

245D.03 APPLICABILITY AND EFFECT.

Subdivision 1. **Applicability.** The commissioner shall regulate the provision of home and community-based services to persons with disabilities and persons age 65 and older pursuant to this chapter. The licensing standards in this chapter govern the provision of the following services:

- (1) housing access coordination as defined under the current BI, CADI, and DD waiver plans or successor plans;
- (2) respite services as defined under the current CADI, BI, CAC, DD, and EW waiver plans or successor plans when the provider is an individual who is not an employee of a residential or nonresidential program licensed by the Department of Human Services or the Department of Health that is otherwise providing the respite service;
- (3) behavioral programming as defined under the current BI and CADI waiver plans or successor plans;
- (4) specialist services as defined under the current DD waiver plan or successor plans;
- (5) companion services as defined under the current BI, CADI, and EW waiver plans or successor plans, excluding companion services provided under the Corporation for National and Community Services Senior Companion Program established under the Domestic Volunteer Service Act of 1973, Public Law 98-288;
- (6) personal support as defined under the current DD waiver plan or successor plans;
- (7) 24-hour emergency assistance, on-call and personal emergency response as defined under the current CADI and DD waiver plans or successor plans;
- (8) night supervision services as defined under the current BI waiver plan or successor plans;
- (9) homemaker services as defined under the current CADI, BI, CAC, DD, and EW waiver plans or successor plans, excluding providers licensed by the Department of Health under chapter 144A and those providers providing cleaning services only;
- (10) independent living skills training as defined under the current BI and CADI waiver plans or successor plans;
- (11) prevocational services as defined under the current BI and CADI waiver plans or successor plans;
- (12) structured day services as defined under the current BI waiver plan or successor plans; or
- (13) supported employment as defined under the current BI and CADI waiver plans or successor plans.

Subd. 2. **Relationship to other standards governing home and community-based services.** (a) A license holder governed by this chapter is also subject to the licensure requirements under chapter 245A.

(b) A license holder concurrently providing child foster care services licensed according to Minnesota Rules, chapter 2960, to the same person receiving a service licensed under this chapter is exempt from section 245D.04 as it applies to the person.

(c) A license holder concurrently providing home care services registered according to sections 144A.43 to 144A.49 to the same person receiving home management services licensed under this chapter is exempt from section 245D.04 as it applies to the person.

(d) A license holder identified in subdivision 1, clauses (1), (5), and (9), is exempt from compliance with sections 245A.65, subdivision 2, paragraph (a), and 626.557, subdivision 14, paragraph (b).

(e) Notwithstanding section 245D.06, subdivision 5, a license holder providing structured day, prevocational, or supported employment services under this chapter and day training and habilitation or supported employment services licensed under chapter 245B within the same program is exempt from compliance with this chapter when the license holder notifies the commissioner in writing that the requirements under chapter 245B will be met for all persons receiving these services from the program. For the purposes of this paragraph, if the license holder has obtained approval from the commissioner for an alternative inspection status according to section 245B.031, that approval will apply to all persons receiving services in the program.

Subd. 3. **Variance.** If the conditions in section 245A.04, subdivision 9, are met, the commissioner may grant a variance to any of the requirements in this chapter, except sections 245D.04, and 245D.10, subdivision 4, paragraph (b), or provisions governing data practices and information rights of persons.

Subd. 4. **License holders with multiple 245D licenses.** (a) When a person changes service from one license to a different license held by the same license holder, the license holder is exempt from the requirements in section 245D.10, subdivision 4, paragraph (b).

(b) When a staff person begins providing direct service under one or more licenses held by the same license holder, other than the license for which staff orientation was initially provided according to section 245D.09, subdivision 4, the license holder is exempt from those staff orientation requirements, except the staff person must review each person's service plan and medication administration procedures in accordance with section 245D.09, subdivision 4, paragraph (c), if not previously reviewed by the staff person.

History: 2012 c 216 art 18 s 18