adopt and comply with a participant bill of rights. The rights shall include the participants' right to:

- (1) participate in the development of the service plan;
- (2) refuse services or participation;
- (3) privacy;
- (4) confidentiality of participant information; and
- (5) present grievances regarding treatment or services to the Office of Ombudsman for Long-Term Care or the county licensing department. The license holder's policies shall include a procedure for addressing participant grievances, including the name, address, and telephone number of the county licensing department, to which a participant or participant caregiver may submit an oral or written complaint.

(b) The license holder shall post the participant rights in the home and shall provide a copy to the participant and the participant's primary caregiver and legal representative if the participant has one.

[For text of subds 11 to 14, see M.S.2006]

History: 2007 c 147 art 7 s 75

245A.1435 REDUCTION OF RISK OF SUDDEN INFANT DEATH SYNDROME IN LICENSED PROGRAMS.

When a license holder is placing an infant to sleep, the license holder must place the infant on the infant's back, unless the license holder has documentation from the infant's parent directing an alternative sleeping position for the infant, and must place the infant in a crib with a firm mattress. The license holder must not place pillows, quilts, comforters, sheepskin, pillow-like stuffed toys, or other soft products in the crib with the infant. Licensed child care providers must meet the crib requirements under section 245A.146.

History: 2007 c 112 s 15

245A.144 SUDDEN INFANT DEATH AND SHAKEN BABY SYNDROME FOR CHILD FOSTER CARE PROVIDERS.

(a) Licensed child foster care providers that care for infants must document that before staff persons and caregivers assist in the care of infants, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden infant death syndrome and shaken baby syndrome. This section does not apply to emergency relative foster care under section 245A.035. The training on reducing the risk of sudden infant death syndrome and shaken baby syndrome may be provided as:

(1) orientation training to child foster care providers, who care for infants, under Minnesota Rules, part 2960.3070, subpart 1; or

(2) in-service training to child foster care providers, who care for infants, under Minnesota Rules, part 2960.3070, subpart 2.

(b) Training required under this section must be at least one hour in length and must be completed at least once every five years. At a minimum, the training must address the risk factors related to sudden infant death syndrome and shaken baby syndrome, means of reducing the risk of sudden infant death syndrome and shaken baby syndrome, and license holder communication with parents regarding reducing the risk of sudden infant death syndrome and shaken baby syndrome.

(c) Training for child foster care providers must be approved by the county licensing agency and fulfill, in part, training required under Minnesota Rules, part 2960.3070.

History: 2007 c 112 s 16

245A.1444 TRAINING ON RISK OF SUDDEN INFANT DEATH SYNDROME AND SHAKEN BABY SYNDROME BY OTHER PROGRAMS.

A licensed chemical dependency treatment program that serves clients with infants who sleep at the program and a licensed children's residential facility that serves infants must document that before program staff persons or volunteers assist in the care of infants, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden infant death syndrome and shaken baby syndrome. The training conducted under this section may be used to fulfill training requirements under Minnesota Rules, parts 2960.0100, subpart 3; and 9530.6490, subpart 4, item B.

This section does not apply to child care centers or family child care programs governed by sections 245A.40 and 245A.50.

History: 2007 c 112 s 17

245A.1445 DANGERS OF SHAKING INFANTS AND YOUNG CHILDREN.

The commissioner shall make available for viewing by all legal nonlicensed child care providers a video presentation on the dangers associated with shaking infants and young

children. Legal nonlicensed child care providers may participate at their option in a video presentation session offered under this section. The commissioner shall provide to child care providers and interested individuals, at cost, copies of a video approved by the commissioner of health under section 144.574 on the dangers associated with shaking infants and young children.

History: 2007 c 112 s 18

245A.145 CHILD CARE PROGRAM REPORTING NOTIFICATION.

Subdivision 1. **Policies and procedures.** (a) All licensed child care providers must develop policies and procedures for reporting suspected child maltreatment that fulfill the requirements in section 626.556 and must develop policies and procedures for reporting complaints about the operation of a child care program. The policies and procedures must include the telephone numbers of the local county child protection agency for reporting suspected maltreatment; the county licensing agency for family and group family child care providers; and the state licensing agency for child care centers.

(b) The policies and procedures required in paragraph (a) must:

- (1) be provided to the parents of all children at the time of enrollment in the child care program; and
- (2) be made available upon request.

[For text of subd 2, see M.S.2006]

History: 2007 c 112 s 19

245A.156 DISCLOSURE OF COMMUNICABLE DISEASE.

[For text of subd 1, see M.S.2006]

Subd. 2. **Placing agency's or individual's duties.** Notwithstanding sections 144.291 to 144.298, before a county or private child-placing agency or individual places a child or adult with a known communicable disease with a licensed foster care provider, the agency or individual must:

- (1) disclose to the foster care license holder the individual's communicable disease; and
- (2) determine that the foster care provider has the ability to provide care to the individual.

History: 2007 c 147 art 10 s 15

245A.16 STANDARDS FOR COUNTY AGENCIES AND PRIVATE AGENCIES.

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

- (1) dual licensure of family child care and child foster care, dual licensure of child and adult foster care, and adult foster care and family child care;
- (2) adult foster care maximum capacity;
- (3) adult foster care minimum age requirement;
- (4) child foster care maximum age requirement;
- (5) variances regarding disqualified individuals except that county agencies may issue variances under section 245C.30 regarding disqualified individuals when the county is re-

sponsible for conducting a consolidated reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and (b), of a county maltreatment determination and a disqualification based on serious or recurring maltreatment; and

(6) the required presence of a caregiver in the adult foster care residence during normal sleeping hours.

(b) County agencies must report information about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision 2, paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the commissioner at least monthly in a format prescribed by the commissioner.

(c) For family day care programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

(d) For family adult day services programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

(e) A license issued under this section may be issued for up to two years.

[For text of subd 2, see M.S.2006]

Subd. 3. Recommendations to the commissioner. The county or private agency shall not make recommendations to the commissioner regarding licensure without first conducting an inspection, and for adult foster care, family adult day services, and family child care, a background study of the applicant under chapter 245C. The county or private agency must forward its recommendation to the commissioner regarding the appropriate licensing action within 20 working days of receipt of a completed application.

[For text of subs 4 to 6, see M.S.2006]

History: 2007 c 147 art 3 s 3,4

245A.175 MENTAL HEALTH TRAINING REQUIREMENT.

Prior to a nonemergency placement of a child in a foster care home, the child foster care provider, licensed after July 1, 2007, must complete two hours of training that addresses the causes, symptoms, and key warning signs of mental health disorders; cultural considerations; and effective approaches for dealing with a child's behaviors. At least one hour of the annual 12-hour training requirement for foster parents must be on children's mental health issues and treatment. Training curriculum shall be approved by the commissioner of human services.

History: 2007 c 147 art 8 s 11

245A.18 CHILD PASSENGER RESTRAINT SYSTEMS.

[For text of subd 1, see M.S.2006]

Subd. 2. Child passenger restraint systems; training requirement. (a) Programs licensed by the Department of Human Services under Minnesota Rules, chapter 2960, that serve a child or children under nine years of age must document training that fulfills the requirements in this subdivision.

(b) Before a license holder, staff person, or caregiver transports a child or children under age nine in a motor vehicle, the person transporting the child must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles. Training completed under this section may be used to meet initial or ongoing training under Minnesota Rules, part 2960.3070, subparts 1 and 2.

For all providers licensed prior to July 1, 2006, the training required in this subdivision must be obtained by December 31, 2007.

(c) Training required under this section must be at least one hour in length, completed at orientation or initial training, and repeated at least once every five years. At a minimum, the

training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(d) Training under paragraph (c) must be provided by individuals who are certified and approved by the Department of Public Safety, Office of Traffic Safety. License holders may obtain a list of certified and approved trainers through the Department of Public Safety Web site or by contacting the agency.

(e) Child care providers that only transport school age children as defined in section 245A.02, subdivision 16, in school buses as defined in section 169.01, subdivision 6, clauses (1) to (4), are exempt from this subdivision.

History: 2007 c 112 s 20

245A.40 CHILD CARE CENTER TRAINING REQUIREMENTS.

Subdivision 1. **Orientation.** The child care center license holder must ensure that every staff person and volunteer is given orientation training and successfully completes the training before starting assigned duties. The orientation training in this subdivision applies to volunteers who will have direct contact with or access to children and who are not under the direct supervision of a staff person. Completion of the orientation must be documented in the individual's personnel record. The orientation training must include information about:

- (1) the center's philosophy, child care program, and procedures for maintaining health and safety and handling emergencies and accidents;
- (2) specific job responsibilities;
- (3) the behavior guidance standards in Minnesota Rules, part 9503.0055; and
- (4) the reporting responsibilities in section 626.556, and Minnesota Rules, part 9503.0130.

Subd. 2. **Child growth and development training.** (a) For purposes of child care centers, the director and all staff hired after July 1, 2006, shall complete and document at least two hours of child growth and development training within the first year of employment. For purposes of this subdivision, "child growth and development training" means training in understanding how children acquire language and develop physically, cognitively, emotionally, and socially. Training completed under this subdivision may be used to meet the orientation training requirements under subdivision 1 and the in-service training requirements under subdivision 7.

(b) Notwithstanding paragraph (a), individuals are exempt from this requirement if they:

- (1) have taken a three-credit college course on early childhood development within the past five years;
- (2) have received a baccalaureate or master's degree in early childhood education or school-age child care within the past five years;
- (3) are licensed in Minnesota as a prekindergarten teacher, an early childhood educator, a kindergarten to sixth grade teacher with a prekindergarten specialty, an early childhood special education teacher, or an elementary teacher with a kindergarten endorsement; or
- (4) have received a baccalaureate degree with a Montessori certificate within the past five years.

Subd. 3. **First aid.** All teachers and assistant teachers in a child care center governed by Minnesota Rules, parts 9503.0005 to 9503.0170, and at least one staff person during field trips and when transporting children in care, must satisfactorily complete first aid training within 90 days of the start of work, unless the training has been completed within the previous three years. The first aid training must be repeated at least every three years, documented in the person's personnel record and indicated on the center's staffing chart, and provided by an individual approved as a first aid instructor. This training may be less than eight hours.

Subd. 4. **Cardiopulmonary resuscitation.** (a) When children are present in a child care center governed by Minnesota Rules, parts 9503.0005 to 9503.0170, at least one staff person must be present in the center who has been trained in cardiopulmonary resuscitation (CPR) and in the treatment of obstructed airways. The CPR training must have been provided by an individual approved to provide CPR instruction, must be repeated at least once every three years, and must be documented in the staff person's records.

(b) CPR training may be provided for less than four hours.

(c) Persons qualified to provide CPR training shall include individuals approved as CPR instructors.

Subd. 5. **Sudden infant death syndrome and shaken baby syndrome training.** (a) License holders must document that before staff persons care for infants, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden infant death syndrome and shaken baby syndrome. The training in this subdivision may be provided as orientation training under subdivision 1 and in-service training under subdivision 7.

(b) Training required under this subdivision must be at least one hour in length and must be completed at least once every five years. At a minimum, the training must address the risk factors related to sudden infant death syndrome and shaken baby syndrome, means of reducing the risk of sudden infant death syndrome and shaken baby syndrome in child care, and license holder communication with parents regarding reducing the risk of sudden infant death syndrome and shaken baby syndrome.

(c) The commissioner shall make available for viewing a video presentation on the dangers associated with shaking infants and young children. The video presentation must be part of the orientation and annual in-service training of licensed child care centers. The commissioner shall provide to child care providers and interested individuals, at cost, copies of a video approved by the commissioner of health under section 144.574 on the dangers associated with shaking infants and young children.

Subd. 6. **Child passenger restraint systems; training requirement.** (a) A license holder must comply with all seat belt and child passenger restraint system requirements under section 169.685.

(b) Child care centers that serve a child or children under nine years of age must document training that fulfills the requirements in this subdivision.

(1) Before a license holder transports a child or children under age nine in a motor vehicle, the person placing the child or children in a passenger restraint must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles. Training completed under this subdivision may be used to meet orientation training under subdivision 1 and in-service training under subdivision 7.

(2) Training required under this subdivision must be at least one hour in length, completed at orientation, and repeated at least once every five years. At a minimum, the training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(3) Training required under this subdivision must be provided by individuals who are certified and approved by the Department of Public Safety, Office of Traffic Safety. License holders may obtain a list of certified and approved trainers through the Department of Public Safety Web site or by contacting the agency.

(4) Child care providers that only transport school-age children as defined in section 245A.02, subdivision 16, in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from this subdivision.

Subd. 7. **In-service.** (a) A license holder must ensure that an annual in-service training plan is developed and carried out and that it meets the requirements in clauses (1) to (7). The in-service training plan must:

(1) be consistent with the center's child care program plan;

(2) meet the training needs of individual staff persons as specified in each staff person's annual evaluation report;

(3) provide training, at least one-fourth of which is by a resource not affiliated with the license holder;

(4) include Minnesota Rules, parts 9503.0005 to 9503.0170, relevant to the staff person's position and must occur within two weeks of initial employment;

(5) provide that at least one-half of the annual in-service training completed by a staff person each year pertains to the age of children for which the person is providing care;

(6) provide that no more than four hours of each annual in-service training requirement relate to administration, finances, and records training for a teacher, assistant teacher, or aide; and

(7) provide that the remainder of the in-service training requirement be met by participation in training in child growth and development; learning environment and curriculum; assessment and planning for individual needs; interactions with children; families and communities; health, safety, and nutrition; and program planning and evaluation.

(b) For purposes of this subdivision, the following terms have the meanings given them.

(1) "Child growth and development training" has the meaning given it in subdivision 2, paragraph (a).

(2) "Learning environment and curriculum" means training in establishing an environment that provides learning experiences to meet each child's needs, capabilities, and interests, including early childhood education methods or theory, recreation, sports, promoting creativity in the arts, arts and crafts methods or theory, and early childhood special education methods or theory.

(3) "Assessment and planning for individual needs" means training in observing and assessing what children know and can do in order to provide curriculum and instruction that addresses their developmental and learning needs, including children with special needs.

(4) "Interactions with children" means training in establishing supportive relationships with children and guiding them as individuals and as part of a group, including child study techniques and behavior guidance.

(5) "Families and communities" means training in working collaboratively with families, agencies, and organizations to meet children's needs and to encourage the community's involvement, including family studies and parent involvement.

(6) "Health, safety, and nutrition" means training in establishing and maintaining an environment that ensures children's health, safety, and nourishment, including first aid, cardiopulmonary resuscitation, child nutrition, and child abuse and neglect prevention.

(7) "Program planning and evaluation" means training in establishing, implementing, evaluating, and enhancing program operations.

(c) The director and all program staff persons must annually complete a number of hours of in-service training equal to at least two percent of the hours for which the director or program staff person is annually paid, unless one of the following is applicable.

(1) A teacher at a child care center must complete one percent of working hours of in-service training annually if the teacher:

(i) possesses a baccalaureate or master's degree in early childhood education or school-age care;

(ii) is licensed in Minnesota as a prekindergarten teacher, an early childhood educator, a kindergarten to sixth grade teacher with a prekindergarten specialty, an early childhood special education teacher, or an elementary teacher with a kindergarten endorsement; or

(iii) possesses a baccalaureate degree with a Montessori certificate.

(2) A teacher or assistant teacher at a child care center must complete one and one-half percent of working hours of in-service training annually if the individual is:

(i) a registered nurse or licensed practical nurse with experience working with infants;

(ii) possesses a Montessori certificate, a technical college certificate in early childhood development, or a child development associate certificate; or

(iii) possesses an associate of arts degree in early childhood education, a baccalaureate degree in child development, or a technical college diploma in early childhood development.

(d) The number of required training hours may be prorated for individuals not employed full time or for an entire year.

(e) The annual in-service training must be completed within the calendar year for which it was required. In-service training completed by staff persons is transferable upon a staff person's change in employment to another child care program.

(f) The license holder must ensure that, when a staff person completes in-service training, the training is documented in the staff person's personnel record. The documentation must include the date training was completed, the goal of the training and topics covered, trainer's name and organizational affiliation, trainer's signed statement that training was successfully completed, and the director's approval of the training.

Subd. 8. Cultural dynamics and disabilities training for child care providers. (a) The training required of licensed child care center staff must include training in the cultural dynamics of early childhood development and child care. The cultural dynamics and disabilities training and skills development of child care providers must be designed to achieve outcomes for providers of child care that include, but are not limited to:

(1) an understanding and support of the importance of culture and differences in ability in children's identity development;

(2) understanding the importance of awareness of cultural differences and similarities in working with children and their families;

(3) understanding and support of the needs of families and children with differences in ability;

(4) developing skills to help children develop unbiased attitudes about cultural differences and differences in ability;

(5) developing skills in culturally appropriate caregiving; and

(6) developing skills in appropriate caregiving for children of different abilities.

(b) Curriculum for cultural dynamics and disability training shall be approved by the commissioner.

(c) The commissioner shall amend current rules relating to the training of the licensed child care center staff to require cultural dynamics training. Timelines established in the rule amendments for complying with the cultural dynamics training requirements must be based on the commissioner's determination that curriculum materials and trainers are available statewide.

(d) For programs caring for children with special needs, the license holder shall ensure that any additional staff training required by the child's individual child care program plan required under Minnesota Rules, part 9503.0065, subpart 3, is provided.

History: 2007 c 112 s 21

245A.50 FAMILY CHILD CARE TRAINING REQUIREMENTS.

Subdivision 1. Initial training. (a) License holders, caregivers, and substitutes must comply with the training requirements in this section.

(b) Helpers who assist with care on a regular basis must complete six hours of training within one year after the date of initial employment.

Subd. 2. Child growth and development training. (a) For purposes of family and group family child care, the license holder and each adult caregiver who provides care in the licensed setting for more than 30 days in any 12-month period shall complete and document at least two hours of child growth and development training within the first year of licensure. For purposes of this subdivision, "child growth and development training" means training in

understanding how children acquire language and develop physically, cognitively, emotionally, and socially.

(b) Notwithstanding paragraph (a), individuals are exempt from this requirement if they:

(1) have taken a three-credit course on early childhood development within the past five years;

(2) have received a baccalaureate or master's degree in early childhood education or school-age child care within the past five years;

(3) are licensed in Minnesota as a prekindergarten teacher, an early childhood educator, a kindergarten to grade 6 teacher with a prekindergarten specialty, an early childhood special education teacher, or an elementary teacher with a kindergarten endorsement; or

(4) have received a baccalaureate degree with a Montessori certificate within the past five years.

Subd. 3. First aid. (a) When children are present in a family child care home governed by Minnesota Rules, parts 9502.0315 to 9502.0445, at least one staff person must be present in the home who has been trained in first aid. The first aid training must have been provided by an individual approved to provide first aid instruction. First aid training may be less than eight hours and persons qualified to provide first aid training include individuals approved as first aid instructors.

(b) A family child care provider is exempt from the first aid training requirements under this subdivision related to any substitute caregiver who provides less than 30 hours of care during any 12-month period.

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

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

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

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

Subd. 5. Sudden infant death syndrome and shaken baby syndrome training. (a) License holders must document that before staff persons, caregivers, and helpers assist in the care of infants, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden infant death syndrome and shaken baby syndrome. The training in this subdivision may be provided as initial training under subdivision 1 or ongoing training under subdivision 7.

(b) Training required under this subdivision must be at least one hour in length and must be completed at least once every five years. At a minimum, the training must address the risk factors related to sudden infant death syndrome and shaken baby syndrome, means of reducing the risk of sudden infant death syndrome and shaken baby syndrome in child care, and license holder communication with parents regarding reducing the risk of sudden infant death syndrome and shaken baby syndrome.

(c) Training for family and group family child care providers must be approved by the county licensing agency.

(d) The commissioner shall make available for viewing by all licensed child care providers a video presentation on the dangers associated with shaking infants and young children. The video presentation shall be part of the initial and ongoing training of licensed child care providers. The commissioner shall provide to child care providers and interested indi-

viduals, at cost, copies of a video approved by the commissioner of health under section 144.574 on the dangers associated with shaking infants and young children.

Subd. 6. **Child passenger restraint systems; training requirement.** (a) A license holder must comply with all seat belt and child passenger restraint system requirements under section 169.685.

(b) Family and group family child care programs licensed by the Department of Human Services that serve a child or children under nine years of age must document training that fulfills the requirements in this subdivision.

(1) Before a license holder, staff person, caregiver, or helper transports a child or children under age nine in a motor vehicle, the person placing the child or children in a passenger restraint must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles. Training completed under this subdivision may be used to meet initial training under subdivision 1 or ongoing training under subdivision 7.

(2) Training required under this subdivision must be at least one hour in length, completed at initial training, and repeated at least once every five years. At a minimum, the training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(3) Training under this subdivision must be provided by individuals who are certified and approved by the Department of Public Safety, Office of Traffic Safety. License holders may obtain a list of certified and approved trainers through the Department of Public Safety Web site or by contacting the agency.

(c) Child care providers that only transport school-age children as defined in section 245A.02, subdivision 19, paragraph (f), in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from this subdivision.

Subd. 7. **Training requirements for family and group family child care.** For purposes of family and group family child care, the license holder and each primary caregiver must complete eight hours of training each year. For purposes of this subdivision, a primary caregiver is an adult caregiver who provides services in the licensed setting for more than 30 days in any 12-month period. Ongoing training subjects must be selected from the following areas:

(1) "child growth and development training" has the meaning given in subdivision 2, paragraph (a);

(2) "learning environment and curriculum" includes training in establishing an environment and providing activities that provide learning experiences to meet each child's needs, capabilities, and interests;

(3) "assessment and planning for individual needs" includes training in observing and assessing what children know and can do in order to provide curriculum and instruction that addresses their developmental and learning needs, including children with special needs and bilingual children or children for whom English is not their primary language;

(4) "interactions with children" includes training in establishing supportive relationships with children, guiding them as individuals and as part of a group;

(5) "families and communities" includes training in working collaboratively with families and agencies or organizations to meet children's needs and to encourage the community's involvement;

(6) "health, safety, and nutrition" includes training in establishing and maintaining an environment that ensures children's health, safety, and nourishment, including child abuse, maltreatment, prevention, and reporting; home and fire safety; child injury prevention; communicable disease prevention and control; first aid; and CPR; and

(7) "program planning and evaluation" includes training in establishing, implementing, evaluating, and enhancing program operations.

Subd. 8. **Other required training requirements.** (a) The training required of family and group family child care providers and staff must include training in the cultural dynamics

of early childhood development and child care. The cultural dynamics and disabilities training and skills development of child care providers must be designed to achieve outcomes for providers of child care that include, but are not limited to:

- (1) an understanding and support of the importance of culture and differences in ability in children's identity development;
- (2) understanding the importance of awareness of cultural differences and similarities in working with children and their families;
- (3) understanding and support of the needs of families and children with differences in ability;
- (4) developing skills to help children develop unbiased attitudes about cultural differences and differences in ability;
- (5) developing skills in culturally appropriate caregiving; and
- (6) developing skills in appropriate caregiving for children of different abilities.

The commissioner shall approve the curriculum for cultural dynamics and disability training.

(b) The provider must meet the training requirement in section 245A.14, subdivision 11, paragraph (a), clause (4), to be eligible to allow a child cared for at the family child care or group family child care home to use the swimming pool located at the home.

History: 2007 c 112 s 22

245A.65 MALTREATMENT OF VULNERABLE ADULTS.

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

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

- (1) meet all the requirements identified for the optional internal reporting policies and procedures in section 626.557, subdivision 4a; and
- (2) identify the primary and secondary person or position to whom internal reports may be made and the primary and secondary person or position responsible for forwarding internal reports to the common entry point as defined in section 626.5572, subdivision 5. The secondary person must be involved when there is reason to believe that the primary person was involved in the alleged or suspected maltreatment.

(b) The license holder shall:

(1) establish and maintain policies and procedures to ensure that an internal review is completed and that corrective action is taken as necessary to protect the health and safety of vulnerable adults when the facility has reason to know that an internal or external report of alleged or suspected maltreatment has been made. The review must include an evaluation of whether related policies and procedures were followed, whether the policies and procedures were adequate, whether there is a need for additional staff training, whether the reported event is similar to past events with the vulnerable adults or the services involved, and whether there is a need for corrective action by the license holder to protect the health and safety of vulnerable adults. Based on the results of this review, the license holder must develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by individuals or the license holder, if any.

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

(3) document and make internal reviews accessible to the commissioner upon the commissioner's request. The documentation provided to the commissioner by the license holder

may consist of a completed checklist that verifies completion of each of the requirements of the review.

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

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

Subd. 1a. **Determination of vulnerable adult status.** (a) A license holder that provides services to adults who are excluded from the definition of vulnerable adult under section 626.5572, subdivision 21, clause (2), must determine whether the person is a vulnerable adult under section 626.5572, subdivision 21, clause (4). This determination must be made within 24 hours of:

(1) admission to the licensed program; and

(2) any incident that:

(i) was reported under section 626.557; or

(ii) would have been required to be reported under section 626.557, if one or more of the adults involved in the incident had been vulnerable adults.

(b) Upon determining that a person receiving services is a vulnerable adult under section 626.5572, subdivision 21, clause (4), all requirements relative to vulnerable adults under this chapter and section 626.557 must be met by the license holder.

[For text of subs 2 and 3, see M.S.2006]

History: 2007 c 112 s 23,24

245A.66 REQUIREMENTS; MALTREATMENT OF MINORS.

Except for family child care settings and foster care for children in the license holder's residence, license holders serving children shall:

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

(i) related policies and procedures were followed;

(ii) the policies and procedures were adequate;

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

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

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

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

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

(3) document that the internal review has been completed and provide documentation showing the review was completed to the commissioner upon the commissioner's request. The documentation provided to the commissioner by the license holder may consist of a completed checklist that verifies completion of each of the requirements of the review.

History: 2007 c 112 s 25