

245A.042 HOME AND COMMUNITY-BASED SERVICES; ADDITIONAL STANDARDS AND PROCEDURES.

Subdivision 1. **Standards governing the provision of home and community-based services.** Residential and nonresidential programs for persons with disabilities or age 65 and older must obtain a license according to this chapter to provide home and community-based services defined in the federal waiver plans governed by United States Code, title 42, sections 1396 et seq., or the state's alternative care program according to section 256B.0913, and identified in section 245D.03, subdivision 1. As a condition of licensure, an applicant or license holder must demonstrate and maintain verification of compliance with:

(1) licensing requirements under this chapter and chapter 245D;

(2) applicable health care program requirements under Minnesota Rules, parts 9505.0170 to 9505.0475 and 9505.2160 to 9505.2245; and

(3) provider standards and qualifications identified in the federal waiver plans or the alternative care program.

Subd. 2. MS 2024 [Repealed, 2025 c 38 art 5 s 34]

Subd. 3. MS 2024 [Repealed, 2025 c 38 art 5 s 34]

Subd. 4. MS 2024 [Repealed, 2025 c 38 art 5 s 34]

Subd. 5. **Compliance education required.** The commissioner must make licensing compliance education available to all license holders operating programs licensed under both this chapter and chapter 245D. The licensing compliance education must include clear and accessible explanations of achieving and maintaining compliance with the relevant licensing requirements under this chapter and chapter 245D.

Subd. 6. **Legal resources required.** If requested by a license holder that is (1) subject to an enforcement action under section 245A.06 or 245A.07, and (2) operating a program licensed under this chapter and chapter 245D, the commissioner must provide the license holder with a list of legal resources.

Subd. 7. **Department of Human Services home and community-based services early and often licensor and compliance team.** (a) The commissioner must establish and maintain a home and community-based services early and often licensor and compliance team to deliver proactive and coordinated support to applicants through the application process and to license holders during the first year of operation of the licensed home and community-based program. The commissioner must ensure that the home and community-based services early and often licensor and compliance team has sufficient staff and resources to perform the functions required under this subdivision. The commissioner must ensure that the licensor and compliance team has members with expertise in licensing requirements and members with expertise in medical assistance enrollment requirements, medical assistance service delivery requirements, and medical assistance billing requirements.

(b) The home and community-based services early and often licensor and compliance team must provide technical assistance to applicants regarding completing and submitting license applications under this chapter and chapter 256D and medical assistance provider enrollment applications under section 256B.04, subdivision 21.

(c) The home and community-based services early and often licensor and compliance team must conduct an initial scheduled technical assistance visit three months after the effective date of an initial license for the purpose of providing technical assistance to the license holder. The team must provide technical assistance

related to achieving and maintaining compliance with the applicable laws, rules, and regulations governing the provision of and reimbursement for home and community-based services under this chapter and chapters 245D, 256B, and 256S and waiver plans.

(d) The home and community-based services early and often licensure and compliance team must conduct three unscheduled visits after the beginning of the sixth calendar month following the effective date of an initial license and before the end of the eighteenth month following the effective date of an initial license.

(e) If during the technical assistance visit or during the following three unannounced visits, the team finds that the license holder has failed to achieve compliance with an applicable law, rule, or regulation, and the failure does not imminently endanger the health, safety, or rights of persons served by the program, the team may issue a licensing and compliance review report with recommendations for achieving and maintaining compliance.

(f) Nothing in this subdivision shall be construed to limit the commissioner's authority to:

(1) suspend or revoke a license or issue a fine at any time under section 245A.07 or issue correction orders and make a license conditional for failure to comply with applicable laws, rules, or regulations under section 245A.06 based on the nature, chronicity, or severity of the violation of a law, rule, or regulation and the effect of the violation on the health, safety, or rights of persons served by the program; or

(2) impose a sanction under section 256B.064 based on the nature, chronicity, or severity of the violation of law, rule, or regulation.

Subd. 8. Colocation of certain home and community-based residential settings. (a) Effective July 1, 2026, the commissioner must not authorize services in or issue an initial license under this chapter or chapter 245D for any of the following residential settings or programs unless the proposed setting meets the heightened home and community-based setting standards described in this subdivision:

- (1) a community residential setting, as defined in section 245D.02, subdivision 4a;
- (2) an adult foster care home;
- (3) a setting providing customized living services with a resident capacity of six or fewer;
- (4) a setting providing 24-hour customized living services with a resident capacity of six or fewer; and
- (5) an assisted living facility licensed under chapter 144G with a resident capacity of six or fewer.

(b) Newly licensed settings enumerated in paragraph (a) must not be located on the same property or on an adjoining property of any existing community residential setting, any existing adult foster care setting, any existing setting providing family residential services to an adult, any existing setting providing customized living services with a resident capacity of six or fewer, any existing setting providing 24-hour customized living services with a resident capacity of six or fewer, or any existing assisted living facility licensed under chapter 144G with a resident capacity of six or fewer. The requirements of this paragraph apply regardless of who owns or controls the existing setting. The commissioner must comply with section 245A.11, subdivision 4, when authorizing services or issuing an initial license under this subdivision.

(c) For the purposes of this subdivision, "adjoining property" means a property that shares a common boundary line with another property. Adjoining property also includes properties that meet at a common corner point. The presence of a right-of-way or public easement, including but not limited to a bicycle path,

alley, or residential street, between adjoining properties, including between properties that but for the right-of-way or public easement would share a common corner point, are adjoining properties.

History: *2012 c 216 art 18 s 4; 2013 c 108 art 8 s 13; 2014 c 312 art 27 s 7; 1Sp2025 c 9 art 2 s 2,3; 2026 c 121 art 3 s 9; art 9 s 4*